

FOR CONSIDERATION

January 21, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Schenectady (Schenectady County) – Schenectady - RESTORE II - Center City – Restore NY Communities 07-08 (Capital Grant)

REQUEST FOR: Affirmation of the Directors October 22, 2009, Findings and Determinations Pursuant to Sections 10 and 16-n of the Act; Affirmation of the General Project Plan

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I. Background

At their meeting on October 22, 2009, the ESD Directors made findings and determinations authorizing a \$2,500,000 grant to the City of Schenectady (the “City”) for a portion of the project cost of \$3,900,000 for renovation and modernization of an existing four-story office/retail recreation complex in downtown Schenectady (the “Project”) in conjunction with the Schenectady Metroplex Development Authority (“Metroplex” or the “Authority”).

A public hearing for the Project was held at Schenectady City Hall on Thursday, November 12, 2009, from 2:30 p.m. to 3:30 p.m. to consider the General Project Plan (“GPP”). ESD arranged the public hearing in accordance with all statutory requirements and any applicable ESD policy. Specifically, a legal notice was published in the *Daily Gazette* on October 28, 2009. The GPP was available at the office of the Schenectady City Clerk, the Schenectady County Clerk and the regional office of the Corporation. A transcript of the hearing is attached herewith.

Four persons spoke in favor of the Project and one person spoke against the Project. Negative testimony presented at the hearing primarily stated concerns that the Project did not provide jobs to persons with disabilities or minorities, that the Project does not provide economic benefit to the public and that the façade of the building is out of character for the neighborhood.

## II. Negative Testimony and ESD Response

**Concern – Affirmative Action:** Negative testimony asserted that the Project has not provided jobs for persons with disabilities or minorities.

**Response:** It is the policy of the State of New York and ESD to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status and to take affirmative action to ensure that Minority and Women-owned Business Enterprises (M/WBEs), minority group members and women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESDC funds. Furthermore, the GPP specifically states that the City of Schenectady is encouraged to include minorities and women in any job opportunities created by the Project and to solicit MBE/WBE firms for any contractual opportunities.

For the duration of its agreement with ESD, the City of Schenectady shall furnish all information and reports required by ESD, or its designee, for the purpose of ascertaining compliance regarding MBE/WBE participation in the Project. In October 2009, prior to the ESD Directors' review and subsequent approval of the Project, the City of Schenectady was asked to submit a compliance report to determine MBE/WBE participation in the Project thus far. The report states that three firms in the Capital Region were selected as subcontractors, for work totaling approximately \$987,235.82 of a \$5.1 million contract. This represents 19% of the total contract amount. After reviewing the submitted documentation, ESD Affirmative Action department stated that M/WBE requirements for the Project have been met.

**Concern – Economic Benefit:** Negative testimony was received indicating that the Project "has no cost benefits to the public taxpayers for both the city and county" and did not have a "real cost benefit analysis." Concerns over job creation and tax incentives were also mentioned.

**Response:** In February 2009, The City of Schenectady IDA had an independent economic impact analysis performed, which demonstrates a cumulative 10-year impact of \$1.4 billion to the local economy. Furthermore, the Project has already attracted several tenants, some publicly disclosed and some potential tenants who are currently in confidential discussions with the City, waiting for the space to become available. In addition, any economic agreements between the City and Metroplex were made prior to the RESTORE award. It should be noted that RESTORE funds are awarded through a thorough review process that considers general economic conditions and benefits to the community; however, job creation and a cost-benefit analysis are not required.

**Concern – Façade:** Negative testimony indicated that the façade of the recreation complex is out of character with other structures in the area.

**Response:** The Project received all necessary public approvals, including that of the City of Schenectady Planning Commission, which specifically reviews, evaluates, modifies, and approves the design, materials and composition of all façade projects in the City of Schenectady. Furthermore, the project complies with the Downtown Façade Guidelines adopted by the

Schenectady City Council in March 2008. The City's planners, City Planning Commission and Metroplex worked closely with the Project's developer in selecting one of several design scenarios that were viewed most favorably in support of downtown's revitalization.

### III. Summary

After review and consideration of comments received at the public hearing, ESD staff believes that the Center City Project is an important part of the local revitalization plan for Downtown Schenectady and that the concerns raised at the hearing have been adequately addressed. ESD staff believes that the Project is expected to have a positive impact on the community.

### IV. Requested Action

The Directors are requested to affirm the findings and determinations related to the Project, made pursuant to the New York State Urban Development Corporation Act and to affirm the General Project Plan.

### Additional Submissions to Directors

Resolution

ESD Directors' Materials dated October 22, 2009

Transcript of the Public Hearing, dated November 12, 2009

January 21, 2010

Schenectady (Schenectady County) – Schenectady - RESTORE II - Center City – Restore NY Communities 07-08 – Affirmation of the Directors’ October 22, 2009 Findings and Determinations Pursuant to Sections 10 and 16-n of the Act; Affirmation of the General Project Plan

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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, relating to the Schenectady – RESTORE II – Center City – Restore NY Communities 07-08 Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, that

1. The area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest sound growth and development of the municipality;
2. The project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto;
3. The plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole;
4. There are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the Chairman and Chief Executive Officer-designate of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the City of Schenectady a grant for a total amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) from the Restore NY Communities 07-08 Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the Chairman and Chief Executive Officer-designate of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-designate of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to

take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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