

**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

**REVISED AGENDA**

Meeting of the Directors

Thursday

October 20, 2016 – 9:30 a.m.

**AGENDA**

**FOR CONSIDERATION**

**I. CORPORATE ACTION**

- A. Approval of Minutes of the September 22, 2016 Directors' Meeting

**REPORTS – Oral**

- A. President's Report
- B. Report – Presentation on the North Country Region
- C. Loans and Grants – Summary of Projects

## II. **PROJECTS**

### **FINGER LAKES REGION**

- A. Corfu (Finger Lakes Region – Genesee County) – Yancey’s Fancy 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 Take Related Action; Determination of No Significant Effect on the Environment
- B. Batavia (Finger Lakes Region – Genesee County) – O-AT-KA Milk Products Cooperative 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 Take Related Action; Determination of No Significant Effect on the Environment
- C. Regional Council Award – Priority Project – Rochester (Finger Lakes Region – Monroe County) - Boys & Girls Club of Rochester II 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

### **LONG ISLAND REGION**

- D. Regional Council Award – Greenport (Long Island Region – Suffolk County) – Peconic Landing Special Needs and Rehabilitation Center 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
- E. Regional Council Award – Priority Project - Yaphank (Long Island Region – Suffolk County) – Rose Breslin 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; Adoption of Findings Pursuant to the State Environmental Quality Review Act

## II. **PROJECTS - Continued**

### **WESTERN NEW YORK REGION**

- F. Grand Island (Western New York Region – Erie County) - Life Technologies 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 Take Related Actions; Determination of No Significant Effect on the Environment

### **NEW YORK CITY REGION**

- G. Regional Council Award – New York (New York City Region – New York County) – City of New York – Brownfield Cleanup 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

### **SOUTHERN TIER REGION**

- H. Regional Council Award – Priority Project - Watkins (Southern Tier Region – Schuyler County) – Watkins Glen International 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; Determination of No Significant Effect on the Environment

### **MOHAWK VALLEY REGION**

- I. Regional Council Award – Priority Project – Utica (Mohawk Valley Region – Oneida County) – Harbor Point 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; Adoption of Findings Pursuant to the State Environmental Quality Review Act
- J. Amsterdam (Mohawk Valley Region – Montgomery County) – Amsterdam Printing and Litho 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 Take Related Actions

## **II. PROJECTS - Continued**

### **CENTRAL NEW YORK REGION**

- K. East Syracuse (Central New York Region – Onondaga County) – Asher Productions Working Capital – Empire State Economic Development Fund – General Development Financing (Working Capital) - Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Make a Grant and Take Related Actions

### **NORTH COUNTRY REGION**

- L. Lake Placid (North Country Region – Essex County) – NYS Olympic Regional Development Authority Working 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 Make a Grant and to Take Related Actions

### **MARKET NY GRANT PROGRAM**

- M. Market NY Grant Program – Empire State Economic Development Fund – Market New York – Tourism Marketing Competition (Capital and Working Capital Grants) – Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

#### **Market NY Program**

- A. Watkins Glen International Modernization Market Capital – Watkins Glen International, Inc. (Schuyler County) - \$250,000

#### **Empire State Economic Development Fund**

- B. Ski NY Marketing Working Capital – Ski Areas of new York, In. (St. Lawrence County) – \$264,000
- C. Canadian Visitation 2016 Working Capital – Rochester Visitors Association, Inc. d/b/a Visit Rochester (Monroe County) - \$275,000

**III. NON-DISCRETIONARY PROJECTS CONSENT CALENDAR**

- A. Non-Discretionary Projects Consent Calendar – Findings and Determinations Pursuant to section 10(g) of the Act; Adoption of General Project Plans; Authorization to Make Grants and to Take Related Actions

**Senate (Local Assistance)**

- A. Newburgh Armory Unity Center Capital – Newburgh Armory Unity Center (Orange County) - \$750,000

**Assembly (Local Assistance)**

- B. Advanced Manufacturing in Central New York Working Capital – CenterState Corporation for Economic Opportunity (Onondaga County) – \$600,000

**Executive (Transformative Investment Program)**

- C. Nassau Hub Transportation Capital – County of Nassau (Nassau County) – \$85,000,000

**IV. NEW YORK STATE INNOVATION VENTURE CAPITAL FUND (“NYSIVCF”)**

- A. New York State Innovation Venture Capital Fund (“NYSIVCF”) – Authorization of an Investment of NYSIVCF Funds in Tara Biosystems, Inc.

**V. ADMINISTRATIVE ACTIONS**

- A. Bronx (Bronx County) – Bronx Psychiatric Center – Authorization to Amend the Contract with AKRF, Inc. to Continue to Provide Environmental Consulting Services in Connection with the Disposition and Redevelopment of Portions of the Bronx Psychiatric Center and to Take Related Actions
- B. Land Bank Program – Approval of Land Bank Application and Authorization to Take All Related Actions

V. **ADMINISTRATIVE ACTIONS - Continued**

**FOUNTAIN AVENUE LAND USE IMPROVEMENT AND RESIDENTIAL PROJECT**

- C. New York City (Kings County) - Fountain Avenue Land Use Improvement and Residential Project - Notification of Correction to the Modified General Project Plan (MGPP); Recommendation to Adopt the MGPP with Correction; Authorization to Take Related Actions

**MOYHINHAN STATION CIVIC AND LAND USE IMPROVEMENT PROJECT**

- D. New York (New York County) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Enter into a Memorandum of Understanding with the Dormitory Authority of the State of New York; Authorization to Take Related Actions
- E. New York (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend a Contract with Skadden, Arps, Slate & Meagher & Flom for Legal Services; and Authorization to Take Related Actions

**Item I. A.**

**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

37<sup>th</sup> Floor Conference Room

New York, New York 10017

September 22, 2016

**MINUTES**

**In Attendance**            Howard A. Zemsky (Acting Chair)  
**Directors:**                 Robert Dyson  
                                       Derrick Cephas  
                                       Hilda Rosario Escher  
                                       Joyce Miller  
                                       Cesar Perales  
                                       Maria Vullo, Superintendent - NYS Department of Financial Services

**Present for ESD:**         Lauren Axelrod, Senior Counsel - Corporate/Real Estate  
                                       Simone Bethune, Project Manager - Loans and Grants  
                                       Lindsey Boylan, Chief of Staff  
                                       Maria Cassidy, Deputy General Counsel - ESD Consolidated Services  
                                       Elizabeth Fine, EVP - Legal and General Counsel  
                                       Kevin Hansen, Vice President - Strategy, Operations and Policy  
                                       Edwin Lee, Vice President - Economic Incentives  
                                       Robert Godley, Treasurer and SVP - Capital Markets  
                                       Soo Kang, Senior Planner  
                                       Elaine Kloss, Chief Financial Officer  
                                       Benson Martin, Director of Compliance  
                                       Kathleen Mize, Deputy Chief Financial Officer and Controller  
                                       Glendon McLeary, Assistant Vice President - Incentives, Discretionary Programs  
                                       Antovk Pidedjian, Senior Counsel – Lending Programs  
                                       Debbie Royce, Assistant Corporate Secretary  
                                       Kevin Younis, Chief Operating Officer

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**Also Present:** James Fayle, Director - Central New York Regional Office  
Stephen Gawlik, VP - Capital Projects & Senior Counsel - Strategic Initiatives  
Edward Muszynski - Finger Lakes Regional Office  
Meghan Taylor, Director - Mid-Hudson Regional Office

**Also Present:** The Press  
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 9:39 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. No conflicts were noted.

Acting Chair Zemsky then called for a motion to approve the Minutes of the August 18, 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 AUGUST 18, 2016 MEETING OF THE DIRECTORS OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION**

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RESOLVED, that the Minutes of the meeting of the Corporation held on August 18, 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

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approved as actions of the Corporation.

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Before proceeding with his President's Report, Acting Chair Zemsky advised that indictments were issued this morning by the U.S. Attorney's office in connection with a long standing investigation. He advised that while there wasn't adequate time to thoroughly review the documents, there was enough time to know that neither ESD nor any ESD staff or affiliates were named in the indictments. However, he noted that given SUNY Poly was named in the indictment, the Agenda item relating to it would be tabled for the time being. He reiterated his confidence in the ESD Team, in the way it conducts itself, and the people at ESD. He wanted to thank everyone for their professionalism throughout this investigation.

Acting Chair Zemsky then explained that the bond issuance for the Jacob Javits Center renovation and expansion would close this morning and that the proceeds will provide approximately \$400 million towards the further renovation and expansion of the Center. Ms. Kloss noted that there was positive feedback and very good response from the market.

Lastly, Acting Chair noted that he attended the Agricultural Trade Forum in Puerto Rico, along with ESD staff, which brought together government, industry, retail, and farmers. The forum helped New York businesses make connections with businesses in Puerto Rico. He thanked everyone involved at ESD for their team effort in putting this together.

Next, the Acting Chair asked Glendon McLeary to present a summary of the Project

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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 three projects totaling \$4,150,000 in grants. He stated the projects included two Regional Council Awards and one Discretionary Award.

Mr. McLeary further explained that these projects will leverage over \$47 million of additional investment, retain 2,558 jobs and create 69 jobs in the State.

Next, Acting Chair Zemsky asked James Fayle, Director of the Central New York Regional Office, to present the next two items on the Agenda for the Directors' consideration.

Mr. Fayle noted that the first project the Directors were being asked to approve was a grant in the amount of \$2 million to Crouse Hospital to support a \$34.8 million expansion to the hospital's emergency department. Mr. Fayle stated that this project will add an additional 24 jobs to the current 2,291 jobs at the hospital.

The second project, Mr. Fayle advised, was a grant in the amount of \$1.5 million on a \$10.3 million project to G.A. Braun. He explained that the grant was being used to construct, purchase and install machinery and equipment on a 1,000 square-foot expansion to its current

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facility. Mr. Fayle further noted that this project will create 30 jobs in its current workforce of 155 jobs.

Following the full presentation, the Acting Chair called for questions or comments.

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) – Crouse Hospital Emergency Department 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 Crouse Hospital Emergency Department 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 Crouse Health Hospital, Inc. d/b/a Crouse Hospital a grant for a total amount not to exceed Two Million Dollars (\$2,000,000) 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

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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.

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Regional Council Award – Priority Project – Syracuse (Central New York Region – Onondaga County) – Crouse Hospital Emergency Department 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 Crouse Hospital Emergency Department Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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Regional Council Award – Priority Project – North Syracuse (Central New York Region - Onondaga County) – G.A. Braun Capital – New York Works (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 G.A. Braun Capital – New York Works (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

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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 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 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 G.A. Braun, Inc., a grant for a total amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) from New York 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 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 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 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.

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Regional Council Award – Priority Project – North Syracuse (Central New York Region – Onondaga County) – G.A. Braun Capital – New York Works (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 G.A. Braun Capital – New York Works (Capital Grant) Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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Next, the Acting Chair called on Meghan Taylor, the Director of the Mid-Hudson Regional Office, to present the Metallized Carbon Capital grant item for the Directors' consideration.

Ms. Taylor explained that the Directors were being asked to approve funding totaling \$960,000. She noted that the funding consisted of an ESD grant in the amount of \$650,000 and a \$310,000 Excelsior Tax Credit Award.

Ms. Taylor further stated that this funding would allow the company to remain in New York after being courted by Virginia and Pennsylvania, and would the company to expand its operation into Sullivan County. She also noted that its corporate headquarters is located in Ossining and had grown to over 80,000 square feet and employs approximately 117 people.

Following the full presentation, the Acting Chair called for questions or comments. Director Perales asked if the Corporate headquarters would remain in Ossining and Ms. Taylor responded that it would and that the facility being built in Sullivan County would be utilized for the materials and aerospace division.

Hearing no further questions, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Fallsburg (Mid-Hudson Region – Sullivan County) – Metallized Carbon Capital – Empire

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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 Metallized Carbon 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 Metallized Carbon Corporation 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

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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.

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Fallsburg (Mid-Hudson Region – Sullivan County) – Metallized Carbon 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 Metallized Carbon Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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Next, Ed Muszynski presented the September Non-Discretionary Consent Calendar for the Directors' consideration.

Mr. Muszynski explained that non-discretionary refers to those projects listed in the New York State budget that enhance the State's communities through cultural, educational, research and development, and civic organizations.

Mr. Muszynski further noted that these projects originate from the Governor, the

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Assembly or the Senate. ESD is named to administer funding. ESD, he added, does not select the recipients for funding.

Mr. Muszynski noted there were three items on the Consent Calendar to be considered for approval by the Directors this month.

Mr. Muszynski explained that the first grant is a Senate sponsored grant to the New York City Department of Transportation in the amount of \$500,000. He explained that this is an infrastructure grant to be used to replace street lighting on Brooklyn's McDonald Avenue, under the F train. He further noted that the project will be completed in 2017 and will increase the amount of street lighting in this area.

The next two items, Mr. Muszynski noted, are Executive sponsored. He stated the first item is a capital grant in the amount of \$311,500 to support the Sauquoit Creek Channel and Floodplain Restoration project in the Town of Whitestone in Oneida County. This grant will be used for flood mitigation design at a site damaged by Hurricane Sandy and/or Tropical Storm Lee where erosion is damaging properties.

Mr. Muszynski further noted that the design is intended to remove, mitigate and reduce future flooding and the project is expected to be completed in July 2017.

The last item being presented by Mr. Muszynski was a capital grant in the amount of

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\$392,480 to support the Fulmer Creek Floodplain Restoration and Bench Construction project in the Town of German Flatts in Herkimer County.

Mr. Muszynski noted that this project is similar to the previous one except this is for construction rather than design. He stated the grant will be used for stabilization work to control flooding in creeks, streams and brooks flooded by Hurricane Irene and/or Tropical Storm Lee and will be completed in August 2017.

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

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 Local Assistance 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

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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 – Senate – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	New York City Department of Transportation Capital	AB020	City of New York	\$500,000
			<b>TOTAL</b>	<b>\$500,000</b>

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.

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Division of Homeland Security and Emergency Services Disaster Assistance 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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 Division of Homeland Security and Emergency Services Disaster Assistance Program 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 Division of Homeland Security and Emergency Services Disaster Assistance 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 Division of Homeland Security and Emergency Services Disaster Assistance 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;

Division of Homeland Security and Emergency Services Disaster Assistance Program – Executive – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
B	Sauquoit Creek Channel and	AB115	Town of Whitestown	\$311,500

**DRAFT – SUBJECT TO REVIEW AND REVISION**

	Floodplain Restoration – Phase II Hurricane Irene/Tropical Storm Lee Flood Mitigation Capital			
				<b>TOTAL</b>
				<b>\$311,500</b>

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.

\* \* \*

Hurricane Irene-Tropical Storm Lee Flood Recovery Grant 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

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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 Hurricane Irene-Tropical Storm Lee Flood Recovery Grant Program 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 Hurricane Irene-Tropical Storm Lee Flood Recovery Grant 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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 Hurricane Irene-Tropical Storm Lee Flood Recovery Grant 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;

Hurricane Irene-Tropical Storm Lee Flood Recovery Grant Program – Executive – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	Fulmer Creek Floodplain Restoration and Floodplain Bench Construction – Phase II Hurricane Irene/Tropical Storm Lee Flood Mitigation Capital	AB117	Town of German Flatts	\$392,480
			<b>TOTAL</b>	<b>\$392,480</b>

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, Kevin Hansen presented an item relating to the Women’s Building Civic and Land Use Improvement Project (the “Project”) for the Directors’ consideration.

Mr. Hansen stated that the Directors were being asked to affirm the Women’s Building

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Civic and Land Use Improvement Project Findings of June 23, 2016, as well as to affirm the General Project Plan, as modified (the “MGPP”). He reminded the Directors that this Project relates to the Bay View Correctional Facility which is a former women’s prison in the Chelsea neighborhood of Manhattan.

Mr. Hansen explained that a Request for Proposal was issued in 2014 asking interested developers to submit design concepts and financial offers for the right to develop the site. He further noted that in 2015, ESD selected the NoVo Foundation, a New York based non-profit organization to develop the site into The Women’s Building which would offer social justice leaders the resources and support they need to drive critical change, co-located office space and shared infrastructure and lecturers, conference, performance and art.

Mr. Hansen further explained that on July 27, 2016 a public hearing was held in order for the public to provide comments on the Project and written comments continued to be accepted for consideration until August 26, 2016. He noted that in total 38 people submitted comments at the hearing and an additional 12 were submitted in writing, with the majority of the comments being in support of the Project.

Mr. Hansen went on to note that several local parties did, however, oppose or requested modifications to certain of the zoning overrides proposed under the proposed MGPP. He stated that many of the comments related to restricting roof top access; roof top lighting; the design of any roof top greenhouse; and the scope of building signage permitted

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under the overrides.

Following the full presentation, the Acting Chair called for questions or comments. Director Dyson asked what happened to the inmates when the prison closed. Mr. Hansen explained that the inmates were evacuated during Hurricane Sandy and relocated to other correctional facilities around the State and the facility did not re-open.

Director Miller asked if the proposed modifications had been discussed with local officials and wanted to know if they were in agreement with the changes. Mr. Hansen replied that they were in agreement.

The Acting Chair called for further questions and comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT – Affirmation of the Women’s Building Civic and Land Use Improvement Project Findings of June 23, 2016 (the “UDC Findings”) Pursuant to Section 10 of the New York State Urban Development Corporation, as Amended (the “UDC Act”); Affirmation of the General Project Plan, as Modified; and Authorization to Take All Related Actions

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RESOLVED, that with respect to the Women’s Building Civic and Land Use Improvement Project the UDC Findings pursuant to Section 10 of the UDC Act previously adopted on June 23, 2016 are hereby affirmed; and be it further

RESOLVED, that, on the basis of the materials presented at this meeting, a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby affirms the General Project Plan, as modified, for the Women’s Building Civic and Land Use Improvement Project, based on and after due consideration of the testimony given at the public hearing on July 27, 2016, all comments received by the Corporation during the comment period concluding on August 26, 2016 and other findings, statements of facts and conclusions, and other determinations made previously herein by the Corporation; and be it further

**DRAFT – SUBJECT TO REVIEW AND REVISION**

RESOLVED, that the Chairman and Chief Executive Officer, or his designee, 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 considered necessary or appropriate to effectuate the foregoing resolutions; and be it further

RESOLVED, that the participation of the Corporation is expressly contingent upon: (1) the approval of the Public Authorities Control Board, as applicable, and (2) the receipt of all other necessary approvals.

\* \* \*

Next, Steve Gawlik asked the Directors to authorize the approval of two Land Bank Applications submitted by Chemung and Steuben Counties. Mr. Gawlik explained that the program, authorized in 2011, permits municipalities to create not-for-profit corporations, whose purpose is to acquire property that's primarily tax delinquent or were foreclosed or vacant in order to form a strategic plan to put the properties back to productive use.

Mr. Gawlik explained that both of these counties have demonstrated a significant problem with vacant, abandoned and tax foreclosed properties that can hopefully be helped when they come under land bank control.

Following the presentation, the Acting Chair called for question or comments. Director Milled asked under whose jurisdiction is the land bank under once approved by ESD and Mr. Gawlik replied that, once approved, control is taken over by local municipalities and ESD has no continuing oversight.

A discussion on available funding sources for the land banks was had amongst the

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Directors after which the Acting Chair called for any further questions. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

**Land Bank Program – Approval of Land Bank Application 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 Chemung County and Steuben 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.

\* \* \*

Next, Acting Chair Zemsky called on Antovk Pidedjian to present an approval of a contract extension with Bryan Cave to serve as environmental counsel for the Bay View Correctional Facility project. He noted that this was the project presented earlier by Mr. Hansen.

Mr. Pidedjian explained that in August, Bryan Cave informed ESD that it would need additional time to complete their assignment which would push the contract term to more than a year. He advised that under ESD’s Procurement Guidelines, the Board’s approval is necessary for personal service contracts in excess of one year.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

In addition, Mr. Pidedjian stated that an additional \$25,000 for this remaining work was being requested, bringing the total contract amount to \$100,000. He explained that this will not be paid from ESD corporate funds but from an imprest account that has been set up by the developer, the NoVo Foundation.

Following the full presentation, the Acting Chair called for questions or comments. Director Miller stated that she assumed the developer had no problem with the additional funds request and Mr. Pidedjian responded that they did not.

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

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT– Approval of the Contract with the Law Firm of Bryan Cave LLP to Continue to Provide Legal Services in Connection with the Long-Term Lease of the Former Bayview Correctional Facility and Authorization 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 to be filed with the records of the Corporation (the “Materials”), the Corporation hereby finds the law firm of Bryan Cave LLP to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend its existing contract with Bryan Cave LLP to add an additional Twenty-Five Thousand Dollars (\$25,000) to the existing contract amount for a new total not-to-exceed contract amount of One Hundred Thousand Dollars (\$100,000), for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials, which includes all services rendered as of June 1, 2016; 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.

\* \* \*

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Next, Lauren Axelrod asked the Directors to approve an extension of the Pre-Qualified Counsel list that was approved in 2012 which was due to expire.

Ms. Axelrod explained that ESD staff was currently in the process of reviewing 85 responses to a Request for Proposal that was issued in June. She noted the responses were received from 87 law firms and the 6 month extension was requested in order to give staff additional time for review.

Ms. Axelrod further noted that out of the 87 firms that responded, 32 are State certified MWBE and/or WBEs, two have applied for MWBE certification and one firm is a State certified service disabled veteran owned business.

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 D/B/A EMPIRE STATE DEVELOPMENT - Pre-Qualified Legal Counsel List - Extension of Pre-Qualified Legal Counsel List

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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 approval of the firms listed on Attachment A to this Resolution to serve as pre-qualified legal counsel to the Corporation in the various areas of expertise indicated on Attachment A (and, in each case, related litigation), and in such other areas as the General Counsel may in her sole discretion may deem appropriate or advisable in connection with any particular project or matter, is hereby extended until March 31, 2017.

\* \* \*

There being no further business, the meeting was adjourned at 10:22 a.m.

Respectfully submitted,

Debbie Royce  
Assistant Corporate Secretary

# **Item II. A.**



FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Corfu (Finger Lakes Region – Genesee County) – Yancey’s Fancy 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; Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: Yancey’s Fancy, Inc. (“Yancy’s” or the “Company”)

ESD\* Investment: A grant of up to \$500,000, to be used for a portion of the cost of construction and machinery and equipment

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

Project Locations: 818 Brickhouse Corners Road, Corfu, Genesee County\*\*  
857 Main Street, Corfu, Genesee County

\*\*Project activity site; other is job-retention site

Proposed Project: Building construction and acquisition of machinery and equipment to manufacture artisan cheeses

Project Type: Business expansion involving job retention and creation

Regional Council: The Finger Lakes Regional Economic Development Council has been made aware of this item. The project is consistent with the Regional Plan and aligns with its agriculture and food processing strategy, a key

industry sector. The project also enhances tourism, another key industry sector.

Employment: Initial employment at time of ESD Incentive Proposal: 108\*  
 Current employment level: 164\*  
 Minimum employment on January 1, 2018: 158\*

Employment is stated in full-time equivalents ("FTEs")

\* New employees cannot be transferred from other NYS locations

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
New Building Construction	\$18,939,816
Equipment for new Building	2,798,762
Architecture & Construction	
Management	2,810,292
Other Soft Costs	<u>244,625</u>
<b>Total Project Costs</b>	<b><u>\$ 24,793,495</u></b>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$500,000	2%	
Dietz & Watson-Loan**	17,293,495	70%	Libor+1.5%/20 yrs/unsecured
NY Power Authority-Grant	500,000	2%	
National Grid-Grant	100,000	1%	
Company Equity	<u>6,400,000</u>	<u>25%</u>	
<b>Total Project Financing</b>	<b><u>\$24,793,495</u></b>	<b><u>100%</u></b>	

\*\*The lender, Dietz & Watson, is Yancy's largest customer and distributes the Company's products to large supermarkets east of the Mississippi River.

III. Project Description

A. Company

Industry: Food processing

Company History: Formed in 1947, Yancey's Fancy's core business is the creation of new and innovative types and flavors of cheese. Its identity as New York's Artisan Cheese Company has strong recognition not only within Western New York but across the United States. The Company has a strong commitment to hire locally, promote from within and provide career paths within its organization. Yancey's participates as a sponsor of the

Finger Lakes Wine Festival, and contributor for the Niagara Wine Trail, The Erie Chautauqua Wine Trail, and other Finger Lakes wine trails. The Company has signed a five year agreement to be a sponsor and the Official Cheese of the Buffalo Bills and Buffalo Sabres.

**Ownership:** The Company is privately owned. D & Y Cheeses, Inc. is Yancey's parent company.

**Size:** All Company facilities are located in Corfu, NY.

**Market:** The Company's products can be found in New York-based supermarket chains such as Wegmans and Price Chopper. The Company's cheeses have won numerous awards on various state, national and world competitions. Yancey's major competitor is Cabot Cheese in Cabot, Vermont. The Company is focused on artisan cheeses, a growing market segment.

**ESD Involvement:** In 2013, due to Yancey's Fancy's rapid growth, the Company needed substantially larger facilities. The Company had several options, including the purchase of an existing dairy operation in Wisconsin or to invest in expanded facilities and capacity near its plant in Corfu, NY, located in the Town of Pembroke. In order to lower costs and make the project feasible in New York, the Company approached ESD to close a financing gap. ESD offered a \$500,000 capital grant, which the Company accepted in September 2013. The Wisconsin option would have meant the transfer of 65 existing jobs out-of-state. Without ESD's assistance, the feasibility of the project in New York was at risk.

**Competition:** Wisconsin

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

## **B. The Project**

**Completion:** October 2015

**Activity:** The Company purchased land and completed construction of a new 112,000-square-foot facility on 11 acres at the Buffalo East Technology Park in Corfu, NY, approximately one-half mile from the Company's original facility. The building has 70,000 square feet on the first level for process cheese manufacture, packaging, warehousing and distribution, and 42,000 square feet of office, administrative and meeting space, and dry goods storage on the second level. The Company began manufacturing cheese in this facility in October 2015. Packaging operations began in December 2015.

**Results:** Retain 108 existing jobs, including 65 jobs that were at risk, and create 50 new jobs. The Company has already exceeded its job commitment, having created 56 new jobs. The project will also result in increased annual dairy production for Niagara Upstate Farms Co-Op, which includes 13 local farms. Indirectly, regional tourism will be increased at the Kutters Cheese Facility (a cheese store operating at the Company's 857 Main Road location) as more buses can be accommodated due to the relocation of process cheese manufacturing and packaging to the new facility.

**Grantee Contact:** Wayne Henry, President & CEO  
857 Main Street  
Corfu, NY 14036  
Phone: (215) 668-9766

**ESD Project No.:** Y473

<b>Project Team:</b>	Origination	Kevin Hurley
	Project Management	Edward Muszynski
	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 \$500,000 capital grant (\$5,000) 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. 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.
4. 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.

5. Up to \$500,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$250,000) upon documentation of total project costs of \$16,800,000, including \$14,500,000 in construction project costs, completion of the project substantially as described in these materials, including a Certificate of Occupancy, and documentation of the employment of at least 108 Full-time Permanent Employees 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 (\$125,000) will be disbursed upon documentation of the employment of at least 133 Full-time Permanent Employees at the Project Location (Employment Increment of 25), provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$125,000) will be disbursed upon documentation of the employment of at least 158 Full-time Permanent Employees at the Project Location (Employment Increment of 25), 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 must be incurred on or after September 9, 2013, to be considered eligible project costs. All disbursements must be requested by April 1, 2020.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$500,000, 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	108
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A	B
Reporting Date	Employment Goals
February 1, 2018	108+X+Y
February 1, 2019	108+X+Y
February 1, 2020	108+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=25, and Employment Goals shall equal [108 + X = 133] 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=25, and Employment Goals shall equal [108 + X + Y = 158] 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

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 108, including 65 jobs that were at risk, and create 50 new jobs.

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

Without ESD assistance to fill a financing gap, the cost would have been too high to 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 \$3,931,674;
- Fiscal cost to NYS government is estimated at \$500,000;
- Project cost to NYS government per direct job is \$6,206
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$2,911;
- Ratio of project fiscal benefits to costs to NYS government is 7.86:1;
- Fiscal benefits to all governments (state and local) are estimated at \$6,801,759;
- Fiscal cost to all governments is \$500,000;
- All government cost per direct job is \$6,206;
- All government cost per total job is \$2,911;
- The fiscal benefit to cost ratio for all governments is 13.60:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$51,950,586, or \$302,425 per job (direct and indirect);
- The economic benefit to cost ratio is 103.90:1;
- Project construction cost is \$ 21,994,733, which is expected to generate 185 direct job years and 116 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 1.13 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

The Genesee County Economic Development Center, as lead agency, has completed an environmental review of the proposed project as part of the review for the Buffalo East Technology Park South development 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 5, 2013. 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 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 40% 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

October 20, 2016

Corfu (Finger Lakes Region – Genesee County) – Yancey’s Fancy 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 Yancey’s Fancy 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 Yancey’s Fancy, Inc. a grant for a total amount not to exceed Five Hundred Thousand Dollars (\$500,000) 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.

\* \* \*

October 20, 2016

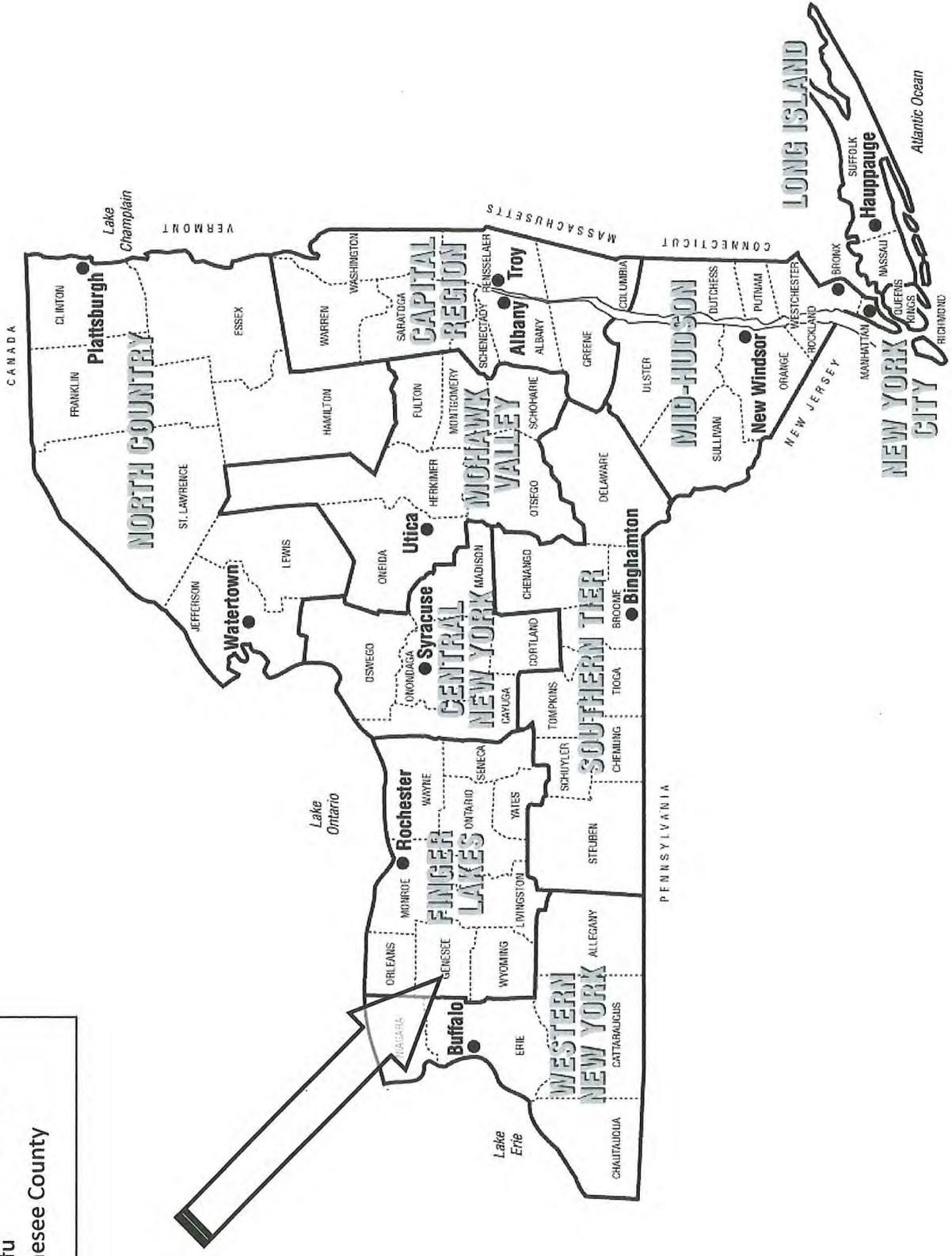
Corfu (Finger Lakes Region – Genesee County) – Yancey’s Fancy Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Yancey’s Fancy Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

**Yancy's Fancy Capital**  
Corfu  
Genesee County









**Item II. B.**



FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Batavia (Finger Lakes Region – Genesee County) – O-AT-KA Milk Products Cooperative 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; Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: O-AT-KA Milk Products Cooperative, Inc. (“O-AT-KA” or the “Company”)

ESD\* Investment: A grant of up to \$400,000 to be used for a portion of the cost of construction and equipment

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

Project Location: 700 Ellicott Street, Batavia, Genesee County

Proposed Project: Expansion of a milk processing plant

Project Type: Business expansion involving job retention and creation

Regional Council: The Finger Lakes Regional Council has been made aware of this item. The project is consistent with the Regional Plan and aligns with its agriculture and food processing strategy, a key industry sector.

Employment:	Initial employment at time of ESD Incentive Proposal:	332
	Current employment level:	385
	Minimum employment on January 1, 2020:	356*

\*New employees cannot be transferred from other NYS locations

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovation	\$11,800,000
Production Machinery & Equipment	8,200,000
Furnishings, Fixtures & Equipment	450,000
Soft Costs	<u>540,000</u>
 Total Project Costs	 <u>\$20,990,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$400,000	2%	
CoBank-Loan	10,000,000	48%	LIBOR+2.25%/10 yrs/1 <sup>st</sup> on assets
Company Equity	<u>10,590,000</u>	<u>50%</u>	
 Total Project Financing	 <u>\$20,990,000</u>	 <u>100%</u>	

III. Project Description

A. Company

Industry: Dairy

Company History: Founded in 1959, O-AT-KA Milk Products Cooperative, Inc. is a manufacturer and co-packer of dairy-based products and ready-to-drink shelf-stable beverages. O-AT-KA is one of Genesee County's largest employers and a dairy industry leader. Headquartered in Batavia, the Company helps to insure that there is a market for milk produced by more than 400 farms in New York's Western, Finger Lakes and Central regions.

Ownership: The Company is a private cooperative jointly owned by Upstate Niagara Cooperative, Inc. and Dairy Farmers of America.

Size: All facilities are located in Batavia, NY.

Market: O-AT-KA enjoys long-term business relationships with many Fortune 500 listed manufacturers, retailers and wholesalers. The Company's policy of strict confidentiality protects the proprietary nature of its customers' identities, manufacturing processes and formulations.

ESD Involvement: The Company needed to expand its warehouse storage and materials handling facility in Batavia in order to assure greater efficiency, worker safety and cost savings to help its competitive edge. In order to lower costs and make the project feasible in New York, the Company approached ESD to close a financing gap. ESD offered a \$400,000 capital grant, which the Company accepted in August 2015. Without ESD's assistance, the feasibility of the project in New York was at risk.

Competition: N/A

Past ESD Support: This is the Company's first project with ESD. The Company is certified in the Genesee County Empire Zone ("EZ") and has received \$2,659,669 in Empire Zone credits between tax years 2006 and 2014.

B. The Project

Completion: August 2016

Activity: O-AT-KA completed construction of a 200,000-square-foot warehouse and a 35,000-square-foot equipment room to its existing facility in Batavia. The project brought off-site warehousing back on site. The Company also purchased new material handling equipment and re-purposed existing equipment.

Results: The Company will retain 332 existing jobs create 24 new jobs. The Company has already created 53 new jobs.

Grantee Contact: Michael Patterson, CFO  
700 Ellicott Street  
Batavia, NY 14020  
Phone: (585) 815-4232

ESD Project No.: AA179

Project Team:	Origination	Jane Thelen
	Project Management	Edward Muszynski
	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 \$400,000 capital grant (\$4,000) 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. 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.
4. 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.
5. Up to \$400,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$200,000) upon documentation of construction, machinery/equipment, furniture, fixtures, equipment and soft project costs totaling \$20,990,000, including a Certificate of Occupancy, and documentation of the employment of at least 342 Full-time Permanent Employees at the Project Location (Employment Increment of 10), 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 (\$100,000) will be disbursed upon documentation of the employment of at least 351 Full-time Permanent Employees at the Project Location (Employment Increment of 9) provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$100,000) will be disbursed upon documentation of the employment of at least 356 Full-time Permanent Employees at the Project Location (Employment Increment of 5), 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 5, 2015, to be considered eligible project costs.

All disbursements must be requested by April 1, 2020.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$400,000, 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	332
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A	B
Reporting Date	Employment Goals
February 1, 2018	332+X+Y
February 1, 2019	332+X+Y
February 1, 2020	332+X+Y
February 1, 2021	332+X+Y
February 1, 2022	332+X+Y

X = Grantee's Employment Increment that will be the basis of the First Disbursement of the Grant as described in section C.5 above (i.e. X=10, and Employment Goals shall equal [332 + X = 342] if the First Disbursement is made, in the year such disbursement is made and for each year thereafter). If the First Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. Y=9, and Employment Goals shall equal [332 + X + Y = 351] if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then Y=0.

Z = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section C.5 above (i.e. Z=5, and Employment Goals shall equal [332 + X + Y + Z = 356] 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 Z=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 332 and create 24 new jobs.

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

Without ESD assistance to lower costs, the project cost would have been too high to 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 \$2,314,715;
- Fiscal cost to NYS government is estimated at \$400,000;
- Project cost to NYS government per direct job is \$20,833;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$9,772;
- Ratio of project fiscal benefits to costs to NYS government is 5.79:1;
- Fiscal benefits to all governments (state and local) are estimated at \$4,023,880;
- Fiscal cost to all governments is \$400,000;
- All government cost per direct job is \$20,833;
- All government cost per total job is \$9,772;
- The fiscal benefit to cost ratio for all governments is 10.06:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$30,576,454, or \$746,955 per job (direct and indirect);
- The economic benefit to cost ratio is 76.44:1;
- Project construction cost is \$ 12,340,000, which is expected to generate 101 direct job years and 164 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 1.13 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

The Town of Batavia 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 July 21, 2015. 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 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 40% 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

October 20, 2016

Batavia (Finger Lakes Region – Genesee County) – O-AT-KA Milk Products Cooperative 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 O-AT-KA Milk Products Cooperative 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 O-AT-KA Milk Products Cooperative, Inc. a grant for a total amount not to exceed Four Hundred Thousand Dollars (\$400,000) 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.

\* \* \*

October 20, 2016

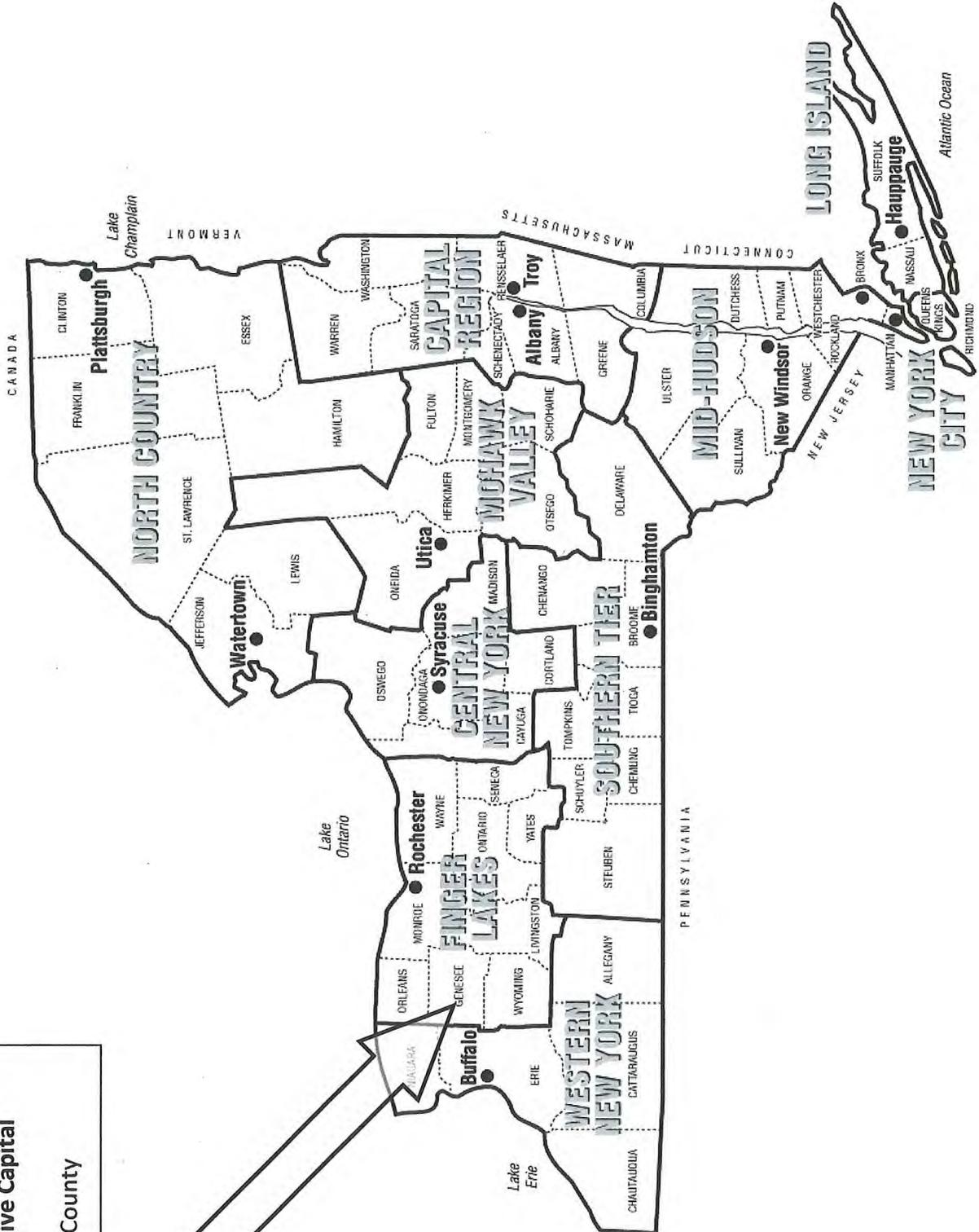
Batavia (Finger Lakes Region – Genesee County) – O-AT-KA Milk Products Cooperative Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the O-AT-KA Milk Products Cooperative Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

**O-AT-KA Milk Products**  
**Cooperative Capital**  
 Batavia  
 Genesee County



**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**O-AT-KA Milk Products Cooperative, 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.

<b>Initial Jobs:</b>	<b>332</b>	<b>Construction Job Years (Direct):</b>	<b>101</b>
<b>New Jobs:</b>	<b>24</b>	<b>Construction Job Years (Indirect):</b>	<b>164</b>

<b>Evaluation Statistics</b>	<b>Project Results NYS Gov't.</b>	<b>NYS Gov't. Benchmarks<sup>2</sup></b>	<b>Project Results State &amp; Local Government</b>	<b>State &amp; Local Government Benchmarks</b>
<b>Fiscal Costs<sup>3</sup></b>	\$400,000	\$794,250	\$400,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$2,314,715	\$2,085,600	\$4,023,880	\$4,271,980
<b>Fiscal Cost /Direct Job</b>	\$20,833	\$3,000	\$20,833	\$4,110
<b>Fiscal Cost/Total Jobs</b>	\$9,772	\$1,424	\$9,772	\$1,964
<b>Fiscal B/C Ratio</b>	5.79	7.00	10.06	10.60
	<b>Project Results</b>	<b>Benchmarks</b>		
<b>Economic Benefits<sup>5</sup></b>	\$30,576,454	\$119,468,000		
<b>Econ. Benefits/Total Jobs</b>	\$746,955	\$147,600		
<b>Economic B/C Ratio</b>	76.44	75.00		

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> 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).

<sup>4</sup> 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.

<sup>5</sup> 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.





Worker in white uniform and hard hat.

Douglas

Safety signs: No open flames, No smoking, No mobile phones, No eating or drinking, No drinking water.

Safety signs: No open flames, No smoking, No mobile phones, No eating or drinking, No drinking water.

Safety signs: No open flames, No smoking, No mobile phones, No eating or drinking, No drinking water.

Stack of boxes with labels.

**Item II. C.**

FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Regional Council Award – Priority Project – Rochester (Finger Lakes Region – Monroe County) – Boys & Girls Club of Rochester II 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

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General Project Plan

I. Project Summary

Grantee: Boys & Girls Club of Rochester, Inc. (“BGC” or the “Club”)

ESD\* Investment: A grant of up to \$300,000 to be used for a portion of the cost of building construction and renovations

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

Project Location: 500 Genesee Street, Rochester, Monroe County

Proposed Project: Phase II of renovations to BGC’s 18,000-square-foot facility and construction of an 8,454-square-foot addition

Project Type: Expansion of youth service center

Regional Council: The project is consistent with the Finger Lakes Regional Economic Development Council’s Plan (the “Plan”). The expansion, renovation and expanded programming for the Boys and Girls Club of Rochester addresses three of the critical issues outlined in the Plan: pockets of urban poverty, aging infrastructure, and K-12 education and workforce development.

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Construction/Renovation	\$450,000	
Infrastructure/Site Work	250,000	
Furnishings, Fixtures & Equipment	100,000	
Soft Costs	<u>100,000</u>	
Total Project Costs	<u>\$900,000</u>	

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$300,000	33%
Grantee Equity	<u>600,000</u>	<u>67%</u>
Total Project Financing	<u>\$900,000</u>	<u>100%</u>

## III. Project Description

### A. Company

Industry: Community services

Company History: Founded in 1971, the Boys & Girls Club of Rochester's mission is to inspire and enable young people of all backgrounds to realize their full potential as productive, responsible and caring citizens. BGC provides youth development, mentoring and leadership programs designed to change the lives of people facing poverty, crime and unemployment, and enable them to acquire the skills and qualities needed to become responsible citizens and leaders. The Club uses an evidence-based model designed by Dr. Reginald Clark called Project Learn, which has shown that the way children use their out-of-school time is an important predictor of academic performance. Major components are homework help and tutoring, high-yield learning and leisure activities, parental and adult involvement, collaboration with schools, and incentives. The Club is located in Rochester's Southwest sector, an area of high poverty.

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

Size: All facilities are located in Rochester, NY.

ESD Involvement: The Club needed to expand its existing 18,000-square-foot building by nearly 50% to provide space for expanded premier youth development activities. The expansion would allow the Club to grow its work-preparedness *READY* and *Career Exploration* curricula, add a drama program, build a recording studio, and expand its acclaimed *Accelerated*

*Reader* program. As a result, the Club could expand membership to neighborhood youth ages 6-18, prepare teens for the working world, and provide families in the Southwest sector with a safe haven for young people to learn, grow and have fun.

In addition to private fundraising, the Club 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, the Club was awarded a \$300,000 capital grant through Round 5 of the Consolidated Funding Application process, which allowed the project to continue.

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
Regional Council Capital Fund	Z570	\$100,000	February 18, 2016	December 31, 2017	Capital – Phase I of building renovation

**B. The Project**

Completion: January 2016

Activity: The Club has completed Phase II of its project, including site work, infrastructure, building renovations, and construction of an 8,454-square-foot addition. The Club has also purchased and installed furnishings, fixtures and equipment. The project represents the second phase of a larger renovation and expansion project totaling \$3.3 million.

Results: The project is expected to increase assistance provided to people from disadvantaged communities and enhance their opportunities for employment. The project greatly enhances BGC’s capacity to deliver more robust job readiness and life skills programs.

The project will allow the Club to accomplish the following:

- Add fine and performing arts with a new music and art rooms, and dance and recording studios;
- Improve the safety of the building by adding decorative fencing and security cameras around the footprint of the property and the adjoining health center;

- Increase space of the reading and tutoring programs to reach more youth; and
- Expose the Club's membership to more math and science activities that utilize green technologies.

**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 \$49,312;
- Fiscal cost to NYS government is estimated at \$300,000;
- Ratio of project fiscal benefits to costs to NYS government is 0.16:1;
- Fiscal benefits to all governments (state and local) are estimated at \$86,366;
- Fiscal cost to all governments is \$300,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 0.29:1;
- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at \$644,372;
- The economic benefit to cost ratio is 2.15:1;
- Project construction cost is \$800,000 which is expected to generate 7 direct job years and 4 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:** Dwayne Mahoney  
 Executive Director  
 400 Genesee Street  
 Rochester, NY 14611  
 Phone: (585) 328-3077

**ESD Project No.:** AA552

Project Team:	Origination	Helen Blum
	Project Management	Edward Muszynski
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	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 \$300,000 capital grant (\$3,000) 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 ESD’s announcement of the project. 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.
4. Up to \$300,000 will be disbursed to Grantee upon documentation of construction, renovation, furnishings, fixtures, equipment, and soft project costs totaling \$900,000, 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 reimbursed by ESD must be incurred on or after December 10, 2015, 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 \$300,000, 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 – Regional Council Capital Fund

The project was authorized in the 2015-2016 New York State budget and reappropriated in the 2016-2017 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

V. 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 approval of funding for the proposed project, ESD's CEO made a Determination of No Significant Effect on the Environment on February 18, 2016. This determination addressed all aspects of the proposed project. Therefore, no further environmental review is required in connection with this action.

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 % 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

October 20, 2016

Regional Council Award – Priority Project – Rochester (Finger Lakes Region – Monroe County) – Boys & Girls Club of Rochester II 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 Rochester (Finger Lakes Region – Monroe County) – Boys & Girls Club of Rochester II 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 Boys & Girls Club of Rochester, Inc. a grant for a total amount not to exceed Three Hundred Thousand Dollars (\$300,000) 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

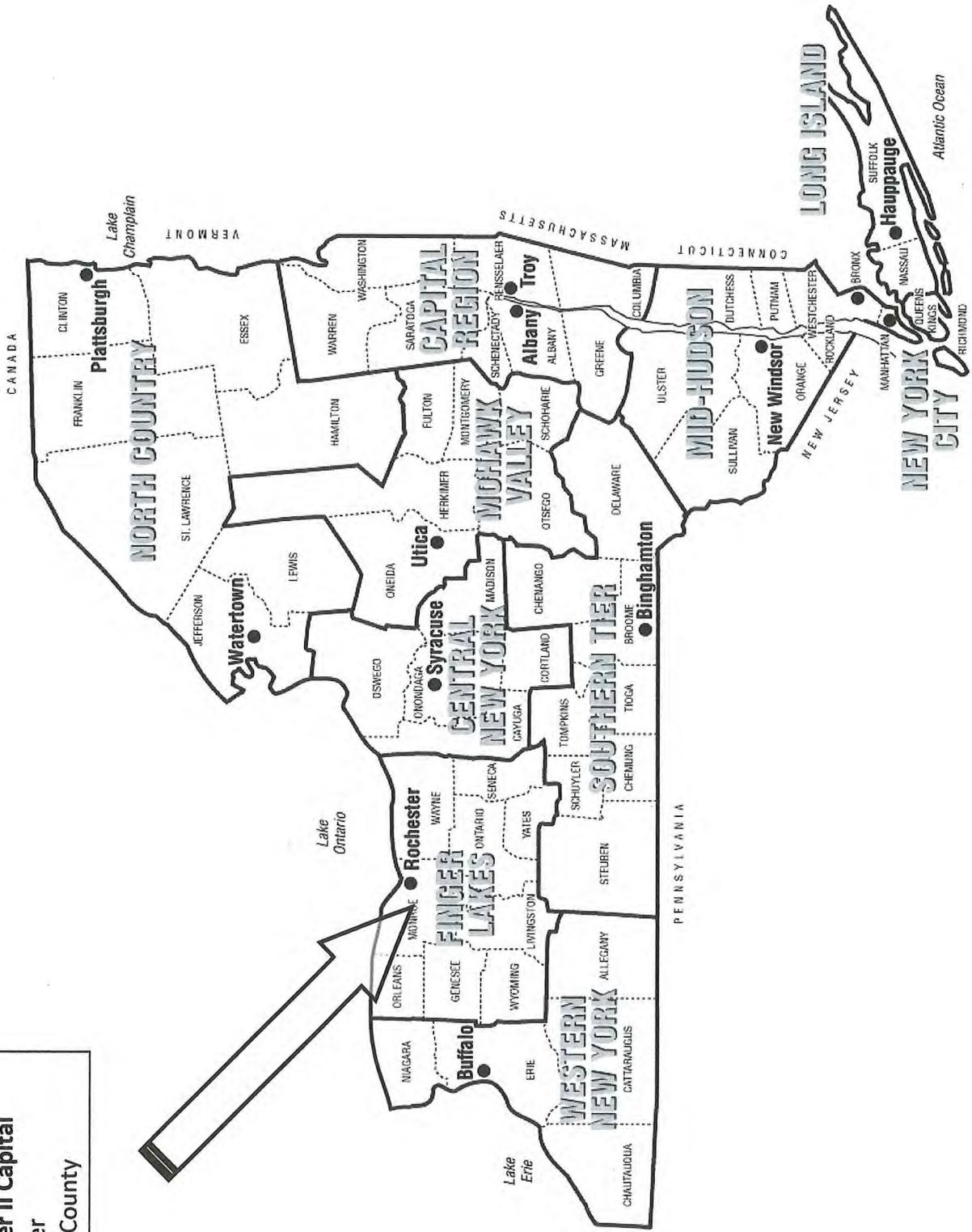
RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

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.

\* \* \*

**Boys & Girls Club of  
Rochester II Capital  
Rochester  
Monroe County**



**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**Economic Growth Project  
Boys and Girls Clubs of Rochester, Inc.**

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): 7**

**Construction Job Years (Indirect): 4**

<b>Evaluation Statistics</b>	<b>Project Result NYS Govt.</b>	<b>NYS Govt. Benchmarks for ESD Projects<sup>2</sup></b>	<b>Project Results State &amp; Local Governments</b>	<b>State &amp; Local Government Benchmarks for ESD Projects</b>
<b>Fiscal Costs<sup>3</sup></b>	\$300,000	\$794,250	\$300,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$49,312	\$2,085,600	\$86,366	\$4,271,980
<b>Fiscal B/C Ratio</b>	0.16	3.00	0.29	10.60
	<b>Project Results</b>	<b>Benchmarks for ESD Projects</b>		
<b>Economic Benefits<sup>5</sup></b>	\$644,372	\$119,468,000		
<b>Economic B/C Ratio</b>	2.15	75.00		

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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).

<sup>4</sup> 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.

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





# KATHY HOLT BOYS & GIRLS CLUB



**Item II. D.**

FOR CONSIDERATION

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Greenport (Long Island Region – Suffolk County) – Peconic Landing Special Needs and Rehabilitation Center 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:** Peconic Landing at Southold, Inc. (the “Peconic Landing” or the “Organization”)

**ESD\* Investment:** A grant of up to \$800,000 to be used for a portion of the cost of the construction of a memory care and acute rehabilitation facility

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

**Project Location:** 1600 Brecknock Road, Greenport, Suffolk County

**Proposed Project:** Construction of a technical state-of-the-art facility to support a 16-bed special needs assisted living memory care and 16-bed acute rehabilitation skilled nursing services center exclusively for seniors

**Project Type:** New construction involving job retention and creation

**Regional Council:** The project is consistent with the Long Island Regional Economic Development Plan to create a cohesive education and workforce training strategy through partnerships among a range of stakeholders with the goal of ensuring that workers from all of Long Island’s communities are

prepared to take advantage of new job opportunities in key economic growth sectors.

Employment:	Initial employment at time of ESD Incentive Proposal:	198
	Current employment level:	324
	Minimum employment on January 1, 2017:	243

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovation	\$15,502,717
Machinery and Equipment	869,530
Planning and Design/Soft Costs	<u>7,903,070</u>
<b>Total Project Costs</b>	<b><u>\$24,275,317</u></b>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$800,000	3%
Company Equity	<u>23,475,317</u>	<u>97%</u>
<b>Total Project Financing</b>	<b><u>\$24,275,317</u></b>	<b><u>100%</u></b>

III. Project Description

A. Company

Industry: Continuing Care Community

Organizational History: Incorporated in 1997, Peconic Landing at Southold, Inc. is a continuing care retirement community which provides acute care and rehabilitation services. The organization owns approximately 145 acres with approximately 2,700 feet of beach frontage on Long Island Sound in the Town of Southold, Suffolk County. Peconic Landing controls, operates, and maintains 296 independent living units and cottages. Since May 2002, the facility has maintained an occupancy rate for independent living units in excess of 96%.

Ownership: Peconic Landing at Southold, Inc. is a not-for-profit organization.

Size: All facilities are located in Greenport, NY.

ESD Involvement: A critical demand for acute rehabilitation and memory care services

exists due to a large regional senior demographic (27% on the North Fork compared to 13% in Suffolk County), and the overall aging on Long Island's population. The New York State Department of Health projects that Long Island will need 1,377 additional skilled nursing beds by the end of 2016. The nearest licensed comparable facility is in mid-Suffolk County, a considerable drive from both the North and South Forks.

Peconic Landing at Southold will be the only facility of its kind on the east end of Long Island to offer special needs memory-care and acute rehabilitative services exclusively to the elderly. The health center will generate well-paying sustainable jobs and improve the skill sets of health care professionals employed at the center. Training and credentialing for home health and nurse's aides will also be provided by the health center. As a result of the Governor's Regional Economic Development Council Initiative, the Grantee was awarded \$800,000 through CFA to assist with this project.

Past ESD Support: This is the Grantee's first project with ESD.

**B. The Project**

Completion: May 2016

Activity: The Grantee completed the expansion of the current nursing home and constructed new apartments for seniors. The nursing home expansion was twofold; a 16-bed state-of-the-art memory care unit known as Harbor South and a 16-bed acute rehabilitation skilled nursing unit known as The Bluffs were established. To date, 9 residents have moved into Harbor South, with 7 others in the process of moving.

Results: Retain 198 existing full-time permanent employees and create 45 new jobs. Peconic Landing has exceeded its job commitment by creating 126 new jobs and retaining 198 full-time employees and 246 full-time equivalent jobs.

**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 \$3,448,837;
- Fiscal cost to NYS government is estimated at \$800,000;
- Project cost to NYS government per direct job is \$11,768;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$8,737;
- Ratio of project fiscal benefits to costs to NYS government is 4.31:1;
- Fiscal benefits to all governments (state and local) are estimated at \$6,490,298;
- Fiscal cost to all governments is \$800,000;
- All government cost per direct job is \$11,768;
- All government cost per total job is \$8,737;
- The fiscal benefit to cost ratio for all governments is 8.11:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$46,114,333, or \$503,655 per job (direct and indirect);
- The economic benefit to cost ratio is 57.64:1;
- Project construction cost is \$19,378,396, which is expected to generate 135 direct job years and 91 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.35 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

Grantee Contact: Steven Carroll, CFO  
1500 Brecknock Road  
Greenport, NY 11944  
Phone: (631) 477-3800 ext. 224

ESD Project No.: Z019

Project Team:	Origination	Barry Greenspan
	Project Management	Arturo Rodriguez
	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 \$800,000 capital grant (\$8,000) 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. 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 \$800,000 will be disbursed to the Grantee in two installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$400,000) upon documentation of project costs totaling \$22,000,000, including a minimum expenditure of \$4,000,000 for non-residential project costs, a Certificate of Occupancy, and documentation of the employment of at least 223 Full-time Permanent Employees (Employment Increment of 25) 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 50% of the grant (\$400,000) will be disbursed upon documentation of the employment of at least 243 Full-time Permanent Employees (Employment Increment of 20) at the Project Location, 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 March 26, 2014, 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 \$800,000, 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. 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	198
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A	B
Reporting Date	Employment Goals
February 1, 2017	198+X+Y
February 1, 2018	198+X+Y
February 1, 2019	198+X+Y

X = Grantee's Employment Increment that will be the basis of the First Disbursement of the Grant as described in section C.5 above (i.e. X=25, and Employment Goals shall equal [198 + X = 223] if the First Disbursement is made, in the year such disbursement is made and for each year thereafter). If the First Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. Y=20, and Employment Goals shall equal [198+ X + Y = 243] 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 – Regional Council Capital Fund

The funding was authorized in the 2013-2014 New York State budget and reappropriated in the 2014-2015, 2015-2016, and 2016-2017 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Environmental Review

The Town of Southold 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 29, 2014. 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 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 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 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

October 20, 2016

Regional Council Award – Greenport (Long Island Region – Suffolk County) – Peconic Landing Special Needs and Rehabilitation Center 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 Peconic Landing Special Needs and Rehabilitation Center 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 Peconic Landing at Southold, Inc. a grant for a total amount not to exceed Eight Hundred Thousand Dollars (\$800,000) 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.

\* \* \*

October 20, 2016

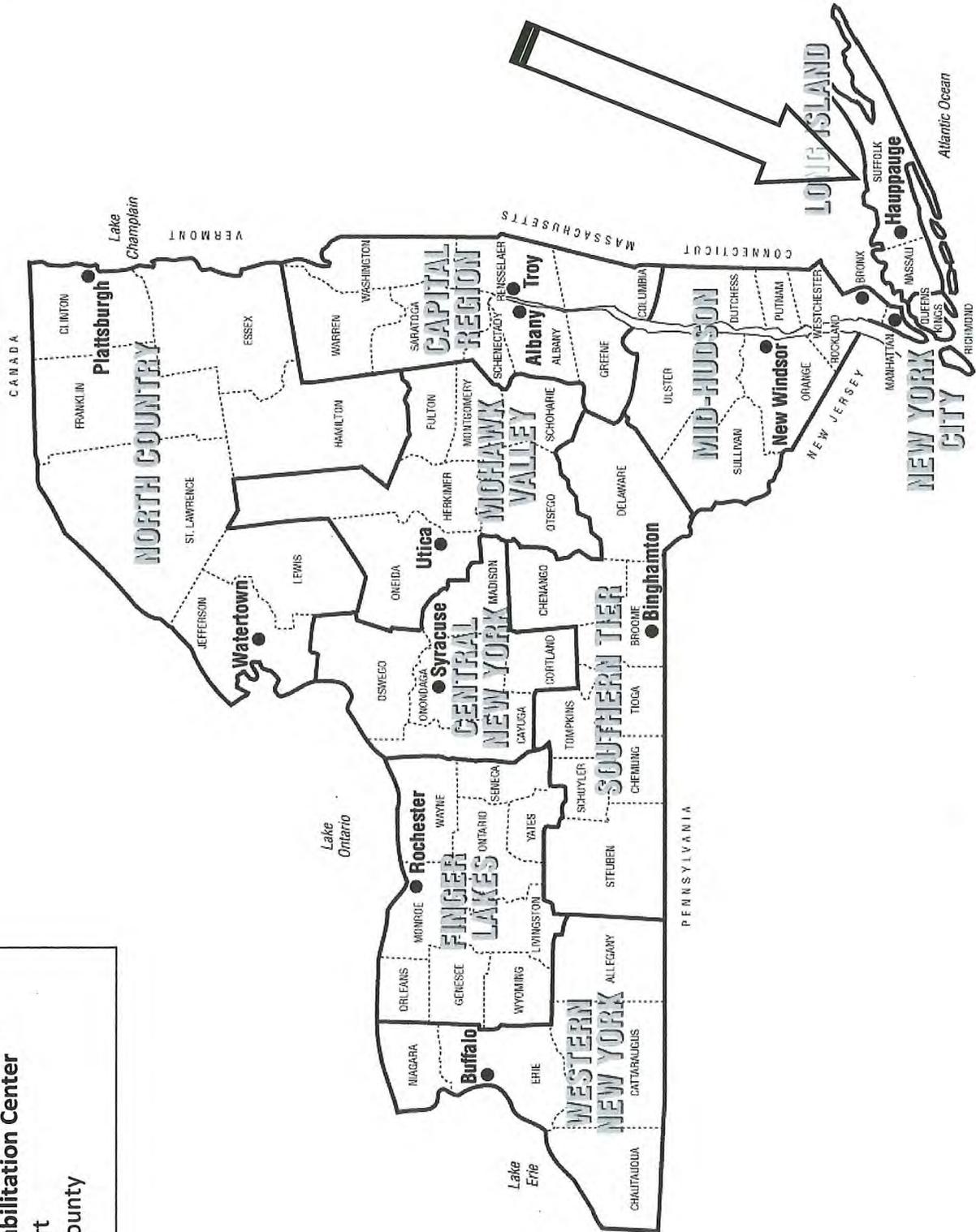
Regional Council Award – Greenport (Long Island Region – Suffolk County) – Peconic Landing Special Needs and Rehabilitation Center Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Peconic Landing Special Needs and Rehabilitation Center Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

**Peconic Landing Special Needs  
and Rehabilitation Center  
Greenport  
Suffolk County**





**Item II. E.**

**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Priority Project –Yaphank (Long Island Region – Suffolk County) – Rose Breslin 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; Adoption of Findings Pursuant to the State Environmental Quality Review Act

---

**General Project Plan**

**I. Project Summary**

**Grantee:** Rose Breslin Associates, LLC (the “Company” or “Rose Breslin”)

**ESD\* Investment:** A grant of up to \$1,500,000 to be used for a portion of the infrastructure improvement costs

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

**Project Location:** N/W/C of Long Island Expressway (I-495) and William Floyd Parkway (CR-46), Yaphank, Suffolk County\*  
One Executive Boulevard, Yonkers, Westchester County

\*Project activity site; other is job-retention site

**Proposed Project:** A 322-acre mixed-use development to include phase one infrastructure construction of offsite access roads and sanitary sewer pump stations and force main connection to existing sewage treatment plant and phase two construction of a 240-unit apartment complex

**Project Type:** Infrastructure improvements and construction involving job retention and creation

Regional Council: The project is consistent with the Long Island Regional Economic Development Council's Plan to adopt Smart Growth principles of walkability, access to transit, employment and recreation as well as the Accelerate Long Island goals by locating housing and office space near facilities like the Brookhaven National Labs ("Labs").

Employment: Initial employment at time of ESD Incentive Proposal: 0  
 Current employment level: 14  
 Minimum employment on January 1, 2017: 18

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
<u>Phase I</u>	
Infrastructure Construction	\$9,687,375
Planning, Design & Soft Costs	<u>250,000</u>
Phase I Total	\$9,937,375
<u>Phase II</u>	
Construction	39,028,331
Planning, Design & Soft Costs	<u>4,501,000</u>
Phase II Total	\$43,529,331
Total Project Costs	<u>\$53,466,706</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term</u>
ESD-Grant	\$1,500,000	2.8%	
M&T Bank*	44,700,000	83.6%	3.4%/10yrs
Company Equity	<u>7,266,706</u>	<u>13.6%</u>	
Total Project Financing	<u>\$53,466,706</u>	<u>100%</u>	

\*M&T provided a construction/perm loan to finance the construction of the project. The loan amount when fully funded will be \$44.7 million. The interest rate during construction is libor + 300 bps (about 3.4% fluctuating daily) and will reduce to libor + 190 bps when the property achieves a debt service coverage ratio of 1.20.

III. Project Description

A. Company

Industry: Real estate

Company History: Rose Breslin Associates, LLC is a New York limited liability company

established under the laws of the State of New York on July 21, 1999 with the sole purpose to manage the Company's real estate holdings located in Suffolk County New York. Approximately 1,000 acres of the Company's properties have since been acquired by government agencies as open space. The Company is currently developing a mixed use community on 322 acres in Yaphank.

**Ownership:** Rose Breslin is a privately held limited liability corporation of which AVR Realty Company Principal, Allan V. Rose owns two thirds.

**Size:** Rose Breslin does not currently have any employees.

**Market:** Long Island, Yonkers

**ESD Involvement:** Infrastructure improvements and increased availability of housing are critical to attracting a younger workforce to areas on Long Island especially near facilities such as the Brookhaven National Labs ("Labs"). Rose Breslin initiated Phases I and II of a 322-acre mixed-use development to bring housing, recreation and retail to Yaphank.

In 2013, the Company applied to Round 3 of the Consolidated Funding Application and was awarded a \$1,500,000 grant to close the financing gap. The infrastructure improvements and construction of housing will provide accessible and viable housing options for area employees and visitors to the nearby Labs.

**Competition:** N/A

**Past ESD Support:** This is the Company's first project with ESD.

## **B. The Project**

**Completion:** February 2017

**Activity:** Phase I: Infrastructure improvements to off-site road and improvements to sanitary sewer system including the construction of a pump station and force main connection to handle total sanitary flow throughout the mixed-used development. Phase II: construction of 240 residential rental units including recreational amenities such as bocci court and fitness on demand, swimming pool with cabana and outdoor grilling stations.

**Results:** Create 18 new jobs.

**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 \$4,258,862;
- Fiscal cost to NYS government is estimated at \$1,500,000;
- Project cost to NYS government per direct job is \$128,440;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$73,635;
- Ratio of project fiscal benefits to costs to NYS government is 2.84:1;
- Fiscal benefits to all governments (state and local) are estimated at \$8,011,917;
- Fiscal cost to all governments is \$1,500,000;
- All government cost per direct job is \$128,440;
- All government cost per total job is \$73,635;
- The fiscal benefit to cost ratio for all governments is 5.34:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$56,823,271, or \$2,789,472 per job (direct and indirect);
- The economic benefit to cost ratio is 37.88:1;
- Project construction cost is \$53,466,706, which is expected to generate 362 direct job years and 245 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.75 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

Grantee Contact: Brian Ferruggiari, Director of Public Affairs  
One Executive Boulevard  
Yonkers, NY 10701  
Phone: (516) 381-8433

ESD Project No.: Y961

Project Team:	Origination	Brian Scripture
	Project Management	Charise Liggins
	Contractor & Supplier Diversity	Denise Ross
	Finance	Angela Pitto
	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 \$1,500,000 capital grant (\$15,000) 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. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed. 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.
4. 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.
5. Up to \$1,500,000 will be disbursed to the Grantee in two installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$750,000) upon documentation of \$6,629,000 for infrastructure improvements including off site – access road construction and sanitary sewer pump station and force main installation and approval of NYCDEC, NYSDOT and/or other documentation including final inspection verifying infrastructure project completion and upon completion of the project substantially as described in these materials, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 50% of the grant (\$750,000) will be disbursed upon documentation of \$51,486,000 in total project expenditures and

upon completion of the project substantially as described in these materials, and documentation of the employment of at least 7 Full-time Permanent Employees (including 2 Part-time Employees), 8 Full-time Contract Employees at the Yaphank Project Location and 3 Full-time Permanent Employees at the Yonkers Project Location, provided Grantee is otherwise in compliance with program requirements;

Grantee agrees to impose the Employment Commitment, without condition, on AVR Realty Company, AVR Yaphank Meadows Apartments, LLC and AVR Yaphank Construction Corp., LLC at the Project Location. Recipient will be responsible for obtaining documentation suitable for verifying the number of Full-time Permanent Employees of its Parent. Such documentation may include, at a minimum, NYS-45-ATT forms, multiple worksite reports (where applicable) and/or an HR Report detailing full-time/part-time status of each employee. Recipient shall provide all such documentation to ESD, together with an annual report of employment, by no later than February 1st of each year for the term of the Commitment.

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 May 13, 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 \$1,500,000, 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	0
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A	B
Reporting Date	Employment Goals
February 1, 2017	0+X
February 1, 2018	0+X
February 1, 2019	0+X

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=18, and Employment Goals shall equal [0 + X = 18] 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.

**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, 2015-2016 and 2016-2017 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

**V. Environmental Review**

ESD (the “Corporation”), pursuant to the State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the Final Generic Environmental Impact Statement (“FGEIS”) certified as complete on August 16, 2011 by the Town Board of the Town of Brookhaven, as lead agency, for the Meadows at Yaphank project in connection with the Rose Breslin Capital project (the “proposed action”).

SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an FGEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Draft Generic Environmental Impact Statement (“DGEIS”) and FGEIS relied upon to support the Corporation’s decision on the action that is the subject of the requested authorization.

The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the DGEIS and FGEIS;
- 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 proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;
- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable;
- The proposed action is in compliance with Section 14.09 of the State Historic Preservation Act.

Therefore it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.

#### VI. Non-Discrimination and Contractor & Supplier Diversity

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

#### 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 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

Exhibit A – SEQRA Findings Statement

Project Finance Memorandum

October 20, 2016

Regional Council Award – Priority Project –Yaphank (Long Island Region – Suffolk County) – Rose Breslin 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 Rose Breslin 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 Rose Breslin Associates, LLC a grant for a total amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) 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.

\* \* \*

October 20, 2016

Regional Council Award – Priority Project – Yaphank (Long Island Region – Suffolk County) – Rose Breslin Capital – Regional Council Capital Fund (Capital Grant) – Adoption of Findings Pursuant to the State Environmental Quality Review Act

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RESOLVED, that with respect to the Rose Breslin 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.

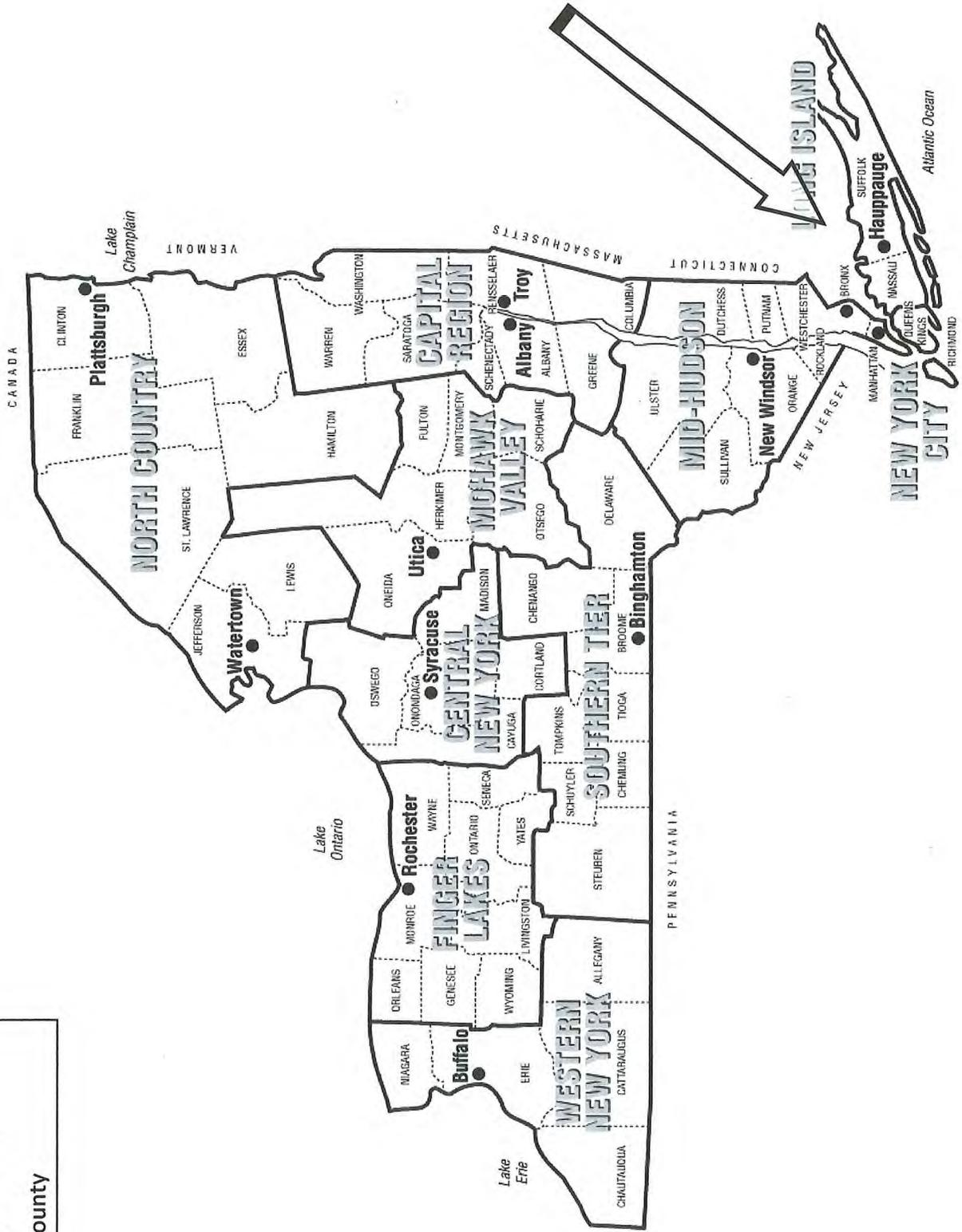
- The Corporation has given consideration to the Draft and Final Generic Environmental Impact Statement (“DGEIS” and “FGEIS”, respectively) prepared for the Meadows at Yaphank project proposed by Rose Breslin Associates;
- The requirements of the SEQRA process, including the implementing regulations 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 FGEIS 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 FGEIS 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.

\* \* \*

Rose Breslin Capital  
Yaphank  
Suffolk County



**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**Rose Breslin Associates, LLC – 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.

<b>Initial Jobs:</b>	<b>0</b>	<b>Construction Job Years (Direct):</b>	<b>362</b>
<b>New Jobs:</b>	<b>18</b>	<b>Construction Job Years (Indirect):</b>	<b>245</b>

<b>Evaluation Statistics</b>	<b>Project Results NYS Gov't.</b>	<b>NYS Gov't. Benchmarks<sup>2</sup></b>	<b>Project Results State &amp; Local Government</b>	<b>State &amp; Local Government Benchmarks</b>
<b>Fiscal Costs<sup>3</sup></b>	\$1,500,000	\$794,250	\$1,500,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$4,258,862	\$2,085,600	\$8,011,917	\$4,271,980
<b>Fiscal Cost /Direct Job</b>	\$128,440	\$3,000	\$128,440	\$4,110
<b>Fiscal Cost/Total Jobs</b>	\$73,635	\$1,424	\$73,635	\$1,964
<b>Fiscal B/C Ratio</b>	2.84	7.00	5.34	10.60
	<b>Project Results</b>	<b>Benchmarks</b>		
<b>Economic Benefits<sup>5</sup></b>	\$56,823,271	\$119,468,000		
<b>Econ. Benefits/Total Jobs</b>	\$2,789,472	\$147,600		
<b>Economic B/C Ratio</b>	37.88	75.00		

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> 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).

<sup>4</sup> 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.

<sup>5</sup> 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.

## EXHIBIT A

### STATE ENVIRONMENTAL QUALITY REVIEW

#### INVOLVED AGENCY FINDINGS STATEMENT

Pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act ["SEQRA"]) and 6 NYCRR Part 617, the New York State Urban Development Corporation ("UDC") d/b/a Empire State Development ("ESD"), as an involved agency under SEQRA, makes the following findings based on the Final Generic Environmental Impact Statement issued on August 16, 2011 for the Meadows at Yaphank Project.

**Name of Action:** Rose Breslin Capital

**SEQRA Classification:** Type I

**Lead Agency:** Town Board of the Town of Brookhaven

#### **Description of Proposed Action, Project and Location**

Empire State Development has received a funding request from the Rose Breslin Associates, the project sponsor, for the Meadows at Yaphank (the "Project") under the Regional Council Capital Fund program. The Proposed Action would consist of ESD's authorization of funding to be used for a portion of cost of infrastructure improvements for the Project. ESD is an involved agency in the SEQRA review of the Project due to its role in providing grant funding.

The Proposed Action will facilitate the development of the Meadows at Yaphank Project, which consists of a mixed-use development including commercial retail, office space, and residential housing. The Project site comprises a total of 333.46 acres, which includes the former Brookhaven Walk mall site, the former Suffolk Meadows Racetrack (aka Suffolk Downs or Parr Meadows), and the Dorade Sewage Treatment Plant ("STP") site. The Project site is located on the northwest corner of the interchange of William Floyd Parkway (County Route 46) and the Long Island Expressway ("LIE") at Exit 68N (New York State Route 495), south of Yaphank Woods Boulevard, in the Hamlet of Yaphank.

The proposed development encompasses 1,032,500 square feet of commercial/industrial land uses including a 150,000 square foot (220 room) hotel, 327,500 square feet of retail space, a 5,000 square foot (200 seat) restaurant, and 550,000 square feet of office/warehouse land uses. The residential housing component consists of the development of 850 residential housing units including market-rate, seniors-only, and affordable/workforce units available as rental units, condominiums, and townhouse units of various sizes. Other Project elements include active recreational amenities such as ballfields and a boulevard through the Project site with ingress/egress on CR 46 and the north service road of the LIE. The Project is expected to occur in five development phases with construction activity over a period of 10 years if there is

overlap in phasing, or the schedule may be extended to an estimated 14 years if each phase is completed before the next one commences.

The projected sanitary wastewater flow for the Project is approximately 271,275 gallons per day (gpd). To accommodate the projected flow, the existing Dorade STP will be upgraded from its current capacity of 225,000 gpd to its original and maximum design capacity of 450,000 gpd. The STP will continue to accommodate wastewater flow generated by Whispering Pines/Colonial Woods residential developments and other existing land uses in the Suffolk County Sewer District #8. The Project will retain approximately 118.04 acres of existing natural open space. The remaining area of approximately 215.42 acres will be cleared for development.

**Facts and Conclusions in the FGEIS Relied Upon to Support the Findings:**

1. This Findings Statement for the Meadows at Yaphank Project has been prepared in compliance with the SEQRA, codified at Article 8 of the New York Environmental Conservation Law ("ECL"), and its implementing regulations, promulgated at Part 617 of Title 6 of the New York Codes, Rules and Regulations ("NYCRR"), which collectively contain the requirements for the State Environmental Quality Review ("SEQR") process.
2. The Town Board of the Town of Brookhaven, as Lead Agency, made a determination that the Project was a Type I action pursuant to 6 NYCRR Part 617 and conducted a coordinated SEQR process, issuing a Draft Generic Environmental Impact Statement ("DGEIS") on January 20, 2011 and a Final Generic Environmental Impact Statement ("FGEIS") on August 16, 2011. The Lead Agency's Findings Statement was issued on September 20, 2011.
3. ESD is an involved agency for the purposes of SEQR due to its funding approval under the Regional Council Capital Fund program. ESD's involvement is the authorization of funding for the Project.
4. This Findings Statement is based upon facts and conclusions contained in the DGEIS and FGEIS. This SEQR Findings Statement represents ESD's compliance with SEQR for the Project.
5. The potential effects of the Project were adequately analyzed and disclosed in the DGEIS and FGEIS for the Meadows at Yaphank Project. The Project, as currently contemplated, would not engender any new significant adverse environmental impacts not previously disclosed in the FGEIS.
6. The Project changes the land use classification and zoning of the site from an industrial and business use district to a Planned Development District ("PDD"). These changes would not result in significant adverse impacts to land uses and zoning of the properties in the vicinity as substantial buffers are retained within the subject site. The Project will result in changes to the patterns of land use and zoning in the area by introducing a mixed use development. It conforms to the overall intent of the recommendations of the 1996 Brookhaven Comprehensive Land Use Plan as well as to the specific recommended use of the subject

site. In addition, the Project is consistent with the Longwood Mini Master Plan and conforms to the standards and guidelines set forth in the Central Pine Barrens Comprehensive Land Use Plan.

7. While the Project will result in an increase in vehicle trips over existing conditions, it will generate substantially fewer trips than development under existing zoning. With the following recommended roadway improvements, the Project is not expected to cause a significant adverse impact on traffic conditions.

Traffic mitigation

- Widen the Yaphank-Woods Boulevard eastbound approach to provide an additional left turn lane. The existing 9-foot northbound left turn lane will be widened slightly to accommodate a full 12-foot wide left turn lane.
  - Provide right-in/right-out driveway onto CR 46.
  - Widen the northeast loop ramp from CR 46 northbound to the LIE North Service Road westbound from one to two lanes.
  - Construct a new public roadway between Yaphank-Woods Boulevard and the LIE North Service Road.
  - Construct a new signalized intersection at the proposed main site driveway onto CR 46. Coordinate the traffic signal with the existing signal at the intersection of CR 46/Yaphank-Woods Boulevard.
  - Improve westbound LIE access from the LIE North Service Road.
  - Widen the eastbound LIE off-ramp onto the South Service Road from one lane to two lanes to accommodate the off-ramp volume.
8. The design, construction and operation of the Dorade STP upgrade and restoration to its originally permitted flow will be subject to the review and approval of the Suffolk County Department of Health Services and the New York State Department of Environmental Conservation (“NYSDEC”), ensuring that no significant adverse impacts to groundwater resources will occur.
  9. No significant adverse impacts to rare, threatened or endangered species are expected as result of the Project, and no significant adverse impacts to the Town or State wetland resources are anticipated. A small Town-regulated wetland will be removed. However, this area will be replaced on a 2:1 basis with new freshwater wetlands on site. The Project is expected to remove approximately 18.04 acres of natural vegetation, leaving approximately 36.75% of the site in a naturally vegetated state. This will not result in a significant adverse impact on vegetation and/or wildlife. As subsequent site plans are designed, the project sponsor will be required to maintain at least 35% of the site in a naturally vegetated state in conformance with the Town and Pine Barrens Plan requirements.
  10. No significant adverse impacts on cultural resources are anticipated as a result of the Project. The State Historic Preservation Office in a letter dated March 18, 2011, determined that the Project will have no impact upon cultural resource in or eligible for inclusion in the State and National Registers of Historic Places.

11. The Project will result in temporary construction-related air quality impacts. These impacts will be of relatively short duration, limited in scope and intensity, and generally would not occur in proximity to public receptors. Best construction management practices will be employed to reduce soil erosion and possible sources of fugitive dust. Thus, construction-related air quality impacts will be minimized and mitigated to the maximum extent practicable.
  
12. The DGEIS considered a number of alternatives to the Project including the following:
  - Alternative: 1 No Action - assumes that the site remains in its current use and condition.
  - Alternative 2: Development at Existing Zoning - assumes that the site is developed according to the current zonings of the Project parcels, as follows:
    - Alternative 2a: Development of Property with Existing Approvals (Brookhaven Walk/Eastern Parcel)
    - Alternative 2b: Development of Property Under L-Industry-1 Zone (Racetrack/Western Parcel)
  - Alternative 3: Public Acquisition
  - Alternative 4: Reuse of Wet Depressions as Town-Designated Wetlands - assumes the proposed Project yield and layout, with the existing wet depressions in the former racing oval and along CR 46 are retained as a Town-designated wetlands and are incorporated in the site's drainage system.

The Project has merits over the alternatives studied and minimizes significant adverse impacts to the maximum extent practicable.

## CERTIFICATION OF FINDINGS

Having considered the Draft and Final Generic Environmental Impact Statements, including the comments received on the DGEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, ESD finds and certifies that:

1. The requirements of Article 8 of the New York State Conservation Law and the implementing regulations of the New York State Department of Environmental Conservation, 6 NYCRR Part 617, have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the proposed action will minimize or avoid, to the maximum extent practicable, the significant adverse environmental effects including the effects disclosed in the FGEIS and set forth in this Findings Statement;
3. Consistent with the social, economic and other essential considerations described above, the significant adverse environmental impacts associated with the development of the Project which were identified in the FGEIS and in this Findings Statement will be avoided or minimized to the maximum extent practicable by incorporating as conditions the mitigation measures described in the FGEIS and in this Findings Statement; and
4. The Project is in compliance with Section 14.09 of the State Historic Preservation Act.

**Agency:**

NYS Urban Development Corporation  
d/b/a Empire State Development

**Signature of Responsible Officer:** \_\_\_\_\_

**Name/Title of Responsible Officer:** Rachel Shatz

Vice President, Planning & Environmental Review

**Date:**

October 20, 2016

**Item II. F.**

FOR CONSIDERATION

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Grand Island (Western New York Region – Erie County) – Life Technologies 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; Determination of No Significant Effect on the Environment

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General Project Plan

I. Project Summary

**Grantee:** Life Technologies Corporation (“Life Technologies”, subsidiary of Thermo Fisher Scientific, Inc. (“Thermo”) or the “Company”)

**ESD\* Investment:** A grant of up to \$600,000 to be used for a portion of the cost of machinery and equipment

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

**Project Location:** 3175 Staley Road, Grand Island, Erie County

**Proposed Project:** Construction and the purchase and installation of new machinery and equipment

**Project Type:** Business expansion involving job retention and creation

**Regional Council:** The Western New York Regional Economic Development Council (“REDC”) has been made aware of this item. The project is consistent with the Regional Plan as it maintains and creates jobs.

Employment:	Initial employment at time of ESD Incentive Proposal:	565
	Current employment level:	565
	Minimum employment on January 1, 2017:	595

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovation	\$12,896,000
Machinery and Equipment	7,690,000
Furniture, Fixtures, and Equipment	<u>80,000</u>
<b>Total Project Costs</b>	<b><u>\$20,666,000</u></b>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$ 600,000	3%
Company Equity	<u>19,466,000</u>	<u>97%</u>
<b>Total Project Financing</b>	<b><u>\$20,666,000</u></b>	<b><u>100%</u></b>

III. Project Description

A. Company

Industry: Life science research/manufacturing

Company History: Established in 1962 as Grand Island Biological Company (“GIBCO”), Life Technologies Corporation develops commercially prepared cell culture products for local markets such as Roswell Park Cancer Research Center and the State University of New York at Buffalo’s biological and medical science research laboratories. Over the decades, the entity has undergone ownership changes and merged with Invitrogen Corporation and Applied Biosystems, Inc. in 2008. In 2014, the acquisition of Life Technologies Corporation by Thermo Fisher Scientific was completed, with Life Technologies Corporation remaining a corporation and becoming part of the Life Sciences Solutions Group of Thermo Fisher Scientific, Inc.

Thermo is the world leader in servicing science with a mission to enable its customers to make the world healthier, cleaner and safer. Thermo helps its customers accelerate life sciences research, solve complex and analytical challenges, improve patient diagnostics and increase laboratory productivity. Thermo offers an unmatched combination of innovative technologies through its premier brands such as Thermo Scientific, Applied Biosystems, Invitrogen, Fisher Scientific and Unity Lab Services.

Ownership: Life Technologies Corporation is a subsidiary of Thermo Fisher Scientific

Inc., a publicly traded company.

**Size:** Life Technologies Corporation has one facility in New York State.

**Market:** The Company is a global supplier of cell culture products. The products manufactured at the Grand Island facility are used for a wide variety of applications in basic and applied life sciences research into biological processes, cellular nutrition and genetic analyses, cancer, AIDS research, and genetically-engineered pharmaceutical drug manufacturing. Competitors include Merck (Germany), EMD Millipore Corp. (Billerica, MA), Lonza (Walkersville, MD), and GE Healthcare Life Sciences (Logan, UT).

**ESD Involvement:** Life Technologies advised ESD that its association with Thermo Fisher presented business opportunities worldwide requiring capability and capacity expansion. In 2009 ESD provided the Company a \$2,000,000 grant for the construction of a 21,500-square-foot building, electrical and utility upgrades and acquisition of new machinery and equipment necessary to expand its operations in Grand Island and keep the facility in Western New York. In 2014 the Company again came to ESD advising that in order to meet its customer demands, as well as compete for future growth, it is necessary to expand its current manufacturing and distribution areas and purchase new machinery and equipment. ESD responded with a \$600,000 capital grant which the Company accepted. Without ESD assistance, this expansion would not be feasible.

**Competition:** N/A

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

<b>Program</b>	<b>Project #</b>	<b>Amount</b>	<b>Date Start (ESD Directors' Approval date)</b>	<b>Date End (Project Completion: Contract Expiration)</b>	<b>Purpose</b>
Empire State Economic Development Fund	S280	\$2,000,000	January 15, 2009	December 31, 2016	Capital – Expansion of Raw Material Warehouse

B. The Project

Completion: December 2016

Activity: The project involves construction of a ±30,000-square-foot addition to expand manufacturing and distribution areas and purchase and installation of new machinery and equipment to increase production capacity and meet customer demands.

Results: The project will retain 565 existing jobs and create 30 new jobs

Grantee Contact: Ms. Mary McCormick, Senior Finance Manager  
3175 Staley Road  
Grand Island, New York 14072  
Phone: (716) 774-6805

ESD Project No.: Z622

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 \$600,000 capital grant (\$6,000) 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. 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.
4. 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.

5. Up to \$600,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$300,000) upon completion of the project substantially as described in these materials, including a Certificate of Occupancy or other documentation verifying project completion as ESD may require, documentation of project expenditures totaling \$20 million, including purchase and installation of \$7.6 million in machinery and equipment; and documentation of the employment of at least 565 Full-time Permanent Employees 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 (\$150,000) will be disbursed upon documentation of the employment of at least 580 Full-time Permanent Employees at the Project Location (Employment Increment of 15), provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$150,000) will be disbursed upon documentation of the employment of at least 595 Full-time Permanent Employees at the Project Location (Employment Increment of 15), 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. Expenditures must be incurred on or after December 30, 2014, to be considered eligible project costs. All disbursements must be requested by April 1, 2019.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$600,000, 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	565
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A	B
Reporting Date	Employment Goals
February 1, 2017	565+X+Y
February 1, 2018	565+X+Y
February 1, 2019	565+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=15, and Employment Goals shall equal [565 + X = 580] 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=15, and Employment Goals shall equal [565 + X + Y = 595] 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.

- 8. 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

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 565 and create 30 new jobs.

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

Without ESD assistance, this project would not have been feasible.

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

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.

#### Business Investment

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 \$3,511,048;
- Fiscal cost to NYS government is estimated at \$600,000;
- Project cost to NYS government per direct job is \$25,000;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$5,664;
- Ratio of project fiscal benefits to costs to NYS government is 5.85:1;

- Fiscal benefits to all governments (state and local) are estimated at \$6,070,348;
- Fiscal cost to all governments is \$600,000;
- All government cost per direct job is \$25,000;
- All government cost per total job is \$5,664;
- The fiscal benefit to cost ratio for all governments is 10.12:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$46,489,192, or \$438,849 per job (direct and indirect);
- The economic benefit to cost ratio is 77.48:1;
- Project construction cost is \$12,896,000, which is expected to generate 114 direct job years and 73 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 3.42 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is two year.

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

The Town of Grand Island, 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 an Unlisted Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on March 16, 2015. 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 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% 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

Grand Island (Western New York Region – Erie County) – Life Technologies 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 Life Technologies 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 Life Technologies Corporation a grant for a total amount not to exceed Six Hundred Thousand Dollars (\$600,000) 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.

\* \* \*

October 20, 2016

Grand Island (Western New York Region –Erie County) – Life Technologies 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 Life Technologies Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*





Life Technologies Capital Z622

August 2015 – Pre-Construction



August 2016 – Post-Construction



Liter tank and parts washer



Filter skid



# **Item II. G.**



FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Regional Council Award – New York (New York City Region – New York County) – City of New York - Brownfield Cleanup 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;

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General Project Plan

I. Project Summary

Grantee: The City of New York through the Mayor's Office of Environmental Remediation ("OER")

ESD\* Investment: A grant of up to \$500,000 to be used for a portion of the cost of cleanup activities on 24 Brownfield projects throughout the five boroughs

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

Project Locations: Various Brownfield Sites, New York, New York County  
400 Rider Avenue, Bronx  
Broadway Plaza, Bronx  
801-849,881-885 Gunhill Road, Bronx  
715 East 214<sup>th</sup> Street, Bronx  
925 Hunts Point Avenue, Bronx  
1825 Boston Road Crotona Terrace, Bronx  
4-12 Gouverneur Place, Bronx  
Loring Place North Apartments, Bronx  
3357-3361 Third Avenue, Bronx  
470 Driggs Avenue, Brooklyn  
538 Union Avenue, Brooklyn

60 Water Street, Brooklyn  
 1309-1321 38<sup>th</sup> Street, Brooklyn  
 291 Metropolitan Avenue, Brooklyn  
 5102 First Avenue, Brooklyn  
 321-324 West 35<sup>th</sup> Street, Manhattan  
 90-14 161<sup>st</sup>, Queens  
 224-01 Merrick Boulevard, Queens  
 25-10 38<sup>th</sup> Avenue, Queens  
 47-27 5<sup>th</sup> Street, Queens  
 37-10 Crescent Street, Queens  
 51-27 Queens Boulevard, Queens  
 102-14/102-16 Liberty Avenue, Queens  
 59, 63, 67 Fillmore Street, Staten Island

Proposed Project: New York State Regional Economic Development Council (“REDC”) Brownfield Cleanup Grants to fund cleanup activities on 24 Brownfield project sites in low-income and underserved communities throughout all five boroughs. Developers were awarded \$25,000 per project, and received bonus grants for those projects supported by Brownfield Opportunity Area plans or located in Zone A flood zones.

Project Type: Brownfield Remediation

Regional Council: The project is consistent with the New York City Regional Plan to improve quality of life. Vacant brownfield properties represent one of the most significant impediments to economic recovery in low-income communities. Brownfield Cleanup and Redevelopment Grants help reverse the environmental injustice caused by the clustering of brownfields in low-income communities by helping to offset the high cost of cleanup.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Brownfield Cleanup	\$3,246,257	
Grant Administration	<u>118,904</u>	
Total Project Costs	<u>\$3,365,161</u>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$500,000	15%
Grantee Equity	<u>2,865,161</u>	<u>85%</u>
Total Project Financing	<u>\$3,365,161</u>	<u>100%</u>

### III. Project Description

#### A. Grantee

Industry: Municipality

Grantee History: The Mayor's Office of Environmental Remediation was established in 2009. The Office was established to design, build, and operate a set of world class municipal programs to advance the cleanup and redevelopment of brownfield sites.

Ownership: Municipal Agency

Size: All facilities are located in New York, NY.

ESD Involvement: The REDC was established to provide grant assistance for the development of brownfield projects in low-income communities by lowering the cost of cleanup in order to make development more competitive. OER offers NYC-funded cleanup grants for projects enrolled in low-income neighborhoods and OER favors these projects by doubling the total monetary award of the grant. However, City funding is limited and total grant awards are considerably lower than the actual cost of remediation. As a result of the Governor's Regional Economic Development Council Initiative, OER was awarded \$500,000 through Round 2 of the Consolidated Funding Application to assist with this project. ESD funds provided an important source of additional funds to bridge the gap in financing.

Past ESD Support: In the past five years the City of New York has received 10 grants totaling \$31,298,487 for capital, working capital, and brownfield remediation projects.

#### B. The Project

Completion: January 2016

Activity: The Grantee awarded 24 grants for brownfield remediation in low-income neighborhoods throughout New York City.

Results: The cleanup initiative has paved the way for construction of 364,881 square feet of retail and commercial space; 91,599 square feet of office and hotel space; 61,913 square feet of community facility space; and 641 affordable housing units. These projects are expected to result in 1,925 construction jobs and 883 full-time equivalent permanent jobs.

Developers who received grants include Platinum Development Realty, LLC; Two Trees Management; Napa Realty Corp.; and Praxis Housing Initiatives, Inc. Highlighted projects include 189 West 230<sup>th</sup> Street in the Bronx. Prior to cleanup work, the project site was used as a parking lot for at least sixty-five years. A total of 9,960 tons of contaminated soil was excavated, removed, and properly disposed of. Today, the project site has a variety of vibrant commercial and retail stores, including, TJ Maxx, Five Below, Party City, and Starbucks. 90-14 161<sup>st</sup> Street in Queens was a vacant site with no building structures. A total of 11,430 tons of contaminated soil was excavated, removed, and properly disposed of. Today, the project site has a dental office, a Tex-Mex restaurant, office space and 100 units of affordable housing. This project achieved the highest level of clean-up in the State of New York.

### 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 \$144,476;
- Fiscal cost to NYS government is estimated at \$500,000;
- Ratio of project fiscal benefits to costs to NYS government is 0.29:1;
- Fiscal benefits to all governments (state and local) are estimated at \$309,933;
- Fiscal cost to all governments is \$500,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 0.62:1;
- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at \$1,959,767;
- The economic benefit to cost ratio is 3.92:1;
- Project construction cost is \$3,246,257 which is expected to generate 16 direct job years and 8 indirect job years of employment;

- The payback period for NYS costs is one year.

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

Grantee Contact: Daniel Walsh  
Director, NYC Mayor's Office of Environmental Remediation  
100 Gold Street  
New York, NY 10038  
Phone: (212) 676-0386

ESD Project No.: Y286

Project Team:	Origination	Lauren Bierman
	Project Management	Arturo Rodriguez
	Contractor & Supplier Diversity	Denise Ross
	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 \$500,000 capital grant (\$5,000) 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 \$500,000 will be disbursed in a lump sum to Grantee upon documentation of project costs totaling \$3,300,000, upon completion of the project substantially as described in these materials, and documentation of the substantial completion of environmental cleanup on approximately 25 sites assuming that all project approvals have been completed and funds are available. ESD's disbursement per individual site shall not exceed \$40,000. 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 19, 2012, 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 \$500,000, 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 – Regional Council Capital Fund

The funding was authorized in the 2012-2013 New York State budget and reappropriated in the 2013-2014, 2014-2015, 2015-2016, and 2016-2017 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 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 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 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

October 20, 2016

Regional Council Award – New York (New York City Region – New York County) – City of New York - Brownfield Cleanup 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 City of New York - Brownfield Cleanup 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 New York c/o Mayor's Office of environmental Remediation 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 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.

\* \* \*



**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**Infrastructure Investment  
City of New York - Brownfield Cleanup Capital**

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): 16**

**Construction Job Years (Indirect): 8**

<b>Evaluation Statistics</b>	<b>Project Result NYS Govt.</b>	<b>NYS Govt. Benchmarks for ESD Projects<sup>2</sup></b>	<b>Project Results State &amp; Local Governments</b>	<b>State &amp; Local Government Benchmarks for ESD Projects</b>
<b>Fiscal Costs<sup>3</sup></b>	\$500,000	\$794,250	\$500,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$144,476	\$2,085,600	\$309,933	\$4,271,980
<b>Fiscal B/C Ratio</b>	0.29	3.00	0.62	10.60
	<b>Project Results</b>	<b>Benchmarks for ESD Projects</b>		
<b>Economic Benefits<sup>5</sup></b>	\$1,959,767	\$119,468,000		
<b>Economic B/C Ratio</b>	3.92	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.

**Item II. H.**



**FOR CONSIDERATION**

**October 20, 2016**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Priority Project – Watkins Glen (Southern Tier Region – Schuyler County) – Watkins Glen International 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:** Watkins Glen International, Inc. (“The Glen” or the “Company”)

**ESD\* Investment:** A grant of up to \$2,000,000 to be used for a portion of the cost of conduction and renovations

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

**Project Location:** 2790 County Route 16, Watkins Glen, Schuyler County

**Proposed Project:** Infrastructure improvements to a premier sports facility that will bolster the tourism industry in the Southern Tier region

**Project Type:** Infrastructure Improvements involving job retention

**Regional Council:** The project is consistent with the Southern Tier Regional Economic Development Plan to support strategic investments in infrastructure that will help bolster economic growth in the regions tourism economy.

**Employment:**

Initial employment at time of ESD Incentive Proposal:	77
Current employment level:	77
Minimum employment through January 1, 2020:	77

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Construction/ Renovations	<u>\$10,760,000</u>	
Total Project Costs	<u>\$10,760,000</u>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant (#AA041)	\$2,000,000	19%
ESD-Grant (#Z686)*	\$250,000	2%
Company Equity	<u>\$8,510,000</u>	<u>79%</u>
Total Project Financing	<u>\$10,760,000</u>	<u>100%</u>

\* To be presented to the Directors separately at today's meeting

## III. Project Description

### A. Company

Industry: Tourism/Automobile Racetrack

Company History: Founded in 1948, the Glen is an automobile race track located near Watkins Glen, New York, at the southern tip of Seneca Lake. In 1956, a 2.3-mile permanent circuit (the "track") was built and international competition began in 1958 with the running of a Formula Libre race. Expanded in 1971, the track brought a wide variety of competition including the Can-Am, Trans-Am, Six Hours, Formula 5000 and CART Indy Car series. As a result of financial difficulties and bankruptcy, the track was closed in 1981. The track was long known around the world as the home of the United States Grand Prix, which it hosted for twenty consecutive years (1961-1980), but since 1948 the track has been home to road racing of nearly every class, including Formula One, the World Sportscar Championship, Trans-Am, Can-Am, NASCAR Sprint Cup Series, and the Indy Car Series. In early 1983, Corning Enterprises purchased the track and partnered with International Speedway Corporation to form Watkins Glen International, Inc.

Ownership: Watkins Glen International Inc. is a privately-owned company that operates as a subsidiary of International Speedway Corp.

Size: All facilities are located in Watkins Glen, NY.

Market: United States and Canada

**ESD Involvement:** The Company applied for funding through Round 4 of the Consolidated Fund Application ("CFA"). The CFA was submitted to secure necessary funding in order to offset the high infrastructure development costs due to poor conditions of the existing racetrack. As a result, Watkins Glen International, Inc. was awarded a \$2,000,000 Regional Council Capital Fund award and a \$250,000 Market NY award for infrastructure improvements.

**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 Director's Approval Date)	Date End (Project Completion Contract Expiration)	Purpose
LOCAL ASST (S)	AA244	\$150,000	12/17/15	August 31, 2016	Implement a tourism campaign focused on attracting out-of-state travelers to upstate New York
EDF	W965	\$250,000	04/21/11	April 29, 2012	Marketing of its Indy Racing League event through advertising/promotions, operations expense, site set-up, portable equipment rental, and entertainment.
LOCAL ASST (S)	Z277	\$149,995	06/27/14	March 26, 2015	Advertising campaign promoting tourism in the Finger Lakes region that reaches Canadian travelers from Southern Ontario.

**B. The Project**

**Completion:** April 2016

**Activity:** The Company completed infrastructure improvements to a premier road race sports facility consisting of a 3.4 mile asphalt and concrete paved road course. The infrastructure improvements consisted of removal and replacement of the existing track asphalt and concrete pavement, portions of the aprons/runoffs, and pit road pavement. The improvements to the sports facility will help to draw large scale tourism activity by attracting and retaining motorsport events in the Southern Tier.

**Results:** As a result of these infrastructure improvements, Watkins Glen International Inc. will retain 77 existing jobs and maintain its positions in the region as a versatile economic driver for the region's tourism industry.

**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 \$730,072;
- Fiscal cost to NYS government is estimated at \$2,000,000;
- Ratio of project fiscal benefits to costs to NYS government is 0.37:1;
- Fiscal benefits to all governments (state and local) are estimated at \$1,271,676;
- Fiscal cost to all governments is \$2,000,000;
- Ratio of project fiscal benefit to cost to all governments is 0.64:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$9,236,138;
- The economic benefit to cost ratio is 4.62:1;
- Project construction cost is \$10,760,000, which is expected to generate 134 direct job years and 54 indirect job year of employment;
- The payback period for NYS costs is five year.

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

**Grantee Contact:** Michael Printup, President  
2790 County Route 16  
Watkins Glen, NY 14891  
Phone: (607) 535-9385

**ESD Project No.:** AA041

Project Team:	Origination	Joseph Roman
	Project Management	Omar Sanders
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Jonevan Hornsby
	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 2,000,000 capital grant (\$20,000) 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. 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.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent or Contract 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. A Contract Employee shall mean a full-time private sector employee (or self-employed person) who is not on the Grantee's payroll but who works exclusively for the Grantee at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks, providing services that would otherwise be provided by a Full-time Permanent Employee. The position held by a Full-time Contract Employee must be a year-round position.
5. Up to \$2,000,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$1,000,000) upon completion of the project, as evidence by a certificate of occupancy

and/or other documentation verifying project completion as ESD may require, documentation of project costs totaling \$10,760,000, and documentation of employment of at least 77 Full-time Permanent Employees and Contract Employees at the Project Location, assuming that all project approvals have been completed and funds are available;

- b) a Second Disbursement of 25% of an amount equal to the grant (\$500,000) will be disbursed no sooner than 12 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 77 Full-time Permanent Employees and Contract Employees at the Project Location, provided Grantee is otherwise in compliance with program requirements;
- c) a Third Disbursement of an amount equal to 25% of the grant (\$500,000) will be disbursed no sooner than 24 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 77 Full-time Permanent Employees and Contract Employees at the Project Location, 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 must be incurred on or after July 14, 2015, to be considered eligible project costs. All disbursements must be requested by April 1, 2018.

- 6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$2,000,000 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.
- 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 and Contract Employees 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 and Contract 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	77
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A	B
Reporting Date	Employment Goals
February 1, 2017	77
February 1, 2018	77
February 1, 2019	77
February 1, 2020	77

IV. Statutory Basis – Regional Council Capital Fund

The funding was authorized in the 2014-2015 New York State budget and reappropriated in the 2015-2016 and 2016-2017 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 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 40% 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

October 20, 2016

Regional Council Award – Priority Project – Watkins Glen (Southern Tier Region – Schuyler County) – Watkins Glen International 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 Watkins Glen International Capital -- Regional Council Capital Fund (Capital 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 Watkins Glen International, Inc. a grant for a total amount not to exceed Two Million Dollars (\$2,000,000) 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 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.

\* \* \*

October 20, 2016

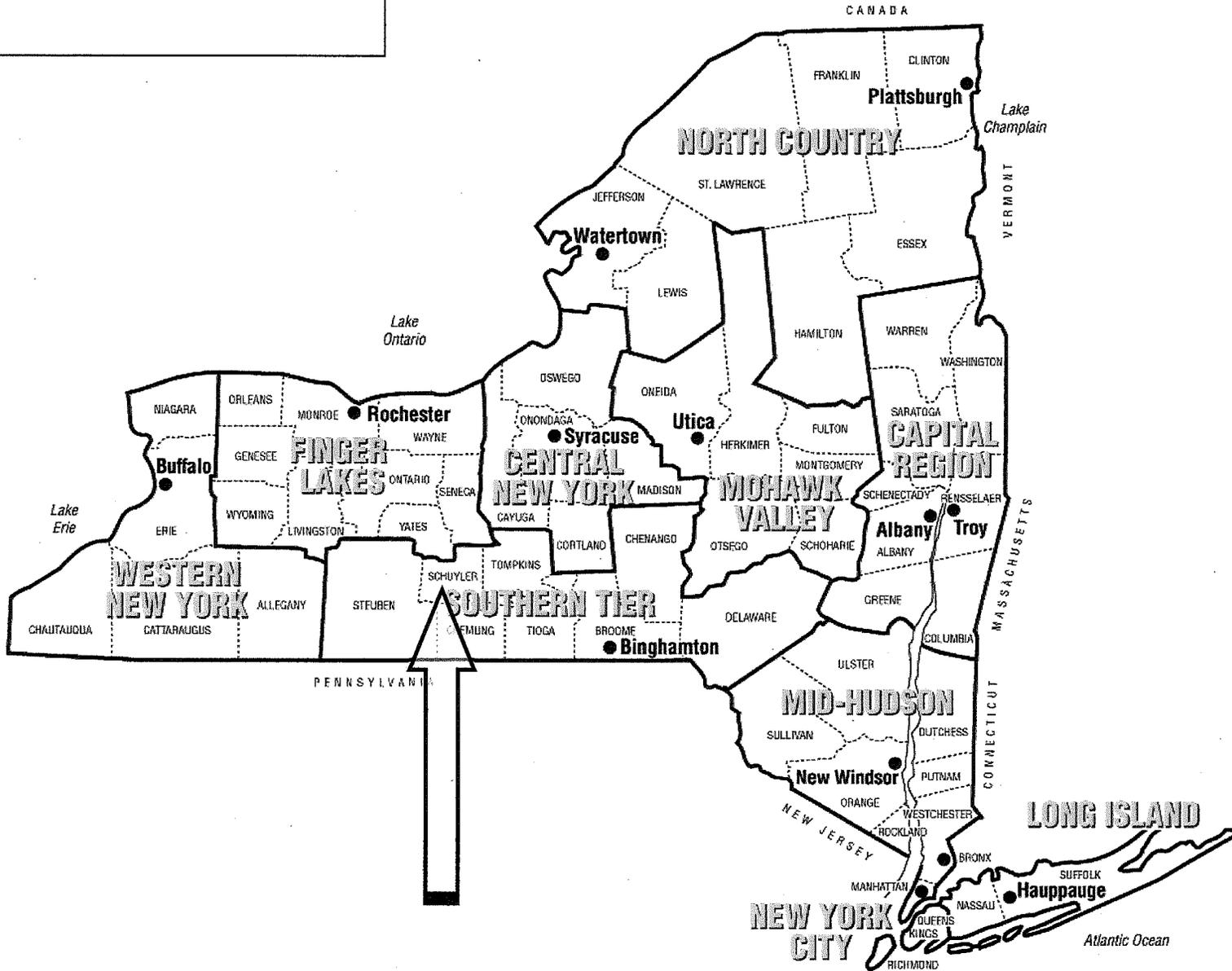
Regional Council Award – Priority Project – Watkins Glen (Southern Tier Region – Schuyler County) – Watkins Glen International Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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

\* \* \*

Watkins Glen International Capital  
Watkin Glen  
Schuyler County



**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**Watkins Glen International Capital – Infrastructure 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.

<b>Initial Jobs:</b>	<b>77</b>	<b>Construction Job Years (Direct):</b>	<b>134</b>
<b>New Jobs:</b>	<b>0</b>	<b>Construction Job Years (Indirect):</b>	<b>54</b>

<b>Evaluation Statistics</b>	<b>Project Results NYS Gov't.</b>	<b>NYS Gov't. Benchmarks<sup>2</sup></b>	<b>Project Results State &amp; Local Government</b>	<b>State &amp; Local Government Benchmarks</b>
<b>Fiscal Costs<sup>3</sup></b>	\$2,000,000	\$794,250	\$2,000,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$730,072	\$2,085,600	\$1,271,676	\$4,271,980
<b>Fiscal B/C Ratio</b>	0.37	7.00	0.64	10.60
	<b>Project Results</b>	<b>Benchmarks</b>		
<b>Economic Benefits<sup>5</sup></b>	\$9,236,138	\$119,468,000		
<b>Economic B/C Ratio</b>	4.62	75.00		

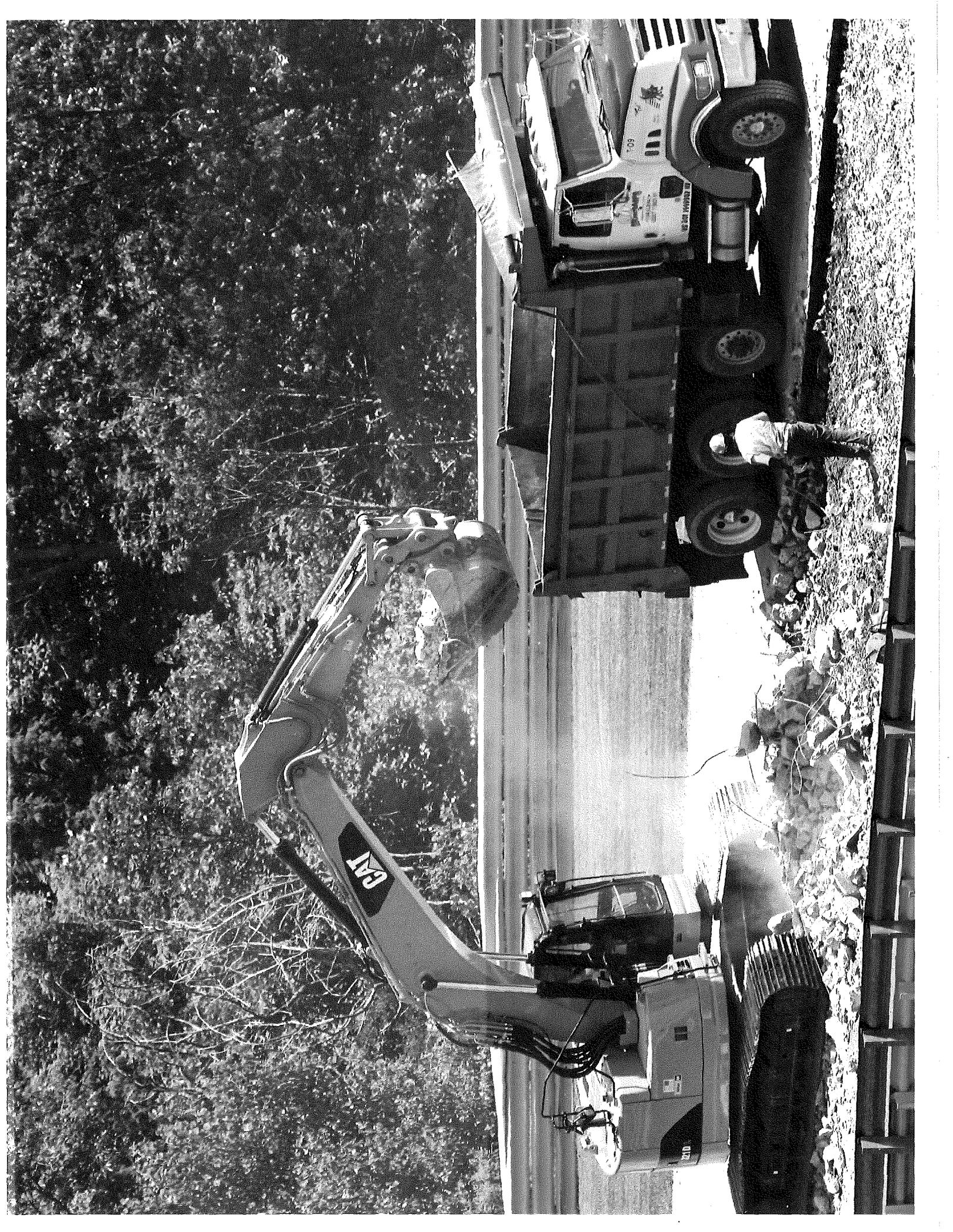
<sup>1</sup> Dollar values are present value calculated over a 7-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

<sup>2</sup> 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).

<sup>3</sup> 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).

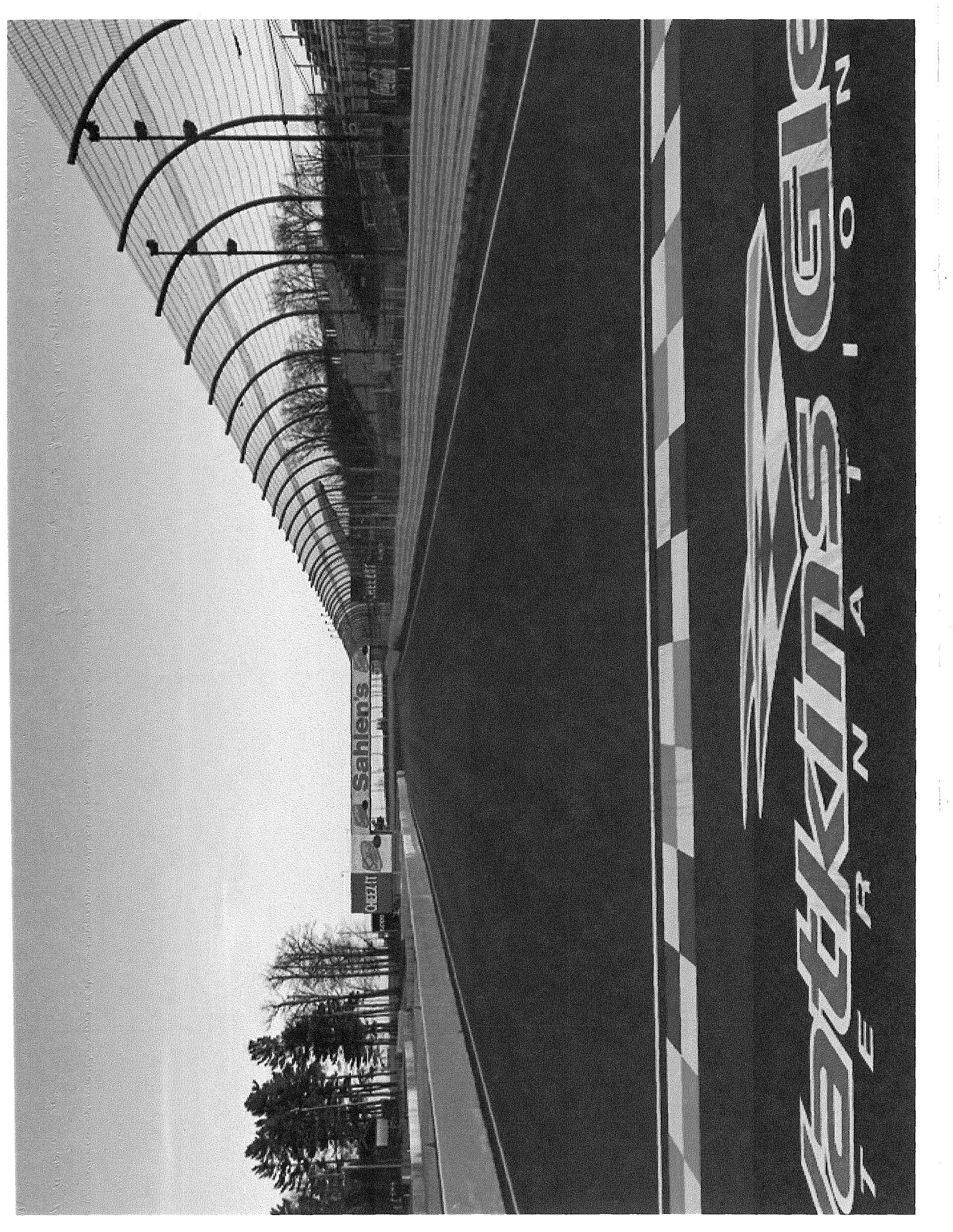
<sup>4</sup> Fiscal benefits are the loan repayments and tax revenues to New York State and Local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect employment, corporate and business incomes, excise and user taxes, property taxes,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

<sup>5</sup> 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.





CORNING BULLY HILL VINEYARDS



**Sahien's**

**Sahien's**

**Item II. I.**



**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Priority Project – Utica (Mohawk Valley Region – Oneida County) – Harbor Point 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; Adoption of Findings Pursuant to the State Environmental Quality Review Act

---

**General Project Plan**

**I. Project Summary**

**Grantee:** City of Utica (“Utica” or the “City”)

**Beneficiary:** Utica Harbor Point Development Corporation (“UHPDC”)

**ESD\* Investment:** A grant of up to \$5 million to be used for a portion of the cost of environmental planning, remediation, land acquisition, and site work

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

**Project Location:** Harbor Point, Utica, Oneida County

**Proposed Project:** Environmental remediation of Harbor Point, including preparation of a Generic Environmental Impact Statement (“GEIS”), land acquisition, and site improvements, including demolition and installation of water and sewer infrastructure

**Project Type:** Infrastructure

**Regional Council:** The project is consistent with the Mohawk Valley Regional Economic

Development Council Plan, Strategy 4 , which includes: 1) Make key investments that improve critical infrastructure assets and promote sustainability; 2) Use the region’s natural resources in an environmentally sound manner; 3) Leverage unique historic character and assets including canal corridor and waterfront development initiatives to promote tourism; 4) Promote investment in regional cores, municipal centers, central business districts to foster community development/revitalization; and 5) Promote brownfield development and reuse of vacant building stock.

**II. Project Cost and Financing Sources**

<u>Financing Uses</u>	<u>Amount</u>
Real Estate Acquisition	\$1,000,000
Construction/Renovation	3,900,000
Planning & Engineering	1,085,000
Contractual Services	<u>115,000</u>
<b>Total Project Costs</b>	<b><u>\$6,100,000</u></b>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$5,000,000	82%
Grantee Equity*	<u>1,100,000</u>	<u>18%</u>
<b>Total Project Financing**</b>	<b><u>\$6,100,000</u></b>	<b><u>100%</u></b>

\* Includes funds from Utica Harbor Point Development Corporation (“UHPLDC”), the City’s partner in the project.

\*\* National Grid is spending an additional \$23 million on remediation-related work, which must be documented before the final 10% of ESD’s grant is released.

**III. Project Description**

**A. Grantee**

**Grantee History:** Located on the Mohawk River at the foot of the Adirondack Mountains, Utica has a population is 62,235 based on the 2010 census. Formerly a river settlement inhabited by the Mohawk tribe of the Iroquois Confederacy, Utica attracted immigrants the 19th century as a layover city between Albany and Syracuse on the Erie and Chenango Canals and the New York Central Railroad. During the 19<sup>th</sup> and 20<sup>th</sup> centuries, the City was a manufacturing center and a worldwide hub for the textile industry. Like other Rust Belt cities, Utica had an economic downturn beginning in the mid-20th century, consisting of industrial decline due to globalization and the closure of textile mills, population loss and poverty associated with socioeconomic stress and a decreased tax base. With its

low cost of living, the City has today become a melting pot for refugees from war-torn countries around the world, growing its colleges and universities, cultural institutions and economy.

Utica Harbor Point Development Corporation was established to oversee the redevelopment of the Utica Harbor.

**Ownership:** Utica is a municipality. Utica Harbor Point Development Corporation is a local development corporation.

**Size:** All facilities are located in Utica, NY.

**ESD Involvement:** The Utica Harbor is a historical landmark along the Erie Canal with the potential to become a destination attraction. A vestige of the great New York State (“NYS”) Canal System, the Utica Harbor is envisioned to both celebrate the past and also become a new economic engine accommodating private investments including commercial, retail, and mixed uses, food/restaurant establishments, and entertainment venues. The site is within walking distance of Utica’s downtown less than one mile from the NYS Thruway exit.

The City needed funds to prepare the site for redevelopment in accordance with the Harbor Master Plan. Because project of this scope and significance could not proceed entirely with City or UHPDC funds, Utica pursued ESD funds to close a financing gap. As a result of the Governor’s Regional Economic Development Council initiative, the City was awarded a \$5 million capital grant through Round 3 of the Consolidated Funding Application (“CFA”) process, which allowed the project to proceed.

**Competition:** N/A

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

**B. The Project**

**Completion:** June 2018

**Activity:** The project builds on the Utica Harbor Master Plan (the “Master Plan”), funded under a 2011 CFA grant from the NYS Department of State, and consists of the following elements:

- State Environmental Quality Review Act review including preparation of a Generic Environmental Impact Statement.
- Phase 1A and 1B Cultural Resource Investigations.
- Improvements at Wells and Wurz Avenues to promote connectivity

from North Genesee Street.

- The closure of Dredge Spoils Area #1 (DSA-1)
- Site assemblage/property acquisition; and
- Engineering and planning including a Phase II Environmental Site Assessment, floodplain hydrologic study, bulkhead repair/replacement preliminary evaluation, and planning or programming studies for the potential recreation uses of Harbor Point (west side of harbor) including the "Parthenon" building; and
- The co-existence or removal of Canal Corporation facilities, construction of a public marina, and private development.

Further implementation of the Master Plan includes the remediation by National Grid of over 100 acres of land at the former manufactured gas plant site on the west side of the harbor, and conveyance by the NYS Canal Corporation to the City or UHPDC of approximately 20 acres of land on the east side of the harbor in accordance with state legislation passed in 2008. It is anticipated that the City, UHPDC, National Grid, and Canal Corporation, working cooperatively and in partnership, can benefit economically from this project.

**Results:**

The project offers an historic opportunity to expand the local economy, provide job opportunities and expand tourism and recreation. The project is a critical part of larger efforts to cleanup and redevelop the underutilized harbor area for public use and private investment. The final outcome will be a destination attraction that will celebrate the rich history and engineering marvel of the Erie Canal's industrial heyday.

**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.

- Fiscal benefits to NYS government from the project are estimated at \$291,066;
- 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 \$498,170;

- Fiscal cost to all governments is \$5,000,000;
- The ratio of project fiscal benefit to cost ratio to all governments is 0.10:1;
- Economic benefits (total fiscal plus total net resident disposable income from project construction employment) are estimated at \$3,576,501;
- The economic benefit to cost ratio is 0.72:1;
- Project construction cost is \$4,985,000 which is expected to generate 55 direct job years and 25 indirect job years of employment;
- The payback period for NYS costs is one year.

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

Grantee Contact: Brian Thomas, AICP, Commissioner,  
 Department of Urban and Economic Development  
 1 Kennedy Plaza  
 Utica, NY 13502  
 Phone: (315) 792-0181

ESD Project No.: Z182

Project Team:	Origination	Joseph Falcone
	Project Management	Edward Muszynski
	Contractor & Supplier Diversity	Denise Ross
	Finance	Jonevan Hornsby
	Environmental	Soo Kang
	Design & Construction	Marty Piecuch

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall pay a commitment fee of 1% of the \$5,000,000 capital grant (\$50,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee and/or Beneficiary 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 ESD's announcement of the project. 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.

4. The City of Utica, as Grantee, and the Utica Harbor Point Development Corporation, as Beneficiary, will enter into a Grant Agreement acceptable to ESD, setting forth roles and responsibilities associated with the project.
5. Up to \$5,000,000 will be disbursed to Grantee as reimbursement for eligible expenses during the course of design and/or construction no more frequently than quarterly, in compliance with the Design & Construction Requirements and in proportion to ESD's funding share, 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. The final 10% of the grant will be disbursed upon completion of the project, as evidenced by a certificate of completion or other documentation as required by the Design & Construction Requirements, and documentation of National Grid's additional project investment of \$23,000,000 at the site. ESD will require an affidavit or other documentation acceptable to ESD confirming National Grid's expenditures. Expenses reimbursed by ESD must be incurred on or after December 11, 2013, to be considered eligible project costs. All disbursements must be requested by April 1, 2018.
6. 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 – Regional Council Capital Fund

The project was authorized in the 2013-2014 New York State budget and reappropriated in the 2014-2015, 2015-2016, and 2016-2017 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Design and Construction

ESD staff will review the project budget, plans, specifications, along with the other documents that ESD may require for scheduled payment projects. Submission of Payment Requisitions to ESD will be made according to disbursement terms outlined in the Grant Disbursement Agreement.

#### VI. Environmental Review

ESD (the "Corporation"), pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the Final Generic Environmental Impact Statement ("FGEIS") certified as complete on February 17, 2016 by the City of Utica, as lead agency, for the Harbor Point Redevelopment project in connection with the Harbor Point Capital project (the "proposed action").

SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an FGEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Draft Generic Environmental Impact Statement ("DGEIS") and FGEIS relied upon to support the Corporation's decision on the action that is the subject of the requested authorization.

Due to the project site's inclusion in the State and National Registers of Historic Places, prior to the disbursement of any ESD funding, in accordance with Section 14.09 of the State Historic Preservation Act, the City of Utica will be required to provide an executed Letter of Resolution (LOR) documenting the formal agreement with SHPO to follow mitigation measures which will avoid or minimize adverse impacts on historic resources to the maximum extent practicable.

The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the DGEIS and FGEIS;
- 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 proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;
- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable;
- The proposed action is in compliance with Section 14.09 of the State Historic Preservation Act.

Therefore it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.

#### 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. 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 18 % related to the total value of ESD's funding.

IX. ESD Employment Enforcement Policy

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

X. 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.

XI. Additional Submissions to Directors

Resolutions  
New York State Map  
Benefit-Cost Analysis  
Exhibit A – SEQRA Findings Statement  
Project Finance Memorandum  
Master Plan Site Plan

October 20, 2016

Regional Council Award – Priority Project – Utica (Mohawk Valley Region – Oneida County) – Harbor Point 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 Harbor Point 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 the City of Utica a grant for a total amount not to exceed Five Million Dollars (\$5,000,000) 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.

\* \* \*

October 20, 2016

Regional Council Award – Priority Project – Utica (Mohawk Valley Region – Oneida County) – Harbor Point Capital – Regional Council Capital Fund (Capital Grant) – Adoption of Findings Pursuant to the State Environmental Quality Review Act

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RESOLVED, that with respect to the Harbor Point 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.

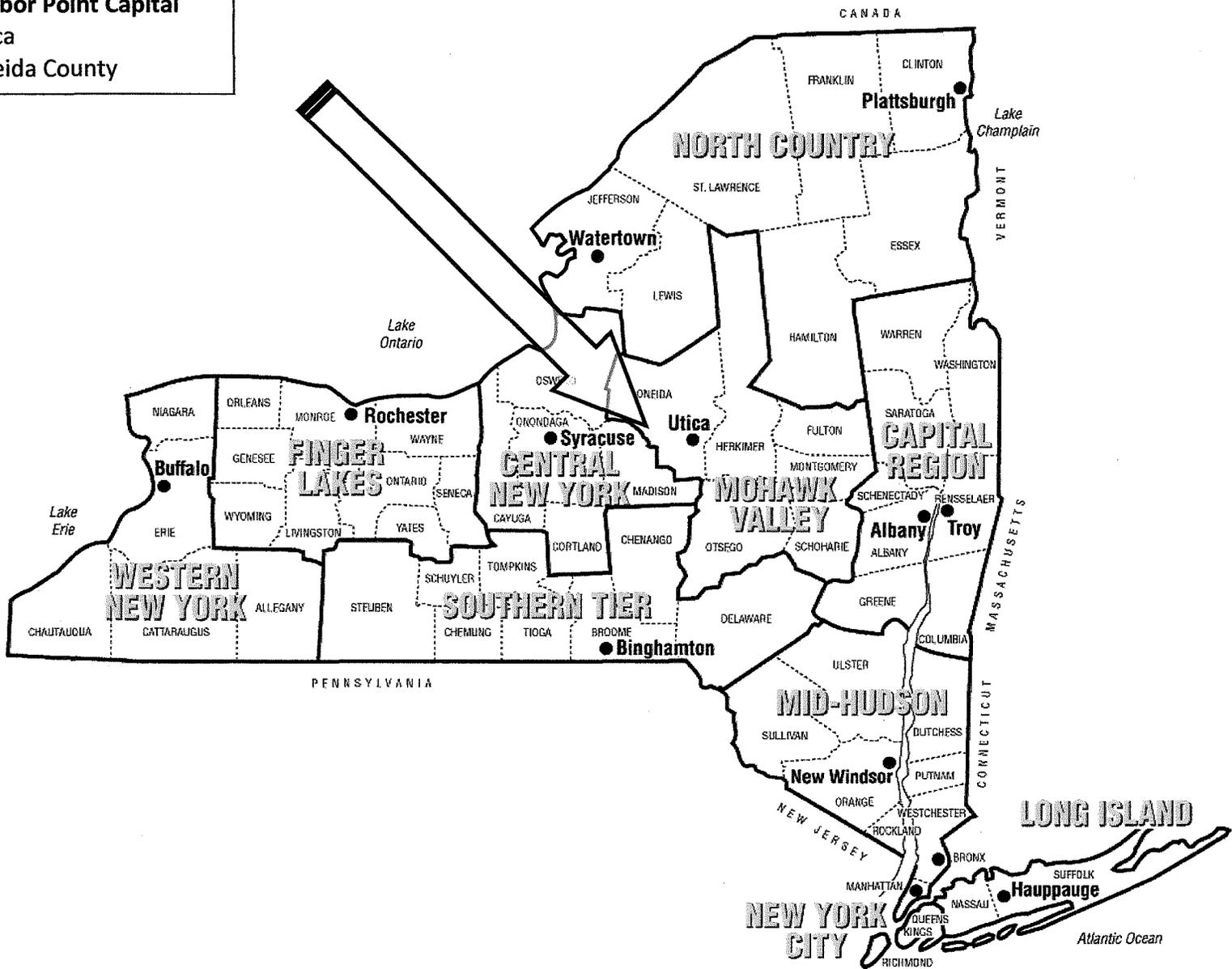
- The Corporation has given consideration to the Draft and Final Generic Environmental Impact Statement (“DGEIS” and “FGEIS”, respectively) prepared for the Harbor Point Redevelopment project;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department 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 FGEIS 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 FGEIS 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.

\*\*\*

**Harbor Point Capital**  
Utica  
Oneida County



**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**Infrastructure Project  
City of Utica /Harbor Point Capital**

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): 55**  
**Construction Job Years (Indirect): 25**

<b>Evaluation Statistics</b>	<b>Project Result NYS Govt.</b>	<b>NYS Govt. Benchmarks for ESD Projects<sup>2</sup></b>	<b>Project Results State &amp; Local Governments</b>	<b>State &amp; Local Government Benchmarks for ESD Projects</b>
<b>Fiscal Costs<sup>3</sup></b>	\$5,000,000	\$794,250	\$5,000,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$291,066	\$2,085,600	\$498,170	\$4,271,980
<b>Fiscal B/C Ratio</b>	0.06	3.00	0.10	10.60
	<b>Project Results</b>	<b>Benchmarks for ESD Projects</b>		
<b>Economic Benefits<sup>5</sup></b>	\$3,576,501	\$119,468,000		
<b>Economic B/C Ratio</b>	0.72	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.

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.



## EXHIBIT A

### STATE ENVIRONMENTAL QUALITY REVIEW

#### INVOLVED AGENCY FINDINGS STATEMENT

Pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act ["SEQRA"]) and 6 NYCRR Part 617, the New York State Urban Development Corporation ("UDC") d/b/a Empire State Development ("ESD"), as an involved agency under SEQRA, makes the following findings based on the Final Generic Environmental Impact Statement issued on February 17, 2016 for the Harbor Point Redevelopment Project.

**Name of Action:** Harbor Point Capital

**SEQRA Classification:** Type I

**Lead Agency:** City of Utica

#### **Description of Proposed Action, Project and Location:**

Empire State Development has received a funding request from the City of Utica for the Harbor Point Redevelopment Project (the "Project") under the Regional Council Capital Fund program. The Proposed Action consists of ESD's authorization of funding to be used for a portion of cost of environmental planning, remediation, land acquisition, and site work for the Project. ESD is an involved agency in the SEQRA review of the Project due to its role in providing grant funding.

The Proposed Action will facilitate the development of the Harbor Point Redevelopment Project. The project area encompasses approximately 148 acres of land located within the City of Utica and proximal to the Erie Canal (Canal) and Mohawk River. The Project would consist of approximately 490,000 square feet of development for commercial (retail, lodging, office), cultural and residential uses. The project would be designed to emphasize Utica Harbor's history and connection to the Canal and waterfront through the construction of elements recognizing and maximizing the character and vibrancy of the historic canal. The Project would provide various year-round offerings and experiences, including restaurants, entertainment venues, retail stores, cultural attractions, public spaces, and increased access to the Harbor.

#### **Facts and Conclusions in the FGEIS Relied Upon to Support the Findings:**

1. This Findings Statement for the Harbor Point Redevelopment Project has been prepared in compliance with the SEQRA, codified at Article 8 of the New York Environmental Conservation Law ("ECL"), and its implementing regulations, promulgated at Part 617 of

Title 6 of the New York Codes, Rules and Regulations (“NYCRR”), which collectively contain the requirements for the State Environmental Quality Review (“SEQR”) process.

2. The City of Utica, as Lead Agency, made a determination that the Project was a Type I action pursuant to 6 NYCRR Part 617 and conducted a coordinated SEQR process, issuing a Draft Generic Environmental Impact Statement (“DGEIS”) on July 8, 2015 and a Final Generic Environmental Impact Statement (“FGEIS”) on February 17, 2016. The Lead Agency’s Findings Statement was issued on March 16, 2016.
3. ESD is an involved agency for the purposes of SEQR due to its funding approval under the Regional Council Capital Fund program. ESD’s involvement is the authorization of funding for the Project.
4. This Findings Statement is based upon facts and conclusions contained in the DGEIS and FGEIS. This SEQR Findings Statement represents ESD’s compliance with SEQR for the Project.
5. The potential effects of the Project were adequately analyzed and disclosed in the DGEIS and FGEIS for the Harbor Point Redevelopment Project. The Project, as currently contemplated, would not engender any new significant adverse environmental impacts not previously disclosed in the FGEIS.
6. The Project area is divided into lands currently owned by the NYS Canal Corporation (and operated as a canal maintenance facility and dredge spoils area), Harbor Point lands currently owned by National Grid and others who are coordinating a site-wide remediation effort of the former Manufactured Gas Plant site, and mixed land uses under private ownership along North Genesee Street. Past and current land uses including historical storage and dewatering of spoils dredged from the Barge Canal and harbor as well as spills and leaking tanks, and adjoining lands that are subject to remediation may have impacted subsurface conditions (ground water and soils), which may require management prior to or in support of redevelopment activities. During construction phase activities, there is the potential to encounter impacted soils and groundwater. The Project will be required to comply with use restrictions and other requirements associated with on-going remediation or restrictive covenants and/or deed restrictions placed on remediated lands. Coordination with National Grid, New York State Department of Environmental Conservation (NYSDEC) and private landowners will be required to identify use and schedule restrictions.
7. The Project has the potential to result in the following impacts related to geology, soils and topography:
  - Temporary disruption of soil profiles and exposure of bare soils; potential sediment transport to surface waters
  - Modifications of existing topography
  - Construction of facilities on unstable soils

- Disturbance and exposure of industrial impacted soils (including use restrictions associated with on-going remediation or restrictive covenants and/or deed restrictions placed on remediated lands)
- Minor alteration of the bathymetric profile of the harbor due to limited dredging
- Secondary impacts associated with importation of structural fill and exportation of spoils

Potential impacts will be minimized to the maximum extent practicable by implementing the following mitigation measures:

- Installation and maintenance of Erosion & Sedimentation Controls (E&SCs)
- Coverage (for disturbances 1 acre and >) under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002) including preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP)
- Weekly SWPPP inspections
- Management of spoils in accordance with applicable regulations
- Avoiding steep slope areas to the extent practicable
- Minimizing the amount of bare soil exposed at one time
- Using trench plugs and dewatering equipment to direct sediment laden water from dewatering operations to temporary sediment traps or other approved devices prior to discharge
- Restoration of construction sites
- Preloading (surcharging) of areas requiring importation of structural fill; rest and settlement monitoring in areas that require fills > 2 feet
- Design of foundations consistent with subsurface conditions; use of deep foundation and structural grade-level slab systems, which utilize driven piles; use of conventional shallow foundations consisting of footings and mats should not be planned for new building and structures
- Design of structures and associated infrastructure will be planned in conjunction with a geotechnical investigation evaluation tailored to the specific project and in compliance with Building Code requirements
- Projects should anticipate encountering and the need to manage impacted subsurface materials; means and methods to evaluate and manage soil and groundwater conditions should be available and alternative fill sources should be considered
- Compliance with NYSDEC-required use restrictions and institutional controls (i.e., NYS Canal Corporation Operation's Dredge Spoils Area-1 (DSA-1) and Harbor Point)
- Coordination with NYSDEC to modify commercial use restriction at DSA-1 to facilitate "restricted residential" before mixed use development can proceed
- Use of a cofferdam to perform work within the Barge Canal in dry conditions (i.e., rehabilitation or replacement of harbor walls)
- Use of floating booms and barriers within the canal to contain displaced silt, turbidity, sediment and debris

8. The Project has the potential to result in short-term, temporary impacts on common species and habitats during the construction phase and long-term habitat modifications due to

redevelopment activities. In addition, short-term impacts on aquatic species are anticipated during dredging and/or rehabilitation/replacement of harbor bulkheads. Potential impacts will be minimized to the maximum extent practicable by implementing the following mitigation measures:

- Implementation and maintenance of E&SCs
  - Acquisition of applicable permits for work within the Barge Canal
  - Restoration of disturbed areas, which are not converted to buildings and other impervious surfaces
  - Inclusion of landscaping features to provide habitat for common species; landscape design should promote use of non-invasive species
  - Adherence to US Fish and Wildlife Services' (USFWS) tree-cutting restrictions for the Indiana and Northern Long-Eared Bats (cutting allowed from October 1st through March 31st); cutting outside of that time range requires further consultation with USFWS
9. The Project has the potential to impact groundwater and surface water resources including the potential to encounter impacted groundwater due to former industrial uses and the potential to encroach on federal wetlands. Contractors will develop and implement a dewatering program to address the potential for contaminants; waters will be managed in accordance with State and federal requirements; and work within protected waterbodies will require State and federal permits. Encroachments on federal wetlands will require authorization from the US Army Corps of Engineers.
10. The planned development is within the floodplain fringe portion of the 100-year floodplain. For work within the 100-year floodplain, Floodplain Development Permits from the City will be acquired. In addition, redevelopment of DSA-1 will not include residential uses on the first floor pursuant to floodplain regulations and NYSDEC use restrictions. Flood proofing or the use of fill to raise elevations for development work and utilities located within the 100-year floodplain (in conjunction with the acquisition of floodplain development permits) shall be considered. On a development-by development basis there will be a potential need for supplemental hydraulic studies to demonstrate that projects will have no adverse effects on neighboring properties by altering the floodplain. In order to control harbor levels, the Project shall have continued use of NYS Canal Corporation's taintor gate dam located at the harbor's confluence with the Mohawk River. If necessary, to facilitate emergency egress during site operations and special events, coordination with Oneida County will be required regarding implementation of procedures outlined in the County's Comprehensive Emergency Management Plan.
11. Potential impacts due to increases in traffic accessing and egressing the redevelopment area will be minimized to the maximum extent practicable by widening Wells Avenue to provide a through/left turn lane and a right turn lane, and through the preparation of a signal warrant study as full build-out of the redevelopment area nears completion.

12. The Project has the potential to impact contributing resources within the State and National Registers of Historic Places listed New York State Historic Barge Canal Historic District including: transfer of NYS Canal Corporation lands to the Utica Harbor Point Development Corporation (as mandated by State legislation); restoration and subsequent use of the Main Shop (1933 Building); relocation or removal of the Freight House (1917 Building); removal of the Oil House; and rehabilitation or reconstruction of the harbor wall bulkheads.

Consultation with the State Historic Preservation Office (SHPO) will be required for restoration, rehabilitation, reconstruction, relocation or removal of any contributing resources, and for the proposed Project design. Prior to the disbursement of any ESD funding, in accordance with Section 14.09 of the State Historic Preservation Act, the City of Utica will be required to provide an executed Letter of Resolution (LOR) documenting the formal agreement with SHPO to follow mitigation measures which will avoid or minimize adverse impacts on historic resources to the maximum extent practicable.

A Phase IA/IB Cultural Resource Investigation was conducted and as part of the sensitivity assessment, the entire area of potential effects was subjected to a surface inspection designed to look for evidence of artifacts or cultural features; no evidence of pre-contact habitation was identified. In addition, the presence of Udorthents (soils typical in areas previously disturbed by cut and fill activities) and historical knowledge of site development activities suggest finding buried historic and prehistoric resources unlikely throughout the project area. Due to the extent of prior subsurface disturbance throughout the project site, no archaeological resources are expected to be encountered and thus, no significant adverse impacts on archaeological resources are expected. If artifacts are uncovered during construction activities, contractors will be required to contact SHPO and conduct any work in coordination with SHPO and in accordance with SHPO guidance.

## CERTIFICATION OF FINDINGS

Having considered the Draft and Final Generic Environmental Impact Statements, including the comments received on the DGEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, ESD finds and certifies that:

1. The requirements of Article 8 of the New York State Conservation Law and the implementing regulations of the New York State Department of Environmental Conservation, 6 NYCRR Part 617, have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the proposed action will minimize or avoid, to the maximum extent practicable, the significant adverse environmental effects including the effects disclosed in the FGEIS and set forth in this Findings Statement;
3. Consistent with the social, economic and other essential considerations described above, the significant adverse environmental impacts associated with the development of the Project which were identified in the FGEIS and in this Findings Statement will be avoided or minimized to the maximum extent practicable by incorporating as conditions the mitigation measures described in the FGEIS and in this Findings Statement; and
4. The Project is in compliance with Section 14.09 of the State Historic Preservation Act.

**Agency:** NYS Urban Development Corporation  
d/b/a Empire State Development

**Signature of Responsible Officer:** \_\_\_\_\_

**Name/Title of Responsible Officer:** Rachel Shatz  
Vice President, Planning & Environmental Review

**Date:** October 20, 2016



**Item II. J.**



FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Amsterdam (Mohawk Valley Region – Montgomery County) –  
Amsterdam Printing and Litho 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

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General Project Plan

I. Project Summary

Grantee: Amsterdam Printing and Litho, Inc. (“Amsterdam Printing” or the  
“Company”)

ESD\* Investment: A grant of up to \$2,500,000 to be used for a portion of the cost of  
building improvements and purchase of machinery and equipment for  
the primary facility in Amsterdam, NY

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

Project Locations: 166 Wallins Corners Road, Amsterdam, Montgomery County\*  
428 Cornith Rd., Queensbury, Warren County

\*Project activity site; other is job-retention site

Proposed Project: Construction and building renovation, purchase of machinery and  
equipment including furniture, fixtures and other equipment, employee  
training, and design and planning cost for building improvements to the  
Amsterdam facility

Project Type: Capital investment including job retention and creation

**Regional Council:** The Mohawk Valley Regional Economic Development Council has been made aware of this item. The project is consistent with the Mohawk Valley Regional Economic Development Plan to optimize business creation, retention and expansion, and supports advanced manufacturing.

**Employment:** Initial employment at time of ESD Incentive Proposal: 469  
 Current employment level: 493  
 Minimum employment on January 1, 2020: 508\*

\*39 new Full-time Permanent Employees at the Amsterdam facility, and retain 469 existing Full-time Permanent Employees including 365 at the Amsterdam project facility

**II. Project Cost and Financing Sources**

<u>Financing Uses</u>	<u>Amount</u>	
Construction/Renovation	\$1,815,000	
Machinery and Equipment including Furniture/Fixtures	7,200,000	
Employee Training	<u>985,000</u>	
<b>Total Project Costs</b>	<b><u>\$10,000,000</u></b>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD Grant	\$2,500,000	25%
Community Development Block Grant	1,000,000	10%
Company Equity	<u>6,500,000</u>	<u>65%</u>
<b>Total Project Financing</b>	<b><u>\$10,000,000</u></b>	<b><u>100%</u></b>

**III. Project Description**

**A. Company**

**Industry:** Manufacturer of promotional products, apparel and forms

**Company History:** Founded in 1898, Amsterdam Printing & Litho began as a one-man print shop in Amsterdam, N.Y. The Company specializes in promotional products, and manufactures and sells more than 3,000 promotional items, business forms and human resource products in the United States, Canada and Europe. It provides products for various businesses, including beauty salon, child care, academic, automotive, medical and real estate. It manufactures items, such as personalized pens, calendars, apparel, advertising specialties and office supplies for various themes, including

religious and inspirational, trade shows, American pride and golf. Amsterdam Printing & Litho is a full-service provider of business-to-business direct mail and imprinted promotional products.

- Ownership:** Privately held company wholly owned by Taylor Corporation.
- Size:** Amsterdam Printing headquarters are located in Amsterdam, NY. The Company's web graphic component is located in Queensbury, NY.
- Market:** Amsterdam Printing is the 11<sup>th</sup> largest promotional products distributor in the United States. Major customers include: Beech-Nut, Office Depot and Title One. Major competitors are: 4Imprint located in Wisconsin; National Pen located in California; Discount Mugs located in Florida, and Epromos located in New York and California.
- ESD Involvement:** While the number of small businesses has grown 49% since 1982, large corporations continue to merge and reduce the workforce. Amsterdam Printing has taken advantage of this growth by targeting small businesses as part of its sales strategy. In order to improve and add new production capabilities, the Company set measures to increase both sales and employment. Without assistance from New York State, Amsterdam Printing would accept an offer from New Jersey that would allow the Company to decrease the overall cost associated with staying in its current location. In May 2014, the Company was awarded a \$2.5 million Empire State Economic Development Fund grant and a \$750,000 Excelsior tax credit which allowed the project to proceed. As a result of the project, the Company will improve production efficiency and shorten lead times. The improvements will lead to cost savings, increased product offerings, improved production capacity, and faster order fulfillment. Also, those improvements will keep the Company more competitive in the market place, help maintain a 2-4% annual growth rate, and will help create additional jobs.
- Competition:** New Jersey
- Past ESD Support:** ESD Board of Directors has not approved funding for the past five years to the Grantee.

**B. The Project**

- Completion:** December 2018
- Activity:** The project consists of four phases at the Amsterdam facility:
- Phase 1-Approximately \$2.4 million in machinery and equipment critical to sustaining the current rate of production;

- Phase 2-Approximately \$4.1 million in machinery and equipment to increase efficiency and competitiveness;
- Phase 3-Approximately \$1.8 million in building construction and renovations, and
- Phase4-Approximately \$985,000 in employee training

The Company is currently working in Phase 2 of the project.

**Results:** The Company will retain 469 existing positions of which 365 will be retained at the Amsterdam project location, and create 39 new jobs at the Amsterdam project location.

**Grantee Contact:** Tim Broadhead, President  
166 Wallins Corners Road  
Amsterdam, New York 12010  
Phone: (518) 842-6000

**ESD Project No.:** Z204

<b>Project Team:</b>	Origination	Monique LeGendre
	Project Management	Javier Roman-Morales
	Contractor & Supplier Diversity	Denise Ross
	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 \$2,500,000 capital grant (\$25,000) 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. 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.
4. 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.

5. Up to \$2,500,000 will be disbursed to the Grantee in five installments as follows:
- a) an Initial Disbursement of an amount equal to 20% of the grant (\$500,000) upon completion of the project substantially as described in these materials, upon documentation of the employment of at least 365 Full-time Permanent Employees at the Amsterdam Project Location and 104 at the Queensbury Project Location, and documentation of project costs totaling \$2,000,000, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 20% of the grant (\$500,000) upon completion of the project substantially as described in these materials, upon documentation of the employment of at least 365 Full-time Permanent Employees at the Amsterdam Project Location and 104 at the Queensbury Project Location, and documentation of additional project costs totaling \$2,000,000, and, assuming that all project approvals have been completed and funds are available;
  - c) a Third Disbursement of an amount equal to 20% of the grant (\$500,000) upon completion of the project substantially as described in these materials, upon documentation of the employment of at least 380 Full-time Permanent Employees at the Amsterdam Project Location (Employment Increment of 15) and 104 at the Queensbury location, and documentation of additional project costs totaling \$2,000,000, assuming that all project approvals have been completed and funds are available;
  - d) a Fourth Disbursement of an amount equal to 20% of the grant (\$500,000) upon completion of the project substantially as described in these materials, upon documentation of the employment of at least 398 Full-time Permanent Employees at the Amsterdam Project Location (Employment Increment of 18) and 104 at the Queensbury Project Location, and documentation of additional project costs totaling \$2,000,000, assuming that all project approvals have been completed and funds are available; and
  - e) a Fifth Disbursement of an amount equal to 20% of the grant (\$500,000) upon completion of the project substantially as described in these materials, upon documentation of the employment of at least 404 Full-time Permanent Employees at the Amsterdam Project Location (Employment Increment of 6) and 104 at the Queensbury Project Location, documentation of additional project costs totaling \$2,000,000, 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 reimbursed by ESD's grant must be incurred on or after November 6, 2014, to be considered eligible project costs. All disbursements must be requested by April 1, 2021.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$2,500,000, 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	469*
<b>A</b>	<b>B</b>
Date	Employment Goals
February 1, 2018	469+X+Y+Z
February 1, 2019	469+X+Y+Z

February 1, 2020	469+X+Y+Z
February 1, 2021	469+X+Y+Z
February 1, 2022	469+X+Y+Z

**\*Retain 469 existing Full-time Permanent Employees, of which 365 will be retained at the Amsterdam Project Location. 39 new Full-time Permanent Employees to be created at the Amsterdam Project Location by January 1, 2020**

X = 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. X=15, and Employment Goals shall equal [469 + X = 484] 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 X=0.

Y = Grantee's Employment Increment that will be the basis of the Fourth Disbursement of the Grant as described in section C.5 above (i.e. Y=18, and Employment Goals shall equal [469 + X + Y = 502] if the Fourth Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Fourth Disbursement has not yet been made then Y=0.

Z = Grantee's Employment Increment that will be the basis of the Fifth Disbursement of the Grant as described in section C.5 above (i.e. Y=6, and Employment Goals shall equal [469 + X + Y = 508] if the Fifth Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Fifth 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 469 and create 39 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 New Jersey. 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 \$13,463,148;
- Fiscal cost to NYS government is estimated at \$2,500,000;
- Project cost to NYS government per direct job is \$6,302;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$3,818;
- Ratio of project fiscal benefits to costs to NYS government is 5.39:1;
- Fiscal benefits to all governments (state and local) are estimated at \$22,550,445;
- Fiscal cost to all governments is \$2,500,000;
- All government cost per direct job is \$6,302;
- All government cost per total job is \$3,818;
- The fiscal benefit to cost ratio for all governments is 9.02:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$179,082,268, or \$273,485 per job (direct and indirect);
- The economic benefit to cost ratio is 71.63:1;
- Project construction cost is \$1,815,000, which is expected to generate 20 direct job years and 9 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.44 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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 Company shall be required to include minorities and women in any job opportunities created, to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and to 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

October 20, 2016

Amsterdam (Mohawk Valley Region – Montgomery County) Amsterdam Printing and Litho 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 Amsterdam Printing and Litho 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 Amsterdam Printing and Litho, Inc. a grant for a total amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) 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

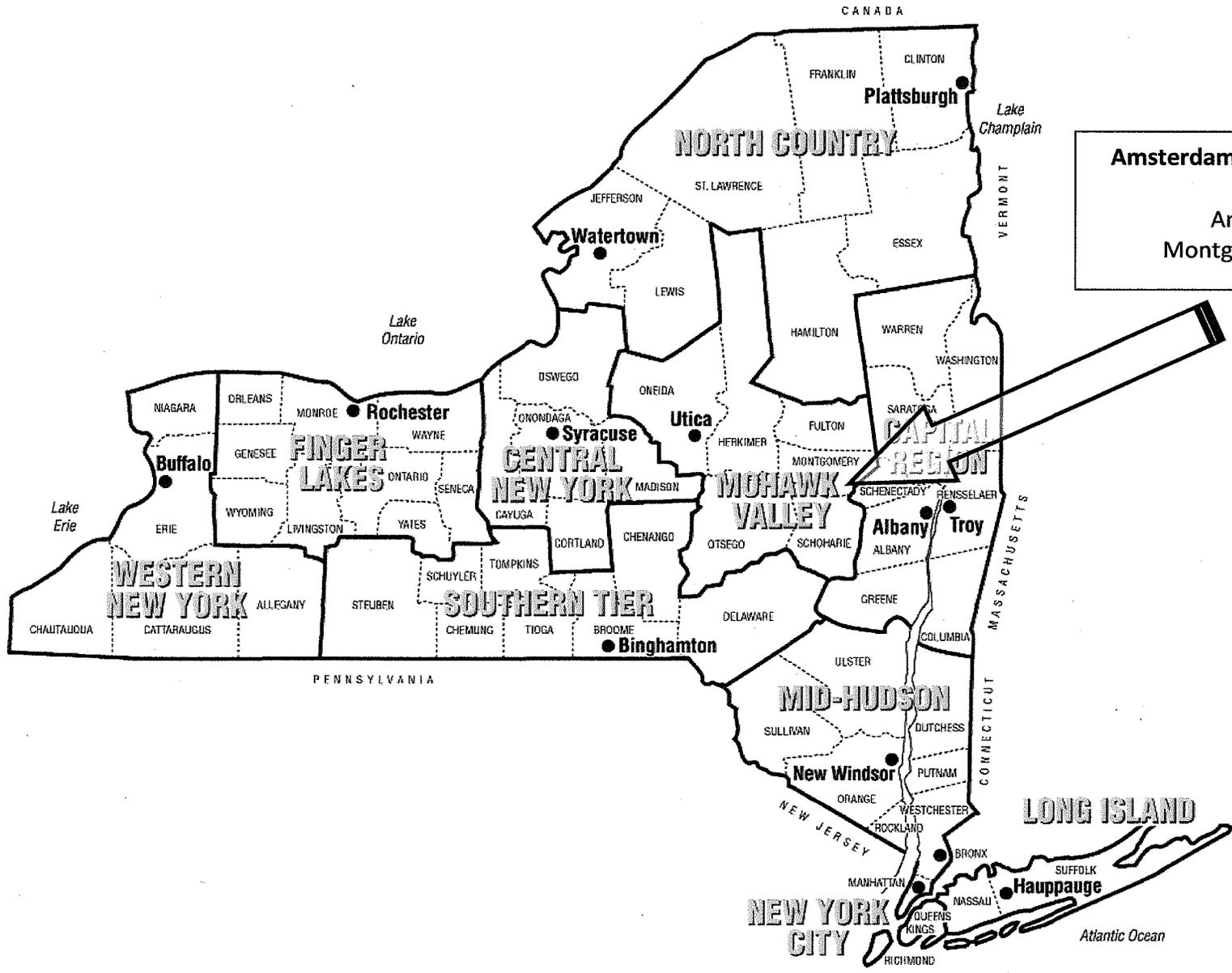
of funds and the approval of the State Division of the Budget; and be it further

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.

\* \* \*



Amsterdam Printing and Litho  
 Capital  
 Amsterdam  
 Montgomery County



**Item II. K.**



FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: East Syracuse (Central New York Region – Onondaga County) – Asher Productions Working Capital – Empire State Economic Development Fund – General Development Financing (Working Capital)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

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I. Project Summary

Grantee: Asher Productions, Inc. (“Asher” or the “Company”)

ESD\* Investment: A grant of up to \$1,100,000 to be used for a portion of the cost of production costs

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

Project Location: Central New York Film Hub (“CNY Film Hub”), 24 Aspen Blvd., East Syracuse, Onondaga County

Proposed Project: The filming and production of the movie "Asher" (the “Picture”) in and around New York City and the CNY Film Hub located in Onondaga County

Project Type: Working Capital

Regional Council: The Central New York Regional Economic Development Council (“CNYREDC”) has been made aware of this item. The project is consistent with CNYREDC’s plan to promote film production, and draw film producers to the region.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Production Costs	<u>\$2,900,000</u>

Total Project Costs	<u>\$2,900,000</u>
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<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$1,100,000	39%	
Company Equity	1,100,000	39%	
Bank Loan and/or Equity	<u>700,000</u>	<u>22%</u>	TBD/TBD/TBD

Total Project Financing	<u>\$2,900,000</u>	<u>100%</u>	
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III. Project Description

A. Company

Industry: Motion picture film production

Company History: Asher Productions, Inc. is a single purpose corporation formed on August 12, 2016 in the State of New York solely for the purpose of producing the motion picture presently entitled "Asher," to be directed by Michael Caton-Jones (the "Picture").

Ownership: Asher Productions, Inc. is a private company wholly owned by Asher the Movie, LLC, a New York limited liability company formed on August 12, 2016, solely for the purpose of financing, producing and owning the Picture. Wing and a Prayer Pictures, LLC ("WAAP") is the sole member of Asher the Movie, LLC.

Size: Approximately 525 employees are anticipated throughout the course of production and post-production of the Picture.

Market: It is anticipated that the Picture will have a worldwide market.

ESD Involvement: Wing and a Prayer Pictures, LLC entered into a motion picture co-financing relationship with Fort Schulyer Management Corporation ("FSMC") in order to finance and produce five full-length feature films, including the Picture, produced by WAAP for production in Upstate New York, as well as developing a film production workforce throughout Upstate New York.

The request for ESD's assistance is the result of FSMC's default on its

commitment to provide \$1,100,000 in equity funding in connection with the Picture. Without assistance from ESD, the filming/production of the Picture would not be possible.

Competition: Competition includes other states that specialize in film/production, including California.

Past ESD Support: This is the Company's first project with ESD.

B. The Project

Completion: July 2017

Activity: Pre-production of the Picture commenced on approximately September 8, 2016. The entire project includes the pre-production, filming, and post-production of the Picture. The anticipated completion date through delivery of the Picture is July 1, 2017.

Results: The Picture is being produced for worldwide distribution. It is expected that the release of the Picture shall provide further stimulus for the growth of film production in Upstate New York.

Business  
Investment

Project: This project is a Business Investment project that does not involve permanent job commitments or construction spending. While such projects generate significant long term fiscal and economic benefits, such benefits are not estimated within the short-term period used in the benefit cost analysis. Therefore, no benefit cost analysis is provided.

Grantee Contact: Josh Crook  
24 Aspen Boulevard  
East Syracuse, NY 13057  
Phone: (432) 352-3237

ESD Project No.: AB288

Project Team:	Project Management	Scott Lamkin
	Contractor & Supplier Diversity	Geraldine Ford
	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. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed. 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.
3. Up to \$1,100,000 will be disbursed to the Grantee in lump sum, for working capital purposes, upon documentation of project costs totaling \$1,100,000, assuming that all project approvals have been completed and funds are available. The Grantee shall not utilize the \$1,100,000 grant as leverage for other tax credits. 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 September 1, 2016, to be considered eligible project costs. All disbursements must be requested by August 1, 2017.

4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,100,000, 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

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 the project, Asher Productions, Inc. will be able to film and produce the "Asher" film, distribute it to a worldwide audience, and promote the growth of film production in Upstate New York.
2. The proposed project would be unlikely to take place in New York State without the requested assistance.  
ESD assistance is needed to fill a financing gap so the project can take place.
3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.

#### Business Investment Project

This project is a Business Investment project that does not involve permanent job commitments or construction spending. While such projects generate significant long

term fiscal and economic benefits, such benefits are not estimated within the short-term period used in the benefit cost analysis. Therefore, no benefit cost analysis is provided.

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 authorization of the Working Capital grant does not constitute an 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.

VI. 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 businesses (MWBs) in the performance of ESD projects and procurements. The ESD Office of Contractor and Supplier Diversity have reviewed the project and have determined that there exists no potential for MWBE participation. As such, participation goals will not be established.

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

October 20, 2016

East Syracuse (Central New York Region – Onondaga County) – Asher Productions Working Capital – Empire State Economic Development Fund – General Development Financing (Working Capital) – Findings and Determinations Pursuant to Sections 16-m and 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 Asher Productions Working Capital -- Empire State Economic Development Fund - General Development Financing (Working Capital) 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Asher Production, Inc. a grant for a total amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000) 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 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

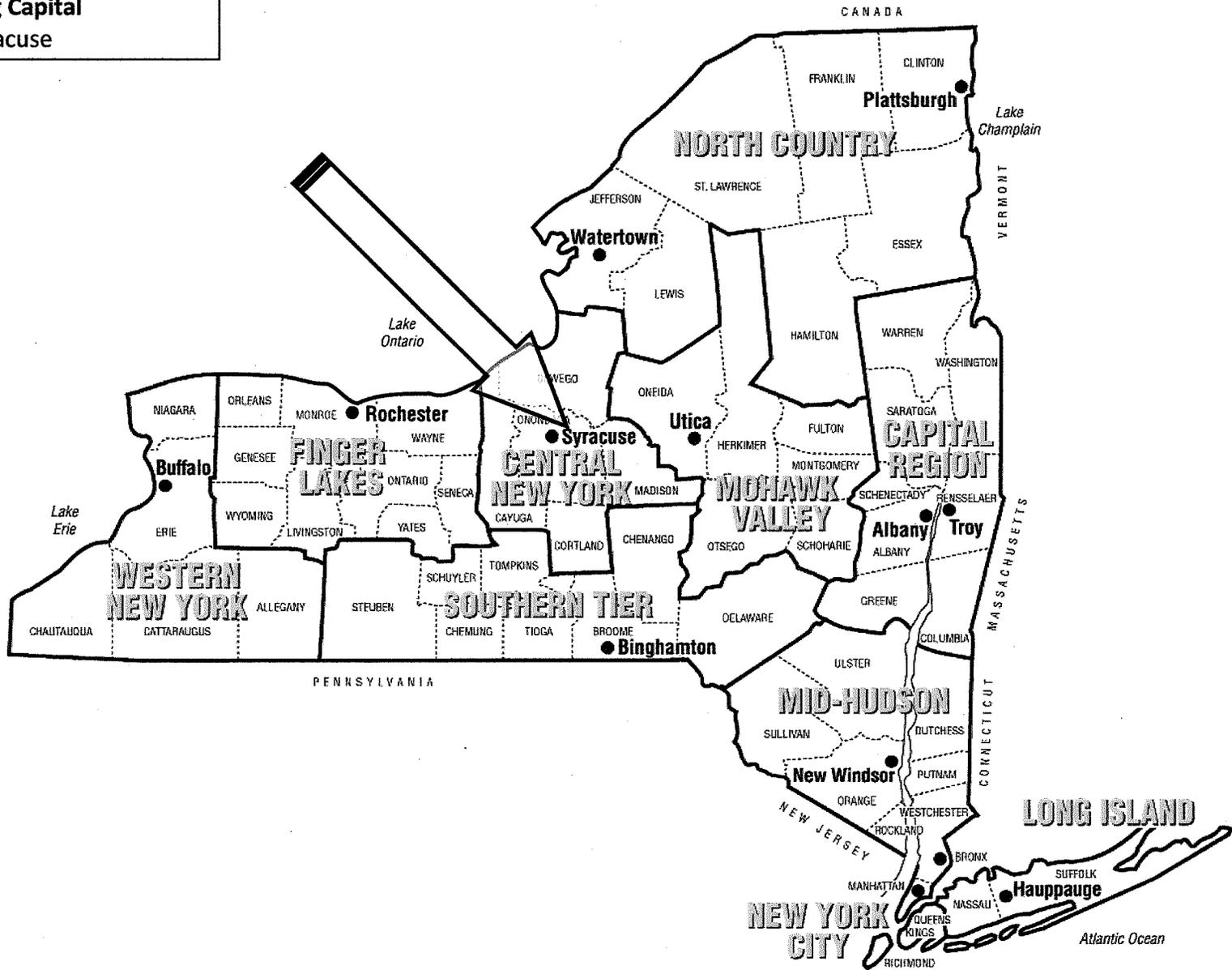
RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other

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.

\* \* \*

**Asher Productions**  
**Working Capital**  
East Syracuse



**Item II. L.**

**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Lake Placid (North Country Region – Essex County) – NYS Olympic Regional Development Authority Working Capital – Empire State Economic Development Fund - General Development Financing – (Working Capital Grant)

**REQUEST FOR:** Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

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**I. Project Summary**

**Grantee:** New York State Olympic Regional Development Authority (the “Authority” or “ORDA”)

**ESD\* Investment:** A grant of up to \$3,500,000 to be used for a portion of the cost of facility preparation and maintenance and the purchase of marketing and advertising services.

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

**Project Location:** 2634 Main Street, Lake Placid, Essex County  
The Olympic Center\*  
The Olympic Skating Oval\*  
The Olympic Ski Jumping Complex\*  
The Olympic Sports Complex\*  
Gore Mountain Ski Area\*  
Whiteface Mountain Ski Center\*  
Belleayre Ski Center\*

\*Project activity site

**Proposed Project:** Institute a comprehensive, coordinated program of activities utilizing

the Olympic facilities in order to insure optimum year-round use and to minimize the financial burden on New York State and local government by maximizing revenue opportunities

Project Type: Working Capital

Regional Council: The North Country Regional Economic Development Council has been made aware of this item. The project is consistent with the Regional Plan to solicit recreational and competitive sporting events / competitions on the national and international level to leverage regional identity, sports tourism, and economic activities.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Preparation and Maintenance	\$1,250,000	
Execution and Operations	1,250,000	
Marketing and Advertising	<u>1,000,000</u>	
Total Project Costs	<u>\$3,500,000</u>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	<u>3,500,000</u>	100%
Total Project Financing	<u>\$3,500,000</u>	<u>100%</u>

III. Project Description

A. Company

Industry: Public Authority

Company History: Established by the New York State Legislature on July 3, 1981, ORDA was given the mandate to manage and promote the sports facilities used to host the 1980 Olympic Winter Games. The Authority has hosted over 250 major national and international events during its existence. Events have included 11 World Championships and over 75 World Cup competitions in bobsled, luge, alpine racing, ski jumping, speed skating, and freestyle skiing.

Ownership: ORDA is a public authority.

Size: All facilities are located in Lake Placid, NY.

**ESD Involvement:** The project is proposed to sustain the operational and maintenance needs of the venues operated by the Authority including Whiteface Mountain, Gore Mountain, Belleayre Ski Center, and the Lake Placid Olympic venues. Funding will be used to develop, maintain, update, and market the winter venues of the Olympic Authority which will result in increased revenues, job retention and creation across the Authority's venues. Without the ESD's grant, the Authority would not be able to proceed with the project.

**Past ESD Support:** Funding for the past five years to the Grantee, totaling \$18,779,779 million, is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
Empire State Economic Development Fund	U520	\$15,179,779	September 20, 2006	December 23, 2011	Working Capital – Debt consolidation
Upstate Regional Blueprint	X445	\$3,600,000	June 28, 2011	July 26, 2013	Capital Grant – Funds for the purchase of machinery and equipment and facility upgrades.

**B. The Project**

**Completion:** December 2016

**Activity:** The Authority will market and advertise its venues by attending a variety of ski shows and group sales events in the northeast. In anticipation of the winter season, extensive trail and property maintenance will be performed. Activities include maintenance to existing ski lifts and snowmaking equipment, maintenance of the refrigeration systems for skating rinks, grooming of existing trails, energy and utility upgrades, and training of more than 1,000 seasonal and part-time employees.

**Results:** Increased revenues throughout the winter months and retention of at least 300 jobs across all venues.

Grantee Contact: Padraig Power, Director of Finance  
2634 Main Street  
Lake Placid, NY 12946  
Phone: (518) 302-5317

ESD Project No.: AB291

Project Team:	Project Management	Arturo Rodriguez
	Contractor & Supplier Diversity	Denise Ross
	Finance	John Bozek
	Environmental	Soo Kang

### C. Financial Terms and Conditions

1. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.
2. Up to \$3,500,000 will be disbursed to Grantee, no more frequently than monthly, upon documentation of eligible working capital project costs, 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. All project expenditures must have been incurred after September 1, 2016. The final ten percent (10%) of the Grant shall not be disbursed by ESD until all of the tasks and reports required have been completed to ESD's satisfaction.
3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$3,500,000, 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

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 Grantee will retain over 300 jobs.
2. The proposed project would be unlikely to take place in New York State without the requested assistance.  
ESD assistance is needed to fill a financing gap to operate the Olympic venues.

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

Economic Growth Investment Project

This project is an Economic Growth Investment project that does not involve permanent job commitments or construction spending. While such projects generate significant long term fiscal and economic benefits, such benefits are not estimated within the short-term period used in the benefit cost analysis. Therefore, no benefit cost analysis is provided.

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 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 MWBE Participation. Establishment of specific goals related to the total value of ESD's funding is still pending.

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  
Project Finance Memorandum

October 20, 2016

Lake Placid (North Country Region – Essex County) – NYS Olympic Regional Development Authority Working Capital – Empire State Economic Development Fund – General Development Financing (Working Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 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 NYS Olympic Regional Development Authority Working Capital - Empire State Economic Development Fund – General Development Financing (Working 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to New York State Olympic Regional Development Authority a grant for a total amount not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000) 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 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

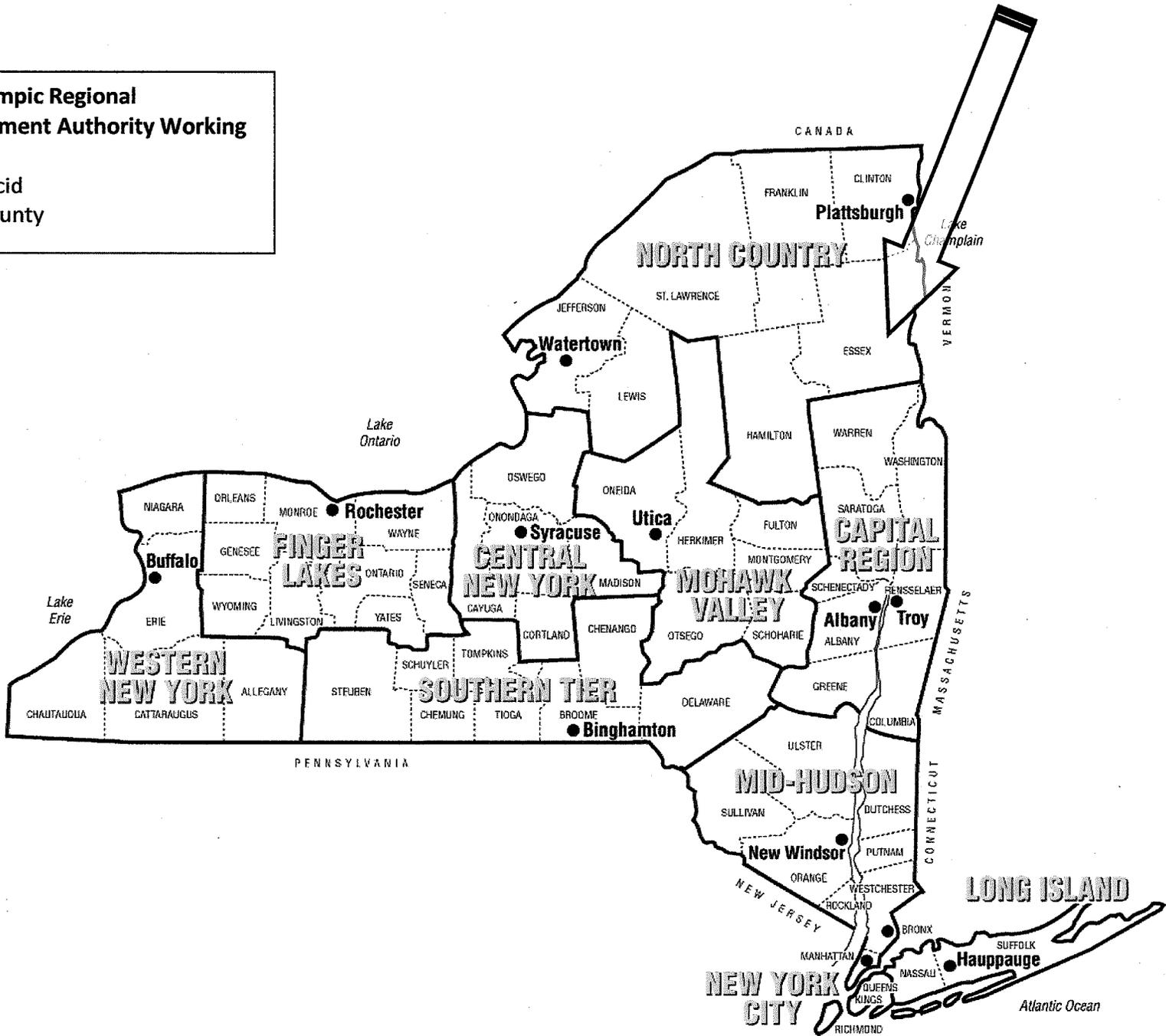
RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the

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.

\* \* \*

**NYS Olympic Regional  
Development Authority Working  
Capital**  
Lake Placid  
Essex County



**Item II. M.**



**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Market NY Grant Program – Empire State Economic Development Fund – Market New York – Tourism Marketing Competition (Capital and Working Capital Grants)

**REQUEST FOR:** Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

**I. Project Summary**

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
	<b>Market NY Program</b>			
A	Watkins Glen International Modernization Market Capital	Z686	Watkins Glen International, Inc.	\$250,000
	<b>Empire State Economic Development Fund</b>			
B	Ski NY Marketing Working Capital	AA494	Ski Areas of New York , Inc.	\$264,000
C	Canadian Visitation 2016 Working Capital	AA500	Rochester Visitors Association, Inc. d/b/a Visit Rochester	\$275,000
	<b>TOTAL MARKET NY PROJECTS-3</b>		<b>TOTAL</b>	<b>\$789,000</b>

**ESD\* Investment:** Up to a total of \$250,000 from Market NY Round 4, and \$539,000 from Market NY Round 5 to be used for a tourism capital project in the Finger Lakes region of New York State

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

Project Locations: Statewide - See Schedule A attached

Proposed Projects: See Schedule A attached

Regional Council: Each respective Regional Economic Development Council has been made aware of, and has endorsed, the relevant proposed project(s).

Anticipated  
Appropriation  
Source(s):

Market New York Program

## II. Project Cost and Financing Sources

See Schedule A attached.

## III. Project Description

### A. Background

Rounds 4 and 5 of the Regional Council Consolidating Funding Application included up to \$12 million for *Market NY* and Round 3 included up to \$10 million for a program that will support regionally themed New York focused projects. *Market NY* will help to bolster tourism growth by promoting tourism destinations, attractions, and special events. Additionally, Market New York will support capital grant funding for tourism facilities in New York. The Market New York program and each funded proposal will work to support the Regional Council's long term strategic plans for economic growth in the regions, as well as to attract visitors to New York State.

Funding is available for projects intended to increase tourism in a community or region. Grant funding will be allocated among the ten regions, each represented by a Regional Council, based on each Regional Council's development and implementation of a five-year strategic plan that sets out a comprehensive vision for economic development and specific strategies to implement that vision. Funding will be allocated to projects, including priority projects identified by the regional councils, identified as significant, regionally supported and capable of stimulating economic investment through attraction of tourists to the dedicated area.

### B. The Project

ESD will make available a total of \$250,000 from Round 4 to fund one capital project and \$539,000 from Round 5 to fund two working capital projects. The grantee(s) has identified and prioritized Regional Marketing and Capital Tourism a projects that supports the Regional Economic Development Council's strategic plans for tourism and will coordinate with New York State's "I LOVE NEW YORK" tourism division to maximize the overall program impact statewide.

The Market NY Grantee will carry out its Regional Marketing Tourism project as described in the individual project description as set forth in Schedule A attached.

ESD Project No's.: See Table Above

Project Team:	Project Management	See schedule A attached
	Program Director	Kelly Baquerizo
	Contractor & Supplier Diversity	Geraldine Ford
	Environmental	Soo Kang

#### Financial Terms and Conditions

ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$789,000, collectively for the projects, if ESD determines that 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

##### Market NY – DED

The funding was authorized in the 2014-2015 New York State budget and reappropriated in the 2015-2016 and 2016-2017 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

##### Statutory Basis – Empire State Economic Development Fund

Please see individual project summary for factual basis for items 1, 2 and 3.

1. The project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the State or would enhance or help to maintain the economic viability of family farms.
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 the likely benefits of the project exceed costs.
4. The requirements of Section 10(g) of the Act are satisfied.  
No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

Unless otherwise noted on a project summary attached as Schedule A, ESD staff has determined that the projects described in Schedule A either constitute Type II actions or do not constitute actions 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 projects.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-discrimination and Contractor Diversity policies will apply to the projects. Each Grantee shall be required to use good faith efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal, each project has been assigned an individual goal by the Office of Contractor & Supplier Diversity based on the elements of the individual project and 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. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since these projects 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: (1) make the findings and determination required by Section 10(g) of the UDC Act; and (2) authorize the making of the grants which are the subject of these materials.

Recommendation

Based on the foregoing, I recommend approval of the requested actions.

Additional Submissions to Directors

Resolutions  
Schedule A (A)

October 20, 2016

Watkins Glen (Schuyler County) Regional Tourism Marketing Competition – Market New York (Capital Grant) – 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 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 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 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 Program

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
	<b>Market NY Program</b>			
A	Watkins Glen International Modernization Market Capital	Z686	Watkins Glen International, Inc.	\$250,000
	<b>TOTAL MARKET NY PROJECTS-1</b>		<b>TOTAL</b>	<b>\$250,000</b>

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.

\* \* \*

October 20, 2016

Statewide – Empire State Economic Development Fund (Working Capital Grants) – Findings and Determinations Pursuant to Sections 16-m and 10(g) of the Act; Authorization to Adopt 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 Market New York 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 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

Empire State Economic Development Fund

	Project Name	Proj #	Grantee	Assistance up to
	<b>Empire State Economic Development Fund</b>			
B	Ski NY Marketing Working Capital	AA494	Ski Areas of New York , Inc.	\$264,000
C	Canadian Visitation 2016 Working Capital	AA500	Rochester Visitors Association, Inc. d/b/a Visit Rochester	\$275,000
	<b>TOTAL EDF PROJECTS-2</b>		<b>TOTAL</b>	<b>\$539,000</b>

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.

\* \* \*

## A. Watkins Glen International Modernization Market Capital (Z686)

October 20, 2016

### General Project Plan

- Grantee:** Watkins Glen International, Inc. (“The Glen” or the “Company”)
- ESD Investment:** A grant of up to \$250,000 to be used for repaving the track at Watkins Glen Speedway
- Project Location:** 2790 County Route 16, Watkins Glen, Schuyler County
- Proposed Project:** Infrastructure Improvements to a sports facility
- Regional Council:** The Southern Tier Regional Economic Development Council has been made aware of this project. The Incentive Offer was accepted in July, 2015. The project is consistent with the Regional Plan to promote tourism within the Southern Tier Region and across New York State.

#### **Background:**

Company History— Founded in 1948, the Glen is an automobile race track located near Watkins Glen, New York, at the southern tip of Seneca Lake. In 1956, a 2.3-mile permanent circuit (the “track”) was built and international competition began in 1958 with the running of a Formula Libre race. Expanded in 1971, the track brought a wide variety of competition including the Can-Am, Trans-Am, Six Hours, Formula 5000 and CART Indy Car series. As a result of financial difficulties and bankruptcy, the track was closed in 1981. The track was long known around the world as the home of the United States Grand Prix, which it hosted for twenty consecutive years (1961–1980), but since 1948 the site has been home to road racing of nearly every class, including Formula One, the World Sportscar Championship, Trans-Am, Can-Am, NASCAR Sprint Cup Series, and the Indy Car Series. In early 1983, Corning Enterprises purchased the track and partnered with International Speedway Corporation to form Watkins Glen International, Inc.

Ownership — Watkins Glen International Inc. is a privately-owned company that operates as a subsidiary of International Speedway Corp.

ESD Involvement – A \$250,000 grant from the Market NY Grant Program

Past ESD Support – Funding for the past five years to the grantee is summarized in the following table:

**Watkins Glen International Modernization Market Capital (Z686)**

October 20, 2016

Program	Project #	Amount	Date Start (ESD Director's Approval Date)	Date End (Project Completion Contract Expiration)	Purpose
LOCAL ASST (S)	AA244	\$150,000	12/17/15	August 2016	Implement a tourism campaign focused on attracting out-of state travelers to upstate New York
LOCAL ASST (S)	AA944	\$125,000			Support an increase in the tourism budget funding for advertising.

**The Project:**

Completion date – April, 2016

Activity – The Organization will make infrastructure improvements to a sports facility that is one of the major economic drivers for tourism activity in the region. These infrastructure improvements consist of a complete repaving of the racetrack to address critical safety deficiencies, removal and replacement of existing basic track, portions of the aprons/runoffs, and pit roads.

Results – The project will retain 77 Full-time and Permanent employees and Contract employees.

Financing Uses	Amount	Financing Sources	Amount	Percent
Infrastructure Improvements	\$12,960,000	ESD Grant (Z686)	\$250,000	2%
		ESD Grant (AA041)	2,000,000	15%
		Company Equity	10,710,000	83%
<b>Total Project Costs</b>	<b>\$12,960,000</b>	<b>Total Project Financing</b>	<b>\$12,960,000</b>	<b>100%</b>

*\*ESD Grant (#AA041) will be presented for approval at the October 2016 Board of Directors meeting*

**Watkins Glen International Modernization Market Capital (Z686)**

October 20, 2016

Grantee Contact- Michael Printup, President  
2790 County Route 16  
Watkins Glen, NY 14891  
Phone: (607) 535-9385

<u>Project Team-</u>	Origination	Kelly Rabideau-Baquerizo
	Project Management	Omar Sanders
	Contractor & Supplier Diversity	Geraldine Ford
	Environmental	Soo Kang

**Financial Terms and Conditions:**

1. Upon execution of the grant disbursement agreement, the Company reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of a match that can consist of local, federal, foundational or other organizations' fund. Other State funds (including other funding from ESD), "in-kind" matches/donations and salaries/wages/fringe benefits are not an eligible match for this requirement. The match must be committed and specifically shown in the project budget. Grantee's affirmation of these Directors' materials will be considered by ESD as validation of this committed matching requirement.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees and Contract 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. A Contract Employee shall mean a full-time private sector employee (or self-employed person) who is not on the Grantee's payroll but who works exclusively for the Grantee at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks, providing

**Watkins Glen International Modernization Market Capital (Z686)**

October 20, 2016

services that would otherwise be provided by a Full-time Permanent Employee. The position held by a Full-time Contract Employee must be a year-round position.

5. For both project Z686 and AA041- up to \$2,250,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$1,125,000) will be disbursed upon documentation of infrastructure improvements totaling \$12,960,000, completion of the project substantially as described in these materials as evidenced by a certificate of occupancy or other documentation as ESD may require, including a program report for the marketing grant, and documentation of the employment of at least 77 Full-time Permanent Employees and Contract Employees at the Project Location, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of 25% of an amount equal to the grant (\$562,500) will be disbursed no sooner than 12 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 77 Full-time Permanent Employees and Contract Employees at the Project Location, provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$562,500) will be disbursed no sooner than 24 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 77 Full-time Permanent Employees and Contract Employees at the Project Location, 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 must be incurred on or after July 14, 2015, to be considered eligible project costs. All disbursements must be requested by April 1, 2018.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$2,250,000, 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 and Contract 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:

**Watkins Glen International Modernization Market Capital (Z686)**

October 20, 2016

8. 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 and Contract 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	77
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A	B
Date	Employment Goals
February 1, 2018	77
February 1, 2019	77
February 1, 2020	77

9. All projects should align with I Love NY marketing. It is required that all projects use the I LOVE NY logo with all marketing and promotion elements paid with Market NY Funds for the awarded project. Any use of the I LOVE NEW YORK logo must be approved by ESD and conform to ESD guidelines. Additionally, In the event I LOVE NY/NYS Division of Tourism chooses to have a presence at events in connection with this grant, no further funds shall be exchanged for a sponsorship or space fee.

**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

**Watkins Glen International Modernization Market Capital (Z686)**

October 20, 2016.

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

**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 40% related to the total value of ESD's funding.

**Statutory Basis – Market New York Program:**

The funding was authorized in the 2014-2015 New York State budget and reappropriated in the 2015-2016 and 2016-2017 New York State budget(s). No residential relocation is required as there are no families or individuals residing on the site.

**Disclosure and Accountability Certifications:**

The Grantee has provided ESD with the required Disclosure and Accountability Certifications. Grantee's certifications indicate that Grantee has no conflict of interest or good standing violations and, therefore, staff recommends that the Corporation authorize the grant to the Grantee as described in these materials.

**B. Ski NY Marketing Working Capital (AA494)**

October 22, 2016

- Grantee:** Ski Areas of New York, Inc. ("Ski NY" or the "Organization")
- ESD Investment:** A grant of up to \$264,000 to be used for regional tourism marketing
- Project Location:** St. Lawrence
- Proposed Project:** Development and implementation of a multi-media marketing program to attract North Country and Statewide ski and winter travel tourism, along with ski Industry trade shows and promotional events
- Project Type:** Working Capital
- Regional Council:** The North Country Regional Economic Development Council has been made aware of this project. The Incentive Offer was accepted in May 2016. The project is consistent with the Regional Plan to promote travel and tourism within the North Country Region and across New York State.

**Background:**

Organizational History – Ski Areas of New York, Inc. is a not-for-profit organization, formed in 1981 to market and promote ski areas and winter travel-tourism in New York state.

Ownership – Ski NY is a not-for-profit organization.

ESD Involvement – A \$264,000 grant from the Market NY Grant Program

Past ESD Support – This is the Organization's first project with ESD.

**The Project:**

Completion date – December 2017

Activity – Ski NY uses marketing funds to plan, develop and implement targeted multi-media marketing campaigns that are directed to local, national and international markets in promotion of attendance at Ski Industry trade shows, ski areas and expansion of winter travel and tourism in NYS.

Results – The project will expand the regional tourism economy and is expected to result in increased ski tourism and winter tourism visitation throughout the North Country Region and NYS.

**Ski NY Marketing Working Capital (AA494)**

October 22, 2016

Financing Uses	Amount	Financing Sources	Amount	Percent
Multi Media Promotion	\$245,000	ESD Grant	\$264,000	75%
Distribution & Logistics	45,000	Grantee Equity	88,000	25%
Trade Shows & Events	30,000			
Administration	32,000			
<b>Total Project Costs</b>	<b>\$352,000</b>	<b>Total Project Financing</b>	<b>\$352,000</b>	<b>100%</b>

Grantee Contact- Patrick Dunn  
 Ski Areas of New York Inc.  
 Box 375  
 Jamesville, NY 13078  
 Phone: (315) 696-6550

<u>Project Team-</u>	Origination	Kelly Rabideau-Baquerizo
	Project Management	John Vandelloo
	Contractor & Supplier Diversity	Denise Ross
	Environmental	Soo Kang

**Financial Terms and Conditions:**

1. Grantee will be obligated to advise ESD of any materially adverse changes in its financial conditions prior to disbursement.
2. The Grantee will be required to contribute a minimum of 25% of the total project cost in the form of a match that can consist of local, federal, foundational or other organizations' fund. Other State funds (including other funding from ESD), "in-kind" matches/donations and salaries/wages/fringe benefits are not an eligible match for this requirement. The match must be committed and specifically shown in the project budget. Grantee's affirmation of these Directors' materials will be considered by ESD as validation of this committed matching requirement.
3. Up to \$264,000 will be disbursed to the Grantee in arrears, no more frequently than quarterly upon documentation of eligible project expenditures, and presentation to ESD of an invoice and such other documentation as ESD may reasonably require (including the mandatory project measurements/metrics form and documentation included in the Grant Disbursement Agreement). Expenses must be incurred on or after December 10, 2015 to be considered eligible project costs. All disbursements require compliance with program requirements and must be requested by no later than April 1, 2021.

**Ski NY Marketing Working Capital (AA494)**

October 22, 2016

4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$264,000 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.
5. All projects should align with I Love NY marketing. It is required that all projects use the I LOVE NY logo with all marketing and promotion elements paid with Market NY Funds for the awarded project. Any use of the I LOVE NEW YORK logo must be approved by ESD and conform to ESD guidelines. Additionally, In the event I LOVE NY/NYS Division of Tourism chooses to have a presence at events in connection with this grant, no further funds shall be exchanged for a sponsorship or space fee.

**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% related to the total value of ESD's funding.

**Statutory Basis – Market New York Program:**

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.

**Disclosure and Accountability Certifications:**

The Grant Recipient has provided ESD with the required Disclosure and Accountability Certifications. Grant Recipient's certifications indicate that Grant Recipient has no conflict of interest or good standing violations and, therefore, staff recommends that the Corporation authorize the grant to the Grant Recipient as described in these materials.



**C. Canadian Visitation 2016 Working Capital (AA500)**

October 20, 2016

- Grantee:** Greater Rochester Visitors Association, Inc. d/b/a Visit Rochester (“Visit Rochester” or the “Organization”)
- ESD Investment:** A grant of up to \$275,000 to be used for regional tourism marketing funding.
- Project Location:** Monroe County
- Project Type:** Working Capital
- Proposed Project:** Support and promote the Rochester/Finger Lakes Region as well as other Upstate regions for visits targeted at Canadians.
- Regional Council:** The Finger Lakes Regional Economic Development Council has been made aware of this project. The Incentive Offer was accepted in June 2016. The project is consistent with the Regional Plan to promote tourism.

**Background:**

Organization History – Visit Rochester is the officially designated, tourism promotion agency for Monroe County in the Finger Lakes region. The Organization implements county and region-wide tourism programs throughout the year to promote visitation to the region and surrounding areas.

Ownership – Visit Rochester is a not-for-profit organization.

ESD Involvement – A \$275,000 grant from the Market NY Grant Program

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
Market NY	Z149	\$200,000	August 27, 2014	December 31, 2016	Working Capital to attract Canadian visitors to Upstate NY regions

## Canadian Visitation 2016 Working Capital (AA500)

October 20, 2016

### The Project:

#### Completion – December 2017

Activity – The marketing program, titled “A Welcome Surprise!” and initiated in 2010, will be expanded in 2016-17. The program has over 30 participating partners and eight integrated campaign components. These include market research, public relations support, a radio show, visitor guides home delivered in three editions, an interactive website, and online and broadcast advertising.

With the help of ESD’s previous Market NY grant, approved in 2014, for the launch of this program, by the end of 2015, this campaign played a major role in the attraction of over 25,000 Canadians to New York State (“NYS”) outside of the New York City area. Although Visit Rochester raised funds privately to continue the program, the Organization pursued ESD funds to close a financing gap. As a result of the Governor’s Regional Economic Development Council initiative, Visit Rochester was awarded a \$275,000 capital grant through Round 5 of the Consolidated Funding Application process, which allowed the project to proceed into the next phase.

With this grant, it is estimated that over 40,000 Canadians will visit NYS in 2016-17 and spend over \$24 million. The monies will be spent in small businesses and enterprises throughout NYS. A component of the campaign, on social media, will demonstrate that despite an unfavorable exchange rate for Canadians in the U.S. (\$1 CAN = approximately \$.75 U.S.), they can still find year-round value in traveling to lesser known areas of NYS.

Results – Visit Rochester seeks to increase the visitors to the tourism destinations included in this program in order to expand the tourism economy in the Finger Lakes and NYS.

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

Financing Uses	Amount	Financing Sources	Amount	Percent
Multi-Media Marketing	\$585,000	ESD Grant	\$275,000	42%
Research, Sales & Administration	60,000	Grantee Equity*	370,000	58%
Total Project Costs	\$645,000	Total Project Financing	\$645,000	100%

\*Includes funds from Grantee and those of over 30 private partners who will invest in the program. Partners include recreation and ski areas, museums, tourism promotion agencies, hotels and retail establishments.

**C. Canadian Visitation 2016 Working Capital (AA500)**

October 20, 2016

**Grantee Contact-** Greg Marshall, Senior VP & Director of Marketing  
45 East Avenue  
Rochester, NY 14604  
Phone: (585) 279-8318

<b><u>Project Team-</u></b>	Origination	Kelly Rabideau-Baquerizo
	Project Management	Edward Muszynski
	Contractor & Supplier Diversity	Geraldine Ford
	Soo Kang	Environmental

**Financial Terms and Conditions:**

1. Grantee will be obligated to advise ESD of any materially adverse changes in its financial conditions prior to disbursement.
2. Up to \$275,000 will be disbursed in arrears, no more frequently than quarterly, for eligible project costs, up to a total cost of \$275,000. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require, including program reports. Expenses must be incurred on or after December 10, 2015, to be considered eligible project costs. All disbursements require compliance with program requirements and must be requested by no later than April 1, 2020.
3. The Grantee will be required to contribute a minimum of 25% of the total project cost in the form of a match that can consist of local, federal, foundational or other organizations' fund. Other State funds (including other funding from ESD), "in-kind" matches/donations and salaries/wages/fringe benefits are not an eligible match for this requirement. The match must be committed and specifically shown in the project budget. Grantee's affirmation of these Directors' materials will be considered by ESD as validation of this committed matching requirement.
4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$275,000 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.
5. All projects should align with I Love NY marketing. It is required that all projects use the I LOVE NY logo with all marketing and promotion elements paid with Market NY Funds for the awarded project. Any use of the I LOVE NEW YORK logo must be approved by ESD and conform to ESD guidelines. Additionally, in the event I LOVE NY/NYS Division of Tourism would choose to have a presence at events in connection with this grant, no further funds shall be exchanged for a sponsorship or space fee.

## C. Canadian Visitation 2016 Working Capital (AA500)

October 20, 2016

### **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 % related to the total value of ESD's funding.

### **Statutory Basis – Empire State Economic Development Fund**

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 the project, Grantee will bolster tourism growth by promoting tourism destinations, attractions, and special events.

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

ESD assistance is needed to fill a financing gap that would make the project otherwise infeasible.

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

This project is an Economic Growth Investment project that does not involve permanent job commitments or construction spending. While such projects generate significant long term fiscal and economic benefits, such benefits are not estimated within the short-term period used in the benefit cost analysis. Therefore, no benefit cost analysis is provided.

4. The requirements of Section 10(g) of the Act are satisfied.

See cover memo.

### **Disclosure and Accountability Certifications:**

The Grant Recipient has provided ESD with the required Disclosure and Accountability Certifications. Grant Recipient's certifications indicate that Grant Recipient has no conflict of interest or good standing violations and, therefore, staff recommends that the Corporation authorize the grant to the Grant Recipient as described in these materials.

# **Item III. A.**



**FOR CONSIDERATION**

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Non-Discretionary Projects

REQUEST FOR: Findings and Determinations Pursuant to Section 10(g) of the Act; Adoption of General Project Plans; Authorization to Make Grants and to Take Related Actions

Attached is the summary of the projects sponsored by the New York State Executive and Legislative branches:

	Project Name	Proj #	Grantee	Assistance up to
	<b>Senate (Local Assistance)</b>			
A	Newburgh Armory Unity Center Capital	AA243	Newburgh Armory Unity Center	\$750,000
	<b>Assembly (Local Assistance)</b>			
B	Advanced Manufacturing in Central New York Working Capital	AB158	CenterState Corporation for Economic Opportunity	600,000
	<b>Executive (Transformative Investment Program)</b>			
C	Nassau Hub Transportation Capital	AB212	County of Nassau	85,000,000
	<b>TOTAL NON-DISCRETIONARY – 3 PROJECTS</b>		<b>TOTAL</b>	<b>\$86,350,000</b>

**I. Statutory Basis**

The project was sponsored by the Executive, Assembly or Senate, and was authorized or reappropriated in the 2016-2017 New York State budget. No residential relocation is required as there are no families or individuals residing on the site(s).

**II. Environmental Review**

Unless otherwise noted on a project summary, ESD\* staff has determined that the projects constitute Type II actions 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 the projects.

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

### III. 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 businesses in the performance of ESD contracts. Accordingly, ESD's Non-discrimination and Contractor & Supplier Diversity policy will apply to the projects. Unless otherwise specified in the project summary, Grantees shall use their Good Faith Efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 30% related to the total value of ESD's funding. This shall include a Minority Business Enterprise ("MBE") Participation goal of 15% and a Women Business Enterprise ("WBE") Participation goal of 15%. Grantees shall use Good Faith Efforts to solicit and utilize MWBEs for any contractual opportunities generated in connection with the projects and to include minorities and women in any job opportunities created by the projects.

### IV. ESD Employment Enforcement Policy

Unless otherwise noted on a project summary, the ESD Employment Enforcement Policy will not apply since the projects will not directly create or retain jobs.

### V. 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.

### VI. Additional Requirements

Pursuant to direction received from the New York State Office of the Attorney General ("OAG"), individual project summaries may be subject to comment and approval by the OAG.

Due diligence has been exercised by ESD staff in reviewing information and documentation received from grantees/borrowers and other sources, in preparation for bringing projects to the ESD Directors for approval. The due diligence process also involves coordination with a number of external constituents, including the OAG, and grantees/borrowers have provided ESD with the required Disclosure and Accountability Certifications.

Also, pursuant to s.2879-a of the Public Authorities Law, the Office of the State Comptroller ("OSC") has notified the Corporation that it will review all grant disbursement agreements ("GDAs") of more than one million dollars (\$1 million) that are supported with funds from the Community Projects Fund ("007"). Such GDAs, therefore, will not become valid and enforceable unless approved by the OSC. A clause providing for OSC review will be included in all GDAs that are subject to such approval.

**VII. Additional Submissions to Directors**

**Resolutions**

**Project Summary**

**New York State Map**

October 20, 2016

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 Local Assistance 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 – Senate – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	Newburgh Armory Unity Center Capital	AA243	Newburgh Armory Unity Center	\$750,000
			<b>TOTAL</b>	<b>\$750,000</b>

Local Assistance – Assembly – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
B	Advanced Manufacturing in Central New York Working Capital	AA158	CenterState Corporation for Economic Opportunity	\$600,000
			<b>TOTAL</b>	<b>\$600,000</b>

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.

\* \* \*

October 20, 2016

Transformative Investment 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

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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 Transformative Investment Program 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 Transformative Investment 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 Transformative Investment 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;

**Transformative Investment Program – Executive – Project Summary Table**

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
C	Nassau Hub Transportation Capital	AB212	County of Nassau	85,000,000
			<b>TOTAL</b>	<b>\$85,000,000</b>

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.

\* \* \*

**A. Newburgh Armory Unity Center Capital (AA243)**

October 20, 2016

General Project Plan

- Grantee:** Newburgh Armory Unity Center (“NAUC” or the “Organization”)
- ESD Investment:** A grant of up to \$750,000 to be used for a portion of the cost of construction and renovations
- Project Location:** 321 South William Street, Newburgh, Orange County
- Proposed Project:** Creation of the Math, Science and Technology Center in the basement of the Newburgh Armory Unity Center
- Project Type:** Capital
- Regional Council:** The Mid-Hudson Regional Economic Development Council has been made aware of this item.

**Background:**

Industry – Community center

Organizational History - In January of 2011, The Newburgh Armory Unity Center (“NAUC”) became an incorporated entity and entered into an agreement with the City of Newburgh to operate the Newburgh Armory Facility, which was built in 1931. The mission of NAUC is to provide a place where Newburgh Enlarged City School District youth and families can come together for educational and athletic opportunities, in order to learn and experience important lessons that will help them grow into responsible and productive adults and citizens. The two primary areas of focus of the NAUC are in education: 1) programs for K-6th grade with a focus on reading, science, computer science, athletics and health and wellness; 2) programs supporting naturalization including English as a second language, GED classes, computer usage, and preparation for citizenship.

Ownership – NAUC is a not-for-profit corporation

ESD Involvement - A \$750,000 appropriation was included in the FY 2015-2016 New York State budget.

Past ESD Support - This is the Organization’s first project with ESD.

**The Project:**

Completion – August 2017

**Newburgh Armory Unity Center Capital (AA243)**

October 20, 2016

Activity – Funding will be used to create a Math, Science, and Technology Center at NAUC to provide computer science, math and technology programming to youth starting at the second grade level. The project will consist of renovations to the basement of the NAUC including, but not limited to: seven new classrooms; a common egress hall; installation of an entry way and exit doors; a new HVAC system, electrical system, fire alarm system; and a handicap lift to make the Center handicap accessible.

Results - The creation of the Math, Science and Technology Center at NAUC will significantly benefit NAUC's mission to provide supplemental educational services, programming and resources to children and families in the Newburgh Enlarged City School District. NAUC's *Saturday Morning Enrichment Program* currently offers one mathematics class and one computer programming class, with three 60-minute sessions, servicing 75 and 45 students respectively. The Math, Science and Technology Center will expand these course offerings to an additional 500 children on Saturday mornings. The commitment of this space to math, science and technology education will also allow established collaborative partners such as the Newburgh Enlarged City School District, Mount Saint Mary College, Orange County Community College and the State University at New Paltz to develop and expand programming in these subjects to hundreds of more youth during the week.

Financing Uses	Amount	Financing Sources	Amount	Percent
Construction and renovations	\$817,104	ESD Grant	\$750,000	92%
		Grantee Equity	67,104	8%
Total Project Costs	\$817,104	Total Project Financing	\$817,104	100%

Grantee Contact - William Kaplan, Chairman of the Board  
321 South William Street  
Newburgh, NY 12550  
Phone: (845) 863-3866

Project Team - Project Management Scott Lamkin  
Contractor & Supplier Diversity Denise Ross  
Environmental Soo Kang

**Financial Terms and Conditions:**

1. Upon execution of the grant disbursement agreement, the Grantee shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. Up to \$750,000 will be disbursed to Grantee in lump sum, upon documentation of project costs totaling \$817,104, and upon completion of the project substantially as described in these materials, assuming that all project approvals have been completed

## **Newburgh Armory Unity Center Capital (AA243)**

October 20, 2016

and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. All project expenditures must have been incurred after April 1, 2015, the date that the New York State budget, in which the project is authorized, was passed.

3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$750,000, 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.

### **Non-Discrimination and Contractor & Supplier Diversity:**

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Organization shall be required to include minorities and women in any job opportunities created, to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and 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%. The overall goal shall include a Minority Business Enterprise ("MBE") Participation Goal of 15% and a Women Business Enterprise ("WBE") Participation Goal of 15% related to the total value of ESD's funding.

### **Statutory Basis – Local Assistance:**

The funding was authorized in the 2015-2016 New York State budget and reappropriated in the 2016-2017 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

### **Disclosure and Accountability Certifications:**

The Grantee has provided ESD with the required Disclosure and Accountability Certifications. Grantee's certifications indicate that Grantee has no conflict of interest or good standing violations and, therefore, staff recommends that the Corporation authorize the grant to the Grantee as described in these materials.



## **B. Advanced Manufacturing in Central New York Working Capital (AA158)**

October 20, 2016

**Grantee:** CenterState Corporation for Economic Opportunity ("CenterState CEO")

**ESD Investment:** A grant of up to \$600,000 to be used for program costs

**Project Location:** Onondaga County

**Proposed Project:** To create a "Work Train" workforce initiative to develop certificate training programs and a greater awareness of job opportunities in the manufacturing industry for Central NY's under- and unemployed. To establish a sustainable "Dual Client" workforce development platform that involves collaboration among manufacturers, community members and workforce development partners to enhance career retention and growth.

**Project Type:** Working Capital

**Regional Council:** The Central Regional Council has been made aware of this item.

### **Background:**

#### Industry - Economic Development

Grantee History - The Metropolitan Development Association of Syracuse and Central New York, Inc. ("MDA"), established in 1959, is a private, not-for-profit corporation representing the business leadership of the Central Upstate New York region (the "Region"). It carries out a number of functions and activities as determined by its board of directors, including economic development, downtown and neighborhood redevelopment, regional strategic planning, and real estate management. Working with two national consulting firms, Battelle Memorial Institute in Cleveland, Ohio and Catalytix, Inc. in Pittsburgh, Pennsylvania, in 2003, the MDA developed the Initiative, a comprehensive strategy for the twelve-county Region that provided the framework for all of CenterState CEO's work.

In 2010, members of the MDA and the Greater Syracuse Chamber of Commerce voted to introduce a formal partnership between the two organizations, and formed the CenterState Corporation for Economic Opportunity to serve as the primary economic, community and business development catalyst in the Region. With more than 2,000 members, CenterState CEO works with its member companies, non-member firms in the Region, universities and colleges, and public sector planning and development entities.

Ownership - CenterState CEO is a not-for-profit corporation.

Size - All facilities located in Syracuse, NY.

**Advanced Manufacturing in Central New York Working Capital (AA158)**

October 20, 2016

ESD Involvement - \$600,000 in appropriations were included in the FY 2014-2015 New York State budget.

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
Local Assistance	W679	\$600,000	March 25, 2010	December 31, 2014	Working Capital – Business Assistance Program
Community Projects Fund	W680	\$71,000	September 14, 2010	October 10, 2014	Working Capital – Economic Development Promotion
Community Projects Fund	W678	\$250,000	June 28, 2011	December 31, 2015	Working Capital – Development of environmental technology
Local Assistance	W392	\$71,000	October 20, 2011	September 30, 2015	Working Capital – Economic Development Plan
Economic Development Purposes Fund	Y450	\$100,000	June 27, 2013	December 31, 2015	Working Capital - Tourism
CNY Branding Working Capital	Z171	\$370,000	August 27, 2014	December 31, 2015	Working Capital – Destination Branding Campaign
Local Assistance	Z327/Z333	\$800,000	January 15, 2015	December 31, 2017	Working Capital – Economic Development

**The Project:**

Completion – January 2018

Activity - Funding will be used for the development of a “Work Train” program to address a demand for skilled labor in the Central New York region. “Work Train” will establish a dual client workforce development platform serving the needs of employers and job seekers.

Results – The project will develop and launch an entry-level training program accessible

**Advanced Manufacturing in Central New York Working Capital (AA158)**

October 20, 2016

to urban job seekers and aligned with lower-skilled workforce needs among area employees, establish a pipeline of prospective entry level workers who have the capacity and motivation to ascend career ladders, and develop and implement a job seeker recruitment strategy specific to manufacturing, targeting non-traditional populations.

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

Financing Uses	Amount	Financing Sources	Amount	Percent
Salary and Fringe Benefits	\$205,000	ESD Grant	\$600,000	100%
Contractual Services	320,000			
Program Costs	15,000			
Overhead Costs	60,000			
Total Project Costs	\$600,000	Total Project Financing	\$600,000	100%

Grantee Contact - Robert Simpson, President & Chief Executive Officer  
115 West Fayette Street  
Syracuse, NY 13202  
Phone: (347) 422-8284

Project Team - Project Management Wilfredo Florentino  
Contractor & Supplier Diversity Geraldine Ford  
Environmental Soo Kang

**Financial Terms and Conditions:**

1. The Grantee will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
2. Up to \$600,000 will be disbursed to Grantee no more frequently than monthly, as described in these materials, 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. All project expenditures must have been incurred after April 1, 2014, the date that the New York State budget, in which the project is authorized, was passed. The final ten percent (10%) of the Grant shall not be disbursed by ESD until all of the tasks and reports required have been completed to ESD's satisfaction.
3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$600,000, 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

**Advanced Manufacturing in Central New York Working Capital (AA158)**

October 20, 2016

amount of assistance approved by the Directors.

**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 businesses (MWBs) in the performance of ESD projects. For purposes of this project, however, goals will not be established due to the unavailability of certified MWBs for performance of this Contract.

**Statutory Basis – Local Assistance:**

The project is authorized in the 2014-2015 New York State budget and reappropriated in the 2015-2016 and 2016-2017 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

**Disclosure and Accountability Certifications:**

The Grantee has provided ESD with the required Disclosure and Accountability Certifications. Grantee's certifications indicate that Grantee has no conflict of interest or good standing violations and, therefore, staff recommends that the Corporation authorize the grant to the Grantee as described in these materials.

## C. Nassau Hub Transportation Capital (AB212)

October 20, 2016

### General Project Plan

- Grantee:** County of Nassau ("Nassau County" or the "County")
- ESD Investment:** A grant of up to \$85,000,000 to be used for costs of planning, design including architectural and engineering fees, and construction of parking garages including improved site access routes from surrounding roadways
- Project Location:** 1255 Hempstead Turnpike, Uniondale, Nassau County
- Proposed Project:** Parking infrastructure to make land available to support high-value commercial development at the Nassau Hub development
- Project Type:** Infrastructure
- Regional Council:** The Long Island Regional Council has been made aware of this item.

### **Background:**

Grantee History – Nassau County is located on Long Island and has a population of over 1.3 million. It is bordered to the west by the New York City borough of Queens, to the east by Suffolk County, to the north by Long Island Sound and to the south by the Atlantic Ocean. The County was formed on January 1, 1899 and since 1938 has operated under the County Charter. The County Charter was the first of its type in the State and established a form of government headed by a County Executive and a Board of Supervisors. The County seat is located in the Village of Garden City, within the boundaries of Mineola.

Nassau County funds a full range of municipal services, including public safety, health, highways, water and sewer, college education, sanitation, public improvements and parks, recreation facilities and cultural events, as well as planning and general administrative services. The County contains three towns, two cities, sixty-four incorporated villages, fifty-six school districts and two hundred special taxing districts that provide services in specific areas such as garbage collection and water supply.

Ownership – Nassau County is a municipality.

ESD Involvement – The Nassau Hub is a major planned development for the development of new bio-tech, medical research, recreational and entertainment uses on the current Nassau Veterans Memorial Coliseum site. The County has adopted a Conceptual Master Plan (the "Master Plan"), and has already entered into a contractual agreement with Memorial Sloan Kettering Cancer Center to expand and build a new

## Nassau Hub Transportation Capital (AB212)

October 20, 2016

state-of-the-art outpatient care treatment and clinical research center on the site. Additionally, the Coliseum is currently undergoing interior and exterior renovations pursuant to a long-term lease agreement with Nassau Events Center, LLC. Future development on the site is constrained by current surface parking on the site. Consolidating and increasing the number of parking spaces by way of above ground parking structures will unlock nearly 19 acres of land currently being used for surface parking lots as consistent with the Master Plan. The County has identified a parcel directly west of the Coliseum, along Earle Ovington Boulevard across from Hofstra University, and a second parcel north of the Coliseum adjacent to Charles Lindbergh Boulevard. An \$85 million Transformative Investment Program grant was included in the FY 2016-2017 New York State budget.

Competition - N/A

Past ESD Support – ESD has not assisted the Grantee in the past five years.

### The Project:

Completion – September 2018

Activity – Nassau County plans to build two above ground parking structures on the 77-acre County-owned Nassau Hub site to support future uses, such as, bio-tech, medical research and development, retail development, and office space. The project is expected to create approximately 3,400 parking spaces. Planning, design and construction of the parking structures will be overseen by the County of Nassau.

Results – As a result of the project, approximately 19 acres of existing surface parking will be made available for development. The Nassau Hub will transform the site into a major center of economic growth and competitiveness in Nassau County.

Financing Uses	Amount	Financing Sources	Amount	Percent
Construction	\$67,500,000	ESD Grant	\$85,000,000	100%
Hard Cost Contingency	6,750,000			
Architectural and Engineering Fees	3,900,000			
Legal, SEQRA/Environmental, Insurance, Development Costs and other Soft Costs	6,850,000			
Total Project Costs	\$85,000,000	Total Project Financing	\$85,000,000	100%

**Nassau Hub Transportation Capital (AB212)**

October 20, 2016

**Grantee Contact** - Edward P. Mangano, County Executive  
1550 Franklin Avenue  
Mineola, NY 11570  
Phone: (516) 571-3131

**Project Team** - Project Management                      Javier Roman-Morales  
Contractor & Supplier Diversity              Geraldine Ford  
Environmental    Soo Kang

**Financial Terms and Conditions:**

1. Upon execution of the grant disbursement agreement, the Grantee shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. Up to \$85,000,000 will be disbursed to Grantee upon completion of the project substantially as described in these materials, as evidenced by a certificate of occupancy and 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. All project expenditures must have been incurred after April 1, 2016, the date that the New York State budget, in which the project is authorized, was passed. The final ten percent (10%) of the Grant shall not be disbursed by ESD until all of the tasks and reports required have been completed to ESD's satisfaction.
3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$85,000,000, 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.

**Environmental Review:**

The Nassau County Department of Public Works, 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 would not have a significant effect on the environment. ESD staff reviewed the supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

**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

**Nassau Hub Transportation Capital (AB212)**

October 20, 2016

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.

**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.

**Statutory Basis - Transformative Investment Program:**

The project was authorized in the 2016-2017 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

**Disclosure and Accountability Certifications:**

The Grantee has provided ESD with the required Disclosure and Accountability Certifications. Grantee's certifications indicate that Grantee has no conflict of interest or good standing violations and, therefore, staff recommends that the Corporation authorize the grant to the Grantee as described in these materials.

**Attachment:** Resolution

October 20, 2016

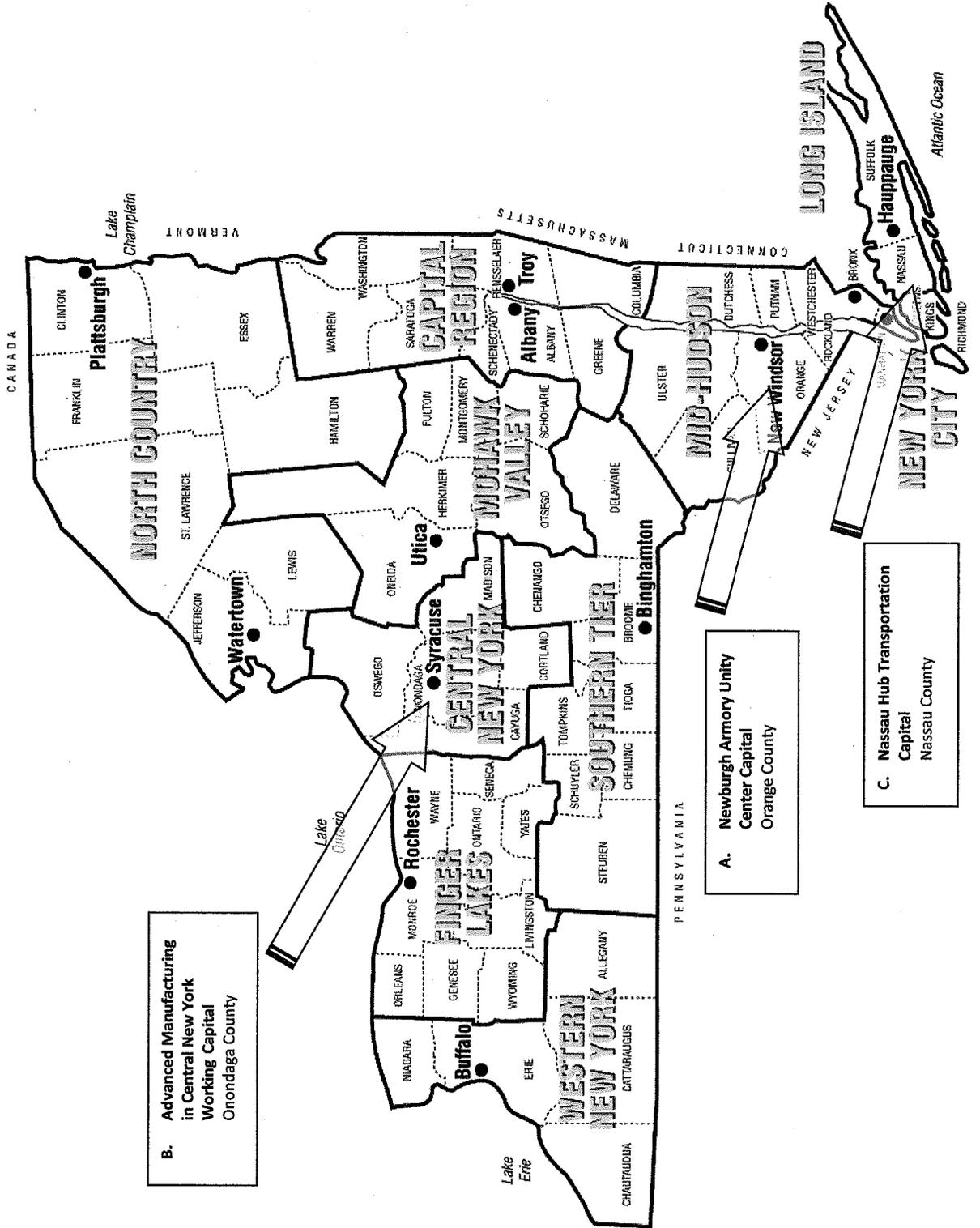
Uniondale (Long Island Region – Nassau County) – Nassau Hub Transportation Capital –  
Transformative Investment Program Capital Grant – Determination of No Significant  
Effect on the Environment

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

\* \* \*

# Non-Discretionary Project Map



# **Item IV. A.**



**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** New York State Innovation Venture Capital Fund (“NYSIVCF”)

**REQUEST FOR:** Authorization of an Investment of NYSIVCF Funds in TARA Biosystems, Inc.

---

**I. Project Summary**

**Awardees:** TARA Biosystems, Inc. (the “Company”)

**Amount:** Up to \$2,000,000 in preferred equity

**Project Location:** New York, NY

**Anticipated Funding Source:** The liquid assets held by ESD for NYSIVCF.

**ESD Project No.:** TBD

<b>Project Team:</b>	<b>Origination</b>	Brian Keil
	<b>Project Management</b>	Brian Keil
	<b>Legal</b>	Richard Dorado
	<b>Contractor &amp; Supplier Diversity</b>	Jazmin Thomas
	<b>Environmental</b>	Soo Kang

**II. Background**

Pursuant to the Authorizing Legislation, the New York State Innovation Venture Capital Fund may invest up to \$100 million in eligible seed and early stage small businesses located in, or that in writing agree to be located in, New York State that (i) have the potential to generate additional economic activity in the State and (ii) are working in emerging technology fields or are achieving, or have the potential to achieve, technological advances, innovation, transformation or development. The target portfolio companies demonstrate a potential for substantial growth and job development, and have the potential to generate additional economic activity in the State.

NYSIVCF also provides funding for the Technology Commercialization fund of funds supporting the pre-seed investment opportunities throughout the State. The NYSIVCF is part of a larger equity investment strategy that includes the Innovate NY Fund, a \$45 million fund of funds that invests in seed stage equity opportunities.

### III. Past State Support for TARA Biosystems

TARA received State support through the Innovate NY Fund, which invested \$750,000 into the Company's seed round of financing in November 2015.

### IV. Project Status

TARA Biosystems, a life sciences company based in New York, NY, provides predictive in vitro human cardiac tissue models for use in drug discovery and safety assessment. The Company was founded by researchers from Columbia University and the University of Toronto.

Current cardiac testing platforms rely on non-physiologically relevant animal models or immature human-based cardiac cell and tissue models. These inferior models can lead to adverse outcomes, such as potentially life-saving drugs being abandoned before going to market as a result of inadequate safety data, or costly, late-stage drug failures due to the discovery of cardiac toxicity in human trials.

TARA Biosystems offers a highly accurate solution that is based on stem cell-derived human cardiac tissue matured to physiologically relevant adult-like levels. The TARA solution provides cardiac toxicology data earlier in the drug development cycle, enabling a more reliable, more precise drug discovery model.

The Company's management team is composed of industry experts and thought leaders, with a combined 100+ years' experience in cardiac physiology, tissue engineering and early-stage company building.

In order to fund its activities over the next 18-24 months, the Company is raising up to \$7,000,000 in preferred equity at a pre-money valuation of \$11.4M. The NYSIVCF will invest up to \$2,000,000 into this investment round with the balance being provided by private sector investors.

As part of the due diligence process, NYSIVCF staff and an external Investment Review Committee (IRC) evaluated the Company's business plan and growth prospects as well as the terms of the investment. As a result of that analysis, NYSIVCF and the IRC both agree that the market opportunity and growth potential offered by this New York State company warrants an investment by the NYSIVCF and recommend its approval.

V. Statutory Basis

In order to attract private sector investment in new research, translate research into marketable products, strengthen university/industry connections, and prepare New York businesses to compete for private-sector venture investment, Laws of New York 2013 Chapter 59 Part JJ (the "Authorizing Legislation") authorized the New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") to establish and administer the New York State Innovation Venture Capital Fund in order to provide critical seed-stage and early-stage funding to incentivize new business formation and growth in the State of New York and facilitate the transition from ideas and research to marketable products.

VI. 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 of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

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 businesses (MWBES) in the performance of ESD 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.

Additional Submissions to Directors

Resolutions

Schedule A – Summary Description of TARA Biosystems

Schedule B – Summary of the Investment Terms

October 20, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT-  
New York State Innovation Venture Capital Fund - Authorization of an Investment of NYSIVCF  
Funds in TARA Biosystems, Inc.

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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 (the "Materials"), relating to the New York State Innovation Venture Capital Fund, the Corporation is authorized to make an investment, in an amount not to exceed \$2,000,000, in TARA Biosystems, Inc. (the "Company") and to enter into agreements and related documentation with the Company and the investment entities named in the Materials in order to effect such investment; 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 investment, and each of them hereby is, authorized to take such actions, including modifying the terms of the investment and entering into additional agreements with the Company and others, as he or she may deem necessary or appropriate in the administration of the Corporation's investments in the Company; and be it further

RESOLVED, that the provision by the Corporation of 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 availability of funds and the approval of the State Division of the Budget, if applicable; 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.

\* \* \*

## Schedule A

**New York State Innovation Venture Capital Fund:  
Summary Description of TARA Biosystems, Inc.  
ESD Board of Directors' Meeting  
October 20, 2016**

### **TARA Biosystems**

TARA Biosystems, a life sciences company based in New York, NY, provides predictive in vitro human cardiac tissue models for use in drug discovery and safety assessment. The Company was founded by researchers from Columbia University and the University of Toronto.

Current cardiac testing platforms rely on non-physiologically relevant animal models or immature human-based cardiac cell and tissue models. These inferior models can lead to adverse outcomes, such as potentially life-saving drugs being abandoned before going to market as a result of inadequate safety data, or costly, late-stage drug failures due to the discovery of cardiac toxicity in human trials.

TARA Biosystems offers a highly accurate solution that is based on stem cell-derived human cardiac tissue matured to physiologically relevant adult-like levels. The TARA solution provides cardiac toxicology data earlier in the drug development cycle, enabling a more reliable, more precise drug discovery model.

**Schedule B**

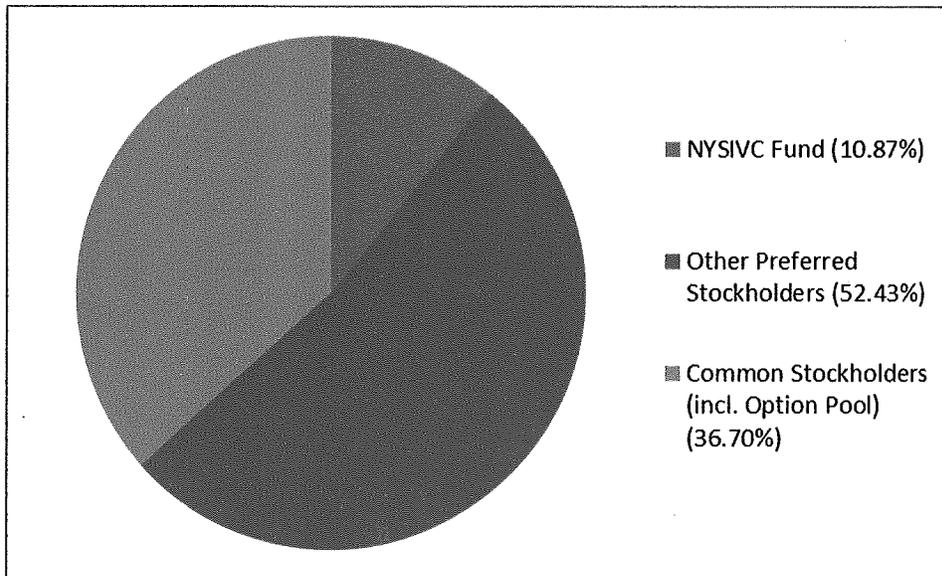
**New York State Innovation Venture Capital Fund:  
TARA Biosystems, Inc. (the "Company")  
Summary of Series A Preferred Financing Terms  
ESD Board of Directors' Meeting  
October 20, 2016**

<u>Type of Security:</u>	Series A Convertible Preferred Stock (the "Series A Preferred")
<u>Investment Amount; Use of Proceeds:</u>	Up to a total of \$2M. Funds will be used solely for working capital requirements of the Company.
<u>Principal Terms of the Series A Preferred:</u>	<p><u>Liquidation Preference:</u> In the event of a liquidation of the Company, the holders of the Series A Preferred will receive, prior to and in preference over the holders of the Common Stock, the greater of (i) an amount per share equal to 1x the original Series A Preferred purchase price plus any accrued but unpaid dividends or (ii) such amount as would have been payable had all shares of the Series A Preferred been converted to Common Stock immediately prior to such liquidation.</p> <p><u>Dividends:</u> 6%, payable on the Series A Preferred only on an as-converted basis when, as, and if paid on the Common Stock.</p>
<u>Protective Provisions:</u>	The consent of a majority of the holders of the Series A Preferred shall be required with respect to all major corporate actions.
<u>Series A Preferred Director:</u>	One member of the Company's Board of Directors shall be approved by the Series A Preferred lead investor, Vital Venture Capital.
<u>Co-Investment Syndicate:</u>	<p>Other Series A Preferred Investors:</p> <ul style="list-style-type: none"> <li>• Vital Venture Capital</li> <li>• Partnership Fund for New York City</li> <li>• Harris &amp; Harris Group</li> </ul> <p>Previous Investors:</p> <ul style="list-style-type: none"> <li>• Partnership Fund for New York City</li> <li>• Harris &amp; Harris Group</li> <li>• Alexandria Real Estate Equities</li> </ul>

### Series A Preferred Round: Co-Investors

1. Vital Venture Capital: Vital Venture Capital is a venture capital firm with offices in Bethesda, MD and Simsbury, CT. The firm invests in early- and later-stage companies focusing on business-to-business SaaS software, medical devices, and diagnostics.
2. Partnership Fund for New York City: Partnership Fund for New York City is a venture capital firm which seeks to invest in the healthcare, entertainment, financial technology, manufacturing, retail, education, media, pharmaceuticals, biotechnology, mobile, clean technology, financial services, energy, and information technology industries. The Partnership Fund is a member of the Innovate NY Fund.
3. Harris & Harris Group: Harris & Harris Group is a venture capital firm specializing in early stage investments. The firm prefers to invest in companies operating in new technologies including micro systems and transformative nanotechnology, clean technology, energy, healthcare and electronic sectors. The firm has offices in New York City and Palo Alto, CA.

### Overview of Company Ownership



**Item V. A.**



**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Bronx (Bronx County) – Bronx Psychiatric Center

**REQUEST FOR:** Authorization to Amend the Contract with AKRF, Inc. to Continue to Provide Environmental Consulting Services in Connection with the Disposition and Redevelopment of Portions of the Bronx Psychiatric Center and to Take Related Actions

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**Contract Summary**

**Consultant** AKRF, Inc. (“AKRF”)

**Work** An Environmental Impact Statement (“EIS”) must be prepared for the Disposition and Redevelopment of Portions of the Bronx Psychiatric Center (the “Project”) in compliance with the State Environmental Quality Review Act (“SEQRA”). The contract amendment is needed to extend the contract term and to cover unanticipated additional costs to complete the EIS and related tasks.

**Term** The existing contract, which is for an 18 month term, expired in September 2016. Staff recommends that the contract be extended for one year to September 2017.

**Contract Amount** The existing contract amount is \$800,000 inclusive of contingencies and expenses. Staff recommends that the contract amount be increased by \$450,000 including contingency, which would bring the total contract amount to \$1,250,000, inclusive of fees, expenses and contingency.

**Funding Source** The contract to date has been and any amendment of the contract will be funded, in its entirety, from an imprest account maintained at and by ESD and funded by the Project developer.

## **Background**

ESD is currently involved in the disposition and redevelopment of an approximately 33-acre portion of the Bronx Psychiatric Center (the "Project Site") located at 1500 Waters Place in the Morris Park section of the Bronx. ESD issued a Request for Proposals in November 2013 seeking proposals for the purchase and redevelopment of the site, and in February 2015, ESD announced plans for the development of approximately 1,740,000 square feet of office, academic, and medical center space (the "Proposed Project") to be constructed by Simone Development Companies, subject to a legally required public review process.

As part of the public review process and review pursuant to SEQRA, and in anticipation of the need for the preparation of an EIS, a complex document which would analyze the potential impacts of and requisite mitigation for the Proposed Project, staff recommended, and in March 2015, the Directors authorized the retention of AKRF to provide environmental consulting services.

A notice of public scoping and intent to prepare a Draft EIS ("DEIS") and the Draft Scope of Analysis for the EIS, prepared by AKRF, were issued by ESD on November 20, 2015. A public scoping meeting was held on December 7, 2015 and the public comment period ended on December 22, 2015.

## **Proposed Amendment**

Additional funding and an extension of the contract period are needed in order to cover the expenses and time needed to complete the Final Scope of Analysis, DEIS and Final EIS. The additional expenses result from the need for increased coordination and strategic planning as well as expanded transportation analyses including studying an additional future scenario for the Project's full build-out analysis year to incorporate potential future connections to the Hutchinson River Parkway; conducting advanced sensitivity analyses and assessment of feasibility of using the Bronx Psychiatric Center's access roads; additional work efforts required to address comments raised by the New York City Department of Transportation ("NYCDOT"), the Metropolitan Transportation Agency ("MTA") and the New York City Department of City Planning ("NYCDCP"); and updating future baseline and incremental trip projections to account for existing vacancies at the Hutchinson Metro Center. An extension of the contract term is also needed due to the deferral of work on the EIS while awaiting completion of revisions to the site plan in response to comments from NYCDCP and the MTA.

AKRF has performed the work to date in a satisfactory manner. AKRF has been a long-time key environmental consultant to numerous ESD projects, including Atlantic Yards, Brooklyn Bridge Park, Moynihan Station, One Bryant Park and Queens West. AKRF has consistently demonstrated its ability to deliver complete and satisfactory work within very tight timeframes. Further, in completing such assignments, AKRF has accumulated significant, relevant experience and expertise not readily available elsewhere and which is directly transferable to the Project. Therefore, AKRF is uniquely qualified to continue the work, and continuity will yield time and cost efficiencies and consistency in the work product.

Accordingly, staff recommends a one-year extension of the AKRF contract and an amendment in the amount of \$450,000 including contingency to complete the above-described work. As stated above, the previously approved contract amount was \$800,000. Therefore, the total revised contract amount would be \$1,250,000. The amended contract will continue to be funded, in its entirety, from the imprest account funded by the Project developer.

Pursuant to the State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered AKRF's ability to perform the services provided for in the proposed amendment; 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 AKRF to be responsible.

#### **Environmental Review**

ESD staff has determined that the proposed contract amendment constitutes a Type II action as defined by SEQRA and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the proposed contract amendment.

#### **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-owned and Women-owned Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with this contract, and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of ESD's funding.

#### **Requested Action**

The Directors are requested to: authorize ESD to amend a contract with AKRF by extending the term for one year and increasing the compensation permitted under the contract by \$450,000 including contingency to a total not to exceed \$1,250,000 for work in connection with the Project as described in these materials.

#### **Recommendation**

Based on the foregoing, I recommend approval of the requested action.

#### **Attachment**

Resolutions

October 20, 2016

Bronx (Bronx County) – Authorization to Amend the Contract with AKRF, Inc. to Continue to Provide Environmental Consulting Services in Connection with the Disposition and Redevelopment of Portions of the Bronx Psychiatric Center and to Take Related Actions

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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 AKRF to be responsible; and be it further

RESOLVED, that on the basis of the Materials, the Corporation be, and hereby is, authorized to amend its existing contract with AKRF to provide additional environmental review consulting services in connection with the Bronx Psychiatric Center project; and be it further

RESOLVED, that such amendment will extend the term for one year and increase the compensation available under the contract by an additional \$450,000 including contingency; and be it further

RESOLVED, that the total compensation for services pursuant to the contract, as amended, shall not exceed \$1,250,000, 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.

\* \* \*

**Item V. B.**

**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Land Bank Program

**REQUEST FOR:** Approval of Land Bank Application and Authorization to Take All Related Actions

---

**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 nine additional land banks for a total of seventeen 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 joint application to create the Greater Mohawk Valley Land Bank be approved. The application was submitted by the counties of Herkimer, Montgomery, Otsego and Schoharie and the cities of Rome and Utica.

As demonstrated by the cooperative nature of the proposal which includes four separate counties and two cities, the proposed land bank has broad support from local governments in their respective areas. In addition, the applicants have pledged in-kind support to the land bank 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 its application, the Mohawk Valley application has made a strong case that the land bank will be successful in the region.

### 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 Greater Mohawk Valley Land Bank; and 2) take all related actions.

### VI. Recommendation

Based upon the foregoing, I recommend approval of the requested actions.

### Attachments

Resolution

October, 20 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 the Greater Mohawk Valley Land Bank 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.

\* \* \*

**Item V. C.**



**FOR CONSIDERATION**

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: New York City (Kings County) – Fountain Avenue Land Use Improvement and Residential Project

REQUEST FOR: Notification of Correction to the Modified General Project Plan (MGPP); Recommendation to Adopt the MGPP with Correction; Authorization to Take Related Actions

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**I. Background and Overview**

On August 18, 2016 the Directors affirmed a Modified General Project Plan (“MGPP”) for the Fountain Avenue Land Use Improvement and Residential Project (the “Project”). The approved Project entails the sale and redevelopment of two parcels, Parcel A (Block 4586, Lots 500 and 501) and Parcel B (Block 4586, Lot 200) totaling 6.7 acres of surplus property at the Brooklyn Developmental Center into an approximately 1,248,841 square foot mixed-use development comprised of approximately 1,169 rental apartments affordable to households earning no more than 60% of the area median income (“AMI”), retail, commercial and/or community facility space, parking and the creation of “Schroeders Walk” a privately-owned, publicly accessibly open space between Erskine and Fountain Avenues.

**II. Correction to the Modified General Project Plan**

In the materials that were approved by the Directors, a page outlining a portion of the zoning overrides necessary to effectuate the Project was inadvertently omitted from Exhibit D of the MGPP due to a printing error. This height and setback zoning override was always intended to be included in the full complement of overrides to be authorized for the Project, and furthermore, was addressed in the Final Environmental Impact Statement (FEIS) that was approved by the Directors on July 21, 2016 and is reflected in the Design Guidelines accepted by the Directors on August 18, 2016.

**III. Requested Actions**

The Directors are being asked to approve the MGPP with the correction.

**IV. RECOMMENDATION**

Based on the foregoing, I recommend approval of the requested actions.

**V. ATTACHMENTS**

Resolutions  
Corrected Exhibit D to MGPP

October 20, 2016

NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT – New York City (Kings County) – Fountain Avenue Land Use Improvement and Residential Project – Notification of Correction to the Modified General Project Plan (MGPP); Recommendation to Adopt the MGPP with Correction; Authorization 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 (the “Materials”), the Corporation hereby adopts the Modified General Project Plan for the Fountain Avenue Land Use Improvement and Residential Project (the “Project”) with the corrected Exhibit D; and be it further

RESOLVED, that the Chairman and Chief Executive Officer, or his designee, 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 considered necessary or appropriate to effectuate the foregoing resolutions and any actions taken by the Corporation in reliance upon or in furtherance of the authorized actions set forth herein are hereby ratified.

\* \* \*

## Exhibit D

ZONING RESOLUTION	REGULATION	PROPOSED OVERRIDES:
22-10: USES PERMITTED AS OF RIGHT	Use Group 1-4 Permitted	to permit Use Group 1-10
23-011 Quality Housing Program (Applicability, we want to use this section in R3-2)	Quality Housing Program permitted in R6-R10 only	to allow use of Quality Housing Program in R3-2
22-32 Permitted Non-Illuminated Accessory Signs	Accessory non-illuminated signs permitted	to permit illuminated, non-flashing signs and to permit signage accessory to commercial use
23-141(b) Open Space and Floor Area Regulations in R1, R2, R3, R4 or R5 districts	Maximum Lot Coverage 35%	to permit 100% coverage for Commercial / Residential Corner 80% / Residential Interior or Thru 65%
23-141(b) Open Space and Floor Area Regulations in R1, R2, R3, R4 or R5 districts	Minimum Residential Open Space 65%	to allow proposed Lot Coverage to govern
23-141(b) Open space and floor area regulations in R1, R2, R3, R4 or R5 districts	Maximum floor area ratio (FAR) 0.5	to allow a maximum floor area ratio (FAR) of 4.06
23-141(d) Open Space and Floor Area Regulations in R1, R2, R3, R4 or R5 districts	50% of open space must have minimum dimension of 12'	to allow proposed design to govern
23-22 Maximum Number of Dwelling Units or Rooming Units	870 Dwelling Unit Factor	to allow 680 Dwelling Unit Factor
23-45 Minimum Required Front Yards	15' Required	to permit development without front yards
23-451 Planting Requirement	50% of front yard to be planted	to waive planting requirement since front yard not provided
23-462 Side Yards for All Other Buildings Containing Residences	(2) @ 8' Minimum or 10% of Street Wall	to permit development without side yards
23-463 Maximum Aggregate Width of Street Walls	125' Max	to permit maximum street wall width to exceed 125
23-47 and 33-26 Minimum Required Rear Yards	30' Required for residential use and 20' for commercial use	to permit reduced or no rear yards
23-49 Special Provisions for Side Lot Line Walls	Building may abut adjacent buildings built at the same time providing only 1 side yard	to permit proposed design to govern with no side yards
23-531 Excepted Thru Lots	No rear yard for thru lots less 110' from street to street	to permit no rear yards on any portion of any thru lot
23-631 Height and Setback in R1, R2, R3, R4 and R5 Districts	21' max street wall/sloping plane and ridge diagram max	to permit 95' Street Wall/95' Building height Max. No Setback required above base height. Proposed design to govern.

## Exhibit D (cont'd)

ZONING RESOLUTION	REGULATION	PROPOSED OVERRIDES:
23-711 Standard Minimum Distance between Buildings	Depending on relations to opposing building & height, up to 60' required	to permit distance between buildings to be reduced per proposed design
23-86 Minimum Distance between Legally Required Windows and Walls or Lot Lines	30' minimum for any wall or rear lot line; 15' for side lot line	to permit reduced or 0 distance between windows and lot lines. Treat the Roads & Open Spaces on OPWDD property as legal frontage when maintaining 60' between buildings
23-87 Permitted Obstructions in Courts	Does not permit parking spaces in courts	to Permit parking spaces (open or enclosed) in courts
23-882 Minimum Distance Between Lot Lines and Building Walls in R1 through R5	30' minimum	to permit 0 distance
23-89 Open Area Requirements for Residences	30' Open Space Adjacent to Rear Wall	to permit development without open space adjacent to rear walls
25-12 Maximum Size of Accessory Group Parking Facilities	200 spaces maximum for residential use; 150 Spaces Maximum for commercial or community facility	to Permit parking for up to 35% of Residential Units and Commercial parking 1/1000 square feet
25-23 Requirements Where Group Parking Facilities are Provided	100% of dwelling units parking required	to permit reduced parking ratio of 35% of dwelling units parking
25-25 Modification of Requirements for Public, Publicly-Assisted and Government Assisted Housing or for Non-profit Residences for the Elderly	80% of dwelling units parking required	to permit reduced parking ratio of 35% of dwelling units parking
26-23 Requirements for Planting Strips and Trees	Minimum 3' deep planting strip required along curb with 3" caliper trees per 25	to permit development without planting strips and trees along curb or private roads
26-25 Requirements for Open Areas Between Required Sidewalks and Buildings	Minimum 5' deep area required between sidewalk and buildings	to permit 0 distance between sidewalk and buildings
28-01 Applicability of This Chapter (The Quality Housing Program)	Applicability of Quality Housing Program in R6 and above	to permit Quality Housing Program to apply in R3-2 District
32-10 USES PERMITTED AS-OF-RIGHT	Use Group 6-10 only permitted in C1, C2, C4, C5, C6, C8 (dependent on use)	to permit Use Group 6-10 in R3-2 District

**Item V. D.**



**FOR CONSIDERATION**

October 20, 2016

**TO:** The Directors

**FROM:** Howard Zemsky

**SUBJECT:** New York (New York County) – Moynihan Station Civic and Land Use Improvement Project

**REQUEST FOR:** Authorization to Enter into a Memorandum of Understanding with the Dormitory Authority of the State of New York; Authorization to Take Related Actions

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**Summary**

**Agency:** Dormitory Authority of the State of New York (“DASNY”)

**Scope of Responsibilities:** Act as the permitting agency for the Uniform Fire Prevention and Building Code as adopted by the State of New York (the “State Code”) for the for the redevelopment of the James A. Farley Post Office Building and Annex (“Farley”).

**Anticipated Term:** The term will be effective as of May 7, 2015 through the final completion of construction for occupancy of Farley or earlier termination by either party.

**Amount:** Not to exceed \$900,000 in ESD funding.

**Funding Source:** The ESD funding amount will come from proceeds received from the licensing of Farley for events and funds received by ESD from the Metropolitan Transportation Authority and the Port Authority of the State of New York, and in addition to the ESD funding amount, the private entity designated to long-term net lease Farley for its redevelopment will pay DASNY additional amounts for acting as the permitting authority for the Farley redevelopment either directly or through an imprest account with DASNY and/or ESD.

## **Background**

Pursuant to Part 1204 of Title 19 of the New York State Codes, Rules and Regulations, DASNY is designated as a construction permitting agency for the State of New York (the "State"). Pursuant to such designation, DASNY is authorized to administer and enforce the New York State Uniform Fire Prevention and Building Code (the "State Code"), including the design, variances, permitting, construction and inspection of buildings, land, structures or premises owned by the State, its agencies, departments, divisions, commissions, public authorities, public benefit corporations, and other entities and instrumentalities.

New York State Urban Development Corporation d/b/a Empire State Development ("ESD") owns the Farley land and improvements, located between Eighth and Ninth Avenues and between West 31<sup>st</sup> and 33<sup>rd</sup> Streets in the borough of Manhattan, New York, New York. National Railroad Passenger Corporation (Amtrak") owns or has a perpetual easement right to occupy the subsurface train shed (the "Train Shed") areas below the Farley that are used by Amtrak for inter-city passenger railroad service and by Long Island Rail Railroad ("LIRR") and New Jersey Transit ("NJT") for commuter passenger railroad service pursuant to agreements among Amtrak, LIRR, and NJT.

For Phase 2 ("Phase 2") of the Moynihan Station Civic and Land Use Improvement Project (the "Project"), ESD intends to select a tenant/developer (the "Tenant") that will long-term net lease Farley and fund and implement a plan for the redevelopment, operation, and maintenance of the Farley (the "Farley Phase 2 Improvements"), including, (i) construction of a train hall for use by LIRR and Amtrak passengers (the "Train Hall"), (ii) vertical transportation between the Train Shed and the Train Hall and other Train Shed work (the "Train Shed Work"), (iii) spaces and facilities for use and operation by LIRR and Amtrak, and (iv) spaces for commercial development.

In order to effect the Farley Phase 2 Improvements, ESD plans to establish a commercial condominium regime various condominium units, including: (i) the Train Hall unit (the "Train Hall Unit"); (ii) the LIRR back-of-house and passenger facing operations unit (the "LIRR Unit"); (iii) the Amtrak back-of-house and passenger facing operations unit (the "Amtrak Unit"); (iv) the Train Hall related retail space unit; (v) the United States Postal Service leased space unit; and (vi) the commercial space unit. ESD will own and long-term net lease to the Tenant the units, and the Train Hall Unit will be leased subject to requirements for its use for railroad passenger operations. After Tenant's completion of construction, the title to the Amtrak Unit will be transferred to Amtrak and the LIRR unit will be leased to LIRR, and the Tenant's lease will terminate with respect to those units.

For the Farley Phase 2 Improvements, Skidmore Owings and Merrill ("SOM") prepared (i) near 100% drawings (the "SOM Plans") for work consisting of, among other things, the Train Hall Unit core and shell, fit-out, and FF&E; the LIRR Unit core and shell; the Amtrak Unit core and shell plus fit out and FF&E for the baggage handling facility for that unit; vertical circulation,

including passenger stairs, escalators, and elevators connecting the Train Hall and the Train Shed; lateral circulation space; the Train Hall Retail Unit core and shell; dedicated drop-off lanes and curb cuts for taxi access located on the mid-block of West 33<sup>rd</sup> Street and West 31<sup>st</sup> Street; replacement of the building's mechanical systems and reconfigured building access; exterior building restoration, including windows; replacement of the existing loading docks and loading facilities (all such work collectively constitutes a part of the Farley Phase 2 Improvements) and (ii) conceptual drawings of a pedestrian corridor within the Farley that aligns with West 32<sup>nd</sup> Street that will provide pedestrian circulation between the Train Hall Unit and Ninth Ave with retail space on both sides of that corridor.

LIRR has become a major participant in the Project and will have a substantial Farley presence for LIRR'S back of house and passenger facing operations. LIRR uses the State Code in its facilities. In the Train Shed, Amtrak acts as the permitting authority and applies the National Fire Prevention Association code, including its Standard 130: Standard for Fixed Guideway Transit and Passenger Rail Systems. The SOM Plans for Farley have been prepared in conformance with the State Code. All Farley Phase 2 Improvements within Farley will be constructed by the Tenant in accordance with plans and specifications that will be prepared by the Tenant's architects, and such plans and specifications will be based on the SOM Plans, conform to the State Code (including properly obtained variances), and be subject to the approval of ESD and its architect prior to construction.

ESD and DASNY seek to have DASNY administer and enforce the State Code as the construction permitting agency for the Farley Phase 2 Improvements. DASNY is willing to undertake the administration and enforcement of the State Code as the construction permitting agency and perform such other services as may be necessary with respect to such administration and enforcement.

### **Capability of DASNY**

Pursuant to Part 1204 of Title 19 of the New York State Codes, Rules and Regulations, DASNY is designated as a construction permitting agency for the State. DASNY is authorized to administer and enforce the State Code, including for design, variances, permitting, construction, and inspection of buildings, land, structures or premises owned by the State and its agencies, departments, divisions, commissions, public authorities, public benefit corporations, and other entities and instrumentalities. DASNY's experience with large projects in New York City gives DASNY a unique capability to administer the enforcement of the State Code and to act as the permitting authority for the Farley Phase 2 Improvements.

### **Scope of Responsibilities**

DASNY would function as the construction permitting agency and ensure that design, variances, permitting, construction, and inspection for Farley Phase 2 Improvements work is in conformance with the standards and procedures set forth in the State Code, including but not limited to: (i) review and examination by professional engineers or registered architects of

design plans and specifications; (ii) issuance of construction permits; (iii) conducting or causing to be conducted inspections required under the State Code; (iv) issuance of temporary approvals for occupancy; (v) issuance of code compliance certificates in accordance with State Code; (vi) informing Tenant and ESD of all non-conformances, questions, issues, and concerns DASNY may have regarding plans and specifications, project construction, and compliance with the State Code; (vii) participation in the variance process and consulting with Tenant's and ESD's consultants in order to find solutions to conditions giving rise to the necessity for such variances; and (viii) providing such other services in connection with the Farley Phase 2 Improvements as ESD and DASNY may agree. ESD would name DASNY as an additional insured on any Project specific liability insurance policy that ESD obtains and would indemnify DASNY.

### **Term and Funding**

The term will be effective as of May 7, 2015 through the final completion of construction for occupancy of Farley or earlier termination by either party. DASNY shall be provided with the amount necessary to pay the salaries, costs, reimbursements and expenses of DASNY personnel, including direct and indirect costs, and DASNY's out-of-pocket costs incurred by DASNY's for the services of third party experts and consultants from May 7, 2015 through September 30, 2016 for advising ESD and reviewing and commenting on the SOM Plans with respect to compliance with the State Code. For the period after September 30, 2016, the Tenant shall pay all costs and fund all amounts related to the code enforcement work.

### **Environmental Review**

ESD staff has determined that the requested authorization to enter into the MOU with DASNY constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the requested authorization.

### **Requested Actions**

It is recommended that the Directors authorize the Corporation to (1) enter into a Memorandum of Understanding with DASNY substantially upon the terms set forth in the Materials; and (2) to take all related actions.

### **Recommendations**

Based on the foregoing, I recommend approval of the requested actions.

### **Attachments**

Resolutions

October 20, 2016

Authorization to Enter into a Memorandum of Understanding with the Dormitory Authority of the State of New York; Authorization to Take Related Actions

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RESOLVED, that on the basis of the materials presented at this meeting (the "Materials") a copy of which is ordered to be filed with the records of the Corporation, the Corporation be, and hereby is, authorized to enter into with the Dormitory Authority of the State of New York ("DASNY") a memorandum of understanding for DASNY to act as the construction permitting agency in implementing New York State Uniform Fire Prevention and Building Code with respect to the redevelopment of James A. Farley Post Office Building and Annex as described in the Materials; and be it further

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

\* \* \*

**Item V. E.**



FOR CONSIDERATION

October 20, 2016

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: New York City (New York County) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Amend Contract with Skadden, Arps, Slate, Meagher & Flom LLP for Legal Services; and Authorization to Take Related Actions

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**CONTRACT AMENDMENT NEEDS AND JUSTIFICATION**

I. **Contract Summary**

Contractor:	Skadden, Arps, Slate, Meagher & Flom LLP
Scope of Services:	Legal services for the redevelopment of the James A. Farley Building property and Annex ("Farley") and Pennsylvania Station New York ("Penn Station").
Contract Term:	December 31, 2018
Amended Contract Amount:	\$550,000 plus all payments from the Imprest Account (as defined below) for Transaction Costs (as defined below)

II. **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"; ESD, MTA and Amtrak collectively the "Project Sponsors") 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 the ESD-owned Farley, including (w) a new railroad passenger train hall, that would serve LIRR and Amtrak passengers, (x) new back-of-house and passenger facing operations for LIRR and Amtrak, (y) related work in the Penn Station train-shed, and (z) private commercial space.

Last April, ESD received the RFP response submissions. Each respondent that made a conforming submission signed a cost agreement pursuant to which the respondent agreed to pay all reasonable out-of-pocket fees, costs, and expenses (including, fees, costs, and expenses of legal counsel, consultants, architects, engineers, appraisers, surveyors, and others), incurred, on or after April 22, 2016 (the RFP submission due date), by any Project Sponsor in connection with the respondent's submission, any negotiations and transactions that may result from such submission, all or any portions of the development of the new train hall and related improvements in Farley and in the Penn Station train shed and all other development of Farley (collectively, "Transaction Costs"). In order to be considered, each respondent also had to submit a check in the amount of \$1,500,000 that was deposited into an imprest account (the "Imprest Account"). The monies in the imprest account can be used only to pay Transaction Costs. The cost agreement provides that the respondent promptly replenish the Imprest Account to the amount of \$1,000,000 each time the balance of the account is reduced to below \$250,000. The unused Imprest Account monies contributed by a respondent that is not designated to enter into negotiations with the Project Sponsors would be returned to such respondent, but the Imprest Account would continue to be funded by the respondent designated to enter into such negotiations and used pay Transaction Costs. At their September 30 meeting, the Directors were informed that RVS Realty Partners LLC ("RVS"), a joint venture of Vornado Realty L.P., The Related Companies, L.P. and Skanska AB, has been designated to enter into negotiations with the Project Sponsors. The Transaction Costs, including expenses for the Firm's work, are paid from the monies deposited in the Imprest Account and not from ESD funds.

Expenses for the Firm's work that are not Transaction Costs cannot be funded from the Imprest Account. Instead, such expenses are paid to the Firm, up to the maximum amount the contract and at ESD standard rates, with monies from the other sources, including, revenues received by the Corporation from events held at Farley and funding from the Metropolitan Transportation Authority and the Port Authority of New York and New Jersey.

At their March 24, 2016 meeting, the Directors authorized the contract with the Firm. Neil Rock, the Firm partner responsible for the work, has a strong grasp of ESD's statutory powers and their application to public/private real estate development projects. ESD retained the Firm in order to obtain his expertise and experience. He has been the principal lawyer for the Firm's work since the commencement of the current solicitation process, which has now entered the phase of negotiation of documentation.

He will oversee the work of the firm's lawyers and other staff as appropriate. ESD staff reports that the Firm's work has been excellent in all respects.

In order for the Firm continue working to advance the Project, staff recommends that ESD amend the Firm's contract to (i) add \$300,000 so that the maximum amount of the contract to be paid with ESD funds, exclusive of the Imprest Account funds, will \$550,000 and (ii) authorize the use of Imprest Account funds to pay Transaction Costs arising from the Firm's work.

**III. 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.

**IV. Scope of Work**

Skadden provides legal services related to the planning, evaluation, structuring, financing, and documenting transactions related to the Project, including the use of the development rights associated with Farley and matters arising from the redevelopment of Penn Station.

**V. Funding Source(s):**

Funding Sources are (i) for Transaction Costs, the Imprest Account; and (ii) for work that is not a Transaction Cost, revenues received by the Corporation from events held at Farley and funding from the Metropolitan Transportation Authority and the Port Authority of New York and New Jersey.

**VI. Non-Discrimination and Contractor & Supplier Diversity**

The Firm cannot subcontract any work on this Project, however, in addition to the Firm, Bryant Rabbino LLP, a New York State certified Minority-Owned Business Enterprise will separately provide legal services on Project real estate matters, including the establishment of Farley condominium regime, development agreements, agreements with condominium owners and tenants, and general real estate matters. The principal attorney responsible for the Bryant Rabbino work is Anne Adams Rabbino.

**VII. 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.

**VIII. Requested Actions**

The Directors are requested to authorize the amendment of the legal services contract with Firm to in order to (i) an increase the total contract amount of \$550,000 for amounts to be to be paid by ESD with funds other than Imprest Account funds, (ii) payment from the Imprest Account of Transaction Costs arising from the Firm's work, and (iii) related matters.

**IX. Recommendation**

Based on the foregoing, staff recommends approval of the requested actions.

**X. Attachments**

Resolution

October 20, 2016

NEW YORK (NEW YORK COUNTY) – Empire Station Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend the 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 (the “Firm”) to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to amend the legal services contract with the Firm substantially on the terms and conditions as set forth in the Materials so that the contract cost will not to exceed Five Hundred and Fifty Thousand Dollars (\$550,000) in addition to all amounts that will be paid to the Firm from the Imprest Account for Transaction Costs (as such terms are defined 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.

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