

NEW YORK JOB DEVELOPMENT AUTHORITY
d/b/a Empire State Development Corporation
Meeting of the Members
Empire State Development Corporation
633 Third Avenue
New York, New York 10017

and

NYS Department of Labor
State Campus
Building 12, Room 500
Albany, New York 12240

November 16, 2012

MINUTES

Members Present:

Kenneth Adams, Commissioner of DED – Chairman
Adam Barsky
Andrew J. Maniglia
Emily Youssouf
Stephen McGrattan, Designee – NYS Superintendent of
Agriculture and Markets
Mario Musolino, Designee – NYS Department of Labor

JDA Staff:

Maria Cassidy, Deputy General Counsel
Justin Ginsburgh, Executive Vice President and Chief
Operating Officer
Eileen McEvoy, Corporate Secretary
Kathleen Mize, Controller
Frances A. Walton, Senior Vice President and Chief
Financial Officer

Present for ESD:

Amit Nahalani, Financial Analyst
Antovk Pidedjian, Senior Counsel
Debbie Royce, Acting Secretary
Ray Salaberrios, Senior Director – Economic Revitalization
Susan Shaffer, Vice President – Loans and Grants

Also Present:

The Press
The Public

The meeting was called to order at 1:40 p.m. by Chairman Adams. 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.

Chairman Adams then set forth the guidelines regarding comments by the public on matters on the Agenda.

Chairman Adams then entertained a motion to approve the Minutes of the September 28, 2012 Members' meeting.

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

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT SEPTEMBER 28,
2012 MEMBERS' MEETING OF THE NEW YORK JOB DEVELOPMENT AUTHORITY

RESOLVED, that the Minutes of the meeting of the Authority held on September 28, 2012 as presented to this meeting, are hereby approved and all actions taken by the Members present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Authority.

* * *

Ms. Cassidy then asked the Members to establish a Pre-Qualified Counsel List and to approve the Pre-Qualified Counsel.

Among other things, Ms. Cassidy explained that the purpose of the list is to make available firms with expertise in nine different areas of the law who have gone through a competitive solicitation process so that when the need arises for outside counsel, a firm can be selected from the list without the need to conduct an individual solicitation each time.

This, Ms. Cassidy continued, will allow staff to respond more flexibly and efficiently to business needs as they arise. Ms. Cassidy added that the list generally remains in effect for three years and at the option of the General Counsel, for an additional year.

Ms. Cassidy continued and explained that ESD recently concluded a new solicitation as its then current list was expiring. The solicitation, Ms. Cassidy added, was conducted on ESD's own behalf as well as for its subsidiaries and for JDA, as an affiliated entity.

As JDA expands its activities, Ms. Cassidy further explained, the need for outside counsel may arise. Staff recommends, therefore, that the list of firms presented in the Members' materials be adopted by the Board for the benefit of JDA as it has been for ESD and its subsidiaries.

Ms. Cassidy then explained in detail the process utilized in selecting the firms. Ms. Cassidy noted that with this item, the Members are not being asked to authorize the retention of any particular firm in connection with any matter.

Member Barsky asked when approval was provided with regard to the maximum rate and Ms. Cassidy thanked Member Barsky for the reminder that this had not been done and stated that the \$400 maximum rate will be presented for approval at the next JDA meeting. Member Youssouf asked why there were two lists and Ms. Cassidy noted that the lists were identical and were merely contained in two places in the materials.

Member Youssouf also asked if the asterisks represented minority firms and Ms. Cassidy stated that they represented certified minority or women-owned firms.

Member Barsky then asked if everything is based on time and hours or if there is any sort of repeating work that can be done on a per assignment basis with a dollar amount threshold cap as opposed to an hourly rate.

Ms. Cassidy stated that at the present time, only the bond work is done on an agreed upon amount regardless of the number of actual hours worked.

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:

NEW YORK STATE JOB DEVELOPMENT AUTHORITY– Approval of Pre-Qualified Counsel

BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the New York Job Development Authority, the

law firms, listed in Attachment A be and each hereby is, approved as pre-qualified counsel in the various areas of expertise (and, in each case, related litigation), and in such other areas as the General Counsel or, in the General Counsel's absence, the Deputy General Counsel, may in his or her sole discretion may deem appropriate or advisable in connection with any particular project or matter, such approval to remain in effect until the meeting of the Directors first occurring after November 16, 2015 or, in the discretion of the General Counsel or, in the General Counsel's absence, the Deputy General Counsel, until the meeting of the Directors first occurring after November 16, 2016.

* * *

**Attachment A:
Pre-Qualified Legal Counsel
Adopted by the Board on November 16, 2012**

Real Estate and Land Use

Bond Schoeneck & King PLLC
* Brown & Hutchinson
Bryan Cave LLP
** Bryant Rabbino LLP
Carter Ledyard & Milburn LLP
Damon & Morey LLP
Day Pitney LLP
Law Offices of Donald J. Tobias
* Gonzalez Saggio & Harlan LLP
Harris Beach PLLC
Hawkins Delafield & Wood LLP
Herrick Feinstein LLP
Hiscock & Barclay LLP
Hodgson Russ LLP
Holland & Knight LLP
Ingram Yuzek Carroll & Bertolotti LLP
Jaekle Fleischmann & Mugal LLP
Knauf & Shaw LLP
Kramer Levin Naftalis & Frankel LLP
Mentor Rudin & Trivelpiece PC
McNamee Lochner Titus & Williams
Nixon Peabody LLP
Phillips Lytle & * The Gibson Law Firm

Saunders Kahler LLP
Schiff Hardin LLP
* Schoeman Updike & Kaufman LLP
Shearman & Sterling LLP
Sidley Austin LLP
Skadden Arps Slate Meagher & Flom LLP
Venable LLP
Whiteman Osterman & Hanna LLP

Condemnation

Berger & Webb
Bond Schoeneck & King PLLC
Carter Ledyard & Milburn LLP
Damon & Morey LLP
Day Pitney LLP
Harris Beach PLLC
Hiscock & Barclay LLP
Kramer Levin Naftalis & Frankel LLP
McNamee Lochner Titus & Williams
Nixon Peabody LLP
Sidley Austin LLP

* Minority or Women-owned Business

** Certification Pending

Construction

Bond Schoeneck & King PLLC
Carter Ledyard & Milburn LLP
Damon & Morey LLP
Day Pitney LLP
* Gonzalez Saggio & Harlan LLP
Greenberg Traurig LLP
Harris Beach PLLC
Herrick Feinstein LLP
Hodgson Russ LLP
* Hoguet Newman Regal & Kenney LLP
Holland & Knight
Ingram Yuzek Carroll & Bertolotti LLP
Kilpatrick Townsend & Stockton LLP
Kramer Levin Naftlais & Frankel LLP
Mentor Rudin & Trivelpiece PC
McNamee Lochner Titus & Williams
Nixon Peabody LLP
Saunders Kahler LLP
Schiff Hardin LLP
Shearman & Sterling LLP
Sidley Austin LLP
Venable LLP
Wasserman Grubin & Rogers LLP
Whiteman Osterman & Hanna LLP
* Wilson & Chan LLP

Bankruptcy

Bond Schoeneck & King PLLC
Bryan Cave LLP
Damon & Morey LLP
Day Pitney LLP
Law Offices of Donald J. Tobias
Harris Beach PLLC
Herrick Feinstein LLP
Hodgson Russ LLP
Jaeckle Fleischmann & Mugal LLP
Mentor Rudin & Trivelpiece PC)
McNamee Lochner Titus & Williams LLP

Environmental

Bond Schoeneck & King PLLC
Bryan Cave LLP
Carter Ledyard & Milburn LLP
Damon & Morey LLP
Day Pitney LLP
* Gonzalez Saggio & Harlan LLP
Harris Beach PLLC
Herrick Feinstein LLP
Hodgson Russ LLP
Jaeckle Fleischmann & Mugal LLP
Knauf & Shaw LLP
Kramer Levin Naftalis & Frankel LLP
Mentor Rudin & Trivelpiece PC
McNamee Lochner Titus & Williams
Nixon Peabody LLP
Phillips Lytle & * The Gibson Law Firm
Shearman & Sterling LLP
Sidley Austin LLP
Sive Paget & Riesel PC
Venable LLP
Whiteman Osterman & Hanna LLP

Nixon Peabody LLP
Saunders Kahler LLP
Schiff Hardin LLP
Shearman & Sterling LLP
Sidley Austin LLP
Venable LLP
Whiteman Osterman & Hanna LLP

Labor

- Bond Schoeneck & King PLLC
- * Brown & Hutchinson
- Clifton Budd & DiMaria LLP
- Damon & Morey LLP
- Day Pitney LLP
- * Gonzalez Saggio & Harlan LLP
- Harris Beach PLLC
- Hiscock & Barclay LLP
- Hodgson Russ LLP
- * Hogue Newman Regal & Kenney LLP
- Jaekle Fleischmann & Mugal LLP
- Schroder Joseph & Associates LLP
- McNamee Lochner Titus & Williams
- Putney Twombly Hall & Hirson LLP
- * Rao Tiliakos LLP
- Saunders Kahler LLP
- * Schoeman Updike & Kaufman LLP
- Shearman & Sterling LLP
- Sidley Austin LLP
- Venable LLP
- Whiteman Osterman & Hanna LLP

Foreclosure

- Bond Schoeneck & King PLLC
- Carter Ledyard & Milburn LLP
- Damon & Morey LLP
- Law Offices of Donald J. Tobias
- * Gonzalez Saggio & Harlan LLP
- Harris Beach PLLC
- Herrick Feinstein LLP
- Mentor Rudin & Trivelpiece PC
- McNamee Lochner Titus & Williams
- Nixon Peabody LLP
- Sidley Austin LLP

Taxation

- Bond Schoeneck & King PLLC
- Carter Ledyard & Milburn LLP
- Damon & Morey LLP
- Day Pitney LLP
- Harris & Beach PLLC
- Herrick Feinstein LLP
- Hodgson Russ LLP
- Holland & Knight
- Ingram Yuzek Carroll & Bertolotti LLP
- Jaekle Fleischmann & Mugal LLP
- McNamee Lochner Titus & Williams
- Nixon Peabody LLP
- Schiff Hardin LLP
- Shearman & Sterling LLP
- Sidley Austin LLP
- Whiteman Osterman & Hanna LLP

Bond

Senior Tier:

- Harris Beach PLLC
- Hawkins Delafield & Wood LLP
- Holland & Knight
- Mintz Levin Cohn Ferris Glovsky and Popeo
- Nixon Peabody LLP
- Orrick Herrington & Sutcliffe LLP
- Squire Sanders LLP & * KnoxSeaton
- Winston & Strawn LLP

Junior Tier:

- Bond Schoeneck & King PLLC
- Brown & Hutchinson
- Chapman & Cutler LLP
- Day Pitney LLP
- Edwards Wildman Palmer LLP and * The
- Hardwick Law Firm LLC
- * Gonzalez Saggio & Harlan LLP
- Hiscock & Barclay LLP
- * Law Office of Joseph C. Reid PA
- * Lewis & Munday PC
- Sidley Austin LLP

* * *

The Chairman then called upon Mr. Salaberrios to present the Happy Rock Partners, LLP JDA Loan item for the Members' consideration.

First, Mr. Salaberrios provided background information on the project and JDA's reasons for participating in the project.

Mr. Salaberrios then explained that the Members were being asked to approve a \$483,000 JDA loan to assist in the renovation of an 85,000 square foot facility in Woodside, Queens to expand the availability of move-in ready and affordable manufacturing space in the area.

Mr. Salaberrios explained that this space will then be pre-leased to pre-signed manufacturing industrial companies at a total project cost of \$854,000.

Mr. Salaberrios noted that there is currently one occupant in the building, Sequins International and that additional tenants are currently being sought. There are, Mr. Salaberrios explained, ten possible companies being looked at and only three are needed to fill the entire space.

Among other things, Mr. Salaberrios explained that the total JDA loan will not be funded

until all tenant improvements are executed and the applicant has executed and signed leases indicating a minimum rate of \$11 per square foot. Without JDA financing, Mr. Salaberrios added, the project would not be completed.

Member Youssouf asked if the Company was using its own money on construction costs and Mr. Salaberrios said that it was using its own funds. Mr. Salaberrios added that there is no bank involved.

Member Youssouf then asked why JDA was in a second lien position if no bank was involved. Mr. Salaberrios explained that there is a mortgage on the property. Mr. Nahalani further explained that the Company has existing debt that is due in three years to Wells Fargo which is currently in a first lien position on the real estate.

Member Youssouf noted that she knows staff is always very thorough but she is surprised that there are no financials included in the materials.

Mr. Salaberrios stated that that was an oversight on his part. He added that the financials had been submitted to the Finance Committee but that they should have been included in the materials and will be provided to all Members.

Member Youssouf asked if there was a limitation on the type of additional tenants that are being sought as far as what type of business they are in.

Mr. Salaberrios stated that basically, manufacturing and industrial types of businesses are being looked at as possible tenants. He added that no retail will be allowed in the building.

Among other things, Member Youssouf expressed concern with regard to the anticipated refinancing of the Company's Wells Fargo loan once the balloon payment becomes due in approximately three years.

Member Youssouf suggested that JDA staff take steps to secure some refinancing because it is difficult for small businesses to get first lien mortgages and to refinance.

Mr. Pidedjian stated that staff would look into possible arrangements regarding refinance terms.

A discussion ensued regarding various aspects of the transaction.

Member Barsky suggested that in order for the Members to vote on the resolution at hand, they approve it subject to the terms and conditions satisfactory to the President and the Members will submit comments to staff regarding their concerns and as long as it meets the Chairman's satisfaction, the Project can move forward. The Members agreed to this proposal.

Ms. Cassidy added that staff will prepare a revised set of materials to provide to the

Members. These revised materials, she added, will be included in the Corporate Record. The revised materials, Ms. Cassidy continued, will also include the finance memo.

Ms. Cassidy further stated that if the Members determine something has not been added, they can let Kenneth Adams know and staff will further advise.

Ms. Cassidy recommended a motion to approve the proposed loan subject to the distribution of revised materials that incorporate the comments made by the Members at today's meeting.

Chairman Adams suggested to Mr. Salaberrios that going forward, materials for real estate matters such as this one should include maps and illustrations.

Member Barsky asked if JDA staff had selected the appraisal firm and Mr. Salaberrios stated that JDA is piggy backing on the bank's appraisal. Member Barsky stated that he wanted to make sure that the appraisal firm had not been selected by the borrower. A brief discussion was had with regard to using an updated appraisal to be provided by Wells Fargo.

Chairman Adams noted that a motion had been made. He asked if there were any further questions or comments. Hearing none, the Chairman called for a second, and the motion being seconded, the following resolution was unanimously adopted:

Woodside (New York City Region – Queens County) – Happy Rock Partners, L.P. – New

York Job Development Authority Special Purpose Fund Direct Loan Project – Real Estate Loan -- Authorization to Make Loan and to Take Related Action

RESOLVED, that the Chief Executive Officer of the Authority or his designee(s) be, and each of them hereby is, authorized to make a Special Purpose Fund Real Estate Loan to Statewide Local Development Corporation for the benefit of the Happy Rock Partners, L.P. for an amount not to exceed \$483,000 or 57% of total Project costs, whichever is less, (the "Loan") to be funded from the proceeds of New York State Guaranteed Special Purpose Fund bonds or notes, for the purposes and substantially on the terms and conditions set forth in the materials presented at this meeting, with such changes as the Chief Executive Officer of the Authority or his designee(s) may deem appropriate; and be it further

RESOLVED, that, the Loan is authorized subject to the distribution hereafter to the Members of a JDA Loan Underwriting Memorandum satisfactory to the Chief Executive Officer of the Authority; and

RESOLVED, that, the Loan is authorized subject to the distribution hereafter to the Members of revised Members' materials which to the satisfaction of the Chief Executive Officer of the Authority consistently reflect that the approved loan amount will not exceed 57% of total Project costs; that prior to disbursement of funds there shall be adequate insurance, including flood insurance if necessary, on the Premises; that there are no outstanding material building violations at the Premises; that there shall be no agreement by which the terms of payment of any principal or interest under the First Mortgage are waived, modified, deferred, delayed, increased or reduced in rate or amount, without the prior written consent of the Authority; and

RESOLVED, that the Chief Executive Officer of the Authority or his designee(s) be, subsequent to the making of the Loans, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the Loans as he or she may deem appropriate in the administration of the Loans; and be it further

RESOLVED, that the Chief Executive Officer of the Authority, or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Authority 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; and be it further

RESOLVED, that the provision of financial assistance by the Authority is expressly contingent upon: (1) the approval of the Public Authorities Control Board, as applicable, and (2) the receipt of all other necessary approvals.

* * *

Following the approval of the foregoing resolution, Member Barsky asked if there was anything JDA can do to assist the Governor with Hurricane Sandy relief efforts.

Chairman Adams thanked him for this concern and then outlined the various programs presently put forth by the Governor's Office. Chairman Adams noted that it is too early to determine whether or not JDA can be of assistance in these efforts.

Further discussion was had with regard to the devastating effects of the storm on small businesses and the City and on the State's effort to alleviate some of that devastation.

There being no further business, the meeting was adjourned at 2:37 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Eileen McEvoy". The signature is written in black ink and is positioned to the right of the typed name.

Eileen McEvoy
Secretary