

FOR CONSIDERATION

December 17, 2015

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Bronx (New York City Region – Bronx County) – Kingsbridge Armory Capital – Transformative Investment Program – (Capital Loan)

REQUEST FOR: Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan and to Take Related Actions; Adoption of Findings Pursuant to the State Environmental Quality Review Act

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General Project Plan

I. Project Summary

Company: KNIC Properties LP (“KNIC” or the “Company”)

ESD\* Investment: A construction loan of up to \$30,000,000 (the “Loan”) to be used for a portion of the capital cost of Phase 1 renovations of the Kingsbridge Armory into the Kingsbridge National Ice Center

Loan cannot be used for fees and expenses in connection with the Loan, marketing expenses, outstanding legal fees, payment in lieu of taxes, payment in lieu of sales taxes, payments in lieu of mortgage recording taxes, management fees and incentives, or other costs not related to Phase 1 construction.

\* The New York State Urban Development Corporation doing business as Empire State Development (“ESD” or the “Corporation”)

Project Location: 29 Kingsbridge Road, Bronx, Bronx County (the “Site”)

Proposed Project: Redevelopment of the Kingsbridge Armory into the Kingsbridge National Ice Center. KNIC is in the process of developing the 795,000-square-foot Armory into a 5,000-seat state-of-the art arena surrounded by eight NHL / Olympic size rinks, which will become a national training

and destination facility for ice hockey, figure skating, synchronized skating, speed skating, curling and sled hockey. The property also will have a 50,000-square-foot dedicated community center, a 20,000-square-foot health and training facility, 50 locker rooms including 12 NHL-size rooms, onsite parking for over 450 cars, equipment storage, maintenance and cleaning services and a pro shop for all ice sports (the “Project”).

- Project Type:** Capital renovation
- Regional Council:** The New York City Regional Economic Development Council (“NYCREDC”) has been made aware of this item. The term sheet was accepted in December 2015. The Project is consistent with the NYCREDC Plan as the project redevelops a long-vacant building and creates a new regional destination in the Bronx.
- Loan Financing:** The loan will provide construction financing for a 24 month term at an annual interest rate of 7%.
- Security:** Security will consist of the following: (1) First priority lien without exception on all of Company’s tangible and intangible assets, including, but not limited to, the lease for the facility between Company and the City of New York, intellectual property, and operating cash flow; (2) Pledge of Company’s interest in the receipt of proceeds from any and all EB-5 funds, historic tax credits, and New Markets Tax Credits; (3) A principal repayment guarantee for up to \$10,000,000 from the Kresge Foundation (“Kresge”).

**II. Project Cost and Financing Sources**

<u>Financing Uses</u>	<u>Amount</u>
Construction	\$233,585,126
Architectural & Engineering	19,999,995
Transfer Payment for Community Center Buildout	8,000,000
General Contingencies	3,904,800
Selling, General & Admin	29,611,500
Capitalized Taxes, Insurance and Permits	5,200,000
Interest Expense	25,529,112
Financing Origination Fees	9,281,941
Cash on Balance Sheet	<u>12,921,000</u>
<b>Total Project Costs</b>	<b><u>\$348,033,474</u></b>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
EB-5 Construction Loan	\$250,000,000*	71.8%	TBD
Historic Tax Credits (Federal and State)	71,235,624	20.5%	
Other Preferred Equity	15,918,000	4.6%	
New Markets Tax Credits	10,000,000	2.8%	
Existing Cash	<u>879,850</u>	<u>0.3%</u>	
<b>Total Project Financing</b>	<b><u>\$348,033,474</u></b>	<b><u>100%</u></b>	

\*At this time, the ESD Directors are being asked to approve a \$30 million construction loan, which is anticipated to be repaid by an EB-5 loan. It is anticipated that the remaining \$108 million of the \$138 million ESD commitment will be presented to the ESD Directors at a later date.

### III. Project Description

#### A. Company

**Industry:** KNIC was established to acquire and renovate the Kingsbridge Armory into the Kingsbridge National Ice Center.

**Company History:** KNIC was formed in 2014 with the sole purpose of developing the Armory. In December 2013, the New York City Council approved of the development of the Kingsbridge National Ice Center. This approval marked the culmination of more than four years of work by the KNIC team led by Mark Messier (NHL Hall of Famer and New York Rangers Captain in their 1994 Stanley Cup title), Sarah Hughes (Olympic Gold Medalist) and Kevin Parker.

**Ownership:** The Company is privately owned.

**Size:** The renovated Kingsbridge National Ice Center will contain approximately 795,000 square feet of new uses.

**Market:** Recreation

**ESD Involvement:** KNIC has executed a long-term lease for the Kingsbridge Armory and New York City Economic Development Corporation is holding the lease in escrow until KNIC obtains \$158 million in construction financing commitments. In August 2015, ESD offered a construction financing commitment of \$138 million, of which \$30 million is being presented for approval by ESD's Directors at this time, in order to enable the lease to be released from escrow and to allow the project to move forward and begin construction. ESD's short-term construction loan is anticipated to be repaid with EB-5 loan proceeds, which are anticipated to be available

in 2016.

Competition: N/A

Past ESD Support: This is the Company's first project with ESD.

B. The Project

Completion: Construction is expected to be completed by April 2018.

Activity: The Project entails the redevelopment of the Kingsbridge Armory into the Kingsbridge Armory National Ice Center, consisting of approximately 795,000 square feet. The proposed LEED Silver Project includes nine ice rinks; approximately 64,000 square feet of related program space, including a wellness/off-ice training center, curling rinks, and lockers/equipment storage; approximately 58,000 square feet of related food and beverage, concession, and retail space; and approximately 50,000 square feet of community facility space.

KNIC aims to create the nation's leading complex for ice sports and the world's largest indoor ice facility. The proposed ice rinks are intended for use by neighborhood students and residents, high school and college leagues, open skating times, instructional training, adult professional (minor league) and non-professional hockey teams, figure skating, and speed skating, and other ice events. The central, main rink would have a capacity of approximately 5,000 seats, while the other rinks would have temporary bleacher seating of approximately 100 seat-capacity per rink.

Results: The Project will reactivate a building that has been vacant since 1996. This will be a transformative project and will establish a new regional and international destination in the Bronx. The Project is anticipated to create 400 permanent jobs, of which KNIC has committed to ensure that at least 51% of the hiring is done from the local community.

Economic Growth

Investment Project: Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment projects, benefits typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term benefits not captured in the period of analysis and may involve no permanent job commitments, the estimated benefits typically reflect only construction-related activity.

- Fiscal benefits to NYS government from the project are estimated at \$32,809,953;
- Fiscal cost to NYS government is estimated at \$30,000,000;
- Ratio of project fiscal benefits to costs to NYS government is 1.09:1;
- Fiscal benefits to all governments (state and local) are estimated at \$46,895,200;
- Fiscal cost to all governments is \$30,000,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 1.56:1;
- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at \$187,344,699;
- The economic benefit to cost ratio is 6.24:1;
- Project construction cost is \$294,900,497 which is expected to generate 1,341 direct job years and 696 indirect job years of employment;
- The payback period for NYS costs is three years.

See Project Summary Benefit-Cost Evaluation (attached) for detail and definitions.

Company Contact: Kevin Parker, Founder/Managing Member/Chairman  
 250 Park Avenue, 7th Floor  
 New York, NY 10177  
 Phone: (646) 790-4810

ESD Project No.: AA133

Project Team:	Project Management	Brendan Healey
	Legal	Antovk Pidedjian
	Contractor & Supplier Diversity	Denise Ross
	Finance	John Bozek
	Design & Construction	Peter Topor
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the Loan (\$300,000) at closing (not from Loan proceeds). In addition, at the time of closing, the Company will reimburse ESD (not from Loan proceeds) for all out-of-pocket expenses incurred in connection with the Project, including but not limited to the cost of any public hearing, outside counsel and advisors, to be selected at ESD's sole discretion.
2. The Company will demonstrate no materially adverse changes in its financial condition

prior to closing.

3. The Company will be required to contribute a minimum of \$20,000,000 in the form of equity contributed after the Company's written acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project. Equity cannot be subject to any agreements providing for the refund or repayment of some or all of the Equity to parties other than the Company prior to August 2020.
4. Up to \$30,000,000 will be disbursed to the Company on a closing date to be determined only after Company: a) has secured the release of the lease for the Armory from the New York City Economic Development Corporation; b) demonstrates that it has spent \$10,000,000 in equity, including at least \$5,760,000 in Founder's cash equity, on direct capital expenditures, as evidenced to ESD by Company and approved by ESD, in its sole discretion; and c) secures the Guarantee from Kresge, which shall be unconditionally payable to ESD within fifteen (15) days after the Loan maturity date if and to the extent that the Loan has not been repaid by such date. The Guarantee shall be unencumbered and not subject to any calls by Kresge (including if Kresge withdraws from the project). The Guarantee shall only terminate and be of no further force and effect upon the repayment in full of the Loan.

Expenses reimbursed with Loan proceeds must be incurred on or after the term sheet acceptance date to be considered eligible project costs. Disbursement of the Loan must be requested by April 1, 2016.

5. ESD may reallocate the Project funds to another form of assistance, at an amount no greater than \$30,000,000, for the Project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
6. Rate/Term: 7% interest rate over twenty four months. Rate increased by 1% per month on all overdue amounts subject to a cap of 12% per annum. Loan becomes immediately due and payable if Company sells or closes the Project Location.
7. Repayment Term: Quarterly interest-only payments beginning after disbursement of the Loan, with outstanding principal due in full in the 24<sup>th</sup> month.
8. Financial Disclosure: Updated financial disclosure on Company and all guarantors acceptable to ESD must be provided prior to closing. Company shall demonstrate no materially adverse changes in its financial condition prior to closing.
9. The Loan is senior to all other indebtedness, without exception.

10. Lien/Collateral: First priority lien on all tangible and intangible assets, including the lease for the facility, intellectual property, and operating cash flow. Pledge of Company's interest in the receipt of proceeds from any and all EB-5 funds, historic tax credits, and New Markets Tax Credits. Kresge will provide a guarantee for \$10,000,000.
11. Due Diligence: All applicable reviews including but not limited to Appraisals, legal and finance review and engineering and environmental reviews acceptable to ESD, in ESD's sole discretion, must be provided prior to closing, if applicable.
12. The Loan may be prepaid at Company's option, in whole or in part, at par at any time.
13. Construction Monitor: Company will pay for ESD to hire a consultant, selected at ESD's sole discretion, to monitor construction and approve in advance all expenditures referenced in ESD Investment. ESD will make a reasonable attempt to utilize the same consultant as being used for the EB-5 and other processes.
14. EB-5: Escrow agent to be approved by ESD (such approval not to be unreasonably withheld, delayed or conditioned). Company will provide monthly updates on the progress of its EB-5 application and fundraising. Any reference to the State of New York or any entity thereof, including ESD, in connection with marketing, promotion, or otherwise, shall be subject to ESD's prior approval, which may be given or withheld at ESD's sole discretion.
15. Public Approvals: The Loan is subject to all required public approvals ("Public Approvals"), which are a condition to the making of the Loan. ESD shall have no liability if such Public Approvals are not obtained.
16. Financing Commitment and Proof of Professional Ability: Company must demonstrate sufficient financial resources and professional ability to develop and operate the Site in a manner consistent with the Company's proposal(s) to ESD. Company will submit to ESD annual audited financial statements and quarterly internal financial statements certified by an officer of the Company for the term of the Loan.
17. Environmental Compliance: As necessary, Company shall remediate the Site in accordance with all Federal, state and local requirements. Company shall be responsible for ensuring that any remediated soils remain segregated from any contaminated soils upon completion of remediation work.
18. Construction Guaranties: Company shall provide security satisfaction to ESD for timely completion of construction, which security will include a guaranty by the contractor for the due, punctual and faithful performance of its obligations, duties, covenants and responsibilities to the project in the form of a Guaranteed Maximum Price consistent with industry standards.

19. Brokerage Commissions: Company is solely responsible for any brokerage commissions. ESD represents that it has not engaged or dealt with any broker in connection with the Site.
20. Indemnification: The Loan agreement shall include one or more indemnification provisions under which, among other things, Company shall forever defend, indemnify and hold harmless ESD and its officials, directors, members, principals, servants, officers, employees, agents and representatives (the “ESD Indemnitees”) from and against any and all obligations, costs, losses, liabilities, claims, demands, penalties, damages, and expenses, including, but not limited to, attorney’s fees, incurred by any of them and arising in any way from the Loan, the Site, any default of the Company, and/or the Project, together with legal costs incurred by ESD in connection with the failure of the Company to perform its indemnification obligations.
21. Assignment: Company shall not assign the Loan in whole or in part. Company shall not sublease the Premises in whole or in part without ESD’s prior written consent, which may be granted or denied at ESD’s discretion.
22. Insurance: Company shall have and maintain insurance in full force and effect and at all times with respect to the Site in such amounts, duration and covering such risks as ESD may require from time to time. Such insurance shall include ESD as an additional insured on all liability policies on a primary and non-contributory basis. ESD shall be named as a loss payee on all property policies and shall be named as an insured on all builders’ risk/installation policies. All policies shall be satisfactory to ESD, include full waiver of subrogation in favor of ESD, and shall be provided by companies satisfactory to ESD.
23. Maintenance of Site: During the term of the Loan, Company shall assume full responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Site and shall maintain the same in good order and condition.
24. Right of Inspection: ESD shall have the right to enter Site at all reasonable times and upon reasonable notice to, among other things, inspect the Site.
25. Sustainability: Company is committed to incorporating sustainable construction practices and building to the highest level of LEED certification as is possible, including: High efficiency building systems/glazing, energy recovery systems, low flow water fixtures, green roof/street level landscaping to mitigate heat island/rainwater discharge. Climate change resilience, including: all MEP systems above Base Flood Elevation, pervious street level paving, dual backup generators for life safety/IT resilience. Social sustainability, including: mission-based equality and partnership, health/wellness support, catalyst of societal transformation to a caring and balanced world.



26. Job Development: The Company will use good faith efforts to create 400 new jobs at the Site. The Company has committed to ensure that at least 51% of the hiring is done from the local community.

#### IV. Statutory Basis – Transformative Investment Program

The funding was authorized in the 2015-2016 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Design and Construction

KNIC Properties LP is in the process of redeveloping 750,000 square feet Kingsbridge Armory ("Armory") into the Kingsbridge National Ice Center consisting of approximately 795,000 square feet. The projected total construction cost is \$233,585,126. ESD's construction loan of up to \$30,000,000 is to be used for a portion of capital cost of Phase I renovation of the Armory.

Design and Construction (D&C) staff will review construction documents, payment requests in compliance with D&C Requirements. D&C staff, at sole discretion, will visit the project's site to inspect construction progress.

#### VI. Environmental Review

ESD (the "Corporation"), pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the Final Environmental Impact Statement ("FEIS") certified as complete on October 25, 2013 by the New York City Office of the Deputy Mayor for Economic Development, as lead agency, in connection with the proposed Kingsbridge Armory National Ice Center (the "proposed action").

SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an FEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Draft Environmental Impact Statement ("DEIS") and FEIS relied upon to support the Corporation's decision on the action that is the subject of the requested authorization.

The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the DEIS and FEIS;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;

- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable;
- The proposed action is in compliance with Section 14.09 of the State Historic Preservation Act.

Therefore it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.

VII. Non-Discrimination and Contractor & Supplier Diversity

ESD’s Non-discrimination & Contractor and Supplier Diversity policy will apply to the Project. The Company shall be required to solicit and utilize New York State certified Minority-owned and Women-owned Business Enterprises (“MWBE”) for any contractual opportunities generated in connection with this Project and to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 40%. The overall MWBE participation goals shall consist of a Minority-owned Business Enterprise (“MBE”) Participation goal of 20% and a Women-owned Business Enterprise (“WBE”) Participation goal of 20% related to the total value of ESD’s funding. MBE utilization may not be applied to meet the goal for WBE participation, or the reverse.

VIII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

IX. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

X. Additional Submissions to Directors

- Resolutions
- New York State Map
- Benefit-Cost Analysis
- Exhibit A – SEQRA Involved Agency Findings Statement
- Project Rendering

