

**NEW YORK STATE URBAN DEVELOPMENT
CORPORATION**

d/b/a Empire State Development

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

Meeting of the Directors

Tuesday

March 27, 2012 – 10:30 a.m.

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**

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Meeting of the Directors
Tuesday

March 27, 2012 – 10:30 a.m.

PROPOSED AGENDA

FOR CONSIDERATION

I. CORPORATE ACTION

- A. Approval of Minutes of the February 16, 2012 Directors' Meeting (Corporate Action)

II. DISCRETIONARY PROJECTS

MID-HUDSON REGION

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

CAPITAL REGION

- B. Rensselaer (Capital Region - Rensselaer County) – Regeneron Pharmaceuticals 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

II. DISCRETIONARY PROJECTS - Continued

STATEWIDE

- C. Statewide – New York eHealth Collaborative Working Capital – Urban and Community Development Program - Urban and Community Technical Assistance (Working Capital Grant) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Make a Grant and to Take Related Actions

METROPOLITAN ECONOMIC REVITALIZATION FUND

- D. New York City and Nassau and Westchester Counties - Metropolitan Economic Revitalization Fund (“MERF”) – Alternative Financial Assistance – Portfolio Insurance Deposits - Findings and Determinations Pursuant to the MERF Regulations; Authorization to Provide Alternative Financial Assistance in the Form of Portfolio Insurance Deposits; and Authorization to Take Related Actions

III. NON-DISCRETIONARY PROJECTS

- A. Non-Discretionary Projects – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Add a Beneficiary Organization; Authorization to Enter into Participation Agreements with Founding Members; Authorization to Enter into Investment Agreement with IBM; Authorization to Make Grants and to Take Related Actions; Determination of No Significant Effect on the Environment

Anticipated 2012-2013 New York State Budget Appropriation

- A. The Research Foundation of State University of New York – Semiconductor Transition Program (Albany County) - \$300,000,000

Community Projects Fund (Executive)

- B. The Beacon Institute – Rivers and Estuaries Observatory Network (Dutchess and St. Lawrence Counties) - \$0

Community Enhancement Facilities Assistance Program (Assembly)

- C. Ohel-Camp Kaylie Capital (Sullivan County) - \$2,000,000

IV. ADMINISTRATIVE ACTIONS

- A. Annual Budget – Authorization to Adopt Annual Operating Budget including Subsidiary Operating Support for (FY) 2012-2013 and to Take Related Actions
- B. Economic Development Programs – Adoption of Guidelines for Economic Development Programs; and Authorization to Take Related Actions
- C. Corporate Insurance Policies – Authorization to Place Directors & Officers Liability Insurance; and to Take Related Actions
- D. Property Disposition Guidelines – Approval of Property Disposition Guidelines, Appointment of Contracting Officer and Authorization to Take Related Actions
- E. Procurement of Legal Services – Authorization to Amend a Contract for Legal Services and to Take Related Actions

V. AUDUBON NEW COMMUNITY

- A. Audubon New Community – (Erie County) – Town of Amherst – Authorization to Sell Land to the Corporation for Urban Development and Research of New York for Resale to the Temple Beth Tzedek; and Authorization to Take Related Actions

VI. FOR INFORMATION

- A. Update on the Opening of the New York is Open for Business Campaign (Oral Report)

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NEW YORK STATE URBAN DEVELOPMENT CORPORATION

d/b/a Empire State Development Corporation
Meeting of the Directors
New York City Regional Office
633 Third Avenue
37th Floor Conference Room
New York, New York 10017

and

Buffalo Regional Office
95 Perry Street
Buffalo, New York 14203

February 16, 2012

MINUTES

In Attendance

Directors:

Julie Shimer – Chair
Kenneth Adams
Derrick Cephas
Paul Ciminelli
Robert Dyson
Joyce Miller
Regina Stone – Designee for Superintendent – Department of
Financial Services

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Present for ESD: Maria Cassidy, Deputy General Counsel
Joseph Chan, Executive Vice President – Business Development
Richard Dorado, Senior Counsel
Justin Ginsburgh, Chief of Staff
Robert Godley, Treasurer
Peter Heilbrunn, Senior Director – Debt Management
Barbara Lampen, Director - Design and Construction
Edwin Lee, Senior Project Manager – Loans and Grants
Sheri Lippowitsch, Vice President – Loans and Grants
Kathleen Mize, Deputy CFO and Controller
Natasha Pallan, Director – Subsidiary Finance
Sheila Robinson, Deputy to CFO
Deborah Royce, Assistant Corporate Secretary
Susan Shaffer, Vice President – Loans and Grants
Frances A. Walton, Chief Financial and Administrative Officer

Also Present Steve Gawlik, Vice President – Capital Projects and Senior Counsel
– Western New York Regional Office
Robert McNary, Director – Finger Lakes Regional Office
Edward Muszynski, Area Director – Finger Lakes Regional
Office
Aimee Vargas, Director – Mid-Hudson Regional Office
Ray Witzleben, Senior Project Manager - Western New York
Regional Office

For Cool Insurance: Paul Hennessey
Steve Ventresco

Also Present: The Press
The Media

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 10:30 a.m. by Chair Shimer. 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.

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Next, Chairperson Shimer set forth the guidelines regarding comments by the public on matters on the Agenda.

Chair Shimer then asked the Directors to approve the Minutes of the January 20, 2012 Directors' meeting. There being no changes or corrections, upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE JANUARY 20, 2012 MEETING OF THE DIRECTORS OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on January 20, 2012, as presented to this meeting, are hereby approved and all actions taken by the Directors presented at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

The Chair then asked Mr. Lee to present a summary of the Discretionary Project items on the Agenda. Chair Shimer explained that following Mr. Lee's brief presentation, she would call upon the individual Regional Directors or their representatives to present the projects from their region.

Mr. Lee noted that the Directors are being asked to approve five grants totaling \$1,300,000 from the Economic Development Fund and one Restore New York grant for \$2,060,000. Mr. Lee added that these projects will leverage over \$59 million in additional investments and will assist in retaining 1,397 jobs and in creating approximately 192 jobs across

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New York State.

Following Mr. Lee’s summary, the Chair asked Mr. Witzleben, Senior Project Manager at ESD’s Buffalo Regional Office, to present the next two items on the Agenda.

Mr. Witzleben first presented the Dresser Rand EDF Project for the Directors’ approval. Mr. Witzleben explained that the Directors were being asked to approve a \$500,000 capital grant to Dresser-Rand Group, Inc., a publicly traded company that is a leader in energy conversions and power tools.

Mr. Witzleben went on to note that the \$9.6 million project involved the construction of a new 5,000 square foot research and development facility, the purchase and installation of new machinery and equipment as well as training and soft costs.

Mr. Witzleben added that the project was completed in August 2011 and that it is expected to retain 987 existing jobs and to create 50 new jobs.

Next, Mr. Witzleben asked the Directors’ to approve a \$200,000 capital grant to Galvstar, LLC. Mr. Witzleben explained that the Company was established in 2010 to respond to an increased market for galvanized steel within the United States.

Mr. Witzleben further explained that the \$18.8 million project involved the acquisition

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and installation of new and used machinery and equipment and was completed in January 2012. The project, he continued, is expected to create 55 new jobs.

Following the full presentation of both items, Chair Shimer called for questions or comments on the projects. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Olean (Western New York Region – Cattaraugus County) – Dresser-Rand Group Capital– Empire State Economic Development Fund – General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Dresser-Rand Group 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

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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 Dresser-Rand Group, 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.

* * *

Olean (Western New York Region – Cattaraugus County) – Dresser-Rand Group Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

RESOLVED, that based on the material submitted to the Directors with respect to the Dresser-Rand Group 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.

* * *

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Buffalo (Western New York Region – Erie County) – Galvstar Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Galvstar 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 Galvstar LLC a grant for a total amount not to exceed Two Hundred Thousand dollars (\$200,000) 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

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designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

* * *

Ms. Shimer then asked Mr. McNary, the Director of ESD’s Finger Lakes Regional Office, to present the Mercury Print EDF Project for the Directors’ consideration.

Mr. McNary explained that the Company, a commercial printer, is located in the Town of Greece in Monroe County and that the Directors are being asked to approve a \$250,000 capital grant to be used for a portion of the cost of the purchase of machinery and equipment to assist the Company in expanding its business capacity.

As a result of the project, Mr. McNary added, the Company will retain 210 jobs and create 40 new jobs by 2014.

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

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none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Greece (Finger Lakes – Monroe County) – Mercury Print Capital – Empire State Economic Development Fund General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Mercury Print 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

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make to Mercury Print Productions, Inc. a grant for a total amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) 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.

* * *

Chair Shimer then asked Aimee Vargas, the Director of ESD’s Mid-Hudson Regional Office, to present the Kolmar Labs EDF project for the Directors’ consideration.

Ms. Vargas explained that the Directors were being asked to authorize ESD to make a grant of \$250,000 to Kolmar, a leading contract manufacturer for cosmetics and personal care products. Ms. Vargas explained that the Company had previously been provided with \$4.75 million in grants from ESD in 2010 and had been promised additional funding from other governmental entities.

The present \$250,000 grant from ESD, Ms. Vargas explained, will replace funding that

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was anticipated from the Senate and will be used for a portion of the cost for the installation of machinery and equipment. As a result of this project, Ms. Vargas further noted, the Company will retain 400 existing jobs in the community of Port Jervis and Orange County.

Following this presentation, Chair Shimer called for questions or comments.

Director Adams noted that he had toured the facility recently with Ms. Vargas to see the work that has been completed with ESD's support.

Director Adams further noted that Kolmar Management is very grateful for the funding and is fully committed to New York State and may seek additional ESD funding in the future for a further expansion.

Director Ciminelli asked if this was the Company's headquarters and Director Dyson stated that this is where the Company started. It was further noted that since this site facilitates 400 workers, it can be considered the headquarters.

Director Ciminelli then noted that the materials state that Kolmar is owned by a private equity firm and therefore has no real ties to the region. In response, Director Adams noted that the principal from the ownership was at all of the meetings at the facility last week.

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

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

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Kolmar Laboratories Capital II - 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, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Kolmar Laboratories, Inc. a grant for a total amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) 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

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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.

* * *

Mr. Lee then presented the Discretionary Projects Consent Calendar for the Directors' consideration. Mr. Lee explained that the Directors were being requested to approve one grant totaling \$100,000 to Howe Caves Development, LLC.

Mr. Lee explained that Howe Caverns is located in Cobleskill, New York and is one of the oldest tourist attractions in the Northeast attracting 150,000 visitors each year. In order to attract more visitors, Mr. Lee continued, a plan was been developed to improve and expand the site's above-ground facilities. ESD's funds, Mr. Lee continued, will be used to assist in this renovation. The project, Mr. Lee added, will be completed in May and is expected to create 47 jobs.

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

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Director Dyson commented favorably with regard to the project and to Howe Caverns in general.

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

Empire State Economic Development Fund – 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

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 Empire State Economic Development Fund Projects identified below (the “Projects”), the Corporation hereby determines pursuant to Section 16-m of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

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. There are no families or individuals to be displaced from the project area(s); and be it further

RESOLVED, that with respect to the General Development Financing Capital Project, 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 Projects 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

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Corporation or his designee(s), that no substantive negative testimony or comment has been received at the public hearings held on the Plan, such Plan shall be effective at the conclusion of such hearings, and that upon such written findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amount listed below 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;

Empire State Economic Development Fund

	Project Name	Proj #	Grantee	Assistance up to
	General Development Financing Project			
A.	Howe Caves Capital	X346	Howe Caves Development, LLC	\$100,000
			TOTAL	\$100,000

and be it further

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

* * *

Mr. Lee then presented one Restore New York grant for the Directors’ consideration.

Mr. Lee stated that the Directors were being requested to approve one \$2,060,000 grant to the City of Binghamton to assist the City in its efforts to transform 34 residential properties. Mr. Lee

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outlined the proposed scope of the project, including the demolition of 18 blighted properties. He further noted that the total project cost is approximately \$5.4 million and that it is expected that the work will be completed in December of 2013.

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

Statewide – Restore NY Communities – Capital Grants – Land Use Improvement Findings and Determinations Pursuant to Sections 10 (c), 10(g) and 16-n 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 Restore NY Communities Capital Grant Project (the “Project”), the Corporation hereby determines pursuant to Sections 16-n and 10 of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

1. The area in which the project is to be located is a substandard or unsanitary area, or is in danger of becoming a substandard or unsanitary area and tends to impair or arrest sound growth and development of the municipality.
2. The project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto.
3. The plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.
4. There are no families or individuals 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

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such changes, are hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written findings 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 findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a to grant to the party and for the amount listed below from Restore NY Communities, 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, and each of them hereby is, authorized to make grants to the parties and for the amount listed below from Restore NY Communities, 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

Restore NY Communities – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
	Restore NY Communities Projects			
A.	Binghamton – RESTORE III – Neighborhood Impact Program	W837	City of Binghamton	\$2,060,000
			TOTAL	\$2,060,,000

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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Next, Ms. Lippowitsch presented the February Non-Discretionary Consent Calendar for approval. First, Ms. Lippowitsch explained that an additional item had been added to the consent calendar and that the related materials had been provided to the Directors.

Ms. Lippowitsch then outlined the content of the consent calendar noting, in part, that the calendar consisted of six grants totaling \$37,707,039 that were authorized or re-appropriated in the 2011-2012 New York State budget. Ms. Lippowitsch added that due diligence has been exercised by ESD staff and that the recipients have provided ESD with the required disclosure and accountability certifications.

Ms. Lippowitsch went on to explain that there were three Executive sponsored projects as follows:

- (a) a \$37,382,039 grant to the Richardson Center Corporation for renovations at the Richardson Olmsted Complex in Buffalo. The funds, she continued, will be used for the core or first phase of the development which includes a boutique hotel, conference and event space, Buffalo Architecture Center and a visitor's center. The funds being requested for this project today, Ms. Lippowitsch added, are part of a \$76.5 million appropriation that was included in the budget in 06-07;
- (b) a modification of a \$1,000,000 grant to the American Airpower Museum project in East Farmingdale, Nassau County. This grant, Ms. Lippowitsch explained, was originally approved in December of 2006 for the construction of a new hangar at

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Republic Airport. Subsequent to ESD’s approval, Ms. Lippowitsch continued, an historic designation was made by the New York State Office of Parks and Recreation requiring the FAA to halt all plans to demolish the existing hangar. Ms. Lippowitsch explained that the grantee approached ESD about modifying the scope and budget to focus on the acquisition of a prefabricated World War II period “Quonset” hangar. Ms. Lippowitsch added that no additional funds are requested with regard to this project;

(c) the project added this morning, Ms. Lippowitsch stated, also involves a modification. Ms. Lippowitsch explained that this \$5,000,000 grant to the Lake Placid Regional Winter Sports Committee was originally approved by the Directors in November of 2006 for operating expenses of the committee in promoting world class sporting events in the region. The grantee, Ms. Lippowitsch continued, is requesting that \$1.7 million of the grant be allocated toward operating expenses for the Olympic Regional Development Authority (“ORDA”) because ORDA has experienced huge revenue losses over the last few months due to warm weather. Ms. Lippowitsch added that this action does not involve the authorization of new funding.

Ms. Lippowitsch then outlined the three Senate sponsored projects as follows: (i) a \$215,000 grant to the Seneca County IDA for facility and infrastructure improvements at the former Seneca Army Depot in Romulus, (ii) a \$150,000 grant to Tompkins County Area Development, Inc. on behalf of Novomer in Ithaca for renovations to create lab and office

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space; and (iii) a \$50,000 grant to the Rochester Museum and Science Center in Ontario County for renovations and the purchase of machinery and equipment at the Cummings Nature Center.

Ms. Lippowitsch added that the projects being presented for approval today will be funded via the State’s general funds, available bond proceeds or ESD cash.

Following the full presentation, the Chair called for questions or comments. It was determined that the Directors would vote on the Richardson resolution separately and therefore, upon motion duly made and seconded, the following resolution was adopted (It was noted for the record that Director Ciminelli recused himself with regard to the vote on the following resolution.):

**SUNY Sub-Allocation - Findings and Determinations Pursuant to Section 10 (g) of the Act;
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 SUNY Sub-Allocation Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area(s); and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amount listed below from the SUNY Sub-Allocation, 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

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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

SUNY Sub-Allocation Project – Executive - Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
A	Richardson Center – Core Capital	X584	Richardson Center Corporation	37,382,039
			TOTAL	\$37,382,039

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.

* * *

The Chair then called for a motion to approve the remaining projects on the February Non-Discretionary Consent Calendar. Upon motion duly made and seconded, the following resolution was unanimously adopted:

Empire Opportunity Fund - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Amend the General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the amended General Project Plan (the “Amended 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 Amended Plan, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, the Project is in compliance with Chapter 84 of the Laws of 2002 and the Corporation’s guidelines established thereunder. Individual Project funding does not exceed

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25 percent of the total project costs, or if project funding does exceed 25 percent of total project costs, the Director of the Division of the Budget has authorized the provision of such amount; and be it further

RESOLVED, that upon written findings 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 Amended Plan, such Amended Plan shall be effective at the conclusion of such hearing, and that upon such written findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amount listed below from the Empire Opportunity 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

Empire Opportunity Fund – Executive - Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
B	American Airpower Museum EOF Capital	U377	American Airpower Museum	0 ¹
	1 - this grant was approved by the ESD Directors on December 18, 2006. The subject request is to reallocate funds to amend the general project plan, and does not involve new funding.			
			TOTAL	\$0

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

* * *

Local Assistance - Findings and Determinations Pursuant to Section 10 (g) of the Act;
Authorization to Adopt the Proposed General Project Plan; Authorization to
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 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 Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the 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 findings 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 findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the 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 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

Local Assistance – Senate – Project Summary Table

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	Project Name	Proj #	Grantee	Assistance up to
C	SCIDA – Seneca Army Depot Capital	X551	Seneca County Industrial Development Agency	125,000
			TOTAL	\$125,000

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.

* * *

Community Capital Assistance Program – Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Community Capital Assistance Program Projects (the “Projects”), in accordance with Chapter 84 of the Laws of 2002 for the Community Capital Assistance Program, 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 Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the General Project Plans (the “Plans”) for the Projects 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 Plans, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written findings 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 Plans, such Plans 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 parties and for the amounts listed below from the Community Capital 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

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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 grants, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grants as he or she may deem necessary or appropriate in the administration of the grants; and be it further

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

Community Capital Assistance Program – Senate - Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
D	TCAD – Novomer Expansion Capital	W491	Tompkins County Area Development, Inc.	150,000
E	Rochester Museum & Science Center – Cumming Nature Center Capital	W447	Rochester Museum & Science Center	50,000
			TOTAL	\$200,000

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.

* * *

Chair Shimer then asked Ms. Dixon to present a Bi-State Dredging item for consideration by the Directors.

Ms. Dixon explained that today’s request is to approve supplementary funding for a project previously approved by the Directors in November of 2010.

The funds, Ms. Dixon further explained, are associated with the Bi-State Dredging Fund, a comprehensive dredging and dredge materials disposal plan funded by the Port Authority of

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New York and New Jersey that was instituted in 1996.

If approved, Ms. Dixon continued, the New York State DEC will use the supplemental funding to implement a six member interdisciplinary team, a dredge team, at DEC to focus on dredging in New York Harbor and dredged materials placement. Ms. Dixon noted that the cost to supplement the dredge team project will be \$537,662. The grant, Ms. Dixon added, will provide salaries for six positions on that team.

Following the full presentation the Chair called for questions or comments. Director Dyson commented favorably with regard to the reasonable amount requested to fund the team.

In response to a questions posed by Director Miller, Ms. Dixon stated that these funds would be drawn from the New York portion of the Bi-State Dredging Fund and would cover only New York dredging projects.

Director Dyson then asked what the total funding amount is for the entire project. Director Adams noted that the Bi-State Dredging Fund was established in the 1990's with \$130 million, with \$65 million from each State – New York and New Jersey.

Director Adams asked how much of the initial \$65 million has been spent and Ms. Dixon stated that approximately \$10 million was left in New York's portion of the fund.

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In answer to a further question posed by Director Adams, Ms. Dixon stated that much of the funding has gone to dredging projects.

Director Dyson expressed his concern with regard to his belief that New York and New Jersey are slower than other parts of the country in responding to needs that should be addressed by having deep water ports. He further expressed his view that this is a vital part of economic development that should be addressed expeditiously.

Director Miller asked if this round of dredging will make the New York side of the port deep enough to handle new ships that may be coming in through the Panama Canal.

Ms. Dixon stated that the dredging anticipated with this action is primarily maintenance dredging. The harbor deepening project, she continued, is federally funded and is carried out by the U.S. Army Corps of Engineers.

Director Adams then noted that later in the President's Report he would address the Governor's new Infrastructure Initiative and the New York Works Infrastructure Fund which pulls together a number of State agencies with infrastructure commitments including DEC, DOT, MTA and ESD.

In view of the Governor's new initiative and based on the comments made by Directors

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Dyson and Miller, Director Adams continued, he will raise this issue of harbor dredging as an infrastructure need at a meeting he will have in the near future with Pat Foye from the Port Authority.

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

New York Harbor (Richmond, Kings, New York, Bronx, Queens) - Authorization to Approve Supplementary Funding to the New York State Department of Environmental Conservation (“DEC”) for creation of a Dredging Team and Authorization to Enter into Agreements and Contracts with DEC and Amend the Bi-State Dredging Agreement; Authorization to Make a Grant and Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the “Materials”), relating to the Agreement between the Empire State Development Corporation and the Port Authority of New York and New Jersey (“PANY&NJ”) for Funding with Regard to the Joint Dredging Plan (including amendments, the “Agreement”), the Corporation be, and it hereby is, authorized to enter into amendments to the Agreement and take other actions to approve the funding, in an amount not exceed \$537,662, by ESDC to the New York State Department of Environmental Conservation (“DEC”) for the establishment and staffing of a six member dredging team, and be it further

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

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

* * *

Following the approval of the foregoing resolution, Director Adams noted that he would like to express his appreciation to Ms. Dixon for her report today and for her service to

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ESD over the past several years. Director Adams stated that Ms. Dixon will be returning to her actual employer, the Port Authority of New York and New Jersey, at the end of the week. It was noted that Ms. Dixon will continue to provide expertise to ESD in this area as needed.

Next, Ms. Pallan asked the Directors to authorize ESD to renew its Corporate Insurance Policies and pay the related premiums. Specifically, Ms. Pallan asked the Directors to authorize the renewal of the six existing policies as set forth in the Directors' materials for a total cost of \$349,017, which excludes the \$20,000 indicated for the Directors and Officers Liability Insurance. All bids for the \$20,000 policy, she noted, have not been received as anticipated and therefore, authorization of that policy will be requested at the next Directors' meeting.

Among other things, Ms. Pallan noted that the premium costs will be allocated between the Corporation and its subsidiaries. She added that this cost sharing arrangement allows the Corporation and its subsidiaries to achieve optimal pricing.

Ms. Pallan further noted that both the Moynihan Station Development Corporation and the Convention Center Development Corporation have purchased their own project specific policies related to construction which have been authorized by their respective Boards.

Ms. Pallan noted that all of the policies are placed with carriers licensed in the State and all carry an A or better financial strength rating.

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Ms. Pallan went on to note that while there are no certified MWBE insurance carriers, there are opportunities to do business with MWBE's through ESD's contract for advisory and brokerage services with Cool. At this time, she added, MWBE participation is 15 percent and Cool will continue to explore avenues to further increase participation.

Director Miller first inquired with regard to the Officers and Directors insurance item that was deferred until next month asking if there will be a lapse.

Ms. Pallan informed her that ESD does not currently carry that particular insurance. Director Miller was then informed that ESD is self-insured. Director Adams noted that some time ago it was decided that ESD, although self-insured, would get additional Directors and Officers coverage and that the item referred to earlier is the follow up to that decision.

Director Miller then inquired as to the lack of MWBE insurance carriers and Ms. Pallan explained that the majority of the companies are publically traded corporations and that this is the reason ESD is not able to purchase a policy with an MWBE.

Director Adams reiterated the fact that the opportunity lies in the advisory and brokerage services.

Director Adams then stressed the importance of the need for Cool to become more aggressive in its quest to raise the percentage of MWBE's involved in those services.

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He further noted the importance of all agencies striving to meet the 20% goal in this area as set forth in Executive Order 8.

Director Miller requested that Cool provide a report on all of its efforts in that regard at the time of the next request for approval of the corporate insurance policies.

Director Adams asked if it was correct that the Department of Financial Services would have good information in that regard and Director Stone stated that it does and that the Department will assist ESD in this area. Director Stone further stated that because of the Department's supervisory capacity, she will recuse herself from the vote on the related resolution.

The Chair then called for any further questions or comments. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted (It was noted for the record that Director Stone recused herself from voting on the following resolution.) :

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

RESOLVED, that based upon the materials presented to the Directors at this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, that the Chairman and Chief Executive Officer of the Corporation or Chief Financial Officer or his/her designee(s) are hereby authorized, in the name and on behalf of the Corporation, to enter into all contracts, agreements and instruments, as the Chairman and Chief Executive Officer of the Corporation or

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Chief Financial Officer or his/her designee(s) shall deem necessary or appropriate in connection with the purchase of the Corporation's Commercial Liability insurance with National Casualty Insurance, General Excess Liability insurance with Chartis Insurance, Crime-Employee Dishonesty insurance with Great American Insurance, Real & Personal Property, Auto and Worker's Compensation Insurance with Hartford Insurance and Directors and Officers Liability insurance with [tbd] for the 2012-2013 fiscal year at an annual premium of \$369,017.

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

* * *

Mr. Kwon then asked the Directors to authorize the Corporation to sell and refinance an ESD property located at 601-609 Throop Avenue in Brooklyn to the Northeast Brooklyn Housing Development Corporation for the purchase price of \$3,350,000.

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

Mr. Kwon explained that ESD acquired title to the property at a foreclosure sale in October 20, 2011 and began marketing through an RFP process by placing advertisements in the Contract Reporter and the commercial real estate sections of the Sunday New York Times.

Mr. Kwon further explained that three proposals were received and ESD met with each of the respondents.

ESD staff recommends Northeast, Mr. Kwon added, because its proposal has the best jobs impact, long-term owner-occupancy plans and strong community support.

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Mr. Kwon further explained that the purchase price was less of a factor in this instance because all three respondents came within \$150,000 of each other.

Mr. Kwon added that Northeast is a non-profit which has been providing affordable rental housing units to low income residents of Central Brooklyn since 1985.

Following this presentation, the Chair called for questions or comments. Director Dyson asked what ESD's total inventory of housing and building stock is presently and whether the Corporation is attempting to diminish its involvement in the housing market.

Director Adams stated that ESD has a large inventory of mostly Mitchell-Lama affordable development projects throughout the State which UDC ESD was set up to finance in 1968 when the Corporation was created.

Director Adams added that the Throop Avenue project just presented is not part of that inventory. Director Adams then asked Mr. Chan to provide further background information regarding this project.

Mr. Chan stated, among other things, that the building is a commercial office building that ESD provided a mortgage on approximately 20 years ago. He further stated that it was a sensitive situation because it was a not-for-profit that was in default so Kenneth Adams worked

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with local officials and the Governor’s office to bring about a resolution that was acceptable to ESD and to the local community.

Mr. Chan added that NEBHDC will acquire the building, renovate several floors that have been vacant for years, occupy some of the space themselves and also bring in other commercial tenants and in turn jobs.

A general discussion then followed with regard to ESD’s housing portfolio and staff’s efforts to protect the Corporation’s interests in connection with that portfolio. The Directors offered various suggestions in that regard.

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

New York (Kings County) - Authorization to (i) sell the 601-619 Throop Avenue, Brooklyn, property to NEBHDC for the Purchase Price of \$3,350,000, (ii) to allow ESD to finance up to 90 percent of the Purchase Price in accordance to the Financing Terms, (iii) take all related actions, and (iv) to make a determination of no significant effect on the environment.

RESOLVED, that on the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, relating to the sale of a property located at 601-619 Throop Avenue, Brooklyn New York (the “Property”) and other related actions, ESD staff is hereby authorized to sell the Property to NEBHDC for the Purchase Price of \$3,350,000, offer financing of up to 90 percent of the Purchase Price in accordance to the Financing Terms, and be it further

RESOLVED, that based on the materials submitted to the Directors, the Corporation hereby determines that the proposed action will not have a significant effect on the environment, and be it further

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RESOLVED, that the President and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

* * *

The Directors were then asked by Mr. Beyer to authorize ESD to enter into an agreement with the Office of General Services (“OGS”) for the transfer to and the disposition by OGS of a prison facility for youths, the Cattaraugus Residential Center (“CRC”).

Mr. Beyer further noted that, among other things, the Directors were also being requested to authorize said transfer and approve and agree to the terms of OGS’s subsequent sale of CRC to Olean General Hospital and to authorize ESD to take such actions as are necessary to accomplish same.

Following Mr. Beyer’s full presentation of the specifics of this transaction, the Chair called for questions or comments. Director Ciminelli asked if it was correct that this is something that ESD will be doing more of in the future.

Director Adams stated this is a unique transaction, one however, that it is part of a broader initiative of the Governor’s to close prisons and facilities like this that were not being sufficiently used.

Director Adams further explained that initiative and noted, in part, that it is hoped that

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within the coming months, the Directors will see more of these proposals where ESD is facilitating the sale of these now vacant facilities and ideally, these sales will lead to local economic development.

Director Miller asked if the present facility which is being sold to Olean Hospital will be used as a hospital. Mr. Beyer said that OGS independently arrived at the sale terms and while ESD presumes that it will be used for hospital services, he would have to check with OGS to verify that.

Director Miller then asked with regard to these projects if they involve building rehabilitation, whether or not ESD takes energy efficiency into consideration. Director Adams stated that ESD works closely with the agency in charge of that and where possible utilize that agency's resources for energy efficiency.

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

TOWN OF CARROLLTON (CATTARAUGUS COUNTY) - CATTARAUGUS RESIDENTIAL CENTER – Authorization for Transfer to, and Disposition by, the Office of General Services in accordance with Applicable Provisions of the Public Authorities Law, Determination of No Significant Effect on the Environment and Take Related Actions

WHEREAS, the Corporation holds title to a certain youth residential facility known as the Cattaraugus Residential Center and to certain other lands and the buildings and improvements thereon (collectively, the "Youth Facilities") all as identified in Exhibit A of the Agreement of Lease between the New York State Urban Development Corporation, Landlord, and The People of the State of New York (the "State"), acting by and through the Commissioner of General

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Services (“OGS”), Tenant, dated as of March 1, 1994, as amended and supplemented (the “Lease”);

WHEREAS, the Corporation acquired legal title to the Cattaraugus Residential Center and the other Youth Facilities from OGS for nominal consideration in order to provide security for bonds (“Youth Facilities Revenue Bonds”) issued by the Corporation from time to time pursuant to its Youth Facilities Revenue Obligation Resolution, adopted March 1, 1994, as amended and supplemented and various related resolutions (collectively, the “Resolution”), in order to finance the acquisition and construction of the Youth Facilities, including the Cattaraugus Residential Center;

WHEREAS, pursuant to the Lease, the Corporation leased the Youth Facilities, including the Cattaraugus Residential Center, to OGS for rental payments which were sufficient, together with certain payments made by OGS under a financing contract with the Corporation, to pay when due all debt service on the Youth Facilities Bonds;

WHEREAS, pursuant to an Agreement of Sublease (the “Sublease”), dated as of March 1, 1994, as amended and supplemented by and between the State acting through OGS, Landlord, and the New York State Division of Youth (the “Division”), Tenant, OGS subleased the Youth Facilities, including the Cattaraugus Residential Center, to the Division for rental payments equal to the rental payments due under the Lease;

WHEREAS, all of the Youth Facilities Revenue Bonds have been paid or defeased such that no Youth Facilities Revenue Bonds are outstanding under the Resolution and the Lease and the Sublease have expired by their terms;

WHEREAS, as a result of the expiration of the Lease and Sublease and the expiration of an option (“Purchase Option”) included in the Lease granting OGS the right to purchase all of the Youth Facilities for a nominal price upon payment or provision for payment of all of the Youth Facilities Revenue Bonds, the Corporation holds title to the Youth Facilities, including the Cattaraugus Residential Center, unencumbered by the Lease, Sublease and Purchase Option;

WHEREAS, neither the Cattaraugus Residential Center nor any of the other Youth Facilities secure any obligations of the Corporation;

WHEREAS, OGS has requested that the Corporation enter into a Memorandum of Agreement (the “Agreement”) with OGS pursuant to which the Corporation shall transfer the Cattaraugus Residential Center to OGS for the sale by OGS of such facility, on terms and conditions agreed to by the Corporation and OGS;

WHEREAS, the Corporation has adopted Guidelines Regarding Disposition of Property (the “Guidelines”) implementing provisions of the Public Authorities Law applicable to the disposition of property by public authorities and (the “Applicable Law”). Such Guidelines provide, in conformity with the Applicable Law, that when it shall be deemed advantageous to

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the State, the Corporation may enter into an agreement with OGS for the disposition of property of the Corporation under terms and conditions agreed to by the Corporation and OGS and that in disposing of any such property of the Corporation, OGS shall be bound by the Applicable Law;

WHEREAS, in compliance with the Applicable Law, OGS has obtained independent appraisals of the Cattaraugus Residential Center and the terms and conditions for OGS' disposition of such facility include a publicly advertised competitive bidding process and an award to Olean General Hospital (the "Hospital"), as highest bidder, for a cash purchase price in excess of the value assigned by OGS to the Cattaraugus Residential Center after its review of the independent appraisals; and

WHEREAS, the transfer to, and disposition by, OGS of the Cattaraugus Residential Center pursuant to the Agreement is consistent with of the State's plan to dispose of underutilized State facilities for reuse by the private sector;

NOW THEREFORE, IT IS HEREBY RESOLVED that based on the materials so presented to the Corporation, the Directors hereby find that it is advantageous to the State for the Corporation to enter into the Agreement with OGS;

RESOLVED, that the Corporation be and hereby is authorized to (i) enter into the Agreement with OGS and to transfer the Cattaraugus Residential Center and convey title to the same by quitclaim deed to OGS for the price of one dollar (\$1.00);

RESOLVED, that the Corporation hereby (i) approves and agrees to the terms and conditions of the sale by OGS of the Cattaraugus Residential Center to the Hospital (ii) authorizes the Corporation to take all actions deemed necessary to accomplish such sale, including the execution of all forms necessary for the recording of the deed to the Cattaraugus Residential Center and (iii) authorizes utilizing bond tax counsel to confirm compliance with applicable federal tax law; and be it further

RESOLVED, that based on the materials submitted to the Directors with respect to the proposed transfer to, and disposition by, the Office of General Services of the State of New York of the Cattaraugus Residential Center, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

RESOLVED, that the Officers of the Corporation, be and each of them hereby is, authorized and directed to take any and all action necessary (i) to carry out the foregoing resolutions and to carry out any authority or delegation granted to the Corporation in conjunction with such authorizations and (ii) in connection with the disposition of the Cattaraugus Residential Center, to preserve the exclusion from gross income for federal income tax purposes of interest on any bonds of the Corporation that refunded the Youth Facilities Revenue Bonds, including, but not limited to, the preparation and execution of any agreements, deeds, instrumentation and/or documents as such authorized officers may deem reasonably

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necessary or appropriate.

* * *

Chair Shimer then stated that the Budget Variance informational report would not be presented but that staff was available to answer any questions on that report. The Chair then asked Kenneth Adams to present to President's Report.

Director Adams opened his report by commenting favorably on the reformatting of the Directors' materials and how they are presented in the book provided to the Directors. He expressed his appreciation to those staff members responsible for the changes and asked the Directors to let staff know if any other changes are required.

Director Adams then outlined several aspects of Governor Cuomo's executive budget proposal.

First, Director Adams referenced the \$15 billion infrastructure program and then he stressed the importance of the Governor's stance on pension reform. Overall, Director Adams noted that the Governor's budget on every level is a blueprint for economic development and will create new and important work and responsibilities for ESD.

The Chair called for a motion to conduct an Executive Session pursuant to paragraph (d) of Subdivision 1 of Section 105 of the New York State Open Meetings Law to discuss matters relating to the Eastman Kodak Chapter 11 Bankruptcy proceeding. Upon motion duly made and

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seconded, the following resolution was unanimously adopted:

EXECUTIVE SESSION – Pursuant to Paragraph (d) of Subdivision 1 of Section 105 of the New York State Open Meeting Law

RESOLVED, that the Directors conduct and Executive Session to consider matters pertaining to Paragraph (d) of Subdivision 1 of Section 105 of the New York State Open Meeting Law.

* * *

All persons were requested to leave the room with the exception of the Directors and Members of the senior staff. The Executive Session ended at 12:41 p.m. It was noted for the record that no votes were taken during the Executive Session.

The Chair called for a motion to approve the resolution discussed in Executive Session.

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

Empire State Development – Authorization to: (i) Enter into a Contract with Bankruptcy Counsel to be selected for Litigation Services; and (ii) Enter into a Contract with an Appraisal firm to be selected for Appraisal Services, and to Take Related Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby authorizes and delegates to the President of the Corporation authority to enter into contracts with the Law Firm and the Appraisal Firm on the terms as set forth in the Materials, and to make determinations of responsibility as to each firm to be reported to and filed with the Board as soon as practicable; and be it further

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

* * *

There being no further business, the meeting was adjourned at 12:42 p.m.

Respectfully submitted,

Deborah Royce
Acting Corporate Secretary

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Chester (Mid-Hudson Region – Orange County) – Satin Fine Foods Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant)

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

General Project Plan

I. Project Summary

Grantee: Satin Fine Foods, Inc. (“Satin” or the “Company”)

ESD* Investment: A grant of up to \$500,000 to be used for a portion of the cost of real estate purchase.

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

Project Location: 32 Leone Lane, Chester, Orange County

Proposed Project: The Company will purchase, renovate and equip a 95,000-square-foot building.

Project Type: Business expansion involving job retention and creation

Regional Council: The Mid-Hudson Regional Council has been made aware of this item. The project predates the Regional Council initiative. The Incentive Offer was accepted in November 2010. The project is consistent with the Regional Plan.

Employment:	Initial employment at time of ESD Incentive Offer:	23
	Current employment level:	38
	Minimum employment through January 1, 2016:	133*

*Includes up to 25 Full-time Contract Employees

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Building Purchase	\$2,845,781
Renovation	4,346,568
Equipment	1,544,759
Legal Fees	42,207
Furniture and Fixtures	147,720
Construction Period Interest	<u>52,415</u>
Total Project Costs	<u>\$8,979,450</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$500,000	6%	
Provident Bank - First Mortgage	3,095,000	34%	LIBOR swap rate plus 175 basis points/20 yrs./first mortgage on building
SBA - Second Mortgage	2,476,000	28%	SBA - rate set when issue bonds/20 yrs./second mortgage on building
Provident Bank - Equipment Loan	638,889	7%	FHLB rate plus 250 basis points/10 yrs./first position on equipment
SBA - Equipment	511,111	6%	SBA - rate set when issue bonds/10 yrs./second position on equipment
Provident Bank (Roof)	165,000	2%	3.75%/5 yrs./unsecured
Company Equity	<u>1,593,450</u>	<u>18%</u>	
Total Project Financing	<u>\$8,979,450</u>	<u>100%</u>	

III. Project Description

A. Company

Industry: Satin Fine Foods, Inc., is the leading commercial producer of rolled fondant in North American and manufactures Satin Ice ("Ice"), a patented rolled fondant product. Satin Ice is used to decorate wedding and special occasion cakes, custom novelty cakes, cup cakes and cookies. Ice is

available in a commercial ready-to-use pail and sold in bulk pallets to bakery and foodservice distributors across the USA, Middle East, Canada, Mexico, Central America and Asia. These distributors resell Ice to bakers, cake decorators and pastry chefs. Satin is available to consumers in 1.5lb containers.

- Company History:** Satin Fine Foods was established in 2001.
- Ownership:** Privately owned
- Size:** The Company has one manufacturing operation in New York’s Mid-Hudson Region.
- Market:** Customers of the Company include: Dawn Food Products, Pfeil & Holing, Global Sugar Art, DecoPac, CK Products and Qzina Foods. Major competitors of the Company in the cake industry include: Wilton Industries, American Bakles, Fonderific, Caljava and Cacao Barry.
- ESD Involvement:** Satin approached ESD as the Company was interested in relocating its production facility in order to expand its market share in order to remain competitive and increase production space. Relocation options included Savannah, Georgia or Orlando, Florida. ESD offered the Company a \$500,000 capital grant to encourage the Company to continue to flourish in New York, which it accepted in November 2010.
- Competition:** The Company will retain 20 existing full-time employees and 3 full-time Contract employees and create at least 85 full-time permanent employees and up to and 25 new full-time contract employees’ jobs in New York State that would have been lost to Georgia or Florida.
- Past ESD Support:** This is the Company’s first project with ESD.

B. The Project

- Completion:** December 2011
- Activity:** The project began July 2011 with the acquisition of a 95,000-square-foot building. The renovations to date have included: installing a new roof, heating and cooling units, wiring and cabling, plumbing, and renovating the entire interior to expand product lines and capacity. The project was completed in December 2011 and the facility is fully operational.
- Results:** The Project will create 110 new jobs and retain 23 existing jobs. The Company has already created 15 new jobs.

Grantee Contact: Kevin O'Reilly, President
37 Elkay Drive, Suite #41
Chester, New York 10318
Phone: (845) 469-1034 Fax: (845) 469-8345

ESD Project No.: X193

Project Team:	Origination	Paul Taxter
	Project Management	Jill Wolfeld
	Affirmative Action	Denise Ross
	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 \$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.

A Full-time Contract Employee is 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 35 hours per week for not less than 4

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 \$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) will be disbursed upon documentation of project costs totaling \$4,741,500, and documentation of the employment of at least 35 Full-time Permanent Employees and up to 3 Full-time 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 (\$125,000) will be disbursed upon documentation verifying additional project expenditures of \$1,000,000 (\$5,741,000 cumulative expenditure), and documentation of the employment of at least 70 Full-time Permanent Employees and up to 15 Full-time 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 (\$125,000) will be disbursed upon documentation verifying additional project expenditures of approximately \$580,500 (approximately \$6,322,000 cumulative expenditure), and documentation of employment of at least 105 Full-time Permanent Employees and up to 28 Full-time 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 reimbursed by ESD's grant must be incurred on or after November 2, 2010, to be considered eligible project costs. All disbursements must be requested by April 1, 2014.

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	23*
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A	B
Reporting Date	Employment Goals
February 1, 2013	23+X+Y+Z
February 1, 2014	23+X+Y+Z
February 1, 2015	23+X+Y+Z
February 1, 2016	23+X+Y+Z

*20 Full-time Permanent Employees and 3 Full-time Contract Employees

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. $X=15^a$, and Employment Goals shall equal $[23 + X = 38]$ 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. $Y=47^b$, and Employment Goals shall equal $[23 + X + Y = 85]$ 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. $Z=48^c$, and Employment Goals shall equal $[23 + X + Y + Z = 133]$ 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 $Y=0$.

a= at least 15 Full-time Permanent Employees

b= at least 35 Full-time Permanent Employees and up to 12 Full-time Contract Employees.

c= at least 35 Full-time Permanent Employees and up to 13 Full-time Contract Employees.

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 retain 23 employees and create 110 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 Georgia or Florida. 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.

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 \$4,575,757;
- Fiscal cost to NYS government is estimated at \$500,000;
- Project cost to NYS government per direct job is \$5,252;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$2,596;
- Ratio of project fiscal benefits to costs to NYS government is 9.15:1;
- Fiscal benefits to all governments (state and local) are estimated at \$8,081,467;
- Fiscal cost to all governments is \$500,000;
- All government cost per direct job is \$5,252;
- All government cost per total job is \$2,596;
- The fiscal benefit to cost ratio for all governments is 16.16:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$39,311,521, or \$204,084 per job (direct and indirect);
- The economic benefit to cost ratio is 78.62:1;
- Project construction cost is \$4,388,775, which is expected to generate 33 direct job years and 17 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 1.04 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. Affirmative Action

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

VII. ESD 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
Benefit-Cost Analysis

March 27, 2012

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

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Satin Fine Foods Capital -- Empire State Economic Development Fund General Development Financing 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 Satin Fine Foods, 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.

* * *

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Rensselaer (Capital Region – Rensselaer County) – Regeneron Pharmaceuticals Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant)

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

General Project Plan

I. Project Summary

Grantee: Regeneron Pharmaceuticals, Inc. (“Regeneron” or the “Company”)

ESD* Investment: A grant of up to \$200,000 to be used for a portion of the cost of new equipment.

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

Project Locations: One Garden Way, Rensselaer, Rensselaer County

Proposed Project: Purchase and installation of new machinery and equipment

Project Type: Business expansion including job retention and creation

Regional Council: The Capital Region Regional Council has been made aware of this item. The project predates the Regional Council Initiative. The incentive proposal was accepted in April 2008. The project is consistent with the Regional Plan.

Employment:	Initial employment at time of ESD Incentive Offer:	190
	Current employment level:	445
	Minimum employment through January 1, 2013:	240

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Construction/Improvements	\$20,300,000	
Machinery and Equipment	24,900,000	
Indirect/Soft Costs	<u>7,100,000</u>	
Total Project Costs	<u>\$52,300,000</u>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$200,000	0.4%
Company Equity	<u>52,100,000</u>	<u>99.6%</u>
Total Project Financing	<u>\$52,300,000</u>	<u>100.0%</u>

III. Project Description

A. Company

Industry: Regeneron is a biopharmaceutical company that discovers, develops, and commercializes new therapeutic agents to treat unmet medical needs.

Company History: Founded in 1988, the Company established its corporate headquarters and research laboratories in Tarrytown, NY, and its manufacturing facility in Rensselaer, NY.

Ownership: Publicly traded

Size: The Company's corporate headquarters and research laboratories are located in Tarrytown, NY and its manufacturing facility in Rensselaer, NY. In addition, the Company maintains a satellite office in Bridgewater, New Jersey. The Company employs a total of approximately 1,690 people in its New York State facilities.

Market: The Company markets two products, ARCALYST® (riloncept) Injection for Subcutaneous Use and EYLEA™ (aflibercept) Injection. Regeneron also has completed several Phase 3 studies and is conducting an additional Phase 3 clinical trial for the product candidate ZALTRAP® (aflibercept) Concentrate for Intravenous Infusion. Regeneron has not historically generated significant revenues from commercialization of its product candidates.

ESD Involvement: In order to address growth in its scientific and corporate operations as well as its increased employment, Regeneron needed to expand its facilities. In order to further expand its industrial operations and product supply, the Company planned to incur additional capital expenditures including new equipment at the Red Mill facility in Rensselaer. In an effort to keep the Company in NYS, ESD offered a \$200,000 incentive proposal that was accepted in April 2008. Without ESD funding, Regeneron would have considered expanding its industrial operations and product supply facilities outside of New York State.

Competition: The Company considered ready-to-move in spaces in New Jersey.

Past ESD Support: Regeneron Pharmaceuticals has been the prior recipient of several ESDC grants. On August 2, 2002, the Directors approved a \$250,000 Strategic Training Alliance Program grant for the Rensselaer location for the purpose of employees training. All funds were disbursed in April 2004.

On February 19, 2004, the Directors approved a \$250,000 Biomedical and Biotechnology Initiatives Fund grant for the purchase of new machinery and equipment for the Rensselaer location. All funds were disbursed in September 2004.

On August 18, 2011, the Directors approved a \$4,000,000 grant for the construction of a new headquarters including laboratory and office space and purchase of new machinery and equipment for the Tarrytown location; no funds have been disbursed yet.

B. The Project

Completion: December 2011

Activity: Purchase and installation of two 10,000 L bioreactor, purification equipment, for production of monoclonal antibodies at the Red Mill facility to increase manufacturing, improve productivity, upgrade existing equipment, replace obsolete equipment, increase capacity, improve safety, and ensure regulatory and environmental compliance.

Results: The project is expected to create 50 new full-time permanent jobs and retain 190 existing full-time permanent positions. The Company has already exceeded its job commitment creating 255 jobs.

Grantee Contact: Douglas McCorkle, Vice President and Controller
777 Old Saw Mill River Road
Tarrytown, NY 10591-6707
Phone: (914) 345-7776 Fax: (914) 345-7696

ESD Project No.: W105

Project Team:	Origination	Jeff Janiszewski
	Project Management	Javier Roman-Morales
	Affirmative Action	Denise Ross
	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 \$200,000 (\$2,000) 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 \$200,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$100,000) will be disbursed upon completion of the project substantially as described in these materials, evidence by a certificate of occupancy, purchase and installation of \$28 million in machinery and equipment, documentation of the employment of at least 190 Full-time Permanent Employees at the Project Location and submission of documentation verifying project expenditures, 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 (\$50,000) will be

disbursed upon documentation of the employment of at least 215 Full-time Permanent 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 (\$50,000) will be disbursed upon documentation of the employment of at least 240 Full-time Permanent 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 April 11, 2008, to be considered eligible project costs. All disbursements must be requested by April 1, 2013.

- 6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$200,000, 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	190
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A	B
Reporting Date	Employment Goals
February 1, 2013	190+X+Y
February 1, 2014	190+X+Y
February 1, 2015	190+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 $[190 + X = 215]$ 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 $[190 + X + Y = 240]$ 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 retain 190 jobs which were at risk of relocation to New Jersey and create an additional 50 jobs in New York State.
2. The proposed project would be unlikely to take place in New York State without the requested assistance.
Without ESD assistance, this project would likely have been relocated to an existing facility in New Jersey.
3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.
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 \$4,830,190;
 - Fiscal cost to NYS government is estimated at \$462,254;
 - Project cost to NYS government per direct job is \$14,057;
 - Project cost to NYS government per job (direct plus indirect) is estimated at \$4,656;
 - Ratio of project fiscal benefits to costs to NYS government is 10.45:1;

- Fiscal benefits to all governments (state and local) are estimated at \$8,074,922;
- Fiscal cost to all governments is \$724,509;
- All government cost per direct job is \$22,033;
- All government cost per total job is \$7,298;
- The fiscal benefit to cost ratio for all governments is 11.15:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$47,373,488, or \$477,205 per job (direct and indirect);
- The economic benefit to cost ratio is 65.39:1;
- Project construction cost is \$27,400,000, which is expected to generate 198 direct job years and 111 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 2.05 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. Affirmative Action

ESD's Non-discrimination and Affirmative Action policy will apply. The Company is encouraged to include minorities and women in any job opportunities created by the project, and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the project.

VII. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

VIII. Additional Submissions to Directors

Resolutions
 New York State Map
 Cost-Benefit Analysis

March 27, 2012

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

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Regeneron Pharmaceuticals 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 Regeneron Pharmaceuticals, Inc. a grant for a total amount not to exceed Two Hundred Thousand Dollars (\$200,000) 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.

* * *

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Statewide – New York eHealth Collaborative Working Capital – Urban and Community Development Program - Urban and Community Technical Assistance (Working Capital Grant)

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

I. Project Summary

Grantee: New York eHealth Collaborative, Inc. (“NYeC” or the “Organization”)

ESD* Investment: A working capital grant of up to \$250,000 to be used for a portion of costs in conjunction with New York eHealth Collaborative’s launch of its Health Information Technology Innovation program.

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

Project Location: Statewide

Proposed Project: The launch of the Health Information Technology Innovation Program, a statewide health information exchange to connect electronic health records at individual and group providers around New York State.

Project Type: Launch of a new program to improve health care software.

Regional Council: The Regional Councils have been made aware of this item.

Employment: This is a working capital grant which does not have employment requirements.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Office and Outside Services (Rent, Supplies, Marketing & PR, Insurance, Accounting)	\$108,000
Program Expenses (Weekly meetings, Venue charges, Speaker fees, Website, Travel, Miscellaneous and Overhead)	142,000
Personnel Costs In-Kind	250,000
Hospital Participants Staff and Access to Software In-Kind	360,000
New York eHealth Collaborative Staff - In-Kind	25,000
New York City Investment Fund Staff - In-Kind	50,000
Legal Services - In-Kind	15,000
Initial Venture Capital Investment into Participating Technology Companies	<u>1,200,000</u>
Total Project Costs	<u>\$2,150,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$250,000	12%
New York eHealth Collaborative and Investors	<u>1,900,000</u>	<u>88%</u>
Total Project Financing	<u>\$2,150,000</u>	<u>100%</u>

III. Project Description

A. Organization

Industry: NYeC has created a statewide health information exchange to connect electronic health records at individual and group providers around New York State. The Organization receives funding from state and federal grants to serve as the focal point of health information technology ("health IT") in New York State. NYeC works to develop policies and standards, to assist healthcare providers in making the shift to electronic health records.

Organization History: NYeC was founded in 2006 by healthcare leaders and is a 501(c)(3) organization. New York State has designated NYeC to be the State-designated entity for the State Health Information Exchange Program and New York State Department of Health has separately awarded NYeC \$53 million to pursue complementary initiatives to further develop statewide health IT policy and enhance the State's Health Information Exchange infrastructure.

Ownership: Not-for-profit

Size: The Organization has one New York office and employs approximately 28 people.

Market: NYeC is dedicated to the achievement of a technology-enabled health care transformation in New York State and has three primary responsibilities: (1) convene, educate and engage key constituencies, including health care and health IT leaders across the State, (2) facilitate an interoperable health information exchange through the Statewide Health Information Network for New York (“SHIN-NY”), supporting the establishment of health information policies, standards and technical approaches and aiding stakeholders at the regional and local levels to implement such policies and standards, and (3) partner with organizations across the State to evaluate the effectiveness of, and establish accountability measures for the State’s health IT strategy. The goal of NYeC’s work is that no patient, wherever they may need treatment within New York State, is ever without fast, secure, accurate, and accessible information.

ESD Involvement: In 2011, NYeC notified ESD of an opportunity to collaborate on the project. The implementation of the project is dependent on working capital funding from the public sector to attract investment by the venture capital partners. In order to induce the Organization to proceed with the project, ESD offered a \$250,000 working capital grant to assist with the cost of the project that the Organization accepted in February 2012.

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

B. The Project

Completion: July 2013

Activity: The Health IT Innovation Program (the “Program”) is a 12-month accelerator program for early- and mid-stage health IT companies and will be jointly administered by NYeC and the New York City Investment Fund (“NYCIF”). The launch of this Program will give the 12 most promising health IT companies that have applied to the program funding, mentoring, and the opportunity to beta test their product with hospital user groups to get feedback. Each company accepted into the Program will receive \$300,000. NYCIF and up to 8 venture capital funds will provide the \$3.6 million of capital given to these companies. Senior management of the health IT companies will also participate in a

leadership program and have the opportunity to meet other successful health care entrepreneurs and senior executives from the health care industry. The Program will end with an “investor day” at which the tech companies will present their companies to a group of venture capitalists and potential strategic investors.

Results: The Project will create an application development platform in which software development companies will be able to create innovative tools for clinicians and other users of the SHIN-NY. While direct job creation is not required, as a result of the project, it is anticipated that a total of 72 jobs will be created by the 12 companies chosen to participate in the Health IT Innovation Program. In addition, there is potential for the venture firms to invest up to \$60 million in the participating companies after the Program is complete.

Grantee Contact: David L. Whitlinger, Executive Director
40 Worth Street, 5th Floor
New York, NY 10013
Phone: (646) 619-6601 Fax: (646) 619-6793

ESD Project No.: X568

Project Team:	Project Management	Brendan Healey
	Affirmative Action	Denise Ross
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Organization shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Organization will be obligated to advise ESD of any material or adverse changes in its financial condition prior to disbursement.
3. The Organization will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Organization’s acceptance of ESD’s offer. Equity is defined as cash injected into the project by the Organization or by investors, and should be auditable through Organization financial statements or Organization accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project. Initial venture capital investment into participating technology companies shall fulfill the equity requirement.
4. Up to \$250,000 will be disbursed to the Grantee for working capital expenditures, no more frequently than quarterly, in proportion to ESD’s funding share, assuming that all project approvals have been completed and funds are available. The final 10% of

the grant will be disbursed to the Grantee upon completion of the project. 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 February 27, 2012, to be considered eligible project costs. All disbursements must be requested by April 1, 2014.

5. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$250,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Organization 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

This project is authorized under Sections 5(4) and 16-d of the New York State Urban Development Corporation Act (the "Act") and satisfies the eligibility criteria for an Urban and Community Technical Assistance grant as set forth in the Act and the rules and regulations for the Urban and Community Development Program. 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 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 project.

VI. Affirmative Action

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

VII. ESD 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

March 27, 2012

Statewide – New York eHealth Collaborative Working Capital – Urban and Community Development Program – Urban and Community Technical Assistance (Working Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; 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 New York eHealth Collaborative Working Capital – Urban and Community Development Program - Urban and Community Technical Assistance (Working 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 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 eHealth Collaborative, Inc. a grant for a total amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) from the Urban and Community Development 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; 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.

* * *

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Statewide – Metropolitan Economic Revitalization Fund – Alternative Financial Assistance (Working Capital Grants)

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

I. Project Summary

Grantees: New York State Local Development Corporations
(See Schedule A attached)

ESD* Investment: Up to \$610,000 in grant assistance for four organizations to fund loan loss reserves which will be utilized to help increase small business lending in distressed areas of NYC, Nassau, and Westchester Counties

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

Project Locations: See Schedule A attached

Contacts: See Schedule A attached

Proposed Project: A total of \$610,000 will be leverage against \$6.1 million in private capital and deploy funds to establish loan loss reserves and help increase access to affordable capital for small businesses located within the Metropolitan Economic Revitalization Fund service area.

Regional Council: The Regional Councils have been made aware of this item. The project predates the Regional Council initiative.

Project Team:	Origination/ Project Management	Rafael Salaberrios
	Affirmative Action	Helen Daniels
	Environmental	Soo Kang

ESD Project Nos.: X719, X721, X722, and X723

II. Project Cost

See Schedule A attached

III. Project Description

A. Background

In 1988, the Harlem International Trade Center Project received a commitment of \$50 million in Regional Economic Development Funds from the Port authority of New York and New Jersey. Due to deteriorating market conditions the project became infeasible and ESD redirected \$25 million of the funds to establish the Metropolitan Economic Revitalization Fund ("MERF").

MERF is intended to fund public/private partnerships in economic development projects that create and /or retain jobs specifically within the geographic area known as the New York portion of the service area of the Port authority of New York and New Jersey. MERF is also intended to promote projects which will increase business activity within the region and stimulate related economic growth in the surrounding community. MERF is primarily utilized as a revolving loan fund that provides assistance to bridge financing gaps in the financial structure of proposed projects. All of MERF funding has to take place in economically distressed areas in census tracts and/or contiguous tracts in New York City, or parts of Nassau, Westchester and Rockland Counties.

ESD also has the capacity to utilize MERF funds via Alternative Financial Assistance ("AFA"). AFA allows ESD to make loans, deposits and other investments with MERF without the requirement of making project findings as stated above. The utilization of AFA is predicated upon the determination of the ESD board that the use of AFA is consistent with the purpose of MERF; utilizing AFA should create or preserve a substantial number of jobs, assist in the expansion or retention of a business located in NYS.

B. The Project

Staff is seeking approval to utilize \$610,000 in MERF capital as Alternative Financial Assistance to establish a loan loss reserve fund to support the CDFI's listed in Schedule A. The CDFI's in the schedule were all recipients of capital from ESD's Small Business Revolving Loan Fund Program ("SBRLF"). All of the recipients have the capacity to analyze small business loan applications, evaluate the creditworthiness of small businesses and regularly monitor small business loans.

The grants will be used to cover eligible small business loan losses. The selected CDFI's will leverage the proposed loan loss reserves against a combined \$6.1 million in private capital. All of the selected CDFI's have been deemed eligible by our Small Business Division to be legally able to receive and use the proceeds as stated and are all in good standing and current with all ESD reporting requirements.

The CDFI's will engage in targeted small business lending in MERF eligible census tracts and/or contiguous census tracts in NYC, Nassau, and Westchester Counties. The creation of these loan loss reserves will allow the use of MERF to help the selected CDFI increase lending to small businesses operating in economically distressed areas in order to help these small businesses grow, promote job creation and/or retention and contribute to the greater economic development of the targeted MERF eligible tracts.

All of the CDFI's have agreed to deploy the loan capital within 24 months of receiving the funds for the loan loss reserves. All of the loans to small businesses will be used for:

1. Working capital,
2. Acquisition and/or improvement of real property, or
3. Acquisition and/or improvement of machinery and equipment

The on-going economic downturn has placed significant strain on New York's economy in terms of unemployment and decreased revenue for a significant number of small businesses. With increase access to business capital many of these businesses have the potential of being important contributors to NYS's economic recovery. However, many small businesses face difficulties in accessing affordable capital many times due to factors related to their "bankability", such as inconsistent historical business performance and lack of collateral. The "bankability" issue has manifested itself in tightened lending guidelines and a drop off in small business lending at traditional financing institutions. With this prevailing environment small businesses are increasingly turning to alternative lenders such as the ones selected and listed in Schedule A.

C. Financial Terms and Conditions

Up to 35% of the funds for the loan loss reserves allocated to each CDFI in Schedule A will be disbursed at the start of the program with the balance to be distributed to each CDFI as-needed. Each CDFI will be required to report semi-annually on the progress of their capital deployment. Upon reaching the 24 month deployment period a review will be conducted with the respective CDFI and final determination will then be made on how to proceed with any reserve funds remaining.

IV. Statutory Basis

The proposed use of the funds is consistent with the purposes of the Metropolitan Economic Revitalization Fund program. No residential relocation is required as there are no families or

individuals residing at the Project Locations.

V. Environmental Review

ESD staff has determined that the project constitutes a Type II ministerial 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. The loan recipients will be responsible for complying with SEQRA as applicable. No further environmental review is required in connection with this authorization.

VI. Affirmative Action

ESD's Non-discrimination and Affirmative Action policy will apply. The Organizations are encouraged to include minorities and women in any job opportunities created by the project, and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the project.

VII. ESD 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
Schedule A - Project Summaries

March 27, 2012

Statewide – Metropolitan Economic Revitalization Fund Loan Loss Reserve Collective – Metropolitan Economic Revitalization Fund – Alternative Financial Assistance (Working Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Make Grants and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Metropolitan Economic Revitalization Fund Loan Loss Reserve Collective – Metropolitan Economic Revitalization Fund – Alternative Financial Assistance (Working 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make grants for a total amount not to exceed Six Hundred Ten Thousand Dollars (\$610,000) from the Metropolitan Economic Revitalization 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 grants, 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.

* * *

Schedule A - #1

Project Summary

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

ESD Investment: A grant of \$60,000 to establish a loan loss reserve

Project Locations: Various locations in Nassau County

Regional Council: The Long Island Regional Council has been made aware of this item. The Project predates the Regional Council initiative.

Background: CDCLI was established in 1997 by its parent organization, Community Development Corporation of Long Island, focuses on housing development and rehabilitation. CDCLI was established to fill a void in small business lending in Long Island. CDCLI operates a variety of lending funds, implementing a lending strategy that strengthens businesses and helps to ensure the security and longevity of Long Island's small business community. As of the end of calendar year 2010 CDCLI has loaned over \$12.1 million to approximately 500 businesses helping to retain or create hundreds of jobs in the process.

The Project: CDCLI is requesting a grant of \$60,000 to establish a loan loss reserve which would allow it to deploy \$600,000 in business loan capital to small businesses in the Long island communities of Freeport, Roosevelt, Hempstead, Garden City Park and Manhasset

Grantee Contact: Marianne Garvin, President & CEO
2100 Middle Country Road Suite 300
Centereach, New York 11720
Phone: (631) 471-1215 Fax: (631) 471-1213

Project No.: X719

Schedule A - #2

Project Summary

Grantee: Renaissance Economic Development Corporation (“REDC”)

ESD Investment: A grant of \$250,000 to establish a loan loss reserve

Project Locations: NYC boroughs of Queens, Manhattan Brooklyn, and Bronx

Regional Council: The New York City Regional Council has been made aware of this item. The Project predates the Regional Council initiative.

Background: REDC is a nonprofit organization established in 1997 dedicated to providing financial and technical assistance to minority and woman owned businesses in immigrant and low income communities. As a CDFI and a SBA micro lender, REDC offers direct short and intermediate financing to existing and start up businesses. REDC loans typically go towards the purchase of equipment and inventory and to provide working capital. Since its inception REDC has provided \$28 million in direct affordable loans to over 700 small businesses and entrepreneurs creating an estimated 700 jobs and the retention of 3000 positions.

The Project: REDC is requesting a grant of \$250,000 to establish a loan loss reserve which would allow it to deploy \$2.5 million in business loan capital to small businesses in the NYC boroughs of Queens, Manhattan, Brooklyn and the Bronx.

Grantee Contact: Kevin Kong, Managing Director
1 Pike Street
New York, New York 10002
Phone: (212) 964-6022 Fax: (212) 964-6003

Project No.: X721

Schedule A - #3

Project Summary

Grantee: BOC Capital Corp. ("BCC")

ESD Investment: A grant of \$200,000 to establish a loan loss reserve

Project Locations: The 5 boroughs of NYC and to concentrate more in the areas of Southern Westchester county and Nassau county

Regional Council: The New York City and Mid-Hudson Regional Councils have been made aware of this item. The Project predates the Regional Council initiative.

Background: BOC is a CDFI and a SBA Micro lender. An affiliate of the Business Outreach Center Network (BOC Network), BCC's primary mission is the provision of affordable and user friendly credit to community based and high growth MWBE firms and small businesses in general. BCC's target population has historically been locked out of conventional credit markets because of the lack of business history and limited credit history. Due to the current economic situation New York State finds itself in, the market for underserved businesses has dramatically expanded. For the last 3 years BCC has deployed loan funds to its target market at an average of \$791,287 per year.

The Project: BOC is requesting a grant of \$200,000 to establish a loan loss reserve which would allow it to deploy \$2 million in business loan capital to small businesses in the 5 boroughs of NYC and to concentrate more in the areas of Southern Westchester county and Nassau county.

Grantee Contact: Nancy Carin
85 South Oxford Street, 2nd floor
Brooklyn, New York 11217
Phone: (718) 624-9115 Fax: (718) 246-1881

Project No.: X722

Schedule A - #4

Project Summary

Grantee: Community Capital Resources (“CCR”)

ESD Investment: A grant of \$100,000 to establish a loan loss reserve

Project Location: Lower Westchester County

Regional Council: The Mid-Hudson Regional Council has been made aware of this item. The Project predates the Regional Council initiative.

Background: CCR was created in 1989 as the Westchester Housing Fund to provide loans for affordable housing development in the Hudson valley. In 2003 Community leaders requested that CCR extend its lending expertise to small business development. Starting with a \$15,000 initial grant of loan capital, CCR quickly grew to become an SBA micro lender lending in excess of \$2 million to over 120 small businesses.

The Project: CCR is requesting a grant of \$100,000 to establish a loan loss reserve which would allow it to deploy \$1 million in business loan capital to small businesses in lower Westchester County.

Grantee Contact: Kimberlie Jacobs, Executive Director
7 West Cross Street
Hawthorne, New York 10532
Phone: (914) 747-8020 Fax: (914) 747-2049

Project No.: X723

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Non-Discretionary Projects

REQUEST FOR: Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the General Project Plans; Authorization to Add a Beneficiary Organization; Authorization to Enter into Participation Agreements with Founding Members; Authorization to Enter into Investment Agreement with IBM; Authorization to Make Grants and to Take Related Actions; Determination of No Significant Effect on the Environment

Attached are the summaries of projects sponsored by the New York State Executive and Legislative branches:

	Project Name	Proj #	Grantee	Assistance up to
	Anticipated 2012-2013 New York State Budget Appropriation			
A	The Research Foundation of SUNY – Semiconductor Transition Program	X772	The Research Foundation of State University of New York	300,000,000
	1 project		Sub-total	\$300,000,000

	Project Name	Proj #	Grantee	Assistance up to
	Community Projects Fund (Executive)			
B	The Beacon Institute – Rivers and Estuaries Observatory Network	V075	The Beacon Institute, Inc.	0 ¹
	1 - this \$5 million grant was approved by the ESD Directors on March 15, 2007 and modified on October 15, 2008. The subject request is to add a beneficiary organization, and does not involve new funding.			
	1 project		Sub-total	\$0
	Community Enhancement Facilities Assistance Program (Assembly)			
C	Ohel – Camp Kaylie Capital	X588	Ohel Children’s Home and Family Services, Inc.	2,000,000
	1 project		Sub-total	\$2,000,000
	TOTAL NON-DISCRETIONARY – 3 PROJECTS		TOTAL	\$302,000,000

I. Statutory Basis

The projects are sponsored by the Executive, Assembly or Senate, and were authorized or reappropriated in the 2011-2012 New York State budget, except for the Semiconductor Transition Program which is anticipated to be, and is subject to, a New York State 2012-2013 New York State budget appropriation. 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 the Empire State Development Corporation ("ESD" or the "Corporation")

III. Affirmative Action

ESD's Non-Discrimination and Affirmative Action policy will apply to the projects. Unless otherwise noted on a project summary, grantees and/or the beneficiary organizations, as applicable, are encouraged to provide for the meaningful participation of minorities and women in any job or training opportunities created by the projects and to solicit and utilize Minority and Women-owned Businesses for any contractual opportunities generated in connection with 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

New York State Maps
Resolutions
Project Summaries

March 27, 2012

Anticipated 2012-2013 New York State Budget Appropriation - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Enter into Participation Agreements with Founding Members; Authorization to Enter into Investment Agreement with IBM; Authorization to Make Grant(s) 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 Anticipated 2012-13 New York State Budget Appropriation 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 areas; 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") and the essential terms of the proposed Participation Agreements and of the proposed Investment Agreement (the "Contract Documents") 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, or authorized designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, to take all such actions as are necessary or appropriate to schedule and hold such public hearings as required by the UDC Act or other applicable law (which hearings may be held simultaneously), including without limitation the providing, filing, or making available of copies of the Materials, the fixing of a date for such hearing, the publication of a notice of such public hearing as required by law and in accordance with procedures heretofore approved by the Corporation with respect to similar hearings, and the making of a report or reports to the Corporation on such hearing, oral or written comments received, or local municipality recommendation received, if any; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer, or authorized designee(s), that no substantive negative testimony or comment on the Plan or the Contract Documents was received at the public hearing and that the requirements of the Public Authorities Accountability Act have been complied with: (1) the Plan shall be deemed affirmed and effective as of the conclusion of such hearing; and (2) the essential terms of the Contract Documents as set forth in the Materials shall be deemed approved; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer, or authorized designee(s), that no substantive negative testimony or comment on the Plan or Contract Documents was received at the public hearing and that the requirements of the Public Authorities Accountability Act have been complied with: (1) the Corporation finds, pursuant to the UDC Act, that the Contract Documents are in conformity with the Plan; and (2) the President and Chief Executive Officer, or authorized designee(s), be, and each of them hereby is, authorized and directed to execute on behalf of the Corporation, substantially on the terms and conditions set forth in the Materials, the Contract Documents, including all exhibits and necessary documents related thereto; and be it further

RESOLVED, that based on the Materials, and subject to appropriation and the Corporation's receipt of Grant funds, the President and Chief Executive Officer of the Corporation, or authorized designee(s) be, and each of them hereby is, authorized and directed to grant in the name of and on behalf of the Corporation the Grant(s) to the Research Foundation of State University of New York described in the Materials; and be it further

RESOLVED, that subsequent to the making of the Grant(s), the President and Chief Executive Officer of the Corporation, or authorized designee(s) be, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the Grant(s) as deemed necessary or appropriate in the administration of the Grant(s); and be it further

RESOLVED, that provision of Corporation financial assistance is expressly contingent upon: (1) approval of the Public Authorities Control Board to the extent required by law; and (2) receipt of all other necessary approvals; and be it further

Anticipated 2012-2013 New York State Budget Appropriation – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
A	The Research Foundation of SUNY – Semiconductor Transition Program	X772	The Research Foundation of State University of New York	300,000,000
			TOTAL	\$300,000,000

RESOLVED, that the President and Chief Executive Officer, or authorized designee(s) be, and each of them hereby is, authorized and directed on behalf of the Corporation to execute and deliver such documents and to take such related actions as may be necessary or appropriate to effectuate the foregoing resolutions.

* * *

March 27, 2012

Community Projects Fund - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Add a Beneficiary Organization; 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 Community Projects Fund 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 add a beneficiary organization to the Project; 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 a grant to the party and for the amount listed below from the Community Projects 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

Community Projects Fund – Executive – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
B	The Beacon Institute – Rivers and Estuaries Observatory Network	V075	The Beacon Institute, Inc.	0 ¹
	1 - this \$5 million grant was approved by the ESD Directors on March 15, 2007 and modified on October 15, 2008. The subject request is to add a beneficiary organization, and does not involve new funding.			
	1 project		TOTAL	\$0

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.

* * *

March 27, 2012

Community Enhancement Facilities Assistance Program – 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

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 Community Enhancement Facilities Assistance Program Project (the “Project”), as directed by the Governor and/or the Temporary President and Majority Leader of the Senate, in accordance with Chapter 432 of the Laws of 1997, and Chapter 55 of the Laws of 2002, 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 findings 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 findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amount listed below from the Community Enhancement Facilities 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 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

Community Enhancement Facilities Assistance Program – Assembly - Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
C	Ohel – Camp Kaylie Capital	X588	Ohel Children’s Home and Family Services, Inc.	2,000,000
			TOTAL	\$2,000,000

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. The Research Foundation of SUNY – Semiconductor Transition Program (X772)

March 27, 2012

General Project Plan

- Grantee:** The Research Foundation of State University of New York (the “Foundation”) on behalf of SUNY Albany’s College of Nanoscale Science and Engineering (“CNSE”).
- ESD Investment:** Subject to appropriation and ESD receipt of Grant funds, Grant(s) of up to \$300 million, over a five-year period, to be disbursed by ESD to the Foundation. The Foundation in turn shall disperse such funds to CNSE for use in the Program. ESD’s role would be to secure and disburse actual Grant funds to the Foundation.

I. Program Summary

Under the leadership of Governor Andrew M. Cuomo, New York State proposes to enter into agreements pursuant to which \$400 million in public investment at SUNY Albany would leverage approximately \$4.4 billion in private investment in the critical semiconductor industry over the next five years, a ratio of approximately 11 private dollars for each one public dollar invested. The agreements, with five of the world’s leading semiconductor companies, seek to create the next generation of computer chip technology. The five companies involved are International Business Machines Corporation (“IBM”), Intel Corporation (“Intel”), GLOBALFOUNDRIES, Inc. (“GF”), Samsung Semiconductor Corporation (“Samsung”), and Taiwan Semiconductor Manufacturing Co., Ltd (“TSMC”). The State investment would be disbursed to the Foundation to and for the benefit of CNSE in connection with the Program.

These agreements would mark an historic level of private investment in nanotechnology in New York State. Research and development facilities would be located in Albany, Canandaigua, Utica, East Fishkill, and Yorktown Heights. In addition, Intel separately would establish its East Coast 450mm Semiconductor Headquarters to support the overall project management in Albany.

No private company will receive any state funds as part of the Program. To support the Program, New York State would invest \$400 million in tools, equipment, and related nanotechnology infrastructure at CNSE. The state investment in CNSE, over a five-year period, would be directed entirely to CNSE, and all facilities, tools, equipment, and infrastructure systems purchased, acquired, or created with public funding will be owned by or on behalf of CNSE.

This Program investment would result in the creation and retention of approximately 6,900 jobs. That number includes 2,500 additional high-technology positions comprised of:

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

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- 800 at SUNY Albany’s CNSE NanoTech Complex - Albany
- 950 at IBM - Yorktown Heights and IBM - East Fishkill
- 450 at SUNY Institute of Technology (SUNYIT) - Utica
- 300 at CNSE's Smart System Technology & Commercialization Center - Canandaigua

As a result of the investment, 2,500 existing jobs in Albany, Canandaigua, and East Fishkill would be retained.

This investment would have other beneficial economic impacts in New York. The Program would include a privately funded "Made in NY" initiative to support the potential purchase of \$400 million in tools and equipment from companies located in New York State for the purposes of creating, attracting, and retaining manufacturers and suppliers in New York. In addition, the same private companies would support a \$15 million fund to increase contracting opportunities for minority and women owned businesses in the semiconductor business and related vendors and suppliers that support the industry. These technology developments combined with the human resource assets to be developed will be unmatched anywhere else in the world and will greatly enhance New York’s position in leveraging new semiconductor manufacturing facilities in New York State. Such facilities are projected to cost in excess of \$10 billion each.

Program Location: CNSE at 257 Fuller Road, Albany, Albany County

Proposed Program: The Program involves two separate but interrelated Projects, both to be located at CNSE, to establish the prototype strategy, equipment, and tools to advance: (1) from the current 300mm wafer to the next generation 450mm wafer (the “450 Transition Project”); and (2) from the current 32/28 nanometer (“nm”) computer chip to the next generation 22/14nm chip (the “Chip Transition Project”).

The NYS total funding commitment to the two Projects combined would be \$400 million. Of such amount, \$100 million would consist of energy efficiency and low cost energy allowances and resources via the New York State Power Authority (“NYPA”) and other NYS energy programs (the “NYPA Portion”). The remaining \$300 million would be secured by ESD from NYS for disbursement to the Foundation for the Program.

- (1) 450 Transition Project. Pursuant to Participation Agreements between “Founding Members” (including the Foundation, IBM, Intel, GF, Samsung, TSMC, and potentially other leading semiconductor technology industry participants), the parties will

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

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form a Global 450mm Wafer Development and Deployment Consortium (“G450C”) and make capital funding commitments to this Project focusing on transitioning from existing 300mm wafers to a new 450mm wafers. The new technology will produce more than twice the number of chips processed on today’s 300mm wafers, thus lowering costs to deliver future generations of technology with greater value and lower environmental impact through lower energy usage. ESD’s role is to secure from NYS a five-year \$150 million capital funding commitment which ESD will disburse to the Foundation for use in connection with this Project. \$50 million of funding will be secured from NYPA for a total five year commitment from NYS of \$200 million.

- (2) Chip Transition Project. Pursuant to an Investment Agreement between IBM and ESD, ESD similarly would be required to make available to the Foundation \$150 million in capital funding over the same five-year period, for use in developing technology to shrink chip architecture (i.e., distance between the feature dimensions) from 32/28nm to 22/14nm. \$50 million of funding will be secured from NYPA for a total five year commitment from NYS of \$200 million. These next two generations of computer chips will power advanced systems of all sizes, including, among other things, computers, tablets, mobile phones, servers, and national security applications.

The essential terms of the Participation Agreements and the Investment Agreement relevant to ESD are set forth in these materials.

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

March 27, 2012

II. Five-Year Program Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
1. 450 Transition Project	\$1,025,000,000
2. Chip Transition Project	1,000,000,000
3. IBM investment within NYS	<u>2,825,000,000*</u>
Total Project Costs	<u>\$4,850,000,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
<u>1. 450 Transition Project</u>		
ESD - Grant	150,000,000**	3%
NYPA - Grant	50,000,000**	1%
Original five founding members (@ \$75 million per member)	375,000,000	8%
Original Equipment Manufacturers (“OEMS”)	<u>450,000,000</u>	9%
Total	\$1,025,000,000	
<u>2. Chip Transition Project</u>		
ESD - Grant	\$150,000,000**	3%
NYPA - Grant	50,000,000**	1%
IBM contribution	<u>800,000,000</u>	17%
Total	\$1,000,000,000	
<u>3. IBM Financing</u>	\$2,825,000,000*	<u>58%</u>
Total Project Financing	<u>\$4,850,000,000</u>	<u>100%</u>

* See Section V (“Essential Terms of the Investment Agreement”) below.

** For purposes of these materials, it is assumed that the NYPA Portion and the ESD funding would be evenly divided between the two Projects; however, exact distribution of the total NYS \$400 million between the two Projects would be determined by the Foundation in consultation with CNSE.

Regional Council: The Capital Region Economic Development Council has been made aware of this item. The Program predates the Regional Council Initiative but is generally consistent with the Regional Plan.

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

March 27, 2012

Grantee Contact: John F. Loonan, Operations Manager
Research Foundation, on behalf of The College of Nanoscale Science
and Engineering
257 Fuller Road
Albany, New York 12203
Phone: (518) 956-7359 E-mail: jloonan@albany.edu

ESD Project No.: X772

Project Team:	Project Management	Edwin Lee
	Legal	Robin Stout
	Affirmative Action	Helen Daniels
	Design and Construction	Scott Renzi
	Environmental	Soo Kang

III. Background

Industry: The semiconductor industry is the cornerstone of the "innovation economy": semiconductors are central to modern devices, from computers and cell phones to automobiles and airplanes. Semiconductor manufacturing is one of the nation's largest export industries and generates billions of dollars in revenue. Today, the industry makes chips at 32nm, but many of the leading manufacturers are currently transitioning to 28nm chips. The Program aims to create processes required to move to 22nm and 14nm, the next two generations of chip technology, which would be the most technologically advanced wafer technology in the world.

Grantee: The Foundation is a private, 501(c)(3) not-for-profit educational corporation that administers externally funded contracts and grants for and on behalf of the State University of New York ("SUNY"). The Foundation is a separate, not-for-profit corporation, and as such is not supported by state appropriated tax dollars, nor does it receive support services provided to New York State agencies. The Foundation provides the administrative flexibility to respond quickly to the special demands of externally funded contracts and grants in a manner that facilitates their scientific or technical execution.

CNSE is a global resource for research, development, education, and economic outreach in the nanotechnology and nanotechnology-enabled disciplines and applications of the 21st century, including nanoelectronics, bioinformatics, renewable energy, infotonics, environmental technologies, telecommunications, and biotechnology. CNSE serves as a critical enabler in establishing New York as a competitive and attractive location for the high-tech industries of the 21st century, leading to the creation of high-paying jobs for New Yorkers. CNSE has created partnerships and provides the management and coordination of a

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

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comprehensive portfolio of vertically integrated R&D centers that provide a smooth and inclusive transition of scientific concepts from theoretical conception into actual product demonstration and introduction to market.

IV. Essential Terms of the Participation Agreements (the 450 Transition Project)

The specific goal of the 450 Transition Project is to establish and operate a new state-of-the-art “cleanroom” and associated infrastructure at CNSE to demonstrate and deploy 450mm wafer, tools, and process technologies within a model drawing upon the collective investments of Founding Members (IBM, Intel, GF, Samsung, and TSMC), the State of New York, original equipment manufacturers (“OEMS”), tool, material, and chemical suppliers (“Suppliers”), and facilities and infrastructure contractors (“Contractors”), for the realization of the 300mm wafer to 450mm wafer transition.

New York State’s initial investment of \$200 million (inclusive of \$150 million from ESD and \$50 million from NYPA) would be matched by investments from Founding Members via Participation Agreements executed between ESD, the Foundation (on behalf of CNSE), and the Members. Each Founding Member would contribute \$15 million per year for five years, for a collective total contribution of \$375 million from the Founding Members. Further, Members shall make or cause to be made \$450 million in contributions from OEMS and Suppliers in the form of cash and cash equivalent contributions.

Project activities include: fit-out of 20,000 square feet of new “cleanroom” space in the CNSE NanoFabXtension (NanoFabX or NFX) cleanroom building, which is currently under construction; acquisition and installation of advanced 450mm wafer processing equipment and technology applications, tooling infrastructure, testing and measurement systems, wafer handling and monitoring equipment; radio frequency identification system; and expansion of new and existing systems and server room and facility expenses.

ESD Role: Subject to appropriation and ESD receipt of Grant funds, and pursuant to the terms of the form of Participation Agreement, ESD’s role would be to secure from the State of New York \$150 million capital funding commitment over a five-year period, and to disburse actual funds to the Foundation for Project use. \$50 million of funding will be secured from NYPA for a total five year commitment from NYS of \$200 million.

Foundation Role: The Foundation would disburse the public funds to CNSE over the five-year period in support of the Project. The Foundation would provide or cause to provide: (a) adequate office space at CNSE to house the G450C; and (b) by not later than December 31, 2012, state-of-the-art, 450mm wafer-capable, 25,000 square feet of contiguous cleanroom space at CNSE to house Program operations. The Foundation also would be responsible for the acquisition of all 450mm wafer equipment on behalf of the Founding Members. Pursuant to

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

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the Participation Agreement, the Foundation, on behalf of CNSE, would own all tools, equipment, and infrastructure systems purchased with Project funds, and would lease such assets to the G450C for \$1 per year for the five-year term of the Participation Agreement.

V. Essential Terms of the Investment Agreement (the Chip Transition Project)

This Project would support the expansion of a long-standing IBM-CNSE partnership called the Center for Semiconductor Research (“CSR”) on the CNSE campus. The CSR is the joint development research collaboration between IBM and the Foundation (on behalf of CNSE) focused on the 32/28nm computer chip transistor node and below. CSR expansion would create the innovative environment for leading-edge system-on-chip (semiconductor) technologies to reach the 22/14nm node and smaller. This Project also is expected to create new manufacturing standards for the industry and opportunities for the attraction and retention of global nanoelectronics manufacturers, suppliers and contractors to New York State. Furthermore, expansion of the CSR is anticipated to spur other support industries such as chemical and gas supplies, tool and facility systems, service and support, plumbing and HVAC, and other service trades.

Project activities include: fit-out of 25,000 square feet of new “cleanroom” space in the CNSE NanoFabXtension (NanoFabX or NFX) clean room building, which is currently underway; acquisition and installation of advanced processing equipment and technology applications, tooling infrastructure, advanced 300mm wafer semiconductor processing tool systems, testing and measurement systems, wafer handling and monitoring equipment; radio frequency identification system; and expansion of existing and new systems and server room, and related facility expenses. IBM will work with CNSE as equal partners to develop and deploy the 22nm and 14nm transistor computer chip and assist CNSE in the recruitment of new high-tech jobs to support the CSR.

This Project will expand the significant developments taking place at the 22nm and 14nm nodes. The CSR is the only facility within a university setting that provides full vertical integration of the design, modeling, fabrication, testing, and pilot-prototyping capabilities required to produce the nanochips of the future, beginning with a blank silicon wafer and ending with workable nanochip demonstration vehicles. A major component of the expansion of the CSR is the investment in the next generation of lithography technology (the imaging of the architecture or pattern on the chip) – or Extreme Ultraviolet Light (EUV). IBM and CNSE will purchase and install the latest EUV lithography systems and support tooling that will greatly expand the cutting edge technology portfolio of CNSE and the CSR. The CSR’s work is expected to create significant technological advancements in a number of fields. Some of the applications include:

The Research Foundation of SUNY – Semiconductor Transition Program (X772)

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- state-of-the-art “hyper-fast” computers, such as tablets, laptops, desktops and high-end performance servers for advanced processing and computing;
- minimized power consumption and maximized energy efficiency;
- ultra-fast and highly secure telecommunications;
- biological and chemical “laboratory-on-a-chip” systems for very early disease identification, therapy design and evaluation, clinical implementation, drug discovery and delivery, toxicology detection and cure, and medical devices and components;
- portable, tether-free, “sensor-on-a-chip” devices for close-loop, real-time, monitoring and control in automotive, homeland defense, and “haz-mat” and firefighting; and
- reproducible, reliable and manufacturable green energy technologies, including miniaturized and efficient solar cell and fuel cell systems.

ESD Role: Subject to appropriation and ESD receipt of Grant funds, and pursuant to the terms of the form of Investment Agreement, ESD would secure from the State of New York \$150 million in capital funding commitments over a five-year period, and to disburse actual funds to the Foundation for Project use. \$50 million of funding will be secured from NYPA for a total five year commitment from NYS of \$200 million.

IBM Role: Pursuant to the terms of the Investment Agreement, IBM would commit to spending \$800 million for CSR expansion over the next five years. Further, IBM would agree to make additional investment of \$2.825 billion in its Fishkill and Yorktown facilities within NYS.

VI. Environmental Review

ESD staff has determined that the proposed Program involving the creation of additional nanotechnology facilities and operational space in existing facilities 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 Department of Environmental Conservation. No further environmental review is required in connection with the proposed Program.

VII. Affirmative Action

ESD's Non-Discrimination and Affirmative Action program will apply to this Program. The Foundation and CNSE shall use good faith efforts to achieve a Minority/Women Business Enterprise participation goal of at least 20% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with work related to the Program, and to include minorities and women in any job opportunities created by the Program.

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VIII. Statutory Basis

It is anticipated that the Program will be authorized in the 2012-2013 New York State budget. No residential relocation is required as there are no families or individuals residing on the Program site.

IX. 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. The Beacon Institute - Rivers and Estuaries Observatory Network (V075)

March 27, 2012

Authorization to Add a Beneficiary Organization

- Grantee:** The Beacon Institute, Inc. (“Beacon” or the “Institute”)
- Beneficiary Organization:** Clarkson University (“Clarkson”)
- ESD Investment:** \$5,000,000 approved on March 15, 2007 and amended on October 15, 2008
- Project Locations:** Beacon, Dutchess County and Potsdam, St. Lawrence County
- Proposed Project:** Development of a Rivers and Estuaries Observatory network (“REON”) in the Hudson River.
- Project Type:** Development, planning, design, procurement, construction, and field deployment of sensors and related monitoring and communications technology equipment.
- Regional Council:** The Mid-Hudson Regional Council has been made aware of this item. The project pre-dates the Regional Council Initiative. The project is consistent with the Regional Plan.

Background:

Industry - The Beacon Institute is a not-for-profit environmental research organization.

Ownership – The Beacon Institute was established in 2003. As of September 2011, Beacon changed its status to a membership not-for-profit corporation with Clarkson University as the sole member, of which Clarkson will have control over the Institute’s operational and management functions. The Institute maintains separate staff and offices in its headquarters in Beacon.

ESD Involvement - These materials refer to and include, in their entirety, the attached materials presented to and approved by the ESD Directors on March 15, 2007 and subsequently amended on October 15, 2008 (collectively, the “Materials”). Any substantive changes to the project or terms and conditions are noted in these materials.

The Beacon Institute - Rivers and Estuaries Observatory Network (V075)

March 27, 2012

The Project:

Completion - December 31, 2013

Activity – The grant was intended to establish a new facility at Lamont-Doherty in Palisades to support a program addressing global change in rivers and estuaries, global biogeochemical cycles and human perturbation of the river and estuarine systems. The \$5 million ESD grant was to target the earliest building construction phases, including planning, design and equipment necessary to house the Institute’s satellite facility at the Lamont-Doherty’s building.

On October 15, 2008, the ESD Directors approved the Grantee’s request to modify the project scope to fund the REON project. Beacon joined with IBM, Clarkson University, Columbia University, the United States Geological Survey, and others, to aggressively implement this grant and successfully launch the project in the Hudson River. To date, ESD has disbursed \$1,539,797 of the grant.

Beacon is now requesting a modification to its project in order to include Clarkson University as a beneficiary organization. Programs related to this project will be conducted from facilities located on the Clarkson campus in Potsdam and at the Institute’s current facilities.

Budget – There are no proposed changes to the project budget as modified by the ESD Directors in October 2008. The budget is shown below.

Results – This modification will allow Beacon and Clarkson University to fully implement the strategic alliance in which the Institute, acting independently and/or jointly through collaborative programs with Clarkson, can achieve advances in monitoring and managing aquatic systems with the continued implementation of the Hudson River monitoring system.

Financing Uses	Amount	Financing Sources	Amount	Percent
Design	\$1,250,000	ESD Grant	\$5,000,000	100%
Construction	3,400,000			
Pilot deployment	350,000			
Total Project Costs	\$5,000,000	Total Project Financing	\$5,000,000	100%

Grantee Contact - Timothy Sugrue, President and Chief Executive Officer
199 Main Street
Beacon, NY 10528
Phone: (845) 838-1600 Fax: (845) 838-6613

The Beacon Institute - Rivers and Estuaries Observatory Network (V075)

March 27, 2012

Beneficiary Contact - James D. Fish, CFO
Clarkson University
8 Clarkson Avenue, Box 5540
Potsdam, NY 13699-5546
Phone: (315) 268-6689 Fax: (315) 268-7723

Disclosure and Accountability Certifications:

The Grantee and Beneficiary Organization have provided ESD with the required Disclosure and Accountability Certifications. The Grantee's and Beneficiary Organization's certification indicate that Grantee and Beneficiary Organization have 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.

Attachments:

ESD Directors' Materials dated March 15, 2007;
Modification dated October 15, 2008

C. Ohel - Camp Kaylie Capital (X588)

March 27, 2012

General Project Plan

- Grantee:** Ohel Children's Home and Family Services, Inc. ("Ohel" or the "Organization")
- ESD Investment:** A grant of up to \$2,000,000 to be used for a portion of the cost of construction, furniture, fixtures, and equipment.
- Project Location:** 400 Mount Vernon Road, Wurtsboro, Sullivan County
- Proposed Project:** Excavation, and construction of three buildings (a recreation center and a respite housing unit for staff and visiting parents) measuring 15,248 square feet.
- Project Type:** Camp expansion, furniture, fixtures, and equipment to complete the project.
- Regional Council:** The Mid-Hudson Regional Council has been made aware of this item.

Background:

Industry – Ohel Children’s Home and Family Services is a not-for-profit social services organization headquartered in Brooklyn that provides housing, foster care, outpatient counseling, school-based programs, and abuse services for families of developmentally disabled children.

Organization History – The Organization was established in 1966 as a not-for-profit 501 c (3) providing foster care services to abused and neglected children. In the years following, Ohel expanded its services, adding residential and out-patient programs for families in crisis, and for individuals with psychiatric or developmental disabilities. Ohel’s programs address domestic violence, substance abuse, mental health supervision, relationship conflicts, employment, and education. Ohel also created a mental health clinic and several camp and after-school programs.

Ownership – Camp Ohel, Inc., d/b/a Camp Kaylie of which Ohel Children’s Home and Family Services is the sole member, was incorporated July 16, 2008 for the primary objective of operating a summer camp that will provide recreational and social opportunities for children with developmental and/or psychiatric disabilities. Camp Ohel, Inc. is the sole member of Camp Ohel Realty Inc., a section 501 (c) (2) incorporated July 21, 2008, to support the charitable purposes and activities of Camp Ohel, Inc. by acquiring, holding title to and collecting income from real property that will be used exclusively in connection with the operations of Camp Ohel, Inc.

Ohel – Camp Kaylie Capital (X588)

March 27, 2012

Size – The project consists of the construction of three buildings consisting of a recreation center and housing units for staff and visiting parents. Total square footage of construction will measure 15,248 square feet. The entire camp measures approximately 110 acres, of which 85 acres are undeveloped hiking and nature trails.

Market – Ohel serves the foster care community, children and adults with developmental and/or psychiatric disabilities, outpatient counseling clients, the senior community, and schools. Today, Ohel operates approximately 100 residences and apartments for over 400 adults with developmental and/or psychiatric disabilities. Its programs continue to strengthen and rehabilitate communities in New York as well as in Northern New Jersey and Southern Florida. Ohel contracts with The New York State Office of Mental Health, The New York State Office for Persons with Disabilities, The New York City Administration for Children’s Services, The United States Office of Juvenile Justice Delinquency and Prevention, as well as the New York State Division of Criminal Justice Services.

The Organization also operates an OMH-licensed Article 31 outpatient mental health clinic, a large school-based mental health program and several camp and after-school programs for children with disabilities. Funding from the New York City Human Resources Administration (“HRA”) and the New York State Office of Children and Family Services (“OCFS”) allows Ohel to operate several domestic violence shelters for battered women and their children.

ESD Involvement – The project was reappropriated in the 2011-2012 New York State budget.

Past ESD Support – This is the first ESD-administered grant to the Organization.

The Project:

Completion – June 2012

Activity – In 2010, Ohel sought to improve one of its summer camp locations (Camp Kaylie) by building a new recreation center and respite housing for staff and visiting parents. The center was planned to serve the camp as a hub for sports, recreation and social events. Ohel’s objective was to make significant and needed improvements that would allow children with developmental disabilities to improve their social skills by interacting with mainstream or typical children. The center was also planned for use outside of the summer camp period to provide social opportunities for adult Ohel clients. To date, Ohel has completed the advance testing, excavation and foundation of

Ohel – Camp Kaylie Capital (X588)

March 27, 2012

the buildings. Construction work is being performed by contractor Billman Ross, of Middletown, NY. The contractor was selected through a formal bidding process. The project is expected to be complete in June 2012.

Results – The project will provide significant and needed improvements to Camp Kaylie, which offers a truly unique experience for children with developmental and other disabilities. The recreation center will serve as a valuable indoor alternative to outdoor activities. The center will enable Camp Kaylie to provide diversified programming opportunities throughout the summer. Respite housing will allow parents to accompany their children to camp while providing a separate respite space for staff. Approximately 100 individuals will be employed directly or indirectly through this project.

Financing Uses	Amount	Financing Sources	Amount	Percent
Excavation and Construction	\$ 1,860,621	ESD Grant	\$2,000,000	98%
Furniture, Fixtures and Equipment	\$ 170,156	Organization Equity	30,777	2%
Total Project Costs	\$ 2,030,777	Total Project Financing	\$2,030,777	100%

Grantee Contact - Howard Lorch, Chief Financial Officer

4510 16th Avenue
Brooklyn, NY 11204
Phone: (347) 695-9756 Fax: (347) 695-9856

Project Team - Project Management Simone Bethune
Affirmative Action Denise Ross
Environmental Soo Kang

Environmental Review:

The Town of Mamakating 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 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 October 26, 2010. 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.

Ohel – Camp Kaylie Capital (X588)

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Statutory Basis – Community Enhancement Facilities Assistance Program:

The project was authorized by the 1997-1998 New York State budget and Chapter 432, Laws of 1997, and Chapter 55, Laws of 2002, and reappropriated in the 2011-2012 New York State budget. No residential relocation is required because 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. The 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.

Ohel – Camp Kaylie Capital (X588)
March 27, 2012

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Wurtsboro (Mid-Hudson Region – Sullivan County) – Ohel - Camp Kaylie Capital –
Community Enhancement Facilities Assistance Program (Capital Grant) – Determination
of No Significant Effect on the Environment

RESOLVED, that based on the material submitted to the Directors with respect to the Ohel -
Camp Kaylie Improvements Capital Project, the Corporation hereby determines that the
proposed action will not have a significant effect on the environment.

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Annual Budget

REQUEST FOR: Authorization to Adopt Annual Operating Budget including Subsidiary Operating Support for Fiscal Year (FY) 2012-2013 and to Take Related Actions

BACKGROUND

State Finance Law requires that prior to the commencement of each fiscal year the Directors of the Empire State Development Corporation (ESDC or the Corporation) adopt an annual operating budget. This budget includes certain support provided to subsidiaries and for the operations of the Regional Economic Development Councils. It pertains only to operating costs and not to programmatic appropriations included in the Governor's proposed FY 2012-2013 Executive Budget. All subsidiary operating and capital budgets must also be presented separately to, and approved by their respective Boards within the same time frame.

As indicated in the attached budget document, the expense for personal services is inclusive of the cost of fringe benefits and the Corporation's annual contribution to the New York State Retirement System. Please note that the amount of contribution increased last fiscal year as a result of lower than expected rates of return on the fund balance and is forecasted to remain at that higher level in FY 2012-2013.

Public Authorities Law Section 2975 directs the Division of Budget to assess an amount to each public authority for recovery of central governmental services. It is estimated that this year's government assessment fee of \$3.45 million will remain at the prior year's level.

If changes are required following the adoption of the State's FY 2012-2013 Budget, a modified annual operating budget will be presented to the Directors at a later date.

In addition to the operating budget, we are also seeking approval of the Corporation's FY 2012-2013 non-programmatic capital expense budget of \$624,000. Included in this component of the budget is the purchase of network equipment and related software, modifications to the ESD website, software licenses and upgrades to data communications equipment.

The details of the proposed FY 2012-2013 ESDC operating and non-programmatic capital expense budgets are attached to these materials for your review.

REQUESTED ACTION

The Directors are requested to adopt the Corporation's proposed Annual Operating Budget for FY 2012-2013 and approve the Non-Programmatic Capital Expense Budget for FY 2012-2013 as set forth in the attachments and to delegate authority to the appropriate officers to take related actions.

ATTACHMENTS

Proposed Annual Operating Budget for FY 2012-2013 including subsidiary operating support

Proposed Non-Programmatic Capital Expense Budget for FY 2012-2013

March 27, 2012

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – (the “Corporation”) Authorization to Adopt Annual Operating Budget

RESOLVED, that the Corporation hereby adopts the Annual Operating Budget for FY 2012-2013 including subsidiary operating support and approves the Non-Programmatic Capital Expense Budget for FY 2012-2013, based upon the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the “Materials”); and be it further

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

New York State Urban Development Corporation d/b/a
 Empire State Development Corporation
 Annual Operating Budget
 Including Subsidiary Operating Support
 for Fiscal Year 2012-2013

EXPENSES

<u>Personal Services (including fringe benefits)</u>	\$	<u>28,027,500</u>
<u>Other Post Employment Cost</u>	\$	4,100,000
 <u>Non-Personal Services</u>		
Occupancy Expenses	\$	10,057,000
Government Assessment Fee		3,450,000
Repairs/Maintenance/Property Management/Other		
Outside Services/Expenses		978,997
Computers, Software & Telephone		841,617
Legal/Consulting/Accounting Fees		807,000
Office Supplies&Expenses/Printing/Advertising		401,426
Insurance		338,300
Travel & Meals		305,660
On-Line Services, Seminars, Dues & Subscriptions		146,200
 <u>Total Non-Personal Services</u>	 \$	 <u>17,326,200</u>
 <u>Total Personal and Non-Personal Expenses</u>	 \$	 <u>49,453,700</u>
 <u>Total Subsidiary Operating Support</u>	 \$	 <u>3,143,661 (a)</u>
 GRAND TOTAL - ALL EXPENSES	 \$	 <u>52,597,361</u>

FUNDING SOURCES

Housing/Other Revenue/Asset Sale Proceeds	\$	45,438,364
Economic Development Income & Other Fees		5,000,000
Recovered Expenses		<u>2,158,997</u>
 GRAND TOTAL - FUNDING SOURCES	 \$	 <u>52,597,361</u>

(a) Consists of operating expenses for ECHDC, HCDC Corporate, HRTDC, QWDC & USAN.
 ESDC does not provide operating support for all other subsidiaries.

FOR CONSIDERATION

March 27, 2011

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Economic Development Programs

REQUEST FOR: Adoption of Guidelines for Economic Development Programs; and
Authorization to Take Related Actions

BACKGROUND

New York State Urban Development Corporation d/b/a Empire State Development (“ESD” or the “Corporation”) is from time to time required by legislation to administer appropriated economic development assistance programs and funding that are not legislatively directed to a particular statutory economic development program set forth in the New York State Urban Development Corporation Act (the “UDC Act”). Staff has determined that it would be beneficial for the Corporation if it were to adopt guidelines for such appropriated economic development assistance programs and funding in order to provide information to the public, including potential assistance applicants, and to provide guidance to ESD staff for the operation and administration of such programs and funding. The proposed draft guidelines, attached to these materials, would allow for the prompt and efficient use of such appropriated funds in order to more effectively implement such programs and achieve the economic development purposes of the programs. The ESD President will be authorized to adopt any necessary changes to the guidelines. The guidelines could be promptly applied with little or no adaptation for the efficient operation of the programs and disbursement of the funds for program purposes.

An example of an appropriated economic development assistance program that would benefit from such guidelines is the Economic Development Purposes Fund program (“EDPF”) that was established in April 2011 as part of New York State’s Fiscal Year 2011-2012 budget. EDPF is administered by ESD and makes available \$62.36 million of funding over a two-year period, which will help drive economic development across New York State. EDPF would be the first program to which the proposed guidelines would apply.

THE GUIDELINES

In order to administer in a fair and expeditious manner economic development programs and funding that are not legislatively directed to a particular statutory economic development program set forth in the UDC Act, it is proposed that the Corporation adopt guidelines (the "Guidelines") substantially in the form included in these materials. The Guidelines cover (i) an overview of the provisions, (ii) eligible assistance applicants, (iii) types of assistance available and related requirements, (iv) the assistance application, approval and disbursement processes, and (v) other related general terms and conditions.

A one percent (1%) non-reimbursable commitment fee based on the project funding amount awarded may be assessed upon awardees. The commitment fee will be due when the applicant executes documents required for processing the award. The applicant will also pay for out-of-pocket expenses incurred by ESD in connection with the project, including, but not limited to, expenses related to attorney fees, appraisals, surveys, title insurance, credit searches, filing fees, public hearing expenses, and other requirements deemed appropriate by ESD.

For the approval and disbursement of awards, the Guidelines provide for the use of the approval and disbursement processes generally used by ESD for the approval of project assistance awards.

AFFIRMATIVE ACTION

ESD's Non-Discrimination and Affirmative Action policies will apply.

ENVIRONMENTAL REVIEW

ESD staff has determined that the requested adoption of the guidelines does not constitute an action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the approval.

REQUESTED ACTIONS

The Directors are requested to adopt the Guidelines and to authorize necessary and appropriate actions to effectuate the foregoing.

RECOMMENDATION

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

ATTACHMENTS

Resolution
Economic Development Program Guidelines

March 27, 2012

Economic Development Programs – Adoption of Guidelines for Economic Development Programs; and Authorization to Take Related Actions

RESOLVED, that on the basis of the materials (the Materials”) presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby adopts the economic development program guidelines (the ”Guidelines”) 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 the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized to take such actions and make such modifications to the Guidelines, including, without limiting the foregoing, modifying the guidelines apply to the administration and operation of economic development programs, including the Economic Development Purposes Fund program, as he or she may deem necessary or appropriate; 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.

* * *



Empire State Development

Guidelines for Economic Development Programs:

Economic Development Purposes Fund

As of March 27, 2012

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I. OVERVIEW

For each of the ESD economic development assistance programs referred to in Section IX below, these guidelines provide consolidated information as well as guidance with respect to the application for program assistance and the award of program assistance for such programs.

ESD's economic development assistance generally falls into three categories: (i) operating businesses receive assistance through **Business Investment**; (ii) place-based investments receive assistance through **Infrastructure Investment**; and (iii) activities that foster economic growth through cultural activity, higher education activity, regional revolving loan and grant programs, other regional initiatives, agribusiness initiatives, marketing activities, training or education programs, or technical assistance receive assistance through **Economic Growth Investment**. ESD may choose to allocate program funds disproportionately among the three assistance categories depending on the volume and quality of funding requests for each.

Generally, program funds will be administered in two forms: **loans** and/or **grants**. From time to time, ESD may determine to provide only one form of program assistance (*i.e.*, loans or grants). ESD may also use certain program funds for direct contracts, including contracts for economic development marketing and advertising. See Section IX, below.

Terms used in these guidelines that are not otherwise defined in the text of a provision shall have the meaning for such term given in Section VIII of these guidelines.

II. ELIGIBLE APPLICANTS

A wide range of entities are eligible to apply for program assistance, including but not limited to: for-profit businesses, not-for-profit corporations, business improvement districts, local development corporations, public benefit corporations (including industrial development agencies), economic development organizations, research and academic institutions, incubators, technology parks, municipalities, counties, regional planning councils, tourist attractions, and community facilities. Applicants for Business Investment assistance generally should have an operating history of at least three (3) years.

III. FUNDING

Program funds may be used for economic development initiatives intended to create or retain jobs; prevent, reduce or eliminate unemployment and underemployment; and/or increase business activity in a community or Region.

A. Forms of Funding

As determined by ESD, assistance may be provided to eligible Applicants in the form of loans or grants.

B. Eligible Funding Uses and Expenses

Business Investment

A Business Investment initiative is one that facilitates an employer's ability to create new jobs in New York State or to retain jobs that are otherwise in jeopardy. Five-year job commitments will be required because it is by underwriting these job commitments that ESD is best able to assess the potential economic benefits of providing the assistance. Applicants for Business Investment assistance will therefore be required to commit to the number of jobs At Risk that will be retained by the proposed project, the number of Full-Time Employees for the proposed project and the number of Net New Jobs that will be created by the project, and the average salaries of each. Failure to achieve or maintain these employment commitments will subject a beneficiary to potential recapture of the assistance.

Infrastructure Investment

An Infrastructure Investment initiative must attract new businesses and/or expand existing businesses, thereby fostering further investment, through the development or expansion of basic systems and facilities, including transportation, water and sewer, communication, energy generation and distribution, and parking facilities.

Infrastructure Investment projects that provide job commitments are viewed favorably. It is important, however, to note that (i) few infrastructure investment projects can provide job commitments and (ii) if the employer is an entity other than the Applicant, a third party guarantee of the Applicant's job commitment must be provided by the employer and both the employer and the third party guarantor must be creditworthy as determined by ESD.

Economic Growth Investment

An Economic Growth Investment initiative fosters economic growth through cultural activity, higher education activity, regional revolving loan and grant programs, other local or regional initiatives, agribusiness initiatives, marketing activities, training or education programs, or technical assistance that may not have direct job creation goals.

A broad range of expenses, hard costs and Soft Costs may be covered by program assistance. Expenses eligible for program assistance include:

- Acquisition or leasing of land, buildings, machinery and/or equipment;
- Acquisition of existing business and/or assets;
- Demolition and environmental remediation;
- New construction, renovation, or leasehold improvements;
- Acquisition of furniture and fixtures;
- Soft Costs up to twenty-five percent (25%) of total project costs; and

- Planning and feasibility studies (if program is bond-funded, the study must be related to a capital project)
- Working capital (excluding salaries and benefits)*;
- Training; and
- Marketing and Advertising.

*Salaries and benefits may only be included for Economic Growth Investment projects.

The following types of expenses may be included in budgets for projects presented to ESD for consideration as part of an application for program assistance, but such expenses shall not be eligible for payment using program funds:

- Developer fees;
- Recapitalization/refinancing; and
- Residential development, although program funds may be used for the commercial component of a mixed-use project.

C. Timing of Funding/Reimbursement

Although funding is offered prior to project commencement as an inducement to undertake the project, generally, ESD disburses funds in arrears, as reimbursement for program assistance eligible expenses. Generally, grants for projects with job commitments are disbursed after project completion in three installments, as previously determined employment benchmarks and/or other project milestones are achieved. Generally, grants for projects without job commitments are disbursed in one installment upon project completion. As needed, however, ESD may allow payments to be made as reimbursement during construction or implementation of the project, as project milestones are achieved. Loan funds are disbursed in one installment, upon project completion.

Program funds may only be used for expenses incurred after an ESD Incentive Proposal (described in Section V below) has been countersigned by Applicant (expense documentation will be required). For more information, please see Section V, The Approval and Disbursement Process, of these guidelines.

D. ESD Assistance Amount and Project Budget

Aggregate ESD assistance should not exceed twenty percent (20%) of the project budget. Applications should include a comprehensive budget that specifies funding sources and uses; total source and total use amounts should be the same. Assets being acquired must be reflected in the budget at a level at or below fair market value. If an Applicant proposes acquiring an asset from an affiliate or related entity, the value of that asset must be verified independently.

E. Equity

Applicants must contribute a minimum of ten percent (10%) of the total project cost in the form of equity. Equity is defined as cash injected into the project by the Applicant or by investors that can be audited through the review of the Applicant's financial statements or accounts. In order to qualify for the required equity contribution, the contribution must occur after ESD's Incentive Proposal has been countersigned by the Applicant and must not be funded by borrowing against any item in the project budget.

In the case of public or public private infrastructure projects, ESD may modify this equity requirement in order to allow for bond financing proceeds to qualify as equity. In the case of Economic Growth Investment initiatives that fund regional revolving loan or grant programs, ESD may modify the equity requirement in order to allow equity to be provided by the ultimate recipient of the regional revolving loan or grant program funds, as those awards are made, rather than the entity administering the funds.

F. Job Commitments

Applicants for Business Investment assistance must commit to create new jobs or retain jobs that are otherwise At Risk. Failure to achieve and maintain job commitments will subject the program assistance recipient (and, if applicable, the program assistance beneficiary) to potential recapture of program assistance. Although job creation and retention are two key indicators of economic activity, ESD recognizes that certain investments may increase productivity and revitalize communities without immediately increasing permanent employment. Therefore, job commitments are not always required for the Infrastructure Investment and Economic Growth Investment categories of program assistance.

G. Recapture

If job commitments are required in connection with a program grant, program assistance recipients or, if applicable, program assistance beneficiaries, that fall short of their job commitments are subject to annual *pro rata* recapture during the five-year period following the disbursement of the program assistance funding.

For grants that involve the purchase or improvement of real property, *pro rata* portions of the program assistance funding will be subject to recapture if such real property or improvement is sold within five years of disbursement of the program assistance funding. Generally, this will not be applied to Business Investment initiatives.

H. Financial Review and Analysis

ESD shall perform financial review and analysis of Applicants requesting assistance, including a benefit-cost analysis that estimates the return on investment that the project will provide to

New York State. Review and analysis includes proposed project information, including budget and, where applicable, job creation and/or retention targets, historical financial performance, and, in some cases, financial projections.

Privately-owned companies, IDAs, not-for-profits, and municipalities shall provide (i) an organizational chart and/or description of ownership structure, including the percentage ownership by each individual/entity and (ii) three (3) years of historical financials. If most recent financials are over one hundred eighty (180) days old, the most recent interim statements, certified as true, accurate and complete by an authorized officer, should be included.

A start-up Applicant shall provide, in addition to the above, (i) financial projections (five years), (ii) personal financial statements from a personal guarantor of the Applicant, and (iii) the resumes of the Applicant's principals. Note that applicants for Business Investment assistance generally should have an operating history of at least three (3) years.

For a public company Applicant, ESD may use information available from the company's website.

I. Guarantees

For all program assistance, guarantees are required from any individual or entity owning fifty percent (50%) or more of the Applicant (and/or beneficiary as the case may be). For Loans, in addition to guarantees required from any entity owning fifty percent (50%) or more of the borrower, personal guarantees are required from any individual owning twenty percent (20%) or more of the borrower.

In determining the required guarantors, the ownership of the corporate entity and its affiliates are merged, so that guarantees are required from all commonly controlled entities whose ownership interests aggregate to fifty percent (50%). In determining personal guarantees, the ownership of individuals and their immediate family members are merged, so that guarantees are required from all immediate family members whose ownership interests aggregate to twenty percent (20%) or fifty percent (50%), as applicable.

IV. The Application Process

A. General Information

For each proposed project, eligible Applicants shall submit either a Consolidated Funding Application ("CFA") or an ESD application form, available from the ESD Regional Office in the Applicant's area. Links to the CFA and ESD Regional Offices can be found on ESD's website www.esd.ny.gov.

Applications will be reviewed by ESD, which will conduct due diligence and project assessment to determine if a project is eligible for program assistance. ESD will assess each project based upon the criteria described below in subpart B of this Section IV.

Information submitted to ESD in connection with an application for assistance and identified by the Applicant in writing as trade secrets or other proprietary information (such as information regarding financial condition, marketing plans, manufacturing processes, production costs and customer lists) will be treated by ESD as confidential and will be exempt from public disclosure to the extent permitted by law and regulations.

Conditional awards will be documented in the form of an Incentive Proposal (described below). Please see Section V, which also describes the approval and disbursement process.

B. Criteria For ESD Assessment of Applications for Projects

In addition to the criteria noted below, ESD shall have the discretion to consider additional factors in ESD's assessment of a project:

- Number of Net New Jobs created and/or At Risk jobs retained in New York State;
- Amount of the investment to be made;
- Amount of private financing leveraged;
- Amount of public financing leveraged;
- Estimated return on investment that the project identified in the application will provide to New York State;
- Level of increased economic activity from the proposed investment;
- Whether the application is supported by multiple public and/or private entities;
- The level of local and/or regional support;
- Whether the project will have a significant regional impact or is likely to increase the subject community's economic and social viability and vitality;
- Whether the project area is located within a Brownfield Opportunity Area or a Distressed Community;
- Whether, where applicable, there are identified tenants for a completed project;
- Potential to revitalize a downtown neighborhood;
- Whether or not the project concerns the preservation of the architectural character of a building or neighborhood;
- Whether the project is consistent with sustainable development;
- Whether the Applicant will use energy-efficient measures, including, but not limited to, the reduction of greenhouse gas and emissions and the Leadership in Energy and Environmental Design (LEED) green building rating system for the project identified in its application;
- Degree of economic distress in the area where the Applicant will locate the project identified in its application;
- Degree of the Applicant's financial viability, strength of financials, operating history, project cash flow, and other financial measures;

- Degree of project readiness, and the likelihood of completion of the project identified in the application;
- Degree to which the project identified in the application supports New York State’s minority-owned and women-owned business enterprises;
- Degree to which the project identified in the application supports the principles of Smart Growth;
- Overall economic impact that the project identified in the application will have on a Region, including, but not limited to, the impact of any direct or indirect jobs that will be created;
- Degree to which other state or local incentive programs are available to the Applicant;
- Likelihood that the project identified in the application would be located outside of New York State or would not occur but for the availability of State or local incentives; and/or
- Degree to which the project is consistent with the Region’s Strategic Plan as developed by the Regional Council.

V. The Approval and Disbursement Process

Awards will be documented in the form of an Incentive Proposal outlining the terms of the proposed assistance, which is contingent upon approval of the ESD Directors and compliance with applicable laws and regulations. The Incentive Proposal must be signed by the Applicant and returned to ESD accompanied by a \$250 fee.

Generally, projects are presented to the ESD Directors after all project expenditures have been undertaken and the disbursement of ESD assistance is sought¹.

For capital projects, all legal requirements must be met prior to the start of construction and approval by ESD Directors, including assessing the environmental impacts, if any, pursuant to the *State Environmental Quality Review Act* (“SEQRA”) and consultation with the State Historic Preservation Office, if applicable.

In accordance with State law, after approval by the ESD Directors, a public hearing may be required if the project involves the acquisition, construction, reconstruction, rehabilitation, alteration or improvement of any property. ESD will schedule a public hearing in accordance with the *New York State Urban Development Corporation Act* (“UDC Act”) and will take such further action as may be required by the UDC Act and other applicable law and regulations. Generally, hearings are held the month after Directors’ approval.

The ESD Directors must reconsider the matter if any negative testimony is received at the public hearing. Approval by the Public Authorities Control Board (“the PACB”), New York State

¹ If a grantee requires a commitment letter before project expenditures have been incurred in order to borrow against ESD’s commitment, a project can be brought to the Directors for their approval provided the other conditions above have been met.

Comptroller (“OSC”) and the New York State Attorney General (“AG”) may then be required. Following approval by the ESD Directors, and PACB, OSC and AG approval, if required, the documents for funding the award will be prepared by ESD. Notwithstanding the process outlined above, no project shall be funded if ESD does not receive sufficient funding resources for such project.

A one percent (1%) non-reimbursable commitment fee based on the amount of program assistance awarded will be assessed to all awardees. The commitment fee will be due when the Applicant executes documents required for processing the program assistance. In addition, the Applicant will be obligated to pay for out-of-pocket expenses incurred by ESD in connection with the project, including, but not limited to, expenses related to attorney fees, appraisals, surveys, title insurance, credit searches, filing fees, public hearing expenses, and other requirements deemed appropriate by ESD.

In the case of Infrastructure Investment projects or Economic Growth Investment projects consisting of regional revolving loan and grant programs, the commitment fee may be waived, at ESD’s discretion.

VI. General Terms and Conditions

1. *Modification of Award* – ESD reserves the right to offer program assistance under terms different from those requested or those contained in these guidelines. ESD reserves the right to review and reconsider program assistance offers and terms in the event of material changes in project scope, timing, or circumstances.
2. *Non-Discrimination Policy* – It is the policy of the State of New York, including specifically ESD, to comply with all federal, State, and local laws, policies, orders, rules, and regulations that prohibit the unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status.
3. *M/WBE Goals* – It also the policy of the State and ESD to take affirmative action when implementing projects to ensure Minority and Women-Owned Business Enterprises (“M/WBE”), Minority Group Members and women share in the economic opportunities generated by ESD’s participation in projects or initiatives or in the use of ESD funds. Compliance with these laws and policies shall be required.

As a result, applications for projects shall be reviewed by the Affirmative Action Unit of ESD, which shall, in consultation with the Applicant and/or proposed recipient of program assistance and any other relevant interested parties, develop appropriate goals, in compliance with applicable law (including Section 2879 of the *Public Authorities Law*, Article 15-A of the *Executive Law*, and Section 6254 (11) of the *Unconsolidated Laws*) and the policy of ESD, for participation by Minority Group Members and women. Such goals shall include employment participation goals for minorities and women as well as business and participation goals for minorities and women in accordance with

applicable laws and Governor Cuomo’s Executive Order No. 8, dated February 17, 2011, which speaks to the need for leadership in all State agencies to meet M/WBE goals.

4. *Reservations of Rights Concerning Funding Commitment* – It is expected the project will proceed in the time frame set forth by the Applicant in its application. If the implementation of a project fails to proceed as so indicated or is delayed for a significant period of time or ESD determines that there is doubt as to the viability of the project or the Applicant or the economic benefit of the project, ESD reserves the right to cancel its commitment to such project of program assistance.
5. *Environmental Sustainability* – ESD encourages the environmentally sustainable practice of recycling construction and demolition debris rather than disposition in a landfill.

VII. Other ESD Funding Sources

Applicants for program assistance may apply for and receive assistance from multiple ESD-administered and affiliated sources, even for the same project. ESD generally seeks to provide no more than twenty percent (20%) of the financing for any particular project and generally requires ten percent (10%) equity in all projects (see Section III, subpart E above). Applicants must always disclose whether they are pursuing or intend to pursue multiple ESD funding sources, including loans, grants, and tax incentives.

VIII. DEFINITIONS

“Applicant” shall mean a for-profit business entity, not-for-profit corporation, business improvement district, local development corporation, public benefit corporation (including an industrial development agency), economic development organization, research and academic institution, incubator, technology park, municipality, county regional planning institution, tourist attraction, and community facility.

“At Risk” shall mean a permanent Full-time Employee position currently located in New York State that is found by ESD to be at risk of being lost or moved out of State based on compelling information provided by an Applicant.

“Brownfield Opportunity Area” shall mean an area that has been approved for funding under New York State’s Brownfield Opportunity Area program for the purpose of establishing a community-based revitalization plan and implementation strategy to achieve Brownfield redevelopment in a proactive and systematic way. Visit the following link for a partial listing: http://nyswaterfronts.com/BOA_projects.asp.

“Distressed Communities” shall mean areas determined by ESD as meeting certain criteria indicative of economic distress, including land value, employment rate, rate of employment change, private investment, economic activity, percentages and numbers of low-income

persons, per capita income and per capita real property wealth, and such other indicators of distress as ESD shall determine.

“Full-Time Employee” shall mean a full-time, permanent, private sector employee on Applicant’s payroll who works at the project location for a minimum of thirty-five (35) hours per week for not less than four (4) consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the Applicant to other employees of comparable rank and duties; or two (2) part-time, permanent, private sector employees on Applicant’s payroll who work at the project location for a combined minimum of thirty-five (35) hours per week for not less than four (4) consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Applicant to other employees of comparable rank and duties.

“Minority Group Member” shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

“Minority or Women-Owned Business Enterprise” shall mean an entity that has been certified by the New York State Division of Minority and Women’s Business Development as a Minority or Women-Owned Business Enterprise.

“Net New Jobs” shall mean jobs created in this state that: (i) are new to the state; (ii) have not been transferred from employment with another business located in this state including from a related person in this state; (iii) are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five (35) hours per week; and (iv) are filled for more than six (6) months during the year for which credits are being granted.

“Smart Growth” shall mean the sensible, planned, efficient growth that integrates economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments. Smart Growth encourages growth in developed areas with existing infrastructure to sustain it, particularly municipal centers, downtowns, urban cores, historic districts and older first-tier suburbs.

“Region” shall mean the regions of the State established pursuant to section 230 of the *Economic Development Law*.

“Soft Costs” shall mean costs related to those items in a project that are necessary to prepare and complete the non-construction needs of the project. Soft Costs include such items as architecture, design, engineering, permits, inspections, consultants, environmental studies, and

regulatory demands needing approval before construction begins. Soft Costs do not include construction, telecommunications, furnishings, fixed equipment, and expenditures for any other permanent components of the project.

IX. FUNDING PROGRAMS

Economic Development Purposes Fund

New York's Economic Development Purposes Fund ("EDPF") was established in April 2011 as part of New York State's Fiscal Year 2011-2012 budget. The EDPF makes available a two-year appropriation of \$62.36 million of grant and loan funding over a two-year period, which will help drive economic development across New York State. EDPF funding may be awarded to Eligible Applicants in accordance with these Guidelines through loans and/or grants, and may be used by the ESD for direct contracts, including contracts for economic development marketing or advertising.

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Corporate Insurance Policies

REQUEST FOR: Authorization to Place Directors & Officers Liability Insurance; and to
Take Related Actions

BACKGROUND

ESD indemnifies its board directors, officers and employees as required by Section 18 of Article 2 the NYS Public Officers Law. Pursuant to the law, ESD has agreed to defend all indemnified parties from lawsuits that may arise due to claims of negligence, breach of duty, errors, conflicts of interest, wrongful employment practices and other alleged wrongful acts.

These claims can arise from actions taken by individuals acting in the capacity of a board member or employee. In addition to the legal defense costs, ESD would be responsible for paying out any settlements or judgments that may arise from these claims.

To date, ESD has self-insured this liability risk for several reasons:

- i) Staff are not aware of any claims resulting in a judgment or settlement against the Corporation in recent years.
- ii) The Corporation has an enforced system of checks and balances, whereby board actions must be pre-reviewed and justified by senior staff, thus eliminating the possibility of large-scale unilateral decision-taking by any individual Board director or employee.
- iii) Cost, in the absence of financial losses arising from claims and the checks and balances mentioned above.

Recent developments suggest that purchasing Directors and Officers Liability Insurance (“D&O”) at this time would be a prudent measure in protecting the Corporation’s assets. There has been an increase in the number of claims against board directors in both the public and private sectors. This increase has been reported publicly in the news and corroborated by a recent increase in the number of claims processed by ESD’s insurance broker and advisor, Cool Insuring Agency.

Policy Marketing and Placement:

Cool Insuring Agency (“Cool”) approached 15 carriers active in the D&O insurance market. Ten of these carriers declined to quote due to the complexity of ESD’s operations and lack of appetite for public official/ governmental business. ESD received one responsive quote for coverage from Chartis (formerly AIG) and the remaining four carriers indicated that they would be willing to quote but would not be able to compete with Chartis. Chartis is already the insurer for ESD’s excess umbrella liability policy.

Description of Recommended Policy and Cost:

Carrier & Rating:	Chartis – A (Excellent)
Description:	\$3 million limit per occurrence and in the aggregate
Term:	One Year (renewable annually)
Annual Premium:	\$110,000

A \$3 million limit is the amount of coverage recommended by both Cool and ESD’s in-house senior counsel in charge of litigation.

Because of ESD’s fiduciary responsibilities to the subsidiaries, it was necessary that the policy be underwritten for the protection of both ESD and all subsidiaries. Accordingly, 60% of the cost of the policy will be apportioned to the subsidiaries and the net cost to ESD will be \$44,000.

AFFIRMATIVE ACTION:

There are no NYS certified MWBE insurance carriers. However, there are opportunities to do business with MWBE firms as part of ESD’s contract for insurance advisory and brokerage services with Cool. At this time, MWBE participation with Cool is approximately 15% and Cool continues to explore avenues to further increase participation. (Please note that the contract for insurance advisory and brokerage services is a separate board authorization.)

REQUESTED ACTION:

The Directors are requested to authorize the purchase of the Directors & Officers Liability policy from Chartis Insurance for a total premium cost of \$110,000.

ATTACHMENTS:

Resolution

March 27, 2012

AUTHORIZATION TO PLACE DIRECTORS & OFFICERS LIABILITY AND EMPLOYMENT
PRACTICES LIABILITY INSURANCE; AND TO TAKE RELATED ACTIONS

RESOLVED, that based upon the materials presented to the Directors at this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, that the Chairman and Chief Executive Officer of the Corporation or Chief Financial Officer or his/her designee(s) are hereby authorized, in the name and on behalf of the Corporation, to enter into all contracts, agreements and instruments, as the Chairman and Chief Executive Officer of the Corporation or Chief Financial Officer or his/her designee(s) shall deem necessary or appropriate in connection with the purchase of the Corporation's Directors & Officers Liability insurance with Chartis Insurance for the 2012-2013 fiscal year at an annual premium of \$110,000

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

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Property Disposition Guidelines

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

Background

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

Title 5-A of the Act requires the adoption of guidelines with respect to property disposition. The Act also requires that the guidelines must be annually reviewed and approved by the Corporation. Since 2006, the Corporation has adopted and implemented the guidelines that are described below (the "Guidelines"), which effectively incorporate all requirements of the Act. These Guidelines, without change from 2011, are now proposed for re-adoption by the Corporation.

Guidelines Regarding Disposition of Property

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

- a. appointment of a contracting officer;
- b. disseminating and posting the Guidelines;
- c. inventory and reporting of status of corporation property; and
- d. obligations of the corporation with respect to pricing and methods of disposition.

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

The most significant exceptions to the bidding requirement are negotiated transfers to the State and negotiated transfers of personal property that have non-utilitarian qualities such as artistic quality or historical significance. These exceptions can permit sole sourcing.

Section 7 of the Guidelines provides for disposing of property for less than fair market value. If the transfer is to a government or other public entity or the purpose of the transfer is within the purpose or mission of ESDC, disposal is permitted. If not, the transfer is subject to denial by the governor, senate or assembly. In any sale below fair market value certain transactional information must be submitted to the Board which must make a written determination that there is no reasonable alternative to the transfer.

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

Requested Action

The Directors are being asked to adopt the attached Guidelines, appoint the Vice President, Management Information Systems and Administrative Services, (or any successor head of Administrative Services) as both the Procurement Officer of the Corporation and the Contracting Officer for purposes of the Guidelines and to authorize the taking of related actions.

Attachments

Resolution
Guidelines

March 27, 2012

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

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

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

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

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

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

RESOLVED, that the Vice President, Management Information Systems and Administrative Services for the Corporation (or any successor head of Administrative Services), is hereby appointed as both the Procurement Officer and the Contracting Officer as required and set forth in the Guidelines; and it is further

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

* * *

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

D/B/A EMPIRE STATE DEVELOPMENT CORPORATION

GUIDELINES REGARDING DISPOSITION OF PROPERTY

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

1. “Contracting officer” shall mean the Procurement Officer who shall be appointed by resolution of the Board of Directors to be responsible for the disposition of property.

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

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

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

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

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

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

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

2. Inventory. The Corporation shall:

- a. maintain adequate inventory controls and accountability systems for all property under its control;
- b. periodically inventory such property to determine which property shall be disposed of;
- c. produce a written report of such property in accordance with subdivision three of this section;
- d. transfer or dispose of such property as promptly as possible in accordance with Section III.

3. Reporting

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

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

III. Disposal of Corporation's property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) such action is otherwise authorized by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) a full description of the asset;
- (ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board.
- (iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer.
- (iv) a statement of the value to be received compared to the fair market value;
- (v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- (vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

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

Dated: March 27, 2012

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Procurement of Legal Services

REQUEST FOR: Authorization to Amend a Contract for Legal Services and to Take Related Actions

I. Contract Summary

Contractor: The Law Offices of Donald J. Tobias

Scope of Services: Represent Corporation in various foreclosure, collection, workouts, bankruptcy and related creditors rights issues.

Amended Contract Term: Two (2) years

Contract Amount: Not to exceed \$200,000

New Proposed
Total Contact Amount: \$750,000

Funding Source: Corporate Funds

II. Background

This is a request to amend the retainer agreement with the Law Offices of Donald J. Tobias (the "Firm") to continue to provide services in connection with creditors rights, collections, workouts, bankruptcy and foreclosure matters (collectively, "Workout Matters"). The Firm handles a large number of matters in an efficient manner at rates substantially less than ESD's current maximum rate of \$400 per hour. The Firm provides advice that is prompt, thoughtful and practical, assisting both in-house counsel and project managers on a daily basis. The Firm is included on the Corporation's list of pre-qualified counsel for Workout Matters.

The maximum amount of the Firm's current retainer has been reached. The Corporation is preparing to issue a new Request for Statements of Qualification ("RFQ") with a view to presenting for your approval a new list of pre-qualified counsel in all practice areas, to replace the list that will be expiring this Fall. In the meantime, continuing services by the Firm are

needed, and the requested contract amendment will provide the Corporation the capacity to obtain those services.

III. Contractor Selection Process

In November 2007, UDC and JDA placed an advertisement in the New York Contract Reporter (“NYCR”) to retain counsel to represent both entities on bankruptcy and related creditors’ rights issues. Counsel was also sought to be retained to collect moneys due on loans and grants in default and to enforce rights of the corporation against property of borrowers, including foreclosure of real property.

Donald J. Tobias (“Tobias”) was one of the firms selected. However, Tobias’ current retainer in the amount of \$550,000 has been completely expended on a variety of ongoing matters.

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 officers determined to be non-responsible bidders and debarred officers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

Mr. Tobias handles a broad range of litigation services related to Workout Matters including, defaults under various 9-11 Federal funded programs, defaults under ESD Grant Disbursement Agreements, foreclosures, related auctions, bankruptcies, and loan defaults.

V. Amended Contract Term, Price and Funding

The term of the amended contract is two (2 years) and funds will be paid at standard ESD rates for counsel from corporate funds.

VI. Non-Discrimination/Affirmative Action

ESD’s Non-discrimination and Affirmative Action policy will apply. ESD shall be required to use good faith efforts to achieve a Minority-Owned Business Enterprises participation goal of 15% and a Women-Owned Business Enterprise participation goal of 5% for all Workout Matters. ESD will meet this goal by assigning at least 50% of all new Workout Matters to minority and/or women owned business enterprises. If ESD does not reach the goal of 20% of ongoing billings to MWBE firms within six months of the date the Board approves new counsel in accordance with the proposed RFQ process then existing matters by Tobias will be reassigned to other counsel until such goal is achieved. Once the 20% goal is reached, new Workout Matters will be assigned to maintain at least 20% of billing to MWBE firms. The above-mentioned contract goals shall be a percentage of the total amount of this contract, including all expenditures made

hereunder, including but not limited to, purchase orders, invoices and other payments made in the performance of this contract.

VII. 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 and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to amend its existing contract with the Law Offices of Donald J. Tobias to add the additional amount of \$200,000 for a new total contract amount not to exceed \$750,000.

IX. Recommendation

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

XI. Attachments

Resolution

March 27, 2012

Empire State Development – Authorization to Amend a Contract to Provide Legal Services and to Take Related Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds the Law Offices of Donald J. Tobias (the “Firm”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend its existing contract with the Firm to add the additional amount of Two Hundred Thousand Dollars (\$200,000) for a new total contract amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

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

* * *

FOR CONSIDERATION

March 27, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Audubon New Community – (Erie County) Town of Amherst

REQUEST FOR: Authorization to Sell Land to the Corporation for Urban Development and Research of New York for Resale to the Temple Beth Tzedek; and Authorization to Take Related Actions.

I. Project Summary

Location: Bryant Woods Office Park, Amherst, New York

Site: 4.49 +/- acres

Purchase Price: \$516,350.00

Terms: \$10,000 deposit on execution of the Contract for Sale; Balance due at closing. Brokerage fee of \$49,000 payable out of proceeds of sale. A 2012 closing is anticipated.

ESD Participation: Sale of Land Only

Appraisal: \$115,000 to \$125,000 per acre per Emminger, Newton, Pigeon & Maygar, Inc., Buffalo, New York December 2011.

Purchaser: Temple Beth Tzedek or its assigns.

Construction: 20,000 – 25,000 square foot synagogue

II. Background

Audubon is a 3,000 acre planned community located in Amherst, New York that was acquired and developed by ESD beginning in the 1970's to assist the Town in absorbing the impacts of the then new Amherst campus of SUNY Buffalo which currently occupies the southern 1, 200 acres of Audubon. In addition to SUNY Buffalo, the developed space is home to about 2,000 residents in single family houses and apartments. In addition, 71 companies are located in the Audubon Office Park. Audubon is also home to the completed Audubon Industrial Park that contains 114 companies.

Since acquiring the property in the 1970's, ESD has built the public infrastructure and has been selling parcels for private development. At the present time, ESD owns only approximately 10 developable acres located in the Bryant Woods Office Park. Through the years, ESD has issued requests for proposals to develop the remaining property in Audubon with varying levels of success. The property currently owned by ESD has not been part of any successful solicitation.

In a further attempt to sell the Bryant Woods Office property, in January of 2010, ESD issued a request for proposals by placing an ad in the NYS Contract Reporter and advertising in the Buffalo Business First seeking a broker to market the property. One proposal was received, and as a result, Pyramid Brokerage Company was retained to provide exclusive brokerage services for the remaining ESD Audubon property. The contract expired after one year and did not result in any offers for the property. While Pyramid is no longer the exclusive broker of the property, they have now brought the current offer to purchase 4.49 acres in the Bryant Woods Office Park to ESD.

III. Proposal

Temple Beth Tzedek ("TBT") proposes to purchase 4.49 +/- acres south of Bryant Woods South to construct an approximate 20,000 – 25,000 sq. ft. synagogue. The parcel is located along John James Audubon Parkway. The offer price for the property is \$115,000 an acre or \$516,350 for 4.49 acres.

The offer for the property is fair market value based on an appraisal conducted by Emminger, Newton, Pigeon & Maygar, Inc., on behalf of ESD. Pursuant to the appraisal, the property is valued at \$115,000 to \$125,000 per acre.

Closing will be contingent upon TBT's completion of environmental due diligence, sale of its current property, its ability to obtain financing, approval of the congregation and Site Plan Approval from the Town of Amherst.

IV. Affirmative Action:

TBT agrees to the following policy, which will appear in the contract of sale and the deed:

Purchaser and every successor in interest to the Property shall not discriminate upon the basis of race, color, creed, sex, or national origin in the sale, lease or rental, or in the use or occupancy of the Property or any improvements thereon or any part thereof.

V. Environmental Review:

The development of this section of Audubon for General Commercial used was analyzed in previous environmental assessments relating to the adoption of Audubon's General Project Plan and/or its amendments that the Directors have approved. The sale of this parcel does not require separate environmental review.

VI. Recommendation:

Based upon the foregoing, the Directors are requested to: 1) authorize the sale of property located in the Bryant Woods Office Park; and 2) authorize staff to take all related actions.

Attachments

Resolution

March 27, 2012

AUDUBON NEW COMMUNITY – (Erie County) - Authorization to Sell Land to the Corporation for Urban Development and Research of New York for Resale to Temple Beth Tzedek

RESOLVED, that based on the materials presented at this meeting with respect to the proposed land sale to Temple Beth Tzedek or its assignee (the "Purchaser"), a copy of which is hereby ordered filed with the records of the Corporation, and pursuant to a Memorandum of Understanding between the Corporation and Corporation for Urban Development and Research of New York ("UDR"), the Corporation is authorized to sell and convey to UDR approximately 4.49 +/- acres described in the materials and substantially on the terms and conditions described in the materials; and be it further

RESOLVED, that the President and Chief Executive Officer or his designee(s), be and the same hereby is, authorized in the name of and on behalf of the Corporation to take to execute and deliver and affix the seal of the Corporation to all such agreements, contracts, deeds certificates and instruments and to take any such action as he may, in his sole discretion, consider necessary or proper to effectuate the sale of such property.

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