

LOWER MANHATTAN DEVELOPMENT CORPORATION

Meeting of the Directors
Borough of Manhattan Community College
245 Greenwich Street
Conference Room #1304
New York, New York 10007

November 12, 2015

MINUTES

In Attendance

Directors:

Joseph Chan, Chairman
Thomas Johnson (via telephone)
Catherine McVay-Hughes
Carl Weisbrod
Peter Wertheim
Dominic Williams

Staff Attending:

For Lower Manhattan Development Corporation:

David Emil, President
Daniel Ciniello, Senior Vice President
Stephen Konopko, Vice President
Laura Rogers, Associate Counsel
Regina Stephens, Acting Secretary

Also Present:

Judy Rapfogel
The Media
The Press

The meeting of the Lower Manhattan Development Corporation (“LMDC”) was called to order at 2:10 p.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.

Next, the Chair set forth the guidelines regarding comments by the public on matters on the Agenda as well as with regard to any conflicts of interest the Directors may have regarding items on the Agenda. No conflicts were noted.

The Chairman then called for a motion to approve the Minutes of the July 23, 2015 Directors’ meeting.

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

Approval of Minutes

RESOLVED, that the minutes of the meeting of the Corporation held on July 23, 2015, as presented to this meeting, are hereby approved and all actions taken by the Corporation’s employees, officers or Directors in furtherance of the matters referred to therein are hereby ratified and approved as actions of the Corporation.

* * *

The Chair then asked Director Johnson to provide the Audit and Finance Committee’s report for the Directors’ information.

Director Johnson noted that the Committee met on November 4th to review the funding authorization resolutions that are being considered by the Board today including the request for the Board to ratify two emergency contract authorizations made by him.

Director Johnson noted that the Committee supports the emergency actions taken to extend the office lease and the environmental services contracts.

Director Johnson further noted that the Committee also supports the allocation of up to \$10 million for design and engineering services related to the Performing Arts Center (“PAC”). Director Johnson noted that the \$10 million will come from the \$99 million previously allocated for the PAC in 2010 and will be used, along with at least \$10 million of privately raised funds, for soft costs.

Director Johnson went on to explain that the Committee reviewed and supports the request to provide the remainder of the November 10th allocation of \$20 million for the West Thames Pedestrian Bridge construction.

Director Johnson stated that the Committee also supports the Subrecipient Agreement and Partial Action Plan Amendments for the Job Creation and Retention Program; the contract extensions for prequalified legal counsel and the website hosting maintenance and support contract amendments.

Director Johnson added that the Committee reviewed the purpose, cost justification and availability of funding for all of the resolutions in recommending that they be considered for approval by the entire Board.

Director Johnson also noted that the Committee met with the internal auditor and reports that there are no irregularities or findings of concern.

The Chair then asked Mr. Emil to provide a brief summary regarding LMDC's office lease modification agreement.

Mr. Emil explained that LMDC recently moved to smaller offices in One Liberty Plaza.

Mr. Emil further explained that at the time LMDC moved, the Corporation entered into a one year lease, but in its budget, LMDC contemplated staying in the space through the end of the current fiscal year. He added that the lease, therefore, needed to be amended to show that it will expire on March 31, 2016, the end of LMDC's fiscal year.

Mr. Emil noted that no additional funds are required because the funding was contemplated in the current fiscal year's budget.

The Chair then noted that in the spirit of winding down, LMDC is currently looking for a

location for LMDC to move into after the lease term is expired. He added that the Corporation will report back to the public regarding that move.

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

Ratification of LMDC Office Lease Modification Agreement

RESOLVED, that the agreement between the Corporation and BFP 1 Liberty Plaza Co. Inc. to modify the terms of the Corporation's office lease at One Liberty Plaza, on the 27th Floor, New York, New York and to extend the term through March 31, 2016, as described in the materials presented to this meeting, is hereby approved and ratified in all respects; and be it

FURTHER RESOLVED, that the additional amount of the Corporation's expenditures authorized to be paid to BFP 1 Liberty Plaza Co. Inc. through March, 2016 for services described have previously been approved as part of prior authorizations; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from LMDC's current FYE 2016 Budget for Planning and Administration; 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.

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Next, the Chair asked the Directors to approve the ratification of extensions for LMDC's environmental service contracts with both AKRF and LiRo.

Among other things, Mr. Emil explained that this request does not involve cost extensions.

Mr. Emil explained that LMDC is currently in active relationships with its environmental consultants looking at final issues surrounding the General Project Plan and therefore their services will be needed in 2016. He added that it is anticipated that the costs will be small and they are covered within existing appropriations.

Following the full presentation by Mr. Emil, the Chair called for question or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Ratification of Environmental Services Contract Extensions

RESOLVED, that the Corporation is hereby authorized to amend and extend agreements, for a two-year period through September 30, 2017, with each of AKRF, Inc., and LIRO Engineers for environmental services, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the appropriate LMDC FYE 2016 and anticipated FYE 2017 Budgets for Planning and Administration or relevant Partial 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; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Mr. Emil then asked the Directors to approve, among other things, the Environmental Assessment in connection with the East River Waterfront Pier 42.

Mr. Emil explained that today's request does not include authorization of contracts for the work. He added that such contracts will be presented at future Directors' meetings.

Mr. Emil noted that today's action is to approve the Finding of No Significant Impact. He explained that LMDC is the lead agency on this project and as such, is acting as the lead environmental agency.

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

Approval of Environmental Assessment Analyzing Environmental Impacts of Proposed Pier 42 Project, Adoption of Findings, and Ratification of Smart Growth Impact Statement

RESOLVED, that, on the basis of the materials presented to this meeting, copies of which are hereby ordered filed with the records of the Corporation (the "Materials"), the Corporation hereby approves the Environmental Assessment dated November 2015 ("EA") for the Pier 42 Project (the Project); and finds that the EA meets the requirements of the National Environmental Policy Act ("NEPA") and the State Environmental Quality Review Act ("SEQRA"); Section 2(a)(4) of Executive Order 11988 for Floodplain Management and 24 CFR § 55.20(b); Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800; the State Historic Preservation Act; and other applicable laws and regulations; and (b) the 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, do not require the preparation of an Environmental Impact Statement; and be it

FURTHER RESOLVED, on the basis of the Materials, and after due consideration of the EA, the Corporation hereby adopts the Finding of No Significant Impact and Determination of Non-Significance for the Project (FONSI) in the form submitted to this meeting, a copy of which FONSI is hereby ordered filed with the records of the Corporation, subject to public review and consideration of public comments on the FONSI and EA; and be it

FURTHER RESOLVED, that on the basis of the Materials, the Corporation hereby ratifies the Smart Growth Impact Statement prepared by LMDC pursuant to the State Smart Growth Public Infrastructure Policy Act; 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 determinations, the President of the Corporation is hereby authorized, in the name and on behalf of the Corporation, to complete any certifications required to finalize such findings and to request a release of funds from the U.S. Department of Housing and Urban Development for the Project; and be it

FURTHER RESOLVED, that the Chairman or the President of the Corporation or their designee(s) are hereby authorized and directed, in the name and on behalf of the Corporation, to execute and deliver any and all documents and take all related actions as such officer may in his or her sole discretion consider necessary or appropriate to effectuate the foregoing resolutions, including reviewing and considering any comments on the FONSI.

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Mr. Emil then asked the Directors to approve an amendment to the Subrecipient Agreement with the World Trade Center Performing Arts Center (“PAC”).

Mr. Emil provided the background information with regard to this request to amend the Subrecipient Agreement with PAC to increase it by \$10 million to assist with the costs of the design and engineering work needed to move forward on this project.

Mr. Emil went on to note that in the past, the Directors authorized an allocation of \$99

million to the PAC from the utility restoration funds, leftover funds.

Mr. Emil further explained, among other things, that the \$10 million being allocated today will reduce that \$99 million to \$89 million.

Director McVay asked for a timeline on the completion of the PAC and Mr. Emil explained that it is presently anticipated that the conceptual work will begin immediately and will continue through early Spring.

Mr. Emil added that for various reasons, anything close to construction documents will not be near completion for at least a year from now.

Director Weisbrod then noted that he is delighted that after all this time, the PAC is proceeding and LMDC's funding is proceeding for this project.

The Chair then called for any further questions or comments. Ms. Boepple then thanked the Board for its support and noted the PAC's enthusiasm at moving forward.

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

Authorization to Amend the Subrecipient Agreement with the World Trade Center Performing Arts Center

RESOLVED, that the Corporation is hereby authorized to amend the subrecipient agreement with the World Trade Center Performing Arts Center, Inc. for the World Trade Center Performing Arts Center (PAC) Project, by increasing the contract value \$10,000,000 to an amount not to exceed \$11,570,000, and reducing the \$99,000,000 allocation initially intended to fund future PAC construction costs to \$89,000,000 as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in Partial Action Plan S-2; 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.

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Mr. Emil then asked the Directors to approve an amendment to the Subrecipient Agreement for the West Thames Street Pedestrian Bridge.

Mr. Emil provided the background information with regard to this request to authorize LMDC to amend its Subrecipient Agreement with the Battery Park City Authority to increase funding by \$17,230,775 for construction services.

Directors Weisbrod and McVay commented favorably with regard to moving this project forward.

The Chair then called for any further questions or comments. Hearing none, and upon

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

Authorization to Amend the Subrecipient Agreement with the Battery Park City Authority for the West Thames Street Pedestrian Bridge

RESOLVED, that the Corporation is hereby authorized to amend its subrecipient agreement with the Battery Park City Authority for West Thames Street Pedestrian Bridges environmental review, design, and preconstruction services to increase funding by \$17,230,775 for construction services, to an amount not to exceed \$20,000,000 in the aggregate, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the \$20 million allocation towards the West Thames Street Pedestrian Bridge in Partial Action Plan S-2; 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.

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Mr. Emil then asked the Directors to authorize LMDC to amend its Subrecipient Agreement with ESD to extend the date of the grant payment processing for the Job Creation and Retention Program to December 31, 2017.

The Directors were also asked to authorize LMDC to amend the Partial Action Plan 2 to reflect that amendment.

Following the full presentation, the Chair called for questions or comments. Hearing

none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Authorization to Amend the Subrecipient Agreement with Empire State Development and Authorization to Amend Partial Action Plan 2

RESOLVED, that the Corporation is hereby authorized to amend its subrecipient agreement with Empire State Development to extend the date of grant payment processing for the Job Creation and Retention Program to December 31, 2017, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the Corporation is hereby authorized to amend Partial Action Plan 2 (the "Amended Partial Action Plan 2"), to extend the date of grant payment processing for the Job Creation and Retention program to December 31, 2017 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.

FURTHER RESOLVED, that the President of the Corporation or his designee shall be authorized to make such changes to the Amended Partial Action Plan 2 as may be necessary or appropriate to comport with applicable HUD requirements and to reflect any public comments solicited and received thereon; provided any changes so made shall be consistent with the criteria set forth in such Amended Partial Action Plan; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Next, Mr. Emil asked the Directors to authorize LMDC to amend the pre-qualified legal services contracts. Mr. Emil provided the background information with regard to this request to extend the contracts through 2016.

Mr. Emil explained that no additional funding is being requested at this time.

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

Authorization to Amend the Pre-Qualified Legal Counsel Services Contracts

RESOLVED, that the Corporation is hereby authorized to amend and extend agreements, for a one-year period through December 31, 2016, with each of Carter Ledyard & Milburn, LLP and Venable LLP for legal services, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the appropriate LMDC FYE 2016 and anticipated FYE 2017 Budgets for Planning and Administration, or relevant Partial Action Plans; 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; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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Mr. Emil then asked the Directors to authorize the Corporation to amend the Subrecipient Agreement for Website Services.

Mr. Emil provided the background information with regard to this request to extend the agreement through December 31, 2016 at a cost of \$29,000.

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

Authorization to Amend the Subrecipient Agreement for Website Services

RESOLVED, that the Corporation is hereby authorized to amend and extend the agreement for up to a one-year period through December 31, 2016, with Something Digital Inc. for website hosting, maintenance and support services, as described in the materials presented to this meeting; and be it

FURTHER RESOLVED, that the expenditures approved hereby shall be allocated from funds included in the appropriate LMDC FYE 2016 and anticipated FYE 2017 Budgets for Planning and Administration; 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; and be it

FURTHER RESOLVED, that all such actions previously taken in furtherance of the foregoing by the Corporation's employees, Officers or Directors are hereby ratified and approved in all respects.

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There being no further business, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Regina Stephens
Acting Secretary