

DRAFT - SUBJECT TO REVIEW AND REVISION

LOWER MANHATTAN DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the Corporation
One Liberty Plaza - 20th Floor
New York, New York 10006

February 14, 2008

MINUTES

In Attendance

Directors:

Avi Schick, Chairman
Lawrence T. Babbio, Jr.
Robert Balachandran
Michael Balboni
Amanda M. Burden (via telephone)
Robert Douglass (via telephone)
Robert Harding
Caswell Holloway
Robert C. Lieber
Julie Menin
Kevin M. Rampe (via telephone)
William C. Rudin
Martha Stark (via telephone)

Staff Attending:

For Lower Manhattan Development Corporation:

David Emil, President
Irene Chang, General Counsel and Secretary
of the Corporation
Daniel Ciniello, Senior Vice President -
Operations
Stephen Konopko, Vice President - Internal
Audit
Eileen McEvoy, Assistant Secretary
Robert Miller, Chief Financial Officer
Andrew C. Wu, Deputy General Counsel

Other Staff

For Lower Manhattan Construction Command Center:

Robert Harvey, Acting Executive Director

For Assembly Speaker Sheldon Silver:

Judy Rapfogel, Chief of Staff

Counsel to the Board:

Caitlin Halligan, Weil, Gotshal & Manges

For Empire State Development Corporation:

Shafali Puri, Senior Advisor to President
and Chief Operating Officer

Also Present:

The Public
The Media and Press

The meeting of the Lower Manhattan Development Corporation ("LMDC") was called to order at 8:08 a.m. It was noted for the record that notice to the public and news media of the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

The first order of business was the approval of the Minutes of the November 8, 2007 Directors' Meeting. Chairman Schick noted that since all of the resolutions had been provided to the Directors, he would no longer read the entire resolution into the record, only the heading.

Then upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT THE NOVEMBER 8, 2007 MEETING OF THE DIRECTORS OF THE LOWER MANHATTAN DEVELOPMENT CORPORATION

RESOLVED, that the minutes of the meeting of the Corporation held on November 8, 2007, as presented to this meeting, are hereby approved and all actions taken by the Directors presented at such meeting, as set forth in such minutes, are hereby in all respects and approved as actions of the Corporation.

* * *

Chairman Schick opened his report by welcoming two new members - Deputy Mayor Robert Lieber and Caswell Holloway, Chief of Staff to Deputy Mayor Skyler to the Board and to the meeting.

Among other things, the Chairman provided a detailed update on the most recent activities at 130 Liberty Street noting, in part, that the news over the past month has been very positive.

The Chairman then asked Director Babbio to provide the Audit and Finance Report. Director Babbio reported that the Committee had met numerous times since the last Directors' meeting to review, among other things, the 18 items being presented for consideration today and that the Committee is satisfied that all of the items should move forward.

Director Babbio further noted that the Committee also reviewed the Budget Variance Report which reflects the expenditures of the management team and found that the expenditures were below the budgeted levels.

Director Babbio went on to note that the Committee also reviewed the report with the internal auditor and that no significant issues were raised.

Next, Mr. Emil presented a request for authorization for LMDC to enter into seven Community Enhancement Fund Subrecipient Agreements.

Mr. Emil outlined each of the grants so requested and following this presentation, the Chairman called for questions or comments with regard to this request.

There being no questions or comments, upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Enter into Community Enhancement Fund Subrecipient Agreements

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RESOLVED, that the Corporation is hereby authorized to enter into subrecipient agreements, in the aggregate amount of

\$4,382,000 under all such subrecipient agreements, with the following:

(a) Children’s Museum of the Arts, Inc. for costs associated with community outreach and expanded programs for Lower Manhattan communities in an amount not to exceed \$200,000;

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(b) Common Ground Community IV HDFC for costs associated with interior renovations for The Andrews House at 197 Bowery in an amount not to exceed \$500,000;

(c) HT Dance Company/Chen Dance Center for costs associated with technical support and expanded programs in an amount not to exceed \$132,000;

(d) Museum of Chinese in America for capital costs at 211-215 Centre Street in an amount not to exceed \$2,000,000;

(e) MFY Legal Services, Inc. for costs associated with the Lower Manhattan Justice Project in an amount not to exceed \$1,000,000;

(f) New Museum of Contemporary Art for costs associated with community outreach and expanded programs for Lower Manhattan communities in an amount not to exceed 300,000; and

(g) Non-Traditional Employment for Women for costs associated with the recruitment of disadvantaged and minority women in unionized skilled jobs for Lower Manhattan construction projects in an amount not to exceed \$250,000 as part of the Community Enhancement Fund Grants, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds allocated for the Community Enhancement Program in the Final Action Plan; and be it

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FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Mr. Emil then asked the Directors to authorize LMDC to amend its contract with Amy Stursberg for consultant services in connection with the Community Enhancement Fund Program.

Following Mr. Emil's presentation, the Chairman called for questions or comments from the Directors. Hearing none and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Contract with Amy Stursberg

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Amy Stursberg for consulting services and related expenditures to increase the authorized expenditures thereunder by up to \$37,500, to an amount not to exceed \$152,500 in the aggregate, and to extend the term of such agreement for an additional three-month period through March 31, 2008, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds allocated for the Community Enhancement Program in the Final Action Plan; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

* * *

Next, Mr. Emil asked the Directors to authorize LMDC to amend the Final Action Plan and to enter into a Cultural Enhancement Fund Subrecipient Agreement with the Public Art Fund

for The New York City Waterfalls Project, a public art project that will be displayed from July through October 2008.

Following Mr. Emil's detailed presentation, the Chairman called for questions or comments and Director Menin asked if the \$2,000,000 was going directly for the art project or if a portion would be used for marketing efforts to attempt to have visitors dine in restaurants and shop in the area.

Mr. Emil stated that the funds will go directly to the art project with the understanding that a portion of the funds will be used for marketing the project in the manner mentioned by Director Menin.

Director Harding inquired as to the duration of the project and Mr. Emil stated that it would run for approximately four months.

There being no further questions or comments, upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Final Action Plan and to enter into Cultural Enhancement Fund Subrecipient Agreement with Public Art Fund

RESOLVED, that the Corporation is hereby authorized to amend the Final Action Plan to allocate up to \$2,000,000 of the remaining funds for Cultural Enhancement Fund Program for The New York City Waterfalls, a public art project that will be displayed from July through October 2008 (the "Waterfalls Project"); and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to submit for public comment and review by the federal Department of Housing and Urban Development (HUD) an amended Final Action Plan, as may be required; and be it

FURTHER RESOLVED, that each of the President of the Corporation, his designee or the Chairman of the Board of Directors of the Corporation is hereby authorized to make such changes to the amended Final Action Plan as may be necessary or appropriate to comport with applicable HUD requirements and to reflect any public comments solicited and received on such amended Final Action Plan, provided any changes so made shall be consistent with the criteria set forth in such amended Final Action Plan; and be it

FURTHER RESOLVED, that the Corporation is hereby authorized to enter into a subrecipient agreement with the Public Art Fund to support the Waterfalls Project in an amount not to exceed \$2,000,000, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be subject to approval by federal Department of Housing and Urban Development (HUD) of an amended Final Action Plan submitted for such purpose and shall be allocated from funds included therein; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Mr. Emil then presented two other Cultural Enhancement Fund items, noting that the requests were essentially for technical changes with regard to each item.

Mr. Emil outlined the requested changes and the reasons for same. The Chairman then called for questions or comments with regard to both requests. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Authorization to Change Designated Subrecipient for a Cultural Enhancement Fund Project

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RESOLVED, that the existing authorization to enter into a subrecipient agreement with Asian Americans for Equality, Inc. for planning and related costs associated with a Chinatown Asian American Arts and Cultural Center is hereby modified to change the designated subrecipient from Asian Americans for Equality, Inc. to the Committee to Revitalize and Enrich Arts in Tomorrow's Economy in Chinatown, Inc., as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Authorization to Change a Cultural Enhancement Fund Project Location

RESOLVED, that the existing authorization to enter into a subrecipient agreement with The Flea Theater as part of the Cultural Enhancement Fund Program is hereby modified to change

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only the location of the project, from 41 White Street to 20 Thomas Street, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Next, Ms. Chang asked the Directors to authorize LMDC to take various actions in connection with the Fulton Street Corridor Revitalization Project. Among other things, the Directors were asked to authorize LMDC to serve as lead agency under the National Environmental Policy Act and the State Environmental Quality Review Act with regard to this project.

Following Ms. Chang's detailed presentation, Director Menin asked when the public comment period ended and Ms. Chang explained that the notice would be published following this Directors' meeting and that the public comment period would run approximately to the end of the March.

Mr. Emil added that LMDC is actively seeking public comment regarding this project.

There being no further questions or comments, the Chairman read the heading to the relevant resolution into the record, and

upon motion duly made and seconded, the following resolutions were unanimously adopted:

Authorization to Serve as Lead Agency Under National Environmental Policy Act and State Environmental Quality Review Act for New York City's Fulton Street Corridor Revitalization Project; Approval of Environmental Assessment and Environmental Findings for New York City's Fulton Street Corridor Revitalization Project; Approval of Draft Programmatic Agreement Pursuant to the National Historic Preservation Act; Authorization to Take Other Related Actions

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RESOLVED, that the Corporation shall serve as lead agency for the environmental review of New York City's Fulton Street Corridor Revitalization Project pursuant to the National Environmental Policy Act ("NEPA") and the New York State Environmental Quality Review Act ("SEQRA"), which review has been coordinated with other necessary reviews pursuant to the Coastal Zone Management Act, National Historic Preservation Act, State Historic Preservation Act and other applicable laws and regulations; and be it

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FURTHER RESOLVED, that, on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby approves the Environmental Assessment ("EA") for the Fulton Street Corridor Revitalization Project in the form submitted at this meeting and finds that the EA meets the requirements of NEPA, SEQRA, the Coastal Zone Management Act, National Historic Preservation Act, State Historic Preservation Act, and other applicable laws and regulations, and is adequate for the purposes of public review; and be it

FURTHER RESOLVED, that, on the basis of the EA, including its appendices, and subject to public comment, the Corporation hereby determines that the Fulton Street Corridor Revitalization Project will not, either individually or cumulatively, have a significant impact on the quality of the human environment or a significant adverse environmental impact; and, accordingly, that no environmental impact statement is required for the Fulton Street Corridor Revitalization Project under NEPA or SEQRA; and authorizes the President of the Corporation or his designee to issue for public comment for no less than the legally-required

period a Finding of No Significant Impact under NEPA and a Negative Declaration under SEQRA with respect to the Fulton Street Corridor Revitalization Project; and be it

FURTHER RESOLVED, that, if LMDC does not receive comments that raise substantial new environmental issues requiring changes to the Environmental Assessment or environmental findings, the President of the Corporation is hereby authorized following the end of the requisite comment period to complete any certifications in the name and on behalf of the Corporation required to finalize such findings and to request a release of funds from the U.S. Department of Housing and Urban Development for the Fulton Street Corridor Revitalization Project; and be it

FURTHER RESOLVED, that on the basis of the materials presented at this meeting, copies of which are hereby ordered filed with the records of the Corporation, the Corporation hereby approves the draft Programmatic Agreement for the Fulton Street Corridor Revitalization Project prepared pursuant to Section 106 of the National Historic Preservation Act and determines that the draft Programmatic Agreement is adequate for the purposes of public review, which may be coordinated with the NEPA review process; and be it

FURTHER RESOLVED, that, the President of the Corporation or his designee is hereby authorized, in the name and on behalf of the Corporation, to enter into the Programmatic Agreement for the Fulton Street Corridor Revitalization Project with the New York State Historic Preservation Officer substantially in the form presented to this meeting in order to carry out LMDC's obligations under the National Historic Preservation Act, and to take all such other actions as may be required in connection with such Programmatic Agreement; and be it

FURTHER RESOLVED, that the President of the Corporation or his designee(s) is hereby authorized and directed, in the name and on behalf of the Corporation, to execute and deliver any and all documents and to take all related actions as he may in his sole discretion consider necessary or appropriate to effectuate the foregoing resolutions.

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Ms. Chang then presented two contract amendments relating to 130 Liberty Street legal and technical services.

Mr. Emil then asked the Directors to authorize LMDC to amend its contract with Battery Park City Authority with regard to LMDC's utilization of BPCA personnel for services at 130 Liberty Street.

With regard to that request, Director Lieber asked if BPCA personnel will be part of LMCCC or LMDC.

Chairman Schick explained that such personnel will report to LMCCC which is a division of LMDC.

Further discussion was had with regard to LMDC borrowing personnel from other agencies.

Mr. Emil then presented an item concerning the Memorial and the Museum.

Following these presentations and discussion on same, the Chairman called for a motion to approve all four items. Upon motion duly made the following resolutions were unanimously adopted (It was noted for the record that Chairman Schick and

Director Menin recused themselves with regard to the Memorial and Museum resolution.):

Authorization to Amend Contract with Dechert LLP

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Dechert LLP for legal advice and services relating to 130 Liberty Street to increase the authorized expenditures thereunder by up to \$2,500,000, to an amount not to exceed \$3,500,000 in the aggregate, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the Legal Affairs Department Budget for FY2007-2008 and through Partial Action Plan 7 as may be appropriate and that the Corporation shall seek recovery of these funds through indemnity or insurance claims to the extent possible; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Authorization to Amend Contract with Inventus (f/k/a ImageNet Litigation Support)

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Inventus for document copying, imaging, and related services to increase the authorized expenditures thereunder by up to \$250,000, to an amount not to exceed \$350,000 in the aggregate, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the Legal Affairs Department Budget for FY2007-08 and through Partial Action Plan 7 as may be appropriate and that the Corporation shall seek recovery of these funds through indemnity or insurance claims to the extent possible; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Authorization to Amend Contract with Battery Park City Authority

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Battery Park City Authority ("BPCA") for the loan of BPCA employee Kevin Finnegan to serve as Acting Senior Project Manager for the Corporation at 130 Liberty Street to increase the authorized expenditures thereunder by up to \$120,000, to an amount not to exceed \$170,000 in the aggregate, and to extend the term of such agreement for an additional one-year period through December 31, 2008, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan 7; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Authorization to Amend Subrecipient Agreement with the National September 11 Memorial and Museum at the World Trade Center Foundation, Inc. (formerly, the World Trade Center Memorial Foundation, Inc.)

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RESOLVED, that the Corporation is hereby authorized to amend its subrecipient agreement with the National September 11 Memorial and Museum at the World Trade Center Foundation, Inc. to increase the authorized expenditures thereunder by up to \$296,000 in respect of the Living Memorial Project, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan 8; and be it

FURTHER RESOLVED, that the previous authorization to enter into a subrecipient agreement with September's Mission for costs associated with the Living Memorial Project is superseded hereby, and no funds shall be allocated pursuant to such previous authorization; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Mr. Emil then asked the Directors to authorize LMDC to amend its Communications Consultant Contract with Daniel J. Edelman.

Following Mr. Emil's presentation, the Chairman called for a motion to approve. Upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend Communications Consultant Contract with Daniel J. Edelman, Inc.

RESOLVED, that the Corporation is hereby authorized to amend its agreement with Daniel J. Edelman, Inc. for communications and related services to extend the term of such agreement by an additional two-month period through February 29, 2008, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to

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execute such instruments as may be necessary or appropriate to effect the foregoing.

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Mr. Emil then asked the Directors to authorize LMDC to enter into agreements for Business Integrity Consulting Services.

Following this presentation, Chairman Schick called for questions or comments. Hearing none and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to enter into Agreements for Business Integrity Consulting Services

RESOLVED, that the Corporation is hereby authorized to enter into agreements for a one-year period with one or more of Thacher Associates, LLC, Kroll Inc., and The Bradlau Group, LLP for business integrity consulting services, as described in the materials presented to this meeting; and be it

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FURTHER RESOLVED, that the combined expenditures under all such agreements shall not exceed \$75,000 in the aggregate, which shall be allocated from funds included for planning and administration in the Corporation's annual budget for fiscal year ending March 31, 2008 and from funds included in the appropriate Partial Action Plan or the Final Action Plan, as applicable; and be it

FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to take any such action and to execute such instruments as may be necessary or appropriate to effect the foregoing.

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Chairman Schick then noted that Director Balachandran was resigning from the LMDC. He thanked Director Balachandran for his years of fruitful service.

There being no further business, the meeting was adjourned at 8:54 a.m.

Respectfully submitted,

Eileen McEvoy
Assistant Secretary