



'12 MAYOR #13

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### MEMORANDUM IN SUPPORT

#### LEGISLATIVE REFERENCE

S.7617 – by Senator Squadron – Cities Committee  
A.10586 – by Rules (Millman) – Cities Committee

**TITLE** AN ACT to authorize and validate the alienation of certain parkland known as Empire Fulton Ferry state park in accordance with letters patent dated July 8, 2010 from the office of general services to the Brooklyn Bridge Park Development Corporation and master ground lease agreement dated as of July 29, 2010 for a term of 99 years to the Brooklyn Bridge Park Corporation providing for the use of such land as a part of the Brooklyn Bridge Park Civic and Land Use Improvement Project

#### SUMMARY OF PROVISIONS

This act will validate and authorize the alienation of State owned parkland formerly known as the Fulton Ferry State Park by letters patent dated July 8, 2010 and master ground lease dated as of July 29, 2010, authorize the discontinuance as parkland of a parcel of such parkland containing buildings known as the Tobacco Warehouse and the Empire Stores and provide for the replacement of the discontinued parkland by parkland of equal or greater fair market value.

#### REASONS FOR SUPPORT

Since construction began in 2008, the Brooklyn Bridge Park has become a treasured addition to the Brooklyn waterfront, with widespread support in the immediately adjacent neighborhoods and beyond. Its spectacular views of New York harbor, numerous active and passive recreational spaces, running and bicycle path, varied events, and restored carousel, have made Brooklyn Bridge Park a mecca for an enthusiastic and diverse group of users. With the newly announced gift of a \$40 million multi-use fieldhouse, Brooklyn Bridge Park will soon offer year-round indoor recreational opportunities. The former Empire Fulton Ferry State Park, located between the Brooklyn and Manhattan bridges, connects areas of Brooklyn Bridge Park and is an integral part of that Park. The former State Park also houses two civil-war era historic structures, the Tobacco Warehouse and Empire Stores, which require private investment for their long-term preservation.

The continued development of the Brooklyn Bridge Park into a unified and vibrant waterfront park has been threatened by a recent state Supreme Court decision, *Brooklyn Heights Ass'n, et al. v. New York State Office of Parks, Recreation and Historic Preservation, et al.*, Index No. 1120/11 (Sup. Ct. Kings County Dec. 14, 2011), that casts doubt on several related transactions critical to the future of the Park. In those transactions, the former Empire Fulton Ferry State

Park was conveyed by New York State to the Brooklyn Bridge Park Development Corporation, a subsidiary of the Urban Development Corporation, d/b/a Empire State Development Corporation (BBPDC), and then included in the 99 year master ground lease from BBPDC to the Brooklyn Bridge Park Corporation, a not-for-profit entity created to assume financial and operational responsibility for the Brooklyn Bridge Park and the larger Brooklyn Bridge Park Civic and Land Use Improvement Project ("Park Project"). Among other things, these transactions permitted a portion of the transferred land to be discontinued as parkland, and authorized the two historic structures on the discontinued parkland, the Tobacco Warehouse and the Empire Stores, to be adaptively reused to benefit the Park and to ensure their long term preservation. As reused, Empire Stores would provide a much needed source of revenue for the future development of the Park.

The enactment of this legislation will remedy the issues caused by the state court's decision which imperil the Brooklyn Bridge Park's historic resources, a significant source of the Park's anticipated revenue, and the Park's continued quality programming and management. It will confirm the validity of the transactions that integrated the former Empire Fulton Ferry State Park into the Brooklyn Bridge Park and allow the Tobacco Warehouse and the Empire Stores to be adaptively reused in accordance with the Modified General Project Plan ("GPP") for the Park Project. Once rehabilitated in accordance with the GPP, revenue from the Empire Stores is expected to cover roughly 10 percent of the operation and maintenance costs of that portion of the Park for which construction is funded and ultimately 5 percent of the total operation and maintenance budget for the Park once all phases of Park construction are completed. Unless this legislation is enacted both structures will continue to deteriorate until they can no longer be saved. Empire Stores is currently closed to the public for safety reasons, and must remain closed unless it is rehabilitated. After decades of neglect, the Tobacco Warehouse's roof and upper walls collapsed several years ago. Although its walls were stabilized a decade ago, stabilization will not preserve the building into the future. Already pressed for funds, Brooklyn Bridge Park has no money to restore or preserve either building. Enactment of this legislation will also return the Brooklyn Bridge Park to unified oversight and management. Indeed, the uncertainty caused by the court decision has already affected the Park's ability to program in the former Empire Fulton Ferry State Park area.

The legislation requires replacement of the discontinued parkland by three existing non-park properties; which are to be converted to park uses and formally incorporated into the north end of Brooklyn Bridge Park. These additions to the Park will provide exceptional recreational opportunities and additional scenic views. Together, the three parcels are of greater fair market value and offer greater useable space than the property being discontinued as parkland.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

Respectfully submitted,

WENDY E. SAUNDERS  
Director

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