

CORPORATE ACTION

July 15, 2010

TO: The Directors

FROM: Denis Mullen

SUBJECT: New York (New York and the Bronx Counties) – Empowerment Zone

REQUEST FOR: Authorization to Fund the New York Empowerment Zone Corporation;
and Authorization to Take Related Actions

I. Background

On December 31, 1994, the United States Department of Housing and Urban Development (“HUD”) designated portions of the areas known as Harlem, Washington Heights, and the South Bronx and certain areas adjacent thereto as an urban Empowerment Zone (“EZ”) pursuant to title XIII, Subchapter C, Part I of the Omnibus Budget Reconciliation Act of 1993. The EZ designation was for a term of ten years, and the December 31, 2004 termination date has been extended by HUD for an additional five years to December 31, 2009. Pursuant to title XX Section 2007 of the Social Security Act and based on HUD’s Empowerment Zone designation, the United States Department of Health and Human Services authorized the grant to the State of New York State (the “State”) of \$100,000,000 in Social Services Block Grant (“SSBG”) funds dedicated to the EZ. The SSBG grant funds availability was extended with the designation to December 31, 2010.

Pursuant to a Memorandum of Agreement (the “MOA”) dated January 19, 1996 between the State, The City of New York (the “City”), and HUD, the State and the City agreed to each grant respective amounts of \$100,000,000 to be used to complement the SSBG funds. In accordance with an Operating Principles Memorandum of Understanding (“MOU”) dated January 19, 1996 among the State, the City, the New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESD”), and others, ESD created a public benefit corporation subsidiary, the New York Empowerment Zone Corporation (“NYEZO”).

In accordance with the MOA, MOU, and EZ program requirements, ESD receives the SSBG funds and the State’s funds for the EZ and disburses them to NYEZO. The City, pursuant to a contract between the City’s Department of Business Services and NYEZO, disburses its grant funds to NYEZO. The funds received by NYEZO are subgranted to the two HUD designated subgrantees, Upper Manhattan Empowerment Zone Development Corporation (“UMEZ”; representing the Manhattan portion of the EZ) and the Bronx Overall Economic Development Corporation (“BOEDC”; representing the Bronx portion of the EZ; UMEZ and

BOEDC collectively the “LDCs”). UMEZ and BOEDC use the funds to fund initiatives and administrative costs approved by their respective Boards of Directors and reviewed for MOU compliance approval by the NYEZC Board of Directors. Pursuant to the MOU a portion of these funds also fund administrative expenses of NYEZC.

II. Funding

The State is obligated to meet its \$100 million EZ commitment by the December 31, 2009 EZ designation expiration date. The State has contributed approximately \$70.6 million of this commitment. Staff has determined that the State will need to contribute an additional \$29.4 million to the NYEZC in order to fulfill the State’s EZ commitment. Staff in consultation with the Division of Budget has determined that such funding should come from Port Authority of New York and New Jersey (“PANYNJ”) funds (the “PA Funds”) available to ESD pursuant to the Agreement (the “PA Agreement”) between the State, the State of New Jersey and PANYNJ, dated as of January 1, 1990.

III. Statutory Authority

The disbursement to NYEZC by ESD of the PA Funds is within the statutory purposes and powers of ESD and in accordance with the terms and conditions of the MOA, the MOU, PA Agreement, and the PACB Resolutions (as defined below).

IV. Source of Funds

The source of funds to be disbursed in accordance with these materials is \$29.4 million in PA Funds available to ESD pursuant to the PA Agreement. The payment of these PA Funds commenced when the State terminated its World Trade Center leasehold. The State assigned its PA Funds to ESD. ESD uses a substantial portion of these funds to pay debt service on ESD’s Corporate Purpose Bonds and to fund the World Trade Center rent subsidy program. The balance of such payments and excess receipts are held in escrow by ESD, and, absent legislation, can be used for other purposes only with the authorization of the Directors and the approval of the Public Authorities Control Board (“PACB”), as required pursuant to Public Authorities Control Board resolutions 04-UD-838A and 06-UD900 (collectively the “PACB Resolutions”). Subsequent to authorization of this funding by the Directors, staff will seek the required PACB approval.

V. Environmental Review

ESD staff has determined that the project constitutes a ministerial action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations for the New York State Department of Environmental Conservation. Recipients of Empowerment Zone funds will be responsible for complying with SEQRA, as applicable. No further environmental review is required in connection with this authorization.

VI. Recommendation

Staff recommends authorization of the disbursement to NYEZC of up to \$29.4 Million in PA Funds in accordance with these materials.

VII. Additional Submissions to the Directors

Resolution

July 15, 2010

New York (New York and the Bronx Counties) – Empowerment Zone – Authorization to Fund the New York Empowerment Zone Corporation; and Authorization to Take Related Actions

BE IT RESOLVED, that 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 “Materials”), that the Chief Financial Officer of the Corporation or her designees be, and each of them hereby is, authorized to take all actions to disburse to New York Empowerment Zone Corporation (“NYEZC”) up to \$29,400,000 from Port Authority of New York and New Jersey (“PANYNJ”) funds available to ESDC pursuant to the Agreement (the “PA Agreement”) between The State of New York, the State of New Jersey and PANYNJ, dated as of January 1, 1990, for the purposes and substantially on the terms and conditions set forth in the Materials , with such changes therein as the Chief Financial Officer or her designees may deem appropriate; and be it further

RESOLVED, that the Chief Financial Officer of the Corporation or her designees be, and each of them hereby is, authorized to disburse such funds to NYEZC and to take related actions for the purposes and substantially on the terms and conditions set forth in the materials presented to this meeting, with such changes therein as the Chief Financial Officer or her designees may deem appropriate; and be it further

RESOLVED, that the Chief Financial Officer of the Corporation or her designees be, and each of them hereby is, authorized to take such actions or execute on behalf of the Corporation such agreements, instruments and documents as he or she may consider necessary or appropriate in connection with the foregoing resolutions.

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