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. Materials relating to matters that are scheduled for discussion in open session will be available at the meeting and will be posted on ESD’s website prior to the meeting in accordance with the Public Officers Law.

NEW YORK JOB DEVELOPMENT AUTHORITY

Meeting of the Members

Thursday

June 26, 2014 – 12:30 p.m.

PROPOSED AGENDA

CORPORATE ACTIONS

1. Approval of Minutes of the December 9, 2013 Directors’ Meetings

2. Appointment of Officer – Chief Financial Officer; and Appointment of the Title of ESD Chief Financial Officer, ESD Controller and ESD Treasurer as the Authority’s Ex-Officio Chief Financial Officer, Ex-Officio Controller and Ex-Officio Treasurer

3. Annual Financial Reports – Approval of Certain Annual Financial Reports and Authorization to Take Related Actions


5. JDA Procurement Guidelines – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Guidelines

FOR CONSIDERATION

6. Amityville (Long Island Region – Suffolk County) – JDA Real Estate Acquisition for the Benefit of Merola Sales Company, Inc. - Authorization to Make a Real Estate Loan with New York Job Development Authority Proceeds and Take Related Actions; Determination of No Significant Effect on the Environment
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

December 9, 2013

MINUTES

Members Present: Kenneth Adams, Commissioner of DED – Chairman
                  Adam Barsky
                  Anthony Albanese – Designee – New York State
                  Department of Financial Services
                  Andrew Maniglia
                  Emily Youssouf
                  James Bays, Acting Commissioner - NYS Department of
                  Agriculture and Markets
                  Mario Musolino - Designee – NYS Department of Labor

JDA Staff: Kathleen Mize, Controller
           Mehul Patel, Executive Vice President and Chief Operating
           Officer

Present for ESD: Jonathan Beyer, Senior Counsel
                 Ross Freeman, Assistant Vice President-Real Estate and
                 Project Finance
                 Antovk Pidedjian, Senior Counsel
                 Deborah Royce, Acting Secretary
                 Ray Salaberrrios, Senior Director – Economic Revitalization
Also Present: The Press  
The Public

The meeting was called to order at 3:11 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 13, 2013 Members’ meeting.

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

APPROVAL OF MINUTES AND RATIFICATIONS OF ACTIONS TAKEN AT SEPTEMBER 13, 2013 MEMBERS’ MEETING OF THE NEW YORK JOB DEVELOPMENT AUTHORITY

RESOLVED, that the Minutes of the meeting of the Authority held on September 13, 2013 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.

* * *
Mr. Beyer then asked the Members to authorize the Authority to amend the Liberty Certificate of Incorporation to allow the Liberty Development Corporation to issue not only tax exempt Liberty bonds but to issue other types of tax exempt bonds as well.

Mr. Beyer noted that the Liberty Development Corporation was formed in 2002 primarily for the purpose of issuing Liberty bonds, which were authorized by federal legislation in response to the terrorist attacks on 9/11.

Among other things, Mr. Beyer explained that the original cap on Liberty bonds has been reached and that the Corporation has issued as many Liberty bonds as it is authorized to do and can only issue refunding bonds at this time.

Mr. Beyer went on to explain that the Liberty Development Corporation was formed by JDA with two Members: the Authority as the Class B Member and the Governor as the Class A Member. Mr. Beyer added that the Governor is a Member because there were certain bond requirements that required a close nexus between the entity issuing bonds on behalf of a State entity and because this entity was formed by another agency, the solution was to have the Governor as a Member. This solution, he noted, was approved in a private letter from the Internal Revenue Service in 2003.

The authorization being requested of the Members today, Mr. Beyer explained, will also be requested of the Governor.
In addition, he continued, any issuance of these types of bonds always require approval by the Governor.

Following Mr. Beyer’s presentation, Mr. Barsky stated that he would like to make sure that any of the documents (e.g., the mission statement, the by-laws), having to do with this entity make it clear as to what the new scope is because it would not be prudent to have a situation where this entity was created purely for the purpose of dealing with issues arising out of 9/11 and issues are raised to the effect that the entity has gone way out of its scope and is doing things that have nothing to do with 9/11 and in turn what the entity was created for.

Mr. Beyer stated that there have been changes to the Liberty Development Corporation and those changes will need to be reflected in Liberty’s by-laws.

After limited further discussion, Mr. Beyer stated that right now and in accordance with the Certificate of Incorporation, Liberty can issue any type of taxable obligations, fund obligations and it can also issue tax-exempt Liberty obligations. The only change being made, Mr. Beyer continued, is to say that it can still issue any kind of taxable obligations but now it can also issue any kind of tax-exempt obligations.

Member Youssouf asked if it was correct that the entity will only act as a conduit and Mr. Beyer stated that that is what is expected for this entity.
A discussion followed on whether to add specific conduit language to the amendment or to maintain the flexibility of the current language.

Member Youssouf then asked Mr. Beyer to explain the portion of the amendment that will permit the consolidation of all future JDA-formed LDC bond activities and Mr. Beyer provided information in that regard and the Chair stated that it is an on-going forward basis rather than continuing to create new LDC’s for a bond issuance, all of the issuances can be done through Liberty because Liberty will no longer be focused on matters related to rebuilding Ground Zero.

Ultimately, the Chair made a motion to approve the action subject to final drafting of the language by Mr. Beyer with input from Member Barsky.

Upon motion duly made and seconded, the following resolution which was revised in accordance with the Chair’s directive was unanimously adopted:

**NEW YORK JOB DEVELOPMENT AUTHORITY RESOLUTION AMENDING THE CERTIFICATE OF INCORPORATION FOR NEW YORK LIBERTY DEVELOPMENT CORPORATION**

WHEREAS, in March, 2002, Congress enacted the Job Creation and Worker Assistance Act of 2002 (the “Act”) as part of its assistance to New York City following the terrorists attacks of September 11, 2001, and the resulting tragic loss of life and property, including the massive destruction of business and business facilities in Lower Manhattan.

WHEREAS, the Governor requested and the New York Job Development Authority (the “Authority”) did cause to be created a new Local Development Corporation to be named the
New York Liberty Development Corporation ("Liberty") to issue qualified New York Liberty bonds as designated in accordance with the Act and such other non-federally tax-exempt obligations as may be appropriate.

WHEREAS, Liberty has issued the maximum amount of Liberty Bonds permitted by the Act and has fulfilled its initial mission.

WHEREAS, the State of New York has been, or may be, asked to issue bonds that would further Liberty’s statutory and public objective of relieving and reducing unemployment, promoting and providing additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government of the State of New York and the New York Job Development Authority.

WHEREAS, the Members of Liberty, consisting of the Governor as the Class A member and the Authority as the Class B Member, together have the authority to amend the Liberty Certificate of Incorporation ("Certificate") including an amendment permitting Liberty to issue other tax exempt obligations in addition to Liberty Bonds to further its public purposes. WHEREAS, consolidation of all future Authority formed local development corporation bond activities into one not-for-profit corporation is consistent with current Governor Initiatives to minimize the number of State entities, will reduce ongoing reporting and record keeping, reduce committee, officers and directors appointments, eliminate the administrative burden of forming additional local development corporations to issue bonds and simplify compliance with other Public Authorities Law requirements, all without any diminution in disclosure or transparency.

NOW THEREFORE; the Members of the Authority hereby adopt the following resolutions:

RESOLVED, that in accordance with the attached materials, hereby incorporated in full, and pursuant to Article 8 of the New York Not-for-Profit Corporation Law and Section 14 of the Certificate, the Authority authorizes the filing of an amended Certificate with the New York Department of State to permit Liberty to issue tax-exempt debt obligations in addition to Liberty Bonds; and be it further

RESOLVED, that the Chairman of the Authority, and as appropriate, the other officers of the Authority be, and each acting singly hereby is, authorized, empowered and directed for and on behalf of and in the name of the Authority to execute and deliver such further instruments, documents, certificates and filings, including the By-Laws, with such changes in the terms and provisions thereof as the officer executing the same shall deem necessary and appropriate, and to do and perform such acts and deeds as they or any of them deem necessary or appropriate in order to effectuate the purposes and intent of the foregoing resolutions.

* * *
Next, Mr. Salaberrios presented a JDA real estate acquisition loan for the benefit of Fast Linen Services for the Members’ consideration.

Mr. Salaberrios provided a detailed background account of the information with regard to this loan.

Specifically, Mr. Salaberrios asked the Members to authorize the Authority to make a $1,695,000 JDA loan towards the purchase and renovation of a 32,173 square-foot building in Yonkers, New York.

Mr. Salaberrios further explained that the total project cost is $2,915,950. The remaining project costs, he added, will be covered by a loan of $847,500 from Hudson Valley Bank and a $373,450 equity contribution by Fast Linen Services, Inc.

Mr. Salaberrios then provided background information on the Company noting, in part, that it is a woman owned and family run business that was established in the Bronx in 2002. The Company, he further noted, services private clubs, hotels, caterers, country clubs, college dormitories, day spas and restaurants.

Mr. Salaberrios further explained that the Company has outgrown its current facility and has been forced to turn away business and therefore sought a larger facility for its operations.
Mr. Salaberrios continued and explained that because specific sites could not be identified in the Bronx, the Company identified a large 32,000 square foot facility at 935 Nepperham Avenue in Yonkers. Mr. Salaberrios added that the Company’s move from the Bronx will not impact the local economy.

Member Youssouf, inquiring with regard to the statement that the move will not harm the economy in the Bronx, asked whether or not the Company was taking the 25 full-time employees with them to the new location. Mr. Salaberrios stated that the employees will be going with the Company and that it will not be a burden to the employees, transportation wise.

Member Youssouf then asked what is the current use of the building that the Company is purchasing. Mr. Salaberrios stated that the building is empty.

Member Youssouf then inquired if the rehab is expensive and Mr. Salaberrios explained that some plumbing and some electrical work needs to be performed and that it is not expected to be expensive.

Member Youssouf then asked what was in that building before it became vacant. Mr. Salaberrios stated that a paving company was there many years ago and that the building has been empty for a long time.

Mr. Salaberrios then noted that it is anticipated that with the new facility, the Company
will have the ability to triple its sales.

Discussion was then had with regard to the potential of the Company leasing a portion of the space. It was established that the Company’s moving forward with this project is not contingent upon it securing a tenant.

Member Bays asked for clarification regarding job numbers and Mr. Salaberrios stated that the Company has committed to creating eight full time jobs as a result of the project.

Member Youssouf then asked if it should be made a condition of closing that JDA has proof that the Company paid off their two outstanding loans and Mr. Salaberrios stated that that would be added as a condition of closing.

Chair Adams then called for further questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Yonkers (Mid-Hudson Region – Westchester County) – Fast Linen Service, Inc. –
Authorization to Act and Perform as LDC on JDA Real Estate Loan for the benefit of
Fast Linen Service, Inc. and to Take Related Action

RESOLVED, that the Chairman of the Corporation or his designee(s) be, and each of them hereby, authorizes a real estate loan from the New York Job Development Authority for the benefit of Fast Linen Service, Inc., representing 60% of eligible project costs, not to exceed $1,695,000, 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 and subsequently to the JDA Board, with such changes as the Chief Executive Officer of the JDA or his designee(s) may deem appropriate; and be it further
RESOLVED, that the Chairman 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 resolution; and be it further

RESOLVED, that the provision of financial assistance by the Corporation is expressly contingent upon: (1) JDA receipt of the approval of the Public Authorities Control Board, as applicable, and (2) receipt of funds from JDA and (3) the receipt of all other necessary approvals.

*  *  *

There being no further business, the meeting was adjourned at 3:59 p.m.

Respectfully submitted,

Deborah Royce
Acting Secretary
FOR CONSIDERATION
June 26, 2014

TO: Authority Members

FROM: Kenneth Adams

SUBJECT: Authority Officers

REQUEST FOR: Appointment of Officer – Chief Financial Officer; and Appointment of the Title of ESD Chief Financial Officer, ESD Controller and ESD Treasurer as the Authority’s ex-officio Chief Financial Officer, ex-officio Controller and ex-officio Treasurer

I. Background

The position of Chief Financial Officer of JDA is currently vacant. As a matter of corporate housekeeping and to ensure JDA has a full complement of officers at any given time who can execute required documentation on JDA’s behalf, it is recommended that this position be filled. Specifically, it is recommended that the following officer be appointed to JDA in an ex-officio capacity:

Chief Financial Officer – Margaret Tobin, ESD’s Chief Financial Officer.

As Chief Financial Officer, Ms. Tobin will direct and manage all financial operations for JDA and its affiliated LDCs. Most recently, Ms. Tobin served as Executive Director of the NY Works Task Force, a Task Force created by Governor Cuomo and legislative leaders in early 2012 to more effectively and strategically allocate New York’s capital investment funding to grow the State’s economy, create jobs, and ensure a sound, long-term infrastructure system. Prior to that, she served at the NYC Mayor’s Office of Finance and Economic Development where she oversaw major redevelopment projects including the Brooklyn Navy Yard, Staten Island Homeport, and Renaissance Marriott Hotel. She was also EVP & CFO for the Hudson River Park Conservancy where she led the successful development of Hudson River Park, and was a senior real estate executive at Vornado Realty Trust and Thor Equities where she developed more than 60 projects in office, hotel, retail, and mixed use developments. Ms. Tobin’s appointment as Chief Financial Officer is requested effective as of June 26, 2014.
At their June 27, 2013 meeting, the Members appointed the title of ESD General Counsel as JDA’s ex-officio General Counsel. Ms. Elizabeth R. Fine now holds this position and, therefore, currently serves as JDA’s General Counsel. Prior to joining ESD in January 2014, Ms. Fine served as General Counsel to the New York City Council since 2006. Before that, Ms. Fine held various counsel positions with Spence-Chapin Services to Families and Children (New York), Georgetown University Law Center and the federal government.

At this time it is recommended that the officer positions of Chief Financial Officer; Controller; and Treasurer also be appointed ex-officio with the corresponding positions at ESD. In this way, future staff changes will not result in the need for additional board actions simply to substitute individuals and ensuring that these officer positions will be filled promptly based on a selection process conducted by ESD.

II. Requested Action

The Members are requested to: 1) approve the appointment of Margaret Tobin to the office of Chief Financial Officer, ex-officio, to JDA; 2) confirm that said position is an officer of JDA in accordance with JDA’s By-Laws, including without limitation the indemnification provisions; and 3) approve the officer positions of Chief Financial Officer; Controller; and Treasurer be appointed ex-officio with the corresponding positions at ESD.

III. Recommendation

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

Attachment
Resolutions
NEW YORK OFFICE DEVELOPMENT AUTHORITY -- Officers of the Authority – Appointment of Officer – Chief Financial Officer; and Appointment of the title of ESD Chief Financial Officer, ESD Controller and ESD Treasurer as the Authority’s ex-officio Chief Financial Officer, ex-officio Controller and ex-officio Treasurer

RESOLVED, that the following individual be, and hereby is, appointed to the office which appears opposite their name, until earlier resignation or removal, their appointment being effective as of the date indicated in the attached materials, a copy of which is hereby ordered to be filed with the records of JDA:

Chief Financial Officer – Margaret Tobin, ESD’s Chief Financial Officer, ex-officio; and

and be it further

RESOLVED, that in accordance with and for all purposes of JDA’s By-Laws, including but not limited to the indemnification provisions thereof, the above-referenced individual is an “officer” of JDA;

and be it further

RESOLVED, that the officer titles of Chief Financial Officer; Controller; and Treasurer, now and henceforth, be appointed ex-officio with the corresponding positions at ESD and confirms that these positions are “officers” of JDA within the meaning of the provisions of JDA’s By-Laws, including the indemnification provisions thereof.

* * *
FOR CONSIDERATION
June 26, 2014

TO: The Members

FROM: Kenneth Adams


REQUEST FOR: Reexamination of Mission Statement and Related Performance Measurements; and Acceptance of FY 2012-2013 Performance Measurement Report

I. Background

In accordance with the Public Authorities Law (the “PAL”), the New York Job Development Authority (the “Authority”) adopted the following Mission Statement and related performance measurements to assist the Authority to determine how well it is carrying out its mission. Furthermore, pursuant to the PAL, the Authority must reexamine its mission statement and related performance measurements annually to ensure that its mission has not changed, and the performance measurements continue to support its mission. To assist you in your review, the Mission Statement and related performance measurements are set forth below.

Mission Statement

The New York Job Development Authority spurs job growth and capital investment in New York State by using the authority granted to it and by leveraging State-guaranteed bonds to support low-interest loans to manufacturers and other targeted industries throughout New York State.

Performance Measurements:

- Annual number of transactions closed
- Aggregate value of bonds issued
- Number of jobs retained and created with each investment transaction
- Amount of private capital investment leveraged
- Number of transactions delinquent
- Number of transactions in default
• Number of transaction approved by the Authority during the reporting period

Upon these measurements, JDA may evaluate its performance and the achievement of its goals.

II. **FY 2012-2013 Performance Measurement Report**

During FY 2013-2014, the Authority continued its efforts to expand the Authority’s loan portfolio and increase awareness of the Authority’s products in the lending and business communities throughout the State. During this period, the Members approved loans for two projects evidencing firm commitments from responsible financial sources for the total project costs, exclusive of any loan request from the Authority. Pursuant to Article 8 of Title 8 of the Public Authorities Law, these projects were approved prior to their actual commencement. Closing on the Authority’s loans and disbursement of its funds occurs upon project completion. One of the two approved projects, SubZero Insulation and Refrigeration Technologies, LLC, closed shortly after completion. A JDA loan of $624,000 allowed SubZero to acquire and expand into its new facilities, retaining 20 existing jobs. A projected employment level of 36 jobs is to be measured as of January 1, 2015. The other approved project, Fast Linen Service, Inc., has yet to be completed.

It generally takes several months to more than a year to complete typical projects subsequent to approval by the Authority (and Public Authorities Control Board.) Because job creation and/or retention, and the measurement of capital investment leveraged can only properly be done after project completion and closing, the projects approved by the Authority this year have not yet resulted in reportable job creation/retention or capital leveraged. It is noted that staff made significant effort to identify and analyze transactions that for various reasons staff determined were not eligible for presentation to the Members.

One transaction was in default during FY 2013-2014. The JDA Workout Committee extended the loan repayment schedule. The loan is no longer delinquent and is due to be satisfied this August. Improving upon the FY 2012-2013 delinquency rate, no transactions are delinquent. The Authority issued no bonds during the reporting period.

III. **Requested Actions**

The Members are requested to confirm their reexamination of the Mission Statement and related performance measurements, and to accept the FY 2013-2014 Performance Measurement Report in accordance with the Public Authorities Law.

IV. **Recommendation**

Based upon the forgoing, I recommend approval of the requested actions.
June 26, 2014

NEW YORK JOB DEVELOPMENT AUTHORITY – Reexamination of Mission Statement and Related Performance Measurements; and Acceptance of FY 2013-2014 Performance Measurement Report

WHEREAS, the New York State Public Authorities Law § 2824-a requires each authority to reexamine its mission statement and performance measurements annually, therefore

BE IT RESOLVED, that the Members hereby confirm that they have reexamined the mission statement as previously adopted and recommend no further amendments; and

RESOLVED, that the FY 2013-2014 Performance Measurement Report contained in the materials presented to this meeting and hereby ordered to be filed with the records of the Authority is hereby accepted.

* * *
FOR CONSIDERATION
June 26, 2014

TO: The Members
FROM: Kenneth Adams
SUBJECT: JDA Procurements Guidelines
REQUEST FOR: Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

Background

At its January 31, 2013 meeting, the Members adopted Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, as mandated by §2879 of the Public Authorities Law (the “2013 Guidelines”). There have been a small number of changes to relevant laws, as well as Executive Orders and directions to authorities, in the past year. Accordingly, the Procurements Manager and staff from the Legal Department, supported by representatives of the Contracts Administration and Finance Departments, have engaged in a revision of the Guidelines. Approval of these Guidelines (the “Proposed Guidelines”) is sought.

As with the 2013 Guidelines, the Proposed Guidelines are in lockstep with ESD’s procurements guidelines

Procurement Contracts Guidelines Summary

The Proposed Guidelines attached to this memorandum set forth the policies and procedures to be followed by JDA when seeking to contract for goods or services. It should be noted that the Proposed Guidelines do not have the force of law, and are intended as a statement of best practices and procedures. No contract is invalid merely because these guidelines have not been followed.

The Proposed Guidelines define the universe of procurement transactions which are subject to the policies and procedures. Generally, all procurements by JDA must be competitive, except where State law provides for non-competitive sourcing (e.g., goods purchased from approved non-profit agencies for the blind, and procurements from the Office of General Services Centralized Contracts List). Based on the expected cost of procured goods
and/or services, procurement contracts must be obtained after advertisement in the NYS Contract Reporter, except in limited instances where an exemption is obtained, generally for sole or single source procurements when only one vendor offers the desired goods or services or when a single vendor has unique qualities or experience that obviate a competitive process. The Proposed Guidelines explain the various means of obtaining goods and services in an open, accountable and transparent manner, including incorporation of JDA’s Bid Opening Guidelines and the compilation of a Procurements Record for every covered Procurement Contract.

The Proposed Guidelines comply with the applicable provisions of the Public Authorities Law, the State Finance Law and the State Tax Law. They are consistent with the State Procurement Council’s Guidelines and with the Governor’s directive that all state agencies and public authorities make responsible spending decisions, and that they be accountable for sufficient monitoring of their spending to ensure the highest level of fairness, non-discrimination, openness and transparency.

The Proposed Guidelines are intended to be user-friendly and are set forth in a logical and coherent fashion that will assist staff in understanding the procedures to be followed and the substantive rules that govern procurements. Many of the changes from the 2013 Guidelines are the result of efforts to make them more readable and to flow in a more coherent fashion.

Many sources of help to users and information are included as clickable links, and virtually all required forms and ESD policy and procedure documents can also be accessed from within the document by hyperlinks. For obvious reasons, the hard copy of the Proposed Guidelines presented to the Members for approval cannot contain these links, but they are shown in highlight form.

Proposed substantive and procedural changes to the 2013 Guidelines are as follows:

1. Following a recent directive from the Secretary to the Governor, all vendors of goods and services shall be encouraged to use New York suppliers and sub-contractors to the maximum extent possible. It should be noted that this is not a contractual requirement, and is not intended to discriminate against other states, but is rather a matter of encouragement to vendors to make use of New York’s vibrant and first-class businesses.
2. In connection with certain of its real estate re-purposing projects, JDA may undertake a form of procurement advertising not specifically authorized in the 2013 Guidelines, the Request for Expressions of Interest (“RFEI”). This solicitation is intended to provide interested parties to propose to ESD options for development or re-development of (generally but not exclusively) real estate projects. After the responses are received, JDA may proceed with an RFP for one or a number of the visions submitted for the project in question.
3. Substantial changes have been made to the section on lobbying during the procurement period, to make the section easier to understand and to highlight the most important elements of the lobbying law (State Finance law s.139).
4. Public bid openings are required for construction contracts, in accordance with State Finance Law s.144.

5. Vendors are required to be “responsible” (i.e., to demonstrate integrity and continuing financial and other ability to carry out the contract) throughout the term of the contract.

6. The Proposed Guidelines incorporate by reference a schedule of the officers whose approval is needed for various procurement actions. This schedule can readily be updated to reflect changes in management structure.

Recommendation and Requested Action

The Members are requested to adopt the Proposed Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, effective as of the date of approval.

Attachments

Resolution
Proposed Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts
June 26, 2014

 NEW YORK JOB DEVELOPMENT AUTHORITY – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts.

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 Proposed Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, a copy of which is attached to the materials, be and hereby is approved and adopted as of the date hereof, and the Chief Executive Officer or his designee is authorized to promulgate the said Guidelines in electronic form and other media for the use of the staff of the JDA and the New York Urban Development Corporation d/b/a Empire State Development, and to take such other and further action as may be deemed necessary or appropriate to effectuate the foregoing Resolution.

*   *   *
FOR CONSIDERATION
June 26, 2014

TO: The Members

FROM: Kenneth Adams

Subject: Amityville (Long Island Region – Suffolk County) – JDA Real Estate Acquisition for the benefit of Merola Sales Company, Inc.

RE: Authorization to Make a Real Estate Loan with New York Job Development Authority Proceeds and Take Related Actions; Determination of No Significant Effect on the Environment

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<th>JDA Loan Terms</th>
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<tr>
<td>Borrower: Mero Realty Inc.</td>
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<td>Economic Region: Long Island</td>
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<tr>
<td>Loan Amount Requested: $3,000,000</td>
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<tr>
<td>Rate: 1.98% (variable)</td>
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<tr>
<td>Term: 20 years</td>
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<tr>
<td>Classification: IA+</td>
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<td>Distressed Area: No</td>
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<td>Initial Payment: $15,148.10</td>
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<tr>
<th>JDA Budget</th>
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<tr>
<td>Uses</td>
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<tr>
<td>Real Estate Acquisition</td>
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<tr>
<td>Renovation Costs</td>
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<tr>
<td><strong>Total Project Costs</strong></td>
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(1) 20-year term at 1.98% variable with a first lien on real estate.

Security: A first lien on the real estate located at 115 Albany Avenue/ 20 Reed Place in Amityville, NY. The value of the collateral is $6,315,000.

Guarantors: Repayment of the Loan shall be guaranteed by NJ Mero Realty Co. LLC, Merola Sales Company, Inc., and a personal guaranty will be provided by Kevin Merola, whose personal net worth exceeds the amount of the loan.
Job Information (at project site):
Existing: 35 full-time  New Jobs Projected: 10 full-time by three years after loan disbursement
JDA Loan Amount per job: $66,600

Project Summary:
Borrower: Mero Realty Inc.
819 Williams Avenue
Brooklyn, NY 11207

Contact: Kevin Merola, President & CEO
Phone: 718-272-8600 x104
Fax: 718-272-8666

This report concerns a proposed New York Job Development Authority ("JDA") loan for the amount of $3,000,000 (the "JDA Loan"). The $3,000,000 loan (the “Real Estate Loan”) is to be used towards the acquisition of a facility located in Amityville, New York (the “Real Estate Project”). The total cost of the Real Estate Project is $6,800,000 (the “Real Estate Project Cost”).

Project location: 115 Albany Avenue
Amityville, NY 11701

Project Completion: 2nd Quarter 2014

1) PROJECT OVERVIEW AND RECOMMENDATION

Background
Merola Sales Company, Inc. (“Merola” or the “Company”) was founded 25 years ago by Kevin Merola, who continues as the President and sole shareholder. The Company is a wholesale distributor of ceramic tiles and marble slabs, which it imports from factories worldwide (Spain, Italy, Brazil, Turkey, and China). In addition, the Company sells grouts, adhesives, tools, and other supplies needed by contractors for the installation of tiles. The main warehouse and offices in Brooklyn service tile showrooms throughout the tri-state area, while the Somerset, NJ location (operated by Mr. Merola’s brother, but owned as a subsidiary company by Merola) fulfills orders for Home Depot stores throughout the country. The Company operates a fleet of leased trucks to complete the fulfillments to independently-owned showrooms that sell directly to consumers.

Merola services approximately 750 active customers. The top ten customers account for approximately 48% of sales, as follows: Home Depot, 35%; Overstock.com, 3%; Weisman Enterprises, 3%; Alure Home Improvements, 1%; Eastern Sunrise Tile, 1%; Mosaic Tile Co. of Fredricksburg, 1%; Chung Hua, 1%; Metropolitan Mosaic, 1%; Auction Outlet, 1%; and Wayfair LLC, 1%. The Company’s major competitors in the tri-state area are Maxsam Sales Inc., Powerline Imports Inc., and MS International, Inc.
Merola’s strengths include its customer service department, its professional sales force, and its ability to identify international tile sources and purchase fashionable, attractive and desirable tiles, at competitive prices. The Company participates in national and international tile shows, where the latest designs are displayed. Thus it is able to identify market trends early. During the last few years, Merola has been able to expand in markets outside the New York Metropolitan area, such as Pennsylvania, Massachusetts, Ohio, Delaware, Maryland, and sixteen other states. It is expected that sales from these areas will continue to grow over the next few years.

In January of 2003, Merola received a $525,000, 20-year JDA loan, and the Company has a flawless payment history as a JDA borrower. As the Company looks to expand into a larger location with better operating efficiencies, the owner has again reached out to JDA for financing.

**Project Description**

In order for the Company to continue to grow, it seeks to occupy larger warehouse and distribution space (their current Brooklyn facility occupies 36,000 square feet). The Real Estate Project involves Merola’s acquisition of a 112,000 square foot facility (the “Facility”) in Amityville, Suffolk County for $6.315 million, along with an additional $485,000 in improvement costs. The new Facility consists of two adjoining buildings that will house the Company’s 46,000 square foot warehouse, fulfillment, and office facility, along with 66,000 square feet that will continue to be leased to the existing tenant, Lambro Industries (“Lambro”), for $4.50/sq. ft. (details of the lease agreement have already been settled). This rental income from Lambro will offset the debt service and costs of running the new Facility.

The overall capacity of the business will increase at the new Facility through the use of narrow aisle forklifts (enabling 20% more space for inventory) and better racking systems for ease of loading/unloading. Also, Merola will be going from 2 loading docks at their current location to 7 loading docks at the new Facility (a 250% capacity increase). Currently there are days when inbound trucks have to wait a few hours to be unloaded. It takes about two to three hours every day to load the trucks as they take turns backing up into the loading docks. This will be eased at the new Facility, with the additional loading docks and additional space for trucks to maneuver around (their current location is in a dense urban environment, the new Facility is in a more spread out suburban location). The Company leases and manages a fleet of seven trucks for deliveries in NY, NJ, PA, and CT. For deliveries outside the region, the Company currently contracts with outside companies. At the new Facility, the Company expects to expand its truck fleet and to be able to make all deliveries from Boston to Washington, DC using its own trucks.

The renovations that will be completed at the new Facility include a new 36,000 square foot roof, 5,000 square feet of renovated office space, the aforementioned new racking systems, a renovated HVAC system, and the installation of energy efficient lighting and
heating for the warehouse. Merola has contracted the services of an architect who has worked with the Town of Babylon (where Amityville is located), and is familiar with Town building codes and the permitting process.

Merola will be selling its current Brooklyn location, 819 Williams Avenue, for an estimated $4.7 million (anticipated net proceeds of $3.8 million after paying off the remaining original JDA loan balance of $278k, an Everbank mortgage of $365k, and legal/commission fees of $255k). The Company already has a buyer in the garment industry. The proceeds will be converted into equity for Merola’s new building in Amityville, with the additional financing coming from a potential $3 million JDA loan. ESD would be the only mortgage holder on the new property in Amityville.

Citibank, the Company’s own working capital lender, originally offered to finance the acquisition at interest rates ranging around 4.2-4.6%, in spite of the fact that the Company will bring in a substantial amount of equity. However, Citibank has now balked because the project is considered an investment property (because Merola is occupying less than 50% of space), and is only willing to do the bridge financing for JDA take-out. For this reason, the Company is looking to the JDA to make the project possible.

In order to induce the Company to locate and grow jobs in the Town of Babylon, on the 25th day of March 2014, the Town of Babylon’s IDA approved the granting of real property tax abatements, sales and use tax abatements, mortgage recording tax abatements, and if necessary, issuance of the Agency’s Bonds.

**Market Analysis**

According to a 2013 market research study conducted by the Ceramic Tile and Stone Consultants, Inc.¹:

US demand for decorative tile is forecast to rise 6.7 percent per year through 2017, reaching 3.2 billion square feet (in 2013 it stood at 2.3 billion square feet). The U.S. ceramic tile market has been recovering reflecting a rebound in the U.S. housing market, consumer’s increasing preference for hard surface flooring, and the industry’s ability to offer competitively-priced higher-end stone and wood looks. Ceramic tile’s competitive position has improved as high cost European-based manufacturers moved production to their U.S. plants and sourcing increased from low cost suppliers in China and Mexico. Competitively-priced ceramic tile made inroads in the important residential replacement and remodeling market. This increased the importance of retail distribution and home improvement center channels took advantage of this situation by targeting the value-conscious and DIY markets.

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Highlights

- Merola is financially strong with a history of being profitable with sales, EBITDA, and pre-tax profit all increasing over the 3-year historical period.
- Based on 2013 cash flow, Merola has the ability to repay the JDA loan with a projected Debt Service Coverage Ratio ("DSCR") that meets JDA’s minimum standard of 1.20.
- Merola meets JDA’s loan-to-value requirement of 90%. ESD will be the only lien-holder on the new Facility in Amityville, which will also have a tenant paying significant rent.
- With the project, Merola expects capacity to increase significantly from existing levels. Currently, the Company’s Brooklyn facility has two truck loading docks, while the new Amityville facility will have seven.

Recommendation
The JDA Loan is recommended for approval based on the following:

- Merola’s sales and profitability have been increasing over the 3-year historical period and are expected to trend upward enabling it to pay back the JDA loan.
- If Merola successfully completes the proposed projects, Merola management projects that the Company will experience a substantial increase in total revenue and profitability. The increase in profitability will stem from efficiencies and heightened capacity at Merola’s new location, along with better access for the Company trucks to make deliveries of product.
- At the completion of this project, 35 full-time jobs will be retained and 10 new jobs will be created over three years.
- Based on the 1A+ rating, the Company currently generates sufficient cash flow from operations to service the debt, and staff believes there are adequate collateral and guarantees to mitigate the risks involved with the request. The Company is a current JDA borrower, and has a flawless payment history.
2) DESCRIPTION OF MEROLA SALES COMPANY, INC. AND THE PRINCIPAL

Borrower Name: Mero Realty Inc.
Address: 819 Williams Avenue
          Brooklyn, NY 11207
Phone Number: 718-272-8600 x104
Ownership: 100 % Owned by Kevin Merola
Nature of Business: Wholesale distributor of ceramic tiles, marble slabs, and related supplies needed by contractors for the installation of tiles.

3) COVENANTS AND CONDITIONS

This Loan is predicated upon the following financial conditions:

- Merola must obtain firm commitments satisfactory to JDA from responsible financial sources for the total project cost exclusive of any loan requested from JDA.
- Merola must provide an appraisal of the subject property that indicates a loan to value not to exceed 90% at the time of closing.
- Merola must maintain a minimum debt service coverage ratio of 1.20 throughout the term of the loan.
- Merola must meet all other standard JDA requirements as follows:
  a. Completion of the Real Estate Project to the satisfaction of JDA, as evidenced by a certificate of occupancy and such other certification (including environmental approvals) required for the Facility to be used for the purposes intended.
  b. Execution and delivery of the Note, the Security Agreement, the Mortgage and Loan and Use Agreement (furnished by JDA), and related documents by Merola, all satisfactory to JDA.
  c. Procurement by Merola of funds which shall be used at or prior to the closing to pay the Real Estate Project Cost, exclusive of the proceeds of the Loan.
  d. Receipt by JDA of policies of insurance, including flood insurance if required, in amount, form and substance and issued by companies satisfactory to JDA.
  e. Receipt by JDA of an itemized statement of Real Estate Project Cost, satisfactory to JDA. (PLEASE BE ADVISED THAT, FOR ACQUISITION OF EXISTING BUILDINGS, THERE MUST BE SUFFICIENT ELIGIBLE BUILDING CONSTRUCTION REHABILITATION COSTS TO SATISFY THE REQUIREMENTS SET FORTH IN THE INTERNAL REVENUE CODE AS DETERMINED BY JDA’S BOND COUNSEL).
  f. Receipt by JDA of financing documents of other lender(s) satisfactory to JDA.
g. Satisfaction of such other conditions as JDA, with advice of counsel, deems necessary or advisable to effectuate the Loan, secure the interest of JDA and insure compliance with the JDA Statute and applicable provisions of the Internal Revenue Code.

h. Execution of documents to permit monthly electronic debit of Merola's checking account to repay the Loan.

i. Compliance with ADDITIONAL REQUIREMENTS stipulated in all Schedules, Exhibits and Riders, attached hereto and made a part hereof.

j. Compliance with any other terms and conditions deemed to be necessary and appropriate in the opinion of the General Counsel of JDA.

k. Merola or Merola’s owners will contribute at least 10% in equity to the Real Estate Project. Equity is defined as any non-debt source of capital and should be auditable through Merola’s financial statements or Merola’s accounts, if so requested by JDA.

l. Subordination of any loans to Merola from those certain officers and members of Merola stipulated herein in a manner satisfactory to JDA.

m. Merola shall not enter into any agreement by which the terms of payment of any principal or interest under any other bank loan are waived, modified, deferred, delayed, increased or reduced in rate or amount, without the prior written consent of JDA.

n. Collateralization of the Loan with insurance of the life of Kevin Merola in an amount sufficient to pay the outstanding principal balance of the Real Estate Loan at any time.

o. All certifications and permits for the operating purposes of the Facility to be in full force and effect prior to closing the Loan.

p. Subordination of any leases which may affect the Facility to the Mortgage.

4) ENVIRONMENTAL REVIEW

ESD staff on behalf of the JDA 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 JDA’s mortgage position on the loan, a Phase I Environmental Site Assessment must be submitted to the JDA for review and approval prior to closing on the loan.
5) NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

Pursuant to New York State Executive Law Article 15-A, ESD’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 Minority Business Enterprise goal of 25% and the Women Business Enterprise participation goal of 15%, related to the eligible categories totaling approximately $500,000. As such, the total overall New York State Certified Minority and Women Business Enterprise participation requirement shall be no less than $200,000.

6) ADDITIONAL SUBMISSIONS TO MEMBERS

New York State Map
JDA Loan Underwriting Classification System
Diagrams and Photos
June 26, 2014

Long Island (Long Island Region – Suffolk County) – Merola Sales Company, Inc. – New York Job Development Authority Special Purpose Fund Direct Loan Project – Real Estate Loan -- Authorization to Make Loans 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 Merola Sales Company, Inc. for an amount not to exceed $3,000,000 or 50% of the total real estate project cost, whichever is less, 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 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.

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### JDA Underwriting Classification Chart

<table>
<thead>
<tr>
<th>Level I: Cash Flow</th>
<th>Level II: Default Risk</th>
<th>Level III: Collateral Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I</strong></td>
<td>A</td>
<td>Liquid value of collateral + adjusted value of personal guarantee ≥ total loan value</td>
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<tr>
<td></td>
<td>Score of ≥ 4 on the Default Risk Model Low Risk</td>
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<tr>
<td>Actual or Adjusted Debt Service Coverage ≥ 1.2:1</td>
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<td></td>
</tr>
<tr>
<td><strong>II</strong></td>
<td>B</td>
<td>Liquid value of collateral + adjusted value of personal guarantee &lt; total loan value</td>
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<tr>
<td></td>
<td>Score of 3 on the Default Risk Model Moderate Risk</td>
<td></td>
</tr>
<tr>
<td>Actual or Adjusted Debt Service Coverage &lt; 1.2:1, but with Projected Debt Service Coverage ≥ 1.2:1</td>
<td></td>
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<tr>
<td><strong>C</strong></td>
<td></td>
<td></td>
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<tr>
<td>Score of ≤ 2 on the Default Risk Model Higher Risk</td>
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</tbody>
</table>
Current Location – 819 Williams Avenue, Brooklyn
- 36,000 square feet - Difficult truck access
- Two truck loading docks (not for trailers) - No off-street parking
New Location – 115 Albany Avenue & 20 Reed Place, Amityville, NY
- 46,000 square feet (112,000 sq ft total, Lambro Industries leases remainder)
- Seven truck loading docks and easy access
- Ample employee/customer parking, overnight truck and trailer parking
Tile Showroom at Current Location
Tile Warehouse Space at Current Location – View #2 (note uneven floor)