

FOR CONSIDERATION

January 21, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Elizabethtown (Essex County) – Essex County IDA Community Loan Fund - ✓
Champlain Bridge Recovery Fund - Empire State Economic Development Fund - (Loan Fund Grant)

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

I. Project Summary

Grantee: Essex County Industrial Development Agency (the “IDA”)

ESD* Investment: Up to \$635,000 grant to be used for a Community Loan Fund that will provide loans and lines of credit (LOC) of up to \$25,000 with flexible terms to small, independently owned businesses and not-for-profits that have been impacted by the closure of the Champlain Bridge. Loans/LOC may be used for working capital, purchase of machinery and equipment, and refinancing of collateralized debt.

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

Project Location: At least 50% of funds to be used in the Towns of Moriah, Crown Point, and Ticonderoga or the Village of Port Henry; the remainder may be used for businesses located throughout Essex County

Eligible Costs Date: October 16, 2009

Grantee Contact: Carol Calabrese
Co-Executive Director
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Elizabethtown, NY 12932
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Anticipated
Appropriation
Source: Empire State Economic Development Fund (EDF)

ESD Project Number: W967

Project Team:	Origination	Kevin Younis
	Project Management	Gregory Fitzgerald/Patricia Driscoll/Roseanne Murphy
	Legal	Richard Dorado
	Affirmative Action	Laverne Poole
	Environmental	Rachel Shatz

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Loans and Lines of Credit	\$571,500
Administration	<u>63,500</u>

Total Project Costs \$635,000

<u>Financing Sources</u>	<u>Amount</u>
ESD-Grant	<u>\$635,000</u>

Total Project Financing \$635,000

III. Project Description

A. Background

The Lake Champlain Bridge (the "Bridge"), also known as the Crown Point Bridge, was closed indefinitely on Friday, October 16, 2009, after an inspection revealed problems with the Bridge's foundation. The emergency closure was necessary for the safety of those who use the Bridge. The Bridge, built in 1929, is part of a major traffic route between the Ticonderoga, Crown Point and Port Henry area of New York State, and the Vergennes, Middlebury and Burlington area of Vermont. The closure has resulted in about a 100-mile detour on Route 4 through Whitehall, and on Vermont Routes 22A and 17. One ferry is currently open past its typical season, and is subsidized by the States of New York and Vermont to provide free service from/to Essex in New

York State. A high speed ferry is planned for the site of the bridge to open in January. When the high speed ferry opens the Essex ferry will close for the season. State subsidy of the ferry has been helpful with the increased cost of transportation that many were facing but the travel time is still expected to be longer and weekly traffic counts have decreased.

On October 21, 2009, Governor Paterson declared a state disaster emergency in Essex County and the neighboring areas adversely affected by the emergency closure of the Bridge. In response, ESD proposed the establishment of the Champlain Bridge Recovery Fund which would assist businesses affected by the closure. Part of that recovery fund is a \$635,000 grant to the Essex County IDA to establish a Community Loan Fund (the "CLF").

Essex County IDA was invited to apply for the CLF grant due to its proximity to the target areas of the Towns of Moriah, Crown Point, Ticonderoga and the Village of Port Henry, its knowledge of the businesses affected by the closure, and its experience administering loan funds. Essex County IDA is a not-for-profit in Essex County; the IDA primarily focuses on the provision of loans and other financial services for small businesses; is legally able to receive and use the proceeds as herein stated; and is current with reporting requirements for other ESD assistance.

B. Project

Funding for the CLF is being made available from \$635,000 in state appropriations to ESDC from the Empire State Economic Development Fund ("EDF"). The Essex County IDA (the IDA) may receive a grant of up to \$635,000 to capitalize and manage a loan fund that expands its lending products to fill small business/not-for-profit financial needs in Essex County that have arisen since the closure of the Lake Champlain Bridge on October 16, 2009. The CLF may be used for loans to small businesses and not-for-profits that are independently owned and operated, employing 100 persons or less and located in Essex County.

At least 50% of the loan/LOC funds shall be for eligible applicants in the Towns of Moriah, Crown Point and Ticonderoga and the Village of Port Henry. The remainder of the funds may be for loans to eligible Essex County applicants.

All loan applicants will be required to document revenue and expense impact due to bridge closure. Change in the loan applicant's market will also be documented, when applicable. Uses of funds will be working capital, machinery and equipment, and refinancing of collateralized debt. Documented business expenses after Oct 16, 2009 that have been financed on credit cards will also be an eligible use of funds. Loans/LOC will not exceed \$25,000 per loan request. Terms will be flexible with no payments until the bridge reopens. Forgivable loans will be considered for machinery and equipment loans for businesses that remain in business for a determined duration. Repayment of principal will be used to recapitalize the CLF for future loans, and interest may be used to offset administrative costs for the IDA. At the time of project closeout the IDA shall provide a proposal to ESD outlining the terms and conditions by which the recapitalized loan fund will be used.

C. Requested Amendments

The Directors are requested to authorize the emergency amendment of the EDF program regulations in order to facilitate the Champlain Bridge Recovery Fund – Community Loan Fund (CLF). That amendment would apply exclusively to the CLF, and the amendment would not apply to any other EDF programs or forms of assistance provided from EDF funding. The emergency amendment for this program would include: waiver of the restriction barring assistance to retail firms; waiver of the requirement that an applicant's costs be incurred after the application date; and waiver of the requirements for the \$250 application fee, 1% closing fee, and payment of ESD's out-of-pocket costs. Staff expects that the out-of-pocket cost of the program will be minimal.

D. Financial Terms and Conditions

1. At the time of disbursement, the IDA will reimburse ESD for all out-of-pocket expenses incurred in connection with the project, if any.
2. Up to \$635,000 will be disbursed to the Grantee no more frequently than monthly, upon documentation of closed loans. An initial 20% advance may be made upon execution of the contract, thereafter funds will be reimbursed to the Grantee in proportion with the loans that are closed. At the time of project closeout the IDA shall provide a proposal to ESD outlining the terms and conditions by which the recapitalized loan fund will be used.
3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$635,000 for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

IV. Program Guidelines

The Corporation has prepared preliminary guidelines for the implementation and administration of the CLF. The Guidelines set forth the various program requirements, including submission requirements, necessary documentation and audit processes. A copy of the Guidelines is attached hereto.

Due to the nature of the program and the relatively short time frame for implementing the same, it is expected that the Guidelines may be amended, from time to time, to address specific program needs.

V. 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 Program, severely impacted small businesses and not-for-profits in Essex County will be able to continue their operations and retain employment in New York.

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

The loss incurred by small businesses in the affected communities is extensive, and many firms do not have the working capital on hand to fund Bridge closure-related costs or to sustain their businesses with the near-term loss of revenue. This assistance partially fills the funding gap these firms face.

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

For a relatively modest investment by the State, the CLF is expected to prevent local small businesses and not-for-profits from shutting down entirely, relocating or downsizing in the face of losses.

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 sites.

VI. Environmental Review

The requested grant authorization constitutes an emergency action pursuant to Section 617.5(c)(33) of the regulations of the New York State Department of Environmental Conservation, implementing the New York State Environmental Quality Review Act ("SEQRA"). Emergency activities as a result of the CLF grant shall be limited to lending products to fill small business/not for profit financial needs in Essex County that have arisen since the closure of the Lake Champlain Bridge. The Bridge closure and the relief provided by the CRLF grant are intended to cause the least change or disturbance to the environment practicable under the circumstances.

Any activities in respect of the CLF beyond the limited emergency activities specified herein shall be fully subject to environmental review in accordance with SEQRA and its implementing regulations.

VII. Affirmative Action

ESD's non-discrimination and affirmative action policies and programs, which are grounded in both public policy and applicable law, mandate that ESD take affirmative action when implementing projects, to ensure that Minority and Women-owned Business Enterprise (M/WBE's), minority group members and women participate in the economic benefits generated by ESD's participation in projects or initiatives. ESD's non-discrimination and affirmative action policies and programs will apply to this initiative.

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. ESD Employment Enforcement Policy

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

X. Requested Actions

The Directors are requested to: authorize the Champlain Bridge Recovery Fund – Community Loan Fund; authorize the Corporation to make a grant to the Essex County IDA in accordance with these materials; adopt CLF guidelines and authorize the Chairman and Chief Executive Officer-Designate or his designee, to amend such guidelines from time to time; authorize the emergency amendment of the Empire State Economic Development Fund regulations; and authorize the taking of all related actions necessary or appropriate to effectuate the foregoing.

XI. Additional Submissions to Directors

Resolutions

Guidelines

Project Finance Memorandum