

**RATIFICATION OF EMERGENCY ACTION TAKEN
TO AMEND THE EXTERNAL AUDITING SERVICES AGREEMENT WITH EFPR GROUP, LLC**

Proposed Budget and Contract

LMDC staff requests Board authorization to amend the existing contract with EFPR Group LLC, herein after referred to as “EFPR”, as external auditor to LMDC and to request funding authorization in the amount of \$80,000 for up to a two year period. The contract will provide for external audit services for the Fiscal Years ending March 31, 2024, and, if necessary, 2025. This contract will be funded with LMDC planning and administration funds.

Background

Since its inception, LMDC has prepared financial statements and audit reports separate and distinct from its parent company, Empire State Development (ESD). This requirement has been met every year of LMDC’s existence while LMDC continues to rely on ESD to maintain LMDC’s financial records, perform treasury functions, and provide payroll services. Since 2007, LMDC has met its auditing requirements by engaging the same external audit firm selected by ESD through ESD’s requests for proposals (RFP), to conduct LMDC external audits. Through a 2020 RFP process, ESD selected EFPR as its external auditor for the Fiscal Years ending 2021 through 2023 with an option to extend the agreement two more years through 2025. ESD has exercised the two-year extension option. As a result, LMDC seeks to extend its EFPR contract for up to two additional years to conduct LMDC’s external audit and to prepare our federally required annual Single Audits.

Scope of Services

LMDC is seeking to engage EFPR as external auditor for the current fiscal year ending 2024, and for the 2025 fiscal year, if necessary. The engagement will require EFPR to perform audits and prepare audit reports for LMDC. The audits will be conducted in accordance with generally accepted auditing standards as well as Government Auditing Standards, and will include such tests of our accounting records necessary to enable EFPR to express an opinion on LMDC’s financial statements, and issue a management letter. The engagements will include compliance testing for grant awards, as required by 2 CFR 200 Subpart F, and the issuance of a Single Audit Report pursuant to such circular.

Selection Process

EFPR was selected as ESD’s auditor through a competitive RFP issued in 2020. EFPR is also a qualified vendor on the New York State Office of General Services Contract for Auditing Services. LMDC relied on these competitive procurement processes in selecting EFPR to provide auditing services based on their qualifications and the efficiencies gained through their simultaneous audit work for ESD.

Firm Description

EFPR is a New York State auditing firm focused on nonprofit and governmental organizations. The firm provides audit, accounting, and consulting services to over 600 nonprofit and governmental organizations in addition to ESD on an annual basis. Some current clients include the New York State Office of the State Comptroller, the New York State Division of the Budget and the New York State Executive Chamber, New York State Senate, New York State Assembly, New York City Human Resource Administration as well as numerous other governmental organizations.

**RATIFICATION OF EMERGENCY ACTION TAKEN
TO AMEND THE WEBSITE SERVICES AGREEMENT WITH NGENIOUS SOLUTIONS**

Proposed Budget and Contract

LMDC staff requests Board authorization to amend the existing contract with NGenious Solutions (“NGenious”) for website services through March 31, 2025 and to request funding authorization in the additional amount of \$27,000. This contract will be funded with LMDC planning and administration funds.

Background

LMDC’s website www.renewnyc.com communicates information regarding LMDC’s mission to revitalize Lower Manhattan in the aftermath of September 11 and offers access to public documents relating to our action plans, quarterly activity reports, the environmental review process, public meetings, press releases, and other relevant information. The site also serves as an archive for the rebuilding process, providing historical information and images of the World Trade Center site and other areas of Lower Manhattan. NGenious has provided required website services for LMDC since they assumed responsibility for this utility in 2018.

Scope of Services

NGenious provides hosting, general maintenance, security and content management services as authorized by LMDC. NGenious will continue to maintain coding, software, comment forms and comment databases, and provide the capability for live broadcasts of LMDC Board meetings.

Selection Process

NGenious was selected through a mini-bid because they were willing to provide the requested services using our existing website platform and functionality, at a good value to LMDC. Services provided include hosting the LMDC website on a secured environment with enterprise class firewall, site maintenance, and content management.

NGenious offered the same services as our previous website provider for a slightly lower cost which will remain the same for the next year. NGenious has been very responsive to LMDC requests and their familiarity with our legacy system software and coding has enabled them to provide effective and efficient service.

Firm Description

NGenious is a New Jersey based company established in 2005 which has become a global enterprise solutions provider delivering technology-enabled services and solutions. NGenious is a Microsoft Gold Partner and Microsoft Cloud Solution provider that offers boutique style, personalized services to its clients. NGenious is New York State MWBE Certified and a national minority business enterprise.

Request for Approval of the LMDC 2024/2025 Administrative Budget

Proposed Budget

LMDC staff requests Board approval of LMDC’s proposed planning & administration budget for Fiscal Year End (FYE) March 31, 2025 in the amount of \$525,425, which is approximately 31% less than the 2024 budget. The budget reflects a 34% reduction in *Personnel* costs and a 23% reduction in *Other Than Personnel Services* costs. For most of the current fiscal year, LMDC operated with three and one-half full time equivalents (FTEs) personnel. The proposed budget reduces LMDC staff capacity to one and one-half FTEs working with Empire State Development (ESD) staff, as warranted. This staff level is expected to be sufficient for the anticipated workload which includes monitoring, processing payments, grant close out procedures, and required HUD reporting associated with the remaining projects. Personnel expenditure cost reductions continue to be achieved through the sharing of resources with ESD. LMDC Internal Audit and Legal services have been and will continue to be provided by ESD employees with their time allocated to and paid with LMDC funds. The proposed budget reflects cost share estimates for internal audit, legal and some additional project oversight services.

Beginning in the new fiscal year, LMDC staff will work with ESD to complete the remaining LMDC projects and grant closing responsibilities that will not be completed by the end of March 2024. Staff has been working diligently to complete as many projects as possible for the purpose of winding down LMDC operations. The proposed budget is intended to cover LMDC operating and transition costs through FYE March 31, 2025.

Below please find the proposed LMDC Fiscal Year End March 31, 2024 Administrative Budget.

LOWER MANHATTAN DEVELOPMENT CORP.			
FISCAL YEAR APRIL 1, 2024 - MARCH 31, 2025 ADMINISTRATIVE BUDGET			
DEPARTMENT	BUDGET FYE 2024	ESTIMATED ACTUAL SPENDING FYE 2024	BUDGET FYE 2025
Administrative Funds			
All Combined Operations	760,785	688,618	525,425
Total Administrative Funds	<u>\$ 760,785</u>	<u>\$ 688,618</u>	<u>\$ 525,425</u>
Personnel	532,312	515,680	349,560
Other Than Personnel	<u>228,473</u>	<u>172,938</u>	<u>175,865</u>
Total Administrative Funds	<u>\$ 760,785</u>	<u>\$ 688,618</u>	<u>\$ 525,425</u>

REQUEST TO PRE-AUTHORIZE TIME EXTENSIONS TO EXISTING LMDC CONSULTING SERVICES CONTRACTS

Proposed Budget and Contracts

LMDC staff requests advanced Board authorization to extend, if needed, the terms of contracts with one or more existing LMDC consulting and/or service firms with no additional funds being added to the contract(s). The agreements will be extended in cases where additional time is needed to complete LMDC projects and grant closeout procedures. The purpose of this request is to streamline operations for LMDC and address routine contract extensions that the Board previously authorized. The Board's pre-authorization would not apply if any additional funds are being sought for the contracts. Funds to meet the obligations of these LMDC agreements already exist in the appropriate project-related Partial Action Plans, current and anticipated 2025 Administrative budgets, or will be paid by the World Trade Center Site 5 developer or the Port Authority of New York and New Jersey.

Background

LMDC requires legal, environmental and other advice and services related to complex construction, land use, and other matters arising out of federally-funded planning and development programs in Lower Manhattan. Examples of such programs include the World Trade Center Memorial and Redevelopment Plan and the related General Project Plan (GPP) for the World Trade Center Memorial and Cultural Program, the Modified WTC GPP, as well as other off-site projects. To provide such advice and services, LMDC has utilized several firms that historically provided services to LMDC and parent company, Empire State Development given their familiarity with similar issues. In all of these instances, the Board previously authorized the services and contract funds associated with the agreements, along with specific contract end dates that may need to be extended at some point.

Scope of Work

LMDC will continue to require legal, environmental, and other services regarding LMDC projects, programs and grant close-out requirements given the diverse nature of LMDC's work. The need for these services exists in connection with the Site 5 development and amendments to the WTC GPP, as well as other matters related to the completion of the remaining LMDC projects. Time extensions will be granted as requested by LMDC on an as-needed basis.

Selection Process

All relevant agreements were authorized by the LMDC Board and the legal and environmental services contracts are included on current Empire State Development Pre-Qualified lists.

REQUEST TO AMEND PARTIAL ACTION PLAN S-2 AND THE FINAL ACTION PLAN

LMDC staff requests Board authorization to prepare and issue amendments to Partial Action Plan S-2 (PAP S-2) and the Final Action Plan (FAP) for public comment with later review by LMDC and submission for approval by the U.S. Department Housing and Urban Development (HUD), to the extent necessary. The proposed amendments will reduce the project budgets in each of the remaining non-administration activities within PAP S-2 and the FAP only after the LMDC funded portions of these projects are completed with applicable funds paid or reserved for payment in accordance with existing grant agreements. The residual funds, if any, will be transferred to the *Administration and Monitoring (Admin)* activity in PAP S-2 and the *Affordable Housing* activity in the FAP. The specific amounts of residual funds in each activity, if any, that will result in activity budget reductions cannot be determined until the projects are closer to completion and/or final reimbursement requests are received. The purpose of these proposed transfers is to close completed activities while preserving available funds for administrative and affordable housing uses. Administration funds are needed to cover costs associated with the monitoring, reporting, payment processing and the closing of grant agreements and action plans.

The full amount of funding needed to fulfill the previously authorized grant obligations for each remaining non-administrative activity currently exists in each respective PAP S-2 and FAP activity budget. These amendments, if approved, will allow for the transfer of any unused or residual funds to the *Admin* and *Affordable Housing* activities resulting in the closing of multiple other activities within PAP S-2 and the FAP. The *Admin* budget increase would be sufficient to cover the proposed fiscal year 2025 budget while remaining below the 5% administration funding limit allowed by HUD.

Scope of the Amendments to the Remaining Action Plans

These possible amendments to PAP S-2 and the FAP are intended to preserve available funds, if any, from each of the remaining activities once these activities are completed and/or confirmed to be sufficiently funded. Such residual funds will be swept or transferred to the *Admin* and *Affordable Housing* activities only after a determination is made by LMDC staff that sufficient funds exist to meet the previously approved grant recipient commitments for their projects.

Administrative and Monitoring

The proposed reallocation to the *Admin* activity in PAP S-2 is necessary to cover the proposed fiscal year end March 2025 administrative budget. LMDC staff continues to carry out its grant management, project oversight, environmental and regulatory compliance monitoring, project coordination, grant reporting and payment processing activities. Administrative spending is and will continue to remain less than 5% of total grant expenses.

Affordable Housing

For several years, LMDC's primary objective whenever funds become available from closing activities has been to preserve funds for transfer to the *Affordable Housing* activity in the FAP. As such, residual funds that become available will be reallocated to the *Affordable Housing* activity budget for uses in accordance with the FAP.