

**PLEASE NOTE - We welcome public comment on the items on the following agenda. To ensure maximum opportunity for participation, speakers representing themselves may speak for up to 2 minutes each, and those representing groups may speak for up to 4 minutes (1 speaker per group). Speakers' comments may address only items considered at today's meeting.**

**NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION**

**MEETING OF THE DIRECTORS**

**Monday**

**March 12, 2011 – 10:00 a.m.**

**PROPOSED AGENDA**

**I. CORPORATE ACTIONS**

- A. Approval of the Minutes of the November 3, 2011 Directors Meeting
- B. New York (New York County) - New York Convention Center Development Corporation- Appointment of Chairman
- C. New York (New York County) - Jacob K. Javits Convention Center Renovation and Expansion Civic Project – Annual Operating and Capital Budgets for FY 2012-2012 - Authorization to Adopt Annual Operating and Capital Budgets for FY 2012-2013 and to Take Related Actions
- D. New York (New York County) - New York Convention Center Development Corporation- Authorization to Enter into a Lease Agreement with the New York Convention Center Operating Corporation to Operate and Maintain the Jacob K. Javits Convention Center
- E. New York (New York County) - Jacob K. Javits Convention Center Renovation and Expansion Civic Project- Authorization to Amend the Contract for Appraisal Services and to Take Related Actions

**II. FOR INFORMATION**

- A. Construction Manager's Report- Status of Construction (Oral Report)
- B. Integrity Monitor's Report- Findings and Observations (Oral Report)

**DRAFT – SUBJECT TO REVIEW AND REVISION**

**NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION**

Meeting of the Directors  
633 Third Avenue  
New York, New York 10017

November 3, 2011

**MINUTES**

**In Attendance**

**Directors:**

Carl H. Loewenson, Jr., Chairman  
Michael G. Carey  
Kevin S. Corbett  
George M. Little  
Jeffrey Mandel – Designee for Robert Steel  
Joseph E. Spinnato  
Ann Weisbrod  
Carl Weisbrod

**NYCCDC Officers:**

Barbara Lampen, President  
Eileen McEvoy, Corporate Secretary  
Frances A. Walton, Senior Vice President - Finance

**Attending for ESD:**

Jonathan Beyer, Senior Counsel  
Peter Davidson, Executive Director  
Carlos Otero, Contracts Administration and Subsidiary Finance  
Natasha Pallan, Director-Subsidiary Finance  
Sheila Robinson, Assistant to the CFO

**Also Present:**

Convention Center Operating Corporation  
Elizabeth Bradford

For Tishman Construction Corporation

Glenn Johnson  
Michael J. Mennella

For Fx Fowle

Bruce Fowle, Architect

BDO Consulting

Mark E. Feldman

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Velez Organization  
Elizabeth Velez

The Public  
The Press

The Meeting of the Board of Directors of the New York Convention Center Development Corporation was called to order at 10:02 a.m. by Chairman Loewenson. It was noted for the record that the time and place of the meeting had been given in compliance with the New York State Open Meetings Law. A quorum was present.

Chairman Loewenson noted that the public is free to comment on any matters on the Agenda.

Chairman Loewenson then called for the approval of the Minutes of the March 31, 2011 CCDC Directors' meeting. There being no further corrections, upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE MARCH 31, 2011 MEETING OF THE DIRECTORS OF THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meeting of the Corporation held on March 31, 2011, as presented to this meeting, are hereby approved and all actions taken by the Directors present at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

\* \* \*

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Ms. Lampen then presented the President’s Report for the Directors’ information.

Among other things, Ms. Lampen referred to questions that had been raised with regard to the CCDC budget that was approved at the March 2011 meeting as well as with regard to the overall plan of finance.

Among the questions raised, Ms. Lampen noted, were: how did the budget track the plan of finance; where did CCDC stand in terms of spending; was CCDC on schedule and on budget; and whether or not CCDC has sufficient funds available to complete the project going forward.

Ms. Lampen reviewed various hand-outs with the Directors to illustrate that the budget was based on and adheres to the original General Project Plan, Plan of Finance approved by the Board in 2009.

Ms. Lampen also outlined the management tracking tools utilized to ensure that no one is being overpaid and that the work that is paid for is of quality and is in place.

Ms. Lampen then reviewed various other aspects of the Financial Plan and moved on to the final question as to whether or not there is going to be a shortfall in funding at the end of construction.

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Ms. Lampen explained that at 49 percent completion, CCDC still has 73 percent of its contingency available to fund completion.

Among other things, Ms. Lampen further explained that looking back at the last 50 percent of the work, CCDC has been spending approximately \$1,245,000 a month. Projecting forward, Ms. Lampen noted, CCDC is covered by approximately \$1,778,000 per month.

Ms. Lampen explained that at a future meeting, she would provide a list of what she believes to be additional scope that CCDC can tackle.

Ms. Lampen continued, noting that while there is still a lot of work that involves building systems, code and life safety, there are also some more discretionary items such as restrooms and painting scope that can be discussed and on which the Directors can provide guidance as to how best to proceed.

Ms. Lampen then addressed the matter of land sales which, she explained, is the source of funds that are needed to complete the renovation of the building.

Ms. Lampen noted, in part, that CCDC will start getting out in public with the scoping Environmental Impact Statement and having discussions with the City in terms of development programs and things of that nature.

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Glenn Johnson from Tishman Construction then provided a Powerpoint presentation illustrating the status of construction at the site. Mr. Johnson provided a detailed account of each area of construction, noting, in part, that all is running on schedule.

Following Mr. Johnson's detailed presentation, Director Weisbrod asked if the construction had produced any operational surprises either positive or negative in terms of shows.

Mr. Johnson stated that there have been no surprises in that regard. He explained that Tishman had a meeting with Elizabeth Bradford and the CCOC Advisory Board and there has been positive feedback. He further stated that Tishman has done some modifications to make things work. Mr. Johnson asked Ms. Bradford if she had any comments to make on this matter and Ms. Bradford noted her agreement with Mr. Johnson's statement and further stated that the customers feel well informed. Director Little echoed his agreement with the foregoing.

Mr. Fowle, the project's architect, then commented that the users show a lack of respect for the building and that this should be addressed.

Director Little suggested that the Governor come to the reopening and stress the importance of the industry to New York State. This, he stated, may assist in restoring a sense of pride to the industry.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Ms. Bradford noted that the message has gone out to the contractors to the effect that we have new materials and there will be consequences if there are damages.

Director Little added that he believes that more dynamic leadership on the part of the building is required.

Moving on, Mr. Johnson noted that Tishman now wished to provide an update of their MWBE efforts and he called upon Elizabeth Velez, the President of Velez Associates, to provide that update.

Ms. Velez explained that Velez Associates is a general construction and construction management firm that has been based in New York City for 40 years. Ms. Velez stated that in addition to construction, she serves in an advisory capacity for many agencies for MWBE issues including the State Department of Transportation, New York City School Construction Authority and the MTA.

Ms. Velez then proceeded to elaborate upon the Company's outreach efforts to MWBE firms over the years that have been geared towards the Convention Center and the outcome of those efforts.

Ms. Velez further noted that in addition to monitoring MWBE compliance, Velez Associates was also charged with overseeing the minority and women employment on the

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project. Because this is a union project, Ms. Velez added, there was concern that this would be a challenge so the Company sat down with each of the contractors and had them contact their union halls. The result, she noted, is that almost 40 percent of the trade work force is made up of minorities and women. That number, she added, is expected to stay the same or increase as the project moves forward.

Lastly, Mr. Feldman of BDO provided a report on integrity monitoring on the project.

Mr. Feldman explained that during the period since the last Board meeting, BDO has continued the process of reviewing the project's related activity and billing practices for all 23 prime contractors.

Seven of those reviews, he noted, are fully complete; 12 have commenced and further information is required before the process can be completed; the final four are scheduled for review this quarter and it is anticipated that work will be completed in early January of 2012.

Mr. Feldman then reviewed several of the findings regarding billing discrepancies and the ultimate decisions made with regard to those matters.

Following Mr. Feldman's summary on those matters, Director Carl Weisbrod asked if this information gets disseminated throughout the other public agencies and if there is a system in place by which to do that.

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Mr. Feldman stated that no such system is in place, however, he has had discussions with another over-sight agency regarding the firms involved.

Mr. Feldman then provided further information on BDO's monitoring activities.

Following Mr. Feldman's full report, Director Carl Weisbrod noted his concern that there is no formal system in place with which to share this information with other public agencies. A brief discussion was had in that regard and it was decided that the topic would be discussed at the next Board meeting.

Director Carey asked if there is any kind of criminal referral that grows out of this or is there a process where it is decided that you refer the matter to a prosecuting authority for fraud.

Ms. Lampen stated that CCDC did not believe that the matter rises to that level and Chairman Loewenson stated that the amount involved was not that great and that there were some mitigating circumstances.

If criminal conduct was found, the Chairman added, it would be reported in a heartbeat.

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Director Corbett noted that it is a delicate balancing act because if it is a reputable firm that was just being sloppy, it could result in the firm's being blacklisted over a very minor matter.

Having the integrity monitoring in place along with the utilization of certified payrolls, it was agreed, is a clear deterrent that will cause firms to think twice before they either make careless errors or engage in illicit activity.

There being no further business, the meeting was adjourned at 11:12 a.m.

Respectfully submitted,

Eileen McEvoy  
Corporate Secretary

FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Barbara Lampen

RE: New York (New York County) - New York Convention Center  
Development Corporation

REQUEST FOR: Appointment of Chairman

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**BACKGROUND**

The By-Laws of the New York Convention Center Development Corporation (the Corporation) provide for the appointment of officers by the Board of Directors. It is proposed that Henry R. Silverman be appointed Chairman of the Board of Directors, effective March 12, 2012. Mr. Silverman is the Vice Chairman of Apollo Global Management.

**REQUESTED ACTION**

The Directors are requested to appoint Henry R. Silverman as Chairman of the Board of Directors.

**ATTACHMENT**

Resolution

March 12, 2012

NEW YORK (NEW YORK COUNTY) – New York Convention Center Development Corporation – Appointment of Chairman

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RESOLVED that, effective March 12, 2012, Henry R. Silverman be, and hereby is, appointed Chairman of the New York Convention Center Development Corporation (the Corporation) in accordance with the provisions of the Corporation's BY-Laws.

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FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Barbara Lampen

SUBJECT: New York (New York County) – Jacob K. Javits Convention Center  
Renovation and Expansion Civic Project - Annual Operating and Capital  
Budgets for FY 2012-2013

REQUEST FOR: Authorization to Adopt Annual Operating and Capital Budgets for FY  
2012-2013 and To Take Related Actions

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**BACKGROUND**

In furtherance of the Comptroller's oversight responsibilities as set forth in Article X, Subsection 5 of the State Constitution and Subsection 8(14) of the State Finance Law, the Comptroller's Office has promulgated regulations regarding the preparation, approval, submission and reporting of budgets and financial plans by public authorities ("Regulations").

The Regulations require, among other things, that prior to the commencement of the fiscal year, the Directors adopt the annual budget. A proposed Operating and Capital Budget is attached here for your review. The Budget will be funded with proceeds from the Hotel Unit Fee Secured Revenue Bond Series 2005.

**THE 2012-2013 OPERATING AND CAPITAL BUDGETS**

Overall, the Operating Budget decreased by 19%. The proposed Capital Budget will fund the renovation program approved in the 2009 General Project Plan.

**ENVIRONMENTAL REVIEW**

ESD staff, on behalf of CCDC, has determined that the requested authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

**REQUESTED ACTION**

The Directors are requested to adopt the Annual Budgets as set forth in the attachments and to delegate authority to the appropriate officers to take related actions.

**ATTACHMENTS**

Resolution

Proposed Annual Operating and Capital Budgets for FY 20012-20013

March 12, 2012

NEW YORK (NEW YORK COUNTY) – Jacob K. Javits Convention Center Expansion and Renovation Project - Annual Operating and Capital Budgets for FY 2012-2013.

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RESOLVED, that, in accordance with the materials presented to this meeting and ordered filed with the records of the Corporation, the Corporation be, and hereby is, authorized to:

Adopt the Annual Operating and Capital Budgets for FY 2012-2013; and be it further

RESOLVED, that, the President or her designee(s) be, and each of them hereby is, authorized and directed, in the name of and on behalf of the Corporation, to execute and deliver any and all documents and to take all actions as may be necessary or proper to effectuate the foregoing.

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**FOR CONSIDERATION**

March 12, 2012

TO: The Directors

FROM: Barbara Lampen

SUBJECT: New York (New York County) – New York Convention Center  
Development Corporation

REQUEST FOR: Authorization to Enter into a Lease Agreement with the New York  
Convention Center Operating Corporation to Operate and Maintain  
the Jacob K. Javits Convention Center

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**BACKGROUND**

Chapter 35 of the Laws of 1979 authorized the development of a convention and exhibition center (the Center) in New York County by the New York Convention Center Development Corporation (NYCCDC), a subsidiary of the New York State Urban Development Corporation (d/b/a ESD), and authorized the Triborough Bridge and Tunnel Authority (TBTA) to finance and participate in the development of the Center. This statute also provided that a public benefit corporation, the New York Convention Center Operating Corporation (NYCCOC), be created to operate the Center.

The statute further provided that the stockholders of the NYCCDC be the UDC and the TBTA, and authorized the TBTA to lease, with certain specified terms, the Center from the NYCCDC and sublease, with certain specified terms, its interest therein to the State of New York acting through the Commissioner of General Services (OGS). OGS was authorized by the same statute to sublease its leasehold interest to the NYCCOC for the purpose of operating and maintaining the Center (the Operating Sublease).

In June 2010, the Board authorized entering into a new lease agreement with the NYCCOC for operation and maintenance of the newly completed expansion (Javits North) on substantially similar terms as the operating sublease (the expansion lease). The expansion is located on property purchased by the NYCCOC with its own funds and transferred to the NYCCDC and is therefore not covered by the sublease or the Operating Sublease.

The lease entered into by the NYCCDC and the TBTA and the sublease entered into by the TBTA and the OGS expressly terminate when the last of the bonds issued by the TBTA to finance construction of the Center are fully repaid. These bonds matured in January 2012,

effectively terminating the Operating Sublease entered into between OGS and NYCCOC. The expansion lease terminated when the Operating Sublease terminated.

It is recommended the Board authorize NYCCDC to enter into a new lease, or legal functional equivalent, with the NYCCOC for the operation and maintenance of the Center on substantially the same terms and conditions as the Operating Sublease and delegate to officers of the Corporation the authority to make necessary and appropriate amendments to reflect the changed circumstances since the Operating Sublease was originally executed. Currently the NYCCOC is operating the Center under its express statutory authority to maintain, operate and rent out portions of the Center, but it is important for the rights and obligations of the NYCCDC as owner of the property and the NYCCOC as operator to be spelled out in detail.

The recommended actions described herein would be without prejudice to any rights and obligations of the parties to the lease and to the sublease, to the extent any such rights and obligations survived the terminations of the lease and sublease.

The Public Authorities Accountability Act (PAAA) always requires an appraisal for the disposition of real property, including leases, and generally requires that when any public property is disposed of, a public bidding process, with public advertising, must be followed. There are several exceptions to the bid requirement that allow disposal by negotiation, but for transactions over certain dollar thresholds an Explanatory Statement, including an appraisal of value, must be filed no less than 90 days (the waiting period) before such disposal with the comptroller, the Director of the Budget, the Commissioner of General Services, and the Legislature (the Albany Parties).

With respect to the expansion lease an appraisal was obtained, and no Explanatory Statement was filed with the Albany Parties because the annual rent did not exceed the statutory minimum. Bids were not required because the expansion lease qualified under the PAAA for an exception as a disposal to a political subdivision and the terms of disposal were obtained by negotiation. Subject to a confirming appraisal, the same conditions are expected to apply to the proposed lease.

### **ENVIRONMENTAL REVIEW**

ESD staff, on behalf of NYCCDC, has determined that the requested authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

### **REQUESTED ACTION**

Authorization to Enter into a Lease with the New York Convention Center Operating Corporation to Operate and Maintain the Jacob K. Javits Convention Center.

## **ATTACHMENTS**

Resolution

March 12, 2012

New York (New York County) – New York Convention Center Development Corporation –  
Authorization to Enter into a Lease Agreement with the New York Convention Center Operating  
Corporation to Operate and Maintain the Jacob K. Javits Convention Center

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RESOLVED, that in accordance with the materials presented to this meeting and ordered filed with the records of the Corporation, the Corporation be, and hereby is, authorized to enter into a Lease with the New York Convention Center Operating Corporation (NYCCOC) to operate and maintain the Jacob K. Javits Convention Center on substantially the same terms and conditions as the Operating Sublease between the State of New York and the NYCCOC dated as of November 15, 1984, as amended, with such changes as shall be approved by the President or her designee(s), to reflect the changed circumstances since the Operating Sublease was originally executed.

RESOLVED, that the President or her designee(s) be, and each of them hereby is, authorized and directed, in the name of and on behalf of the Corporation, to execute and deliver any and all documents and take all actions as may be necessary or proper to effectuate the foregoing.

RESOLVED, that neither of the prior resolutions approved by the Board and none of the actions of the President or her designee(s) in connection therewith shall prejudice or otherwise affect any rights and obligations of the parties to the Lease between the Corporation and the Triborough Bridge and Tunnel Authority (TBTA), dated as of October 1, 1980, as amended, or the Sublease between the TBTA and the State of New York, dated as of October 1, 1980, as amended, to the extent such rights and obligations have survived the terminations of such Lease and Sublease.

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**FOR CONSIDERATION**

March 12, 2012

TO: The Directors

FROM: Barbara Lampen

SUBJECT: New York (New York County) – Jacob K. Javits Convention Center  
Renovation and Expansion Civic Project

REQUEST FOR: Authorization to Amend the Contract with Jerome Haims Realty, Inc. and  
to Take Related Actions

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**BACKGROUND**

On December 1, 2006, in response to an RFP, the New York Convention Center Development Corporation (NYCCDC) entered into a Contract with Jerome Haims Realty, Inc. (Haims) in the amount of \$30,000 to perform appraisal services for a proposed hotel on NYCCDC-owned property located between 35<sup>th</sup> and 36<sup>th</sup> Streets at 11<sup>th</sup> Avenue (35/36 St. Site) in connection with the renovation and expansion of the Javits Center. The original contract amount of \$30,000 was increased by \$9,500 in June 2010 for the cost of an appraisal performed in connection with the grant of an easement on the 35/36 St. Site to the City of New York for the extension of the No. 7 Subway Line.

In September 2010, the NYCCDC entered into an additional contract with Haims, as a pre-qualified appraiser, in the amount of \$45,000 to perform an appraisal of the Javits North operating lease and other appraisals associated with the renovation and expansion of the Javits Convention Center.

The NYCCDC is currently negotiating with the City of New York regarding the terms of an easement across NYCCDC-owned property bounded by 33rd and 34th Streets and 11th and 12<sup>th</sup> Avenues (the 33/34 Site) for completion of the Highline Park. The NYCCDC needs to appraise the value of any property rights conveyed in this easement in order to comply with the requirements of the Public Authorities Accountability Act (PAAA).

The NYCCDC anticipates entering into a lease with the New York Convention Center Operating Corporation (NYCCOC) to operate and maintain the Javits Center. The PAAA requires an appraisal for the disposition of real property, including leases. The NYCCDC is also in the process of preparing the 35/36 St. Site at for possible long-term lease under an RFP process. In connection with this process, the NYCCDC will need to appraise the value of this property.

It is recommended the September 2010 Contract with Haims be increased by \$30,000 for these appraisals and related services. The source of funding is the Hotel Unit Fee-secured Bond proceeds.

### **ENVIRONMENTAL REVIEW**

ESD staff, on behalf of CCDC, has determined that the requested authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

### **REQUESTED ACTION**

Authorization to Amend the Contract with Jerome Haims Realty, Inc. in the Amount of \$30,000, for a Total Contract Amount of \$75,000 and to Take Related Actions.

### **ATTACHMENTS**

Resolution

March 12, 2012

New York (New York County) – Jacob K. Javits Convention Center Renovation and Expansion Civic Project – Authorization to Amend the Contract with Jerome Haims Realty, Inc. and to Take Related Actions

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RESOLVED, that in accordance with the materials presented to this meeting and ordered filed with the records of the Corporation, the Corporation be, and hereby is, authorized to amend the Contract with Jerome Haims Realty, Inc. for the additional amount of \$30,000, for a total Contract amount of \$75,000.

RESOLVED that, the President or her designee be, and each of them hereby is, authorized and directed, in the name of and on behalf of the Corporation, to execute and deliver any and all documents and to take all actions necessary or proper to effectuate the foregoing.

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**Empire State Development  
 NY Convention Center Dev Corp  
 Capital Budget FY 2012-13**

	Actual Expense FYE 2011	Spending Plan FYE 2012	Projected Expense FYE 2012	Spending Plan FYE 2012
Acquisition Costs	0	#		
Design & Other Soft Costs	6,738,274	#		
Legal Costs	100,750	#		
Property Management/Maint	0	#		
Insurance	0	#		
Demolition & Site Clearance	0	#		
Construction Costs	90,110,214	#		
Other Misc. Costs	195,902	#		
<b>Total Capital</b>	<b><u>97,145,140</u></b>	<b><u>#</u></b>	—	—