

Public Authorities Accountability Act of 2005

Filed pursuant to and in accordance with Subdivision (1) of Section 2800 of the Public
Authorities Law:

Annual Report
2013

1.) Operations and Accomplishments in 2013

During this past year the Albany Convention Center Authority (“ACCA”) has proceeded under the guidance of New York State Office of General Services (“OGS”), to develop an alternative concept plan to locate a right sized convention facility between Eagle, Howard and Wendell Streets adjacent to the Empire State Plaza, the EGG, the Times Union Center and directly connected to the Empire State Plaza Walkway.

Commencing in January and culminating in the approval by Governor Cuomo to proceed with the alternative concept plan (the “Albany Capital Center”), issued on December 17, 2013, the work scopes prepared for and then paralleled the following guidelines provided by New York State:

ACCA, City and County worked on the alternative plan following the re-appropriation in FY 13-14, the State has reviewed the plan and believe it merits exploring and will make Empire State Development (“ESD”) re-appropriated resources available to undertake the studies and assessment detailed below. At the end of that work the ACCA, County, City, & State will determine whether the plan is viable to move forward and achieve the established goals or not.

1. Commission an independent market study
2. Commission an independent management assessment and plan (Alternative Convention Center, Times Union, ESP Convention Center, & The Egg)
3. Develop a concept plan and building program
4. Develop a construction finance plan & critical path method
5. Secure appraisals of the land and buildings required
6. Conduct a preliminary SEQRA review

This process resulted in deliverables for review by OGS in November including:

- Market Study
- Management Assessment
- Concept Plan
- Conceptual Estimate
- Plan of Finance
- Critical Path Schedule
- Land Appraisals
- Survey
- Phase 1 Environmental Assessment
- Preliminary Title Investigation
- Preliminary SEQRA review including a public scoping session.
- Presentation Documents:
 - Renderings
 - Floor Plans
 - Building Program

Upon receipt of the approval from New York State (“NYS”), the ACCA commenced negotiations with all land owners for the purchase of the land required for The Albany Capital Center.

The ACCA contacted the Architectural, Engineering and Construction Management firms previously selected through competitive Requests for Proposals to obtain updated scopes of work for the Albany Capital Center

In preparation for the design phase the ACCA successfully completed the requirements of the \$10 Million ESD Grant Disbursement Agreement (“GDA”) such that the \$1,000,000 balance was released to reimburse the ACCA for monies expended in the pre-construction phase of the original convention center project.

Working with the professional teams to manage all owned structures and parking facilities during the period prior to construction, the ACCA took steps to secure and protect all recently vacated buildings and areas.

In developing 2014 budget, all costs were reviewed in order to reduce or eliminated such expense, including:

- Insurance on structures with consideration being given to self-insuring any unoccupied structures for the cost of demolition and removal;
 - Any on-going property and parking management needs as reflected by changing occupancy rates
 - ACCA Office operations, equipment, and facilities;
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- As in all prior years; ACCA staff has met all requests for presentations, including those by: Capitalize Albany Corporation (“CAC”), Albany County Convention and Visitors Bureau (“ACCVB”), Central Business Improvement District, various candidates to elected office, and those from all elected/appointed officials of local, county & state government;
 - As in all prior years; an independent auditor reviewed all ACCA activities and accounts, successfully completing an annual audit in which no material defects were identified or noted.
 - As in all prior years; ACCA staff has met all requirements of the enabling legislation, Public Authorities Accountability Act (“PAAA”), Public Authorities Reform Act (“PAR”), and the Authorities Budget Office (“ABO”).

2.) Financial Reports – (i) Audited Financials: follow link below:

http://www.accany.com/albany_convention_center_authority/FinancialInformation/Audits.aspx

(ii) grant and subsidy programs – The ACCA received a second grant for \$10 million in 2009 approved by Governor David Patterson and administered by the Empire

State Development Corporation (“ESDC”). The grant was used for certain expenses associated with the project as approved by ESDC. Those included:

- Land acquisition
- Archeology, historical conservation and environmental remediation
- Preconstruction and site planning
 - Project management
 - Phase 1B environmental investigation
 - Survey/title updates/appraisals
 - Architectural renderings/schematics
 - Program Review
 - Cost estimating

As of December 31, 2013, a final requisition for the remaining \$1 million with ESDC was fulfilled, ending the grant.

(iii) operating and financial risks - The ACCA’s funding is currently derived from Empire State Development Corporation grants based upon a \$75 million State budget appropriation and a portion of a Hotel-Motel Occupancy Tax enacted by Albany County. The ACCA had accessed funds from these sources for its operational and financial obligations that occurred in 2013. The ACCA’s efforts for 2013 were to properly maintain the properties acquired for the former convention center plan and in completing the activities as detailed in section one above.

(iv) current ratings, if any, of bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings – N/A

(v) long-term liabilities, including leases and employee benefits plans - Lease obligations are the only long-term liabilities of the ACCA. As a result of the acquisitions, purchase of buildings and land made on August 24, 2010, the Authority was assigned ground leases relating to surface parking areas which contain development rights. These parcels were within the originally designated site for the building of the convention center. Assignment of these ground leases allows for the Authority to take the existing leases over from the original lessee with the same terms in place. The ground leases are accounted for as operating leases. The leases include a purchase option for two of the three properties during the final five years of the lease term. The surface parking areas to which these leases relate are being rented on a daily, monthly and event basis utilizing management agents.

3.) Mission statement and measurements including its most recent measurement report

Mission Statement: The New York state legislature found, determined and declared that a convention center facility located in downtown Albany will provide significant economic and social benefits to the City and County of Albany and the entire capital district region and that locating such convention center facility in the City of Albany is in the public interest, given the convenience and accessibility of the City, its significance in the history of the State, its stature as the capital city of the State and the seat of State government. It is therefore the purpose and mission of the Albany Convention Center Authority to design,

develop, plan, finance, create, site, construct, renovate, administer, operate, manage, and maintain a convention center facility within the downtown area of the City of Albany.

Measurement Report:

The performance of the Authority can be measured by the conduct of the following activities within its allocated resources and necessary approvals:

- 1.) All pre-development activities such as studies, surveys, site selection, design, and land acquisition; and

See accomplishments for 2013 in item 1 above.

- 2.) All construction activities necessary to construct the convention center facility; and

None

- 3.) All activities associated with operating a convention center facility.

None

4.) Schedule of bonds and notes Outstanding

There are no bonds or notes outstanding as of December 31, 2013

5.) Compensation schedule for salaries in excess of \$100,000.

- a.) Duncan Stewart, Executive Director/CEO.

6.) Biographical information for all persons with salaries in excess of \$100,000

Mr. Duncan Stewart has over 25 years of experience in commercial construction and development industries. His career includes employment with several Capital Region developers and contractors, including serving 12 years as vice president of operations for Zandri Construction in Cohoes. Project experience includes: the air-traffic control tower/Tracon Facility, air cargo and maintenance buildings at the Albany International Airport, renovations and additions to Albany Public Schools #20 and #27, new gymnasium and classroom additions to the St. Anne Institute in Albany, Woodland Hills Montessori School, renovations and additions to St. Pius X, St. Augustine's, and St. Mary's Crescent among other liturgical facilities.

A resident of Averill Park, Mr. Stewart, is a native of Boston, having lived in the Capital Region since 1975. In his project work, he has served in both the capacity of an owner's representative and general contractor and has extensive experience with the construction management process both as advisor and as constructor.

7.) Projects undertaken during the past year

Pursuant to its enabling legislation, the general purpose of the ACCA is to design, develop, plan, finance, create, site, construct, renovate, administer, operate, manage, and maintain a convention facility located in the City of Albany. Therefore, the ACCA has a single statutorily mandated project.

Please see 2013 activities listed in Section 1 above, which are all in furtherance of a single project.

8.) Listing of all real property having a fair market value in excess of \$15,000.

No acquisitions of real property having a fair market value in excess of \$15,000 were purchased in 2013:

All real property having a fair market value in excess of \$15,000:

TAX MAP	LOCATION	OWNER
76.50-1-23	27 Dallius Street	ACCA
76.50-1-15	62 Green Street	ACCA
76.50-1-16	62.5 Green Street	ACCA
76.50-1-17	64 Green Street	ACCA
76.50-1-18	66 Green Street	ACCA
76.50-1-19	72 Green Street	ACCA
76.50-1-20	74 Green Street	ACCA
76.50-1-21	46 Division Street	ACCA
76.50-1-22	44 Division Street	ACCA
76.50-1-31	346 Broadway	ACCA
76.50-1-34	1 City Square	ACCA
76.11-1-7	3 City Square	ACCA
76.11-1-8	2 E-Comm	ACCA
76.11-1-9	3 E-Comm	ACCA
76.11-1-10	310 Broadway	ACCA
76.11-1-13	5 Pryun Street	ACCA
76.42-5-25	50 Hudson Avenue	ACCA
76.50-1-24	14 Dallius Street	PSC,LLC
76.50-1-25	22 Dallius Street	PSC,LLC
76.50-1-26	39 Hamilton Street	PSC,LLC
76.50-1-27	37 Hamilton Street	PSC,LLC
76.50-1-28	31 Hamilton street	PSC,LLC
76.50-1-29	23 Liberty Street	PSC,LLC

76.50-1-30	28 Division Street	PSC,LLC
76.50-1-32	342 Broadway	PSC,LLC
76.50-1-33	338 Broadway	PSC,LLC
76.50-1-35	330 Broadway	PSC,LLC
76.11-1-12	298 Broadway	JOHN CLARK,TRUSTEE
76.42-5-21	58 Green Street	JOHN CLARK,TRUSTEE
76.42-5-22	54 Green Street	JOHN CLARK,TRUSTEE
76.42-5-23	50 Green Street	JOHN CLARK,TRUSTEE
76.42-5-24	52 Hudson Avenue	JOHN CLARK,TRUSTEE
76.42-5-27	46 Hudson Avenue	JOHN CLARK,TRUSTEE
76.42-5-28	37 Division Street	JOHN CLARK,TRUSTEE
76.42-5-29	41 Division Street	JOHN CLARK,TRUSTEE
76.42-5-30	43 Division Street	JOHN CLARK,TRUSTEE
76.42-5-31	45 Division Street	JOHN CLARK,TRUSTEE
76.42-5-32	47 Division Street	JOHN CLARK,TRUSTEE
76.42-5-33	49 Division Street	JOHN CLARK,TRUSTEE
76.50-1-3	56 Division Street	ACCA
76.50-1-4	54 Division Street	ACCA
76.50-1-5	52 Division Street	ACCA
76.50-1-6	57 Green Street	ACCA
76.50-1-7	57.5 Green Street	ACCA
76.50-1-9	61 Green Street	ACCA
76.50-1-10	65 Green Street	ACCA
76.50-1-12	65 Hamilton Street	ACCA
76.50-1-13	67 Hamilton Street	ACCA
76.42-5-44	358 Broadway	ACCA

9.) Code of ethics - See attachment A

10.) Assessment of internal control structure and procedures

Our independent auditor found no material weakness in the Internal Control Structure and Procedures during the 2013 Audit.

11.) Enabling legislation – Follow link below

http://www.accany.com/albany_convention_center_authority/AboutACCA/NYSEnablingLegislation.aspx

12.) Description of the authority and its board structure

- **Committees and Members**
 - Audit & Finance Committee – a committee of the whole
 - Governance Committee – a committee of the whole

- **Board Meetings and Attendance** - follow link below

http://www.accany.com/albany_convention_center_authority/MeetingRecord/2013.aspx

- **Description of Major Authority Units or Subsidiaries** – NA
- **Number of Employees** – 2

13.) Charter and by-laws – See Attachment B

14.) Listing of material changes in operations and programs during the reporting year – Under the guidance of the NY State Office of General Services, the ACCA was requested to consider an alternative for the convention center project as detailed in Section 1 above. In December, 2013 Governor Cuomo approved the plan that has been named the Albany Capital Center.

15.) Minimum of a 4 year financial plan, including: (i) current and projected capital budget, (ii) operating budget report, including an actual versus estimated budget with an analysis and measurements of financial and operating performance – See Attachments C-1 and C-2

16.) Board performance evaluations; provided, however, that such evaluations shall not be subject to disclosure under FOIL – See Attachment D

17.) Description of the total amount of assets, services or both assets and services bought or sold without competitive bidding including: (i) the nature of assets and services, (ii) names of the counterparts, (iii) where the contract price for the assets purchased exceed FMV or where the contract price for the assets sold is less than FMV, a detailed explanation of the justification for making purchase or sale without competitive bidding and a certification by the CEO and CFO that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines – OGS requested the ACCA commission a management analysis of the Times Union Center, the Albany Capital Center, the Empire State Plaza Convention Center and the performing arts venue known as The Egg. The contract for these services was \$51,832. In accordance with Section 3, paragraph A of the ACCA Procurement Policy, titled Professional Services, this contract was procured without competitive bidding due to the special, technical training and expertise required to provide this unique analysis.

18.) Description of material pending litigation – N/A

I hereby certify the foregoing report is accurate to the best of my knowledge, based on the audited financial records of the Albany Convention Center Authority.

Gavin Donohue
Chair