PLEASE NOTE - We welcome public comment on the items on the following agenda. To ensure maximum opportunity for participation, speakers representing themselves may speak for up to 2 minutes each, and those representing groups may speak for up to 4 minutes (1 speaker per group). Speakers' comments may address only items considered at today's meeting. Materials relating to matters that are scheduled for discussion in open session will be available at the meeting and will be posted on ESD's website prior to the meeting in accordance with the Public Officers Law

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a Empire State Development

Empire State Development works to promote business investment and growth that leads to job creation and prosperous communities across New York State

Meeting of the Directors

Thursday

March 24, 2016 – 9:30 a.m.

REVISED AGENDA

FOR CONSIDERATION

I. CORPORATE ACTIONS

A. Approval of Minutes of the January 26, 2016 and February 18, 2016 Directors' Meetings

B. Annual Operating Budget – Authorization to Adopt Annual Operating Budget, including certain Subsidiary Operating Support and Non-Programmatic Capital Expense Authorization for Fiscal Year (FY) 2016-17 and to Take Related Actions

C. Appointment of Director to the Audit & Budget and the Bond Financing Committees

REPORTS – Oral

A. President's Report

B. Presentation by the Executive Vice President - State Marketing Strategy

C. Loans and Grants – Summary of Projects

II. STATEWIDE-GLOBAL NY FUNDS

A. Statewide-Global NY Grant Fund – Authorization to Adopt Guidelines; Authorization to Make Grants; Authorization to Take Related Actions

B. (Statewide) - Global NY Loan Fund – Authorization to Enter into Agreements for the Funding of Loan Loss Reserves for Export Loans; Authorization to Enter into Agreements for Direct Export Loans; Adoption of Guidelines; Authorization to Take Related Actions

III. PROJECTS

WESTERN NEW YORK REGION

A. Buffalo (Western New York Region – Erie County) – Erie Canal Harbor Development Corporation Outer Harbor Capital – Buffalo Regional Innovation Cluster (Capital Grant) – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

B. Cheektowaga and West Seneca (Western New York Region – Erie County) – Rosina Foods Capital – Empire State Economic Development Fund – General Development Financing (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 Take Related Actions

FINGER LAKES REGION

C. Regional Council Award – Priority Project – Geneva (Finger Lakes Region - Ontario County) – Hobart and William Smith Colleges Capital – Regional Council Capital Fund (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; Determination of No Significant Effect on the Environment

LONG ISLAND REGION

D. Regional Council Award – Priority Project - Coram (Long Island Region - Suffolk County) – Wincoram Commons Capital – Regional Council Capital Fund (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; Determination of No Significant Effect on the Environment

III. PROJECTS – Continued

MOHAWK VALLEY REGION

E. Regional Council Award – Priority Project - Amsterdam (Mohawk Valley Region – Montgomery County) – St. Mary's Healthcare Outpatient Pavilion Capital – Regional Council Capital Fund (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 Take Related Actions; Determinations of No Significant Effect on the Environment

NEW YORK CITY REGION

UPPER MANHATTAN EMPOWERMENT ZONE

F. New York City (New York City Region - New York County) – Upper Manhattan Empowerment Zone – New York Works Economic Development Fund (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

IV. ADMINISTRATIVE ACTIONS

A. Property Disposition Guidelines – Approval of Property Disposition Guidelines, Appointment of Contracting Officer and Authorization to Take Related Actions

B. ESD and Subsidiaries Procurements Guidelines – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

C. Procurement of: Mechanical/HVAC Maintenance Services for ESD's 633 Third Avenue Offices – Authorization to Enter into a Contract for HVAC/Maintenance Services and to Take Related Actions [Materials will be available at meeting and posted to the internet thereafter.]

D. Land Bank Program – Approval of Land Bank Applications and Authorization to Take Related Actions

IV. ADMINISTRATIVE ACTIONS – Continued

MOYNIHAN STATION DEVELOPMENT CORPORATION

E. New York City (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project - Authorization to Enter into a Contract for Legal Services; and to Take Related Actions [Materials will be available at meeting and posted to the internet thereafter.]

F. New York City (New York County) – Moynihan Station Civic and Land Use Improvement Project - Authorization to Amend the Contract with Ernst and Young Infrastructure Advisors, LLC for Market and Financial Feasibility Services; Authorization to Take Related Actions

G. New York City (New York County) – Empire Station Complex – Moynihan Station Civic and Land Use Improvement Project - Authorization to Enter into a Contract for Legal Services; Authorization to Take Related Actions [Materials will be available at meeting and posted to the internet thereafter.]

H. New York City (New York County) – Moynihan Station Complex – Moynihan Station Civic and Land Use Improvement Project - Authorization to Enter into a Contract for Legal Services and Authorization to Take Related Actions [Materials will be available at meeting and posted to the internet thereafter.]

I. New York (New York County) – Moynihan Station Civic and Land Use Improvement Project - Insurance for the James A. Farley Post Office Building and Annex – Authorization to Procure Insurance Policies and to Take Related Actions [Materials will be available at meeting and posted to the internet thereafter.]

V. FOR INFORMATION

A. Quarterly Report on Utilization of Certified Minority and Women Business Enterprises (MWBEs) and Procurement Commitments to MWBEs for the Third Quarter of Fiscal Year 2015-2016

DRAFT – SUBJECT TO REVIEW AND REVISION

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a Empire State Development
Meeting of the Directors
New York City Regional Office
633 Third Avenue
37th Floor Conference Room
New York, New York 10017

and

Albany Regional Office
625 Broadway
Albany, New York 12245

January 26, 2016

MINUTES

In Attendance Directors:	Howard Zemsky (Acting Chair) Derrick Cephas Robert Dyson Daniel Burstein, Designee - Superintendent of Department of Financial Services
Present for ESD:	Maria Cassidy, Deputy General Counsel Brendan Healey, Assistance Vice President-Economic Incentives, Loans and Grants Edwin Lee, Vice President – Economic Incentives, Loans and Grants Glendon McLeary, Assistant Vice President – Economic Incentives, Loans and Grants Marion Phillips III, Senior Vice President – Community Relations Debbie Royce, Assistant Corporate Secretary Kevin Younis, Executive Vice President – Public Policy

Also Present: The Public
The Press

The meeting of the Directors of the New York State Urban Development Corporation ("UDC") d/b/a Empire State Development ("ESD" or the "Corporation") was called to order at 3:04 p.m. by Acting Chair Zemsky. It was noted for the record that the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

Next, Acting Chair Zemsky set forth the guidelines regarding comments by the public on matters on the Agenda as well as with regard to any conflicts of interest the Directors may have with regard to items on the Agenda. No conflicts were noted.

The Acting Chair then asked Mr. Healey to present an item relating to the Kingsbridge Armory Transformative Investment Program Project for the Directors' consideration.

Mr. Healey explained that at ESD's December 2015 Directors' meeting, the Directors approved a $30,000,000 construction loan to KNIC Properties, LP to be used for a portion of the capital cost of Phase I renovations of the Kingsbridge Armory to transform it into the Kingsbridge National Ice Center.

Mr. Healey further explained that the project will entail redeveloping the 795,000 square foot armory into a 5,000 seat state-of-the-art ice arena surrounded by eight additional NHL/Olympic size rinks, which will become a national training and destination facility for ice

hockey, figure skating and other ice sports.

Mr. Healey went on to explain that negative comments were received at a public hearing held on the project on January 14, 2016 and therefore, the Directors are being asked to affirm the General Project Plan as well as their December 17, 2015 Findings and Determinations.

Mr. Healey then outlined the various comments and staff's responses thereto.

Mr. Healey explained that the first comment stated that the project does not represent the needs of the community. In that regard, Mr. Healey noted that ESD staff's response explains that the project has the support of the local Community Board, the Bronx Borough President's Office and local business groups and organizations.

Mr. Healey further noted that the developer, KNIC, has entered into a Community Benefits Agreement with a coalition of 27 local organizations which will provide many benefits for the surrounding Northwest Bronx neighborhood.

Mr. Healey went on to explain that the project will provide living wage jobs, target local hiring and contracting, dedicated community space and local procurement and technical assistance for small local businesses.

Mr. Healey then provided information with regard to further comments received at the public hearing as well as ESD's staff responses thereto. Mr. Healey noted that ESD staff believes that all comments received in connection with the public hearing have been adequately addressed.

Following the full presentation, Acting Chair noted that before he called upon the public for comments, he would ask the Directors if they had any questions with regard to this request.

Director Cephas asked if anyone has estimated the number of full-time or part-time jobs that will be created once the project is up and running.

Mr. Healey stated that once the building is operational, it is anticipated that there will be approximately 400 full-time equivalent jobs created.

Director Cephas then asked if the facility will operate year round and Mr. Healey stated that it will be operational year round.

Director Dyson asked what will take place when the ice rinks are not being used.

Mr. Healey stated that a programming partner is involved and they are looking at other non-ice events such as concerts to be held in the facility.

Director Cephas inquired as to the demand for nine ice rinks and Mr. Healey explained that the developer did elaborate research and that they are expecting approximately 2,000,000 visitors a year.

Director Burstein then asked when the Directors will be asked to approve the additional $108,000,000 for this project and Mr. Healey stated that that request is expected to be made later this year or next year.

The public was then invited to make comments. Two speakers spoke in favor of the project.

First, Desiree Pilgrim-Hunter, a Board Member of the Kingsbridge Armory Signatory Group which is a 26-member organization that signed the Community Benefits Agreement, stated that she was here today to let the Directors know that the Community is in favor of this project.

Ms. Pilgrim-Hunter noted that various members of the community have been working for 19 years to get responsible development of this project site.

Ms. Pilgrim-Hunter further noted that the signatory group has had lengthy negotiations with the developer and has been able to get the most substantive Community Benefits Agreement ("CBA") across the Country. Ms. Pilgrim-Hunter also stated the developer is

committed and will be overseen.

Next, Rachel Ferrari, a Director of Community Affairs for State Senator Gustavo Rivera, read a statement on behalf of Senator Rivera supporting the project and urging the Directors' approval.

Following those comments, the Acting Chair called for a motion on the item and upon motion duly made and seconded, the following resolution was unanimously adopted:

> Bronx (New York City Region – Bronx County) – Kingsbridge Armory Capital – Transformative Investment Program (Capital Loan) – Affirmation of the Directors' December 17, 2015 Findings and Determinations Pursuant to Section 10(g) of the Act; Affirmation of the General Project Plan

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WHEREAS, ESD staff has addressed the negative comments as set forth in the attached materials; and it is hereby

RESOLVED, that on the basis of such materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Kingsbridge Armory Capital – Transformative Investment Program Fund (Capital Loan) 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 President and Chief Executive Officer 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 ESD staff has adequately addressed the negative testimony presented as part of the hearing process and the Corporation hereby affirms such Plan shall be effective at the conclusion of such hearing; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s)

be, and each of them hereby is, authorized to make to KNIC Properties LP a loan for a total amount not to exceed Thirty Million Dollars ($30,000,000) from the Transformative Investment Program Fund or such other funding source as may be available to the Corporation for which the Plan is eligible, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the loan, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the loan as he or she may deem necessary or appropriate in the administration of the loan; 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 President and Chief Executive Officer 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.

* * *

There being no further business, the meeting was adjourned at 3:25 p.m.

Respectfully submitted,

Debbie Royce
Assistant Corporate Secretary

DRAFT – SUBJECT TO REVIEW AND REVISION

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a Empire State Development
Meeting of the Directors
New York City Regional Office
633 Third Avenue
37th Floor Conference Room
New York, New York 10017

February 18, 2016

MINUTES

In Attendance Directors:	Howard A. Zemsky (Acting Chair) Peter J. Beshar Derrick Cephas Robert Dyson Hilda Rosario Escher Mark Silver–Designee, Acting Superintendent (New York State Department of Financial Services)
Present for ESD:	Simone Bethune, Project Manager Lindsey Boylan, Chief of Staff Maria Cassidy, Deputy General Counsel John Discolo, Director-Procurement Elizabeth Fine, Executive Vice President, Legal and General Counsel Brendan Healey, Assistant Vice President–Economic Incentives Tobi Jaiyesimi, Director–Atlantic Yards Community Development Corporation Edwin Lee, Vice President–Economic Incentives–Loans and Grants Benson Martin, Director of Compliance Glendon McLeary, Assistant Vice President–Economic Incentives -Loans and Grants Kathleen Mize, Controller Debbie Royce, Assistant Corporate Secretary Robin Stout, Senior Counsel Joseph Tazewell, Director–New York City Regional Office Kay Wright, Executive Vice President–Public Affairs Kevin Younis, Chief Operating Officer

Also Present:

James Fayle, Director–Central New York Regional Office
Steve Gawlik, Vice President–Capital Projects and Senior Counsel - Strategic Initiatives
Edward Muszynski–Finger Lakes Regional Office
Christopher Schoepflin, President–USA Niagara Development Corporation
Meghan Taylor–Mid-Hudson Regional Office
Kenneth Tompkins, Director–Mohawk Valley Regional Office

Also Present:

Scott Bateman, SUNY POLY
Tom O'Brien – SUNY POLY
Chris Walsh – SUNY POLY
Robert Simpson, Co-Chair – Central New York Regional Economic Development Council

The Press
The Media
The Public

The meeting of the Directors of the New York State Urban Development Corporation ("UDC") d/b/a Empire State Development ("ESD" or the "Corporation") was called to order at 9:31 a.m. by Acting Chair Zemsky. It was noted for the record that the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

Next, the Acting Chair set forth the guidelines regarding comments by the public on matters on the Agenda as well as with regard to any conflicts of interest the Directors may have regarding items on the Agenda. Acting Chair Zemsky noted that he will recuse himself from voting on the resolution regarding the Port Terminal Complex which will be presented later in the meeting.

Acting Chair Zemsky then called for a motion to approve the Minutes of the January 21, 2016 Directors' meeting. There being no changes or corrections, upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE JANUARY 21, 2016 MEETING OF THE DIRECTORS OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on January 21, 2016, as presented to this meeting, are hereby approved and all actions taken by the Directors presented at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

The Acting Chair then asked the Directors to approve the appointment of Lindsey Boylan as Chief of Staff to the President and Chief Executive Officer; Jeffrey Nordhaus as the Executive Vice President of Innovation and Broadband; and Kevin Younis as Chief Operating Officer.

Upon motion duly made and seconded, the following resolution was unanimously adopted:

NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT – Appointment of Officers

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BE IT RESOLVED, that the following individuals be, and they hereby are, appointed to the offices which appear opposite their respective names, as more fully set forth in the materials presented to this meeting and ordered filed with the records of the Corporation (the ("Materials"), effective as of the dates set forth in the Materials, to serve until their resignation or removal:

NAME	OFFICE
Lindsey Boylan	Chief of Staff to the President & CEO
Jeffrey Nordhaus	Executive Vice President, Innovation & Broadband
Kevin Younis	Chief Operating Officer

and be it further

RESOLVED, that in accordance with and for all the purposes of the New York State Urban Development Corporation (the "Corporation") Act and the bylaws of the Corporation, including but not limited to the indemnification provisions thereof, each of the foregoing individuals is an "officer" of the Corporation; and be it further

RESOLVED, that any and all actions taken by each such individual since his/her nomination to the office identified herein be and hereby are ratified as the acts and deeds of the Corporation.

* * *

Mr. Martin then presented an item relating to the appointment of Members to ESD's Bond Financing and Governance Committees.

Mr. Martin asked the Directors to approve the appointment of Shirin Emami, the Acting Superintendent of the New York State Department of Financial Services, to ESD's Bond Financing Committee.

Mr. Martin noted that the Bond Financing Committee was created to oversee activities involving the sale or issuance of bonds or notes by the Corporation.

Mr. Martin then asked the Directors to approve the appointment of Howard A. Zemsky and Hilda Rosario Escher to ESD's Governance Committee.

Mr. Martin noted that the Governance Committee was established to keep Directors informed of current best practices, review corporate governance trends, examine ethical and conflict of interest issues and preform Board self-evaluations, among other things.

Following the full presentation, the Acting Chair called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Committee Appointments - Appointment of Directors to the Bond Financing and Governance Committees

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BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, Acting Superintendent of the New York State Department of Financial Services Shirin Emami, a Director of the Corporation, is hereby appointed to the Bond Financing Committee of the Corporation, in addition to its current members Derrick D. Cephas, Robert R. Dyson and Howard A. Zemsky, effective immediately and until her resignation or removal as a Director of the Corporation; and be it further

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, the following Directors are hereby appointed to the Governance Committee of the Corporation, in addition to its current members Derrick D. Cephas and Joyce Miller, effective immediately and until their respective resignations or removals as Directors of the Corporation:

- Howard A. Zemsky
- Hilda Rosario Escher

* * *

The Acting Chair asked Mr. Fayle, the Director of ESD's Central New York Regional Office, to provide a presentation on that region's economic strategy plan.

Mr. Fayle and Mr. Simpson, the Co-Chair of the Central New York Regional Council, provided a PowerPoint presentation with regard to the region.

Among other things, Mr. Fayle outlined the three major overreaching goals that are built into the region's economic strategy.

Mr. Fayle stated that the first goal is to focus on the region's historical industry base in radar and sensor, healthcare and advanced manufacturing and to ensure that they are targeted and are helped to grow.

The second goal, Mr. Fayle noted, is to focus on the region's urban core.

The Regional Council, he added, believes that you build from inside out and having a strong core throughout the various villages and communities making up the region, ensures that there is façade and utility upgrades so that businesses make investments in those core areas whether it is retail or commercial and building on that.

The third goal, Mr. Fayle explained, is to work with companies to increase their exporting initiatives by providing educational opportunities and trade missions to areas such as China and Europe.

Mr. Fayle continued and was joined in his presentation by Mr. Simpson who provided

further details on the Central New York Regional Council's approach to economic development.

Following the full presentation, the Acting Chair asked Mr. McLeary to present a summary of the Project items on the Agenda. Acting Chair Zemsky then explained that following this brief presentation, he will call upon the individual Regional Directors or their representatives to present the projects from their region.

Mr. McLeary noted that the Directors will be asked to consider funding for ten projects totaling $101,956,000.

Mr. McLeary explained that these projects include two Buffalo Billion Awards; eight Regional Council Awards and two Discretionary Awards.

Mr. McLeary further explained that these projects will leverage over $2 billion of additional investment, retain 389 jobs and create 942 jobs in the State.

Mr. Fayle then presented the following items for the Directors' consideration: the Sibley's Garage Regional Council Capital Fund project; the Quasi- Equity Loan Program project; the Cazenovia College Regional Council Capital Fund project; and the SORAA Upstate Revitalization Initiative project.

Before Mr. Fayle began the individual presentations of these items, the Acting Chair

noted that Messrs. Bateman, O'Brien and Walsh from SUNY Poly, CNSE, were participating in the meeting via telephone. The Acting Chair explained that several items on today's agenda connect back to SUNY Poly.

Mr. Fayle then asked the Directors to authorize a $1.6 million grant on a $4,000,000 project to renovate a parking garage in downtown Syracuse.

Mr. Fayle explained that the key component of this parking garage is that in addition to solving some parking issues, it will be adjacent to a currently vacant department store which is in the process of being renovated and will lead to the location of a company back into the City which will save 400 jobs and create an additional 400 jobs.

Next, Mr. Fayle asked the Directors to authorize ESD to make a $500,000 grant to recapitalize a Quasi-Equity Loan Fund for the Central New York Enterprise Development Corporation.

Mr. Fayle noted that this is a regional loan fund that has been in operation for over 20 years. He added that this loan fund targets early-stage businesses and new ventures within existing firms that typically have difficulty receiving traditional financing.

Mr. Fayle then asked the Directors to authorize ESD to make a $375,000 grant on a $2.2 million project relating to Cazenovia College.

Mr. Fayle explained that the funds will be used to assist with the renovation and construction of infrastructure improvements for the New York State Center Equine Business Development Center in Madison County. He added that the equine business is a very significant business in that area.

Lastly, Mr. Fayle asked the Directors to authorize ESD to make a $70,000,000 grant to the Fort Schuyler Management Corporation on behalf of SUNY College of Nanoscience and Technology and Engineering for the benefit of a company called SORAA.

Mr. Fayle explained that the State will also be putting an additional $20 million of discretionary funding into this $1.9 billion project that will lead to the creation of 420 jobs.

Mr. Fayle further explained that SORAA is a leader in the field of energy efficient and reliable LED lights.

The Acting Chair then asked Mr. Walsh to address the meeting regarding the SORAA project.

Mr. Walsh explained that SORAA is now based in California and that one of the founders won the Nobel Peace Prize in Physics this past fall for his work in LED lighting.

Mr. Walsh went on to note that the Company will be building their North American Headquarters in Dewitt which is right outside of Syracuse.

Mr. Walsh further explained that the model being used will result in the State owning the building and the tools. He added that the Company's part is to provide 420 direct jobs, 170 indirect jobs and to make operating expenses over a period of at least ten years.

Director Dyson asked if the company will have the opportunity to buy the facility and the production tools.

Mr. Walsh stated that they possibly could have that opportunity but that that issue has not been discussed.

Director Dyson stated that the company should be asked as that would be an extra inducement for the company to have a footprint here.

A discussion ensued and it was noted that nothing in the model being used precluded having that discussion in the future.

The Acting Chair then called for any further questions or comments on the above noted items. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Regional Council Award – Priority Project – Syracuse (Central New York Region – Onondaga County) – Sibley Garage Capital – Regional Council Capital Fund (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

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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 Sibley Garage Capital -- Regional Council Capital Fund (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to 400 South Salina Street LLC a grant for a total amount not to exceed One Million Six Hundred Thousand Dollars ($1,600,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Regional Council Award – Syracuse (Central Region – Onondaga County) – Quasi-Equity Loan Program Capital – Regional Council Capital Fund (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

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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 Quasi-Equity Loan Program Capital - Regional Council Capital Fund (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Central New York Enterprise Development Corporation a grant for a total amount not to exceed Five Hundred Thousand Dollars ($500,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Regional Council Award – Priority Project – Cazenovia (Central New York Region – Madison County) – Cazenovia College Capital – Regional Council Capital Fund (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

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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 Casanova College - Regional Council Capital Fund (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Cazenovia College a grant for a total amount not to exceed Three Hundred Seventy-Five Thousand Dollars ($375,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Syracuse (Central New York Region – Onondaga County) – Central New York Hub for Emerging Nano Industries – SORAA Capital – Upstate Revitalization Initiative (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

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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 Central New York Hub for Emerging Nano Industries – Soraa Capital – Upstate Revitalization Initiative (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Fort Schuyler Management Corporation a grant for a total amount not to exceed Seventy Million Dollars ($70,000,000) from the Upstate Revitalization Initiative, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to

this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Syracuse (Central New York Region – Onondaga County) – Central New York Hub for Emerging Nano Industries – Soraa - Capital – Upstate Revitalization Initiative (Capital Grant) – Adoption of Findings Pursuant to the State Environmental Quality Review Act

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RESOLVED, that with respect to the Central New York Hub for Emerging Nano Industries – Soraa Capital project (the "Project"), the Corporation hereby makes and adopts pursuant to the State Environmental Quality Review Act ("SEQRA") the following findings and determinations, which findings and determinations are made after full consideration of the Findings Statement attached as Exhibit A hereto, which Exhibit A is hereby adopted by the Corporation and copies of which document are hereby filed with the records of the Corporation.

- The Corporation has given consideration to the Draft and Final Environmental Impact Statement ("DEIS" and "FEIS", respectively) prepared for the Collamer Business Park project, which includes the proposed Central New York Hub for Emerging Nano Industries – Soraa Capital project;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Project is one that avoids or minimizes adverse environmental effects to the maximum extent practicable, including the effects disclosed in the FEIS and the Findings Statement;

- Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures described in the FEIS and the Findings Statement; and
- The Project is in compliance with Section 14.09 of the State Historic Preservation Act;

and be it further

RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to comply with the requirements of SEQRA in connection with the Project.

* * *

Ms. Taylor, the Director of ESD's Mid-Hudson Regional Office, then asked the Directors to authorize ESD to make an Empire State Economic Development Fund grant in connection with Pratt and Whitney.

Ms. Taylor explained that the Directors were being asked to authorize ESD to make a $900,000 capital grant to Pratt & Whitney and United Technologies Corporation Company.

The Company, Ms. Taylor further noted, is a world leader in the design and manufacture of air craft engines and auxiliary units.

Ms. Taylor explained, among other things, that Pratt & Whitney will ultimately invest $140 million to fit out a 71,500 square foot plant for a new secure thermal barrier coating facility for its air foil to meet their growing demand.

Ms. Taylor added that the Company will retain 95 jobs at its Middletown, New York location and create an additional 16 net new jobs.

Following the full presentation, the Acting Chair called for questions and comments. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Middletown (Mid-Hudson Region – Orange County) – Pratt & Whitney Capital – Empire State Economic Development Fund - General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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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 Pratt & Whitney Capital – Empire State Economic Development Fund - General Development Financing (Capital Grant) Project (the "Project"), the Corporation hereby determines pursuant to Sections 16-m and 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that

1. The proposed 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;

2. The project would be unlikely to take place in New York State without the requested assistance;

3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;

4. 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Pratt & Whitney a grant for a total amount not to exceed Nine Hundred Thousand Dollars ($900,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Middletown (Mid-Hudson Region – Orange County) – Pratt & Whitney Capital – Empire State Economic Development Fund - General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Pratt & Whitney Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

* * *

Next, Mr. Tompkins, the Director of ESD's Mohawk Valley Regional Office, presented the

Owl Wire Empire State Economic Development Fund project the Directors' consideration.

Mr. Tompkins explained that the Directors were being asked to authorize ESD to make a $650,000 capital grant to Owl Wire and Cable, LLC.

As a result of the project, Mr. Tompkins added, Owl Wire will retain its 152 Upstate employees and create three new full time jobs.

Following the full presentation, the Acting Chair called for questions or comments. Director Cephas asked for clarification with regard to Owl Wire and Cable because it is not clear if it is a sub of Berkshire Hathaway or privately owned.

Mr. Tompkins stated that it is a subset of Marmon which is owned by Berkshire Hathaway and therefore, it is part of the greater Berkshire Hathaway enterprise.

There being no further questions or comments, and upon motion duly made and seconded, the following resolution was unanimously:

Rome (Mohawk Valley Region – Oneida County) – Owl Wire Capital – Empire State Economic Development Fund -- General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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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 Owl Wire Capital --

Empire State Economic Development Fund - General Development Financing (Capital Grant) Project (the "Project"), the Corporation hereby determines pursuant to Sections 16-m and 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that

1. The proposed 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;

2. The project would be unlikely to take place in New York State without the requested assistance;

3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;

4. 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Owl Wire & Cable, LLC a grant for a total amount not to exceed Six Hundred and Fifty Thousand Dollars ($650,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Mr. Schoepflin, the Director of ESD's Western New York Regional Office, then presented the Niagara Gateway Apartments Buffalo Regional Innovation Cluster Fund project; the Dunkirk Seawall Regional Council Capital Fund project; and the Athenex Buffalo Regional Innovation Cluster Fund project for the Directors' consideration.

Mr. Schoepflin explained that the first project involves a $1,810,000 loan in connection with the Niagara Gateway Apartments. He noted that the funds will be used for the acquisition and renovation of the currently vacant 75,000 square foot former Buffalo Milk Company building in Buffalo.

Mr. Schoepflin added that the project will create 53 high quality affordable rental units, commercial and outdoor space.

Mr. Schoepflin explained that the second project involves a $341,000 grant to the City of Dunkirk for a portion of the construction costs of restructuring Lakefront Boulevard and the associated break wall between North Main Street and Lake Park Drive in Dunkirk.

Lastly, Mr. Schoepflin noted that the third project involves a $25 million grant to the

Fort Schuyler Management Corporation for, among other things, the build out of approximately 51,000 square feet of the sixth floor of a newly constructed Convention Center for Collaborative Medicine in the Buffalo Niagara Medical Campus to establish Athenex's North American Headquarters.

Among other things, Mr. Schoepflin explained that over the next ten years, Athenex is expected to invest more than $100 million in additional capital and non-capital expenses at the project location and to create 500 jobs by January 1, 2022.

The Acting Chair then asked Tom O'Brien, the Vice President of SUNY POLY, to address the meeting with regard to Athenex.

First, Mr. Walsh explained that Athenex is a Buffalo grown company which has been in existence for approximately eight years. He added that the company came out of Niagara Medical Center and worked on cutting edge high toxicity oncology cancer curing drugs.

Mr. Walsh went on to explain that as the Governor announced last week, Athenex will be building, over the next several years, a manufacturing center in Dunkirk and they will also be establishing, over the next few months, their North American headquarters on one of the floors of the convention building which is in the medical area of downtown Buffalo.

Mr. Walsh further noted that Athenex will have executive and administrative offices at

the headquarters as well as a lot of lab and research and development space.

Mr. Walsh added that that is where they will be testing formulas before taking them to Dunkirk to produce the ultimate product.

Mr. O'Brien then noted that the $25 million grant will be used to fit up the space that Fort Schuyler currently holds the lease on. He added that the funds will also be used for the acquisition of all the equipment to be used in their research and development facility.

Following the full presentation of these projects, the Acting Chair called for questions or comments. Director Beshar asked if any of the grant is conditional on the expectation that Athenex will invest over $100 million of additional capital and Mr. Walsh said that it is not a condition of the grant.

Mr. Walsh stated that SUNY POLY has a contract with Athenex and that Athenex has made that commitment but it cannot be stated that that is a condition of the grant.

There being no further questions or comments, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Buffalo (Western New York Region – Erie County) Niagara Gateway Apartments Capital – Buffalo Regional Innovation Cluster Fund – Better Buffalo Fund (Capital Loan) – Findings and Determinations Pursuant to Section 10(g); Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan 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 Niagara Gateway Apartments – Better Buffalo Fund (Capital Loan) 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Niagara Gateway LLC a loan for a total amount not to exceed One Million Eight Hundred Ten Thousand Dollars ($1,810,000) from the Buffalo Regional Innovation Cluster Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the loan and grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the loan or grant or collateral securing the loan as he or she may deem necessary or appropriate in the administration of the loan and 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 President and Chief Executive Officer 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.

* * *

Buffalo (Western New York Region – Erie County) Niagara Gateway Apartments Capital – Buffalo Regional Innovation Cluster Fund – Better Buffalo Fund (Capital Loan) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Niagara Gateway Apartments Capital – Buffalo Regional Innovation Cluster Fund – Better Buffalo Fund (Capital Loan) Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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Dunkirk (Western New York Region – Chautauqua County) – Dunkirk Seawall Capital – Regional Council Capital Fund (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

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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 Dunkirk Seawall Capital – Regional Council Capital Fund (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to City of Dunkirk a grant for a total amount not to exceed Three Hundred Forty One Thousand Dollars ($341,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Dunkirk (Western New York Region – Chautauqua County) – Dunkirk Seawall Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Dunkirk Seawall Capital – Regional Council Capital Fund (Capital Grant) Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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Buffalo Billion Initiative – Buffalo (Western New York Region – Erie County) – Fort Schuyler Management Corporation - Athenex Capital – Buffalo Regional Innovation Cluster (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

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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 Fort Schuyler Management Corporation - Athenex Capital – Buffalo Regional Innovation Cluster (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Fort Schuyler Management Corporation a grant for a total amount not to exceed Twenty-Five Million ($25,000,000) from the Buffalo Regional Innovation Cluster, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

Ms. Bethune then presented the Market NY Grant Program and the Regional Council Award Projects Consent Calendars for the Directors' consideration.

Ms. Bethune noted that these awards will be presented together because the projects have the same name, the Margaret Woodbury Strong Museum d/b/a the Strong National Museum of Play.

Ms. Bethune noted that two of the grants are from the Market New York Program and that the third is from the Regional Council Capital Fund.

ESD's total assistance, Ms. Bethune added, will be $780,000 and has assisted the Museum in completing a construction and renovation project.

Following the full presentation, the Acting Chair called for any questions or comments. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Statewide – Market New York and Market NY – NY Works – Regional Tourism Marketing Competition (Capital Grants) – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make Grants and to Take Related Actions

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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 Market New York and Market NY – NY Works Project identified below (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 President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s), that no substantive negative testimony or comment has been received at the public hearings held on the Plan, such Plan shall be effective at the conclusion of such hearings, and that upon such written findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is,

authorized to make grants to the party and for the amounts listed below from the Market New York and Market NY – NY Works, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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;

Market New York and Market NY – NY Works

	Project Name	Proj #	Grantee	Assistance up to
	Market NY Grant Program			
A	Strong Museum of Play Capital	Z138	Margaret Woodbury Strong Museum d/b/a The Strong National Museum of Play	$360,000
B	Strong Museum of Play Capital	Z664	Margaret Woodbury Strong Museum d/b/a The Strong National Museum of Play	$220,000
	TOTAL MARKET NY PROJECTS		**TOTAL**	**$580,000**

and be it further

RESOLVED, that the President and Chief Executive Officer 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.

* * *

Regional Council Capital Fund – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants 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 Regional Council Capital Fund Projects identified below (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 Plans (the "Plan") for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s), that no substantive negative testimony or comment has been received at the public hearings held on the Plan, such Plan shall be effective at the conclusion of such hearings, and that upon such written findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amounts listed below from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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;

RESOLVED, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in these materials, subject to the availability of funds and the approval of the State

<u>Regional Council Capital Fund</u>

	Project Name	Proj #	Grantee	Assistance up

				to
	Regional Council Capital Fund			
A	Strong Museum of Play Capital	Z795	Margaret Woodbury Strong Museum d/b/a The Strong National Museum of Play	$200,000
			TOTAL	**$200,000**

and be it further

RESOLVED, that the President and Chief Executive Officer 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.

* * *

Next, Mr. Muszynski presented the February Non-Discretionary Consent Calendar for the Directors' consideration.

Mr. Muszynski explained that there were six projects to be considered for funding. He then provided a brief synopsis of each of the projects.

Among other things, Mr. Muszynski noted that one of the projects involves a $5,000,000 grant to the SUNY Research Foundation on behalf of SUNY Polytechnics College for Nanoscale Science and Engineering to acquire a critical dimension scanning electron microscope for SUNY's Nanotech Complex in Albany.

Following the full presentation of all of the items on the consent calendar, the Acting Chair asked Scott Bateman and Chris Walsh from SUNY POLY to address the meeting with

regard to the $5 million grant to the SUNY Research Foundation.

Mr. Bateman explained that the Hitachi tool is a critical component for the G450C semiconductor consortium that the Governor announced in 2012 and which has been ongoing at SUNY POLY for the past three or four years. He added that it is also a critical tool for the photovoltaic manufacturing consortium that is also managed at SUNY POLY and which is supported by a major federal grant from the Department of Energy and other solar manufacturing industry participants.

The Acting Chair then called for any further questions or comments. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Aid to Localities-Base Retention – Findings and Determinations Pursuant to Section 10(g) of the Act; Adoption of the Proposed General Project Plans; Authorization to Make Grants 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 SUNY Sub-Allocation 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(s); and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to a make grant to the party and for the amount listed below from Aid to Localities-Base Retention, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects

included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from Aid to Localities-Base Retention, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

RESOLVED, that the President and Chief Executive Officer 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;

Aid to Localities-Base Retention – Executive – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
	Aid to Localities-Base Retention			
A	Northeast UAS Airspace Integration Research Alliance Working Capital	AA304	Northeast UAS Airspace Integration Research Alliance, Inc.	$500,000
B	Niagara Falls Air Reserve Base Mercy Flight Program I Capital	AA302	Niagara County Industrial Developement Agency	100,000
C	Niagara Falls Air Reserve Base Mercy Flight Program II Capital	AA303	Niagara County Industrial Developement Agency	400,000
			TOTAL	**$1,000,000**

and be it further

RESOLVED, that the President and Chief Executive Officer 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.

* * *

State and Municipal Facilities Program – Findings and Determinations Pursuant to Section 10(g) of the Act; Adoption of the Proposed General Project Plans; Authorization to Make Grants 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 SUNY Sub-Allocation 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(s); and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to a make grant to the party and for the amount listed below from the State and Municipal Facilities 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 President and Chief Executive Officer 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 Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from the State and Municipal Facilities Program, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

RESOLVED, that the President and Chief Executive Officer 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;

State and Municipal Facilities Program – Executive – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
	State and Municipal Facilities Program			
D	CSNE Albany Nanotech Complex Hitachi CD-SEM Capital	AA674	The Research Foundation for The State University of New York on behalf of SUNY Polytechnic Institute's College of Nanoscale Science and Engineering	$5,000,000
E	Central New York Hub for Emerging Nano Industries-Soraa Capital	AA717	Fort Schuyler Management Corporation	20,000,000
			TOTAL	**$25,000,000**

and be it further

RESOLVED, that the President and Chief Executive Officer 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.

* * *

Local Assistance – Findings and Determinations Pursuant to Section 10(g) of the Act; Adoption of the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

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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 SUNY Sub-Allocation 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(s); and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to a make grant to the party and for the amount listed below from Local Assistance, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from Local Assistance, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

RESOLVED, that the President and Chief Executive Officer 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;

Local Assistance -Assembly – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
	Local Assistance			
F	Bronx Children's Museum Capital	AA053	Bronx Children's Museum	$2,000,000
			TOTAL	**$2,000,000**

and be it further

RESOLVED, that the President and Chief Executive Officer 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.

* * *

Ms. Jaiyesimi then asked the Directors to authorize ESD to amend its contract with STV, Inc. to provide Owner's Representative Technical Services in connection with the Atlantic Yards

Land Use Improvement and Civic Project..

Ms. Jaiyesimi provided a synopsis of the reasons for this request.

Following the full presentation, the Acting Chair called for any questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

New York City (Kings County) – Atlantic Yards Land Use Improvement and Civic Project – Authorization to Amend the Contract with STV Inc. to Provide Owner's Representative Technical Services for the Project

---

RESOLVED, that based upon the materials presented at this meeting and ordered filed with the records of the corporation (the "Materials"), the Corporation hereby finds STV Inc. to be responsible; and be if further

RESOLVED, that on the basis of the Materials, the Corporation be, and hereby is, authorized to amend its existing contract with STV Inc. to provide additional Owner's Representative services in connection with the Atlantic Yards Land Use Improvement and Civic Project; and be it further

RESOLVED, that such amendment will extend the term for an additional two years and increase the compensation available under the contract by an additional $1,250,000; and be it further

RESOLVED, that the total compensation for services pursuant to this contract, as amended, shall not exceed $5,000,000, including reimbursables; and be it further

RESOLVED, that the President and Chief Executive Officer and 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 to take all such actions as may be necessary or appropriate to effectuate the foregoing.

* * *

Next, Mr. Discolo presented an item relating to the renewal of the Corporation's 2016-

2017 corporate insurance policies for a total premium cost for 2016 of $528,377.

Following the full presentation, the Acting Chair called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

AUTHORIZATION TO PURCHASE CORPORATE INSURANCE POLICIES; AND TO TAKE RELATED ACTIONS

RESOLVED, that based upon the materials presented to the Directors at this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, that the Chairman and Chief Executive Officer of the Corporation or Chief Financial & Administrative Officer or his/her designee(s) are hereby authorized, in the name and on behalf of the Corporation, to enter into all contracts, agreements and instruments, as the Chairman and Chief Executive Officer of the Corporation or Chief Financial & Administrative Officer or his/her designee(s) shall deem necessary or appropriate in connection with the purchase of the Corporation's Directors & Officers Liability/Employment Practices Liability with National Union, Excess Umbrella Liability insurance with Philadelphia Indemnity/Liberty Mutual; Commercial General Liability and Auto Liability insurance with Philadelphia Indemnity; Real & Personal Property with Axis; Workers' Compensation Insurance with Hartford; and Employee Crime & Dishonesty insurance with Great American for 2016-2017 at an annual premium cost of $528,377.

RESOLVED, that all actions heretofore taken on behalf of the Corporation in regard to the replacement of the foregoing insurance policies are hereby approved, ratified and confirmed.

* * *

Next, Mr. Gawlik then presented an item relating to the proposed acquisition of the Port Terminal Complex by the Erie Canal Harbor Development Corporation.

Mr. Gawlik provided the relevant background information with regard to this request.

Following the full presentation, the Acting Chair called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted (It was noted for the record that Acting Chair Zemsky recused himself from voting on the following resolution.):

City of Buffalo (Erie County)- Authorization to Enter into Agreements Regarding the Acquisition of Real Property by the Erie Canal Harbor Development Corporation and Authorization to Take Related Actions.

RESOLVED, that based on the materials presented to this meeting and ordered filed with the records of the New York State Urban Development Corporation d/b/a Empire State Development (the "Corporation") relating to the City of Buffalo's Outer Harbor, the Corporation be and hereby is authorized to: (i) to enter the necessary agreements to effectuate the transfer of the Property to the Erie Canal Harbor Development Corporation as stated in these Board materials; and (ii) take all related actions, and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designees be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolutions.

* * *

There being no further business, the meeting was adjourned at 11:02 a.m.

Respectfully submitted,

Debbie Royce
Assistant Corporate Secretary

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: Annual Operating Budget

REQUEST FOR: Authorization to Adopt the Annual Operating Budget, including certain Subsidiary Operating Support and Non-Programmatic Capital Expense Authorization for Fiscal Year (FY) 2016-17 and to Take Related Actions

---

BACKGROUND

State Finance Law requires that prior to the commencement of each fiscal year the Directors of the Empire State Development (ESD or the Corporation) adopt an annual operating budget. This budget includes operating support provided to certain subsidiaries and for the operations of the Regional Economic Development Councils, the New NY Broadband Program, the Upstate Revitalization Fund, and the New York State (NYS) Innovation Venture Capital Fund. It pertains only to operating costs and not to programmatic appropriations included in the Governor's proposed FY 2016-17 Executive Budget. All subsidiary operating budgets and capital expense authorizations must also be presented separately to, and approved by, their respective Boards within the same time frame.

As indicated in the attached budget document, the expense for personal services includes the continued need for staffing to support several essential initiatives for the State, such as the New NY Broadband Program, Global NY and the New York State Innovation Venture Capital Fund and sustain both existing and new regional economic development efforts.

Certain non-personal services expenses reflect increases attributable to lease or contractual obligations, facilities maintenance and market place pricing. The most significant decrease is in consulting expenses which is related to the cessation of certain federal funding.

The budgeted government assessment (cost recovery) expense for FY 2016-17 is approximately $3.74 million. This expense is the result of Public Authorities Law Section 2975 that directs the Division of the Budget to assess an amount to each public authority for recovery of central government services.

Should changes to the budget provided be required following the adoption of the State's FY 2016-17 Budget, any modifications will be presented to the Directors at a later date.

In addition to the operating budget, we are also seeking approval of the Corporation's FY 2016-17 Non-Programmatic Capital Expense Authorization of $3.02 million. The request reflects the Corporation's plan to invest in cost effective new technology that aligns and supports ESD's strategic goals, enhances the ability to protect data and IT assets from outside cybersecurity threats and broadens the IT infrastructure to provide network redundancy, business continuity and disaster recovery capabilities.

The details of the proposed FY 2016-17 ESD Operating Budget, including certain Subsidiary Operating Support and Annual Non-Programmatic Capital Expense Authorization are attached to these materials for your review.

REQUESTED ACTION

The Directors are requested to adopt the Corporation's proposed Annual Operating Budget, including certain Subsidiary Operating Support for FY 2016-17 and approve the Annual Non-Programmatic Capital Expense Authorization for FY 2016-17 as set forth in the attachments and to delegate authority to the appropriate officers to take related actions.

ATTACHMENTS

Proposed Annual Operating Budget for FY 2016-17, including certain Subsidiary Operating Support
Proposed Annual Non-Programmatic Capital Expense Authorization for FY 2016-17

March 24, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – (the "Corporation") Authorization to Adopt the Annual Operating Budget, including Certain Subsidiary Operating Support and Approve the Non-Programmatic Capital Expense Authorization for FY 2016-17

RESOLVED, that the Corporation hereby adopts the Annual Operating Budget for FY 2016-17, including certain subsidiary operating support and approves the Non-Programmatic Capital Expense Authorization for FY 2016-17, based upon the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the "Materials"); and be it further

RESOLVED, that the proper corporate officers be, and they hereby are, authorized to take related actions as he or she may, in his or her sole discretion, deem necessary or proper to effectuate the foregoing.

New York State Urban Development Corporation d/b/a
Empire State Development
Annual Operating Budget, Including certain Subsidiary Support
for Fiscal Year 2016-17 (in comparison to Fiscal Year 2015-16)

	FY 2015-16	FY 2016-17	
EXPENSES			
Personal Services (including fringe benefits)	$ 39,849,555	$ 42,262,289	(a)
Other Post Employment Cost	$ 4,600,000	$ 4,500,000	
Non-Personal Services			
Occupancy Expenses	$ 7,403,000	$ 7,885,600	(b)
Government Assessment (Cost Recovery)	3,736,000	3,736,000	
Consulting Fees	3,799,000	2,296,200	(c)
Computers and Equipment/Software/Telephone	811,390	941,700	(d)
Outside Services and Expenses/Repairs/Maintenance/Property Management	801,324	935,100	(e)
Accounting and Legal Fees	505,000	556,000	
Travel and Meals	495,291	498,850	
Insurance	322,638	368,720	
Office Supplies and Expenses/Printing/Advertising	314,052	205,000	
On-Line Services/Conferences/Seminars/Dues/Subscriptions	229,730	174,500	
Total Non-Personal Services	$ 18,417,425	$ 17,597,670	
Total Personal and Non-Personal Expenses	$ 62,866,980	$ 64,359,959	
Total Subsidiary Operating Support	$ 3,564,439	$ 3,511,879	(f)
GRAND TOTAL - ALL EXPENSES	$ 66,431,419	$ 67,871,838	
FUNDING SOURCES			
Commercial Receipts/Asset Sale Proceeds/Other Revenue	$ 52,100,908	$ 56,093,667	
Bond Financing and Economic Development Income/Other Fees	6,386,000	6,000,000	
Recovered Expenses	7,944,511	5,778,171	
GRAND TOTAL - FUNDING SOURCES	$ 66,431,419	$ 67,871,838	

(a) Increase is primarily due to the continued need to enhance staffing to support several vital initiatives for the State, such as the New NY Broadband Program, Global NY, the NYS Innovation Venture Capital Fund and other regional economic development efforts, as well as future initiatives.

(b) Increase is primarily related to increased monthly rent and projected real estate tax escalation at 633 Third Avenue.

(c) Decrease is related to the cessation of expenses covered by federal funding for a program related to Superstorm Sandy relief.

(d) Increase is primarily related to compliance costs associated with the Corporation's financial management system.

(e) Increase is primarily related to building maintenance and repairs related to 633 Third Avenue.

(f) Consists of operating expenses for Erie Canal Harbor Development Corp., Harlem Community Development Corp., Queens West Development Corp. and USA Niagara. ESD does not provide operating support for any other subsidiaries.

New York State Urban Development Corporation d/b/a
Empire State Development
Subsidiary Operating Support
for Fiscal Year 2016-17 (in comparison to Fiscal Year 2015-16)

EXPENSES	FY 2015-16	FY 2016-17
Personal Services (including fringe benefits)	$ 2,909,425	$ 2,894,637
Non-Personal Services		
Occupancy Expenses	$ 168,900	$ 158,300
Insurance	175,564	143,392
Office Supplies and Expenses/Printing/Advertising	39,750	37,750
Consulting Fees	10,500	9,000
Accounting and Legal Fees	70,000	73,500
Computers and Equipment/Software/Telephone	63,400	63,000
Other Outside Services and Expenses/Repairs/Maintenance/ Property Management	105,900	106,300
On-Line Services/Conferences/Seminars/Dues/Subscriptions	13,000	13,000
Travel and Meals	8,000	13,000
Total Non-Personal Services	$ 655,014	$ 617,242
Total Personal and Non-Personal Expenses	$ 3,564,439	$ 3,511,879

NOTE: Consists of operating expenses for Erie Canal Harbor Development Corporation, Harlem Community Development Corporation, Queens West Development Corporation and USA Niagara. ESD does not provide operating support for any other subsidiaries.

New York State Urban Development Corporation d/b/a
Empire State Development
Annual Non-Programmatic Capital Expense Authorization
for Fiscal Year 2016-17 (In comparison to Fiscal Year 2015-16)

	FY 2015-16	FY 2016-17	
VDI Solution Upgrade - enhance VDI user experience, additional capacity and redundancy		-	
VDI unit upgrade		5,000	
Secure Flash Drive Backup Solution - provide secure portable storage for data backups and transport		7,500	
Office Equipment - scanners, etc.		5,500	
UPS Power Supplies - refresh old outdated power supplies in our Servers Racks; accommodate increased power needs		7,500	
Miscellaneous Software		15,000	
License - Licenses necessary to maintain our critical application infrastructure (Database, Vmware, Windows OS,		15,000	
Dell Replacement PC - refresh outdated workstations		15,000	
VDI Engineering Services - support VDI infrastructure		20,000	
Mobile Devices - laptops, tablets, etc.		20,000	
Dell Servers - refresh existing and outdated servers that are not virtualized		25,000	
Upgrade Sensitive Data Encryption Solution - enhance data encrption services to protect sensitive personal Identifying data		30,000	
VOIP routers & telephones - ITS UniteNY Virtual Router License for Core Switch reg offices, Harlem		22,500	
Upgrade Bandwidth Managment Solution - enhance user experience for internet based applications (O365)		45,000	
Engineering Services - Support Firewall configuration etc...		45,000	
WiFi Implementation for some Regional Offices/Business Continuity/DR		20,000	
Vmware Infrastructure Upgrade - upgrade infrastructure to provide increased performance; required for critical application		57,000	
Formrouter Professional Services - support StartupNY, NY Films & other solutions		60,000	
Internet Redundancy Solution		60,000	
Network Equipment Infrastrucutre refresh/upgrade		75,000	
Office 365 charges for ESD staff - OITS service		50,000	
UniteNY charges for ESD staff - OITS service		50,000	
VOIP routers & telephones - ITS UniteNY Virtual Router License for Core Switch 633 3rd Ave		130,000	
Fire Eye Security Threat Prevention Expand & Upgrade Agency Wide		150,000	
Video Conferencing Equipment and Service for 10 Regional Offices		90,000	
Web Services, Hosting & Support for ESDC Marketing projects - OITS service		1,000,000	
Upgrade/ Modifications to ESD's PeopleSoft Financial Management System		1,000,000	(b)
Grand Total All Expenses	$ 1,714,500	(a) $ 3,020,000	

(a) Only the total of the annual non-programmatic capital expense authorization is presented for the prior fiscal year due to the fact that the Corporation's specific needs change from year to year.

(b) While this budget authorization was requested in FY 15-16 it was never utlized. IT anticipates moving the project forward in FY 16-17. Therefore, this is not a request for a new/additional funding allocation.

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Committee Appointments

REQUEST FOR: Appointment of Director to the Audit and Budget and Bond Financing Committees

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I. BACKGROUND

In 1979, the New York State Urban Development Corporation d/b/a Empire State Development (the "Corporation") created an audit committee as a non-voting committee of its Directors charged with meeting from time to time with the Corporation's independent Auditors and with the Director of Internal Audit to discuss the Corporation's audit procedures.

Now known as the Audit and Budget Committee, this Committee was most recently comprised of four Directors: Howard A. Zemsky, Derrick D. Cephas, Robert R. Dyson, and Acting Superintendent of the New York State Department of Financial Services ("DFS"), Shirin Emami. Maria T. Vullo has recently been nominated to serve as the Superintendent of DFS and is currently serving as its Acting Superintendent.

Additionally, in 1995, the Corporation constituted a single Bond Sale Committee of the Directors of the Corporation which was delegated responsibility for all activities involving the sale or issuance of bond or notes by the Corporation. Now known as the Bond Financing Committee, this Committee has authority to vote on actions and to bind the Corporation pursuant to that vote.

Most recently, the Bond Financing Committee was comprised of the following four Directors: Howard A. Zemsky; Derrick D. Cephas; Robert R. Dyson, and Acting Superintendent of DFS, Shirin Emami. As noted above, Ms. Vullo is currently serving as the Acting Superintendent of DFS.

Pursuant to the Public Authorities Accountability Act, a majority of the members of each of these Committees must consist of independent Directors, i.e., are not employed by the Corporation or an affiliate in an executive capacity nor is a relative of any such employee;

is not employed by an entity that received more than $15,000 in compensation or assistance from the Corporation; and is not a registered lobbyist.

II. PROPOSED ACTION

It is recommended that Maria T. Vullo, Acting Superintendent of the NYS Department of Financial Services be appointed to the Audit and Budget and to the Bond Financing Committees of the Corporation.

Attached to this memorandum is Acting Superintendent Vullo's biographical information. She possesses the necessary skills to understand the duties and functions of the Committees to which she is being nominated.

III. RECOMMENDATION

Based on the foregoing, I recommend the appointment of Acting Superintendent Vullo to the Bond Financing Committee of the Corporation, in addition to its current members Mr. Zemsky, Mr. Cephas, and Mr. Dyson. I also recommend the appointment of Acting Superintendent Vullo to the Audit and Budget Committee of the Corporation, in addition to its current members Mr. Zemsky, Mr. Cephas and Mr. Dyson.

Attachments
Resolution
Biographical Information

March 24, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Committee Appointments - Appointment of Director to the Audit and Budget and Bond Financing Committees

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BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, Acting Superintendent of the New York State Department of Financial Services ("DFS") Maria T. Vullo is hereby appointed to the Audit and Budget Committee of the Corporation, in addition to its current members Derrick D. Cephas, Robert R. Dyson, and Howard A. Zemsky, effective immediately and until her resignation or removal as Directors of the Corporation; and be it further

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is ordered filed with the records of the Corporation, Acting Superintendent of DFS Maria T. Vullo, a Director of the Corporation, is hereby appointed to the Bond Financing Committee of the Corporation, in addition to its current members Derrick D. Cephas, Robert R. Dyson and Howard A. Zemsky, effective immediately and until her resignation or removal as a Director of the Corporation.

* * *

Maria T. Vullo is the Acting Superintendent of the New York State Department of Financial Services. Vullo is an experienced senior litigator and manager, with more than 25 years of practice in business litigation and investigations. She is of counsel at Paul, Weiss, Rifkind, Wharton & Garrison LLP, where she was a partner for 20 years. She previously oversaw the Economic Justice Division in the Office of the New York State Attorney General, with a staff of approximately 200.

The Department of Financial Services is charged with protecting consumers and markets in New York State from fraud and financial crises, as well as reforming the regulation of financial services to keep pace with dynamic changes within the industry. DFS was created in 2011 by the merger of the state's Banking and Insurance Departments.

Over the course of her career, Vullo's legal experience has included matters involving securities and other fraud, real estate, health care, insurance, tax, consumer protection, bankruptcy, antitrust, constitutional and environmental law. She was selected twice by the New York State Commission on Judicial Nomination as a candidate for Associate Judge on the Court of Appeals, and has argued before the U.S. Supreme Court, the U.S. Courts of Appeals for the Second, Ninth, and Tenth Circuits, and the New York State Appellate Division.

In 2010 Vullo served as Executive Deputy Attorney General for Economic Justice under then New York State Attorney General Cuomo. There she oversaw the Bureaus of Investor Protection, Antitrust, Real Estate Finance, Consumer Frauds and Internet. In that role she handled numerous consumer protection, investor protection and antitrust matters, including:

- actions against Ezra Merkin and Ivy Asset Management for alleged fraud relating to Bernard Madoff's Ponzi scheme;
- investigations and settlements with numerous retailers involved in alleged deception of customers who were charged hidden fees for discount clubs online;
- an investigation and action against Ernst & Young for losses to investors resulting from the bankruptcy of Lehman Brothers;

- actions against real estate developers for misrepresentations in offering plans;
- actions against social networking sites to prevent the proliferation of child pornography;
- an investigation of the life insurance industry regarding payouts to military families;
- an antitrust action against liquid crystal display manufacturers for alleged criminal price fixing conduct that resulted in overcharges to millions of New York consumers; and
- settlements with insurance companies for improper surcharges regarding workers' compensation.

Vullo is a recognized leader in protecting women's rights in a variety of cases, including representing women raped by soldiers during the 1992-1995 Bosnian War – a case in which she secured a $745 million jury verdict for the plaintiffs. Her pro bono work also includes representing abortion providers whose lives had been threatened via an online "hit list;" in that case she secured a $100 million jury verdict for the plaintiffs. She is a member of the Boards of Directors of the National Organization of Italian-American Women, the Women's Equality Coalition and the ERA Coalition, Inc.; and is a member of the New York Women's Bar Association and the Women Trial Lawyers Caucus.

Vullo clerked for the Hon. John A. Mackenzie, U.S. District Court, Eastern District of Virginia. She earned her J.D. from New York University School of Law, an M.P.A. from the New York University Wagner Graduate School of Public Service as part of its Executive Leadership Program, and a B.A. from the College of Mount Saint Vincent.

Vullo has been named a "New York Super Lawyer" by Super Lawyers Magazine and was included in the "Defense Hot List" published by the National Law Journal. She recently received the Humanitarian of the Year Award from the Interfaith Nutrition Network, as well the Distinguished Corporate Citizen Award from A Better Balance, among many other awards and professional recognitions.

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO:	The Directors
FROM:	Howard Zemsky
SUBJECT:	Statewide – Global NY Grant Fund
REQUEST FOR:	Authorization to Adopt Guidelines; Authorization to Make Grants; Authorization to Take Related Actions

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I. Program Summary

Grantees:	Two categories of grantees are eligible: 1) NYS for-profit companies, and 2) NYS non-profit organizations, as defined in Section II, B.
ESD* Investment:	Up to a total of $2,000,000 per fiscal year to be used for grants to eligible applicants for export assistance. Individual grants shall not exceed 50% of the total project cost and will range between $10,000 and $25,000 for for-profit companies and $10,000 and $50,000 for non-profits.
Locations:	Throughout New York State
Regional Council:	All Regional Councils will be made aware of this item.
Eligible Costs Date:	Pending Board Approval; on or after April 1, 2016
Anticipated Appropriation Source:	Part I §19 of S-4610 and A-6721 dated March 31, 2015
ESD Project No.:	AA818

Project Team:		
	Project Management	Lennox Ruiz
	Legal	Richard Dorado
	Affirmative Action	Tawanda Mitchell
	Environmental	Soo Kang

II. Program Description

A. Background

Governor Cuomo announced the creation of the Global NY Fund in October 2014 at the Global NY Summit. The Global NY Fund includes the Global NY Grant Fund and the Global NY Loan Fund. The Global NY Grant and Loan Fund (the "Fund") will be administered by ESD's Global NY Division. The budget for the Fund is $2,000,000 per state fiscal year for the next seven years, or $14,000,000 in total.

B. Grant Description

The Fund will provide export assistance grants to NYS for-profit companies with 500 or fewer employees to start or expand their export sales and to NYS registered non-profits that provide export assistance or trade education to NYS small businesses. The result will be increased export sales and an increased number of exporting firms. ESD has established a competitive process for the evaluation and approval of applications. Eligible applicants may receive grants ranging from $10,000 to $25,000 for for-profit companies and $10,000 to $50,000 for non-profits. Grants may cover up to 50% of total project costs. Eligible project costs for export assistance grants include market customization, participation in international trade shows/missions/conferences/meetings, export education and capacity building, product adaptation and market certification, and export development projects. All project costs must be directly related to increasing NYS exports or the number of companies exporting.

III. Program Guidelines

Staff has prepared guidelines for adoption by the ESD Directors ("Directors") for the implementation and administration of the Global NY Grant Fund. The guidelines set forth criteria for determining eligibility for applicants and eligible costs. The guidelines also set forth the various program and submission requirements and describe methods of grant disbursements. A copy of the guidelines for the Fund is attached hereto. It is expected that the guidelines may be amended from time to time to address specific Fund needs.

IV. Statutory Basis

The Program and the funding of small business export grants are authorized by Part I §19 of S-4610 and A-6721 dated March 31, 2015 and UDC Act §5. No residential relocation is required.

V. Environmental Review

ESD staff has determined that the requested action 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 this authorization.

VI. Non-Discrimination and Contractor & Supplier Diversity

In accordance with the requirements of Article 15-A of the New York State Executive Law, all projects awarded funding shall be reviewed by ESD's Office of Contractor and Supplier Diversity ("OCSD"), which will, where applicable, assign minority-owned and women-owned business enterprise ("MWBE") participation goals. Such goals shall typically be included in the award letter or other contemporaneous communication from OCSD with respect to these requirements.

VII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

VIII. 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.

IX. Requested Actions

The Directors are requested to do the following: authorize the Global NY Grant Fund; adopt Fund guidelines and authorize the President and Chief Executive Officer, or his designee, to amend such guidelines from time to time; and authorize the taking of all related actions necessary or appropriate to effectuate the foregoing, including without limitation the making of any findings and the holding of any public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated assistance as a result of testimony given at any such hearing, if necessary.

Recommendation

Based on the foregoing, I recommend that the requested actions be approved.

X. Additional Submissions to Directors

Resolutions
Global NY Grant Fund Guidelines

March 24, 2016

Statewide – Global NY Grant Fund – Authorization to Adopt Guidelines; Authorization to Make Grants; Authorization to Take Related Actions

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RESOLVED, that the Corporation hereby authorizes the Global NY Grant Fund (the "Fund"), described in the materials presented in this meeting (the "Materials"), a copy of which has been presented to this meeting and is ordered filed with the records of the Corporation; and be it further

RESOLVED, that the Corporation hereby adopts the guidelines for the Fund, a copy of which has been presented to this meeting and is included in the Materials, and authorizes the President and Chief Executive Officer of the Corporation, or his designee(s), to amend, from time to time, such guidelines (such guidelines, as they may from time to time be amended, the "Guidelines") as he or she deems necessary or appropriate to effectuate the purposes of the Program; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) is hereby authorized to provide Fund assistance to eligible recipients in accordance with the Guidelines and these Materials and to take such other actions as are necessary in order to effectuate the purposes of the Fund; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the grants, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grants as he or she may deem necessary or appropriate in the administration of the grants; 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, (2) receipt of all other necessary approvals, and (3) the receipt of adequate funding for such assistance from the State of New York; and be it further

RESOLVED, that the President and Chief Executive Officer 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, including without limitation, to make findings and hold public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated assistance.

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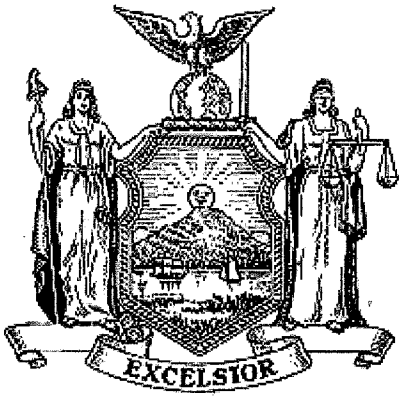
Updated March 18, 2016

Guidelines

New York State Global NY Grant Fund



State of New York
Andrew M. Cuomo, Governor

Empire State Development

March 24, 2016

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Updated March 18, 2016

Guidelines

New York State Global NY Grant Fund

Program

The New York State Global NY Fund will be administered by the New York State Urban Development Corporation d/b/a Empire State Development ("ESD"). It will offer assistance to companies and non-profit organizations to increase the export of New York's products and services to foreign markets. Grants for export assistance help New York State's private sector to identify and develop export markets and increase their sales, thereby creating and retaining jobs.

Empire State Development Corporation has allocated $2 million per year for the next 7 fiscal years ($14 million total) to be used to provide grants no less than $10,000 and up to $25,000 for NYS small- and medium-sized businesses and up to $50,000 for NYS non-profit organizations. The grant will reimburse up to 50% of total project costs to support activities that will lead to more companies exporting or a higher volume of export sales. Applications will be accepted on a rolling basis, and reviewed and approved every other month by a review committee of at least three ESD staff members. Program funds will be disbursed through ESD only on a reimbursable basis after the program activity has been completed and all required documentation has been submitted to ESD. Applicants may include a single eligible activity or multiple activities in their application, which could then be completed throughout the State fiscal year (April – March). Each of the 10 Regional Economic Development Councils (REDCs) will be encouraged to promote the Fund within their regions.

Eligible Costs cannot be incurred prior to the date of ESD's approval of the grant, with the exception of trade show booth deposits, which can either be used as part of the organization's cash match or reimbursed depending on the structure of the organization's cash match. ESD reserves the right to review and approve or reject applications based on Applicant Eligibility Criteria and Application Requirements.

The following eligibility criteria must be met in order to apply for the Global NY Grant Fund:

Applicant Eligibility Criteria

- For-profit small- and medium-sized businesses must be located in New York State and:
  - Must have 500 or fewer employees in New York State
  - Intend to begin exporting or expand export sales in foreign markets
  - At least one of the following:
    - 51% of the value of finished product or service originates in New York, the calculation of which includes the value of the raw materials and component parts, manufacturing process, advertising and promotion, distribution, warehousing, and designs and other intellectual property, or
    - A business that is certified as a local producer through a regional Chamber of Commerce or Economic Development Agency (e.g., Made in NY; Made in Brooklyn)
  - Business is viable and in existence for at least one year by the date of application for the Global NY Grant Fund

  - Demonstrated need for grant assistance
  - Applicant has demonstrated understanding of costs associated with exporting and doing business with foreign buyers, including costs of freight forwarding, customs brokers, packing, shipping, marketing, etc. Applicant will be asked to provide an "Export Readiness Score" by completing the U.S. Department of Commerce's Export Assessment available on-line at **https://new.export.gov/export-readiness-assessment/login**
- Not-for-profit organizations, including, but not limited to, economic development corporations, trade or industry associations, Chambers and other non-profit organizations that promote economic development or international trade:
  - Must be located in New York State;
  - Have a demonstrated history of helping New York State businesses export and/or contribute to state or regional economic development through the promotion of international trade;
  - A not-for-profit organization receiving a grant from ESD must be or become registered and up-to-date with its filing with the Office of Attorney General's Charities Bureau ("OAG"), certified in the Office of the State Comptrollers' VendRep System ("OSC"), pre-qualified with New York State Grants Gateway, and in compliance with all other relevant statutory requirements,
  - An unincorporated trade association may be a co-applicant with a NYS not-for-profit organization, IDA or LDC, but the latter entity must be the contractual party if a grant is awarded.

Eligible Use of Funds

Grant funds may be used to develop export capacity, enter new export markets and/or expand sales in existing foreign markets. The purpose is to increase New York State's competitiveness in the global economy, while retaining and creating jobs in New York. Costs cannot be incurred prior to ESD approval of the grant, with the exception of trade show booth deposits. No costs will be reimbursed for activities that took place prior to grant approval.

Per diem rates are published for "lodging" costs and are based on the local U.S. city and/or foreign country. Federal per diem rates are updated annually and are available at:
http://www.gsa.gov/portal/category/100120
https://aoprals.state.gov/content.asp?content_id=184&menu_id=78

Lodging: Travelers may be reimbursed up to 50% for eligible lodging costs. Reimbursements are based on the actual lodging costs up to the maximum per diem allowance. Dates must correspond with tradeshow exhibit dates and/or other supporting documents (i.e. for ESD's EMAS program or a Gold Key service).

Days of travel: The eligible travel days include two days prior to the tradeshow/event and one day after.

Travelers may only be reimbursed up to the cost of a full-fare, economy (coach) class ticket. If business or first class tickets are purchased, companies will need to submit a travel agent's written quotation for the economy ticket for the same dates and itinerary.

Export promotion tools may include, but are not limited to, the following:

- **Market Customization** including translation of web/printed materials for a targeted foreign market, design services, international marketing/advertising in a foreign market, etc.;
- **Trade Shows/Conferences/Meetings/Missions** including attendance at U.S. Department of Commerce- or ESD- approved international or domestic trade shows with a significant international presence (including International Buyer Program shows); international trade conferences; organized business meetings with potential foreign buyers/distributors, such as EMAS Plus or a Gold Key service; and/or ESD and non-ESD organized trade missions. Grants may cover booth space, exhibition costs, shipping costs, plus travel and lodging expenses subject to published federal GSA per diem rates.
- **Export Education & Capacity Building** including international and export-related conferences, seminars, webinars, and courses for employees who will be developing or implementing the company's international export strategy; also, learning opportunities that increase a company's export capacity and/or growth within a specific market;
- **Product Adaptation and Market Certification** to enable eligible businesses to enter a foreign market successfully, including modifying a product line to conform to mandatory foreign government regulations, geographic conditions, buyer preferences, product labeling and packaging, and other export requirements. This category is limited to those issues that are considered to be required in order to export;
- **Export Development Projects** including projects designed to encourage and assist NYS businesses or industry groups to engage in exporting and/or to coordinate other State economic development programs with such projects, including technical and financial assistance. These may include, but are not limited to, export market analysis; export promotion; participation in trade shows or trade missions; export/trade education; export trade finance or export-related technical assistance.

Ineligible Use of Funds

Ineligible uses of grant funds include, but are not limited to:

- Costs incurred prior to receipt of the ESD incentive proposal/award notification
- Utility costs, taxes, debt, or insurance premiums
- Personnel expenses
- Administration of grant funds
- Legal services
- Meals, passports, visas, or immunizations related to trade events or international travel
- Expenses related to entertaining current or potential clients or government officials
- Standard business supplies
- Business Class or First Class airline tickets

Award Requirements

Each State fiscal year, the maximum award per grant is $25,000 for businesses and $50,000 for non-profit organizations; the minimum is $10,000. Applicants are limited to two grants per State fiscal year for for-profit companies and one grant per year for not-for-profits. Second awards are contingent on successful completion and documentation of the first grant award. Grant awards may cover up to 50% of total project costs. Businesses must contribute a 50% match in the form of cash injected into the project and non-profit organizations must contribute 40% cash, which should be auditable through financial statements or accounts, if so requested. Other state and federal grant funds may not be used as

matching funds. Applicants must provide documentation of sources and uses of matching funds, and must provide proof of payment and receipts related to the eligible expenses.

A single grant may cover more than one eligible activity at a time (applicants may bundle eligible activities), however, all applications will be reviewed and approved on a case by case basis. No single business can receive more than $50,000 in grant funding per State fiscal year (using the max of two grants per year) or $250,000 in total grants over the course of the program, whether given directly, or through a regional non-profit organization. No single non-profit organization can receive more than $50,000 per State fiscal year or $250,000 over the course of the program.

If there are any changes to the proposed/approved grant activity(-ies), then the Applicant must notify ESD in writing about the changes immediately. If the change affects the line item budget by 10% or less, then the applicant and ESD must discuss and agree to the changes. If the change affects the budget by more than 10%, then ESD reserves the right to reevaluate the project and may rescind the award.

Application Requirements

An applicant must file a completed application, which includes, but is not limited to:

(i) complete application with original signature and all attachments including an attestation that the business or organization is compliant with tax obligations and all relevant environmental, labor, and operating laws;
(ii) certificate/letter of incorporation;
(iii) for business applicants, a narrative (not to exceed two pages) explaining your export plan/strategy, plus a complete project budget with sources and uses of funds, project work plan, and demonstrated fulfillment of New York State production content criteria or;
(iv) for non-profit organizations, a narrative (not to exceed two pages) describing how your organization will assist NYS businesses with exporting; help build export capacity; and/or to otherwise increase the export of NYS products and services, plus a project budget with sources and uses of funds, project work plan, and demonstrated compliance with NYS non-profit requirements, as stated in Applicant Eligibility;
(v) demonstration of matching funds as described above (50% for for-profit, 40% for non-profit);
(vi) demonstration of financial need, including most recent tax returns and attestation that, but for the grant, the project would not take place;
(vii) documentation of project costs including detailed specifications, scope of services and associated quotes;
(viii) an agreement to submit a Project Impact Report after completing grant activities and to participate in ESD surveys about the results derived from the grant activity after the fact.

ESD may require additional or alternative documentation as deemed necessary.

Application Review

Complete applications that meet the Application Requirements and the $10,000 minimum grant threshold will be accepted on a rolling basis, but they will be reviewed and approved every other month in-line with the State's fiscal year (April – March), based on, but not limited to, the following criteria:

- Eligibility
- Promotion of economic vitality of New York State by facilitating the creation or retention of jobs or increasing business activity through exporting

- Project is reasonably likely to accomplish its stated objectives
- Likely benefits of the project exceed costs
- Evidence of secured matching funds, and a contribution of at least the minimum cash equity;

Pursuant to these guidelines, ESD has the right to review and approve or reject applications in the exercise of its discretion.

Methods of Disbursement

Final payment will not be disbursed until the project is complete and all supporting documentation is received within 60 days of project completion. Prior to disbursement of grant funds, the following information must be submitted:

- A project participation report including documentation of project completion, such as photographs, marketing materials, and measurements of success;
- invoices and associated paid receipts including, but not limited to, cleared checks, register receipts and credit card receipts;
- other supporting documentation as may be necessary to verify successful project completion and payment of eligible costs;
- A Project Impact Report including information on project outcomes, such as export sales.

In accordance with IRS regulations, all grants disbursed will be reported by ESD to the IRS and ESD shall mail a Form 1099 to the grant recipient, at the address provided in the application.

Audit and Control

ESD may conduct site visits and audit applications on a random or specified basis for a period extending to six years after the final disbursement of the assistance to the applicant. ESD reserves the right to contact companies and other federal, state and local governmental agencies to confirm information included, or that should have been included, in the applications.

Disclosure of Information

Each applicant must agree to allow:

(a) the Department of Taxation and Finance to share its tax information with ESD. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;

(b) the Department of Labor to share its tax, employer or other information with ESD relevant to funding. However, any tax information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law; and

(c) ESD and their agents access to any and all books and records ESD may require to monitor compliance.

Except as required by applicable law or regulations, ESD will endeavor to maintain the confidentiality of tax and rent information submitted as part of the application. Notwithstanding the foregoing, such information may be made available to ESD staff and designated individuals that are processing the application and to federal, state or local officials and to auditors evaluating the program and others as ESD may deem to be required in accordance with applicable law and regulations, including judicial orders and subpoenas.

Availability of Funds
The disbursement of any grant is explicitly subject to the approval of ESD and the receipt by ESD of a sufficient amount of funds from the State of New York acting by and through the New York State Division of the Budget.

Non-Discrimination and Contractor and Supplier Diversity
ESD non-discrimination policy will apply. The applicant shall not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status.

In accordance with the requirements of Article 15-A of the New York State Executive Law, all projects awarded funding shall be reviewed by ESD's Office of Contractor and Supplier Diversity ("OCSD"), which will, where applicable, set minority and women-owned business enterprise ("MWBE") participation goals. Such goals shall typically be included in the award letter or other contemporaneous communication from OCSD with respect to these requirements.

In instances where goals are set, applicant will be required to use good faith efforts to achieve the prescribed MWBE goals assigned to this project and must maintain such records and take such actions necessary to demonstrate compliance with Article 15-A of the New York State Executive Law.

Amendments to Global NY Grant Fund Guidelines
ESD/Global NY may amend these guidelines from time to time.

Application Submission
The applicant can access the application form and instructions, these guidelines, any amendments to these guidelines, and additional information about the program on the ESD Global NY website: www.global.ny.gov

Additional information can be obtained by writing to globalny@esd.ny.gov or calling (212) 803-2300

Applications are accepted on a rolling basis, but reviewed and approved every other month in-line with the State fiscal year (April – March). The application is a PDF fillable form. Applicants must submit one electronic copy and one hard copy of the completed application with an original signature and all required attachments to the following address:

Global NY Grant Fund
Empire State Development
633 Third Avenue, 36th floor
New York, NY 10017

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: (Statewide) – Global NY Loan Fund

REQUEST FOR: Authorization to Enter into Agreements for the Funding of Loan Loss Reserves for Export Loans; Authorization to Enter into Agreements for Direct Export Loans; Adoption of Guidelines; Authorization to Take Related Actions

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Background

The Global NY Loan Fund (the "Program") is established pursuant to the Governor's Global NY Initiative announced at the First Global NY Summit on October 7th, 2014. The Program is a key component of the State's suite of export assistance services. The Program provides financial assistance to help small and medium sized New York companies to tap into global markets to grow their exports, and create new jobs in New York State. The Program will provide (i) $16 million for the Export Loan Credit Enhancement Initiative and (ii) $5 million for the Distilled and Fermented Beverage Export Loan Initiative.

Global NY Loan Fund – Export Loan Credit Enhancement Initiative
The Export Loan Credit Enhancement Initiative is intended to be funded over a period of seven years allowing for an estimated $2.2 million of annual loan loss reserves that would leverage $22 million of private export financing each year and collectively $154 million over the life of the Program.

The New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") will to enter into loan loss reserve agreements with banks, credit unions, trust companies, savings banks, and loan associations or cooperative banks chartered by the state or national banking associations, federal savings, and loan associations or federal savings banks or any federally certified community development financial institutions (collectively "Financial Institutions" and individually a "Financial Institution").

This initiative is designed to encourage Financial Institutions to extend financing to New York State based small and medium size businesses that seek to create or expand exports or to serve as suppliers to larger exporters. The Export Loan Credit Enhancement Initiative will fill a gap for businesses that have been unable to secure financing for export purposes due to the smaller size of the loan, limited export experience, lack of collateral enhancement, or small business

credit history. This initiative provides to each Financial Institution funding for a 10% loan loss reserve fund in order to encourage the underwriting of export loans made by the Financial Institution to small and medium sized New York businesses that otherwise find it difficult to obtain regular or sufficient export related bank financing. The Financial Institutions' export loans to New York State based manufacturers and service providers will provide the capital needed to more effectively deliver on contracts, offer new products, and enter new markets. Assuming that the lenders meet the 10:1 leverage ratio (loan capital to credit enhancement), this initiative will leverage $154 million of total private sector export financing capital over seven years.

Loans to be supported by the Export Loan Credit Enhancement Initiative will typically range from $25K to a maximum of $500K, with an average of $175K. No borrowers shall have more than two loans enrolled into the initiative at any one time totaling $1 million. Financial Institutions will conduct the underwriting and set the terms and conditions of the loans, with no loans maturing over ten years. Loans can be used to finance export receivables, equipment purchase, working capital, and inventory, among other export uses.

How the Credit Enhancement Works: In order to encourage Financial Institutions to extend export financing, the Export Loan Credit Enhancement Initiative offers a 10% loan loss reserve credit enhancement for each export loan originated, up to a maximum of $2 million aggregate per each Financial Institution over the life of the Program. This means that if the loan performs, the Financial Institution may revolve the loan loss reserve and further leverage the minimum of 10:1 ratio. As an example, a Financial Institution would be eligible for a $10,000 loan loss reserve credit enhancement to originate a $100,000 export loan. If the loan is paid back in full, the $10,000 would remain with the Financial Institution and could be used as a loan loss reserve for a future export loan enrolled into the Program's Export Loan Credit Enhancement Initiative. If the loan is not paid back, the funds would be used to help cover the loss from the defaulted loan.

The loan loss reserves monies remain in the Financial Institution's loan loss reserve account until the last enrolled loan is fully repaid. However, if at any given time, the loan loss reserve account balance exceeds more than 100% of the total balance of actively enrolled loans, ESD may request for the excess amount to be refunded to ESD, unless the Financial Institution continues to enroll new export loans. When its full allocation of initiative funds are disbursed, the Financial Institution may continue to revolve the balance of its loan loss reserve account in order to support new export loans, or refund to ESD the remaining balance in the loan loss reserve account that does not support a balance of actively enrolled Export Loan Credit Enhancement Initiative loans.

Funding Agreements: Staff seeks launch the Export Loan Credit Enhancement Initiative in April of 2016. In order to do so, it will be necessary for staff to act within the next thirty days, on applications of Financial Institutions. The necessary agreements are currently being drafted, and it is likely that some Financial Institutions will be ready to enter into the agreements. With this short period, staff seeks authorization to begin entering into such agreements with Financial Institutions as soon as possible, after a Financial Institution's application is approved

by staff.

The agreements, among other things, will provide for (I) an allocation of not more than $2 million for each participating financial institution; (II) the establishment and administration of the account by the Financial Institutions; (III) termination and return of remaining Program monies; (IV) typical representations and warranties, events of default and remedies, and covenants; and (V) compliance with State and federal law and regulations.

ESD issued an RFQ to identify potential lenders with demonstrable experience in the making of loans and extension of lines of credit to NYS businesses in July of 2015. Submissions were received from five Financial Institutions that were deemed capable to participate in the Export Loan Credit Enhancement Initiative:

- Business Outreach Center Capital Corporation
  - Serving New York City, Mid-Hudson and Long Island Regions
- Habib American Bank (HAB Bank)
  - Serving New York City and Long Island
- New York Business Development Corporation (NYBDC) and the Excelsior Growth Fund
  - Serving Statewide (all regions)
- North Country Alliance Local Development Corporation
  - Serving North Country Region
- Valley Economic Development Center/ Tri-State Business Opportunity Fund
  - Serving New York City and Long Island

If authorized, staff intends to promptly enter into agreements with these five Financial Institutions. Together, these five Financial Institutions are expected to provide over $10 million of new capital to small and mid-sized business exporters, utilizing $1.1 million of Program funds.

In addition to the above named institutions, on a rolling basis, staff will continue to identify and solicit Financial Institutions that wish to become part of the initiative. In doing this staff will seek to include community development financial institutions that are federally certified by the United States Department of Treasury and lending institutions currently participating in the Linked Deposit Programs, Small Business Revolving Loan Fund, and State Small Business Credit Initiative Capital Access Programs.

Global NY Loan Fund – Distilled and Fermented Beverage Initiative

Through the Distilled and Fermented Beverage Initiative, the Corporation will provide zero percent interest loans in principal amounts between $10,000 to $50,000, with terms of up to seven years, directly to New York State's small and medium-sized companies in either the distilled or fermented alcoholic beverage industry in order for such companies to tap into global

markets, develop export capacity, grow their exports and create jobs in the State. These companies find it difficult to obtain regular or sufficient export related bank financing. The initiative seeks to assist these companies.

Such companies can use the proceeds of the loans to gain or enhance their export capability by, among other things, developing export marketing plans, website translation, product adaptation, obtaining market certification, or purchasing equipment. These loans will be made by ESD directly to the eligible companies and will provide the capital needed in order to allow these companies to more effectively deliver on contracts, offer new products, and enter new markets.

Staff will solicit loan applications from such businesses on a rolling basis. The loan underwriting will be performed by ESD staff. The documentation will be simple and straight forward so that if determined to be eligible and adequately creditworthy the company will be able to close expeditiously and inexpensively.

Global NY Loan Fund - Program Guidelines

Staff has prepared guidelines for adoption by ESD for the implementation and administration of the Global NY Loan Fund. The guidelines set forth criteria for determining eligibility for applicants and eligible costs. The guidelines also set forth the various program and submission requirements and describe methods of disbursement of funding. A copy of the guidelines for the Fund is attached hereto. It is expected that the guidelines may be amended from time to time to address specific Program needs.

Project Team:	Project Management:	
	Export Loan Credit Enhancement	Huey-Min Chuang
	Distilled and Fermented Beverage	Robert Kwon
	Legal	Richard Dorado
	Contractor & Supplier Diversity	Tawanda Mitchell
	Environmental	Soo Kang

Statutory Basis

The Program is authorized by Part I §19 of S-4610 and A-6721 dated March 31, 2015 and UDC Act §5.

Affirmative Action

It is the policy of the State of New York, and the Corporation to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that New York State Business Enterprises, Minority Group Members and M/WBE share in the economic opportunities generated by the Corporation's participation in projects or initiatives, and/or the

use of Corporation funds. The Corporation's non-discrimination and affirmative action policy will apply to this initiative. Selected participants are encouraged to use good faith efforts to provide for the meaningful participation of M/WBEs, minority group members and women in connection with the Program.

Environmental Review

ESD staff has determined that the requested authorization constitutes a Type II ministerial action as defined by the New York State Environmental Quality Review Ace ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. The recipient of fund disbursements will be responsible for complying with SEQRA as applicable. No further environmental review is required in connection with this authorization.

Requested Actions

The Directors are requested to (I) authorize ESD to (a) enter into and perform agreements with Financial Institutions for the use of Program monies in order to fund loan loss reserves for export loans made to small and medium sized New York businesses by such Financial Institutions, and (b)) provide loans directly to small and medium-sized New York businesses in either the distilled or fermented alcoholic beverage industry and (II) adopt the Program Guidelines set forth in these materials, and (III) authorize the taking of all related actions necessary or appropriate to effectuate the foregoing, including without limitation the making of any findings and the holding of any public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated assistance as a result of testimony given at any such hearing, if necessary.

Recommendation
Based on the foregoing, I recommend that the requested actions be approved.

Attachments

Resolutions
Guidelines

March 24, 2016

(Statewide) – Global NY Loan Fund – Authorization to Enter into Agreements for the Funding of Loan Loss Reserves for Export Loans; Authorization to Enter into Agreements for Direct Export Loans; Adoption of Guidelines; Authorization to Take Related Actions

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RESOLVED, that, on the terms described in the materials presented in this meeting (the "Materials"), a copy of which is ordered filled with the records of the Corporation, the Corporation in connection with the Global New York Loan Fund (the "Program") is hereby authorized to: (i) enter into agreements with Financial Institutions (as defined in the Materials) for the funding of loan loss reserves for export-related loans to be made to small and medium sized New York businesses by Financial Institutions and (ii) provide export related loans directly to small and medium-sized New York businesses in either the distilled or fermented alcoholic beverage industry; and be it further

RESOLVED, that the Corporation adopts the Program Guidelines as attached Materials with such subsequent modifications as the President, or his designee may, from time to time, deem in the best interests of the Corporation and the Program; and be it further

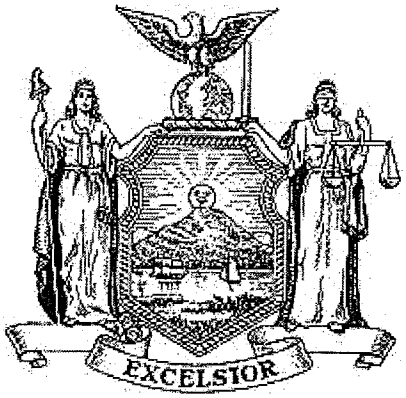
RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, (2) receipt of all other necessary approvals, and (3) the receipt of adequate funding for such assistance from the State of New York; and be it further

RESOLVED, that the President, or his designee, 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 and make all necessary findings on behalf of the Corporation as he or she may in his or her sole discretion consider to be necessary or appropriate to effectuate the foregoing resolutions, including without limitation, to make findings and hold public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated assistance.

* * *

Guidelines

New York State
Global NY Loan Fund



State of New York
Andrew M. Cuomo, Governor

Empire State Development

March 24, 2016

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Guidelines

New York State Global NY Loan Fund

Program

The Global NY Loan Fund (the "Program"), is established pursuant to the Governor's Global NY Initiative (the "Initiative") announced at the First Global NY Summit on October 7th, 2014. The Initiative provides financial assistance to help small and medium sized New York companies to tap into global markets to grow their exports, create new jobs in New York State, and attract additional international business investment to New York. The Program will provide (i) $16 million for the Export Loan Credit Enhancement Initiative and (ii) $5 million for the Distilled and Fermented Beverage Export Loan Initiative. Global NY Loan Fund is a key component of the State's suite of export assistance services.

Applications will be accepted on a rolling basis. Program funds will be disbursed through ESD only after all required documentation has been submitted to ESD. Each of the 10 Regional Economic Development Councils (REDCs) will be encouraged to promote the Fund within their regions.

Eligible Costs cannot be incurred prior to the date of ESD's incentive proposal/award notification. ESD reserves the right to review and approve or reject applications based on Applicant Eligibility Criteria and Application Requirements or for other reasons that deemed adequate by ESD.

These guidelines are divided into three sections indicating provisions applicable to: 1. Export Loan Credit Enhancement Initiative; 2. Distilled and Fermented Beverage Export Loan Initiative; and 3. Both Initiatives.

1. EXPORT LOAN CREDIT ENHANCEMENT INITIATIVE PROVISIONS

The following Guidelines apply to the Export Loan Credit Enhancement Initiative:

Eligible Borrowers

- Small and Mid-sized businesses whose primarily place of business are in New York State with 500 or fewer employees.
    - At least one of the following: 51% of the value of finished product or service originates in New York, the calculation of which includes the value of the raw materials and component parts, manufacturing process, advertising and promotion, distribution, warehousing, and designs and other intellectual property, or
    - A business that is certified as a local producer through a regional Chamber of Commerce or Economic Development Agency (e.g. Made in NY; Made in Brooklyn.)

Businesses must have one year of exporting experience, or as a supplier to exporters, or been in operation for at least 12 months and demonstrate that the financing will help expand its existing export markets or develop new ones.

Eligible Financial Institutions

- Banks, credit unions, trust companies, savings banks, and loan associations or cooperative banks chartered by the state or national banking associations, federal savings, and loan associations or federal savings banks or any federally certified community development financial institutions (collectively "Financial Institutions" and individually a "Financial Institution").
- Financial Institutions are limited to an aggregate of $2 million in Loan Loss Reserves funded with Program funds throughout the life of the Program for all eligible enrolled Program loans made by the Financial Institution.

Institutional review, to be secured by ESD from time to time as appropriate:

- Uniform Banking Performance Report (UBPR) showing that commercial loans and leases comprise a significant part of the Financial Institution's assets.
- A UBPR peer group analysis showing that the Financial Institution's percentage of non-current loans and leases does not exceed its peer group average.
- Self-certification that the Financial Institution is not operating under any supervisory enforcement action.
- Financial Performance Reports (FPPs) from the National Credit Union A, for credit unions.
- A review of the CDFI's CARS rating, for community development institutions.
- Annual report with audited financial statements.
- Currently participating in the Linked Deposit Program, Small Business Revolving Loan Fund, or State Small Business Credit Initiative Capital Access Program and in good standing.

Lending Criteria

- Loans must not exceed $500,000.
- No borrowers can have more than two enrolled loans into the Program that exceeds a total of $1 million in loan amount.
- Lender determines the loan terms (fees, interest rates, repayment schedules, etc), however, the loan maturity may not exceed ten years, and loan size capped at $500,000.)
- Among other export related uses, the businesses can use the loan financing in order to purchase equipment and inventory needed to complete export - related contracts and provide for working capital to support foreign accounts receivable during long payment cycles.
- Term loans and Lines of Credit are eligible.
- A refinanced Program loan may not be enrolled if the maximum principal amount of the loan is not increased.
- No portions of a loan may be enrolled.
- No unguaranteed portions of EXIM bank loan can be enrolled.

Loan Loss Reserve Fund and Reserve Account

- Upon execution of a Financial Institution's Agreement, eligible loans can be enrolled into the Program with the submission of the Enrollment Form by the Financial Institution and the Eligible Small Business Certification Form executed by the business for each Program loan.
- Financial Institutions shall establish a depositary account at a regulated depository financial institution for the purpose of receiving loan loss reserve fund. The account shall be in the name of the Financial Institution but subject to the control of the Corporation.
- The Corporation shall acknowledge enrollment of the Program loan by delivery of an Enrollment

Acknowledgement and Funding Notice. This notice will set forth the anticipated date of the funding of the loan loss deposit into the Loan Loss Reserve Fund on account of the Program loan. The deposit into the account will occur quarterly.

- ESD will use Program funds to provide a 10% loan loss reserve against the total principal amount of the loan enrolled into the Program.
- The disbursement of any Loan Loss Reserve is explicitly subject to the approval of ESD and the receipt by ESD of a sufficient amount of funds from the State of New York acting by and through the New York State Division of the Budget.

Disbursement of Reserve Fund

The Financial Institution may file a claim with ESD by submitting a Claim Form.

- The claim may be for the amount of the charge off plus 90 days accrued interest on the charged off amount.
- Upon receipt by ESD of a claim filed by the Financial Institution, ESD shall promptly authorize the Financial Institution to make a disbursement from the Loan Loss Reserve Fund in payment of the claim.

Reporting Requirement for Financial Institutions

- The Financial Institution shall review and confirm the data in the ESD's quarterly Program report and provide other Program information as ESD may reasonably request within 10 days after the end of each quarter. This report will include all the enrolled loan, borrower data provided by the original loan enrollment forms.
- The Financial Institution shall review and confirm the data provided in the ESD's annual Program report and provide other Program information as the Corporation may reasonable request on or before March 31 of each year. This report will include all the enrolled loan and borrower data provided by the original loan enrollment forms.
- The Financial Institution shall report the interest earned on the Loan Loss Reserve Fund every quarter and annually on or before March 31 of each year.

2. DISTILLED AND FERMENTED BEVERAGE EXPORT LOAN INITIATIVE PROVISIONS

The following Guidelines apply to Distilled and Fermented Beverage Export Loan Initiative:

Applicant Eligibility Criteria

- For-profit small- and medium-sized businesses must be located in New York State and:
  - Must have 500 or fewer employees in New York State
  - Be licensed by the NYS Liquor Authority to produce beer, wine, spirits, or cider
  - Intend to begin exporting or expand export sales in foreign markets
  - At least one of the following:
    - 51% of the value of finished product or service originates in New York, the calculation of which includes the value of the raw materials and component parts, manufacturing process, advertising and promotion, distribution, warehousing, and designs and other intellectual property, or

        - A business that is certified as a local producer through a regional Chamber of Commerce or Economic Development Agency (e.g., Made in NY; Made in Brooklyn)
    - Business is viable and in existence for at least two years by the date of application for the Global NY Loan Fund
    - Demonstrated need for loan assistance
    - Applicant has demonstrated understanding of costs associated with exporting and doing business with foreign buyers, including costs of freight forwarding, customs brokers, packing, shipping, marketing, etc. Applicant will be asked to provide an "Export Readiness Score" by completing the U.S. Department of Commerce's Export Assessment available on-line at **https://new.export.gov/export-readiness-assessment/login**

Eligible Use of Funds
Loan Proceeds may be used to develop export capacity, enter new export markets and/or expand sales in existing foreign markets. The purpose is to increase New York State's competitiveness in the global economy, while retaining and creating jobs in New York. Costs cannot be incurred prior to ESD approval of the loan.

Eligible uses may include, but are not limited to, the following:

- Market Customization including translation of web/printed materials for a targeted foreign market, design services, international marketing/advertising in a foreign market, etc.;
- Product Adaptation and Market Certification to enable eligible businesses to enter a foreign market successfully, including modifying a product line to conform to mandatory foreign government regulations, geographic conditions, buyer preferences, product labeling and packaging, and other export requirements. This category is limited to those issues that are considered to be required in order to export; and
- Enhancement of Export Capability including, among other things, developing export marketing plans, website translation, product adaptation, and obtaining market certification.
- Machinery & Equipment to facilitate the production of products targeted to a foreign market.

Ineligible Use of Funds
Ineligible uses of loan proceeds include, but are not limited to:

- Costs incurred prior to receipt of the ESD incentive proposal/award notification
- Utility costs, taxes, debt, or insurance premiums
- Personnel expenses
- Administration of loan proceeds
- Legal services
- Meals, passports, visas, or immunizations related to trade events or international travel
- Expenses related to entertaining current or potential clients or government officials
- Standard business supplies
- Business Class or First Class airline tickets

Loan Requirements
The maximum principal amount of each loan shall not exceed $50,000 or be less than $10,000. Applicants are limited to one loan per State fiscal year. Subsequent awards are contingent on successful

documentation and completion of the prior loan. Each loan will have a base interest rate of 0%, but a higher rate may apply if the loan is not repaid on time. The term of the loan will be for up to seven years. Loan awards may cover up to 50% of total project costs. Businesses must contribute a minimum of 10% equity in the form of cash injected into the project, which should be auditable through financial statements or accounts, if so requested. Other state and federal grant funds may not be including in project costs. Applicants must provide documentation of sources and uses of funds, and must provide proof of payment and receipts related to the eligible expenses.

A single loan may cover more than one eligible activity at a time (applicants may bundle eligible activities), however, all applications will be reviewed and approved on a case by case basis. No single Applicant can receive more than $50,000 in loan funding per State fiscal year or $150,000 in total loans over the course of the 7-year program.

If there are any changes to the proposed/approved items to be funded with the loan, then the Applicant must notify ESD in writing about the changes immediately. If the change affects the line item budget by 10% or less, then the applicant and ESD must discuss and agree to the changes. If the change affects the budget by more than 10%, then ESD reserves the right to reevaluate the project and may rescind the award.

Application Requirements

An applicant must file a completed application, which includes, but is not limited to:

(i) complete application with original signature and all attachments including an attestation that the business or organization is compliant with tax obligations and all relevant environmental, labor, and operating laws;

(ii) certificate of incorporation other form of evidence or the ability of the applicant to conduct business in the State of New York;

(iii) narrative (not to exceed two pages) explaining your export plan/strategy, plus a complete project budget with sources and uses of funds, project work plan, and demonstrated fulfillment of New York State production content criteria or;

(iv) detailed description of sources and uses of funds;

(v) demonstration of financial need, including two most recent tax returns or financial statements and attestation that, but for the loan, the project would not take place;

(vi) documentation of project costs including detailed specifications, scope of services and associated quotes;

(vii) an agreement to submit a Project Impact Report after completing activities funded with the loan and to participate in ESD surveys about the results derived from the activity, funded with the loan, after the fact.

ESD may require additional or alternative documentation as deemed necessary.

Application Review

Complete applications that meet the Application Requirements and the $10,000 minimum loan threshold will be accepted on a rolling basis, but they will be reviewed and approved every other month in-line with the State's fiscal year (April – March), based on, but not limited to, the following criteria:

- Eligibility

- Promotion of economic vitality of New York State by facilitating the creation or retention of jobs or increasing business activity through exporting
- Project is reasonably likely to accomplish its stated objectives
- Likely benefits of the project exceed costs
- During the last fiscal year, business must have had at least $250,000 in net sales, a positive EBITDA (Earnings before interest, tax, depreciation and amortization), and current ratio and current assets to loan amount ratio of 1:1 or greater
- Evidence of a contribution of at least the minimum cash equity
- Corporate and/or personal guaranty may be requested.

Pursuant to these guidelines, ESD has the right to review and approve or reject applications in the exercise of its discretion.

Methods of Disbursement
The final disbursement of loan funds will not be made until the project is complete and all supporting documentation is received within 60 days of project completion. Prior to disbursement of loan funds, the following information must be submitted:

- A project participation report including documentation of project completion, such as photographs, marketing materials, and measurements of success;
- invoices and associated paid receipts including, but not limited to, cleared checks, register receipts and credit card receipts;
- other supporting documentation as may be necessary to verify successful project completion and payment of eligible costs;
- A Project Impact Report including information on project outcomes, such as export sales.

3. PROVISONS APPLICABLE TO BOTH INITIATIVES

Audit and Control
ESD may conduct site visits and audit applications on a random or specified basis for a period extending to six years after the final disbursement of the assistance to the applicant. ESD reserves the right to contact companies and other federal, state and local governmental agencies to confirm information included, or that should have been included, in the applications.

Disclosure of Information
Each applicant must agree to allow:

(a) the Department of Taxation and Finance to share its tax information with ESD. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;

(b) the Department of Labor to share its tax, employer or other information with ESD relevant to funding. However, any tax information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law; and

(c) ESD and their agents access to any and all books and records ESD may require to monitor compliance.

Except as required by applicable law or regulations, ESD will endeavor to maintain the confidentiality of tax and rent information submitted as part of the application. Notwithstanding the foregoing, such information may be made available to ESD staff and designated individuals that are processing the application and to federal, state or local officials and to auditors evaluating the Program and others as ESD may deem to be required in accordance with applicable law and regulations, including judicial orders and subpoenas.

Availability of Funds
The disbursement of any loan is explicitly subject to the approval of ESD and the receipt by ESD of a sufficient amount of funds from the State of New York acting by and through the New York State Division of the Budget.

Non-Discrimination and Contractor and Supplier Diversity
ESD non-discrimination policy will apply. The applicant shall not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status.

In accordance with the requirements of Article 15-A of the New York State Executive Law, all projects awarded funding shall be reviewed by ESD's Office of Contractor and Supplier Diversity ("OCSD"), which will, where applicable, set minority and women-owned business enterprise ("MWBE") participation goals. Such goals shall typically be included in the award letter or other contemporaneous communication from OCSD with respect to these requirements.

In instances where goals are set, applicant will be required to use good faith efforts to achieve the prescribed MWBE goals assigned to this project and must maintain such records and take such actions necessary to demonstrate compliance with Article 15-A of the New York State Executive Law.

Amendments to Global NY Loan Fund Guidelines
ESD/Global NY may amend these guidelines from time to time.

Application Submission
The applicant can access the application form and instructions, these guidelines, any amendments to these guidelines, and additional information about the Program on the ESD Global NY website: www.global.ny.gov

Additional information can be obtained by writing to globalny@esd.ny.gov or calling (212) 803-2300

Applications are accepted on a rolling basis, but reviewed and approved every other month in-line with the State fiscal year (April – March). The application is a PDF fillable form. Applicants must submit one electronic copy and one hard copy of the completed application with an original signature and all required attachments to the following address:

Global NY Loan Fund
Empire State Development
633 Third Avenue, 36th floor

New York, NY 10017

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO:	The Directors
FROM:	Howard A. Zemsky
SUBJECT:	Buffalo (Western New York Region – Erie County) – Erie Canal Harbor Development Corporation Outer Harbor Capital – Buffalo Regional Innovation Cluster (Capital Grant)
REQUEST FOR:	Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

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I. Project Summary

Grantee:	Erie Canal Harbor Development Corporation (the "ECHDC")
ESD* Investment:	A grant of up to $5,000,000 to be used for a portion of the costs related to planning, design, inspection, environmental remediation and construction costs
	* The New York State Urban Development Corporation doing business as Empire State Development ("ESD" or the "Corporation")
Project Locations:	Outer Harbor Parcels located at 2, 32, 175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Boulevard, Buffalo, Erie County
Proposed Project:	Implementation of the Outer Harbor Access and Activation Civic Plan
Project Type:	Tourism and Recreation
Source of Funds:	Buffalo Regional Innovation Cluster
Regional Council:	The Western New York ("WNY") Regional Economic Development Council ("REDC") oversees the implementation of the Buffalo Billion Investment Development Plan. This project is part of the Buffalo Billion Initiative to enhance the development of Buffalo and demonstrates New York State's commitment to revitalize the tourism economy of the WNY Region.

II. Project Cost and Financing Sources

Financing Uses	Amount
Planning/Design/Inspection	$1,200,000
Environmental Remediation	900,000
Construction	2,900,000
Total Project Costs	$5,000,000

Financing Sources	Amount	Percent
ESD-Grant	$5,000,000	100%
Total Project Financing	$5,000,000	100%

III. Project Description

A. Grantee

Industry: The ECHDC is the lead agency involved in waterfront development in the City of Buffalo ("Buffalo" or the "City") to increase activity in recreation, arts and entertainment, tourism, and neighborhood revitalization. ECHDC administers the waterfront project investment funds that will be paid to the Waterfront Trust Fund by the New York State Power Authority ("NYPA") which commenced in 2007, pursuant to the Niagara Power Authority Relicensing Settlement Agreement between NYPA, the City and Erie County.

Company History: ECHDC, an ESD subsidiary, was formed in July 2005 to oversee waterfront development including site development within and adjacent to the Erie Canal Harbor constructed at the foot of Main Street in Buffalo. It places particular emphasis on developing and implementing a comprehensive strategic plan that will build on past plans and assure an integrated, culturally significant and accessible waterfront area.

Ownership: ECHDC, a subsidiary of ESD.

Size: There is one facility with eight full-time employees.

Market: ECHDC attracts residents and tourists to the Buffalo waterfront for entertainment and recreational purposes.

ESD Involvement: In 2014, Niagara Frontier Transportation Authority transferred 356-acres of vacant underutilized waterfront property to ECHDC, of which a 190-acre parcel was designated the newly-established Buffalo Harbor State

Park, operated and maintained by New York State Office of Parks, Recreation, and Historic Preservation. In 2015, following a public master planning process, managed by ECHDC and overseen by the Buffalo Waterfront Development Advisory Committee, ESD and ECHDC approved a comprehensive land use master plan and the Outer Harbor Access and Activation Civic Plan (the "Outer Harbor Plan"), outlining recommendations for portions of the remaining adjacent parcels (the "Outer Harbor Parcels").

The Outer Harbor Plan is three-prong: 1.) to maintain the momentum of the increasingly revitalized Inner Harbor, which presents the highest potential for economic development in the near-term; 2.) the long term future should be guided by high-level land use recommendations, closely aligned with and folded into the City's ongoing planning efforts regarding its Land Use Plan and Unified Development Ordinance (Green Code), the Local Waterfront Revitalization Plan, and the Buffalo Harbor Brownfield Opportunity Area; and 3.) while longer-term development discussions and reviews proceed, ECHDC will continue building on recent momentum at the Outer Harbor Parcels by making a $5 million investment in targeted first phase short-term improvements, all of which would be compatible with the long-term vision and could be absorbed into future phase developments. However, ECHDC lacked sufficient funds to start implementation of the Outer Harbor Plan.

Competition: N/A

Past ESD Support: Funding for the past five years to the Grantee is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
Upstate Regional Blueprint Fund	W989	$5,000,000	March 25, 2010	January 2015	Capital – Canalside Land Use Improvements

B. The Project

Completion: December 2018

Activity: The project involves first-phase implementation of the Outer Harbor Plan including relatively low-disturbance activities enhancing access and facilitating greater public use and enjoyment of the Outer Harbor Parcels in the near term. Project activities include paved and unpaved multi-purpose trails (doubling as X-country ski trails) with pedestrian and bicyclist amenities; multi-use flex spaces with workout areas, rope courses, cantilevered trail sections (doubling as fishing pier), decks, beaches, beer gardens, small games (horse shoes, bocce courts, petanq, shuffleboard, volleyball, etc.) and/or recreational fields; landscaping enhancements such as pollinator fields; seasonal floating docks, safety ladders, railings and life rings; seasonal kiosks, structures and/or facilities; supporting utility services and/or renewable energy sources; "overlook" locations for birding, painting, photography, and astronomy; comprehensive signage system from Gallagher Beach to Buffalo Lighthouse based on the Erie County Shoreline Standards; and possibly an osprey-nesting platform in Times Beach Nature Preserve.

On November 9, 2015, the Board of Directors of ECHDC adopted the Outer Harbor Access and Activation General Project Plan which details the first-phase implementation of the Outer Harbor Plan described above. On November 24, 2015, ECHDC staff held a public hearing on the plan pursuant to Section 16 of the UDC Act, at which time, no substantive negative comments were received. As such, no further action was required by the ECHDC Board.

Results: Improvements to the Outer Harbor Parcels will enhance access and facilitate greater public use and enjoyment of green space while providing additional activities that while transient/seasonal, would open public awareness of this seldom-visited part of the City. In the long-term, these improvements, along with greater public use, are expected to spur private development on and near Buffalo's waterfront. ECHDC will continue to own and maintain the Outer Harbor Parcels.

Economic Growth Investment Project: Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment projects, benefits typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term

benefits not captured in the period of analysis and may involve no permanent job commitments, the estimated benefits typically reflect only construction-related activity.

- Fiscal benefits to NYS government from the project are estimated at $317,655;
- Fiscal cost to NYS government is estimated at $5,000,000;
- Ratio of project fiscal benefits to costs to NYS government is 0.06:1;
- Fiscal benefits to all governments (state and local) are estimated at $555,421;
- Fiscal cost to all governments is $5,000,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 0.11:1;
- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at $4,190,076;
- The economic benefit to cost ratio is 0.84:1;
- Project construction cost is $5,000,000 which is expected to generate 44 direct job years and 28 indirect job years of employment;
- The payback period for NYS costs is not calculated.

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

Grantee Contact: Mr. Thomas Dee, President
95 Perry Street, Suite 500
Buffalo, New York 14203
Phone: (716) 846-8246

ESD Project No.: AA205

Project Team:		
	Origination	Angela Rossi
	Project Management	Jean Williams
	Contractor & Supplier Diversity	Geraldine Ford
	Design & Construction	Dennis Conroy
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Funds will be disbursed as reimbursement for eligible expenditures during the course of construction no more frequently than quarterly, in compliance with ESD's Design & Construction Requirements, assuming that all project approvals have been completed and funds are available. The final 10% of the grant will be disbursed upon completion

of the project, and a certificate of completion and/or other documentation verifying project completion as ESD may require. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenditures must be incurred on or after December 9, 2015 to be considered eligible project costs. All disbursements must be requested by April 1, 2019.

2. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $5,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee 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.

IV. Statutory Basis – Buffalo Regional Innovation Cluster

The project was authorized in the 2014-2015 New York State budget and reappropriated in the 2015-2016 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

V. Design and Construction

ESD's Design & Construction staff will review the project management plan, scope, budget and proposed project schedule. D&C shall be apprised of progress throughout construction period and will visit the site at its option, review payment requisitions and recommend payment when its requirements have been met per the GDA disbursement agreement.

VI. Environmental Review

ECHDC, as lead agency, completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. This review, which was coordinated with the involved agencies including ESD due to the project's Type I classification, found that the proposed project would not result in significant adverse impacts on the environment. ECHDC issued a Negative Declaration on November 25, 2015. No further environmental review is required.

VII. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30%. The overall goal shall include a Minority Business Enterprise Participation Goal of 20% and a Women Business Enterprise Participation Goal of 10% related to the total value of ESD's funding.

VIII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

IX. 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.

X. Additional Submissions to Directors

Resolutions
New York State Map
Benefit-Cost Analysis
Project Photographs

March 24, 2016

Buffalo (Western New York Region – Erie County) – Erie Canal Harbor Development Corporation Outer Harbor Capital – Buffalo Regional Innovation Cluster (Capital Grant) – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

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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 Erie Canal Harbor Development Corporation Outer Harbor Capital – Buffalo Regional Innovation Cluster (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 on November 24, 2015, a public hearing was held on the Project at which time no substantive negative comments were received; and be it further

RESOLVED, that, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Erie Canal Harbor Development Corporation a grant for a total amount not to exceed Five Million Dollars ($5,000,000) from the Buffalo Regional Innovation Cluster fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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

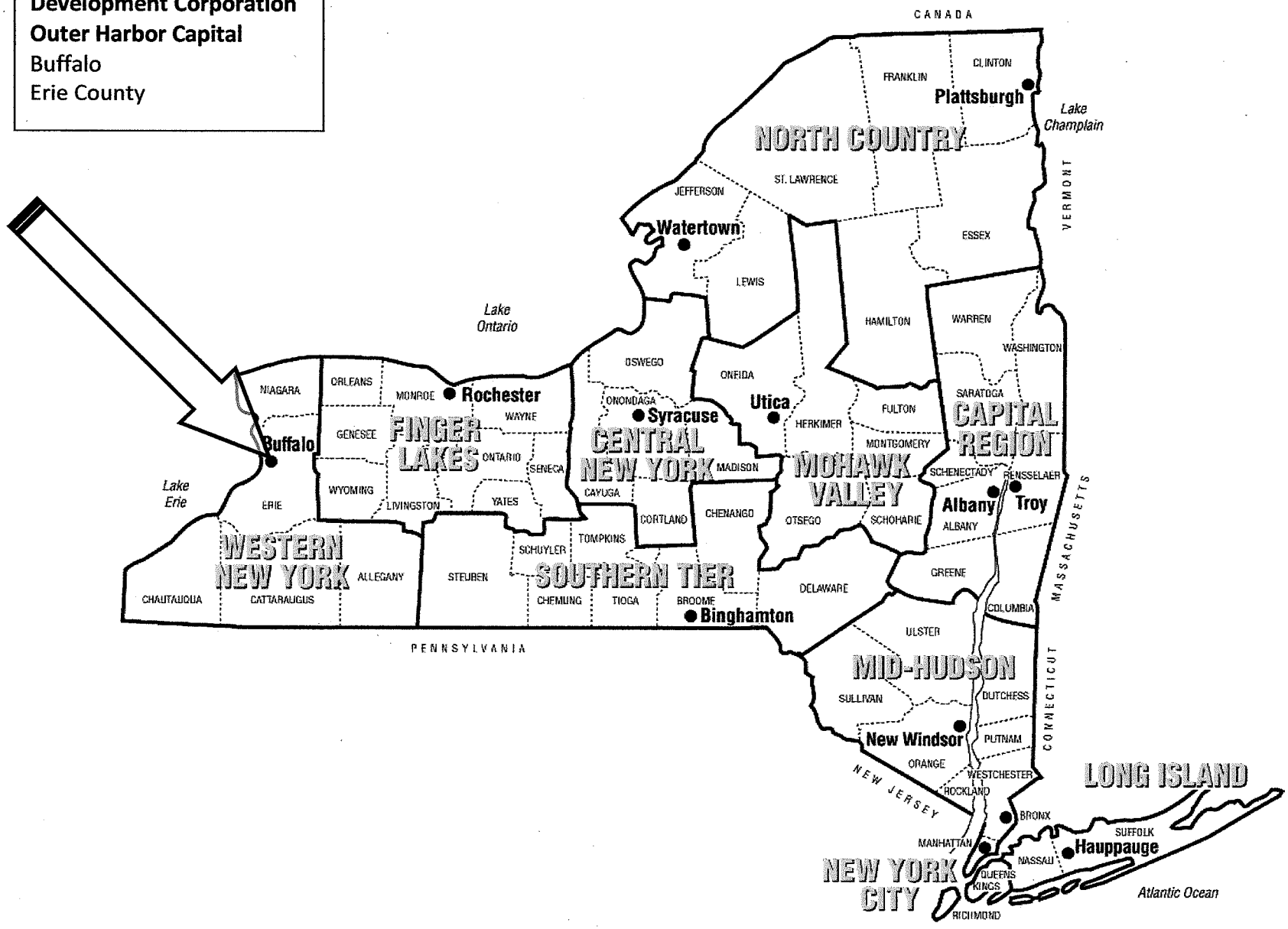
RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in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

* * *

Erie Canal Harbor Development Corporation
Outer Harbor Capital
Buffalo
Erie County



Project Summary
Benefit-Cost Evaluation[1]

Economic Growth Project
Erie Canal Harbor Development Corp.

The benefits reported in the table reflect only the impact of construction-related activity. Unlike typical ESD projects, infrastructure and economic growth investment projects may involve no permanent job commitments. Such projects generate long term benefits not captured in the period of analysis. This is reflected in the benefit cost estimates as compared to benchmarks developed for infrastructure and economic growth investment projects.

Construction Job Years (Direct): 44
Construction Job Years (Indirect): 28

Evaluation Statistics	Project Result NYS Govt.	NYS Govt. Benchmarks for ESD Projects[2]	Project Results State & Local Governments	State & Local Government Benchmarks for ESD Projects
Fiscal Costs[3]	$5,000,000	$794,250	$5,000,000	$1,020,500
Fiscal Benefits(Taxes)[4]	$317.655	$2,085,600	$555,421	$4,271,980
Fiscal B/C Ratio	0.06	3.00	0.11	10.60

	Project Results	Benchmarks for ESD Projects
Economic Benefits[5]	$4,190,076	$119,468,000
Economic B/C Ratio	0.84	30.00

1 Dollar values are present value calculated over a 7-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

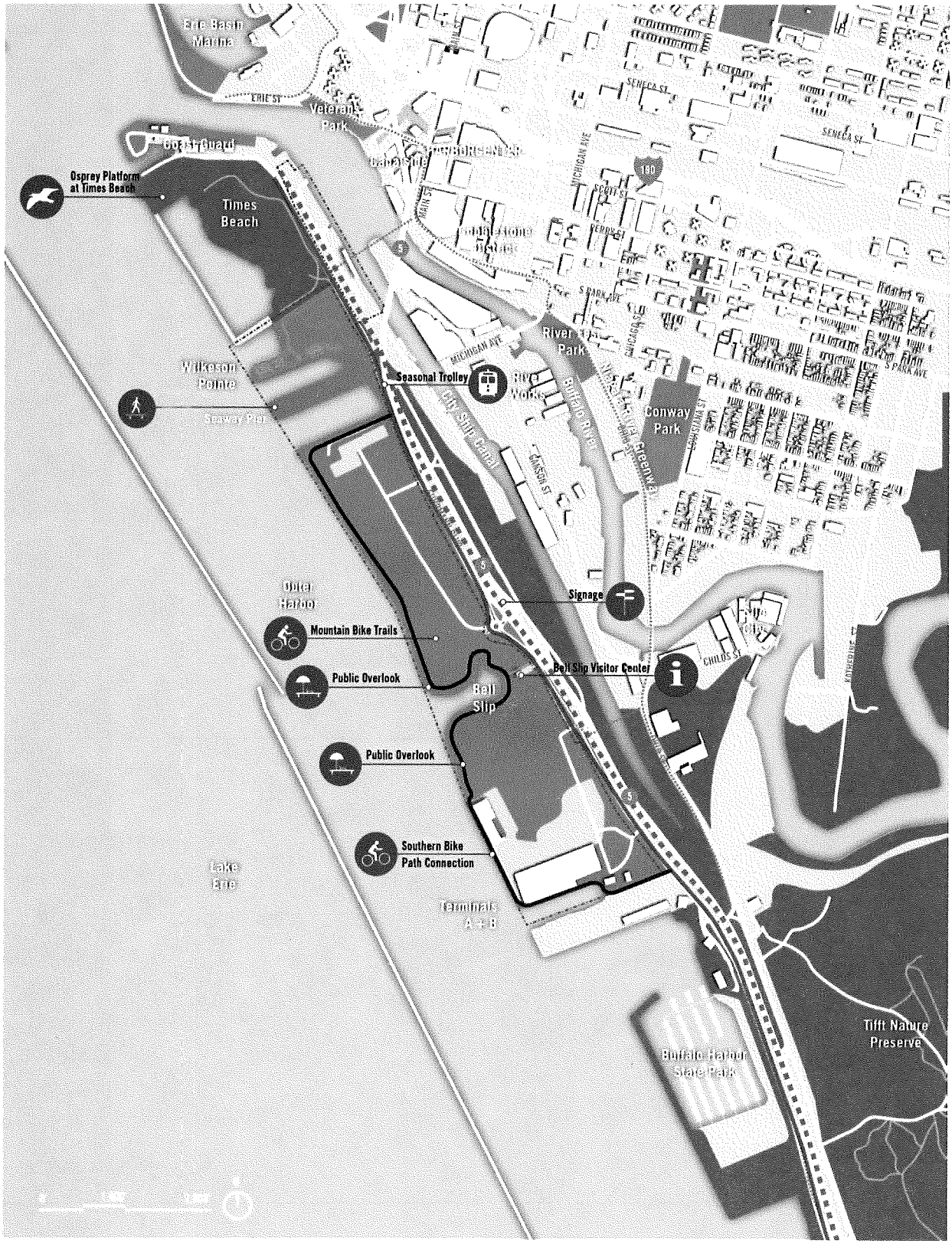
2 The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects.

3 Fiscal cost includes the value of grants, loans and associated default risks, and discretionary subsidies (such as tax exemptions or abatements on sales, property, and interest income).

4 Fiscal benefits are the loan repayments and tax revenues to New York State and local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect construction employment, corporate and business incomes, excise and user taxes, property taxes, and other taxes.

5 Economic benefits are estimated project benefits measuring loan repayments and all tax revenues generated by the project and collected by state and local governments.

Erie Canal Harbor Development Corporation Outer Harbor Capital, AA205



NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Cheektowaga and West Seneca (Western New York Region – Erie County) – Rosina Foods Capital – Empire State Economic Development Fund - General Development Financing (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 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: Rosina Food Products, Inc. ("Rosina" or the "Company")

ESD* Investment: A grant of up to $4,000,000 to be used for a portion of the cost of building construction/renovations and the purchase of machinery and equipment

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

Project Locations:
75 Empire Drive, West Seneca, Erie County*
75 Industrial Parkway, Cheektowaga, Erie County*
3100 Clinton Street, West Seneca, Erie County
210 French Road, Cheektowaga, Erie County
164 French Road, Cheektowaga, Erie County

*Project activity sites; other locations are job-retention sites

Proposed Project: Upgrades to pasta, entrée, and protein manufacturing facilities

Project Type: Business expansion involving job retention and job creation

Regional Council: The Western New York Regional Economic Development Council ("WNYREDC") has been made aware of this project. The project is consistent with the WNYREDC's Plan as it builds upon Western New York's advanced manufacturing and food processing strengths.

Employment:

Initial employment at time of ESD Incentive Proposal:	345*
Current employment level:	370*
Minimum employment on January 1, 2017:	395*

*Includes 6 sales employees at satellite locations which report to one of the Project Locations. New employees cannot be transferred from other New York State ("NYS") locations.

II. Project Cost and Financing Sources

Financing Uses	Amount
Building Construction/Renovations	$7,000,000
Machinery and Equipment	15,762,000
Total Project Costs	$22,762,000

Financing Sources	Amount	Percent
ESD–Grant (Y315)	$4,000,000	18%
ESD-Grant (Y314)*	1,500,000	7%
Company Equity	17,262,000	76%
Total Project Financing	$22,762,000	100%

* *Previously approved by the ESD Directors on October 16, 2014*

III. Project Description

A. Company

Industry: Rosina manufactures frozen foods including pre-cooked meatballs, Italian sausages, filled pasta, eggplant cutlets, entrees, and pizza toppings.

Company History: Rosina was founded in 1963, originally manufacturing sausage products which were sold to neighborhood meat markets, supermarkets, and restaurants, from a single Buffalo store-front location. By 1981, Rosina had launched its pre-cooked meatball line and was distributing products nationwide. Between 2000 and 2013 the Company continued its growth, and Rosina Holding, Inc. (the "Parent") and its affiliates acquired the assets of Celentano Brothers (Verona, NJ), purchased the frozen pasta brand names Gina Italian Village and Floresta (collectively known as Italian Village) from High Liner Foods (USA), Incorporated of NH, bought

the former Lender's Bagels, Inc. (West Seneca, NY) plant, and moved the production there. In 2011, the Company had created an International Division in Cheektowaga, NY and also purchased and relocated the assets of San Rallo Pasta Company Division from Mitsui Foods, Inc. (Norwood, NJ) to WNY.

Ownership: The Company is a privately held, wholly- and family-owned subsidiary of Rosina Holding, Inc.

Size: Rosina has five locations in WNY, with a total of 370 employees.

Market: Rosina markets its products to retail and food service industries and can be found in supermarkets, supercenters, military commissaries, wholesale clubs, and restaurants throughout North America and internationally. Rosina's products are also used by other manufacturers to produce soups, pizza, and lasagna. The Company sells to 95 of the nation's largest supermarkets including Wegman's Food Markets, Inc. (Rochester, NY), Publix Super Markets, Inc. (Lakeland, FL), and major food service distributors such as Performance Foodservice Group (Richmond, VA). Some of its major competitors are Armour-Eckrich Meats (Cincinnati, OH), Windsor Foods (Houston, TX), and Mama Rosie's (Charlestown, MA).

ESD Involvement: In March 2012, Rosina notified ESD that it needed to renovate its protein facility in Cheektowaga to obtain British Retail Consortium ("BRC") certification, a global food safety initiative required to maintain current larger customers. Additionally, Rosina desired to bring back its research and development activities to Western New York which had been outsourced to Chicago, IL. This change would help improve operating efficiencies and reduce costs in both the protein and pasta & entrée facilities. If the investments were not made and the BRC certification was not obtained, the protein facility would have been relocated to OSI Group in Chicago, IL. Although the Company has invested over $36 million in capital upgrades in its facilities since 2000, current lending agreements did not provide for necessary financial resources to proceed with the required investments. ESD responded with an Incentive Proposal ("IP") in March 2013 however, Rosina requested additional time to complete the project. ESD revised the IP, extending the completion date and the job commitment time period. A revised Incentive Proposal was accepted in September 2014 in the amount of $5,500,000. The project was split into two phases. The grant for phase one of project Y314 in the amount of $1,500,000 was approved in October 2014 and all funds have been disbursed. This project is for phase two in the amount of $4,000,000. Without ESD assistance Rosina would not have been able to obtain British

Retail Consortium Global Food Safety Initiative certification and approximately 150 of Rosina's 345 employees would have been relocated out of New York.

Competition: Chicago, IL

Past ESD Support: Funding for the past five years to the Grantee is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
New York Works Program	Y314	$1,500,000	October 16, 2014	April 2015	Capital – Construction/Renovation and Machinery and Equipment

B. The Project

Completion: April 2016

Activity: The project involves interior construction and renovations as well as the purchase of machinery and equipment at two of the Project Locations to add production capacity at both facilities, increase Research & Development capabilities, and maintain BRC certification.

The pasta and entrée facility on 75 Empire Drive is in the process of adding a new pasta production line which includes new processing equipment for forming, cooking, freezing, and packaging pasta products. This will result in increasing pasta manufacturing capacity by approximately 10 million pounds while maintaining the very highest level of food safety and quality.

The protein facility on 75 Industrial Parkway is in the preliminary planning stage of modifying and upgrading protein production lines to increase capacity up to 20 million pounds while maintaining the very highest level of food safety and quality.

Results: The project will retain 345 existing jobs and create 50 new jobs The Company has already created 25 of the 50 new jobs to which it has committed. As a result of the project, Rosina has achieved BRC certification greatly increasing its ability to remain globally competitive in its market and retain current and future larger-scale customers.

Grantee Contact:	Mr. Russell A. Corigliano, President & CEO 170 French Road Cheektowaga, NY 14227 Phone: (716) 668-0123	
ESD Project No.:	Y315	
Project Team:	Origination	Ray Witzleben
	Project Management	Cheryl Krazmien
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	John Bozek
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the $4,000,000 capital grant ($40,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the Project.

2. The Company will demonstrate no materially adverse changes in its financial condition prior to disbursement.

3. Rosina Holding Inc. will guarantee the grant repayment obligation of its subsidiary, Rosina Food Products, Inc., in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreement.

4. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.

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 $4,000,000 will be disbursed in arrears to the Grantee in two installments as follows:

a) an Initial Disbursement of $1,500,000 upon documentation of $4.762 million in building construction/renovations costs and machinery and equipment costs (including $2.7 million previously documented under ESD Grant #Y314), and the employment of at least 370 Full-time Permanent Employees at the Project Locations (Employment Increment of 25), assuming that all project approvals have been completed and funds are available;

b) a Second Disbursement of $2,500,000 will be disbursed upon documentation of an additional $8,000,000 in building construction/renovations costs and machinery and equipment costs (for a total investment of $12.762), and the employment of 395 Full-Time Permanent Employees at the Project Locations (Employment Increment of 25), provided Grantee is otherwise in compliance with program requirements.

The Recipient will make an additional $10 million in building renovations and machinery and equipment costs (for a total investment of $22.762 million) by December 31, 2018, provided that ESD fully funds $5.5 million in grant funding, per the terms of the Incentive Proposal dated September 16, 2014.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenditures may be incurred after January 1, 2012. All disbursements must be requested by April 1, 2017.

7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $4,000,000, 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	345

A	B
Reporting Date	Employment Goals
February 1, 2017	345+X+Y
February 1, 2018	345+X+Y
February 1, 2019	345+X+Y
February 1, 2020	345+X+Y
February 1, 2021	345+X+Y
February 1, 2022	345+X+Y

X = Grantee's Employment Increment that will be the basis of the Initial Disbursement of the Grant as described in section C.5 above (i.e. X=25, and Employment Goals shall equal [345 + X = 370] if the Initial Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Initial 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.5 above (i.e. Y=25, and Employment Goals shall equal [345 + X + Y = 395] 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.

IV. Statutory Basis

1. The proposed 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.
As a result of this project, the Company will maintain its employment level of 345 jobs and create 50 new jobs.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.
The Company considered relocating its operations to Chicago. ESD's assistance helped to reduce costs and make the project feasible in New York.

3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.

Business Investment Project:
Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment projects, benefits typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term benefits not captured in the period of analysis and may involve no permanent job commitments, the estimated benefits typically reflect only construction-related activity.

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 $15,531,317;
- Fiscal cost to NYS government is estimated at $5,500,000;
- Project cost to NYS government per direct job is $17,564;
- Project cost to NYS government per job (direct plus indirect) is estimated at $8,037;
- Ratio of project fiscal benefits to costs to NYS government is 2.82:1;
- Fiscal benefits to all governments (state and local) are estimated at $26,931,916;
- Fiscal cost to all governments is $5,500,000;
- All government cost per direct job is $17,564;
- All government cost per total job is $8,037;
- The fiscal benefit to cost ratio for all governments is 4.90:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at $207,369,683, or $303,013 per job (direct and indirect);
- The economic benefit to cost ratio is 37.70:1;
- Project construction cost is $7,000,000, which is expected to generate 64 direct job years and 41 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 1.19 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is two years.

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

4. The requirements of Section 10(g) of the Act are satisfied.
No residential relocation is required because 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. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30%. The overall goal shall include a Minority Business Enterprise Participation Goal of 15% and a Women Business Enterprise Participation Goal of 15% related to the total value of ESD's funding.

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
Benefit-Cost Analysis
Project Finance Memorandum
Project Photographs

March 24, 2016

Cheektowaga and West Seneca (Western New York Region – Erie County) – Rosina Foods Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 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 Rosina Foods Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Project (the "Project"), the Corporation hereby determines pursuant to Sections 16-m and 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that

1. The proposed 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;

2. The project would be unlikely to take place in New York State without the requested assistance;

3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;

4. 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Rosina Food Products, Inc. a grant for a total amount not to exceed Four Million ($4,000,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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

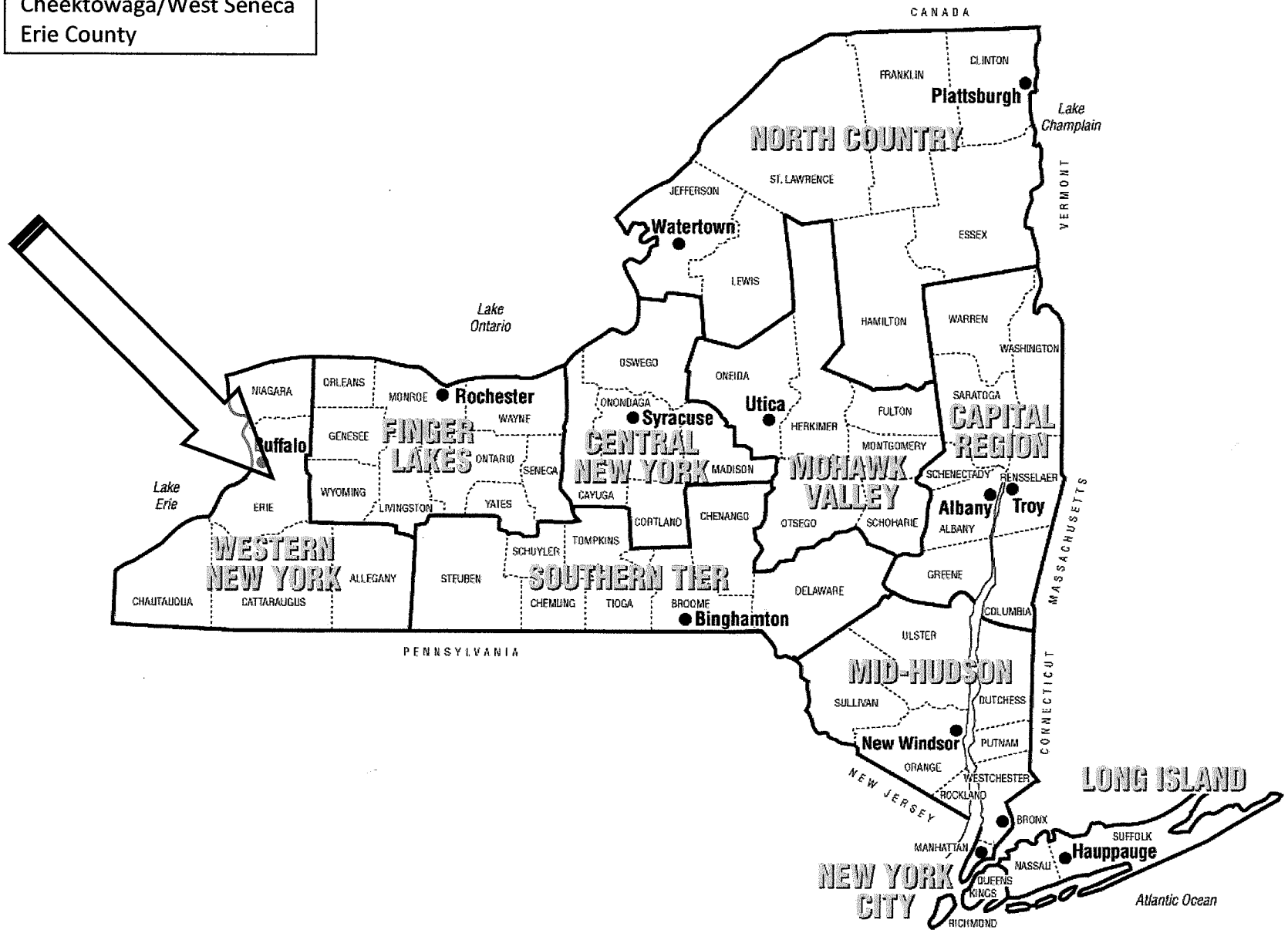
actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

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 President and Chief Executive Officer 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.

* * *

Rosina Foods Capital
Cheektowaga/West Seneca
Erie County



Project Summary
Benefit-Cost Evaluation[1]

Rosina Food Products, Inc. – Business Investment

Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment projects, benefits reported in the table below typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term benefits not captured in the period of analysis and may involve no permanent job commitments, the table typically reflects only construction-related activity. Benchmarks for each type of project are noted in the footnotes.

Initial Jobs: 345 | **Construction Job Years (Direct):** 64
New Jobs: 50 Over Three years | **Construction Job Years (Indirect):** 41

Evaluation Statistics	Project Results NYS Gov't.	NYS Gov't. Benchmarks[2]	Project Results State & Local Government	State & Local Government Benchmarks
Fiscal Costs[3]	$5,500,000	$794,250	$5,500,000	$1,020,500
Fiscal Benefits[4]	$15,531,317	$2,085,600	$26,931,916	$4,271,980
Fiscal Cost /Direct Job	$17,564	$3,000	$17,564	$4,110
Fiscal Cost/Total Jobs	$8,037	$1,424	$8,037	$1,964
Fiscal B/C Ratio	2.82	7.00	4.90	10.60
	Project Results	**Benchmarks**		
Economic Benefits[5]	$207,369,683	$119,468,000		
Econ. Benefits/Total Jobs	$303,013	$147,600		
Economic B/C Ratio	37.70	75.00		

[1] Dollar values are present value calculated over a 7-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

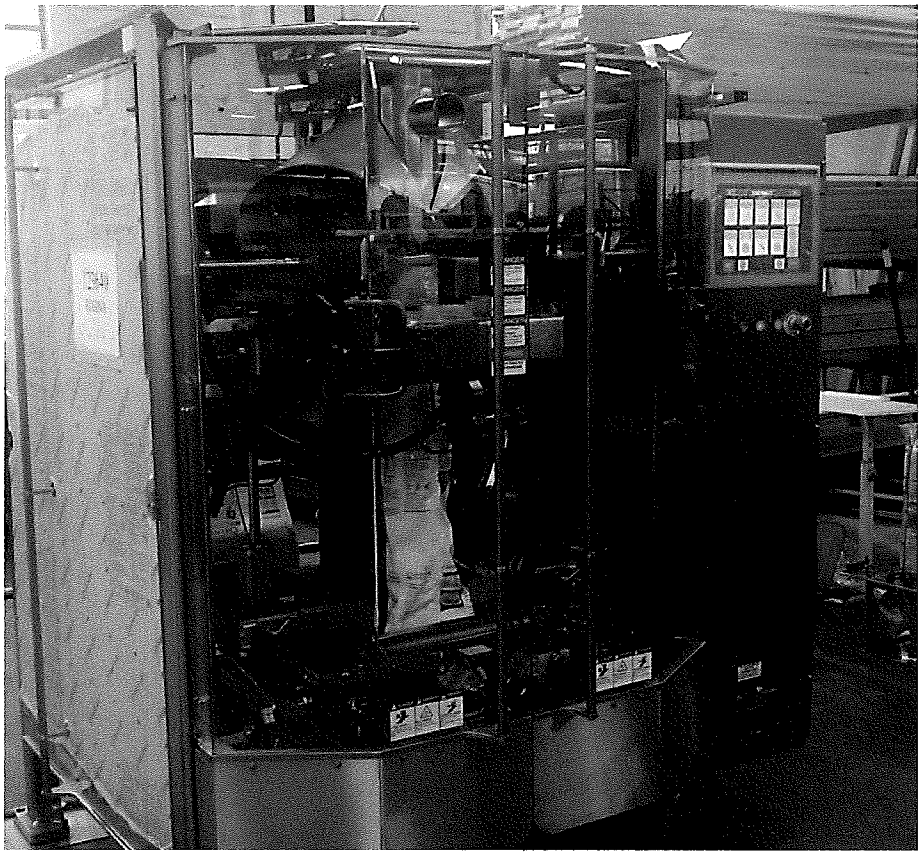
[2] The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects. Business Investment project benchmarks are 7.00 (Fiscal) and 75.00 (Economic). Infrastructure Investment (or Economic Growth Investment) project benchmarks are 3.00 (Fiscal) and 30.00 (Economic).

[3] Fiscal cost includes the value of grants, loans and associated default risks, and discretionary subsidies (such as tax exemptions or abatements on sales, property, and interest income).

[4] Fiscal benefits are the loan repayments and tax revenues to New York State and Local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect employment, corporate and business incomes, excise and user taxes, property taxes, and other taxes.

[5] Economic benefits are estimated project benefits measuring fiscal flows to government plus net resident disposable income from project direct and indirect employment net of transfers, without adjusting for individual income earners' opportunity cost of employment.

High Speed Triangle Packaging Machine



Lycho Blancher Machine

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO:	The Directors
FROM:	Howard A. Zemsky
SUBJECT:	Regional Council Award – Priority Project – Geneva (Finger Lakes Region – Ontario County) – Hobart and William Smith Colleges Capital – Regional Council Capital Fund (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; Determination of No Significant Effect on the Environment

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General Project Plan

I. Project Summary

Grantee:	Hobart and William Smith Colleges ("HWS" or the "Colleges")
ESD* Investment:	A grant of up to $1,000,000 to be used for a portion of the cost of construction
	* The New York State Urban Development Corporation doing business as Empire State Development ("ESD" or the "Corporation")
Project Location:	337 Pulteney Street, Geneva, Ontario County
Proposed Project:	Construction and equipping of a performing arts center
Project Type:	Educational and cultural facility
Regional Council:	The project is consistent with the Finger Lakes Regional Economic Development Council's Plan by strengthening academic and industry partnerships and investing in community infrastructure, including downtowns. The project strengthens Geneva's downtown core.

II. Project Cost and Financing Sources

Financing Uses	Amount
Construction	$24,636,000
Soft Costs	5,605,000
Furnishings, Fixtures & Equipment	983,000
Renovations to Williams Hall	300,000
Total Project Costs	$31,524,000

Financing Sources	Amount	Percent	Rate/Term/Lien
ESD-Grant	$1,000,000	3%	
Dormitory Authority of State Of New York-Grant	1,000,000	3%	
Geneva Development Corp. Bonds	15,000,000	48%	5.2%/30 yrs./unsecured
Grantee Equity*	14,524,000	46%	
Total Project Financing	$31,524,000	100%	

*Source of Grantee equity is fundraising through foundation, corporate, private, alumni and employee donors

III. Project Description

A. Grantee

Industry: Higher education

Grantee History: Hobart and William Smith Colleges are located on 320 acres in New York State's Finger Lakes Region in Geneva, New York. Originally founded as two separate colleges, Hobart for men in 1822 and William Smith for women in 1908, HWS now operates under a coordinate college system. All students share the same campus, faculty, administration, and curriculum. However, each college maintains its own traditions, deans, student governments, and athletic departments. The small liberal arts college current has 2,344 undergraduate students and 225 full-time faculty members.

Ownership: The Grantee is a not-for-profit educational corporation.

Size: All facilities are located in Geneva, NY.

ESD Involvement: For more than a decade, construction of a state-of-the-art performing arts center ("PAC") has been a strategic priority for Hobart and William Smith Colleges. The PAC was needed to enhance HWS's ability to recruit

and retain arts faculty and students interested in the arts, and provide them with the appropriate teaching, learning, and performing space. The PAC would also enable the Colleges to address two other important institutional priorities: to better utilize its campus during the summer months, and to deepen the Colleges' engagement with the City of Geneva. In addition to considerable private fundraising, the Colleges pursued ESD funds to close a financing gap and ensure the success of the project. As a result of the Governor's Regional Economic Development Council initiative, in 2013 the Colleges were awarded a $1 million capital grant through Round 3 of the Consolidated Funding Application process, which allowed the project to proceed.

Competition: N/A

Past ESD Support: ESD has not assisted the Colleges in the past five years.

B. The Project

Completion: January 2016

Activity: The Colleges have constructed a 55,000-square-foot performing arts center. Designed by Gund Associates of Cambridge, MA, the facility includes performance spaces, a film screening room, practice and rehearsal rooms, costume and scene shops, dressing rooms, a box office, control rooms and a small art gallery, as well as classrooms, faculty offices, and a foyer that can be used for public and private gatherings. Also included were renovations to the adjacent Williams Hall.

Results: The Colleges will collaborate with area organizations to organize, publicize and host arts events at the PAC, all of which will be open to the public, adding to Geneva's cultural resources, strengthening HWS's partnership with Geneva and contributing to the city's economy. The PAC will also host an array of arts events in summer, often in collaboration with other regional organizations. HWS envisions a summer music festival, arts workshops for life-long learners who wish to combine those interests with exploration of the Finger Lakes, an annual film festival, and more. The PAC will both enhance the quality of life for residents of the community and help attract increasing numbers of visitors to the area.

Economic Growth Investment Project: Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment

projects, benefits typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term benefits not captured in the period of analysis and may involve no permanent job commitments, the estimated benefits typically reflect only construction-related activity.

- Fiscal benefits to NYS government from the project are estimated at $1,367,854;
- Fiscal cost to NYS government is estimated at $1,000,000;
- Ratio of project fiscal benefits to costs to NYS government is 1.37:1;
- Fiscal benefits to all governments (state and local) are estimated at $2,395,682;
- Fiscal cost to all governments is $1,000,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 2.40:1;
- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at $17,874,156;
- The economic benefit to cost ratio is 17.87:1;
- Project construction cost is $22,000,000 which is expected to generate 184 direct job years and 115 indirect job years of employment;
- The payback period for NYS costs is three years.

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

Grantee Contact: Martha Bond, Director of Corporate and Foundation Relations
337 Pulteney Street
Geneva, NY 14456
Phone: (315) 781-3535

ESD Project No.: Y819

Project Team:		
	Origination	Kevin Hurley
	Project Management	Edward Muszynski
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	John Bozek/Angela Pitto
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall pay a commitment fee of 1% of the $1,000,000 capital grant ($10,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.

2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.

3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed ESD's announcement of the project. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.

4. Up to $1,000,000 will be disbursed to Grantee upon documentation of construction project costs totaling $24,636,000, as evidenced by a certificate of occupancy, assuming that all project approvals have been completed and funds are available. 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 December 11, 2013, to be considered eligible project costs. All disbursements must be requested by April 1, 2017.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $1,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee 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.

7. Grant funds will be subject to pro rata recapture if the property at the Project Location is sold within five years of disbursement of funds. The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer 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 transfer 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 transfer occurred in the second full calendar year after the disbursement was made;
   (iii) 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
   (iv) 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
   (v) 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

IV. Statutory Basis – Regional Council Capital Fund

The funding was authorized in the 2013-2014 New York State budget and reappropriated in the 2014-2015 and 2015-2016 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

ESD staff has determined that, although the funding of this project by ESD may constitute an "action" as defined by the State Environmental Quality Review Act ("SEQRA"), the project itself has been previously completed. ESD's action in the funding decision will not alter the adverse environmental impacts, if any, of the project as completed. ESD staff accordingly believes that funding the completed project will not have any significant adverse impacts on the environment. Therefore, it is recommended that the Directors make a Determination of No Significant Effect on the Environment.

Due to the site's location adjacent to the South Main Street Historic District, which is listed on the New York State and National Registers of Historic Places, ESD has confirmed that the project sponsor initiated consultation with the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. ESD will ensure that consultation is completed.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this project. The Grantee shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 50%. The overall goal shall include a Minority Business Enterprise Participation Goal of 25% and a Women Business Enterprise Participation Goal of 25% related to the total value of ESD's funding.

VII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

VIII. 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.

IX. Additional Submissions to Directors

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

March 24, 2016

Regional Council Award – Priority Project – Geneva (Finger Lakes Region – Ontario County) – Hobart and William Smith Colleges Capital – Regional Council Capital Fund (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

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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 Hobart and William Smith Colleges Capital -- Regional Council Capital Fund 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Hobart and William Smith Colleges a grant for a total amount not to exceed One Million Dollars ($1,000,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

March 24, 2016

Regional Council Award – Priority Project – Geneva (Finger Lakes Region – Ontario County) – Hobart and William Smith Colleges Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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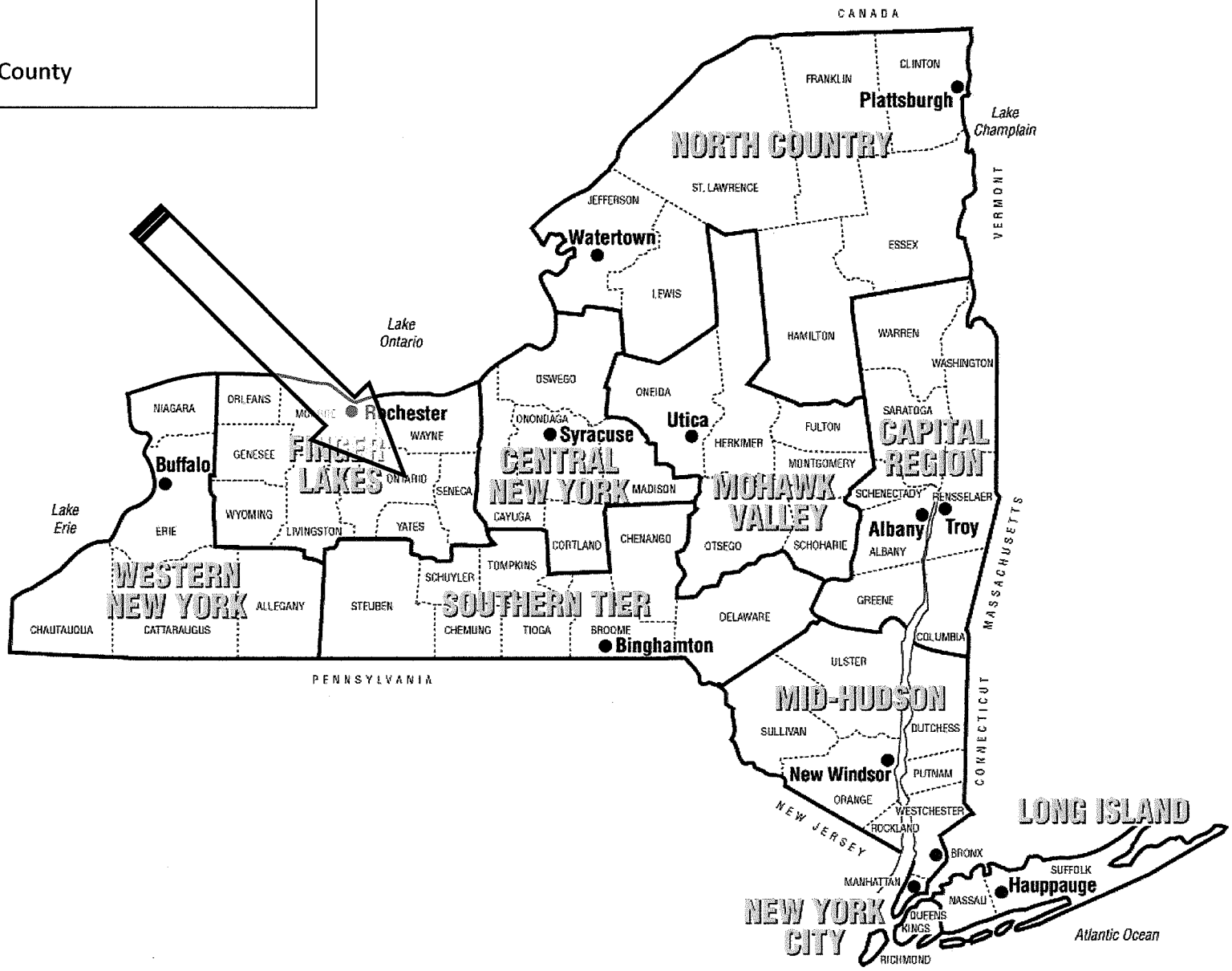
RESOLVED, that based on the material submitted to the Directors with respect to the Hobart and William Smith Colleges Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

* * *

Hobart and William Smith Colleges
Capital
Geneva
Ontario County



Project Summary
Benefit-Cost Evaluation[1]

Economic Growth Project
Hobart and William Smith Colleges

The benefits reported in the table reflect only the impact of construction-related activity. Unlike typical ESD projects, infrastructure and economic growth investment projects may involve no permanent job commitments. Such projects generate long term benefits not captured in the period of analysis. This is reflected in the benefit cost estimates as compared to benchmarks developed for infrastructure and economic growth investment projects.

Construction Job Years (Direct): 184
Construction Job Years (Indirect): 115

Evaluation Statistics	Project Result NYS Govt.	NYS Govt. Benchmarks for ESD Projects[2]	Project Results State & Local Governments	State & Local Government Benchmarks for ESD Projects
Fiscal Costs[3]	$1,000,000	$794,250	$1,000,000	$1,020,500
Fiscal Benefits(Taxes)[4]	$1,367,854	$2,085,600	$2,395,682	$4,271,980
Fiscal B/C Ratio	1.37	3.00	2.40	10.60

	Project Results	Benchmarks for ESD Projects
Economic Benefits[5]	$17,874,156	$119,468,000
Economic B/C Ratio	17.87	30.00

[1] Dollar values are present value calculated over a 7-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

[2] The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects.

[3] Fiscal cost includes the value of grants, loans and associated default risks, and discretionary subsidies (such as tax exemptions or abatements on sales, property, and interest income).

[4] Fiscal benefits are the loan repayments and tax revenues to New York State and local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect construction employment, corporate and business incomes, excise and user taxes, property taxes, and other taxes.

[5] Economic benefits are estimated project benefits measuring loan repayments and all tax revenues generated by the project and collected by state and local governments.

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Regional Council Award – Priority Project – Coram (Long Island Region – Suffolk County) – Wincoram Commons Capital – Regional Council Capital Fund (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; Determination of No Significant Effect on the Environment

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General Project Plan

I. Project Summary

Grantee: Community Development Corporation of Long Island ("CDCLI" or the "Organization)

ESD* Investment: A grant of up to $1,000,000 to be used for a portion of the cost of construction related to the connection and expansion of a sewer line to an existing sewage treatment plant

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

Project Location: 3700 Route 112 Road, Suffolk County

Proposed Project: Infrastructure upgrades for redevelopment of a blighted (vacant for 10 years) site into a mixed-use commercial and affordable housing complex

Project Type: New construction involving infrastructure improvements

Regional Council: The project is consistent with the Long Island Regional Economic Development Council's Plan to repair and upgrade aging infrastructure by expanding sewer infrastructure in Suffolk County.

II. Project Cost and Financing Sources

Financing Uses	Amount
Real Estate Acquisition	$4,280,000
Construction/Renovation	20,057,629
Infrastructure Sewer Extension	2,097,371
Design and Other Soft Costs	7,466,655
Total Project Costs	$33,901,655

Financing Sources	Amount	Percent
ESD-Grant	$1,000,000	3%
Grantee Equity*	32,901,655	97%
Total Project Financing	$33,901,655	100%

*Grantee Equity includes cash invested by the developer of the housing complex.

III. Project Description

A. Organization

Industry: Community Development Corporation

Grantee History: CDCLI was founded in 1969 by government, business, and civic leaders on Long Island who came together to address the growing demand for affordable housing. CDCLI is a regional and national leader in community development which provides a variety of programs and services that address the dynamic challenges faced by those who live and work on Long Island.

Ownership: CDCLI is a not-for-profit organization.

Size: CDCLI has over 85 employees and all facilities are located in Coram, NY.

Market: CDCLI is a regional and national leader in community development and serves both Nassau and Suffolk counties and Brooklyn, and provides a variety of programs and services that address the dynamic challenges faced by those who live and work on Long Island.

ESD Involvement: CDCLI submitted a proposal under Round 2 of the Consolidated Funding Application ("CFA") to assist with the connection and expansion of a sewer line to an existing sewage treatment plant and related upgrades in connection with the construction of a mixed-use project on a blighted 17-acre site in the Town of Brookhaven. The project increases the diversity of Long Island's housing stock by producing affordable non-age restricted multi-family rental housing that includes units with two or more bedrooms. As a result of the Governor's Regional Economic Development Council Initiative, the Organization was awarded $1,000,000 through the CFA to assist with this project.

Competition: N/A

Past ESD Support: Funding for the past five years to the Grantee is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
Community Development Financial Institution	Y192	$60,000	February 21, 2013	January 1, 2015	Working Capital - Grant for provision of technical and financial assistance to M/WBEs and small businesses that are generally unable to access traditional lending.
Metropolitan Economic Revitalization Fund	X719	$60,000	March 27, 2012	February 27, 2014	Working Capital – Funds to help establish a loan loss reserve which would allow it to deploy $600,000 in business loan capital to small businesses in Long Island.
Community Development Financial Institution	X511	$120,000	October 20, 2011	February 27, 2014	Working Capital - Grant for provision of technical and financial assistance to M/WBEs and small businesses that are generally unable to access traditional lending.

B. The Project

Completion: January 2016

Activity: The project involved the connection and expansion of a sewer line to an existing sewage treatment plant and related upgrades to support the development of Wincoram Commons. Wincoram Commons is a transformative project located in the Coram Hamlet Center West. The vacant United Artist Theater in Coram, NY will be redeveloped in two phases and result in a new mixed-used community with approximately 176 units of workforce housing; 6 live/work market rate units; 9,000 square feet of commercial space; and a playground and public plaza.

Results: Phase I of the project, which included construction of all infrastructure improvements, the construction of 98 units of rental workforce housing, the connection and expansion of a 4,665-foot sewer line to an existing sewage treatment plant, and construction of 9,000 square feet of commercial space in the mixed-use facility has been completed.

Infrastructure Investment Project:

Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment projects, benefits typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term benefits not captured in the period of analysis and may involve no permanent job commitments, the estimated benefits typically reflect only construction-related activity.

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 $1,904,771;
- Fiscal cost to NYS government is estimated at $1,000,000;
- Ratio of project fiscal benefits to costs to NYS government is 1.90:1;
- Fiscal benefits to all governments (state and local) are estimated at $3,447,499;
- Fiscal cost to all governments is $1,000,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 3.45:1;

- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at $18,421,768;
- The economic benefit to cost ratio is 18.42:1;
- Project construction cost is $29,621,655 which is expected to generate 205 direct job years and 131 indirect job years of employment;
- The payback period for NYS costs is three years.

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

Grantee Contact: Marianne Garvin, President & CEO
2100 Middle Country Road
Centereach, NY 11720
Phone: (631) 471-1215

ESD Project No.: X973

Project Team:		
	Origination	Beverly Bobb
	Project Management	Arturo Rodriguez
	Contractor & Supplier Diversity	Patrice Goode
	Finance	John Bozek
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall pay a commitment fee of 1% of the $1,000,000 capital grant ($10,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.

2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.

3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Grantee's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.

4. Up to $1,000,000 will be disbursed in lump sum to the Grantee upon completion of the project substantially as described in these materials, and as evidenced by attainment of a Certificate of Occupancy and/or other documentation verifying

project completion and project costs totaling $33,000,000, assuming that all project approvals have been completed and funds are available. 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 April 12, 2013 to be considered eligible project costs. All disbursements must be requested by April 1, 2016.

5. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $1,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee 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.

6. Grant funds will be subject to pro rata recapture if the property at the Project Location is sold within five years of disbursement of funds. The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer 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 transfer 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 transfer occurred in the second full calendar year after the disbursement was made;
   (iii) 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
   (iv) 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
   (v) 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

IV. Statutory Basis – Regional Council Capital Fund

The project was authorized in the 2012-2013 New York State budget and reappropriated in the 2013-2014, 2014-2015, and 2015-2016 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

The Town of Brookhaven Planning Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be a Type I Action, which would not have a significant effect on the environment. The lead agency issued a

Negative Declaration on September 10, 2012. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-discrimination & Contractor and Supplier Diversity policy will apply to the project. The Organization shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall Minority and Women Business Enterprise ("MWBE") participation goal of 30% related to the total value of ESD's funding and to solicit and utilize MWBEs for any contractual opportunities generated in connection with the project.

VII. Smart Growth Public Infrastructure Review

Pursuant to the requirements of the State Smart Growth Public Infrastructure Policy Act (the "SG Act"), ESD's Smart Growth Advisory Committee has reviewed a Smart Growth Impact Statement for the project and found that the project is consistent with the State Smart Growth Public Infrastructure Criteria ("Smart Growth Criteria"). The designee of the Chief Executive Officer of the Corporation has attested that the project, to the extent practicable, meets the relevant Smart Growth Criteria set forth in the SG Act.

VIII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

IX. 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.

X. Additional Submissions to Directors

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

March 24, 2016

Regional Council Award – Priority Project –Coram (Long Island Region – Suffolk County) – Wincoram Commons Capital – Regional Council Capital Fund (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

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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 Wincoram Commons Capital -- Regional Council Capital Fund (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Community Development Corporation of Long Island a grant for a total amount not to exceed One Million Dollars ($1,000,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

March 24, 2016

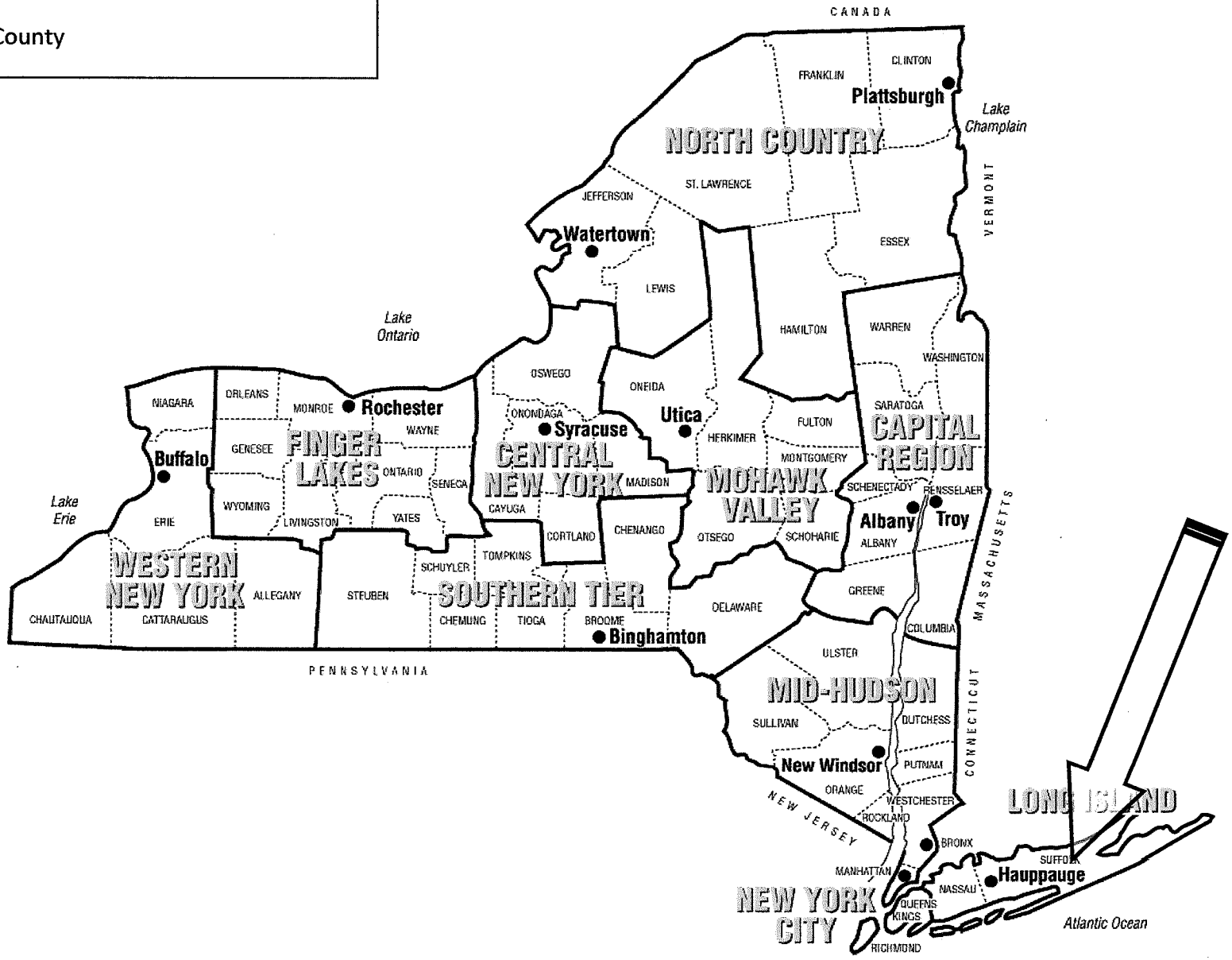
Regional Council Award – Priority Project – Coram (Long Island Region – Suffolk County) – Wincoram Commons Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

---

RESOLVED, that based on the material submitted to the Directors with respect to the Wincoram Commons Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

* * *

Wincoram Commons Capital
Coram
Suffolk County



Project Summary
Benefit-Cost Evaluation[1]

Infrastructure Investment Project
Community Development Corporation of Long Island

The benefits reported in the table reflect only the impact of construction-related activity. Unlike typical ESD projects, infrastructure and economic growth investment projects may involve no permanent job commitments. Such projects generate long term benefits not captured in the period of analysis. This is reflected in the benefit cost estimates as compared to benchmarks developed for infrastructure and economic growth investment projects.

Construction Job Years (Direct): **205**
Construction Job Years (Indirect): 131

Evaluation Statistics	Project Result NYS Govt.	NYS Govt. Benchmarks for ESD Projects[2]	Project Results State & Local Governments	State & Local Government Benchmarks for ESD Projects
Fiscal Costs[3]	$1,000,000	$794,250	$1,000,000	$1,020,500
Fiscal Benefits(Taxes)[4]	$1,904,771	$2,085,600	$3,447,499	$4,271,980
Fiscal B/C Ratio	1.90	3.00	3.45	10.60

	Project Results	Benchmarks for ESD Projects
Economic Benefits[5]	$18,421,768	$119,468,000
Economic B/C Ratio	18.42	30.00

1 Dollar values are present value calculated over a 7-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

2 The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects.

3 Fiscal cost includes the value of grants, loans and associated default risks, and discretionary subsidies (such as tax exemptions or abatements on sales, property, and interest income).

4 Fiscal benefits are the loan repayments and tax revenues to New York State and local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect construction employment, corporate and business incomes, excise and user taxes, property taxes, and other taxes.

5 Economic benefits are estimated project benefits measuring loan repayments and all tax revenues generated by the project and collected by state and local governments.

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FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Regional Council Award – Priority Project - Amsterdam (Mohawk Valley Region – Montgomery County) – St. Mary's Healthcare Outpatient Pavilion Capital – Regional Council Capital Fund (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; Determination of No Significant Effect on the Environment

---

General Project Plan

I. Project Summary

Grantee: St. Mary's Healthcare ("St. Mary's")

ESD* Investment: A grant of up to $307,000 to be used for a portion of the cost of the purchase and installation of specialized machinery and equipment

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

Project Location: 4988 State Highway 30, Amsterdam, Montgomery County

Proposed Project: Construction of a new outpatient pavilion and purchase and installation of specialized machinery and equipment

Project Type: Healthcare infrastructure development

Regional Council: The project is consistent with the Mohawk Valley Regional Economic Development Council's Plan to expand opportunities for the region's workforce and to promote the creation of high-skill wage jobs, and address shortages in key fields such as health care.

Employment:	Initial employment at time of ESD Incentive Proposal:	1,387
	Current employment level:	1,407
	Minimum employment on January 1, 2017:	1,407

II. Project Cost and Financing Sources

Financing Uses	Amount
Construction	$9,100,000
Infrastructure/Site Work	1,086,000
Machinery and Equipment	7,088,167
Furniture/Fixtures	600,803
Soft Costs	104,000
Total Project Costs	$17,978,970

Financing Sources	Amount	Percent
ESD-Grant	307,000	2%
St. Mary's Foundation	4,000,000	22%
Grantee Equity	13,671,970	76%
Total Project Financing	$17,978,970	100%

III. Project Description

A. Company

Industry: Healthcare

Company History: On April 19, 1903, five Sisters of St. Joseph opened the doors of St. Mary's Hospital and began a ministry of healing and compassion. From this modest beginning St. Mary's has grown to become a modern, mission driven health ministry. In 2002, St. Mary's, along with all the hospitals founded by the Sisters throughout the nation, became part of Ascension Health, the largest Catholic healthcare system in the United States. On June 1, 2009, St. Mary's Hospital unified with Amsterdam Memorial Healthcare. The new entity became St. Mary's Healthcare, a Catholic healthcare ministry dedicated to serving all people through a full continuum of health services.

Ownership: Not-for-profit healthcare center

Size: All facilities are located in Amsterdam, NY.

ESD Involvement: St. Mary's embarked on a project to build a new healthcare pavilion to

offer services to cancer patients in a region that previously lack those services. In addition to a considerable $4 million contribution from St. Mary's Foundation, the Grantee pursued funds to close a financing gap and ensure the success of the project. As a result of the Governor's Regional Economic Development Council initiative, the Grantee was awarded a $307,000 capital grant through Round 2 of the Consolidated Funding Application process to help with the purchase and installation of specialized machinery and equipment.

Competition: N/A

Past ESD Support: The Grantee has not received ESD funding for the past five years.

B. The Project

Completion: December 2015

Activity: In October 2014, St. Mary's Healthcare broke ground on a new 40,000-square-foot outpatient pavilion. By the end of 2015, the new Rao Outpatient Pavilion started to provide state-of-the-art medical services, including cancer medicine care, medical and radiation oncology care, and women's breast health care including 3-D mammography. In addition, an expanded Urgent Care Center has provided an alternative to using the Emergency Department for non-emergency health concerns. The new pavilion was also equipped with new specialized state-of-the-art machinery and equipment.

Results: The Grantee has retained 1,387 existing jobs and has already met its job commitment, having created 20 new jobs. St. Mary's Healthcare Outpatient Pavilion will provide essential medical and cancer care services, not available in the region until the new pavilion opened, to the residents of the Mohawk Valley Region.

Business Investment Project:

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 $1,143,991;
- Fiscal cost to NYS government is estimated at $307,000;
- Project cost to NYS government per direct job is $28,653;
- Project cost to NYS government per job (direct plus indirect) is estimated at $19,437;
- Ratio of project fiscal benefits to costs to NYS government is 3.73:1;

- Fiscal benefits to all governments (state and local) are estimated at $1,923,542;
- Fiscal cost to all governments is $307,000;
- All government cost per direct job is $28,653;
- All government cost per total job is $19,437;
- The fiscal benefit to cost ratio for all governments is 6.27:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at $9,892,998, or $626,342 per job (direct and indirect);
- The economic benefit to cost ratio is 32.22:1;
- Project construction cost is $10,290,000, which is expected to generate 115 direct job years and 51 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.48 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is two years.

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

Grantee Contact: Albert Turo, Vice President, Development and Planning
427 Guy Park Avenue
Amsterdam, NY 12010
Phone: (518) 841-7479

ESD Project No.: Y294

Project Team:		
	Origination	Jane Kulczycki
	Project Management	Javier Roman-Morales
	Contractor & Supplier Diversity	Denise Ross
	Finance	Jonevan Hornsby
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall pay a commitment fee of 1% of the $307,000 capital grant ($3,070) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.

2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.

3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer.

Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.

4. Prior to disbursement, the Grantee 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.

5. Up to $307,000 will be disbursed to the Grantee in three installments as follows:
   a) an Initial Disbursement of an amount equal to 50% of the grant ($153,500) upon completion of the project substantially as described in these materials, upon documentation of project costs totaling $17,700,000, including documentation verifying purchase and installation of $7,200,000 in machinery and equipment, a Certificate of occupancy or other documentation verifying project completion as ESD may require, and documentation of the employment of at least 1,387 Full-time Permanent Employees, including 340 at the Project Location, 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 ($76,750) will be disbursed upon documentation of the employment of at least 1,397 Full-time Permanent Employees, including 350 at the Project Location (Employment Increment of 10), provided Grantee is otherwise in compliance with program requirements;
   c) a Third Disbursement of an amount equal to 25% of the grant ($76,750) will be disbursed upon documentation of the employment of at least 1,407 Full-time Permanent Employees, including 360 at the Project Location (Employment Increment of 10), provided Grantee is otherwise in compliance with program requirements.

   Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses reimbursed by ESD's grant must be incurred on or after August 26, 2013, to be considered eligible project costs. All disbursements must be requested by April 1, 2017.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $307,000, 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.

7. 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	1,387

A	B
Reporting Date	Employment Goals
February 1, 2017	1,387+X+Y
February 1, 2018	1,387+X+Y
February 1, 2019	1,387+X+Y

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. X=10, and Employment Goals shall equal [1,387 + X =1,397] 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 X=0.

Y = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section C.5 above (i.e. Y=10, and Employment Goals shall equal [1,387 + X + Y = 1,407] 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 – Regional Council Capital Fund

The funding was authorized in the 2012-2013 New York State budget and reappropriated in the 2013-2014, 2014-2015 and 2015-2016 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

ESD staff has determined that, although the funding of this project by ESD may constitute an "action" as defined by the State Environmental Quality Review Act ("SEQRA"), the project itself has been previously completed. ESD's action in the funding decision will not alter the adverse environmental impacts, if any, of the project as completed. ESD staff accordingly believes that funding the completed project will not have any significant adverse impacts on the environment. Therefore, it is recommended that the Directors make a Determination of No Significant Effect on the Environment

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Grantee shall be required to: (i) include minorities and women in any job opportunities created, (ii) solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and (iii) use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 23% related to the total value of ESD's funding.

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
Benefit-Cost Analysis
Project Finance Memorandum
Project Photographs

March 24, 2016

Regional Council Award – Priority Project - Amsterdam (Mohawk Valley Region – Montgomery County) – St. Mary's Healthcare Outpatient Pavilion Capital – Regional Council Capital Fund (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 St. Mary's Healthcare Outpatient Pavilion Capital -- Regional Council Capital Fund (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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to St. Mary's Healthcare a grant for a total amount not to exceed Three Hundred and Seven Thousand Dollars ($307,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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.

* * *

March 24, 2016

Regional Council Award – Priority Project - Amsterdam (Mohawk Valley Region – Montgomery County) – St. Mary's Healthcare Outpatient Pavilion Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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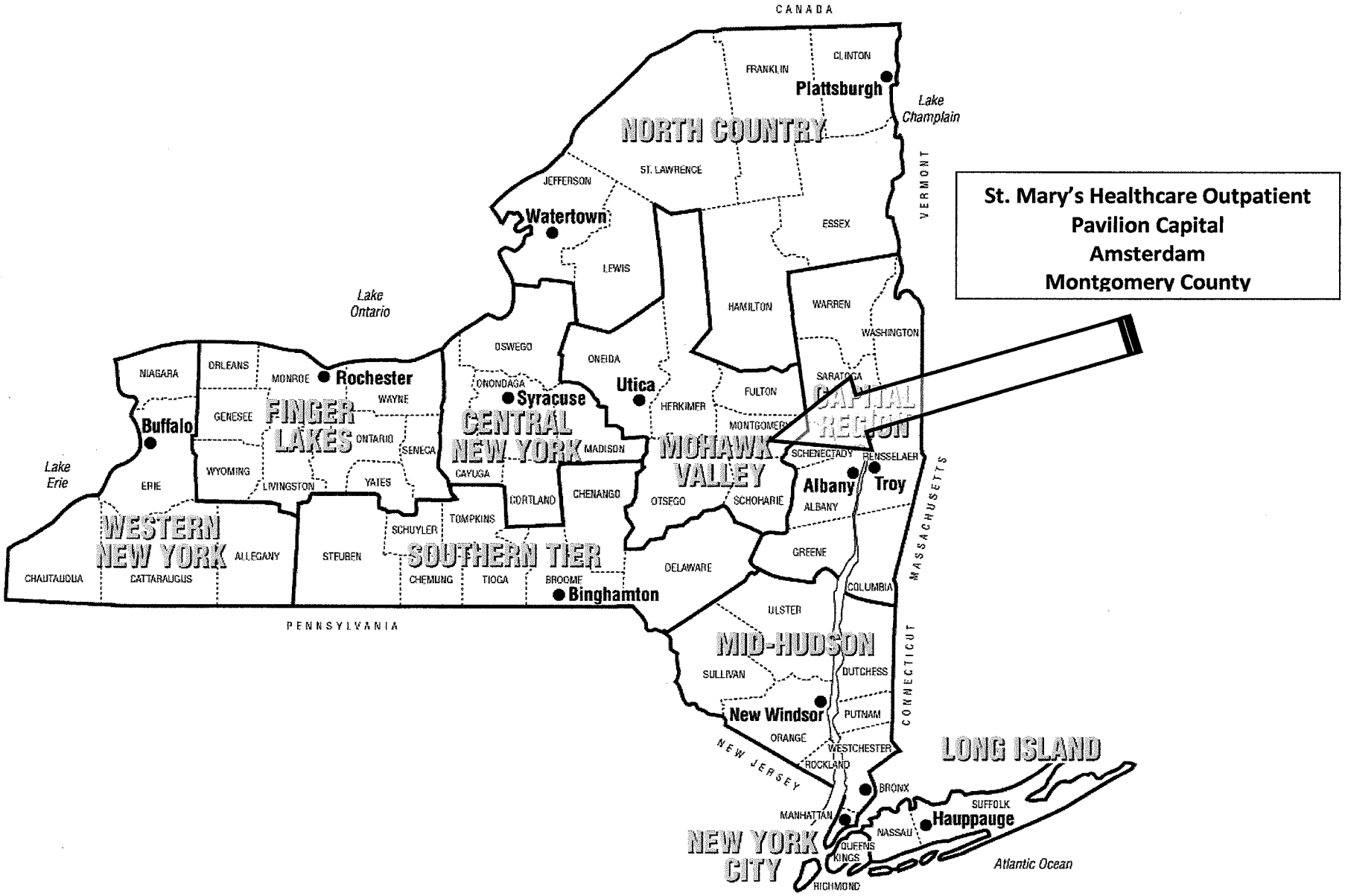
RESOLVED, that based on the material submitted to the Directors with respect to the St. Mary's Healthcare Outpatient Pavilion Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

* * *


St. Mary's Healthcare Outpatient
Pavilion Capital
Amsterdam
Montgomery County
CANADA
NORTH COUNTRY
FRANKLIN
CLINTON
Plattsburgh
Lake Champlain
ST. LAWRENCE
JEFFERSON
Watertown
ESSEX
VERMONT
LEWIS
Lake Ontario
HAMILTON
WARREN
WASHINGTON
OSWEGO
ONEIDA
NIAGARA
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TOMPKINS
SCHUYLER
WESTERN NEW YORK
ALLEGANY
STEUBEN
SOUTHERN TIER
GREENE
DELAWARE
CHAUTAUQUA
CATTARAUGUS
CHEMUNG
TIOGA
BROOME
Binghamton
COLUMBIA
ULSTER
PENNSYLVANIA
MID-HUDSON
SULLIVAN
DUTCHESS
New Windsor
PUTNAM
CONNECTICUT
ORANGE
WESTCHESTER
NEW JERSEY
ROCKLAND
LONG ISLAND
BRONX
SUFFOLK
MANHATTAN
Hauppauge
NASSAU
NEW YORK CITY
QUEENS
KINGS
RICHMOND
Atlantic Ocean

Project Summary
Benefit-Cost Evaluation[1]

St. Mary's Healthcare – Business Investment

Benefit-Costs Evaluations are used in evaluating projects that are categorized as Business Investment, Infrastructure Investment, and Economic Growth Investment and that involve 1) job retention and/or creation and/or 2) construction-related activity. For Business Investment projects, benefits reported in the table below typically reflect the impact of both jobs and construction-related activity. For Infrastructure Investment and Economic Growth Investment projects, which generate long-term benefits not captured in the period of analysis and may involve no permanent job commitments, the table typically reflects only construction-related activity. Benchmarks for each type of project are noted in the footnotes.

Initial Jobs: 1,387 — **Construction Job Years (Direct):** 115
New Jobs: 20 Over five years — **Construction Job Years (Indirect):** 51

Evaluation Statistics	Project Results NYS Gov't.	NYS Gov't. Benchmarks[2]	Project Results State & Local Government	State & Local Government Benchmarks
Fiscal Costs[3]	$307,000	$794,250	$307,000	$1,020,500
Fiscal Benefits[4]	$1,143,991	$2,085,600	$1,923,542	$4,271,980
Fiscal Cost /Direct Job	$28,653	$3,000	$28,653	$4,110
Fiscal Cost/Total Jobs	$19,437	$1,424	$19,437	$1,964
Fiscal B/C Ratio	3.73	7.00	6.27	10.60
	Project Results	**Benchmarks**		
Economic Benefits[5]	$9.892.998	$119,468,000		
Econ. Benefits/Total Jobs	$626.342	$147,600		
Economic B/C Ratio	32.22	75.00		

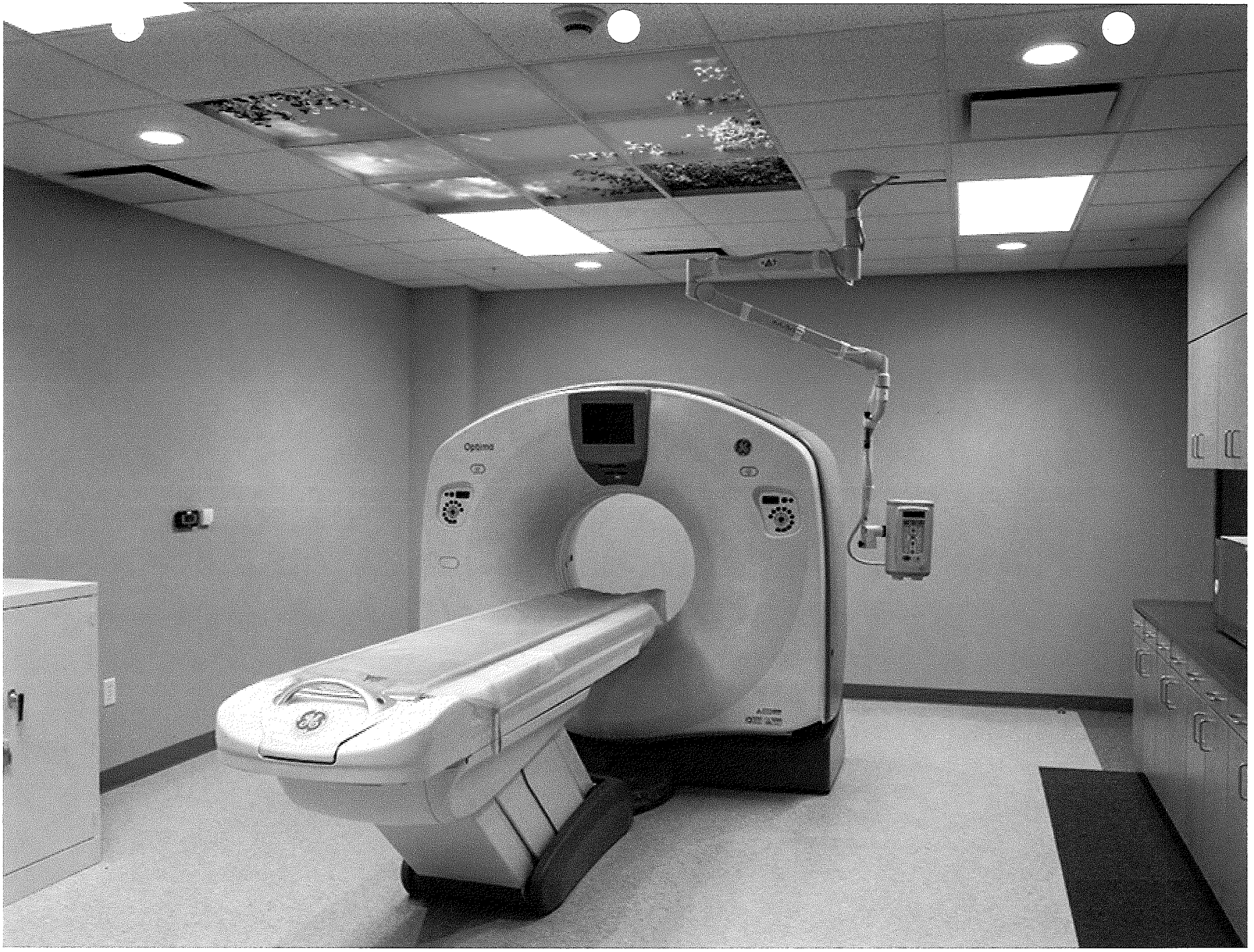
[1] Dollar values are present value calculated over a 7-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

[2] The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects. Business Investment project benchmarks are 7.00 (Fiscal) and 75.00 (Economic). Infrastructure Investment (or Economic Growth Investment) project benchmarks are 3.00 (Fiscal) and 30.00 (Economic).

[3] Fiscal cost includes the value of grants, loans and associated default risks, and discretionary subsidies (such as tax exemptions or abatements on sales, property, and interest income).

[4] Fiscal benefits are the loan repayments and tax revenues to New York State and Local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect employment, corporate and business incomes, excise and user taxes, property taxes, and other taxes.

[5] Economic benefits are estimated project benefits measuring fiscal flows to government plus net resident disposable income from project direct and indirect employment net of transfers, without adjusting for individual income earners' opportunity cost of employment.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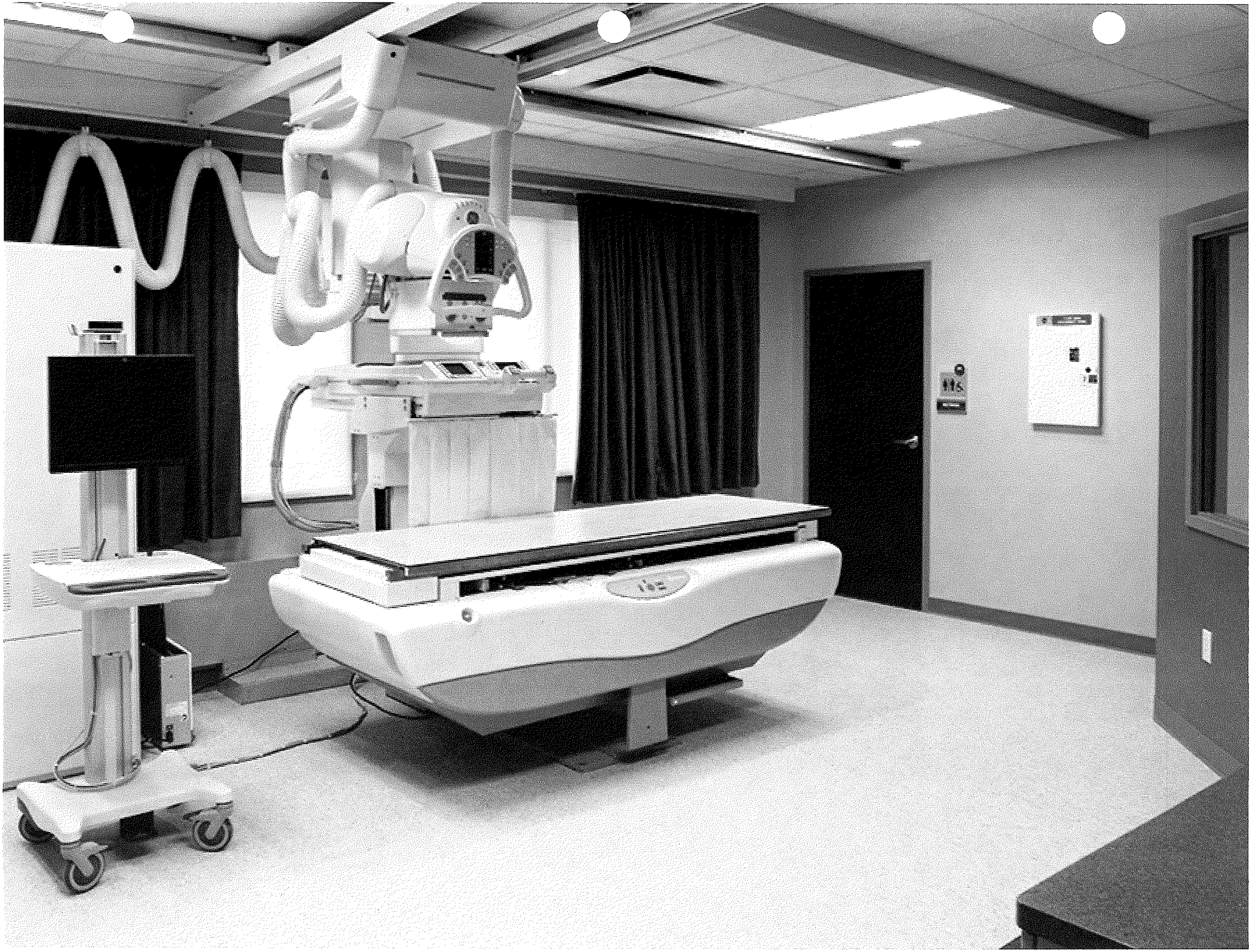

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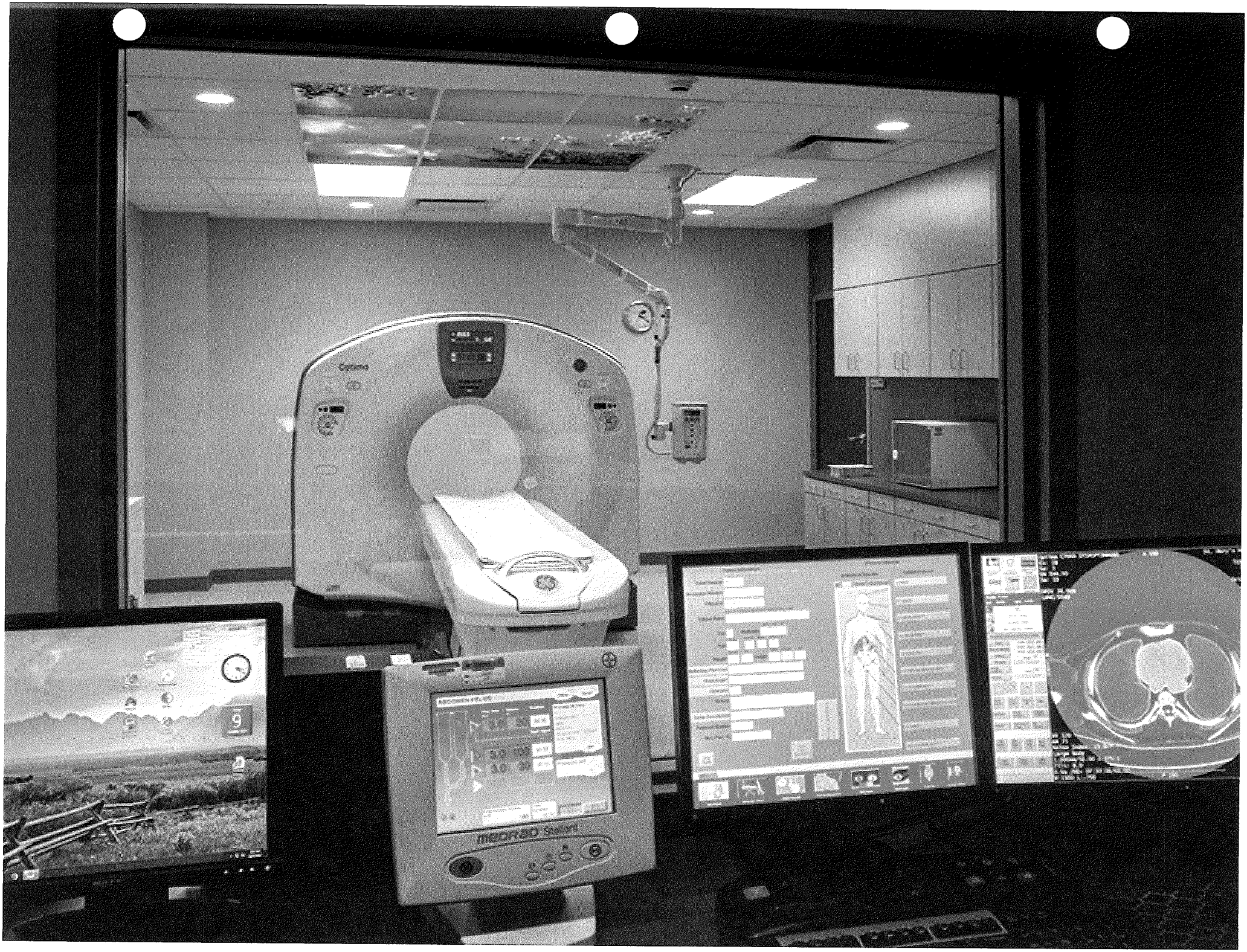
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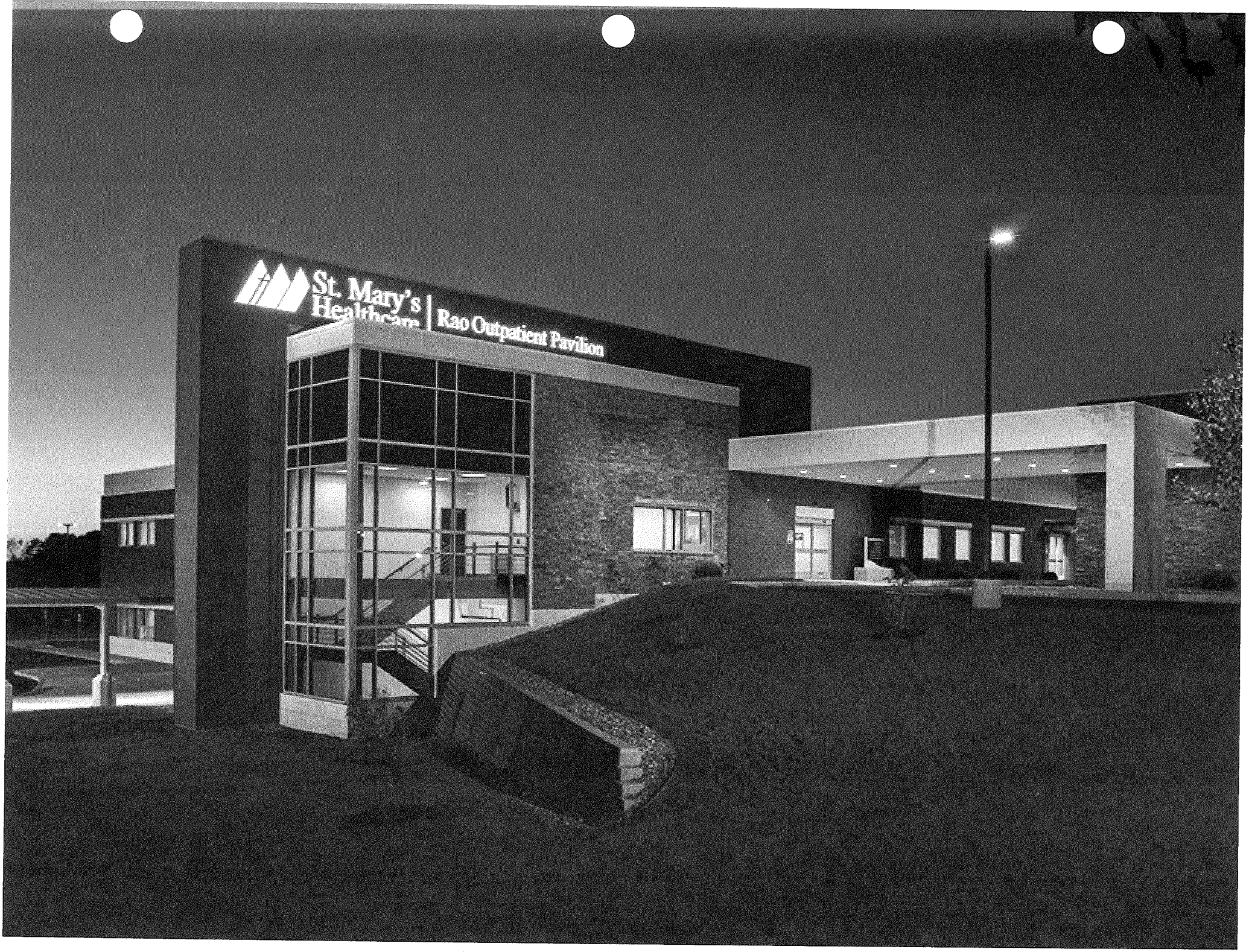

St. Mary's
Healthcare
Rao Outpatient Pavilion

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: New York City (New York Region – New York County) – Upper Manhattan Empowerment Zone – New York Works Economic Development Fund (Capital Grant)

REQUEST FOR: Finding and Determination 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: Upper Manhattan Empowerment Zone Development Corporation ("UMEZ")

ESD* Investment: A Grant of up to $10,000,000 to be used for capital costs related to the Victoria Tower project.

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

Project Location: 233 W 125th Street, New York, NY 10027

Proposed Project: Re-development of the Victoria Theater in Harlem into Victoria Tower, a 27-story, 380,000 square foot hotel, residential, cultural and retail center.

Project Type: Capital Project

Regional Council: The New York City Regional Economic Development Council ("NYCREDC") has been made aware of this item. The project is consistent with the NYCREDC Regional Plan to stimulate business creation, retention and expansion in support of the film and television industry, a key economic sector in New York City.

Employment: The project will create 576 construction jobs and 373 permanent full-time jobs

II. Project Cost and Financing Sources

Financing Uses	Amount
Land	$27,190,000
Hard Costs	$108,523,000
Soft Costs	$10,964,000
Contingency	$6,272,000
Developer Fee	$3,248,000
Financing Costs	$8,534,000
Total Project Costs	$164,731,000

Financing Sources	Amount	Percent
NYEZC	$10,000,000	6%
Construction Loan	$106,000,000	64%
Low Income Housing Tax Credit	$13,376,000	8%
CFA Grant	$5,000,000	3%
HDC Subsidy	$7,400,000	4%
Developer Credit	$12,600,000	8%
Developer Equity	$10,355,000	6%
Total Project Financing	$164,731,000	100%

III. Project Description

A. Company

Industry: UMEZ is a not-for-profit economic development organization.

Grantee History: The New York empowerment zone is one of nine empowerment zones (EZs) established by the Clinton Administration in 1994 to revitalize distressed communities by using public funds and tax incentives as catalysts for private investment. The zone is comprised of parts of Upper Manhattan and southern parts of the Bronx.

UMEZ was formed in response to the federal empowerment zone designation to administer the program with regard to Upper Manhattan development and initiatives.

The empowerment zone designation was accompanied by a federal grant

of $100 million and matching $100 million grants from both New York State and the City of New York, creating a total investment pool of $300MM. To date the zone has received 100% of the federal and city grants and approximately 85% of the State's match. The amount of this grant will become part of the State's match.

Ownership: UMEZ is a not-for-profit organization.

Size: UMEZ employs 25 people.

Market: The Organization provides economic development services to people and businesses throughout Upper Manhattan.

Past ESD Support: UMEZ was awarded a grant of up to $100,000 to administer a small business emergency loan program designed minimize the effects of the March 11, 2014 gas explosion on small businesses located in East Harlem.

B. The Project

Activity: Development of the Victoria Tower at the site of the historical Victoria Theater located at 233 West 125th Street in Harlem. The overall project is a 27 story mixed use development consisting of a 208 room three star hotel, 192 residential units (81 affordable units), retail space and 25,000 square feet of cultural space including 2 theaters. Grant funds will be used to cover specific capital costs related to the construction of the hotel component of the project.

Results: The project will transform a vacant historical site into a tourist destination, cultural center and needed housing space. Additional financing is in place and the project is currently receiving support from the community, institutions and government entities. The project will create 576 construction jobs and jobs and 373 permanent FTE jobs.

Approval of the project will satisfy 65% of New York State's remaining commitment to match federal and city grants to the New York empowerment zone.

Grantee Contact: Blair Duncan, Chief Operating Officer
55 W 125th Street
New York, NY 10027
Phone: (212) 410-0030

ESD Project Nos.: AA839

Project Team:	Origination	Marion Phillips III
	Project Management	Destiny Burns
	Legal	Richard Dorado
	Contractor & Supplier Diversity	Tawanda Mitchell
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. The Company will demonstrate no materially adverse changes in its financial condition prior to disbursement.

2. New York Works Economic Development Fund is the funding source.

3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $10,000,000, 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.

IV. Statutory Basis

The requirements of Section 10(g) of the UDC Act are satisfied.
No residential relocation is required because there are no families or individuals residing on the site.

The New York Works Economic Development Fund and its funding were authorized in the 2014-2015 New York State budget and reappropriated in the 2015-2016 New York State budget.

VI. Environmental Review

The redevelopment of the Victoria Theater was the subject of an environmental review performed by ESD as the lead agency. A Final Environmental Impact Statement ("FEIS") was prepared pursuant to the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. ESD Directors adopted SEQRA Findings on July 17, 2013. By adoption of SEQRA Findings, the Directors certified that the requirements of 6 NYCRR Part 617 have been met. The present request for ESD funding does not constitute an action beyond those actions already considered in the FEIS and does not require additional environmental review under SEQRA.

VII. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and

Women-owned Business Enterprises (MWBEs) in the performance of ESD contracts. ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to this Project.

VIII. 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.

IX. Additional Submissions to Directors

Resolutions
New York State Map

March 24, 2016

New York City (New York Region – New York County) – Upper Manhattan Empowerment Zone – New York Works Economic Development Fund (Capital Grant) – Finding and Determination Pursuant to Section 10 (g) of the UDC Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make Grants 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 Upper Manhattan Empowerment Zone – New York Works Economic Development Fund (the "Project"), the Corporation hereby determines pursuant to d 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 President and Chief Executive Officer 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 President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Upper Manhattan Empowerment Zone Development Corporation grants for a total amount not to exceed Ten Million Dollars ($10,000,000) from the New York Works Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer 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 President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the grants, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grants as he or she may deem necessary or appropriate in the administration of the grants; 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

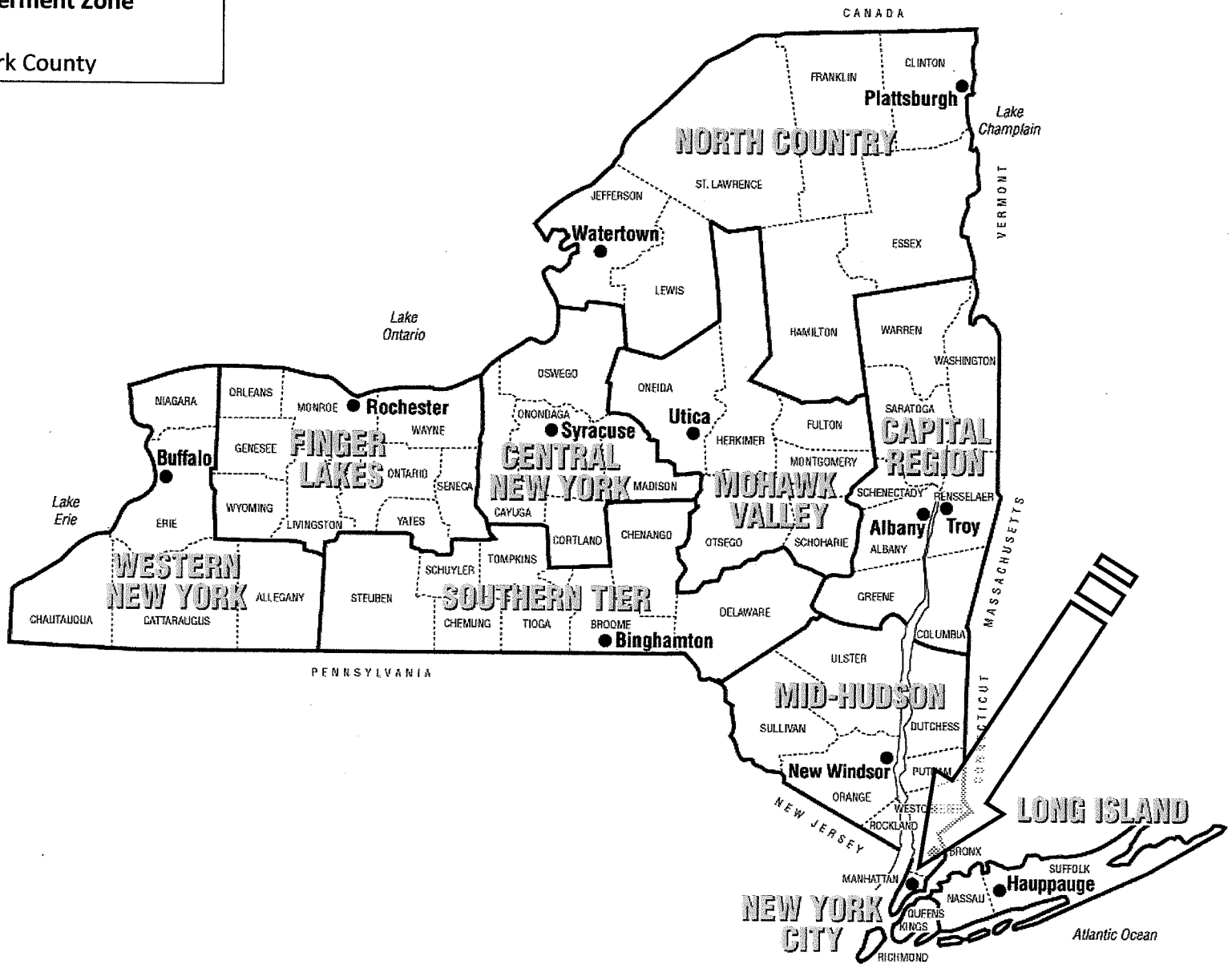
RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of

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.

* * *

Upper Manhattan Empowerment Zone

New York County



NEW YORK STATE OF OPPORTUNITY | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: Property Disposition Guidelines

REQUEST FOR: Approval of Property Disposition Guidelines, Appointment of Contracting Officer and Authorization to Take Related Actions

---

Background

The Public Authorities Accountability Act, Chapter 766 of the 2005 Laws of New York was signed into law by the Governor on January 13, 2006 and was amended by the Public Authorities Reform Act of 2009 (collectively, the "Act"). The Act establishes standards for the governance and operation of public authorities such as Empire State Development (the "Corporation").

Title 5-A of the Act requires the adoption of guidelines with respect to property disposition. The Act also requires that the guidelines must be annually reviewed and approved by the Corporation. Since 2006, the Corporation has adopted and implemented the guidelines that are described below (the "Guidelines"), which effectively incorporate all requirements of the Act. These Guidelines, without material change from 2015, are now proposed for re-adoption by the Corporation.

Guidelines Regarding Disposition of Property

In conformity with the Act, as recently amended and described below, the Guidelines Regarding Property Disposition for the Corporation generally provide for the following:

a. appointment of a contracting officer;
b. disseminating and posting the Guidelines;
c. inventory and reporting of status of corporation property; and

d. obligations of the corporation with respect to pricing and methods of disposition.

The obligations with respect to pricing generally require disposition of property at no less than fair market value as determined after publicly advertising for bids. Property consists of both real and personal property, and appraisals are required for disposition of real property and certain other not readily valued property.

The most significant exceptions to the bidding requirement are negotiated transfers to the State or any political subdivision and circumstances described in Section 7 of the Guidelines. These exceptions can permit sole sourcing.

Section 7 of the Guidelines provides for disposing of property without soliciting bids or for less than fair market value. If the transfer is to a government or other public entity or the purpose of the transfer is within the purpose or mission of ESD, disposal is permitted. If not, the transfer is subject to denial by the governor, senate or assembly. In a permitted sale below fair market value or without bids, certain transactional information must be submitted to the Board which must make a written determination that there is no reasonable alternative to the transfer.

Finally, for most larger negotiated transactions, including exchanges, leases and real property dispositions, an explanatory statement of the transaction must be sent 90 days in advance of such disposal to the Comptroller, Director of the Budget, Commissioner of General Services and the Legislature.

Environmental Review

ESD staff has determined that the requested approval of Property Disposition Guidelines and appointment of an officer 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 this approval. At such time that any property disposition is proposed, it would be subject to environmental review pursuant to SEQRA.

Requested Action

The Directors are being asked to re-adopt the attached Guidelines, appoint the Vice President Contracts Administration, ESD, (or any successor Vice President) the Contracting Officer for purposes of the Guidelines and to authorize the taking of related actions.

Attachments
Resolution
Guidelines

March 24, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT – (the "Corporation") Approval of Property Disposition Guidelines, Appointment of Contracting Officer and Authorization to Take Related Actions

---

WHEREAS, the Corporation wishes to comply with Title 5-A of the Public Authorities Accountability Act ("Law") as amended by the Public Authorities Reform Act of 2009 which mandates that public benefit corporations annually prepare the Corporation's Guidelines Regarding Disposition of Property (the "Guidelines") attached hereto.

WHEREAS, the Corporation has prepared the Guidelines in accordance with the Act as amended; and

WHEREAS, the Corporation has reviewed said Guidelines and found them to be satisfactory;

WHEREAS, the Guidelines require the appointment of a Contracting Officer;

NOW, THEREFORE, IT IS HEREBY RESOLVED that in accordance in the materials presented to this meeting and ordered filed in the records of the Corporation, the Guidelines as amended are hereby approved; and it is further

RESOLVED, that the Vice President Contracts Administration, ESD (or any successor Vice President) is hereby appointed as Contracting Officer as required and set forth in the Guidelines; and it is further

RESOLVED, that the President and Chief Executive Officer, the Chief Financial Officer, the Treasurer or their designees be, and each of them hereby is, authorized and empowered to submit and file the Guidelines, as required by law, and to take such action and execute such agreements and instruments as he or she may consider necessary or desirable or appropriate in connection with the implementation of the Guidelines and to take related actions.

* * *

NEW YORK STATE OF OPPORTUNITY | Empire State Development

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

D/B/A EMPIRE STATE DEVELOPMENT

GUIDELINES REGARDING DISPOSITION OF PROPERTY

I. Definitions. As used herein, unless a different meaning is required by the context.

1. "Contracting officer" shall mean the Vice President Contracts Administration, ESD (or any successor Vice President) who shall be appointed by resolution of the Board of Directors to be responsible for the disposition of property.

2. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal or real property in accordance with these guidelines.

3. "Property" shall mean personal property in excess of five thousand dollars in value, real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

II. Duties of the Corporation with respect to guidelines related to the disposal of property.

1. a. The contracting officer shall be responsible for the Corporation's compliance with, and enforcement of these guidelines.

b. The Corporation's contracting activities shall comply with Title 5-A of the Public Authorities Law, the New York State Urban Development Act (the "Act") and any other applicable law for the disposal of property.

c. These guidelines shall be annually reviewed and approved by the Board of Directors.

d. On or before the thirty-first day of March in each year, the Corporation shall file with the comptroller a copy of the guidelines most recently reviewed and approved by the Corporation, including the name of the Corporation's designated contracting officer. At the time of filing such guidelines with the comptroller, the Corporation shall also post such guidelines on the Corporation's internet website. Guidelines on the Corporation's internet website shall be maintained on such website at least until the procurement guidelines for the following year are posted on such website.

2. Inventory. The Corporation shall:

a. maintain adequate inventory controls and accountability systems for all property under its control;

b. periodically inventory such property to determine which property shall be disposed of;

c. produce a written report of such property in accordance with subdivision three of this section;

d. transfer or dispose of such property as promptly as possible in accordance with Section III.

3. Reporting

a. The Corporation shall publish, not less frequently than annually, a report listing all real property of the Corporation. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Corporation and the name of the purchaser for all such property sold by the Corporation during such period.

b. The Corporation shall delivery copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature and Authorities Budget Office.

III. Disposal of Corporation's property.

1. Supervision and direction. Except as otherwise provided in this section, the contracting officer shall have supervision and direction over the disposition of property of the Corporation.

2. Custody and control. The custody and control of the property of the Corporation, pending its disposition, and the disposal of such property, shall be performed by the Corporation or by the commissioner of general services when so authorized under this section.

3. Method of disposition. Subject to Section II of these guidelines, the Corporation may dispose of property for not less than the fair market value of such property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the contracting officer deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, that no disposition of real property, or any interest in real property, shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction and, provided further, that no disposition of any property, which because of its unique nature or the unique circumstances of

the proposed transaction is not readily valued by reference to an active market for similar property, shall be made without a similar appraisal.

4. Sales by the commissioner of general services. When it shall be deemed advantageous to the state, the Corporation may enter into an agreement with the commissioner of general services where under such commissioner may dispose of property of the Corporation under terms and conditions agreed to by the Corporation and the commissioner of general services. In disposing of any such property of the Corporation, the commissioner of general services shall be bound by the terms of this title and references to the contracting officer shall be deemed to refer to such commissioner.

5. Validity of deed, bill of sale, lease or other instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Corporation, purporting to transfer title or any other interest in property under these guidelines shall be conclusive evidence of compliance with the provisions of these guidelines insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

6. Bids for disposal; advertising; procedure; disposal by negotiation; explanatory statement.

a. all disposals or contracts for disposal of property of the Corporation made or authorized by the contracting officer shall be made after publicly advertising for bids except as provided in paragraph c of this subdivision.

b. Whenever public advertising for bids is required under paragraph a of this subdivision:

(i) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property;

(ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(iii) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the state, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

c. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to paragraphs a and b of this subdivision but subject to obtaining such competition as is feasible under the circumstances, if:

(i) the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were disposed of under paragraphs a and b of this subdivision, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(ii) the fair market value of the property does not exceed fifteen thousand dollars;

(iii) bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(iv) the disposal will be to the state or any political subdivision, and the fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(v) under the circumstances permitted by section 7; or

(vi) such action is otherwise authorized by law.

d. (i) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(A) any personal property which has an estimated fair market value in excess of fifteen thousand dollars;

(B) any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (C) and (D) of this subparagraph;

(C) any real property disposed of by lease if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars;

(D) any real property or real and related personal property disposed of by exchange, regardless of value or any property any part of the consideration for which is real property.

(ii) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under section II of these guidelines not less than ninety

days in advance of such disposal, and a copy thereof shall be preserved in the files of the Corporation.

e. For purposes of Section c(ii), (v) and Section d of this paragraph 6 when an appraisal is not feasible or practical, fair market value shall be determined by the board of directors based on the recommendation of the contracting officer. In making such recommendation, the contracting officer shall make due inquiry of values of comparable property including, as appropriate, geographic location, use, occupancy, condition, obsolescence, outstanding debts, taxes and liens and intended future use.

7. Disposal of property for less than fair market value.

a. No asset owned, leased or otherwise in the control of a public authority may be sold, leased, or otherwise alienated for less than its fair market value except if:

(i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;

(ii) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or

(iii) in the event a public authority seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the authority's mission, purpose or governing statutes, such authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during months of January through June, provided that if the legislature receives notification of such proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed with sixty days of such notification of the proposed transfer to the governor, senate and assembly, the public authority may effectuate such transfer. Provided, however, that with respect to a below market transfer by a local authority that is not within the purpose, mission or governing statute of the local authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which such local authority resides, and the transfer is of property obtained by the authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

(b) In the event a below fair market value asset transfer is proposed, the following information must be provided to the authority board and the public:

(i) a full description of the asset;

(ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board.

(iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer.

(iv) a statement of the value to be received compared to the fair market value;

(v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and

(vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

(c) Before approving the disposal of any property for less than fair market value, the board of an authority shall consider the information described in paragraph b of this subdivision and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.

Dated: March 24, 2016

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: ESD and Subsidiaries Procurements Guidelines

REQUEST FOR: Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

---

Background

At its March 19, 2015 meeting, the Directors adopted updated and revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, as mandated by §2879 of the Public Authorities Law (the "2015 Guidelines"). There have been no substantive changes to relevant laws, Executive Orders and directions to authorities, in the past year, however there have been some important internal procedural initiatives that impact the 2015 Guidelines. Accordingly, the Procurements Manager and staff from the Legal Department, supported by representatives of the Contracts Administration and Finance Departments, have engaged in a revision of the Guidelines. Approval of these Guidelines (the "proposed 2016 Guidelines") is sought.

Procurement Contracts Guidelines Summary

The proposed 2016 Guidelines attached to this memorandum set forth the policies and procedures to be followed by the Corporation and its subsidiaries when seeking to contract for goods or services. It is required that, if approved by the ESD Directors, each subsidiary will approve its own Procurement Guidelines in terms virtually identical to the proposed 2016 Guidelines, with any departure therefrom fully explained by the subsidiary Board. It should be noted that these Guidelines do not have the force of law, and are intended as a statement of best practices and procedures. No contract is invalid merely because these guidelines have not been followed.

The proposed 2016 Guidelines define the universe of procurement transactions which are subject to the policies and procedures. Generally, all procurements by the Corporation must be competitive, except where State law provides for non-competitive sourcing (e.g., goods purchased from approved non-profit agencies for the blind, and procurements from the

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Office of General Services Centralized Contracts List). Based on the expected cost of procured goods and/or services, procurement contracts must be obtained after advertisement in the NYS Contract Reporter, except in limited instances where an exemption is obtained, generally for sole or single source procurements when only one vendor offers the desired goods or services or when a single vendor has unique qualities or experience that obviate a competitive process. The proposed 2016 Guidelines explain the various means of obtaining goods and services in an open, accountable and transparent manner, including incorporation of the Corporation's Bid Opening Guidelines and the compilation of a Procurements Record for every covered Procurement Contract.

The proposed 2016 Guidelines comply with the applicable provisions of the Public Authorities Law, the State Finance Law and the State Tax Law. They are consistent with the State Procurement Council's Guidelines and with the Governor's directive that all state agencies and public authorities make responsible spending decisions, and that they be accountable for sufficient monitoring of their spending to ensure the highest level of fairness, non-discrimination, openness and transparency.

Procedural changes, notably reflecting the Board's determination at its July 16, 2015 meeting that procurement contracts in an amount up to and including $250,000 may be approved by the President of the Corporation or his duly appointed designee, and do not require formal Board approval. An exception to this procedure is that contracts for personal services that will have a term of one year or more continue to require Board approval (as well as annual review), pursuant to § 2879.3(b)(ii) of the Public Authorities Law.

Further, a Bid Protest Procedure has also been adopted to establish an internal procedure for protests that generally tracks the process for FOIL denial procedures, and ensures that Court challenges to procurement decisions must await the outcome of internal review.

The proposed 2016 Guidelines are intended to be user-friendly and are set forth in a logical and coherent fashion that will assist staff in understanding the procedures to be followed and the substantive rules that govern procurements. Many changes from the 2015 Guidelines are the result of efforts to make them more readable and coherent.

Sources of help to users and information are included as clickable links, and virtually all required forms and ESD policy and procedure documents can also be accessed from within the document by hyperlinks. The hard copy of the proposed 2016 Guidelines presented to the Directors for approval cannot contain these links, but they are shown in highlight form.

Recommendation and Requested Action

The Directors are requested to adopt the proposed 2016 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, effective as of the date of approval.

Attachments

Resolution
Proposed 2016 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

March 24, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

---

BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the proposed 2016 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, a copy of which is attached to the materials, be and hereby is approved and adopted as of the date hereof, and the Chief Executive Officer or his/her designee is authorized to promulgate the said Guidelines in electronic form and other media for the use of the staff of the Corporation and its subsidiaries, and to take such other and further action as may be deemed necessary or appropriate to effectuate the foregoing Resolution.

* * *

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT
Guidelines Regarding the Use, Awarding, Monitoring and Reporting of Procurement Contracts

Effective March 24, 2016

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NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT ("ESD")

Guidelines Regarding the Use, Awarding, Monitoring and Reporting of Procurement Contracts

Effective March 24, 2016

1. Overview and Requirements

The following guidelines (the "Guidelines") are applicable to the use, awarding, monitoring and reporting of procurement contracts of the New York State Urban Development Corporation, d/b/a Empire State Development and its subsidiaries (collectively, "ESD"). ESD is required to adopt procurement guidelines by Article 9, Title 4 of the Public Authorities Law. The same law requires annual review and updating of the guidelines by the ESD Board of Directors ("Board"), including subsidiary Boards.

These Guidelines are modeled on the New York State Procurement Guidelines published by the State Procurement Council (the "SPC Guidelines"). The SPC Guidelines apply to all state agencies and thus provide useful guidance for procurement by ESD (which is not a state agency as that term is defined in the SPC Guidelines). The SPC Guidelines cover some issues and procedures rarely encountered by ESD, but should be consulted by staff if a situation arises that does not appear to be covered in these Guidelines, since useful guidance may thereby be obtained. View the SPC Guidelines.

In these ESD Guidelines, a person, firm or corporation who wishes to provide goods and/or services to ESD may be called a "**vendor**" or "**offerer**" or, when responding to a public solicitation for qualified vendors or expressions of interest in becoming an ESD vendor, a "**respondent**."

1.1. Contracts covered, and not covered, by the Guidelines

Pursuant to Public Authorities Law § 2879 (2), "**Procurement Contracts**" are any written agreements for the acquisition of goods or services of any kind in the actual or estimated amount of five thousand dollars ($5,000) or more. For purposes of compliance with anti-lobbying laws contained in State Finance Law § 139-j and 139-k (see p. 12), Procurement Contracts also include the purchase, lease or grant of any other interest in real property which involves an estimated annualized expenditure by ESD in excess of fifteen thousand dollars ($15,000).

Disposition of property (real or personal) by ESD is not a procurement covered by these Guidelines, but is instead subject to ESD's Property Disposition Guidelines. However, where a property disposition requires a competitive process, that process should be conducted in accordance with these Guidelines to the extent practicable.

Loans and grants made by ESD in furtherance of its economic development mission are not Procurement Contracts, but may be subject to certain provisions of these Guidelines, including OSC review and approval for grants over $1 million (see p. 23, Section 10.5).

A Contract or Memorandum of Understanding ("**MOU**") with a sister State agency or authority is not considered a Procurement Contract covered by these Guidelines. Note, however, that appropriate approval(s) as set out in these Guidelines (including Board approval based on the amount and/or duration of the agreement) may apply to MOUs.

In connection with certain of its projects, ESD may need to obtain a license from a governmental agency, authority, or company or a public utility in order to enter the licensor's premises and perform work. As a precondition to receiving the license, ESD can be required to enter into agreements with the licensor that prescribe conditions for work to be performed on the site, including work and/or oversight of work which must be performed by the licensor's personnel or contractors, as well as payment of licensor costs by ESD. Examples include licenses for work on rail and utility facilities. Agreements of this kind, often referred to as "**forced contracts**," are not covered by the competitive solicitation requirements of these Guidelines, because ESD has no discretion or authority with respect to the work to be performed by the licensor's personnel and contractors. However, appropriate approval(s) as set out in these Guidelines (including Board approval based on the amount and/or duration of the agreement) would apply.

Procurement Contracts **under $50,000** may be handled by **Purchase Order** approved by Department Head, Procurement Department, Controller's Office and Contracts Administration. A formal competitive solicitation is not required, but these purchases should be made after obtaining three quotes whenever practicable. For further information, see Section 2.1 below or consult the Procurements Manager.

1.2. Types of Procurement Contracts

The types of goods and services requiring Procurement Contracts include goods and services needed to proceed with an ESD project, or to support the administrative needs of ESD.
Procurements of goods cover the entire spectrum of goods, ranging from pens to motor vehicles.

Procurements of personal services include legal, accounting, management consulting, investment banking, temporary employees, planning, training, statistical analysis, research, public relations, architectural, engineering, construction, surveying, appraisal, or other services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such services as officers or employees of ESD.
Reasons for procuring personal services include:

a. Requirements of special expertise or unusual qualifications;
b. Nature, magnitude or complexity of services required;
c. Lack of sufficient in-house resources, support staff, specialized facilities or equipment;
d. Short-term or infrequent need for the services; and
e. Distance of the location(s) where the services must be performed from ESD offices or facilities.

1.3. General Procurement Principles

ESD's procurement process is designed to:

- Ensure fair and open competition;
- Guard against favoritism, improvidence, extravagance, fraud and corruption;
- Ensure that the results meet agency needs;
- Provide checks and balances to regulate agency procurement activities; and
- Protect the interests of ESD, the state and taxpayers.

Procurement Contracts are to be awarded on a **competitive basis** to the maximum extent practicable. Such awards are generally made after notice is published in the **New York State Contract Reporter** where the amount of the contract is **$50,000 or more** and after the evaluation of proposals obtained, whenever practicable, from at least three qualified vendors or respondents. (See Section 7: Types of Solicitations).

Competition in the procurement process serves both ESD and potential vendors by ensuring that the procurement process produces an optimal solution at a reasonable price; and allowing qualified vendors an opportunity to obtain ESD business, while the process guards against inflated pricing, favoritism, fraud and collusion; and allows all qualified vendors an opportunity to obtain ESD business.

2. Procurement: Overview and Requirements

2.1. The Procurement Process Guide

I. Procurements under $50,000

If ESD's procurement needs can be met by a preferred source vendor, you must use this option. See next page.

If ESD's needs cannot be met by a preferred source, you may elect to use an OGS Centralized contract. Wherever practicable, you should still solicit two other quotes if this option is selected.

If ESD's needs cannot be met by the above mentioned options, you may elect to use a discretionary purchase through the use of a NYS certified MWBE, SDVO or a NYS Small Business. See Section 2.6.

If ESD's needs cannot be met by the above mentioned options, you may elect use an informal solicitation. Contact the Procurement Unit for further assistance if needed.

If this is an emergency situation or only one vendor can meet the needs required for service, the initiating department head has to justify the need to Single Source or Sole Source this request in the justification memo.

II. Procurements $50,000 +

If ESD's procurement needs can be met by a preferred source vendor, you must use this option. See next page.

If ESD's needs cannot be met by a preferred source, you may elect to use an OGS Centralized contract. Wherever practicable, you should still solicit two other quotes if this option is selected.

If ESD's needs cannot be met by the above mentioned options, you may elect to use a discretionary purchase through the use of a NYS certified MWBE, SDVOB or a NYS Small Business up to $200,000. See Section 2.6.

If ESD's needs cannot be met by the above mentioned, use a Request of Proposals ("RFP"), Request for Qualifications ("RFQ") or Request for Expressions of Interest (RFEI"), and advertise in the Contract Reporter if this is not an emergency situation and ESD's needs can be met by more than one vendor.

If this is an emergency situation or only one vendor can meet the needs required, obtain a Contract Reporter Exemption from the Legal Department using Single Source or Sole Source exemption as appropriate.

2.2. NYS Preferred Sources

Goods and services needed by ESD may be available, without the need for competitive procurement from New York State Preferred Sources. If a Preferred Source has goods or services available in the form, function and utility required by ESD, at a price not more than 15% above the prevailing market rate, the goods or services should be obtained through the Preferred Source in the following prioritized order: NYS Department of Correctional Services Correctional Industries Program (CORCRAFT); approved charitable non-profit agencies for the blind; and approved charitable non-profit agencies for the severely disabled, qualified programs for the mentally ill, and qualified veterans workshops. For information on these Preferred Sources, see State Finance Law §162 and the Office of General Services ("OGS") Preferred Sources Guide. The Guide is exhaustive, but the main points are easy to follow.

2.3. OGS Centralized Contracts

Goods and services needed by ESD may be available, without the need for competitive procurement, through centralized contracts held by OGS. Information about centralized contract offerings can be obtained from the list of approved state contractors maintained by OGS.

Note that even if a OGS centralized contractor is available, it is recommended that staff obtain three price quotes from other OGS contractors or other vendors not on the OGS list, unless a compelling justification exists (e.g., experience with a particular project).

2.4. Commodities Contracts

The OGS Procurement Services Group (PSG) establishes centralized contracts for commodity contracts in the form, function and utility required by State agencies, for a wide range of items commonly acquired by agencies. If the commodity is available from a centralized contract in form, function and utility consistent with ESD's need, such item may be purchased from the centralized contract. However, ESD may competitively procure items otherwise available on a centralized contract when the resultant price is less.

2.5. Service Contracts

ESD has discretion to use the OGS centralized service contracts list. A wide and diverse range of services from routine maintenance to complex technology-based acquisitions are available through these OGS contracts. Again, ESD may competitively procure items otherwise available on the OGS centralized contract list when the resultant price is less.

2.6. Discretionary Purchases

ESD may purchase services or commodities from small business concerns or those certified pursuant to Article 15-A and 15-B of the Executive Law (Minority and Women-Owned Businesses and Service-Disabled Veteran Owned Businesses), or commodities or technology products that are recycled or remanufactured, in an amount up to two hundred thousand dollars ($200,000) without a "formal competitive process." In such a case, three quotes should be obtained wherever practicable, and Contract Reporter advertising is advisable when time permits. The award of a discretionary purchase contract should be notified in the Contract Reporter. For more information on discretionary purchases see http://www.ogs.ny.gov/Bu/PC/docs/PnpDiscretionaryThresholds.pdf.

2.7. Piggyback Contracts

ESD may find it efficient to establish a contract based on another governmental entity's contract. This is known as "piggybacking" and may be used in accordance with the criteria established by OGS in the Contract Piggybacking Guidelines under State Finance Law § 163(10)(e), available at www.ogs.ny.gov/BU/PC/SFL.asp. Note that a piggyback procurement requires approval by the OGS Procurement Services Group – this can be difficult and time-consuming to accomplish, as the OGS staff are not very familiar with pubic authority procurement policies and practices. For example, if the agency you wish to piggyback on is a state agency, it will have different contractual terms than those used by ESD. This may lead to delay, if OGS decides to seek approval of the proposed ESD contract terms from the Attorney General. Piggybacking is better accomplished when you wish to use a contract established by another public authority.

3. Contract Reporter Exemptions

3.1. Reasons for Exemptions

Advertising a procurement in the Contract Reporter is generally required unless specific grounds exist that constitute a reason for exemption. A Contract Reporter exemption may be granted by the Officer(s) specified in Attachment A to these Guidelines, only if any of the following circumstances can be demonstrated:

(a) **Sole Source**. Only one source for the goods or services is available. Three examples of sole source procurements: (i) proprietary software compatible with ESD operating systems that no-one else offers; (ii) a printer's warranty requiring that only a toner cartridge supplied by the manufacturer could be used without voiding the warranty; (iii) a vendor has developed a proprietary system for remediating contaminated land, unavailable from anyone else.

(b) **Single Source**. The required goods or services are available from two or more vendors, but a particular vendor is preferable because of specific factors such as, without limitation, past experience with a particular issue; familiarity with ESD's operations; experience with similar projects of ESD, other agencies or at other levels of government; demonstrated expertise; or capacity and willingness to respond to the situation. An example would be an environmental consultant who worked on an EIS for a project and now a Supplemental EIS is required for the same project; many consultants could do the work, but the original consultant's familiarity with the project justifies selection as a single source.

(c) **Emergency Circumstances**. Emergency circumstances exist when an urgent and unexpected situation arises which places public health or safety or the use or conservation of resources at risk and requires immediate action. Poor or late planning does not constitute an emergency. Contracts entered into as a result of an emergency situation should only cover the goods or services reasonably necessary to stabilize, ameliorate or remedy the situation. An example is a hazardous condition at a building owned by ESD: a contractor can be hired immediately to deal with the situation.

NOTE: Notwithstanding any Contract Reporter exemption that may be granted for any of the reasons set forth above, a reasonable attempt should be made wherever practicable to solicit at least three competitive bids, with written confirmation of the bids furnished within a reasonable time and maintained in the contract file. Also, any sole or single source contract awarded in the amount of $50,000 or more should be notified in the Contract Reporter (Economic Development Law, §143 (4)).

3.2. Authorization for Exemptions

The initiator of the proposed contract must obtain a written Contract Reporter exemption authorization. This is done by means of a memorandum to the Officer(s) specified in Attachment A to these Guidelines.

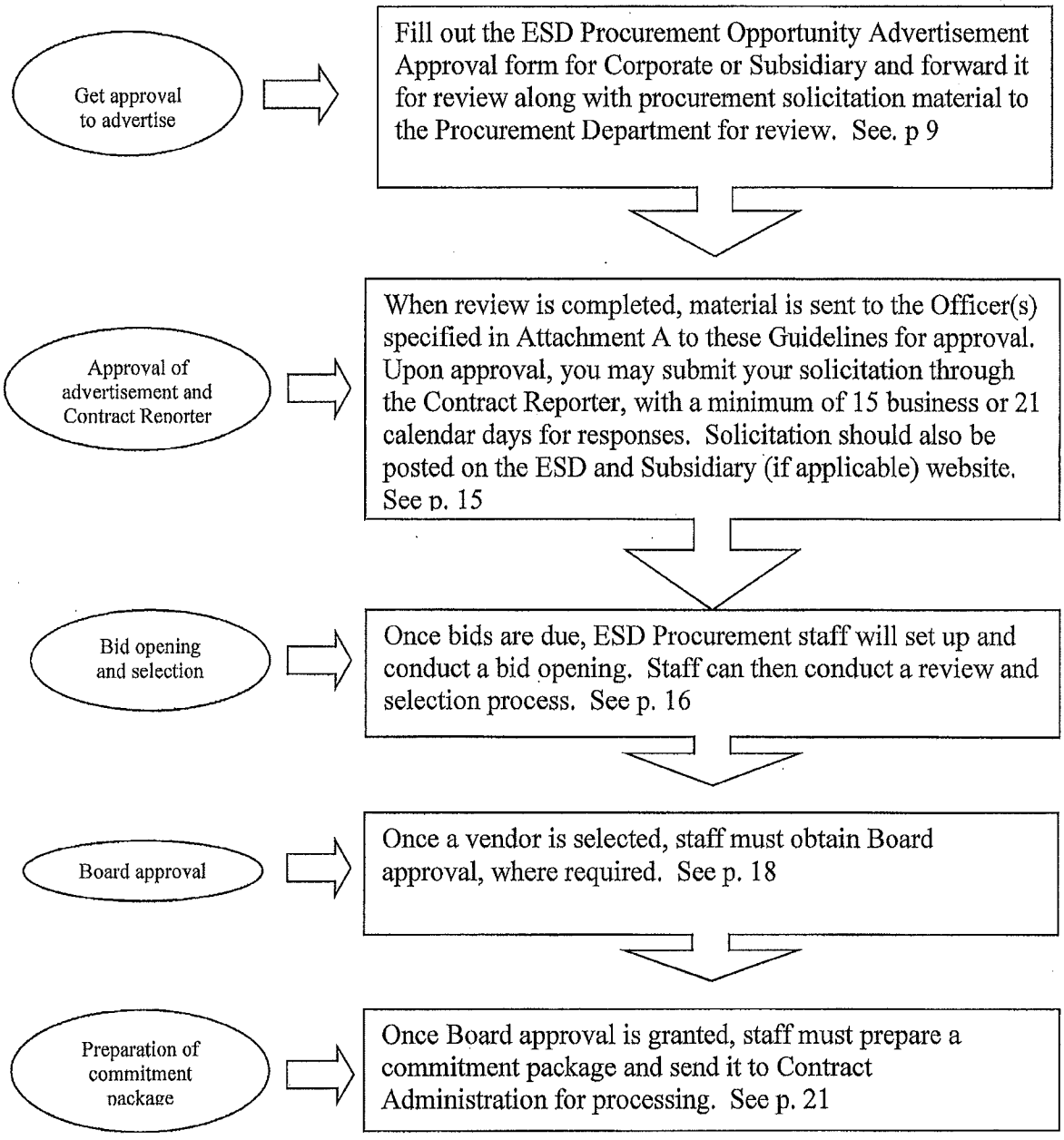
The memorandum requesting the exemption must document in reasonable detail: the circumstances establishing the exemption justification; a description of the goods or services to be acquired via the exemption; description of funding source; any alternatives considered; and the basis for determining that the cost of the proposed contract is reasonable under the circumstances. A template Exemption Memo is found here.

If the proposed contract amount is over $250,000, or is a personal services contract that will last more than one year, the exemption authorization should be obtained before ESD Board or President's approval. If the proposed amount is $250,000 or less, and the term of the contract is less than one year, the exemption authorization should be obtained from the Officer(s) specified in Attachment A to these Guidelines, prior to contract execution and the commencement of any services or delivery of any goods.

Note that even if a Contract Reporter exemption is granted, compliance with SFL § 139-j and 139-k (Lobbying Laws) and State Tax Law § 5-a must still be satisfied (see Section 8.1, p.12). Where appropriate, a statement from the staff initiator that the price obtained for the goods or service is compatible with market pricing must be presented with the exemption request.

At the time ESD enters into a contract with a single or sole source provider for an amount in $50,000 or more, ESD should submit an announcement of the contract for publication in the NYS Contract Reporter, and must identify the recipient of the contract.

4. How to Conduct a Competitive Solicitation



5. Approval to Advertise

Prior written approval of the Officer(s) specified in Attachment A to these Guidelines is required when you need to advertise a procurement opportunity, including Requests for Proposals ("RFPs"), Requests for Statements of Qualifications ("RFQs") and Requests For Expression of Interest ("RFEIs") (See Section 7: Types of Solicitation).

Note also that other approvals may be required to comply with State Division of Budget procedures (see Section 11.4). Submit the ESD Procurement Opportunity Advertisement Approval form (select Corporate or Subsidiary) to the appropriate officer at least 10 business days in advance of the relevant New York State Contract Reporter publication submission date (the Contract Reporter is published daily).

6. Contents of ANY Procurement Solicitation

For all Procurement Contracts (see section 1.1), whether the procurement is formal (such as an RFP, RFQ or RFI) or informal (such as procurement for less than $50,000, or a Discretionary Purchase from an MWBE or SDVOB for up to $200,000) the same basic information should be included in the solicitation:

(i) What goods are being sought or what scope of services is desired;

(ii) What the projected length ("term") of the resultant contract will be;

(iii) What criteria will be used in evaluating bids, and how those criteria are weighted? For example, price, bidders' expertise, past history of government contracts, references/testimonials;

(iv) Where known, the maximum price that ESD is prepared to pay for the goods or services;

(v) A schedule of relevant dates (when bid is due, when questions may be asked or briefing meetings held, etc);

(vi) ESD's insurance requirements (obtained from Contract Administration for all solicitations);

(vii) ESD's required diversity, minority and service disabled veteran owned businesses participation goals (M/WBE and SDVOB);

(viii) Disclosure to bidders that they must be able to demonstrate that they are responsible bidders, in good standing under the laws of New York and capable of fulfilling the requirements of the contract, and untainted by past non-performance or criminality;

(ix) A copy of the ESD standard terms and conditions that the successful vendor will be expected to agree to. This will generally be ESD's Schedule A (For Consultants or for Law Firms and Special Consultants) - Standard Terms and Conditions. IMPORTANT: ESD's standard terms and conditions must be sent to potential vendors as early in the process as possible, to avoid later disputes about terms.

(x) VENDREP Form where needed (See Sections 8.3);

(xi) Proof that the vendor is authorized to do business in New York State, if services are to be performed in New York State. Generally, this will require NYS Department of State Registration, which can be checked here;

(xii) Encouragement of use of New York State businesses as sub-contractors or suppliers (See Section 8.6).

7. Types of Solicitations

7.1. General

There are a number of procurement techniques available, including Request for Proposals (RFP) and Request for Statements of Qualifications (RFQ) and, rarely, Requests for Expressions of Interest (RFEI). When selecting among these various approaches, the determining factors are:

- The importance of price or cost as a component in the review of incoming bids or proposals; and
- The ability to define specifications for goods or services being acquired, or to obtain those specifications from potential vendors (where the RFEI may be useful).

Generally, contracts for goods are to be awarded on the basis of "lowest price" and contracts for services are to be awarded on the basis of "best value" among responsive and responsible vendors. "Best value" is the basis for awarding service and technology contracts to the vendor that optimizes quality, cost and efficiency, among responsive and responsible vendors. The basis for a "best value" contract award must be, wherever possible, quantifiable. However, all procurement solicitations issued by ESD are to be guided by the same basic principles:

Clarity: Procurement documents should clearly convey to vendors what ESD wants to buy;

Fairness: No vendor should be advantaged over another. All information concerning the solicitation shall be conveyed in writing to all vendors participating in the process, including but not limited to process rules and evaluation criteria;

Openness: All relevant vendors should have an equal opportunity to respond to the offering.

Disclosure of Selection Criteria: The criteria for awards should be developed before bids/proposals are received. Vendors should know generally the basis upon which their offers are being judged. Note that if cost is weighted below 20%, a written justification for such weighting should be prepared and included in the Procurement Record;

Efficiency: The process should be efficient, fair and able to withstand public scrutiny.

7.2. Requests for Proposals ("RFP")

RFP's solicitations may range from relatively uncomplicated procurements to highly complex, long term efforts involving the significant commitment of both ESD and vendor resources.

RFPs follow a common format, focusing on a description of tasks including, but not limited to:

- Description of program objectives and background;
- Scope of services to be provided;
- Detailed requirements or specifications (required qualifications of vendors, "what" is needed and "how" services should be provided). Note that the terms of the RFP may not be knowingly tailored to favor a particular vendor.

7.3. Requests for Statements of Qualification ("RFQ")

RFQ's are appropriate for retention of qualified pools of contractors to provide defined types or scopes of services (and, rarely, goods) required by ESD on a regular or semi-regular basis as the need arises; or to select professional services to be rendered at pre-established rates. Competitive establishment of a pool or list of pre-qualified vendors is appropriate, for example, in the case of contractors or property appraisers. If ESD has established a list of pre-qualified contractors, unless services will be rendered by all qualified vendors at rates not to exceed a pre-set maximum, three quotes should be obtained from vendors on the list, and/or from vendors known to ESD outside the list.

7.4. Requests for Expressions of Interest ("RFEI")

RFEIs are generally appropriate when ESD does not know the precise scope of services or goods required, and wishes to obtain this information from prospective vendors. An example would be a proposal for adaptive re-use of ESD or other state surplus property, where the re-use is likely to be dependent on the prospective respondents' needs or ideas.

8. Compliance with Other Laws

8.1. Compliance with State Finance Law § 139-j and 139-k (Lobbying)

State Finance Law ("SFL") § 139-j and 139-k apply to all Procurement Contracts over $15,000, regardless of whether the contract was competitively bid.
Among other things, SFL § 139-j and 139-k: (i) govern permissible communications between potential vendors, and staff of ESD, its subsidiaries, or other involved governmental entities during the procurement process; (ii) require the disclosure of such communications, as well as prior determinations of vendor non-responsibility; and (iii) establish sanctions for knowing and willful violations of such provisions, including disqualification from eligibility for an award of any contract.

Specifically, SFL § 139-j and 139-k require that only permitted ESD and subsidiary contact person(s) identified in solicitation materials may communicate with potential bidders regarding the solicitation, from the issuance of the earliest written notice of a request for proposal through the final award and approval of any resulting contract. This period is defined by law as the "Restricted Period."

SFL § 139-j (6)(b) also requires potential vendors to complete the Offerer's Affirmation of Understanding and Agreement to comply with ESD's procedures relating to permissible contacts. This written affirmation is deemed to apply to any amendments to a procurement submitted by ESD after an initial affirmation is received with an initial bid.

SFL § 139-k governs the disclosure of prior non-responsibility determinations by potential vendors. SFL § 139-k(5) requires potential vendors to certify that the information they provide to ESD for consideration in its determination of vendor responsibility is true and accurate.
Therefore, all prospective vendors must complete and submit two forms mandated by SFL § 139-j and § 139-k as part of their proposals: 1) the Offerer's Affirmation of Understanding and Agreement; and 2) the Offerer's Disclosure of Prior Non-Responsibility Determinations.

When contacted during the Restricted Period, ESD staff, must obtain the following information: the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact. Further, ESD staff must inquire whether the person or organization making the contact was the offerer or retained, employed or designated by the offerer. All such recorded contacts must be included in the procurement record for the procurement contract.

In addition, ESD staff must record any contacts that reasonably appear to be an attempt to influence the procurement process as well as contacts with staff members other than the designated contact person(s) during the Restricted Period of procurement. However, SFL § 139-j and 139-k do not prohibit an offerer from communicating with a member of the state legislature or legislative staff about a government procurement, provided such member of the state legislature or legislative staff is acting in his or her official capacity. If a vendor is found to have knowingly and willfully violated the State Finance Law provisions, that prospective vendor and its subsidiaries, related or successor entities will be determined to be a non-responsible vendor, and will not be awarded any contract issued pursuant to the solicitation. Two such findings of

non-responsibility within a four-year period can result in debarment from obtaining any New York State government procurement contract.

For further guidance, ESD staff engaged in the procurement process should review ESD's policy regarding permissible lobbying contacts, and the required language for solicitations by ESD and its subsidiaries to ensure compliance with SFL § 139-j and 139-k.

Note that, once a recommended vendor has been selected after compliance with the competitive bidding process, it may be necessary for staff members to negotiate contract terms, etc., with the designated vendor. Those negotiations are not prohibited, and need not be conducted only by the designated contact person, although it is good practice to have the contact person present. However, any communication from a person other than the vendor that may reasonably be considered to be an effort to influence the negotiation of a contract (either positively or negatively) is an impermissible contact and must be reported as such. For example: an ESD employee who is in the process of negotiating the terms of a land development deal which the Board has not approved, receives a call from an outside person saying that the vendor should get more development land because the vendor has a wonderful track record. Such a call constitutes lobbying and must be reported as such. The caller should be informed that the call will be reported, and asked to communicate directly with the designated contact person in the future.

8.2. Compliance with State Tax Law § 5-a (Sales Tax Registration)

State Tax Law § 5-a prohibits ESD and its subsidiaries from approving any contract valued at more than $100,000 with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over $300,000 during the four quarters preceding the proposed contract date, and is not registered with the Department of Taxation and Finance ("DTF") for sales and compensating use tax purposes.

Accordingly, all respondents to a solicitation where the amount of the contract is expected to exceed $100,000 must include in their responses a properly completed Form ST-220-CA. However, if a vendor is not registered with DTF because of a lack of sales of over $300,000 within the relevant period, the vendor must submit an affidavit so certifying. Note also that § 5-a does not apply to contracts for architectural, engineering or surveying services. If in doubt, contact the ESD legal department after having reviewed DTF Publication 223.

Failure to include a properly completed form ST-220-CA or affidavit may be a basis for considering any such response incomplete. However, the vendor or respondent should be given an opportunity to cure such failure, because some agencies do not require the form until contract signing, and vendors may not realize that ESD practice is different. Only the primary respondent vendor completes Form ST-220-CA, but Schedule A to Form ST 220-CA requires detailed information from the vendor's sub-contractors, such as tax ID number, etc. If applicable, certificates of authority evidencing registration with DTF for sales tax purposes must be attached by the prime vendor and all the sub-contractors.

Further in accordance with the requirements of § 5-a, any contract resulting from a solicitation will require periodic updating of the certifications contained in Form ST-220-CA.

8.3. Use of the Vendrep Form and Determination of Vendor Responsibility

As required by Executive Order, all vendors must be found to be "responsible", and remain so through the term of the contract. The Office of the State Controller has developed a useful resource, the VENDREP form, which should be requested from all bidders for contracts where a Vendor Responsibility determination will be needed (most contracts, and all which will require Board approval). See Section 9.4 below for further guidance on vendor responsibility. The Vendrep forms can be accessed at www.osc.state.ny.us/vendrep/webresources.htm.

8.4. Compliance with Executive Law Article 15-A: Contractor and Supplier Diversity

All Procurement Contracts must comply with the requirements of Executive Law Article 15-A, which promotes employment and business opportunities for minorities and women on State contracts "to encourage and assist State agencies in their efforts to increase participation by minority and women-owned business enterprises ("MWBEs") on State contracts so as to facilitate the award of a fair share of such contracts to MWBEs."

All Procurement Contracts must also comply with the requirements of Executive Law Article 17-B, which acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, respondents for this contract for commodities, services or technology are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Where practical, feasible and appropriate, ESD shall promote and encourage participation by MWBEs and SDVOBs in the selection and award of all contracts. Such MWBE and SDVOB participation shall be documented in a regular supplement, prepared by ESD's Office of Contractor and Supplier Diversity ("OCSD"), for inclusion in the quarterly and annual reports made by Contracts Administration to the Board. To assist in the gathering of this information, the originator must provide OCSD with a completed Utilization Plan of MWBE and separately SDVOB Participation, from the potential contract awardee, for OCSD's review and approval, prior to contract award. The required forms are accessible here and can be found at the bottom of the RFP page.

8.5. Compliance with Iran Divestment Act of 2012

Every bid or proposal made to ESD pursuant to a competitive solicitation as provided in these Guidelines must contain the following statement, signed by the bidder or respondent and affirmed as true under penalty of perjury:

> "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

The list in question is maintained by OGS. No bid that fails to certify compliance with this requirement may be accepted as responsive, unless the bidder includes a statement in compliance with the Iran Divestiture Act (contact the Legal Department for guidance in such a case).

8.6. Encouragement of use of New York Businesses as sub-contractors and suppliers.

The Secretary to the Governor has issued a directive that provides that all vendors who anticipate using sub-contractors or suppliers to fulfill procurement contracts must be encouraged (but not required) to use New York State businesses. All procurement solicitations of any kind must include specific language aimed at such encouragement. The model language can be found at http://intranet.empire.internal/Resources/Data/Procurement/03042014_NYS_SubcontractorsandSuppliers.pdf

8.7. Project Sunlight

Project Sunlight is an important component of the Public Integrity Reform Act of 2011. Under this law, state governmental entities specified in the law are required to cooperate with the Office of General Services (OGS) and identify in a database developed by OGS all individuals, firms or other entities (other than State or local governmental agencies) that appear before such entity on behalf of themselves or in a representative capacity on behalf of a client or customer for any of various specified purposes. This includes appearances related to (a) procurement, (b) ratemaking, (c) regulatory matters, (d) judicial or quasi-judicial proceedings, (e) adoption or repeal of a rule or regulation.

Project Sunlight's reporting requirement for procurement appearances applies to those appearances that are for the purpose of procuring a State contract, irrespective of whether there is a governmental procurement planned. Thus, reporting is required for appearances relating to State contracts for which a Restricted Period under the Procurement Lobbying Law has not been established and without regard to whether a governmental procurement is anticipated. Appearances during the Restricted Period—whether they are bid clarification meetings or bid interviews or any other permissible contact under the State Finance Law do not need to be reported. As well as, appearances following the award of a State contract do not need to be reported.

8.8. Publication on ESD Website

Competitive solicitations must be made available on the ESD (and subsidiary, if applicable) website after advertisement in the NYS Contract Reporter. This website is also the appropriate place to post Questions and Answers regarding the procurement.

8.9 Contract Reporter Advertising Process

As stated above, ESD must advertise in the New York State Contract Reporter all contracts for the acquisition of goods and services of $50,000 or more, unless an exemption is granted. In

order to access the online system and place the advertisement, the initiator should contact Contracts Administration.

The minimum time for vendors to respond to a Contract Reporter solicitation is 15 business days (i.e., Saturdays, Sundays and legal holidays are excluded). View the Contract Reporter's daily publication schedule.

Where practicable, staff members responsible for a proposed Procurement Contract should make reasonable efforts to identify potential vendors in addition to those identified through the Contract Reporter. This may be done by obtaining referrals from other governmental entities that may have similar requirements, reviewing reference directories, mailing solicitation materials to industry associations and/or known vendors and mailing to lists of appropriate minority and women-owned business maintained by ESD's Office of Contractor & Supplier Diversity.

8.10. Selection Criteria

Written selection criteria shall generally be established for each proposed Procurement Contract and shall be included in any written solicitation materials. The relative weighting of the selection criteria should be set out in the RFP wherever practicable and, in the absence of written weighting, each criterion shall be deemed to have the same weight.

The selection criteria shall generally include price as an important factor to be considered in the selection process; however many ESD procurements are based on "Best Value," which allows for factors other than price to the taken into account. Such factors commonly include the quality of goods and services, the experience of the vendor and specific expertise with respect to the goods or services to be supplied. See also Section 7.1 above if price is weighted at less than 20%.

8.11. Bid Opening Procedures

All proposals should be received by the Procurement Department (unless the Procurements Manager directs otherwise), and immediately should be stamped with the date and time of receipt. **Do not open any bid packages for any reason before the formal bid opening**. ESD staff members representing Contracts Administration, Procurements, Legal and the initiating Department/Subsidiary should be present at bid openings in person or by teleconference. Bids shall be opened by the Procurement Manager or his/her designee, and the time and date of receipt shall be entered into the Bid Log, which must be signed by all staff members present. Teleconference participants must confirm their presence by email to the Procurements Manager. The Bid Log shall also record the presence of SFL 139j-k and ST-220 forms in the bid.

A **Public Bid Opening is required** for Public Works contract solicitations, pursuant to State Finance Law 144. This section generally covers bids for construction work on public projects, and may include preparatory work such as demolition, asbestos abatement and the like. ESD or a subsidiary must be a party to the contract, which must involve the use of laborers, mechanics or workers (not, for example, architects and engineers). The definition of a "Public Work" is more

a matter of art than law: if in doubt as to whether the contract is for Public Work, contact the Legal Department for guidance.

8.12. Bid Evaluation and Vendor Selection

The initiating Department Head should establish, prior to bid opening, a team of at least three ESD staff members with relevant knowledge and experience of the goods and/or services being procured. One member should come from Contracts Administration or Finance. In some cases, one or more non-ESD team members may join the review team, where those persons have specific knowledge of the procurement subject, or a specific role to play in the administration of the contract with the successful bidder. This involvement of non-ESD persons is appropriate because § 2824 (1) of the Public Authorities Law permits authorities such as ESD to "take into consideration the views and policies of any elected official or body, or other person" in the exercise of its powers and duties, provided that ESD must "apply independent judgment in the best interest of the authority, its mission and the public." If non-ESD staff is included in the review team, the team must be expanded in number such that a majority will always be ESD staff members.

Analysis of the proposals and/or bids submitted and the award of the contract shall be documented in reasonable detail. Award to anyone other than the low bidder must include in the documentation the reason the low bidder was not selected.

In reviewing bids, all members of the team must complete and sign scoring sheets that rate each bidder according to the selection criteria and weighting set out in the RFP. Scoring sheets must not include anything other than numerical ratings (i.e., no comments/opinions/notes, etc). Original scoring sheets must be signed and retained by the Procurements Manager as part of the Procurement Record.

8.13. Determination of Responsibility – "FLIP Review" and the Vendrep form

Pursuant to State Finance Law 163, ESD or the Subsidiary Board must determine that a vendor or respondent is a responsible contractor, prior to approving the award of a contract. In any event, whether or not a formal Determination of Responsibility is sought from the relevant Board, the initiator should ensure that all vendors are "responsible."

Vendor responsibility is generally accomplished by "FLIP" review. FLIP review involves assessment of four factors: (i) Financial and organizational capacity; (ii) Legal authority to do business in the state; (iii) Integrity of the owners/officers/principals; and (iv) Past performance on prior government contracts.

The Office of the State Controller has developed a useful resource, the VENDREP form, that should be used wherever possible. This form seeks information about the vendor, its affiliates and subsidiaries, officers and owners, past responsibility determinations by agencies and investigations/prosecutions. It must be notarized, and false statements may be actionable and in some cases may be criminal. The Vendrep forms can be accessed here: www.osc.state.ny.us/vendrep/webresources.htm. See also Section 8.3 above.

For more information, including links to forms used in a determination of responsibility, see Best Practices on the OGS website. Note that FLIP review is not needed for procurements from the OGS Centralized Contracts list.
If a vendor is considered to be non-responsible, steps must be taken to afford the vendor due process rights, including an opportunity to explain its position in writing and, in some cases, at a meeting. Consult the ESD Legal Department in such cases, after having reviewed the information at www.ogs.state.ny.us/procurecounc/pdfdoc/BestPractice.pdf.

8.14. Procurement Record

The ESD department head or his or her designee shall be responsible for creating and maintaining a record of the procurement process. Such record shall contain documentation related to the procurement process, any competitive solicitation exemption, proposals and/or bids received, scoring sheets, vendor responsibility documentation and other documents prepared or used by the bid reviewers in their vendor selection process. Note that final scoring sheets must be sent to the Procurements Manager before a contract is executed.

9. Contract Approval

Procurement Contracts in amounts **of $250,000** and under that will be completed within one year (for services contracts) must be approved by the Officer(s) specified in Attachment A to these Guidelines. Board approval is not required for these contracts.

Procurement Contracts priced at over **$250,000**, as well as contracts for any amount involving personal services to be rendered over a period in excess of one year, must be approved by the ESD (or subsidiary) Board.

Note that **warranty and product maintenance/support/lease contracts (including but not limited to auto and equipment leases)** are not considered personal service contracts and do not require approval by the Board unless the amount of such contract is $250,000 or more in aggregate through the life of the contract.

9.1. Board Materials

The initiator writes a memorandum from the respective Department Head to the Officer(s) specified in Attachment A to these Guidelines, explaining the need for the contract. View Model Directors' Materials for Procurement Contracts.

The Board materials must set out:

a. the need for goods and services;

b. a brief description of the goods or services needed;

c. the expected maximum cost of the proposed goods or services;

d. the selection process used to determine an award based on best value, or where not quantifiable, the justification which demonstrates the best value will be achieved; and

e. The funding source.

9.2. ESD Contract and Amendment Approval

a. Contracts in amounts $250,000 and under must be approved by the Officer(s) specified in Attachment A to these Guidelines.

b. Contracts (i) in amounts over $250,000 or (ii) contracts for any amount involving services to be rendered over a period in excess of one year must be approved by the ESD (or Subsidiary) Directors.

c. If staff anticipates that a contract may need to be extended beyond one year, ensure that Board approval is requested and that the materials and resolution specifically permit an extension of the contract. Once Board approval is obtained, the contract with the vendor must contain a clause that specifically permits extension. If the contract does not contain such a clause, and the contract needs to be extended, Contract Reporter advertising is required unless an exemption is granted.

d. Contracts for services to be rendered over a period in excess of one year, regardless of the amount of the contract, which must have been approved by the Board, must in addition be reviewed annually by the ESD (or Subsidiary) Directors, pursuant to Public Authorities Law § 2879.3(b)(ii). The initiating Department Head must provide an annual report setting forth the status of all continuing services contracts, together with justification for the continuance of such contracts for the next year. This annual status report can be made to Contracts Administration by filling out a contract summary/contract status report. The annual status reports will thus serve to clarify the need to continue existing multi-year service provider contracts. Note also that warranty and product maintenance/support/lease contracts (including but not limited to auto and equipment leases) are not considered personal service contracts.

e. Contract documents should be fully executed and delivered by both parties prior to the commencement of any work. However, if in the discretion of the initiating Department Head it is essential that work on the contract be commenced before the formal contract documents have been approved, the officer named in Attachment A to these Guidelines may issue a letter authorizing a contractor to commence work pending completion and execution of formal contract documents ("**Notice to Proceed**"), provided that:

i. the contract is not subject to Office of the State Comptroller ("OSC") approval (See Section 10.5); and

ii. the authorization contained in the Notice to Proceed is less than $250,000; and

iii. the initiating Department Head seeking the Notice to Proceed obtains in advance, via memorandum (with copies sent to Contract Administration and Procurement) an explanation in reasonable detail the need for the immediate commencement of contract performance, and the written authorization of the Officer(s) specified in Attachment A to these Guidelines.

f. **Amendments to existing contracts** follow the same process as new contracts, i.e., the amendment needs to be advertised in the New York State Contract Reporter or exempted. The same documents, such as justification memo/contract status report, commitment request form and/or standard amendment form must be generated. If the proposed amendment will involve a new Contract Reporter advertisement or other solicitation, the requirements of SFL §139-j and 139-k and State Tax Law § 5-a will apply, and in any case, new certifications may be required. Note that an amendment to an existing contract that causes the aggregate amount of the contract to exceed $1 million may be subject to OSC approval, regardless of the amount of the amendment and source of funds.

g. Contract amendments that increase the contract amount to more than $250,000 must be approved by the ESD or Subsidiary Directors. Amendments for less than 10% of the original contract amount (or the contract amount as subsequently approved by the Board) may be executed by the ESD officer named in Attachment A to these Guidelines without further Board approval, unless the amendment increases the contract to an amount above $250,000 and Directors' approval has not been previously obtained. An Amendment Package must be sent to Contracts Administration for approval and processing (see Commitment Request Package on the next page for guidance). If a proposed amendment will increase the term of the contract to more than one year, Contract Reporter advertising is necessary unless, as discussed in paragraph (c) above, the original contract contained a clause specifically permitting extension.

In the case of contracts for more than $1 million, where the initiator anticipates that unforeseen contingencies and changes of scope may arise and require changes in the contract amount, Board approval should be sought from the outset for amendment of the contract up to 10% of the amount approved, to be executed without further Board approval by the Chief Executive Officer and the Chief Financial Officer of the corporation. Note that such an

amendment may require OSC review and approval (see section 10.5). If in doubt, consult the Legal Department.

10. Steps After Contract Approval Is Obtained

10.1. Commitment Request Package

a. For contracts of $50,000 or more, the contract initiator completes the required information on the Commitment Request Form.

b. The contract initiator completes the Standard Form Contract - Short Form for Goods/Services or Standard Form Amendment or Modification of Contract.

Remember that the provisions and the requirements of the proposed contract must be specific and stated in clear and unambiguous terms so they are fully understood by the contracting parties. It is important that the contract clearly specify what is expected of both the contractor and ESD, and the method of payment to the contractor. The more clear and specific the contract, the easier it will be to monitor.

The terms of the contract should include, but not be limited to:

- the scope and purpose of the contract;
- the description of the services to be performed;
- the location where the work is to be performed;
- the standards to be used to measure performance (e.g. units of services, number and nature of clients served, target dates, etc.);
- the level of expertise that is required to perform the tasks, the cost and the method payment of the contract;
- the projected starting date and the contract period;
- the finished product or the services to be delivered;
- record-keeping and reporting requirements, including a statement that ESD and any relevant State agency has the right to audit the contractor's records;

c. Written explanation of the responsibility determination/FLIP Review and/or formal Determination of Responsibility, where required.

d. ESD/Subsidiary Board of Directors Approval, if applicable. View sample Board materials.

e. New York State Contract Reporter Form, approved exemption letter, or NYS OGS Centralized Contract.

f. All appropriate insurance certificates, as approved by the ESD Insurance Administrator, a copy of the appropriate officer's approval and a copy of the RFP, if applicable. Note that all contractors must have evidence of Workers' Compensation and Disability Insurance coverage.

g. Three (3) original sets of the contract package or amendment with: (i) Schedule A (conditions applicable to consultant or legal agreements); (ii) Schedule B (scope of work and compensation terms): (iii) Schedule C (Non-Discrimination and Affirmative Action Provisions and Schedule of Minority/Women Business Participation and Compliance with Executive Law Article 15-A); (iv) Schedule D (ST-220 Contractor Certification Form pursuant to Tax Law § 5-a); (v) Schedules E-1 (Compliance with SFL § 139-j and 139-k, the Offerer's Affirmation of Understanding and Agreement pursuant to SFL §§ 139-j (3) and 60 (b), the Offerer Disclosure of Prior Non-Responsibility Determinations under SFL § 139-k(2); and (vi) the Encouragement of NY sub-contractors and suppliers form.

h. The initiator signs and obtains the Department head approval on the Commitment Request form and forwards the commitment package (all documents listed above) to Procurement for compliance review and approval. When approved, Procurement will route the commitment package to Contract Administration. The commitment package must be accompanied by a completed Commitment Package Checklist.

i. Contract Administration routes and tracks the commitment package and obtains necessary approvals from various ESD Departments.

j. Upon obtaining in-house approvals, Contract Administration sends all three (3) sets of the contract or amendment package to the vendor for signature(s).

k. After receiving three (3) signed sets from the vendor, Contract Administration sends all three sets to the Officer(s) specified in Attachment A to these Guidelines for signature.

l. One original copy of the fully-executed contract is sent by Contract Administration to the vendor.

10.2. Contract Reporter Award Notification

A contract is considered awarded when it is executed (signed) by all parties. If a contract is awarded after a Contract Reporter Solicitation, the award, along with the Schedule of Minority/Women Business Participation, must be posted on the Contract Reporter system. This posting will be done by Contracts Administration.

10.3. Extension/Amendment of Contracts

If a Procurement Contract is entered into after a Contract Reporter solicitation, the contract and solicitation can provide that there may be an extension of the contract or amendment to the scope of work. If so, then extensions and/or amendments do not need to be advertised in the Contract Reporter again. However, if the contract requires approval by the ESD Board, the possibility of extension or amendment must be included in the original Board materials and Resolution. When in doubt, provide for extension or amendment to minimize future problems.

10.4. Department of Budget ("DoB") Approval

Under DOB Bulletin B-1184, approval for certain procurements over $500 is required. In general, if a state or legislative appropriation is the source of funds, approval is needed. A web-based application known as the "Agency Spending Controls Application" process is used to obtain prior approval. DOB approval is not required when the funding source for the procurement comes from a non-State source (e.g., a developer of an ESD project), where at least 75% of the procurement cost will be reimbursed by federal funds, or when the procurement is needed to address an immediate threat to public health and/or safety. DOB mandated forms are used in cases where approval is required. ESD has implemented the cost control measures described in Bulletin B-1184. All spending not involving Federal reimbursement of at least 75 percent, presenting an immediate threat to public health and/or safety or whose funding source is from a Third Party is subject to the preapproval process specified in the Budget Bulletin utilizing forms established by DOB known as Attachment A. An Attachment B form was also created for spending involving Federal reimbursement of at least 75% or presenting a public health and/or safety issue.

For instructions and forms, see the ESD Employee Intranet: Financial Resources. If in doubt, contact the ESD Controller's Department for guidance.

10.5. OSC Post-Contract Approval of $1,000,000+ Contracts

Under Public Authorities Law § 2879-a (effective March 1, 2010), proposed contracts in excess of one million dollars that either: (i) are to be paid for in whole or in part by state appropriations; or (ii) are not to be awarded after a competitive process (regardless of the funding source), must be approved by the Office of the State Comptroller ("OSC") after the contract is signed. If § 2879-a applies and approval by OSC has not been obtained, the signed contract "shall not be a valid enforceable contract." OSC has issued final regulations implementing this law, and OSC approval shall be deemed part of these Guidelines. A memorandum explaining the application and procedures involved in OSC approval has been circulated to all relevant staff and may be viewed here:

Comptroller review of Contracts Memo_F

Note that loan and grant contracts may be covered by the OSC review process.

OSC has confirmed that contracts for the sale of real property for an amount over $1 million are covered by the Property Disposition Guidelines and are not subject to OSC review and approval under PAL § 2879-a.

11. Monitoring of Procurement Contracts

Performance of Procurement Contracts must be monitored by the initiating Department to ensure that the scope of work or services to be provided are being/have been performed, that use of ESD personnel, supplies and facilities is documented, and that the established starting and completion dates for major components of the contract are being/have been met.

ESD employees assigned the responsibility of monitoring the work should be familiar with the type of work being performed and with the specific terms of the contract.

The frequency and manner in which the vendor's performance will be monitored should be clearly stated to the vendor and directly related to the terms of the contract.

Written documentation pertaining to vendor performance, such as progress reports, site visit reports, payment and expenditure data, memoranda of verbal discussions, and written correspondence, should be maintained and reviewed by the initiating Department.

Periodic visits to the work sites should be made where appropriate to review work in progress and work completed. Site visit reports should be completed and include the observations of pertinent matters, such as the number and type of persons employed by the vendor, adequacy of the facilities and equipment, and quality of performance, including any deficiencies in the performance of the work, which may have an impact on satisfactory completion of the project.

The evaluation of the vendor's performance should take into consideration the quantity and quality of the work performed, the timeliness of submission of contract deliverables, the adequacy of cost and performance records and other supporting documentation, and whether the extent of performance, to date, is commensurate with the amount the contractor has been paid.

Performance that is below expectations or established standards should be reported to ESD management immediately. All deficiency reports should be specific and in writing. Management should review deficiency reports and take appropriate action, which may include termination of a contract.

All invoices presented for payment should be reviewed by the person who is monitoring the contract and approved by the respective Department Head. No payment should be made unless the work is satisfactory and in accordance with the terms of the contract. Approval on the Payment Authorization form attests to this.

12. Procurement Contracts Involving Former Officers of ESD

ESD shall not enter into Procurement Contracts with its former officers or employees, or with firms employing such officers or employees, except as permitted by applicable provisions of law and by ESD's Guidelines Regarding Conflicts of Interest and Ethical Standards.

13. Implementation of These Guidelines

ESD's Legal Department, in conjunction with the Procurement/Contract Administration Department, shall be responsible for:

a. Preparing for approval by the CEO such supplemental procedures as may be required to effectively implement these Guidelines.

b. Preparing proposed amendments to the Guidelines for approval by the CEO and the ESD Directors when and as required.

14. Reporting

14.1. Quarterly Reports

ESD's VP/Contract Administration shall prepare for presentation by the Office of Contractor and Supplier Diversity to the ESD Directors, quarterly reports of new and amended Procurement Contracts and required Schedules of MWBE Participation. For each Procurement Contract, the report shall include the contract amount, reason for award, initial scope of services and the selection process used. Such reports shall include information related to amendments approved on contracts during the reporting period.

14.2. Annual Reports

Annually, ESD's VP/Contract Administration shall prepare for the Directors' review a report on Procurement Contracts as of the end of each fiscal year, summarizing procurement activity by ESD for the period of the report, including a listing of all contracts entered into, the selection process used to select vendors, the status of existing Procurement Contracts and required Schedules of MWBE Participation. ESD's VP/Contract Administration shall also prepare, on an annual basis, a report for submission to:

a. The Division of Budget;
b. The Department of Audit and Control;
c. The Senate Finance Committee;
d. The Assembly Ways and Means Committee;
e. Members of the public (upon receipt of reasonable requests therefor); and
f. The Commissioner of Economic Development.

The reports shall include these Guidelines, any amendments thereto, and an explanation of the amendments.

15. Effect on Awarded Contracts

Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. These Guidelines reflect best and customary practice, but are not intended to be rules of law. Note, however, that certain contracts may not be "valid or enforceable" without OSC approval. (See Section 10.5)

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Land Bank Program

REQUEST FOR: Approval of Land Bank Applications and Authorization to Take All Related Actions

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I. Background

New York State's Land Bank Program (the "Program") was established with enactment of Article 16 of the New York State Not-for-Profit Corporation Law (the "Act"). The Legislative intent of the Act found and declared that New York's communities are important to the social and economic vitality of the state and that whether urban, suburban or rural; many communities are struggling to cope with vacant, abandoned and tax delinquent properties.

In order to combat the problem of vacant and abandoned properties, the Act permits local communities on their own, or together through the execution of intergovernmental agreements, to create not-for-profit corporation land banks to be utilized to facilitate the return of vacant, abandoned and tax-delinquent properties to productive use. The primary focus of land bank operations is the acquisition of real property that is tax delinquent, tax foreclosed, vacant and/or abandoned, and to use the tools of the Act to eliminate the harms and liabilities caused by such properties.

Pursuant to Section 1603 of the Act, the creation of a land bank is conditioned upon approval of the New York State Urban Development Corporation d/b/a Empire State Development ('ESD").

II. The Program Guidelines

ESD's role in this initiative is to approve applications from municipalities seeking to create land banks in their communities. Pursuant to the Act, the number of land banks state-wide was initially limited to ten, but has since been expanded to twenty. At its November 2011 Board meeting, the Directors approved guidelines for the Program which set forth the application process, eligibility criteria, evaluation criteria, the approval process and other terms and conditions regarding approval of applications (the "Guidelines").

Pursuant to the Guidelines, ESD moved forward with approving applications in multiple rounds from interested municipalities. The first round of applications were received by March 30, 2012 and as a result, five applicants were approved by the ESD Board at its meeting in May of 2012. Second Round applications were received by January 30, 2013 and as a result, three additional applications were approved. Since that time, ESD has opened up the application process and has approved five additional land banks for a total of thirteen approved to date. ESD will continue to accept applications until all twenty land banks are approved.

III. Recommendation

The Guidelines adopted by ESD cite the criteria in which ESD evaluated the applications. In general, the factors can be broken down into three categories: 1) the level of intergovernmental cooperation; 2) the need for a land bank; and 3) the likely success of the land bank as proposed. Based on staff review, it is recommended that the applications submitted by Allegany County and Cattaraugus County be approved.

While both Counties are applying on their own, the proposed land banks are the sole foreclosing government entity in their respective counties and therefore will operate county-wide. Both applicants have pledged in-kind support to the land banks and have also demonstrated a significant problem with vacant, abandoned and tax foreclosed properties in their communities and have identified ideal properties that could be subject to land bank control. Based on the implementation plan and in-kind services presented in their applications, Allegany and Cattaraugus Counties have made a strong case that the land bank will be successful in their community.

IV. Environmental Review

Pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law and its implementing regulations (6 NYCRR Part 617), and in connection with the previous approval of land bank applications, the Directors made a Determination of No Significant Effect on the Environment at their meeting of May 17, 2012. This determination addressed all aspects of the proposed action. Therefore, no further environmental review is required in connection with this action.

V. Requested Actions

The Directors are requested to: 1) pursuant to Section 1603 of the Act, approve the creation of a land bank based on the applications submitted by Allegany County and Cattaraugus County; and 2) take all related actions.

VI. Recommendation

Based upon the foregoing, I recommend approval of the requested actions.

Attachments

Resolution

March 24, 2016

Land Bank Program – Approval of Land Bank Applications and Authorization to Take All Related Actions

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RESOLVED, that on the basis of the materials (the "Materials") presented at this meeting, a copy of which is hereby ordered filed with the records of the New York State Urban Development Corporation d/b/a Empire State Development (the "Corporation"), relating to the Land Bank Program (the "Program"), the Corporation hereby approves creation of a land bank by Allegany County and Cattaraugus County for the purposes and substantially in the form set forth in the Materials, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate; and be it further

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

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: New York City (New York County) – Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Amend the Contract with Ernst and Young Infrastructure Advisors, LLC for Market and Financial Feasibility Services; Authorization to Take Related Actions

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I. INTRODUCTION

In May 2013, the New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") advertised in the Contract Reporter and requested bids from real estate development and planning related consulting firms to pre-qualify to serve the Corporation in ten (10) different practice areas. On August 22, 2013, the Directors approved a slate of 24 practitioners in the practice area of "Market and Financial Feasibility" studies. The Corporation's Real Estate staff and Moynihan Station Development Corporation ("MSDC"), a subsidiary of the Corporation, requested bids from three such prequalified firms. These firms were interviewed and scored. Ernst & Young Infrastructure Advisors, LLC ("E&Y") was selected based on price and expertise.

On November 18, 2013 the Corporation's Directors authorized a contract for market and financial feasibility services with the firm of E&Y in order to assist the Corporation and MSDC with respect to developing a financing strategy for Phase 2 of the Moynihan Station project and associated passenger rail and transit improvements.

In this capacity, E&Y has provided critical analytical support to the development of the financial feasibility plan and the overall project finance strategy for Moynihan Station Phase 2, including invaluable support in ongoing negotiations with private sector development partners and other project stakeholders, such as Amtrak.

After the expiration of the initial contract term of nine months, the Directors authorized an extension to this contract for an additional twelve months as of February 15, 2015, in order for E&Y to continue providing strategic advice on the project finance plan for Moynihan Station

Phase 2. E&Y has provided quality analysis and carried out its services with a high degree of professionalism and speed.

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the development of a commuter and intercity passenger railroad terminal to be known as the Empire Station Complex. In furtherance of that initiative, ESD with the Metropolitan Transportation Authority ("MTA"), MTA's operating entity Long Island Rail Road ("LIRR") and National Passenger Railroad Corporation ("Amtrak") have issued a Joint Solicitation for the Development of the Empire Station Complex. The solicitation consists of (i) a request for expressions of interest and qualifications for the redevelopment of New York Pennsylvania Station (the "Penn Station"), owned by Amtrak and, in part, long term net leased to LIRR by Amtrak and (ii) a request for proposals ("RFP") for the private redevelopment (the "Farley Project")[1] of the ESD-owned James A. Farley Building property ("Farley") that would include a new railroad passenger train hall (the "Moynihan Train Hall"), new facilities in the Penn Station train-shed that will provide vertical circulation between the train hall and the train-shed's passenger platform and concourses, passenger and operations facilities for LIRR and Amtrak, permanent space for the United States Postal Service ("USPS"), and commercial use (*e.g.*, retail, office, and hotel) development space.

MSDC conducts Phase 1 (*i.e.*, work beneath Farley in the Penn Station train-shed and associated work in Farley) of the Farley Project. Phase 1 is nearing completion. In connection with the Empire Station Complex initiative, Phase 2 of the Farley Project will occur mostly within ESD-owned Farley. ESD will advance Phase 2 as part of the Empire Station Complex initiative.

The process for Phase 2 will involve design, development, and construction by a private developer (selected by ESD in accordance with the RFP) of new facilities in and beneath Farley. As part of this process, ESD must analyze redevelopment proposals, negotiate construction related agreements with MTA, LIRR and Amtrak and one or more developers. These aspects of the Farley Project require public/private financial analysis expertise and response times that cannot be provided by ESD's staff acting alone. In order to assist ESD's staff and advise ESD on the Empire Station solicitation and federal and/or bond financing, it is necessary that ESD and MSDC continue to have the services of experienced legal counsel that is familiar with the with the complexities of the Farley Project.

The original authorized contract amount was for a not to exceed total of $973,500, inclusive of reimbursable expenses and an approximate 10% contingency amount. Staff recommends amending this contract for an additional $600,000, for an aggregate contract limit of $1,573,500. The additional $600,000 is based on a proposal reviewed by ESD Real Estate in conjunction with the Empire Station team and is intended to carry the contract through the RFP solicitation process.

[1] The Farley Project is currently designated by ESD as the Moynihan Station Civic and Land Use Improvement Project.

II. CONTRACT SUMMARY

Contractor:

Ernst and Young Infrastructure Advisors, LLC
5 Times Square
New York, New York 10036

Scope of Services:

To assist the Corporation and the Moynihan Station Development Corporation ("MSDC"), a subsidiary of the Corporation, with respect to developing a financing strategy for Phase 2 of the Moynihan Station project and associated passenger rail and transit improvements.

Contract Term:

Extended for an additional twelve months.

Contract Amount:

The original authorized contract amount was for a not to exceed total of $973,500, inclusive of reimbursable expenses and an approximate 10% contingency amount. Staff recommends amending this contract for an additional $600,000, for an aggregate contract limit of $1,573,500.

Funding Source(s):

Funding from this contract will come from revenues generated by events held at the Farley Building restricted for the Moynihan Project costs.

III. SCOPE OF WORK

Ernst & Young will provide the Corporation and MSDC with assessments of the current proposed financing options available for Moynihan Station Phase 2 and improvements to the existing Penn Station and will advise on the potential for new sources of revenue, bond finance and equity investment vehicles, and other considerations based upon sophisticated financial modeling. In addition, Ernst & Young will analyze strategic and financial issues relating to the procurement process and cost effective options for completing the proposed transportation improvements and associated mixed use development while also evaluating strategies for leveraging the value of the Farley building's transferable development rights and the possible sale or lease of these real estate interests. Ernst & Young will further evaluate cost estimates and identify policy considerations related to the initiative while providing support in any discussion or negotiations with the federal government, City of New York, Amtrak and any private developers or investors.

IV. CONTRACT TERM, PRICE AND FUNDING

The term of the contract will be extended for an additional twelve months. The amount of the contract shall not exceed $1,573,500. The source of funding is revenues generated by events held at the Farley Building.

V. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will continue to apply to this contract. Ernst & Young shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise ("MWBEs") for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 23%. The overall goal shall include a Minority Business Enterprise ("MBE") Participation Goal of 13% and a Women Business Enterprise ("WBE") Participation Goal of 10% related to the total value of ESD's funding.

VI. RESPONSIBLE PARTIES

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has: a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

VII. ENVIRONMENTAL REVIEW

ESD staff has determined that the proposed authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and its implementing regulations. No further environmental review is required in connection with the authorization.

VIII. REQUESTED ACTIONS

The Directors are being asked to authorize the Corporation to amend the contract with the firm of Ernst & Young for an additional twelve months bringing the contract to an aggregate limit of $1,573,500.

IX. RECOMMENDATION

Based on the foregoing, I recommend approval of the requested actions.

X. ATTACHMENTS

Resolutions

March 24, 2016

EMPIRE STATE DEVELOPMENT – Authorization to Amend the Contract with Ernst and Young Infrastructure Advisors, LLC for Market and Financial Feasibility Services; Authorization to Take Related Actions

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RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds the firm of Ernst and Young Infrastructure Advisors, LLC to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend the Corporations existing contract with the firm of Ernst and Young Infrastructure Advisors, LLC for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolutions.

* * *

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR INFORMATION

March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: Quarterly Report on Utilization of Certified Minority and Women Business Enterprises (MWBEs) and Procurement Commitments to MWBEs for the Third Quarter of Fiscal Year 2015-2016

Utilization of Certified MWBEs:

For the third quarter of fiscal year 2015-2016, ESD achieved MWBE participation in agency projects and procurements totaling 38.56%. During the quarter, ESD disbursed a total of $111,659,035 million in eligible procurements to vendors, grantees and borrowers. Of the eligible procurements, $43,051,523 million in payments were reported to MWBEs.

Initial Commitments to Certified MWBEs:

For the third quarter of fiscal year 2015-2016, ESD and its subsidiaries executed a total of $102,694,465 million in procurements and amendments, of which $102,104,615 million were MWBE eligible procurements. Of the eligible procurements, $30,611,785 million or 29.98% has been committed to MWBEs by ESD, its subsidiaries and primes.

Commitments only refer to the amount of contracts awarded initially to MWBEs and do not take into account future commitments on those contracts and disbursements over time. Utilization, reported above, represents actual payments, which are measured against the agency goal.

Empire State Development
Report on Procurement Contracts
Entered Into During the Quarter of (10/01/2015 - 12/31/2015)

CO.	VENDOR NAME AND ADDRESS	ORIG CONT DATE	REASON FOR AWARD	CONT #	INITIAL SCOPE OF SERVICES	CONTRACT AMOUNT	CURRENT STATUS	CONTRACT REPORTER	COMPETITIVE SEARCH	BASIS OF AWARD	MWBE ELIGIBLE CONTRACTS/ ASSIGNED GOALS	COMMENTS
EMPIRE STATE DEVELOPMENT												
ESD	Lowe & Partners Worldwide Inc. d/b/a Campbell Ewald New York 386 Park Ave. South, 15th Floor New York, NY 10016	11/13/2015	Need for marketing services in connection with the NYS Open for Business Campaign.	9399	Provide marketing services including advertising, digital, marketing, events, media planning and buying serivces.	100,000,000	On-going	YES	YES	Best Value	YES - 30%	
ESD	Li/Saltzman Architects, PC 50 Broadway, 33rd Floor New York, NY 10004	11/16/2015	Need for consulting services in connection with the disposition and adaptive reuse of the Bayview Correctional Facility.	9436	Provide historic preservation consulting services to ESD in reference to the long-term lease and adaptive reuse of the Bayview Correctional Facility located at 550 West 20th Street, NY, NY.	200,000	On-going	YES	YES	Best Value	YES - 30%	
ESD	CTC Technology and Energy 10613 Concord Street Kensington, MD 20895	10/15/2015	Need for consulting services in connection with the Phase 1 New NY Broadband Program.	9410	Provide ESD Broadband Program Office with the initial scoping and upfront analysis(Phase 1) for the New NY Broadband Program.	180,000	On-going	N/A	YES	Best Value	YES - 30%	Discretionary Purchase under the Governor's MWBE Executive Order
ESD	Landauer Valuation & Advisory 125 Park Avenue New York, NY 10017	12/29/2015	Need for appraisal services in connection with the Farly Post Office and Penn West Development Site.	9503	Provide appraisal services in connection with the valuation of various properties associated with the development of James A. Farley Post Office and Penn West Development Sites.	100,000	On-going	Legally Exempt	YES	Best Value	NO	Single Source
ESD	BJH Advisors, LLC 182 Dean Street Brooklyn, New York 11217	12/29/2015	Need for consulting services in connection with an analysis related to the valuation of Block 780 in Manhattan.	9506	Provide real estate services to assist ESD to understand the market value of Block 780 in Manhattan, which is the block south of Penn Station.	57,615	On-going	YES	YES	Best Value	YES - 30%	
					ESD TOTAL :	$100,537,615						

Empire State Development
Report on Procurement Contracts
Entered Into During the Quarter of (10/01/2015 - 12/31/2015)

CO.	VENDOR NAME AND ADDRESS	ORIG CONT DATE	REASON FOR AWARD	CONT #	INITIAL SCOPE OF SERVICES	CONTRACT AMOUNT	CURRENT STATUS	CONTRACT REPORTER	COMPETITIVE SEARCH	BASIS OF AWARD	MWBE ELIGIBLE CONTRACTS/ ASSIGNED GOALS	COMMENTS
CONVENTION CENTER DEVELOPMENT CORPORATION												
CCDC	Joseph C. Reid 230 Park Avenue Suite 1000 New York, NY 10169	10/16/2015	Need for legal services in connection with the Revenue Bonds Hotel Unit Fee Secured Series 2005 Bonds.	9460	Provide co-bond counsel services for the issuance of New York Convention Center Development Corporation Revenue Bonds, Hotel Unit Fee Secured Series 2015.	150,000	On-going	YES	YES	Best Value	YES - 23%	
					CCDC TOTAL :	$150,000						
EMPIRE STATE NEW MARKET CORPORATION												
ESNMC	CohnReznick LLC 500 E. Pratt Street Suite 200 Baltimore, MD 21202	10/26/2015	Need for consulting services in connection with the New Markets Tax Credit Program.	9423	Provide accounting services to Empire State New Market Corporation for fiscal years 2016, 2017, and 2018.	500,000	On-going	YES	YES	Best Value	YES - 30%	
ESNMC	Rise Community Capital, LLC 217 51st Street #214 Long Island City, NY 11101	11/13/2015	Need for consulting services in connection with the New Markets Tax Credit Program.	9434	Provide consulting services to Empire State New Market Corporation (ESNMC) in connection with ESNMC's current allocation and potential future allocation of federal New Markets Tax Credits and deployment therof.	500,000	On-going	YES	YES	Best Value	YES - 30%	
					ESNMC TOTAL:	$1,000,000						
HARLEM COMMUNITY DEVELOPMENT CORPORATION												
HCDC	East Coast Petroleum, Inc. 340 Jackson Avenue Bronx, New York 10454	10/13/2015	Need for heating system replacement at 30 Lenox Avenue.	9420	Provide heating system replacement at 30 Lenox Avenue.	125,000	On-going	NO	YES	Best Value	NO	Vendor under NYS DHCR competitive contract

Empire State Development
Report on Procurement Contracts
Entered Into During the Quarter of (10/01/2015 - 12/31/2015)

CO.	VENDOR NAME AND ADDRESS	ORIG CONT DATE	REASON FOR AWARD	CONT #	INITIAL SCOPE OF SERVICES	CONTRACT AMOUNT	CURRENT STATUS	CONTRACT REPORTER	COMPETITIVE SEARCH	BASIS OF AWARD	MWBE ELIGIBLE CONTRACTS/ ASSIGNED GOALS	COMMENTS
HCDC	East Coast Petroleum, Inc. 340 Jackson Avenue Bronx, New York 10454	10/13/2015	Need for heating system replacement at 20 Lenox Avenue.	9412	Provide heating system replacement at 20 Lenox Avenue.	120,000	On-going	NO	YES	Best Value	NO	Vendor under NYS DHCR competitive contract
HCDC	Heat, Inc. 1215 Second Avenue New Hyde Park, NY 11040	12/29/2015	Need for heating system replacement at 205 East 124th Street.	9516	Provide heating system replacement at 205 East 124th Street.	69,700	On-going	NO	YES	Best Value	NO	Vendor under NYS DHCR competitive contract
HCDC	New York Heating Corp 354 Humboldt Street Brooklyn, New York 11211	10/13/2015	Need for heating system replacement at 201 West 144th Street.	9413	Provide heating system replacement at 201 West 144th Street.	50,150	Completed	NO	YES	Best Value	NO	Vendor under NYS DHCR competitive contract
					HCDC TOTAL:	$364,850						
JOB DEVELOPMENT AUTHORITY												
JDA	Winston & Strawn LLP 200 Park Avenue New York, NY 10166	12/22/2015	Need for legal services in connection with Refunding Bonds Related to John F. Kennedy Airport-Terminal 1.	9504	Provide bond counsel services in connection with the refunding of revenue bonds related to John F. Kennedy Airport-Terminal 1.	245,000	On-going	YES	YES	Best Value	YES - 30%	
JDA	Gonzalez Saggio & Harlan, LLP 292 Madison Avenue 19th Floor New York, NY 10017	12/28/2015	Need for legal services in connection with Revenue Bonds Goldman Sachs Headquarters Issue Series 2005 and /or Series 2007.	9505	Provide co-bond counsel services in reference with the Goldman Sachs Headquarters Issue Series 2005 and/or 2007.	75,000	On-going	YES	YES	Best Value	YES- 30%	
					JDA TOTAL:	$320,000						
					TOTAL FOR CONTRACTS:	$102,372,465						
					TOTAL FOR AMENDMENTS:	$322,000						
					GRAND TOTAL:	$102,694,465						

Empire State Development
Report on Procurement Contracts (Amendments)
Entered into During the Quarter of (010/01/2015 - 12/31/2015)

CO.	VENDOR NAME AND ADDRESS	BEGIN DATE	AMEND. DATE	REASON FOR AWARD	CONTRACT NUMBER	ORIGINAL CONTRACT AMOUNT	AMEND AMOUNT	SCOPE OF SERVICES	REVISED CONTRACT AMOUNT	CURRENT STATUS	CONTRACT REPORTER	MWBE ELIGIBLE CONTRACTS/ ASSIGNED GOALS	COMMENTS
EMPIRE STATE DEVELOPMENT													
ESD	Cherry Road Technologies Inc 301 Gibraltar Drive Morris Plains, NJ 07950	4/3/2013	11/23/2015	Need for technical support for the Oracle PeopleSoft Financial System.	8155	108,000	72,000	Provide technical support to assure continuous PeopleSoft operation and quick responses to technical problems.	180,000	On-going	YES	NO	
				ESD TOTAL:		$108,000	$72,000		$180,000				
MOYNIHAN STATION DEVELOPMENT CORPORATION													
MSDC	Holland & Knight LLP 31 West 52nd Street New York, NY 10019	4/28/2010	12/18/2015	Need for legal services in connection with the Moynihan Station Project.	6687	750,000	250,000	Provide real estate, construction, financing, development, land use, and related legal services in connection with the Moynihan Station Project.	1,150,000	On-going	Legally Exempt	YES-20%	
				MSDC TOTAL:		750,000	250,000		1,150,000				
				TOTAL FOR AMENDMENT CONTRACTS:		$858,000	$322,000		$1,330,000				

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO:	The Directors
FROM:	Howard Zemsky
SUBJECT:	Procurement of: Mechanical / HVAC Maintenance Services for ESD's 633 Third Avenue Offices
REQUEST FOR:	Authorization to Enter into a Contract with Etna Prestige Technology, Inc. (mechanical contractor) for HVAC / Maintenance Services and to Take Related Actions

I. Background

As a component of ESD's 2014 renovation at 633 Third Avenue, the corporation replaced aging mechanical equipment throughout its five occupied floors and roof. This equipment maintains necessary cooled temperature environments for the 34th floor computer server room along with five telecom (LAN) closets. Furthermore, it was determined that the supplemental ceiling hung heating/cooling units conditioning the 37th floor executive floor justified replacement due to age. With one year installer warranties ending the newly installed mechanical equipment will require regular maintenance service to insure operational reliability and efficiency.

II. Contract Summary

Contractor: **Etna Prestige Technology, Inc.**
46 Harriet Place, Lynbrook, NY 11563

Scope of Services: Services generally shall include:

- Monthly air filter replacement and service check of one (1) 20 ton Liebert air conditioner currently cooling 34th computer floor server room
- Quarterly air filter replacement and service check of five (5) LAN closets currently cooling rack mounted telecom equipment
- Quarterly air filter replacement and service check of fourteen (14) ceiling mounted supplemental heat pumps currently (5) LAN closets cooling rack mounted telecom equipment

- Annual cleaning (pressure washing) of dry cooler coils in the spring of each year using solvents recommended by the manufacturer
- Emergency service when required at agreed hourly rates (regular business hours and overtime)
- Other required maintenance procedures and service per the manufacture's recommendations.

Contract Term: up to Four (4) Years

Contract Amount: Not to exceed: **$ 151,915** broken down as follows*

Basic Maintenance Service: $52,363
Emergency Service (Regular Hours): $19,632 (Estimate)
Emergency Service (Overtime Hours): $31,920 (Estimate)
Parts & other HVAC components: $48,000 (Estimate)

*See Projected Expense Breakdown attachment

Funding Source(s): Corporate

III. Contractor Selection Process

A Contract Reporter advertisement was published on November 23, 2015 informing the HVAC / Mechanical contractors community of the proposed procurement requiring responding contractors to attend one of two mandatory site visits (Monday Nov. 30th and Tuesday, Dec. 1st) to ESD's 633 Third Avenue offices to view the newly installed mechanical equipment. All contractor questions were required to be formally submitted in writing to ESD's web based email.

- other solicitation efforts included telephone contact with prior mechanical company after Contract Reporter advertisement release informing of pending procurement.
- number of respondents to the solicitation - six (6) mechanical contractors responded to the Contractor Reporter Ad with four (4) mechanical contractors attending the mandatory walk-throughs. Two (2) mechanical contractors submitted qualified bids with the selected vender as the low bidder
- a review committee was formed composing a ESD senior architect, ESD Procurement Director and ESD Manager of Office Services with the committee's selection criteria based on review of price, contractor submitted forms, evaluation of contractors reference check and FLIP review.
- selected vendor was chosen due to size of company (60 employees), length in business (29 years) and site visit to the vendor's facility.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

Mechanical services generally shall include:

- Monthly and air filter replacement (contractor to provide) of 20 ton Liebert Air Conditioner as well as quarterly air filter replacement (contractor to provide) for all other cooling equipment if required.
- Monthly and quarterly services shall also include all items listed below:
- Inspect and adjust all drive belts and adjust as necessary.
- Lubrication of motor bearings and other moving parts.
- Check and clear water strainers and condensate drains.
- Check and clean all drain pans and lines.
- Control adjustment and calibration as necessary.
- Voltage testing and take ampere reading on all motors and compressors.
- Check all wire and connection inspection on line and control wiring.
- Check capacitors.
- Check fuses and/or replacement.
- Check for signs of refrigerant leakage. Check operating pressure and charge as necessary.
- Glycol percentage and level check and top off as necessary (20 ton Liebert only).
- Annual cleaning (pressure washing) of dry cooler coils in the spring of each year using solvents recommended by the manufacturers.
- Emergency service as requested and required to maintain equipment operation.
- Other required maintenance procedures and service per manufacture's recommendations.

V. Contract Term, Price and Funding

The proposed term of the contract is four (4) years of monthly and quarterly basic maintenance plus emergency service if applicable. Basis for payment will be monthly invoicing per the vendors scheduled costs (see attachment) with invoice review and approval jointly by ESD's D&C Dept. and Administrative Services. The source of the funding will be Corporate.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. The Contractor shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women-owned Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with this procurement, and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR Section 142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of ESD funding.

VII. Environmental Review

ESD staff has determined that the requested authorization to enter into a contract 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.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Etna Prestige Technology, Inc. for an amount not to exceed $151,915.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments

Resolution
Projected Expenses breakdown

March 24, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Authorization to Enter Into a Contract with Etna Prestige Technology, Inc.to provide HVAC / Maintenance Services and to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Etna Prestige Technology, Inc.in an amount not to exceed One Hundred Fifty One Thousand Nine Hundred Fifteen Dollars ($151,915) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

* * *

HVAC/MECHANICAL SERVICE CONTRACT: Etna Prestige Technology, Inc					
Projected Expenses Breakdown					
Basic Maintenance (Per Contract)					
Year					
1	$12,440.00	Lump Sum		$12,440.00	
2	$12,880.00	Lump Sum		$12,880.00	
3	$13,283.00	Lump Sum		$13,283.00	
4	$13,760.00	Lump Sum		$13,760.00	
				$52,363.00	**$52,363.00**
Emergency Service - Regular Hours (Estimate)					
1	$98.00	4 Hr's./Month	x 12	$4,704.00	
2	$101.00	4 Hr's./Month	x 12	$4,848.00	
3	$104.00	4 Hr's./Month	x 12	$4,992.00	
4	$106.00	4 Hr's./Month	x 12	$5,088.00	
				$19,632.00	**$19,632.00**
Emergency Service - Overtime Hours (Estimate)					
1	$162.00	4 Hr's./Month	x 12	$7,776.00	
2	$165.00	4 Hr's./Month	x 12	$7,920.00	
3	$168.00	4 Hr's./Month	x 12	$8,064.00	
4	$170.00	4 Hr's./Month	x 12	$8,160.00	
				$31,920.00	**$31,920.00**
Parts & Other HVAC Components (Estimate)					
1	$850.00	12		$10,200.00	
2	$950.00	12		$11,400.00	
3	$1,050.00	12		$12,600.00	
4	$1,150.00	12		$13,800.00	
				$48,000.00	**$48,000.00**
					$151,915.00

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: New York City (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Enter into a Contract with Bryant Rabbino LLP; Authorization to take Related Actions

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CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Contractor:	Bryant Rabbino LLP
Scope of Services:	To provide to New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") and its subsidiary, Moynihan Station Development Corporation ("MSDC"), legal services related to the Empire Station Complex, including general real estate and public/private partnership matters for the redevelopment of the James A. Farley Building property ("Farley") and Pennsylvania Station New York ("Penn Station").
Contract Term:	12/31/2018 plus two one year renewal options
Proposed Contract Limit:	$250,000
Proposed Amendment :	N/A
Total Amount:	$250,000

II. Funding Source:

Revenues received by the Corporation from events held at the ESD-owned James A. Farley Building will fund the Contract.

III. Background

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the development of a commuter and intercity passenger railroad terminal to be known as the Empire Station Complex ("Empire Station"). In furtherance of that initiative, the Corporation with the Metropolitan Transportation Authority ("MTA"), MTA's operating entity Long Island Rail Road ("LIRR") and National Passenger Railroad Corporation ("Amtrak") issued a *Joint Solicitation for the Development of the Empire Station Complex.* The solicitation consists of (i) a request for expressions of interest and request for qualifications ("RFEI/RFQ") for the private redevelopment of Penn Station and (ii) a request for proposals ("RFP") for the private redevelopment of Farley, including (x) a new Moynihan Train Hall (a new railroad passenger train hall), that would serve LIRR and Amtrak passengers, new back-of-house and passenger facing operations for LIRR and Amtrak, (y) work in the Penn Station train-shed related to the Moynihan Train Hall, and (z) private commercial space, including space leased to USPS for retail and operations use.

Amtrak owns Penn Station and Amtrak uses the station's upper level (a/k/a the "Upper Level" or "Level B") to serve Amtrak passengers, and leases a portion of the Upper Level to New Jersey Transit ("NJT") that NJT uses to serve its passengers. Amtrak will move to Farley from Penn Station most of Amtrak's back-office and passenger-facing operations. The vacated space in Penn Station will be redeveloped by Amtrak for commercial uses.

Penn Station's lower level (a/k/a the "Lower Level", "Level A" or the "LIRR concourse") is long term net leased to LIRR by Amtrak. LIRR uses the Lower Level to serve its passengers. The Lower Level will connect to the Moynihan Train Hall in Farley. The connection is a newly rebuilt passage way, the 33rd Street connector, that connects the Lower Level to the new West End Concourse (the "WEC"), a rebuilt concourse located beneath Farley that traverses the tracks in the Penn Station train-shed and provides passenger access to the platforms. The extended and widened WEC will vertically connect to the Moynihan Train Hall and provide access from the train hall to most of the Penn Station train-shed passenger platforms.

ESD owns Farley. The Farley redevelopment includes Moynihan Train Hall, new facilities in the Penn Station train-shed that will provide vertical circulation between the train hall and the train-shed's passenger platform and concourses, passenger and operations facilities for LIRR and Amtrak, permanent space for the United States Postal Service ("USPS"), and commercial use (*e.g.*, retail, office, and hotel) development space.

MSDC conducts Phase 1 (i.e., work beneath Farley in the Penn Station train-shed and associated work in Farley) of the Farley redevelopment. Phase 1 is nearing completion. In connection with the Empire Station initiative, Phase 2 of the Farley redevelopment will occur mostly within ESD-owned Farley. ESD will advance Phase 2 as part of the Empire Station Complex initiative.

The process for Phase 2 will involve design, development, and construction by a private developer (selected by ESD in accordance with the RFP). As part of this process, ESD must analyze redevelopment proposals, and negotiate real estate related agreements with MTA, LIRR and Amtrak and one or more developers. These aspects of the Farley redevelopment require legal expertise and response times that cannot be provided by ESD's in-house counsel alone. In order to assist ESD's in-house counsel and advise ESD during the planning and negotiations related to the Empire Station including Farley's Phase 2, it is necessary that ESD and MSDC continue to have the services of experienced real estate and public/private partnership legal counsel that is familiar with the with the complexities of the Farley redevelopment.

The Farley property also has approximately 2.5 million square feet of development rights that can be disposed of in order to fund the construction of the Moynihan Train Hall and associated work in the train-shed. The development rights would have to be used on ESD project sites. ESD will need experienced legal counsel to in order to deal with the real estate issues that will arise in disposing of these rights in order to fund the train hall and train-shed work.

LIRR commuters along with Amtrak intercity passengers will be will be the principal users of the Moynihan Train Hall. When LIRR and MTA are to proceed with the private redevelopment of the Penn Station Lower Level, ESD will need counsel to coordinate Farley and Penn Station and real estate issues.

IV. Summary of Contractor Selection Process

ESD, for itself and on behalf of its subsidiaries, pre-qualified counsel on September 20, 2012 in selected areas of expertise, including New York law firms specializing in real estate, land use, and related litigation—making them available for legal work on an as-needed basis, after approval of individual retention contracts, without need for further public solicitation. This action was taken to permit ESD and its subsidiaries to respond to project needs expeditiously, while having available the benefits of a broad solicitation of qualified outside law firms. This pre-qualified counsel list will expire on September 20, 2016. Bryant Rabbino LLP a State certified Minority Business Enterprise, was one of the firms pre-qualified.

On July 10, 2014, MSDC awarded the Firm a contract for legal services to represent MSDC and ESD. The procurement of Bryant Rabbino was based on: (a) its demonstrated real estate and public/private transaction expertise; (b) an interview with the firm partner who will responsible for the work; (c) the need for experienced real estate counsel to work on general real estate matters; and (d) the firm's acceptance of ESD's "Maximum Rate Structure for Outside Counsel".

Phase 1 of the Farley Project was focused on work performed in the Penn Station train-shed beneath Farley and was predominately conducted by MSDC. MSDC entered into a contract with the Firm. Phase 2 will focus on the redevelopment of the ESD-owned Farley and will be advanced by ESD as part of the Empire Station Project. The Firm has acquired a unique

understanding of the project and issues, and it would add substantial time and cost if ESD were to bring in a new firm for the work that Bryant Rabbino commenced on Phase 1 that will be ongoing in Phase 2. In order to proceed with the Farley Phase 2 work as part of the new Empire Statin initiative, ESD will enter into a new direct contract with the Firm.

As part of the Farley Phase 1 work, Bryant Rabbino has advised ESD in the negotiation of a complex development agreement to be entered into between ESD and Amtrak regarding the new Amtrak space in Farley and Amtrak's use and its contribution to the cost of the operation and maintenance of the Moynihan Train Hall. The negotiations are complex and ongoing. There will be a number of other agreements that will be required by the Development Agreement. The schedule for the Empire Station initiative is aggressive and ESD requires the continued assistance of Bryant Rabbino in order to keep to that schedule.

In order to have the firm continue working to advance the Farley Project, staff recommends ESD enter into a contract with the Firm for maximum amount of $250,000.

Bryant Rabbino is a full-service firm with extensive experience in complicated real estate development public/private partnership projects. The Farley Project's Phase 2 requires coordination of the Phase 1 real estate work with real estate matters for Phase 2. Procuring another firm and having that firm familiarize itself with the Farley Project's complex real estate and public/private partnership matters would unnecessarily delay the Empire Station initiative, including its Farley redevelopment component, and substantially add to its costs. The Firm has satisfactorily performed legal services for MSDC. The Firm has project experience and knowledge and legal expertise that will be essential to ESD in advancing the Farley project as part of the Empire Station Complex.

V. Responsible Parties

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Bryant Rabbino's ability to perform the services provided for in the proposed agreement; and (b) consulted the list of officers determined to be non-responsible bidders and debarred officers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Bryant Rabbino to be responsible.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Affirmative Action policy will apply to this contract. There is a 20% Minority/Women-owned Business Enterprise contractor and/or subcontractor participation goal during the development of the Moynihan Project and an overall goal of 25% minority and female workforce participation during construction.

Bryant Rabbino is a New York State certified Minority-owned Business Enterprise and will provide legal services related to the construction, leasing, and other general real estate matters

related to Phase 2 of the Project, including construction contracts, negotiating and documenting interim uses of the Farley Building, negotiation with current and future tenants of the Farley Building, and general real estate matters.

VII. Environmental Review

The request to amend a consultant contract 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 authorization.

VIII. Requested Actions

The Directors are requested to authorize the Corporation to enter into a contract with Bryant Rabbino LLP in order for the Corporation not to exceed $250,000 and to take related actions

IX. Recommendation

Based on the foregoing, I recommend approval of the requested action.

X. Attachments

Resolution

March 24, 2016

NEW YORK CITY (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Enter into a Contract with Bryant Rabbino LLP; Authorization to Take Related Actions

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RESOLVED, that in accordance with the materials presented to this meeting, a copy of which are hereby ordered filed with the records of the Corporation (the "Materials"), the Corporation hereby finds Bryant Rabbino LLP to be responsible; and be it further

RESOLVED, that in accordance with the materials, the Corporation is hereby authorized to enter into a contract with Bryant Rabbino LLP in an amount not to exceed $250,000 substantially on the terms and conditions set forth in the Materials; and be it further

RESOLVED, that the President, or another Officer of the Corporation, or their 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 to take all actions as may be necessary or proper to implement the foregoing resolutions.

* * *

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: New York City (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Enter into a Contract with Holland & Knight LLP; Authorization to Take Related Actions

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CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Contractor:	Holland & Knight LLP
Scope of Services:	To provide to New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") and its subsidiary, Moynihan Station Development Corporation ("MSDC"), legal services related to the Empire Station Complex initiative, including the construction, operation, maintenance, insurance, and public/private partnership matters for the redevelopment of the James A. Farley Building property ("Farley") and Pennsylvania Station New York ("Penn Station").
Contract Term:	12/31/18
Previous Contract Limit:	$450,000
Proposed Contract Amendment:	None
Total Amount:	$450,000

II. Funding Source:

Revenues received by the Corporation from events held at the ESD-owned James A. Farley Building will fund the Contract.

III. Background

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the development of a commuter and intercity passenger railroad terminal to be known as the Empire Station Complex ("Empire Station"). In furtherance of that initiative, the Corporation with the Metropolitan Transportation Authority ("MTA"), MTA's operating entity Long Island Rail Road ("LIRR") and National Passenger Railroad Corporation ("Amtrak") issued a *Joint Solicitation for the Development of the Empire Station Complex.* The solicitation consists of (i) a request for expressions of interest and request for qualifications ("RFEI/RFQ") for the private redevelopment of Penn Station and (ii) a request for proposals ("RFP") for the private redevelopment of Farley, including (x) a new Moynihan Train Hall (a new railroad passenger train hall), that would serve LIRR and Amtrak passengers, new back-of-house and passenger facing operations for LIRR and Amtrak, (y) work in the Penn Station train-shed related to the Moynihan Train Hall, and (z) private commercial space, including space leased to USPS for retail and operations use.

Amtrak owns Penn Station, and Amtrak uses the station's upper level (a/k/a the "Upper Level" or "Level B") to serve Amtrak passengers, and leases a portion of the Upper Level to New Jersey Transit ("NJT") that NJT uses to serve its passengers. Amtrak will move to Farley from Penn Station most of Amtrak's back-office and passenger-facing operations. The vacated space in Penn Station will be redeveloped by Amtrak for commercial uses.

Penn Station's lower level (a/k/a the "Lower Level", "Level A" or the "LIRR Concourse") is long term net leased to LIRR by Amtrak. LIRR uses the Lower Level to serve its passengers. The Lower Level will connect to the Moynihan Train Hall in Farley. The connection is a newly rebuilt passage way, the 33rd Street connector, that connects the Lower Level to the new West End Concourse (the "WEC"), a rebuilt concourse located beneath Farley that traverses the tracks in the Penn Station train-shed and provides passenger access to the platforms. The extended and widened WEC will vertically connect to the Moynihan Train Hall and provide access from the train hall to most of the Penn Station train-shed passenger platforms.

ESD owns Farley. The Farley redevelopment includes Moynihan Train Hall, new facilities in the Penn Station train-shed that will provide vertical circulation between the train hall and the train-shed's passenger platform and concourses, passenger and operations facilities for LIRR and Amtrak, permanent space for the United States Postal Service ("USPS"), and private commercial use (*e.g.*, retail, office, and hotel) development space.

MSDC conducts Phase 1 (i.e., work beneath Farley in the Penn Station train-shed and associated work in Farley) of the Farley redevelopment. Phase 1 is nearing completion. In connection with the Empire Station initiative, Phase 2 of the Farley redevelopment will occur mostly within ESD-owned Farley. ESD will advance Phase 2 as part of the Empire Station Complex initiative.

The process for Phase 2 will involve design, development, and construction by a private developer (selected by ESD in accordance with the RFP) of new facilities in and beneath Farley. As part of this process, ESD must analyze redevelopment proposals, and negotiate construction related agreements with MTA, LIRR and Amtrak and one or more developers. These aspects of the Farley redevelopment require legal expertise and response times that cannot be provided by ESD's in-house counsel alone. In order to assist ESD's in-house counsel and advise ESD during the planning and negotiations related to the Empire Station initiative's Phase 2, it is necessary that ESD and MSDC continue to have the services of experienced construction legal counsel that is familiar with the with the complexities of the Farley redevelopment.

The Farley property also has approximately 2.5 million square feet of development rights that can be disposed of in order to fund the construction of the Moynihan Train Hall and associated work in the train-shed. The development rights would have to be used on ESD project sites. ESD will need experienced legal counsel to in order to deal with the construction and real estate issues that will arise in disposing of these rights in order to fund the train hall and train-shed work.

LIRR commuters along with Amtrak intercity passengers will be will be the principal users of the Moynihan Train Hall. When LIRR and MTA are to proceed with the private redevelopment of the Penn Station Lower, ESD will need legal counsel to assist in the coordination of Farley and Penn Station construction and real estate issues.

IV. Summary of Contractor Selection Process

ESD (for itself and its subsidiaries) pre-qualified legal counsel in selected areas of expertise. This was done in order to make the firms available for legal work on an as-needed basis, after approval of individual retention contracts, without need for further public solicitation. As a result, ESD and its subsidiaries can respond to project needs expeditiously, while having available the benefits of a broad solicitation of qualified outside law firms. The ESD Directors approved the list of pre-qualified counsel, which includes Holland & Knight LLP ("H&K" or the "Firm"), on October 12, 2012, and the Firm was also on the prior approved list in effect in 2010.

In 2010, based on the prequalification list then in effect, ESD and MSDC staff invited five of the pre-qualified real estate firms to interview for the necessary Farley Project services. One of the five declined, and the remaining four (Katten Muchin, Shearman & Sterling, Skadden Arps, and H&K) were interviewed by staff from ESD, MSDC, and the Port Authority of New York and New Jersey ("PANYNJ"). Staff recommended the retention of H&K based on: (a) the interviews and subsequent follow-up; (b) knowledge of the expertise and staffing of the Firm; (c) willingness of the Firm to work within ESD's "Maximum Rate Structure for Outside Counsel"; and (d) prior ESD work performed by the Firm.

The Firm was retained by MSDC in order to provide legal services for Phase 1 of the Farley redevelopment. These services included construction related matters with multiple parties with

varying interests, including Skanska USA, USPS, Federal Railroad Administration, Amtrak, MTA (including LIRR and NYC Transit), New Jersey Transit, and PANYNJ. H&K has performed well on that contract. MSDC's Phase 1 of the Farley redevelopment is concluding. As part of the Empire Station initiative ESD will advance Phase 2 of the Farley redevelopment.

H&K is a full-service firm with extensive experience in complicated construction matters and related real estate development related matters. The Farley redevelopment Phase 2 component of the Empire Station initiative requires coordination of the Phase 1 design and construction with a selected developer's design and construction for Phase 2. H&K has in depth experience and knowledge of the Phase 1 designs and construction and the designs and construction contemplated for Phase 2. Procuring another firm and having that firm familiarize itself with the Farley redevelopment's complex design and construction matters would unnecessarily delay the Empire Station initiative and substantially add to its cost. The Firm has satisfactorily performed legal services for ESD and MSDC. The Firm has project experience and knowledge and legal expertise that will be essential to ESD in advancing the Empire Station initiative.

V. Responsible Parties

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Holland & Knight's ability to perform the services provided for in the proposed agreement; and (b) consulted the list of officers determined to be non-responsible bidders and debarred officers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Holland & Knight to be responsible.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Affirmative Action policy will apply to this contract. There is a 20% Minority/Women-owned Business Enterprise contractor and/or subcontractor participation goal during the development of the Moynihan Project and an overall goal of 25% minority and female workforce participation during construction.

In addition to Holland & Knight LLP, Bryant Rabbino LLP, a New York State certified Minority-Owned Business Enterprise will separately provide legal services related to the real estate aspects of the Empire Station Initiative, including the Farley Phase 2 redevelopment, including construction contracts, establishing the condominium regime negotiating and documenting interim uses of the Farley Building, negotiation with current and future tenants and unit owners, and general real estate matters. The principal attorney responsible for the Bryant Rabbino work is Anne Adams Rabbino.

VII. Environmental Review

The request to amend a consultant contract 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 authorization.

VIII. Requested Actions

The Directors are requested to authorize the Corporation to enter into a contract with Holland & Knight LLP not to exceed the amount of $450,000.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested action.

X. Attachments

Resolution

March 24, 2016

NEW YORK CITY (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to enter into a Contract with Holland & Knight LLP; Authorization to Take Related Actions

---

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the "Materials"), the Corporation hereby finds Holland & Knight LLP to be responsible; and be it further

RESOLVED, that in accordance with the materials, the Corporation is hereby authorized to enter into a contract with Holland & Knight LLP in an amount not to exceed $450,000 substantially on the terms and conditions set forth in the Materials; and be it further

RESOLVED, that the President, or another Officer of the Corporation, or their 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 to take all actions as may be necessary or proper to implement the foregoing resolutions.

* * *

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: New York City (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Enter into Contract with Skadden, Arps, Slate, Meagher & Flom LLP for Legal Services and Authorization to Take Related Actions

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CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Contractor:	Skadden, Arps, Slate, Meagher & Flom LLP
Scope of Services:	To provide to New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") and its subsidiary, Moynihan Station Development Corporation ("MSDC"), legal services for the Empire Station Complex related to private real estate development and public/private partnership matters including the redevelopment of the James A. Farley Building property ("Farley") and Pennsylvania Station New York ("Penn Station").
Contract Term:	December 31, 2018
Contract Amount:	Not to exceed $250,000

II. Funding Source(s):

Revenues received by the Corporation from events held at the ESD-owned James A. Farley Building will fund the Contract.

III. Background

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the development of a commuter and intercity passenger railroad terminal to be known as the Empire Station Complex ("Empire Station"). In furtherance of that initiative, the Corporation with the Metropolitan Transportation Authority ("MTA"), MTA's operating entity Long Island Rail Road ("LIRR") and National Passenger Railroad Corporation ("Amtrak") issued a *Joint Solicitation for the Development of the Empire Station Complex.* The solicitation consists of (i) a request for expressions of interest and request for qualifications ("RFEI/RFQ") for the private redevelopment of Penn Station and (ii) a request for proposals ("RFP") for the private redevelopment of Farley, including (x) a new Moynihan Train Hall (a new railroad passenger train hall), that would serve LIRR and Amtrak passengers, new back-of-house and passenger facing operations for LIRR and Amtrak, (y) work in the Penn Station train-shed related to the Moynihan Train Hall, and (z) private commercial space, including space leased to USPS for retail and operations use.

Amtrak owns Penn Station and Amtrak uses the station's upper level (a/k/a the "Upper Level" or "Level B") to serve Amtrak passengers, and leases a portion of the Upper Level to New Jersey Transit ("NJT") that NJT uses to serve its passengers. Amtrak will move to Farley from Penn Station most of Amtrak's back-office and passenger-facing operations. The vacated space in Penn Station will be redeveloped by Amtrak for commercial uses.

Penn Station's lower level (a/k/a the "Lower Level", "Level A" or the "LIRR concourse") is long term net leased to LIRR by Amtrak. LIRR uses the Lower Level to serve its passengers. The Lower Level will connect to the Moynihan Train Hall in Farley. The connection is a newly rebuilt passage way, the 33rd Street connector, that connects the Lower Level to the new West End Concourse (the "WEC"), a rebuilt concourse located beneath Farley that traverses the tracks in the Penn Station train-shed and provides passenger access to the platforms. The extended and widened WEC will vertically connect to the Moynihan Train Hall and provide access from the train hall to most of the Penn Station train-shed passenger platforms.

ESD owns Farley. The Farley redevelopment includes Moynihan Train Hall, new facilities in the Penn Station train-shed that will provide vertical circulation between the train hall and the train-shed's passenger platform and concourses, passenger and operations facilities for LIRR and Amtrak, permanent space for the United States Postal Service ("USPS"), and commercial use (*e.g.*, retail, office, and hotel) development space.

MSDC conducts Phase 1 (i.e., work beneath Farley in the Penn Station train-shed and associated work in Farley) of the Farley redevelopment. Phase 1 is nearing completion. In connection with the Empire Station initiative, Phase 2 of the Farley redevelopment will occur mostly within ESD-owned Farley. ESD will advance Phase 2 as part of the Empire Station Complex initiative.

The process for Phase 2 will involve design, development, and construction by a private developer (selected by ESD in accordance with the RFP). As part of this process, ESD must analyze redevelopment proposals, establish a complex commercial condominium regime,

negotiate real estate related agreements and multiple long term net leases with one or more developers. These aspects of the Farley redevelopment require legal expertise and response times that cannot be provided by ESD's in-house counsel alone. In order to assist ESD's in-house counsel and advise ESD during the planning and negotiations related to Phase 2, it is necessary that ESD and MSDC continue to have the services of experienced real estate legal counsel that is familiar with the with the complexities of the Farley redevelopment.

The Farley property also has approximately 2.5 million square feet of development rights that can be disposed of in order to fund the construction of the Moynihan Train Hall and associated work in the train-shed. The development rights would have to be used on ESD project sites. ESD will need experienced legal counsel to in order to deal with the real estate issues that will arise in disposing of these rights in order to fund the train hall and train-shed work.

LIRR commuters along with Amtrak intercity passengers will be will be the principal users of the Moynihan Train Hall. When LIRR and MTA are to proceed with the private redevelopment of the Penn Station Lower Level, ESD will need counsel to coordinate Farley and Penn Station and real estate issues.

IV. Summary of Contractor Selection Process

MSDC is an ESD subsidiary. ESD, for itself and on behalf of its subsidiaries, pre-qualified counsel in selected areas of expertise, including thirteen (13) New York law firms specializing in real estate, land use, and related litigation—making them available for legal work on an as-needed basis, after approval of individual retention contracts, without need for further public solicitation. This action was taken to permit ESD and its subsidiaries to respond to project needs expeditiously, while having available the benefits of a broad solicitation of qualified outside law firms.

MSDC staff and ESD counsel staff reviewed the list and based upon recommendations from previous public/private real estate development experience with ESD and its subsidiaries, invited the following firms from the pre-qualified list to express interest in the project: Carter, Ledyard & Millburn, LLP; Shearman & Sterling; Kramer, Levin, Naftalis & Frankel, LLP ("Kramer Levin"); and Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden"). Three firms responded: Shearman & Sterling; Kramer, Levin, Naftalis & Frankel, LLP. MSDC and ESD counsel staff then interviewed the three firms. Skadden was the initial first choice, but was unable at that time to accept ESD's standard hourly rates for legal services. ESD retained Kramer Levin. That firm withdrew from further work on the Project. Staff has contacted Skadden, and the firm has confirmed to staff that it will to accept ESD' standard rates.

Staff recommended the retention of Skadden on: (a) the demonstrated real estate expertise of the firm; (b) the prior experience of Skadden in working with ESD staff on several complicated development projects; (c) prior experience on the Moynihan Station project; (d) the interview process; and (e) rate structure. Skadden is a full-service firm with extensive experience in complicated real estate and governmental transactions. Skadden has served ESD as legal

counsel on a number of high profile large scale, complex and sensitive projects, including the Javits Center redevelopment, the Queens West planned community and the Atlantic Yards project. ESD staff who have worked with the Skadden team speaks highly of their talent and professionalism. Neil Rock, a firm partner, has worked on the Atlantic Yards project for ESD as well as the Javits Center redevelopment and the Queens West project and has a strong grasp of ESD's statutory powers and their application to public/private real estate development projects. He will be the principal lawyer for the firm's work on the Project. He will oversee the work of the firm's lawyers and other staff as appropriate. ESD staff reports that the firm's past services have been excellent and timely.

Phase 1 of the Farley redevelopment was focused on work performed in the Penn Station train-shed beneath Farley and was predominately conducted by MSDC. MSDC entered into a contract with the Firm. Phase 2 will focus on the redevelopment of the ESD-owned Farley building and will be advanced by ESD as part of the Empire Station Project. The Firm has acquired a unique understanding of the project and issues, and it would add substantial time and cost if ESD were to bring in a new firm for the work that Skadden commenced on Phase 1 that will be ongoing in Phase 2. In order to proceed with the Farley Phase 2 work as part of the new Empire Statin initiative, ESD will enter into a new direct contract with the Firm.

As part of the Farley Phase 1 work, Skadden has advised ESD in the negotiation of complex development agreements to be entered into between ESD private developers Moynihan Train Hall. The negotiations were suspended for the new development solicitation for Empire Station initiative. Skadden has extensively advised ESD on the structure of the Farley component of the Empire Station initiative and the current solicitation, and the Firm's advice will be essential in understanding and analyzing the proposals submitted in that solicitation. The schedule for the Empire Station initiative is aggressive, and ESD requires the continued assistance of Skadden in order to keep to that schedule.

In order to have the firm continue working to advance the Farley Project, staff recommends ESD enter into a contract with the Firm for maximum amount of $250,000.

V. Responsible Parties

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

VI. Scope of Work

Skadden will legal services related to the planning, financing, and documentation for the Empire Station Initiative, including it Farley components Phase 2, including participation in

negotiations with one or more developers, planning for the use of the development rights associated with Farley on other sites and dealing with matters arising from the redevelopment of Penn Station as part of the Empire Station Complex.

VII. Contract Funding

Revenues received by the Corporation from events held at the ESD-owned James A. Farley Building will fund the Contract.

VIII. Non-Discrimination and Contractor & Supplier Diversity

MSDC's DBE/MBE/WBE Program Plan will apply to this contract. Skadden will be required to use its best efforts to achieve a Minority/Women's Business Enterprise participation goal of 20% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the construction work related to the Project. This is a comprehensive goal for all areas of the project (i.e., professional, construction and purchasing of supplies), and therefore the overall goal for the project is 20%. MSDC will also encourage DBE participation, but there is no numerical goal for DBEs.

In addition to Skadden, Bryant Rabbino LLP, a New York State certified Minority-Owned Business Enterprise will separately provide legal services related to the real estate aspects of the Empire Station Initiative, including the Farley Phase 2 redevelopment, including construction contracts, establishing the condominium regime negotiating and documenting interim uses of the Farley Building, negotiation with current and future tenants and unit owners, and general real estate matters. The principal attorney responsible for the Bryant Rabbino work is Anne Adams Rabbino.

IX. Environmental Review

ESD staff has determined that the requested authorization to amend a construction contract constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with this request.

X. Requested Actions

The Directors are requested to authorize the Corporation to enter into a legal services contract with Skadden, Arps, Slate, Meagher & Flom LLP for a total contract amount of $250,000, as set forth in these materials.

XI. Recommendation

Based on the foregoing, staff recommends approval of the requested actions.

XII. Attachments

Resolution

March 24, 2016

NEW YORK CITY (New York COUNTY) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Enter into Contract with Skadden, Arps, Slate, Meagher & Flom LLP for Legal Services and Authorization to Take Related Actions

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BE IT RESOLVED, that based on the materials presented at this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Skadden, Arps, Slate, Meagher & Flom LLP to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to enter into a contract with Skadden, Arps, Slate, Meagher & Flom LLP for legal services, the cost of which is not to exceed Two Hundred and Fifty Thousand Dollars ($250,000) for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials; and be it further

RESOLVED, that the President, or other Officer of the Corporation, or his or her designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing Resolutions.

* * *

NEW YORK STATE OF OPPORTUNITY. | Empire State Development

FOR CONSIDERATION
March 24, 2016

TO: The Directors

FROM: Howard Zemsky

SUBJECT: New York (New York County) - Moynihan Station Civic and Land Use Improvement Project - Insurance for the James A. Farley Post Office Building and Annex

REQUEST FOR: Authorization to Procure Insurance Policies through Willis of NY, Inc. ("Willis") with Zurich American Insurance Company ("Zurich"), The Phoenix Insurance Company ("Travelers"), Continental Casualty Company ("CNA") and Ohio Casualty Insurance Company ("Liberty Mutual"); and to Take Related Actions

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I. BACKGROUND

In March 2007, The New York State Urban Development Corporation d/b/a Empire State Development ("ESD") acquired the James A. Farley Post Office Building and Annex ("Farley") in Manhattan (bounded by 31st and 33rd Streets and 8th and 9th Avenues) for use in the Moynihan Station Civic and Land Use Improvement Project ("the Project").

To properly insure the Farley Building, there is both a Commercial Property Program, which provides coverage for financial losses stemming from significant physical damage to Farley, and a Commercial Casualty Program, which provides coverage for bodily injury, personal injury and property damage that may result from activity at Farley. There is also a Commercial Casualty Program which is provided through an underlying Commercial General Liability policy and a $50,000,000 Umbrella/Excess Liability policy. These policies are separate and distinct from the coverage in place for Phase 1 of the re-development project.

For the upcoming FY2016-17 policy period, renewals or replacements must be secured for both the Commercial Property and Commercial Casualty programs.

In January 2015, after a competitive solicitation, ESD appointed Willis as its new Broker of Record for ESD and its subsidiaries. Willis has overseen the solicitation of coverage for the Farley Building for the upcoming FY2016-17 policy period. In addition, ESD contracted with The Keville Insurance Agency, Inc. to advise ESD on its portfolio-wide insurance strategy, which includes the Farley Building.

Willis began the 2016/17 renewal process by soliciting quotations from a wide array of potential carriers. A full list of the carriers solicited is attached as Attachment A. All the carriers Willis approached have A.M. Best ratings of A-or better. As part of this process in 2015, prospective carriers were invited to tour the Farley Building and were provided with information on the building and the redevelopment project.

Willis was able to obtain aggressive pricing on the Property Program with Zurich American Insurance Company once again this year. Zurich is offering to provide the entire $250,000,000 limit as per expiring. We did approach other markets to seek interest in insuring the Farley Building. Their results are noted in Attachment A.

Based on proposals received from solicited carriers, Zurich is Willis' recommended market of choice, with strong paper, and an existing relationship with Empire State Development and the Moynihan Station Development Corporation ("MSDC"), as they are the insurer on the Skanska's Builders Risk Policy for Phase 1 and are therefore very familiar with the building, the construction project and the underwriting particulars.

In addition to offering to provide the entire $250,000,000 limit, Zurich is including Replacement Cost coverage on the roof as per expiring.

Willis was also able to obtain competitive pricing on the Casualty Program, with Travelers providing a competitive renewal proposal for the primary General Liability policy, and CNA / Liberty Mutual providing renewal quotations for the $50,000,000 Umbrella/Excess Liability limit.

Based on responses received from solicited carriers, Willis and ESD/MSDC staff recommends that the primary General Liability policy continue to be underwritten by Travelers. Willis and ESD/MSDC staff also recommend the first $25,000,000 of the Excess/Umbrella program be underwritten by CNA, and that the $25,000,000 excess of $25,000,000 layer be underwritten by Liberty Mutual for a total of $50,000,000, due to the amount of activity in the building from events and other activities.

Below is a comparative summary of the premiums for Farley's commercial insurance program:

	FY2015-16	**FY2016-17**
Property	$461,536	$425,000
Engineering Fee	$3,000	$3,000
General/Excess Liability	$267,422	$252,633
TOTAL	**$731,958**	**$680,633**

The overall decrease for the combined Farley Building policies from the previous fiscal year is 7%.

These premiums do not include Taxes, Fees or Surcharges.

II. FUNDING

Building insurance for FY2016-17 will be funded out of unrestricted funds of the Corporation.

III. ENVIRONMENTAL REVIEW

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

IV. CONTRACTOR AND SUPPLIER DIVERSITY

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned businesses ("MWBEs") in the performance of its projects. The Office of Contractor and Supplier Diversity has reviewed the project and has determined that there exists no potential for MWBE participation. As such, participation goals will not be established or required for this project.

V. RESPONSIBLE PARTY

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered the ability of Willis, Zurich, CNA, Liberty Mutual and Travelers to perform the services provided for in the proposed contract; and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Willis, Zurich, Travelers, CNA and Liberty Mutual to be responsible.

VI. REQUESTED ACTIONS

The Directors are requested to: (1) authorize procurement of: (a) Commercial General Liability Insurance and Umbrella/Excess Coverages with Travelers, CNA and Liberty Mutual; (b) Real Property Insurance with Zurich, for March 30, 2016 through March 30, 2017 for an amount not to exceed $ $685,000*; (2) approve, ratify, and confirm any and all actions previously taken on behalf, or in the name, of ESD/MSDC in connection with this matter; and (3) authorize the taking of related actions.

*The above number includes *estimated* taxes, fees and surcharges.

VII. RECOMMENDATION

Based on the foregoing, ESD/MSDC staff recommends approval of the requested actions.

VIII. ATTACHMENT

List of Solicited Carriers

Resolutions

Attachment A – List of Solicited Carriers

Property:

- Zurich
- AIG
- XL
- ACE
- Swiss Re

Carrier Name	Intermediary	Line of Business	Response	Premium*
Zurich American Insurance Company	N/A	Property, Equipment Breakdown and Terrorism	Quoted	$425,000 + Engineering Fee of $3,000
XL Insurance America, Inc.	N/A	Property, Equipment Breakdown and Terrorism	Quoted	$425,000 + Engineering Fee of $6,250
Chubb (ACE)	N/A	Property, Equipment Breakdown and Terrorism	Declined	Cannot write program 100% due to Terrorism Aggregates
Swiss Re	N/A	Property, Equipment Breakdown and Terrorism	Declined	Uncompetitive on Premium
AIG	N/A	Property, Equipment Breakdown and Terrorism	To Be Determined	

*Zurich's premium is subject to a $3,000 Engineering Fee

*Taxes, Fees and Surcharges are not included in the premiums provided.

Casualty:

- Travelers – Quoted primary General Liability renewal competitively at $164,895. Declined to quote the lead Umbrella layer but can quote Excess Liability above $50,000,000 if desired.
- C N A – Declined to quote primary General Liability due to an inability to be competitive with Travelers. Quoted $25,000,000 Lead Umbrella layer competitively at $65,659.
- Liberty Mutual – Declined to quote the primary General Liability due to an inability to be competitive with Travelers. Quoted $25,00,000 xs $25,000,000 Excess Liability competitively at $22,079.
- Hartford – Declined to quote primary General Liability and Umbrella due to an inability to be competitive with incumbent carriers.
- Hanover – Declined to quote primary General Liability and Umbrella due to an inability to be competitive with incumbent carriers.

March 24, 2016

New York (New York County) - Moynihan Station Civic and Land Use Improvement Project - Insurance for the James A. Farley Post Office Building and Annex - Authorization to Procure Insurance Policies through Willis of NY, Inc. ("Willis") with Zurich American Insurance Company ("Zurich"), The Phoenix Insurance Company ("Travelers"), Continental Casualty Company ("CNA") and Ohio Casualty Insurance Company ("Liberty Mutual"); and to Take Related Actions

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RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the "Materials"), the Corporation hereby finds Willis, Zurich, Travelers, CNA and Liberty Mutual; to be responsible; and be it further

RESOLVED that, in accordance with the Materials, the President or Other Officer of the Corporation, or their designee(s), are hereby authorized, in the name and on behalf of ESD, to enter into all contracts, agreements, and instruments necessary or appropriate in connection with the placement of insurance for the James A. Farley Post Office Building and Annex with Willis, Zurich, Travelers, CNA and Liberty Mutual; and be it further

RESOLVED that the total annual cost of such insurance shall not exceed $ $685,000; and be it further

*This premium is inclusive of *estimated* taxes, fees and surcharges.

RESOLVED that all actions heretofore taken in regard to the replacement of the foregoing insurance policies are hereby approved, ratified, and confirmed.

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