

D. Muir Woods Build Now NY IV (U495)

June 24, 2010

Grantee: Ciminelli Development Company, Inc. (“Ciminelli”) d/b/a 330 Dodge Associates

ESD Investment: A grant of up to \$97,500, pending passage of the New York State budget, to be used for a portion of the pre-permitting costs associated with engineering studies, legal fees, economic analysis and site design. Funds may not be used for construction of infrastructure or other improvements on the property nor for the acquisition of real property.

Project Location: 1081 North French Road, Amherst, Erie County

NYS Empire Zone (or equivalent): N/A

Project Completion: December 31, 2010

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Project Team:	Origination	Jim Jacob
	Project Management	Janet Murray
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	Environmental	Soo Kang

Project Description:

Background

ESD’s Build Now NY Program has provided local economic development organizations with matching grants to conduct pre-permitting work, allowing them to be marketed as “shovel ready” sites to fast-growing companies. Increasing the inventory of pre-permitted “shovel ready” sites will allow New York State to position itself to attract and win fast track, high tech projects.

Since 1998, The Directors have authorized four Build Now NY rounds of loans and grants totaling \$7,800,000. Since that time, these loans and grants have leveraged investment of more than \$1.1 billion in 88 Build Now sites to build 10,611,523 square feet of new or expanded facilities. These projects are expected to result in the creation of over 8,000 new jobs and the retention of 896 jobs.

The Project

Ciminelli was established in 1981 as a division of Frank L. Ciminelli Construction Company. The privately held firm is engaged in commercial real estate development in western New York with headquarters located in the Buffalo Niagara region. Its property portfolio includes

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more than 7.5 million square feet of office, flex, medical, industrial and retail space.

Ciminelli is developing Muir Woods, a 102-acre, multi-use community which represents the final chapter of the original Audubon New Community District (“NCD”) initiated by the Empire State Development Corporation, originally the Urban Development Corporation (“UDC”), consisting of over 3,000 acres including the State University of New York at Buffalo, Amherst Campus (“UB”). Muir Woods was originally designed to create a Live, Work & Play environment that would combine a residential and work environment, coupled with various recreational venues and other pedestrian-oriented development while preserving or enhancing open space connections between uses and existing neighborhoods. The proposed land uses are also consistent with predominant existing uses in the immediate area that include commercial office, research & development, retail, as well as single and multi-family residential development. The project will involve economic analysis, engineering, pre-permitting activities and design of the site.

The planning and development of the site is being conducted by Ciminelli. Through a competitive bid process, Ciminelli chose Real Property Services (Williamsville, NY) to perform an economic analysis and Stantec (Chicago, IL) to conduct traffic studies. The legal firms of Harter, Secrest & Emery, LLP (Buffalo, NY) and Hopkins, Garas & Sorgi, LLC (Williamsville, NY) were selected due to previous SEQR work for Ciminelli. Earth Dimensions, Inc. (Elma, NY) and Greenman-Pederson, Inc. (Buffalo, NY) were chosen because of their expertise with wetlands and stormwater/drainage studies. ESD’s grant will reimburse a portion of the eligible expenses incurred for pre-development of the site.

Upon completion of the project, the Grantee will furnish a final report describing the impact and effectiveness of the project.

Financing Uses	Amount	Financing Sources	Amount	Percent
Legal Fees	\$75,000	ESD Grant	\$97,500	27%
Engineering Studies	211,000	Company Equity	268,000	73%
Economic Analysis	36,000			
Site Design	43,500			
Total Project Costs	\$365,500	Total Project Financing	\$365,500	100%

Financial Terms and Conditions:

1. The Grantee will be obligated to advise ESD of a material adverse change in its financial condition prior to disbursement.
2. The Grantee must match ESD’s grant with an equal amount of cash. In-kind services may not be considered part of the local match.
3. Up to \$97,500 will be disbursed to the Grantee, in proportion to ESD’s funding share, as reimbursement for eligible costs during the project, assuming that all project approvals

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have been completed and funds are available. The final 10% (\$9,750) of the Grant shall not be disbursed until all of the tasks and reports required have been completed to ESD's satisfaction. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after July 19, 2006 to be considered eligible project costs.

4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$97,500, 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.

Environmental Review:

ESD staff has determined that the approval of funding to be used for a portion of pre-permitting costs for the proposed Muir Woods project constitutes a Type II action as defined in the New York State Environmental Quality Review Act ("SEQRA"), and therefore no environmental review is required in connection with the authorization. The Muir Woods project was assessed in a Final Generic Environmental Impact Statement by the Town Board of the Town of Amherst as lead agency pursuant to SEQRA and the implementing regulations of the NYS Department of Environmental Conservation.

Statutory Basis – Empire State Economic Development Fund:

1. The project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the State or would enhance or help to maintain the economic viability of family farms.
The availability of "shovel-ready" pre-permitted sites is a key component of both state and local economic development strategies. By conducting the necessary studies, investigations and pre-engineering surveys in advance, economic developers are able to quickly respond to request for proposals and site search questionnaires and to meet increasingly tight real estate development deadlines. The Audubon NCD provides for flexible land use and design criteria through a master plan approach that encourages small-to-large-scale, multi-use neighborhoods incorporating a variety of residential and non-residential property types and services. It is currently home to over 2,000 residents, 3,000 students and faculty members at UB and 200 businesses, which employ in excess of 9,000 individuals.
2. The project would be unlikely to take place in New York State without the requested assistance.
The project grant is necessary to help move the project forward by providing an additional source of funds for the expensive pre-development and pre-permitting process. The Build Now NY initiative has been a catalyst for many development agencies and communities to undertake the development and pre-permitting of sites and business parks.
3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of

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the project exceed costs.

Since its inception, Build Now NY sites have seen over \$1.1 billion in new investment at their locations. These investments have resulted in the construction of over 10 million square feet of new and expanded facilities, and are responsible for the creation of over 8,000 new jobs and the retention of 896 existing jobs. The \$6 million in Build Now funding awarded to local development organizations has also leveraged an estimated additional \$9 million in private sector and federal, state, and local government dollars used in the pre-permitting of these sites.

4. The requirements of Section 10(g) of the Act are satisfied.
The project is undertaken in compliance with the provisions of Section 2-a of Chapter 58 of the Laws of 1998, which requires, among other things, that notice of receipt of applications for funding to be given to state legislators and that Empire State Economic Development Fund monies be allocated in proportion to funding approved under certain of the Corporation's other programs.
5. The requirements of Section 10(g) of the Act are satisfied.
See cover memo.