

FOR CONSIDERATION

March 26, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: New York (New York County) – Brooklyn Bridge Park Civic and Land Use Improvement Project

REQUEST FOR: Adoption of Modification to the Modified General Project Plan; Authorization to Hold Public Hearing; and Authorization to Take Related Actions

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BACKGROUND

The existing Modified General Project Plan (“GPP”) for the Brooklyn Bridge Park Civic and Land Use Improvement Project (the “Project”) consists of a GPP and related findings adopted in July, 2005 affirmed as modified in January, 2007, and affirmed as further modified in December 2007 to permit Brooklyn Bridge Park Development Corporation (“BBPDC”), a subsidiary of New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESDC”) to construct, operate, and maintain the Project, including the Brooklyn Bridge Park (the “Park”) and to develop certain parcels (the “Development Parcels”) within the Project site to produce revenue for the Park. Now, the Directors are being asked to adopt a further proposed modification only for purposes of holding a public hearing and collecting public comment thereon, in order to enter into ground leases or sub-ground leases and other necessary arrangements for the Park and the Development Parcels with a not-for-profit corporation, currently referred to as Brooklyn Bridge Park Operating Entity (“BBPOE”), which the City of New York (the “City”) will establish or cause to be established, and enter into related agreements, as set forth herein and in the drft Modification, attached hereto as Exhibit 1 (the “Modification”), with respect to the GPP. The proposed draft Modification to the GPP will not be final until after: (i) public comment has been collected and reviewed; (ii) the BBPDC Board has reviewed and approved proposed final documents at a later BBPDC Board meeting; and (iii) the ESDC Directors have reviewed and approved proposed final documents at a later ESDC Directors meeting.

CHANGES FROM THE CURRENT GPP

In order to expedite the completion of the Park with new funding and local control of the Project, BBPDC proposes to ground leases, sub-ground leases and other necessary arrangements with BBPOE for the Park parcels and Development Parcels owned by BBPDC. In order to continue the development of the Project, the City will provide \$55 million to BBPOE for

accordance with the GPP. BBPOE and BBPDC intend to cooperate in with respect to the incorporation into the Project of those parcels included in the Project but that are currently owned by the City and others (collectively the “Other Parcels”) in order to create a seamless Park experience for Park visitors and, with respect Other Parcels that are identified in the GPP as Development Parcels, new sources of revenue for the Park.

The ground leases and other agreements will require that BBPOE assume operational control of, and financial responsibility for, the Park and the Development Parcels. BBPOE will control all revenues from the Park and the Development Parcels. BBPOE will oversee all planning, construction, maintenance, and operation of the Project, including the ability to designate and select developers for the Development Parcels. All construction and funding agreements currently in place with respect to BBPDC, as well as all funds currently held by or for BBPDC (except those required to fund BBPDC’s continued operations with respect to the GPP) will be transferred to BBPOE. BBPOE will receive an assignment of all relevant contracts and agreements with respect to, and revenues from, the Park and Development Parcels.

These changes do not alter the fundamental benefits and utility to be derived from the Project or the uses and requirements for the Park and the Development Parcels as set forth in the GPP. The changes are intended to enhance the benefits to be derived from the Project, as set forth in the current GPP, by obtaining additional funding for construction, operation, and maintenance of the Park and to thereby expedite the construction of the Park in accordance with the current GPP. Pursuant to the leases for the Park parcels and the Development Parcels and agreements with respect to the Other Parcels, BBPOE will be required to comply in all respects with the GPP.

COST AND FUNDING

Completion of the construction of the entire park in accordance with the GPP is estimated to cost approximately \$\_\_ million. The total estimated cost includes a contingency factor of 10% (approximately \$\_\_ million) to address potential overruns, considered sufficient given the Park’s advanced design. The funding intended to be transferred by BBPDC to BBPOE aggregates approximately \$\_\_ million provided from or to be provided from the sources an in the amounts set out below for use by BBPOE as indicate next to each amount:

Port Authority of New York and New Jersey	\$__, __, __ (uses: __)
The City of New York (previously committed)	\$__, __, __ (uses: __)
Park and Development Parcel Revenues	\$__, __, __ (uses: __)
Other Sources	\$__, __, __ (uses: __)
<b>TOTAL SOURCES</b>	<b>\$__, __, __</b>

It is intended that at the time of closing on the lease the City will transfer to BBPOE not less than \$55 million (such funding to be in addition to funding in the aggregate of \$\_\_ million previously committed by the City to the Project) that shall be restricted in use to funding the construction of the Park.

## ENVIRONMENTAL REVIEW

The adoption of a Modified GPP to allow BBPDC to ground lease Project parcels to the BBPOE constitutes a Type II action as defined in Section 617.5(c)(26) of the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with adoption of this Modified GPP.

As background, ESDC, as the lead agency and on behalf of BBPDC, conducted an environmental review for the Project. A Final Environmental Impact Statement was prepared and SEQRA Findings have been adopted by the ESDC Board of Directors. This modification of the GPP does not change the Project analyzed in the FEIS in any way and does not affect the conclusions and determinations represented in the FEIS and the SEQRA Findings.

For any future Project actions requiring environmental review, ESDC will continue to serve as the lead agency on behalf of BBPDC and BBPOE.

Furthermore, as ESDC is a signatory to the Letter of Resolution (“LOR”) that stipulates the treatment of and procedures for archaeological and historic resources on the Project site, it will continue its role in ensuring that adherence to the LOR is followed through completion of the Project.

## AFFIRMATIVE ACTION

ESDC’s Non-Discrimination and Affirmative Action policies will apply. There is a 20% Minority/Women-owned Business Enterprise contractor and/or subcontractor participation goal during development of the Project, and an overall goal of 25% minority and female workforce participation during construction of the Project.

## REQUESTED ACTIONS

The Directors are requested: (1) to adopt the attached draft Modification to General Project Plan for purposes of soliciting public comment thereon; (2) to authorize ESDC to hold a public hearing with respect to the draft Modification and the ground leases and other disposition agreements for the transactions contemplated by the draft Modification; and (3) to authorize all actions related to the foregoing.

## RECOMMENDATION

Based on the foregoing, I recommend approval of the requested actions.

## ATTACHMENTS

Resolutions  
Exhibit 1: Draft Modification to General Project Plan

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RESOLVED, that on the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation relating to the Brooklyn Bridge Park Civic and Land Use Improvement Project (the “Project”), the Corporation does hereby adopt, for purposes of the public hearing(s) required by the New York State Urban Development Corporation Act of 1968, as amended (the “UDC Act”), and as may be required by or appropriate to other applicable laws, the Modification to the Modified General Project Plan (the “Modification”) set forth in the Materials, together with such other changes as the Chief Executive Officer of the Corporation or his designee(s) may deem appropriate; and be it further

RESOLVED, that the Modification to the Modified General Project Plan shall not be final until action is taken by the Directors as provided in the UDC Act and until such time as all requirements of the UDC Act and other applicable laws in connection therewith have been satisfied; and be it further

RESOLVED, that the Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, to hold a public hearing, to provide requisite notice of such public hearing, and to execute and deliver any and all documents and to take any and all such actions as may be necessary or appropriate to effectuate the foregoing resolutions.

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