

Empire State Development

December 16, 2013

Charlene M. Indelicato
President and Chief Executive Officer
Roosevelt Island Operating Corporation
591 Main Street,
Roosevelt Island, New York 10044

Re: Commitment to fund Capital Infrastructure Projects on Roosevelt Island

Dear Ms. Indelicato:

On behalf of New York State (the "State") and Empire State Development ("ESD"), please let me express our enthusiasm for working with you and the Roosevelt Island Operating Corporation ("RIOC") on the funding of certain infrastructure projects on Roosevelt Island.

In connection with Cornell Tech, the State agreed to provide certain monies to RIOC to support capital infrastructure improvements subject to the annual appropriation process and State budgetary procedure. Specifically, the State committed to provide RIOC with funding as detailed in the resolution approved by the RIOC Board of Directors on December 12, 2013 (the "Resolution"), a copy of which is attached hereto, to support capital infrastructure improvements (the funds described herein shall be referred to as the "State Funds").

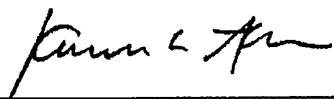
The RIOC Board of Directors conditioned the adoption of the Resolution upon the full execution of an agreement concerning the State's contribution to RIOC as outlined in option 2 of the deal term sheet, with payment fully made by December 31, 2018, in connection with the RIOC's agreement to amend the Master Lease to facilitate the Cornell Project. This letter agreement is provided in order to satisfy this condition. We understand that your execution of this letter agreement indicates that the condition is satisfied.

The State Funds may be paid in installments but the final installment shall occur no later than December 31, 2018. ESD or the appropriate responsible agency shall remit any installment of the State Funds to RIOC upon approval by the State.

We look forward to working with you. Please indicate your acceptance of the terms of this Commitment below.

AGREED TO BY:

NEW YORK STATE URBAN DEVELOPMENT
CORPORATION d/b/a EMPIRE STATE
DEVELOPMENT

By: 

Name: Kenneth Adams

Title: President and Chief Executive
Officer

ROOSEVELT ISLAND OPERATING
CORPORATION

By: _____

Name: Charlene M. Indelicato

Title: President and Chief Executive
Officer

We look forward to working with you. Please indicate your acceptance of the terms of this Commitment below.

AGREED TO BY:

NEW YORK STATE URBAN DEVELOPMENT
CORPORATION d/b/a EMPIRE STATE
DEVELOPMENT

By: _____
Name: Kenneth Adams
Title: President and Chief Executive
Officer

ROOSEVELT ISLAND OPERATING
CORPORATION

By: _____
Name: Charlene M. Indelicato
Title: President and Chief Executive
Officer

Andrew M. Cuomo
Governor

Charlene M. Indelicato
President/Chief Executive Officer

Donald D. Lewis
Vice President/General Counsel



Roosevelt Island Operating Corporation
of the State of New York
591 Main Street, Roosevelt Island, NY 10044
T: (212) 832-4540 • F: (212) 832-4582
<http://rioc.ny.gov>

Board of Directors
Darryl C. Towns, *Chairperson*
Fay Fryer Christian
Dr. Katherine Teets Grimm
David Kraut
Robert L. Megna
Howard Polivy
Michael Shinozaki
Margaret Smith

Agenda Item V, 7. December 12, 2013

RESOLUTION

AUTHORIZATION TO ENTER INTO AN AMENDMENT OF THE MASTER LEASE WITH THE CITY OF NEW YORK AND TO TAKE RELATED ACTIONS IN CONNECTION WITH THE CORNELL TECH CAMPUS DEVELOPMENT, INCLUDING MAKING ENVIRONMENTAL FINDINGS AND ENTERING INTO A DEVELOPMENT AGREEMENT AND OTHER RELATED AGREEMENTS

WHEREAS, the Roosevelt Island Operating Corporation (the "Corporation") is desirous to: (1) amend the Master Lease with the City of New York (the "City") to exclude the 2.62 acre surrounding site (the "Parcel"), so that it may be incorporated into the City's 9.8 acre Goldwater Site (the "Goldwater Site") for the Cornell Tech Campus; (2) approve and adopt the State Environmental Quality Review Act ("SEQRA") Findings Statement; (3) execute the Letter of Resolution regarding State Historic Preservation Act ("SHPA"); (4) enter into agreements with the State of New York (the "State"), Cornell University ("Cornell"), and New York City Economic Development Corporation ("NYCEDC"), including a Development Agreement with Cornell; and (5) authorize all related actions.

IT IS HEREBY RESOLVED by the Board of Directors of the Corporation as follows:

1. that on the basis of the materials presented to the Directors at this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the "Materials"), the Corporation hereby makes and adopts the SEQRA Findings Statement attached as Exhibit E to the Materials, substantially on the terms and conditions set forth in the Materials;
2. that in addition to the mitigation commitments set forth in the SEQRA Findings Statement, the Development Agreement between the Corporation and Cornell shall include the additional project commitments by Cornell relating to parking management during operation; construction protocols; bus service; barging of materials; and other commitments related to transportation and construction;
3. that on the basis of the Materials, the Corporation is hereby authorized to execute the Letter of Resolution with respect to mitigation under the State Historic Preservation Act, substantially in the form attached as Exhibit F to the Materials;

4. that the Corporation hereby determines, after giving due consideration to the appraisals of the Parcel, and the City's intent to develop the Goldwater Site for the Campus, that the proposed transfer is within the purpose, mission and governing statute of the Corporation and there is no reasonable alternative that would result in the same benefits to the public or achieve the same purpose of the proposed transfer;
5. that on the basis of the Materials, the Corporation is hereby authorized to amend the Master Lease with the City to exclude the Parcel, so that it may be combined into the Goldwater Site, to create the 12.4 acre site for the Cornell Tech Campus, substantially on the terms and conditions set forth in the Materials;
6. that on the basis of the Materials, the Corporation is hereby authorized to enter into the Development Agreement and other agreements with the State, Cornell and NYCEDC, substantially on the terms and conditions set forth in the Materials;
7. that the President/Chief Executive Officer or her designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver, and affix the seal of the Corporation to, all such agreements, contracts, deeds, certificates and instruments and to take any such action as may be considered to be necessary or proper to effectuate the surrender of the Parcel back to the City pursuant to an amendment of the Master Lease and to implement the transaction set forth in the Materials;
8. that the President/Chief Executive Officer or her designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to take all such actions as are necessary to implement the transaction set forth in the Materials; and
9. that this resolution shall take effect immediately.

Andrew M. Cuomo
Governor

Charlene M. Indelicato
President/Chief Executive Officer

Donald D. Lewis
Vice President/General Counsel



Roosevelt Island Operating Corporation
of the State of New York
591 Main Street, Roosevelt Island, NY 10044
T: (212) 832-4540 • F: (212) 832-4582
<http://rioc.ny.gov>

Board of Directors
Darryl C. Towns, *Chairperson*
Fay Fryer Christian
Dr. Katherine Teets Grimm
David Kraut
Robert L. Megna
Howard Polivy
Michael Shinozaki
Margaret Smith

MEMORANDUM

To: Board of Directors
From: RIOC Staff
Re: Cornell NYC Tech Project (the "Project")
Date: December 10, 2013

This Memorandum and the transactions described herein have been facilitated by the Empire State Development staff.

REQUEST FOR:

Authorization to amend the Master Lease (the "Master Lease") between The City of New York (the "City") and Roosevelt Island Operating Corporation ("RIOC") to exclude from the Master Lease the 2.62 parcel (the "Parcel") surrounding the City's 9.8 acre Goldwater Site (the "Goldwater Site"), so that it may be incorporated into Cornell's NYC Tech Campus (the "Campus" or the "Project Site").

BACKGROUND

RIOC was created by the New York State Legislature in 1984. RIOC's mandate is to manage, develop and operate the 147 acres of Roosevelt Island. RIOC has promoted the development of a mixed-use, residential and commercial community that is home to more than 14,000 residents. RIOC provides municipal services that include security, waste disposal, tramway service, Red Bus service, maintenance and landscaping, and parking in the Motorgate Parking Facility.

The purpose of the Project is to provide a campus to focus on research in the applied sciences and fields of study related to the technology sector that will offer graduate degrees only. An important goal of the Project is to maintain and increase New York City's global competitiveness, diversify the City's economy, drive economic growth, and create jobs for New Yorkers.

Zoning amendments have been instituted to create a Special District for the Campus. The Special District goals include the following specific purposes:

- To provide opportunities for the development of an academic and research and development campus in a manner that benefits the surrounding community;
- To allow for a mix of residential, retail and other commercial uses to support the academic and research and development facilities and complement the urban fabric of Roosevelt Island;
- To establish a network of publicly accessible open areas that take advantage of the unique location of Roosevelt Island and that integrate the Campus into the network of open spaces on Roosevelt Island and provide community amenities;
- To strengthen visual and physical connections between the eastern and western shores of Roosevelt Island by establishing publicly accessible connections through the Special District and above-grade view corridors;
- To provide flexibility of architectural design within limits established to assure adequate access of light and air to the street and surrounding waterfront open areas, and thus to encourage more attractive and innovative building forms; and
- To provide the most desirable use of land in this area and thus conserve the value of land and buildings.

A description of the Project is attached hereto as Attachment A.

PAAA COMPLIANCE

Cornell University ("Cornell") seeks an amendment to the Master Lease, to exclude the Parcel from the Master Lease, so that it may be incorporated into the Project Site and leased by the City to Cornell. The proposed consideration for the transfer of RIOC's interest in the Parcel, as set forth below, is below the fair market value as determined by 2 independent appraisals performed on behalf of RIOC and without publicly advertising for bids.

In accordance with the Public Authorities Accountability Act, as most recently amended ("PAAA"), two appraisals of the Parcel have been prepared. Jerome Haims Realty, Inc., an independent appraiser, appraised the fair market "as is" value at \$24,000,000 as of March 8, 2013. KTR Real Estate Advisors LLC, an independent appraiser, appraised the fair market "as is" value at \$90,000,000 as of May 22, 2013. The Haims appraisal has been assessed more credible than the KTR appraisal because the Haims' appraisal is based on residential development that would have been allowed by zoning prior to the creation of the special zoning district for the

Project. Moreover, the Haims appraisal discounted for the irregular shape of the Parcel, whereas the KTR appraisal did not.¹

PAAA Section 2897(7)(a)(ii) permits the disposal of property for less than fair market value and without public bidding if "the purpose of the transfer is within [RIOC's] purpose, mission or governing statute". RIOC's mandate is to manage, develop and operate the 147 acres of Roosevelt Island as a mixed-use, residential and commercial community. The proposed transfer of RIOC's interest in the Parcel will further these goals by allowing the development of a campus in a manner that benefits the surrounding community, and allows for a mix of residential, retail and other commercial uses to support the campus and complement the urban fabric of Roosevelt Island.

Given that the City has agreed to transfer the Goldwater Site to Cornell, ESD and RIOC Staff believe and recommend that the Directors determine, as contemplated by the PAAA, that the proposed transfer is within the mission, purpose and governing statute of RIOC and there exists no reasonable alternative that would result in the same benefits to the public or achieve the same purpose of the proposed transfer.

Finally, PAAA Section 2897(7)(b) requires disclosure of the following information:

- (i) - Full property description: approximately 2.62 acres of undeveloped land surrounding the Goldwater Site. See Map at Attachment B.
- (ii) Haims Appraisal: \$24,000,000 as of March 8, 2013 and KTR Appraisal: \$90,000,000 as of May 22, 2013. The Haims appraisal has been assessed as more credible than the KTR appraisal for the reasons set forth above.
- (iii) Purpose of transfer; statement of public benefit: the purpose of the transfer is to permit Cornell to build the NYC Tech Campus, which will benefit the surrounding

¹ Both appraisers use a Sales Comp approach, and although they use different comps, both conclude at a value of \$125 per SF of developable area ("DA"). They also agree on total lot size at 113,912 SF. Therefore, the vast value difference is based on (1) Haims' use of a residential zoning FAR, which is more credible given the prevailing development character of the Island and (2) Haims' finding that the "highly irregular in shape [of the parcel, which] could not be developed to maximize all of its development potential independently", and therefore, by analogy to TDRs, makes the 50% discount. KTR makes no configuration adjustment.

	<u>KTR</u>	<u>Haims</u>
Zoning	C4-5	R7-2
FAR	6.5	3.44
DA	740,428	391,857
Discount	None	50%

community and complement the urban fabric of Roosevelt Island as set forth more fully in the Environmental Impact Statement adopted by the NYC City Planning Commission on March 8, 2013.

- (iv) Value to be received by RIOC: the benefits set forth below in "Terms of Transfer"
- (v) Private participants and value to be received: Cornell will receive the Parcel through a lease with the City. The value of the Parcel is subject to different appraisals and different values determined by RIOC, the City and Cornell.
- (vi) Other offers: none, due to the fact that the City has agreed to lease the Goldwater Site to Cornell.

TERMS OF THE TRANSFER

A summary of terms set forth below have been agreed upon by RIOC, the State, Cornell, the City in exchange for RIOC surrendering the Parcel back to the City. Many of the non-financial terms reference Cornell's commitments made in its letters to David Karnovsky dated March 19, 2013 (the "Karnovsky Letter") a copy which is attached hereto as Attachment C and Jessica S. Lappin dated May 2, 2013 (the "Lappin Letter"), a copy which is attached hereto as Attachment D:

RIOC CONTRIBUTION	<ul style="list-style-type: none"> Surrender of the 2.6 acre RIOC site surrounding the City Goldwater Site (the "Parcel") under the Master Lease to the City to be incorporated with the City Goldwater Site to comprise the 12.4 acre Campus. The City will lease the Project Site to New York City Land Corporation for 99 years which will assign the lease to Cornell. RIOC commissioned 2 appraisals for the Surrounding Site which valued such site at \$24 million ("Haims Appraisal") and \$90 million ("KTR Appraisal"). The Haims Appraisal has been assessed as more credible for several reasons.
STATE CONTRIBUTION	<ul style="list-style-type: none"> (i) \$1,000,000 annually for 55 years payable to RIOC (escalating 2.5% every 10 years) in accordance with State budgetary procedure, or (ii) an equivalent amount to support capital infrastructure improvements on RIOC as determined in accordance with State budgetary procedure.

*

<p>CORNELL CONTRIBUTION</p>	<ul style="list-style-type: none"> • \$400,000 annually for 55 years payable to RIOC (escalating 2% every 10 years). • Execution of a Development Agreement with RIOC evidencing this payment plus the following material commitments to be implemented by or on behalf of Cornell at Cornell's sole cost: <ul style="list-style-type: none"> -Mitigation under SEQRA identified in RIOC findings statement and other materials²; -Mitigation under SHPA; -Infrastructure Improvements on, around, and under Loop Road (includes roadway work, sewers, relocation of electrical duct banks, and gas service); -Parking commitment³; -Red Bus commitment during construction⁴; -Barging where feasible⁵; -Access to the RIOC premises under permits and License Agreements providing work plans, bonding and insurance, and incorporating construction protocols, all approved by RIOC; -Construction and truck trips on and off Roosevelt Island may occur between 7 am to 6 pm to coincide with standard NYC Department of Buildings ("DOB") hours; variances from such will be approved by RIOC in its reasonable discretion; -Air and Noise Pollution Mitigation; -Payment for RIOC Engineer and RIOC Consultant to review Work Plans for work to occur on the RIOC Premises and to monitor performance of work by Cornell or its agents pursuant to Work Plans; -Ensure Safe Pedestrian and Vehicular Access to areas south of the Cornell Site (RIOC's request for in-bound access was not agreed to); -Repair of damage on Roosevelt Island caused by Cornell or its agents; -General indemnification for work performed by Cornell or its agents; -Environmental indemnification for environmental liabilities caused by Cornell or its agents; and -Increased security by Cornell at southern end of Roosevelt
---------------------------------	--

² See Karnovsky Letter.

³ See Paragraph C (Parking) and the "Parking" portion of Exhibit B of the Lappin letter.

⁴ See Paragraph H (Red Bus Service) of the Lappin Letter.

⁵ See Paragraph G of the Lappin Letter.

	Island
CITY CONTRIBUTION Via (NYC Economic Development Corporation ("EDC"))	<ul style="list-style-type: none"> • Execution of a Side Letter between RIOC and EDC evidencing the following payment and commitments by the EDC: <p>- \$70,000 in payment for one-time legal fees accrued by RIOC for SEQRA related issues in connection with the transaction.</p> <p>- NYCEDC, in its role as lease administrator, agrees to meet with the Roosevelt Island Operating Corporation ("RIOC") on a quarterly basis, beginning on or about February 14, 2014 until completion of the Full Build as defined in the Cornell Lease, in order for RIOC to have the opportunity to brief NYCEDC on Cornell's compliance (or lack thereof) in connection the commitments set forth in the Lappin Letter in Paragraph A (Construction Practices), Paragraph B (Security), Paragraph C (Parking), Paragraph G (Barging), Paragraph H (Red Bus Service), Exhibit A (Construction Noise Control and Air Quality), the "Construction Measures" portion of Exhibit B, and the "Parking" portion of Exhibit B.</p> <p>- Pursuant to such briefings, if RIOC disagrees with NYCEDC's enforcement of a commitment that Cornell has made through the Lappin Letter, RIOC, in its sole discretion, has the right to commence mediation with the Governor's Office and the Mayor's Office to reach a resolution, which mediation shall promptly commence within five (5) business days from the receipt of the written request from RIOC.</p> <p>- If RIOC disagrees with NYCEDC's enforcement of a commitment in the interim period between quarterly meetings with NYCEDC, RIOC, in its sole discretion, has the right to mediation with the Governor's Office and the Mayor's Office, which mediation shall promptly commence within five (5) business days from the receipt of the written request from RIOC.</p>
ESD CONTRIBUTION	<ul style="list-style-type: none"> • ESD is waiving its fees in connection with facilitating the transaction.

NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

Not Applicable.

ENVIRONMENTAL REVIEW

The Directors are being requested to adopt the SEQRA Findings Statement, attached hereto as Attachment E. The Directors have also been asked to authorize RIOC to enter into the Letter of Resolution, attached hereto as Attachment F with respect mitigation under the State Historic Preservation Act ("SHPO").

RECOMMENDATION

Based on the foregoing, the approval of the requested action is recommended.

ATTACHMENTS

Resolution

- A- Description of the Project
- B- Map of Parcel
- C- Karnovsky Letter
- D- Lappin Letter
- E- SEQRA Findings Statement
- F- Letter of Resolution re: SHPO

The final Environmental Impact Statement is available at:

http://www.nyc.gov/html/oec/html/ceqr/12dme004m_feis.shtml