

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

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

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

Meeting of the Directors  
Friday  
April 26, 2013 – 9:30 a.m.

**PROPOSED AGENDA**

**FOR CONSIDERATION**

**I. CORPORATE ACTIONS**

- A. Approval of Minutes of the March 20, 2013 Directors' Meeting
- B. Officer of the Corporation - Appointment of Executive Vice President – Legal and General Counsel

**II. DISCRETIONARY PROJECTS**

**NEW YORK CITY REGION**

- A. Bronx (New York City Region - Bronx County) – GrowNYC 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; Determination of No Significant Effect on the Environment
- B. Long Island City (New York City Region – Queens County) – JetBlue Airways Capital – JOBS Now Program (Capital Grant) - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

II. **DISCRETIONARY PROJECTS - Continued**

**SOUTHERN TIER REGION**

- C. Painted Post (Southern Tier Region – Steuben County) – Corning Global Innovation Center Capital – JOBS Now Program (Capital Grant) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

**CENTRAL NEW YORK REGION**

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- D. Baldwinsville (Central New York Region – Onondaga County) – Anheuser-Busch 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; Determination of No Significant Effect on the Environment
- E. Auburn (Central New York Region - Cayuga County) – D&W Diesel 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; Determination of No Significant Effect on the Environment
- F. North Syracuse (Central New York Region - Onondaga County) – International Controls 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

**LONG ISLAND REGION**

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- G. Hauppauge (Long Island Region – Suffolk County) - GSE Dynamics Capital – Economic Development Purposes Fund 12-13 – Business Investment (Capital Grant) - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

**II. DISCRETIONARY PROJECTS - Continued**

**DISCRETIONARY PROJECTS CONSENT CALENDAR**

- H. Discretionary Projects Consent Calendar – Findings and Determinations Pursuant to Sections 10 (g), 5(4) and 16-d of the Act; Authorization to Make a Grant and Take Related Actions; Determination of No Significant Effect on the Environment

**Urban and Community Development Program**

- A. New York Philharmonic Working Capital (Columbia and Dutchess Counties) - \$100,000

**III. REGIONAL COUNCIL AWARDS/ STATEWIDE - RESTORE NEW YORK COMMUNITIES**

**CENTRAL NEW YORK REGION**

- A. Executive Summary - Growing Upstate Food Hub Capital and Working Capital Grants – Regional Council Capital Fund, Economic Development Purposes Fund 12-13, and Restore NY Communities
- B. Regional Council Award – Priority Project - Canastota (Central New York Region – Madison County) – Growing Upstate Food Hub Capital and Working Capital - Regional Council Capital Fund and Economic Development Purposes Fund 12-13 (Capital and Working Capital Grant) - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment
- C. Canastota (Central New York Region – Madison County) – Canastota – RESTORE III – Growing Upstate Food Hub - Restore NY Communities 08-09 (Capital Grant) – 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 Grants and Take Related Actions; Determination of No Significant Effect on the Environment

#### IV. REGIONAL COUNCIL AWARDS

##### WESTERN NEW YORK REGION

- A. Regional Council Award – Priority Project – Niagara Falls (Western New York Region – Niagara County) – Niagara County Community College Culinary Institute Capital – Regional Council Capital Fund (Capital Grant) - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

##### REGIONAL COUNCIL AWARDS PROJECTS CONSENT CALENDAR

- B. Regional Council Award Projects Consent Calendar – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

##### Regional Council Capital Fund

- A. Val Tech Holdings Capital (Monroe County) - \$100,000

#### V. HOUSING PORTFOLIO

- A. Transfer of the UDC Mitchell Lama Housing Portfolio from Empire State Development to the New York State Housing Finance Agency, and Procurement of Bond Counsel and Real Estate Counsel – Authorization to (i) Transfer the Housing Portfolio from Empire State Development to the New York State Housing Finance Agency in accordance with the Public Authorities Law, (ii) Enter Into a Contract for Bond Counsel and Real Estate Counsel Services and (iii) Take All Related Actions

#### VI. RADISSON NEW COMMUNITY

- A. Lysander (Onondaga County) - Radisson Community – Authorization to Sell Land to Agrana Fruit U.S. Inc.; Authorization to Hold Public Hearing Thereon; and Authorization to Take Related Actions

**VII. ADMINISTRATIVE ACTIONS**

- A. New York (New York County) – Victoria Theater Redevelopment Land Use Improvement and Civic Project – Authorization to Accept and Approve the Final Environmental Impact Statement (“FEIS”); Authorization to Publish, File and Circulate the FEIS; and Authorization to Take Related Actions
- B. New York City (New York County) – Office Space at 633 Third Avenue, New York, NY – Approval of Essential Terms of a Lease; Authorization to Negotiate Final Terms of and Enter into a Lease; Authorization to Take Related Actions
- C. “New York is Open for Business: Amendment to Contract with Full Service Advertising, Marketing, Branding, Media and Communications Agency for Continuation of Business Marketing Campaign in connection with the State of New York Small Business Storm Recovery Program – Authorization to Enter into Agreement with the New York State Housing Trust Fund Corporation (“HTFC”); Authorization to Direct Monies Received from HTFC to other State Agencies with Contracts for Advertising; Authorization to Enter into Amendment of Existing Contract with BBDO USA LLC; Authorization to Take Related Actions

**VIII. INFORMATION**

- A. Small Business Storm Recovery Program – Oral
- B. 2013-14 Enacted NYS Budget – Economic Development Highlights

**DRAFT – SUBJECT TO REVIEW AND REVISION**

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION**

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

and

Buffalo Regional Office  
95 Perry Street, Suite 500  
Buffalo, New York 14203

and

Albany Regional Office  
625 Broadway  
Albany, New York 12245

March 20, 2013

**MINUTES**

**In Attendance**

**Directors:**

Kenneth Adams (Acting Chair)  
Derrick Cephas  
Paul Ciminelli  
Robert Dyson  
Joyce Miller  
Anthony Albanese – Designee for Superintendent – Department  
of Financial Services

**Present for ESD:**

Maria Cassidy, Deputy General Counsel  
Sheri Lippowitsch, Vice President – Loans and Grants  
Eileen McEvoy, Corporate Secretary  
Kathleen Mize, Deputy CFO and Controller  
Mehul Patel, Chief of Staff  
Susan Shaffer, Vice President – Loans and Grants  
Frances A. Walton, Chief Financial and Administrative Officer

**For Western New York:**

Steve Gawlik, Vice President – Capital Projects and Senior  
Counsel  
Christina Orsi, Director - Western New York Regional Office

**DRAFT – SUBJECT TO REVIEW AND REVISION**

**Also Present:** Robin Alpaugh, Senior Project Manager – Southern Tier Regional Office  
Merideth Bahr-Andreucci, Director-Industry Development  
James Fayle, Director – Central New York Regional Office  
Diane Kinnicutt, Economic Development Program Specialist  
Andrea Lohneiss, Director - Long Island Regional Office  
Roseanne Murphy, Director – North Country Regional Office  
Ed Muszynski, Area Director-Finger Lakes Regional Office  
Kevin McLaughlin, Director – Southern Tier Regional Office  
David Salway, Director – Broadband Program  
Aimee Vargas, Director – Mid-Hudson Regional Office  
David J. Wright, Assistant Commissioner, Albany

**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 9:43 a.m. by Acting Chair Adams. It was noted for the record that the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

Next, Acting Chair Adams set forth the guidelines regarding comments by the public on matters on the Agenda.

Acting Chair Adams then asked the Directors to approve the Minutes of the February 21, 2013 Directors’ meeting. There being no changes or corrections, upon motion duly made and seconded, the following resolution was unanimously adopted:

**DRAFT – SUBJECT TO REVIEW AND REVISION**

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE FEBRUARY 21, 2013 MEETING OF THE DIRECTORS OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meeting of the Corporation held on February 21, 2013, 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.

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

Mr. Lee noted that the Directors will be asked to approve two Economic Development Fund Grants totaling \$750,000 and eight Regional Council Award Grants totaling \$18,022,000.

Mr. Lee added that these projects will leverage over \$74 million in additional investments and will assist in retaining 359 jobs and in creating approximately 52 jobs in New York State.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Following Mr. Lee’s full report, the Acting Chair asked Ms. Vargas, the Director of ESD’s Mid-Hudson Regional Office, to present the Wolf-tec Empire State Economic Development Fund Capital Grant item for the Directors’ consideration.

Ms. Vargas opened her presentation by noting that Wolf-tec is a family owned business located in Ulster County that manufactures and distributes meat, poultry and seafood processors. Ms. Vargas added that the Company’s facilities are all located in Kingston.

Ms. Vargas further stated that over the past five years, the Company has expanded as a result of a \$2 million investment in research and development and therefore requires a physical expansion as well to accommodate its sales growth and its new product line.

The Company, Ms. Vargas continued, had explored not only staying in Kingston but it also explored relocating to Jefferson County, Georgia.

In April of 2011, Ms. Vargas explained, ESD offered the Company a capital grant of \$350,000 to reduce the cost of expanding its business in Ulster County.

The \$350,000 grant, she continued, will be used for a portion of the cost of acquisition, construction, renovations and the purchase of machinery and equipment.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Ms. Vargas added that the Company has invested \$7.7 million in the context of capital costs and then also expended \$2 million in new machinery and equipment. The result, she noted, has been the retention of business and jobs and the creation of 27 new full time jobs by January of 2015.

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

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

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

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 Wolf-tec, Inc. a grant for a total amount not to exceed Three Hundred and Fifty Thousand Dollars (\$350,000) 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.

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Kingston (Mid-Hudson Region – Ulster County) – Wolf-tec Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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

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Next, Ms. Bahr-Andreucci asked the Directors to authorize ESD to make a \$400,000 EDF grant to Monro Service Corporation which is a subsidiary of Monro Muffler Brakes (the “Companies”). Monro Muffler Brakes, Ms. Bahr-Andreucci noted, operates over 940 stores in 22 States providing automotive and undercar and tire services.

Among other things, Ms. Bahr-Andreucci explained that Monro Service and Monro Muffler also have joint headquarters in Rochester that needed to be expanded.

Ms. Bahr-Andreucci further explained that with ESD assistance, the Companies were able to add significant office and warehouse space at the Rochester headquarters.

Ms. Bahr-Andreucci added that as a result of this project, the combined Companies will retain 190 jobs and create 20 new jobs. Ms. Bahr-Andreucci further noted that 13 of those jobs have already been created.

The Acting Chair asked if the Regional Council was aware of this project and whether or not they were supportive of it. Ms. Bahr-Andreucci said that the Regional Council was aware of the project and that they support it.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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

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

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 Monro Service Corporation a grant for a total amount not to exceed Four Hundred Thousand Dollars (\$400,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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Rochester (Finger Lakes Region – Monroe County) – Monro Service Corporation Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Monro Service Corporation 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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**DRAFT – SUBJECT TO REVIEW AND REVISION**

Next, Ms. Bahr-Andreucci asked the Directors to authorize ESD to make a \$1.1 million capital loan and a \$500,000 capital grant in connection with the Western New York Science Technology and Advanced Manufacturing Park (“STAMP”) Regional Council Awards Project.

Ms. Bahr-Andreucci explained that STAMP is a 1,248-acre development district being planned and marketed for high technology manufacturing, mainly semiconductor manufacturing in the town of Alabama in Genesee County.

This loan and grant, Ms. Bahr-Andreucci further explained, will allow the immediate purchase of 354 acres for which options expire at the end of this quarter.

Ms. Bahr-Andreucci then noted that with this purchase, Genesee County agencies will own 417 acres. Eventually, Ms. Bahr-Andreucci continued, the development agency hopes to assemble and own all 1,248 acres in the Town of Alabama.

Among other things, Ms. Bahr-Andreucci went on to explain the terms of the loan and the grant noting, in part, that if the project does not come to full fruition, ESD will have real estate liens for both the grant and the loan.

Ms. Bahr-Andreucci further explained that in consultation with the Governor’s office, the goal will be to move this project forward but it is structured in a way that allows New York State to get repaid from future profits if the project is successful and have funds returned if

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it is not.

Following the full presentation, the Acting Chair called for questions or comments. Director Ciminelli asked if ESD will always be in a first position on the liens and Ms. Bahr-Andreucci said that ESD would have the first position and not be subordinated to anyone on the liens.

Director Miller asked if the project will benefit SUNY in Genesee and Ms. Bahr-Andreucci said that it would. She added that the local development corporation has already run some two-year middle school, middle skill development programs for advanced manufacturing.

Director Miller then stated that this is in line with the Governor’s agenda in regard to the development of SUNY as a resource for job training and job creation in the tech industry.

Ms. Bahr-Andreucci agreed.

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

Regional Council Award – Priority Project – Alabama (Finger Lakes – Genesee County) – GCEDC-GGLDC – Western New York Science, Technology and Advanced Manufacturing Park Capital – Economic Development Purposes Fund and Regional Council Capital Fund – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan and a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the GCEDC-GGLDC – Western New York Science, Technology and Advanced Manufacturing Park Capital -

**DRAFT – SUBJECT TO REVIEW AND REVISION**

- Economic Development Purposes Fund and Regional Council Capital 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; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center and Genesee Gateway Local Development Corporation a loan for a total amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000) from the Economic Development Purposes Fund and a grant for a total amount not to exceed Five Hundred Thousand Dollars (\$500,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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**DRAFT – SUBJECT TO REVIEW AND REVISION**

Mr. Tazewell then asked the Directors to authorize ESD to make a grant of \$10,000,000 to TAYSTEE CREATE, LLC, a newly created partnership affiliated with Janus Properties and Benoroch Construction.

Mr. Tazewell provided the background information with regard to this request noting, among other things, that the grant will be used for a portion of the \$72 million cost to construct Create@Harlem Green Development.

Create@Harlem Green, Mr. Tazewell continued, was designated as a priority project by the New York City Regional Council in 2011 and will revitalize and physically transform the former Taystee Bakery buildings which have been in an abandoned state for approximately 40 years.

Mr. Tazewell stated that the new building will be a 240,000 square foot state-of-the-art commercial building and will include manufacturing space, retail space and non-profit community space.

Mr. Tazewell added that the project will create up to 440 full time jobs and will be held to an overall 40 percent MWBE goal.

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

Director Miller then asked with regard to the TAYSTEE CREATE, LLC and the use of the property, if any of the project will be used for affordable housing and if so, what percentage. She also asked if any of the space is going to be used for subsidized space or local community groups.

Mr. Tazewell answered that there will be space for community groups but that it is an entirely commercial building.

Director Miller expressed her concern about a \$10,000,000 grant to a for-profit entity when there is no assurance that the community will benefit from the project.

The Acting Chair stated that the Regional Council has made the determination that there are many benefits to the community aside from just commercial space. Acting Chair Adams noted that the community will benefit from the types of tech and entrepreneurial firms and small businesses that are going to be tenants in the building as many of them will be from the community. In addition, the Acting Chair cited the 40 percent MWBE participation as a benefit to the community.

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Regional Council Award – Priority Project – New York (New York City Region – New York County) – TAYSTEE CREATE LLC Capital – Regional Council Capital Fund, Empire State Economic Development Fund, and Downstate Revitalization Fund – General Development Financing (Capital Grant) – Findings and Determinations Pursuant to Sections 16-m, 16-r and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the TAYSTEE CREATE LLC Capital - Regional Council Capital Fund, Empire State Economic Development Fund, and Downstate Revitalization 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 TAYSTEE CREATE LLC a grant for a total amount not to exceed Ten Million Dollars (\$10,000,000) from the Regional Council Capital Fund, Empire

**DRAFT – SUBJECT TO REVIEW AND REVISION**

State Economic Development Fund, and Downstate 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 of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

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

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

\* \* \*

Regional Council Award – Priority Project – New York (New York City Region – New York County) – TAYSTEE CREATE LLC Capital – General Development Financing (Capital Grant) – Adoption of Findings Pursuant to the State Environmental Quality Review Act

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RESOLVED, that with respect to the West Harlem Rezoning project, which includes rezoning to facilitate the redevelopment of the former Taystee Bakery site (the “Project”), the Corporation hereby makes and adopts pursuant to the State Environmental Quality Review Act (“SEQRA”) the following findings and determinations, which findings and determinations are made after full consideration of the Findings Statement attached as Exhibit A hereto, which Exhibit A is hereby adopted by the Corporation and copies of which document are hereby filed with the records of the Corporation.

- The Corporation has given consideration to the Draft and Final Environmental Impact Statement (“DEIS” and “FEIS”, respectively) prepared for the proposed West Harlem Rezoning Project;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Project is one that avoids or minimizes adverse environmental effects to the maximum extent practicable, including the

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effects disclosed in the FEIS and the Findings Statement;

- Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures described in the FEIS and the Findings Statement; and
- The Project is in compliance with Section 14.09 of the State Historic Preservation Act; and
- The Project is consistent with the applicable State coastal policies set forth in 19 NYCRR 600.5.

and be it further

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

\* \* \*

The Acting Chair then asked Mr. McLaughlin, the Director of the Southern Tier Regional Office, to present the next three items on the Agenda.

Mr. McLaughlin explained that these three items represent a request for a continuation of funding of three highly successful loan agreement programs that were funded as part of the first round of Regional Council Awards.

These three funds, he added, are presently being administered by the Southern Tier Region Economic Development Corporation, which is a not-for-profit corporation that was formed a number of years ago and they are administering on behalf of the region.

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Mr. McLaughlin outlined the three funds as follows: the Community Revitalization Program which focuses on low interest loans to revitalize downtown, rural and neighborhood centers; the Rural Initiative Program which has been focusing on reducing the financial risk and increasing sustainability of agricultural ventures; and the Shovel Ready Program which is the largest loan fund and is utilized to facilitate shovel ready sites for development across the Southern Tier.

Mr. McLaughlin further noted that spreadsheets on each of the programs have been provided to the Directors to show exactly what has been done with these funds in the first round.

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

Regional Council Award – Priority Project - Southern Tier Region – Southern Tier Region Economic Development Corporation - Community Revitalization Program Capital – Regional Council Capital Fund (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Regional Council Award - Priority Project - Southern Tier Region – Southern Tier Region Economic Development Corporation - Community Revitalization Program Capital – Regional Council Capital Fund (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

**DRAFT – SUBJECT TO REVIEW AND REVISION**

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Southern Tier Region Economic Development Corporation a grant for a total amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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Regional Council Award – Priority Project - Southern Tier Region - Southern Tier Region Economic Development Corporation – Rural Initiative Program Capital – Regional Council Capital Fund (Capital Grant) - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

## **DRAFT – SUBJECT TO REVIEW AND REVISION**

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Regional Council Award - Priority Project - Southern Tier Region - Southern Tier Region Economic Development Corporation – Rural Initiative Program Capital – Regional Council Capital Fund (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Southern Tier Region Economic Development Corporation a grant for a total amount not to exceed One Million Dollars (\$1,000,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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Regional Council Award – Priority Project - Southern Tier Region - Southern Tier Region Economic Development Corporation – Shovel Ready Program Capital – Regional Council Capital Fund (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Regional Council Award - Priority Project - Southern Tier Southern Tier Region - Southern Tier Region Economic Development Corporation – Shovel Ready Program Capital – Regional Council Capital Fund (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Southern Tier Region Economic Development Corporation a grant for a total amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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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.

\* \* \*

Following approval of the foregoing resolutions, Director Dyson commented favorably with regard to the funds being used to provide loans to assist with the cost of farm renovations and the like.

Ms. Orsi then asked the Directors to authorize ESD to make an \$800,000 Regional Council Awards grant for the Buffalo Neighborhood Stabilization Company, which is a subsidiary of a non-profit known as PUSH.

Ms. Orsi explained that the grant will be used to establish a regional grant fund for capital project purposes and will leverage a minimum of \$800,000 from small businesses. These funds, she continued, will be invested to help small businesses do pre-retrofit building improvements necessary to enable them to qualify for follow-up assistance to make energy efficiency improvements.

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Following the full presentation, Director Cephas asked if all of the buildings are occupied or if they are abandoned. Ms. Orsi stated that all of the buildings are currently owned and occupied either by small businesses or by non-profits.

Director Miller then suggested that the existing businesses may find it advantageous to have energy audits performed. Ms. Orsi thanked Director Miller for her comments and stated that energy audits will be performed to determine the energy efficiency improvements that are required for each participating building.

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

Regional Council Award – Priority Project – Various (Western New York – Erie, Niagara, Chautauqua County) – Buffalo Neighborhood Stabilization Company Small Business Green Retrofit Capital – Regional Council Capital Fund (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Buffalo Neighborhood Stabilization Company Small Business Green Retrofit Capital – Regional Council Capital Fund (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation;

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and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Buffalo Neighborhood Stabilization Company a grant for a total amount not to exceed Eight Hundred Thousand Dollars (\$800,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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Ms. Murphy, the Director of the North Country Regional Office, then presented the Hamilton County Broadband Capital Regional Council Awards Project. Specifically, she asked the Directors to approve a \$472,000 grant to install a fiber backbone to some of the most remote communities in the Adirondacks.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Ms. Murphy explained that Hamilton County is the center of the Adirondacks and has had no access to Broadband until this project.

Ms. Murphy further noted that the community contracted with the telecommunications firm to install the Broadband infrastructure. This Project, she added, impacts about 90 percent of Hamilton County and represents a significant step towards long-awaited Broadband accessibility in the Adirondacks.

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

Regional Council Award – Priority Project (North Country Region – Hamilton and Fulton Counties) – Hamilton County Broadband Capital– Regional Council Capital Fund (Capital Grant)

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, (“the Corporation”) relating to the Hamilton County Broadband Capital -- Regional Council Capital 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; 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

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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 Hamilton County a grant for a total amount not to exceed Four Hundred Seventy Two Thousand Dollars (\$472,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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Next, Mr. Fayle, the Director of the Central New York Regional Office, presented the Matt Industries Regional Council Awards item for the Directors' consideration. Mr. Fayle asked the Directors to authorize ESD to make a \$150,000 grant to Matt Industries Corporation d/b/ a Dupli Envelope and Graphics Corporation.

Mr. Fayle explained that this Company is a print technology company which manufactures custom printed materials, including envelopes, corporate identity and direct mail products.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Mr. Fayle noted that this project will allow the Company to improve its facility as well as streamline its printing operation and utilize new technologies to help keep it competitive in this industry.

Mr. Fayle further noted that the total project cost is \$632,000. The Company, he added, had committed to retaining 113 jobs and creating five new jobs and has already exceeded these job goals and their current employment is 120.

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

Regional Council Award – Priority Projects - Syracuse (Central New York – Onondaga County) – Matt Industries Capital – Regional Council Capital Fund (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Matt Industries Capital -- Regional Council Capital Fund Capital Project (the "Project"), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the "Plan") for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 Matt Industries Corporation a grant for a total amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

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Next, Ms. Lippowitsch presented the March Non-Discretionary Consent Calendar for approval.

Ms. Lippowitsch noted that the Directors were being asked to approve one Senate sponsored project for \$100,000 in assistance authorized or re-appropriated in the fiscal year 2012-2013 New York State Budget.

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Ms. Lippowitsch went on to explain 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 stated that the project involves a \$100,000 grant to Canisius College in Erie County for a statewide project to assist Certified New York State MWBE’s with critical skills and networking opportunities.

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

Local Assistance - Findings and Determinations Pursuant to Section 10 (g) of the Act;  
Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Local Assistance Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area(s); and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to 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,

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	Canisius College – Women’s Business Center	Y039	Canisius College	100,000
			<b>TOTAL</b>	<b>\$100,000</b>

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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Ms. Lippowitsch then asked the Directors to authorize ESD to make a \$449,618 Flood Mitigation Program grant to Otsego County for 16 projects within that region.

Ms. Lippowitsch then provided a detailed synopsis of the background information regarding this program and how it relates to Hurricane Irene and Tropical Storm Lee, and noted that this was the first of the projects to be presented under this program. She added that others will be presented at a later date.

Acting Chair Adams then spoke generally with regard to the program.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Following the full presentation, the Acting Chair called for questions or comments. Director Dyson stated that he was in favor of the project but he thought it somewhat unusual for ESD to be administering these grants rather than the Department of Transportation or the Federal Emergency Management Assistance. The Acting Chair stated that it was somewhat unusual and cited several reasons for ESD being involved in this manner.

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

Local Assistance – Hurricane Irene - Tropical Storm Lee Flood Mitigation Capital - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Local Assistance – Hurricane Irene - Tropical Storm Lee Flood Mitigation Capital Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area(s); and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

hereby is, authorized to make a grant to the party and for the amount listed below from Local Assistance – Hurricane Irene - Tropical Storm Lee Flood Mitigation and/or the New York State Division of Homeland Security and Emergency Services, 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 – Hurricane Irene - Tropical Storm Lee Flood Mitigation - Executive –  
Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	Otsego County – Hurricane Irene – Tropical Storm Lee Flood Mitigation Capital	X909, Y375	Otsego County	449,618
			<b>TOTAL</b>	<b>\$449,618</b>

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 provided a synopsis of the background information regarding the Base Retention Program and noted that today’s request represented the final project to be funded under that Program.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Ms. Lippowitsch then asked the Directors to authorize ESD to make a \$126,686 Base Retention grant to the Suffolk County Department of Economic Development and Planning to assist in the preparation of a military sustainability plan, and economic analysis and marketing activities in support of the 106<sup>th</sup> Air National Guard at Gabrieski Airport in Westhampton.

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

Local Assistance – Base Retention - Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Local Assistance – Base Retention 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 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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 – Base Retention - Executive – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	Suffolk County Department of Economic Development and Planning – Gabreski Base Retention Working Capital	Y056	Suffolk County Department of Economic Development and Planning	126,686
			<b>TOTAL</b>	<b>\$126,686</b>

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. Gawlik then presented the Erie County Stadium Civic Project for the Directors’ consideration.

Among other things, Mr. Gawlik explained that the Directors were being asked to authorize ESD to enter into various required agreements related to the Buffalo Bills Lease.

Mr. Gawlik provided a review of the process involved in moving this project forward.

Specifically, he noted that the Directors had approved the General Project Plan (“GPP”) in February and that a public hearing was held on the GPP on March 7<sup>th</sup>. Mr. Gawlik noted

**DRAFT – SUBJECT TO REVIEW AND REVISION**

that no substantive negative comments were received at the hearing and therefore the GPP became effective at that time.

Mr. Gawlik then provided an overview of the various agreements or documents related to the Buffalo Bills Lease.

The Acting Chair then noted that yesterday the Governor announced his support for the National Football League’s (“NFL”) decision to accept the Bills application for the award. He then asked Mr. Gawlik exactly what the NFL was approving. Mr. Gawlik stated that the NFL owners actually approved the transaction itself subject to any modifications the Commissioner deems necessary.

A further discussion was had with regard to certain terms of the lease.

The Acting Chair then called for any further questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted (It was noted for the record that Director Ciminelli recused himself with regard to the vote on the following resolution.):

Orchard Park (Erie County) – Erie County Stadium Civic Project – Authorization to Enter Required Agreements; and Authorization to Take Related Actions

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RESOLVED, on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Corporation to execute the required agreements as necessary to implement the Project on the terms substantially described herein; and be it further

RESOLVED, that the President 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. Gawlik then asked the Directors to authorize ESD to enter into an amended contract with Hodgson Russ LLC to provide continued legal services in connection with the Erie Stadium negotiations and the drafting of the required documents relating to the Erie County Stadium Civic Project.

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

Empire State Development – Authorization to Enter Into an Amended Contract with Hodgson Russ LLP to Provide Legal Services and to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Hodgson Russ LLP to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into an amended contract with Hodgson Russ LLP for an additional amount not to exceed Fifty Thousand Five Hundred Dollars (\$50,500) for a total new contract amount not to exceed One Hundred Thousand Dollars (\$100,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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.

\* \* \*

Next, Ms. Mize presented ESD's Annual Operations Budget including Subsidiary Operating Support for Fiscal Year 2013-2014 for approval by the Directors.

Ms. Mize presented a detailed synopsis of various aspects of the budget and noted that the Directors were also being asked to approve the fiscal year 2013-2014 non-programmatic capital expense budget in the amount of \$1,017,000 which will support ESD's plan to invest in new communication technologies, upgrade the financial management system video capabilities in the ESD website and certain other improvements at 633 Third Avenue.

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

Director Miller noted that it would have been helpful to have seen the comparison with the previous year's budget. Acting Chair Adams asked that a comparison be sent to the Directors and Ms. Mize stated that that would be done.

A brief discussion was had with regard to certain components of the budget including the transfer of management of 41 buildings in the Mitchell Lama Program to the New York State Housing Finance Agency.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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

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

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RESOLVED, that the Corporation hereby adopts the Annual Operating Budget for FY 2013-2014 including subsidiary operating support and approves the Non-Programmatic Capital Expense Budget for FY 2013-2014, 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.

\* \* \*

Mr. Beyer then asked the Directors to approve ESD’s Property Disposition Guidelines as well as the appointment of a Contracting Officer. He noted that there were no changes made to the Guidelines since last year’s board approval.

Following Mr. Beyer’s full presentation, the Acting Chair called for questions or comments.

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

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

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**DRAFT – SUBJECT TO REVIEW AND REVISION**

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 with the materials presented to this meeting and ordered filed in the records of the Corporation, the Guidelines as amended are hereby approved; and it is further

RESOLVED, that the Vice President, Contracts Administration for the Corporation (or any successor Vice President of Contracts Administration), 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 and Administrative 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.

\* \* \*

Ms. Roy then asked the Directors to authorize ESD to enter into a Letter Agreement and to pay Division of Housing and Community Renewal (“DHCR”) a mortgage servicing fee of \$2,838,000 for the fiscal year ending March 31, 2013.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Ms. Roy stated that this is an annual fee that ESD has paid since 1979 when a Memorandum of Understanding (“MOU”) gave DHCR a supervisory role with regard to ESD’s housing portfolio. Ms. Roy then set forth DHCR’s responsibilities under the MOU.

Mr. Roy noted that this will be ESD’s final payment to DHCR because, as previously noted, the housing portfolio is being transferred.

Following Ms. Roy’s full presentation, the Acting Chair called for questions or comments.

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

NEW YORK STATE URBAN DEVELOPMENT CORPORATION - Authorization to Enter into a Letter Agreement and Pay DHCR a Mortgage Servicing Fee for Fiscal Year Ending March 31, 2013

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WHEREAS, pursuant to Section 26-b of the Private Housing Finance Law, residential projects financed by UDC are subject to the regulation and control of the Commissioner of Housing and the New York State Division of Housing and Community Renewal (“DHCR”); and

WHEREAS, the regulatory authority and responsibility of DHCR was confirmed in a Memorandum of Understanding dated August 29, 1979 among DHCR, now an agency of the New York State Homes and Community Renewal (“HCR”), the Corporation, New York State Mortgage Loan Enforcement and Administration Corporation and New York State Project Finance Agency (the “MOU”); and

WHEREAS, pursuant to the MOU, DHCR has provided supervisory and other services relating to the residential projects financed by UDC; and

WHEREAS, HCR has requested that ESD pay for these services for the fiscal year ending March 31, 2013;

NOW THEREFORE, the Corporation hereby resolves as follows:

**DRAFT – SUBJECT TO REVIEW AND REVISION**

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) is authorized to enter into a Letter Agreement under which ESD agrees to pay DHCR a mortgage servicing fee of \$2,838,000 for supervision of the ESD-financed residential housing portfolio for the Fiscal Year ending March 31, 2013 and to take any and all other steps necessary to effectuate payment of \$2,838,000, which amount shall not be repaid, as further outlined in the materials presented to this meeting and filed with records of the Corporation; and be it further

RESOLVED, that the President and Chief Executive Officer or his designee(s), and each of them hereby is, authorized to take such actions or execute on behalf of the Corporation such agreements, instruments and resolutions as he or she may consider necessary or appropriate in connection with the foregoing.

\* \* \*

Ms. Kinnicutt then presented the Quarterly Report on Procurement Commitments to Certified Minority and Women-Enterprises for the Directors' information.

Mr. Salway then presented an informational report on Broadband grants throughout New York State.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

There being no further business, the meeting was adjourned at 11:23 a.m.

Respectfully submitted,

Eileen McEvoy  
Corporate Secretary

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Officer of the Corporation

REQUEST FOR: Appointment of Executive Vice President – Legal and General Counsel,  
ESD

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BACKGROUND

It is proposed that the individual named and described below be appointed to the office indicated.

Lawrence A. Jacobs: Executive Vice President – Legal and General Counsel, ESD

As Executive Vice President – Legal and General Counsel, ESD, Mr. Jacob's area of responsibility will be the delivery of all legal services to the Corporation and its subsidiaries, the New York Job Development Authority and its affiliated local development corporations, and the Department of Economic Development (collectively, "ESD").

Mr. Jacobs graduated with honors from Temple University and Brooklyn Law School, where he was a member of the *Law Review*. After graduating from law school, Mr. Jacobs was an associate at the law firm of Squadron, Ellenoff, where he was made partner in 1991. After serving as partner for 5 years, Mr. Jacobs joined the News Corporation as Executive Vice President and Deputy General Counsel in 1996. Mr. Jacobs was named Senior Executive Vice President and General Counsel in 2005 and served in that capacity until June 2011. Mr. Jacobs is an Adjunct Professor of Mass Media Law at Brooklyn Law School, where he also sits on the President's Council.

REQUESTED ACTION

The Directors are requested to approve the appointment of Lawrence A. Jacobs to the office of Executive Vice President – Legal and General Counsel, ESD, to confirm that he is an officer of the Corporation within the meaning of the indemnification provisions of the Corporation's bylaws and to ratify any and all actions taken by him since his nomination to this position on April 1, 2013.

RECOMMENDATION

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

ATTACHMENT

Resolutions

April 26, 2013

APPOINTMENT OF OFFICER – Executive Vice President – Legal and General Counsel, ESD

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BE IT RESOLVED, that the following individual be, and he hereby is, appointed to the office that appears opposite his name, until his resignation or removal:

NAME

OFFICE

Lawrence A. Jacobs                      Executive Vice President - Legal and General Counsel, ESD;  
and be it further

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

RESOLVED, that any and all actions taken by the foregoing individual since his nomination, on April 1, 2013, to the office identified herein be and hereby are ratified as the acts and deeds of the Corporation.

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Bronx (New York City Region – Bronx County) – GrowNYC Working Capital – Urban and Community Development Program – Urban and Community Technical Assistance (Working Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 10 (g) of the Act; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

I. Project Summary

Grantee: Council on the Environment of New York, Inc. d/b/a GrowNYC (“GrowNYC” or the “Organization”)

ESD\* Investment: A grant of up to \$250,000 to be used for a portion of the cost of salaries/fringe, leasing and distribution costs.

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

Project Location: One Oak Point Avenue, Bronx, Bronx County

Proposed Project: Facility expansion involving leasing and equipping a new wholesale farmers market facility in the Bronx.

Project Type: Business expansion.

Regional Council: The New York City Regional Council has been made aware of this item. The Incentive Proposal was accepted in March 2013. The project is consistent with the Regional Plan embracing each of the plan's key components of improving quality of life, fostering a pro-growth environment, investing in the future, and promoting interregional cooperation.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Lease Acquisition Fee	\$300,000
Furniture, Fixtures & Equipment	275,489
Utilities	45,000
Salaries/Fringe	753,960
Construction/Renovation	35,000
Food Distribution	886,618
Training	6,000
Design & Planning	<u>1,000</u>
 Total Project Costs	 <u>\$2,303,067</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESDGrant	\$250,000	10%
Greenmarket Farmer Fees	120,000	5%
NY State Attorney General - Grant	43,200	2%
Manhattan Borough President - Grant	89,190	4%
Other Grants*	700,281	32%
Organization Equity	<u>1,100,396</u>	<u>47%</u>
 Total Project Financing	 <u>\$2,303,067</u>	 <u>100%</u>

\*Other grants: Doris Duke Foundation, New World Foundation, NYC Community Foundation, Barnwood Foundation, Deutsche Bank Community Foundation, and New York Community Trust

### III. Project Description

#### A. Organization

**Industry:** GrowNYC is an environmental non-profit that operates farmers markets, community gardens and educational programs in New York.

**Organization History:** Founded in 1970, as the Council on the Environment of New York City, GrowNYC was originally a policy advocacy organization. Over the past 43 years, the Organization has adopted a hands-on approach to raise awareness of, and promote environmental strategies that improve communities and quality of life in New York City. The Organization operates 53 green farmers markets, 11 youth operated urban farm stands, over 70 community and school gardens, and four education programs that teach children healthy eating, gardening, and recycling.

The Organization also cultivates a strong alliance with New York State farmers who provide a range of products including bread, wines, dairy, fish, meat, and produce.

**Ownership:** 501(c)3 not-for-profit.

**Size:** GrowNYC employs 93 staff and operates 53 markets across the five boroughs of New York City. This is in addition to an administrative office in Manhattan and a distribution warehouse in Long Island City.

**Market:** GrowNYC serves the New York City consumer population through its farmers markets and educational programs, while also preserving smaller New York farms by fostering their access to urban markets.

**ESD Involvement:** GrowNYC approached ESD to help fulfill Governor Andrew M. Cuomo's pledge in his first State of the State address to establish a wholesale farmers market in the Bronx. The Organization needed assistance to close a funding gap in the cost of the project. In February 2013, ESD made GrowNYC an offer from the Urban and Community Development Program which the Organization accepted in February 2013. ESD's working capital grant will facilitate critical operations at the Organization's wholesale farmers market and distribution hub. But

for this assistance, the market would not be established at this location.

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

## B. The Project

Completion: October 2014

Activity: Although New York State is a leading producer of fruits and vegetables, relatively little of the State's produce is sold and consumed in New York City, the country's largest market for food. The failure to capture such a tremendous market has contributed to the contraction of the acreage under cultivation in New York – roughly a 30% decrease over the past 30 years.

A key reason is that farmers lack direct marketing channels to wholesale customers and cannot sell profitably to the commission merchants who dominate sales to small business customers in New York City. A major operational challenge to establishing such channels is the relative difficulty of distribution in a dense and high-cost urban environment.

GrowNYC will lease, prepare and equip a plot of land located in the Hunts Point section of the Bronx that will operate as a Wholesale Green market. The new locale will replace GrowNYC's current wholesale greenmarket which is currently operating out of the New Fulton Fish Market, also in Hunts Point. Preparation of the land will involve paving what is now an unfinished lot. In addition, GrowNYC will lease and equip an existing facility nearby to serve as GrowNYC's new distribution hub. The new distribution hub will replace the Organization's existing distribution operation now located in Long Island City which was temporarily donated to GrowNYC by City Harvest. The completed distribution facility will include a walk-in cooler, office equipment, forklift and trucks; GrowNYC will also deploy sales and distribution staff to operate the facility.

Results: GrowNYC anticipates strengthening the basic infrastructure which connects upstate farmers with downstate consumers, thereby increasing the total sales volume for participating farmers. In addition, the completion of the cycle from production to consumption occurring within a few hundred miles will reduce carbon emissions.

Grantee Contact: Marcel Van Ooyen, Executive Director

51 Chambers Street  
New York, NY 10007  
Phone: (212) 788-7900 Fax: (212) 788-7913

ESD Project No.: Y347

Project Team:	Origination	Mehul Patel
	Project Management	Simone Bethune
	Contractor & Supplier Diversity	Vikas Gera
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. The Grantee will be obligated to advise ESD of any material adverse changes in its financial condition prior to disbursement.
2. The Grantee 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 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.
3. Up to \$250,000 will be disbursed to the Grantee for working capital expenditures in arrears, no more frequently than quarterly, in proportion to ESD's share of funding assuming that all project approvals have been completed and funds are available.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after February 27, 2013, to be considered eligible project costs.

4. 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.

5. Grant funds will be subject to a pro-rata recapture if property is sold within 2 years of disbursement of funds.
6. GrowNYC will make 70% of the space in the market available to farmers from New York State, that percentage understood to be an annual average.

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

Pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation, ESD staff performed an environmental review. This review determined the project to be an Unlisted Action, which would not have a significant effect on the environment. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD’s Non-discrimination and Contractor & Supplier Diversity policy will apply to the Project. The Recipient shall be required to use good faith efforts to achieve an overall Minority and Women Business Enterprise (“MWBE”) Participation goal of 30%, related to the total value of ESD’s funding, and to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project.

VII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since 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

April 26, 2013

Bronx (New York City Region – Bronx County) – GrowNYC Working Capital – Urban and Community Development Program – Urban and Community Technical Assistance (Working Capital Grant) – Findings and Determinations Pursuant to Sections 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 GrowNYC Working Capital - Urban and Community Development Program (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 the Council on the Environment of New York, Inc. d/b/a GrowNYC a grant for a total amount not to exceed Two Hundred and 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.

\* \* \*

April 26, 2013

Bronx (New York City Region – Bronx County) – GrowNYC Working Capital – Urban and Community Development Program – Urban and Community Technical Assistance (Working Capital grant) – Determination of No Significant Effect on the Environment

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

\* \* \*

**GrowNYC Working Capital**

Bronx  
Bronx County

GrowNYC Working Capital

Bronx  
Bronx County

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Long Island City (New York City Region – Queens County) – JetBlue Airways Capital – JOBS Now Program (Capital Grant)

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

General Project Plan

I. Project Summary

Grantee: JetBlue Airways Corporation (“JetBlue” or the “Company”)

ESD\* Investment: A grant of up to \$6,000,000 to be used for a portion of the cost of interior construction/renovation to establish a new headquarters facility.

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

Project Location: 27-01 Bridge Plaza North, Long Island City, Queens County

Proposed Project: Construction and renovations associated with new headquarters facility.

Project Type: Business expansion involving job retention and creation.

Regional Council: The New York City Regional Council has been made aware of this item. The Incentive Offer was accepted in March 2010 predating the Regional Council Initiative. The project is consistent with the Regional Plan to continue economic development in Long Island City and other Queens County neighborhoods.

Employment:	Initial employment at time of ESD Incentive Offer:	880
	Current employment level:	1,129
	Minimum employment on January 1, 2019:	1,050

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovation	\$34,709,011
Furniture, Fixtures & Technology	<u>6,630,034</u>
Total Project Costs	<u>\$41,339,045</u>

<u>Financing Sources</u>		<u>Amount</u>	<u>Percent</u>
ESD Grant	\$6,000,000	14%	
Company Equity	<u>35,339,045</u>	<u>86%</u>	
Total Project Financing	<u>\$41,339,045</u>	<u>100%</u>	

III. Project Description

A. Company

Industry: Air Transportation

Company History: Founded in 1998 and based in Long Island City, New York, JetBlue provides passenger air transportation services. The Company, through its subsidiary LiveTV, LLC, also provides in-flight entertainment systems, voice communication, and data connectivity services for commercial and general aviation aircrafts, including live in-seat satellite television, XM satellite radio service, wireless aircraft data communication service, and cabin surveillance systems.

**Ownership:** JetBlue is a publicly-traded company ("JBLU" on NASDAQ).

**Size:** JetBlue is the 6th largest passenger carrier in the United States and operates an average of 750 daily flights primarily on point-to-point routes with its fleet of 115 Airbus A320 and 45 EMBRAER 190 aircrafts.

**Market:** The Company serves 63 destinations in 21 states, Puerto Rico, and 11 countries in the Caribbean and Latin America. JetBlue plans to launch service to Charleston, South Carolina, Albuquerque, New Mexico and Philadelphia, Pennsylvania in 2013. Subject to government approval, service to Medellin, Colombia, is also planned. The Company's major competitors include other airlines such as Delta, American, and US Airways.

**ESD Involvement:** In June 2009, the Company embarked on a consolidation plan to minimize its real estate and labor costs to remain competitive. JetBlue conducted its key corporate functions at its headquarters facility in Forest Hills as well as other operations throughout New York State. The Company also operated in several locations outside of New York State including Salt Lake City, Utah (customer service), Orlando, Florida (training center), and Darien, Connecticut (finance). The Company's lease of its headquarters in Forest Hills was due to expire at the end of 2012, and JetBlue engaged cities around the country in a selection process to determine where to locate its central headquarters office and grow jobs over the long term. After an exhaustive location analysis involving New York and four out-of-state options, the Company narrowed down its choices to Orlando, Florida, where it has an existing facility, or New York. Under each option, the Company would relocate its Connecticut jobs to the new location.

To induce the Company to proceed with its consolidation plan in New York State, in March 2010, ESD offered a revised incentive package inclusive of a \$6,000,000 capital grant for construction, renovation and related capital costs to retain 880 jobs, attract 70 jobs from Connecticut and create 100 new jobs in Long Island City or downtown Brooklyn, the two New York options at the time of the offer ("Capital Project"). To leverage the potential of combined marketing efforts between New York State and the Company, the offer also included a \$1,000,000 working capital grant (W977), approved by ESD's Board in May 2011, for tourism

marketing efforts conducted in collaboration with New York State Tourism; this incentive, which began prior to completion of the Capital Project, requires the retention of 880 employees and consolidation to the new headquarters facility.

**Competition:** The Company considered consolidating its operations in Florida.

**Past ESD Support:** The Company was awarded one previous ESD grant as noted in the chart below. The funds have not yet been disbursed.

<b>Program</b>	<b>Project #</b>	<b>Amount</b>	<b>Date Start</b>  <b>(ESD Directors' Approval date)</b>	<b>Date End</b>  <b>(Project Completion: Contract Expiration or Job Requirement)</b>	<b>Purpose</b>
Empire State Economic Development Fund	W977	\$1,000,000	May 2011	December 2013	Working Capital Grant

## B. The Project

Completion: December 2012

Activity: JetBlue executed a 12-year lease for 217,000 square feet (floors 5 (partial), 6 & 7) at the 709,248-square-foot, 13 story building located at 27-01 Bridge Plaza North (also known as 27-01 Queens Plaza North) in Long Island City and began interior demolition activities in April 2011. Construction and renovation activities, including fit-out of office space and installation of furniture, fixtures and technology were completed in December 2012.

To date, JetBlue's marketing activities have included promotion of New York State through an interactive JetBlue-I Love NY exhibit at the Tribeca Film Festival that featured the Buffalo/Niagara, Rochester and Syracuse regions. There are several planned events to promote the Upstate markets that JetBlue serves as well as the tourism attractions, local food and drink, and activities in those markets.

Results: The project will retain 880 jobs and create a minimum of 170 new jobs. The Company has already created 249 jobs.

### Business Investment

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$59,787,527;

- Fiscal cost to NYS government is estimated at \$8,763,372;
- Project cost to NYS government per direct job is \$12,384;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$4,091;
- Ratio of project fiscal benefits to costs to NYS government is 6.82:1;
- Fiscal benefits to all governments (state and local) are estimated at \$109,346,958;
- Fiscal cost to all governments is \$10,875,920;
- All government cost per direct job is \$15,369;
- All government cost per total job is \$5,078;
- The fiscal benefit to cost ratio for all governments is 10.05:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$549,250,721, or \$256,422 per job (direct and indirect);
- The economic benefit to cost ratio is 46.28:1;
- Project construction cost is \$32,817,076, which is expected to generate 174 direct job years and 94 indirect job years of employment;
- For every permanent direct job generated by this project, an additional two indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

Grantee Contact: Robert Bertlesman, Manager, Corporate Real Estate  
 27-01 Queens Plaza North  
 Long Island City, NY 11101  
 Phone: (718) 286-7900 ext. 3111

ESD Project No.: W725

Project Team:	Origination	Steven Gold
	Project Management	Glendon McLeary
	Contractor & Supplier Diversity	Vikas Gera
	Finance	Amit Nihalani
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
5. Up to \$6,000,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$3,000,000) upon documentation of real estate project costs totaling approximately \$40,000,000, upon completion of the project substantially as described in these materials, and documentation of the employment of at least 880 Full-time Permanent Employees at the Project Location, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 25% of the grant (\$1,500,000) will be disbursed upon documentation of the employment of at least 950 Full-time Permanent Employees at the Project Location (Employment Increment of 70), provided Grantee is otherwise in compliance with program requirements;

c) a Third Disbursement of an amount equal to 25% of the grant (\$1,500,000) will be disbursed upon documentation of the employment of at least 1,050 Full-time Permanent Employees at the Project Location (Employment Increment of 100), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses reimbursed by ESD's grant must be incurred on or after March 17, 2010, to be considered eligible project costs. All disbursements must be requested by April 1, 2016.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$6,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee 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.

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.  $X=70$ , and Employment Goals shall equal  $[880 + X = 950]$  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.  $Y=100$ , and Employment Goals shall equal  $[880 + X + Y = 1,050]$  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

The project meets the statutory requirement of a JOBS Now 100 Program project because the Company will create at least 100 new full-time permanent private sector jobs. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

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

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business in the performance of ESD projects. For purposes of this project, however project performance has already been completed and therefore, project goals cannot be established. However, JetBlue included certified minority and women-owned businesses in the performance of the project and reported participation percentages consistent with ESD's policy.

#### 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

Project Finance Memorandum

Benefit-Cost Analysis

April 26, 2013

Long Island City (New York City Region – Queens County) – JetBlue Airways Capital – JOBS Now Program (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the JetBlue Airways Capital - JOBS Now Program (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to JetBlue Airways Corporation a grant for a total amount not to exceed Six Million Dollars (\$6,000,000) from the JOBS Now 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

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Painted Post (Southern Tier Region – Steuben County) – Corning Global Innovation Center Capital – JOBS Now Program (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Section 10 (g) of the Act;  
Authorization to Adopt the Proposed General Project Plan;  
Authorization to Make a Grant and to Take Related Actions;  
Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: Corning Incorporated (“Corning” or the “Company”)

ESD\* Investment: A grant of up to \$1,500,000 to be used for a portion of the cost to purchase machinery and equipment.

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

Project Location: 1 Science Center Drive, Painted Post, Steuben County

Proposed Project: Construction of a 170,000 square-foot expansion, renovation of existing space and purchase of machinery and equipment to facilitate the Company's expansion.

Project Type: Business expansion involving job retention and creation.

Regional Council: The Southern Tier Regional Council has been made aware of this item. The Incentive Offer was accepted in April 2007 predating the Regional Council Initiative. The project is consistent with the Regional Plan to increase the size and prosperity of the region’s workforce through new business creation based on high-technology discoveries. G. Thomas

Tranter, Jr., President of Corning Enterprises, is co-chair of the 31-person Southern Tier Regional Economic Development Council. (“Regional Council”). ESD’s assistance was not offered though the Regional Council/Consolidated Funding Application process, and Mr. Tranter was not involved in evaluation of the project for assistance.

Employment:	Initial employment at time of ESD Incentive Offer:	1,500
	Current employment level:	2,015
	Minimum employment on January 1, 2018:	1,800

**II. Project Cost and Financing Sources**

<u>Financing Uses</u>	<u>Amount</u>
Renovations	\$209,363,707
Construction	158,876,393
Machinery and Equipment	6,518,670
Furniture, Fixtures & Equipment	16,922,640
Soft Costs	<u>40,018,590</u>
Total Project Costs	<u>\$431,700,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD Grant	\$1,500,000	0.3%
Company Equity	<u>430,200,000</u>	<u>99.7%</u>
Total Project Financing	<u>\$431,700,000</u>	<u>100.0%</u>

**III. Project Description**

**A. Company**

Industry: Corning is a diversified global technology-based corporation that operates in five business segments: display technologies, telecommunications, environmental technologies, specialty materials and life sciences.

Corning’s display technologies segment manufactures glass substrates for active matrix liquid crystal displays (“LCD”) that are used primarily in notebook computers, flat panel desktop monitors and LCD televisions. Its telecommunication segment produces optical fiber and cable and hardware and equipment products for the telecommunications industry worldwide. Its environmental technologies segment manufactures ceramic substrates and filter products for emissions control in mobile and stationary applications around the world. Its specialty materials segment manufactures products that provide more than 150 material formulations for glass, glass ceramics and fluoride crystals to meet

demand for unique customer needs. Its life sciences segment manufactures consumable glass and plastic laboratory products for research, micro array products, drug discovery and genomics, and cell and molecular biology.

**Company History:** Corning traces its origins to a glass business that was established in 1851. The present corporation was incorporated in the State of New York in December 1936 and its name was changed from Corning Glass Works to Corning Incorporated on April 28, 1989.

**Ownership:** Corning is a publicly held company.

**Size:** Corning has a combined total of 142 sales and manufacturing operations in over 100 countries. The Company employs approximately 30,000 people worldwide, including 4,900 in New York's Southern Tier.

**Market:** The Company's market is telecommunications and information display industries and manufacturers of emission control systems. Major customers include large electronics and telecommunications companies. Major competitors include large domestic and foreign manufacturers.

**ESD Involvement:** Corning is constantly driving the next wave of cutting-edge technologies to maintain its position as a worldwide leader in the markets it serves. In order to stay a world leader in industrial research and development, Corning decided it was necessary to undertake major improvements to its primary facility for research and development, which hasn't had significant reinvestments since the time the facility was built in the early 1960's. Given the high cost of planned investment, the Company approached ESD in early 2007 for financial assistance. ESD responded in April 2007 with a proposed \$1.5 million JOBS Now grant in order to induce the Company to undertake the project and to offset the costs. The Company accepted the offer in April 2007.

**Competition:** Corning did not consider other sites to carry out this project.

**Past ESD Support:** ESD's financial support to the Company began in 1997. Since then, total financial support to the Company, including loans and grants, has been \$12,425,000 for 19 projects. The Company was in compliance with the terms and conditions of these awards except for several minor job defaults due in part to the sale of its photonics business and restructuring. As a result, ESD made several interest rate adjustments and recaptured approximately \$100,000 for 3 projects.

Corning is currently Empire Zone certified and has used \$6,928,328 in Empire Zone benefits between 2001 and 2003. Since then, Corning has been unable to use Empire Zone tax credits against their New York State

tax liability.

ESD's financial support to the Company in the last five years is summarized in the chart below. These grants have been fully disbursed, and Corning is in good standing with the various requirements on these projects.

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration or Job Requirement)	Purpose
Empire State Economic Development Fund	T620	\$250,000	December 2008	September 2009	Capital Grant – New facility
	T621	\$50,000			Training Grant
Empire State Economic Development Fund	U144	\$200,000	July 2010	April 2011	Capital Grant – Machinery and Equipment
	U145	\$100,000			Training Grant

**B. The Project**

Completion: March 2015

Activity: The Company has completed the new construction of 170,000 square feet of space adjacent to its existing 328,000 square-foot facility that it owns. Corning has started renovations of its existing 328,000 square-foot facility and will complete such renovations by early 2015. These improvements are necessary because the current facility, which was built in the 1960's, was very antiquated and inefficient for the current research and development needs of Corning. This facility is a worldwide research and development center for Corning and plays an extremely important role in discovering new technologies. To date, the Company has incurred \$256 million in project expenses.

Results: As a result of the project, 1,500 existing jobs will be retained and 300 new jobs will be created. The Company has already created 515 new jobs, exceeding the job requirement.

Business Investment  
Project:

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$33,003,163;
- Fiscal cost to NYS government is estimated at \$1,500,000;
- Project cost to NYS government per direct job is \$10,305;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$6,938;
- Ratio of project fiscal benefits to costs to NYS government is 22.00:1;
- Fiscal benefits to all governments (state and local) are estimated at \$55,754,606;
- Fiscal cost to all governments is \$1,500,000;
- All government cost per direct job is \$10,305;
- All government cost per total job is \$6,938;
- The fiscal benefit to cost ratio for all governments is 37.17:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$319,134,323, or \$1,476,096 per job (direct and indirect);
- The economic benefit to cost ratio is 212.76:1;
- Project construction cost is \$408,258,690, which is expected to generate 4,458 direct job years and 1,898 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.49 indirect job is anticipated in the state's economy;
- The payback period for NYS costs is one year.

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



Grantee Contact: G. Thomas Tranter, Jr., President, Corning Enterprises  
1 Science Center Drive  
Painted Post, NY 14870  
Phone: (607) 974-7818 Fax: (607) 974-4050

ESD Project No.: V376

Project Team:	Origination	Mike Morse
	Project Management	Brendan Healey
	Contractor & Supplier Diversity	Denise Ross
	Finance	Ross Freeman
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
5. Up to \$1,500,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$750,000) upon documentation of machinery and equipment totaling \$5,000,000, completion of 170,000 square feet of new space, total project costs totaling \$250,000,000, and documentation of the employment of at least 1,500 Full-time Permanent

Employees at the Project Location, assuming that all project approvals have been completed and funds are available;

- b) a Second Disbursement of an amount equal to 25% of the grant (\$375,000) will be disbursed upon documentation of total project costs totaling an additional \$81,700,000 (\$331,700,000 cumulatively), upon completion of the project substantially as described in these materials, and documentation of the employment of at least 1,650 Full-time Permanent Employees at the Project Location (Employment Increment of 150), provided Grantee is otherwise in compliance with program requirements;
- c) a Third Disbursement of an amount equal to 25% of the grant (\$375,000) will be disbursed upon documentation of the employment of at least 1,800 Full-time Permanent Employees at the Project Location (Employment Increment of 150), 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 April 25, 2007, to be considered eligible project costs. All disbursements must be requested by April 1, 2016.

- 6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,500,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
- 7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- i. 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- ii. 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- iii. 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- iv. 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;

- v. 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

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=150, and Employment Goals shall equal  $[1,500 + X = 1,650]$  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=150, and Employment Goals shall equal  $[1,500 + X + Y = 1,800]$  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

The project meets the statutory requirement of a JOBS Now Program project because the Company will create at least 300 new full-time permanent private sector jobs. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Environmental Review

The Town of Erwin Planning Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be a Type I Action, which would not have a significant effect on the environment. ESD staff reviewed the supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

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

ESD's Non-discrimination and Contractor Diversity policy will apply to the Project. The Recipient shall be required to use good faith efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 40% related to the total value of ESD's funding. The overall goal shall include a Minority Business Enterprise ("MBE") Participation goal of 25% and a Women Business Enterprise ("WBE") Participation goal of 15% related to the total value of ESD's funding and to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project.

#### VII. ESD 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

Project Finance Memorandum

Benefit-Cost Analysis

April 26, 2013

Painted Post (Southern Tier Region – Steuben County) – Corning Global Innovation Center Capital – JOBS Now Program (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Corning Global Innovation Center Capital - JOBS Now Program (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Corning Incorporated a grant for a total amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) from the JOBS Now 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.

\* \* \*

April 26, 2013

Painted Post (Southern Tier Region– Steuben County) – Corning Global Innovation Center Capital – JOBS Now 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 Corning Global Innovation Center Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Baldwinsville (Central New York Region – Onondaga County) –  
Anheuser-Busch Capital – Empire State Economic Development Fund –  
General Development Financing (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 10 (g)  
of the Act; Authorization to Adopt the Proposed General Project Plan;  
Authorization to Make a Grant and to Take Related Actions;  
Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: Anheuser-Busch, Inc. (“ABI” or the “Company”)

ESD\* Investment: A grant of up to \$900,000 to be used for a portion of the cost to purchase and install machinery and equipment (“M&E”), including construction and renovations to accommodate M&E installation.

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

Project Location: 2885 Belgium Road, Baldwinsville, Onondaga County

Proposed Project: Renovations and reconstruction to the Baldwinsville location to accommodate machinery and equipment including relocation of a 24-ounce canning line.

Project Type: Business expansion involving job retention.

Regional Council: The Central New York Regional Council has been made aware of this item. The Incentive Proposal was revised and accepted in September 2011 predating the Regional Council Initiative. The project is consistent with the Regional Plan to improve competitiveness in, and connections to the regional, national and global economies.

Employment: Initial employment at time of Application to ESD: 436  
Current employment level: 437  
Minimum employment through January 1, 2018: 398

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovation	\$6,535,441
M&E Purchase and Installation	<u>1,023,364</u>

Total Project Costs \$7,558,805

<u>Financing Sources</u>		<u>Amount</u>	<u>Percent</u>
ESD Grant		\$900,000	12%
Company Equity		<u>6,658,805</u>	<u>88%</u>
Total Project Financing		<u>\$7,558,805</u>	<u>100%</u>

## III. Project Description

### A. Company

Industry: Manufacturer of malt beverages (brewery).

Company History: Anheuser-Busch, Inc., operates 12 breweries across the United States for its parent company, Anheuser-Busch Companies, Inc. ("ABCI"). ABCI is based in St. Louis, MO and was established in 1852. In 2008, ABCI was purchased by InBev, a company headquartered in Leuven, Belgium. ABCI brews the world's largest-selling beers, Budweiser and Bud Light, and distributes its products and many other popular brands through a network of more than 600 independent wholesalers. In addition, the Company is a major manufacturer of aluminum cans, and has been a leading aluminum recycler for more than 30 years.

Ownership: Anheuser-Busch Companies, Inc., the parent company of Anheuser-Busch, Inc., is owned by Anheuser-Busch InBev NV, a publicly traded company on the Euronext Brussels exchange.

**Size:** ABI's New York State locations include facilities in Baldwinsville, Bronx and New Windsor. The Company employs 527 people in New York State and 15,644 people throughout the United States.

**Market:** Based in St. Louis, Anheuser-Busch Companies, Inc., is the leading American brewer, holding 47.7 % share of US beer sales to retailers. The Company's major competitor is MillerCoors. In New York State, North American Breweries of Rochester competes with the Baldwinsville brewery in the 24-ounce can malt beverage category.

**ESD Involvement:** Since 2008, when InBev purchased and merged with ABCI, the Baldwinsville plant has been the most expensive per unit of ABI's 12 breweries running at 50% capacity. Without a 24-ounce can line, the Baldwinsville plant was shipping some of its product to an ABI facility located in Virginia for packaging. In mid-2011, the Company approached ESD for an incentive to convince the parent company InBev to relocate the 24-ounce can line to an ABI brewery in Baldwinsville, New York. The State of New Jersey had also offered incentives to Anheuser-Busch, Inc., to retain the 24-ounce can line at the Newark brewery. Without ESD investment, ABI predicted continued business and job erosion and the possible closure of the Baldwinsville plant. ESD's incentive secured the relocation of the 24-ounce can line from Newark to Baldwinsville facility helping retain 398 Full-time Permanent jobs.

**Competition:** The State of New Jersey offered Anheuser-Busch's Newark location incentives to retain the 24-ounce can line in New Jersey.

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

## **B. The Project**

**Completion:** November 2012

**Activity:** The project included internal construction within 45,000 square feet of existing space, and modifications to utilities, infrastructure, and telecom to accommodate installation of the relocated and new machinery and equipment. The new machinery and equipment consists primarily of a custom-designed conveyor system to connect the relocated Newark can line into the existing infrastructure of the Baldwinsville brewery. In November 2012, ABI relocated a 24-ounce can line from its Newark, NJ brewery to the Baldwinsville brewery. The project increased Baldwinsville capacity utilization and provided significant logistical savings. The relocation of the 24-ounce can line secured Baldwinsville's future by enabling the plant to ship to the Northeast and Canada at a lowered cost.

Results: This project will retain 398 Full-time Permanent jobs in Baldwinsville.

Grantee Contact: Nickolas Mills, General Manager  
2885 Belgium Road  
Baldwinsville, NY 13027  
Phone: (315) 635-4100 Fax: (315) 635-4404

ESD Project No.: X454

Project Team:	Origination	Ray Lawrence
	Project Management	Javier Roman-Morales
	Contractor & Supplier Diversity	Diane Kinnicutt
	Finance	Amit Nihalani
	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 \$900,000 capital grant (\$9,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.

5. Up to \$900,000 will be disbursed to the Grantee in three installments as follows:
- a) an Initial Disbursement of an amount equal to 50% of the grant (\$450,000) will be disbursed upon documentation of purchase and installation of machinery and equipment, including construction and renovations project costs totaling \$7,500,000, and documentation of the employment of at least 398 Full-time Permanent Employees at the Project Location, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of 25% of an amount equal to the grant (\$225,000) will be disbursed no sooner than 12 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 398 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 (\$225,000) will be disbursed no sooner than 24 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 398 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 September 20, 2011, to be considered eligible project costs. All disbursements must be requested by April 1, 2015.

6. 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		398
	<b>A</b>	<b>B</b>
	Date	Employment Goals
	February 1, 2014	398
	February 1, 2015	398
	February 1, 2016	398
	February 1, 2017	398
	February 1, 2018	398

**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 an employment level of 398, which was at risk of elimination because of high operating costs at the Baldwinsville plant.

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

Without ESD assistance to lower costs and make the Company’s facility competitive with one in New Jersey, the cost would have been too high to make the project feasible in New York.

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

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$21,543,380;
- Fiscal cost to NYS government is estimated at \$900,000;
- Project cost to NYS government per direct job is \$5,392;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$987;
- Ratio of project fiscal benefits to costs to NYS government is 23.94:1;
- Fiscal benefits to all governments (state and local) are estimated at \$36,214,731;
- Fiscal cost to all governments is \$900,000;
- All government cost per direct job is \$5,392;
- All government cost per total job is \$987;
- The fiscal benefit to cost ratio for all governments is 40.24:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$181,388,063, or \$198,917 per job (direct and indirect);
- The economic benefit to cost ratio is 201.54:1;
- Project construction cost is \$6,535,441, which is expected to generate 61 direct job years and 39 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 4.51 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

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

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

The New York State Department of Environmental Conservation, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be an Unlisted Action, which would not have a significant effect on the environment. ESD staff reviewed the supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business in the performance of ESD contracts. The company will be encouraged to use its best efforts 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. Actual goals cannot be assigned to this contract since the project is complete.

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

Project Finance Memorandum

Benefit-Cost Analysis

April 26, 2013

Baldwinsville (Central New York Region – Onondaga County) – Anheuser-Busch 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 Anheuser-Busch 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 Anheuser-Busch, Inc., a grant for a total amount not to exceed Nine Hundred Thousand Dollars (\$900,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

\* \* \*

April 26, 2013

Baldwinsville (Central New York Region – Onondaga County) – Anheuser-Busch 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  
Anheuser-Busch Capital Project, the Corporation hereby determines that the proposed action  
will not have a significant effect on the environment.

\* \* \*

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Auburn (Central New York Region – Cayuga County) – D&W Diesel Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: D&W Diesel, Inc. (“D&W” or the “Company”)

ESD\* Investment: A grant of up to \$250,000, to be used for a portion of the cost of construction and the purchase of machinery and equipment.

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

Project Location: 1503 Clark Street Road, Auburn, Cayuga County

Proposed Project: Construct and equip a new 30,000 square-foot manufacturing and warehouse facility.

Project Type: Business expansion with job retention and job creation.

Regional Council: The Central New York Regional Council has been made aware of this project. The Incentive Offer was accepted in January 2011 predating the Regional Council Initiative. The project is consistent with the Central New York Regional Plan to support existing manufacturers to remain and expand in the Central New York Region.

Employment:	Initial employment at time of ESD offer:	155
	Current employment level:	170
	Minimum employment through January 1, 2017:	186

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Infrastructure/Site work	\$1,815,000
Machinery & Equipment	1,350,000
Other Soft Costs	<u>128,000</u>
 Total Project Costs	 <u>\$3,293,000</u>

<u>Financing Sources</u>		<u>Amount</u>	<u>Percent</u>
ESD Grant	\$250,000	9%	
NYS-Office of Community Renewal	350,000	11%	
Company Equity	<u>2,693,000</u>	<u>80%</u>	
 Total Project Financing	 <u>\$3,293,000</u>	 <u>100%</u>	

III. Project Description

A. Company

Industry: D&W sells and services diesel engines and remanufacturers related components.

Company History: D&W is a family business formed in 1976 in New York State.

Ownership: The Company is privately owned.

Size: D&W employs over 280 employees at 10 Northeast locations. 170 employees are located at the 110,000 square-foot Auburn facility. Other NYS locations are in Albany, Buffalo, Rochester, and Binghamton. In addition, the Company has locations in New Jersey, Massachusetts, and Ohio.

Market: D&W distributes, remanufacturers, and services diesel engines and related components sold to trucking-transportation and other industries. Some clients include Greyhound Bus Lines and the U.S. Department of Defense. D&W competes nationwide with other similar aftermarket vendors and also with original equipment (OEM) diesel manufacturers including Caterpillar Diesel, Kohler Diesel, and Cummins Diesel.

ESD Involvement: D&W needed to expand one of its facilities with additional space and equipment to accommodate its increasing Northeast regional sales and service business. Due to a financing gap, the business expansion project could not have been accomplished at the Auburn facility without financial assistance. To complete the project financing, ESD provided the Company with an Incentive Proposal of \$250,000 which was accepted in January 2011.

Competition: D&W considered expanding in New Jersey, Ohio, Pennsylvania, or Massachusetts.

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

B. The Project

Completion: December 2012

Activity: D&W has constructed a new 30,000 square-foot addition to its existing facility and purchased new machinery and equipment needed to expand warehousing and production. The project began in January 2011 and was completed in December 2012. The project costs were \$3,293,000.

Results: D&W has expanded NYS operations and retained 155 existing jobs. The Company has committed to creating 31 new jobs over 3 years. Fifteen jobs have already been created.

Grantee Contact: Greg Wrona, Finance Manager  
1503 Clark Road  
Auburn, NY 13021  
Phone: (315) 253-2324 Fax: (315) 253-2098

ESD Project No.: X335

Project Team:	Origination	Bonnie Palmer
	Project Management	John Vandello
	Contractor & Supplier Diversity	Diane Kinnicutt
	Finance	Amit Nihalani
	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 \$250,000 capital grant (\$2,500) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.

2. The Company will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of 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.

Up to \$250,000 will be disbursed to the Grantee in three installments as follows:

- a) an Initial Disbursement of an amount equal to 50% of the grant (\$125,000) upon documentation of construction and machinery-equipment project costs totaling \$3,293,000, upon completion of the project substantially as described in these materials, and documentation of the employment of at least 170 Full-time Permanent Employees at the Project Location (Employment Increment of 15), assuming that all project approvals have been completed and funds are available;
- b) a Second Disbursement of an amount equal to 25% of the grant (\$62,500) will be disbursed upon documentation of the employment of at least 178 Full-time Permanent Employees at the Project Location (Employment Increment of 8), provided Grantee is otherwise in compliance with program requirements;
- c) a Third Disbursement of an amount equal to 25% of the grant (\$62,500) will be disbursed upon documentation of the employment of at least 186 Full-time Permanent Employees at the Project Location (Employment Increment of 8), 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 January 14, 2011, to be considered eligible project costs. All disbursements must be requested by April 1, 2015.

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 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.
6. 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.

X = Grantee's Employment Increment that will be the basis of the Initial Disbursement of the Grant as described in section C.5 above (i.e. X=15, and Employment Goals shall equal  $(155 + X = 170)$  if the Initial Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Initial Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. Y=8, and Employment Goals shall equal  $(155 + X + Y = 178)$  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=8, and Employment Goals shall equal  $(155 + X + Y + Z = 186)$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Z=0.

#### IV. Statutory Basis

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms.

As a result of this project, the Company will maintain its employment level of 155 and create 31 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 Massachusetts, New Jersey, Ohio, or Pennsylvania. 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.

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$1,223,903;

- Fiscal cost to NYS government is estimated at \$250,000;
- Project cost to NYS government per direct job is \$10,975;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$4,527;
- Ratio of project fiscal benefits to costs to NYS government is 4.90:1;
- Fiscal benefits to all governments (state and local) are estimated at \$2,050,327;
- Fiscal cost to all governments is \$250,000;
- All government cost per direct job is \$10,975;
- All government cost per total job is \$4,527;
- The fiscal benefit to cost ratio for all governments is 8.20:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$9,151,036, or \$165,710 per job (direct and indirect);
- The economic benefit to cost ratio is 36.60:1;
- Project construction cost is \$1,943,000, which is expected to generate 18 direct job years and 12 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 1.43 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is two years.

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

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

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

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

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD'S Non Discrimination and Contractor Diversity policy will apply. The Grantee is encouraged to use good faith efforts 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  
Benefit-Cost Analysis

April 26, 2013

Auburn (Central New York Region – Cayuga County) – D&W Diesel 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 D&W Diesel 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 D&W Diesel, 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.

\* \* \*

April 26, 2013

Auburn (Central New York Region – Cayuga County) – D&W Diesel 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 D&W Diesel Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: North Syracuse (Central New York Region – Onondaga County) – International Controls 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: International Controls Corporation (“ICC” or the “Company”)

ESD\* Investment: A grant of up to \$160,000 to be used for a portion of the cost to purchase and install machinery and equipment.

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

Project Location: 7313 William Barry Boulevard, North Syracuse, Onondaga County

Proposed Project: The purchase and installation of machinery and equipment necessary to upgrade the Company's North Syracuse plant.

Project Type: Business expansion involving job retention and creation.

Regional Council: The Central New York Regional Council has been made aware of this item. The Incentive Offer was accepted in April 2011 predating the Regional Council Initiative. The project is consistent with the Regional Plan to support advanced manufacturing in Central New York.

Employment:	Initial employment at time of ESD Incentive Offer:	193
	Current employment level:	219
	Minimum employment through January 1, 2018:	218

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Machinery and Equipment	<u>\$1,603,000</u>

Total Project Costs \$1,603,000

<u>Financing Sources</u>		<u>Amount</u>	<u>Percent</u>
ESD – Grant	\$160,000	10%	
Company Equity	<u>1,443,000</u>	<u>90%</u>	
Total Project Financing	<u>\$1,603,000</u>	<u>100%</u>	

III. Project Description

A. Company

Industry: ICC manufactures electronic controls, known as Solid State Controls, primarily for the heating, ventilation, air conditioning, cooling and refrigeration (“HVAC/R”) industry. These include, but are not limited to, industrial controls such as thermostats, head pressure controls, fan, humidity, defrost, furnace, pool and spa, and gas ignition controls.

Company History: International Controls and Measurements Corporation (“ICM”) was originally founded in 1985 by Hassan Kadah, a Syracuse University electrical engineer. This entity manufactured industrial controls with a primary product line of Solid State Controls for general industrial use. To diversify its business, in 2002, ICM expanded to create a subsidiary company, International Controls Corporation, to oversee its controls division. Over years of controls manufacturing, the generations of electronic assembly and manufacturing have evolved from the strenuous work of hand assembly to more sophisticated automated assembly. With continuous improvements being the Company’s primary focus, adaptation to change and product demand have allowed the Company to become more vertically integrated.

Ownership: ICC is a privately owned subsidiary of ICM.

Size: All facilities located in North Syracuse, NY.

**Market:** ICC is emerging as an industry leader and is positioning itself at the forefront of some of today's technological advances in automation and energy management controls. The Company's Comfort Control Center targets homeowners with older, less efficient central air conditioning systems by providing an economical and energy efficient manner to improve comfort in their home by more effectively controlling humidity levels. Currently, the company is looking to expand into Europe, Latin America, and South America. The Company's major customers include Airxcel, Inc., Johnstone Supply, Trane Residential, and Global Parts. Major competitors include Honeywell, Rockwell Automation, Computime, and other entities manufacturing goods in China that compete with and replicate the Company's products.

**Competition:** When ICM approached ESD for potential assistance, the Company was facing growing competitive pressures from China and other offshore producers.

**ESD Involvement:** In an effort to remain competitive with overseas competition, ICM approached ESD in December 2011 for assistance to upgrade ICC's machinery and equipment in an effort to expand sales and, moreover, retain 30 related jobs. By capturing additional business, the Company expected to add 25 jobs. ESD responded with a \$160,000 capital grant to complete the project which the Company accepted.

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

## B. The Project

**Completion:** June 2012

**Activity:** ICC has purchased and installed machinery and equipment to upgrade its existing operations in North Syracuse. This includes soldering, injection molding, auto insertion, materials handling, and testing equipment.

**Results:** The Company has retained 193 existing jobs, including 30 at-risk jobs, and has already created 26 new jobs.

**Grantee Contact:** Laurie Kadah, Treasurer  
ICM Controls Corporation  
7313 William Barry Boulevard  
North Syracuse, NY 13212  
Phone: (315) 233-5266 Fax: (315) 452-0463

**ESD Project No.:** X372

Project Team:	Origination	Ray Lawrence
	Project Management	Jessica Hughes
	Contractor & Supplier Diversity	Diane Kinnicutt
	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 \$160,000 capital grant (\$1,600) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. International Controls and Measurements Corporation will guarantee the grant repayment obligation of its subsidiary, International Controls Corporation, in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreement.
4. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
5. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
6. Up to \$160,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$80,000) upon documentation of machinery and equipment project costs totaling approximately \$1,561,486, upon completion of the project substantially as described in these materials, and documentation of the employment of at least 193 Full-time Permanent Employees at the Project Location, assuming that all project approvals have been completed and funds are available;

- b) a Second Disbursement of an amount equal to 25% of the grant (\$40,000) will be disbursed upon documentation of the employment of at least 205 Full-time Permanent Employees at the Project Location (Employment Increment of 12), provided Grantee is otherwise in compliance with program requirements;
- c) a Third Disbursement of an amount equal to 25% of the grant (\$40,000) will be disbursed upon documentation of the employment of at least 218 Full-time Permanent Employees at the Project Location (Employment Increment of 13), 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 5, 2011, to be considered eligible project costs. All disbursements must be requested by April 1, 2015.

- 7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$160,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
- 8. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- i. 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- ii. 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- iii. 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- iv. 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- v. 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

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=12, and Employment Goals shall equal  $[193 + X = 205]$  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=13, and Employment Goals shall equal  $[193 + X + Y = 218]$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Y=0.

#### IV. Statutory Basis

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms.

As a result of this project, the Company will maintain its employment level of 193 and create 25 new jobs.

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

Without ESD assistance ICM would have had to scale back or delay the project. ESD funding helped to make the project financial feasible in New York State.

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

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$1,577,236;
- Fiscal cost to NYS government is estimated at \$160,000;
- Project cost to NYS government per direct job is \$4,973;

- Project cost to NYS government per job (direct plus indirect ) is estimated at \$2,173;
- Ratio of project fiscal benefits to costs to NYS government is 9.86:1;
- Fiscal benefits to all governments (state and local) are estimated at \$2,649,647;
- Fiscal cost to all governments is \$160,000;
- All government cost per direct job is \$4,973;
- All government cost per total job is \$2,173;
- The fiscal benefit to cost ratio for all governments is 16.56:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$12,449,154, or \$169,054 per job (direct and indirect);
- The economic benefit to cost ratio is 77.81:1;
- There is no construction activity related to this project;
- For every permanent direct job generated by this project, an additional 1.30 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is two years.

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

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

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VI. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business in the performance of ESD contracts. For purposes of this Contract, however, goals will not be established due to the unavailability of minority and women-owned businesses for performance of this Contract, and the project is complete.

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

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

VIII. Additional Submissions to Directors

Resolutions  
New York State Map  
Benefit-Cost Analysis

April 26, 2013

North Syracuse (Central New York Region – Onondaga County) – International Controls 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 International Controls 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 International Controls Corporation a grant for a total amount not to exceed One

Hundred Sixty Thousand Dollars (\$160,000) 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

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Hauppauge (Long Island Region – Suffolk County) – GSE Dynamics Capital – Economic Development Purposes Fund 12-13 – Business Investment (Capital Grant)

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

General Project Plan

I. Project Summary

Grantee: GSE Dynamics, Inc. (“GSE” or the “Company”)

ESD\* Investment: A grant of up to \$250,000 to be used for a portion of the cost of machinery and equipment.

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

Project Location: 110 Oser Avenue, Hauppauge, Suffolk County

Proposed Project: Consolidation and relocation of manufacturing facilities into a new building, and the purchase of machinery and equipment, including the creation and retention of jobs.

Project Type: Business expansion involving job retention and creation.

Regional Council: The Incentive Proposal for the project was accepted in August 2012. Prior to ESD’s offer of assistance, ESD consulted the Long Island Regional Council via its co-chairs, who indicated that the project is consistent with the Regional Plan goals of supporting the continued transformation of Long Island’s manufacturing sector from traditional defense and aerospace work to advanced technology products and of creating skilled, high-value

jobs and a network of companies that can develop a synergistic partnership with companies in other regions of the State. Ann Shybunko-Moore, President of GSE Dynamics, Inc., is a member of the 24-person Long Island Regional Council (“Regional Council”). However, because ESD’s assistance was not offered through the Regional Council/Consolidated Funding Application process, Ms. Shybunko-Moore was not involved in evaluation of the project for assistance, nor in the recommendation of the co-chairs.

Employment:	Initial employment at time of ESD Incentive Offer:	48
	Current employment level:	52
	Minimum employment through January 1, 2020:	58

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Renovation	\$496,212
Machinery & Equipment	<u>1,256,396</u>

Total Project Costs \$1,752,608

<u>Financing Sources</u>		<u>Amount</u>	<u>Percent</u>
		<u>Rate/Term/Lien</u>	
ESD Grant	\$250,000	14%	
Bridgehampton National Bank - Loan RE	835,000	48%	5.5%/7 yrs/first lien on
Company Equity	<u>667,608</u>	<u>38%</u>	
Total Project Financing	<u>\$1,752,608</u>	<u>100%</u>	

III. Project Description

A. Company

Industry: GSE produces complex structural assemblies, composite structures, and machinery details for military defense manufacturing.

Company History: In 1971, GSE Dynamics, Inc., was founded as a full-service engineering and manufacturing company that builds, assembles and tests military mechanical and structural components. The Company is an established Women-owned Business Concern, and has become an industry leader in complex assembly, advanced composites technology, metal fabrication, and support processes, serving all branches of the U.S. Department of Defense, as well as selected allied nations. Some of GSE’s customers include the U.S. Air Force, the U.S. Navy, Northrop Grumman, Lockheed Martin, and Boeing.

To date, GSE continues to hold a strong position on many key, funded programs that are essential to the nation's defense and transformation strategies.

- Ownership:** The Company is privately owned.
- Size:** The Company had been operating two facilities in Hauppauge, New York and one in Comer, Georgia.
- Market:** GSE serves the U.S. military defense market and provides defense manufacturing for a select international clientele.
- ESD Involvement:** In order to retain existing jobs, and execute a planned growth strategy, (necessitated by the award of two substantial U.S. Air Force contracts) the Company needed to acquire additional factory space, invest in new machinery and equipment, and streamline its manufacturing process. To accomplish this, GSE chose to consolidate and relocate two of its existing operations (one located in Georgia, and one in Hauppauge) into one new facility.

The Company identified a 57,000 square-foot building, located in Hauppauge, where it planned to expand the scope of GSE's product capability and service offerings. The Company applied under the first round of the NYS Consolidated Funding Application to close a funding gap in its project cost. GSE also explored the possibility of expanding its operations in South Carolina or Georgia, but with the support of ESD was able to maintain its presence and strong business ties on Long Island. In July 2012, the Company was awarded a grant under the Economic Development Purposes Fund. Without ESD's assistance the project would not have been possible.

- Competition:** GSE competes with CPI Aero, Aeroparts Manufacturing and Honeycomb of America.
- Past ESD Support:** The Company was awarded two loans from the Job Development Authority in 1983 and 1990. The projects were completed and the loans fully disbursed. The Company complied with all requirements and the loans were paid back in full.

## **B. The Project**

- Completion:** June 2017
- Activity:** In 2010, GSE forecasted a need to expand and streamline its manufacturing processes because it was awarded two significant defense contracts from the U.S. Air Force. In October 2012, GSE closed on a new 57,000 square-

foot building in Hauppauge. Renovations on the building began immediately. GSE had been operating two facilities in Hauppauge, NY and one in Comer, Georgia. The Company will now completely relocate the Georgia facility and one of the Hauppauge facilities (590 Old Willets Road) to its new 57,000 square-foot building at 110 Oser Avenue. The second Hauppauge facility (25 Corporate Drive) will be used as the Company's corporate office. Relocation from the Georgia facility is expected to be completed by June 2013.

To date, the Company has purchased and installed an autoclave, walk-in freezer, and a clean room, in addition to making all mechanical renovations to the new building. Additionally, the Company has consolidated 50% of its manufacturing operations at the new facility. Over the next five years, the Company plans to make further purchases and upgrades to its equipment and processes which will position it as one of the most visible and successful companies in advanced composite markets in the region.

Results: Retain 48 jobs and create 10 new jobs. The Company has already created 4 new jobs.

#### Business Investment

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$2,210,064;
- Fiscal cost to NYS government is estimated at \$250,000;
- Project cost to NYS government per direct job is \$5,667;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$3,419;
- Ratio of project fiscal benefits to costs to NYS government is 8.84:1;
- Fiscal benefits to all governments (state and local) are estimated at \$3,983,955;
- Fiscal cost to all governments is \$250,000;
- All government cost per direct job is \$5,667;

- All government cost per total job is \$3,419;
- The fiscal benefit to cost ratio for all governments is 15.94:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$20,585,313, or 281,506 per job (direct and indirect);
- The economic benefit to cost ratio is 82.34:1;
- Project construction cost is \$496,212, which is expected to generate four direct job years and two indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.67 indirect job is anticipated in the state's economy;
- The payback period for NYS costs is one year.  
(See Project Summary Benefit-Cost valuation attached for detail and definitions.)

Grantee Contact: Ann Shybunko-Moore, President  
 25 Corporate Drive  
 Hauppauge, NY 11788  
 Phone: (631) 231-1044 Fax: (631) 231-1364

ESD Project No.: X930

Project Team:	Origination	Barry Greenspan
	Project Management	Simone Bethune
	Contractor & Supplier Diversity	Vikas Gera
	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 \$250,000 capital grant (\$2,500) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of 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 \$250,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$125,000), upon completion of the project substantially as described in these materials, documentation of machinery and equipment and project costs totaling \$1,000,000, a Certificate of Occupancy for the new building and documentation of the employment of at least 50 Full-time Permanent Employees at the Project Location, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 25% of the grant (\$62,500) will be disbursed upon certification that GSE Dynamics, Inc., has completely relocated the Georgia plant to Hauppauge and documentation of the employment of at least 54 Full-time Permanent Employees at the Project Location (Employment Increment of 4), provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$62,500) will be disbursed upon verification of additional machinery and equipment purchases of \$750,000 (cumulative total \$1,750,000) documentation of the employment of at least 58 Full-time Permanent Employees at the Project Location (Employment Increment of 4), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses reimbursed by ESD's grant must be incurred on or after August 30, 2012, to be considered eligible project costs. All disbursements must be requested by April 1, 2018.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$250,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee 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.

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=2, and Employment Goals shall equal  $[48 + X = 50]$  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=4, and Employment Goals shall equal  $[48 + X + Y = 54]$  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=4, and Employment Goals shall equal  $[48 + X + Y + Z = 58]$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Z=0.

#### IV. Statutory Basis – Economic Development Purposes Fund

The project is authorized in the 2012-2013 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VI. Non-Discrimination and Contractor & Supplier Diversity

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

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

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

VIII. Additional Submissions to Directors

Resolutions  
New York State Map  
Benefit-Cost Analysis

April 26, 2013

Hauppauge (Long Island Region – Suffolk County) – GSE Dynamics Capital – Economic Development Purposes Fund 12-13 – Business Investment (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the GSE Dynamics Capital -Economic Development Purposes Fund 12-13 – Business Investment (Capital Grant) Project (the "Project"), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the "Plan") for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

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

Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to GSE Dynamics, Inc., a grant for a total amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) from the Economic Development Purposes Fund 12-13, 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.

\* \* \*

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

### GSE Dynamics, Inc. – Business Investment

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

<b>Initial Jobs:</b>	<b>48</b>	<b>Construction Job Years (Direct):</b>	<b>4</b>
<b>New Jobs:</b>	<b>10 over four years</b>	<b>Construction Job Years (Indirect):</b>	<b>2</b>

Evaluation Statistics	Project Results NYS Gov't.	NYS Gov't. Benchmarks <sup>2</sup>	Project Results State & Local Government	State & Local Government Benchmarks
<b>Fiscal Costs<sup>3</sup></b>	\$250,000	\$794,250	\$250,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$2,210,064	\$2,085,600	\$3,983,955	\$4,271,980
<b>Fiscal Cost /Direct Job</b>	\$5,667	\$3,000	\$5,667	\$4,110
<b>Fiscal Cost/Total Jobs</b>	\$3,419	\$1,424	\$3,419	\$1,964
<b>Fiscal B/C Ratio</b>	8.84	7.00	15.94	10.60
	<b>Project Results</b>	<b>Benchmarks</b>		

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

<sup>2</sup> The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects. Business Investment project benchmarks are 7.00 (Fiscal) and 50.00 (Economic). Infrastructure Investment (or Economic Growth Investment) project benchmarks are 3.00 (Fiscal) and 20.00 (Economic).

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

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

<b>Economic Benefits<sup>5</sup></b>	\$20,585,313	\$119,468,000
<b>Econ. Benefits/Total Jobs</b>	\$281,506	\$147,600
<b>Economic B/C Ratio</b>	82.34	50.00

**GSE Dynamics Capital**

Hauppauge

Suffolk County

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

## A. New York Philharmonic Working Capital (Y175)

April 26, 2013

- Grantee:** New York Philharmonic (the “Philharmonic” or the “Organization”)
- ESD Investment:** A working capital grant of up to \$100,000 or 50% of project costs, whichever is less, to be used for a portion of the cost to engage a consultant to conduct a feasibility study for the construction of an amphitheater.
- Project Locations:** Hudson, Columbia County  
Hyde Park, Dutchess County
- Proposed Project:** A feasibility study of parkland along the Hudson River across from the Olana historic site in Hudson, New York and a privately-owned parcel across from the Culinary Institute of America in Hyde Park, New York.
- Project Type:** Working capital
- Regional Council:** The Mid-Hudson and Capital Regional Councils have been made aware of this item. The Incentive Offer was accepted in March 2013. The project is consistent with the Mid-Hudson Regional Economic Development Council Strategic Plan to build on the unique location of the Hudson Valley situated between the majestic Hudson River, the Delaware River, and Long Island Sound and promote waterfront development in order to enhance tourism, recreation, and trade. The project is also consistent with the Capital Region Economic Development Council Strategic Plan to leverage existing partnerships, while building new collaborations across academia, the private sector, and government to make the Capital region a destination of choice.

### Background:

Industry – The New York Philharmonic is a symphony orchestra that performs approximately 180 concerts a year. On May 5, 2010 the New York Philharmonic, gave its 15,000th concert — a milestone unmatched by any other symphony orchestra in the world. Long a leader in American musical life, the Philharmonic has become renowned around the globe, having appeared in 431 cities in 63 countries on five continents.

Organization History - Founded in 1842 by a group of local musicians led by American-born Ureli Corelli Hill, the New York Philharmonic is by far the oldest symphony orchestra in the United States, and one of the oldest in the world.

Past ESD Support – In 1995, the ESD Directors approved \$25,000 to support the New York Philharmonic. The project was completed and the funds disbursed.

## A. New York Philharmonic Working Capital (Y175)

April 26, 2013

ESD Involvement – The Philharmonic seeks to expand its performances to underserved areas of New York State by building an amphitheater. This development would anchor businesses and promote job creation in its surrounding area. By building an amphitheater in Hudson or Hyde Park, the Philharmonic will attract visitors and existing, affluent supporters from other parts of the Northeast, including Massachusetts. If the amphitheater is not built, the Philharmonic will not have summer performances in New York State and will instead travel to other states and countries to perform. To encourage the Philharmonic to build its amphitheater in New York State, ESD made an incentive offer of a working capital grant of up to \$100,000, to assist in the funding of the feasibility study for the amphitheater. The offer was accepted on March 11, 2013.

### The Project:

Completion – July 2013

Activity – The New York Philharmonic has engaged the consultant HR&A to conduct a 12-16 week feasibility study, with interim progress reports delivered monthly, of parkland along the Hudson River across from the Olana historic site in Hudson, and a privately-owned parcel across from the Culinary Institute of America in Hyde Park. The feasibility study will include the following:

- assessment of transportation access, proximity to audience, sightlines, grading, ambient noise, lodging options;
- order of magnitude construction cost estimate (all-inclusive costs including site-clearing, access roads if needed, parking area, ancillary spaces (e.g. food service); operational cost estimate;
- earned income potential;
- fundraising requirements – operations and capital;
- market analysis, including assessment of possible competition from other nearby venues and assessment of other types of performing arts besides classical music that might work in the venue;
- housing options; and
- economic impact, including jobs created, direct and indirect economic benefits to the region.

Results – The feasibility study will provide the New York Philharmonic with an analysis of the construction of an amphitheater for the performance of classical music and other works, in one of two sites – parkland across from the Olana historic site in Hudson, or a privately owned parcel across from the Culinary Institute of America in Hyde Park.

This project is an Economic Growth Investment project and does not involve permanent job commitments or construction spending. While such projects generate significant long term fiscal and economic benefits, such benefits are not estimated within the

## A. New York Philharmonic Working Capital (Y175)

April 26, 2013

short-term period used in the benefit cost analysis. Therefore, no benefit cost analysis is provided.

Grantee Contact - Matthew VanBesien, Executive Director  
10 Lincoln Center Plaza  
New York, NY 10023  
Phone: (212) 875-5963 Fax: (212) 875-5929

Project Team -

Origination	Aimee Vargas
Project Management	Glenda Wenerski
Contractor & Supplier Diversity	Denise Ross
Environmental	Soo Kang

### Financial Terms and Conditions:

1. The Organization will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
2. 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 written 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.
3. Up to \$100,000 will be disbursed to Grantee upon completion of the project substantially as described in these materials, assuming that all project approvals have been completed and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after March 11, 2013, to be considered eligible project costs. All disbursements must be requested by April 1, 2014.
4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$100,000, 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.

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

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business in the performance of ESD contracts. As such, ESD's Non-

## **A. New York Philharmonic Working Capital (Y175)**

April 26, 2013

discrimination and Contractor and Supplier Diversity policy will apply. The Grantee shall use their Good Faith Efforts to achieve an overall Minority and Women Business Enterprise (“MWBE”) Participation Goal of 10% related to the total value of ESD’s funding. The funding recipient shall use Good Faith Efforts to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and to include minorities and women in any job opportunities created by the project.

### **Statutory Basis – Urban and Community Development Program:**

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 Development 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.

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Discretionary Projects Consent Calendar

REQUEST FOR: Findings and Determinations Pursuant to Sections 10(g), 5(4), and 16-d of the Act; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

Attached is a summary of a discretionary project requesting ESDC assistance of up to \$100,000 in the following category:

Urban and Community Development Program

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
	<b>Urban and Community Development Assistance</b>			
A.	New York Philharmonic Working Capital	Y175	New York Philharmonic	\$100,000
			<b>TOTAL</b>	<b>\$100,000</b>

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

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

Environmental Review

Unless otherwise noted on a project summary, ESD staff has determined that the project 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 project.

Office of Contractor and Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses in the performance of ESD contracts. Accordingly, ESD's Nondiscrimination and Supplier Diversity policy will apply to the projects. In the case of training, global export market service and productivity improvement projects, the grantees and/or the beneficiary companies, as applicable, shall use their good faith efforts 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 womenowned businesses for any contractual opportunities generated in connection with the project.

For all other projects, unless otherwise specified in the project summary, grantees shall use their good faith efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 23% related to the total value of ESD's funding. This shall include a Minority Business Enterprise ("MBE") Participation goal of 13% and a Women Business Enterprise ("WBE") Participation goal of 10%. Grantee shall use good faith efforts to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and to include minorities and women in any job opportunities created by the Projects.

#### Reallocation of Funds

ESD may reallocate each project's funds to another form of assistance, at an amount no greater than the amount approved, for the same project if ESD determines that the reallocation of the assistance would better serve the needs of the recipient 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.

#### ESD Employment Enforcement Policy

Unless otherwise noted in a project summary, the ESD Employment Enforcement Policy will not apply because these projects do not directly create jobs.

#### Statutory Basis – Urban and Community Development Program

The 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 Development 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.

#### Attachments

New York State Map  
Resolutions  
Project Summary

April 26, 2013

Urban and Community Development Program - Findings and Determinations Pursuant to Sections 10(g), 5(4) and 16-d 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 Urban and Community Development Program Project (the "Project"), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that there are no families or individuals to be displaced from the project area(s); and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amount listed below from the Urban and Community Development Program, for the purposes, and substantially on the terms and conditions, 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, 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;

Urban and Community Development Program

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
	<b>Urban and Community Development Assistance</b>			
A.	New York Philharmonic Working Capital	Y175	New York Philharmonic	\$100,000
			<b>TOTAL</b>	<b>\$100,000</b>

and be it further

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

\* \* \*

FOR INFORMATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Growing Upstate Food Hub Capital and Working Capital Grants –Regional Council Capital Fund, Economic Development Purposes Fund 12-13, and Restore NY Communities

Executive Summary

The Growing Upstate Food Hub, LLC (“GUFH”) is a consortium of farmer-owned agribusiness entities that have joined forces to address the capital-expense, management, and logistical challenges associated with the processing of its agricultural products. Prior to forming the consortium, each entity had been actively planning to construct its own independent processing facility. The entities determined that by combining resources and sharing a space, an enormous capital investment would be saved. Working together, the GUFH will develop a shared-use facility with the primary purpose of providing food-processing space and refrigerated/frozen product warehousing, and a secondary purpose of engaging key personnel to serve the management, sales, and accounting needs of the participating entities.

An industrial site in Canastota, NY that contains two structures that have been vacant since 1994 has been identified to redevelop as a shared-use facility for the consortium. One structure is 48,000 square feet and an adjacent structure is 5,600 square feet. Total project costs to redevelop the sites are \$4,236,000.

To support the redevelopment of these sites, grants utilizing a combination of three funding sources are being requested for approval by the ESD Directors’. The requests are detailed in two General Project Plans (“GPP”) following this summary. Two separate GPPs are needed because there are two distinct grantees: the Village of Canastota (the “Village”) and the GUFH. The grant

to the Village is a Restore New York award and will be for the benefit of the GUFH. The funding requests are summarized in the following chart:

	<b>Grantee</b>	<b>Funding Source</b>	<b>Grant</b>	<b>Purpose</b>	<b>Project Costs</b>
PHASE I	Village of Canastota (for the benefit of GUFH)	Restore NY Communities	\$1,685,000	A capital grant to reconstruct two vacant structures into useable shells to be further developed as the Food Hub.	\$1,875,000
PHASE II	GUFH	Economic Development Purposes Fund 12-13	\$43,600	A working capital grant to plan and design the Food Hub to maximize the efficiency of the space.	\$2,361,000
	GUFH	Regional Council Capital Fund	\$810,000	A capital grant to build out the interior of Food Hub structures for food processing, refrigeration, warehousing, a teaching kitchen, and a farmers' market.	

Attachments

Site photos (3)

Site Plan

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Regional Council Award – Priority Project – Canastota (Central New York Region – Madison County) – Growing Upstate Food Hub Capital and Working Capital – Regional Council Capital Fund and Economic Development Purposes Fund 12-13 (Capital and Working Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: Growing Upstate Food Hub, LLC (the “Grantee” or the “GUFH”)

ESD\* Investment: Grants of up to \$853,600 to be used as follows:

X998 – A grant of up to \$43,600 to be used for a portion of the cost of a feasibility study associated with the creation of the Growing Upstate Food Hub.

Y277 – A grant of up to \$810,000 to be used for a portion of the cost of real estate acquisition, construction, planning and design, engineering and initial operating expenses of the Growing Upstate Food Hub.

Project Location: 120 Barlow Street, Canastota, Madison County

Proposed Project: Create of a shared-use facility with the primary purpose of providing food-processing space and refrigerated/frozen product warehousing, and a secondary purpose of engaging key personnel to serve the management, sales, and accounting needs of the participating entities

and the regional farming community.

Project Type: Agribusiness

Regional Council: The project is a priority project for the Central New York Region and is consistent with the Regional Plan to support agribusiness. The Incentive Offers were accepted in December 2012 (X998) and March 2013 (Y277).

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Property Acquisition	\$ 600,000
Planning & Design	175,000
Construction/Interior Build-out	1,400,000
Machinery & Equipment	<u>186,000</u>

Total Project Costs \$2,361,000

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD – Grant (Y277)	\$810,000	34%
ESD – Grant (X998)	43,600	2%
NYS Dept. of Agriculture & Markets Grant	500,000	21%
NYS Homes and Community Renewal Grant	200,000	9%
Grantee Equity	<u>807,400</u>	
	<u>34%</u>	
Total Project Financing	<u>\$2,361,000</u>	
	<u>100%</u>	

## III. Project Description

### A. Grantee

Industry: The Growing Upstate Food Hub (the “Food Hub”) will be a shared-use facility with the primary purpose of providing food-processing space and refrigerated/frozen product warehousing, and a secondary purpose of engaging key personnel to serve the management, sales, and accounting needs of the participating entities and the regional farming community.

History: GUFH is a consortium of farmer-owned agribusiness entities that formed in December 2012 to build a shared-use processing facility to add value to, store, distribute, and market Central New York agricultural products. Two entities that are part of GUFH are the New York Beef Farmers Cooperative and Upstate NY Growers and Packers. The GUFH also plans to operate a retail store, teaching kitchen, and community farmers’

market onsite.

**Ownership:** GUFH is a privately owned limited liability company. The initial organizers of the New York Beef Farmers Cooperative, Inc., are its principal members and include Paul O'Mara, Kent Johnson and Eddie Carhart. Secondary ownership is comprised of private investors located within the Central New York Region including some GUFH participating farmers.

**Size:** All facilities located in Canastota, NY.

**Market:** GUFH will market milk, meat, and wholesale fresh produce, value-added dairy products and New York State hops and malt. GUFH will also operate a retail store and teaching kitchen, and community farmers' market onsite.

GUFH will process farm products from a wide catchment area in New York State, processing meat from farms within a 75-mile radius, producing retail and wholesale cuts of beef, pork, lamb and chicken. It will market fresh and quick-frozen fruits and vegetables from producers from the Western New York Region to the Capital Region for the wholesale market. It will dry, grind and pelletize hops from hop yards within an hour drive of the Food Hub, producing bulk and packaged hops to niche and craft brewers. Malting barley from farms in the Central New York Region will be sold to microbreweries throughout the Northeast. Finally, it will process milk and value-added dairy products from Madison and Oneida Counties, and milk from the Central New York and Mohawk Valley regions.

**ESD Involvement:** In 2012 the Cornell Cooperative Extension of Madison County ("CCE"), a not-for-profit community education association affiliated with Cornell University, facilitated discussions with the farmers and growers that would later form GUFH and the conceptualization of the project. In December 2012, CCE approached ESD to fill a gap in funding for a planning and design study to be completed by GUFH, which would address the creation of a food hub in Central New York. The project would be the first critical step in tackling issues associated with the value-added processing of commodity agricultural products in Central New York. ESD responded with a working capital grant to assist with the study.

As a result of the Governor's Regional Economic Development Council Initiative, GUFH was awarded \$810,000 through the Consolidated Funding Application ("CFA") process to create the Food Hub. The Central New York farming community excels at agricultural production in its meat, dairy, cereals and vegetables, and there is a tremendous market

for locally-produced food products, both in the Central New York and metropolitan New York regions. There are, however, issues that deter farmers from capturing their products' added value, thus limiting the evolution of Central New York's primary products into market ready food products. With ESD's financial assistance, GUFH will help farmers overcome these issues.

**Competition:** The Food Hub will be a shared-use facility to support local growers and food producers to differentiate their products by adding value, and to sell and market their products more efficiently and cost-effectively.

**Past ESD Support:** This is GUFH's first project with ESD. Also being presented to the ESD Directors' for approval in April 2013 is a Restore NY grant in the amount of \$1,685,000 to the Village of Canastota to rehabilitate the shell of the Food Hub.

## **B. The Project**

**Completion:** December 2014

**Activity:** GUFH will first conduct a study to plan and develop the project, and will subsequently purchase, fit-out and equip a vacant, 48,000 square-foot clear span, steel frame building and an adjacent 5,600 square-foot building in Canastota, NY.

**Results:** The shared-use facility will provide the members and future area farmers with food-processing space and refrigerated and frozen product warehousing and additional needed office space. There will also be a year-round retail storefront constructed, community farmers' market and teaching kitchen. A Food Hub will improve Central New York's agriculture product distribution by creating a centrally located space with access to the New York State Thruway, to facilitate the aggregation, storage, and distribution of value-added agricultural products. It is anticipated that the annual wholesale market value of products processed at the Food Hub will be approximately \$13.11 million, all of which will remain in the local economy.

**Economic Growth Investment:**

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

only construction-related activity.

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$94,984;
- Fiscal cost to NYS government is estimated at \$810,000;
- Ratio of project fiscal benefits to costs to NYS government is 0.12:1;
- Fiscal benefits to all governments (state and local) are estimated at \$161,907;
- Fiscal cost to all governments is \$810,000;
- The fiscal benefit to cost ratio for all governments is 0.20:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$848,195;
- The economic benefit to cost ratio is 1.05:1;
- Project construction cost is \$1,526,000, which is expected to generate 14 direct job years and nine indirect job years of employment;
- For every construction-related direct job generated by this project, an additional 0.65 indirect job is anticipated in the state's economy;

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

Grantee Contact: Paul O'Mara, Managing Member  
Growing Upstate Food Hub, LLC  
8275 Rte. 13  
Canastota, NY 13032  
Phone: (315) 697-9862

ESD Project Nos.: Y277 - \$810,000  
X998 - \$43,600

Project Team:	Origination	Jessica Hughes/Patrick Hooker
	Project Management	Jessica Hughes
	Contractor & Supplier Diversity	Diane Kinnikutt
	Finance	Ross Freeman
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall pay a commitment fee of 1% of the \$810,000 capital grant (\$8,100) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.

3. New York Beef Farmers Cooperative, Inc., will guarantee the grant repayment obligation of its subsidiary, the Growing Upstate Food Hub, LLC, in the event of a default, as defined in these materials or the Grant Disbursement Agreement.
4. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Grantee's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
5.
  - a) EDPF Grant – X998: Up to \$43,600 will be disbursed to Grantee upon, documentation of planning and design study project costs which include site evaluation, architectural concept drawing, legal services, business structure recommendation, overall project summary recommendations and salaries, totaling \$48,600 and upon completion of the project substantially as described in these materials, assuming that all project approvals have been completed and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after December 20, 2012, to be considered eligible project costs.
  - b) RCCF Grant – Y277: Up to \$810,000 will be disbursed to Grantee upon documentation of acquisition, planning, design, engineering, construction and machinery and equipment project costs totaling \$2 million and upon completion of the project substantially as described in these materials as evidenced by a Certificate of Occupancy, assuming that all project approvals have been completed and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after December 19, 2012, to be considered eligible project costs.
6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$853,600, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

IV. Statutory Basis – Regional Council Capital Fund and Economic Development Purposes Fund 12-13

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

V. Environmental Review

The Village of Canastota Planning Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be an Unlisted Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on April 15, 2009. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD’s Non-discrimination and Contractor and Supplier Diversity policy will apply. The Grantee shall use their Good Faith Efforts to achieve an overall Minority and Women Business Enterprise (“MWBE”) Participation Goal of 20% related to the total value of ESD’s funding. Grantee shall use Good Faith Efforts to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and to include minorities and women in any job opportunities created by the projects.

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

April 26, 2013

Regional Council Award – Priority Project – Canastota (Central New York Region – Madison County) – Growing Upstate Food Hub Capital and Working Capital – Regional Council Capital Fund and Economic Development Purposes Fund 12-13 (Capital and Working Capital Grant) – Findings and Determinations Pursuant to Sections 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 Growing Upstate Food Hub Capital and Working Capital -- Regional Council Capital Fund and Economic Development Purposes Fund 12-13 Project (the "Project"), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the "Plan") for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Growing Upstate Food Hub, LLC a grant for a total amount not to exceed Forty-three Thousand Six Hundred Dollars (\$43,600) from the Economic Development Purposes Fund 12-13 and a grant for a total amount not to exceed Eight Hundred Ten Thousand Dollars (\$810,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

\* \* \*

April 26, 2013

Regional Council Award – Priority Project – Canastota (Central New York Region – Madison County) – Growing Upstate Food Hub Capital and Working Capital – Regional Council Capital Fund and Economic Development Purposes Fund 12-13 (Capital and Working Capital Grant) – Determination of No Significant Effect on the Environment

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

\* \* \*

Village of Canastota – RESTORE NY III – Canastota – RESTORE III – Growing Upstate Food Hub  
Madison County

«Project\_Name»  
«Project\_Town»  
«Project\_County» County

## RESTORE NY COMMUNITIES PROJECT LOCATION

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Regional Council Award – Priority Project – Niagara Falls (Western New York Region – Niagara County) – Niagara County Community College Culinary Institute Capital – Regional Council Capital Fund (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

General Project Plan

I. Project Summary

Grantee: Niagara County Community College (the “College” or “NCCC”)

ESD\* Investment: A grant of up to \$2,000,000 to be used for reimbursement for a portion of construction costs.

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

Project Locations: 28 Old Falls Street, Niagara Falls, Niagara County \*\*  
3111 Saunders Settlement Road, Sanborn, Niagara County

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

Proposed Project: Construction of a Small Business Development Center (“SBDC”), business incubator, and test kitchen as part of development of the Niagara Falls Culinary Institute (the “Culinary Institute”).

Project Type: Business expansion involving job creation.

Regional Council: The project is listed in the Western New York Regional Plan as a priority project that will create jobs, and promote entrepreneurs, higher education, community revitalization and smart growth. The Incentive Proposal was accepted in May 2012.

Employment: Initial employment at time of ESD Incentive Offer: 320\*  
 Current employment level: 365\*\*  
 Minimum employment on January 1, 2014: 350 \*\*\*  
 \* Includes 297 NCCC employees and 23 NCCC Association employees.  
 \*\* Includes 306 NCCC employees and 59 NCCC Association employees.  
 \*\*\* May include NCCC employees and NCCC Association employees.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Architecture & Specialty Design	
Consulting	\$ 1,474,735
Construction Management	1,035,000
Other Soft Costs	336,327
General Construction	19,097,981
Equipment and Furniture	<u>4,155,957</u>
 Total Project Costs	 <u>\$26,100,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD Grant	\$2,000,000	7.66%
ESD-Grant (via USA Niagara Corporation)	3,483,274	13.35%
City of Niagara Falls-Grant	2,500,000	9.58%
Niagara County-Grant	1,500,000	5.75%
DASNY-Grants	13,325,000	51.05%
NYSERDA-Grant	269,731	1.03%
NYS Parks-Grant	1,500	0.01%
U.S. Department of Education-Grant	100,000	0.38%
Company Equity ****	<u>2,920,495</u>	<u>11.19%</u>
 Total Project Financing	 <u>\$26,100,000</u>	 <u>100.00%</u>

\*\*\*\*Fund raising, corporate sponsorship, and philanthropic donations

III. Project Description

A. Company

**Industry:** NCCC is a public higher education institution with its main campus in Sanborn, NY, near the center of Niagara County. Its curricula are registered with the State University of New York (“SUNY”).

**Company History:** The curricula include associates degree, certificate, and community education programs in Culinary Arts, Tourism/Event Management, and Hospitality Management. In 2004-05, NCCC officials began to examine the feasibility of expanding facilities for these programs. Realizing the opportunities that advancing these programs would have on the region’s tourism and hospitality industry, NCCC officials developed a concept for a stand-alone Culinary Institute to be located near Niagara County’s major tourism center. NCCC identified downtown Niagara Falls, and specifically, a site created through the adaptive reuse of an approximately 90,000 square-foot portion of the former Rainbow Centre Mall, as the location for the Culinary Institute. Factors contributing to this decision include situating the Culinary Institute in a globally-recognized destination in the midst of its downtown tourist district, maximizing student exposure to “real world” experiences at the City’s various hotels, attractions, and food/beverage establishments, and associating the Culinary Institute with the Niagara County’s assets such as food, agricultural resources, and wine would facilitate it as being a destination in itself and help in recruiting students.

**Ownership:** The property that comprises the Culinary Institute was donated to the NCCC Foundation and subsequently transferred to Niagara County, which now also owns all improvements and facilities associated with the Institute. The operations of NCCC are governed by a 10-member Board of Trustees and are managed by the NCCC President and administrative staff.

**Size:** NCCC has only one facility located in New York State. In Fall 2012, NCCC had 5,153 students enrolled, and 368 students enrolled in the Niagara Falls Culinary Institute program.

**Market:** NCCC’s Culinary Institute attracts students who have an interest in culinary arts, hospitality and tourism, and event management.

**ESD Involvement:** As a result of the Governor’s Regional Economic Development Council Initiative, NCCC was awarded \$2,000,000 through the Consolidated Funding Application (“CFA”) to fund a priority project and establish the SBDC and a business incubator within the Culinary Institute to assist both students in NCCC culinary programs and members of the community with building and improving their businesses.

**Past ESD Support:** In November 2010, ESD approved a \$9,000,000 Upstate Regional Blueprint Fund (“Blueprint”) grant to USA Niagara Development Corporation (“USAN”), ESD’s subsidiary focusing on revitalizing downtown Niagara Falls,

to redevelop the former Rainbow Centre Mall. USAN subsequently provided the funds to two beneficiaries: NCCC and the City of Niagara. NCCC utilized \$3,483,274 to develop and fit-out the space for the Culinary Institute. The City of Niagara utilized \$5,516,726 to demolish the interior, remediate hazardous material, replace the building’s roof, and rehabilitate an attached City-owned parking ramp. The work is substantially completed and all funds have been disbursed. The grant is summarized in the chart below.

Program	Project #	Amount	Date Start  (ESD Directors’ Approval date)	Date End  (Project Completion: Contract Expiration or Job Requirement)	Purpose
Upstate Regional Blueprint Fund	X272	\$9,000,000  (NCCC received \$3,483,274 of the grant to develop space for the Culinary Institute.)	November 2010	December 2014	Capital Grant  (The City of Niagara received \$5,516,726 of the grant to renovate the former Rainbow Centre Mall space.)

**B. The Project**

Completion: May 2013

Activity: The \$26.1 million project involves NCCC developing and fitting out 90,000 square feet of space through adaptive reuse of the former Rainbow Centre Mall into the Culinary Institute. The Culinary Institute, when it reaches full enrollment, will accommodate 1,000 students and associated faculty. The Culinary Institute will include eight teaching kitchens/classrooms; three student-staffed and Culinary Institute-managed restaurants and a wine boutique/tasting lab; an adult learning center; a culinary theatre/lecture hall; a culinary-themed Barnes and Noble® College Bookstore; exhibition space; 650 square-foot retail boutique (the “Boutique”) selling incubator and locally-made products; and an 1,800 square-foot Business Resource Center, which will include a newly-established SBDC. The Business Resource Center, operated by NCCC, will provide key services to culinary entrepreneurs including office incubator space, access to office equipment, an approximate 1,900 square-foot test kitchen, and access to a commercial kitchen which can be rented hourly. NCCC will select occupants of the incubator space through a comprehensive application process to identify what entities are most likely to succeed in this atmosphere.

The SBDC will provide business counseling, technical assistance, links to strategic partners, networking, marketing and comprehensive business

training assistance to culinary entrepreneurs occupying the adjacent incubator space, as well as local small businesses.

Construction of the Culinary Institute was substantially complete in 3<sup>rd</sup> quarter 2012 allowing for the enrollment of 368 students in the Fall 2012 semester. The SBDC and Resource Center were substantially completed in January 2013; the Boutique was completed in March 2013.

Results:

The Project has transformed a vacant structure in the heart of downtown Niagara Falls reviving a full city block along Old Falls Street, expanded hospitality and tourism educational programs in the City and region, and increase enrollment in educational programs. Additionally, the project will nurture new culinary entrepreneurs by providing low-rent incubator space, access to office equipment, business counseling, technical assistance, links to strategic partners, networking, marketing and comprehensive business training. The Boutique, which is scheduled to be open to the public by June 2013, will showcase locally-made products to approximately 8.3 million annual visitors. NCCC and the SBDC will work closely to develop and promote economic growth and entrepreneurship in the urban core of Niagara Falls and Western New York.

Economic Growth  
Investment:

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

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$1,901,899;
- Fiscal cost to NYS government is estimated at \$18,809,774;
- Project cost to NYS government per direct job is \$844,028;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$652,247;
- Ratio of project fiscal benefits to costs to NYS government is 0.10:1;
- Fiscal benefits to all governments (state and local) are estimated at \$3,248,449;
- Fiscal cost to all governments is \$22,809,774;
- All government cost per direct job is \$1,023,516;

- All government cost per total job is \$790,951;
- The fiscal benefit to cost ratio for all governments is 0.14:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$15,819,021, or \$548,540 per job (direct and indirect);
- The economic benefit to cost ratio is 0.69:1;
- Project construction cost is \$20,909,043, which is expected to generate 201 direct job years and 139 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.29 indirect job is anticipated in the state's economy;
- The payback period for NYS costs is greater than seven years.

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

Grantee Contact: Dr. James P. Klyczek, President  
 3111 Saunders Settlement Road  
 Sanborn, NY 14132-9487  
 Phone: (716) 614-5932 Fax: (716) 614-6835

ESD Project No.: X747

Project Team:	Origination	Holly Ortman
	Project Management	Jean Williams
	Contractor & Supplier Diversity	Vikas Gera
	Finance	Jonevan Hornsby
	Design & Construction	Dennis Conroy
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the College shall pay a commitment fee of 1% of the \$2,000,000 capital grant (\$20,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The College will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The College will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the College's acceptance of ESD's offer. Equity is defined as cash injected into the project by the College or by investors, and should be auditable through College financial statements or College accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.

4. Prior to disbursement, the College 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 Locations 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 Locations for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
  
5. Up to \$2,000,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$1,000,000) upon completion of the project substantially as described in these materials, including a Certificate of Occupancy verifying project completion, submission of documentation of project expenditures of \$19 million; and documentation of at least 328 Full-time Permanent Employees at the Project Locations (Employment Increment of 8), assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 25% of the grant (\$500,000) will be disbursed upon submission of documentation of additional project expenditures of \$2 million (aggregate total of \$21 million), and documentation of the employment of at least 340 Full-time Permanent Employees at the Project Locations (Employment Increment of 12), provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$500,000) will be disbursed upon submission of documentation of additional project expenditures of \$4 million (aggregate total of \$25 million), and documentation of the employment of at least 350 Full-time Permanent Employees at the Project Locations (Employment Increment of 10), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenditures must be incurred on or after May 2, 2012, to be considered eligible project costs. Expenditures incurred prior to December 16, 2011, the date of ESD's award letter, can be counted towards total project costs but cannot be reimbursed by grant funds. All disbursements must be requested by April 1, 2015.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$2,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

7. The Grantee will report to ESD annually for five years, beginning in August 2013, on the following performance measures:
- a. Number of graduates of the NCCC Hospitality and Tourism Programs and number of recipients of professional certificates within the Culinary Program;
  - b. Demographic information on students enrolled in the Culinary Program including gender, race, ethnicity and age;
  - c. Percentage of students in the Culinary Program who come from the five-county Western New York Region (Niagara, Erie, Chautauqua, Cattaraugus, and Allegany);
  - d. Number of businesses consulting with the SBDC's location at the Culinary Institute;
  - e. Demographics of those consulting with the SBDC, including gender, race, ethnicity, and age;
  - f. Number of businesses founded in consultation with SBDC's location at the Culinary Institute along with resulting investment and job creation; and
  - g. Number of businesses/individuals using the test kitchen and business incubator facilities.
8. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- i. 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- ii. 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- iii. 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- iv. 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- v. 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

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=8, and Employment Goals shall equal  $[320 + X = 328]$  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=12, and Employment Goals shall equal  $[320 + X + Y = 340]$  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=10, and Employment Goals shall equal  $[320 + X + Y + Z = 350]$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Z=0.

#### IV. Statutory Basis – Regional Council Capital Fund

The project was authorized in the 2011-12 New York State budget and re-appropriated in the 2012-13 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Design and Construction

Design & Construction ("D&C") staff will review project plans, scope, budget and schedule. D&C will visit the site at its option, review requisitions and recommend payment when its requirements have been met.

#### VI. Environmental Review

Pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law and its implementing regulations (6 NYCRR Part 617), and in connection with the approval of funding for the Niagara Falls Culinary Institute project, the Directors made a Determination of No Significant Effect on the Environment at their meeting of November 18, 2010. This determination addressed all aspects of the proposed project. Therefore, no further environmental review is required in connection with this action.

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

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

#### 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

April 26, 2013

Regional Council Award – Priority Project – Niagara Falls (Western New York Region – Niagara County) – Niagara County Community College Culinary Institute Capital – Regional Council Capital Fund (Capital Grant) – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Niagara County Community College Culinary Institute Capital – Regional Council Capital Fund (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Niagara County Community College a grant for a total amount not to exceed Two Million Dollars (\$2,000,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

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

\* \* \*

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

### Niagara County Community College Culinary Institute – Economic Growth Investment

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

<b>Initial Jobs:</b>	320	<b>Construction Job Years (Direct):</b>	201
<b>New Jobs:</b>	30 over two years	<b>Construction Job Years (Indirect):</b>	139

Evaluation Statistics	Project Results NYS Gov't.	NYS Gov't. Benchmarks <sup>2</sup>	Project Results State & Local Government	State & Local Government Benchmarks
<b>Fiscal Costs<sup>3</sup></b>	\$18,809,774	\$794,250	\$22,809,774	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$1,901,899	\$2,085,600	\$3,248,449	\$4,271,980
<b>Fiscal Cost /Direct Job</b>	\$844,028	\$3,000	\$1,023,516	\$4,110
<b>Fiscal Cost/Total Jobs</b>	\$652,247	\$1,424	\$790,951	\$1,964
<b>Fiscal B/C Ratio</b>	0.10	3.00	0.14	10.60
	<b>Project Results</b>	<b>Benchmarks</b>		
<b>Economic Benefits<sup>5</sup></b>	\$15,819,021	\$119,468,000		
<b>Econ. Benefits/Total Jobs</b>	\$548,540	\$147,600		
<b>Economic B/C Ratio</b>	0.69	20.00		

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

<sup>2</sup> The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects. Business Investment project benchmarks are 7.00 (Fiscal) and 50.00 (Economic). Infrastructure Investment (or Economic Growth Investment) project benchmarks are 3.00 (Fiscal) and 20.00 (Economic).

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

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

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

## General Project Plan

- Grantee:** Val Tech Holdings, Inc. (“Val Tech” or the “Company”)
- ESD Investment:** A grant of up to \$100,000 to be used for a portion of the cost of the purchase of machinery and equipment.
- Project Locations:** 1667 Emerson Street, Rochester, Monroe County\*;  
460 Buffalo Road, Rochester, Monroe County; and  
85 Pixley Industrial Parkway, Gates, Monroe County
- \*Project activity site; others are job retention sites
- Proposed Project:** Construction of a parking lot and installation of new machinery and equipment as part of a new automotive component manufacturing program.
- Project Type:** Business expansion involving job retention and creation
- Regional Council:** The Finger Lakes Regional Economic Development Council has endorsed the project in its 2012 Plan. The Incentive Offer was accepted in January 2013. The project is consistent with the Regional Plan in that it creates manufacturing and supporting jobs in the City of Rochester through economic investment.
- Employment:**
- |  |       |
|--|-------|
| Initial employment at time of ESD Incentive Offer: | 189   |
| Current employment level:                          | 218   |
| Minimum employment on January 1, 2015:             | 207** |
- \*\*New employees cannot be transferred from other NYS locations

### **Background:**

Industry – Val Tech Holdings, Inc. designs and manufactures a wide array of plastic injection molds and uses those molds to produce injection molded parts. Its products are used in surgical instruments, operating room equipment and implantable devices for medical original equipment manufacturers (“OEMs”); in products for OEM and aftermarket automotive customers; and for alternative energy uses, such as solar, wind, geothermal, and fuel cells. The Company also provides parts and assemblies for military applications, commercial aircraft interiors and for consumer goods, such as appliances, bicycles, boats, housewares, and sporting goods.

Company History - The Company was founded in 2003 and is based in Rochester, where it owns a 77,000-square-foot office and manufacturing facility at the project activity location, equipped with Class 100,000 cleanrooms, meaning that the level of particulate

in the room is kept to less than 100,000 particles per cubic meter. The Company is ISO 13485:2003, ISO 9001:2008 and ISO/TS 16949:2009 certified, indicating that it has met industry quality standards for general operations and as an automotive and medical supplier.

Ownership - The Company is privately owned.

Size – In addition to the project activity location, the Company operates an 18,000-square-foot injection mold manufacturing plant in the adjacent Town of Gates and a 25,000-square-foot warehouse facility in Rochester. Both of these facilities are leased.

Market – Val Tech serves the medical, automotive, alternative energy, military, aerospace, and consumer goods markets. Major customers include automotive OEMs and Tier 1 suppliers. Medical customers include Fortune 500 medical suppliers.

ESD Involvement - The Company needed to increase its capacity in order to accept new business to manufacture HVAC components for an automotive industry customer. In order to lower costs and make the project feasible in NYS, ESD offered a grant of \$100,000, which the Company accepted on January 28, 2013. Without ESD's assistance, the feasibility of Val Tech's accepting the new business was at risk.

Competition - The Company considered subcontracting this project to a business partner based in Indiana, which Val Tech has previously used for similar products.

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

## **The Project:**

Completion – April 2013

Activity – The Company expanded its parking lot by 8,500 square feet and purchased one 440-ton shot injection molding machine, manufactured in Germany. The project began in November 2012 and will be completed in April 2013.

Results - The Company will retain 189 existing jobs, including 20 jobs that were at risk of being lost. Additionally, the Company has committed to creating 18 new jobs. Val Tech has already exceeded that number, having hired 29 new employees.

Evaluated over a seven-year period, project fiscal benefits to New York State government are expected to be \$1,358,359, which exceed the cost to the State.

Grantee Contact - Martijn Van Manen, Chief Financial Officer  
1667 Emerson Street

Rochester, NY 14606  
Phone: (585) 647-2300 X284 Fax: (585) 647-6123

<u>Project Team</u> -	Origination	Kevin Hurley
	Project Management	Edward Muszynski
	Contractor & Supplier Diversity	Vikas Gera
	Environmental	Soo Kang

**Financial Terms and Conditions:**

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$100,000 capital grant (\$1,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute at least 10% of the total project cost in the form of equity contributed after the Company's written 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 Locations 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 Locations 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 \$100,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$50,000) upon documentation of construction and machinery and equipment project costs totaling \$553,000 substantially as described in these materials, and documentation of the employment of at least 189 Full-time Permanent Employees at the Project Locations, assuming that all project approvals have been completed and funds are available;

- b) a Second Disbursement of an amount equal to 25% of the grant (\$25,000) will be disbursed upon documentation of the employment of at least 198 Full-time Permanent Employees at the Project Locations (Employment Increment of 9), provided Grantee is otherwise in compliance with program requirements;
- c) a Third Disbursement of an amount equal to 25% of the grant (\$25,000) will be disbursed upon documentation of the employment of at least 207 Full-time Permanent Employees at the Project Locations (Employment Increment of 9), 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 August 31, 2012, when the Company had to initiate an advance order for custom-made equipment, to be considered eligible project costs. All disbursements must be requested by April 1, 2015.

- 6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$100,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
- 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.

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section 5 above (i.e. X=9, and Employment Goals shall equal [189 + X = 198] 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 5 above (i.e. Y=9, and Employment Goals shall equal [189 + X + Y =207] 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.

**Environmental Review:**

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

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

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

**Statutory Basis – Regional Council Capital Fund:**

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

April 26, 2013

Regional Council Award – Rochester (Finger Lakes – Monroe County) – Val Tech Holdings Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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

\* \* \*

«Project\_Name»  
«Project\_Town»  
«Project\_County» County

**REGIONAL COUNCIL CAPITAL FUND PROJECT LOCATION**

**A. Val Tech Holdings Capital**  
Monroe County

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Regional Council Award Projects Consent Calendar

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

Attached is the summary for one Regional Council Award project requesting ESD assistance of \$100,000 and under in the following categories:

Regional Council Capital Fund

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
A	Val Tech Holdings Capital	Y097	Val Tech Holdings, Inc.	100,000
			<b>TOTAL</b>	<b>\$100,000</b>

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

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

Environmental Review

Unless otherwise noted on a project summary, ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

Non-discrimination and Contractor and Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses in the performance of ESD contracts. Accordingly, ESD's Nondiscrimination and Contractor and Supplier Diversity policies will apply to the project. Unless otherwise specified in the project summary, grantees shall use their Good Faith Efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 23% related to the total value of ESD's funding. This shall include a Minority Business Enterprise ("MBE") Participation goal of 13% and a Women Business Enterprise ("WBE") Participation goal of 10%. Grantees shall use Good Faith Efforts to solicit and utilize MWBEs for any contractual opportunities generated in connection with the project and to include minorities and women in any job opportunities created by the project.

#### Reallocation of Funds

ESD may reallocate each project's funds to another form of assistance, at an amount no greater than the amount approved, for the same project if ESD determines that the reallocation of the assistance would better serve the needs of the recipient 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.

#### ESD Employment Enforcement Policy

Unless otherwise noted on a project summary, the ESD Employment Enforcement Policy will not apply because these projects do not directly create jobs.

#### 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.

#### Statutory Basis – Regional Council Capital Fund

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

#### Additional Submissions to Directors

New York State Map  
Resolutions  
Project Summary

April 26, 2013

Regional Council Capital Fund – Findings and Determinations Pursuant to Section 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Regional Council Capital Fund Project identified below (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

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

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

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

Regional Council Capital Fund

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up</b>
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				<b>to</b>
A	Val Tech Holdings Capital	Y097	Val Tech Holdings, Inc.	100,000
			<b>TOTAL</b>	<b>\$100,000</b>

and be it further

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

\* \* \*

**FOR CONSIDERATION**

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Lysander (Onondaga County) – Radisson Community

REQUEST FOR: Authorization to Sell Land to Agrana Fruit U.S. Inc.; Authorization to Hold Public Hearing Thereon; and Authorization to Take Related Actions

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**I. Project Summary**

Purchaser: Agrana Fruit U.S. Inc.  
6850 Southpointe Parkway  
Brecksville, Ohio 44141

Land: An approximately 28.6 acre parcel of vacant land, fronting on Sixty Road within Radisson’s industrial sector, currently owned by ESD (the “**Property**”), being a portion of Town of Lysander Tax Parcel 079.-01-10.1. See Map at Attachment A.

Purchase Price: \$472,000

Terms: 10% refundable deposit within three business days of contract execution; balance due at closing.

ESD Obligation: Sale of Property. From sale proceeds, ESD will conduct demolition on adjacent ESD-owned property. Such demolition is not being authorized herein, but will be subject to separate approval process as appropriate.

ESD Funding: ESD will reimburse Agrana for the purchase price via Capital Grant. Agrana also may qualify for Excelsior Jobs Program benefits of up to \$2,000,000.

Appraisal: Fair market “as is” value = \$472,000 as of March 2013  
Wicker Appraisal Associates Inc., Syracuse, New York

Construction Contemplated: Commercial construction

Brokerage Fee: 10% of purchase price, to be paid from sale proceeds

## **II. Background**

The Radisson Community (“**Radisson**”) is located on approximately 3,000 acres in the Town of Lysander, County of Onondaga, approximately 12 miles northwest of Syracuse. Approximately 350 acres of industrial land in Radisson remains unsold, and therefore remains owned by ESD.

The proposed Purchaser of the Property is Agrana Fruit U.S. Inc. (“**Purchaser**”). Purchaser is a worldwide leader in the manufacture of stabilized fruit preparations for the fresh chilled and frozen dessert dairy market. Purchaser plans to construct an approximately 107,000 square foot manufacturing facility on the Property, which facility would employ approximately 120 new workers in five years, and to invest over \$53,000,000 in the process. Purchaser, which is headquartered in Brecksville, Ohio, has existing manufacturing facilities in Texas, Tennessee, and Ohio. Purchaser chose New York State for its new manufacturing facility in the North East after considering adjacent states.

## **III. Proposal**

Purchaser seeks to purchase the Property from ESD. The proposed sale price is \$472,000, the fair market “as is” value as determined by independent appraisal performed on behalf of ESD.

## **IV. Public Authorities Accountability Act Compliance**

In accordance with the Public Authorities Accountability Act, as most recently amended (“PAAA”), an appraisal of the Property has been prepared. As set forth above, Wicker Appraisal Associates, an independent appraiser based in Syracuse, New York, appraised the fair market “as is” value at \$472,000 as of March 21, 2013. Such appraisal is retained in ESD records. Also in accordance with the PAAA, ESD has publicly advertised for bids for the Radisson industrial properties. In Fall 2010, ESD issued a public Request for Proposals soliciting offers to purchase the Radisson industrial properties, including the Property. ESD received no response to the Request. Further, both ESD’s main web site and ESD’s Radisson web site indicate publicly that Radisson industrial properties, inclusive of the Property, are for sale, and no offers to purchase have been received.

## **V. Commission Due Broker**

Agrana’s site selection criteria were disseminated to myriad independent local brokers in upstate New York. JF Real Estate of Syracuse New York (Ryan Goodfellow; “Broker”) matched Agrana to the Property. The standard brokerage commission in upstate New York in connection with the sale of vacant land is 10%. Accordingly, the commission due to Broker is 10% of the Purchase Price, or \$47,200.00, payable from ESD’s Purchase Price receipts. Pursuant to ESD’s Revised Procurement Guidelines issued January 2013: advertising in the Contract Reporter is not required for service contracts under \$50,000; formal competitive solicitation is not required; but three quotes should be obtained whenever practicable. In the instant circumstances, the brokerage opportunity was widely publicized to many independent local brokers across upstate NYS, who recommended many different properties. As the end result of such competitive solicitation and process, it is recommended that ESD arrange for payment of the \$47,200 brokerage commission to Broker for Broker’s successful services. For

administrative convenience, it is proposed that Agrana pay Broker directly from sale proceeds otherwise due ESD.

**VI. Environmental Review**

The proposed sale and intended use of the Property is consistent with Radisson’s General Project Plan, as amended. This site and its use have been subject to previous environmental reviews and approvals by the Directors. No further environmental review is required in connection with the requested authorization.

**VII. Affirmation Action**

Purchaser will agree to the following policy, which will appear in the land purchase contract and deed: “Purchaser, and every successor in interest to the Property, shall not discriminate upon the basis of race, creed, color, sex or national origin, in the sale, lease or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon or any part thereof. This covenant shall run with the land in perpetuity.”

**VIII. Requested Actions**

The Directors are requested to authorize ESD to enter into a contract of sale with Purchaser pursuant to which ESD would sell the Property to Purchaser for a purchase price of \$472,000 upon the terms and conditions set forth in these materials, and to authorize a public hearing thereon.

**IX. Recommendation**

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

**X. Attachments**

Resolutions

Map

April 26, 2013

Lysander (Onondaga County) – Radisson Community – Authorization to Sell Land to Agrana Fruit U.S. Inc.; Authorization to Hold Public Hearing Thereon; and Authorization to Take Related Action

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RESOLVED, that based on 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 (the “Materials”), the Corporation is hereby authorized to sell and convey to Agrana Fruit U.S. Inc. (“Purchaser”), or any corporation or other business entity affiliated or controlled by Purchaser and satisfactory to the President and Chief Executive Officer of the Corporation or his designee(s), for business development purposes, an approximately 28.6 acre parcel of vacant land owned by the Corporation and located within the Radisson Community as shown on the map presented to this meeting (the “Property”), substantially on the terms and conditions set forth in the Materials; and be it further

RESOLVED, that the Corporation hereby finds, pursuant to Section 6(1) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that such sale as proposed and approved herein is in conformity with a plan or undertaking of the clearance, replanning, reconstruction or rehabilitation of substandard and insanitary areas within the Town of Lysander and County of Onondaga; and be it further

RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to take all such actions as are necessary or appropriate to schedule and hold public hearing as required by the UDC Act or other applicable law (which hearings may be held simultaneously); 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, and affix the seal of the Corporation to, all such agreements, contracts, deeds, certificates and instruments and to take any such action as may be considered to be necessary or proper to effectuate the sale of the Property.

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FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: NEW YORK (NEW YORK COUNTY) – Victoria Theater Redevelopment Land Use Improvement and Civic Project

REQUEST FOR: Authorization to Accept and Approve the Final Environmental Impact Statement (“FEIS”); Authorization to Publish, File and Circulate the FEIS; and Authorization to take Related Actions

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BACKGROUND

On July 18, 2012, the ESD\* Directors: (i) authorized acceptance of the Draft Environmental Impact Statement (“DEIS”) for the Victoria Theater Redevelopment Land Use Improvement and Civic Project (the “Project”) as satisfactory with respect to its scope, content and adequacy for purposes of commencing public review under the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation; and (ii) authorized the Corporation to hold a duly noticed public hearing on the DEIS under SEQRA. Pursuant to these authorizations, the DEIS was appropriately filed and publicly distributed on July 19, 2013, the public hearing was held on December 10, 2012 (together with additional statutory hearings on the Project under the Urban Development Corporation Act (the “UDC Act”), also as authorized by the Directors) and the period within which the Corporation accepted written comments on the DEIS remained open until January 10, 2013. ESD and Harlem Community Development Corporation staff and environmental and legal consultants have worked diligently to respond to all substantive comments received during this public process.

The EIS has now been finalized in conformity with SEQRA and its implementing regulations. The Final Environmental Impact Statement (“FEIS”) describes the Project and its goals, assesses probable environmental impacts of the Project (including land-use, historic, traffic, construction and other conditions), identifies feasible measures to mitigate adverse environmental impacts from the Project, considers the relative environmental merits of alternatives, and responds to oral and written comments submitted on the DEIS by the public and government agencies and officials. A copy of the FEIS is enclosed herewith.

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

SEQRA requires ESD, in its capacity as lead agency for the Project's environmental review, to file and publicly distribute the FEIS in the same manner as the DEIS and to afford members of the public an opportunity of not less than 10 days duration to consider the document before issuing a written findings statement and making a determination as to whether to approve the Project. Before the FEIS is issued, however, ESD must make a determination that it is complete. It is important to emphasize that, in approving the FEIS, the Directors are not being asked at this time to approve the proposed Project. The Directors are only being asked to determine that the FEIS is complete, adequately assesses the environmental impacts of the Project and otherwise meets the requirements of SEQRA, and is in proper form for distribution to the public.

#### FUTURE ACTIVITIES

Following acceptance of the FEIS and providing the requisite time for the public, as well as involved and interested agencies to consider the document, ESD will then have the ability and authority to make the findings required under SEQRA and the UDC Act and to act on the proposed Project.

#### REQUESTED ACTIONS

The Directors are requested: (i) to accept and approve the Final Environmental Impact Statement as complete with respect to scope, content and adequacy; and (ii) to authorize its publication, filing and circulation in accordance with applicable law.

#### RECOMMENDATION

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

#### ATTACHMENTS

Resolutions  
Final Environmental Impact Statement

April 26, 2013

NEW YORK (NEW YORK COUNTY) – Victoria Theater Redevelopment Land Use Improvement and Civic Project – Authorization to Accept and Approve the Final Environmental Impact Statement (“FEIS”); Authorization to Publish, File and Circulate the FEIS; and to take Related Actions

RESOLVED, that, in connection with the Victoria Theater Land Use Improvement Project (the “Project”) and on the basis of the materials submitted prior to and during this meeting, the Corporation hereby determines that the Final Environmental Impact Statement (“FEIS”) is complete with respect to scope, content and adequacy, adequately assesses the environmental impacts of the Project, and otherwise meets the requirements of the New

York State Environmental Quality Review Act and is in proper form for publication, filing and circulation to the public; and be it further

RESOLVED, that the President and Chief Executive Officer or his designee, and each of the same, hereby is authorized to publish, file and circulate the FEIS and to take any and all such other action as may be deemed necessary or appropriate in connection with the distribution of the FEIS and the receipt of comments thereon, including, without limitation, the publication of a notice relating to such issuance and comment period and, if such Officer or designee so determines, the making of a report or reports to the Directors on comments received; and be it further

RESOLVED, that the Chairman 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 all documents and to take all such further actions as may be considered necessary or appropriate to effectuate the foregoing resolutions; and be it further

RESOLVED, that any and all acts performed by any officers of the Corporation prior to the date of these resolutions in furtherance of these resolutions, are hereby ratified, adopted, confirmed and approved in all respects.

\* \* \*

FOR CONSIDERATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: New York City (New York County) – Office Space at 633 Third Avenue, New York, NY

REQUEST: Approval of Essential Terms of a Lease; Authorization to Negotiate Final Terms of and Enter into a Lease; Authorization to Take Related Actions

**I. BACKGROUND**

The New York State Urban Development Corporation, d/b/a Empire State Development (the “ESD” or the “Corporation”) leases Floors 33-37 and concourse level storage space, SC4 at 633 Third Avenue, New York, NY. Each floor and the concourse level space (together the “Premises”) is a separate condominium unit in the “633 Third Condominium”. 633 Third TEI Equities LLC (“Landlord”) owns the Premises.

The current lease was executed November 9, 2006, modified July 30, 2007 and will expire June 30, 2013. Rent is a fixed annual amount with fixed annual increases. There are no specific escalations for operating expenses or real estate taxes. The current annual rent is \$8,998,734 or \$86.52 per square foot. The Corporation pays directly for repairs and maintenance of fixtures and equipment, including plumbing, sprinklers, heating, ventilation and air conditioning equipment located within the Premises and for electrical consumption as well as janitorial and pest control services.

The New York State Office of General Services (“OGS”) on behalf of the Corporation conducted a search of office space in the Grand Central Station area, including the Premises. The decision was made to pursue maintaining a lease in the space the Corporation currently occupies. Utilizing the information obtained during that search and its knowledge of the office leasing market, OGS negotiated with the Landlord, on the Corporation’s behalf, the essential terms of a draft renewal lease. ESD staff is currently negotiating directly with the Landlord to adapt those terms for ESD’s specific circumstances, which include finalization of the scope and specifications for tenant improvements to be performed by the Landlord.

The financial benefit to ESD of the proposed base rent in the initial year of the renewal lease would be \$2,498,249 or \$24.02 per square foot.

## II. FINANCIAL TERMS

- Proposed Rent: Base Rent + Escalations for Real Estate Taxes and Operating Expenses

- Rent Schedule

<u>Term Dates</u>	<u>RSF</u>	<u>Annual Rate</u>	<u>Monthly Rate</u>
7/1/13 - 6/30/16	\$62.50	\$6,500,125.00	\$541,677.00
7/1/16 - 6/30/18	\$64.50	\$6,708,129.00	\$559,010.00
7/1/18 - 6/30/20	\$67.50	\$7,020,135.00	\$585,011.00
7/1/20 - 6/30/23	\$68.50	\$7,124,137.00	\$593,678.00

- Operating Base Year: First year of lease term
  - Tax Base Year: 2013-2014
- Source of Funding: Corporate Cash

## III. ESSENTIAL TERMS OF LEASE

- Ten (10) year lease with option to renew for an additional five (5) years
- Operating Expenses: Landlord Responsibility (as part of Operating Expenses):
  - Repair and maintenance of electrical equipment, including replacement of lamps and ballasts
  - Janitorial services
  - HVAC maintenance and repair
  - Pest Control (exception: bed bug control protocol, currently in negotiation)
  - Increases in condominium common charges
  - Condominium special assessments that are non-capital in nature
- Operating Escalations: ESD's annual rent will increase in any year that total Operating Expense(s) in a lease year increase above the Base Year Operating Expense, to the extent of that increase. In Base Rent escalation years, if the Operating Expense increases by more than the amount of the Base Rent escalation, the Rent increase will be equal to the greater of the two.
- Real Estate Tax Escalations: ESD will pay any increase in real estate taxes assessed against the Units above the real estate taxes due and payable in 2013-2014.
- Tenants Work Letter: Landlord to provide an allowance of \$2,547,108 for improvements. ESD staff requested that the Landlord provide certain work and equipment as a condition of the renewal lease. The draft includes a proposed

scope for the tenants work that staff is reviewing and finalizing. Any amounts not expended to complete tenant's work will be maintained as a credit for ESD's future improvements.

#### **IV. NON-DISCRIMINATION AND CONTRACTOR AND SUPPLIER DIVERSITY**

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned businesses (MWBES) in the performance of ESD projects. For purposes of this project, however, goals will not be established due to the unavailability of certified MWBES for performance of this Contract.

#### **V. ENVIRONMENTAL REVIEW**

ESD staff has determined that the requested authorization to renew a lease constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with this request.

#### **VI. REQUESTED ACTIONS**

The Directors are requested to: (1) approve the essential terms of a lease for condominium units 33-37 and SC4 located at 633 Third Avenue, New York (the "Premises"); and (2) authorize the Corporation to negotiate the final terms and enter into a lease for the Premise with 633 Third TEI Equities LLC substantially in accordance with the essential terms, as set forth in these Materials; and to take related actions.

#### **VII. RECOMMENDATION**

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

#### **VIII. ATTACHMENTS**

Resolution

April 26, 2013

NEW YORK CITY (NEW YORK COUNTY) – Approval of the Essential Terms of a Lease for Condominium Units 33-37 and SC4 located at 633 Third Avenue, New York, NY; Authorization to Negotiate Final Terms of the Lease; Authorization to Enter Into a Lease for Condominium Units 33-37 and SC4 located at 633 Third Avenue, New York, NY based upon the Essential Terms; Authorization to Take Related Actions

BE IT RESOLVED, that based on the materials presented at this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation approves the essential terms of the lease for condominium units 33-37 and SC4 located at 633 Third Avenue, New York (the “Premises”); and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to negotiate the final terms and enter into a lease for the Premises with 633 Third TEI Equities LLC substantially in accordance with the essential terms, as set forth in the Materials; and be it further

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

\* \* \*

**FOR CONSIDERATION**

April 26, 2013

**TO:** The Directors

**FROM:** Kenneth Adams

**SUBJECT:** “New York is Open for Business”: Amendment to Contract with Full Service Advertising, Marketing, Branding, Media, and Communications Agency for Continuation of Business Marketing Campaign in connection with The State of New York Small Business Storm Recovery Program

**REQUEST FOR:** Authorization to Enter into Agreement with the New York State Housing Trust Fund Corporation (“HTFC”); Authorization to direct monies received from HTFC to other State agencies with Contracts for advertising; Authorization to Enter into an Amendment of Existing Contract with BBDO USA LLC; Authorization to Take Related Actions

**I Contract Amendment Summary**

**Contractor:** BBDO USA LLC (“BBDO”).

**Scope of Services:** To serve as non-exclusive, full-service advertising, marketing, branding, media, and communications agency to promote the “New York State Open for Business” program, with a supplemental focus within such scope to: (i) promote seasonal businesses in areas impacted by Hurricane Sandy and tourism to areas impacted by Hurricane Sandy, and (ii) launch and promote The State of New York Small Business Storm Recovery Program, as further described below.

**Contract Term:** To November 30, 2013, which may be extended for up to two additional years.

**Contract Amount:** The Second Amendment will increase the contract amount from \$100,000,000 to an amount up to \$137,500,000. All other contract terms will remain unmodified.

**Funding Source:** New York State Housing Trust Fund Corporation: an amount up to \$40,500,000 (inclusive of \$37,500,000 for marketing and \$3,000,000 to support certain program activities)

## II Background

### A. ESD-BBDO Contract

Pursuant to November 4, 2011 Director authorization, the New York State Urban Development Corporation d/b/a Empire State Development (“**ESD**”) entered into a contract with BBDO pursuant to which BBDO is serving ESD as a non-exclusive, full-service, advertising, marketing, branding, media, and communications agency in connection with the “Open for Business” program of marketing and promotion designed to market New York State as an ideal place for businesses to invest and create jobs. The initial term of the existing ESD-BBDO contract expires November 30, 2013 (which may be extended for two additional years) and the initial amount of the contract was not to exceed \$50,000,000.

Pursuant to December 20, 2012 Director authorization, ESD entered into an agreement with the Power Authority of the State of New York (“**NYPA**”) pursuant to which NYPA would provide an additional \$50,000,000 for the Open Business program in order to continue this vital marketing program as the initial amount had been spent or committed at that time. NYPA’s additional \$50,000,000 funded a first amendment to the existing ESD-BBDO contract that increased the contract amount from \$50,000,000 up to \$100,000,000.

### B. The State of New York Small Business Storm Recovery Program

Pursuant to the Disaster Relief Appropriations Act, 2013 (Public Law 113-2, approved January 29, 2013), as amended (the “**Act**”), Congress has appropriated \$16,000,000,000 for the CDBG Disaster Relief (“**CDBG-DR**”) program for Hurricane Sandy recovery and relief.

The State of New York is expected to receive an allocation of CDBG-DR funds from the United States Department of Housing and Community Renewal (“**HUD**”) in the amount of \$1,713,960,000 for Hurricane Sandy relief to be administered and distributed by New York State Housing Trust Fund Corporation (“**HTFC**”), an affiliate public benefit corporation within New York State Homes and Community Renewal (“**HCR**”). HTFC has submitted an Action Plan for the State of New York to HUD proposing how to distribute the CDBG-DR funds across three damage categories: housing, economic development, and infrastructure. Within the category of economic development, HTFC will be administering The State of New York Small Business Storm Recovery Program (the “**Recovery Program**”) with guidance from ESD which will provide loans and grants for small businesses adversely affected by Hurricane Sandy funded by the CDBG-DR Funds.

### C. Seasonal Businesses and Tourism Impacted by Hurricane Sandy

Tourism is a significant driver of employment and economic activity in New York State and is the fifth largest employer in the State. In 2011 alone, New York State welcomed 8.3% more visitors than the year before, resulting in \$53.9 billion in direct tourism spending and \$6.9 billion in state and local tax revenue. The tourism economy in the affected counties is \$32.5 billion, with approximately \$1.7 billion generated by Sandy-impacted businesses alone. Businesses in the Superstorm Sandy surge areas within 9 of the 14 impacted counties account for 5.2% for all businesses in those counties, or 37,282. While some impacted regions of New York State have a diverse business community and are better equipped to handle a drop off in sales and foot traffic off season, other regions, especially along the Long Island shorelines and in the Lower Hudson Valley, rely heavily on tourism during the summer months for the vast majority of their revenue. These waterfront communities house nearly 1,100 seasonal tourism and travel businesses, and stand to lose an estimated \$500 million in revenue if they are not ready to reopen in the 2013 summer season.

BBDO has performed satisfactorily in the past and the “Open for Business” campaign has been highly visible. Within the general scope of the BBDO contract, ESD desires to have BBDO focus on the Tourism Marketing Campaign and the Program Marketing Campaign, as this is important for the State’s interests in promoting economic development under these exigent circumstances.

### III The HTFC Agreement

In connection with Open for Business and the Recovery Program and to enhance ESD’s and HTFC’s joint interest to promote a vigorous and growing economy post Hurricane Sandy, ESD will enter into a contractual agreement with HTFC in which an amount up to \$40,500,000 of CDBG-DR funds will be directed to ESD. \$37,500,000 will be used to fund a second amendment to ESD’s contract with BBDO with the following focuses (which fall within the original scope) or, if ESD so chooses, to direct some portion of these monies to other State agencies including DED which have advertising contracts, with marketing scopes for: (i) a marketing campaign to promote seasonal businesses in areas impacted by Hurricane Sandy and tourism to areas impacted by Hurricane Sandy (the “**Tourism Marketing Campaign**”), (ii) a marketing campaign to launch and promote the Recovery Program (the “**Program Marketing Campaign**”), and (iii) related programming. The HTFC Agreement may also include up to \$3,000,000 to support other Recovery Program activities related to the administration of grants, loans, and small business consulting and mentorship.

HTFC will fund the above upon ESD’s written request for each disbursement either in advance or on a reimbursement basis, subject to HUD approval. ESD would use such funds for the above and related expenses.

#### **IV The ESD-BBDO Contract Amendment**

The amount of the existing ESD-BBDO contract could increase, from the current \$100,000,000 to an amount up to \$137,500,000. But for this modification, the existing contract, the terms of which were authorized by the Directors on November 4, 2011, would remain largely unchanged. BBDO's scope of work would be unchanged but with a focus of the Tourism Marketing Campaign and the Program Marketing Campaign (which falls within the original scope). BBDO's fee/commission/compensation arrangement would remain the same.

#### **V Contractor Selection Process**

These services were initially competitively bid via an ESD Request for Proposals to which 12 agencies responded. Responses were reviewed, six agencies were interviewed, and the six finalists provided additional requested documentation and interviews. ESD's selection committee recommended BBDO based on its best value combination of technical score and price.

ESD staff recommends that ESD enter into a second amendment of the existing contract with BBDO because: (i) ESD is satisfied with BBDO's performance under the existing contract; (ii) BBDO retains specific knowledge relevant to creation, production, financing, and dissemination of the Open for Business campaign components; (iii) BBDO generally is part of an industry-leading, world-wide, advertising firm with expertise in marketing and promotion campaigns; and (iv) BBDO agrees to continue the same fee/commission/compensation arrangement as set forth in the existing contract.

Further, the exigency of circumstances resulting from Hurricane Sandy requires that State of New York act quickly to assist seasonal businesses and tourism through the Tourism Marketing Campaign and to quickly launch and market the Recovery Program through the Program Marketing Campaign so that small businesses can be made aware of the Recovery Program and seek the help that they need.

The process of soliciting for a potential new marketing firm, and then familiarizing any such firm with the details and the goals of the intended New York State campaigns, and then waiting while any such firm designed, produced, and placed further advertising and marketing materials, would produce a delay of at least many months and would distract from the focus and momentum of the Tourism Marketing Campaign and the Program Marketing Campaign.

The Second Amendment is subject to review and approval by the Office of the New York State Comptroller.

## **VI Determination of Responsibility**

Pursuant to State Finance Law Section 139-j and 139-k and ESD's policy related thereto, staff has: (a) considered BBDO's ability to continue the requested services; (b) consulted the list of offerers determined to be non-responsive bidders and debarred offerers by the New York State Office of General Services; and (c) conducted the appropriate responsibility analysis based on BBDO's responses to the Office of the State Controller mandated Responsibility Questionnaire, and verified those responses from available resources. Based on the foregoing, staff considers BBDO to be a responsible contractor based on its financial and organizational capacity, its legal authority to do business, the integrity of the firm and its principals, and its past performance on contracts, including the existing ESD-BBDO contract.

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

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this amended contract. BBDO will continue to use its best efforts to achieve a Minority Business Enterprise participation goal of 15% and a Women Business Enterprise participation goal of 5% of the total dollar value of the amended contract.

## **VIII Environmental Review**

The requested actions, to execute a funding agreement and to amend a contract for full-service marketing, constitute Type II actions as defined by the New York State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with these requested actions.

## **IX Requested Actions**

The Directors are being asked to authorize ESD to: (1) enter into the Agreement with HTFC pursuant to the terms described herein; (2) direct monies received from HTFC to other State agencies with contracts for advertising, including but not limited to DED; (3) amend the existing contract with BBDO to increase the amount of the contract from \$100,000,000 up to \$137,500,000; and (4) take related actions.

## **X Recommendation**

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

## **XI Attachments**

Resolutions



April 26, 2013

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Authorization to Enter into Agreement with New York State Housing Trust Fund Corporation (“HTFC”); Authorization to direct monies received from HTFC to other State agencies with Contracts for advertising; Authorization to Enter into Amendment of Existing Contract with BBDO USA LLC; Authorization to Take Related Actions

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 New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), ESD hereby finds BBDO USA LLC (“BBDO”) to be responsible; and be it further

RESOLVED, that ESD is hereby authorized to enter into an Agreement with the HTFC substantially on the terms and conditions set forth in the Materials, pursuant to which HTFC would disburse: (i) up to \$37,500,000 to ESD for use in the “Open for Business” and related marketing programs, and (ii) up to \$3,000,000 to support certain activities related to The State of New York Small Business Storm Recovery Program; and be it further

RESOLVED, that ESD is hereby authorized to direct monies received from HTFC to other State agencies with contracts for advertising, including but not limited to DED; and be it further

RESOLVED, that ESD is hereby authorized to enter into an Amendment of the existing ESD-BBDO contract, pursuant to which the contract amount could be increased from the current \$100,000,000 up to \$137,500,000 and all other contract terms would remain unmodified and in full force and effect, substantially on the terms and conditions set forth in the Materials; and be it further

RESOLVED that the total of the funds which ESD anticipates that it shall expend pursuant to these Materials shall not exceed the amounts funded by HTFC; and be it further

RESOLVED, that the ESD-BBDO contract amendment is expressly contingent upon receipt of all other necessary approvals; and be it further

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

\* \* \*





FOR INFORMATION

April 26, 2013

TO: The Directors

FROM: Kenneth Adams

SUBJECT: 2013-14 Enacted NYS Budget – Economic Development Highlights

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Attached is a Power Point presentation that highlights many of the economic development related initiatives and funding included in the recently enacted 2013-14 NYS Budget.

As you know, and evidenced by the initiatives outlined in the attached presentation, the Governor continues to make economic development and job creation his priority. Some of the key items presented include:

- Continued funding and support of the Regional Economic Development Councils;
- 5-year extension of the Film Tax Credit program at \$420 million per year and enhancements to promote upstate production;
- Creation of a \$50 million Innovation Venture Capital Fund to support seed, early, or venture stage firms;
- Creation of the New York State Business Incubator and Innovation Hot Spot Program to identify and support incubator best practices and promote innovation and commercialization;
- Continued support of the Open for Business marketing effort and expansion of resources to promote tourism.