

RESOLUTION OF THE NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY (1) AUTHORIZING THE NEW YORK TIMES COMPANY TO CONSTRUCT AND EQUIP A COMMERCIAL FACILITY AS A STRAIGHT-LEASE TRANSACTION, ALL FOR THE PROVISION OF CORPORATE HEADQUARTERS AND OFFICE SPACE FOR ITS NEWSPAPER OPERATIONS, FOR LEASE TO THE AGENCY AND SUBSEQUENT SUBLEASE TO THE NEW YORK TIMES COMPANY, (2) AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A PRELIMINARY SALES TAX LETTER, AN INTERIM LEASE AGREEMENT, AN INTERIM SUBLEASE AGREEMENT, AN INDEMNIFICATION AGREEMENT, A COMPANY LEASE AGREEMENT (SITE 8 SOUTH), A LEASE AGREEMENT (SITE 8 SOUTH), AN EQUIPMENT LEASE AGREEMENT, A PROJECT AGREEMENT AND A SALES TAX LETTER, AND (3) AUTHORIZING THE TAKING OF OTHER MATTERS IN CONNECTION THEREWITH WITH RESPECT TO ITS STRAIGHT-LEASE TRANSACTION FOR THE NEW YORK TIMES COMPANY

WHEREAS, the New York City Industrial Development Agency (the "Agency") is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the "Act"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, civic, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, The New York Times Company (the "Applicant") has entered into negotiations with officials of the Agency for (i) the construction of a commercial facility (the "Facility") consisting of the construction of a 900,000 square foot office tower on a site known as Site 8 South on Eighth Avenue between 40<sup>th</sup> and 41<sup>st</sup> Streets, all for the provision of the corporate headquarters and office space for the primary news gathering and editorial functions in connection with *The New York Times* and related operations of the Applicant and its eligible affiliates, and (ii) the acquisition or lease of equipment for use by the Applicant and its eligible affiliates at certain premises for their news related operations, consisting of, to the extent leased, or owned and occupied by the Applicant and/or its eligible affiliates, the following locations (collectively, except for the Facility, the "Equipment Project Sites"): the Facility, 229 West 43<sup>rd</sup> Street, 122 Fifth Avenue, 122 East 42<sup>nd</sup> Street, 311 West 43<sup>rd</sup> Street, 1133 Sixth Avenue, 841 Broadway, and 500-

512 Seventh Avenue, New York, New York, and 4725 34<sup>th</sup> Street, Long Island City, New York (collectively, the "Project"), for sale or lease to the Agency and sublease to the Applicant; and

WHEREAS, the Facility is a portion of an approximately 1,370,000 square foot building; and

WHEREAS, with respect to the Facility, it is proposed that:

(i) the Applicant will lease the Facility to the Agency pursuant to a Company Lease Agreement (Site 8 South) between the Applicant and the Agency (the "Company Lease");

(ii) the Agency will sublease the Facility to the Applicant pursuant to a Lease Agreement (Site 8 South) between the Agency and the Applicant (the "Lease Agreement"); and

(iii) the Agency will issue a Sales Tax Letter to the Applicant (the "Sales Tax Letter") for the purpose of, among other things, providing a sales and use tax exemption for the Applicant in purchasing building materials, equipment and furniture to renovate, equip and furnish the Facility and the Equipment Project Sites; and

WHEREAS, it is further proposed that the Agency and the Applicant will enter into an Equipment Lease Agreement (the "Equipment Lease Agreement") pursuant to which the Agency will lease to the Applicant all equipment and furniture acquired pursuant to the Sales Tax Letter for installation at the Equipment Project Sites or such other locations as the Agency may from time to time approve in accordance with the Act; and

WHEREAS, in order to provide sales and/or use tax exemptions to the Applicant on a preliminary basis, it is proposed that:

(i) the Applicant will lease the Facility to the Agency pursuant to an Interim Lease Agreement (the "Interim Lease Agreement"), and the Agency will sublease the Facility to the Applicant pursuant to an Interim Sublease Agreement (the "Interim Sublease Agreement"); and

(ii) the Agency will issue a Preliminary Sales Tax Letter to the Applicant (the "Preliminary Sales Tax Letter"), and the Applicant will deliver an Indemnification Agreement to the Agency (the "Indemnification Agreement"); and

WHEREAS, in order to provide certain covenants and agreements on the part of the Applicant, the Agency and the Applicant will enter into a Project Agreement (the "Project Agreement"); and

WHEREAS, the Applicant has submitted a Project Application (the "Application") to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the Applicant currently employs approximately 3,300 persons within The City of New York (the "City"); that the Applicant wishes to invest in the construction and equipping of a commercial facility so that the Applicant can continue to operate efficiently; that the Applicant has considered various options, including renovating and expanding its facility in New Jersey; that obtaining Agency financial assistance in the form of a straight-lease transaction is critical to the Applicant's decision to remain and consolidate its operations in the City; that after a year of operation, the Applicant anticipates a 1% annual employment growth in the City; and that, based upon the financial assistance provided through the Agency, the Applicant desires to remain and proceed with the Project in the City; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicant are necessary to induce the Applicant to maintain and expand its operations within the City; and

WHEREAS, in order to provide financial assistance to the Applicant for the construction and equipping of the Project, the Agency intends to grant the Applicant financial assistance through a straight-lease transaction in the form of sales tax exemptions, all pursuant to the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency hereby determines that the construction and equipping of the Project and the providing of financial assistance with respect thereto by the Agency pursuant to the Act will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in said Act and hereby authorizes the Applicant to proceed with the Project. The Agency further determines that

(a) the Project shall not result in the removal of any facility or plant of the Applicant or any other occupant or user of the Project from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Applicant or any other occupant or user of the Project located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed

government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York; and

(c) not more than one-third of the total Project cost is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicant for the construction and equipping of the Project, a straight-lease transaction is hereby authorized subject to the provisions of this Resolution and the Agency Documents hereinafter authorized.

Section 3. The execution and delivery of the Company Lease (and a memorandum thereof), the Lease Agreement (and a memorandum thereof), the Sales Tax Letter, the Equipment Lease Agreement, the Interim Lease Agreement, the Interim Sublease Agreement, the Preliminary Sales Tax Letter, the Indemnification Agreement and the Project Agreement (each document referenced in this Section 3 being, collectively, the "Agency Documents"), each being substantially in the form approved by the Agency for prior transactions, is hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel and Vice President for Legal Affairs of the Agency are hereby authorized to execute, acknowledge and deliver each such Agency Document and the Secretary, Assistant Secretary, Executive Director, Deputy Executive Director, General Counsel and Vice President for Legal Affairs of the Agency are hereby authorized to affix the seal of the Agency on each such Agency Document and attest the same. The execution and delivery of each such Agency Document by one of said officers shall be conclusive evidence of due authorization and approval.

Section 4. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 5. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Applicant to assist in the construction and equipping of the Project.

Section 6. The Agency hereby authorizes the Applicant to proceed with the Project as herein authorized. The Applicant is authorized to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Applicant that (i) the fee or leasehold or other interest of the Agency in the Project shall be in the Agency for purposes of granting financial assistance, and (ii) the Applicant is hereby constituted the agent for the Agency solely for the purpose of effecting the Project, and the Agency shall have no personal liability for any such action taken by the Applicant for such purposes.

Section 7. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and the Agency Documents.

Section 8. Any expenses incurred by the Agency with respect to the Project shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 9. This Resolution is subject to the approval of a private investigative report with respect to the Applicant. The provisions of this Resolution shall continue to be effective until one year from the date hereof whereupon the effectiveness of this Resolution shall terminate (except with respect to the matters contained in Section 6 hereof) unless (i) prior to the expiration of such year (x) the Agency shall by subsequent resolution extend the effective period of this Resolution, or (y) the Agency shall adopt a resolution authorizing the appropriate documents to effectuate the straight-lease transaction for the Project as herein authorized or (ii) the Applicant shall be continuing to take affirmative steps to secure financing for the Project.

Section 10. With respect to the Facility, the Agency, as an involved agency, is issuing this determination pursuant to the State Environmental Quality Review Act (SEQRA) (Article 8 of the Environmental Conservation law) and implementing regulations contained in 6

N.Y.C.R.R. Part 617. This determination is based upon the Agency's review of information provided by the Applicant and such other information as the Applicant has deemed necessary and appropriate to make this determination.

#### I. Background

The 42nd Street Development Project (the "42<sup>nd</sup> Street Project") (a portion of which is part of the Project) is the rehabilitation and redevelopment of approximately 13 acres in Mid-town Manhattan surrounding West 42nd Street between Broadway and Seventh Avenue. It includes, amongst other proposals, the construction of new office buildings, the restoration of historic theaters in the 42nd Street mid-block, construction of new retail and restaurant uses, construction of new movie and stage theater, the reconstruction and improvement of the subway complex beneath Times Square and the development of a general merchandise mart and/or office space and a hotel on Eighth Avenue between 40th and 43rd Streets.

The 42nd Street Redevelopment Plan was initially analyzed in an "FEIS", 42nd Street Redevelopment Project issued in 1984 (the "1984 FEIS") with supplemental analyses completed for plan amendments in 1988 and 1991; and a final supplemental EIS, 42nd Street Redevelopment Project: General Project Plan Amendment Final Supplemental Environmental Impact Statement, dated 1994 (the "1994 FSEIS"). In August 2001, Empire State Development Corporation issued 42 Street Development Project, Environmental Review Technical Assessment (the "Technical Assessment"), which analyzed the environmental effects of proposed use changes on Sites 8S and Site 8N and the advancement of the build year for these sites from 2015 to 2005.

The 1984 FEIS disclosed potential significant impacts as follows:

#### Land Use and Community Resources

The 42<sup>nd</sup> Street Project will result in:

- (a) substantial elimination of the blighted condition and physical decay characterizing the 42<sup>nd</sup> Street Project area,
- (b) displacement of 24 permanent residents who would be offered relocation assistance,
- (c) a substantial increase in building bulk beyond that permitted by zoning,
- (d) potential loss of moderately-priced uses in the 42<sup>nd</sup> Street Project area, and
- (e) with the introduction of a proposed mart and office uses, possible vacancies in the adjacent garment center.

#### Social and Street Conditions

The 42<sup>nd</sup> Street Project will result in:

- (a) substantial elimination of dangerous and threatening street conditions and sex-related uses and
- (b) substantial reduction in crime on 42nd Street within the 42<sup>nd</sup> Street Project area.

#### Historic Resources

The 42<sup>nd</sup> Street Project would result in:

- (a) preservation and restoration of several historic theaters within the 42<sup>nd</sup> Street Project area and
- (b) demolition of the Rialto Building and reutilization of the Empire and possibly the Times Square theaters for retail uses.

#### Economic Impacts

The 42<sup>nd</sup> Street Project will result in:

- (a) generation of at least \$860 million in real estate taxes,
- (b) aggregate contributions by site developers of at least \$40 million for theater acquisition and renovation,
- (c) subway modernization and other public improvements, and
- (d) creation of an estimated 22,000 net new jobs in the 42<sup>nd</sup> Street Project area.

#### Traffic and Transportation

##### Vehicular Traffic

The 42<sup>nd</sup> Street Project will result in, with proposed mitigation, substantial improvement in traffic conditions when compared to the No Build condition.

##### Pedestrian Circulation

The 42<sup>nd</sup> Street Project will result in, with the redevelopment of numerous parcels in the 42<sup>nd</sup> Street Project area, a worsening of pedestrian impacts at some locations and an improvement of conditions at other locations.

##### Transit Service

The 42<sup>nd</sup> Street Project will result in:

- (a) modernization of the Time Square station containing a fare-free zone linking the four new office buildings proposed for Sites 1,3,4 and 12 and

- (b) with estimated increases in PM peak transit ridership of 4,400 utilizing the Times Square Station, increased ridership will result in some passengers' inability to board the first arriving train.

#### Air Quality

The 42<sup>nd</sup> Street Project would result in future no-build violations of NAAQS for eight hour concentrations of carbon monoxide would be exceeded under the 920 parking space alternative on 40th Street between Seventh and Eighth Avenues and a significant exceedence of de minimus increase criteria would occur on Broadway between 42nd and 43rd Streets.

#### Construction Impacts

Principal impacts anticipated during construction were:

- (a) increased vehicular congestion due to temporary land closures,
- (b) associated short-term increases in carbon monoxide levels resulting from such congestion, and
- (c) temporary inconvenience to subway riders and pedestrians.

Generally, the 1988 and 1991 modifications included redistribution of allowable bulk raising the potential building heights on the Seventh Avenue/Broadway office buildings and broadening the permitted uses for the mid-block parcels. These modifications were not found to result in new significant impacts or to exacerbate impacts disclosed in the 1984 FEIS. The 1994 amendment to the plan extended the potential build-out of the office component to 2015, removed the planned improvements to the 42nd Street subway complex from the plan, permitted movie use as an option for all project theaters. It also permitted the deferral of the construction date for the hotel on Site 7 and the merchandise mart/office building on Site 8 and established an interim plan of uses called "42<sup>nd</sup> Street Now" which would be implemented during a transitional period as market conditions made full implementation previously contemplated infeasible at that time.

Proposed modifications to the development programs for Sites 8S and 8N have occurred since the 1994 FSEIS was issued. In addition, the projected completion of the development of these sites has been accelerated from 2015 to 2005. The potential environmental impacts from the proposed modifications to the developments of Sites 8N and 8S are analyzed in the Technical Assessment. For the 2015 build year, three development scenarios were analyzed in the 1994 FSEIS, 1) a general wholesale mart, combined with office and retail use; 2) a wholesale mart oriented toward the wholesale interior furnishings industry, combined with office and retail use; and 3) an office complex. For the two mart scenarios Sites 8S and 8N could have been combined as one development with a 2.5 million gross square feet of development. All three options included about 100 parking spaces and a pedestrian bridge spanning Eighth Avenue.



The proposed program for Site 8, in contrast with the previous options, calls for the construction of the New York Times development on 8S and a 35-story building with 800,000 s.f. of office and 50,000 s.f. of retail space on Site 8N. Development of the two sites would not go forward together and the program elimination of the pedestrian bridge.

The conclusion of Technical Assessment was that the proposed changes in the build year and program for the development of Site 8 would not result in the creation of any new significant adverse impacts or the exacerbation of any impacts disclosed in the 1994 FSEIS.

## II. Statement of Findings

The Agency, as an involved agency, pursuant to the State Environmental Quality Review Act (SEQRA) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617, hereby makes the following findings.

With respect to the 42nd Street Project, including modifications for Site 8S and 8N, the following environmental effects are anticipated:

### Land Use, Zoning, and Public Policy

The construction of a high-rise office tower on each of Site 8S and 8N would fulfill a major public policy initiative that has been 20 years in the making. The proposed modifications to the programs for Sites 8S and 8N within the 42<sup>nd</sup> Street Project would not result in any significant adverse impacts on land use as previously disclosed in the 1994 FSEIS. Within the study area, such development would support trends that were anticipated in the 1994 FSEIS and that have been underway. No zoning changes or changes in public policy would result from the proposals.

### Social Conditions

Elimination of the existing adult-related uses on Site 8S would be unlikely to create a concentration of these uses in other areas of the City. The construction of a high-rise office tower on each of Site 8S and Site 8N would not create any significant adverse impacts on the 42nd Street Project or the surrounding neighborhoods. The proposed program modifications would complete the change of the 42<sup>nd</sup> Street Project area from a seedy district to a dynamic center of entertainment, commerce and tourism.

### Visual Character

Analysis for the FSEIS included two scenarios with a 20 story mart and a 200-foot bridge across 41st Street. A third scenario assumed two separate office towers totaling about 2.5 million s.f. and a pedestrian bridge spanning Eighth Avenue. The New York Times building would be 151 feet taller than anticipated in the FSEIS but would be in keeping with massing building bulk and height

on the avenues while maintaining the low scale character of the midblock. The New York Times building would stand apart from its surroundings while contributing to the eclectic character of the area. The proposed office building on Site 8N would be somewhat taller than anticipated in the FSEIS. Elimination of the pedestrian bridge would result in views along Eighth Avenue not being blocked and would be more in keeping with the character of most Manhattan streets where such bridges are generally not located.

### Shadows

Increased shadows associated with the New York Times building and a taller building on Site 8N would not result in significantly different shadows from those disclosed in the FSEIS, although the New York Times building would cast a new shadow on May Mathews Park for about 40 minutes in December. Considering the short duration of the shadow's effects on the park and its occurrence during winter months when park use is minimal, the shadows cast by the new building would not result in significant adverse impacts on public open space.

### Traffic and Parking

With the exception of the pre-theater evening hours, traffic generated by the Project at the Facility and the office tower on Site 8N would be significantly less than that projected for uses assumed in the FSEIS. AM, MD and PM peak hour trips would decline from 5,610, 6,799 and 6,572 to 3,629, 4,254 and 3,691 respectively. Pre-theater peak period trips would increase from 489 to 1,559. The Technical Assessment concludes that as compared to the FSEIS, with the proposed program modifications there is some shifting in the location of problem locations (lanegroups/movements) but overall traffic conditions would remain similar to those presented in the FSEIS.

The FSEIS assumed the possibility of the provision of 100 on-site parking spaces on Site 8S. Even with the loss of this parking, project area parking facilities would continue to have available capacity.

### Pedestrian and Transit

Sidewalks which were analyzed based on plans for the proposed New York Times and Site 8N buildings would operate at better LOS than those estimated for the FSEIS as would street corners. Crosswalks with the proposed program modifications would operate at similar levels of service as predicted in the FSEIS.

The estimated future subway trips are estimated to be lower than those projected in the FSEIS with the exception of the pre-theater peak hour. However as pre-theater peak hour trips are fewer than AM and PM peak trips, the additional 491 trips generated by the proposed program modification would be accommodated during this period. Bus trips would generally be lower than those

predicted in the FSEIS with the exception of the pre-theater hour as well. Some routes may require additional service. However, the New York City Transit Authority periodically evaluates service conditions and revises schedules and headways to accommodate changes. Therefore, there would not be any significant adverse impacts that were not disclosed in the FSEIS.

#### Air Quality

Mobile source air quality monitoring was conducted at Eighth and Seventh Avenues and 42nd Street and carbon monoxide ("CO") levels for 2001 and 2005 were projected. Eight-hour CO concentrations were found to decrease from an average 8.1 parts per million ("PPM") at Eighth Avenue and 42nd Street to 6.7 PPM between 2001 and 2005. At Seventh Avenue and 42nd Street CO concentrations declined to 6.7 PPM from 8.7 PPM during this time period. There would be no exceedances of national air quality standards or significant impacts that had not been disclosed in the FSEIS.

Having considered the 1984 FEIS, the Environmental Assessments of 1988 and 1991 amendments to the 42nd Street Redevelopment Project, the 1994 FSEIS and the 2001 Technical memorandum; and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. Part 617.9, the Agency hereby finds that:

- (a) the requirements of 6 N.Y.C.R.R. have been met;
- (b) consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the action approved is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, including the effects disclosed in the environmental impact statement and subsequent environmental reviews; and
- (c) consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental impacts revealed in the environmental impact statement and subsequent environmental reviews would be minimized or avoided by incorporating as conditions to the decision those mitigation measures which were identified as practicable.

Section 9. The Agency has determined that the Project with respect to each of the Equipment Project Sites is a Type II action pursuant 6 N.Y.C.R.R. Part 617.5(c)(25) "purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials" which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 10. In connection with the Project, the Agency intends to grant the Applicant sales tax exemptions.

Section 11. This Resolution shall take effect immediately.

ADOPTED: October 23, 2001

Accepted: \_\_\_\_\_, 2001

THE NEW YORK TIMES COMPANY

By: \_\_\_\_\_

Name:

Title: