

R 13-574

**RESOLUTION OF THE CITY OF STOCKBRIDGE DOWNTOWN DEVELOPMENT AUTHORITY APPROVING IN PRINCIPLE THE ISSUANCE OF ITS REVENUE BONDS AND/OR SECURE LOANS IN AN AMOUNT NOT TO EXCEED \$25,000,000 TO FINANCE THE COSTS OF THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF A BUSINESS PARKS AND AUTHORIZING THE EXECUTION OF A LETTER OF INTENT AND INDUCEMENT AGREEMENT WITH GEORGIA TECHNOLOGY PARK, LLC AND FOR RELATED PURPOSES.**

**WHEREAS**, the **CITY OF STOCKBRIDGE DOWNTOWN DEVELOPMENT AUTHORITY** (the "Issuer"), a public corporation duly created and existing under the laws of the State of Georgia, has been informed by **GEORGIA TECHNOLOGY PARK, LLC** (the "Company"), a limited liability company duly formed and existing under and by virtue of the laws of the State of Georgia, that the Company is planning to acquire, construct, and install a business park, consisting of a high speed data campus for technology companies (the "Proposed Project") in a Public Private Partnership Agreement with the Issuer, located within the downtown development area designated by the governing body of the City of Stockbridge (the "City"); and

**WHEREAS**, the Company has estimated that the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project may require expenditures currently estimated not to exceed \$25,000,000; and

**WHEREAS**, after careful study and investigation of the nature of the Proposed Project, the Issuer has determined that the Proposed Project will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities, will promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City, and will revitalize and redevelop the central business district of the City, all to the public benefit and good; and

**WHEREAS**, the most feasible method of financing the Proposed Project is for the Issuer to issue its revenue bonds and/or secure loans for that purpose and for it (i) to plan, develop, acquire, construct, install, and carry out the Proposed Project and to lease or sell the Proposed Project to the Company or to its successors and assigns acceptable to the Issuer for specified periodic rental or purchase price payments sufficient to enable the Issuer to pay the principal of, the redemption premium (if any), and the interest on such revenue bonds as the same become due and payable or (ii) to lend the proceeds from the sale of such revenue bonds to the Company to enable the Company to plan, develop, acquire, construct, install, and carry out the Proposed Project and to repay the loan in installments that will be sufficient and timely to enable the Issuer to pay the principal of, the redemption premium (if any), and the interest on such revenue bonds; and

**WHEREAS**, the Issuer considers the Proposed Project to be in the best interests of the inhabitants of the City and has determined that the Proposed Project and the issuance of its revenue bonds and/or secure loans to finance in whole or in part the cost thereof will be in the public interest and in furtherance of the public purposes for which the Issuer was created and is

existing; and

**WHEREAS**, the Company has requested the Issuer to indicate its willingness to issue its revenue bonds and/or secure loans to finance the Proposed Project, and the Issuer has determined that it is in the best interest of the inhabitants of the City that the Proposed Project be carried out and that the acquisition, construction, and installation thereof move forward without delay;

**NOW, THEREFORE, BE IT RESOLVED** by the City of Stockbridge Downtown Development Authority as follows:

1. In order to induce the Company to proceed with the Proposed Project and to indicate the Issuer's willingness to issue its revenue bonds and/or secure loans to finance, in whole or in part, the Proposed Project, the execution and delivery to the Company of a Letter of Intent and Inducement Agreement is hereby authorized, such letter to be in substantially the form attached hereto as Exhibit "A", subject to such changes, corrections, insertions, and omissions as may be approved by the Chairman or Vice Chairman of the Issuer, and the execution of such letter by the Chairman or Vice Chairman of the Issuer as herewith authorized shall be conclusive evidence of such approval.

2. The Issuer does hereby declare that it will authorize the issuance of and will issue one or more series of its revenue bonds under and in accordance with the applicable laws of the State of Georgia and/or secure loans in an aggregate principal amount necessary to finance the cost of the acquisition, construction, and installation of the Proposed Project and the expenses incidental thereto, now estimated at an amount not to exceed \$25,000,000, upon such terms and conditions as may be agreed upon by the Issuer, the Company, and the underwriter or placement agent of such revenue bonds.

3. The Issuer finds, intends, and declares that this Resolution shall constitute its official binding commitment, subject to the terms hereof, to issue such revenue bonds and/or secure loans pursuant to the laws of the State of Georgia. The Issuer finds, considers, and declares that the issuance and sale of such revenue bonds and/or securing such loans for the purpose set forth in this Resolution will be appropriate and consistent with the objectives of the laws of the State of Georgia.

4. At the Company's request, McKenna Long & Aldridge LLP, Atlanta, Georgia, is hereby confirmed and authorized to act as Bond Counsel for the Issuer in connection with the sale of the revenue bonds referred to above.

5. In order to facilitate the commencement of the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project, the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Issuer are hereby authorized to execute, or accept the assignment of, contracts for the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project, subject to the receipt of appropriate guarantees of payment by the Company.

6. The Company may, from time to time as it may deem necessary prior to the issuance of such revenue bonds, advance to the Issuer funds necessary to enable it to begin the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project.

Any such funds so advanced shall be kept by the Issuer in a separate bank account or accounts to be opened by it, and the same shall be repaid to the Company from the proceeds of such revenue bonds when the same are issued and delivered.

7. The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Issuer are hereby authorized to execute and deliver to the Company the Letter of Intent and Inducement Agreement substantially in the form attached hereto as Exhibit "A" and are further hereby authorized to take any and all further action and to execute and deliver any and all other documents as may be necessary or appropriate to authorize, issue, and deliver such revenue bonds and to effect the undertaking for which such revenue bonds are proposed to be issued.

8. The Issuer declares its intent to use proceeds of such revenue bonds and/or loans to reimburse the Company for moneys used to pay expenditures related to the Proposed Project. This Resolution is and constitutes the Issuer's "official intent" (within the meaning of Treasury Regulation Section 1.150-2) to reimburse original expenditures related to the Proposed Project with proceeds of such revenue bonds and/or such loans.

9. This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED** this the 9th day of December, 2013.

**CITY OF STOCKBRIDGE DOWNTOWN  
DEVELOPMENT AUTHORITY**

By:   
Chairman

(SEAL)

Attest:

  
Secretary

## **EXHIBIT "A"**

### **LETTER OF INTENT AND INDUCEMENT AGREEMENT**

World Technology Park, LLC  
Stockbridge, Georgia

Re: Proposed Financing of a Technology Park

Ladies and Gentlemen:

We are informed that **GEORGIA TECHNOLOGY PARK, LLC** (which, together with any successors or assigns approved by the Issuer, are collectively hereinafter referred to as the "Company"), a limited liability company duly formed and existing under and by virtue of the laws of the State of Georgia, proposes to acquire, construct, and install a business park, consisting of a high speed data campus for technology companies, (the "Proposed Project"), located within the downtown development area designated by the governing body of the City of Stockbridge (the "City"); that the Proposed Project will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities, will promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City, and will revitalize and redevelop the central business district of the City, all to the public benefit and good; and that the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project will require expenditures currently estimated not to exceed \$25,000,000. It is our understanding that the willingness of the City of Stockbridge Downtown Development Authority (the "Issuer") to issue its revenue bonds in one or more series and/or secure loans, for the purpose of facilitating the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project is a factor under consideration by the Company in connection with the feasibility of the Proposed Project.

As a result of our discussions with your officers and agents, we have determined that, in issuing revenue bonds of the Issuer to assist the Company in financing the Proposed Project, we will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities in the City and promote the general welfare of the State of Georgia, and will be acting in furtherance of the public purposes for which we were created.

Accordingly, in order to induce the Company to locate and to operate, or cause to be operated, and continue to operate, or cause to be operated, the Proposed Project and in order to carry out the public purposes for which the Issuer was created, we hereby make the following proposals that, if accepted in writing as hereinafter provided, shall constitute an agreement:

1. We will issue our revenue bonds in one or more series (the "Bonds") and/or secure loans in an aggregate principal amount currently estimated not to exceed \$25,000,000 for the purpose of providing funds to pay the costs, in whole or in part, as the Company may determine, of the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project, to fund a reserve for the Bonds and/or loans, if needed, and to pay the costs of

issuing the Bonds or in securing the loans. The Proposed Project will be on sites acquired or leased by the Company, or acquired or leased by the Issuer with the approval of the Company, subject only to such encumbrances as will not, in the judgment of the Company, interfere with the use of the sites for the purposes presently contemplated. Any advances made by the Company to the Issuer for the acquisition of the sites of the Proposed Project or for the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project shall be held by the Issuer for such purpose and shall be disbursed accordingly and shall be repaid to the Company from the proceeds of the Bonds and/or loans when the same are issued and delivered.

2. The terms of the Bonds (principal, maturities, interest rates, denominations, redemption provisions, and other terms) and/or loans shall be determined by an underwriting or bond purchase or placement agreement to be entered into among the Issuer, the Company, and an underwriter or placement agent of the Bonds and/or lender to be approved by the Issuer and the Company (the "Underwriter"). The Bonds or loans shall be issued and sold by the Issuer at such price and upon such terms as will be provided in such underwriting or bond purchase or placement agreement.

3. Simultaneously with the delivery of the Bonds and/or loans, the Proposed Project may be leased or sold by the Issuer to the Company pursuant to a lease agreement or agreement of sale (as the case may be), or the Issuer may loan the proceeds from the sale of the Bonds and/or loans to the Company pursuant to a loan agreement to enable the Company to plan, develop, acquire, construct, install, and carry out the Proposed Project, and the terms and provisions of such lease agreement, agreement of sale, or loan agreement (as the case may be) shall be substantially in the form generally utilized in connection with such financial undertakings, as agreed upon by the Issuer and the Company. Such lease agreement, agreement of sale, or loan agreement (as the case may be) (hereinafter referred to as the "Basic Security Document") shall contain, in substance, the following provisions:

(a) The Basic Security Document shall be dated contemporaneously with the dated date of the Bonds and/or loans, and the term of the Basic Security Document shall coincide with the term of the Bonds and/or loans. In the event the Basic Security Document shall be in the form of a lease agreement, such lease agreement shall be a triple net lease from the Issuer to the Company or such terms that are acceptable to the lender.

(b) The amounts payable under the Basic Security Document shall be paid directly to a corporate trustee, to be named by the Issuer, subject to the approval of the Company (the "Trustee"), for the benefit of the owners of the Bonds at such times and in such amounts as shall be timely and sufficient to enable the Issuer to pay the principal of, redemption premium (if any), and interest on the Bonds as the same become due and payable (after giving credit to other amounts available for such purposes). The obligation of the Company to make all payments required under the Basic Security Document shall be absolute and unconditional after the delivery of the Bonds. If a loan is secured in lieu of bonds, such payments shall be timely made to the

lender.

(c) The proceeds from the sale of the Bonds remaining after issuance costs to be financed therefrom are funded and after a reserve for the Bonds is funded shall be deposited in a project fund to be held by the Trustee and shall be disbursed pursuant to the requirements of the Basic Security Document and a Trust Indenture to be entered into between the Issuer and the Trustee (the "Indenture"). Prior to the acquisition, construction, and installation of the Proposed Project, moneys in such trust fund may be invested in obligations that represent legal investments for revenue bond proceeds of the Issuer. If a loan is secured in lieu of bonds, the loan agreement shall specify the requirements.

(d) The obligations of the Company under the Basic Security Document shall be secured in a manner as shall be agreed upon by the Issuer, the Company, and the Underwriter. In the event the Basic Security Document shall be in the form of a loan agreement or an agreement of sale, the obligations of the Company under the Basic Security Document shall be evidenced by a promissory note executed by the Company in favor of the Issuer, which the Issuer shall endorse, without recourse or warranty, to the order of the Trustee.

(e) The Company shall be permitted to replace or substitute obsolete or worn out machinery, equipment, and related personal property constituting part of the Proposed Project.

(f) The Company shall pay any taxes, assessments, or utility charges that may be lawfully levied, assessed, or charged upon the Company, the Issuer, the Proposed Project, or the payments under the Basic Security Document, if such would result in a lien or a charge upon the Proposed Project or the revenues of the Issuer therefrom.

(g) The Company shall keep the Proposed Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Company and shall carry public liability insurance covering personal injury, death, or property damage with respect to the Proposed Project, but it may be self-insured to the extent permitted in the Basic Security or loan Document.

4. In the event the Basic Security Document shall be in the form of a lease agreement, simultaneously with the delivery of the Bonds, the Company shall enter into a guaranty agreement with the Trustee pursuant to which it shall absolutely and unconditionally guarantee the Issuer's obligations under the Bonds.

5. The Issuer shall enter into the Indenture with the Trustee, and the terms and provisions of the Indenture shall be substantially in the form generally utilized in connection with such financial undertakings, as agreed upon by the Issuer and the Trustee and approved by the Company. Pursuant to the Indenture, the Issuer shall pledge, assign, and grant a first priority security interest to the Trustee in its right, title, interest, and remedies in and to the Basic Security

Document, as security for its obligations under the Bonds. The Issuer shall further secure its obligations under the Bonds in a manner as shall be agreed upon by the Issuer, the Company, and the Underwriter. The Indenture shall provide that in the performance of the covenants contained therein on the part of the Issuer, any obligations it may incur for the payment of money shall not be a general obligation on its part, but shall be a special or limited obligation payable solely from the specific payments received under the Basic Security Document or from bond proceeds, foreclosure proceeds, insurance proceeds, condemnation awards, or other proceeds collected under the Basic Security Document or from security for the Company's obligations under the Basic Security Document or from security otherwise pledged under the Indenture.

6. The Company, in accepting this proposal, shall thereby agree to indemnify, defend, and hold the Issuer and the individual members, officers, and agents thereof harmless against any claim of loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, development, acquisition, construction, installation, and carrying out of the Proposed Project. The Company also agrees to reimburse the Issuer or otherwise pay on behalf of the Issuer any and all expenses, not hereinbefore mentioned, incurred by the Issuer in connection with the Proposed Project. This indemnity may be superseded by a similar indemnity in the Basic Security Document; otherwise, it shall remain in full force and effect, and if the Bonds are not issued and delivered, this indemnity shall survive the termination of the inducement agreement resulting from the Company's acceptance of this proposal.

7. The Issuer hereby agrees that the Bonds to be issued to finance the Proposed Project as herein provided shall be issued under a bond resolution of the Issuer, and the basic terms of the obligations of the Issuer with respect to the Bonds shall be set forth in such bond resolution or in other appropriate documents to which the Issuer is a party.

8. The Issuer hereby makes, constitutes, and appoints the Company as its true, lawful, and exclusive agent for the purpose of planning, developing, acquiring, constructing, installing, and carrying out the Proposed Project, and the Company, in accepting this proposal, hereby accepts such agency to act and do all things on behalf of the Issuer and to perform all acts and agreements of the Issuer in connection with planning, developing, acquiring, constructing, installing, and carrying out the Proposed Project. This appointment of the Company to act as agent and all authority hereby conferred are granted and conferred irrevocably until superseded by a similar appointment in the Basic Security Document or until the termination of this agreement as hereinafter provided.

9. The Issuer shall, upon the request of the Company, permit the planning, developing, acquiring, constructing, installing, and carrying out of the Proposed Project to begin and to continue prior to the issuance and delivery of the Bonds. Contracts or other documents for the acquisition, construction, and installation of the Proposed Project, and for the purchase of machinery, equipment, and all related real and personal property deemed necessary or desirable by the Company, may be let by the Company and thereafter assigned to the Issuer, or if requested by

the Company, the Issuer shall let all such contracts or other documents in its name. Any such contracts let in the name of the Issuer shall contain language that serves to apprise the other party to the contract that the Company is the only source of payment thereof.

10. The Company is hereby informed that numerous procedural and substantive actions must be undertaken and completed in order to conclude this transaction in accordance with applicable state and federal laws, rules, and regulations. While the Issuer represents that it will act in good faith and use its best efforts to issue the Bonds and to provide the funds to finance the Proposed Project, the Issuer cannot guarantee that such financing will occur. Further, if the Company elects to exercise its rights granted in Section 8 hereinabove, it is understood and agreed that expenditures of funds or the incurrence of debt in connection with the Proposed Project shall be at the entire risk of the Company, and in the event costs are incurred by the Company, reimbursement for such costs or expenses can only be made from the proceeds of the Bonds after their issuance.

11. Acceptance of this letter by the Company shall be deemed to mean that the Company agrees to guarantee the payment of all obligations incurred by the Issuer at the request of the Company in connection with this agreement. The Company may advance any interim funds required in connection with planning, developing, acquiring, constructing, installing, and carrying out the Proposed Project and may be reimbursed from the proceeds of the Bonds when the same are issued and delivered. The Issuer shall assist in the prompt preparation of the Basic Security Document, the Indenture, and any related documents needed to carry out the financing.

12. Upon the issuance and delivery of the Bonds, the provisions of this proposal and the agreement resulting from its acceptance by the Company shall have no further effect, and in the event of any inconsistency between the terms of this proposal and the terms of the Basic Security Document, the Indenture, and any related financing documents, the provisions of the Basic Security Document, the Indenture, and any related financing documents shall control.

13. If for any reason the Bonds or are loan or loan commitments are not delivered before the \_\_\_\_ day of \_\_\_\_\_ 201\_, the provisions of this proposal and the agreement resulting from its acceptance by the Company shall, at the option of any party to be evidenced in writing, be cancelled, and no party shall have any rights against the other, and no third parties shall have any rights against any party, except:

(a) the Issuer shall convey to the Company the sites of the Proposed Project and all improvements thereon and personal property thereon or therein to the extent its ownership therein, if any, was acquired with funds of the Company;

(b) the Company shall pay the Issuer for all expenses that shall have been authorized by the Company and incurred by the Issuer in connection with planning, developing, acquiring, constructing, installing, and carrying out the Proposed Project;

(c) the Company shall assume and be responsible for all contracts entered into by the Issuer at the request or direction of the Company in connection with the Proposed Project; and

(d) the Company shall pay the out-of-pocket expenses of the members, officers, and agents of the Issuer, the accountants for the Issuer, and counsel for the Issuer incurred at the direction of the Company in connection with the Proposed Project and the proposed issuance of the Bonds and shall pay counsel for the Issuer reasonable fees for legal services and the accountants for the Issuer reasonable fees for accounting services related to the proposed issuance of the Bonds.

14. The Company shall apply for, and use its best efforts to obtain, all permits, licenses, authorizations, and approvals required by all governmental authorities in connection with the acquisition, construction, installation, operation, and use of the Proposed Project.

15. In the event title to the Proposed Project is vested in the Issuer, the Company shall make contributions to the appropriate taxing entities in lieu of taxes in amounts equal to the taxes the Company would have owed had title to the Proposed Project been vested in the Company. This covenant may be superseded by a similar provision in the Basic Security Document; otherwise it shall remain in full force and effect. The Company, in accepting this proposal, thereby will agree to pay all ad valorem taxes with respect to the Proposed Project or the site thereof, as though it were the fee simple owner thereof regardless of the fact of any ownership interest of the Issuer in the Proposed Project or the site thereof. The foregoing shall not preclude the Company from asserting a claim for ad valorem tax exemption to which it would otherwise be entitled under the laws of the State of Georgia, as a fee simple owner (or as if the Company were a fee simple owner) of the Proposed Project or the site thereof.

16. All rights and benefits of the Company under this agreement and the Issuer's resolution authorizing this agreement may be transferred and assigned in whole or in part to any one or more individuals, corporations, partnerships (general or limited), joint ventures, limited liability companies, or other entities that propose to acquire the Proposed Project and that are approved in writing by the Issuer, with the same effect as if such individuals, corporations, partnerships, joint ventures, limited liability companies, or other entities were named as the Company in this agreement and the Issuer's resolution authorizing this agreement.

17. Nothing herein shall prevent the Issuer or the Company from entering into any other mode of financing with respect to any portion of the Proposed Project allowed under applicable law as it exists on the date of delivery of the Bonds.

18. McKenna Long & Aldridge LLP, Atlanta, Georgia, is hereby confirmed and authorized to act as Bond Counsel for the Issuer in connection with the sale of the revenue bonds referred to above.

19. The Bonds shall either (1) be assigned to an "investment grade" rating category by a nationally recognized credit rating agency or (2) be sold to "institutional investors" under such terms and conditions as are satisfactory to the Issuer (including, without limitation, the execution and delivery by any such institutional investor to the Issuer of an investment letter in form and substance satisfactory to the Issuer).

If the foregoing proposal is satisfactory to you, you may so indicate by having the following acceptance executed by a duly authorized officer of the Company and by returning a copy to the Issuer. This proposal and your acceptance will then constitute an agreement in principle with respect to the matters herein contained as of this 9<sup>th</sup> day of December, 2013.

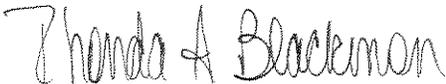
Yours very truly,

**CITY OF STOCKBRIDGE DOWNTOWN  
DEVELOPMENT AUTHORITY**

By:   
Chairman

(SEAL)

Attest:

  
Secretary

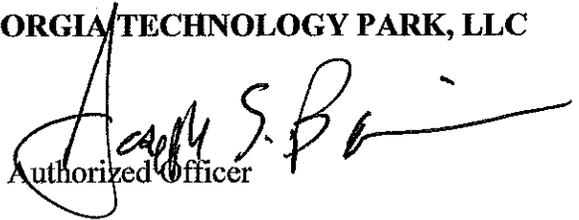
**ACCEPTANCE OF PROPOSAL OF THE  
CITY OF STOCKBRIDGE DOWNTOWN DEVELOPMENT AUTHORITY**

The terms and conditions contained in the foregoing proposal of the City of Stockbridge  
Downtown Development Authority are hereby accepted this 9<sup>th</sup> day of December 2013.

**GEORGIA TECHNOLOGY PARK, LLC**

By:

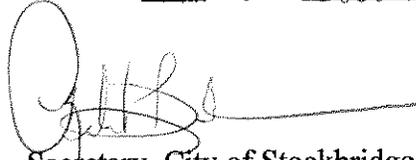
Authorized Officer



**SECRETARY'S CERTIFICATE**

I, Robin Buschman, the duly appointed, qualified, and acting Secretary of the City of Stockbridge Downtown Development Authority (the "Issuer"), DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of the resolution adopted on December 9, 2013 by the Board of Directors of the Issuer in a meeting duly called and assembled, after due and reasonable public notice was given in accordance with the procedures of the Issuer and with the applicable provisions of law, which was open to the public and at which a quorum was present and acting throughout, and that the original of the such resolution appears of public record in the minute book of the Issuer which is in my custody and control.

**GIVEN** under my hand and the seal of the Issuer this 9th day of December 2013.



Secretary, City of Stockbridge Downtown  
Development Authority

(SEAL)