

Appendix G:

**Draft Letter of Resolution**



**LETTER OF RESOLUTION**

**AMONG**

**EMPIRE STATE DEVELOPMENT CORPORATION,**

**THE CITY OF ROCHESTER**

**AND**

**THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC  
PRESERVATION (OPRHP)**

**REGARDING**

**THE PROPOSED REDEVELOPMENT OF MIDTOWN PLAZA**

**(aka “Midtown” or “Midtown Mall”)**

WHEREAS, the Midtown Block (the “Property”) is located in the downtown section of the City of Rochester (the “City”), Monroe County, New York, comprising 8.6 acres of land generally bounded by Main Street on the north, Euclid Street on the east, Broad Street on the south, and South Clinton Avenue on the west; and

WHEREAS, in 1957, through various urban renewal efforts by the City, the construction of a mixed-use retail/office complex known as the Midtown Plaza was completed in 1962, planned and designed by the renowned architect, Victor Gruen; and

WHEREAS, the design of the Midtown Plaza was premised on the demolition of selected blighted buildings on the Property and abandonment of a series of downtown street segments to create a “superblock” and infilling the land area created with selected new structures/buildings, interconnected to remaining buildings on the Property through a system of accessways and a large enclosed public “atrium” space to create a self-contained all-weather complex; and

WHEREAS, the Midtown Plaza complex contains approximately 1.5 million square feet

of building area, including six main buildings: “Midtown Complex” at 100 South Clinton Avenue includes the “Midtown Tower”, the “Euclid Building”, and “Midtown Plaza” (a two-level retail shopping mall organized around a common atrium space); “McCurdy Building” at 285 East Main Street; “B. Forman Building” at 32-58 South Clinton Avenue; the “Seneca Office Building” at 18-26 South Clinton Avenue; “Midtown Plaza Underground Parking” at 110 South Clinton Avenue (an 1,820-space, 3-story underground parking garage); and a series of “Skyway” pedestrian bridges connecting the complex to adjacent buildings; and

WHEREAS, by the late 1990s, in response to significant decline/deterioration and extensive vacancy at the Midtown Plaza complex, the City concluded that it had begun to contribute to overall decline of downtown Rochester, and began to undertake efforts to revitalize the Property; and

WHEREAS, following almost a decade of changes in ownership, unsuccessful efforts to incorporate new uses, and other redevelopment measures, the City determined that the scale/characteristics of the “superblock”, complexity of design, and other features of the Midtown Plaza complex impeded their ability to revitalize the Property, absent a major public investment and reconfiguration of the Property to break down its scale into more manageable portions by re-incorporation of portions of a traditional urban street grid; and

WHEREAS, the City acquired the Property through condemnation in May 2008 after adopting the Midtown Urban Renewal Plan in March 2007; and

WHEREAS, in 2007, the City embarked on the Midtown Redevelopment Project (the “Project”) with the main objective to raze and redevelop the Property under a unified plan or scenario where the Property would become an urban activity node that accommodates and links uses already completed, under construction, or programmed for construction, while simultaneously spurring additional private sector development; and

WHEREAS, at the time of condemnation, Midtown Plaza was over 85 percent vacant, and currently, all but two tenants have either closed or been relocated from the Property; and

WHEREAS, on October 16, 2007, the New York State Urban Development Corporation, doing business as Empire State Development Corporation (“ESDC”)\]) and City of Rochester (the “City”) entered into a Memorandum of Understanding to provide state funding for the Project, specifically for environmental remediation and demolition of the 1.5 million square feet of blighted space to create a “shovel-ready” site to redevelop the Property for various corporate, office, residential, and other mixed-used development; and

WHEREAS, on June 30, 2008, the City, as lead agency, initiated a generic environmental impact statement (“GEIS”) process in accordance with the New York State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, in accordance with their specific responsibilities under the New York State Parks, Recreation and Historic Preservation Law, ESDC consulted with the New York State Office of Parks Recreation and Historic Preservation (“OPRHP”) on the Property’s eligibility for inclusion in the State and National Registers of Historic Places (“S/NRHP”) and the Project’s potential impact upon properties on or eligible for inclusion on the S/NRHP; and

WHEREAS, the OPRHP, based on additional information and research, determined that Property (i.e., collectively, all structures comprising the Property) was eligible for inclusion of the S/NRHP, in consideration that the 1957 design resulted in the first enclosed downtown shopping mall, and for its association with “the work of a master” (i.e., Victor Gruen); and

WHEREAS, in consulting on the determination of eligibility, the OPRHP indicated that while the entire Property was S/NRHP eligible, the main “character-defining” features of included the Midtown Plaza shopping mall and the Midtown Tower (i.e., the major features representing the works by Victor Gruen) and particularly the atrium feature, given its historic functions as a “enclosed public square” and focal point in the City; and

WHEREAS, ESDC and the City, as part of the SEQRA GEIS process, solicited the participation of OPRHP and various other interested agencies, organizations, and

individuals related to historic preservation and downtown development (hereinafter referred to as “stakeholders”) to participate in a Section 14.09 review process with the intention to determine if there are reasonable and/or prudent alternatives that could avoid adverse impact to S/NRHP-eligible resources while still achieving the overall revitalization goals and objectives of the Project; and

WHEREAS, as part of the 14.09 review process, a series of three (3) review/charrette sessions was held with Project stakeholders and with the assistance of professional architecture, urban design, and engineering consultants, to identify key objectives of the process, review physical characteristics of the Property, and to develop and assess the reasonableness/feasibility of a variety of redevelopment scenarios intended to avoid impact to all or a portion of resources on the Property; and

WHEREAS, early on in the 14.09 review process, it was determined that the objectives of the Project could not be achieved with no impact to S/NRHP-eligible resources on the Property, given that only the “No Action” scenario (i.e., not undertaking the Project) or possibly an adaptive reuse scenario (i.e., for which unsuccessfully attempts had been previously made by the City) would result in no impacts; thus, scenarios involving key character-defining features, particularly the atrium, were developed and assessed; and

WHEREAS, the 14.09 process resulted in a review matrix outlining the implications of each alternative scenario, indicating that an alternative involving the retention of the atrium feature would complicate the implementation of the Project (given no user for the facility had been identified), would require additional engineering to secure and stabilize the structure; and result in higher overall Project costs. By comparison, alternatives involving an interpretation of former atrium space through a public plaza in a similar location, or the replacement of the public functions once served by the atrium through a new public space, would not require the same level of coordination, structural work, or effects to overall project costs; and

WHEREAS, as a result of the 14.09 review process, ESDC notified OPRHP on November 3, 2009 that it was not able to identify a reasonable or prudent alternative that avoids any impacts to the Property, however, the process did yield several

alternatives that attempted to mitigate such impacts; and

WHEREAS, the OPRHP reviewed materials related to the 14.09 process and concurred on November 7, 2008 that the proposed Project, would result in an Adverse Impact to S/NRHP-eligible resources on the Property; and

WHEREAS, on November 10, 2008 the City issued a Draft GEIS for public comment, which proposed a preferred land use approach which would involve razing of the Property and redevelopment in accordance with a mixed-use development strategy, and including the development of a public space design to incorporate the function once served by the Midtown Plaza's atrium space. The Draft GEIS fully documented all alternatives considered for the Project, including the scenarios formulated/assessed as part of the 14.09 review process; and

WHEREAS, after forty (40) days of public review and comment on the land use plan, and an evaluation of mitigation alternatives developed as part of the consultation process, the City selected the preferred land use plan, which proposes to demolish all of the buildings and structures, except in the case of the Midtown Tower Building, provided a viable redevelopment proposal is identified through a Request for Proposal ("RFP") process; and

WHEREAS, the purpose of this Letter of Resolution ("LOR") is to ensure that appropriate mitigation measures are undertaken to partially mitigate the Adverse Impact;

WHEREAS, OPRHP, in consultation with lead and involved agencies, has identified measures to mitigate the adverse effect on historic resources.

NOW, THEREFORE, in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, ESDC, OPRHP, the City agree to the Stipulations specified below:

### **STIPULATIONS**

The ESDC will ensure that the City shall construct the Project in compliance with following stipulations:

## **I. RECORDATION OF HISTORIC STRUCTURES**

Prior to demolition and in consultation with the OPRHP, ESDC and the City shall document the Property or cause to be document the Property in a manner generally consistent with provisions of Historic American Building Survey (HABS) Level 2 photographic documentation and develop an accompanying narrative..

- a) Two sets of black and white photographs (4" x 5" prints on archival paper) and one set of 4" x 5" negatives that record the exterior appearance and major interior spaces as well as a representative example of the apartment spaces. Digital color images will also be taken at the same time as the traditional black and white photography. Digital images should be taken at a high resolution and stored on a CD in TIF uncompressed format. Two sets of CDs of the images will be provided.
- b) Measured drawings are not required, but a good faith effort shall be made to locate exterior elevations and floor plans of each building from appropriate civic and historic repositories to be included in the documentation submission.
- c) A historic narrative pertaining to the history of the structure to illustrate the historic and architectural significance of the complex. The narrative will provide an appropriate historic context for the structures.
- d) Two copies of the photos/narrative are required: one copy of the report will be submitted to OPRHP for forwarding to the State Archives (which will include the archival negatives) and one copy of the report will be submitted to an appropriate local repository (library or historical society).

## **II. PRESERVATION OF INTERIOR ARTIFACTS**

The City shall take all appropriate actions to ensure the preservation of the following artifacts/objects that were once features in the Midtown Plaza atrium:

- a) The Clock of Nations
- b) The Totem Pole

c) The Monorail

In preserving such artifacts, the City may donate such features to appropriate public, not-for-profit, or private repositories and/or entities, provided that such features are exhibited in public/quasi public spaces or are accessible at reasonable times by the public. By no means shall such artifacts be made available for sale to private entities for exclusively private purposes and/or for profit.

### **III. REVIEW PROCESS FOR RAZING OF SKYWAY BRIDGES**

ESDC will consult with the OPRHP regarding the final design for the removal of the Skyway pedestrian bridge connecting the Property to the Sibley Building (which is on the S/NRHP). Such consultation shall involve OPRH Preview for the restoration of the Sibley Building façade in the location of the former Skyway connection, including providing the OPRHP with drawings and other appropriate materials.

- a) Design plans shall be submitted to the OPRHP at the preliminary (40%) and pre-final (80%) completion states for OPRHP comment.
- b) OPRHP will have 15 business days in which to comment on the proposed design.

### **IV. FINAL DESIGN/PLANNING OF NEW PUBLIC SPACE**

The City has advanced a review process for the final design, planning and programming for the proposed new downtown public square as part of the Project. As part of this process, the City shall invite the participation of the aforementioned stakeholders in historic preservation and downtown development. The objective of this process shall be to take steps in the design and programming of the public space in order best to commemorate or facilitate the types of public functions once served by the Midtown atrium space and to develop an appreciation of the significance of the atrium to the Rochester community. This process may yield various techniques, including, but not limited to:

- a) Specific design features (paving, vertical elements, focal points, etc.) intended to define the square as a “place”.

- b) Arrangement of users/uses surrounding the public square, to ensure the highest levels of activity and visibility possible.
- c) Features (e.g., if determined to be desired) that commemorate the property/location that comprised the former Midtown Plaza atrium and/or are intended to educate visitors of the importance of the facility in the City's development history.
- d) Methods and/or techniques to program activities/events in the public square and facilities to support such activities.

**V. MIDTOWN TOWER REDEVELOPMENT**

If the current RFP for adaptive reuse of the Midtown Tower does not yield a qualified development proposal, the City, in consultation with ESDC, will extend consideration to viable and qualified development proposals all the way up until October 1, 2009 or prior to the scheduled demolition of the tower.

**VI. OTHER**

Any party to this LOR may propose to ESDC that the LOR be amended, whereupon ESDC shall consult with the other parties to this LOR to consider such amendment. Any amendment must be agreed upon in writing by all parties to this agreement.

This LOR shall be dated for identification purposes as March \_\_, 2009, but shall take effect on the date it is signed by the last signatory and will remain in effect until the Stipulations have been met.

**SIGNATORY PARTIES**

\_\_\_\_\_ (date) \_\_\_\_\_

Ruth Pierpont

New York State Historic Preservation Office

\_\_\_\_\_ (date) \_\_\_\_\_

Merideth Andreucci

Empire State Development Corporation

\_\_\_\_\_ (date) \_\_\_\_\_

Art Ientilucci

City of Rochester