Memorandum of Understanding

between

New York State Division of
Minority and Women Business Development

and

The Surety & Fidelity Association of America

and

New York State Insurance Department

and

The Jamaica Business Resource Center

Whereas

The New York State Division of Minority and Women Business Development, the chief economic development program for New York State Minority and Women-owned businesses (hereinafter referred to as the "Division") is committed to promoting the rapid growth and development of small, minority and women-owned businesses in the State of New York to facilitate greater participation by these businesses in contracting opportunities with and in the State of New York, including those from federal, state, local government and commercial organizations, and those involved in the rebuilding of lower Manhattan; and

The Division's goal is to build the capacity of minority and women-owned enterprises (MWBEs) and provide assistance to qualified New York-based MWBEs in effectively competing for bids, contracts, and procurement

opportunities with and in the State of New York, including those from federal, state, local government and commercial organizations, and those involved in the rebuilding of lower Manhattan; and

The Division acknowledges the need for program efforts to increase awareness of and access to bonding for these businesses; and

Whereas

The Surety & Fidelity Association of America (hereinafter referred to as the "SFAA") is a licensed rating or advisory organization in all states, including the District of Columbia and Puerto Rico and has been designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience; and

The SFAA plays an active role in diversity nationwide by assisting in educating emerging contractors on how to become bondable or increase their bonding capacity; and

The SFAA provides technical assistance and program resources to state and local governments in the areas of contractor development and bonding support; and

The SFAA is committed to working with the Division to promote the growth and development of minority and women-owned businesses throughout the State of New York through greater awareness of and access to bonding; and

Whereas

The New York State Insurance Department (hereinafter referred to as the "Department") is responsible for supervising and regulating all insurance business in New York State, and as part of its mission seeks to foster growth of the insurance industry in the State, including the ready availability and affordability of surety bonding;

Therefore, be it resolved that

The Division and the SFAA, in consultation with the Department, jointly will develop and support programs and activities which will provide minority and women-owned businesses throughout the State of New York

with the skills and access to bonding and financing necessary to enhance their efforts at significant participation in the contracting opportunities with and in the State of New York, including those from federal, state, local government and commercial organizations, and those involved in the rebuilding of lower Manhattan; and

The program hereby established is the New York State Division of Minority and Women Business Development Bonding Initiative, hereinafter called the "Bonding Initiative", a partnership of the Division and the SFAA; and

The objective of the Bonding Initiative is to assist minority, and/or women-owned businesses specializing in construction and construction-related services to qualify for and access bonding or increase their bonding limits through education and direct assistance in the bonding process by working directly with the surety industry and the U.S. Small Business Administration's Bond Guarantee Program, as well as to pursue other approaches to bonding access such as state-sponsored bond guarantee programs; and

The initial activity under the Bonding Initiative will be a "pilot" contractor development program to be launched on or about February 21, 2008, undertaken with the assistance of The Jamaica Business Resource Center (a grantee of the U.S. Department of Commerce/Minority Business Development Agency and hereinafter referred to as "JBRC"), and jointly utilizing the educational workshops and bond readiness components of SFAA's Model Contractor Development Program and the existing construction and business management workshops of JBRC. Contractors selected to participate in this "pilot" program must be certified as a minority or woman-owned business with the State of New York and must meet pre-defined criteria established by the Division, as well as other prequalification criteria. Under this "pilot", the Division and JBRC will:

- conduct on-going outreach to inform the minority, and women contractor community of the Bonding Initiative;

- identify and recruit a minimum of 30 companies in the "Downstate" area (consisting of the 5 boroughs of New York City, and Nassau, Suffolk, Westchester and Rockland counties) that can benefit from participating in the Initiative, as well as conduct contractor recruitment in the other areas of New York State (including Buffalo,

Albany, Syracuse and Rochester in which the Initiative will be implemented (The goal in each of these primarily "Upstate" areas is to recruit between 10 and 15 contractors for the initial round of program participation with subsequent rounds to follow). Also as part of this recruitment effort the Division and JBRC will work with members of Governor Spitzer's MWBE Executive Leadership Council such as the Dormitory Authority of the State of New York to identify contractors who run solid construction businesses, but have not had bonds in the past;

- network MWBE contractors with the surety, banking, and financial industries through sponsoring meetings and conferences in a variety of settings;

- organize and arrange a series of workshops on various aspects of contractor development, based on the SFAA/MCDP and JBRC educational workshops;

- offer technical assistance in areas such as management and operational systems, finance and accounting systems, business plan development, access to capital, and access to procurement; and provide referrals to legal and accounting professionals for additional assistance to contractors who may need assistance beyond education and training, prior to applying for bonding; and

- report on a quarterly basis to the Department on the number, identity and geographic location of contractors enrolled in the program, the number, identity and geographic location of contractors who have completed the program, and the number, identity and geographic location of contractors who have been offered bonding after completing the program.

The SFAA and JBRC will:

- identify appropriate professionals from the surety, construction, legal and financial sectors who shall make presentations at each of the Bonding Initiative workshops;

- coordinate, facilitate, and/or provide access to resources of the SFAA and JBRC, which will assist the ESDC in fully implementing all aspects of the Bonding Initiative;

- establish peer reviews whereby contractors are teamed up with members of the surety industry who would review their bondability. The SFAA and JBRC will identify and develop a prescriptive plan to address any potential denial factors apparent from each company's profile and bonding package reviewed;

- monitor the implementation of each contractor's development strategy as issues of bondability are addressed; and

Once the "pilot" program is underway, the SFAA and the JBRC, coordinated by the Division, will employ the SFAA/MCDP and JBRC business development models and bond readiness activities to facilitate state-wide implementation of the Bonding Initiative in the Albany, Buffalo, Rochester and Syracuse areas sequentially each week following the February 21 launch in accordance with the contractor numbers stated above;

The goal of this Program is to achieve an optimal level of bondability for each participating contractor and the surety industry is committed to see every contractor that successfully completes the Program by following the prescriptive plan designed for that contractor obtain a bond, bond line or increase his or her bonding limit; and

The SFAA will work with its member surety companies to maximize access to bonding for all participants in this "pilot" and state-wide efforts under the Initiative. And, in addition,

Since many of the CEOs of the surety industry have committed to aggressively service MWBEs in New York State in their regular course of business in addition to participating in the Program, and because the Department is committed to ensuring the continued availability and affordability of surety bonding for qualified small business owners, the number of contractors to benefit is not limited to the number that participate in the formal pilot and state-wide efforts.

The Division, the SFAA and the JBRC continually will coordinate each aspect of program implementation to ensure that the Bonding Initiative is

managed efficiently, including such operational matters as conducting intake and assessment for bonding, assembling company profiles and bonding packages, and providing monthly, quarterly or other periodic reports that may be necessary for program success; and

An Advisory Oversight Committee comprised of four individuals and made up of representatives of the Division and the Department will be established to monitor the progress and success of the program on a quarterly basis and ensure that the Department receives detailed progress reports on a regular basis. Measures of success will include the number of contractors who have completed the program, the number of contractors who have been offered bonding and the number of those contractors who actually have received bonding.

Furthermore,

The SFAA will continue to work with the U.S. Small Business Administration (SBA) to have its Surety Bond Guarantee Program aggressively re-enter the New York market as part of its agreed-upon participation in this Bonding Initiative; and

The Division will incorporate its new Capital Access Program into this Initiative thus allowing access to that capital to those participating contractors who need additional capital in their business to qualify for surety bonds.

It is mutually agreed between the Division, the SFAA and the Department, that each party shall be responsible for its own expenses arising out of and in relation to the terms and conditions of this Memorandum of Understanding (MOU).

This MOU may be amended at any time by the parties in writing, or any party may terminate its participation in the MOU upon 90 days of posting of notice to the other parties by regular mail and certified mail return receipt requested, however, all parties agree that such termination would be for good cause only.

Any communication pertaining to this MOU shall be directed to Mr. Michael Jones Bey, Executive Director, Division of Minority & Women's Business Development, Empire State Development Corporation, 633 Third

Avenue, 33rd Floor, New York, NY 10017; to Mr. Samuel A. Carradine, Jr., Director of Development and Diversity, The Surety & Fidelity Association of America, 1101 Connecticut Avenue, NW, Suite 800, Washington, DC 20036; to Mr. Robert H. Easton, Deputy Superintendent & General Counsel, New York State Insurance Department, 25 Beaver Street, New York, NY 10004; and to Mr. Timothy H. Marshall, President & CEO, Jamaica Business Resource Center, 90-33 160th Street, Jamaica, NY 11432.

This revised MOU shall be effective February 15, 2008, and remain in force until termination by the parties to this MOU.

This document is a memorandum of understanding only. It is only a declaration of intent. The agreement does not create any actionable rights or obligations that may be asserted by either party.

Any portion of this agreement that conflicts with federal, state or local law shall be null and void.

Signed this 15th day of February, 2008

The Honorable David Paterson
Lieutenant Governor
The State of New York

Mr. Michael Jones-Bey
Executive Director, MWBE Division
Empire State Development Corporation

Gary T Dunbar

Mr. Gary T Dunbar
Immediate Past Chair
The Surety & Fidelity Association of America

Mr. Eric R. Dinallo
Superintendent
New York State Insurance Department

Mr. Heyward Davenport
Regional Director
Minority Business Development Agency
U.S. Department of Commerce

Rev. Edwin Reed
Chairman
JBRC Board of Directors