

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION**

MINUTES OF FIRST ANNUAL MEETING OF DIRECTORS

The First Annual Meeting of the Board of Directors of the Theater Subdistrict Council Local Development Corporation (the "Corporation"), was held at 4:30 PM on July 30, 2007, at 22 Reade Street, New York, New York, 10007.

Present in person were:

Kate Levin, alternate for Mayor Michael Bloomberg.
Daniel Golub, alternate for Manhattan Borough President Scott Stringer.
Danielle Porcaro, alternate for City Council Speaker Christine Quinn.
Amanda Burden, Director of the Department of City Planning.
Jed Bernstein, Appointed Member.
Ben Cameron, Appointed Member.

A quorum of the Board of Directors was present.

Public notice of this meeting was posted following procedures of the Open Meetings Law.

The alternate for the Mayor, Commissioner Kate Levin presided as Chairperson.

The following motions were made, seconded and unanimously passed:

I) RESOLVED, that the following are appointed to serve ex-officio in the indicated offices pursuant to and in accordance with Section 5.1 of the TSC By-laws:

<u>OFFICE</u>	<u>APPOINTEE</u>
Vice Chair	Speaker of the City Council
Secretary	Manhattan Borough President
Treasurer	Director of the Department of City Planning
Chief Executive Officer	Deputy Commissioner of the Department of Cultural Affairs

II) RESOLVED, that the Treasurer is hereby authorized to complete and file applications for federal tax identification numbers, and federal and state tax exemptions.

III) RESOLVED, that the Treasurer and Chief Financial Officer of the Theater Subdistrict Council Local Development Corporation are hereby authorized to open one or more bank accounts for and in the name of the Corporation; and

That the Treasurer and Chief Financial Officer of the Corporation shall open these accounts with such banks as they deem appropriate in accordance with the requirements of Section 81-741(i) of the Zoning Resolution of the City of New York; and

That such accounts shall be collectively known as the Theater Subdistrict Fund; and

That the Chair, Chief Executive Officer, Treasurer, Contracting Officer and Chief Financial Officer, are hereby authorized to make deposits to and withdrawals from such bank account(s) and to sign, by hand or facsimile signature, checks, drafts, notes, acceptances, and other instruments, and orders drawn on such account(s). All such checks, notes, drafts and other negotiable instruments must be signed by two authorized signatories.

IV) RESOLVED, that the Treasurer of the Theater Subdistrict Council Local Development Corporation is authorized to prepare and deliver written notice to the New York City Law Department, Office of the Corporation Counsel, as escrow agent, requesting that all funds

held on behalf of the Corporation and as described [in Exhibit A attached to these minutes] be released to the Theater Subdistrict Fund.

V) RESOLVED, that the Omnibus Resolutions Relating to the Public Authorities Accountability Act of 2005 attached [to these minutes as Exhibit B] are adopted by the Theater Subdistrict Council Local Development Corporation.

VI) RESOLVED, that the Conflicts of Interest Policy attached [to these minutes as Exhibit C] is adopted in accordance with Section 6.1 of the TSC By-laws.

VII) RESOLVED, that the Chief Executive Officer shall develop, in consultation with the staff of the Office of the Mayor, Manhattan Borough President, City Council Speaker, and the Department of City Planning, a grantmaking procedure to be recommended for consideration by the Board of Directors at its next meeting.

VIII) RESOLVED, that unless a contrary recommendation is issued pursuant to vote of the board, for all applications proceeding under the special regulations for the Theater Subdistrict for special permits, authorizations or certifications, the Theater Subdistrict Council recommends that the provisions regarding theater use and maintenance should be executed in a declaration and recorded against the property in substantially the form of [Exhibit D, attached to these minutes], and so advises the City Planning Commission regarding the fulfillment of Section 81-743 of the Zoning Resolution of the City of New York (Required assurances for continuance of legitimate theater use).

FURTHER RESOLVED, that the TSC Chair is designated to review applications proceeding under the special provisions for the Theater Subdistrict, to confirm to the City Planning Commission the receipt of contributions in accordance with Section 81-744(a)(5), to advise the board from time to time with respect thereto, and to advise the board in the event that, in his or her judgment, such application requires additional review by the TSC.

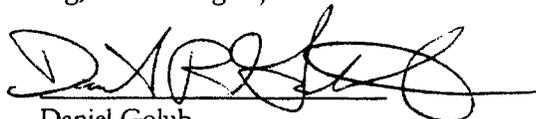
IX) RESOLVED, that the Director of the Department of City Planning shall develop, in consultation with the staff of the Office of the Mayor, Manhattan Borough President, and City Council Speaker, a recommendation on the percentage of revenues to be reserved for inspection and maintenance reporting under Section 81-741(i)(1) of the Zoning Resolution, to be presented to and considered by the Board of Directors at its next meeting.

X) RESOLVED, that the Theater Subdistrict Council Local Development Corporation budget for Fiscal Years 2008 and 2009 as set forth in [Exhibit E-1, attached to these minutes] are hereby approved, and it is

FURTHER RESOLVED, that the Fiscal Years 2008 and 2009 budget, together with the financial statements for Fiscal Year ending May 31, 2007, as set forth in [Exhibit E-2 attached to these minutes], shall be submitted only for the purposes of filing for tax exemption.

The floor was opened to the Directors for a discussion of other issues. Director Jed Bernstein requested to be provided with more background information on the enactment of the Zoning Resolution provisions relating to the Theater Subdistrict Council at its next meeting.

There being no other business before the meeting, the meeting adjourned at 5:00 PM.



Daniel Golub,
Alternate for Secretary

EXHIBIT A

Project Name	AKA	ULURP#(s)	Addresses of Granting Site(s)	Addresses of Receiving Site(s)	Contribution Amount
Martin Beck I	SJP Residential	N 060393 ZCM	302 West 45th Street (BL 1035 LT 37)	750 Eighth Avenue (BL 1018 LT 1, 3, 57)	\$291,040
Martin Beck II	750 8th Avenue	N060435 ZAM	302 West 45th Street (BL 1035 LT 37)	750 Eighth Avenue (BL 1018 LT 1, 3, 57)	\$ 289,010
Granite Broadway	Granite Broadway Development	N 060414 ZCM	(1) 302 West 45th Street (BL 1035 LT 37) (2) 246 West 44th Street (BL 1015 LT 54)	231 West 54th Street, 1709-1711 Broadway & 1715-1717 Broadway (BL 1026 LT 15, 16, 18)	(1) \$74,380 (2) \$778,400
Extell		N070196ZCM, N070242ZCM	(1) 302 West 45th Street (BL 1035 LT 37) (2) 246 West 44th Street (BL 1015 LT 54) (3) 235 West 44th Street (BL 1016 LT 11)	131-139 West 45th Street (BL 998 LT 15, 16, 17, 116)	(1) \$126,481.53 (2) \$141,480.99 (3) \$817,366.20
Interest Accrued through June 30, 2007					\$30,828.92
TOTAL					\$2,548,987.64

EXHIBIT B

**OMNIBUS RESOLUTIONS
OF THE
THEATER SUBDISTRICT COUNCIL
LOCAL DEVELOPMENT CORPORATION
RELATING TO THE REQUIREMENTS
OF THE
PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005**

**OMNIBUS RESOLUTIONS
RELATING TO REQUIREMENTS OF THE
PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005
Board of Directors Meeting
July 30, 2007**

WHEREAS, the Public Authorities Accountability Act of 2005 (the "PAAA") imposes certain requirements on the Theater Subdistrict Council Local Development Corporation (the "TSC");

WHEREAS, the PAAA requires the Board of Directors of the TSC (the "Board") to establish a Governance Committee and an Audit Committee and to adopt various policies, guidelines and procedures and to take various actions; and

WHEREAS, the Board is taking these actions so that the TSC will be in compliance with the PAAA;

Governance and Audit Committees

NOW, THEREFORE, IT IS RESOLVED that there is hereby established a Governance Committee, whose members will be responsible to keep the Board informed of current best governance practices, to review corporate governance trends, to update the TSC's corporate governance principles and to provide advice regarding the skills and experiences required of potential Board members; and

FURTHER RESOLVED that there is hereby established an Audit Committee, whose members will be responsible for recommending to the Board the hiring of a certified independent accounting firm, establishing compensation to be paid to the accounting firm and providing direct oversight of the performance of the independent audit performed by the accounting firm hired for such purpose; and

FURTHER RESOLVED that both the Governance Committee and the Audit Committee shall be comprised of the following Directors and that the presence in person of a majority of the members of each committee shall constitute a quorum for the transaction of business:

- (1) Mayor of the City of New York
- (2) Speaker of the City Council
- (3) Manhattan Borough President
- (4) Director of the Department of City Planning; and

FURTHER RESOLVED that the Chairperson of the Governance Committee shall be the Chair of the Board of Directors; and

FURTHER RESOLVED that the Chairperson of the Audit Committee shall be the Treasurer; and

Officers

FURTHER RESOLVED that the Chief Executive Officer is hereby authorized and directed to appoint a Contracting Officer for the disposition of real and personal property; and

FURTHER RESOLVED, that the Treasurer is hereby authorized and directed to appoint a Chief Financial Officer for the preparation and certification of required financial statements and tax filings; and

Adoption of Policies

FURTHER RESOLVED that the Board adopts the following:

- TSC Policy on Salary, Compensation, Reimbursements, Time and Attendance, attached hereto as Attachment A;
- TSC Policy on Travel Allowance, attached hereto as Attachment B;
- TSC Policy on Protection for Whistleblowers, attached hereto as Attachment C;
- TSC Policy on the Acquisition and Disposition of Real Property, attached hereto as Attachment D;
- TSC Policy on the Disposition of Personal Property, attached hereto as Attachment E;
- TSC Policy on Indemnification and Defense of Members and Directors, attached hereto as Attachment F;
- TSC Code of Ethics for Members, Directors and Officers, attached hereto as Attachment G;
- TSC Procurement Policy, attached hereto as Attachment H;
- TSC Investment Guidelines, attached hereto as Attachment I; and

Extension of Credit

FURTHER RESOLVED that the TSC shall not, directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, board member or employee (or equivalent thereof) of the TSC.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
POLICY ON SALARY, COMPENSATION, REIMBURSEMENTS, TIME AND
ATTENDANCE**

The senior management of the Theater Subdistrict Council Local Development Corporation ("TSC") consists of its Chief Executive Officer, Chief Financial Officer and Contracting Officer, who shall receive no remuneration from the TSC. The compensation (including pension), reimbursement, time and attendance of senior management shall be as set forth in the rules, regulations, and directives of the City of New York with respect to their roles and responsibilities as employees of the City of New York.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
POLICY ON TRAVEL ALLOWANCE**

The Theater Subdistrict Council Local Development Corporation does not anticipate any need for out-of-town travel related to its business. No such travel shall be authorized nor reimbursement provided.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
POLICY ON PROTECTION FOR WHISTLEBLOWERS**

No officer, member or director of the Theater Subdistrict Council Local Development Corporation (the "TSC") may retaliate against any other officer, member or director of the TSC who makes a good faith report of wrongdoing, misconduct, malfeasance or other inappropriate behavior, such as fraud, criminal activity or conflict of interest, by an officer, member or director of the TSC by taking an adverse personnel action against the "whistleblower". Therefore, the "whistleblower" cannot be fired, demoted or disciplined in his or her capacity as an officer, member or director of the TSC or as an officer or employee of the City of New York as a result of his/her having reported behavior of a type described above to any officer, member or director of the TSC or to any governmental body or official.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
POLICY ON THE ACQUISITION AND DISPOSITION OF REAL PROPERTY**

The Theater Subdistrict Council Local Development Corporation does not own or lease any real property, and no acquisition of real property is anticipated. Accordingly, no acquisition or disposition of real property shall be approved by the Contracting Officer or the Board of Directors.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
POLICY ON THE DISPOSITION OF PERSONAL PROPERTY¹**

Personal Property Valued at \$1,000 or Less

Whenever the Theater Subdistrict Council Local Development Corporation (the "TSC") wishes to transfer title to or a beneficial interest in an item of personal property or an interest therein with an estimated value of \$1,000 or less, it shall obtain offers from one or more persons or entities as the TSC's contracting officer (the "Contracting Officer") deems appropriate. The TSC shall maintain a record of the persons or entities approached and their responses. The TSC may conduct discussions with some or all of the persons and entities. The property may be sold to whichever person or entity the Contracting Officer selects based on the proposed price and any other factors that the Contracting Officer deems appropriate.

All personal property that the Contracting Officer considers to be of no sale value and no use to the TSC may be destroyed or otherwise disposed of in such manner as is determined by the Contracting Officer.

No approval of a disposition of a type described above is required from the Board of Directors. All disposal documents must be approved and executed by an officer who is an authorized signatory of the TSC.

Personal Property Valued in Excess of \$1,000

Whenever the TSC wishes to transfer title to or a beneficial interest in an item of personal property or an interest therein with an estimated value in excess of \$1,000 it shall first obtain an appraisal of the property if, because of its unique nature, the property is not subject to fair market pricing. However, an appraisal of the property will not be required if an appraisal of the property or similar property has been made within the past two years. This policy shall not apply to the sale of revenues for financing purposes.

The person or entity to which the property shall be disposed of shall be determined through a procurement conducted in accordance with Title 5-A of Article 9 of the Public Authorities Law. The TSC shall publicly advertise for proposals for the disposal of the property in accordance with Title 5-A, provided that it may dispose of the property without public advertising, obtaining such competition as is feasible under the circumstances, when permitted to do so under Title 5-A. All requirements of Title 5-A and other applicable laws, if any, related to the disposition shall be complied with.

The disposal must be approved by the Board of Directors if the disposal is on a sole source basis for an amount in excess of \$5,000 or otherwise for an amount in excess of \$10,000. For disposals for less than those amounts, no approval is required of the Board of Directors. In all cases, the disposal must be approved by the Contracting Officer and disposal documents must be approved and executed by an officer who is an authorized signatory of all agreements of the TSC.

¹ This policy shall not apply to grants made pursuant to the TSC grantmaking process.

The Contracting Officer shall cause a record to be maintained of all personal property disposed of for an amount in excess of \$1,000 and shall cause to be prepared and transmitted all reports relating to the disposition of personal property required by Title 5-A.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
POLICY ON INDEMNIFICATION AND DEFENSE**

Members and Directors of the Theater Subdistrict Council Local Development Corporation (the "TSC") are entitled to defense and indemnification by the City of New York (the "City") pursuant to section 50-k of the General Municipal Law for acts and omissions arising from the performance of their corporate duties.

Members and Directors who are not officers or employees of the City are entitled to defense and indemnification in accordance with General Municipal Law § 50-k. Such defense and indemnification is, however, subject to the conditions contained in section 50-k. For example, an individual is entitled to defense and indemnification as long as the act or omission at issue was within the scope of his or her public employment and in the discharge of his or her duties, was not in violation of any applicable rule or regulation, and was not the result of intentional wrongdoing or recklessness on his or her part. See General Municipal Law § 50-k(2)-(3). Furthermore, section 50-k also provides, *inter alia*, that the duty to defend or indemnify is conditioned upon delivery to the Corporation Counsel of the City of New York of any summons and complaint, or other notice or pleading, within ten days of service thereof, and upon the full cooperation of the individual in the defense of the action or proceeding and any action or proceeding against the City based upon the same act or omission. See General Municipal Law § 50-k(4).

Ex-Officio Members and Directors, including their respective alternates, who are officers or employees of the City, and any Appointed Member and Director who is a City officer or employee, will be defended and indemnified in connection with their service for the TSC as employees and officers of the City.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
CODE OF ETHICS FOR MEMBERS, DIRECTORS, OFFICERS AND STAFF**

This Code of Ethics shall apply to all members, directors, officers of the TSC and staff to such members, directors and officers (“Covered Persons”) providing assistance to the Theater Subdistrict Council Local Development Corporation (“TSC”). These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of covered persons, and to preserve public confidence in TSC’s mission.

This Code of Ethics is intended to supplement but not replace any applicable state or federal laws governing conflicts of interest and the ethical duties applicable to not-for-profit corporations.

Responsibilities of Members, Directors, Officers and Staff

1. Covered Persons shall perform their duties with transparency, without favor, and shall refrain from engaging in outside matters of financial or personal interest that could impair independence of judgment or prevent the proper exercise of official duties.
2. Covered Persons shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through their official position that could create any conflict between their public duties and interests and their private interests.
3. Covered Persons shall not accept or receive any gift or gratuities where the circumstances would permit the inference that the gift is intended to influence the individual in the performance of official business, or that the gift constitutes a tip, reward, or sign of appreciation for any official act. Gifts subject to this provision may take the form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the TSC. In the event that a Covered Person receives any such gift or gratuity, he or she shall immediately notify the Chairperson of the Governance Committee in order to make proper disposition of such gift or gratuity. Notwithstanding the foregoing, meals and gifts that are permissible and not deemed valuable under §2604(b)(5) of the Charter of the City of New York and implementing regulations, as defined in Title 53 of the Rules of the City of New York, shall neither require reporting nor violate this policy.
4. Covered Persons shall not use or attempt to use their official position with the TSC to secure unwarranted privileges for themselves, members of their family or others, including grants or contracts with the TSC.
5. Covered Persons must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
6. Except as otherwise authorized pursuant to the TSC policy on Conflicts of Interest, Covered Persons may not engage in any transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
7. Except as otherwise authorized pursuant to the TSC policy on Conflicts of Interest, Covered Persons may not engage in any transaction with an outside entity in which they hold a position as trustee, director, officer, member or employee.

8. Covered Persons shall manage all matters within the scope of the TSC's mission independent of any other affiliations or employment. Members, directors, officers and staff shall strive to fulfill their professional responsibility to the TSC without bias and shall support the TSC mission to the fullest.

9. Covered Persons shall not use TSC property or resources or disclose information acquired in the course of their official duties in a manner inconsistent with State or local law and the TSC's mission and goals.

10. Covered Persons shall make the annual filings required under N.Y. Pub. Auth. Law § 2825(3).

Reporting Unethical Behavior

Covered Persons shall report unethical behavior to the Chairperson of the Governance Committee.

Implementation of Code of Ethics

The Chairperson of the Governance Committee shall have the following duties:

- Counsel in confidence Covered Persons who seek advice about ethical behavior.
- Record the receipt and disposition of gifts or gratuities reported by Covered Persons.
- Receive and record reported ethical violations.
- Receive and investigate complaints regarding ethics violations.
- Dismiss complaints found to be without substance.
- Refer all matters to the Governance Committee, where further actions or investigations are deemed necessary.

In addition to any penalty contained in other provisions of law, if a Covered Person violates any provision of this Code of Ethics, the Governance Committee may prepare a report of its findings. Such report shall be submitted to the board and shall include suggested remedies that are appropriate under the circumstances.

An assessment of the effectiveness of this Code of Ethics shall be prepared annually by the Governance Committee.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
PROCUREMENT POLICY**

I. METHODS OF SOURCE SELECTION

All contracts of the Theater Subdistrict Council Local Development Corporation ("TSC") shall be awarded by competitive sealed bidding pursuant to Section (E) (Competitive Sealed Bidding), except as may be otherwise authorized or required by federal, New York State or New York City law, rules or regulations, and except as provided in this policy with respect to:

- (A) Sole Source Procurement
- (B) Small Purchases
- (C) Personal and Professional Services
- (D) Competitive Sealed Bidding
- (E) Competitive Sealed Proposals
- (F) Use of Other Governmental Contracts

All decisions, determinations and findings required to be made pursuant to this Procurement Policy shall be made in writing, with appropriate supporting documentation. All contracts awarded pursuant to this Procurement Policy shall require the authorization of TSC's Board of Directors, except for small purchases pursuant to subparagraph A and emergency procurements pursuant to subparagraph C where it is not practicable to obtain prior authorization.

A. Small Purchases. Anything to the contrary contained in this Article I, procurements for Small Purchases shall be governed only by this Section A.

(1) "Small Purchase" means any procurement the value of which is less than \$20,000. Procurements shall not be artificially divided in order to qualify as Small Purchases.

(2) For Small Purchase the value of which is \$10,000 or less, no competition is required. However, TSC shall use reasonable efforts to determine that the price or fee is reasonable.

(3) For Small Purchase the value of which is greater than \$10,000, TSC shall use reasonable efforts to obtain offers from at least three qualified persons or entities.

(4) Small Purchase contracts awarded pursuant to this Section A shall not require the authorization of TSC's Board of Directors.

B. Sole Source Procurement. Notwithstanding anything to the contrary contained in this Article I, contracts for an amount greater than \$10,000 may only be awarded without competition upon specific authorization by TSC's Board of Directors.

C. Personal and Professional Services. Personal and professional services shall be procured as provided in this Section D, except as otherwise authorized in this Article I.

(1) TSC shall use reasonable efforts to obtain a minimum of three proposals from qualified persons or entities for each personal or professional services contract. If a minimum of three (3) proposals is not obtained, TSC shall document the reasons therefore.

(2) TSC shall designate a selection committee, which may include staff to members, directors or officer, to review proposals received. The selection committee shall review all responsive proposals from responsible proposers. The selection committee may elect to interview and/or request additional information from some or all of the proposers in connection with its evaluation of proposals. The selection committee shall rank the proposals based on quality, price, and qualifications to provide the requested services.

(3) TSC shall negotiate with the highest ranked proposer for an agreement for the performance of the requested services on terms satisfactory to TSC. If, despite good faith efforts, TSC is unable to reach a satisfactory agreement with the highest ranked proposer, it shall terminate such negotiations and enter into negotiations with the second-ranked proposer, and so on until an agreement is reached, provided that TSC may elect, at any time, to withdraw the procurement.

D. Competitive Sealed Bidding. Contracts for an amount greater than the Small Purchase limit shall be awarded by competitive sealed bidding, except as otherwise provided in this Article I.

(1) Invitation for Bids. An Invitation for Bids shall be issued and shall include a purchase description, and all contractual terms and conditions applicable to the procurement.

(2) Public Notice. Public notice of the Invitation for Bids shall be given by publication in the City Record a reasonable time prior to the date set forth therein for the opening of bids. TSC may also publish such notice in other media.

(3) Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, the name of each bidder and the bid security, if any, shall be recorded. The record and each bid shall be open to public inspection.

(4) Bid Acceptance and Bid Evaluation. Bids may only be unconditionally accepted without alteration or correction on the part of the bidder except as authorized in this Section. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Any criteria that would affect the bid price and be considered in evaluation for award must be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used.

(5) Correction or Withdrawal of Bids. Cancellation of Awards.

Correction or withdrawal of inadvertently erroneous bids shall be permitted in instances in which the Chief Executive Officer finds that it is in TSC's interest to do so. After bid opening, no changes in bid prices or other changes prejudicial to the interest of TSC or fair competition shall be permitted.

(6) Award.

The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. Notwithstanding the foregoing, any or all bids may be rejected when TSC reasonably deems it is in TSC's best interest to do so.

E. Competitive Sealed Proposals

(1) Conditions for Use.

Contracts for an amount greater than the Small Purchase limit may be awarded by competitive sealed proposals only upon a determination by the Chief Executive Officer that it is not practicable or advantageous to use competitive sealed bidding. Grounds for such determination shall include, without limitation, that:

- (a) specifications cannot be made sufficiently definite and certain to permit selection based on bid price or evaluated bid price alone; and/or
- (b) judgment is required in evaluating proposals; and/or
- (c) evaluation of proposals requires a balancing of price, quality, and other factors.

(2) Request for Proposals.

Proposals shall be solicited through a Request for Proposals.

(3) Public Notice.

Public notice of the Request for Proposals shall be given by publication in the City Record a reasonable time prior to the date set forth therein for the submission of proposals. TSC may also publish such notice in other media.

(4) Receipt of Proposals.

Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A Register of Proposals shall be prepared and shall be open for public inspection after contract award.

(5) Evaluation Factors.

Proposals shall be evaluated on the basis of the quality of the proposals, based on the relative importance of such criteria as capacity to execute the proposal; relevant expertise or experience, and price or cost.

(6) Discussion with Responsible Offerors and Revisions to Proposals.

Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the

purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(7) Award. Award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to TSC in accordance with subparagraph (5) above.

F. Use of Other Governmental Contracts

Notwithstanding any other provision of this Article 1, if there is a Federal, New York State, New York City, or New York City Economic Development Corporation contract for goods or services that permits TSC to utilize such contract or to obtain goods and services from the contractor under such contract on terms substantially equal to those under such contract, TSC may utilize such contract or obtain goods and services from such contractor on terms substantially equal to those under such contract without using any other procurement method described in this Article I.

II. VENDOR RESPONSIBILITY

A. Section 2-08 of New York City Procurement Policy Board Rules. In making vendor responsibility determinations, the TSC shall be guided by the standards and procedures set forth in the Vendor Responsibility rules set forth in Section 2-08 of the New York City Procurement Policy Board Rules (the "PPB Rules").

B. Additional Responsibility Determinations. All contract awards for an amount above \$20,000, if not otherwise covered by Section 2-08 of the PPB Rules, shall be subject to internal vendor responsibility determination procedures of TSC.

**THEATER SUBDISTRICT COUNCIL LOCAL DEVELOPMENT
CORPORATION
INVESTMENT GUIDELINES**

1. Scope. These investment guidelines (“Guidelines”) set forth policies and procedures relating to the investment of funds (“Funds”) of the Theater Subdistrict Council Local Development Corporation (“TSC”), and the monitoring and reporting thereof. For purposes of these Guidelines, Funds shall mean all monies and other financial resources available for investment by TSC on its own behalf or on behalf of any other entity or individual. All such monies shall be invested at all times to the fullest extent practicable, and otherwise in accordance with the requirements and restrictions set forth in these Guidelines.

2. Review and Amendment. These Guidelines shall be reviewed and approved by the Board of Directors annually and may be amended by the Board of Directors from time to time.

3. Permitted Investments. Funds may only be invested in the following types of investments:

- Federal discount notes
- US Treasury bills
- US Treasury notes
- Other Guaranteed Federal Government Securities

4. Annual Reporting. On an annual basis, TSC shall prepare an investment report. Such report shall include:

- (a) A statement of TSC’s then current Guidelines;
- (b) The investment income record of TSC for the fiscal year; and
- (c) A summary of new investments made and fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to TSC since the last report.

TSC’s investment report shall be submitted to its Board of Directors for review and to other such persons and agencies as required by law.

EXHIBIT C

**CONFLICTS OF INTEREST POLICY
OF THE
THEATER SUBDISTRICT COUNCIL
LOCAL DEVELOPMENT CORPORATION**

1. No member, director or officer ("Covered Person") shall have any interest, in any grant, contract or other transaction proposed to be entered into by the Theater Subdistrict Council Local Development Corporation ("TSC"), except as provided in this policy.

For purposes of this section , an "interest" shall mean: (i) an "Ownership interest" as defined under Section 2601(16) of the New York City Charter and its implementing regulations, held by the Covered Person or such Covered Person's spouse, domestic partner or unemancipated children, in a firm or entity with respect to which the TSC proposes to enter into a grant, contract or other transaction; or (ii) a "Position", as defined under Section 2601(18) of the New York City Charter, held by the Covered Person in a firm or entity with respect to which the TSC proposes to enter into a grant, contract or other transaction.

2. In addition to the foregoing, no Covered Person shall take any action with respect to any grant, contract or other transaction of the TSC, which would or is likely to result in direct economic gain to the Covered Person or to a firm or entity in which such Covered Person has an interest.

For the purposes of this section, an "interest" shall mean: (i) an "Ownership interest" as defined under Section 2601(16) of the New York City Charter and its implementing regulations, held by the Covered Person or such Covered Person's spouse, domestic partner or unemancipated children, in a firm or entity doing business with a proposed or current TSC grantee or contractor or with respect to which a proposed TSC grantee or contractor intends to do business with the use of TSC funds ; or (ii) a "Position", as defined under Section 2601(18) of the New York City Charter, held by the Covered Person in a firm or entity doing business with a proposed or current TSC grantee or contractor or with respect to which a proposed TSC grantee or contractor intends to do business with the use of TSC funds.

3. Employment with or provision of services to the City of New York shall not constitute an interest within the meaning of this policy.

4. In the event a Covered Person becomes aware of any potential conflict of interest, such Covered Person shall make disclosure forthwith to the Chair of the nature and extent of his or her potential conflict. Disclosure shall be entered in writing upon the minutes of the Board of Directors.

5. If timely disclosure is made, the Board of Directors may determine whether the TSC can obtain a more advantageous transaction with reasonable efforts in a manner that would not give rise to a conflict of interest. If a more advantageous arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board may find that it is in the TSC's best interest, and that it is fair and reasonable for the TSC to

enter into the transaction. Such authorization shall be made by concurring vote of at least two-thirds the whole number of uninterested directors, and shall include appropriate measures to address the conflict, including but not limited to recusal by the affected Covered Person with respect to all activities of the TSC relating to the transaction.

6. If a Covered Person fails to make disclosure when he or she knew or should have known of the potential Conflict of Interest, the Board of Directors shall: (i) in the case of a director, make recommendations to the appointing person for appropriate action; (ii) in the case of an officer who is not also a director, take such action as it deems appropriate, including, if warranted, removal.

EXHIBIT D

Provisions on Theater Use and Maintenance

(I) Theater Owner covenants that the Theater shall be used for Legitimate Theater for the life of the related development. Legitimate Theater shall mean the live presentation, available to the general public, of stage productions by professional performing artists, including but not limited to plays, musicals, and other forms of expression that may incorporate dance, music and/or other elements. Legitimate Theater shall not include the exhibition of films, video or similar electronic media, or radio or television studio performances, except insofar as exhibition of films, video or similar electronic media is an element incorporated in a live stage production.

Notwithstanding the foregoing, the Owner/Operator of the Theater may, consistent with this covenant, use the Theater for other purposes which shall not preclude the continued availability of the theater for Legitimate Theater use during the life of the related development. Such other purposes may include: (i) other arts-related uses, including without limitation non-theatrical live performances such as concerts (i.e., live performances of music by players and singers not involving theatrical staging), repertory ballet and/or dance (i.e., live performances by a company of dancers), among other things, provided that each such other arts-related use shall be for a limited engagement; and (ii) non-arts-related uses on an incidental basis.

The definition of Legitimate Theater use set forth herein is intended to reflect the prevailing modes of live theatrical productions as the same have existed over the preceding fifty-year period, and as the same may evolve and change from time to time during the life of the related development. In all cases, the use of the Theater consistent with the modes of live theatrical productions prevailing at the time of such use shall constitute compliance with this covenant.

(II) The Theater Owner shall be responsible during the Term for proper maintenance of the Theater. "Proper maintenance of the Theater" shall mean preservation of a structurally sound building with seating substantially equivalent to that which the Theater has today and containing such functioning mechanical and stage equipment and lighting as shall be required to present Legitimate Theater performances; maintenance in good repair and appearance of the exterior and interior of the building, including seats, drapes, rugs and other furnishings and the carrying out of any recommendations for repairs, maintenance or replacement set forth in the Engineering Reports referred to in paragraph (c) of this Declaration. Nothing contained in this Declaration shall be deemed to limit the ability of the Owner to alter the interior or exterior of the Theater, provided it is done in compliance with applicable law and that the amount of seating therein remains substantially equivalent to that which the Theater has today. The obligations of the Owner hereunder with respect to proper maintenance of the Theater shall include repair and maintenance of the following (known individually as a "Theater Element"):

(1) All masonry portions of the Premises, including but not limited to:

- (A) Foundations;
- (B) Stone sills;
- (C) Brick and mortar joints;
- (D) Paved areas, sidewalks and sidewalk steps and vaults;
- (E) Parapets, copings and corbelling;
- (F) Chimney and flues;
- (G) Stonework and terra cotta (existing and new);

(2) All windows, sashes, window frames, door frames, and enframed glass;

- (3) All metal work;
- (4) All roof, roof paving, flashing, drains and gutters;
- (5) All structural elements;
- (6) All mechanical systems, including, electrical, lighting, plumbing, heating, ventilating, air-conditioning, sprinklers and elevators;
- (7) Significant exterior and interior architectural features identified in the Landmark Preservation Commission designation report, including:
 - (a) cornices;
 - (b) sub-cornices;
 - (c) lintels;
 - (d) sills; and
- (8) The following theater equipment and fixtures:
 - (a) Carpets (all levels);
 - (b) Seats (all levels);
 - (c) Chandeliers;
 - (d) All working parts of the counterweight system, including the condition of headblocks, sheaves, tension wheels, arbors, cable and hemp;
 - (e) The condition of the stage floor and traps;
 - (f) The condition of all functioning drapes, including house equipment such as house curtains, cycloramas, etc.;
 - (g) The condition of all stage electrical equipment, including circuitry, stage cable, pockets and patch panels, lighting instruments, control and dimming equipment (including house lights) and the stability of house mounting positions;
 - (h) The condition of smoke evacuation and venting systems as it applies to the stage, such as skylight links, hemp line or breakers, etc.; and
 - (i) The condition of any other mechanical devices which are used in production that might be considered stage equipment, such as stage elevators, winches, pipe battens, tresses, etc.

(III) Simultaneously herewith the Theater Owner has delivered to the Chairperson an engineer's report as to the present physical condition and operational soundness of the Theater, specifically stating the condition of each Theater Element and identifying the work necessary to keep such Theater Element in a state of good repair, with particular emphasis on its structural integrity, which report also indicates any work that must be done in order for the Owner to comply with its obligation of proper maintenance of the Theater as set forth in the preceding paragraph. Within the 90 days preceding the fifth anniversary of the date of this Declaration and within the 90 days preceding each succeeding fifth year thereafter a similar report prepared by a licensed professional engineer and /or architect selected by the Theater Owner and acceptable to LPC, shall be delivered to the Chairperson and to the Landmarks Preservation Commission. (the "Engineering Reports").

The Engineering Reports shall in all respects comply with the provisions of Section 81-743(b) of the Zoning Resolution and be acceptable to the Landmarks Preservation Committee.

(IV) Upon a finding in an Engineering Report that work is necessary to keep a particular Theater Element in physical and operational soundness the Theater Owner shall promptly undertake and complete such work pursuant to a plan, program and schedule set forth in such Report.

(V) The Chairperson, or any persons designated by the Chairperson, shall have the right, upon reasonable advance notice to the Theater Owner, to enter the Theater from time to time in order to inspect the same or from time to time to inspect any work in progress therein.

EXHIBIT E-1

TSC Budget for Fiscal Years Ending 2008, 2009

TWO-YEAR BUDGET: Fiscal years ending 2008 & 2009		
<u>INCOME</u>	<u>2008</u>	<u>2009</u>
From Contributions*	\$3,167,718.96	\$2,434,255.74
From Interest		
On General Revenues**	\$45,808.92	\$56,412.13
On Reserved Funds***	\$45,973.50	\$78,176.32
<u>EXPENDITURES</u>		
Grants and Programmatic****	\$3,908,090.86	\$1,921,078.11
Administrative*****	\$2,970.00	\$2,970.00
Accounting/Auditing	\$5,000.00	\$5,000.00
TOTAL EXPENDITURES	\$3,916,060.86	\$1,929,048.11

* 2008 assumes contributions already received plus contributions pending under existing applications at DCP. 2009 is an average of 2007 actual and 2008 estimated contributions.

** Based on 5.15%, 30-day CDs for 4 months each year.

*** Based on 5.15%, 30-day CDs for 12 months each year.

**** 2008 assumes expenditure of all 2007 and 2008 funds not held in reserve or otherwise shown as an expense. 2009 assumes expenditure of all 2009 funds and 2008 interest accrued, which are not held in reserve or otherwise shown as an expense.

***** Estimates provided on following page.

ESTIMATE OF ADMINISTRATIVE EXPENSES			
1. Administrative/clerical support for document production, collation and distribution	5 hours	\$18/hour	\$175
2. Administrative/clerical support for mass emailing and mailings of application and application-related materials	5 hours	\$18/hour	\$175
3. Administrative/clerical support for filing, organization and distribution of grant application materials	20 hours	\$18/hour	\$360
4. Administrative/clerical support for finalizing, collating and mailing grant agreements	10 hours	\$18/hour	\$180
5. Administrative/clerical support for grant administration filings and reporting	10 hours	\$18/hour	\$180
6. Advertisement, mailing, reproduction, and miscellaneous supplies			\$1,500
7. Catering of one 2-day and one 1-day TSC meeting			\$400
Total			\$2,970

EXHIBIT E-2

Financial Statements for Fiscal Year Ending May 31, 2007

BALANCE SHEET – Cash Basis: May 31, 2007	
ASSETS	
Cash (escrow funds plus interest)	\$1,727,357.11
Accounts Receivable	\$0.00
Inventories	\$0.00
Other Assets	\$0.00
LIABILITIES	
Accounts Payable	\$0.00
Other Liabilities	\$0.00
EQUITIES	
Total Fund Balances or Net Assets	\$1,727,357.11

INCOME STATEMENT – Cash Basis: June 1, 2006 - May 31, 2007	
REVENUE	
Contributions through May 31, 2007	
Martin Beck I	\$291,040.00
Martin Beck II	\$289,010.00
Granite Broadway	\$852,780.00
Hirschfeld/M.Beck/ St. James	\$267,962.52
Interest	\$26,564.59
Total Revenue	\$1,727,357.11
EXPENSES	
Total Expenses	\$0.00
NET INCOME through May 31, 2007	\$1,727,357.11