

MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
OF
NEW YORK CITY LAND DEVELOPMENT CORPORATION
December 19, 2012

A meeting of the Board of Directors of New York City Land Development Corporation ("LDC") was held on Wednesday, December 19, 2012, at 260 Broadway, New York, New York.

The following members of the Board of Directors were present:

Robert Goldrich
William Heinzen
Jeffrey Mandel
Betty Woo

Also present were members of the staff of New York City Economic Development Corporation.

Mark Silversmith, Secretary of LDC, served as secretary of the meeting. (Attached hereto as Attachment 1 is a definition sheet that contains the definitions of certain frequently used terms contained in the Exhibit attached hereto.)

1. Approval of the Minutes of the November 14, 2012 Meeting of the Board of Directors

There were no questions or comments with respect to the minutes of the November 14, 2012 Board of Directors meeting, as submitted. A motion to approve such minutes, as submitted, was made, seconded and unanimously adopted.

2. Net Lease of Former Loew's Kings Theatre

Mr. Silversmith presented proposed amended terms for the lease of a parcel of land with a building thereon formerly known as Loew's Kings Theatre, substantially as set forth in Exhibit A hereto.

A motion was made to approve the matters set forth for approval in the Proposed Resolution section of Exhibit A hereto. Such motion was seconded and unanimously approved. In addition, the Board unanimously resolved that there is no reasonable alternative to the proposed assignment of the lease to Kings Theatre Redevelopment Company, L.L.C. or an affiliated entity that will achieve the same purpose as the assignment.

3. Adjournment

There being no further business to come before the meeting, the meeting of the Board of Directors was adjourned.

Mark Silvermith
Secretary

Dated: December 20, 2012
New York, New York

Attachment 1

DEFINITIONS

Apple.....	Apple Industrial Development Corp.
BAT.....	Brooklyn Army Terminal
Bovis.....	Bovis Lend Lease LMB, Inc.
CEQR.....	City Environmental Quality Review process
City DEP.....	New York City Department of Environmental Protection
City DOT.....	New York City Department of Transportation
City Parks.....	New York City Department of Parks and Recreation
City Planning.....	New York City Department of City Planning or City Planning Commission
CM.....	A construction manager
CM Contract.....	A construction management contract
DCAS.....	New York City Department of Citywide Administrative Services
EIS.....	Environmental Impact Statement
ESDC.....	New York State Urban Development Corporation d/b/a Empire State Development Corporation
FM.....	A facilities manager
FM/CM Contract.....	A facilities management/construction management contract
Funding Source Agreements.....	Any agreements necessary to obtain funds for the Project
HPD.....	New York City Department of Housing Preservation and Development
Hudson Meridian.....	Hudson Meridian Construction Group LLC
Hunter Roberts.....	Hunter Roberts Construction Group, L.L.C.
IDA.....	New York City Industrial Development Agency
IDA Agreement.....	Agreement with IDA pursuant to which IDA retains NYCEDC to accomplish all or part of the Project and reimburses NYCEDC for the costs of the work
LiRo.....	LiRo Program and Construction Management, PE P.C.
LMDC.....	Lower Manhattan Development Corporation
MOU.....	A memorandum of understanding
NYCEDC.....	New York City Economic Development Corporation, survivor of a November 1, 2012 merger of a local development corporation (the "LDC") named New York Economic Development Corporation with and into New York City Economic Growth Corporation. References to NYCEDC prior to such merger are references to the LDC.
OMB.....	New York City Office of Management and Budget
Port Authority.....	The Port Authority of New York and New Jersey
RFP.....	Request for Proposals
Sanitation.....	New York City Department of Sanitation
SBS.....	New York City Department of Small Business Services
SEQR.....	State Environmental Quality Review process
Skanska.....	Skanska USA Building Inc.

State DEC..... New York State Department of Environmental Conservation
State DOS..... New York State Department of State
State DOT..... New York State Department of Transportation
State Parks New York State Office of Parks, Recreation and Historic Preservation
Tishman..... Tishman Construction Corporation of New York
Turner Turner Construction Company
ULURP..... Uniform Land Use Review Procedure

Exhibit A

NEW YORK CITY LAND DEVELOPMENT CORPORATION

**NET LEASE OF FORMER LOEW'S KINGS THEATRE
Board of Directors Meeting
December 19, 2012**

OVERVIEW:

On April 25, 2012, NYCEDC'S Board of Directors approved (1) NYCEDC's lease of Block 5132, Lots 16, 18 and 65 (formerly Block 5132, Lots 17 and 18 and Block 5132, part of Lots 1, 14 and 50) in the Borough of Brooklyn (the "Site") from the City, (2) NYCEDC's assignment of the lease to Kings Theatre Redevelopment Company, L.L.C. or an affiliated entity (the "Lessee") for nominal consideration and (3) NYCEDC entering into a related funding agreement. For your information, the April 25 Board item is attached hereto as Attachment A.

Kings Theatre Redevelopment Company, L.L.C. is an affiliate of Arts Center Enterprises – Brooklyn, LLC, which is a wholly owned subsidiary of ACE Theatrical Group, LLC ("ACE"). The owners of ACE are Allen Becker, David Anderson, Kirk Feldman, Brian Becker, Gary Becker and Gary Markowitz.

The Site is an approximately 76,799 square foot parcel of land with an approximately 81,000 square foot building that formerly was known as Loew's Kings Theatre. (The size of the parcel has been adjusted slightly from that previously presented to the NYCEDC Board, due to a subsequent survey.) It is located within the Kings/Flatbush Urban Renewal Area.

The transaction will now consist of (1) the lease of the Site to New York City Land Development Corporation ("NYCLDC") by the City, (2) NYCLDC's assignment of the lease to the Lessee for nominal consideration and (3) NYCEDC entering into a funding agreement as previously approved by NYCEDC's Board on April 25, 2012. The Lessee will assume all of the obligations of the tenant under the lease.

A description of the proposed project to be undertaken by the Lessee and other matters related to the lease are set forth in Attachment A, which is modified as set forth herein. The purpose of the transaction is to permit the project described in Attachment A to be undertaken by the Lessee for the purposes described in Attachment A. The benefits to the public of the assignment of the lease are those that will

result from the project undertaken by the Lessee. Other respondents to the RFP for the lease and their proposals are summarized in Attachment A hereto and the Attachment A thereto.

The Lessee intends to use historic tax credits and new market tax credits to finance the redevelopment of the Site. As a result of such tax credit financing, the Lessee has requested that the term and lease rent structure be altered to integrate with the historic tax credit structure. All other terms previously approved by the NYCEDC Board of Directors remain unchanged (except for the entity that will lease the Site from the City and assign the lease to the Lessee). NYCEDC's authorization to enter into a funding agreement would remain in effect for current NYCEDC.

A description of the proposed modified terms of the lease term and rent structure are as follows:

**PROPOSED LEASE
RENT AND TERM
MODIFICATION:**

The Lessee will lease the Site for a 55-year term (not an initial term of not more than 35 years, with five, five-year renewal terms at Lessee's option as previously approved) and will pay nominal rent for an initial period that will end the earlier of (1) 30 years after substantial completion of the renovation of the building on the Site and (2) 35 years after lease signing. (This mirrors the previously approved nominal rent period). Upon completion of the initial period, the Lessee will pay rent for the remainder of the term. In the first year following the initial period, rent will be the lesser of (1) an amount based on an appraisal (conducted at approximately the end of the initial period) of fair market value of rent for the land as encumbered by the lease or (2) an amount calculated as if \$172,798 (\$2.25 per square foot) was rent in the first year of the lease and had escalated by the increase in the Consumer Price Index until the end of the initial period. Thereafter, rent shall increase every five years by the increase in the Consumer Price Index during the previous five years.

**PROPOSED
RESOLUTIONS:**

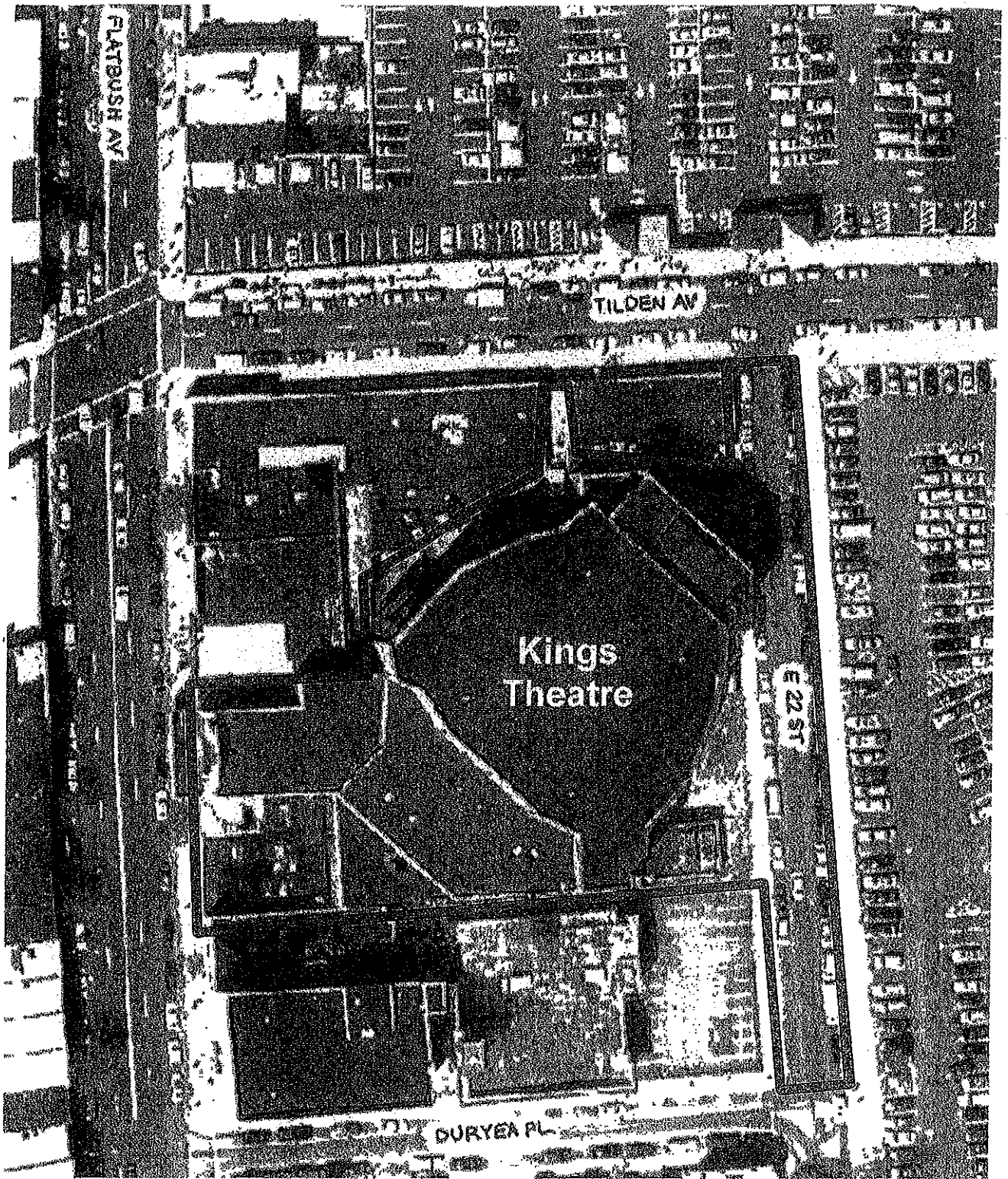
The approval of (1) NYCLDC's lease of the Site from the City, and (2) NYCLDC's assignment of the lease to the Lessee for nominal consideration, on substantially the above described terms.

The Board of Directors further resolves that there is no reasonable alternative to the proposed assignment of the lease to the Lessee that will achieve the same purpose as the assignment.

**PROJECT
CODE:**

2629

Staff: Christina DeRose, Vice President, Real Estate Transaction Services
Miriam Harris, Senior Vice President, Real Estate Transaction Services



Attachment A

NET LEASE OF FORMER LOEW'S KINGS THEATRE
Board of Directors Meeting
April 25, 2012

LESSOR: The City of New York

**LESSEE/LEASE
ASSIGNOR:** NYCEDC

LEASE ASSIGNEE: Kings Theatre Redevelopment Company, L.L.C. or an affiliated entity (the "Lessee")

Kings Theatre Redevelopment Company, L.L.C. is an affiliate of Arts Center Enterprises – Brooklyn, LLC, which is a wholly owned subsidiary of ACE Theatrical Group, LLC ("ACE"). The owners of ACE are Allen Becker, David Anderson, Kirk Feldman, Brian Becker, Gary Becker and Gary Markowitz.

SITE LOCATION: Block 5132, Lots 17 and 18 and Block 5132, part of Lots 1, 14 and 50 (which is the bed of East 22nd Street between Duryea Place and Tilden Avenue, a portion of which will be demapped) (the "Site")
Borough of Brooklyn
Community Board No. 14
1025-35 Flatbush Avenue, Brooklyn, New York 11226

SITE DESCRIPTION: The Site is an approximately 73,000 square foot parcel of land with an approximately 81,000 square foot building that formerly was known as Loew's Kings Theatre. It is located within the Kings/Flatbush Urban Renewal Area.

USER: ACE operates a theatrical facility management company which has over 30 years of experience in the field of professional performing arts facility management and development. The principals have an established business model for combining the restoration of a historic theater with its operation as a diversified performing arts center. They have completed numerous similar projects across the country, including the Boston Opera House, the Warner Theatre in Washington DC, the France-Merrick Performing Arts Center in Baltimore, the Saenger Theatre in New Orleans, and the Majestic Theatre in San Antonio. It is anticipated that the Lessee will restore the existing theater and operate it substantially as described below.

**LEASE RATE/
APPRAISED VALUE:**

The Lessee will lease the Site at a nominal rent for an initial term that will end the earlier of (1) 30 years after substantial completion of the renovation of the building on the Site and (2) 35 years after lease signing. Rental during the five, five-year renewal terms (exercisable at the option of the Lessee) will be based on one or more appraisals of the fair market value of the Site, as encumbered by the lease. The lease will require historic restoration of the building and operation as a first-class performing arts venue.

An appraisal completed in April 2010 and confirmed by a reliance letter dated March 20, 2012, valued the ground rent under two scenarios:

- (1) As-is, highest and best use of the Site. In this scenario, the highest and best use was determined to be demolition of the building and construction of a commercial development permitted by zoning. The ground rent was determined to be \$1,100,000 per year with a concession in rent to make up for the cost of demolition and abatement. The land sale value was determined to be \$18,600,000 though a deduction would be required to make up for the cost of demolition and abatement. Although the theater building is historic, there currently is no legal restriction on its demolition.
- (2) As-is, assuming a requirement for historic preservation. In this scenario, the appraiser also completed a valuation requiring historic restoration of the building and concluded the scenario to be "not financially feasible", with a valuation of approximately negative \$52,000,000. The decrease in value is due to the estimated cost of completing the historic restoration and lower operating profits.

EMPLOYMENT:

With the lease, the Lessee expects to create at least 50 permanent jobs. It is anticipated that construction will generate approximately 500 temporary jobs. In addition, each performance will create additional temporary jobs for theatrical freelancers.

**PROJECT DESCRIPTION/
PURPOSE OF
TRANSFER:**

The City will enter into a lease for the Site with NYCEDC; NYCEDC will assign the lease to the Lessee for nominal

consideration and the Lessee will assume all of the obligations of the tenant under the Lease. The Lessee proposes to redevelop the existing approximately 3,200-seat, historic theater on the Site, located in the Flatbush neighborhood of Brooklyn. The Lessee will complete a historic renovation of the existing theater as well as an expansion of the stagehouse and back-of-house areas. The total cost of the project is estimated to be approximately \$74,000,000.

The Lessee expects to host approximately 200-250 shows per year. The Site will be used as a first-class performing arts facility and for related purposes (concessions, community events, etc.). A small portion of the Site may be developed in the future for commercial uses.

An RFP for the Site was issued in March of 2008 for the uses to be undertaken by the Lessee. NYCEDC received four responses to the RFP including (1) ACE, (2) a joint venture of the Clarett Group and KG Urban Advisors, (3) The Kings of Kings Development Management, LLC, and (4) The Issachar Group International, Inc. NYCEDC selected ACE to undertake the project. ACE had the strongest financial package and the most experience in similar projects. A summary of the other offers is attached hereto as Attachment A.

TRANSFER BENEFITS: As noted above, the project will create significant permanent, construction and temporary jobs. The project will preserve a historic asset. In addition, the project will replace an unused building on a critical commercial corridor with a vibrant community amenity that provides cultural, architectural and historic resources and event space for community groups for below-market rents. Theaters also create tremendous benefits for adjacent and other neighborhood business owners by attracting visitors who will shop and dine before and after shows.

ASSIGNMENT: The Lessee may assign its interest in the lease in connection with obtaining historic tax credits or new market tax credits.

FUNDING AGREEMENT: NYCEDC, on a sole source basis, will enter into a funding agreement with the Lessee, an affiliate of the Lessee or a not-for-profit entity contractually obligated to use the funds

for the project, to provide an amount up to \$51,000,000 of Capital Budget funds to be used for the project.

ZONING:

The Site is zoned C4-2.

PUBLIC APPROVALS:

Adoption of the Kings/Flatbush Urban Renewal Plan and related actions was approved pursuant to ULURP in 1980.

Pursuant to Section 384(b)(4) of the New York City Charter, the Brooklyn Borough Board approved the sale on June 7, 2011.

**PROPOSED
RESOLUTIONS:**

The approval of (1) NYCEDC's lease of the Site from the City, (2) NYCEDC's assignment of the lease to the Lessee for nominal consideration and (3) NYCEDC entering into a funding agreement, on substantially the above described terms,

The Board of Directors further resolves that there is no reasonable alternative to the proposed transfer that will achieve the same purpose as the transfer.

**NYCEDC PROJECT
CODE:**

2629

ATTACHMENT A

OTHER RFP RESPONSES			
Name	City Capital Ask	Annual Rent Proposed	NPV to City
Clarett Group and KG Urban Advisors	\$80,000,000	\$250,000	(\$76,648,921)
The Kings of Kings Development Management, LLC	\$80,000,000	\$1	(\$79,999,987)
The Issachar Group International, Inc.	Unknown*	20% of revenue**	Unknown*

*The Issachar Group did not submit a specific ask but also had no experience in theater redevelopment or operations and did not submit a construction estimate reflecting actual conditions of the theater.

**The proposal was a rent equal to 20% of ticket sales and rental revenue, estimated at a constant \$630k per year over the term. The projections were not substantiated by realistic estimates or comparables.

