

FOR CONSIDERATION

June 15, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Harlem (New York County) – The Apollo Theater Capital – Downstate Revitalization Fund –Downtown Redevelopment (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-r and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

General Project Plan

I. Project Summary

Grantee: The Apollo Theater Foundation, Inc.

ESD* Investment: A grant of up to \$2,900,000, pending passage of the New York State budget, to be used for a portion of the cost of roof renovations above the main auditorium.

* The New York State Urban Development Corporation doing business as the Empire State Development Corporation (“ESD” or the “Corporation”)

Project Location: 253 West 125th Street, New York

NYS Empire Zone
(or equivalent): New York Empowerment Zone

Proposed Project: This project is part of a multi-phase \$72 million capital project to restore, enhance and sustain the Apollo Theater. ESD’s financial support through the Downstate Revitalization Fund will assist with work above the main auditorium and on the western wall of the building, including roof and wall repairs, asbestos abatement and heating and cooling system replacement.

ESD Incentive Offer Accepted: November 16, 2009

Project Completion: March 30, 2011

Grantee Contact: Ms. Jonelle Procope, President and CEO
253 West 125th Street
New York, NY 10027
Phone: 212-521-5332
Fax: 212-662-2288

Anticipated
Appropriation
Source: Downstate Revitalization Fund

ESD Project No.: W933

Project Team:	Origination	Joe Tazewell
	Project Director	Huey-Min Chuang
	Affirmative Action	Laverne Poole
	Finance	Amit Nihalani
	Design & Construction	Joseph Burkard
	Environmental	Soo Kang

I. Project Cost and Financing Sources

The proposed project – the repair and renovation of the Apollo Theater’s roof above the main auditorium – is a final component of a multi-phase restoration of the Apollo Theater, referred to as Phase IIIB. Phases I and II, which comprised over 50% of the \$72 million Historic Apollo Restoration, are already completed. Phase IIIA is in progress. (See Exhibit A for a complete breakdown of the Apollo Restoration project – Phases I, II, IIIA and IIIB)

Phase IIIB

<u>Financing Uses</u>	<u>Amount</u>
Design and Management	\$1,561,346
Construction	\$7,332,897
<u>Other</u>	<u>\$549,927</u>
Total Project Costs	<u>\$9,444,170</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$2,900,000	31%
New York City Department of Cultural Affairs Grant (Administered by New York City Economic Development Corporation)	\$4,350,000	46%
<u>Bank of America (Federal Tax Credit)</u>	<u>\$2,194,170</u>	<u>23%</u>
Total Project Financing	<u>\$9,444,170</u>	<u>100%</u>

III. Project Description

A. Background

Founded in 1934, the Apollo Theater (the “Apollo”) has been a driving force in shaping America’s musical and cultural landscape for nearly 75 years. It serves as a creative catalyst and anchor for Harlem, New York City and New York State. The Apollo was one of the first theaters to welcome integrated audiences and to provide opportunities for new artistic talents. It launched the careers of Ella Fitzgerald, Celia Cruz, Billie Holiday, and many others into stardom.

In 1991, the State of New York acquired the Apollo Theater and established the Apollo Theater Foundation, Inc. (“ATF”). ATF is a not-for-profit organization dedicated to the preservation and development of the Apollo Theater through live performances and education programs that honor the influence of African-American artists and emerging voices across cultural and artistic media. The Apollo is listed on the National Register of Historic Places and is a New York City landmark.

The Apollo faces increasing competition from larger institutions with greater resources such as Madison Square Garden and Radio City Music Hall. Both institutions have auditoria that dwarf Apollo’s 1,520 seats (Madison Square Garden can seat up to 20,000 people and Radio City Music Hall can set up to 6,000) allowing them greater ability to comply with artist fees. The Apollo also competes with other smaller competitors who do not have unionized staff, and therefore have more flexibility in reducing overhead costs. Furthermore, the community that surrounds the Apollo is experiencing a change in the makeup of its residents and businesses which is bringing new constituencies, visitors and opportunities to Harlem. With the recent rezoning of 125th Street, Apollo plans to remain a vital source of entertainment, culture and community services by undertaking comprehensive efforts to program development, marketing, business development and capacity building.

In 2001, the Apollo launched a public / private initiative with national scope to raise \$96 million. Of the \$96 million, \$72 million is dedicated to the restoration and renovation of the Apollo’s historic facility, which was originally constructed in 1913. To date, \$51 million has been secured for restoration and renovation (69% publicly funded and 31% privately raised). The \$72 million restoration is being implemented in three phases. Phase I included façade restoration, performance system upgrades, new blade sign and marquee, new box office and seat replacements. Phase II included life-safety system upgrades, new stage, new dressing rooms, new greenroom, new restrooms, and full ADA compliance. Phase IIIA consisted of the rebuilding of the stage roof system and north side setback roofs. Phase IIIB, the current \$9.4 million project, will include removal, abatement and replacement of all roofing and roof insulation, repair parapets, repair steel decking as required, install new roof drains, install new HVAC units on new dunnage, and install new ductwork and gas lines to HVAC units. Phase IIIB is expected to be complete by March, 2011.

In addition to the restoration and renovation, Apollo will invest \$24 million toward expanding its audience, dedicating more space to community programming and establishing the Apollo’s first endowment and expanding Apollo’s capacity for earned revenues. These efforts will sustain its operations and programming for generations to come.

This grant was awarded through the first round of the Downstate Revitalization Fund RFP process, and was announced in October 2009. The Downstate Revitalization Fund seeks to promote economic development by financing capital investment in New York State.

B. The Project

The \$9.4 million renovation of the Apollo Theater's roof over the auditorium will commence in 2010 and be completed by March 2011. The funds will be used for Phase III B of the Apollo Theater total renovation project. The project will include demolition and abatement of the auditorium roof and parapets and duct work; new masonry parapets and copings over the auditorium; lower set back roofs and parapets over dressing rooms and toilets; new steel dunnage and service catwalks for existing HVAC on the auditorium roof; painting of new and existing steel over the auditorium roof; removal and installation of new duct work and insulation of rooftop HVAC units over the auditorium; removal, storage and reconnecting exiting HVAC units over the auditorium roof; Scaffolding and sidewalk shed on 126th Street; hanging scaffolding for west wall construction; new plumbing for roof drains; disconnection and reconnection of existing HVAC units over the auditorium; removal and relocation of gas piping to auditorium HVAC units; and new electrical and fire alarm for HVAC units over the auditorium.

Because ESDC is the landlord on behalf of New York State, all on-site development activities to date have been monitored by the ESDC's Design and Construction Department. New York City has allocated \$4.35 million in its 2009 FY budget for this current project and \$2.2 million has been raised privately through a Federal tax credit deal with Bank of America. The remaining \$2.9 million is requested from ESDC.

The Apollo has retained Jones Lang LaSalle to oversee management of the capital restoration project and Beyer Blinder Belle Architects and Planners LLP to design capital restoration and improvement activities. It has demonstrated a very strong commitment in utilizing Minority/Women owned Enterprises ("MWBE") in the overall project. Historically, it has exceeded all MWBE goals on its contracts.

C. Financial Terms and Conditions

1. Reimbursable expenses: At the time of disbursement, ATF will reimburse ESD for all out of pocket expenses incurred in connection with the project.
2. ATF will be obligated to advise ESD of a material adverse change in its financial condition prior to disbursement.
3. ATF or ATF's shareholders will contribute at least 10% in equity to the project. Equity is defined as any non-debt source of capital, and should be auditable through ATF financial statements or ATF accounts, if so requested by ESD.
4. Up to \$2,900,000 will be disbursed to ATF no more frequently than quarterly for eligible

project costs in proportion to ESD's funding share, assuming that all project approvals have been completed, funds are available and the Grantee is in compliance with the Design & Construction requirements. The final disbursement, which shall be at least 10% of the grant amount, shall be made to the Grantee upon completion of this section of the project (as described in Section II). Payment will be made upon presentation to ESDC of an invoice and such other documentation as ESDC may reasonably require. Expenses must be incurred on or after October 22, 2009 to be considered eligible project costs. Only Design and Management costs incurred prior to the approval date of the project by the ESD Board (but after October 22, 2009) will be reimbursable.

5. ATF will submit to ESD annual audited financial statements at the end of each year for five years following disbursement of the grant.

IV. Statutory Basis

This project is authorized under Section 16-r of the New York State Urban Development Corporation Act (the "Act") and satisfies the eligibility criteria in the Act and the rules and regulations for the Downstate Revitalization Fund. No residential relocation is required as there are no families or individuals residing on the site.

V. Design and Construction

The project consists of the continued exterior masonry restoration and various roof repairs for the Apollo Theater along the 126th Street elevation.

The architect of the project is Beyer Blinder Belle of New York who is known to Design and Construction ("D&C") and is qualified to design the project. D&C staff will review and comment on final construction documents, addendum and cost estimates. D&C will, at its option, attend construction meetings and monitor construction progress. D&C will review and approve change orders, contractor requisitions and verify that all requirements have been satisfied prior to approving and release of ESD funds.

The aforementioned project will be reviewed in conjunction with D&C requirements and forms.

VI. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

Due to the Apollo Theater's inclusion on the National Register of Historic Places, ESD has confirmed that the project sponsor consulted with the New York State Office of Parks, Recreation

and Historic Preservation (“OPRHP”) pursuant to the requirements of Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. No further consultation is required for the proposed roof restoration project.

VII. Design and Construction

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The architect of the project is Beyer Blinder Belle of New York who is known to Design and Construction (“D&C”) and is qualified to design the project. D&C staff will review and comment on final construction documents, addendum and cost estimates. D&C will, at its option, attend construction meetings and monitor construction progress. D&C will review and approve change orders, contractor requisitions and verify that all requirements have been satisfied prior to approving and release of ESD funds.

The aforementioned project will be reviewed in conjunction with D&C requirements and forms.

VIII. Affirmative Action

ESDC’s non-discrimination and affirmative action policy will apply to this initiative. ESDC has established a project goal of 20% Minority/ Women-owned Business Enterprise contractor and/or subcontractor participation during the development of the Project, which includes the preconstruction, and construction phases, and an overall goal of 25% minority and female workforce participation during construction.

IX. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

X. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

XI. Additional Submissions to Directors

Resolutions
New York State Map
Project Finance Memorandum
Exhibit A

June 15, 2010

Harlem (New York County) – Historic Apollo Restoration – Downstate Revitalization Fund–Downtown Redevelopment (Capital Grant) – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

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 Historic Apollo Restoration – Downstate Revitalization Fund – Downtown Redevelopment (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that 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 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 upon written finding of the Chairman and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, Chairman and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to The Apollo Theater Foundation Inc. a grant for a total amount not to exceed Two Million Nine Hundred Thousand Dollars (\$2,900,000) from the Downstate Revitalization 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 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 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 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.

* * *

Exhibit A

Financing Uses and Sources for the entire renovation are listed below, followed by Financing Uses and Sources for the proposed project, which is Phase III B of the project.

<u>Financing Uses</u>	<u>Amount</u>
Feasibility and Planning	\$1,701,681

Phase I

Façade restoration	
Performance system upgrades	
New blade sign and marquee	
New box offices	
Seat replacements	
Total Phase I	\$24,074,184

Phase II

Safety system upgrades	
New stage	
New dressing rooms	
New greenroom	
New restrooms	
ADA compliance	
Total Phase II	\$10,811,522

Phase III A, B, and other

III A*

- Stage roof system and north side setback roofs and parapets rebuilding
- Asbestos abatement of roofs, flashing and stage exterior ductwork
- Water tank and support dunnage replacement
- Boiler chimney lining
- Façade masonry repairs to the south and east elevation

III B**

Auditorium refurbishment (See scope of work listed below)

- Demolition and abatement of the auditorium roof and parapets and duct work
- New masonry parapets and copings over the Auditorium
- Lower set-back roofs and parapets over dressing rooms and toilets
- New steel dunnage and service catwalks for existing HVAC on auditorium roof
- Painting of new and existing steel over the auditorium roof
- Removal and installation of new duct work and insulation for rooftop HVAC units over the auditorium
- Removal, storage and reconnecting existing HVAC units over the auditorium roof
- Scaffolding and sidewalk shed on 126th Street
- Hanging scaffolding for west wall construction
- New plumbing for roof drains
- Disconnection and re-connection of existing HVAC units over the Auditorium

Removal and Relocation of gas piping to auditorium HVAC units
New electrical and fire alarm for HVAC units over the Auditorium

Other

HVAC repair/ replacement
Additional ADA access
Lobby renovation
Upper lobby creation

Total Phase III	\$35,412,613
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Total Project Costs \$72,000,000

<u>Phases I-III Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
New York City Capital Support	\$25,200,000	35%
New York State Government	\$403,500	1%
Empire State Development	\$4,900,000	7%
Other Government	\$4,722,210	7%
Private Support	\$8,243,074	11%
Tax Credits	\$7,364,328	10%
To be raised	<u>\$21,166,888</u>	<u>29%</u>
Total Project Financing	<u>\$72,000,000</u>	<u>100%</u>

* These work activities were funded out of previously funded ESD Project W408 (Phase IIIA). None of ESD Downstate Revitalization Fund of \$2,900,000 will pay for work already funded.

**The \$2,900,000 currently requested from Empire State Development would fund Phase III B of the renovation.

