

FOR CONSIDERATION

November 18, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: New York Harbor – Agreement with the Port Authority of New York and New Jersey (“PANY&NJ”) for Funding with Regard to the Joint Dredging Plan

REQUEST FOR: Authorization to Approve the Funding to the New York State Department of Environmental Conservation (“DEC”) for creation of a Dredging Team and Authorization to Enter into Agreements and Contracts with DEC and Amend the Bi-State Dredging Agreement; Authorization to Make a Grant and Take Related Actions

General Project Plan

I. Project Summary

Borrower/Grantee: New York State Department of Environmental Conservation (“DEC”)

ESD* Investment: Grant Funds received from the Port Authority of New York and New Jersey (“PANY&NJ”) in an amount not exceeding \$3,241,583.

Proposed Project: The grant will result in the creation of a six-member interdisciplinary team at DEC to focus on dredging in the New York Harbor and dredge material placement.

Project Completion: Five Years from Commencement of the Program

Grantee Contact: John J. Ferguson
Environmental Analyst 3
625 Broadway
Albany, NY 12233-1010
Phone: (518) 402-9177

Anticipated

Appropriation

Source: The Port Authority of New York and New Jersey – Bi-State Dredging Fund

ESD Project No.: X250

Project Team:	Project Management	Kevin J. Rutkowsky
	Legal	Jonathan Beyer
	Affirmative Action	Helen Daniels
	Environmental	Soo Kang

II. Project Cost and Financing Sources

<u>Financing Use</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Total</u>
Personnel and Non-Personal	\$611,346	\$629,829	\$648,316	\$666,803	\$685,289	\$3,241,583

Total Project Costs \$3,241,583

<u>Financing Sources</u>	<u>Amount</u>	<u>Percentage</u>
PANY&NJ Grant	\$3,241,583	100%
Total Project Financing	<u>\$3,241,583</u>	<u>100.0%</u>

III. Project Description

A. Background

The Port of New York and New Jersey (the “Port”) is the largest port on the East Coast of the United States, and is the third largest port in the country in terms of container traffic. It is a significant economic engine in the region. The Port directly supports 164,930 direct jobs and 269,990 total jobs in the region, which generated over \$11.2 billion in personal income in 2008. Port activity also generated \$5 billion in federal, state and local tax revenues. The efficient and effective management of the Port enhances regional competitiveness, attracts investment, reduces the cost of consumer goods, and directly contributes to the standard of living in the region.

The Port’s ability to remain a competitive and an economically vital resource is hinged upon its ability to accommodate deeper draft post-panamex vessels. Two natural impediments to accommodating these larger ships are the Port’s depth and the fact that it is a river port. Since the Port has a natural depth of approximately 18 feet, it must be deepened to permit access for these larger ships with deeper drafts. Secondly, currents carry silt and sediment downstream, resulting in shoaling in the harbor. Maintenance dredging is necessary to remove the sediment and sand that settles within the Port to ensure safe navigation of vessels, keep berths open, and advance economic activity.

The management of dredged material from the harbor has undergone significant alteration within the last fifteen years. Historically, material dredged from the from the Port was barged and placed via open ocean disposal approximately six miles eastward of Sandy Hook, New Jersey (“Mud Dump Site”). However, in 1997, due to surveys indicating that the contaminants of certain material placed at the site led to sediment toxicity and bioaccumulation in estuarine organisms, the Mud Dump Site and the surrounding area was re-designated as the Historic Area Remediation Site (“HARS”), and material placed at the HARS to remediate the existing material must meet certain standards. Following the change in regulation, the cost of dredging skyrocketed, as much of the material dredged from the Port is not HARS-suitable, and alternative placement methods and sites had to be developed.

Much of the material generated from deepening projects is HARS suitable, and therefore can be placed at HARS, or be utilized in various beneficial reuse projects throughout the region. These beneficial reuse projects include habitat creation and restoration and beach nourishment. Placement of non-HARS suitable material involves greater costs, since the dredged material often needs to be brought upland for placement, and therefore amended with material and transported to the placement site.

Although the need for dredging and development of dredged material placement projects remains in the region, the New York Department of Environmental Conservation (“DEC”) is unable to devote adequate resources to a dedicated staff to ensure timely review of dredging permitting applications, participate in groups dedicated to locating and permitting placement sites for non-HARS and HARS suitable material, and review existing policies and protocols at DEC to advance economically feasible, environmentally sustainable dredging and dredge material management practices, technologies, and sites.

The Board had previously agreed, in 1997, to fund a \$19 million Sediment Contamination and Reduction Program at DEC with Dredging Funds, which included a study of contamination in the water and the remediation of contaminated areas, the development of regulations, and hiring of numerous staff members to carry out the program. The program resulted in a better understanding of contaminant sources throughout the estuary, participation in harbor work groups, and improved permitting for dredging projects throughout the Port.

B. The Bi-State Dredging Fund

In 1996, the PANY&NJ allocated \$130 million to fund the Governors’ Joint Dredging Plan (the “Plan”), with \$65 million allocated for dredging and harbor related projects to each of the States of New York and New Jersey. The Plan was developed with two major objectives, namely the promotion of an increased level of certainty and predictability in the dredging project review process and dredged material management and the facilitation of effective long-term environmentally sound management strategies for addressing dredging and disposal needs for the region.

The Empire State Development Corporation (“ESDC”) was designated as the New York entity to implement the Plan, and entered into an agreement with the PANY&NJ (including all amendments thereto, the “Agreement”). Under the Agreement, the PANY&NJ agreed to provide up to \$65 million for program eligible items to be agreed upon by ESDC and the PANY&NJ related to the dredging and disposal of dredged material and related projects including sediment testing, development of contaminant identification technology, material management initiatives and pollution prevention and navigation studies (“Dredging Fund”).

C. The Project

Recognizing the importance of the Port and its economic activity, the need to improve on existing protocol and practices, and the inability of DEC to accomplish its required tasks without the dedicated resources, DEC has proposed the creation of a Dredging Team for New York and use of funds from the Dredging Fund for funding salaries for this purpose is consistent with the principles of the Plan. The positions currently contemplated for the dredging team at DEC are an Environmental Analyst 4, who will be based in Albany, and an Environmental Analyst 3, Biologist 2, Biologist 1, Environmental Engineer 2 and Environmental Engineer 1, all of whom will be based in DEC’s Region 2 office in New York City.

For a period of five (5) years, this six member team at DEC, amongst other responsibilities, will be exclusively tasked with meeting Uniform Procedures Act requirements for permit applications and project review, the development of written guidelines for dredging and dredged material management projects to assist maritime businesses, reviewing and revising existing dredging permitting and beneficial use policy and procedures, as appropriate, and working with harbor stakeholders and other groups to address the need for dredged material placement sites in New York, in addition to other related tasks. Input on the proposal was obtained from the United States Army Corps of Engineers and the Port Authority of New York and New Jersey - parties with intimate knowledge of the permitting process and what is needed to establish an effective and efficient dredging team.

DEC will report its efforts, exhibiting enhanced efficiency, benchmarking measures, and other efforts to ESDC on a quarterly basis for review. Two years of funding for personal and non-personal services, including salaries, benefits, materials, travel, and will be provided for initially, with funding for each subsequent year provided by ESDC to DEC following a satisfactory annual review of the program. The Directors are being asked to approve funding from the Dredging Fund for the five year program, at a cost of \$3,241,583.

IV ESD Employment Enforcement Policy

ESD’s Employment Enforcement Policy will not apply.

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 for the New York State Department of Environmental Conservation. No further environmental review is required in connection with this project.

VI. Affirmative Action

The New York State Department of Environmental Conservation Non-discrimination and Affirmative Action policy will apply.

November 18, 2010

New York Harbor (Richmond, Kings, New York, Bronx, Queens) - Authorization to Approve the Funding to the New York State Department of Environmental Conservation (“DEC”) for creation of a Dredging Team and Authorization to Enter into Agreements and Contracts with DEC and Amend the Bi-State Dredging Agreement; Authorization to Make a Grant and 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 (the “Materials”), relating to the Agreement between the Empire State Development Corporation and the Port Authority of New York and New Jersey (“PANY&NJ”) for Funding with Regard to the Joint Dredging Plan (including amendments, the “Agreement”), the Corporation be, and it hereby is, authorized to enter into amendments to the Agreement and take other actions to approve the funding, in an amount not exceed \$3,241,583, by ESDC to the New York State Department of Environmental Conservation (“DEC”) for the establishment and staffing of a six member dredging team, and be it further

RESOLVED, that the provision of ESDC financial assistance is expressly contingent on receipt of the necessary funds from the PANY&NJ, and all necessary approvals to deliver the grant to DEC, and be it further

RESOLVED, that the President or his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, to execute and deliver any and all documents and take all such actions as may be necessary or proper to effectuate the foregoing,

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