

**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**

**UPSTATE EMPIRE STATE DEVELOPMENT CORPORATION**

at the offices of  
Empire State Development – Buffalo Regional office  
95 Perry Street – Suite 500  
Buffalo, New York 14203

**Meeting of the Directors**

**Wednesday**

**August 16, 2012 – 9:15 a.m.**

**AGENDA**

**FOR CONSIDERATION**

1. Approval of the Minutes of the July 18, 2012 Directors' Meeting

**UPSTATE REGIONAL BLUEPRINT FUND**

2. Buffalo (Western New York Region – Erie County) – Buffalo Niagara Medical Campus URB Capital - Upstate Regional Blueprint Fund – Business Investment (Capital Grant) – Findings and Determinations Pursuant to Sections 16-q and 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**

**UPSTATE EMPIRE STATE DEVELOPMENT CORPORATION**

Meeting of the Directors  
Held at the New York City Regional Office  
633 Third Avenue  
New York, New York 10017

and

Buffalo Regional Office  
95 Perry Street  
Buffalo, New York 14203

July 25, 2012

**MINUTES**

**In Attendance  
Directors:**

Kenneth Adams (Acting Chair)  
Sam Hoyt

**Present for Upstate  
ESD:**

Stephen Gawlik, Deputy General Counsel  
Eileen McEvoy, Secretary

**Present for ESD:**

Maria Cassidy, Deputy General Counsel  
James Fayle, Director – Central New York Regional Office  
Robert McNary, Director – Finger Lakes Regional Office

**Also Present:**

The Press  
The Public

The meeting of the Upstate Empire State Development Corporation, a wholly-owned subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), was called to order at 9:08 a.m. by Acting Chair Adams. It was noted for

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the record that notices to the public and news media of the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

First, Acting Chair Adams noted that the public is free to comment on any matters on the Agenda.

The Acting Chair then called for a motion to approve the Minutes of the June 26, 2012 Directors' meeting. Upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE JUNE 26, 2012  
MEETING OF THE DIRECTORS OF THE CORPORATION FOR UPSTATE EMPIRE STATE  
DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meeting of the Corporation held on June 26, 2012, as presented to this meeting, are hereby approved and all actions taken by the Directors present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

\* \* \*

Acting Chair Adams then asked Mr. McNary to present the American Aerogel Upstate Regional Blueprint Fund Capital loan item for the Directors' consideration.

Mr. McNary explained that the Directors were being asked to approve a \$300,000 convertible loan to the American Aerogel Corporation for the purchase of machinery and equipment.

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Mr. McNary noted that the Company designs and manufactures high grade insulation materials known as aerogels used to keep sensitive products cool during shipping. Mr. McNary further noted that the Company was started in Connecticut in 1999 and moved to Rochester in 2002.

American Aerogel, he continued, needed to expand its production capacity in order to meet customer demand while reducing its per board-foot production costs.

ESD's assistance, Mr. McNary explained, allowed the Company to remain and expand in Rochester instead of relocating to Worcester, Massachusetts which is closer to its venture capital sources and current customers.

Mr. McNary noted that the total project costs are approximately \$3.25 million and that the project will help retain 33 jobs and create 29 new jobs.

Following the full presentation, Acting Chair Adams 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) – American Aerogel URB Capital – Upstate Regional Blueprint Fund – Business Investment (Convertible Loan) – Findings and Determinations Pursuant to Sections 16-q and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan and to Take Related Actions

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

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

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to American Aerogel Corporation a loan for a total amount not to exceed Three Hundred Thousand Dollars (\$300,000) from the Upstate Regional Blueprint 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 each of them hereby is, authorized to take such actions and make such modifications to the terms of the loan or collateral securing the loan as he or she may deem necessary or appropriate in the administration of the loan; and be it further

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

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

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**DRAFT – SUBJECT TO REVIEW AND REVISION**

Mr. Fayle then presented the Fulton Thermal Upstate Regional Blueprint Fund loan item for the Directors' consideration.

Mr. Fayle explained that the Directors were being asked to approve a \$1.5 million convertible loan to Fulton Thermal Corporation located in Pulaski, New York.

Mr. Fayle noted that the funds will be used to assist the Company to buy machinery and equipment and construct a new 85,000 square foot manufacturing facility to expand their operations.

Mr. Fayle went on to note that the Company sells industrial steam boilers and related equipment to the U.S. and Canada and exports worldwide as well.

The total project cost, Mr. Fayle stated, is \$13.5 million and the project will help to retain 76 jobs and to create 50 new jobs over a five year period.

Mr. Fayle added that the Company has already created 24 of those jobs.

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Pulaski (Central New York Region – Oswego County) – Fulton Thermal Corporation URB Capital – Upstate Regional Blueprint Fund - Business Investment (Convertible Loan) – Findings and Determinations Pursuant to Sections 16-q, and 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan 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 Upstate Empire State Development Corporation, relating to the Fulton Thermal Corporation URB Capital - Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

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

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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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Pulaski (Central New York Region – Oswego County) – Fulton Thermal Corporation URB Capital – Upstate Regional Blueprint Expansion – 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 Fulton Thermal Corporation URB Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

There being no further business, the meeting was adjourned at 9:18 a.m.

Respectfully submitted,

Eileen McEvoy  
Corporate Secretary

FOR CONSIDERATION

August 16, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Buffalo (Western New York Region – Erie County) – Buffalo Niagara Medical Campus URB Capital – Upstate Regional Blueprint Fund – Business Investment (Capital Grant)

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

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General Project Plan

I. Project Summary

Grantee: Buffalo Niagara Medical Campus, Inc. (“BNMC” or the “Campus”)

UESD\* Investment: A grant of up to \$4,000,000 to be used for a portion of the cost to build-out space to accommodate new technology company tenants at the Innovation Center, formerly known as the Trico Building.

\* The Upstate Empire State Development Corporation (the “Corporation”), a subsidiary of the New York State Urban Development Corporation doing business as Empire State Development (“ESD”)

Project Location: Innovation Center, 640 Ellicott Street, Buffalo, Erie County

Proposed Project: Building renovations and tenant build-out.

Project Type: Business expansion involving job creation.

Regional Council: The Western New York Regional Council has been made aware of this item. The Incentive Offer was accepted in May 2010, predating the Regional Council Initiative. The project is consistent with the Regional Plan as it builds on target industry sectors.

Employment: Initial employment at time of ESD Incentive Offer: 0  
 Current employment level: 20  
 Minimum employment through January 1, 2015: 50\*\*  
 \*\*Employees must be located at the Innovation Center and on the Grantee's tenants' payroll.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Building Renovations	\$11,000,000
Interior Build-out	<u>4,400,000</u>
<b>Total Project Costs</b>	<b><u>\$15,400,000</u></b>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-URBF Grant (#X045)	\$ 4,000,000	26%	
ESD-RESTORE Grant (#W090)***	4,500,000	29%	
Key Bank-Loan	5,050,000	33%	4.37%/10yrs/2nd on RE
Grantee Equity	<u>1,850,000</u>	<u>12%</u>	
<b>Total Project Financing</b>	<b><u>\$15,400,000</u></b>	<b><u>100%</u></b>	

\*\*\*Previously approved by the ESD Directors on July 17, 2008

III. Project Description

A. Company

Industry: BNMC is a consortium of the region's premier health care, life sciences research, and medical education institutions which performs its mission by promoting the clinical, research and academic excellence of its member institutions and the community at-large.

Company History: BNMC was formed in 2001 by key medical and research institutions, government agencies and neighborhood groups to oversee developing a medical campus for clinical care, research, education and entrepreneurship located on 120 acres in the City of Buffalo (the "City"). The Campus is comprised of Western New York's top clinical research and medical institutions, including University at Buffalo's New York State Center of Excellence in Bioinformatics, Roswell Park Cancer Institute and its Center for Genetics and Pharmacological Research, Hauptman Woodward Institute's Medical Research Institute. BNMC adopted a master plan in 2002, which included development policies, design standards and strategic infrastructure projects intended to support development of approximately 2.5 million square feet of additional research, clinical and support facilities over the next fifteen years. It

accomplishes its plan objectives by acquiring real estate and creating shovel-ready sites to stimulate private sector investment, construction of infrastructure to support development on the campus and creating or acquiring commercial and industrial space to attract new businesses and life sciences start-up companies to the Campus. On May 9, 2006 the Governor, Senate and Assembly signed an MOU, authorizing \$14.8 million to be made available to BNMC for such purposes.

Ownership: Not-for-profit corporation.

Size: BNMC houses Kaleida Health's Buffalo General Hospital and newly-constructed \$300 million Vascular Center, as well as numerous other public and privately held medical research companies, private practices, parking facilities and other amenities that support over 12,000 employees and over 1.2 million patients and visitors to the Campus annually.

Market: The BNMC's member institutions service a broad cross section of the region's population primarily focused around the delivery of medical services and research. Clients include those seeking treatment for vascular diseases and cancer, to emergency room services and everyday traditional doctor's office visits. The market is stable with limited rightsizing of service delivery in the region. The Campus recently expanded by over 2,000,000-gross-square-feet as a result of new construction including the High Pointe Skilled Nursing Facility, the Global Vascular Institute, and the Clinical and Translational Research Center.

Further development on the Campus include the construction of the Women's and Children's Hospital, the Medical Office Building, and the University at Buffalo's School of Medicine. All these facilities are scheduled to open in 2016.

ESD Involvement: By early-2009, development of the BNMC was considered one of the City's strategic investment areas in its award-winning Queen City Hub Plan; deemed integral to the County of Erie achieving its regional vision of positioning the area as a medical powerhouse; and aligned with the advancement of the State University of New York at Buffalo's ("UB") 2020 strategic plan to relocate health sciences programs to downtown Buffalo, advancing UB's strength in the biomedical sciences and other research fields, and increase the university's economic impact in Buffalo. The BNMC was proceeding with the renovations to the Innovation Center, but lacked sufficient funds to complete build-out costs, allowing for the reduction in lease rates for prospective new technology company tenants. The Grantee sought assistance in financing the project through the competitive Upstate Regional Blueprint Fund Request for Proposals.

Based on the merit of the project, ESD provided an incentive package of a \$4 million grant which was accepted on May 28, 2010. Without ESD assistance, the BNMC lacked sufficient funds to proceed with the tenant-build out of the Innovation Center.

Past ESD Support:

In order to leverage new development, attract new companies to the area, and make infrastructure and streetscape improvements on the Campus, ESD Directors have approved the following projects:

- \$1.37 million approved on August 2006 for the demolition of the former Hamlin House. The project is complete and all funds have been disbursed.
- \$10 million originally approved on September 2006 known as Pioneers of Science for capital expenditures involving specialized equipment, research laboratory renovations and technology infrastructure necessary to recruit leading scientists, researchers and research teams. The project was amended in August 2008 and the grant was reduced to \$5,090,326 of which \$4,627,966 has been disbursed. The project is expected to be completed in the early 2013.
- \$3,614,080 approved in March, 2007 for the purchase and renovation of 73 High Street. All funds have been disbursed.
- \$1.13 million approved in September 2007 for a surface parking lot at 50 High Street. All funds have been disbursed.
- \$3,402,220 approved in November 2007 for the acquisition of a collection of properties known as Century Center located at 589 Ellicott Street, 640 Ellicott Street (the "Trico Building"), 525 Virginia Street, 791 Washington Street and 821 Washington Street, Buffalo. In addition, \$195,000 was transferred from Pioneers of Science for the acquisition of the Trico Building for Century Center in January 2008. All funds have been disbursed.
- \$4.5 million RESTORE II grant approved in July 2008 to the City of Buffalo for the benefit of the BNMC, which was used for a portion of approximately \$11 million in interior and exterior renovations necessary to transform the previously vacant Trico Building into the Innovation Center, a facility offering private and shared lab and office space for newly-established technology companies. All funds have been disbursed.

B. The Project

Completion: February 2014

Activity: The \$15.4 million project involves building renovations to the 109,000-square-foot former, vacant Trico Building including roof and window replacement, limited facade repairs, installation of a new HVAC system;

electrical, plumbing, security, telephone, flooring and elevator upgrades, and build-out costs including general interior office construction and installation of infrastructure to allow for emergency power and wet labs necessary to provide, economical, leasable lab and office space to accommodate new technology company tenants.

Results:

The creation of new lab and office space on the Campus will accelerate biotech and life sciences commercialization; increase private sector biotech companies generating new industry job growth; and allow the BNMC to compete with other national regions that are developing similar initiatives to stimulate growth of the life sciences industry. The Innovation Center currently has two types of tenants, lease tenants and suite tenants. Suite tenants occupy small offices and workspaces on a month to month term and are provided IT, phones, furniture, administrative support and access to conference rooms and current include: Advantage Home Telehealth, AllPro Parking, Ameriprise, Amherst Chamber of Commerce, BWI National Health Promotional Training Institute, Cake Face, CASA Medical Consulting, Ceno Technologies, Continental 1, Delphonics, Del Vecchio and Stadler, FinePrintfinders, LLC, Green Options Buffalo, Imagine Staffing, Lake Effects Labs Inc., Medical Acoustics, M.I.C.E., The Lunch Box, The PCA Group, Think Solutions, UB Division of Allergy Immunology & Rheumatology, Ultimate Savings Bootcamp, The Kane Firm and Yormick and Associates. Lease tenants require more square footage and specialized environments (wet labs, clean rooms) and have had access to Tenant Improvement funds to offset the costs of respective build-outs, and currently include Immco Diagnostics, OncoMed Oncology, Sitel, The Inventures Group Inc., TrainSMART, Wynne Creative Group, D'Youville College, WNY Sleep Center and Apnea Care Inc.,

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 \$2,982,594;
- Fiscal cost to NYS government is estimated at \$4,000,000;
- Project cost to NYS government per direct job is \$140,000;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$87,003;
- Ratio of project fiscal benefits to costs to NYS government is 0.75:1;
- Fiscal benefits to all governments (state and local) are estimated at \$5,130,251;
- Fiscal cost to all governments is \$4,000,000;
- All government cost per direct job is \$140,000;
- All government cost per total job is \$87,003;
- The fiscal benefit to cost ratio for all governments is 1.28:1;

- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$30,705,591, or \$667,868 per job (direct and indirect);
- The economic benefit to cost ratio is 7.68:1;
- Project construction cost is \$15,400,000, which is expected to generate 153 direct job years and 105 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.61 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: Mr. Matthew K. Enstice, Executive Director  
 The Innovation Center  
 640 Ellicott Street, Suite 401  
 Buffalo, NY 14203  
 Phone: (716) 881-8918 Fax: (716) 849-6651

ESD Project No.: X045

Project Team:	Origination	Christina Orsi
	Project Management	Jean Williams
	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 Grantee shall pay a commitment fee of 1% of the \$4,000,000 capital grant (\$40,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Grantee’s acceptance of ESD’s offer. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Grantee must employ at least the number of Full-time

Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.

5. Up to \$4,000,000 will be disbursed to the Grantee in four installments as follows:
  - a) an Initial Disbursement of an amount equal to 25% of the grant (\$1,000,000) upon submission of documentation verifying \$11 million for building renovations; \$1.1 million for tenant build-out expenditures and creation of at least 10 Full-time Permanent Employees from new tenants at the Innovation Center as described in these materials;
  - b) a Second Disbursement of an amount equal to 25% of the grant (\$1,000,000) will be disbursed upon documentation verifying additional build-out expenditures of \$1.1 million (aggregate total of \$2.2 million) and a total of at least 20 Full-time Permanent Employees (Employment Increment of 10) from new tenants at the Innovation Center as described in these materials;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$1,000,000) upon submission of documentation verifying additional build-out expenditures of an \$1.1 million (aggregate total of \$3.3 million) and creation of at least 30 Full-time Permanent Employees (Employment Increment of 10) from new tenants at the Innovation Center as described in these materials.
  - d) a Fourth Disbursement of an amount equal to 25% of the grant (\$1,000,000) upon submission of documentation verifying additional build-out expenditures of an \$1.1 million (aggregate total of \$4.4 million) and creation of at least 50 Full-time Permanent Employees (Employment Increment of 20) from new tenants at the Innovation Center as described in these materials

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 28, 2010, 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 \$4,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

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

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

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

Baseline Employment	0
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A	B
Reporting Date	Employment Goals
February 1, 2013	0+W+X+Y+Z
February 1, 2014	0+W+X+Y+Z
February 1, 2015	0+W+X+Y+Z
February 1, 2016	0+W+X+Y+Z
February 1, 2017	0+W+X+Y+Z

W = 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. W=10, and Employment Goals shall equal [0 +W = 10\*] 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 W=0.

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. X=10, and Employment Goals shall equal [0 + W + X = 20\*] if the

Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section C.5 above (i.e. Y=10, and Employment Goals shall equal  $[0 + W + X + Y = 30^*]$  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.

Z= Grantee's Employment Increment that will be the basis of the Fourth Disbursement of the Grant as described in section C.5 above (i.e. Z=20, and Employment Goals shall equal  $[0 + W + X + Y + Z = 50^*]$  if the Fourth Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Fourth Disbursement has not yet been made then Z=0.

\*Employees must be located at the Innovation Center and on the Grantee's tenants' payroll.

8. The BNMC shall, to the maximum extent economically feasible, recapture monies expended for tenant build-out allowances at the Innovation Center via loan or equity contribution from tenants leasing space at the Innovation Center. Should the BNMC recapture any build-out monies invested in the Innovation Center via loan or equity, the funds will be reinvested in an economic development fund to be created by the BNMC to support future private company growth and job creation on the Campus.

#### IV. Statutory Basis

This project is authorized under Section 16-q of the New York State Urban Development Corporation Act (the "Act") and satisfies the eligibility criteria in the Act and the rules and regulations for the Upstate Regional Blueprint Fund Program. No residential relocation is required as there are no families or individuals residing on the site.

#### V. Environmental Review

Pursuant to the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations (6 NYCRR Part 617), and in connection with the approval of funding for the proposed project, the Directors made a Determination of No Significant Effect on the Environment at their meeting of July 17, 2008. This determination addressed all aspects of the proposed project. Therefore, no further environmental review is required in connection with this action.

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

ESD's Non-discrimination and Contractor 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 5% 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 and to include minorities and women in any job opportunities created by 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

Buffalo (Western New York Region – Erie County) – Buffalo Niagara Medical Campus URB Capital – Upstate Regional Blueprint Fund – Business Investment (Capital Grant) – Findings and Determinations Pursuant to Sections 16-q 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 Buffalo (Erie County) – Buffalo Niagara Medical Campus URB Capital – Upstate Regional Blueprint Fund – 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 the Buffalo Niagara Medical Campus a grant for a total amount not to exceed Four Million Dollars (\$4,000,000) from the Upstate Regional Blueprint 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.

