



**Harlem  
Community  
Development  
Corporation**

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

**BOARD OF DIRECTORS' MEETING**

**Friday, May 30, 2014**

**10:00 A.M.**

**AGENDA**

**CORPORATE ACTION:**

Approval of minutes for the March 28, 2014 Board of Directors' Meeting.

**FOR CONSIDERATION:**

Community Initiatives Program – Request for a Grant of \$75,000 (Seventy Five Thousand Dollars) to match private funds raised by the Dance Theatre of Harlem for its Next Generation Community Engagement Program; Authorization to Take Related Actions.

Authorization to Amend the Agreement for Legal Services with The Gibson Law Firm and to Take Related Actions

Authorization to Amend the Agreement for Legal Services with Phillips Lytle LLP and to Take Related Actions.

**FOR INFORMATION:**

President's Report

**OLD BUSINESS**

**NEW BUSINESS**

**ADJOURNMENT**



Harlem  
Community  
Development  
Corporation

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

FOR CONSIDERATION

May 30, 2014

TO: The Directors

FROM: Curtis L. Archer

REQUEST FOR: **COMMUNITY INITIATIVES PROGRAM** – Request for a Grant of \$75,000 (Seventy Five Thousand Dollars) to match private funds raised by the Dance Theatre of Harlem for its Next Generation Community Engagement Program; Authorization to Take Related Actions.

---

I. Requested Action

It is requested that the directors (the “Directors”) of Harlem Community Development Corporation (the “Corporation”) authorize the Corporation to provide a grant of up to \$75,000 (Seventy Five Thousand Dollars) from the Community Initiatives Program (“CIP”) to match private funds raised by the Dance Theatre of Harlem to expand its Next Generation Community Engagement Program (the “Project”). It is also requested that the Directors authorize the President to take such additional actions as are necessary in connection with the requested action.

II. Project Summary

Grantee: Dance Theater of Harlem, Inc.  
466 West 152<sup>nd</sup> Street, New York, NY 10031  
Telephone: (212) 690-2800/Fax: (212) 690-8736  
Contact: Laveen Naidu, Executive Director  
[lnaidu@dancetheatreofharlem.org](mailto:lnaidu@dancetheatreofharlem.org)

Project Description: An expansion of the Dance Theater of Harlem’s community engagement and revitalization initiatives to provide free and subsidized arts education through programs it offers to students at partner schools and other institutions in Harlem, free community outreach arts programs and events, and tuition assistance to students at its school.

Project Site: N.A.

Funding Source: The Community Initiatives Program was established by the Directors in June 2001 for the purpose of making loans and grants to community-based organizations. The criteria for determining eligibility for financial assistance under the program's guidelines are set out in Appendix I.

CIP Assistance: A grant of up to \$75, 000 (Seventy Five Thousand Dollars)

Use of Funds:	Matching private funds raised by Dance Theater of Harlem in 2014 to expand its Next Generation Community Engagement project.	
Project Team:	Harlem CDC	Wayne Benjamin
		Francisco Guzman
	ESD Legal	Eunice Jackson, Esq.
	ESD Contract Administration	Carlos Otero
	ESD Subsidiary Finance	Ingrid Barbosa-Santiago
	ESD Contractor Diversity	Vikas Gera
	ESD Finance	John Bozak

### III. Project Description

#### A. Background

The Dance Theatre of Harlem (“DTH”) has occupied a distinguished position in the New York City cultural landscape and at the forefront of American artistic achievement for over 44 years. Established in New York in 1969 out of the struggles of the Civil Rights-era and the tragic assassination of Dr. Martin Luther King, Jr., DTH began as a community school for the allied arts and continues as a strong economic and cultural anchor for Harlem. The founders were the late Karel Shook and Arthur Mitchell, the first African American to become a principal dancer with a major U.S. ballet company - the New York City Ballet.

The founder’s vision for DTH endures to this day and is underpinned by a powerful message of self-reliance, artistic relevance, and individual responsibility through artistic training, performance and community engagement, DTH has a passionate commitment to developing a pipeline for classical artists of color, creating access and opportunity and using the arts to transform the lives of all people.

DTH is housed in the Everett Center for the Performing Arts (the “Everett Center”), located at Dance Theatre of Harlem Way, West 152<sup>nd</sup> Street between Amsterdam and St. Nicholas Avenues. The Everett Center is home to DTH’s School, its international touring Company and its arts-in-education outreach program - Dancing Through Barriers®.

In the dance world, DTH alumni can be seen in companies such as Alvin Ailey and The Royal Ballet, and on Broadway in addition to DTH’s professional company. DTH tours extensively and presents educational programs in cities across America and around the globe. DTH was the last American dance company to perform in the former USSR and the first to perform in Russia. Its performance, at the invitation of Nelson Mandela, ended the United States’ cultural ban on South Africa.

In 2012, DTH returned its professional touring company to the world stage and embarked on a five-year economic strengthening plan. Under the leadership of former prima ballerina and now Artistic Director, Virginia Johnson and Executive Director, Laveen Naidu, its mission has been updated to include three primary areas of focus:

1. maintain a world-class school that trains young people in classical ballet and the allied arts;

2. provide arts education, community outreach programs, and positive role models for all; and
3. present a ballet company of African-American and other racially diverse artists who perform the most demanding repertory at the highest level of quality.

## B. The Project

The Next Generation Community Engagement Program (the “Next Generation Program”) is a community revitalization initiative launched by DTH in 2010 to increase access to the arts and arts education for the local community. The Next Generation Program supports another of DTH’s initiatives, Dancing Through Barriers®, which provides free and subsidized arts education services to participating local schools in Harlem, its free community outreach programs and events for local residents and visitors, and its professional training school. For 2014, DTH has set out to expand its activities under the Next Generation Program (the “Project”), which will allow it to increase the number of local schools participating in Dancing Through Barriers® from three to six, the number of free community outreach programs and events from four to six; the number of students impacted by its art education programs from 1,800 to 2,000, and the number of students supported with scholarships for 111 to 135.

The Next Generation Program enhances DTH’s tourism infrastructure by increasing opportunities for it to host visitors and cultivate audience development relationships. Also, DTH states that the Program helps it to advance broader development goals, noting that major philanthropies and foundations often look at local engagement and the participation of local residents in programs as an indicator of an organization’s relevance, value and standing.

Expansion of the Next Generation Program will also involve DTH retaining the services of approximately 12 consultants, vendors and suppliers to provide services in connection with providing the programs.

### DTH’S ARTS EDUCATION PROGRAMS:

Dancing Through Barriers® is DTH’s unique program that provides arts services primarily to local public schools, libraries and after school programs in Harlem and citywide to meet the education requirements, improve academic and youth development outcomes, and to motivate students to learn and stay engaged. The program takes its name from DTH’s 1992 tour of South Africa. It serves over 10,000 children annually through in-school and after-school residencies (arts education programs that can range from one- to twenty-weeks in length) and other programs. The Frederick Douglass Academy II, Public School 36 and Success Academy Upper West are currently served by residencies offer through the program; school-time performances are also presented at the Schomburg Center for Research in Black Culture and Teachers College.

DTH’s Community outreach initiatives including the free Sunday Matinee studio performance series; the Free Thursdays@DTH series - an open rehearsal series that gives the community a chance to meet and talk with DTH dancers, choreographers and other Harlem-based artists; and the annual August Street Festival held outside the Everett Center that includes local ethnic food and other merchants and features seven hours of family-friendly

entertainment.

The DTH School serves more than 500 students each year through a curriculum led by expert staff and steeped in DTH's methodology of developing the finest technique, discipline, creativity, critical reasoning and the use of dance to train and empower the whole person. The school also partners with 18 local schools to provide free movement classes and subsidized arts education services. In addition to providing the students with a unique experience of working with professional artists, this partnership also serves as a screening process through which each year approximately 80 students are invited to audition for placement in the school; on average 30 are selected for admission and supported with scholarships. Tuition ranges from \$700 for 32 weeks of classes for three- and four-year-olds to \$6,000 for 32 weeks of training in the full-time professional program. Annually, DTH provides more than \$325,000 in scholarships or tuition assistance. It is particularly proud that over 98% of its students graduate high school, compared with the 66% New York City and 42% Harlem averages. The vast majority go on to institutions of higher learning, many receiving scholarships.

The programming that DTH provides through its school, Dancing Through Barriers<sup>®</sup> program and its community outreach initiatives costs approximately \$1.8 million to deliver but generates only \$800,000 in fees; it requires annual fund raising for support. In 2011 DTH reintroduced its annual Vision Gala (the last previous gala was held in 2004) as a part of its fund raising strategy. In 2014, DTH set a goal of raising \$250,000, in addition to gala proceeds, to support for Project. At its 2014, 45<sup>th</sup> Anniversary Vision Gala, DTH raised \$90,000 in private funds at a live auction towards this goal and is working to raise an additional \$85,000 from third-party sources, including foundations, individual donors and the West Harlem Development Corporation. It has requested a \$75,000 grant from Harlem CDC to support the arts education and community outreach components of the Project.

C. Consultants, Contracted Services and Vendors

The Project will utilize the following consultants, contracted services and vendors.

- Teaching Artists (part-time) 4 to 6
- Curriculum Specialist 1
- Graphic Designer 1
- Photographer 1
- Videographer 1
- Printing, Copies and Reproduction
- Supplies

D. Schedule

The proposed grant will support the Next Generation Program expansion for a one-year period beginning June 1, 2014 through May 31, 2015.

E. Project Budget and Funding

The total cost for expanding the Next Generation Program for one year is \$250,000. See the table below for a description of the proposed funding sources and uses. DTH raised \$90,000 at its 2014 Vision Gala towards the project costs, has requested a \$75,000 grant from Harlem CDC to match these funds and is actively working to raise the remaining balance of \$85,000. The Harlem CDC funds, if approved, will be disbursed in two phases with receipt of grant funding for the second phase conditioned upon achieving certain performance milestones (the "Performance Milestones"). \$50,000 will be available for disbursement, pursuant to the terms of a standard Harlem CDC grant disbursement agreement ("GDA") during the above referenced June 2014-May 2015 time frame. If DTH achieves the Performance Milestones, the remaining \$25,000 will be available for disbursement beginning June 2015, pursuant to the terms of the aforementioned GDA.

The Performance Milestones include DTH:

1. hiring, contracting with or otherwise retaining the services of approximately 10 to 12 consultants, vendors or suppliers in connection with the Project;
2. achieving not less than 20% MWBE participation related to the total value of Harlem CDC's funding to the Project;
3. increasing the number of local schools participating in its Dancing Through Barriers® program from three to six;
4. increasing the number of free community outreach programs and events from four to six; and
5. increasing the number of students impacted by its art education programs from 1,800 to 2,000.

USE OF FUNDS	TOTAL	SOURCE OF FUNDS	SOURCE OF FUNDS	SOURCE OF FUNDS
		<b>HARLEM CDC</b>	<b>DANCE THEATRE OF HARLEM</b>	<b>Other</b>
<b>TUITION ASSISTANCE FOR LOCAL STUDENTS AT DTH'S SCHOOL</b>	\$175,000	\$0	\$90,000	\$85,000
<b>DANCE RESIDENCIES / ARTS EDUCATION IN PARTNER SCHOOLS</b>	\$50,000	\$50,000		
<b>COMMUNITY OUTREACH ARTS PROGRAMS AND EVENTS</b>	\$25,000	\$25,000		
<b>TOTAL</b>	<b>\$250,000</b>	<b>\$75,000</b>	<b>\$90,000</b>	<b>\$85,000</b>

F. Financial Condition

DTH is a not-for-profit arts and cultural corporation formed in 1969. Over the five year period 2009-2013, there has been a gradual increase in its revenues, though over the last three years 2011-2013, revenues have decreased. Over the same five year period DTH has increased the

revenues it generates from its dance company and has begun to rely less on grants and contributions. DTH has an ESD credit rating score of Fair; its liquidity is above industry median for the most recent year and its ratio of total debt to total assets is below the industry median for the most recent year. Its low total debt to assets ratio indicates that it may have improved access to credit markets in the future. DTH's revenues include contributions (54%), performance and tuition income (41%) and grants (5%).

#### IV Non-Discrimination and Contractor & Supplier Diversity

Harlem CDC's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise ("MWBEs") for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE participation goal of 20% related to the total value of Harlem CDC's funding. The overall goal shall include a Minority Business Enterprise ("MBE") Participation Goal of 15% and a Women Business Enterprise ("WBE") Participation Goal of 5%. As such, the MWBE goal utilization shall be no less than \$15,000

#### V. Harlem CDC Financial Assistance Subject to Availability of Funds

The provision of Harlem CDC's financial assistance is contingent upon the availability of funds.

#### VI. Program Criteria

The proposed Project complies with the Community Initiatives Program eligibility criteria for grants including:

1. The Community Initiatives Program Fund (the "Program") is intended to fund initiatives by community-based organizations and other successful applicants within the Corporation's service area that will enhance stability and contribute to the future economic development of the community. In general, financial assistance shall be available for feasibility, planning and/or design studies related to future economic development projects, including studies designed to ensure optimal utilization of privately and publicly owned properties. Planning activities that encourage broad community participation are preferred.

The requested grant will match and leverage private funds to support initiatives of a distinguished Harlem-based, world-renowned organization that will contribute to the economic and cultural vitality and stability of upper Manhattan and enrich the educational experience of students who reside in the community.

2. A project must demonstrate the potential to result in a specific community benefit within the next 18-24 months.

The expansion commencing June 2014 of the Next Generation Program will enhance the capacity and outreach of existing programs.

3. Grants shall not exceed one-half of total project cost or \$75,000, whichever is less.

The grant is 30% of the total Project costs.

4. Where appropriate, the Directors may authorize Harlem CDC to assist in administration of a project by entering into a contract with consultants selected by the applicant to perform specific aspects of a project.

At the request of DTH, Harlem CDC will consider entering into contracts with consultants it has selected in order to advance the Project. Any amount Harlem CDC expends on consulting fees shall be deducted from the grant amount balance. In no event shall the total amount Harlem CDC expends in connection with the Project pursuant to this grant authorization exceed \$75,000.

#### VII. Recommendation

The Project will advance Harlem CDC's mission by supporting and expanding DTH programs that add to upper Manhattan's cultural vitality. Harlem CDC's support will allow DTH to increase the number of schools and organizations with which it partners, increase school-time performances at the Schomburg Center and other partner institutions, and increase the number of community outreach programs and events its offers. The increased community outreach programs will, over time, stimulate demand and serve as an audience-development vehicle for revenue-generating programs offered by DTH and other upper Manhattan cultural arts organizations. Further, Harlem CDC support will signal to other funders the importance placed by the Corporation on arts and culture as part of community revitalization and of Harlem's economic engine.

It is recommended that the Directors authorize a grant of \$75,000 for the purposes stated and on the conditions outlined in these materials.

#### VIII. Additional Submission(s) to Directors

Resolution



**Harlem  
Community  
Development  
Corporation**

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

May 30, 2014

**COMMUNITY INITIATIVES PROGRAM** – – Request for a Grant of \$75,000 (Seventy Five Thousand Dollars) to match private funds raised by the Dance Theatre of Harlem to expand its Next Generation Community Engagement Program; Authorization to Take Related Actions.

---

RESOLVED, that based upon the materials presented at this meeting (the “Materials”), a copy of which is ordered filed with the corporate records, the Corporation be authorized to make a grant of up to \$75,000 (Seventy Five Thousand Dollars) (the “Grant”) from the Community Initiatives Program (“CIP”) to match private funds raised by the Dance Theatre of Harlem for the expansion of its Next Generation Community Engagement Program (the “Project”), for the purposes, and substantially on the terms and conditions, set forth in the Materials, and that the President or the President’s designee(s) is authorized to execute such agreements as are required with such changes as the President or his designee(s) may deem appropriate; and be it further

RESOLVED, that the Directors find that a grant to match private funds raised by the Dance Theatre of Harlem to expand its Next Generation Community Engagement Program is in compliance with the eligibility criteria established under the regulations for the Community Initiatives Program; and be it further

RESOLVED, that the President or the President’s 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 CIP financial assistance is expressly contingent upon and subject to the availability of funds; and be it further

RESOLVED, that the President or the President’s designee(s) be, and each of them hereby is, authorized to take such actions or to execute on behalf of the Corporation such documents as he or she may deem necessary or appropriate in connection with the foregoing resolutions.

\*\*\*\*\*

## **APPENDIX I**

The Community Initiatives Program Fund (the "Program") is intended to fund initiatives by community-based organizations and other successful applicants within the Corporation's service area that will enhance stability and contribute to the future economic development of the community. The Program is further intended to promote projects which will facilitate planning, increase development and related economic activity, or contribute to the planning or enhancement of vital community resources, including cultural facilities.

In general, financial assistance under the Program shall be made subject to the following guidelines:

1. Financial assistance shall be made available for feasibility, planning and/or design studies related to future economic development projects, including studies designed to ensure optimal utilization of privately and publicly owned properties. Planning activities that encourage board community participation are preferred.
2. A project must demonstrate the potential to result in a specific community benefit within the next 18-24 months.
3. Loans shall not exceed one-third of total project cost or \$100,000, whichever is less, and shall be for a term not exceeding 18 months from disbursement.
4. Grants shall not exceed one-half of the total project cost or \$75,000, whichever is less.
5. Loans shall be available for economic stabilization activities when the applicants can demonstrate a source of repayment over the next 18 months. Economic stabilization activities may include emergency repairs as well as the re-use and redevelopment of deteriorated or underutilized properties.
6. Applicants for loans must own or have been formally designated to develop the site of a proposed project.
7. Applicants for loans must demonstrate that alternative sources of funds have been sought and that none is readily available.
8. Where appropriate, the Directors may authorize Harlem CDC to assist in administration of a project by entering into a contract with consultants selected by the applicant to perform specific aspects of a project.



**Harlem  
Community  
Development  
Corporation**

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

**FOR CONSIDERATION**

**May 30, 2014**

**TO:** The Board of Directors

**FROM:** Curtis Archer

**SUBJECT:** **Victoria Theater Redevelopment-Real Estate Legal Counsel**

**REQUEST FOR:** Authorization to Amend the Agreement for Legal Services with The Gibson Law Firm and to Take Related Actions

---

**I. Contract Summary**

Contractor: R. Peyton Gibson, d/b/a The Gibson Law Firm

Scope of Services: Legal Services

Contract Term: Tentative completion or expiration date of 12/31/2013

Proposed Term Extension: Tentative completion or expiration date of 12/31/2016, with the option to extend the term an additional year

Contract Amount: No change to current contract amount, which is not to exceed \$ 300,000.00

Proposed Amendment Amount: None

New Proposed Total:  
Contact Amount: N/A

Funding Source(s): Imprest account funded by the redevelopment project's conditionally designated developer

**II. Background**

In June 2007, the Board of Directors of Harlem Community Development Corporation ("Harlem CDC" or the "Corporation") authorized a legal services agreement between Harlem CDC and R. Peyton Gibson, Esq., doing business as The Gibson Law Firm for legal services in

connection with the redevelopment of the Victoria Theater. The contract value had a limit of approximately \$47,500. In December of 2007, the Board authorized an amendment to the agreement that increased the contract limit by \$100,000, for an aggregate contract value of \$147,500. In May 2009 the Board authorized an amendment to the contract providing for an additional increase of \$75,000, for an aggregate contract value of \$222,500. In March 2011 in order to continue working with Ms. Gibson, the Board agreed to extend the contract term and authorize an additional \$77,500 increase to the contract value, bringing it to \$300,000.00. Harlem CDC makes its contract payments using the proceeds of the imprest account funded by the redevelopment project's designated private developer, Danforth Development Partners LLC, pursuant to a memorandum of Understanding with Harlem CDC.

The Corporation continues to have a need for legal services for the Project to provide advice and for the preparation of the final Project agreements, including the ground lease that is expected to be in place during the construction of the Project as well as in connection with the proposed transfer of title to portions of the Project site upon completion of construction. The Firm is familiar with the Project, continues to perform well and demonstrates the experience and capability to provide, with co-counsel, the required advice and counsel for the Project. Staff proposes that the Board authorize an extension of the contract term to December 31, 2016, with the option to extend the contract an additional year upon authorization from the President of the Corporation. The Firm is working with co-counsel Phillips Lytle LLP.

### **III. Contractor Selection Process**

The Harlem CDC Board, acting through its Executive Committee at its October 20, 2005 meeting, authorized a legal services contract with Phillips Lytle LLP ("Phillips") for advice with respect to the redevelopment of the Victoria Theater. Thereafter, Harlem CDC entered into a contract with Phillips for legal services. Phillips was one of the firms that responded to an RFQ, published in the *Contract Reporter*, for legal services for the Project. The Board interviewed all of the RFQ respondents, and ESD's General Counsel reviewed the responses and informed the Board that Phillips Lytle was among the firms that had the capability and experience to successfully work on the Project. Peyton Gibson, then a member of Phillips, was the attorney who presented Phillips' response to the RFQ and performed much of the work on the Project. Ms. Gibson subsequently separated from Phillips to establish the Gibson Law Firm ("Gibson"). Being extremely satisfied with the work of Ms. Gibson, the Board approved entering into a separate agreement for legal services with Gibson, effective November 1, 2006. Since Ms. Gibson's departure from Phillips, Gibson and Phillips have acted as co-counsel on the project, with the Gibson firm acting as lead counsel.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of

General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

The Gibson Law Firm is a New York State Certified MWBE firm.

#### **IV. Scope of Work**

The scope of work remains the same as under the original contract for legal services.

#### **V. Contract Term, Price and Funding**

The contract term had an initial term that began November 1, 2006 and had a tentative completion or expiration date of December 31, 2009. In June 2009, pursuant to a Board approved contract amendment, the tentative completion or expiration date was extended to December 31, 2011. In 2012 the Board approved to extend the contract term and authorize an additional \$77,500 increase to the contract value, bringing it to \$300,000.00 and extend the tentative completion or expiration date to December 31, 2013. The current contract balance is \$73,320. The contract provides that the work will be performed on an hourly charge basis at ESD's standard rates for outside counsel. Payments will be made from the proceeds of the imprest account funded by the redevelopment project's designated private developer, Danforth Development Partners LLC, or a related entity pursuant to a Memorandum of Understanding between Danforth and Harlem CDC.

#### **VI. Non-Discrimination/Affirmative Action**

Harlem CDC's Non-Discrimination & Contractor and Supplier Diversity policies will apply to this Project. The Gibson Law Firm is a New York State certified Minority and Women Owned Business Enterprise.

#### **VIII. Requested Action**

The Directors are requested to (1) make a determination of responsibility with respect to R. Peyton Gibson, d/b/a The Gibson Firm ("Gibson") the proposed contractor; (2) authorize the Corporation's officers to enter into an amendment to the agreement with Gibson and to execute such other actions as are necessary to enter into and perform the agreement.

#### **IX. Recommendation**

Based on the foregoing, I recommend approval of the requested actions.

#### **XI. Attachments**

Resolution



**Harlem  
Community  
Development  
Corporation**

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

**May 30, 2014**

**HARLEM COMMUNITY DEVELOPMENT CORPORATION** – Authorization to Amend the Agreement for Legal Services with R. Peyton Gibson, d/b/a, The Gibson Law Firm and Authorization to Take Related Actions

---

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds R. Peyton Gibson, d/b/a The Gibson Law Firm to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into an amendment to the agreement with R. Peyton Gibson, d/b/a The Gibson Law Firm to extend the tentative completion or expiration date to December 31, 2016, with an option to extend the term an additional year upon the authorization to the President, on the terms and conditions, set forth in the Materials with such amendments and modifications as the President, or his designee(s) shall deem necessary and appropriate;

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

\*\*\*\*\*



**Harlem  
Community  
Development  
Corporation**

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

**FOR CONSIDERATION**

**May 30, 2014**

**TO:** The Board of Directors

**FROM:** Curtis Archer

**SUBJECT:** **Victoria Theater Redevelopment-Real Estate Legal Counsel**

**REQUEST FOR:** Authorization to Amend the Agreement for Legal Services with Phillips Lytle LLP and to Take Related Actions

---

**I. Contract Summary**

Contractor:	Phillips Lytle LLP
Scope of Services:	Legal Services
Contract Term:	Tentative completion or expiration date of 12/31/2013
Proposed Term Extension	Tentative completion or expiration date of 12/31/2016, with the option to extend an additional year
Contract Amount:	Not to exceed \$ 500,000.00
Proposed Amendment Amount:	Increase contract amount by an amount not to exceed \$100,000
New Proposed Total:	Contact Amount \$600,000
Funding Source(s):	Imprest account funded by the redevelopment project's conditionally designated developer

**II. Background**

In October 2005, the Board of Directors of Harlem Community Development Corporation ("Harlem CDC" or the "Corporation") authorized the Corporation to enter into a

legal services agreement with Phillips Lytle LLP to perform legal services in connection with the redevelopment of the Victoria Theater (“the Project”). The Corporation entered into an agreement with that firm with a contract value of \$200,000. In May 2008, the Board authorized an amendment to the contract that increased the contract limit by \$300,000, for an aggregate contract value of \$500,000. In March of 2011 the Board again approved an amendment that extended the term of the contract to December 31, 2013.

The Corporation continues to have a need for legal services for the Project to provide advice and for the preparation of the final Project agreements, including the ground lease that is expected to be in place during the construction of the Project as well as in connection with the proposed transfer of title to portions of the Project site upon completion of construction. The Firm is familiar with the Project, continues to perform well and demonstrates the experience and capability to provide, with co-counsel, the required advice and counsel for the Project. Staff proposes that the Board authorize an extension of the contract term to December 31, 2016, with the option to extend the contract an additional year upon authorization from the President of the Corporation. The Firm is working with Co-counsel R. Peyton Gibson d/b/a The Gibson Law Firm. .

### **III. Contractor Selection Process**

The Corporation maintains a competitively solicited list of counsel pre-qualified in various practice areas, including environmental law. The Firm is on the current prequalified list.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation’s policy related thereto, staff has: a) considered the proposed contractor’s ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

### **IV. Scope of Work**

The scope of work remains the same as under the original contract for legal services.

### **V. Contract Term, Price and Funding**

The contract had an initial term that began October 20, 2005 and had a tentative completion or expiration date of December 31, 2005. The contract amount was \$200,000. In October 2008 pursuant to a Board approval and authorization, the contract was amended to 1) increase the contract amount by \$300,000, resulting in an aggregate contract amount of \$500,000; and 2) extend the tentative completion or expiration date to December 31, 2011. In 2012 the contract was again amended pursuant to board approval to extend the tentative completion date to December 2013. The current balance remaining on the contract is \$81,020.

It is proposed that the tentative completion or expiration date be extended to December 31, 2016, with the option to extend the term an additional year upon authorization from the President and that the contract amount be increased by \$100,000, with the total contract amount not to exceed \$600,000. The contract provides that the work will be performed on an hourly charge basis at ESD's standard rates for outside counsel. Payments will be made from the proceeds of the imprest account funded by the redevelopment project's designated private developer, Danforth Development Partners LLC ("Danforth"), or a related entity pursuant to a Memorandum of Understanding between Danforth and Harlem CDC.

#### **VI. Non-Discrimination and Contractor & Supplier Diversity**

Harlem CDC's Non-Discrimination & Contractor & Supplier Diversity policies will apply to this Project.

#### **VIII. Requested Action**

The Directors are requested to (1) make a determination of responsibility with respect to Phillips Lytle LLP, the proposed contractor; (2) authorize the Corporation's officers to enter into an amendment to the agreement with Phillips Lytle LLP and to execute such other actions as are necessary to enter into and perform the agreement.

#### **IX. Recommendation**

Based on the foregoing, I recommend approval of the requested actions.

#### **XI. Attachments**

Resolution



**Harlem  
Community  
Development  
Corporation**

163 West 125th Street  
New York, NY 10027  
212-961-4100  
212-961-4143 fax  
www.harlemcdc.com

**May 30, 2014**

**HARLEM COMMUNITY DEVELOPMENT CORPORATION – Authorization to Amend the Agreement for Legal Services with Phillips Lytle LLP and Authorization to Take Related Actions**

---

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Phillips Lytle LLP to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into an amendment to the agreement with Phillips Lytle LLP to, 1) extend the tentative completion or expiration date to December 31, 2016, with an option to extend the term an additional year upon the authorization to the President and 2) that the contract amount be increased by \$100,000, with the total contract amount not to exceed \$600,000, on the terms and conditions, set forth in the Materials with such amendments and modifications as the President, or his designee(s) shall deem necessary and appropriate;

RESOLVED, that the President of the Corporation or his designee be and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

\*\*\*\*\*