

FOR CONSIDERATION

January 21, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Olean (Cattaraugus County) – Data Listing Services Capital – JOBS Now Program (Capital Grant)

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 Grant and to Take Related Actions

General Project Plan

I. Project Summary

Grantee: Data Listing Services, LLC

ESD* Investment: A grant of up to \$700,000 to be used for a portion of the cost of the acquisition and installation of telecom, data, and related equipment and licenses; furniture, fixtures and office equipment; and interior leasehold improvements.

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

Project Location: 1010 Wayne Street, Olean, Cattaraugus County

NYS Empire Zone
(or equivalent): Cattaraugus County Empire Zone

Proposed Project: The establishment of a 336-seat in-bound call center.

ESD Incentive Offer Accepted: November 5, 2007 (initial offer); March 14, 2008(revised offer)

Project Completion: November 30, 2008

Number of Employees at Project Location:
 Initial employment at time of ESD Incentive Offer: 0
 Current employment level: 283
 Minimum employment on January 1, 2012: 500

Grantee Contact: Mr. John Meier, Vice President/Chief Financial Officer
 11351 Rupp Drive
 Burnsville, MN 55337
 Phone: 952-948-5332
 Fax: 952-948-5498

Anticipated
 Appropriation
 Source: JOBS Now Program

ESD Project No.: V811

Project Team: Origination Robert Iszard
 Project Management Jean Bly
 Affirmative Action Helen Daniels
 Finance Yang Song
 Environmental Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Telecom Equipment & Licenses/ Central Data Systems	\$3,494,000
Furniture, Fixtures & Office Equipment	366,000
Leasehold/Infrastructure Improvements	203,000
Soft Costs	<u>75,000</u>
Total Project Costs	<u>\$4,138,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$ 700,000	17%
Company Equity	<u>3,438,000</u>	<u>83%</u>
Total Project Financing	<u>\$4,138,000</u>	<u>100%</u>

III. Project Description

A. Background

Data Listing Services, LLC (“DLS” or the “Company”), established in 1981, operates The Connection®, a live operator, in-bound call center that provides sales, order processing and customer service for the financial, health, telecommunications, wireless, pharmaceutical and catalog direct marketing industries. The Company, a wholly-owned subsidiary of Shared Ventures, Inc. (the “Parent”) (Edina, MN), is headquartered in Burnsville, MN and has facilities in Holdrege, NB and Jamestown, NY.

DLS, which provides service 24 hours a day, seven days a week, utilizes leading technology to instantaneously deliver calls to any call center agent in any of its call center locations, with a capacity to handle over 100 million calls per year. Customized reports are submitted electronically to Company customers detailing number of calls answered and abandoned, average talk time and average speed of an answer. The Connection® is currently rated by Customer Inter@ction Solutions Magazine (the “Magazine”) as eleventh in the “Top 50” service agencies in the country and was recently distinguished as an MVP (Marketing Via Phone) Quality Award recipient by the Magazine. The Company also provides out-bound tele-services and e-support via e-mail or the Web. Major customers include Clearwire US, LLC (Eugene, OR), Federal Deposit Insurance Corporation (Arlington, VA), and North American Membership Group, Inc (Minnetonka, MN). Major competitors include West Telemarketing Corp. (Omaha, NE), Convergys Corp (Ogden, UT), and LiveOps, Inc. (Palo Alto, CA).

In 2007, the Company advised ESD that it was operating at near capacity and needed to expand operations to accommodate current and projected growth. DLS was considering expanding at one of its existing facilities or establishing a new East Coast facility. Pennsylvania provided significant incentives in hopes of enticing the Company to establish a new facility in Coudersport. The Company accepted ESD’s September 26, 2007 incentive offer of a \$700,000 capital grant, resulting in its decision to establish a new call center in the Cattaraugus County Empire Zone, creating 500 full-time jobs by January 1, 2011. ESD issued a revised offer on February 25, 2008, which included an Office of Small Cities grant and allowed the Company until 2012 to create the jobs. Without ESD assistance, these jobs would have been created at one of the Company’s other existing out-of-state facilities or at a new facility in Pennsylvania.

ESD approved a \$500,000 capital grant on November 15, 2007 to assist with the establishment of a Jamestown in-bound call center facility. The Company is in compliance with the terms of grant, and has exceeded the projected employment of 410.

B. The Project

The \$4.138 million project involves leasehold/infrastructure improvements to a 20,000-square-foot facility, and the acquisition and installation of telecom equipment & licenses/central data systems, furniture, fixtures and office equipment necessary for the establishment of a 336-seat inbound call center. The Project is being financed by ESD’s grant and Company equity. The project was completed in November 2008 and the Company has already created 283 jobs.

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$6,550,733;
- Fiscal cost to NYS government is estimated at \$700,000;
- Project cost to NYS government per direct job is \$2,376;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$1,785;
- Ratio of project fiscal benefits to costs to NYS government is 9.36:1;
- Fiscal benefits to all governments (state and local) are estimated at \$11,116,749;
- Fiscal cost to all governments is \$700,000;
- All government cost per direct job is \$2,376;
- All government cost per total job is \$1,785;
- The fiscal benefit to cost ratio for all governments is 15.88:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$45,599,990, or \$116,292 per job (direct and indirect);
- The economic benefit to cost ratio is 65.14:1;
- Project construction cost is \$3,772,000 which is expected to generate 40 direct job years and 28 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.33 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 1 year.

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

C. Financial Terms and Conditions

1. At the time of disbursement, the Company will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no material adverse change in its financial condition prior to disbursement.
3. Shared Ventures, Inc. will guarantee the grant repayment obligation of its subsidiary, Data Listing Services, LLC, in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreement.
4. The Company or the Company's owners will contribute at least 10% in equity to the Project. Equity is defined as any non-debt source of capital, and should be auditable through Company financial statements or Company accounts, if so requested by ESD.
5. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of

thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.

6. Up to \$700,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$350,000) upon completion of the project as substantially described in these materials, documentation of project costs totaling \$3,676,000, and documentation of the employment of at least 250 Full-time Permanent Employees at the Project Location (Employment Increment of 250), assuming that all project approvals have been completed and funds are available;
 - b) a Second Disbursement of an amount equal to 25% of the grant (\$175,000) will be disbursed upon documentation of the employment of at least 375 Full-time Permanent Employees at the Project Location (Employment Increment of 125), provided Grantee is otherwise in compliance with program requirements;
 - c) a Third Disbursement of an amount equal to 25% of the grant (\$175,000) will be disbursed upon documentation of the employment of at least 500 Full-time Permanent Employees at the Project Location (Employment Increment of 125), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESDC of an invoice and such other documentation as ESDC may reasonably require. Expenditures must be incurred on or after November 5, 2007 to be considered eligible project costs. All disbursements must be requested by April 1, 2012.

7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$700,000, for this 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.
8. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;

- (iii) 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee’s number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

Baseline Employment	0
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A	B
Reporting Date	Employment Goals
February 1, 2011	0+X+Y+Z
February 1, 2012	0+X+Y+Z
February 1, 2013	0+X+Y+Z
February 1, 2014	0+X+Y+Z

X = Grantee's Employment Increment that will be the basis of the First Disbursement of the Grant as described in section C.6 above (i.e. X=250, and Employment Goals shall equal [0 + X = 250] if the First Disbursement is made, in the year such disbursement is made and for each year thereafter). If the First Disbursement has not yet been made then X=0.

Y = Grantee’s Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.6 above (i.e. Y=125, and Employment Goals shall equal [0 + X + Y = 375] if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then Y=0.

Z = Grantee’s Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section C.6 above (i.e. Z=125, and Employment Goals shall equal [0 + X + Y + Z = 500] if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Y=0.

IV. Statutory Basis

The project meets the statutory requirement of a JOBS Now Project because the Company will create at least 300 new full-time permanent private sector jobs. No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VI. Affirmative Action

ESD's Non-Discrimination and Affirmative Action policy will apply. Data Listing Services, LLC is encouraged to include minorities and women in any job opportunities created by the Project and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the Project.

VII. 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.

VIII. Additional Submissions to Directors

Resolutions
New York State Map
Project Finance Memorandum
Cost-Benefit Analysis

January 21, 2010

Olean (Cattaraugus County) – Data Listing Services Capital – JOBS Now Program (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Data Listing Services Capital – JOBS Now Program (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Data Listing Services, LLC a grant for a total amount not to exceed Seven Hundred Thousand Dollars (\$700,000) from the JOBS Now Program, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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