

PROPOSED – NOT YET ACTED UPON.
 AVAILABLE TO THE PUBLIC PURSUANT TO NEW YORK STATE OPEN MEETINGS LAW

**REQUEST FOR APPROVAL OF THE
 LMDC 2021/2022 ADMINISTRATIVE BUDGET**

Proposed Budget

LMDC staff requests Board approval of LMDC’s proposed planning & administration budget for Fiscal Year End March 31, 2022 in the amount of \$999,997, which is approximately 6.7% less than the 2021 budget. The budget reflects an 8.4% reduction in *Personnel* costs and a 1.6% reduction in *Other Than Personnel Services* costs. One full time equivalent position has been eliminated from our budget but staff levels should be appropriate for the anticipated workload during upcoming year as we continue managing and monitoring projects through completion.

Below please find the proposed LMDC Fiscal Year End March 31, 2022 Administrative Budget.

**LOWER MANHATTAN DEVELOPMENT CORP.
 FISCAL YEAR APRIL 1, 2021 - MARCH 31, 2022 ADMINISTRATIVE BUDGET**

DEPARTMENT	BUDGET FYE 2021	ESTIMATED ACTUAL SPENDING FYE 2021	BUDGET FYE 2022
Administrative Funds			
All Combined Operations	1,071,773	1,000,241	999,997
Total Administrative Funds	<u>\$ 1,071,773</u>	<u>\$ 1,000,241</u>	<u>\$ 999,997</u>
Personnel	797,687	739,613	730,483
Other Than Personnel	<u>274,086</u>	<u>260,629</u>	<u>269,514</u>
Total Administrative Funds	<u>\$ 1,071,773</u>	<u>\$ 1,000,241</u>	<u>\$ 999,997</u>

**REQUEST TO EXTEND AND AMEND THE PRE-QUALIFIED COUNSEL
AGREEMENTS FOR LEGAL SERVICES****Proposed Budget and Contracts**

LMDC staff requests Board authorization to increase funding and extend for one year the term of contracts with one or more law firms on the Empire State Development (ESD) Pre-Qualified Counsel List established in 2017 and in effect through March 31, 2022. LMDC staff requests an additional \$700,000, thus increasing authorized funding over the term of these contracts from \$3,700,000 to \$4,400,000, to be used as needed by management for one or more of these Pre-Qualified firms. Funds for the proposed contracts and amendments are provided in the fiscal year end 2022 and the anticipated 2023 budgets and in appropriate project-related Partial Action Plans, or will be paid by the World Trade Center Site 5 developer.

Background

LMDC requires legal advice and services related to complex construction, environmental, land use, and real estate matters arising out of the many 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 for the World Trade Center Memorial and Cultural Program (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 ESD and LMDC given their familiarity with similar issues.

The Board previously authorized a total \$3,700,000 for law firms included in the 2008, 2012 and 2017 ESD Pre-Qualified Counsel Lists for contract terms through March 2022. Approximately \$140,000 of these funds remains unexpended at this time much of which we expect to be used in the period through June 2021. We anticipate spending for legal services to range from \$20,000 to \$30,000 per month through March 2023 with the majority of the spending being for Site 5 development matters.

Scope of Work

LMDC will continue to require legal services in the following areas of law: (1) construction, (2) environmental, and (3) real estate and land use, as well as any related litigation. In addition, LMDC may require legal advice and services in other areas of the law given the diverse nature of LMDC's work. The need for legal services has arisen in connection with the Site 5 development and anticipated amendments to the WTC GPP, as well as other matters related to the completion of the remaining LMDC projects. LMDC seeks to increase contract values accordingly up to the proposed Pre-qualified contracts limit and extend its existing retainer agreements, that expire March 31, 2022, by one year with the following firms: (i) Carter Ledyard & Milburn LLP, for matters related to environmental compliance in connection with active LMDC projects and the implementation of and potential modifications to the WTC GPP (including environmental compliance related to the Performing Arts Center, and compliance with historic preservation obligations related to South Street Seaport Museum and the WTC Ship Remnant; and (ii) Venable LLP, for project-specific environmental, insurance and real estate matters including

matters relating to the ongoing and anticipated WTC site land transfers. LMDC will need to increase the Carter Ledyard & Milburn LLP and Venable LLP contracts at some point in 2021 using the funds requested. LMDC may also need to retain additional firms on the ESD Pre-Qualified Counsel List in the event that new legal issues arise with respect to other new or existing projects. At all times, fee caps will be in place representing lower rates as compared to market billing rates, and fees will be paid for actual work performed and expenses incurred, as requested by LMDC on an as-needed basis.

Selection Process

On February 16, 2017, ESDC established a list of pre-qualified counsel to provide legal services in the areas of expertise noted above. The pre-qualified counsel list facilitates the procurement of legal service in a prompt and timely manner and will be in effect for the selection of firms from the list made by or before March 31, 2022. LMDC has reviewed the list and recognizes the distinguished history of the firms, many of which have already provided or currently provide legal services to LMDC, including Carter Ledyard & Milburn LLP and Venable LLP.

REQUEST TO EXTEND THE CONTRACT WITH AKRF FOR ENVIRONMENTAL SERVICES**Proposed Budget and Contract**

LMDC staff is requesting Board authorization to amend the existing environmental consulting contract with AKRF, Inc., herein after referred to as “AKRF”, by increasing the contract value by \$650,000 to \$3,070,000, and extending the terms of the contract for an 18-month period through March 31, 2023. Funds will be allocated on an as-needed basis and funding will be provided from relevant Partial Action Plans, LMDC Board approved Administration Budgets, or paid for by the World Trade Center Site 5 developer.

Background

As the recipient of HUD Community Development Block Grant program funds, LMDC is the lead environmental agency under state and federal law and must complete the appropriate level of environmental review for each HUD funded project before implementation can begin. LMDC is also responsible for environmental compliance monitoring for individual subrecipients and Lower Manhattan as a whole. These environmental services must continue to fulfill LMDC’s obligations under the National Environmental Policy Act and the State Environmental Quality Review Act.

LMDC has relied on services provided by AKRF for a variety of Lower Manhattan projects ranging from small to very large in scale, including environmental work associated with the World Trade Center (WTC) Site including Site 5. AKRF was selected through multiple LMDC Requests for Qualifications and is currently included on Empire State Development’s (ESD’s) Pre-Qualified Real Estate Development and Planning Related Consultants List. In September 2011, the LMDC Board authorized an additional \$1,950,000 for contracts with four environmental consultants, including AKRF, for up to two years. In October 2013 and September 2014, the Board authorized extensions of the terms for these respective contracts through September 2015. In November 2015, March 2018, and March 2019, the Board authorized further extensions of the AKRF contract through September 2017, September 2019, and most recently through September 2021. AKRF consulting services will be needed particularly related to the development of Site 5.

Scope of Services

AKRF will be asked to provide environmental services related to the development of Site 5 including but not limited to an updated environmental assessment and modification of the General Project Plan. AKRF will also continue to provide environmental consulting services associated with other LMDC-funded projects in Lower Manhattan on an as-needed basis subject to detailed work orders approved by executive management.

Selection Process

AKRF is included on ESD’s pre-qualified list of firms available to provide Environmental Site Assessment, Environmental Review and Historic Preservation and Adaptive Reuse services. The firms on the Pre-Qualified List were selected through an ESD 2017 Request for Qualifications for Real Estate Development and Planning Related Consultants selected through March 31, 2022. Additionally, AKRF has provided environmental consulting services with respect to the World Trade Center Redevelopment Plan since the inception of the Plan and their particular experience and expertise with respect to the Site, the relevant Site documents, and with LMDC make them best suited to provide environmental consulting services on this project.

Firm Descriptions

AKRF, Inc. is a leading environmental planning firm in New York City. They provide services in environmental analysis, land use planning, historic and archeological resources, and hazardous materials. They have extensive first-hand experience with the planning and rebuilding efforts in Lower Manhattan and have been supporting LMDC since 2002.

**REQUEST TO EXTEND THE FAITHFUL + GOULD INC. CONTRACT FOR
COST ESTIMATING, SCHEDULING, CONSTRUCTION FEASIBILITY AND
PRE-CONSTRUCTION SERVICES**

Proposed Budget and Contract

LMDC staff requests Board authorization to extend our contract with Faithful + Gould, Inc. (F + G) to provide cost estimating, scheduling, construction feasibility and pre-construction services on an as-needed basis. An 18-month extension through September 30, 2022 is being sought with no additional funds requested at this time. Funding for this contract was provided for in previous Board authorizations through the Final Action Plan and Partial Action Plan S-2.

Background

Since its inception LMDC has been charged with planning for and aiding in the rebuilding of Lower Manhattan after the events of September 11, 2001. Many of LMDC's projects have moved through design phases to culmination. Cost estimating, scheduling, construction feasibility and pre-construction services have been an integral part of that process. As LMDC moves forward, projects such as the World Trade Center Performing Arts Center, Site 5 development, and some of our Settlement Funds projects may require cost estimating, scheduling, construction feasibility and pre-construction services to guide their development.

Scope of Services

F + G may be asked to provide services required in the areas of cost estimating, scheduling, construction feasibility and pre-construction services, on an as-needed basis. Tasks may include estimating cost elements of proposed projects, including utilities, infrastructure, transportation, site, landscape, architectural, structural, mechanical, electrical, and items for specialty uses or facilities. F + G may also be asked to analyze construction scheduling and construction feasibility, perform value engineering, or consult on construction management issues. All such work will be defined in detailed work orders.

Selection Process

F + G was selected by LMDC pursuant to a Request for Qualifications (RFQ) for Cost Estimating, Scheduling, Construction Feasibility, and Pre-Construction Services as issued on February 7, 2012. F + G's contract existed through March 2015 as a result of this RFQ. LMDC then obtained single source Contract Reporter Exemptions from Empire State Development (ESD) to continue working with F + G for WTC Site related projects through March 2021.

LMDC is seeking a single source Contract Reporter Exemption from Empire State Development for F + G services based on the firm's past experience dealing with complicated Lower Manhattan projects. Approval of this contract extension is contingent upon the pending exemption request.

Firm Descriptions

Faithful + Gould offers a full range of services that include construction management, program management, project management and owner representation, quantity surveying, cost management, value engineering, and risk analysis and management. F+G has experience working on large and small projects involving transportation, commercial, retail and cultural buildings in New York City. Large-scale projects include the WTC Performing Arts Center, the National September 11 Memorial + Museum, and the Grand Central Terminal Renovation.

**REQUEST TO AMEND CONTRACT WITH EFPR GROUP FOR
INDEPENDENT AUDITING SERVICES****Proposed Budget and Contract**

LMDC staff requests Board authorization to amend the existing contract with EFPR Group, herein after referred to as “EFPR”, as independent auditor to LMDC and to request funding authorization in the amount of \$120,000 for up to a three year period. The contract will provide for auditing services for the Fiscal Years ending March 31, 2021, 2022 and, if necessary, 2023. This contract will be funded through the anticipated LMDC planning and administration budgets for the fiscal years ending March 31, 2021, 2022 and 2023.

Background

Since its inception, LMDC’s Audit and Finance Committee has required that LMDC prepare financial statements and audit reports that were separate and distinct from our parent company, the Empire State Development (ESD). This requirement has been met every year of LMDC’s existence as LMDC continues to rely on ESD to maintain LMDC’s financial records, perform the treasury function, and provide payroll services. Since 2007, LMDC has met this requirement by engaging the same independent audit firm selected by ESD through ESD’s requests for proposals (RFP), to conduct LMDC independent audits. Through a 2015 RFP process, ESD selected EFPR as its independent auditor for the Fiscal Years ending 2016 through 2020. A 2020 RFP conducted by ESD also resulted in the selection of EFPR as ESD’s external auditor for the next three years through 2023; as a result, LMDC seeks to extend our EFPR contract for up to three years to conduct LMDC’s independent audit and to prepare our annual report for these same time periods.

Scope of Services

LMDC is seeking to engage EFPR as our independent auditor for the fiscal years ending 2021, 2022 and 2023, if necessary. The engagements 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.