

**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

Thursday

February 16, 2017 – 9:30 a.m.

**AGENDA**

**FOR CONSIDERATION**

**I. CORPORATE ACTION**

- A. Approval of Minutes of the January 23, 2017 Directors' Meeting

**REPORTS – Oral**

- A. President's Report
- B. Update on New York State Marketing
- C. Loans and Grants – Summary of Projects

## **II. PROJECTS**

### **WESTERN NEW YORK REGION**

- A. Buffalo (Western New York Region – Erie County) – Pilgrim Village Redevelopment/Campus Square Capital – Buffalo Regional Innovation Cluster Fund - Better Buffalo Fund (Capital Loan) - 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 Take Related Action; Determination of No Significant Effect on the Environment
- B. Buffalo (Western New York Region – Erie County) – School 77 Capital – Buffalo Regional Innovation Cluster Fund - Better Buffalo Fund (Capital Loan) - 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 Take Related Action; Determination of No Significant Effect on the Environment

### **CAPITAL REGION**

- C. Regional Council Award – Priority Project - Hudson (Capital Region – Columbia County) – Hudson Opera House Capital – Regional Council Capital Fund and Restore NY Communities (Capital Grants) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make Grants and to Take Related Actions
- D. Regional Council Award – Priority Project – Albany (Capital Region – Albany, Schenectady, Rensselaer, Saratoga, Warren, Washington, Greene and Columbia Counties) – Community Loan Fund Infusion Capital - Regional Council Capital Fund - (Capital Grant) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and Take Related Actions

### **CENTRAL NEW YORK REGION**

- E. Regional Council Award – Syracuse (Central New York Region – Onondaga County) – CG Meaker Redevelopment Capital – Regional Council Capital Fund (Capital Grant) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and Take Related Action; Determination of No Significant Effect on the Environment

## **II. PROJECTS – Continued**

### **SOUTHERN TIER REGION**

- F. Regional Council Award – Hammondsport (Southern Tier Region – Steuben County) – East Lake HPort 2 Capital – Regional Council Capital Fund ( Capital Grant) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and Take Related Actions; Determination of No Significant Effect on the Environment

### **VARIOUS REGIONS**

- G. Avon, Walton and Lowville (Finger Lakes, Southern Tier and North Country Regions – Livingston, Delaware and Lewis Counties) – Kraft Heinz Capital – New York Works Economic Development Fund – General Development Financing (Capital Grant) - Affirmation of the Directors’ November 17, 2016 Findings and Determinations Pursuant to Sections 10 and 16-n of the Act; Affirmation of the Amended General Project Plan

### **NEW NY BROADBAND PROGRAM**

- H. New NY Broadband Program – Phase 1 Awards, 2015-16 Capital Fund – Consent Calendar - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions
  - A. Mid-Hudson Data Corp. – Mid-Hudson Unserved Broadband Capital – (Capital Region - \$950,184
  - B. The Middleburgh Telephone Company - MIDTEL Unserved Broadband Capital – (Mohawk Valley Region) - \$0

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

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

#### **Senate (Local Assistance)**

- A. Fort Drum Regional Liaison Organization Working Capital – Fort Drum Regional Liaison Organization (Jefferson County) - \$300,000
- B. Adirondack North Country Association Working Capital – Adirondack North Country Association, Inc. (Various Counties) - \$300,000
- C. Central New York Defense Alliance Working Capital – Central New York Defense Alliance (Oneida County) - \$350,000

#### **Executive (Local Assistance)**

- D. North Country Hub for Innovative Manufacturing Nanotechnology Capital II – Fort Schuyler Management Corporation (Clinton County) - \$52,000,000

#### **Executive (Special Appropriation Nano Utica)**

- E. Marcy Nanocenter – Site Infrastructure Investment Capital – Economic Development Growth Enterprises d/b/a Mohawk Valley EDGE (Oneida County) - \$24,000,000

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

- A. New York State Innovation Venture Capital Fund (NYSIVCF) – Authorization of an Investment of NYSIVCF Funds in Ener-G-Rotors, Inc.
- B. New York State Innovation Venture Capital Fund (NYSIVCF) – Authorization of an Investment of NYSIVCF Funds in PostProcess Technologies, Inc.



**V. ADMINISTRATIVE ACTIONS**

- A. Pre-Qualified Legal Counsel List – Approval of Pre-Qualified Counsel List
- B. Procurement of Environmental Consulting Services - Authorization to Amend the Contract with STV Incorporated to Continue to Provide Environmental Consulting Services in Connection with the Fountain Avenue Land Use Improvement and Residential Project and to Take Related Actions
- C. Orchard Park (Erie County) – Erie County Stadium Civic Project – Adoption of a Modified General Project Plan; Authorization to Hold a Public Hearing; Determination of No Significant Effect on the Environment; Authorization to Enter into the Necessary Agreements and Authorization to Take Related Actions
- D. Legal Services – Authorization to Amend Legal Retainer with the Law Firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC to Continue to Provide Legal Services in Connection with the NYS Innovation Venture Capital Fund and to Take Related Actions
- E. New York City (New York County) – Penn Station - Farley Complex – Moynihan Station Civic and Land Use Improvement – Authorization to Extend the Project-Specific Professional Liability Insurance Policy to Cover Phase 2 Design; Authorization to Take Related Actions
- F. New York City (New York County) – James A. Farley Post Office Building Redevelopment – Authorization to Enter into Contract for Project Management Services; and Authorization to Take Related Actions

**VI. FOR INFORMATION**

- A. Budget Variance Reports for the Quarter Ended December 31, 2016

# **Item I. A.**

**DRAFT – SUBJECT TO REVIEW AND REVISION**

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION**

d/b/a Empire State Development

Meeting of the Directors

New York City Regional Office

633 Third Avenue

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

New York, New York 10017

January 23, 2017

**MINUTES**

**In Attendance**

**Directors:**

Derrick Cephas (Acting Chair)

Howard A. Zemsky (via video conference)

Peter Beshar

Hilda Rosario Escher

Joyce Miller

Maria Vullo - Superintendent - NYS Department of Financial  
Services

**Present for ESD:**

Lindsey Boylan, Chief of Staff

Richard Dorado, Senior Counsel

Elizabeth Fine, Executive Vice President - Legal and General Counsel

Elaine Kloss, Chief Financial Officer

Benson Martin, Director of Compliance

Eileen McEvoy, Corporate Secretary

Glendon McLeary, Assistant Vice President – Economic Incentives

Kathleen Mize, Deputy Chief Financial Officer and Controller

Debbie Royce, Assistant Corporate Secretary

Joseph Tazewell, Director – New York City Regional Office

Kevin Younis, Chief Operating Officer

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**Also Present:** Kelly Baquerizo – Capital Regional Office  
Vincent Esposito, Regional Director – Finger Lakes Regional Office  
Michael Evans, President – Moynihan Station Development Corporation  
James Fayle, Director – Central New York Regional Office  
Steve Gawlik, Vice President – Poly and Capital Projects  
Barry Greenspan, Long Island Regional Office  
Donna Howell, Regional Director – Southern Tier Regional Office  
Steve Hunt, Regional Director – North Country Regional Office  
Allison Nowak, Mohawk Valley Regional Office  
Michael Reese, Director – Mohawk Valley Regional Office  
Christopher Schoepflin, Director – Western New York Regional Office  
Meghan Taylor, Director – Mid-Hudson Regional Office  
John VanDeLoo, North Country Regional Office

**Also Present:** The Press  
The Public  
Craig Marcinkowski, Gryphon Sensors LLC

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 8:59 a.m. by Acting Chair Cephas. It was noted for the record that the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

Next, the Acting Chair set forth the guidelines regarding comments by the public on matters on the Agenda as well as with regard to any conflicts of interest the Directors may have regarding items on the Agenda. No conflicts were noted.

Commissioner Zemsky then called for a motion to approve the Minutes of December 15, 2016 Directors’ meeting. There being no changes or corrections, upon motion duly made and

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seconded, the following resolution was unanimously adopted:

**APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE DECEMBER 15, 2016 MEETING OF THE DIRECTORS OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION**

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RESOLVED, that the Minutes of the meetings of the Corporation held on December 15, 2016 as presented to this meeting, are hereby approved and all actions taken by the Directors presented at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

\* \* \*

DED Commissioner Zemsky then asked Kevin Younis to present the various aspects of the Governor's State of the State address as they relate to ESD. Mr. Younis provided information on those initiatives that ESD will be engaged in going forward.

Commissioner Zemsky then asked James Fayle to provide a presentation on the Unmanned Aerial Systems.

Acting Chair Cephas then asked Glendon McLeary to present a summary of the project items on the Agenda. Acting Chair Cephas explained that following this brief presentation, he will call upon the individual Regional Directors or their representatives to present the projects from their region.

Mr. McLeary noted that the Directors will be asked to consider 12 projects totaling \$64,764,000 in grants. He stated the projects included 5 Regional Council Awards and two

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Discretionary Awards.

Mr. McLeary further explained that these projects will leverage over \$435 million of additional investment, retain 410 jobs and create 107 jobs in the State.

Next, Acting Chair Cephas called on Mr. Fayle, to present the U-SAFE Upstate Revitalization Initiative (“URI”) capital grant item for the Directors’ consideration.

Mr. Fayle noted that the project consisted of a \$5.1 million URI grant on a \$10.1 million 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:

North Syracuse (Central New York Region – Onondaga County) – Unmanned Secure Autonomous Flight Environment (U-SAFE) Capital – Upstate Revitalization Initiative (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 Unmanned Secure Autonomous Flight Environment (U-SAFE) Capital -- Upstate Revitalization Initiative (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

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RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the "Plan") for the Project submitted to this meeting, together with such changes therein as the 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 Gryphon Sensors, LLC a grant for a total amount not to exceed Five Million One Hundred Thousand Dollars (\$5,100,000) from the Upstate Revitalization Initiative, 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, the Acting Chair called on Donna Howell, the Director of ESD's Southern Tier Regional Office, to present the Newman Development Group Regional Council Award item for the Directors' consideration.

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Ms. Howell noted that the Directors were being asked to authorize ESD to make a grant of up to \$2,000,000 to Newman Development Corporation for a portion of the cost for environmental remediation, demolition and related site work for a blighted, vacant property.

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

Regional Council Award – Priority Project – Binghamton (Southern Tier Region – Broome County) – Newman Development Group Sheraton 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 Newman Development Group Sheraton 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 Newman Development Group, LLC a grant for a total amount not to exceed Three Million Dollars (\$3,000,000) 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,



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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 – Binghamton (Southern Tier Region – Broome County) – Newman Development Group Sheraton Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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

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The Acting Chair then asked Christopher Schoepflin, the Director of ESD's Western New York Regional Office to present the next three items on the Agenda.

The first item Mr. Schoepflin presented involved three grants totaling \$3.1 million for the creation of a \$20 million National Comedy Center in Jamestown, New York. This project

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has also been awarded New Market Tax Credits, which is dependent on the Directors approving this grant.

Next, the Directors were asked by Mr. Schoepflin to authorize ESD to make a grant of up to \$400,000 to the Olean Business Development Center for the acquisition and renovation of a vacant 20,000 square foot building on North Union Street in order to establish a mixed-use facility for business incubation.

This project will be implemented in two phases. The first phase involves the purchase of the building at 301 North Union and the build out of the first two floors and about half of the third floor to create an incubation co-working experimental learning with anchor tenants offering support services and retail space. This phase is currently complete and pending approval from the Directors today.

Phase 2 includes the completion of the third floor for additional incubator space and then the balance of the grant may be requested when it's completed, which is anticipated to be September 2017.

Next, Mr. Schoepflin asked the Directors to authorize ESD to make a \$1,000,000 Restore New York Communities grant to the City of Olean to be use for demolition costs and infrastructure improvements on the site of the former Agway Belmont site that is now owned by Olean Gateway.

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

Director Miller inquired about the business incubator. She wanted to know why Olean is being considered a suitable location for an incubator.

Mr. Schoepflin explained that the location is in the center of Olean where entrepreneurship is growing.

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

Regional Council Award – Priority Project – Jamestown (Western New York Region – Chautauqua County) – National Comedy Center Capital – Regional Council Capital Fund (Capital Grant) – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make Grants and to Take Related Actions

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

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

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been

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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 National Comedy Center, Inc. grants for a total amount not to exceed Three Million One Hundred Thousand Dollars (\$3,100,000) 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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Regional Council Award – Priority Project – Jamestown (Western New York Region – Chautauqua County) – National Comedy Center Capital – Regional Council Capital Fund (Capital Grant) – Determination of No Significant Effect on the Environment

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

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Regional Council Award – Priority Project – Olean (Western New York Region – Cattaraugus County) – Olean Business Incubation Center Capital – Regional Council Capital Fund (Capital Grant) Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to

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### 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 Upstate Empire State Development Corporation (the "Corporation"), relating to the Olean (Western New York Region – Cattaraugus County) – Olean Business Incubation Center Capital – Regional Council Capital Fund – (Capital Grant) Project (the "Project"), the Corporation hereby determines pursuant to Section 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that there are no families or individuals to be displaced from the project area; and be it further

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

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the Olean Business Development Corporation (formerly Cattaraugus Empire Zone Corporation) a grant for a total amount not to exceed Four Hundred Thousand Dollars (\$400,000) 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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**Statewide – Restore NY Communities – Capital Grant – Land Use Improvement Findings and Determinations Pursuant to Sections 10 (c), 10(g) and 16-n of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make A Grant and to Take Related Actions**

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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 Restore NY Communities Capital Grant Project (the "Project"), the Corporation hereby determines pursuant to Sections 16-n and 10 of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that

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

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

RESOLVED, that upon written findings of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make a grant to the party and for the amount listed below from Restore NY Communities, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive

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

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

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

**Restore NY Communities – Project Summary Table**

	Grantee	Project Name	Proj #	Grant	Village, Town, City	County
A	City of New Olean	Olean - RESTORE II - Agway Demolition Project	W088	\$1,000,000	Olean	Cattaraugus
		<b>TOTAL</b>		<b>\$1,000,000</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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Next, the Acting Chair called on Allison Nowak, representing ESD's Mohawk Valley Regional Office, to present the Trenton Technology Regional Council Award item for the Directors' consideration.

Ms. Nowak noted that the Directors were being asked to authorize ESD to approve a capital grant in the amount of \$1,000,000 to Trenton Technologies for a portion of the cost of a project to renovate a 143,000 square foot space for a high tech office and manufacturing space

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and to expand existing operations for Trenton Technologies. She also noted that the total budget for this project is \$10.42 million which is being primarily used for the cost of construction, renovations, equipment, relocating and accounting expenses.

Ms. Nowak further noted that this project resulted in 46 new jobs being created and 181 jobs retained, with the company exceeding its jobs commitment to create 30 jobs.

Following the full presentation, the Acting Chair called for questions or comments. Director Beshar asked about the benefit cost ratio for this project.

Glendon McLeary proceeded to explain the benefit cost analysis to Director Beshar's satisfaction.

The Acting Chair 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 –Utica (Mohawk Valley Region – Oneida County) – Trenton Technology 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 Trenton Technology 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



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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 Trenton Technology, Inc. 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 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, the Acting Chair called on Meghan Taylor, the Director of ESD's Mid-Hudson Regional Office, to present the Hudson Valley Lighting Expansion Project for the Directors' consideration.

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Ms. Taylor explained that the Directors are being asked to approve a Regional Council Capital Fund grant in the amount of \$705,000 and a \$200,000 Excelsior Jobs Tax Credit Program grant that will be used towards relocation and renovation expenses.

Ms. Taylor further explained that the total project cost is \$17,220,000 and as part of the Grand Excelsior Agreement, Hudson Valley Lighting has agreed to retain 47 jobs and create 34 new jobs. To date, they have already created seven new jobs and are required to complete this hiring by January 1, 2020.

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 –Wappingers Falls (Mid-Hudson Region – Dutchess County) – Hudson Valley Lighting 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 Hudson Valley Lighting 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

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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 Hudson Valley Lighting, Inc. a grant for a total amount not to exceed Seven Hundred and Five Thousand (\$705,000) 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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The Acting Chair then asked John VanDeLoo, representing ESD's North Country Regional Office, to present an item relating to Ogdensburg's Airport Improvements for the Directors' consideration.

Mr. VanDeLoo explained that the Directors are being asked to authorize ESD to make a

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\$725,000 grant to the Ogdensburg Regional Port Authority for renovations and expansion of the ODA Terminal.

Mr. VanDeLoo further explained that this project is a priority and part of an overall \$21.6 million airport improvement plan, which includes a runway and facilities.

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 - Ogdensburg (North Country Region – St. Lawrence County) – Ogdensburg Bridge & Port Authority Capital – Regional Council Capital Fund (Capital Grants) - Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make Grants and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, (the "Corporation") relating to the Ogdensburg Bridge & Port Authority Capital -- Regional Council Capital Fund (Capital Grants) 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

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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 Ogdensburg Bridge & Port Authority grants for a total amount not to exceed Seven Hundred Twenty Five Thousand Dollars (\$725,000) 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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Regional Council Award - Priority Project - Ogdensburg (North Country Region – St. Lawrence County) – Ogdensburg Bridge & Port Authority Capital – Regional Council Capital Fund (Capital Grants) – 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 Ogdensburg Bridge & Port Authority Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

The Acting Chair then called on Barry Greenspan, representing ESD's Long Island Regional Office to present the Long Island University Regional Council Award item for the

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Directors' consideration.

Mr. Greenspan explained that the Directors were being asked to approve a \$500,000 capital grant to Long Island University for the purpose of renovating a building to create a 10,000 square foot new business incubator.

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 – Greenvale (Long Island Region – Nassau County) – Long Island University 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 Long Island University 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

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Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Long Island University a grant for a total amount not to exceed Five Hundred Thousand Dollars (\$500,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the President and Chief Executive Officer 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, the Acting Chair called on Joe Tazewell, the Director of ESD's New York City Regional Office to present the next two items on the Agenda for the Directors' consideration.

The first item Mr. Tazewell presented was a \$500,000 capital grant to be used toward the \$21.6 million renovation of the New York Historical Society's renovation of its facility at 170 Central Park West to create a new 10,000 square foot exhibition and education center entitled, Sweat Equity.

Mr. Tazewell further noted that the focus of this exhibition will be women's history and

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labor history in New York State.

The second item Mr. Tazewell presented involved a request for grants totaling \$20,000,000 for the St. George Outlet Development LLC, for infrastructure assistance in connection with the construction of Empire Outlets, which is a 1.1 million square foot, mixed-use development on the North Shore of Staten Island, located adjacent to the Staten Island Ferry Terminal.

Mr. Tazewell further noted that the total cost of the project is \$354.5 million and will include up to 75 retail stores, up to 12 restaurants and a 200 room hotel. It will also result in over 1,300 new jobs and 1,200 construction jobs.

Following the full presentations, the Acting Chair called for questions or comments. Director Miller asked if the grants will be used for construction that is public and Mr. Tazewell assured her that that is what it would be used for.

The Acting Chair called for any further questions or comment. Hearing none, and upon motion duly made and seconded, the following resolutions were unanimously adopted:

Regional Council Award – New York (New York City Region – New York County) – Sweat Equity Capital II – 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 Sweat Equity Capital II -- 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 New York Historical Society a grant for a total amount not to exceed Five Hundred Thousand Dollars (\$500,000) from the Regional Council Capital Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the President and Chief Executive Officer 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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Staten Island (New York City Region – Richmond County) – Empire Outlets Resiliency Capital – New York Works Economic Development 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 Empire Outlets Resiliency Capital -- New York Works Economic Development 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 St. George Outlet Development, LLC dba Empire Outlets a grant for a total amount not to exceed Twenty Million Dollars (\$20,000,000) from the New York Works 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

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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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The Acting Chair next called Vincent Esposito, the Director of ESD's Finger Lakes Regional Office to present the AIM Photonics TAP facility item for the Directors' consideration.

Mr. Esposito explained that the Directors are being asked to approve a \$28,000,000 capital grant to AIM Photonics, which represents the balance of funding currently recommended by the New York State Photonics Board of Officers to fund the federally designated American Institute of Manufacturing Integrated Photonics.

Mr. Esposito further explained that the \$28,000,000 being approved today, will be used for the renovations and outfit of the building, as well as lease payments for the first three-and-a-half years related to the facility operation.

Mr. Esposito also noted that the recipient of this funding will be SUNY Research Foundation at the center of AIM Photonics and they will be responsible for installing, acquiring and outfitting the facility.

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:

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Rochester (Finger Lakes Region – Monroe County) – AIM Photonics Institute TAP Facility Capital and Working Capital – Upstate Revitalization Initiative (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

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Rochester (Finger Lakes Region – Monroe County) – AIM Photonics Institute TAP Facility Capital and Working Capital – Upstate Revitalization Initiative (Capital and 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 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 grants to The Research Foundation for the State University of New York for a total amount not to exceed Twenty Eight Million Dollars (\$28,000,000) from the Upstate Revitalization Initiative 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

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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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Kelly Baquerizo then presented the Market New York Grant Program for the Directors' consideration.

Ms. Baquerizo noted that the Directors are being asked to approve two Market New York Capital projects.

The first project Ms. Baquerizo presented was a \$500,000 award to the New York Historical Society from a Round 5 of the CFA. The project involves a year-long renovation of the fourth floor of the New York Historical Society's historic home on Central Park West for the exhibit to open in early 2017.

The second project was for a capital grant in the amount of \$234,000 to the National Comedy Center. This grant is in addition to an earlier grant request made by Chris Schoepflin for the same grantee and will be used towards the purchase and installation of two large digital screens and a hologram theater projection system.

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

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unanimously adopted:

New York (New York County) Regional Tourism Marketing Competition – Market New York (Capital Grants) – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Market New York Project identified below (the “Projects”), 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 “Plans”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, are hereby ordered filed with the records of the Corporation; and be it further

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

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 Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make grants to the party and for the amounts listed below from the Market New York Program, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

**Market New York Program**

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	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
	<b>Market NY Program</b>			
A	Sweat Equity Capital	AA508	New York Historical Society	\$500,000
B	National Comedy Center Marketing Capital	AB512	National Comedy Center, Inc.	\$234,000
	<b>TOTAL MARKET NY PROJECTS-2</b>		<b>TOTAL</b>	<b>\$734,000</b>

and be it further

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

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Next, Ed Muszynski presented the January Non-Discretionary item on the Agenda for the Directors' consideration.

Mr. Muszynski noted that there were three projects being considered this month.

The first project Mr. Muszynski presented, was an Executive sponsored grant in the amount of \$500,000 to the New York City Parks and Recreation Department. The grant, Mr. Muszynski continued will be used for reconstructing a playground in the Bronx. The grant will also be used to install a new basketball court, renovate seating area, new lighting, new plantings and miscellaneous site work.

Mr. Muszynski further noted that the project will be completed in May of 2017.

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The second project Mr. Muszynski presented, was another Executive sponsored project for the Nano Utica Initiative - MVEDGE Capital. Mr. Muszynski noted that this is a modification and no new assistance is being requested.

Mr. Muszynski further noted that the modification came about when the AMSAG, based in Austria, informed ESD that it was withdrawing from the project. The work is continuing under the direction of MVEDGE and is expected to be completed at the end of the year.

The third and final project Mr. Muszynski presented, was a Senate sponsored Working Capital grant in the amount of \$400,000 to CenterState Corporation for Economic Opportunity.

Mr. Muszynski noted that this grant will be used for program and operating costs to CenterState. The grant will also be used for business recruitment, retention and extension, export development, their work with ESD's Regional Economic Development Council process, and all outreach work with staff identifying CFA and Upstate Revitalization Initiative projects.

Mr. Muszynski also noted that the work is ongoing and that it is expected to be completed in December of 2018.

PA TEDIR Agreement – Findings and Determinations Pursuant to Sections 10(d) and 10(g) of the Act; Adoption of the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions



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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the PA TEDIR Agreement Project (the "Project"), the Corporation hereby determines pursuant to Sections 10(d) and 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"), that

1. There exists in the area in which the project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;
2. Such project shall consist of a building or buildings, or other facilities, which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;
3. Such project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of this project;
4. The plans and specifications assure adequate light, air, sanitation and fire protection;
5. 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 grant to the party and for the amount listed below from PA TEDIR Agreement, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans

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shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from PA TEDIR Agreement, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

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

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

**TEDIR Agreement – Executive – Project Summary Table**

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
	<b>PA TEDIR Agreement</b>			
A	NYC Department of Parks & Recreation Capital	Z927	City of New York	\$500,000
			<b>TOTAL</b>	<b>\$500,000</b>

and be it further

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

\* \* \*

Special Appropriation Nano Utica – Findings and Determinations Pursuant to Section 10(g) of the Act; Adoption of the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Special Appropriation Nano Utica 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

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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 Special Appropriation Nano Utica, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from Special Appropriation Nano Utica, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

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

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

Special Appropriation Nano Utica – Executive – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
E	Nano Utica Initiative – MVEDGE Capital	AB07 6	Economic Development Growth Enterprises d/b/a Mohawk Valley EDGE	Modification- No New Assistance
			<b>TOTAL</b>	<b>\$0</b>

and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s)

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be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

\* \* \*

Local Assistance – Findings and Determinations Pursuant to Section 10(g) of the Act;  
Adoption of the Proposed General Project Plans; Authorization to Make Grants and to  
Take Related Actions

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

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to 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 Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from Local Assistance, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

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

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necessary or appropriate in the administration of the grant; and be it further

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

Local Assistance -Senate – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
	Local Assistance			
A	CenterState Corporation for Economic Opportunity Working Capital	AB018	CenterState Corporation for Economic Opportunity	\$400,000
			<b>TOTAL</b>	<b>\$400,000</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.

\* \* \*

Kevin Hansen then asked the Directors to authorize ESD to enter into a contract with GCom Software Incorporated, for Microsoft Dynamics System Implementation and related Services.

Mr. Hansen noted that ESD is seeking authorization for a contract amount not to exceed \$848,517, which includes both a \$707,098 budget and a 20 percent contingency, which will only be needed if authorized in writing by ESD.

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

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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 – New York City (New York County) - Authorization to Enter into a Contract with GCOM Software, Inc. for Microsoft Dynamics System Implementation Services; Authorization to Take Related Actions

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BE IT RESOLVED, that based on the materials presented at this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds GCOM Software, Inc. to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to enter into a contract with GCOM Software, Inc. for Microsoft Dynamics System Implementation and Related Services up to the amount of \$848,517.00 for a term not to exceed one year substantially on the terms and conditions as set forth in the Materials; and be it further

RESOLVED, that the President, or his designee, be and they hereby are authorized and empowered to exercise on behalf of the Corporation to take such other action and execute such documents as may be necessary or appropriate to carry out the foregoing Resolutions.

\* \* \*

Next, Steve Gawlik presented the Land Bank Program item on the Agenda for the Directors’ consideration.

Mr. Gawlik reminded the Directors that this will be the last Land Bank Program item being presented as it is the 20<sup>th</sup> and according to the statute, only 20 land banks can be approved statewide.

Mr. Gawlik proceeded to request the Directors approval of Tioga County for a land bank.

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

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

**Land Bank Program – Approval of Land Bank Application and Authorization to Take All Related Actions**

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RESOLVED, that on the basis of the materials (the “Materials”) presented at this meeting, a copy of which is hereby ordered filed with the records of the New York State Urban Development Corporation d/b/a Empire State Development (the “Corporation”), relating to the Land Bank Program (the “Program”), the Corporation hereby approves creation of a land bank by Tioga County for the purposes and substantially in the form set forth in the Materials, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate; and be it further

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

\* \* \*

Michael Evans then presented a Power Point presentation for the Directors.

Mr. Evans then proceeded to present the first two items relating to contract amendments in connection with the Moynihan Station Civic and Land Use Improvement Project.

The first item, Mr. Evans explained, is a contract amendment with Skanska which is in

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connection with phase 1 of the project, which consists of the collaboration with the MTA, the Long Island Railroad and the Governor's office.

The second part of phase 1 is an amendment for an authorization to allow ESD to issue some change orders for staircase abatement work but, also, for some preliminary hall surveys in the train shed for fencing, targeted destructive testing and probing and interior demolition and utility tracing and relocations that will allow Skanska to do the preparatory work before they begin major construction.

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:

New York City (New York County) – Penn Station – Farley Complex - Moynihan Station Civic and Land Use Improvement Project - Authorization to Assume and Amend the Contract with Skanska USA Civil Northeast, Inc.; 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 hereby finds Skanska USA Civil Northeast Inc. to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Directors authorize the Corporation to assume and be assigned a portion of the construction contract between Moynihan Station Development Corporation and Skanska USA Civil Northeast Inc. with respect to change orders for work as set forth in the materials for a total amount of \$37,500,000 plus a contingency amount of \$3,750,000 resulting in a new total contract amount not to exceed the amount of \$264,894,843, substantially on the terms and conditions, 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,



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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.

\* \* \*

Next, Mr. Evans presented the second item which consists of another contract amendment to Skidmore, Owings and Merrill ("SOM").

Mr. Evans summarized all of the pieces to the SOM contract amendment.

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

**NEW YORK (NEW YORK COUNTY) – Penn Station - Farley Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Assume and Amend a Contract with Skidmore, Owings & Merrill LLP ("SOM") for Architectural, Engineering, Design, Development, and Related Services; and Authorization 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 Skidmore Owings & Merrill LLP ("SOM") to be responsible; and be it further

RESOLVED, that the Directors hereby authorize the Corporation to assume and amend the contract with SOM as described in the Materials so that the amount to be paid to SOM by ESD pursuant to the contract will be increased by \$7,017,431 plus a 25% contingency of \$1,754,358 and aggregate ESD payments pursuant to the contract will not to exceed \$12,128,812 substantially on the terms and conditions, as set forth in the Materials; and be it further

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

\* \* \*

Next, the Acting Chair called Richard Dorado to present the next item on the Agenda related to the Moynihhan Station Development Corporation.

Mr. Dorado explained that the Directors are being asked to affirm, with modifications, the Modified Supplement to the General Project Plan ("GPP").

Mr. Dorado further explained that if the Directors affirm the supplement, the existing GPP, as amended by the affirmed supplement, would constitute the Amended General Project Plan for the project.

Mr. Dorado proceeded to give a brief history of the project and again outlined the requests being put before the Directors: Affirm the attached modified supplement to the General Project Plan; approve the essential transaction terms as set forth in the materials; and determine, based on the information provided in the materials, that the competitive RFP process for the disposition of Farley, obtain such competition as was feasible under the circumstances.

Following the full presentation, the Acting Chair called for any questions or comments. Director Miller asked what the ownership structure would ultimately be.

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Mr. Evans explained that ESD will remain the fee owner and the entire structure will be subject to a 99-year master lease.

Director Miller then asked if that included the platforms underneath or just the building on top.

Mr. Evans responded that it did not and proceeded to explain. Mr. Evans informed her that it only referred to the building and that once certain aspects of the work is complete, Amtrak will take ownership.

Mr. Evans then proceeded to give a brief presentation on the Moynihan Station Interim Lease Agreement.

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

New York (New York County) – Moynihan Station Civic and Land Use Improvement Project – Affirmation of Modified Supplement to the General Project Plan; Determination that No Supplemental Environmental Impact Statement is Required; Determinations Regarding Proposed Transfers of Property; and Authorization to Take Related Actions

---

RESOLVED, that based on the materials presented to this meeting (the “Materials”) and ordered filed with the records of the New York State Urban Development Corporation d/b/a Empire State Development (the “Corporation”) relating to the Moynihan Station Civic and Land Use Improvement Project (the “Project”), the Corporation does hereby affirm with modifications pursuant to the Urban Development Corporation Act of 1968, as amended (the

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“UDC Act”) the Modified Supplement to the General Project Plan set forth in the Materials (the “Supplement”), makes the findings set forth in the Supplement, and approves the essential transaction terms as set forth in the Materials together with such changes therefrom as the President and Chief Executive Officer of the Corporation or any of his designee(s) may deem appropriate; and be it further

RESOLVED, that the Corporation finds that the Supplement would not result in any significant adverse environmental impacts not previously identified in the Project’s prior environmental reviews and that no Supplemental Environmental Impact Statement is required in connection with the Supplement; and be it further

RESOLVED, that based on the Materials, the Corporation hereby determines that (i) the competitive request for proposals process for the disposition of the James A. Farley Post Office Building and Annex obtained such competition as is feasible under the circumstances, (ii) the proposed property dispositions described in the Materials are consistent with the purpose, mission and governing statute of the Corporation, and (iii) there is no reasonable alternative to the proposed transfers that would achieve the same purposes of such transfers; and be it further

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

\* \* \*

NEW YORK (NEW YORK COUNTY) – Penn Station - Farley Complex - Moynihan Station  
Civic and Land Use Improvement Project – Authorization to Enter into an Interim Lease  
and Development Agreement; and Authorization to Take Related Actions

---

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Vornado Realty, L.P., The Related Companies, L.P., Skanska USA Building, Inc. and Skanska USA Civil Northeast, Inc. to be responsible; and be it further

RESOLVED, that the Directors hereby authorize the Corporation to enter into an Interim Lease Agreement and a related Interim Development Agreement with special purpose entities owned by subsidiaries of Vornado Realty, L.P. and The Related Companies L.P (collectively, the “Tenant”) substantially on the terms and conditions, as set forth in the Materials to lease so that the Tenant shall Lease the James A. Farley Post Office Building (the “Leasehold Premises”) and perform improvements to the Leasehold Premises related to the Daniel Patrick Moynihan

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Train Hall and pursuant the Corporation will provide up to \$150 million in funding for such improvements subject to authorization of such funding in the Port Authority of New York and New Jersey Capital Plan (“the Port Authority”) by the Board of Directors of the Port Authority; and be it further

RESOLVED, that based on the Materials, the Corporation hereby determines that (i) the competitive request for proposals process for the disposition of the James A. Farley Post Office Building obtained such competition as is feasible under the circumstances, (ii) the proposed property dispositions described in the Materials are consistent with the purpose, mission and governing statute of the Corporation, and (iii) there is no reasonable alternative to the proposed transfers that would achieve the same purposes of such transfers; and be it further

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

\* \* \*

There being no further business, the meeting was adjourned at 11:12 a.m.

Respectfully submitted,

Eileen McEvoy  
Corporate Secretary

**Item II. A.**



**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Buffalo (Western New York Region – Erie County) –Pilgrim Village  
Redevelopment/Campus Square Capital – Buffalo Regional  
Innovation Cluster Fund – Better Buffalo Fund (Capital Loan)

**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 Loan and to Take Related Actions;  
Determination of No Significant Effect on the Environment

---

**General Project Plan**

**I. Project Summary**

**Borrower:** Pilgrim Village Associates III, L.P. (“Pilgrim Village” or the “Company”)

**ESD\* Investment:** A loan of up to \$2,000,000 to be used for a portion of construction and renovation costs

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

**Project Location:** 901 Ellicott Street, Buffalo, Erie County

**Proposed Project:** Rehabilitation of Pilgrim Village Apartment and construction of Campus Square (the “Complex”)

**Project Type:** Renovation and construction

**Regional Council:** The Western New York Regional Economic Development Council oversees the Buffalo Billion Investment Development Plan. This project is part of Governor Cuomo’s Buffalo Billion Initiative to enhance residential and commercial density along major transportation corridors.

Loan Financing: The loan will provide permanent financing for a 30-year term

Security: Subordinate lien on real estate co-equal with New York State Housing Finance Agency ("NYS HFA")

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Land Acquisition & Pre-development	\$6,800,000
Construction/Renovation	58,561,026
Soft Costs	12,959,285
Contingency	2,878,052
Developer Overhead	6,266,142
Developer Retention	6,000,000
Reserves, Working Capital/FFE	<u>206,000</u>

Total Project Costs \$93,670,505

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Loan	\$2,000,000	2%	1%/30yrs/RE
First Mortgage- HFA Long Term Tax Exempt Bond	10,400,000	11%	4.75%/30yrs/RE
NYS HFA-MPP <sup>1</sup>	2,280,000	2%	1%/30yrs/RE
NYS HFA-NCP <sup>2</sup>	5,250,000	6%	1%/30yrs/RE
Federal Low Income Housing Tax Credit Equity <sup>3</sup>	20,910,165	23%	
State Low Income Housing Tax Credit Equity <sup>3</sup>	4,650,000	5%	
NYSERDA/Energy Efficiency Incentives	542,500	1%	
Deferred Developer	4,926,801	5%	
Brownfields Tax Credit Equity <sup>3</sup>	17,017,659	18%	
Seller's Note	1,083,380	1%	
First Mortgage- Conventional	22,610,000	24%	4%/10yrs/RE
Deferred Developer Retention	<u>2,000,000</u>	<u>2%</u>	
Total Project Financing	<u>\$93,670,505</u>	<u>100%</u>	

<sup>1</sup> NYS HFA-Multifamily Preservation Program

<sup>2</sup> NYS HFA-New Construction Program

<sup>3</sup> Equity includes tax credit income used for project related costs.

## III. Project Description

### A. Company



**Industry:** Real estate developer

**Company History:** North-Ellicott Management, Inc. ("North-Ellicott") and Pilgrim Village Associates III, L.P. are entities that were formed by Mark H. Trammell in 2002 and 2015, respectively, to undertake and assist with the acquisition, development, rehabilitation of the Pilgrim Village and the construction of Campus Square. Mark Trammell began developing properties in February 1994 and is a second generation residential manager and developer specializing in affordable, rental housing in Buffalo utilizing Federal Low Income Housing Tax Credits, State Low Income Housing Tax Credits and HUD mortgage insurance. The Company works closely with local, county and state funding agencies to help communities meet the need for affordable housing units.

**Ownership:** Pilgrim Village Associates III, L.P. is a privately owned affiliate of principals of North-Ellicott Management, Inc.

**Size:** There is one location in Western New York

**Market:** Affordable, market, student, senior and family residential and commercial development

**ESD Involvement:** During Governor Cuomo's 2012 State of the State Address, he committed a \$1 billion investment in the Buffalo area economy (the "Buffalo Billion Initiative") to create thousands of jobs and spur \$5 billion in new investment and economic activity over several years. In early 2014, \$30 million of the Buffalo Billion Initiative was dedicated for the Better Buffalo Fund ("BBF"), a competitive loan/grant program encouraging density and growth along transportation corridors and the revitalization of neighborhood commercial districts within targeted areas in the City of Buffalo (the "City"). BBF consists of two segments, Transit-Oriented Development, administered by ESD, which assists with gap financing for adaptive reuse or infill capital projects promoting dense development within ¼ mile walking distance of transit stops, and the Buffalo Main Streets Initiative, modeled on the New York State Main Street program and administered by NYS Homes and Community Renewal, to revitalize historic downtowns and mixed-use neighborhood commercial districts. In October 2014, ESD commenced the application process for the first phase of BBF. The first round of BBF awards was announced in April 2015. \$11.722 million BBF awards were announced for 21 projects, eight (\$7.96 million) of which were Transit-Oriented Development awards. The second round of BBF awards was announced August 2016. \$9.1 million BBF awards were announced for 14 projects, nine (\$7.7 million) of which

were Transit-Oriented Development awards.

During the second round, Pilgrim Village Associates III, L.P. was awarded a \$2 million loan to offset the costs of the rehabilitation of Pilgrim Village Apartments and the construction of the Complex. The redevelopment of Pilgrim Village and the construction of the Complex will be one of the most significant new affordable housing developments in the City of Buffalo. Without assistance from ESD, this project would not be feasible.

Competition: N/A

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

**B. The Project**

Completion: May 2019

Activity: The project will involve the acquisition and rehabilitation of Pilgrim Village Apartments, a privately owned, affordable housing development and the construction of Campus Square, a 260,000-square-foot, multi-use, mixed-income, mid-rise residence.

The Pilgrim Village Apartments are located at 1100 Michigan Avenue and 903 Ellicott Street. The 12-acre development was built in 1980 and was originally comprised of 90 townhome units within 18 buildings. Five of the 18 buildings, consisting of 25 apartments had to be demolished to create a 3.5 acre footprint for the construction of Campus Square building. The 65 remaining original Pilgrim Village Apartments will undergo major renovations.

The Pilgrim Village Apartment renovations will include building systems upgrades, stainless steel appliances, windows, siding, wood flooring, kitchen cabinets, exterior lighting systems, upgraded interior finishes, new bath and light fixtures, security systems, flatwork, and additional landscaping. The new construction of the mid-rise apartment will include remediation; installation of all new mechanical, electrical, plumbing and HVAC systems; complete interior reconstruction; new roof; and the installation of furniture, fixtures and equipment.

Upon completion, the Complex will include 218 apartments: 65 affordable apartments, with rents ranging from \$790-\$906/month; 62 senior apartments with rents ranging from \$650-\$906/month; 30 student apartments, with rents ranging from \$711-\$906/month and 61 market rate apartments, with rents ranging from \$969-\$3,591/month, an 80,000-

square-foot garage; and 50,000 square feet of commercial and not-for-profit space. The affordable residential units will be offered to individuals who earn 50% AMI or less, individuals who earn up to 60% or less of the AMI, individuals who earn up to 80% of the AMI and individuals who earn up to 90% or less of the AMI.

**Results:** The project will transform Ellicott Street, Best Street, Michigan Avenue and East North Street on Buffalo's Eastside. Once complete the Complex will provide a high-quality, mixed-use facility providing safe and affordable in-demand housing, market rate housing, beautiful outdoor spaces, and retail space tailored to the needs of a diverse neighborhood. The project will also promote pedestrian and multi-modal transportation for this transforming community.

**Economic Growth**

**Investment Project:** No Benefit-Cost Analysis ("BCA") is required since these projects generate long-term benefits not captured in the short-term period used for the BCA and may involve no permanent job commitments.

**Borrower Contact:** Mr. Mark Trammell  
91 Nora Lane  
Buffalo, New York 14209  
Phone: (716) 884-0488

**ESD Project No.:** AB232

<b>Project Team:</b>	Origination	Angela Rossi
	Project Management	Angela Rossi
	Legal	Antovk Pidedjian
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Angela Pitto
	Environmental	Soo Kang

**C. Financial Terms and Conditions**

1. The Borrower shall pay a commitment fee of 1% of the \$2,000,000 loan (\$20,000). In addition, at the time of closing, the Borrower will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Borrower will demonstrate no materially adverse changes in its financial condition prior to closing.
3. Guarantees: N/A

4. The Borrower will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Recipient's written acceptance of ESD's Incentive Proposal. Equity is defined as cash injected into the project by the Recipient or by investors including the Low Income Housing Tax Credit Investors and should be auditable through Recipient financial statements or Recipient accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project or grants from a government source.
5. Up to \$2,000,000 will be disbursed to the Borrower upon completion of the project substantially as described in these materials including documentation of \$85 million in project expenditures and verification of funding or simultaneous funding of the NYS HTFC Loan. Expenditures reimbursed by ESD's loan must be incurred on or after October 28, 2016 to be considered eligible project costs. Disbursement of the loan must be requested by December 31, 2019.
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. Term: 30 years from date of final advance.  
Loan becomes immediately due and payable if Borrower sells or closes Project Location or materially changes the use of the property without the prior written consent of ESD, excepting sale or transfer of all or part of the 99.99% investor interest in Pilgrim Village Associates III, L.P.
8. Interest: 1% payable annually to the extent of Excess Income. The first payment of interest for the period through the end of Recipient's fiscal year shall be due and payable within 120 days of the end of Recipient's fiscal year from Excess Income prior to distribution of any Return on Equity (which definitions and determinations shall be on the same terms as provided by the NYS HFA Subsidy Loan). Thereafter, interest shall be calculated on an annual basis and shall be payable annually within 120 days of the end of Recipient's fiscal year from Excess Income prior to distribution of any Return on Equity.

Distribution of Excess Income, if any, shall be applied first, to repay any deferred interest, then to pay current interest due on the Loan.

If Recipient can demonstrate to ESD's satisfaction that there is insufficient Excess Income to pay any amount due pursuant to the terms of this Note, then, so long as there shall be no Event of Default (as defined in the Loan Documents), the amount due which exceeds Excess Income shall be deferred, and be due and payable on the next payment date and shall be aggregated with any other outstanding amounts. The

Recipient shall submit audited/reviewed financial statements to ESD for verification of insufficient Excess Income. The deferred amount due shall not bear interest or be subject to penalty.

In the event that insufficient Excess Income is available to pay both the interest on the ESD \$2,000,000 loan and the interest on the NYS HFA Subsidy Loan, the combined interest shall be paid to the extent of Excess Income in the ratio of the principal amounts of the two loans

9. Repayment Terms: Annual payments of interest as described above and payment in full of the principal amount and any accrued interest 30 years from the date of final advance.
10. The Borrower will submit to ESD annual reviewed or audited financial statements to be submitted at closing and annually.
11. Financial Disclosure: Updated financial disclosure on Borrower and all guarantors acceptable to ESD must be provided prior to closing.
12. Lien/Collateral: Subordinate lien on real estate co-equal with NYS HFA Subsidy Loan. The obligations and liability of Recipient for payment of principal, interest thereon and charges shall be enforceable solely against any property (including, without limitation, the Mortgaged Property), security, collateral and/or assets (including the proceeds thereof) encumbered, pledged or assigned by Recipient. Recipient shall not be personally liable for the payment or satisfaction of such sums. In any action to foreclose the Mortgage and Security Agreement, ESD shall not enter any deficiency judgment against Recipient nor shall ESD enforce any monetary judgment on this Note for such sums against Recipient. The foregoing shall not affect ESD's liens, security interests, rights and remedies with respect to the Mortgaged Property or any other property, security, collateral and/or assets (including the proceeds thereof) encumbered, pledged or assigned by Recipient.

Default under HFA Subsidy Loan shall be an event of default under the ESD loan.

13. Due Diligence: Legal appraisals and engineering and environmental reviews acceptable to ESD must be provided prior to closing, if applicable.

#### IV. Statutory Basis – Buffalo Regional Innovation Cluster Fund

The funding was authorized in the 2014-2015 New York State budget and re-appropriated in the 2015-2016 and 2016-2017 budgets. In anticipation of the demolition of the twenty-five apartments, the developer set-aside twenty residences on another section of Pilgrim Village that were completely restored (flooring, counter-tops, cabinetry, appliances, doors, heating

appliances, etc.) for the families that would have been displaced because of the demolition. The other five apartments were vacant and did not require relocation of any families. Consequently, ahead of the razing, all families were transferred at the owner's expense.

#### V. Environmental Review

The City of Buffalo 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 November 15, 2014. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

Due to ESD's mortgage position on the loan, a Phase I Environmental Site Assessment (ESA) and if needed, a Phase II ESA must be submitted to ESD for review and approval prior to closing on the loan.

#### VI. Smart Growth Public Infrastructure Review

Pursuant to the requirements of the State Smart Growth Public Infrastructure Policy Act (the "SG Act"), ESD's Smart Growth Advisory Committee has reviewed a Smart Growth Impact Statement for the project and found that the project is consistent with the State Smart Growth Public Infrastructure Criteria ("Smart Growth Criteria"). The designee of the Chief Executive Officer of the Corporation has attested that the project, to the extent practicable, meets the relevant Smart Growth Criteria set forth in the SG Act.

#### 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 include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBES) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30%. The overall goal shall include a Minority Business Enterprise Participation Goal of 15% and a Women Business Enterprise Participation Goal of 15% related to the total value of ESD's funding.

#### VIII. ESD Employment Enforcement Policy

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

**IX. 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.

**X. Additional Submissions to Directors**

Resolutions

New York State Map

Project Finance Memorandum

Project Photographs

February 16, 2017

Buffalo (Western New York Region – Erie County) - Pilgrim Village Redevelopment/Campus Square Capital – Buffalo Regional Innovation Cluster Fund – Better Buffalo Fund (Capital Loan) – Findings and Determinations Pursuant to Section 10(g); Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan 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 Pilgrim Village Redevelopment/Campus Square Apartments – Buffalo Regional Better Buffalo Fund (Capital 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 Pilgrim Village Associates III, L.P. a loan for a total amount not to exceed Two Million (\$2,000,000) from the Buffalo Regional Innovation Cluster 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.

\* \* \*

February 16, 2017

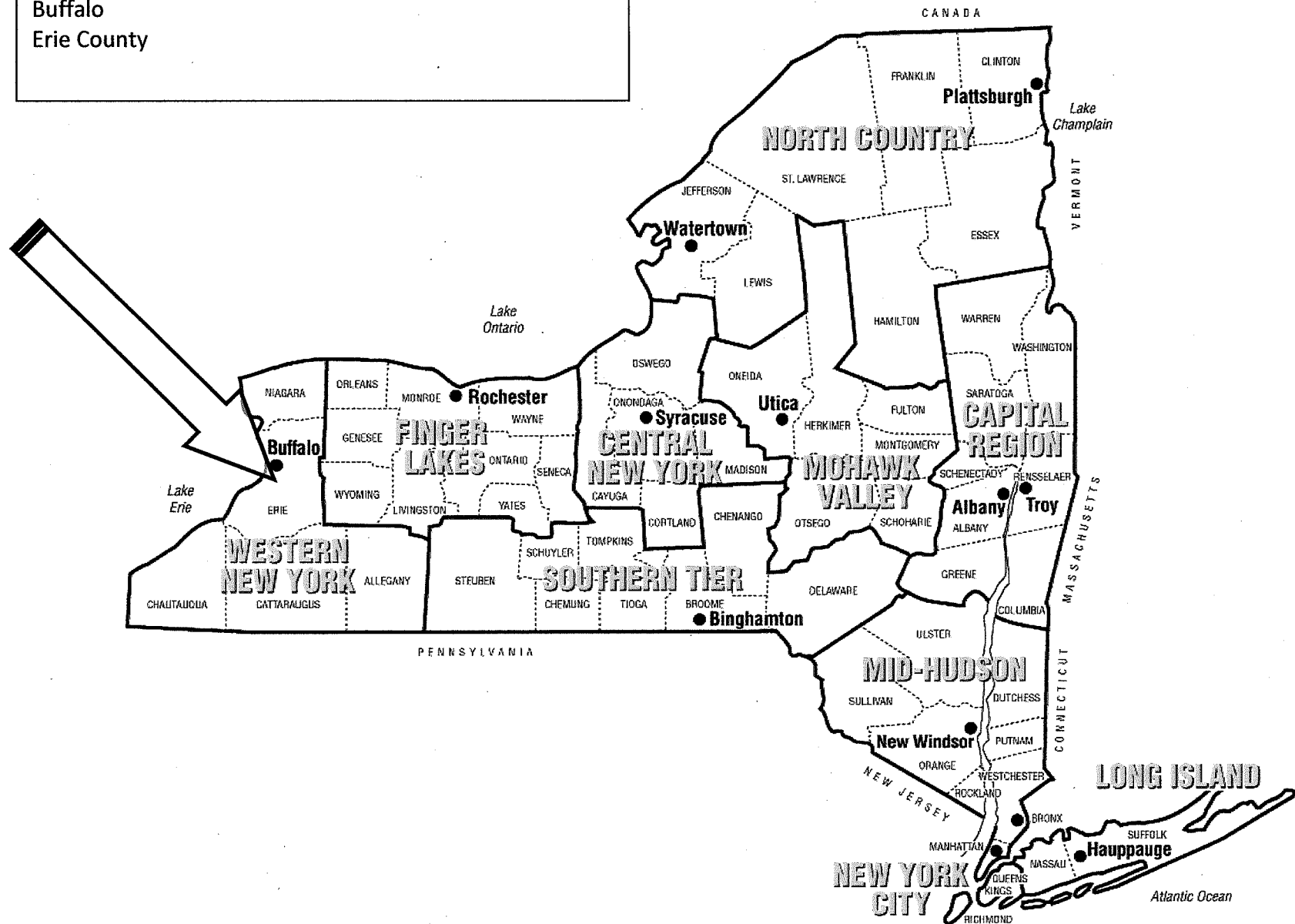
Buffalo (Western New York Region – Erie County) - Pilgrim Village  
Redevelopment/Campus Square Capital – Buffalo Regional Innovation Cluster Fund –  
Better Buffalo Fund (Capital Loan) – Determination of No Significant Effect on the  
Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Pilgrim Village Redevelopment/Campus Square Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

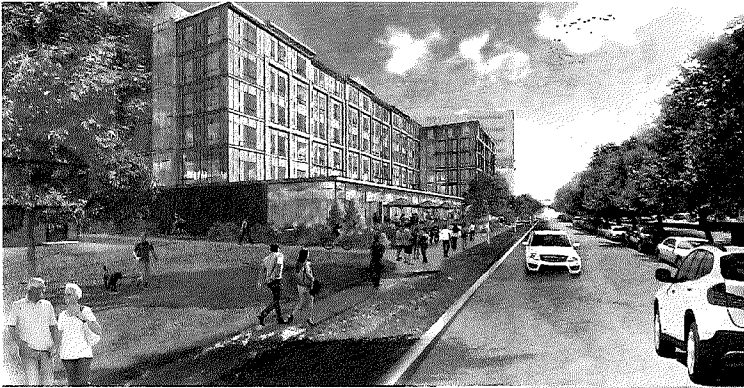
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**Pilgrim Village Redevelopment/Campus Square Capital**  
Buffalo  
Erie County

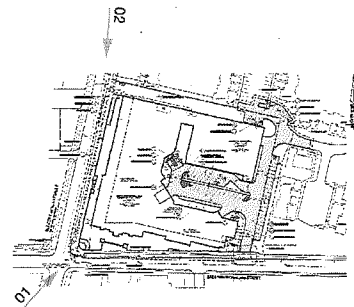


# Key Ingredients

Design encourages pedestrian travel / walkable community



Concept Rendering: Perspective from Ellicott Street - 02



Concept Rendering: Perspective from Ellicott Street at main Plaza - 01

smith+associates  
ARCHITECTS  
(585) 232-5577 [Kim@smith+associatesarch.com](mailto:Kim@smith+associatesarch.com)

Campus Square

Concept Renderings

**McGuire**  
Development Co.  
An Experience Built on Trust

& Mark H. Trammell  
Developer / Owner  
712.334.0488

MARCH 20, 2015



**EXISTING EXTERIOR**



**EXISTING EXTERIOR**



**EXISTING PARKING**



**EXISTING EXTERIOR**

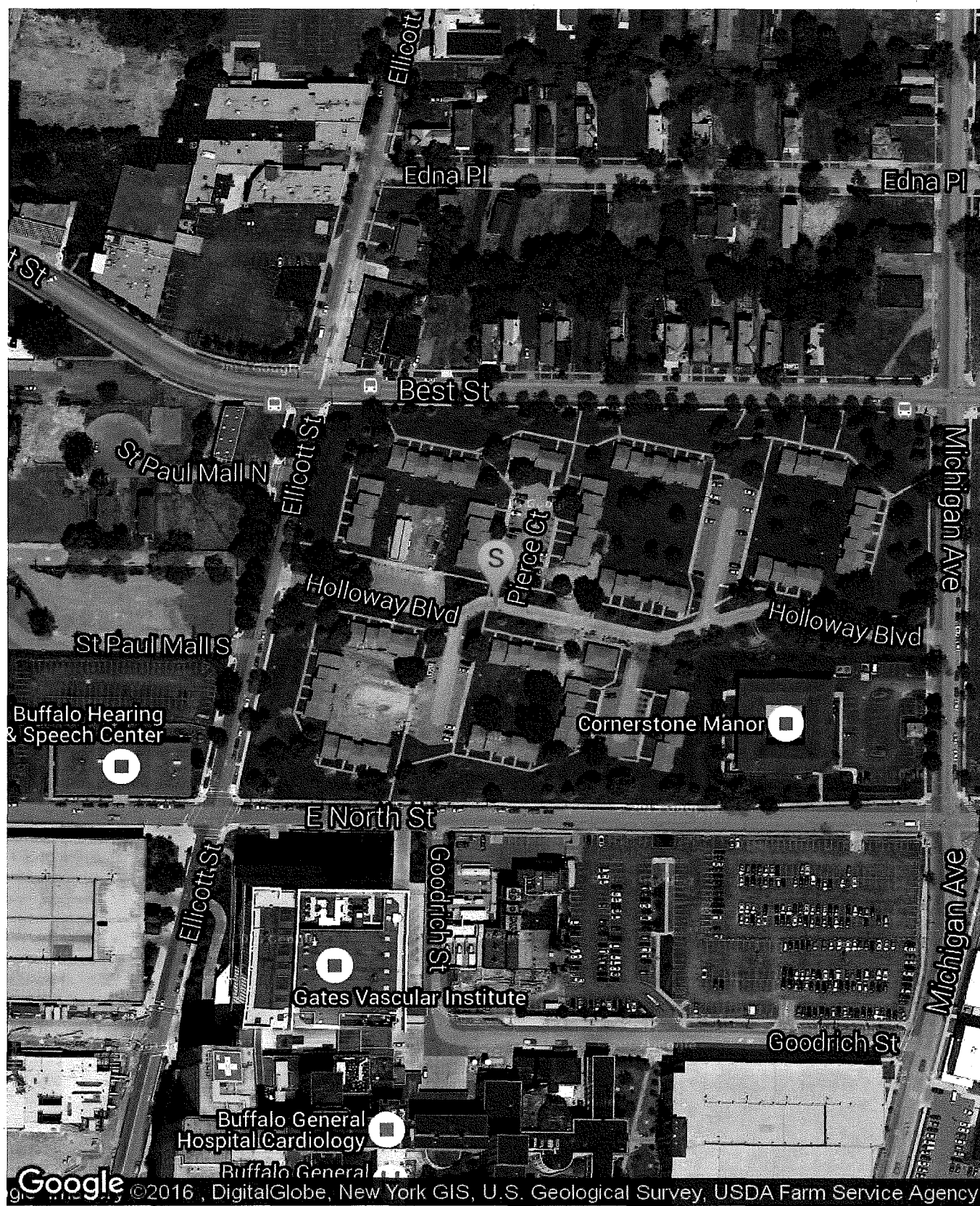


**PROPOSED MID-RISE SITE**



**PROPOSED MID-RISE SITE**





# **Item II. B.**



**FOR CONSIDERATION**

February 16, 2017

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Buffalo (Western New York Region – Erie County) – School 77 Capital – Buffalo Regional Innovation Cluster Fund – Better Buffalo Fund (Capital Loan)

**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 Loan and to Take Related Actions; Determination of No Significant Effect on the Environment

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**General Project Plan**

**I. Project Summary**

**Borrower:** S77 LLC (“S77” or the “Company”)

**ESD\* Investment:** A loan of up to \$1,553,974 to be used for a portion of the costs of renovation

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

**Project Location:** 429 Plymouth Avenue, Buffalo, Erie County

**Proposed Project:** Renovation of a vacant school into a mixed-use development

**Project Type:** Renovation and adaptive reuse

**Regional Council:** The Western New York Regional Economic Development Council oversees the Buffalo Billion Investment Development Plan. This project is part of Governor Cuomo’s Buffalo Billion Initiative to enhance residential and commercial density along major transportation corridors.



Loan Financing: The loan will provide permanent financing for a 30-year term

Security: Subordinate lien on real estate co-equal with New York State Housing Trust Fund Corporation ("NYS HTFC")

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Land Acquisition	240,000
Soft Costs and Contingency	2,726,826
Construction/Renovation	10,497,048
Developer Fee	952,313
Working Capital	122,500
Project Reserves	154,185
Administrative Costs	<u>55,000</u>

Total Project Costs \$14,747,872

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Loan	\$1,553,974	10.54%	1%/30 yrs./RE
Low Income Housing Tax Credit*	6,454,571	43.77%	
NYS Homes and Community Renewal			
Housing Trust Fund	200,000	1.36%	1%/30 yrs./RE
Historic Tax Credit Equity	4,299,327	29.15%	
HOME Funds	460,000	3.11%	1%/30 yrs./RE
NYS Homes and Community Renewal			
Community Investment Fund	1,750,000	11.87%	1%/30 yrs./RE
NYSERDA	<u>30,000</u>	<u>0.20%</u>	

Total Project Financing \$14,747,872 100%

\*Equity includes tax credit income used for project related costs.

## III. Project Description

### A. Company

Industry: Real estate developer

Company History: S77 LLC was formed by Buffalo Neighborhood Stabilization Company, Inc. ("BNSC"), the not-for-profit development subsidiary of People United for Sustainable Housing ("PUSH"), in 2009 to undertake the acquisition and renovation of School 77. BNSC has utilized several models to develop high-quality affordable housing in the Massachusetts Avenue Corridor Green Development Zone ("Zone") since it was formed. PUSH and BNSC

created the award-winning Zone as an emerging internationally-recognized laboratory for sustainable housing, community planning and green jobs training. The place-based model focuses on a 25-block area of Buffalo's West Side and creates a national model of urban revitalization by concentrating strategic investments in green-design housing rehabilitation, environmental sustainable projects on vacant land, community gardens, and other urban agriculture projects. The early model of housing development relied heavily on volunteers. PUSH also trained and employed local residents to perform much of the work. PUSH recognized that the number of vacant housing units was too great to rely solely on small-scale rehabilitation projects. PUSH and BNSC have, therefore, begun a process to scale up their work to include larger projects, utilizing a number of public and private funding sources.

BNSC currently owns 66 parcels throughout Buffalo's West Side, which include high quality affordable rental housing, land-banked parcels awaiting development, and open space. BNSC's current rental portfolio includes 25 units in 11 buildings, 41 units in 3 buildings in pre-development and 46 units in 16 buildings co-owned with a development partner – Housing Visions, Inc.

Ownership:	S77 LLC is a privately owned affiliate of Buffalo Neighborhood Stabilization Company, Inc.
Size:	There is one location in Western New York.
Market:	Affordable residential housing development
ESD Involvement:	During Governor Cuomo's 2012 State of the State Address, he committed a \$1 billion investment in the Buffalo area economy (the "Buffalo Billion Initiative") to create thousands of jobs and spur \$5 billion in new investment and economic activity over several years. In early 2014, \$30 million of the Buffalo Billion Initiative was dedicated for the Better Buffalo Fund ("BBF"), a competitive loan/grant program encouraging density and growth along transportation corridors and the revitalization of neighborhood commercial districts within targeted areas in the City of Buffalo (the "City"). BBF consists of two segments, Transit-Oriented Development, administered by ESD, which assists with gap financing for adaptive reuse or infill capital projects promoting dense development within ¼ mile walking distance of transit stops, and the Buffalo Main Streets Initiative, modeled on the New York State Main Street program and administered by NYS Homes and Community Renewal, to revitalize historic downtowns and mixed-use neighborhood commercial districts. In October 2014, ESD commenced the application process for the first phase of BBF. The first round of BBF awards was announced in April

2015. \$11.722 million BBF awards were announced for 21 projects, eight (\$7.96 million) of which were Transit-Oriented Development awards. The second round of BBF awards was announced August 2016. \$9.1 million BBF awards were announced for 14 projects, nine (\$7.7 million) of which were Transit-Oriented Development awards.

Through a planning process started in 2014, community leaders identified School 77, a vacant school building, as an opportunity to create a mixed-use community hub on the West Side. Based on their vision, once rehabilitated, the building will incorporate a variety of uses including affordable housing, community facility space for three not-for-profits, a gym open to the neighborhood, and utilization of the auditorium for theatrical productions, arts programming, and community events.

During the second BBF round, S77 LLC was awarded a \$1,553,974 loan to offset the costs of the rehabilitation of School 77. The redevelopment of School 77 will be one of the most significant new affordable housing developments on the City of Buffalo's West Side. Without assistance from ESD, this project would not be feasible.

Competition: N/A

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

**B. The Project**

Completion: July 2018

**Activity:**

The project will substantially rehab and historically preserve the three-story, 80,605-square-foot vacant School 77 built in 1927. The project will create a mixed-use building with 30-units of senior apartments with 26 one-bedroom and 4 two-bedroom units. It will contain 26,817 square feet of residential dwelling space; 15,547 square feet of residential common space with a community room with kitchen, mail room, and laundry; and 38,241 square feet of non-residential commercial and community service facility space on the ground and 1st floors.

The non-residential area will include a large community room with small kitchen, the gym, a playground with additional green space, on-site parking to accommodate 32 vehicles with additional spaces on adjoining roads, as well as a space for bicycles. BNSC has identified three anchor tenants – PUSH Buffalo, Ujima Theatre Company, and Peace of the City as tenants for the community space.

The project will also include renovations to the existing auditorium, seating approximately 800 people, a full size gymnasium and one elevator. Other building improvements include abatement of hazardous materials, window and roof replacements, complete replacement of mechanical, electrical and plumbing systems, and new flooring.

**Results:** The project will transform a long-vacant structure on Buffalo's West Side into a high-quality mixed-use facility providing safe and affordable in-demand senior housing, outdoor spaces, and community and commercial space tailored to the needs of a diverse neighborhood. It will also promote pedestrian and multi-modal transportation as the project is in close proximity to markets, a post office, community centers, library, places of worship and healthcare service.

**Economic Growth**

**Investment Project:** No Benefit-Cost Analysis ("BCA") is required since these projects generate long-term benefits not captured in the short-term period used for the BCA and may involve no permanent job commitments.

**Borrower Contact:** Mr. Aaron Bartley, Executive Director  
271 Grant Street  
Buffalo, NY 14213  
Phone: (716) 803-3618

**ESD Project No.:** AB224

<b>Project Team:</b>	Origination	Angela Rossi
	Project Management	Angela Rossi
	Legal	Antovk Pidedjian
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Angela Pitto
	Environmental	Soo Kang

**C. Financial Terms and Conditions**

1. The Borrower shall pay a commitment fee of 1% of the \$1,553,975 loan (\$15,540). In addition, at the time of closing, the Borrower will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Borrower will demonstrate no materially adverse changes in its financial condition prior to closing.
3. Guarantees: N/A

4. The Borrower will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Recipient's written acceptance of ESD's Incentive Proposal. Equity is defined as cash injected into the project by the Recipient or by investors and should be auditable through Recipient financial statements or Recipient accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project or grants from a government source. Equity may also include tax credit income used for project related costs secured by the Grantee.
5. Up to \$1,553,974 will be disbursed to the Borrower upon completion of the project substantially as described in these materials including documentation of \$14,747,872 in project expenditures and verification of funding or simultaneous funding of the NYS HTFC Loan. Expenditures reimbursed by ESD's loan must be incurred on or after August 19, 2016 to be considered eligible project costs. Disbursement of the loan must be requested by September 30, 2018.
6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,553,974, 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. Term: 30 years from date of final advance.  
Loan becomes immediately due and payable if Recipient sells or closes Project Location or materially changes the use of the property without the prior written consent of ESD, excepting sale or transfer of all or part of the 99.99% investor interest in S77 LLC or a transfer of the managing member interest due to removal for cause by the investor member.
8. Interest Rate: 1% payable annually to the extent of Excess Income. The first payment of interest for the period through the end of Recipient's fiscal year shall be due and payable within 120 days of the end of Recipient's fiscal year from Excess Income prior to distribution of any Return on Equity (which definitions and determinations shall be on the same terms as provided by the NYS HTFC Subsidy Loan. Thereafter, interest shall be calculated on an annual basis and shall be payable annually within 120 days of the end of Borrower fiscal year from Excess Income prior to distribution of any Return on Equity.

Distribution of Excess Income, if any, shall be applied first, to repay any deferred interest, then to pay current interest due on the Loan.

If Borrower can demonstrate to ESD's satisfaction that there is insufficient Excess Income to pay any amount due pursuant to the terms of this Note, then, so long as there shall be no Event of Default (as defined in the Loan Documents), the amount due which exceeds Excess Income shall be deferred, and be due and payable on the

next payment date and shall be aggregated with any other outstanding amounts. The Borrower shall submit audited/reviewed financial statements to ESD for verification of insufficient Excess Income. The deferred amount due shall not bear interest or be subject to penalty.

In the event that insufficient Excess Income is available to pay both the interest on the ESD \$1,553,974 loan and the interest on the NYS HTFC Subsidy Loan, the combined interest shall be paid to the extent of Excess Income in the ratio of the principal amounts of the two loans.

9. Repayment Terms: Annual payments of interest as described above and payment in full of the principal amount and any accrued interest 30 years from the date of final advance.
10. The Borrower will submit to ESD annual reviewed or audited financial statements to be submitted at closing and annually.
11. Financial Disclosure: Updated financial disclosure on Borrower and all guarantors acceptable to ESD must be provided prior to closing.
12. Subordinate lien on real estate co-equal with NYS HTFC Subsidy Loan. The obligations and liability of Recipient for payment of principal, interest thereon and charges shall be enforceable solely against any property (including, without limitation, the Mortgaged Property), security, collateral and/or assets (including the proceeds thereof) encumbered, pledged or assigned by Recipient. Recipient shall not be personally liable for the payment or satisfaction of such sums. In any action to foreclose the Mortgage and Security Agreement, ESD shall not enter any deficiency judgment against Recipient nor shall ESD enforce any monetary judgment on this Note for such sums against Recipient. The foregoing shall not affect ESD's liens, security interests, rights and remedies with respect to the Mortgaged Property or any other property, security, collateral and/or assets (including the proceeds thereof) encumbered, pledged or assigned by Recipient.

Default under HFA Subsidy Loan shall be an event of default under the ESD loan. .

13. Due Diligence: Legal appraisals and engineering and environmental reviews acceptable to ESD must be provided prior to closing, if applicable

#### IV. Statutory Basis – Buffalo Regional Innovation Cluster Fund

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

#### V. Environmental Review

The City of Buffalo 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 November 6, 2015. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

Due to the building's eligibility for inclusion in the National Register of Historic Places, ESD has confirmed that the project sponsor consulted with the New York State Office of Parks, Recreation and Historic Preservation pursuant to the requirements of Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law ("Section 14.09"). The project is in compliance with Section 14.09.

Further, due to ESD's mortgage position on the loan, a Phase I Environmental Site Assessment (ESA) and if needed, a Phase II ESA must be submitted to ESD for review and approval prior to closing on the loan.

#### VI. Smart Growth Public Infrastructure Review

Pursuant to the requirements of the State Smart Growth Public Infrastructure Policy Act (the "SG Act"), ESD's Smart Growth Advisory Committee has reviewed a Smart Growth Impact Statement for the project and found that the project is consistent with the State Smart Growth Public Infrastructure Criteria ("Smart Growth Criteria"). The designee of the Chief Executive Officer of the Corporation has attested that the project, to the extent practicable, meets the relevant Smart Growth Criteria set forth in the SG Act.

#### 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 include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of ESD's funding.

#### VIII. ESD Employment Enforcement Policy

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

#### IX. 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.

X. Additional Submissions to Directors

Resolutions

New York State Map

Project Finance Memorandum

Project Photographs



February 16, 2017

Buffalo (Western New York Region – Erie County) - School 77 Capital – Buffalo Regional Innovation Cluster Fund – Better Buffalo Fund (Capital Loan) – Findings and Determinations Pursuant to Section 10(g); Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Loan 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 School 77–Buffalo Regional Better Buffalo Fund – Better Buffalo Fund (Capital 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 S77 LLC a loan for a total amount not to exceed One Million Five Hundred Fifty Three Thousand Nine Hundred Seventy Four Dollars (\$1,553,974) from the Buffalo Regional Innovation Cluster 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.

\* \* \*

February 16, 2017

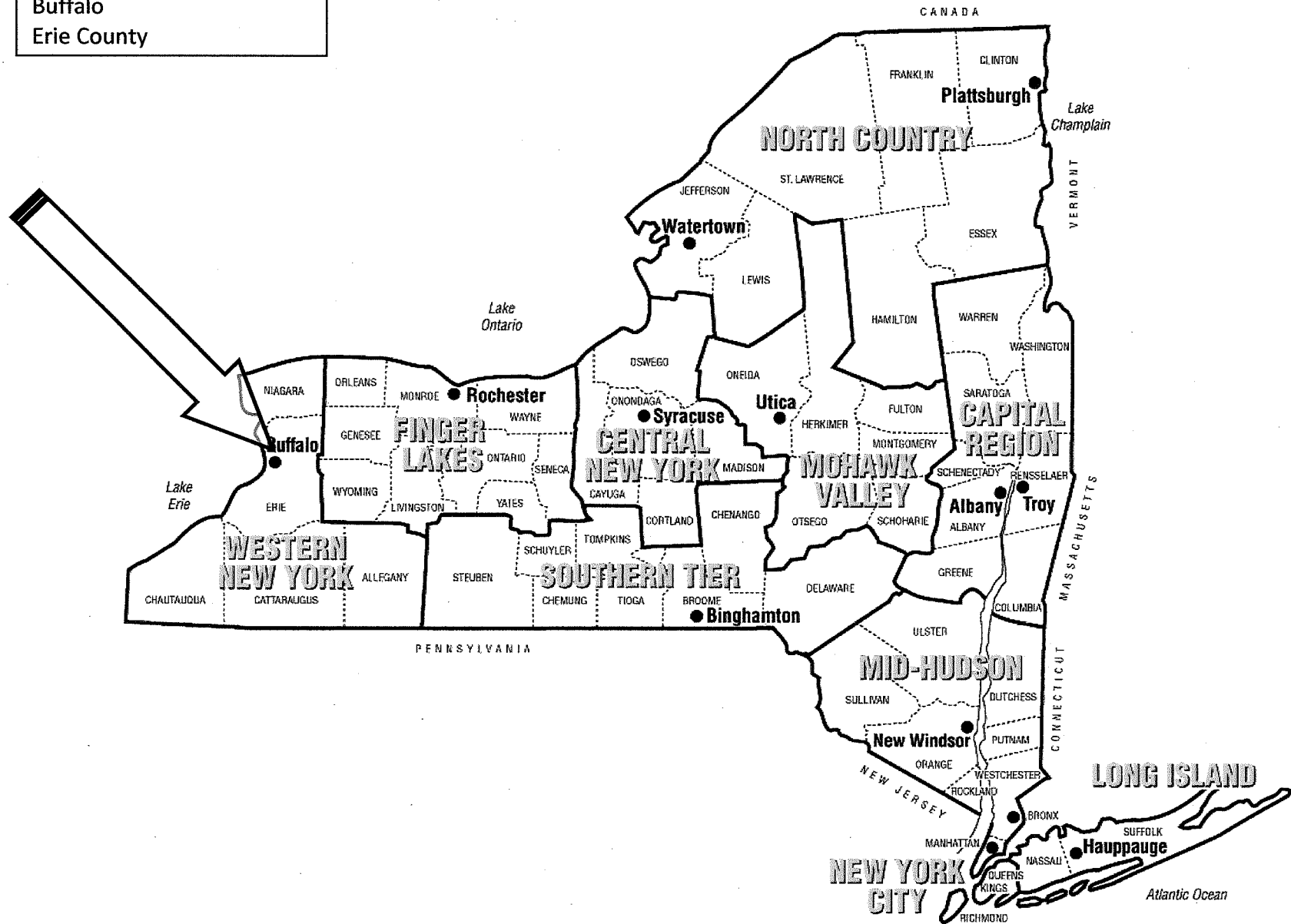
**Buffalo (Western New York Region – Erie County) - School 77 Capital – Buffalo Regional  
Innovation Cluster Fund – Better Buffalo Fund (Capital Loan) – Determination of No  
Significant Effect on the Environment**

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RESOLVED, that based on the material submitted to the Directors with respect to the School 77 Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

School 77 Capital  
Buffalo  
Erie County









# **Item II. C.**



**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Priority Project – Hudson (Capital Region – Columbia County) – Hudson Opera House Capital – Regional Council Capital Fund and Restore NY Communities (Capital Grants)

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

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**General Project Plan**

**I. Project Summary**

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

**Beneficiary  
Company:** Hudson Opera House, Inc. (“HOH” or the “Organization”)

**ESD\* Investment:** Two grants of up to \$2,300,000 (AA843 - \$1,300,000 and W077 - \$1,000,000) to be used for a portion of the cost of construction and renovation

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

**Project Location:** 327 Warren Street, Hudson, Columbia County

**Proposed Project:** Construction, renovations and the purchase and installation of furnishings and equipment to renovate a 21,000-square-foot historic building

**Project Type:** Construction and renovations of an existing building

**Regional Council:** The project is consistent with the Capital Regional Economic Development Council Plan’s goal of bringing cities to life in that it



rehabilitates a historic structure into an arts and entertainment venue in the downtown area of an economically distressed City.

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovations	\$7,298,000
Machinery, Equipment, Furniture & Fixtures	680,000
Other (architectural, engineering, design, etc.)	<u>522,000</u>

Total Project Costs \$8,500,000

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant (#W077)	\$1,000,000	12%	
ESD-Grant (#AA843)	1,300,000	15%	
Bank Financing – USDA Loan <sup>1</sup>	3,000,000	35%	3.5% <sup>2</sup> /35 yrs/RE
Other Grants <sup>3</sup>	1,000,000	12%	
Grantee Equity	<u>2,200,000</u>	<u>26%</u>	

Total Project Financing \$8,500,000 100%

<sup>1</sup>Backed by Kinderhook Bank

<sup>2</sup>Interest only payments for the first two years

<sup>3</sup>New York State Office of Parks, Recreation and Historic Preservation, Environmental Protection Fund Grants

## III. Project Description

### A. City/Organization

Industry: The City of Hudson is located on the shore of Hudson River in Columbia County, 100 miles north of New York City. The City is 2.3 square miles in size and has a population of approximately 6,500 individuals.

The Hudson Opera House, Inc. is a not-for-profit organization whose mission is to inspire and promote an understanding and enjoyment of the arts, and to play a pivotal role in the culture and economic advancement of the region.

City/Organization

History: The City of Hudson bears the name of Henry Hudson, who explored the area while sailing his ship, the "Half Moon", in 1609. During the 17<sup>th</sup> century, the area was settled by Dutch seafaring men from

Massachusetts and Rhode Island who were seeking a safe harbor for their vessels against attacks by the British Navy. The City was chartered in 1785 and for nearly three centuries, its industrial base was situated along the riverfront. Early industries included whaling, sealing and shipping, and in later years, shifted to foundries, cement plants, textile manufacturers, fuel terminals and machine shops. The downturn of these industries by the 1960's and 1970's led to the evaporation of jobs and the resulting shift from an industrial to a service economy placed individuals lacking education at a distinct economic disadvantage. The City of Hudson has a poverty rate that is more than twice the national average and 65% of its population is comprised of low- and moderate-income individuals, 39% of which have not graduated from high school.

The Hudson Opera House is a 21,000-square-foot historic building that was constructed in 1855. As a typical 19<sup>th</sup> century town hall, the building housed local government operations and featured a large performance hall on the second floor which was used for theatrical performances, cotillions, poultry shows, art exhibits and lectures by notable figures such as Susan B. Anthony and Teddy Roosevelt. In 1962, Hudson's City Hall was moved to a different location and the building was abandoned. After decades of neglect decay, a group of local citizens banded together in 1990 to form Hudson Opera House, Inc. to restore the historic building to serve the community.

- Ownership:** The City of Hudson is a municipality. Hudson Opera House, Inc. is a not-for-profit organization.
- Size:** The Hudson Opera House operates under the direction of a 22-member Board of Directors and has a staff that includes four full-time employees and two part-time employees.
- ESD Involvement:** After its formation, HOH began seeking donations, and over time, was successful in expanding its donor base. In 2007, the City of Hudson applied to Round 2 of the Restore NY Community Initiative on behalf of the Hudson Opera House and was awarded \$1 million by ESD for building improvements to minimize further damage and accommodate expanded community program opportunities on the first floor. In recognition of the positive impact the Hudson Opera House was having as a community resource and arts center, the City of Hudson subsequently applied to Round 5 of the Consolidated Funding Application to support additional renovations necessary to allow full use of the building for community programming and revenue generating purposes. The project was identified as a priority by the Capital Region Economic Development Council and the City was awarded a \$1.3 million ESD capital grant. The award enabled the Organization to proceed with its vision of fully

restoring the Hudson Opera House, an important first step in the transformation of this economically distressed urban community.

Past ESD Support: This is the City's first project with ESD in over five years.

**B. The Project**

Completion: February 2017

Activity: The project included the installation of fire stairwells, restrooms, an elevator, new lighting, HVAC and sound systems, reconstruction of the theater's mezzanine, improvements to the roof and building exterior, restoration of the building's windows, cornice and theater ceiling, and construction of administrative office spaces, a new sound booth and theater dressing rooms. The building will support expanded community education and programming services as well as revenue generating events such as weddings, small conferences, fully staged theatrical productions, musical performances and private events.

Results: The project has resulted in the full renovation of a 21,000-square-foot historic building including creation of a flexible 300-seat theater and multiple multi-purpose spaces, all ADA compliant, resulting in 145 construction jobs. Before the HOH began operations in the building, the 300 block of Warren Street, which includes over 40 properties, had a vacancy rate of approximately 75 percent. Today, the occupancy rate is almost 100 percent, with much of the commercial activity being driven by increased foot traffic and tourism generated by HOH's programs and events and the community's embracement of the creative economy.

**Economic Growth**

Investment Project: No Benefit-Cost Analysis ("BCA") is required since these projects generate long-term benefits not captured in the short-term period used for the BCA and may involve no permanent job commitments.

Grantee Contact: Sheena Salvino, Executive Director  
1 North Front Street  
Hudson, New York 12534  
Phone: (518) 751-1044

Beneficiary Contact: Gary Schiro, Executive Director  
327 Warren Street  
Hudson, New York 12534  
Phone: (518) 822-1438

ESD Project No.: AA843; W077

Project Team:	Origination	Arnie Will
	Project Management	Linda Dillon
	Contractor & Supplier Diversity	Denise Ross
	Finance	John Bozek
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall pay a commitment fee of 1% of the \$1,300,000 capital grant (\$13,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after ESD's announcement of the project. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Up to \$2,300,000 will be disbursed to Grantee upon documentation of construction, renovation, machinery, equipment, furniture, fixtures and soft costs project costs totaling \$8,500,000, 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 for W077 must be incurred on or after January 15, 2008 to be considered reimbursable project costs. Previously expended funds may be applied toward match requirements retroactive to June 23, 2006, when the Restore New York Legislation was enacted. Expenses for AA843 must be incurred on or after December 10, 2015, to be considered eligible project costs. All disbursements must be requested by April 1, 2018.
5. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$2,300,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
6. If the Grantee is not the owner of the Project, then the Grantee shall prohibit, for five years from the date of the initial disbursement of Grant funds, any transfer of the Project in whole or in part, by sale, lease, or conveyance of any interest in or with

respect to the Project except (a) transfers of minor interests in the Project site, such as utility easements and limited rights-of-way, and (b)(i) the arms-length basis sale or lease of individual condominium units in the ordinary course of business for a condominium development and (ii) the arms-length basis residential or commercial lease in the ordinary course of business for a commercial, residential, or mixed-use rental development. In the event that such a prohibited transfer occurs within such five-year period, the Grantee shall pay to ESD, promptly upon ESD's written demand therefor, the applicable amount indicated below.

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

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

#### IV. Statutory Basis – Restore NY Communities (W077):

##### Land Use Improvement Project Findings

1. The area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest sound growth and development of the municipality.

The project is located in a blighted neighborhood and involves the rehabilitation of a historical building to accommodate the use of the first floor by the public for community events and programming purposes. The project involves the rehabilitation of a vacant, commercial building, which has been deemed by the City to arrest sound growth and development in the area.

2. The project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto.

The project involves the rehabilitation of a site and is consistent with the City of Hudson's 2002 Comprehensive Plan. The project is also located in the Hudson River Greenway Region and is consistent with the Greenway criteria.

3. The plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.

The City published a property assessment list and held a public hearing on the project at the time of application. The City will ensure compliance with all applicable local laws and regulations.

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

There are no families or individuals displaced from the Project area.

#### V. Statutory Basis – Regional Council Capital Fund (AA843):

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

#### VI. 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.

Due to the building's inclusion in the National Register of Historic Places, ESD has confirmed that the project sponsor consulted with the New York State Office of Parks, Recreation and Historic Preservation pursuant to the requirements of Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law ("Section 14.09"). The project is in compliance with Section 14.09.

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

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The City of Hudson shall be required to include minorities and women in any job opportunities created, to solicit and utilize MWBEs for any contractual opportunities generated in connection with AA843 and to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 30%. The overall goal shall include a Minority Business Enterprise ("MBE") Participation Goal of 10% and a Women Business Enterprise ("WBE") Participation Goal of 20% related to the total value of ESD's funding.

#### VIII. ESD Employment Enforcement Policy

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

IX. 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.

X. Additional Submissions to Directors

Resolutions

New York State Map

Project Finance Memorandum

Project Photographs

February 16, 2017

Regional Council Award – Priority Project – Hudson (Capital Region – Columbia County)  
– Hudson Opera House Capital – Regional Council Capital Fund and Restore NY  
Communities (Capital Grants) – Findings and Determinations Pursuant to Section 10(g)  
of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to  
Make Grants and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Hudson Opera House Capital -- Regional Council Capital Fund and Restore NY Communities 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, President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to the City of Hudson grants for a total amount not to exceed Two Million Three Hundred Thousand Dollars (\$2,300,000) from the Regional Council Capital Fund and Restore NY Communities, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

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

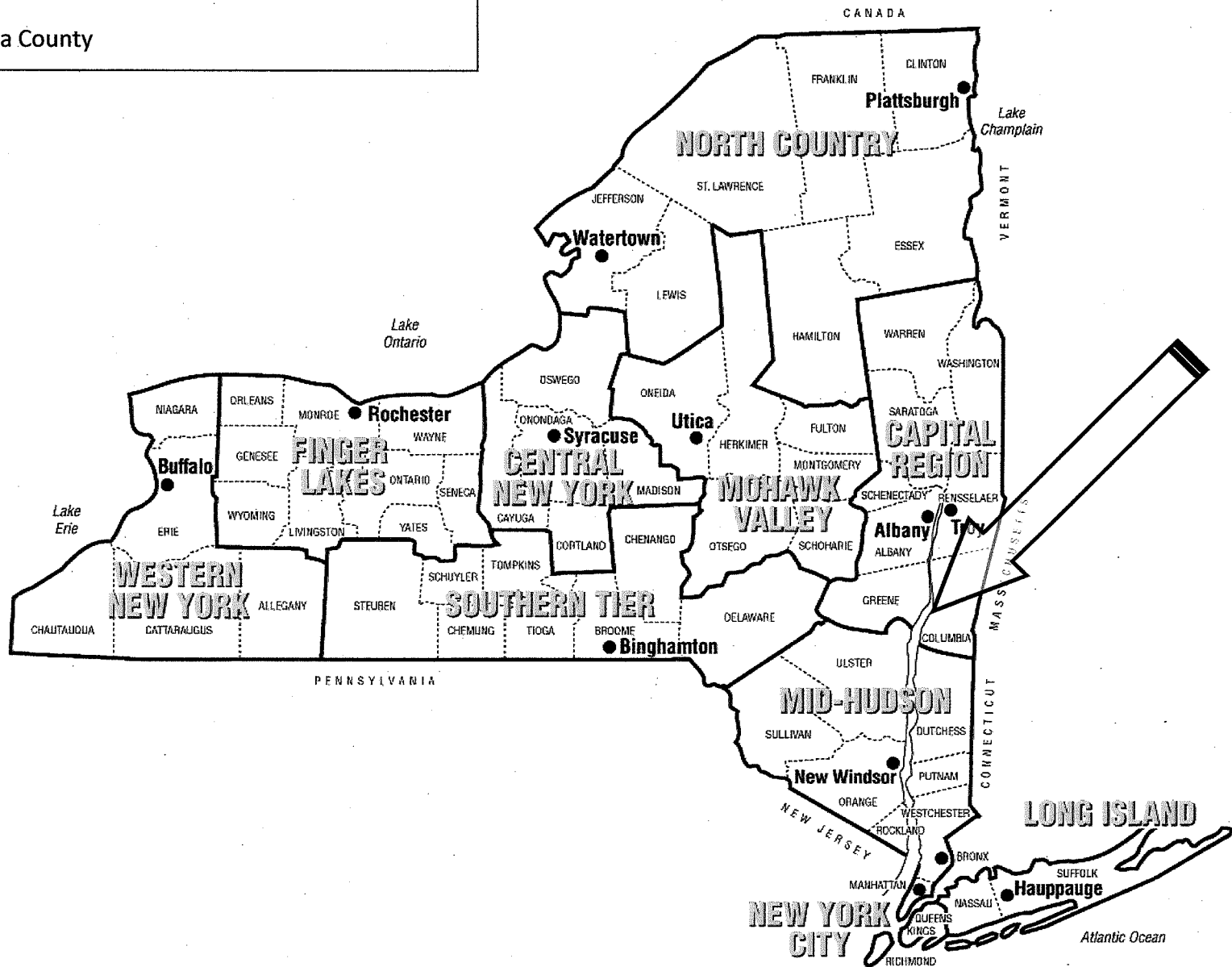
RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver



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.

\* \* \*

**Hudson - Restore II / Hudson Opera House Capital**  
Hudson  
Columbia County



















**Item II. D.**





**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Priority Project – Albany (Capital Region – Albany, Schenectady, Rensselaer, Saratoga, Warren, Washington, Greene and Columbia Counties) – Community Loan Fund Infusion Capital – Regional Council Capital Fund (Capital Grant)

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

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**General Project Plan**

**I. Project Summary**

**Grantee:** Community Loan Fund of the Capital Region, Inc. ("CLF" or "Organization")

**ESD\* Investment:** A grant of up to \$700,000 to be used for a portion of the cost of a revolving capital loan fund

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

**Project Locations:** Albany, Schenectady, Rensselaer, Saratoga, Warren, Washington, Greene and Columbia Counties

**Proposed Project:** Establishment of a \$3,070,000 revolving capital loan fund for capital investments undertaken by Capital Region micro-entrepreneurs, companies, not-for-profit organizations and individuals, and employee training for the delivery of technical business services necessary for borrowers to achieve self-sufficiency and economic success

**Project Type:** Revolving capital loan fund

**Regional Council:** The project is consistent with the Capital Regional Economic Development Council's Plan in that it supports the Opportunity Agenda

by opening new doors through the creation of business opportunities for start-up companies and disadvantaged individuals. Linda MacFarland, Executive Director of the Community Loan Fund of the Capital Region, Inc., is a member of the 22-person Capital Regional Economic Development Council ("CREDC"). In conformance with the State's policy, this individual has recused herself on votes recommending this project. The Council includes 11 additional, ex-officio members who are elected officials but cannot vote on individual project recommendations.

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Loan Fund	\$3,070,000
Employee Training	<u>430,000</u>
Total Project Costs	<u>\$3,500,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$700,000	20%
ESD – CDFI Assistance Grant (AA337)	95,000	3%
US Dept. of Treasury CDFI Grant	1,920,000	55%
SBA Prime Grant	130,000	4%
City of Schenectady CDBG Grant	58,000	1%
Capitalize Albany	212,000	6%
Schenectady Foundation	35,000	1%
Grantee Equity	<u>350,000</u>	<u>10%</u>
Total Project Financing	<u>\$3,500,000</u>	<u>100%</u>

## III. Project Description

### A. Organization

Industry: The Community Loan Fund of the Capital Region, Inc. is a federally-certified Community Development Financial Institution ("CDFI"). The Organization serves an 11 county area that includes the Capital Region and Fulton, Montgomery and Schoharie Counties. Its mission is to promote sustainable community development efforts for economically underserved people and communities. The CLF provides access to capital by pooling investments and donations from socially concerned individuals, organizations, institutions and government sources, and re-lending funds to not-for-profit organizations for housing and community improvement, to micro enterprises for business development, and to individuals for homeownership and repair. The Community Loan Fund of

the Capital Region is the only US Department of Treasury certified CDFI within the Capital Region that provides these programs and services.

**Organization**

**History:** CLF was incorporated in 1985.

**Ownership:** The CLF is a not-for-profit organization.

**Size:** The CLF operates under the direction of an 11 member Board of Directors and has ten full-time professional staff members. Its main office is located in downtown Albany and in 2014, the Organization opened a satellite office in the City of Schenectady to provide greater access to its services.

**ESD Involvement:** In 2014, the CLF applied to the US Department of Treasury for \$2 million in CDFI funding to expand lending and further small businesses start-ups and growth, employment opportunities, affordable housing, and essential community services. The award enabled the CLF to commit to lending over \$3.7 million to Capital Region not-for-profit organizations for housing and community improvement, micro enterprises for business development, and individuals for home ownership and repair. To meet the match requirements for the federal grant, the CLF solicited a variety of organizations including ESD and submitted an application to Round 5 of the Consolidated Funding Application. The project was determined to be a priority by the CREDC based on its potential for providing greater access to lending capital by not-for-profit organizations and underserved and disadvantaged populations investing in business growth and community development in the Capital Region.

**Competition:** N/A

Past ESD Support: Funding for the past five years, totaling \$400,000 to the Grantee, is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
CDFI	X507	\$150,000	October 20, 2011	October 2012	Loans, technical assistance services and administrative and support staff expenses
CDFI	Y198	\$75,000	February 21, 2013	June 2014	Technical assistance, loan loss reserve, institutional capacity, and administrative costs
CDFI	Y968	\$85,000	March 28, 2014	May 2015	Technical assistance, loan capital, institutional capacity, and administrative costs
CDFI	Z481	\$90,000	November 20, 2014	April 2016	Technical assistance, loan capital, institutional capacity, and administrative costs
CDFI	AA337	\$95,000	December 17, 2015	February 2017	Technical assistance, loan capital, institutional capacity, and administrative costs

DFI	AB336	\$80,000	December 15, 2016	February 2018	Technical assistance, loan capital, institutional capacity, and administrative costs
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## **B. The Project**

**Completion:** December 2019

**Activity:** The CLF will use grant funds to establish a \$3,070,000 community-based revolving capital loan fund to further small business growth and economic opportunity for residents in the Capital Region. The project will target micro-entrepreneurs, not-for-profit organizations, individuals of low income, and disadvantaged groups including women, veterans, minorities, providing access to the low-cost capital for business and community development purposes. The project also includes business training for CLF staff so they may continue to provide the necessary services for borrowers to achieve self-sufficiency and economic success. ESD grant funds will be used specifically to support loans that further business and commercial activity and community development.

**Results:** The project will increase access to lending capital for a variety of underserved populations and leverage approximately \$2.3 million in public and private funding to support commercial, business and community development investments in the Capital Region.

### **Economic Growth**

**Investment Project:** No Benefit-Cost Analysis ("BCA") is required since these projects generate long-term benefits not captured in the short-term period used for the BCA and may involve no permanent job commitments.

**Grantee Contact:** Linda McFarlane, Executive Director  
255 Orange Street  
Albany, NY 12210  
Phone: (518) 436-8586 X808

**ESD Project No.:** AA832

**Project Team:** Origination Arnie Will  
Project Management Linda Dillon

Contractor & Supplier Diversity  
Finance  
Environmental

Denise Ross  
John Bozek  
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 \$700,000 capital grant (\$7,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after ESD's announcement of the project. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Up to \$700,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$350,000) will be advanced into an imprest account upon execution of a Grant Disbursement Agreement and receipt of required documentation, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 40% of the grant (\$280,000) will be advanced upon documentation verifying Disbursement of 75% of the first advance (\$262,500) and grantee's compliance with program reports and requirements;
  - c) a Third Disbursement of an amount equal to 10% of the grant (\$70,000) will be disbursed upon documentation verifying disbursement of 100% of the first advance and 75% of the second advance (\$560,000) and grantee's compliance with program reports and requirements.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. The Grantee may, no more frequently than monthly, seek authorization to withdraw funds for eligible costs from the imprest account, in amounts not exceeding the proportion of ESD's funding share. Expenses must be incurred on or after December 10, 2015, to be considered eligible project costs. All disbursements must be requested by April 1, 2020. ESD approval for withdrawal of the final 10% of the grant from the imprest account shall be withheld until all project expenditures funded by loans from the Grant have been fully documented to ESD's satisfaction. ESD will be entitled to recoup any advanced funds that are not disbursed by the Grantee in a timely fashion.

5. ESD may reallocate the project funds to another form of assistance, at an amount no

greater than \$700,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

IV. Statutory Basis – Regional Council Capital Fund

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

V. Environmental Review

ESD staff has determined that the project constitutes a Type II ministerial action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. The recipient of fund disbursements will be responsible for complying with SEQRA as applicable. No further environmental review is required in connection with this authorization.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this revolving loan fund program. The Grantee shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with the revolving loan fund program and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30%. PLEASE CONTACT ESD's OFFICE OF CONTRACTOR AND SUPPLIER DIVERSITY TO DETERMINE IF THESE GOALS APPLY TO YOUR LOAN.

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

February 16, 2017

Regional Council Award – Priority Project – Albany (Capital Region – Albany, Schenectady, Rensselaer, Saratoga, Warren, Washington, Greene and Columbia Counties) – Community Loan Fund Infusion 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 Community Loan Fund Infusion 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 Community Loan Fund of the Capital Region, Inc. a grant for a total amount not to exceed Seven Hundred Thousand Dollars (\$700,000) 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



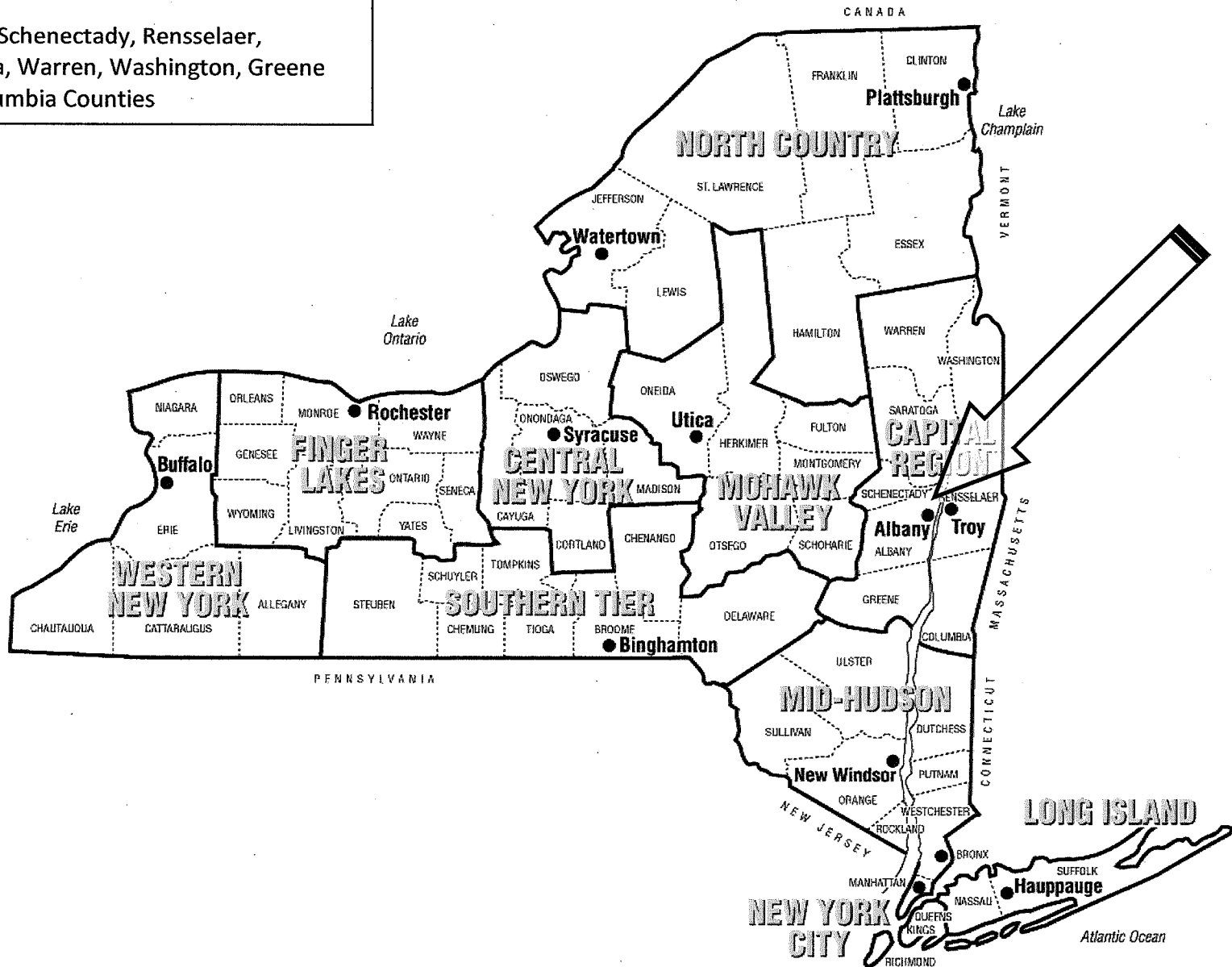
RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary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

\* \* \*

## Community Loan Fund Infusion Capital

Albany

Albany, Schenectady, Rensselaer,  
Saratoga, Warren, Washington, Greene  
and Columbia Counties



**Item II. E.**



**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Syracuse (Central New York Region – Onondaga County) - CG Meaker Redevelopment 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

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**General Project Plan**

**I. Project Summary**

**Grantee:** 538 Erie Boulevard West, LLC (the “Company”)

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

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

**Project Location:** 538 Erie Boulevard West, Syracuse, Onondaga County

**Proposed Project:** Renovate and furnish a vacant former warehouse into mixed-use apartments and commercial space

**Project Type:** Capital redevelopment

**Regional Council:** The project is consistent with the Central New York Regional Economic Development Council’s Plan to revitalize the region’s urban cores, main streets, and neighborhoods.

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Building renovation	\$6,900,000
Soft Costs	520,000
Furniture, Fixtures and Equipment	<u>260,000</u>

Total Project Costs \$7,680,000

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$1,000,000	14%	
NBT Bank Loan	4,207,474	54%	Prime + .75%/18 mths./1 <sup>st</sup> RE
Company Equity	<u>2,472,526</u>	<u>32%</u>	
Total Project Financing	<u>\$7,680,000</u>	<u>100%</u>	

## III. Project Description

### A. Company

Industry: Real Estate Development

Company History: Formed in 2014, 538 Erie Boulevard West, LLC was created to redevelop the historic CG Meaker warehouse located at 538 Erie Boulevard West into an apartment complex.

Ownership: The Company is privately-owned.

Size: All facilities are located in Syracuse, NY.

ESD Involvement: The Company submitted a proposal under Round 4 of the Consolidated Funding Application ("CFA") to assist with the renovation and purchase of equipment for the historic CG Meaker warehouse located in downtown Syracuse. The warehouse is located in the Syracuse Empowerment Zone/ Renewal Community, an area marked by extreme poverty, blight, and high unemployment rates. The previous owner neglected to maintain any aspect of the property. The project will help the deteriorating area by removing blight and providing much-needed housing in an area that lacks adequate housing opportunities. As a result of the Governor's Regional Economic Development Council Initiative, the Organization was awarded \$1,000,000 through the CFA to assist with this project.

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

**B. The Project**

**Completion:** May 2016

**Activity:** The Company has renovated the former CG Meaker Warehouse in downtown Syracuse. The 53,000 square-foot building was rehabilitated into a residential and commercial space consisting of 33 market rate apartments ranging from 850 to 1,600 square feet. Rents range from \$900 a month to \$1,750 a month. The upper three floors contain lofts and apartments, with a communal commercial space on the first floor.

**Results:** The building complex has been fully occupied as of May 31, 2016, the day the building officially re-opened.

**Economic Growth**

**Investment Project:** No Benefit-Cost Analysis ("BCA") is required since these projects generate long-term benefits not captured in the short-term period used for the BCA and may involve no permanent job commitments.

**Grantee Contact:** Timothy Lynn, Member  
100 Madison Street Tower 1  
Syracuse, NY 13202  
Phone: (315) 766-2118

**ESD Project No.:** Z587

<b>Project Team:</b>	Origination	Ray Lawrence
	Project Management	Arturo Rodriguez
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Jonevan Hornsby
	Environmental	Soo Kang

**C. Financial Terms and Conditions**

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$1,000,000 capital grant (\$10,000) 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. Up to \$1,000,000 will be disbursed to Grantee in a lump sum upon documentation of project costs totaling \$7,680,000, upon completion of the project substantially as described in these materials, as evidenced by attainment of 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 11, 2014 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 \$1,000,000, 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. Grant funds will be subject to pro rata recapture if the property at the Project Location is sold within five years of disbursement of funds. The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:
  - (i) 100% of the disbursed amount if the transfer occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
  - (ii) 80% of the disbursed amount if the transfer occurred in the second full calendar year after the disbursement was made;
  - (iii) 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
  - (iv) 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
  - (v) 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

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

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

#### V. Environmental Review

The City of Syracuse Industrial Development Agency, 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 June 17, 2014. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

Due to the building's inclusion in the National Register of Historic Places, ESD has confirmed that the project sponsor consulted with the New York State Office of Parks, Recreation and Historic Preservation pursuant to the requirements of Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law ("Section 14.09"). The project is in compliance with Section 14.09.

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

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

#### VII. ESD Employment Enforcement Policy

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

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

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

#### IX. Additional Submissions to Directors

Resolutions  
New York State Map  
Project Finance Memorandum



February 16, 2017

Regional Council Award – Syracuse (Central New York Region – Onondaga County) – CG Meaker Redevelopment 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 CG Meaker Redevelopment Capital -- Regional Council Capital Fund (Capital Grant) (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 538 Erie Boulevard West, LLC 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 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.

\* \* \*

February 16, 2017

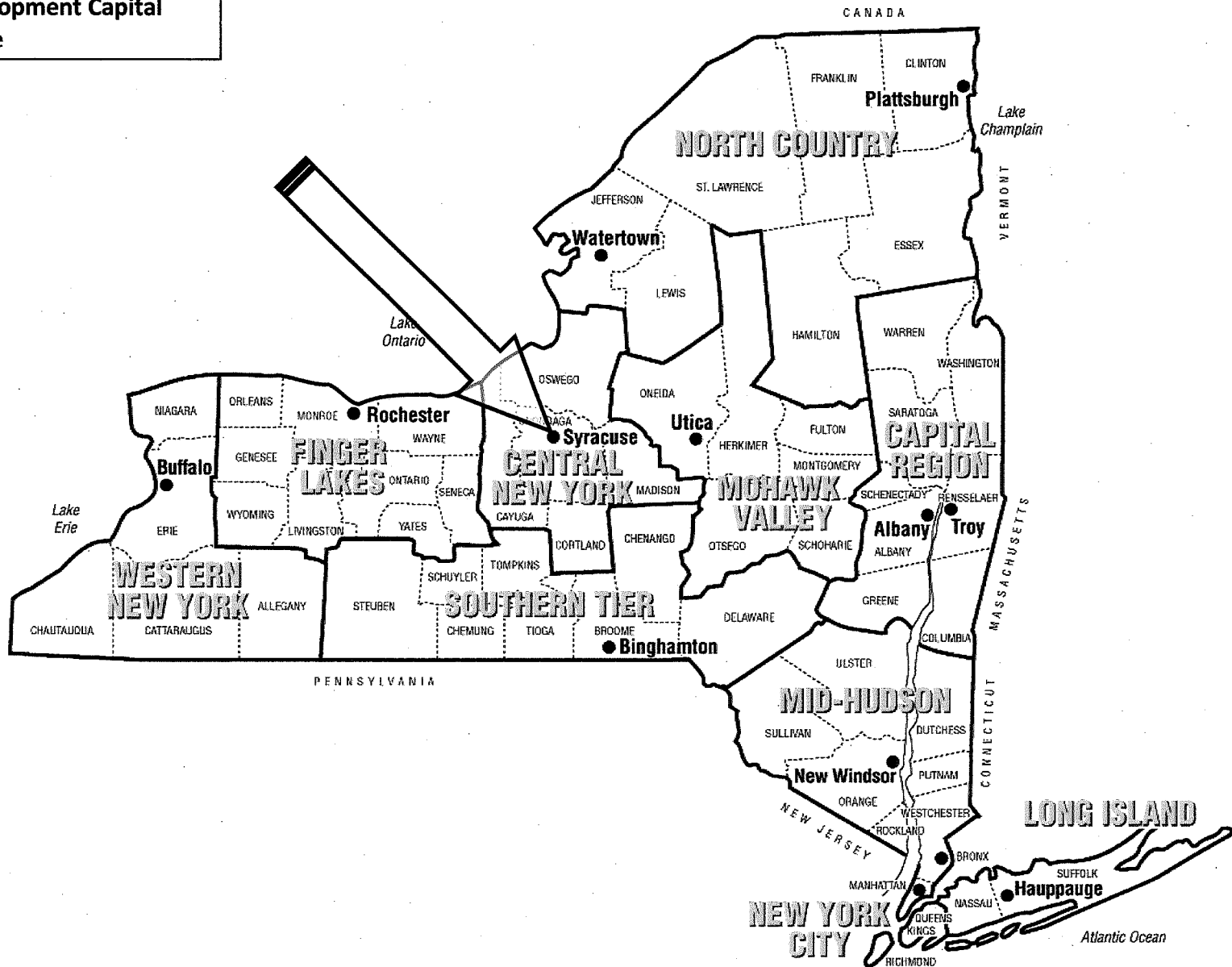
Regional Council Award – Syracuse (Central New York Region – Onondaga County) – CG  
Meaker Redevelopment Capital – Regional Council Capital Fund (Capital Grant) –  
Determination of No Significant Effect on the Environment

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

\* \* \*

**CG Meaker  
Redevelopment Capital  
Syracuse**



**Item II. F.**

**FOR CONSIDERATION**

February 16, 2017

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Regional Council Award – Hammondsport (Southern Tier Region – Steuben County) – East Lake HPort 2 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

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**General Project Plan****I. Project Summary**

**Grantee:** East Lake Holdings, LLC (the “Company” or “East Lake”)

**ESD\* Investment:** A grant of up to \$725,000 to be used for a portion of the cost of the acquisition of real estate, and construction of a 43,927-square-foot hotel

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

**Project Location:** 8440 State Route 54, Hammondsport, Steuben County

**Proposed Project:** Acquisition of real estate, demolition of a 85,000-square-foot industrial building, and construction of a new 43,927-square-foot, 61-room, 3-story branded hotel

**Project Type:** Construction of a new hotel

**Regional Council:** The project is consistent with the Southern Tier Regional Economic Development Council Plan to redevelop distressed properties, and support the growing travel and tourism industry.

Employment:	Initial employment at time of ESD Incentive Proposal:	0
	Current employment level:	14.5
	Minimum employment on January 1, 2018:	14.5

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Real Estate Acquisition	\$515,000
Construction / Renovation	5,022,421
Demolition / Envir. Remediation	225,000
Furniture, Fixtures, Equipment	850,000
Soft Costs / Planning	<u>145,000</u>

Total Project Costs	<u>\$6,757,421</u>
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<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$725,000	11%	
Company Equity	1,375,921	20%	
Corning Credit Union	<u>4,656,500</u>	<u>69%</u>	4.75%/ 25 yrs/ first lien on RE
Total Project Financing	<u>\$6,757,421</u>	<u>100%</u>	

## III. Project Description

### A. Company

Industry: Hotel / Hospitality

Company History: East Lake Holdings, LLC was formed by its principals, Cameron Dunlap and Brian Harris, in January 2014 for the purposes of acquiring the real estate for the eventual construction of a Best Western Plus Hotel ("Hotel") in Hammondsport, NY. Mr. Dunlap and Mr. Harris have been doing business in the Southern Tier since 2009, having acquired and developed multiple commercial properties.

Ownership: East Lake Holdings, LLC is privately owned.

Size: One facility (hotel) with 14.5 full-time employees – 13 full-time employees and 3 part-time employees.

Market: The Hotel will serve people seeking overnight accommodations in Hammondsport, NY.

ESD Involvement: In March of 2013, the principals of East Lake Holdings, LLC ordered a

feasibility study to explore the idea of a branded hotel in Hammondsport. This study confirmed the unmet demand for overnight accommodations, and the financial viability. In order to start the project, the Company funded the demolition of the existing dilapidated industrial building in order to be shovel ready, and needed financial assistance to fund the construction of the Hotel.

In August 2013, the Company applied under Round 3 of the Consolidated Funding Application to help fill a financing gap for the construction of the Hotel. In April 2014, ESD made the Company an offer of assistance from the Regional Council Capital Fund, which the Company accepted in July 2014. Without ESD's assistance, the project could not have been completed.

**Competition:** Local hotels in Hammondsport, NY, include the Keuka Lakeside Inn, Vinehurst Inn, Harbor Hotel, Best Western Penn Yan, Mirotel Penn Yan, and the Microtel Bath.

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

**B. The Project**

**Completion:** June 2016

**Activity:** The Company acquired the property at 8440 State Route 54 in Hammondsport, NY, and demolished an 85,000-square-foot dilapidated industrial building. The Company then constructed a new 43,927-square-foot, 61-room, 3-story branded hotel (Best Western Plus) with amenities that include an indoor pool/hot tub, outdoor courtyard, and kitchen area. The Hotel opened in June 2016, and will be able to accommodate more people for a growing market of the travel industry that includes weddings, tourists, and annual business meetings in the area.

**Results:** The Company has already met its job commitment, having created 14.5 new full-time jobs, including 3 part-time 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 \$589,241;
- Fiscal cost to NYS government is estimated at \$725,000;
- Project cost to NYS government per direct job is \$64,078;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$43,663;
- Ratio of project fiscal benefits to costs to NYS government is 0.81:1;
- Fiscal benefits to all governments (state and local) are estimated at \$1,015,459;
- Fiscal cost to all governments is \$725,000;
- All government cost per direct job is \$64,078;
- All government cost per total job is \$43,663;
- The fiscal benefit to cost ratio for all governments is 1.40:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$7,590,574, or \$457,142 per job (direct and indirect);
- The economic benefit to cost ratio is 10.47:1;
- Project construction cost is \$5,392,421, which is expected to generate 57 direct job years and 23 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.47 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is one year.

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

Grantee Contact: Brian Harris, Partner  
8440 State Route 54  
Hammondsport, NY 14840  
Phone: (215) 292-7252

ESD Project No.: Z003

Project Team:	Origination	Joseph Roman
	Project Management	Scott Lamkin
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	John Bozek
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$725,000 capital grant (\$7,250) 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. The project is personally guaranteed. According to the financial documents provided, the guarantor has sufficient net worth and annual income to support the project.
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 \$725,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$362,500) upon documentation of project costs totaling \$6,145,000, and upon completion of the project substantially as described in these materials, as evidenced by a Certificate of Occupancy or other documentation verifying project completion as ESD may require, and documentation of employment of at least 7 Full-time Permanent Employees (including 2 Part-time 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 (\$181,250) will be disbursed upon documentation of the employment of at least 11 Full-time Permanent Employees (including 4 Part-time 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 (\$181,250) will be disbursed upon documentation of the employment of at least 14.5 Full-time

Permanent Employees (including 5 Part-time Employees) at the Project Location (Employment Increment of 3.5), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after July 24, 2014, to be considered eligible project costs. All disbursements must be requested by April 1, 2018.

Prior to each disbursement, the Grantee will submit a report to ESD concerning the number of Employees at the Project Location. If any such report reflects more than 15 employees, the grantee must demonstrate compliance with Section 2879-b of Public Authorities Law regarding labor peace before any further disbursement is made.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$725,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

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

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

The Grantee's number of Full-time Permanent Employees shall be deemed to be the

greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

Baseline Employment	0
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A	B
Reporting Date	Employment Goals
February 1, 2018	$0+X+Y+Z$
February 1, 2019	$0+X+Y+Z$

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.  $X=7$ , and Employment Goals shall equal  $[0 + X = 7]$  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.  $Y=4$ , and Employment Goals shall equal  $[0 + X + Y = 11]$  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.  $Z=3.5$ , and Employment Goals shall equal  $[0 + X + Y + Z = 14.5]$  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  $Y=0$ .

#### D. Labor Peace

Public Authorities Law Section 2879-b prohibits public authorities from providing financing for any project that includes, as one of the principal functions, a hotel with more than fifteen employees unless a labor peace agreement ("LPA") is entered into with a labor organization representing hotel or convention center employees in the State, for a period of at least five years. An LPA is an agreement between the project developer (or its contractors) and a labor organization prohibiting the labor organization and its members from engaging in labor activities that disrupt the hotel's operations.

The Project is not a "Covered Project," as defined in Public Authorities Law Section 2979-b because it does not have more than fifteen employees. The requirements of this statute, therefore, are not applicable.

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

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

V. Environmental Review

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

VI. Non-Discrimination and Contractor & Supplier Diversity

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

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

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

VIII. Additional Submissions to Directors

Resolutions  
New York State Map  
Benefit-Cost Analysis  
Project Photographs

February 16, 2017

Regional Council Award – Hammondsport (Southern Tier Region – Steuben County) – East Lake HPort 2 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 East Lake HPort 2 Capital -- Regional Council Capital Fund (Capital Grant) (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 East Lake Holdings, LLC a grant for a total amount not to exceed Seven Hundred Twenty Five Thousand Dollars (\$725,000) 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.

\* \* \*

February 16, 2017

Regional Council Award – Hammondsport (Southern Tier Region – Steuben County) –  
East Lake HPort 2 Capital – Regional Council Capital Fund (Capital Grant) –  
Determination of No Significant Effect on the Environment

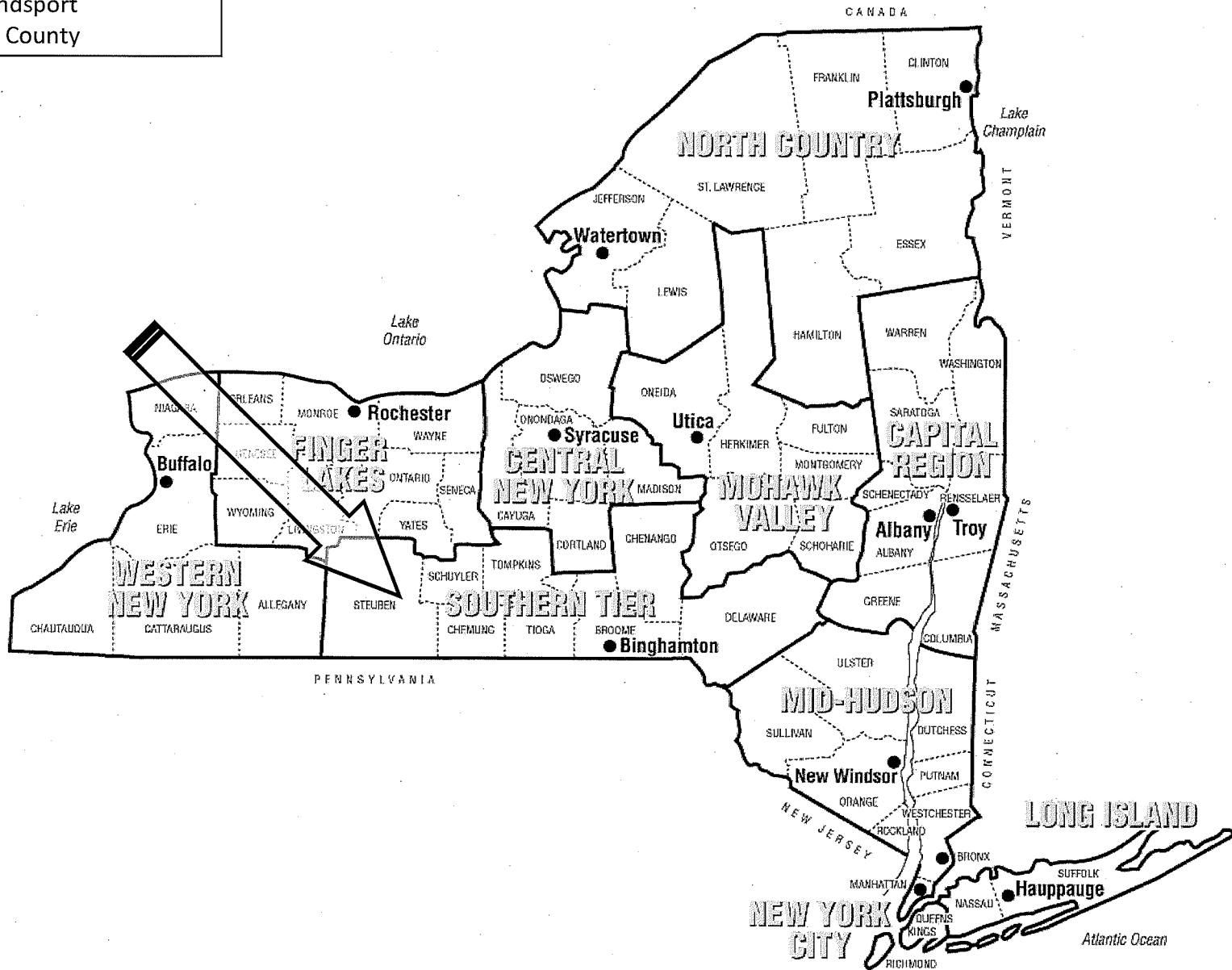
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RESOLVED, that based on the material submitted to the Directors with respect to the East Lake HPort 2 Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*



East Lake HPort 2 Capital  
Hammondsport  
Steuben County



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

**East Lake Holdings, LLC – Business Investment**

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

<b>Initial Jobs:</b>	<b>0</b>	<b>Construction Job Years (Direct):</b>	<b>57</b>
<b>New Jobs:</b>	<b>14.5 in two years</b>	<b>Construction Job Years (Indirect):</b>	<b>23</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>	\$725,000	\$794,250	\$725,000	\$1,020,500
<b>Fiscal Benefits<sup>4</sup></b>	\$589,241	\$2,085,600	\$1,015,459	\$4,271,980
<b>Fiscal Cost /Direct Job</b>	\$64,078	\$3,000	\$64,078	\$4,110
<b>Fiscal Cost/Total Jobs</b>	\$43,663	\$1,424	\$43,663	\$1,964
<b>Fiscal B/C Ratio</b>	0.81	7.00	1.40	10.60
	<b>Project Results</b>	<b>Benchmarks</b>		
<b>Economic Benefits<sup>5</sup></b>	\$7,590,574	\$119,468,000		
<b>Econ. Benefits/Total Jobs</b>	\$457,142	\$147,600		
<b>Economic B/C Ratio</b>	10.47	75.00		

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

<sup>2</sup> The current project evaluation results (both fiscal and economic) are compared to performance measure benchmarks based on results of a sample of ESD non-retail projects. Business Investment project benchmarks are 7.00 (Fiscal) and 75.00 (Economic). Infrastructure Investment (or Economic Growth Investment) project benchmarks are 3.00 (Fiscal) and 30.00 (Economic).

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

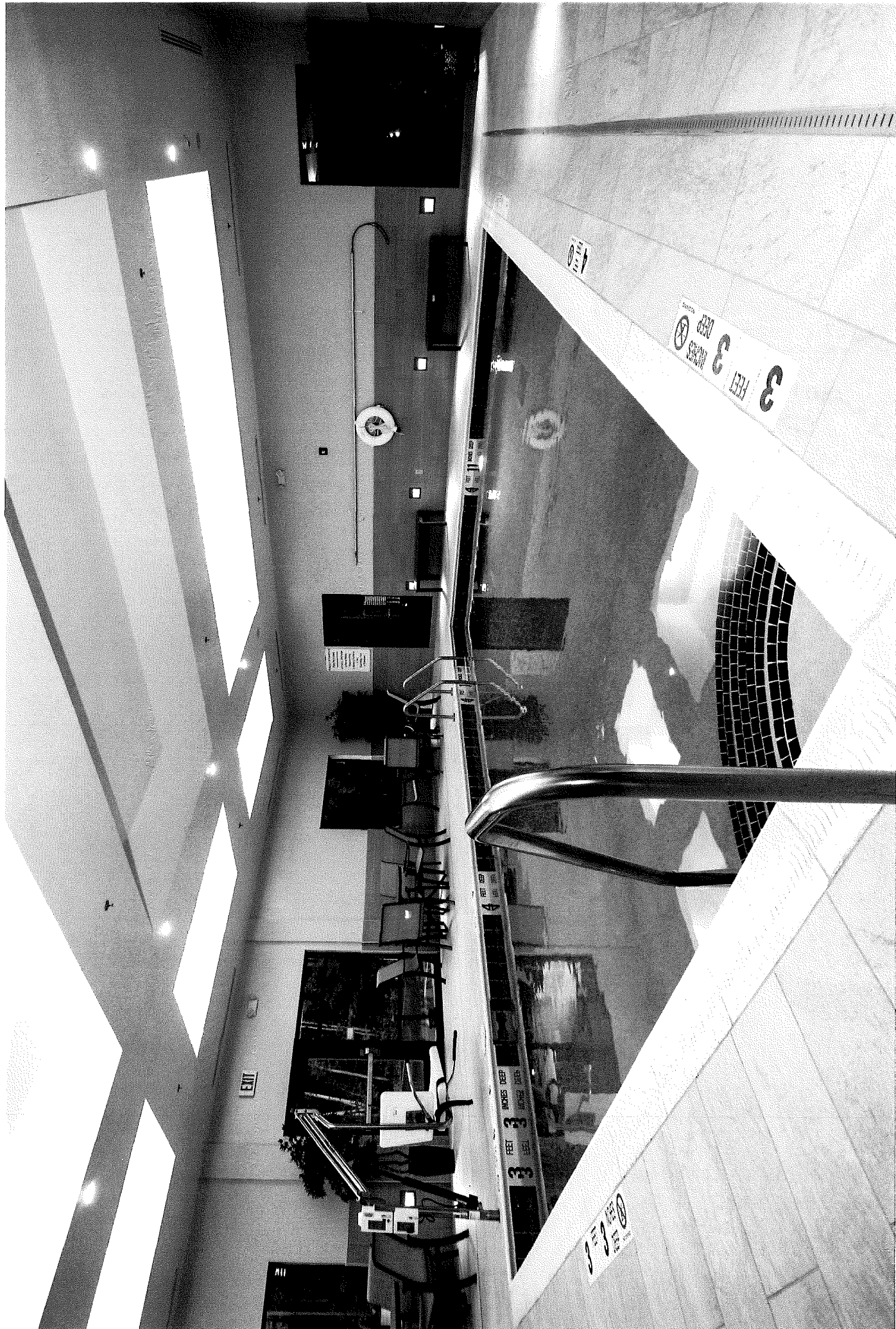
<sup>4</sup> Fiscal benefits are the loan repayments and tax revenues to New York State and Local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect employment, corporate and business incomes, excise and user taxes, property taxes,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

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











**Item II. G.**





**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Avon, Walton and Lowville (Finger Lakes, Southern Tier and North Country Regions – Livingston, Delaware and Lewis Counties) – Kraft Heinz Capital – New York Works Economic Development Fund – General Development Financing (Capital Grant)

**REQUEST FOR:** Affirmation of the Directors' November 17, 2016 Findings and Determinations Pursuant to Section 10(g) of the Act; Affirmation of the Amended General Project Plan

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**I. Background**

At their meeting on November 17, 2016, Empire State Development's ("ESD" or the "Corporation") Directors made findings and determinations authorizing a \$20 million grant to Kraft Heinz Food Company ("Kraft Heinz" or the "Company") for a portion of the project cost of \$40 million in facility improvements and machinery and equipment at three plants to remain open in New York State ("NYS") after plant closing/consolidation (the "Project").

The three Company plants in NYS to remain open are located in Livingston, Lewis, and Delaware Counties respectively. Thus, three public hearings for the Project were held, one in each of these jurisdictions, to consider the General Project Plan. ESD arranged the three public hearings in accordance with all statutory requirements and any applicable ESD policy. Specifically, legal notices were published in the Rochester Democrat & Chronicle on December 3, 2016 for the Avon, Livingston County site, in the Watertown Daily Times on December 3, 2016 for the Lowville, Lewis County site, and in the Binghamton Press & Sun-Bulletin on January 15, 2017, for the Walton, Delaware County site. The General Project Plan ("GPP") was available, respectively, at the offices of each town clerk, each county clerk and each ESD regional office.

The public hearings in Avon and Lowville were held on December 19, 2016 and December 20, 2016, respectively, and all comments or testimony were positive.

The third public hearing, held in Walton, to consider the GPP was held at the Walton Town Hall on January 27, 2017, from 12-1 p.m. Out of a total of five speakers, two expressed concerns, which required that this be brought back to the Directors for Affirmation. A transcript of that hearing is attached herewith.



At the Walton hearing, three persons spoke in favor of the Project and two persons expressed concerns about the Project. In the concerns expressed, it was pointed out that ESD's employment reporting and recapture policy, which allows 85% of the Company's aggregate NYS full-time jobs to be considered as "in compliance" and not subject to recapture, was unfair to the Walton area. Additional testimony included concerns about ESD's grant in light of a Company lawsuit seeking a reduction in its assessed valuation and the Company's receipt of previous NYS tax credits due to its location in the Delaware County Empire Zone.

## II. Adverse Testimony and ESD Response\*

\*Because some speakers refer to the plant as Kraft, the notation the "Company (Kraft)" is used in places.

**Employment-Related Grant Recapture Policy:** While overall Kraft Heinz employment is fixed, there is not a specific job retention goal for the Walton plant, which is in an economically distressed community. ESD shows a minimum full-time Company employment on January 1, 2019, of 996. However, it allows the Company a 15% leeway to remain in job compliance. This 15% (149 full-time employees) virtually equals the total Walton plant's employment, which the speaker says contradicts the 996 jobs goal.

**Response:** ESD proposes a technical amendment to the GPP to restate how the job retention goal is to be computed, spelling out the baseline jobs at each of the three remaining facilities. In its annual reporting, the Company would have to adhere to at least 85% of the baseline jobs at each facility.

**Empire Zone Credits:** The Company (Kraft) has already received some \$2.8 million in Delaware County Empire Zone tax credits for the years 2008-2015. Has any consideration been given for claw back of these credits or otherwise reducing the current incentive by this amount?

**Response:** The Company (Kraft) is in its last year of Empire Zone ("EZ") eligibility, so it cannot earn any additional benefits under the program after 2017, though it would still be able to carry forward credits earned in previous years. ESD records indicate that these credits were granted by the NYS Tax & Finance Department based on qualified investments that were completed. NYS does not have authority to claw back Empire Zone tax benefits.

**Assessed Valuation Suit:** The Company is taking legal action against Delaware County, Town of Walton, Village of Walton, and Walton Central School District for reduction of its assessed value by about 90%. ESD should ask the Company to drop this suit in return for the \$20 million incentive or reduce the grant accordingly.

**Response:** Companies on a regular basis ask for assessment reductions based on their perception of market and other conditions. Neither ESD nor NYS has a basis for involvement, directly or indirectly, in the suit.

**ESD Benefit-Cost Analysis:** ESD's Benefit-Cost Analysis ("BCA") shows approximately \$16.5 million of benefits to local governments over the term of the agreement, but if the Company prevails in its property tax suit, it would reduce those benefits dramatically. Additionally, in the

BCA “bullets,” it states that there is an attached summary table, but this was not included in the GPP made available to the public. The speaker also stated that the BCA information was confusing.

**Response:** BCA is based on a regional economic model that calculates aggregate local government benefits based on construction and jobs over seven years and includes the impact of property taxes and payroll taxes based on regional averages, so there is not a 1:1 correspondence with a particular company’s property taxes. The BCA table mentioned is an attachment to the GPP (not actually part of the GPP), but it is publically available and can be requested. We can provide an explanation to anyone who requests it.

**Walton Investment:** The GPP does not identify the specific investment to be made by the Company in Walton, so it is feared that little or no investment may be made in Walton.

**Response:** It is expected that the Company would make additional improvements in Walton, just not on the same scale as in Lowville.

**Minnesota Incentives:** The Company is investing \$100 million in a Minnesota plant. According to the speaker, State of Minnesota is offering \$563,000 in incentives, a much smaller proportion of the project cost than the NYS incentive.

**Response:** ESD cannot comment on other states’ incentive programs. NYS moved rapidly to provide the amount of incentives needed to save these Kraft Heinz plants in NYS. Without the assistance, multiple facilities were at risk of closure. The incentives saved plants and stabilized the Company’s manufacturing presence in NYS. Kraft Heinz’s continued presence will allow food processing to continue as an important industry sector in multiple regions while also supporting the NYS dairy industry.

**Generalized Taxpayer Assistance:** The speaker stated he owns a small manufacturing company located less than half a mile from the Company’s (Kraft) plant and has paid taxes for 60 years, but he has not required any taxpayer assistance (he mentioned Kraft’s customized sewage treatment plant as an example).

**Response:** Governments often subsidize various treatment plants in order to keep large employers and retain jobs. Although it may not be obvious to all, governments (hence taxpayers) also subsidize roads, bridges, sidewalks, lamp posts, etc. that benefit all residents and businesses.

### III. Proposed Amendments to General Project Plan

- For the purpose of compliance with ESD’s employment reporting and recapture provisions, to be incorporated into the Grant Disbursement Agreement, each of the three plants will separately have a required 85% jobs compliance of its baseline jobs. The baseline full-time employment (as of October 31, 2015, when the baseline was set) for each of the Kraft Heinz plants that will remain open, is shown below:

Avon	376
Lowville	345
Walton	150

- Due to the time that has elapsed as a result of the holding of the three required public hearings, ESD will modify the disbursement terms to allow for the Company to receive two disbursements in NYS Fiscal Year 2017-2018 only. The remaining three disbursements must all take place in different NYS fiscal years.

All other provisions of the GPP approved by ESD Directors on November 17, 2016, except as amended herein, shall remain unchanged.

#### IV. Summary

After review and consideration of comments received at the Walton public hearing, ESD staff believes that the Project is vital to retain three of four Kraft Heinz plants and to stabilize the Company's presence in NYS while also supporting the dairy and food processing industries. Furthermore, ESD staff believes that the concerns raised at the hearing have been adequately addressed or will be addressed by the amended General Project Plan, and therefore, we request the Directors to affirm such Plan, as amended.

#### Additional Submissions to Directors

Resolution

New York State Map

ESD Directors' Materials dated November 17, 2016

Transcript of the Public Hearing, Town of Walton, dated January 27, 2017

February 16, 2017

Finger Lakes, Southern Tier and North Country Regions – Livingston, Delaware and Lewis Counties) – Kraft Heinz Capital – New York Works Economic Development Fund (Capital Grant) – Affirmation of the Directors' November 17, 2016 Findings and Determinations Pursuant to Section 10(g) of the Act; Affirmation of the Amended General Project Plan

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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 Kraft Heinz 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"), as Amended, 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 the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Kraft Heinz Foods Company a grant for a total amount not to exceed Twenty Million Dollars (\$20,000,000) from New York Works 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

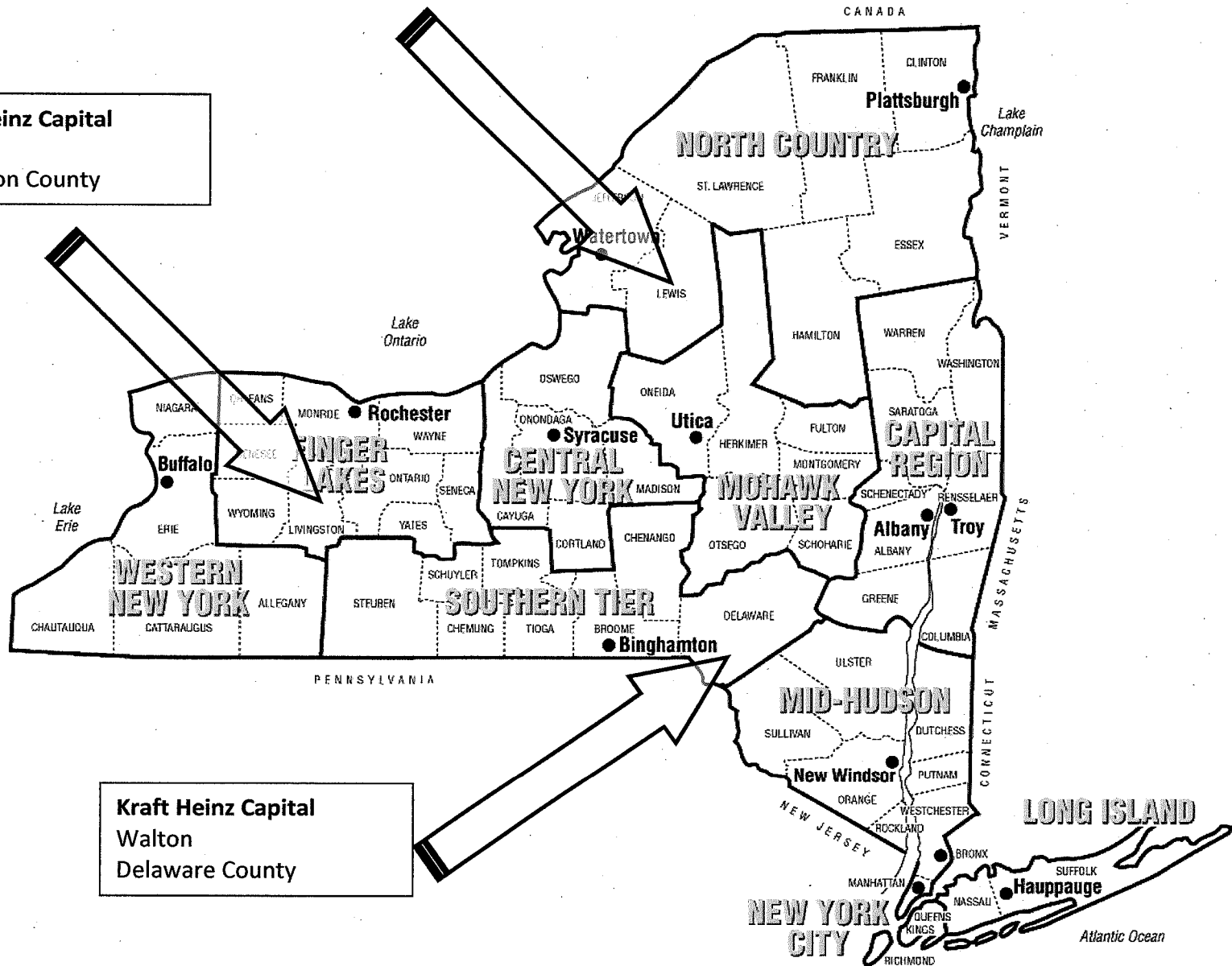
RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

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.

\* \* \*

**Kraft Heinz Capital**  
Lowville  
Lewis County

**Kraft Heinz Capital**  
Avon  
Livingston County



**Kraft Heinz Capital**  
Walton  
Delaware County



**FOR CONSIDERATION**

November 17, 2016

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Avon, Walton and Lowville (Finger Lakes, Southern Tier and North Country Regions – Livingston, Delaware and Lewis Counties) – Kraft Heinz Capital – New York Works Economic Development Fund – General Development Financing (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

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**General Project Plan**

**I. Project Summary**

**Grantee:** Kraft Heinz Foods Company ("Kraft Heinz" or the "Company")

**ESD\* Investment:** A grant of up to \$20,000,000 to be used for a portion of the cost of construction, renovations and purchase of machinery and equipment

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

**Project Locations:** 140 Spring Street, Avon, Livingston County (Finger Lakes)  
261 Delaware Street, Walton, Delaware County (Southern Tier)  
7388 Utica Boulevard, Lowville, Lewis County (North Country)

**Proposed Project:** Facility improvements and machinery and equipment at three plants to remain in New York State ("NYS") after plant closing/consolidation

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

**Regional Council:** The project is consistent with the Finger Lakes, Southern Tier and North Country Regional Plans by supporting job retention and creation, and food processing, an important industry sector. All regions involved have made the retention or growth of agriculture and agri-businesses a

part of their strategic plans.

Employment:	Initial employment at time of ESD Incentive Proposal:	871*
	Current employment level:	871
	Minimum employment on January 1, 2019:	996

\*871 represents the full-time jobs at the three project locations to remain open; if the one plant to be closed is included, jobs at the time of ESD's Incentive Proposal would be 1,257.

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovations	\$6,000,000
Machinery & Equipment	<u>34,000,000</u>

Total Project Costs	<u>\$40,000,000</u>
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<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$20,000,000	50%
<u>Company Equity</u>	<u>20,000,000</u>	<u>50%</u>

Total Project Financing	<u>\$40,000,000</u>	<u>100%</u>
-------------------------	---------------------	-------------

## III. Project Description

### A. Company

Industry: Food manufacturing

Company History: In July 2015, Kraft and Heinz, two of the major food manufacturers, merged to form The Kraft Heinz Company. The Company is the third-largest food and beverage company in North America and the fifth-largest food and beverage company in the world, with eight \$1 billion+ brands. Kraft Heinz provides high quality, great taste and nutrition for all eating occasions whether at home, in restaurants or on the go.

Ownership: The Kraft Heinz Company is publicly traded.

Size: Kraft Heinz operates worldwide and has approximately 40,000 employees.

Market: Customers of Kraft Heinz include consumers, major retailers, food distributors and wholesalers and restaurants around the world. Competitors of the Company would include other food manufacturers and producers.

**ESD Involvement:** With the merger of Kraft and Heinz, financed in part by two private equity firms intent on realizing synergistic cost savings, the Company undertook a review of all assets with a focus on competitiveness and efficiency in operations. It was the Company's initial intention to close operations at several of its NYS facilities. Kraft Heinz considered moving the majority of those jobs to facilities in other states. ESD became involved almost immediately in discussions to determine what it would take to preserve the vast majority of jobs, and this led to an initial offer in November 2015 of a capital grant of \$20 million. An additional \$5 million was also offered contingent on additional investment and bringing total jobs back up to the level at the time of the merger. The Company formally accepted ESD's offer in July 2016, and an addendum to the offer was accepted in November 2016. The incentives enabled Kraft Heinz to maintain three of its four operations in the State and to invest in significant upgrades. Kraft Heinz will retain all current jobs at the Avon, Walton and Lowville plants over the next five years. Although the Company will close its Campbell (Steuben County) facility, Kraft Heinz will add or relocate 125 new jobs to the Lowville location. Without the incentives offered by NYS, a portion of the New York operations would have been relocated to facilities out of State.

**Competition:** Wisconsin and California

**Past ESD Support:** ESD has not assisted the Company or its predecessors in the past five years. Kraft Foods Group has received over \$2.8 million in Empire Zone ("EZ") credits at the Walton, NY location in the Delaware County EZ. Kraft Foods North America has received over \$5.8 million in EZ credits at the Lowville, NY location in the Lewis County EZ.

**B. The Project**

**Completion:** December 2020

**Activity:** The Company will upgrade and modernize its facilities and purchase production equipment. The most significant equipment purchase will be in relocating the production of string cheese from Campbell to Lowville. Equipment will consist of a coagulator, separators, over wrappers, case packers, washers, brine flume, palletizers, and other equipment.

**Results:** Retain 871 jobs initially and add 125 new or relocated jobs. Kraft Heinz's decision to retain three out of its four NYS production locations maintains and stabilizes the Company's presence and supports food production and agribusiness in three regions.



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 \$22,984,971;
- Fiscal cost to NYS government is estimated at \$20,000,000;
- Project cost to NYS government per direct job is \$37,503;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$23,826;
- Ratio of project fiscal benefits to costs to NYS government is 1.15:1;
- Fiscal benefits to all governments (state and local) are estimated at \$39,497,120;
- Fiscal cost to all governments is \$20,000,000;
- All government cost per direct job is \$37,503;
- All government cost per total job is \$23,826;
- The fiscal benefit to cost ratio for all governments is 1.97:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$305,034,120, or \$363,390 per job (direct and indirect);
- The economic benefit to cost ratio is 15.25:1;
- Project construction cost is \$3,000,000, which is expected to generate 30 direct job years and 15 indirect job year of employment;
- For every permanent direct job generated by this project, an additional 0.58 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is six years.

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

Grantee Contact: Eric Kaufold , Project Management Organization, Lead for Project Footprints  
200 E. Randolph, Suite 7300  
Chicago, IL 60601  
Phone: (412) 818-9582

ESD Project No.: AA576

Project Team:	Origination	Jane Thelen
	Project Management	Edward Muszynski
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Jonevan Hornsby
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$20,000,000 capital grant (\$200,000) 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 November 6, 2015, the date of the ESD's initial 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 \$20,000,000 will be disbursed to the Grantee in five installments over five separate NYS fiscal years as follows:
  - a) an Initial Disbursement of an amount equal to 20% of the grant (\$4,000,000) will be disbursed upon documentation of construction/renovations and machinery and equipment project costs totaling \$8,000,000, and documentation of the employment of at least 871 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 20% of an amount equal to the grant (\$4,000,000) will be disbursed no sooner than 24 months from the initial offer date of November 6, 2015, upon documentation of \$8,000,000 in additional construction/renovations and machinery and equipment expenditures (\$16,000,000 cumulative) and if one year has elapsed after the closure or sale of the Campbell plant, employment of at least 996 Full-time Permanent Employees at the Project Locations (Employment Increment of 125). Otherwise, if less than one year has transpired since the closure or sale of Campbell or in the event that neither a closure nor sale has occurred, employment of at least 871 Full-time Permanent Employees at the Project Locations, provided Grantee is otherwise in compliance with program requirements;
- c) a Third Disbursement of an amount equal to 20% of the grant (\$4,000,000) will be disbursed no sooner than 24 months after the date the Initial Disbursement was made, upon documentation of \$8,000,000 in additional construction/renovations and machinery and equipment expenditures (\$24,000,000 cumulative) and documentation of the employment of at least 996 Full-time Permanent Employees at the Project Locations, provided Grantee is otherwise in compliance with program requirements.
- d) a Forth Disbursement of an amount equal to 20% of the grant (\$4,000,000) will be disbursed no sooner than 36 months after the date the Initial Disbursement was made, upon documentation of \$8,000,000 in additional construction/renovations and machinery and equipment expenditures (\$32,000,000 cumulative) and documentation of the employment of at least 996 Full-time Permanent Employees at the Project Locations, provided Grantee is otherwise in compliance with program requirements.
- e) a Fifth Disbursement of an amount equal to 20% of the grant (\$4,000,000) will be disbursed no sooner than 48 months after the date the Initial Disbursement was made, upon documentation of \$8,000,000 in additional construction/renovations and machinery and equipment expenditures (\$40,000,000 cumulative) and documentation of the employment of at least 996 Full-time Permanent Employees at the Project Locations, provided Grantee is otherwise in compliance with program requirements.

Notwithstanding the above, ESD will not provide two disbursements in the same NYS fiscal year.

Should the Company continue to invest another \$10,000,000 in the three remaining New York facilities beyond the initial five-year \$40 million capital investments, and if the aggregate number of jobs at the three location is at least 1,257 Full-time Permanent jobs by no later than November 6, 2022, the Company will be eligible for a Phase Two incentive offer that will match the additional \$5 million capital investment in tax credits or grants. The Company will inform ESD of its intent to invest the additional \$5,000,000 and confirm that its employment is 1,257 prior to the actual investment to assure another offer is prepared and agree to by ESD and the Company.

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 November 6, 2015 to be considered eligible project costs. All disbursements must be requested by April 1, 2022.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$20,000,000, 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.

Baseline Employment	871
---------------------	-----

A	B
Reporting Date	Employment Goals
February 1, 2018	871+X
February 1, 2019	871+X
February 1, 2020	871+X
February 1, 2021	871+X
February 1, 2022	871+X

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. X=125, and Employment Goals shall equal  $[871 + X = 996]$  if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If a closure or sale of Campbell has not yet been completed then X=0.

#### IV. Statutory Basis – New York Works Economic Development Fund Program

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

#### V. Environmental Review

The Village of Lowville 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 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 & 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.

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

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

VIII. Additional Submissions to Directors

Resolutions

New York State Map

Benefit-Cost Analysis

Project Finance Memorandum

Kraft Heinz Fact Sheet

1 STATE OF NEW YORK

2 COUNTY OF BROOME

3 - - - - -

4 In the Matter of a Public Hearing

5 regarding the

6 KRAFT HEINZ PROPOSAL

7 - - - - -

8 A Public Hearing held at 129 North Street, Walton,  
9 New York, on the 27th day of January, 2017, commencing  
10 at 12:05 PM.

11  
12 BEFORE: RONALD LANOUILLE, ESQ.

13  
14 REPORTED BY: CZERENDA COURT REPORTING, INC  
15 71 State Street  
16 Binghamton, New York 13901-3318  
17 TROY KELLEY  
18 Shorthand Reporter  
19 Notary Public  
20 Binghamton - (607) 723-5820  
21 (800) 633-9149  
22  
23  
24

In the Matter of the Kraft Heinz Proposal

1 (Whereupon Exhibits 1 through 3  
2 were marked for identification)

3 MR. LANOUEITE: Good afternoon,  
4 ladies and gentlemen, my name is Ron  
5 Lanouette and I'm an attorney licensed in  
6 the State of New York. I have been asked by  
7 the New York State Urban Development  
8 Corporation, doing business as Empire State  
9 Development, or ESD, to conduct today's  
10 public hearing pursuant to Section 16 of the  
11 New York State Urban Development Corporation  
12 Act. This is a hearing being held pursuant  
13 to a public published in accordance with the  
14 UDC Act in the January 15, 2017, edition of  
15 the BINGHAMTON PRESS & SUN BULLETIN.

16 The purpose of this hearing is to  
17 afford the general public an opportunity to  
18 make statements and comments about ESD's  
19 general project plan for the proposed  
20 project, the Avon, Walton and Lowville  
21 (Finger Lakes, Southern Tier and North  
22 Country Regions - Livingston, Delaware and  
23 Lewis Counties) - Kraft Heinz Capital -  
24 New York Works Economic Development Fund -



In the Matter of the Kraft Heinz Proposal

1                   General Development Financing (Capital  
2                   Grant) Project located at Avon, Walton and  
3                   Lowville, New York.

4                   This is not a question and answer  
5                   session. A stenographic transcript of this  
6                   hearing is being made. Comments presented  
7                   at this hearing will be taken into  
8                   consideration by ESD as part of the final  
9                   approval of the proposed project.

10                  In a moment, I will ask the  
11                  representative of ESD that is present,  
12                  Ms. Sabina Mora, to present information  
13                  about the projects on behalf of ESD. Then I  
14                  will recognize anyone else present who  
15                  wishes to come forward and make a comment  
16                  about the proposed project. If you do,  
17                  please come to the lectern and feel free to  
18                  say what you wish to say. If you wish to  
19                  speak at today's hearing, please come  
20                  forward and sign the register. Copies of  
21                  ESD's general project plan for the propose  
22                  project are available for your information  
23                  and convenience.

24                  Now, in order to give everyone an

In the Matter of the Kraft Heinz Proposal

1            ample opportunity to speak, I request that  
2            speakers keep their oral presentations to no  
3            more than five minutes. Speakers  
4            representing organization with a substantial  
5            number of members are asked to register and  
6            identify themselves as such and, depending  
7            on the number of speakers wishing to be  
8            heard, make be afforded up to ten minutes  
9            for their presentation.

10           In order to ensure an accurate  
11           transcript and to enable all assembled to  
12           hear your remarks, I will ask each speaker  
13           when called to come to the front of the room  
14           again to speak what they wish to say. Make  
15           sure you say it like I am, in a loud voice.  
16           Try not to speak too fast. The stenographer  
17           will be taking down and typing your words.  
18           Please state your name and address. Again,  
19           if you're appearing as a representative of  
20           an organization or governmental entity,  
21           please identify the organization or entity  
22           and state its address.

23           Finally, I want to remind everyone  
24           present that the purpose of this hearing is

In the Matter of the Kraft Heinz Proposal

1 to afford the general public an opportunity  
2 to make comments about the ESD general  
3 project plan for the proposed project. This  
4 is not a question and answer session.

5 Prior to starting this hearing the  
6 stenographer has marked the following  
7 documents as exhibits: Exhibit 1 is the  
8 public notice that appeared in the  
9 BINGHAMTON PRESS & SUN BULLETIN on  
10 January 15, 2017. Exhibit 2 is an affidavit  
11 of publication from the PRESS & SUN BULLETIN  
12 swearing that the notice was actually  
13 published in the January 15, 2017, printed  
14 copy of the newspaper. The third is the  
15 project plan, the project plan entitled  
16 Avon, Walton and Lowville (Finger Lakes,  
17 Southern Tier and North Country Regions -  
18 Livingston, Delaware and Lewis Counties) -  
19 Kraft Heinz Capital - New York Works  
20 Economic Development Fund - General  
21 Development Financing (Capital Grant)  
22 Project located at Avon, Walton and  
23 Lowville, New York.

24 Now, at this time I would ask

In the Matter of the Kraft Heinz Proposal

1 Ms. Mora, who is here on behalf of the ESD,  
2 to say a few words about the project.

3 Ms. Mora.

4 MS. MORA: Good afternoon, my name  
5 is Sabina Mora and I am an ESD project  
6 manager. I am representing the New York  
7 State Urban Development Corporation, doing  
8 business as Empire State Development, and  
9 I'm here today to present a brief summary of  
10 the project.

11 In July of 2015 Kraft and Heinz,  
12 two of the major food manufacturers, merged  
13 to form the Kraft Heinz Company. The  
14 Company is the third largest food and  
15 beverage company in North America, and the  
16 fifth largest food and beverage company in  
17 the world, with eight \$1 Billion plus  
18 brands.

19 With the merger of Kraft and Heinz,  
20 financed in part by two private equity firms  
21 intent on realizing synergistic cost  
22 savings, the Company undertook a review of  
23 all assets with a focus on competitiveness  
24 and efficiency in operations. It was the

In the Matter of the Kraft Heinz Proposal

1           Company's initial intention to close  
2           operations at several of its New York State  
3           facilities. Kraft Heinz considered moving  
4           the majority of those jobs to facilities in  
5           other states. ESD become involved almost  
6           immediately in discussions to determine what  
7           it would take to preserve the vast majority  
8           of jobs, and this led to an initial offer in  
9           November of 2015 of a capital grant of \$20  
10          Million. An addition \$5 Million was also  
11          offered contingent on additional investment  
12          and bringing total jobs back up to the level  
13          at the time of the merger. The Company  
14          formally accepted ESD's offer in July of  
15          2016 and an addendum to the offer was  
16          accepted in November of 2018. The  
17          incentives enabled Kraft Heinz to maintain  
18          three of its four operations in New York  
19          State and to invest in significant upgrades.  
20          Kraft Heinz will retain all current jobs at  
21          the Avon (Livingston County), Walton  
22          (Delaware County), and Lowville (Lewis  
23          County) plants over the next five years.

24                   Although the Company will close its

In the Matter of the Kraft Heinz Proposal

1           Campbell (Steuben County) facility, Kraft  
2           Heinz will add or relocate 125 new jobs to  
3           the Lowville location. Without the  
4           incentives offered by New York State, a  
5           portion of the New York operations would  
6           have been located to facilities out of  
7           state, especially to those facilities in  
8           Wisconsin and California.

9           The Company will upgrade and  
10          modernize facilities and purchase production  
11          equipment. The most significant equipment  
12          purchased will be in relocating the  
13          production of string cheese from Campbell to  
14          Lowville. Equipment will consist of a  
15          coagulator, separators, over wrappers, case  
16          packers, washers, brine flume, palletizers  
17          and other equipment.

18          Kraft Heinz will retain 871 jobs  
19          initially and add 125 new or relocated jobs.  
20          Kraft Heinz's decision to retain three out  
21          its four New York State production  
22          locations, including the Walton site,  
23          maintains and stabilizes the Company's  
24          presence and supports food production and

In the Matter of the Kraft Heinz Proposal

1                   agribusiness in three regions.

2                   The total project cost of \$40  
3                   Million will be partially funded by a \$20  
4                   Million ESD grant. ESD will disburse its  
5                   grant in five installments of \$4 Million  
6                   each to be matched by equal Kraft Heinz  
7                   project expenditures.

8                   I will now turn the hearing back  
9                   over to our hearing officer.

10                  MR. LANOUE: Thank you,  
11                  Ms. Mora. Now, at this time this hearing is  
12                  typically left open for an hour or until all  
13                  speakers that are present wish to have  
14                  spoken. I would now ask that if anyone  
15                  wishes to come forward and speak, please  
16                  approach the lectern and say a few words.

17                  Please state your name and I  
18                  believe you represent a governmental entity,  
19                  the entity you represent.

20                  A SPEAKER: Good afternoon. I'm  
21                  Charlie Gregory, I'm the town supervisor for  
22                  the Township of Walton. I would like to  
23                  make a statement on behalf of the town.

24                  The Town of Walton fully supports

## In the Matter of the Kraft Heinz Proposal

1           the Empire State Development's, or ESD,  
2           Kraft Heinz retention initiative.  
3           Breakstone's, now Kraft Heinz, has been a  
4           vibrant part of our community for  
5           generations, not only offering employment  
6           but as a market for dairy farmers, and they  
7           offer a superb product popular throughout  
8           the nation and beyond. As a proud -- I was  
9           proud when I was stationed overseas to be  
10          able to buy Breakstone's cottage cheese, and  
11          when I looked at the label it said, made in  
12          Walton.

13                   Breakstone has been an active part  
14          of our community donating products to the  
15          local fire departments, schools, the  
16          community Walk for Hunger, the youth booster  
17          club, and many of you who may recall that at  
18          the Delaware County Fair every summer, Kraft  
19          is down there participating, passing out  
20          free samples. I know a lot of Walton  
21          residents make sure that when they buy  
22          Kraft, they look for Kraft products just so  
23          that they can help support the plant.

24                   Like many communities, the downturn



## In the Matter of the Kraft Heinz Proposal

1           in the economy over the past few years has  
2           taken a toll on Walton. We applaud ESD's  
3           efforts to keep Kraft Heinz in New York  
4           State, and in particular Walton. Not only  
5           would it save the 141 local jobs at the  
6           local plant, as noted in the November 2015  
7           press release, but it's our sincere hope  
8           that the grant would be used to continue to  
9           upgrade and modernize the Walton plant, thus  
10          paving the way for even more jobs to be  
11          created.

12                   A November 9, 2016, article in the  
13          WALL STREET JOURNAL highlighted the growing  
14          market for cottage cheese throughout the  
15          country, and the expertise of the staff of  
16          the Walton plant is perfectly situated to  
17          exploit the growing market. Our proximity  
18          to the New York City market, including our  
19          large second homeowner population in the  
20          area, along with the major markets up and  
21          down the East Coast provides a tremendous  
22          opportunity for growth.

23                   We look forward to seeing the  
24          specifics on how much of the \$20 Million

## In the Matter of the Kraft Heinz Proposal

1           grant Kraft Heinz intends to dedicate to the  
2           Walton plant. We hope it includes what  
3           construction, renovation and  
4           equipment/machinery purchases will occur as  
5           a result of the grant, as well as their  
6           projections for the long-term future of the  
7           Walton plant.

8                     Thank you.

9                     MR. LANOUE: Thank you,  
10           Mr. Gregory.

11                    Yes, sir. Can you please state  
12           your name and if you represent an entity or  
13           your address, please.

14                    A SPEAKER: My name's Edward Snow,  
15           I'm the mayor from the Village of Walton;  
16           our address is 21 North Street.

17                    I again want to say what Charlie  
18           said. I appreciate what's going on. I want  
19           to thank the Governor and Senator Bonacic,  
20           who have been instrumental in getting the  
21           money, and ESD for bringing this hearing to  
22           us. Kraft is very, very important to us.  
23           It's one of the largest employers in the  
24           Village of Walton. It's been around for a

## In the Matter of the Kraft Heinz Proposal

1           long time.

2                     One of my main concerns is with the  
3           grants. I appreciate we're getting money.  
4           I read the program and everything and I'm  
5           aware what's going to be entailed in getting  
6           the \$4 Million deal for the next five years.  
7           I'm just hoping that some of those jobs,  
8           because it doesn't specify in here where the  
9           jobs are going to be. I would like to see  
10          some of those jobs actually come to Walton  
11          because that's really instrumental that we  
12          need to keep.

13                    Also, it talks about equipment. It  
14          doesn't specify in any of these pages of any  
15          of the equipment money will be earmarked for  
16          Walton's plant. I know that a lot of the  
17          equipment in this plant hasn't been upgraded  
18          since the 1960s. So, if they're going to be  
19          here for five years and they want to stay --  
20          which we hope they do -- they would need to  
21          get new equipment and, like I said, get some  
22          of the jobs.

23                    Again, I just want to say thank  
24          you. We're all for it, the Village is for

## In the Matter of the Kraft Heinz Proposal

1           it, the Town is for it. It's an integral  
2           part of our area and we thank you very much  
3           for having the hearing.

4                   MR. LANOUE:    Thank you, Mayor  
5           Snow.

6                   Is there anyone else present who  
7           wishes to make a comment about the proposed  
8           project?

9                   A SPEAKER:    Good afternoon, Tina  
10          Molé, I'm representing State Senator John  
11          Bonacic. Speaking on his behalf this  
12          afternoon, he, too, mirrors Supervisor  
13          Gregory and Mayor Snow's remarks that the  
14          Walton Kraft plant is an economic engine for  
15          this community.

16                   Senator Bonacic has always been  
17          supportive of the Kraft plant in his support  
18          for this facility. He would like to weigh  
19          in in this public hearing and ask that the  
20          lion's share of this grant be allocated to  
21          the Town of Walton. This will allow to keep  
22          our community employed, it's very vital to  
23          our area. Senator Bonacic will be  
24          submitting formal comments, and we thank you

## In the Matter of the Kraft Heinz Proposal

1           for your time.

2                   MR. LANOUE:    Thank you very  
3           much.

4                   Is there anyone else present? Can  
5           you please state your name and if you  
6           represent an entity, please state that  
7           entity.

8                   A SPEAKER:    My name is Jim  
9           Thomson, I'm chairman of the Delaware County  
10          Industrial Agency, and I have a prepared  
11          statement I would like to read.

12                   As chairman of the Delaware County  
13          Industrial Development Agency, I view the  
14          proposed incentive agreement between Empire  
15          State Development and Kraft Foods with  
16          extremely mixed feelings. On one hand, I  
17          commend and thank ESD for funding this  
18          attempt to stabilize the employment picture  
19          in Walton and other New York locations by  
20          incentivizing Kraft with payments totaling  
21          in excess of \$20 Million. On the other  
22          hand, I feel there are several issues that  
23          need to be addressed before you grant the  
24          final approval to the agreement.

## In the Matter of the Kraft Heinz Proposal

1                   This agreement has no hard job  
2                   requirement numbers connected to the Walton  
3                   plant. In all the years that I have worked  
4                   on and reviewed ESD incentive agreements,  
5                   this is the first one that I have seen that  
6                   did not require certain employment levels on  
7                   the part of the company. By imposing a  
8                   statewide employment minimum like you do  
9                   here, the agreement leaves Walton  
10                  unprotected from the early pullout of Kraft,  
11                  and I view this as unfair to local residents  
12                  and employees of the Walton facility.

13                 Kraft has already received some  
14                 \$2.8 Million in tax credits for the years  
15                 2008 to 2015 from the New York State Empire  
16                 Zone Program. Is there no consideration for  
17                 these payments or a "claw back" due to  
18                 Kraft's announcement that they will leave.  
19                 If not, this seems completely contrary to  
20                 ESD and New York State current economic  
21                 policies. If not addressed in the Empire  
22                 Zone policies, perhaps it would be  
23                 appropriate to reduce this proposed benefit  
24                 in direct proportion to benefits paid over

## In the Matter of the Kraft Heinz Proposal

1           the past several years.

2                       Three, the main concern that I have  
3           is that while you were offering Kraft a \$20  
4           Million incentive to stay here for five  
5           additional years, they are in turn bringing  
6           legal action against Delaware County and the  
7           Town of Walton and the Village of Walton and  
8           the Walton School demanding a 90 percent  
9           reduction in property tax. Your own cost  
10          benefit analysis includes approximately 16.5  
11          Million in fiscal benefits to local  
12          governments over the term of the agreement,  
13          but if Kraft wins this assessment challenge  
14          it will at least reduce the local benefit  
15          dramatically, if not wipe it out completely.  
16          Needless to say, our small local  
17          governmental entities cannot afford to do  
18          battle with a international corporation like  
19          Kraft over an extended period of time. This  
20          is the exact type of corporate greed that  
21          gives rise to the term "corporate welfare"  
22          and makes economic development projects more  
23          and more difficult to bring to a conclusion.  
24          In the interest of fairness, I would ask

## In the Matter of the Kraft Heinz Proposal

1           that ESD require Kraft to immediately drop  
2           the assessment challenge as a condition for  
3           receiving the full 20 Million incentive. If  
4           Kraft refuses, I would also ask that ESD  
5           adjust the incentive agreement accordingly.  
6           It is time for Kraft to be a good citizen  
7           and it is time for ESD to do the right thing  
8           to protect the citizens and the taxpayers of  
9           Delaware County.

10                   Thank you.

11                   MR. LANOUEETTE:    Thank you,  
12           Mr. Thomson.

13                   A SPEAKER:    My name is Greg  
14           Waldron and I'm the owner of Scott Machine  
15           Development Corporation, a manufacturer just  
16           a half-mile from Kraft.

17                   MR. LANOUEETTE:    My apologies. Can  
18           you repeat the name of your entity.

19                   A SPEAKER:    Scott Machine  
20           Development Corporation, and we have been in  
21           the community and a taxpayer for more than  
22           60 years.

23                   I would like to point out a cover  
24           story of FORTUNE MAGAZINE, this is the



## In the Matter of the Kraft Heinz Proposal

1           current FORTUNE MAGAZINE, this week's  
2           edition, Buy. Squeeze. Repeat. Kraft  
3           Heinz' recipe for global food domination.  
4           Let's take a look at what they have to say.

5           The author identifies that Kraft  
6           Heinz has a simple but effective formula for  
7           building a new global food giant: Buy,  
8           squeeze repeat. It goes on to point out  
9           that Kraft Heinz's leaders wasted little  
10          time after the merger announcing they would  
11          close seven plants, eliminating some 2,600  
12          jobs. Additional savings come from a  
13          second-order effect. States, cities and  
14          labor unions, desperate not to lose their  
15          local facility, start offering incentives to  
16          the company to keep it open. That's a quote  
17          from the article, which I'll give to you.

18          Nowhere is the squeeze by Kraft  
19          harsher than in Walton, an impoverished  
20          community in a distressed county. Village  
21          taxes have increased 5 percent annually for  
22          years. Delaware County is the only county  
23          in New York State that exceeded the 2  
24          percent tax cap for each of the last six

## In the Matter of the Kraft Heinz Proposal

1           years. In spite of this, Kraft is  
2           litigating to reduce their property taxes by  
3           90 percent asserting that their Walton  
4           facility is essentially worthless. Any  
5           property tax reduction received by Kraft  
6           should be offset against the tax relief  
7           provided by this ESD program.

8                     ESD's proposal identifies Kraft's  
9           overall New York State investment while  
10          failing to allocate plant by plant  
11          investments. This omission has already been  
12          criticized in the LIVINGSTON COUNTY NEWS  
13          regarding the Avon plant. Because Kraft  
14          believes our Walton facility to be  
15          worthless, it's logical to conclude that all  
16          of their investment will occur outside  
17          Walton. If this conclusion is incorrect,  
18          the proposal should set the record straight  
19          by identifying precisely the local  
20          investment.

21                    Kraft is investing \$100 Million in  
22          their New Ulm, Minnesota, facility.  
23          Minnesota and New Ulm are contributing  
24          \$563,000. NYS ESD should justify offering

## In the Matter of the Kraft Heinz Proposal

1           \$20 Million to Kraft in return for \$20  
2           Million investment while another state  
3           offers merely \$563,000 for a \$100 Million  
4           dollar investment. Because New York State  
5           has the highest taxes in the nation, this  
6           state has made itself especially vulnerable  
7           to this type of squeeze by any large  
8           company.

9                       On page four of the ESD proposal a  
10           cost benefit scheme is described stating an  
11           economic benefit-to-cost ratio of 15.25 to  
12           1, followed by the statement, see project  
13           benefit cost evaluation attached. The  
14           document is not attached. At a glance the  
15           benefit-to-cost analysis makes no sense, and  
16           the absence of the underlying reasoning  
17           dilutes the proposal's credibility  
18           completely. The missing document should be  
19           forwarded to the community for review.

20                      On page two of the ESD proposal the  
21           minimum employment on January 1, 2019, is  
22           stated to be 996. Contradicting that  
23           number, on page seven, item seven, allows,  
24           an "employment shortfall of 15 percent,"

## In the Matter of the Kraft Heinz Proposal

1           being 131 full-time employees. This is  
2           almost the number of people now employed in  
3           Walton. The current Washington  
4           administration has taken a harsh view of job  
5           losses. Senator Schumer should request  
6           clarification of the maximum number of jobs  
7           that Kraft can eliminate in New York State  
8           while still receiving the \$20 Million.

9                       Finally, and not least, my  
10          manufacturing company, located less than a  
11          half-mile from Kraft, has been a taxpayer in  
12          Walton for almost 60 years. We don't need a  
13          customized sewage treatment plant and we  
14          don't place a burden on the landfill. We do  
15          rejuvenate our own building. We do replace  
16          our own equipment, and we do this at our own  
17          expense. It's natural that we resent  
18          Kraft's attempt to have us fund the  
19          rejuvenation of Kraft's building and the  
20          replacement of their equipment. Further,  
21          Kraft's management shows no shame when it  
22          claims its facility should escape local  
23          taxes by 90 percent.

24                       The attached WALL STREET JOURNAL

## In the Matter of the Kraft Heinz Proposal

1 editorial regarding corporate welfare  
2 states: Major companies determine where to  
3 maintain, expand or relocate facilities  
4 based on how much money they can take from  
5 taxpayer's pockets in the process. They  
6 sometime hold jobs and entire communities  
7 hostage until they get their way. That is  
8 is exactly what is happening here. Now  
9 Kraft can use the same slogan on their  
10 New York State facilities that they use on  
11 their ketchup bottles: Buy, squeeze,  
12 repeat.

13 Thank you for your time. I have  
14 given you all of the newspaper articles, the  
15 FORTUNE and my cover memo to the officials  
16 be made part of the record. Thank you.

17 MR. LANOUE: Thank you,  
18 Mr. Waldron.

19 Is there anyone else present who  
20 wishes to come forward and say any comments  
21 about this proposed projects?

22 (Whereupon there was no response)

23 MR. LANOUE: There being no one  
24 present who wishes to come forward, this

## In the Matter of the Kraft Heinz Proposal

1           hearing will now go into recess but will  
2           remain open for a period of one hour.  
3           According to my watch, we started at 12:05.  
4           The hearing must be held open for one hour.  
5           Therefore, we will remain here for this  
6           hearing until 1:05. If anyone present or  
7           anyone who comes hereafter wishes to come  
8           forward and make a statement, we will go  
9           back on the record so that they can. At  
10          this time, there being no one else present  
11          who wishes to make a comment, we stand at  
12          recess.

13                   Thank you.

14                   (Whereupon Exhibits 4 through 6  
15           were marked for identification)

16                   MR. LANOUE: The time is now  
17           1:05. Before I close the hearing, I will  
18           once again ask if there is anyone present  
19           who would like to make a statement regarding  
20           the proposed project?

21                   (Whereupon there was no response)

22                   MR. LANOUE: There being no one  
23           present, the time again now being 1:05, this  
24           hearing is now concluded. Thank you

In the Matter of the Kraft Heinz Proposal

1 everyone for attending.

2 (Whereupon the matter was  
3 adjourned)

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## I N D E X

EXHIBIT:	PAGE:
1 - Public notice - PRESS & SUN BULLETIN	5
2 - Affidavit of Publication	5
3 - General project plan	5
4 - Typewritten statement - Charles F. Gregory	24
5 - Typewritten statement - James Thomson	24
6 - Typewritten statement - Greg Waldron	24

- - - - -



1 STATE OF NEW YORK :

2 COUNTY OF BROOME :

3  
4 I, TROY KELLEY, Shorthand Reporter, do  
5 certify that the foregoing is a true and accurate  
6 transcript of the proceedings of a Public Hearing held in  
7 Walton, New York, on January 27, 2017.

8  
9  
10 \_\_\_\_\_  
11 TROY KELLEY

12 Shorthand Reporter

13 Notary Public

14 CZERENDA COURT REPORTING, INC

15 71 State Street

16 Binghamton, New York 13901-3318  
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24

**Item II. H.**



**FOR CONSIDERATION**

February 16, 2017

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: New NY Broadband Program – Phase 1 Awards, 2015-16 Capital Fund –  
Consent Calendar

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

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**General Project Plan**

**I. Project Summary**

**New NY Broadband Program - 2015-16 Capital Fund**

	PTS#	Project Sponsor	Name of Project	Service Area	Region	Assistance Up To
A	AB155	Mid-Hudson Data Corp.	Mid-Hudson Unserved Broadband Capital	Unserved	Capital Region	\$950,184
B	AB156*	The Middleburgh Telephone Company	MIDTEL Unserved Broadband Capital	Unserved	Mohawk Valley Region	N/A
	* This grant was approved by the ESD Directors on November 17, 2016. The subject request is to affirm the project following negative testimony at the Public Hearing	Total NY Broadband – 2 Projects				\$950,184

## II. Program Description

### A. Background

In today's economy, broadband is no longer a luxury, it is a necessity. Like electricity and telephone service a century ago, broadband represents a critical foundation for economic growth, job creation, and a better way of life. Across industries, broadband is redefining how we provide education and healthcare, manage energy, ensure public safety, and how we store, access and share information.

Access to broadband is a necessity for the continued economic success of New York State. Yet, despite their urgent need for broadband, approximately 2.5 million Housing Units in New York State have either limited or no access to high-speed internet, creating a digital divide between those communities with the ability to participate in the global economy, and those communities without such access.

It is for this reason that Governor Cuomo, with legislative support, established the \$500 million New NY Broadband Program (the Program), the largest and most ambitious State investment in broadband across the nation. The Program will support broadband deployment to Unserved and Underserved areas of the State, at Internet speeds of at least 100 megabits per second (Mbps) (download) in most places, and 25 Mbps (download) in the most remote parts of the State. Projects funded by the Program must provide "last-mile" broadband access (*i.e.*, projects that provide Internet connections directly to New Yorkers), including middle-mile and other connectivity to deliver last-mile services. The last-mile is the most expensive portion of a broadband network, and often prevents many rural residents from receiving broadband service, even when service is available to nearby homes.

In August 2016, the Governor announced the Program's first round of grant awards (Phase 1). Phase 1 represents an important first step for the Program – allocating funding to 25 projects across the State (Total Phase 1 State Grant funding: \$54,163,873; Phase 1 Private Match Total: \$21,660,655). These projects were selected through a reverse-auction process that awarded funding to qualifying applications on the basis of lowest cost per Unit-served. Together, these projects will bring broadband service to approximately 34,000 Housing Units (HUs) in New York State

### B. The Project

See attached Consent, and Directors Affirmation Materials.

## III. Statutory Basis

The projects were authorized in the FY 2015-16 New York State enacted budget. No residential relocation is required as there are no families or individuals residing on the site.

## IV. Environmental Review

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

V. Smart Growth Public Infrastructure Review

Pursuant to the requirements of the State Smart Growth Public Infrastructure Policy Act (the "SG Act"), ESD's Smart Growth Advisory Committee has reviewed a Smart Growth Impact Statement for the New NY Broadband Phase 1 projects and found that the projects are consistent with the State Smart Growth Public Infrastructure Criteria ("Smart Growth Criteria"). The designee of the Chief Executive Officer of the Corporation has attested that the projects, to the extent practicable, meet the relevant Smart Growth Criteria set forth in the SG Act.

VI. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses in the performance of ESD contracts. Accordingly, ESD's Non-discrimination and Contractor & Supplier Diversity policies will apply to 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. The purpose of the grants is to extend broadband service to unserved households. Progress will be measured in terms of households and businesses served.

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

Project Summaries

February 16, 2017

New NY Broadband Program – Phase 1 Awards, 2015-16 Capital Fund - Consent Calendar – Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

---

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the New NY Broadband Projects identified below (the "Projects"), 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 Plans (the "Plans") for the Projects submitted to this meeting, together with such changes therein as the President and Chief Executive Officer Designate 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 Designate 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 Designate 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 New NY Broadband 15-16 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 Designate 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 Designate of the Corporation or his designee(s) be, subsequent to the making of the grants, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grants; and be it further

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

New NY Broadband Program – 2015-16 Capital Fund

	PTS#	Project Sponsor	Name of Project	Service Area	Region	Assistance Up To
A	AB155	Mid-Hudson Data Corp.	Mid-Hudson Unserved Broadband Capital	Unserved	Capital Region	\$950,184
B	AB156*	The Middleburgh Telephone Company	MIDTEL Unserved Broadband Capital	Unserved	Mohawk Valley Region	N/A
	* This grant was approved by the ESD Directors on November 17, 2016. The subject request is to affirm the project following negative testimony at the Public Hearing	<b>Total NY Broadband – 2 Projects</b>				<b>\$950,184</b>

and be it further

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

\* \* \*

**A. Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

General Project Plan

**Grantee:** Mid-Hudson Data Corp (d/b/a NYAir and WiSpring) (the "Company")

**ESD Investment:** A grant of up to \$950,184 to be used for a portion of the cost to expand broadband coverage to the unserved communities in the Capital Region

**Project Location:** Project Site Address, Greene County, Albany County  
Please reference the Project Footprint outlined in Table B

**Proposed Project:** Deploy high-speed, fixed wireless service to expand broadband access and increase capacity.

**Project Type:** Infrastructure Investment project

**Regional Council:** The Capital Regional Economic Development Council has been made aware of this item. The Incentive Proposal was accepted in October 2016. The project is consistent with the Regional Plan to expand high-speed Internet, stimulate local business growth and job creation, and enhance the economic well-being of the region.

**Background:**

Industry - Telephone, Cable, and Internet Service Provider

Company History - The Company was established in 2005, and has taken the lead in Greene and Columbia Counties installing Fiber Optic Infrastructure to support multiple municipalities, E911, Police, Fire and Rescue by connecting through its redundant Gigabit Fiber Infrastructure. It designs, installs, and maintains high-end, middle-mile, and last-mile infrastructure along with building state-of-the-art facilities.

Ownership – Privately held

Size – Mid-Hudson Data Corp. employs 10 full time staff members.

Market – Access to the Internet can be achieved by a number of different technologies. The definition of broadband is determined by the data transmission speeds in both directions. "Download speeds" refer to the speeds at which data is received by an Internet user -- i.e., the speeds at which the user can access websites, receive files through email, stream video, or use cloud-based services. Upload speeds refer to the speeds at which data is transmitted by an Internet user to another user, to a website, or cloud-based service. Average consumers typically use broadband for downloading data,



## **Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

making download speeds the standard measure for broadband access.

Broadband service is facilitated by either wireline or wireless technologies. Wireline services require a physical connection (through Fiber or Cable-based lines) to provide connectivity. Wireless services are transmitted using antennas and wireless receivers similar to how radio transmissions are carried. Although there are a number of different wireless technologies, many wireless broadband providers use a hybrid model of providing service, as a wireline (usually fiber) connection is required at some point in the network.

ESD Involvement - In 2015, New York State (the "State") created a \$500 million initiative, the New NY Broadband Program, (the "Program"), which is intended to provide every New Yorker with high-speed Internet (broadband) access by the end of 2018. Program funds will be awarded to advance the State's goal of statewide broadband access at speeds of at least 100 Mbps (download) in most places, and 25 Mbps (download) in the most remote parts of the State. The Program provides grant funding to projects expanding broadband access to Unserved and Underserved areas across the State, with priority given to projects addressing unserved areas, public libraries, and Educational Opportunity Centers. An Unserved area is defined as an area where broadband service is not available from a wireline facilities-based provider at advertised speeds equal to or higher than 25 Mbps (download). An Underserved area is defined as an area where broadband service is available from a wireline facilities-based provider at advertised speeds of at least 25 Mbps but less than 100 Mbps (download).

Funding recipients for the New NY Broadband Program are selected through a "reverse-auction" methodology, which awards projects to qualifying applicants seeking the lowest amount of State investment on a Unit-served basis. Empire State Development's Broadband Program Office (the "BPO") accepted applications for the Program's first funding round (Phase 1) through the NYS Consolidated Funding Application ("CFA"), beginning March 1, 2016. The CFA closed, with final applications due, on April 15, 2016. On August 3, 2016, the State made three regional announcements of Phase 1 awards - 25 projects with a spending total of \$75.8 million: \$54.2 million in State funding, and an additional \$21.6 million in private investment.

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

### **The Project:**

Completion: Network Construction: December 31, 2018

Customer Installations: December 31, 2020

Activity - The Company will deploy high-speed, fixed wireless service to 60 unserved CBs located in Albany and Greene counties. Mid-Hudson Data Corp will provide fixed

## Mid-Hudson Unserved Broadband Capital (AB155)

February 16, 2017

wireless service from six towers located in its market footprint.

This grant is one of two funding awards to Mid-Hudson Data Corp. that will be considered for approval at the December 2016 ESD Board meeting. The other award involves broadband expansion to Underserved areas.

**Results** – Expand broadband services to 647 Housing Units (HUs) and 16 Other Units. (See Table A, which describes all Key Project Indicators.)<sup>1</sup>

Financing Uses	Amount	Financing Sources	Amount	Percent
Network & Access Equipment Costs:	\$214,896	ESD Grant	\$950,184	80%
Outside Plant Costs:	\$38,548	Company Equity	\$237,546	20%
Tower Costs:	\$216,772			
Building and Land Costs:	\$58,000			
Drop and Eligible Customer Premises Equipment:	\$261,825			
Tools and Supplies:	\$57,389			
Testing:	\$3,600			
Fiber Backhaul:	\$221,200			
Administrative Cost:	\$15,000			
Vehicles:	\$100,000			
Total Estimated Cost:	\$1,187,730	Total Project Financing	\$1,187,730	100%

**Grantee Contact** - Stephen Renault, Chief Technology Officer  
Mid-Hudson Data Corp  
200 Jefferson Heights  
Catskill, NY 12414

<b>Project Team</b> -	Origination	Beverly Bobb
	Project Management	Beverly Bobb
	Contractor & Supplier Diversity	Denise Ross
	Finance	Angela Pitto
	Environmental	Soo Kang

### Financial Terms and Conditions:

1. Upon execution of the Grant Disbursement Agreement, the Company shall reimburse ESD for any direct expenses incurred in connection with this project, including costs related to holding a public hearing, attorney fees, appraisals, surveys, title insurance,

<sup>1</sup> Please note that Indicators stated in Tables A, B, and C reflect the Broadband Program Office's estimates of total Units, Housing Units, Libraries, and other types of Units within each Census Block to be addressed by this Project, according to availability data. Upon completion of the Project, final Unit totals may differ from those stated herein.

## **Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

credit searches, filing fees, and other requirements deemed appropriate by ESD.

2. The Company will demonstrate no materially adverse changes in its financial condition prior to closing.
3. Grantee Co-Investment: The New NY Broadband Program has set a goal of soliciting private sector Matching Funds for 50% of the capital needed across the Program. Consistent with that goal, the Recipient will provide a minimum financial commitment of 20% of eligible project costs. Further, a portion of the Grantee's financial commitment – at least 10% of total Eligible Project Costs – must be equity capital injected into the project by the Grantee, as described below.
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 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.
5. Up to \$950,184 will be disbursed to Grantee as reimbursement for eligible expenses incurred no more frequently than quarterly, during the course of design and/or construction; upon completion of Key Project Indicators and Project Milestones; and in proportion to ESD's funding share, assuming that all project approvals have been completed and funds are available. The final 10% of the grant will be disbursed upon meeting all Key Project Indicators and Project Milestones as evidenced by supporting documentation and required reports. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require.

ESD will be entitled to recoup all or part of ESD's grant if the Recipient fails to reach – to a degree acceptable to ESD – project milestones, as agreed upon in Table A, which lists key indicators for infrastructure work; Table B, which captures the Project's footprint; and Table C, which lists the major network build-out phases and quarterly milestones of the entire project.

Expenses must be incurred on or after August 9, 2016, the date that ESD notified Grantee of the New NY Broadband Program award, to be considered eligible project costs. Expenditures incurred prior to the date of the Award Letter are not eligible project costs and cannot be reimbursed by grant funds. All disbursements require compliance with requirements of the New NY Broadband Program, as set forth herein and in the New NY Broadband Program Request for Proposal Guidelines.

6. Design and construction of the Project must be completed no later than December 31, 2018. All disbursements in connection with design and construction of the Project must

**Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

be requested by no later than December 31, 2019.

7. All disbursements in connection with installation of service on customer premises under the Project must be requested no later than December 31, 2021.
8. Grant Funds are to be used for the following:
  - (i) To fund the construction or improvement of all facilities required to pass all Units located within the Grantee's Service Area with a network capable of providing the specified broadband service
    - i. "Construction or improvement" should also include the cost of all network infrastructure and electronics required to connect Units to the network in order to provide service to end-users located within the Service Area that are expected to subscribe to service upon completion of the project (i.e., the cost to "run drops" to anticipated customers), where such connections are within standard drop lengths, require standard electronics, and do not require the placement poles on the end-user's premises (Special Construction). Such costs, exclusive of Special Construction and equipment sold or leased to end-user customers, are eligible expenses within these Guidelines.
    - ii. "Construction and improvement" also includes costs associated with end-users located within the Service Area that are not expected to subscribe to service upon project completion. Grantees must provide service, in a reasonable timeframe and at no additional cost (outside the standard monthly recurring cost for service), to the locations of these potential customers where such connections are within standard drop lengths, require standard electronics, and do not require Special Construction. Such costs, exclusive of Special Construction and equipment sold or leased to end-user customers, are eligible expenses within these Guidelines.
    - iii. Systems shall be designed and constructed so that customers not within a standard drop length only require installation of a longer drop, and, only in very extreme instances, additional amplification for that customer.
  - (ii) For the upfront investment associated with installing and/or upgrading existing broadband facilities on a one-time, capital improvement basis, in order to expand broadband access and increase capacity
  - (iii) Where proposed construction or equipment or other items (leases, expenses, indirect costs) may serve both the proposed areas and other areas (dual use), the Grantee shall calculate the percentage of passings in the proposed area or areas relative to the total number of passings, and only that percentage of the cost of dual use construction or equipment shall be eligible
  - (iv) To fund the cost of long-term leases, defined as leases for a duration longer than 1 year, of facilities required to provide broadband service
  - (v) To fund reasonable make-ready expenses incurred as a result of providing

## **Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

broadband service

(vi) To fund reasonable indirect costs associated with the implementation of the grant efforts and consistent with the principles outlined in the New NY Broadband RFP Grant Guidelines, excluding maintenance and operating expenses, customer operations, general and administrative costs, efforts associated with bidding on and obtaining the grants, and any efforts not associated with the actual deployment of the network

- i. A Grantee may not seek indirect costs in an amount constituting more than 15% of the Grantee's total eligible expenses.
- ii. Such costs must be identified as line-items in the application to be eligible for reimbursement. Costs that appear excessive and/or without justification and costs not considered eligible will not be reimbursed. When seeking reimbursement, Grantees must submit such indirect costs as line-items and provide justification for the expense.

9. Eligible Expense Categories include but are not limited to the following:

- (i) Network & Access Equipment Costs: Includes optical equipment, digital line concentrators, digital subscriber line access multiplexers, radio equipment, transport multiplexors, routers and Ethernet switches, distribution frames and panels, power equipment, and associated software costs chargeable to capital.
- (ii) Outside Plant Costs: Includes cable (aerial, buried, underground, and submarine), fiber, conduit systems, poles, cross-connect cabinets and splitters, fiber service terminals and enclosures, pedestals, standard drops, network interface devices, optical network terminals and reasonable make-ready costs.
- (iii) Tower Costs: Includes the construction of new towers (where required infrastructure does not exist) and costs involved with structural changes to existing towers.
- (iv) Building and Land Costs: Includes the cost of constructing new buildings and renovating existing buildings, as well as any site preparation costs directly related to providing broadband service to the funded Service Area.
- (v) Customer Premises Equipment: Funding only covers up to the network demarcation point (e.g., NID or ONT).
- (vi) Professional Services: Includes site engineering, project management, and consultant services costs involved in designing and constructing the proposed project.
- (vii) Testing: Includes items such as testing network and IT systems, user devices, servers, lab furnishing and test generators.
- (viii) Other Upfront Costs: Includes any other upfront costs not covered in other categories, such as site preparation, permits, required licenses, sales tax applicable to new equipment purchases, shipping and warehousing expenses, and miscellaneous minor material.

10. Ineligible Expenses included but are not limited to the following:

**Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

- (i) Only Standard Drop Lengths will be eligible for funding. Drops requiring Special Construction will be the responsibility of the consumer.
  - (ii) Equipment owned or leased by the customer, including routers and modems, and any other costs beyond the network interface point.
  - (iii) Operating expenses of the Grantee will not be funded.
  - (iv) Expenses incurred prior to the date of the grant award announcement will not be eligible for funding.
11. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$950,184, 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.
12. The Recapture Amount - if the property is sold within 5-years of disbursement, or if Grantee fails to complete Key Project Indicators and Milestones – is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer occurred, and/or failure to complete Indicators and Milestones.
- (i) The Recapture Amount – if the failure to complete Key Project Indicators and Milestones occurs – 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 0% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - ii. 90% of the disbursed amount if 1% to 10% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - iii. 80% of the disbursed amount if 11% to 20% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - iv. 70% of the disbursed amount if 21% to 30% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - v. 60% of the disbursed amount if 31% to 40% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - vi. 50% of the disbursed amount if 41% to 50% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - vii. 40% of the disbursed amount if 51% to 60% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
    - viii. 30% of the disbursed amount if 61% to 70% of the Milestones and Indicators are completed by the time of submitting final reporting

## **Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

- requirements;
- ix. 20% of the disbursed amount if 71% to 80% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
  - x. 10% of the disbursed amount if 81% to 90% of the Milestones and Indicators are completed by the time of submitting final reporting requirements;
  - xi. 5% of the disbursed amount if 91% to 99% of the Milestones and Indicators are completed by the time of submitting final reporting requirements
13. Compliance with National Electrical Safety Code (NESC): All pole attachments shall comply with the NESC requirements. New NY Broadband grant recipients shall ensure that the attachment of fiber and equipment is designed, constructed, operated, and maintained in accordance with all applicable provisions of the most current and accepted criteria of the NESC, and all applicable and current electrical and safety requirements of any State or local governmental entity.
14. Broadband Mapping Program Compliance: Recipients shall provide to the NYS Broadband Program Office (or designated agent) address-level broadband build-out data that indicates the location of new broadband services within the recipient's entire service area.
15. In the event Reports, Updates, Mapping, and/or Milestone Reports are not received in the form and time periods as indicated in Section 2, ESD shall not be obligated to make any further Grant disbursements. In the event such Reports, Updates, Mapping, and/or Milestone Reports are not received within 45 days in the form and time periods as indicated in Section 2, Grantee will be in default. However, no default shall be deemed to have occurred if Grantee cures such default within ten (10) days of notice of default from ESD.

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

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

## **Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

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

Pursuant to New York State Executive Law Article 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Service-Disabled Veteran-Owned Businesses ("SDVOBs") in the performance of ESD projects. For purposes of this project, however, goals will not be established due to the unavailability of SDVOBs for performance on this Project.

### **Environmental Review:**

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

### **Statutory Basis – New NY broadband initiative:**

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

### **Additional Submissions to Directors:**

Table A – Key Project Indicators

Table B – Project Footprint

Table C – Project Milestones



**Mid-Hudson Unserved Broadband Capital (AB155)**

February 16, 2017

February 16, 2017

Various (Capital Region – Albany and Greene County) – Mid-Hudson Unserved Broadband – New NY Broadband 15-16 (Capital) – 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 Mid-Hudson Unserved Broadband Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

## Table A: Key Project Indicators

The following table lists the key indicators, which must be met upon completion of this project. Indicators will be required to be reported on a monthly basis.

TABLE A: KEY PROJECT INDICATORS	
Key Project Indicators: In consideration for the making of the Grant, Grantee has agreed to achieve the Key Project Indicators set forth below:	
Month: XX      Date: __/__/201__ to __/__/201__	
<b>Basic Project Information</b>	
Project Name	Mid-Hudson Unserved Broadband Capital
Project ID Number	AB155
Contact Name	Stephen Renault
Contact Number	(518) 719-8114
Website	<a href="http://www.mhdatacorp.com/">http://www.mhdatacorp.com/</a>
Email	stephens@mid-hudson.com
Company	Mid-Hudson Data Corp.
REDC(s)	Capital Region
County(ies)	Albany and Greene Counties
NYS Assembly District #s	102
NYS Senate District #s	46
U.S. Congressional District #s	19,20
Total Census Blocks to be passed by project	60
Total Units to be passed by project	663
Total Project Cost (state + private)	\$1,187,730
Total Applicant Private Match	\$237,546
Total Grant Amount (\$)	\$950,184
Max speeds offered (download/upload)	See Attachment
Required pricing tier offered?	Yes
Technology Type	Fixed Wireless
Type of Service Area: Unserved vs. Underserved	Unserved
<b>Monthly Project Questions</b>	
Is your Project On Time? (Yes/No*)	To be answered during project progress
Is your Project On Budget? (Yes/No*)	To be answered during project progress

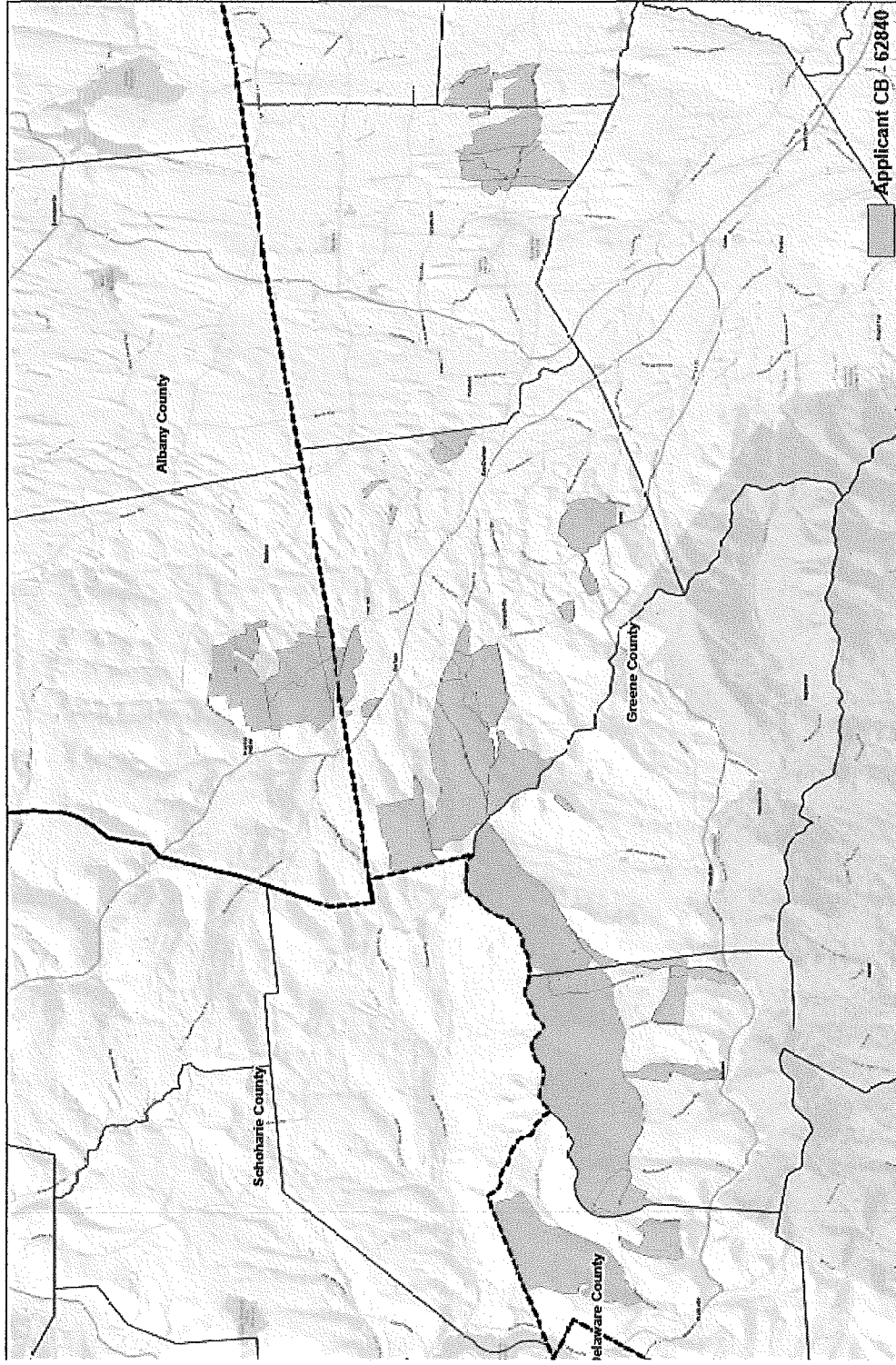
Have there been any project changes? (Yes**/No)	To be answered during project progress
Have you communicated with any State agency, authority or commission? (Yes**/No)	To be answered during project progress
Have there been changes in approval or permitting timeframes? (Yes**/No)	To be answered during project progress

<b>Indicator - Project Service Area</b>	<b>Total # Proposed for Project (Column Will Not Change Without GDA Amendment)</b>
Housing Units Passed	647
Libraries Passed	0
Educational Opportunity Centers Passed	0
Other Units Passed	16
<b>TOTAL</b> Units Passed	663
<b>ENTIRE</b> Census Blocks Passed***	60
<b>Indicator - Customer Connections</b>	<b># Proposed for Project (Column Will Not Change Without GDA Amendment)</b>
(If Known) Average Revenue Per User (ARPU) per Unit Connected (\$)	To be inputted upon progress of the project
(If Known) Average Bandwidth Delivered per Month per Connected Unit (Mbps)	To be inputted upon progress of the project
<b>Indicator - Network Infrastructure Deployed</b>	<b>Total # Proposed for Project (Column Will Not Change Without GDA Amendment)</b>
New Network Miles Deployed	0
Existing Network Miles Upgraded	0
Number of Miles of New Fiber	0
Number of Towers Connected	6
Number of New Interconnection Points	6
Number of Wireless Hotspots	0
<b>Indicator - Project Expenditures</b>	<b>Proposed for Project \$</b>
MWBE expenditures	\$285,055.20
SDVOB expenditures	N/A
Eligible Project Expenditures (\$) Made	\$1,187,730
Private Match (\$)	\$237,546

<b>Speed Tiers &amp; Pricing [Write N/A if No Speed Tiers Currently Offered]</b>	<b>Max Download Speed Offered</b>
Type - Residential, Commercial, or Other [Please Specify]	x
-	To be inputted upon progress of the project
-	

<b>Network Construction Completion Date:</b>	December 31, 2018
<b>Customer Installations Completion Date:</b>	December 31, 2020
*If project is not on time or on budget, Grantee will be asked to upload documentation explaining reason for delay/issue	
**If yes, please explain and provide any necessary documentation	
***Grantee must pass all Units in a Census Block	

Table B: Project Footprint



CFA# 62840

**Table C: Project Milestones**

TABLE C: Project Milestones			
The following table lists the major network build-out phase and milestones that can demonstrate the entire project will be substantially completed by the end of December 2018. The table considers project areas such as a) network design b) securing all relevant licenses and agreements c) site preparation d) inside plant deployment e) outside plant deployment f) deployment of business and operational support systems g) network testing h) network operational			
Project Start Date _____ Projected Completion Date _____ Projected # of Milestone Reports _____			
Time Period	Quarter	Milestones	Narrative Explanation (If Any)
Year 1	Qtr. 1	Secure Licenses and site locations	
	Qtr. 2	Begin Tower Deployment	Windham, Point Lookout, King Hill
	Qtr. 3	Finalize Deployment, New Construction	New Construction - Allan Tetor Tower
	Qtr. 4	Tower Deployment	Prattsville Tower
Year 2	Qtr. 1	Finalize Prattsville Deployment	
	Qtr. 2	Tower Deployment	Edwards Hill Tower
	Qtr. 3	Finalize Edwards Hill	
	Qtr. 4	Finalize Allan Tetor Tower	

## **B. MIDTEL – Unserved Broadband Capital (AB156)**

February 16, 2017

### Affirmation of the General Project Plan

**Grantee:** The Middleburgh Telephone Company (“MIDTEL” or “the Company”)

**ESD Investment:** On November 17, 2016, the ESD Directors approved a grant of up to \$5,562,548 to be used for a portion of the cost of expanding broadband coverage to the unserved communities in the Mohawk Valley and Capital Regions.

**Request For:** Affirmation of the Directors November 17, 2016 Findings and Determinations Pursuant to Sections 10 and 16-n of the Act; Affirmation of the General Project Plan

**Project Location:** Mohawk Valley and Capital Regions (Schoharie and Albany Counties)

**Background:** At their meeting on November 17, 2016, the Empire State Development (“ESD”) Directors made findings and determinations authorizing a \$5,562,548 New NY Broadband Program Phase 1 grant (AB156) to the Company, to finance a portion of the cost associated with an \$6,953,185 broadband deployment project addressing parts of the Capital and Mohawk Valley Regions that currently lack access to high-speed broadband Internet service. The Project will deploy over 200 miles of fiber optic infrastructure and expand on MIDTEL’s prior Fiber-to-the-Home (FTTH) deployments in other parts of its existing geographic service territory. When completed, the Project will bring service to some of the most rural, unserved premises in Schoharie County and the western fringes of Albany County.

A public hearing for the Project was held at Rensselaerville Town Hall on Monday, December 12, 2016, from 10 – 11 a.m. to consider the General Project Plan (“GPP”). ESD arranged the public hearing in accordance with all statutory requirements and any applicable ESD policies. Specifically, a legal notice was published in the *Times Union* on November 30, 2016. The GPP was available at the offices of the Albany County Clerk, the Rensselaerville Town Clerk, and ESD’s Capital District Regional Office. A transcript of the hearing is attached herewith.

Only two members of the public (a husband and wife) spoke at the hearing. A transcript of the testimony is attached hereto. The couple testified generally that, while they supported the proposed Project, they felt that it should not be financed by New York State taxpayer dollars.

**Adverse Testimony**

**and ESD Response:** The following is a summary of the adverse comments that were received and required responses.

**Comment:** The Project should not be funded by New York State taxpayers.

**ESD Response:** The use of public funds for this Project will support the extension of a vital service that would likely not be accomplished through private investment alone. Access to broadband is essential in the modern economy, and is imperative to allow each New Yorker to fulfill their individual potential. MIDTEL will be using this grant to provide high-speed broadband Internet service to rural and unserved areas of the State that would be uneconomic for private providers to otherwise address. The Project will facilitate the myriad of public benefits resulting from greater Internet connectivity, including expanded economic and educational opportunities and access to online services. Although a private company will also derive a benefit from the Project, the broadband expansion would primarily serve a very public purpose. Moreover, we note that, as confirmed by the New York State Court of Appeals in Bordeleau v. State of New York, New York State's practice of designating State funds for the purpose of economic development is constitutional.

**Summary:** After review and consideration of comments received at the public hearing, ESD staff continues to believe that the Project is important to achieving the Program's goal of providing every New Yorker with access to high-speed Internet by the end of 2018, and will have a positive impact on each community served. ESD staff believes that the concerns raised at the hearing have been adequately addressed.

**Requested Action:** The Directors are requested to affirm the findings and determinations related to the Project, made pursuant to the New York State Urban Development Corporation Act, and to affirm the General Project Plan.

**Additional  
Submissions to  
Directors:**

Resolution  
ESD Directors' Materials dated November 17, 2016  
Transcript of the Public Hearing, dated December 12, 2016



February 16, 2017

Various (Mohawk Valley and Capital Regions – Schoharie and Albany Counties) - MIDTEL  
Unserved Broadband Capital – New NY Broadband - Affirmation of the Directors'  
November 17, 2016 Findings and Determinations Pursuant to Sections 10 and 16-n of  
the Act; Affirmation of the General Project Plan

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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 New NY Broadband Projects identified below (the "Projects"), 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 its prior determination is hereby affirmed and holds that the negative testimony has been addressed.

\* \* \*

# Item III. A.

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FOR CONSIDERATION

February 16, 2017

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Non-Discretionary Projects

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

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

	Project Name	Proj #	Grantee	Assistance up to
	<b>Senate (Local Assistance)</b>			
A	Fort Drum Regional Liaison Organization Working Capital	AB239	Fort Drum Regional Liaison Organization	\$300,000
B	Adirondack North Country Association Working Capital	AB241	Adirondack North Country Association, Inc.	\$300,000
C	Central New York Defense Alliance Working Capital	AB263	Central New York Defense Alliance	\$350,000
	<b>Executive (Local Assistance)</b>			
D	North Country Hub for Innovative Manufacturing Nanotechnology Capital II	AB389	Fort Schuyler Management Corporation	\$52,000,000
	<b>Executive (Special Appropriation Nano Utica)</b>			
E	Marcy Nanocenter - Site Infrastructure Investment Capital	AB696	Economic Development Growth Enterprises d/b/a Mohawk Valley EDGE	\$24,000,000
	<b>TOTAL NON-DISCRETIONARY – 5 PROJECTS</b>		<b>TOTAL</b>	<b>\$76,950,000</b>

I. Statutory Basis

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

## II. Environmental Review

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

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

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

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses in the performance of ESD contracts. Accordingly, ESD's Non-discrimination and Contractor & Supplier Diversity policy will apply to the projects. Unless otherwise specified in the project summary, Grantees shall use their Good Faith Efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal of 30% related to the total value of ESD's funding. This shall include a Minority Business Enterprise ("MBE") Participation goal of 15% and a Women Business Enterprise ("WBE") Participation goal of 15%. Grantees shall use Good Faith Efforts to solicit and utilize MWBEs for any contractual opportunities generated in connection with the projects and to include minorities and women in any job opportunities created by the projects.

## IV. ESD Employment Enforcement Policy

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

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

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

## VI. Additional Requirements

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

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

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

VII. Additional Submissions to Directors

Resolutions

Project Summary

New York State Map

February 16, 2017

Local Assistance – Findings and Determinations Pursuant to Sections 10(g) of the Act;  
Adoption of the Proposed General Project Plans; Authorization to Make Grants and to  
Take Related Actions

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RESOLVED, that on the basis of these materials, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Local Assistance Projects identified below (the "Projects"), 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 is authorized to make a grant to the parties and for the amounts listed below from Local Assistance, for the purposes, and substantially on the terms and conditions, set forth in these materials, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, copies of which Plans shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from Local Assistance, for the purposes, and substantially on the terms and conditions, set forth in these materials, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

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

Local Assistance-Base Retention – Senate – Project Summary Table

	Project Name	Proj #	Grantee	Assistance up to
A	Fort Drum Regional Liaison Organization Working Capital	AB239	Fort Drum Regional Liaison Organization	\$300,000
			<b>TOTAL</b>	<b>\$300,000</b>

Local Assistance – Senate – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>		
B	Adirondack North Country Association Working Capital	AB241	Adirondack North Country Association, Inc.	\$300,000
C	Central New York Defense Alliance Working Capital	AB263	Central New York Defense Alliance	350,000
			<b>TOTAL</b>	<b>\$650,000</b>

Local Assistance-Executive – Project Summary Table

	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
D	North Country Hub for Innovative Manufacturing Nanotechnology Capital II	AB389	Fort Schuyler Management Corporation	\$52,000,000
			<b>TOTAL</b>	<b>\$52,000,000</b>

and be it further

RESOLVED, that appropriate staff of the Corporation be, and they hereby are, 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.

\* \* \*

February 16, 2017

Special Appropriation Nano Utica – Findings and Determinations Pursuant to Section 10(g) of the Act; Adoption of the Proposed General Project Plans; Authorization to Make Grants and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Special Appropriation Nano Utica 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 Special Appropriation Nano Utica, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plans (the "Plans") for the applicable Projects included in these materials, together with such changes therein as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, copies of which Plans, together with such changes, shall be maintained with the records of the Corporation; and be it further

RESOLVED, if applicable, that upon further written finding that no substantive negative testimony or comment has been received at the public hearings held on the Plans, such Plans shall be effective at the conclusion of such hearings, and that upon such written findings being made, staff is authorized to make a grant to the parties and for the amounts listed below from Special Appropriation Nano Utica, for the purposes, and substantially on the terms and conditions, set forth in these materials; and be it further

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

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



Special Appropriation Nano Utica – Executive – Project Summary Table

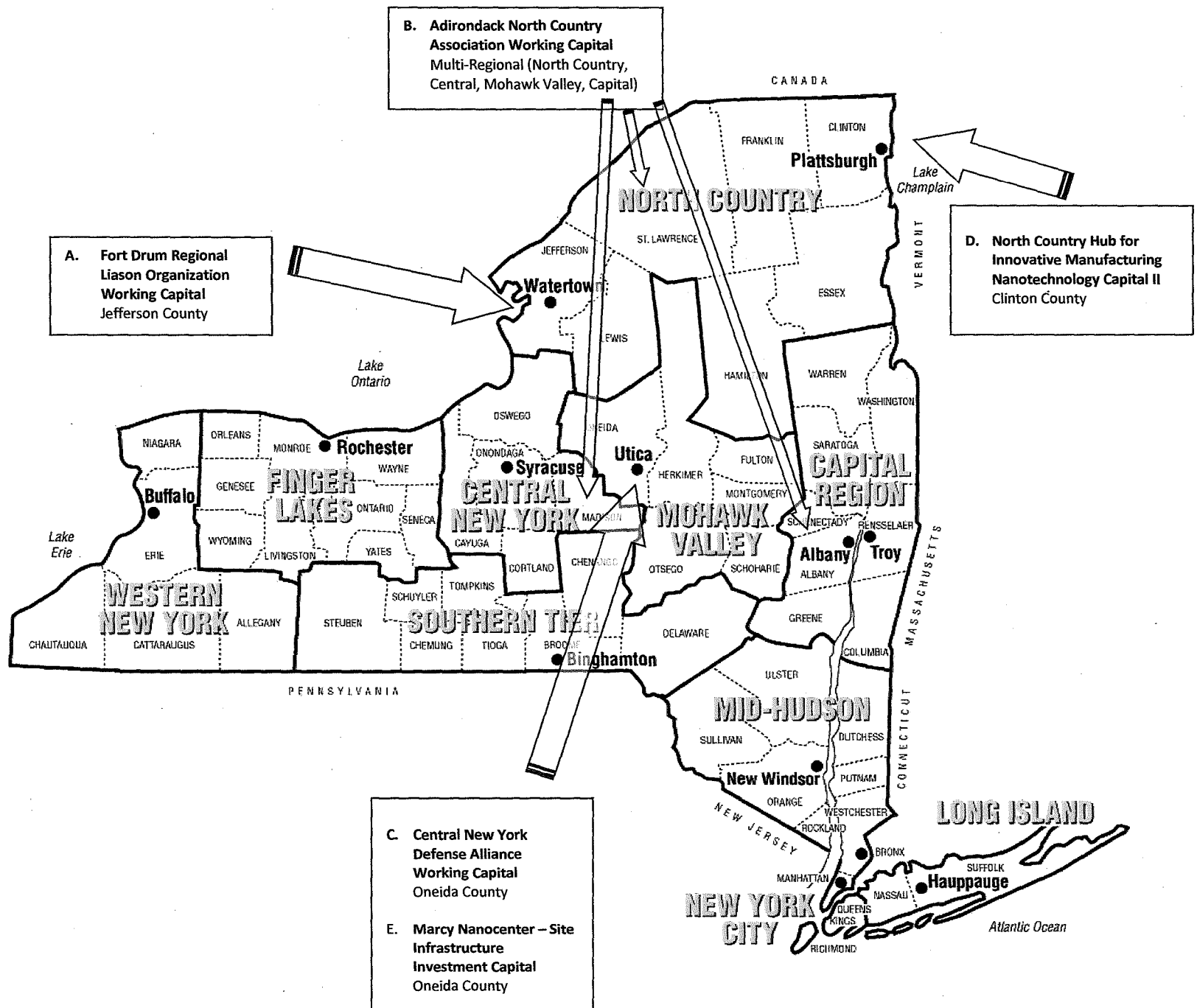
	<b>Project Name</b>	<b>Proj #</b>	<b>Grantee</b>	<b>Assistance up to</b>
E	Marcy Nanocenter - Site Infrastructure Investment Capital	AB696	Economic Development Growth Enterprises d/b/a Mohawk Valley EDGE	\$24,000,000
			<b>TOTAL</b>	<b>\$24,000,000</b>

and be it further

RESOLVED, that appropriate staff of the Corporation be, and they hereby are, 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.

\* \* \*

# Non-Discretionary Project Map



**A. Fort Drum Regional Liaison Organization Working Capital (AB239)**

February 16, 2017

**Grantee:** Fort Drum Regional Liaison Organization ("FDRLO" or the "Organization")

**ESD Investment:** A grant of up to \$300,000 to be used for a portion of the costs of operations to coordinate administration, staffing, program services, and marketing for military base retention activities

**Project Location:** 200 Washington Street, Watertown, Jefferson County

**Proposed Project:** FDRLO will provide administrative services and programs to promote and support the soldiers and mission of the 10th Mountain Division at Fort Drum.

**Project Type:** Base Retention Working Capital

**Regional Council:** The North Country Regional Economic Development Council has been made aware of this item.

**Background:**

Industry – Fort Drum Regional Liaison Organization fosters effective communication, understanding and support by serving as the primary point of coordination and advocacy for resolution of those issues of mutual interest of the military and civilian community of the Fort Drum region.

Organization History – Formed in 1990, FDRLO was created by the civilian community to serve as the lead organization and central point of contact for community matters related to Fort Drum development and expansions, and the soldiers and families of the 10<sup>th</sup> Mountain Division. Fort Drum is the largest military installation in New York State and the only large active-duty base in New York State. Fort Drum is the largest employer in upstate New York with almost 20,000 soldiers, 4,800 civilians, annual payroll of \$1.26 billion, and regional economic impact of \$2.2 billion.

Ownership – The Organization is a not-for-profit corporation.

ESD Involvement - A \$300,000 appropriation was included in the FY 2015-2016 New York State budget.

Past ESD Support – ESD has, for many years, supported FDRLO and its important role in community support for Fort Drum. Since 2005, the ESD Directors have approved \$1,350,000 to FDRLO for Fort Drum base retention activities and programs. All of the projects have been successfully completed and funds fully disbursed.

## Fort Drum Regional Liaison Organization Working Capital (Y063)

February 16, 2017

### The Project:

Completion – April 2019

Activity – FDRLO will provide coordinated administrative services and the development of community-wide programs to support soldiers and their families, and also to maintain and expand Fort Drum as vital economic generator to the entire North Country Region.

Project activity began in September 2016 and will be completed by April 2019. Program activities include strategy and planning for improving regional marketing and website development, housing, public transportation, family healthcare and childcare, community outreach, Fort Drum economic impacts, and strategies to expand the military mission of the Fort Drum military installation.

Results – FDRLO will continue to provide coordinated administrative and program services in the areas outlined above.

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

Staffing & Operations	\$370,000	ESD Grant	\$300,000	81%
		Grantee Equity	70,000	19%
Total Project Costs	\$370,000	Total Project Financing	\$370,000	100%

Grantee Contact - Brian Ashley, Executive Director  
200 Washington Street/PO Box 775  
Watertown NY 13601  
Phone: (315) 836-1533

<u>Project Team</u> -	Project Management	John Vandeloo
	Contractor & Supplier Diversity	Denise Ross
	Environmental	Soo Kang

### Financial Terms and Conditions:

1. The Grantee will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
2. Up to \$300,000 will be disbursed to Grantee, no more frequently than quarterly, upon documentation of eligible working capital expenses, 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

**Fort Drum Regional Liaison Organization Working Capital (Y063)**

February 16, 2017

reasonably require. All project expenditures must have been incurred on or after April 1, 2016. The final ten percent (10%) of the Grant shall not be disbursed by ESD until all of the tasks and reports required have been completed to ESD's satisfaction.

3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$300,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

**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 lack of subcontracting opportunities to minority and women owned firms in the performance of this contract.

**Statutory Basis – Local Assistance - Base Retention:**

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

**Disclosure and Accountability Certifications:**

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

## **B. Adirondack North Country Association Working Capital (AB241)**

February 16, 2017

- Grantee:** Adirondack North Country Association, Inc. ("ANCA" or the "Organization")
- ESD Investment:** A grant of up to \$300,000 to be used for a portion of the cost of operations for providing assistance to small businesses and communities in the 14-county Adirondack North Country Region.
- Project Locations:** North Country Region and portions of the Mohawk Valley, Capital and Central New York regions
- Proposed Project:** ANCA will assist communities and small businesses in securing funds and will support collaborative efforts to improve economic development in the regions.
- Project Type:** Working Capital
- Regional Council:** The North Country Regional Economic Development Council has been made aware of this item.

### **Background:**

#### Industry — Economic Development

Organization History — Established in 1955, Adirondack North Country Association is an economic development organization that assists communities and business enterprises in the 14-county Adirondack North Country Region to plan and develop projects and obtain financing to implement them. The Organization supports entrepreneurial activity by providing programs and services to help start or grow small businesses. Additionally, ANCA serves as a technical advisor and information clearinghouse for a wide range of economic and community development activities, including regional sustainability; agriculture and local foods; tourism planning; small scale manufacturing; production and marketing of artisan crafts; and clean energy production. ANCA works closely with ESD's regional offices and other state agencies in its service area, which includes approximately 14 cities and 255 towns.

Ownership — ANCA is a not-for-profit organization.

ESD Involvement — A \$300,000 appropriation was included in the 2015-2016 New York State budget.

Past ESD Support — Funding for the past five years to the Grantee, totaling \$450,000, is summarized in the following chart:

# Adirondack North Country Association Working Capital (AB241)

February 16, 2017

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
Local Assistance	Y042	\$100,000	February 2013	October 2013	Working Capital
Local Assistance	Y708	\$250,000	March 2014	December 2016	Working Capital
Market NY	Z162	\$100,000	August 2014	December 2016	Working Capital

## The Project:

Completion — April 2018

Activity — ANCA will lead economic development programs directed at creating, directing and managing a wide array of specialized regional projects to develop the North Country economy and improve the quality of life. ANCA staff will provide program activities in the areas of advocacy, local economies, clean energy, and capacity optimization.

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

Results — The project will assist North Country communities and business enterprises in building economic viability and sustainability for multiple sectors across the North Country Region.

Grantee Contact — Kate Fish, Executive Director  
67 Main Street / Suite 201  
Saranac Lake NY 12983  
Phone: (518) 891-6200

Project Team — Project Management John Vandeloo  
Contractor & Supplier Diversity Denise Ross  
Environmental Soo Kang

Financing Uses	Amount	Financing Sources	Amount	Percent
Staffing & operations	\$300,000	ESD Grant	\$300,000	21%
		Grantee equity	\$1,081,409	79%
Total Project Costs	\$300,000	Total Project Financing	1,381,409)	100%

## **Adirondack North Country Association Working Capital (AB241)**

February 16, 2017

### **Financial Terms and Conditions:**

1. The Grantee will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
2. Up to \$300,000 will be disbursed to Grantee upon documentation of eligible working capital expenses, no more frequently than quarterly, assuming that all project approvals have been completed and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. All project expenditures must have been incurred after April 1, 2016, the date that the New York State budget, in which the project is authorized, was passed. The final ten percent (10%) of the Grant shall not be disbursed by ESD until all of the tasks and reports required have been completed to ESD's satisfaction.
3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$300,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

### **Non-Discrimination & 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. However, for purposes of this Contract, goals will not be established due to the unavailability of minority and women-owned businesses for performance of this Contract.

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

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

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

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



### **C. Central New York Defense Alliance Working Capital (AB263)**

February 16, 2017

**Grantee:** Central New York Defense Alliance ("CNYDA" or "the Organization")

**ESD Investment:** A grant of up to \$350,000 to be used for a portion of both direct and indirect costs for CNYDA to promote the region as a technology hub and to support new technology for the region's defense industry

**Project Location:** 725 Daedalian Drive, Rome, Oneida County

**Proposed Project:** Promote and advance the high-tech center for cyber and information technology research in support of the defense industry

**Project Type:** Working Capital

**Regional Council:** The Mohawk Valley Regional Economic Development Council has been made aware of this item.

#### **Background:**

Industry – Economic and Community Development

Organizational History – The Central New York Defense Alliance, a not-for-profit 501(c) 6 corporation, was established to support the Mohawk Valley's high-tech defense industries and businesses. The Organization, incorporated in April 2011, works in collaboration with New York State businesses, academia, government agencies, and community leaders. CNYDA focuses on strengthening and expanding the region's defense industry and technology eco-system by supporting research, development, and commercialization opportunities through collaboration and partnerships with federal assets and academic organizations.

Ownership – CDYNA is a non-for-profit organization

ESD Involvement – A \$350,000 appropriation was included in the FY 2015-2016 New York State budget.

Past ESD Support – Funding for the past five years to the Grantee, totaling \$300,000, is summarized in the following chart:

**Central New York Defense Alliance Working Capital (AB263)**

February 16, 2017

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
LOCAL ASST – Base Retention 12-13	Y066	\$300,000	January 17, 2013	January 27, 2016	Technical study and website development

**The Project:**

Completion – December 2017

Activity – CNYDA will work with consultants, NYS Federal Representatives, and other stakeholders to develop new partnerships and strategies to support the high-tech industries in the Mohawk Valley region. Potential new partners will be identified, a marketing plan, marketing campaign, and business plan will be developed. The project will support high-tech industries and business, thereby supporting job growth and job retention for the region. The funds will support both the indirect and direct program related activities of CNYDA, including consulting activities and advocacy to develop stable program funding sources. Consultants will work on enhancing the draft Drone Racking Park business plan and design. Additionally, funds will support a marketing plan to expand Upstate New York's CYBER Corridor brand and bring more visibility to high tech industries.

Results – The project will enable CNYDA to continue to promote and advance the region as a high-tech center for cyber and information technology research, and increase development through the web and social media technologies, in support of the defense industry. The Organization will also work on initiatives that develop new partnerships to expand the region's high tech eco-system by supporting research, development and commercialization opportunities.

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

**Central New York Defense Alliance Working Capital (AB263)**

February 16, 2017

Financing Uses	Amount	Financing Sources	Amount	Percent
Office Supplies	\$1,000	ESD Grant	\$350,000	82%
Telephone	1,000	Grantee Equity	75,000	18%
Printing & Production	10,000			
Equipment, Furniture	3,000			
Salaries/Benefits	85,000			
Payroll Services	3,000			
Business Expenses/Events	6,000			
Seminars-Conference-Travel	15,000			
Website-Marketing/Promotion	55,000			
Director & Officer Insurance	1,200			
Bank Fee	1,000			
Accounting & Audit	4,000			
Legal	5,000			
Consultant Services	234,800			
Total Project Costs	\$425,000	Total Project Financing	\$425,000	100%

**Grantee Contact -** Mary Carol Chruscicki, Executive Director  
725 Daedalian Drive  
Rome, NY 13441  
Phone: (315) 617-2821

**Project Team -**

Project Management	Emma Miran
Contractor & Supplier Diversity	Denise Ross
Environmental	Soo Kang

**Financial Terms and Conditions:**

1. The Grantee will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
2. Up to \$350,000 will be disbursed to Grantee, no more frequently than quarterly, upon documentation of eligible working capital expenses, assuming that all project approvals have been completed and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. All project expenditures must have been incurred on or after April 1, 2015. The final ten percent (10%) of the Grant shall not be disbursed by ESD until all of the tasks and reports required have been completed to ESD's satisfaction.
3. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$350,000, for this project if ESD determines that the reallocation of the

**Central New York Defense Alliance Working Capital (AB263)**

February 16, 2017

assistance would better serve the needs of the Grantee and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

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

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

**Statutory Basis – Local Assistance:**

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

**Disclosure and Accountability Certifications:**

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

**D. North Country Hub for Innovative Manufacturing Nanotechnology Capital II (AB389)**

February 16, 2017

General Project Plan

- Grantee:** Fort Schuyler Management Corporation ("FSMC") on behalf of SUNY Polytechnic Institute's College of Nanoscale Science and Engineering ("SUNY Poly")
- Beneficiary:** Norsk Titanium US, Inc. ("NTi")
- ESD Investment:** A grant of up to \$52,000,000 to be used for a portion of the costs associated with the multi-phased creation of a research and development facility operated by SUNY Poly
- Project Location:** Plattsburgh, Clinton County
- Proposed Project:** FSMC will purchase, design, construct, and fit-up, (including the purchase and installation of company specified manufacturing equipment) the world's first industrial scale 3D printing manufacturing facility
- Project Type:** Capital investment in research and development
- Regional Council:** The Capital Region Economic Development Council has been made award of this item
- Background:**

Industry – Announced by Governor Cuomo in the 2016-2017 New York State budget, NTi, an innovative titanium component producer, currently based in Norway, will establish a US subsidiary in Plattsburgh, New York. NTi will establish its headquarters, business operations and a rapid plasma deposition ("RPD") production facility at a new North Country Hub for Innovative Manufacturing Nanotechnology in Plattsburgh, significantly expanding New York's high-tech corridor from Western New York to the North Country.

Organizational History – FSMC was formed by the State University of New York Research Foundation, in partnership with the State University of New York Polytechnic Institute ("SUNY Polytechnic") to facilitate nanotechnology and semiconductor development. FSMC is authorized to purchase, construct, develop and manage facilities co-located with the SUNY Polytechnic educational campus at the SUNY Polytechnic Marcy Technology Complex as well as ground sub-lease the property west of Edic Road constituting the Marcy Nanocenter project to Mohawk Valley Economic Development Growth Enterprises ("EDGE") to attract nanomanufacturing operations by a commercial partner.

## **North Country Hub for Innovative Manufacturing Nanotechnology Capital II (AB389)**

February 16, 2017

SUNY Poly is New York's globally recognized, high-tech educational institution, formed from the merger of the SUNY College of Nanoscale Science and Engineering ("CNSE") and SUNY Institute of Technology. SUNY Poly offers undergraduate and graduate degrees in the emerging disciplines of nanoscience and nanoengineering, as well as cutting-edge nanobioscience and nanoeconomics programs at its Albany location, and undergraduate and graduate degrees in engineering, cybersecurity, computer science, and engineering technologies. As one of the world's most advanced, university-driven research enterprises, SUNY Poly has attracted more than \$20 billion in high-tech investments, over 300 corporate partners, and maintains a statewide footprint. The 1.3 million-square-foot Albany NanoTech megaplex is home to more than 3,500 scientists, researchers, engineers, students, faculty, and staff, in addition to Tech Valley High School.

NTi was founded in 2007 by Dr. Alf Bjorseth and Peter Gjovard, with a focus on developing and commercializing technologies that reduce the cost of producing titanium components. In 2013, the 15,000 square-foot Norsk Titanium site located in Hønefoss, Norway achieved AS9100c certification, an international standard of quality universally accepted, which was followed by another period of very rapid advancement in the next two years including achieving Technology Readiness Level 8 and construction, implementation, and testing of an efficient and robust fourth generation machine (G4) capable of producing in excess of 20 metric tons of titanium parts annually. Norsk Titanium is on the Boeing Approved Supplier List and Qualified Producer List. There are three Generation 4 production machines operating in the Eggemoen Aviation & Technology Park in Hønefoss, Norway. These machines are running demonstration and qualification lots for Alcoa, Boeing, Airbus, Gulfstream and several aircraft part suppliers that supply the major OEMs. A fourth production machine was delivered to New York and placed in the company's newly developed U.S. Demonstration and Qualification Center in Plattsburgh in Q4 2016. Two additional production (RPD) machines will be delivered by the end of February, and the balance of seventeen (17) machines are expected to be delivered to Plattsburgh by the end of 2017.

ESD Involvement - A \$125,000,000 appropriation was included in the FY 2016-2017 New York State budget for the NTiE project. In June of 2016, the ESD Directors approved a grant totaling \$4,050,000 for planning, design and engineering costs associated with the new manufacturing facility FSMC is building for NTiE. In November of 2016, the ESD Directors approved a grant totaling \$23,000,000 for a portion of the purchase costs associated with the highly specialized equipment to be installed in Plattsburgh. The balance of the appropriation (\$52,000,000) for capital equipment costs is being presented as part of these materials, and the \$45,950,000 balance of appropriated project funds, targeted for facility construction, is expected to be presented at a future ESD Directors' meeting.

Past ESD Support - Funding for the past five years to the Grantee, totaling \$358,732,122, is summarized in the following chart:

# North Country Hub for Innovative Manufacturing Nanotechnology Capital II (AB389)

February 16, 2017

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
Special Appropriation Capital Projects Fund (Nanotech) - (E)	X772	\$250,000,000	03/27/12	09/11/15	Capital – Supported expenses related to the Semiconductor Transition Program.
Urban and Community Development Program	X228	\$96,700	03/23/11	06/15/13	Working Capital – Developed character-based, University-sponsored micro lending program.
Urban and Community Development Program	X877	\$99,924	07/18/12	08/22/14	Working Capital - Lent and supported entrepreneurs to start and sustain businesses.
Capital Projects Fund	U447	\$75,000,000	12/18/06	09/19/13	Capital – Supported expenses related to the Institute for Nanoelectronics Discovery and Exploration ("INDEX") facility.
Local Assistance	V174	\$1,415,000	02/15/07	02/14/11	Working Capital - Support commercialization projects in nanomedicine and clean energy technology.
Local Assistance	W875	\$1,179,166	10/21/10	10/31/13	Working Capital - Expansion of Nanofabrication Clean Energy Technologies and Nanomedicine.

**North Country Hub for Innovative Manufacturing Nanotechnology Capital II (AB389)**

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Local Assistance	W877	\$1,155,666	10/21/10	01/09/14	Working Capital - Expansion of Nanofabrication Clean Energy Technologies and Nanomedicine.
Local Assistance	W883	\$815,666	10/21/10	01/09/14	Working Capital - Expansion of Nanofabrication Clean Energy Technologies and Nanomedicine.
Local Assistance	W885	\$940,000	04/26/11	01/15/15	Working Capital – Support costs associated with SUNY INDEX.
Local Assistance	W886	\$980,000	04/26/11	01/15/15	Working Capital – Support costs associated with SUNY INDEX.
Local Assistance	AA926	\$4,050,000	6/23/2016	12/31/2019	Capital – for industrial scale research and development facility in Clinton County.
Local Assistance	AB069	\$23,000,000	11/17/16	12/31/2019	Capital – for industrial scale research and development facility in Clinton County



# North Country Hub for Innovative Manufacturing Nanotechnology Capital II (AB389)

February 16, 2017

## The Project:

Completion – December 2018

Activity – The grantee will purchase, develop, design and construct an up to 170,000 square foot state-of-the-art facility and the install production machinery in Clinton County.

Results – The project will create approximately 520 new advanced manufacturing and other high-tech jobs in Plattsburgh and the surrounding area (383 new high tech jobs in phase I, and an additional 137 jobs in phase II if implemented).

Financing Uses	Amount	Financing Sources	Amount	Percent
Equipment Purchase	\$52,000,000	ESD Grant	\$52,000,000	100%
Total Project Costs	\$52,000,000	Total Project Financing	\$52,000,000	100%

Grantee Contact - Scott Bateman, Assistant Treasurer  
257 Fuller Road  
Albany, NY 12203  
Phone: (518) 437-8689  
E-mail: sbateman@sunypoly.edu

<u>Project Team</u> -	Project Management	Wilfredo Florentino
	Contractor & Supplier Diversity	Denise Ross
	Environmental	Soo Kang

## Financial Terms and Conditions:

1. Upon execution of the grant disbursement agreement, the Grantee shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. Up to \$52,000,000 will be disbursed to Grantee upon, documentation of machinery and equipment project costs totaling \$52,000,000, assuming that all project approvals have been completed and funds are available. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. All project expenditures must have been incurred after April 1, 2016, the date that the New York State budget, in which the project is authorized, was passed.

## **North Country Hub for Innovative Manufacturing Nanotechnology Capital II (AB389)**

February 16, 2017

4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$52,000,000, 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.

### **Environmental Review:**

ESD, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. This review found that the proposed project, the purchase of state-of-the-art machinery for installation in a leased facility, was classified as a Type II action, and therefore, no additional environmental review is needed. Additionally, ESD staff recommends that the Directors find that because the progress payment for this highly specialized machinery to be installed in the leased testing and training facility is not functionally dependent on the construction and completion of the facility to be located on another site in Plattsburgh, the environmental review of the machinery purchase is not being "segmented" from the review of the planned facility. ESD staff also recommend that the Directors find that to the extent the requested authorization may be deemed to be "segmented", that such "segmentation" is permissible pursuant to 6 NYCRR Part 617.3(g) due to the relevant circumstances of the project.

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

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 10.8% related to the total value of ESD's funding.

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

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

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

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

**E. Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

General Project Plan

- Grantee:** Economic Development Growth Enterprises d/b/a Mohawk Valley EDGE ("MVEDGE" or the "Organization")
- ESD Investment:** A grant of up to \$24,000,000 to be used for a portion of the cost of the completion of site infrastructure improvements, construction of the on-site customer substation, completion of the 2.5 mile National Grid gas transmission main from Utica to the Marcy Nanocenter site and advance the site development readiness
- Project Location:** Marcy Nanocenter ("MNC"), Marcy, Oneida County
- Proposed Project:** Site and infrastructure improvements at the Marcy Nanocenter
- Project Type:** New construction including infrastructure development
- Regional Council:** The Mohawk Valley Regional Council has been made aware of this item.

**Background:**

Industry - Economic Development Corporation

Organizational History - MVEDGE, formed in 1996, provides business and economic development assistance in Oneida and Herkimer counties. MVEDGE is the region's primary marketing organization and works with businesses that are considering expansion or relocation opportunities in upstate New York. MVEDGE spearheaded the redevelopment of the Griffiss Business and Technology Park in Rome, which leveraged more than \$585 million in public and private investment. MVEDGE is the designated developer for the Marcy Nanocenter, a 428+ acre greenfield site west of the SUNY Polytechnic Marcy campus. The site is zoned for semiconductor, nano electronic and advanced manufacturing.

Ownership - MVEDGE is a not-for-profit organization.

ESD Involvement - A \$638,000,000 appropriation was included in the FY 2016-2017 New York State budget. On July 21, 2016, the ESD Directors approved a \$535,900,000 grant to Fort Schuyler Management Corporation ("FSMC") for facility and infrastructure build-out at the Marcy Nanocenter. On January 3, 2017, ESD executed a grant disbursement agreement with FSMC for \$8,677,075, a portion of the \$539,900,000, to allow FSMC to pay project-related expenses pursuant to a Notice to Proceed between FSMC and M+W U.S., a design/construction firm. To assist with the completion of critical infrastructure improvements at the Marcy Nanocenter and thereby allow for site readiness as

**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

prospective tenants are sought, \$24,000,000 of the \$535,900,000 awarded to FSMC is being reallocated to MVEDGE.

Past ESD Support - Funding for the past five years to the Grantee, totaling \$65,005,000, is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors' Approval date)	Date End (Project Completion: Contract Expiration)	Purpose
Local Assistance Base Retention 12-13	Y069	\$300,000	January 17, 2013	March 31, 2015	Capital Grant - Funds for a technical study, website development, and other cyber security research-related start up activities.
Economic Transformation Project - RC1	X624	\$5,000,000	February 21, 2013	December 31, 2014	Capital Grant – funds for Site development of the Marcy Nanocenter at SUNYIT for the manufacturing of 300/450 MM semiconductor wafers and related uses.
Local Assistance Base Retention 2012-2013	Y568	\$600,000	October 17, 2013	June 30, 2014	Working Capital – Funds to create a linkage between the Air Force Research Laboratory (“AFRL”) and key New York State public and private universities on cyber security.
Economic Development Purposes Fund 2012-2013	Y685	\$55,000	December 19, 2013	December 31, 2013	Capital Grant – Funds to retain an outside consultant to perform a regional high technology workforce assessment.

**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

Regional Council Capital Fund - RC4	Z800	\$1,000,000	May 18, 2015	December 31, 2019	Capital Grant – funds for site development at the Marcy Nanocenter.
Regional Council Capital Fund - RC3	Z427	\$3,250,000	May 18, 2015	December 31, 2019	Capital Grant – funds for site development at the Marcy Nanocenter.
Regional Council Capital Fund - RC3	Y907	\$700,000	June 23, 2016	December 31, 2018	Capital Grant – funds for Construction of a new sewer crossing of the Erie Canal for the Oneida County Interceptor Sewer Upgrade Project
Empire State Economic Development Fund	AA642	\$5,000,000	June 23, 2016	November 30, 2016	Site development of the Marcy Nanocenter/Nano Utica site for a semiconductor fabrication plant
Special Appropriation	AB076	\$49,100,000	July 21, 2016	December 31, 2018	Site development of the Marcy Nanocenter/Nano Utica site for a semiconductor fabrication plant

**The Project:**

Completion – October 2019

Activity – Funds will support the following site infrastructure improvements at the Marcy Nanocenter site:

Customer Substation: Complete construction of the on-site customer substation to serve the entire Marcy Nanocenter site and complete the electrical infrastructure

**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

investment currently underway (development of a dual circuit 115 kV Transmission Line and expansion of National Grid's Edic Substation - both funded under AB076) to support delivery of 320 MW of power for full build out of the site. The proposed customer substation will be built with two transformers and six bus configuration installed to provide an energized circuit and support the initial development of the Marcy Nanocenter site for the first advanced electronics firm. The substation will be designed to be expanded incrementally with future transformers (proposed substation layout contemplates eight transformers) added based on build out of the site with other advanced electronics manufacturing companies. Initial transformer sizes would serve customers at 34.5 KV and 15 KV at the customer side.

**Two and one-half Mile Natural Steel Gas Main:** Complete construction of the 2.5 mile National Grid gas transmission main from Utica to the Marcy Nanocenter Site where it will connect to the one-mile gas distribution line that was installed under the AB076 grant. The completion of the 2.5 mile natural gas main project will provide natural gas to handle full build out of the Marcy site and is being aligned along The Marcy –SUNY Parkway so that it can be tapped to support future natural gas needs for the Quad C, the planned Innovation Acceleration Center and other SUNY Poly facilities. A grant of \$5.1 million has been awarded to EDGE (CFA #67409) under the 2016 REDC to provide the balance of funding for the project and funding under this grant request (\$4.9 M) will complete the necessary funding for the project.

**Underground Duct Bank:** Installation of approximately 4,000 LF of underground duct bank to enable future installation of fiber optic communication cables to provide telecom and data needs for the Marcy Nanocenter site. The proposed duct bank will provide for redundant feeds from Hazard Road to the north and from Technology Drive to the south.

**Engineering Design-Construction Management/Inspections:** Engineering and construction management/on-site construction inspections for the customer substation and underground duct bank package. In addition, funding will be earmarked for geotechnical evaluation, surveying, SWPPP compliance and mandated monitoring reports to the USACE for the completed on-site and off-site mitigation improvements that were part of the Section 404 Wetlands Permit that was issued in July 2014.

**Project Contingency:** Contingency would cover additional costs associated with the project that may be due to higher bids, change orders for on-site conditions and additional infrastructure requirements deemed necessary to complete this project.

**Legal/Miscellaneous Costs:** Legal costs for review of contracts, negotiating agreements with key stakeholders (e.g., Contractors, ESD, National Grid, SUNY, FSMC, SUNY RF, local government and other governmental permitting entities), public notices, legal advertisements for bidding, permitting and environmental compliance fees, printing of

**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
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plans and specifications.

**Results** - The project will move the Marcy Nanocenter closer to completion and to provide a fully utilized site for manufacturing, R&D, work force training, and recreational spaces. Site development in Marcy is a critical component of the Nano Utica initiative, strategically led to grow the nanotechnology hub in upstate New York. Benefits to the local and regional community will include new employment opportunities, median income increase, a larger tax base and regional population growth and diversity.

Financing Uses	Amount	Financing Sources	Amount	Percent
N. Grid 2.5 mile N. Gas line	\$4,900,000	ESD Grant	\$24,000,000	100%
Customer Substation	15,250,000			
Erosion control, site stabalization	1,450,000			
UG Telecom ductbank	350,000			
Contingency	404,337			
Engineering/CM	1,202,922			
Other Engineering, Environmental	161,397			
Legal/Miscellaneous	90,602			
Interim Interest	190,742			
Total Project Costs	\$24,000,000	Total Project Financing	\$24,000,000	100%

**Grantee Contact** - Steven J. Dimeo, Executive Vice President  
584 Phoenix Drive  
Rome, NY 13441  
Phone: (315) 338-0393

<b>Project Team</b> -	Project Management	Wilfredo Florentino
	Contractor & Supplier Diversity	Denise Ross
	Environmental	Soo Kang

**Financial Terms and Conditions:**

1. Upon execution of the grant disbursement agreement, the Grantee shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.

**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

3. Up to \$24,000,000 will be disbursed to the Grantee as follows:

Up to \$10,000,000 will be disbursed to the Grantee, upon receipt of the executed Grant Disbursement Agreement, into an account (The "Imprest Account") at a bank mutually acceptable to ESD and the Grantee. These funds will be invested as per ESD's Directors approved investment guidelines. Interest earned on the funds deposited in the Imprest Account must be returned to ESD quarterly along with copies of all bank statements, starting when the funds are deposited and continuing until all funds have been disbursed. The Grantee may seek authorization to draw down \$14,000,000 to replenish the Imprest Account upon documentation of project expenditures of at least 85% of the previous amount advanced, assuming that all project approvals have been completed and funds are available. The Grantee may, no more frequently than monthly, seek authorization to release funds from the Imprest Account to pay for eligible project costs due and payable to contractors, assuming that all project approvals have been completed and funds are available. Each subsequent payment requisition, beyond the first, will include the current month's invoices and proof of payment for invoices submitted for the previous month.

The Grantee will be required to document project expenditures of \$24,000,000 upon completion of the project. Any and all requests to draw down funds will be made upon presentation to ESD of an invoice and compliance with ESD Design & Construction requirements. Expenses must be incurred on or after April 1, 2016 to be considered reimbursable project costs. With each draw down request, the Grantee shall provide confirmation in writing that all Quarterly Interest Payments due to ESD are current as of the date of the draw down request.

4. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$24,000,000, 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.

**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), ESD Directors adopted SEQRA Findings on May 17, 2007 based on the Final Generic Environmental Impact Statement ("FGEIS") and supplemental analyses for the Marcy Nanocenter. By adoption of SEQRA Findings, the Directors certified that the requirements of 6 NYCRR Part 617 have been met. In addition, the Town Board of the Town of Marcy, as lead agency, has conducted SEQRA reviews for subsequent modifications to the Marcy Nanocenter project including zoning changes for additional parcels, amendment to the preliminary planned development and approval of an electrical interconnection project, and issued Negative Declarations on April 25,



**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

2013, December 5, 2013, and July 11, 2016. In connection with the previous approval of funding for the project on July 21, 2016, the Directors made a Determination of No Significant Effect on the Environment. This determination addressed all aspects of the proposed project. Therefore, no further environmental review is required in connection with this grant approval.

**Agriculture and Markets Review:**

Due to a portion of the project site's location within the Oneida County Agricultural District No. 7 in the Town of Marcy, pursuant to Section 305(4) of the Agriculture and Markets Law, ESD has filed the Preliminary and Final Notices of Intent and certification with the Commissioner of the New York State Department of Agriculture and Markets and the Oneida County Agriculture and Farmland Protection Board. The requirements of Section 305(4) of the Agriculture and Markets Law have been met, and consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse agricultural impacts revealed in the notice of intent process will be minimized or avoided.

**Smart Growth Public Infrastructure Review:**

Pursuant to the requirements of the State Smart Growth Public Infrastructure Policy Act (the "SG Act"), and in connection with a previous grant for the Marcy Nanocenter project approved by the Directors on November 15, 2012, ESD's Smart Growth Advisory Committee reviewed a Smart Growth Impact Statement ("SGIS"). This review found it is impracticable for the project to be developed in a manner consistent with the relevant State Smart Growth Public Infrastructure Criteria ("Smart Growth Criteria") due to the project's site requirements, but that the project is justified by the site's access to existing infrastructure, location adjacent to SUNYIT and the public benefits that would result from the project including increase in high quality jobs. The designee of the Chief Executive Officer of the Corporation has attested that it is impracticable for the project to meet the relevant Smart Growth Criteria set forth in the SG Act and that the project is justified for the reasons stated in the SGIS. This attestation addressed all aspects of the proposed project. Therefore, no further smart growth public infrastructure review is required in connection with this action.

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

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

**Statutory Basis – Special Appropriation Nano Utica:**

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

**Marcy Nanocenter – Site Infrastructure Investment Capital (AB696)**  
**February 16, 2017**

**Disclosure and Accountability Certifications:**

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

# **Item IV. A.**



**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard Zemsky

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

**REQUEST FOR:** Authorization of an Investment of NYSIVCF Funds in Ener-G-Rotors, Inc.

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**Project Summary**

**Awardees:** Ener-G-Rotors, Inc. (the "Company")

**Amount:** Up to \$1,500,000 in Series B Preferred Shares

**Project Location:** Rotterdam, NY

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

**ESD Project No.:** AB676

**Project Team:**

Origination	Clayton Besch
Project Management	Clayton Besch
Legal	Craig Alfred
Contractor & Supplier Diversity	Denise Ross
Environmental	Soo Kang

**Background**

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

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

#### Past State Support for Ener-G-Rotors, Inc.

To date, Ener-G-Rotors, Inc. has received \$5.5M in grant funding from the New York State Energy and Research Development Authority.

#### Project Status

Ener-G-Rotors, Inc., headquartered in Rotterdam, NY, is a developer and manufacturer of equipment for converting low-temperature waste heat from industrial processes into electricity. The Company has developed a unique Trochoidal Gear Engine (TGE) that enables the efficient capture and conversion of waste heat at a smaller scale than is currently possible with other methods (turbines and screw gears). The result is energy harvesting equipment that can be deployed into a wider variety of industrial settings, leading to greater potential energy savings.

Higher temperature waste heat is often reused to perform work or provide heat to buildings and industrial processes, but currently most low-temperature waste heat is lost. The United States Department of Energy has identified waste heat harvesting, and in particular low-grade waste heat harvesting, as an area in which energy-saving potential is exceedingly high.

Ener-G-Rotors has incorporated its highly efficient TGE device into a product called the Organic Rankine Cycle Appliance (ORCA). The ORCA is designed to generate electricity with smaller, lower-temperature installations at a targeted price of \$0.03/Kwh with a possible payback period of two years.

In order to fund its activities over the next 18 months, the Company is raising \$6,000,000 in Series B Preferred Shares (with a minimum closing of \$5,000,000). The NYSIVCF will invest up to \$1,500,000 into the round, which is being led by Cycle Capital, an energy-focused investment firm. The round is being structured into two tranches with a 60%/40% split between the first and second tranches. The milestone for initiating the second tranche will be the sale of 10 ORCA units and the deployment of a next generation 50kw unit.

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

### Statutory Basis

In order to attract private-sector investment in new research, translate research into marketable products, strengthen university-industry connections, and prepare New York businesses to compete for private-sector venture investment, Part JJ of Chapter 59 of the Laws of 2013 authorized ESD to establish and administer the NYSIVCF in order to provide critical seed-stage and early-stage funding to incentivize new business formation and growth in the State of New York and facilitate the transition from ideas and research to marketable products.

### Environmental Review

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

### Non-Discrimination and Contractor & Supplier Diversity

#### MINORITY AND WOMEN-OWNED BUSINESSES

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses (MWBs) in the performance of ESD contracts. The ESD Office of Contractor and Supplier Diversity (OCS) has determined that it is not practical or feasible to assign MWBE contract goals to expenditures made under this program. As such, participation goals will not be established or required.

#### SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Pursuant to New York State Executive Law Article 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified service-disabled veteran-owned businesses (SDVOBs) in the performance of ESD contracts. OCS has determined that it is not practical or feasible to assign SDVOB contract goals to expenditures made under this program. As such, participating goals will not be established or required.

### Additional Submissions to Directors

#### Resolution

#### Schedule A – Summary of the Investment Terms

February 16, 2017

New York State Innovation Venture Capital Fund - Authorization of an Investment of  
NYSIVCF Funds in Ener-G-Rotors, Inc.

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the Materials), relating to the New York State Innovation Venture Capital Fund, the Corporation is authorized to make an investment, in an amount not to exceed \$1,500,000, in Ener-G-Rotors, Inc. (the Company) and to enter into agreements and related documentation with the Company and the investment entities named in the Materials in order to effectuate such investment; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation and/or his or her designee(s) be, subsequent to the making of the investment, and each of them hereby is, authorized to take such actions, including modifying the terms of the investment and entering into additional agreements with the Company and others, as he or she may deem necessary or appropriate in the administration of the Corporation's investments in the Company; and be it further

RESOLVED, that the provision by the Corporation of financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable; (2) receipt of all other necessary approvals; and (3) the availability of funds and the approval of the State Division of the Budget, if applicable; and be it further

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

\* \* \*

**Schedule A**  
**New York State Innovation Venture Capital Fund:**  
**Ener-G-Rotors, Inc. Investment**  
**Summary of Financing Terms**  
**Board of Directors Meeting**  
**February 16, 2017**

1.	Issuer:	Ener-G-Rotors Inc. (the "Corporation")
2.	Offered Securities:	Series B Participating Preferred Shares ("Shares"), which shall have the rights and privileges described herein.
3.	Size of Issue:	Up to \$6.0 million, with a minimum issue of \$5.0 million, of which  1. Cycle Capital will purchase a minimum of \$2.5 million of the Offering and  2. Other investors including the Current Investors and new investors acceptable to Cycle Capital will together purchase up to \$3.5 million (with a minimum of \$2.5 million committed by the Closing Date) of the Offering.
4.	Rank:	The Series B Preferred Shares shall rank senior to all other classes and series of equity securities of the Corporation with respect to dividend rights and rights on liquidation.
5.	Pre-Issue Valuation and Dividends:	The Corporation will issue Shares based on a pre-money, fully diluted valuation of \$6.0 million. The Shares shall accrue dividends at 8% per annum
6.	Liquidation Preference:	In the event of any liquidation (including a deemed liquidation resulting from a merger, reorganization, sale or exclusive license of assets, acquisition of securities or other acquisition-type transactions in which control of the Corporation or all or substantially all of its assets is transferred or exclusive license of all of the Corporation's intellectual property) or winding up of the Corporation, the holders of the Series B Preferred Shares shall be entitled to receive in preference to the holders of any other class or series of equity securities or equity like securities a per share amount in cash equal to one times the Original Purchase Price with all accrued unpaid dividends (the "Series B Liquidation Preference").
7.	Issuance in Two Tranches	Financing for the Transaction will take place in two tranches:  1. First Tranche: at least 60% of the committed amounts will be funded by the Closing Date.



		<p>2. Second Tranche: the remaining 40% of the committed amounts will occur when either (a) the Corporation achieving its First-Year Milestones or (b) the majority of the Investors affirmatively consent to waive the First-Year Milestones. If the majority of Investors fund the Second Tranche, then all Investors will be required to fund their pro rata shares of the Second Tranche commitment.</p>
8.	First-Year Milestones	<p>The First-Year Milestones will be realized if within 12 months of the Closing date, the Corporation has</p> <ol style="list-style-type: none"> <li>1. Sold or received Purchase Orders for at least 10 Commercial Units (not including units for which Purchase Orders have been received before the Closing Date) at a price reasonably close to \$100,000 per Unit,</li> <li>2. Developed and installed at least one 50 Kilowatt unit, and</li> </ol>
9.	Voting and Approval Rights:	<p>Each Series B Preferred Share will carry the number of votes equal to the number of Common Shares then issuable on its conversion, voting together with the Common Shares, except as otherwise specified in this Term Sheet.</p> <p><i>Special Majority Approval:</i> The consent of holders of 60% of the issued and outstanding Series B Preferred Shares ("<b>Special Majority</b>") shall be required for any action which:</p> <ol style="list-style-type: none"> <li>(i) may lead to or result in a material change in the business of the Corporation</li> <li>(ii) issues any new securities of the Corporation;</li> <li>(iii) creates (by reclassification or otherwise) any new class or series of shares;</li> <li>(iv) amends or waives any provision of the Corporation's articles, certificate of incorporation or bylaws;</li> <li>(v) changes the number of shares reserved under the Corporation's employee stock option plan or makes any amendment thereto or approves any other bona fide stock option plan of the Corporation or similar equity compensation plan for the benefit of the Corporation's officers, directors, employees and consultants;</li> <li>(vi) subject to the overriding Drag-Along provisions described below, results in any merger, acquisitions, winding up, dissolution, amalgamation, corporate reorganization, change in control, or sale of all or substantially all of the assets of the Corporation;</li> <li>(vii) declares or pays any dividends or distributions of excess</li> </ol>

		<p>operating cash flows;</p> <p>(viii) redeems, repurchases, or otherwise results in the acquisition of stock of the Corporation (except for acquisitions of common shares by the Corporation pursuant to certain employment or consulting agreements or the shareholders agreement);</p> <p>(ix) alters or changes the rights, preferences or privileges of the Series B Preferred Shares or issues a new series within Series B;</p> <p>(x) grants any registration rights to any person with respect to the public offering of securities of the Corporation;</p> <p>(xi) grants any debt or security interest over the assets of the Corporation;</p> <p>(xii) results in grants by the Corporation of exclusive rights in its technology, assets or significant property;</p> <p>(xiii) changes the hiring and remuneration of executive management of the Corporation.</p>
10.	Information Rights:	<p>The Corporation will provide to the holders of the Shares:</p> <ol style="list-style-type: none"> <li>1. Audited annual financial statements to be delivered to each shareholder within 120 days after fiscal year end;</li> <li>2. Business plan to be provided to the board and shareholders at least 45 days prior to fiscal year end and approved prior to fiscal year end;</li> <li>3. Unaudited quarterly financial statements to be delivered to each shareholder within 20 days after quarter end;</li> <li>4. Each director to receive before each board meeting a report from management confirming that all required tax withholdings have been made and remitted to the tax authorities;</li> <li>5. Unaudited status report on the business, including sales and product development, to be delivered to each shareholder within 20 days after quarter;</li> <li>6. Monthly internal financial statement 20 days after month end; and</li> <li>7. Any other information reasonably requested.</li> </ol>

# **Item IV. B.**



**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard Zemsky

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

**REQUEST FOR:** Authorization of an Investment of NYSIVCF Funds in PostProcess Technologies, Inc.

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**Project Summary**

**Awardees:** PostProcess Technologies, Inc. (the "Company")

**Amount:** Up to \$1,000,000 in convertible debt

**Project Location:** Buffalo, NY

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

**ESD Project No.:** TBD

**Project Team:**

Origination	Brian Keil
Project Management	Sharon Weinberg
Legal	Craig Alfred
Contractor & Supplier Diversity	Denise Ross
Environmental	Soo Kang

**Background**

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

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

#### Past State Support for PostProcess

To date, PostProcess has received State support through its participation in the Start-Up NY program and from a \$90,000 award by the Western New York Economic Development Fund, which is overseen by the New York Power Authority ("NYPA").

#### Project Status

The Company provides an automated, intelligent, comprehensive solution for post-processing of 3D printed parts. The 3D printing market is growing at an annual rate of over 30%, and is reshaping the global manufacturing industry. However, parts off the printer are not "customer-ready" – they require support removal and surface finish. Manual cleaning of individual 3D parts can be time consuming, expensive, and lead to inconsistent results.

Automated post-processing streamlines what can be a manual process by providing a comprehensive system that includes proprietary software, hardware, detergents and media. Benefits to clients include consistency of results, increased process throughput, and higher labor productivity. On balance, adopting Post-Process technology should result in cost savings, and a rapid payback for customers.

The Company currently has the first mover advantage as the pioneer creating the market. They are seeking additional funding to accelerate growth strategies, including hiring sales personnel, expanding their 3D finishing lab footprint, and supporting European customers.

The Company has applied for multiple patents covering the process, apparatus, and consumables. They have customers in a variety of markets, including the automotive, dental, aviation, defense, and energy industries. They have established strategic partnerships with technology partners, and participate in opportunities offered by government entities, such as the Start-Up NY Program and funding available from NYPA.

In order to fund its activities over the next 18-24 months, the Company is raising \$3,850,000 from investors in the form of convertible notes. The NYSIVCF will invest up to \$1,000,000 into this investment round with the balance being provided by private sector investors. The Company has already closed on \$2,350,000 of the proposed financing.

As part of the due diligence process, NYSIVCF staff and an external Investment Review Committee (IRC) evaluated the Company's business plan and growth prospects as well as the terms of the investment. As a result of that analysis, NYSIVCF and the IRC both agree that the

market opportunity and growth potential offered by this upstate New York company warrants an investment by the NYSIVCF and recommend its approval.

#### Statutory Basis

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

#### Environmental Review

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

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

##### MINORITY AND WOMEN-OWNED BUSINESSES

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses (MWBs) in the performance of ESD contracts. The ESD Office of Contractor and Supplier Diversity (OCS) has determined that it is not practical or feasible to assign MWBE contract goals to expenditures made under this program. As such, participation goals will not be established or required.

##### SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Pursuant to New York State Executive Law Article 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified service-disabled veteran-owned businesses (SDVOBs) in the performance of ESD contracts. OCS has determined that it is not practical or feasible to assign SDVOB contract goals to expenditures made under this program. As such, participating goals will not be established or required.

#### Additional Submissions to Directors

#### Resolutions

#### Schedule A – Summary of the Investment Terms

February 16, 2017

NEW YORK STATE URBAN DEVELOPMENT CORPORATOIN D/B/A EMPIRE STATE  
DEVELOPMENT – New York State Innovation Venture Capital Fund - Authorization of an  
investment of NYSIVCF Funds in PostProcess Technologies, Inc.

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the "Materials"), relating to the New York State Innovation Venture Capital Fund, the Corporation is authorized to make an investment, in an amount not to exceed \$1,000,000, in PostProcess Technologies, Inc. (the "Company"), and to enter into agreements and related documentation with the Company and the investment entities named in the Materials in order to effect such investment; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the investment, and each of them hereby is, authorized to take such actions, including modifying the terms of the investment and entering into additional agreements with the Company and others, as he or she may deem necessary or appropriate in the administration of the Corporation's investments in the Company; and be it further

RESOLVED, that the provision by the Corporation of financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable; (2) receipt of all other necessary approvals; and (3) the availability of funds and the approval of the State Division of the Budget, if applicable; and be it further

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

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**Schedule A**  
**New York State Innovation Venture Capital Fund:**  
**PostProcess Technologies, Inc. (the "Company")**  
**Summary of Convertible Debt Financing Terms**  
**Board of Directors Meeting**  
**February 16, 2017**

<u>Type of Security:</u>	Convertible Note (the "Note")
<u>Investment Amount; Use of Proceeds:</u>	Up to a total of \$3,850,000, including up to \$1,000,000 by ESD. The funds will be used finance the growth strategy of the Company.
<u>Principal Terms of the Convertible Note:</u>	<p>The Note will contain the following terms:</p> <ul style="list-style-type: none"> <li>• <u>Interest</u>: Interest will accrue on the outstanding principal amount of the note at five percent per annum, non-compounding. The Company can convert the interest outstanding on the Note into Conversion Equity upon conversion of the Note.</li> <li>• <u>Maturity Date</u>: outstanding principal amount plus accrued and unpaid interest is due and payable in full in 24 months.</li> <li>• <u>Conversion</u>: At any point after the Maturity Date, the holder can elect to convert the outstanding principal amount plus interest into Conversion Equity.</li> <li>• If conversion has not been demanded or otherwise occurred within 48 months after the date of the Note, the Company and the holder can agree to either repay amounts outstanding in full or elect to convert remaining principal and accrued interest into Conversion Equity at a price that is the lesser of the price per unit paid in the most recent qualified financing transaction by the discounted conversion price of \$16MM.</li> <li>• The Company can also cause conversion during the period beginning 30 days prior to the Maturity Date and ending five days prior to the Maturity Date, at the conversion price above.</li> <li>• <u>Prepayment</u>: The Company can prepay interest at any time.</li> <li>• In the event of a qualified financing or change of control, the Company can prepay the Note, plus a premium of 1.5X the Principal Amount of the Note. The Holder can elect in lieu of payment to convert into Conversion Equity at a price equal to the Valuation Cap of \$20MM divided by the fully diluted membership units in the Company issued immediately prior to the Change in Control.</li> <li>• A Qualified Financing is the sale by the Company of membership units from which the Company receives gross proceeds of not less than \$1MM. The conversion price will be the lesser of (i) 80% of the price</li> </ul>



	<p>per unit paid in the most recent Qualified Financing Transaction, or (ii) \$16MM.</p> <ul style="list-style-type: none"> <li>• <u>Event of Default</u>: Upon various events of default, the Note will bear interest at the lower of 10% or the highest rate allowed by applicable law.</li> </ul>
<u>Arbitration:</u>	Disputes are subject to arbitration in Erie County, NY.
<u>No Security:</u>	The Note is a general unsecured obligation of the Company, and is subordinate to any senior credit facility, bank debt, or similar loan.
<u>Information Rights:</u>	The Company will deliver information provided to other Note holders, and, upon request, other information that a Note holder would be entitled to receive by law or under the operating agreement of the Company.
<u>Co-Investment Syndicate:</u>	Other Note Investors include Rand Capital Corporation.

#### **Convertible Note: Co-Investors**

**Rand Capital Corporation:** <http://www.randcapital.com/> Rand Capital Corporation (NASDAQ: RAND) was founded in 1969 and is a publicly traded, closed-end management investment company that has elected to be regulated as a Business Development Company (BDC) under the Investment Company Act of 1940. In addition, its fully owned subsidiary, Rand Capital SBIC, Inc., is licensed by the United States Small Business Administration as a Small Business Investment Company (SBIC).

**Item V. A.**



**FOR CONSIDERATION**

February 16, 2017

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Pre-Qualified Legal Counsel List

REQUEST FOR: Approval of Pre-Qualified Counsel List

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I. **Background**

Among its many functions, the Corporation and its subsidiaries and affiliates (collectively, "ESD" or the "Corporation") implement or facilitate a number of large and complex economic development projects and initiatives. The size, nature, complexity and timing of these projects often require the Corporation to call on the assistance of outside counsel in various areas of expertise. To permit the Corporation to respond to the needs of these projects expeditiously, while having available to the Corporation the benefits of a broad solicitation of qualified outside law firms, legal department staff maintains a list of pre-qualified counsel. The current list, which was adopted in 2012, will expire on March 31, 2017. Staff, therefore, has conducted a broad solicitation of interested law firms, reviewed the submissions and compiled a new list based on this solicitation which is now recommended to you for adoption. As in the past, we recommend that the list remain in effect for 3 years, subject to extension by an additional year at the discretion of the General Counsel.

II. **The Solicitation**

On June 27, 2016, staff placed an advertisement in the New York State Contract Reporter requesting proposals from law firms in the following of law (including, in each instance, litigation capabilities): (1) real estate and land use; (2) construction; (3) environmental; (4) condemnation; (5) bankruptcy; (6) taxation; (7) bond financing; (8) foreclosure; (9) employment; (10) transactional direct and indirect investments<sup>1</sup>; and (11) regulatory litigation. Proposals were due by July 22, 2016.

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<sup>1</sup> As provided in the RFP, all firms that are currently on the list of pre-qualified counsel for transactional direct and indirect investments that was approved by the ESD Board in August 2014 have been automatically included on the investment practice area of the list that is before the Board today. Firms that were not on the 2014 investment counsel list were permitted to apply for consideration in this area and there are several new firms proposed to be added in this area.

In addition, staff contacted the following individuals and law firms via email to advise them of the Contract Reporter opportunity:

- All law firms on ESD's list of prequalified counsel that was approved by the Board in 2012 and all law firms on the list of prequalified investment counsel approved by the Board in 2014;
- All law firms that are State-certified Minority- or Women-Owned Business Enterprises ("MWBEs");
- All law firms that are State-certified Service-Disabled Veteran-Owned Businesses ("SDVOBs")
- Amistad Long Island Black Bar Association
- Arab American Bar Association
- Asian American Bar Association of New York
- Association of Black Women Attorneys
- Capital District Black and Hispanic Bar Association
- Dominican Bar Association
- Neysa Alsina, NY Regional President of the Hispanic National Bar Association
- Korean American Lawyers Association of Greater New York
- Latino Lawyers Association of Queens County
- Long Island Hispanic Bar Association
- Metropolitan Black Bar Association
- Muslim Bar Association of New York
- Nigerian Lawyers Association, Inc.
- The Puerto Rican Bar Association
- South Asian Bar Association of New York
- Westchester Black Bar Association
- Women's Bar Association of the State of New York

78 firms responded to the solicitation. Because a number of firms on the 2012 pre-qualified list failed to respond, ESD publicly re-opened the solicitation on August 2, 2016, with proposals due on August 17. Nine additional firms responded to the re-opened RFP, including some that were previously listed on the 2012 list and some new firms. The responses were evaluated by a Review Committee consisting of seven ESD attorneys, including the Senior Counsels responsible for environmental, litigation, contractor and supplier diversity, and employment matters and the Deputy General Counsel. The Review Committee's recommendations were discussed with the General Counsel. The responses were evaluated on the following criteria:

- (1) relevant firm experience and the qualifications and experience of the staff proposed to be assigned to the ESD engagement (50%);
- (2) anticipated cost of services and willingness to work with ESD to minimize costs (20%);
- (3) overall organization, completeness, and quality of the proposal, including cohesiveness, clarity of response and demonstrated understanding of ESD, its mission and activities (20%); and

- (4) demonstrated commitment of time and resources to ESD or other State agencies or other public entities (10%).

In some cases, additional information was requested in clarification of an initial submission and 13 firms were selected for interviews.

Based on this review, staff recommends the approval of the firms listed on Attachment A to these materials as pre-qualified legal counsel to the Corporation.

### III. Responsible Parties

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has: a) considered the ability of each firm to perform the services as set forth in these materials, and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff finds each firm to be responsible.

### IV. Financial Commitment and Selection from the List

The Directors are not now being asked to authorize the retention of any particular firm. Instead, the requested authorization serves to make available to the Corporation a panel of law firms that have been identified through a broad solicitation process. This would allow staff to select firms from among the pre-qualified firms and, after evaluation of those firms for a particular project, to make a recommendation to the Directors (or to the President and CEO or his or her designee, depending on the proposed dollar amount and length of the contract) in connection with such project, without the need to conduct an entire solicitation process in each instance. This should save for each project two or more months that is normally needed to conduct a solicitation, perform the necessary review and formulate a recommendation.

In the event that the principal partners and attorneys identified as being responsible for ESD's matters (as required by Section IV(A)(3) of the RFP) or other key members of a pre-qualified firm's team in a particular area of expertise, leave the prequalified law firm, the pre-qualification will "follow" these key law firm member(s). Similarly, if a pre-qualified firm combines with another firm and such principal partners and other attorneys remain with the newly combined firm, the newly combined firm will be considered to be pre-qualified in that area of expertise.

Every firm on the proposed pre-qualified list has agreed to bill at or below ESD's maximum rate policy.

### V. Duration of List

Staff recommends that the pre-qualified list remain in effect for three years, until the first meeting of the Directors in March 2020, with the option to extend the duration of the list for an additional year at the discretion of the General Counsel.

VI. Environmental Review

ESD staff has determined that approval of this pre-qualified list does not constitute an action as defined by the New York State Environmental Quality Review Act and its implementing regulations. No further environmental review is required in connection with the requested approval.

VII. Requested Action

The Directors are being asked to approve the law firms listed on Attachment A to these materials as qualified to advise the Corporation and its subsidiaries and affiliates in the areas of expertise identified in Attachment A (and in each case related litigation) and, in the discretion of the General Counsel, such related areas of expertise as s/he may deem appropriate and advisable in connection with any matter, for a term of three years (until the first meeting of the Directors in March 2020), plus an additional year at the option of the General Counsel.

VIII. Recommendation

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

Attachments

Resolution  
Attachment A

February 16, 2017

NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE  
DEVELOPMENT -- Approval of Pre-Qualified Counsel List

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BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the firms listed on Attachment A to this Resolution be, and each hereby is, approved as pre-qualified to act as legal counsel to the Corporation and its subsidiaries and affiliates, such approval to remain in effect until the meeting of the Directors first occurring in March 2020 or, in the discretion of the General Counsel, until the meeting of the Directors first occurring in March 2021.

\* \* \*

ATTACHMENT A  
ESD Pre-Qualified Counsel List  
Adopted February 16, 2017

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED † M/WBE CERT PENDING ** SDVOB CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
<b>BANKRUPTCY</b>	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Bryan Cave LLP		New York	
	Dentons US LLP		New York	
	Hodgson Russ LLP		Buffalo	Albany, New York, Saratoga Springs
	Law Offices of Donald J. Tobias		New York	
	Menter, Rudin & Trivelpiece, PC		Syracuse	Watertown
	Mintz Levin Cohen Ferris Glovsky and Popeo PC		New York	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Shearman & Sterling LLP		New York	
	Venable LLP		New York	
	Winston & Strawn LLP		New York	
<b>BOND - SENIOR TIER</b>	Dentons US LLP		New York	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hawkins Delafield & Wood LLP		New York	
	Holland & Knight LLP		New York	
	Mintz Levin Cohen Ferris Glovsky and Popeo		New York	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Squire Patton Boggs US LLP		New York	
	Winston & Strawn LLP		New York	



PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDVOB CERTIFIED		
<b>BOND - JUNIOR TIER</b>	Barclay Damon LLP		Buffalo	
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Bryant Rabbino LLP	*	New York	
	Buchanan, Ingersoll & Rooney PC		Buffalo	New York
	Burgher Gray Jaffe LLP	*	New York	
	D. Seaton & Associates, PA	*	New York	
	Day Pitney LLP		New York	
	Drohan Lee LLP	*	New York	
	Golden Holley James LLP	*	New York	
	Hardwick Law Firm, LLC	*	New York	
	Hodgson Russ LLP		Buffalo	Albany, New York, Saratoga Springs
	Law Offices of Barry D. Lites LLP	*	Huntington	New York
	Law Offices of Joseph C. Reid, PA	*	New York	
	Lewis & Munday PC	*	New York	
	Love & Long, LLP	*	New York	
	McGlashan Law Firm, PC	*	New York	
	Norton Rose Fulbright US LLP		New York	
	Pearlman & Miranda LLC	*	New York	
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Pugh, Jones & Johnson, PC	*	New York	
<b>CONDEMNATION</b>	Barclay Damon LLP		Buffalo	
	Berger & Webb, LLP		New York	
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Carter Ledyard & Milburn LLP		New York	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Love & Long, LLP	*	New York	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDVOB CERTIFIED		
<b>CONSTRUCTION</b>	Alisa Lukaszewicz PLLC	†	Buffalo	
	Barclay Damon LLP		Buffalo	New York
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Buchanan Ingersoll & Rooney PC		Buffalo	New York
	Carter Ledyard & Milburn LLP		New York	
	Goldberg Segalla		Buffalo	Albany, Garden City, New York, Rochester, Syracuse, White Plains
	Goulston & Storrs		New York	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hawkins Delafield & Wood LLP		New York	
	Hodgson Russ LLP		Buffalo	Albany, New York, Saratoga Springs
	Hoguet Newman Regal & Kenney, LLP	*	New York	
	Holland & Knight LLP		New York	
	Ingram Yuzek Gainen Caroli & Bertolotti LLP		New York	
	Kilpatrick Townsend & Stockton LLP		New York	
	Love & Long, LLP	*	New York	
	McNamee, Lochner, Titus & Williams, PC		Albany	Saratoga County
	Mintz Levin Cohen Ferris Glovsky and Popeo PC		New York	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Pannone Lopes Devereaux & West LLC		Albany	Uniondale, White Plains
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Rozario & Associates, PC	†	New York	
	Rupp Baase Pfalzgraf Cunningham LLC		Buffalo	Jamestown, Lockport, Rochester
	Saunders Kahler, LLP	*	Utica	
	Schiff Hardin LLP		New York	
	Schoeman Updike & Kaufman LLP	*	New York	
	Sive, Paget & Riesel PC		New York	
	Towne, Ryan & Partners, PC	*	Albany	Burnt Hills, Cobleskill, Poughkeepsie, Saratoga Springs
	Venable LLP		New York	
	Wasserman Grubin & Rogers, LLP		New York	
	Whiteman Osterman & Hanna LLP		Albany	Hudson

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDOB CERTIFIED		
<b>ENVIRONMENTAL</b>	Akerman LLP		New York	
	Barclay Damon LLP		Buffalo	
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Bryan Cave LLP		New York	
	Buchanan Ingersoll & Rooney PC		Buffalo	New York
	Carter Ledyard & Milburn LLP		New York	
	Greenberg Traurig, LLP		New York	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hodgson Russ LLP		Buffalo	Albany, New York, Saratoga Springs
	Holland & Knight LLP		New York	
	Kavinoky Cook LLP		Buffalo	
	Knauf Shaw LLP		Rochester	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Rupp Baase Pfalzgraf Cunningham LLC		Buffalo	Jamestown, Lockport, Rochester
	Sive, Paget & Riesel PC		New York	
	Towne, Ryan & Partners, PC	*	Albany	Burnt Hills, Cobleskill, Poughkeepsie, Saratoga Springs
	Venable LLP		New York	
	Whiteman Osterman & Hanna LLP		Albany	Hudson
<b>FORECLOSURE</b>	Bryan Cave LLP		New York	
	Buchanan Ingersoll & Rooney PC		Buffalo	New York
	Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP		Uniondale	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Law Offices of Barry D. Lites LLP	*	Huntington	New York
	Law Offices of Donald J. Tobias		New York	
	McNamee, Lochner, Titus & Williams, PC		Albany	Saratoga County
	Menter, Rudin & Trivelpiece, PC		Syracuse	Watertown
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Phillips Lytle LLP		New York	Albany, Garden City, Jamestown, New York, Rochester
	Towne, Ryan & Partners, PC	*	Albany	Burnt Hills, Cobleskill, Poughkeepsie, Saratoga Springs

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDVOB CERTIFIED		
<b>INVESTMENTS</b>	Bryant Rabbino LLP	*	New York	
	Buchanan Ingersoll & Rooney PC		Buffalo	New York
	Burgher Gray Jaffe LLP	*	New York	
	Carter Ledyard & Milburn LLP		New York	
	Colón & Peguero and Herrick Feinstein LLP	*	New York	
	Dentons US LLP		New York	
	Drohan Lee	*	New York	
	Harris Beach PLLC and McGlashan Law Firm, PC	*	Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hodgson Russ LLP		Buffalo	Albany, New York, Saratoga Springs
	Holland & Knight LLP		New York	
	Law Offices of Barry D. Lites LLP	*	Huntington	New York
	Lewis & Munday PC and Buckley King	*	New York	
	Lippes Mathias Wexler Friedman LLP		Buffalo	Albany, New York
	Love & Long, LLP	*	New York	
	McNamee, Lochner, Titus & Williams, PC		Albany	Saratoga County
	Miller Mayer, LLP		Ithaca	
	Mintz Levin Cohen Ferris Glovsky and Popeo PC		New York	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Peter Papagianakis Business Law Firm		New York	
	Schoeman Updike & Kaufman LLP	*	New York	
	Silverman Shin Byrne & Gilchrest PLLC	*	New York	
	The Nelson Law Firm, LLC		White Plains	
	Venable LLP		New York	

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDVOB CERTIFIED		
<b>LABOR &amp; EMPLOYMENT</b>	Akerman LLP		New York	
	Alisa Lukasiewicz PLLC	†	Buffalo	
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Brown Hutchinson LLP	*	Rochester	
	Buchanan Ingersoll & Rooney PC		Buffalo	New York
	Carter Ledyard & Milburn LLP		New York	
	Drohan Lee LLP	*	New York	
	Goldberg Segalla		Buffalo	Albany, Garden City, New York, Rochester, Syracuse, White Plains
	Gordon Rees Scully Mansukhani, LLP		New York	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hodgson Russ LLP and Law Offices of Sandra Rivera, PLLC*	*	Buffalo	Albany, New York, Saratoga Springs
	Hoguet Newman Regal & Kenney, LLP	*	New York	
	Kavinoky Cook LLP		Buffalo	
	Law Offices of Donald J. Tobias		New York	
	McNamee, Lochner, Titus & Williams, PC		Albany	Saratoga County
	Mintz Levin Cohen Ferris Glovsky and Popeo PC		New York	
	Paulose PLLC	*		
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Pugh, Jones & Johnson, PC	*	New York	
	Putney, Twombly, Hall & Hirson LLP		New York	
	Rozario & Associates, PC	†	New York	
	Saunders Kahler, LLP	*	Utica	
	Schoeman Updike & Kaufman LLP	*	New York	
	Schroeder, Joseph & Associates, LLP	*	Buffalo	
	Towne, Ryan & Partners, PC	*	Albany	Burnt Hills, Cobleskill, Poughkeepsie, Saratoga Springs
	Tully Rinckey PLLC	**	Albany	Binghamton, Buffalo, Rochester, Syracuse
	Venable LLP		New York	
	Whiteman Osterman & Hanna LLP		Albany	Hudson
	Wong Fleming, PC	*	New York	

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDVOB CERTIFIED		
REAL ESTATE & LAND USE	Alisa Lukasiewicz PLLC	†	Buffalo	
	Barclay Damon LLP		Buffalo	
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Bryan Cave LLP		New York	
	Bryant Rabbino LLP	*	New York	
	Buchanan Ingersoll & Rooney PC		Buffalo	New York
	Carter Ledyard & Milburn LLP		New York	
	Divitta Alexander PLLC	*	Buffalo	
	Drohan Lee LLP	*	New York	
	Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP		Uniondale	
	Goulston & Storrs		New York	
	Hardwick Law Firm, LLC	*	New York	
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hawkins Delafield & Wood LLP		New York	
	Herrick Feinstein LLP		New York	
	Hodgson Russ LLP and Law Offices of Sandra Rivera, PLLC	*	Buffalo	Albany, New York, Saratoga Springs
	Holland & Knight LLP		New York	
	Ingram Yuzek Gainen Caroli & Bertolotti LLP		New York	
	Kavlnoky Cook LLP		Buffalo	
	Knauf Shaw LLP		Rochester	
	Law Offices of Barry D. Lites LLP	*	Huntington	New York
	Law Offices of Donald J. Tobias		New York	
	Love & Long, LLP	*	New York	
	Menter, Rudin & Trivelpiece, PC		Syracuse	Watertown
	Mintz Levin Cohen Ferris Glovsky and Popeo PC		New York	
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Pannone Lopes Devereaux & West LLC		Albany	Uniondale, White Plains
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Rozario & Associates, PC	†	New York	
	Rupp Baase Pfalzgraf Cunningham LLC		Buffalo	Jamestown, Lockport, Rochester
	Saunders Kahler, LLP	*	Utica	
	Schiff Hardin LLP		New York	
	Schoeman Updike & Kaufman LLP	*	New York	
	Shearman & Sterling LLP		New York	
	Sive, Paget & Riesel PC		New York	
	Skadden, Arps, Slate, Meagher & Flom LLP		New York	
	Towne, Ryan & Partners, PC	*	Albany	Burnt Hills, Cobleskill, Poughkeepsie, Saratoga Springs
	Venable LLP		New York	
	Whiteman Osterman & Hanna LLP		Albany	Hudson
	Windels Marx Lane & Mittendorf, LLP		New York	

PRACTICE AREA	FIRM NAME	* M/WBE CERTIFIED	MAIN NY OFFICE	ADDITIONAL NY OFFICES
		† M/WBE CERT PENDING		
		** SDVOB CERTIFIED		
REGULATORY LITIGATION	Alisa Lukasiewicz PLLC	†	Buffalo	
	Bond, Schoeneck & King, PLLC		Syracuse	Albany, Buffalo, Garden City, Ithaca, New York, Oswego, Rochester, Utica
	Bryan Cave LLP		New York	
	Carter Ledyard & Milburn LLP		New York	
	Goldberg Segalla		Buffalo	Albany, Garden City, New York, Rochester, Syracuse, White Plains
	Harris Beach PLLC		Rochester	Albany, Buffalo, Ithaca, Melville, New York, Saratoga Springs, Syracuse, Uniondale, White Plains
	Hodgson Russ LLP and Law Offices of Sandra Rivera, PLLC	*	Buffalo	Albany, New York, Saratoga Springs
	Hoguet Newman Regal & Kenney, LLP	*	New York	
	Kavinoky Cook LLP		Buffalo	
	Law Offices of Donald J. Tobias		New York	
	McNamee, Lochner, Titus & Williams, PC		Albany	Saratoga County
	Nixon Peabody LLP		New York	Buffalo, Rochester
	Pannone Lopes Devereaux & West LLC		Albany	Uniondale, White Plains
	Phillips Lytle LLP		Buffalo	Albany, Garden City, Jamestown, New York, Rochester
	Rupp Baase Pfalzgraf Cunningham LLC		Buffalo	Jamestown, Lockport, Rochester
	Sive, Paget & Riesel PC		New York	
	Towne, Ryan & Partners, PC	*	Albany	Burnt Hills, Cobleskill, Poughkeepsie, Saratoga Springs
	Venable LLP		New York	
	Whiteman Osterman & Hanna LLP		Albany	Hudson

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**Item V. B.**



**FOR CONSIDERATION**

February 16, 2017

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Environmental Consulting Services

REQUEST FOR: Authorization to Amend the Contract with STV Incorporated to Continue to Provide Environmental Consulting Services in Connection with the Fountain Avenue Land Use Improvement and Residential Project and to Take Related Actions

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**I. CONTRACT SUMMARY**

Consultant: STV Incorporated ("STV" or "Consultant")

Scope of Services: Consultant would continue to provide environmental consulting services in connection with review of required environmental submissions.

Total Contract Amount: \$996,600

Contract Term: Ten (10) Years with one (1) option to renew for five (5) years

Funding Source: Imprest Account

**II. BACKGROUND**

ESD retained STV to prepare an Environmental Impact Statement ("EIS") in connection with the Fountain Avenue Land Use Improvement and Residential Project ("Project") that was affirmed by the Directors on August 18, 2016. The Project consists of the redevelopment of two parcels, Parcel A (Lots 500 and 501) and Parcel B (Lot 200) totaling approximately 6.7 acres of surplus property at the former Brooklyn Developmental Center into an approximately 1,248,841 square foot mixed-use development. The Project will be constructed in several phases, the final phase to be completed by 2028, and will include the design, development, construction and operation of multiple improvements at Parcel A and Parcel B including affordable housing (including senior housing), retail, commercial and/or community facility uses, parking and open space. ESD closed on the sale of Parcels A and B to the Project developer on October 18, 2016.

In connection with the sale of the property, a Restrictive Declaration of Development, Use and Operation was executed on October 17, 2016 (the "Restrictive Declaration") that details specific environmental commitments that must be satisfied (the "Environmental Measures") that were identified through the EIS process. These Environmental Measures include technical reports, design drawings, construction plans and certifications by the project's architect or engineer. ESD intends to retain STV to assist in reviewing these submissions required prior to construction per the Restrictive Declaration.

### III. CONSULTANT SELECTION PROCESS

In September 2013, the ESD Directors approved a Pre-Qualified Consultant List for Real Estate Development and Planning Related Consultants for On-Call Services (the "Pre-Qualified List"). STV is pre-qualified in the area of Environmental Assessments under the State Environmental Review Act.

In January 2014 ESD staff solicited three bids from the Pre-Qualified List to prepare an environmental assessment on its behalf. While all three proposals were of a high quality, STV was selected over the two other firms due to STV's demonstrated understanding of the scope of required services, their relevant prior work experience for similar projects, assignment of the appropriate level of professional staff to tasks, their competitive bid price and their commitment to M/WBE participation by subconsultants. STV was retained through a Purchase Order for \$30,460 to prepare an assessment based on the RFP proposal submitted by the developer.

The original scope of work was based on the Project developer's plan to construct an as-of-right project pursuant to the criteria outlined in the RFP, which would have resulted in approximately 164 units of affordable housing. In February 2015, the developer submitted a revised proposal for the two parcels that increased the number of units to approximately 863 units to be developed consistent with an adjacent zoning designation. This increase in unit count required that an EIS be prepared to adequately address the potential for significant adverse impacts suggested by the change in Project density, which necessitated an amendment to the original contract. Due to STV's familiarity with the site and given the substantial amount of existing conditions work they had already completed for the initial proposal's SEQRA assessment, it was determined that it would not be cost or time effective to re-bid the EIS services. The ESD Directors authorized a contract amendment in April 2015 for a total amount of \$996,600 to prepare an EIS with a contract term expiration date of December 2016.

ESD staff recommends the continued retention of STV from the Corporation's list of Pre-Qualified Consultants to assist in reviewing the Environmental Measures submissions required prior to construction per the Restrictive Declaration. This recommendation is based on STV's (a) familiarity with the Project; (b) knowledge and expertise of the firm; (c) prior satisfactory work performed for ESD; and (d) their inclusion in ESD's pre-qualification process. STV and their subconsultants have experience in all the technical areas covered by the required submissions of the Restrictive Declaration.

#### IV. SCOPE OF WORK

STV would continue to assist ESD in reviewing Environmental Measures submissions required by the Restrictive Declaration before construction on a given phase can commence. The submissions that STV would continue to review are:

- Remedial Action Plans
- Construction Health and Safety Plans
- Stormwater Pollution Prevention Plans - Construction
- Stormwater Pollution Prevention Plans – Post Construction
- Project Master Plan for Site Connection Proposals (Sewers)
- Noise Attenuation Plans
- Window Installation Reports
- Noise Attenuation Analyses

#### V. CONTRACT – NEED FOR AMENDMENT, PRICE AND FUNDING

ESD retained STV in June 2015 through a Purchase Order in the amount of \$30,460 based on the selection process described above. As noted above, ESD has had a very positive experience with STV throughout the contract. Staff believes it to be prudent, and recommend maintaining “on call” environmental consulting services to assist in reviewing Environmental Measures submissions required prior to construction per the Restrictive Declaration as each construction phase occurs. ESD staff recommends amending the contract term for ten (10) years with a five (5) year extension, to assure continuity of services throughout the design and construction of the Project. Because the first contract term expired in December 2016, the Board is requested to authorize the amendment retroactive to December 30, 2016.

As stated, the original contract amount was \$30,460 which was then amended to \$996,600. No additional funds are requested at this time. The scope of services is proposed to be completed for \$125,000, the funds for which are available in the remaining balance of the contract. The term of the contract will be for an additional ten (10) years with one (1) option to renew for a five (5) year period to be exercised at the Corporation’s sole discretion. Agreement is terminable within thirty (30) days written notice at the Corporation’s sole discretion.

The source of funding will continue to be paid through an imprest account funded in whole by the developer.

#### VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation’s policy related thereto, staff has: (a) considered Consultant’s ability to perform the services provided for in the proposed contract; and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Consultant to be responsible.

VII. ENVIRONMENTAL REVIEW

Staff has determined that the requested authorization to extend the term of a STV's contract constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations promulgated by the NYS Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VIII. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

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

IX. REQUESTED ACTION

The Directors are asked to authorize the Corporation to extend the contract with STV for environmental consulting services as are described in these materials for an additional ten (10) years with one (1) option to renew for a five (5) year period to be exercised at the Corporation's sole discretion.

X. RECOMMENDATION

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

ATTACHMENT  
Resolution

February 16, 2017

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT -  
Procurement of Environmental Consulting Services - Authorization to Amend the Contract with  
STV Incorporated to Continue to Provide Environmental Consulting Services in Connection with  
the Fountain Avenue Land Use Improvement and Residential Project and to Take Related  
Actions**

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RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the "Materials"), the Corporation hereby finds the firm of STV Incorporated ("Consultant") to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend its existing contract with STV Incorporated to add an additional ten (10) years with one (1) option to renew for a five (5) year period to be exercised at the Corporation's sole discretion, for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials, which includes all services rendered as of December 30, 2016; and be it further

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

\* \* \*

**Item V. C.**



FOR CONSIDERATION

February 16, 2017

TO: The Directors

FROM: Howard Zemsky

SUBJECT: Orchard Park (Erie County) - Erie County Stadium Civic Project

REQUEST FOR: Adoption of a Modified General Project Plan; Authorization to Hold a Public Hearing; Determination of No Significant Effect on the Environment; Authorization to Enter into the Necessary Agreements; and Authorization to Take Related Actions

---

I. Background

On February 21, 2013, the Board of Directors of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") adopted a General Project Plan ("GPP") for the Erie County Stadium Civic Project upon recommendation of the Erie County Stadium Corporation ("ECSC"), a subsidiary of ESD. The GPP and related approvals authorized the ECSC to enter into the necessary agreements which resulted in the Erie County owned former Ralph Wilson, Jr. Stadium n/k/a New Era Field (the "Stadium"), to be leased to the ECSC and subleased to the Buffalo Bills, Inc. (the "Bills") for a term of ten years beginning in July of 2013 (the "2013 Lease"). The 2013 Lease and related documents committed the Bills to remain in Buffalo during the term of the lease in accordance with the terms of the GPP. A copy of the GPP is attached hereto as Attachment A.

Pursuant to the 2013 Lease and accompanying documents, Stadium renovations in the amount of \$130 million have been completed pursuant to funding provided by the parties as follows: (a) ECSC/State - \$53,890,650; (b) Erie County - \$40,654,350; and (c) Buffalo Bills - \$35,455,000. In addition, the lease requires certain annual payments will be made to the Bills and are broken down into four categories: (a) working capital; (b) operating expense reimbursement; (c) game day expense reimbursement; and (d) an annual Stadium capital improvement allowance. In year one of the lease (2013), the payments were: (a) \$3 million working capital; (b) \$2.913 million operating expense reimbursement; (c) \$1.818 million game day expense reimbursement; and (d) \$4.6 million Stadium capital improvement allowance. The annual payments for all categories are adjusted annually based on Consumer Price Index. The payments to the Bills which are reduced by the amount paid in rent by the Bills (\$800,000 in year one of the lease), is split between the County and the State with the State paying 57% and the County 43% in year one. Thereafter, the County's share of the annual payment for all categories is increased one percent per year until the State/County share is 50-50 beginning in year 8 and continuing for the remaining term of the lease.



## II. Project Revisions

The property that is the subject of the 2013 Lease includes an approximately 197.65 acre parcel of real property situated in the Town of Orchard Park, New York that includes the Stadium, field house, outdoor practice facilities, offices and related amenities. Late last year, the Bills acquired a parcel of land of approximately 2.89 acres located immediately south of the existing field house and practice facilities and adjacent to the property covered in the 2013 Lease (the "Parcel"). The Parcel was used by the previous owner for parking for Stadium events. The acquisition was driven by a desire of the Bills to expand the outdoor practice fields at the Stadium while having a minimal impact on existing parking facilities.

At the request of the Bills, the County has agreed to accept donation of the Parcel to the County provided the Parcel is leased to the ECSC and then subleased to the Bills in accordance with all terms of the 2013 Stadium Lease. By including the Parcel in the Stadium Lease, it will allow the Bills to expand the team's outdoor practice facilities as the existing facilities are inadequate to enable simultaneous drills involving the offense, defense and special teams. Specifically, the Bills will use the Parcel to construct a new 100 yard practice field immediately to the south of the existing 140 yard practice field. The construction of the new field will entail the realignment of Regional Drive so that it winds around the new field. A preliminary layout of the proposed improvements are attached hereto as Attachment B. These expected improvements to the Parcel will be fully funded by the Bills except for the realignment of Regional Drive which is expected to be constructed by the County as part for the annual capital improvement allowance referenced above. As such, no additional public funds are being provided.

In order to permit the transaction to occur, the GPP is being amended to add the Parcel to the property covered by the 2013 lease. On February 10, 2017, the Board of Directors of the ECSC met to approve the transaction and recommend that the GPP amendment be approved by this Board. The proposed amendment to the GPP is attached hereto as Attachment C. No other changes to the GPP are being proposed and no additional State funding will be required.

## III. Statutory Findings

1. That there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

The Buffalo Bills have played in the Stadium for approximately 40 years. The Bills maintain a sizable following in Western New York and are a source of civic pride for the residents thereof. If the Bills franchise were to relocate to another area, it would be considered indicative of a loss of major market status for Buffalo and Western New York.

2. That such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

The Stadium was constructed for professional football in 1972 and has been continuously used for that purpose. The improvements contemplated including the new practice facilities, would continue and enhance that use. It is an important asset of Erie County and is also periodically used for civic events.

3. That such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of this project;

The County of Erie will hold title to the project site and lease the same to the ECSC. The costs of construction of the improvements and operating and maintaining the facility will be financed by the parties as described above. No additional funding is required for any facilities constructed as part of the Parcel acquisition.

4. That the plans and specifications assure adequate light, air, sanitation and fire protection;

The project will be constructed in accordance with all applicable codes.

5. 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.

#### IV. Environmental Review

Pursuant to the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation, the Erie County Department of Public Works conducted an environmental review of the proposed stadium improvements. This review determined that the additional Parcel and the proposed improvements would not have a significant effect on the environment. ESD staff has reviewed the material supporting the determination and recommend that the Directors make a Determination of No Significant Impact on the Environment.

#### V. Requested Actions

The Directors are requested to: (a) adopt a Modified General Project Plan; (b) authorize the holding of a public hearing; (c) make a determination of no significant effect on the environment; (d) enter into any necessary agreements; and (e) take all related actions.

Attachment  
Resolutions

**Attachment A - General Project Plan dated February 21, 2013**

**Attachment B – Layout of Proposed Improvements**

**Attachment C – Modifications to General Project Plan**

February 16, 2017

Orchard Park (Erie County) – Erie County Stadium Civic Project – Adoption of a Modified General Project Plan; Authorization to Hold a Public Hearing; Determination of No Significant Effect on the Environment; Authorization to Enter into the Necessary Agreements; and Authorization to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the New York State Urban Development Corporation d/b/a Empire State Development (the "Corporation"), relating to the Erie County Stadium Civic Project (the "Project"), the Corporation hereby finds pursuant to Section 10 of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"):

(1) that there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

(2) that such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

(3) that such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of this project;

(4) that the plans and specifications assure adequate light, air, sanitation and fire protection; and be it further

RESOLVED, that on the basis of the materials presented to this meeting relating to the Project indicating that there are no families or individuals to be displaced from the Project area, the Corporation hereby finds that the requirements of Section 10(g) of the Act are satisfied; and be it further

RESOLVED, that the Corporation does adopt, subject to the requirements of Section 16(2) of the Act, the proposed Modified 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 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 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 enter into any agreements necessary, including any lease amendments, and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper; 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.

\* \* \*

February 16, 2017

Orchard Park (Erie County) – Erie County Stadium Civic Project – Adoption of a Modified General Project Plan; Authorization to Hold a Public Hearing; Determination of No Significant Effect on the Environment; Authorization to Enter into the Necessary Agreements; and Authorization to Take Related Actions

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RESOLVED, that on the basis of the materials submitted to the Directors with respect to the Erie County Stadium Civic Project (the "Project"), the New York State Urban Development Corporation d/b/a Empire State Development hereby determines that the proposed action will not have a significant adverse effect on the environment.

\* \* \*

## **Empire State Development**

**FOR CONSIDERATION**

February 21, 2013

**TO:** The Directors

**FROM:** Kenneth Adams

**SUBJECT:** Orchard Park (Erie County) – Erie County Stadium Civic Project

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

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**General Project Plan**

**I. Project Summary**

**Project Owner:** County of Erie  
95 Franklin Street  
Buffalo, New York 14202

**Contact:** Honorable Mark Poloncarz  
Erie County Executive  
95 Franklin Street  
Buffalo, NY 14202  
Phone: (716) 858-8500

**Project Subtenant:** Buffalo Bills, Inc.  
One Bills Drive  
Orchard Park, New York 14127

**Subtenant Contact:** Russ Brandon, President & CEO  
Buffalo Bills, Inc.  
One Bills Drive  
Orchard Park, New York 14127

**Proposed Project:** Design and construction of improvements to Ralph Wilson Stadium.  
Provision of working capital and game day/operating expenses.

ESD\* Investment: \$123,469,650 (2013 -2022)

\* The New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation")

Anticipated Funding

Source: 2013-2014 State Budget

II. Financial Summary

A. Stadium Construction (2013-2015)

Financing Uses	Estimated Cost
-Design and Construction of Stadium Improvements	\$130,000,000
<b>Financing Sources</b>	
- Buffalo Bills	\$35,455,000
- Erie County	\$40,654,350
- State/ESD	<u>\$53,890,650</u>
<b>Total:</b>	<b>\$130,000,000</b>

B. Annual Funding (2013 -2022)

Financing Uses	Annual Cost	Total Cost (Years 1 -10)*
- Annual Working Capital	\$3,000,000	\$34,882,000
- Operating Expense Reimbursements	\$2,913,000	\$32,999,000
- Game Day Expense Reimbursement	\$1,818,000	\$20,596,000
- Annual Capital Improvement Allowance	<u>\$4,600,000</u>	<u>\$52,760,000</u>
<b>Total:</b>	<b>\$12,331,000</b>	<b>\$141,237,000</b>
<b>Financing Sources</b>		
	<u>Year 1</u>	<u>Total</u>
- Buffalo Bills	\$800,000	\$8,941,000
- Erie County**	\$4,959,000	\$62,717,000
- State/ESD**	<u>\$6,572,000</u>	<u>\$69,579,000</u>
<b>Total:</b>	<b>\$12,331,000</b>	<b>\$141,237,000</b>

\* Total cost includes estimate of annual increases which are tied to an adjustment based on the Consumer Price Index.



\*\* Erie County's share of the public component is 43% in year 1 and increases one percent annually until years 8-10 when it remains at 50%.

### **III. Project Description**

#### **A. Project Goals**

The last remaining National Football League franchise in New York State is the Buffalo Bills team. The Bills enjoy extraordinary loyal fan support in Western New York and Southern Ontario. Founded in 1960, by its owner Ralph Wilson, Jr., the Bills have a proud past including four trips to the SuperBowl in the 1990's.

In order for the Bills to remain an economically competitive franchise in the NFL, improvements to Ralph Wilson Jr. Stadium (the Stadium") and continued operating support is needed. The Bills have therefore proposed to construct improvements to the Stadium, built in 1972, which will include a broad based renovation that refurbishes virtually all areas of the Stadium, improves the ingress, egress and circulation around the Stadium and updates to the technological elements of the Stadium that are necessary for it to conform to the accepted standards of an NFL franchise. The Stadium improvements are expected to further extend the structural and economic life of the Stadium and support the continued use of it as the home field of the Bills.

#### **B. Background**

In December of 2012, an agreement in principal was reached among Governor Cuomo, Erie County Executive Mark Poloncarz and Ralph Wilson, Jr. pursuant to which the Bills would commit to remaining in the County owned Stadium for up to an additional 10 years. The current lease expires on July 31, 2013.

In return for the commitment, the Bills would receive (a) funding to improve the Stadium, (b) working capital grants; (c) assumption of certain stadium operating, maintenance and game day expenses by the State and County; and (d) annual contributions for Stadium capital improvements.

As part of the previous lease entered into in 1998, the County owned Stadium was leased to the Erie County Stadium Corporation ("ECSC"), a subsidiary of ESD, and subleased to the Bills. As part of the 1998 lease, the State funded all capital improvements to the Stadium in the amount of \$63.25 million and paid a \$3 million annual working capital allowance to the Bills. The County was required to pay for game day and operating expenses of the Stadium and to provide an annual capital improvement allowance for Stadium maintenance and improvements through the term of the lease.

### C. Summary of Financial Transaction

The overall ESD project structure contemplates that the ECSC, the subsidiary formed for this purpose, will enter into a lease with the stadium owner, Erie County, and will sub-lease the Stadium and surrounding lands to the Buffalo Bills franchise for a period of ten years subject to the Bills option to terminate the lease after year 7 as set forth below. Pursuant to the lease and sub-lease and accompanying documents, the Stadium will undergo a \$130 million renovation funded by the parties as follows: (a) ECSC/State - \$53,890,650; (b) Erie County - \$40,654,350; and (c) Buffalo Bills - \$35,455,000. It is expected that the project will be funded and constructed over a period of two seasons.

Annual payments will be made to the Bills and are broken down into four categories: (a) working capital; (b) operating expense reimbursement; (c) game day expense reimbursement; and (d) an annual Stadium capital improvement allowance. In year one of the lease (2013), the payments will be: (a) \$3 million working capital; (b) \$2.913 million operating expense reimbursement; (c) \$1.818 million game day expense reimbursement; and (d) \$4.6 million Stadium capital improvement allowance. The annual payments for all categories are adjusted annually based on Consumer Price Index. The payments to the Bills which are reduced by the amount paid in rent by the Bills as described below, is split between the County and the State with the State paying 57% and the County 43% in year one. Thereafter, the County's share of the annual payment for all categories is increased one percent per year until the State/County share is 50-50 beginning in year 8 and continuing for the remaining term of the lease.

Per the lease documents, the Bills will be required to pay rent in the amount of \$800,000 in year 1 which will be contributed to the capital improvement allowance thus reducing the amount paid by the State and County. In subsequent years, the Bills rent payment will increase annually such that the Bills will pay 17.39% of the capital improvement allowance in all years of the lease. In addition, the lease agreement authorizes ECSC to make use of the Bills logos and trademarks valued at \$800,000 per year and provides the State a luxury box to be used by the State for purposes of encouraging and fostering economic development, tourism and public awareness for the State and Western New York during events scheduled at the Stadium.

The term of the lease is ten years but permits the Bills a one-time option to terminate the lease on the seventh anniversary with the payment of \$28,363,500. Otherwise, the ten year term is non-terminable and not subject to any buyout right. In the event that the Bills were to break the lease, the lease documents provide the right to specific performance requiring the Bills to play at the Stadium. In the event that the County and State are unable to exercise their right of specific performance, the Bills would be required to pay liquidated damages in the amount of \$400 million.

In addition, the parties will create the New Stadium Working Group ("NSWG") which will be an advisory panel to explore the potential for the construction of a new stadium on the existing Stadium land or at another location. The NSWG members will consist of representatives of (a)

ECSC; (b) the County; (c) the Bills,; and (d) the NFL as appropriate. Beginning in the 6<sup>th</sup> year of the lease, ECSC and the County, in their joint discretion, may apply up to 50% of the contribution to the annual capital allowance to a fund established for new stadium design or development.

**D. Design and Construction**

The Erie County Department of Public Works and the Buffalo Bills football franchise have proposed to substantially renovate the County-owned Stadium and related facilities. The proposed improvements include: (a) significant technology upgrades; (b) upgrades to ingress, circulation, restrooms and food service; (c) relocation and expansion of the team store, new stadium entry plaza and enhanced way finding throughout the Stadium; (d) infrastructure repairs and maintenance items; and (e) upgrades to the operations and training facility areas.

The Stadium improvements are expected to be completed in phases over a two year period with the majority of the work to be completed between the months of February and August to avoid interference with the Bills home games. Construction is expected to begin in 2013 and be completed prior to the 2015 season.

ESD Design & Construction Staff will attend construction meetings, monitor construction and review and approve contractors' requisitions. D&C will authorize payments when all requirements are satisfied.

**IV. Statutory Findings**

1. That there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

The Buffalo Bills have played in the Stadium for approximately 40 years. The Bills maintain a sizable following in Western New York and are a source of civic pride for the residents thereof. If the Bills franchise were to relocate to another area, it would be considered indicative of a loss of major market status for Buffalo and Western New York.

2. That such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

The Stadium was constructed for professional football in 1972 and has been continuously used for that purpose. The improvements contemplated would continue and enhance that use. It is an important asset of Erie County and is also periodically used for civic events.

3. That such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of this project;

The County of Erie will hold title to the project site and lease the same to the ECSC. The costs of construction of the improvements and operating and maintaining the facility will be financed by the parties as described above.

4. That the plans and specifications assure adequate light, air, sanitation and fire protection;

The project will be constructed in accordance with all applicable codes.

5. 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**

Pursuant to the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation, the Erie County Department of Public Works conducted an environmental review of the proposed stadium improvements. This review determined the project to be a Type I action as defined by SEQRA and therefore a coordinated review, for which ESD was an involved agency, was performed. The review found the project would not result in significant impact to the environment and a Negative Declaration was issued on February 12, 2013. ESD staff has reviewed the material supporting the determination and recommend 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 funding recipient shall use their Good Faith Efforts to achieve an overall Minority and Women Business Enterprise ("MWBE") Participation Goal to be determined by ESD's Office of Contractor and Supplier Diversity of no less than 20% related to the total value of ESD's funding. This shall also include specific participation goals for Minority Business Enterprise ("MBE"), and Women Business Enterprises ("WBE"). The grantee will also agree 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.

### Requested Actions

The Directors are requested to: (a) make Civic Project findings pursuant to Section 10(d) and 10(g) of the Act; (b) adopt the General Project Plan; (c) authorize the holding of a public hearing; (d) make a determination of no significant effect on the environment; and (e) take all related actions.

### Attachment Resolutions

February 21, 2013

Orchard Park (Erie County) – Erie County Stadium Civic Project – Make Determinations Pursuant to Sections 10(d) and 10(g) of the Act; Authorization to Adopt and General Project Plan; Authorization to Hold a Public Hearing; Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Erie County Stadium Civic Project (the "Project"), the Corporation hereby finds pursuant to Section 10 of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"):

(1) that there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

(2) that such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

(3) that such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of this project;

(4) that the plans and specifications assure adequate light, air, sanitation and fire protection; and be it further

RESOLVED, that on the basis of the materials presented to this meeting relating to the Project indicating that there are no families or individuals to be displaced from the Project area, the Corporation hereby finds that the requirements of Section 10(g) of the Act are satisfied; 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 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 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.

\* \* \*

February 21, 2013

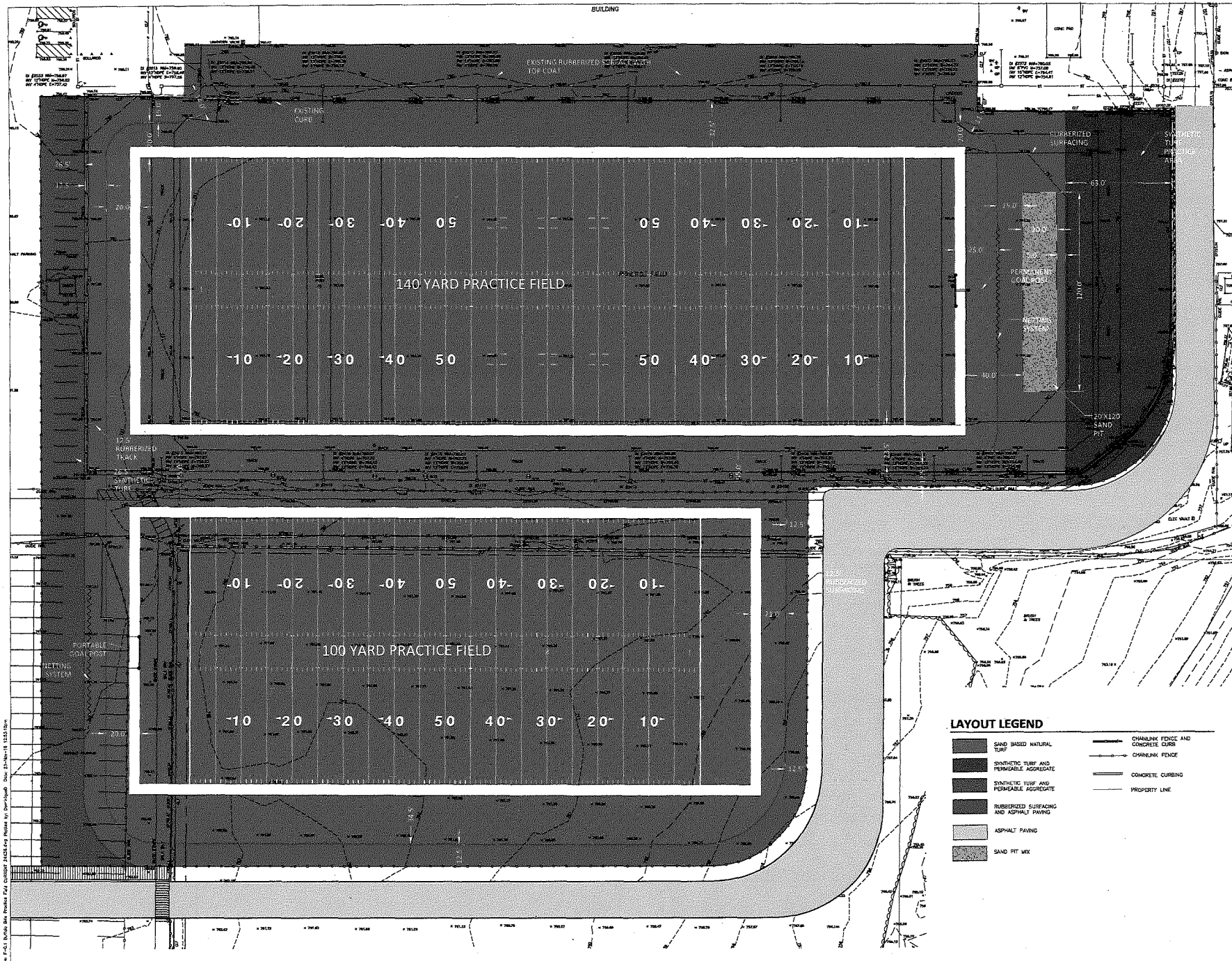
Orchard Park (Erie County) – Erie County Stadium Civic Project – Make Determinations Pursuant to Sections 10(d) and 10(g) of the Act; Authorization to Adopt and General Project Plan; Authorization to Hold a Public Hearing; Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

---

RESOLVED, that on the basis of the materials submitted to the Directors with respect to the Erie County Stadium Civic Project (the "Project"), the Corporation hereby determines that the proposed action will not have a significant adverse effect on the environment.

\* \* \*





REVISION	DATE



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**NORTH**  
0 20' 40'  
SCALE: 1" = 20'

**DOCUMENTS**

DATE	12/16/24
SCALE	1"=20'
DRAWN	DIA
CHECKED	DIA
DESIGNED	DIA

**PRELIMINARY  
LAYOUT PLAN**

**SHEET**

**F-1.1**

## **Attachment C**

### **New York State Urban Development Corporation**

#### **Erie County Stadium Civic Project**

#### **February 2017 Amendment to General Project Plan Adopted February 21, 2013**

The New York State Urban Development Corporation d/b/a the Empire State Development, adopted a General Project Plan ("GPP") on February 21, 2013 to undertake the Erie County Stadium Civic Project in the Town of Orchard Park, New York.

Except as noted below, the GPP remains unmodified and in full force and effect. The amendment is as follows:

1. In Section III A. Project Goals, add a third paragraph:

The Stadium shall include an additional parcel acquired by the Buffalo Bills and deeded to the County of Erie consisting of approximately 2.89 acres located immediately south of the existing field house and practice facilities (the "Parcel"). The Parcel will be part of the real property leased to the Erie County Stadium Corporation and subleased to the Bills. The Bills will construct on the Parcel a new 100 yard practice field immediately to the south of the existing 140 yard practice field. The construction of the new practice field will also entail the realignment of Regional Drive so that it winds around the new field. These expected improvements to the Parcel will be fully funded by the Bills except for the realignment of Regional Drive which is expected to be constructed by the County as part of the annual capital improvement allowance.

**Item V. D.**



**FOR CONSIDERATION**

February 16, 2017

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** Legal Services

**REQUEST FOR:** Authorization to Amend Legal Retainer with the Law Firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC to Continue to Provide Legal Services in Connection with the NYS Innovation Venture Capital Fund and to Take Related Actions

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**CONTRACT NEED AND JUSTIFICATION**

**I. Contract Summary**

**Counsel:** Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. ("Mintz Levin")

**Original Scope of Services:** Legal advice and related services in connection with entering into limited partnership arrangements with investment entities pursuant to the Technology Commercialization segment of the NYS Innovation Venture Capital Fund (the "Program")

**Proposed Additional Scope of Services:** Legal advice and related services in connection with all aspects of the Program

**Original Contract Amount:** Not to exceed \$80,000

**Proposed Amendment Amount:** Not to exceed \$195,000

**New Proposed Total Contract Amount:** Not to exceed \$275,000

**Funding Source:** NYS Innovation Venture Capital Fund

## II. Background

The Program was established by Chapter 59 of the Laws of 2013 to support the transition from ideas and research to marketable products and services, accelerate seed and early-stage business formation, and provide investment funding to support and attract high-growth, early-stage companies to New York State. The program consists of two segments: the Technology Commercialization segment and the Seed and/or Early Stage Co-Investment segment.

On February 19, 2015, the Directors authorized the Corporation to retain Mintz Levin, one of its pre-qualified outside counsel law firms, as counsel to assist the Corporation in drafting and entering into limited partnership arrangements with respect to the Technology Commercialization segment of the Program. It has become clear that the Corporation requires broader legal services as it relates to the Program, including entering into limited partnership arrangements with respect to the Seed and/or Early Stage Co-Investment segment and exiting such arrangements if and when it becomes advantageous to the Corporation to do so. Because of Mintz Levin's excellent performance to date, staff believes it would be prudent to broaden the scope of Mintz Levin's existing retainer agreement and increase the price. Accordingly, your approval is sought for this contract amendment.

## III. Contractor Selection Process

In August of 2014, the Directors approved a pre-qualified list of firms to provide legal services in connection with the Corporation's investments in commercial enterprises. Staff interviewed four law firms from this pre-qualified list and chose Mintz Levin based on its response to the pre-qualified list solicitation, knowledge and expertise, and impressive interview. Mintz Levin is a New York City firm with extensive experience representing investors financing pre-seed, seed, and early-ventures. They employ a deep bench of attorneys with business-side venture capital and private equity experience.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Mintz Levin's ability to perform the services provided for in the proposed contract amendment and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Mintz Levin to be responsible.

## IV. Scope of Work

Mintz Levin would provide legal advice and related services in connection with all aspects of the NYS Innovation Venture Capital Fund. More specifically, it is envisioned that Mintz Levin would continue to provide legal services in connection with drafting and entering into limited partnership arrangements with respect to the Technology Commercialization segment of the program but also provide legal services in connection with entering into limited partnership

arrangements with respect to the Seed and/or Early Stage Co-Investment segment and exiting such arrangements if and when it becomes advantageous to the Corporation to do so.

V. Contract Price and Funding

On February 19, 2015, the Directors authorized the Corporation to retain Mintz Levin for an amount not to exceed \$80,000. Staff requests an additional contract authorization of \$195,000 for a new total amount not to exceed \$275,000. The increase in price accords with the broadened scope of work provided in this contract amendment and will allow Mintz Levin to continue to provide legal services to the Corporation moving forward. Mintz Levin will continue to be compensated at ESD standard rates. The source of funding will be Program funds.

VI. Non-Discrimination and Contractor & Supplier Diversity

a) Minority and Women-Owned Business Enterprises

The Corporation recognizes its obligations under New York State Executive Law Article 15-A to promote opportunities for maximum feasible participation of certified Minority and Women-Owned Business Enterprises ("MWBE") in the performance of the Corporation's contracts. The Corporation's Office of Contractor and Supplier Diversity ("OCSD") has reviewed this contract amendment and determined that Mintz Levin shall be required to use Good Faith Efforts (pursuant to 5 NYCRR § 142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of the contract amendment.

b) Service-Disabled Veteran-Owned Businesses

The Corporation recognizes its obligations under New York State Executive Law Article 17-B to promote opportunities for maximum feasible participation of certified Service-Disabled Veteran Owned Businesses ("SDVOB") in the performance of the Corporation's contracts. OCSD has reviewed this contract amendment and determined that SDVOB goals are impractical and will not be applied.

VII. Environmental Review

Staff has determined that the proposed authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations promulgated by the New York State Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VIII. Requested Action

The Directors are asked to (1) make a determination of responsibility with respect to Mintz Levin and (2) authorize the Corporation to amend the contract with Mintz Levin to (a) broaden

the scope of work as described in Section IV and (b) increase the contract amount by an additional \$195,000 to a new not-to-exceed total contract amount of \$275,000.

IX. Recommendation

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

Attachment  
Resolution

February 16, 201

NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT-  
Legal Services - Authorization to Amend Legal Retainer with the Law Firm of Mintz, Levin, Cohn,  
Ferris, Glovsky and Popeo PC to Continue to Provide Legal Services in Connection with the NYS  
Innovation Venture Capital Fund and to Take Related Actions

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RESOLVED, that in accordance with the materials presented at this meeting, a copy of which is hereby ordered to be filed with the Corporation (the "Materials"), the Corporation hereby finds the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC ("Mintz Levin") to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend its existing contract with Mintz Levin to add an additional One Hundred and Ninety Five Thousand Dollars (\$195,000) to the existing contract amount for a new total amount not to exceed of Two Hundred and Seventy Five Thousand Dollars (\$275,000), for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials, which includes all services rendered as of the date of this resolution; and be it further

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

\* \* \*



**Item V. E.**



**FOR CONSIDERATION**

February 16, 2017

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: New York City (New York County) – Penn Station - Farley Complex -  
Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Extend the Project-Specific Professional Liability  
Insurance Policy to Cover Phase 2 Design; Authorization to Take Related  
Actions

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**CONTRACT NEED AND JUSTIFICATION**

**I. Contract Summary**

Contractor: Lexington Insurance Company

Scope of Services: Purchase of a Project-Specific Professional Liability  
Insurance Policy to Cover Phase 2 Design

Contract Amount: \$360,000

Funding Source: Funds received from the Metropolitan Transportation  
Authority ("MTA") and the Port Authority of New York  
and New Jersey ("PANYNJ")

**II. Background**

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the redevelopment of the Penn-Farley Railway Station Complex. In furtherance of that initiative, New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") with the Metropolitan Transportation Authority ("MTA"), MTA's operating entity Long Island Rail Road ("LIRR") and National Passenger Railroad Corporation ("Amtrak" and ESD, MTA and Amtrak collectively, the "Project Sponsors") are jointly pursuing the private redevelopment of the ESD-owned James A. Farley Building property ("Farley") to include (i) a new railroad passenger train hall (the "Moynihan Train Hall"), (ii) new facilities in the Penn Station train-shed (the "Train Shed") that will provide vertical circulation between the Moynihan Train Hall and the Train Shed's

passenger platforms and concourses, (iii) and passenger facing operations and back office facilities for LIRR and Amtrak.

The redevelopment of the Farley Building and the completion of the Moynihan Train Hall is the second phase, Phase 2, of the broader Moynihan project, which includes the Phase 1 expansion of the West End Concourse underneath the Farley Building. Construction of Phase 1 was carried out by ESD's subsidiary, the Moynihan Station Development Corporation ("MSDC") through a contract with Skanska USA Civil Northeast, Inc., in accordance with plans also prepared by Skidmore Owings & Merrill LLP ("SOM"). Phase 1 is substantially complete.

In furtherance of Phase 2, ESD issued a competitive solicitation for the redevelopment of the James A. Farley Building and the completion of the Moynihan Train Hall in January 2016. In September 2016, RVS Partners, a venture between The Related Companies L.P., Vornado Realty L.P., and a joint venture between Skanska USA Civil and Skanska USA Building was conditionally designated the preferred developer-builder team for Phase 2. RVS will carry out the Phase 2 plans in accordance with designs developed by SOM as approved by the Project Sponsors. ESD and RVS are preparing for financial close on the transaction in 2017.

### III. PSPL Summary

A Project Specific Professional Liability policy was placed with Lexington Insurance Company ("Lexington") on February 17, 2011 to cover Phase 1 of the Moynihan Project. This policy covers all of the Phase 1 work for a period of seven (7) years, through February 17, 2018. In 2015, following various discussions with Willis Towers Watson ("Willis") to evaluate the best options to cover the exposure for Phase 2, upon Board approval, Lexington bound an extension to this existing policy to cover the Phase 2 design work only, to be performed by SOM and its sub-consultants. The extension was for a period of seven (7) months beginning February 17, 2018 through September 17, 2018. The understanding with Lexington regarding the extension was that it would first be paid the premium covering the initial Phase 2 design fees at a premium of \$1,260,000, plus 3.8% NY Excess and Surplus Lines taxes and fees for a total of \$1,307,880, and once there was execution of a construction management contract for Phase 2, the balance of the premium would be due.

In early February 2016, ESD and Willis resumed discussions regarding potential coverage solutions for Phase 2 that were favorable in terms of coverage and pricing. In May 2016, ESD, Willis and Lexington met again and confirmed that designs for Phase 2 would be based on SOM's plans. It was agreed during the meeting that the extension for Phase 2 under the current policy be commuted, and a separate policy be put in place for Phase II which would result in a credit of the premium that MSDC pre-paid for the Phase 2 extension. The Phase 1 policy would be amended once again to remain in force through its original expiration of February 17, 2018.

#### IV. Policy Rate Summary

Between May 2016 and Dec 2016, MSDC, Willis and Lexington continued discussions and in January 2017, at the request of MSDC, Lexington offered non-bindable indications for a separate Phase 2 policy as summarized below:

- 1) The initial Installment payment under the current policy for Phase 2 Design work was \$1,260,000.
- 2) The new Premium for Phase 2 is for a 5-year Term and 5 Year Extended Reporting Period (ERP) and would total \$1,600,000.
- 3) The initial installment payment of \$1,260,000 would be held as a credit against the new Phase 2 Policy premium of \$1,600,000, resulting in an Additional Premium Charge of \$340,000 for the separate Phase 2 policy.
- 4) The above policy premiums are based on a \$20M limit with \$500,000 Self Insured Retention (SIR).
- 5) SOM will be First Named Insured and all sub consultants will be Additional Named Insureds and Lexington will add Skanska as an Additional Indemnified Party.

In January 2017, Willis was informed that there would a period of time between February 1, 2017 to April 1, 2017 during which interim construction work would be performed. Willis' conservative recommendation is that ESD bind coverage effective February 1, 2017 rather than wait until the anticipated financial close date of April 1 2017, subject to the execution of the Interim Agreements with the designated developer. The policy would be retroactively bound to February 1, 2017 upon Board confirmation.

#### V. Funding

Funds received from the MTA and PANYNJ will be used to pay the premium. Payment is contingent upon execution of the Interim Agreement with the designated developer.

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

Pursuant to New York State Executive Law Article 15-A and 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned businesses (MWBs) and Service Disabled Veteran-Owned Business (SDVOB) in the performance of ESD projects and procurements. ESD Office of Contractor and Supplier Diversity have reviewed the project and have determined that there exists no potential for MWBE and SDVOB participation. As such, participation goals will not be established or required for this procurement.

VII. Requested Actions

The Directors are requested to authorize ESD to commute the extension for Phase 2 under the current policy and procure a separate policy from Lexington for Phase 2 through Willis for an additional premium of \$340,000, plus NY Excess and Surplus Lines taxes and fees, for a total of approximately \$360,000.

VIII. Recommendation

Based on the foregoing, staff recommends the adoption of the resolution

Attachment  
Resolution

February 16, 2017

**NEW YORK (NEW YORK COUNTY) – Penn Station - Farley Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Extend the Project-Specific Professional Liability Insurance Policy to Cover Phase 2 Design; Authorization to Take Related Actions**

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BE IT RESOLVED, that in accordance with 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 Lexington Insurance Company to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to extend the Project Specific Professional Liability Insurance Policy provided by Lexington Insurance Company to cover the design and professional services for Phase 2 of Moynihan Station Civic and Land Use Improvement Project at a price not to exceed \$360,000, inclusive of surplus lines taxes and fees, and

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

\* \* \*

**Item V. F.**



**FOR CONSIDERATION**

**February 16, 2017**

**TO:** The Directors

**FROM:** Howard A. Zemsky

**SUBJECT:** New York City (New York County) - James A. Farley Post Office Building  
Redevelopment

**REQUEST FOR:** Authorization to Enter into Contract for Project Management Services;  
and Authorization To Take Related Actions

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**CONTRACT NEED AND JUSTIFICATION**

**I. Contract Summary**

**Consultant:** WSP/Parsons Brinckerhoff Inc. (PB)

**Scope of Services:** Project Management Services for the James A. Farley Post Office Building Redevelopment, including: (a) project management of the Developer contract, inclusive of design and construction; (b) commercial management; (c) technical compliance and oversight; (d) construction compliance and oversight; (e) operations interface; (f) quality management; and (g) related services including cost estimation and scheduling.

**Anticipated Term  
Of Initial Contract:** February 2017 through approximately June 2021.

**Contract Amount:** \$26,783,781 with an initial limit of \$500,000 pending financial closure of the Development Agreement

**Funding Source:** The Port Authority of New York & New Jersey

**II. Project Background**

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the redevelopment of the Penn-Farley Railway Station Complex. In furtherance of that initiative, New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or the "Corporation") with the Metropolitan Transportation Authority ("MTA"), MTA's operating entity Long Island Rail Road ("LIRR") and National Passenger Railroad Corporation ("Amtrak") are jointly pursuing the private redevelopment of the ESD-owned James A. Farley



Building property ("Farley") to include (i) a new railroad passenger train hall (the "Moynihan Train Hall"), (ii) new facilities in the Penn Station train-shed (the "Train Shed") that will provide vertical circulation between the Moynihan Train Hall and the Train Shed's passenger platforms and concourses, (iii) and passenger facing operations and back office facilities for LIRR and Amtrak.

A competitive solicitation for the redevelopment of the James A. Farley Building and the completion of the Moynihan Train Hall was initiated in January 2016. In September 2016, RVS Partners, a venture between the Related Companies, Vornado Realty Trust, and Skanska USA was designated the preferred developer-builder team for Phase 2. RVS will carry out the Phase 2 plans in accordance with the designs developed by Skidmore, Owings, Merrill as approved by the Project Sponsors. ESD and RVS are preparing for financial close on the transaction in early 2017.

### III. Contractor Selection Process

On December 14, 2016, ESD issued a Request for Proposals for Project Management Services ("PM RFP"). The solicitation was announced in the *NYS Contract Reporter*, posted on ESD's website, and a list of potential bidders was notified of the opportunity by ESD staff. Three firms responded by the January 25, 2016 deadline. A seven-person staff review committee evaluated the technical merits of the three responses on the basis of: (a) qualification and experience of the project director; (b) qualifications and experience of other key personnel; and (c) project management approach. Separately and independently, the three responses were also evaluated on overall price for specific personnel for the duration of the project and on diversity practices.

As a result of this evaluation process, WSP/Parsons Brinckerhoff Inc. ("PB"), was identified as the "best value" awardee. PB earned the highest collective composite score, inclusive of technical expertise, price and diversity, and demonstrated the breadth of knowledge and expertise necessary to provide the required services. PB's senior management team exhibited leadership quality and a technical reservoir which were key distinguishing factors. Accordingly, PB is recommended for award as the Project's Project Manager.

### IV. Scope of Services

PB's scope of services would be:

- Project Management
- Commercial Management
- Safety Monitoring
- Design Compliance Services
- Construction Compliance Services
- Quality Management Services

#### V. Contract Term, Price and Funding

Subject to further Directors' authorization, the term of the contract for the overall services would be for approximately four years, with optional extension at ESD's discretion for up to two additional one-year extension periods. PB would bill on a time and material basis at the rates set forth in its PM RFP response.

The contract limit would be \$26,783,781. This fee was proposed by PB as part of their proposal for the staff positions identified in the RFP as being required by ESD. The limit includes expenses and a 10% contingency to allow for additional scope items that may arise from the ongoing negotiations for the overall Development Agreement with RVS. Pending financial closure of the Development Agreement with RVS, which is expected in April/May 2017, approval for an initial expenditure of up to \$500,000 is requested to enable PB to support early works and for systems/plans to be prepared and instituted. Assuming financial closure is achieved with RVS, approval for expenditure up to the full contract limit is also requested.

Once the Development Agreement with RVS is completed it is anticipated that the resulting tasks and responsibilities of the Project Manager will be reviewed to ensure that the resources identified in the RFP, and assumed as the basis for this approval, are sufficient.

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

##### MINORITY AND WOMENT-OWNED BUSINESSES

ESD's Minority and Women-owned Business Enterprise ("MWBE") policies will apply to this contract. PB shall be required to solicit and utilize MWBEs in the fulfillment of the requirements of this contract. PB must demonstrate the use of good faith efforts pursuant to 5 NYCRR §142.8 to achieve an overall goal of 30% for MWBE Participation. The overall goal shall include a Minority-owned Business Enterprise Participation Goal of 15% and a Women-owned Business Enterprise Participation Goal of 15% related to the total value of ESD's funding.

##### SERVICE-DISABLED VETERAN-OWNED BUSINESSES

ESD's Service-Disabled Veteran-Owned Business ("SDVOB") policies will also apply to this Project. PB shall be required to solicit and utilize SDVOBs in the fulfillment of the requirements of this contract. PB must demonstrate the use of good faith efforts pursuant to 9 NYCRR §252.2 to achieve a goal of 6% for SDVOB participation.

#### VII. Environmental Review

ESD staff has determined that the requested authorization to enter into a contract for Project Management Services 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 requested authorization.

VIII. Responsible Parties

ESD has examined PB's "responsibility" as defined in State Finance Law §163, and as provided in ESD's Procurement Guidelines, Article 8.13. Based on this analysis of financial and organizational capacity, legal authority to do business in New York, integrity of principals, and past performance on contracts, staff concludes that PB is a responsible vendor.

IX. Requested Actions

The Directors are requested to: (1) determine that PB is a responsible vendor; (2) authorize ESD to enter into a contract with PB substantially upon the terms set forth in these materials; and (3) to take all related actions.

X. Recommendation

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

Attachments  
Resolutions

February 16, 2017

JAMES A. FARLEY POST OFFICE BUILDING REDEVELOPMENT (NEW YORK COUNTY) -  
Authorization to Enter into Contract for Project Management Services; and Take Related  
Actions

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BE IT RESOLVED, that based on the materials presented at this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds WSP/Parsons Brinckerhoff Inc. ("PB") to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract for Project Management Services with PB, for a not-to-exceed amount of \$26,783,781 upon financial closure of the Development Agreement for the James A. Farley Post Office Building Redevelopment, and an initial not-to-exceed amount of \$500,000, substantially on the terms and conditions as set forth in the Materials; and be it further

RESOLVED, that the President, 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. Any actions previously taken by the Corporation consistent with this authorization are hereby ratified and affirmed.

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# **Item VI. A.**



FOR INFORMATION

February 16, 2017

TO: The Directors

FROM: Howard Zemsky

SUBJECT: Budget Variance Reports for the Quarter Ended December 31, 2016

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In accordance with applicable law, attached are the variance reports for the third quarter of fiscal year 2016-17 for the department operating budgets, as well as subsidiary operating and capital budgets.

During the first nine months of fiscal year 2016-17, total departmental spending was approximately \$37.3 million, or 58% of the total budget of approximately \$64.4 million. This is primarily attributable to the existence of budgeted staff positions (including the associated fringe benefits) that were filled after the start of the fiscal year or that remain vacant and certain non-personal services expenses that are currently under budget. As a result, spending is forecasted to remain below budgeted levels for the fiscal year.

Over the same nine months, total subsidiary spending for operations, excluding LMDC and HCDC Weatherization, was approximately \$3.1 million, or about 61% of the total annual budget of \$5.1 million. Operating spending as compared to the budget is below spending levels for the period. Current projections indicate that the current fiscal year will end under budget, primarily due to certain expenses (i.e. consultant fees) that will be less than their budgeted amounts. Spending for LMDC and HCDC's Weatherization Program are shown separately as each is federally funded. Both are expected to be within budget.

Total subsidiary spending for capital work through the third quarter was approximately \$67 million, or 35% of the \$188.5 million cumulative capital budget for all subsidiaries. Spending during this period was lower than expected as a result of longer-than-anticipated pre-construction schedules for a number of subsidiary construction projects. In addition, current spending primarily reflects only early stage expenditures of large scale construction and capital projects which likely will not impact the budget or be fully utilized until future fiscal years. As a result, capital spending is forecasted to remain below budgeted levels for the remainder of the year.



**Departmental Budget Variance Report**  
December 31, 2016

	Admin Services	CFO	Controller	Corporate	Contract Admin	Community Economic Development	Design & Construction	Economic Analysis & Research	Economic Incentives	Executive Office	Global NY	Human Resources	Info Technology
<b>ANNUAL BUDGET</b>													
Personal Services (incl. Benefits)	\$ 514,320	\$ 226,000	\$ 1,874,337	\$ 13,809,225	\$ 1,280,419	\$ 1,058,763	\$ 655,969	\$ 188,264	\$ 508,400	\$ 1,716,672	\$ 469,563	\$ 595,425	\$ 1,275,825
Occupancy Expenses	-	-	-	7,828,000	-	-	-	-	-	-	-	-	-
Government Assessment Fee	-	-	-	3,736,000	-	-	-	-	-	-	-	-	-
Repairs / Maint / Prop Mgmt / Other Outside Serv /	234,147	500	32,000	257,558	200	2,000	1,000	3,308	100	3,000	10,750	27,600	15,000
Computers, Software & Telephone	-	-	-	-	-	-	-	-	-	-	-	-	924,390
Legal / Consulting / Accounting Fees	-	-	147,000	50,000	-	20,000	-	-	-	-	-	-	-
Office Supplies / Printing / Advertising	167,518	200	-	10,000	-	1,500	-	-	50	-	100	-	-
Insurance	-	-	-	361,870	-	-	-	-	-	-	-	-	-
Travel & Meals	8,500	3,000	2,500	-	3,500	20,000	8,000	10,500	2,500	80,000	30,000	1,000	10,500
On-Line Services, Dues & Subscriptions	-	1,500	550	5,000	-	12,500	2,000	500	150	4,000	-	1,600	-
Other Post Employment Cost	-	-	-	4,500,000	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>\$ 924,485</b>	<b>\$ 231,200</b>	<b>\$ 2,056,387</b>	<b>\$ 30,557,653</b>	<b>\$ 1,284,119</b>	<b>\$ 1,114,763</b>	<b>\$ 666,969</b>	<b>\$ 202,572</b>	<b>\$ 511,200</b>	<b>\$ 1,803,672</b>	<b>\$ 510,413</b>	<b>\$ 625,625</b>	<b>\$ 2,225,715</b>
<b>ACTUAL TO DATE</b>													
Personal Services (incl. Benefits)	\$ 371,452	\$ 80,908	\$ 1,343,854	\$ 8,136,767	\$ 767,813	\$ 708,248	\$ 395,632	\$ 136,051	\$ 387,422	\$ 1,038,223	\$ 331,099	\$ 438,375	\$ 821,780
Occupancy Expenses	-	-	-	5,453,617	-	-	-	-	-	-	-	-	-
Government Assessment Fee	-	-	-	-	-	-	-	-	-	-	-	-	-
Repairs / Maint / Prop Mgmt / Other Outside Serv /	58,879	-	23,799	47,949	59,930	11,904	28	3,308	0	27,479	13,447	17,962	23,303
Computers, Software & Telephone	-	-	-	-	-	-	-	-	-	-	-	-	668,859
Legal / Consulting / Accounting Fees	-	-	147,000	1,661,560	-	3,272	-	-	-	-	-	-	-
Office Supplies / Printing / Advertising	92,107	-	-	-	-	-	-	-	-	-	-	-	-
Insurance	-	-	-	232,497	-	-	-	-	-	-	-	-	-
Travel & Meals	1,164	26	34	-	667	16,282	2,134	397	2,215	79,211	25,972	815	4,722
On-Line Services, Dues & Subscriptions	-	-	285	5,000	-	4,133	-	-	-	785	-	1,600	-
Other Post Employment Cost	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>\$ 523,602</b>	<b>\$ 80,934</b>	<b>\$ 1,514,972</b>	<b>\$ 15,537,389</b>	<b>\$ 828,410</b>	<b>\$ 743,839</b>	<b>\$ 397,794</b>	<b>\$ 139,756</b>	<b>\$ 389,637</b>	<b>\$ 1,145,698</b>	<b>\$ 370,518</b>	<b>\$ 458,753</b>	<b>\$ 1,518,665</b>
<b>Balance Remaining</b>													
Personal Services (incl. Benefits)	\$ 142,868	\$ 145,092	\$ 530,483	\$ 5,672,458	\$ 512,606	\$ 350,515	\$ 260,337	\$ 52,213	\$ 120,978	\$ 678,449	\$ 138,464	\$ 157,050	\$ 454,045
Occupancy Expenses	-	-	-	2,374,383	-	-	-	-	-	-	-	-	-
Government Assessment Fee	-	-	-	3,736,000	-	-	-	-	-	-	-	-	-
Repairs / Maint / Prop Mgmt / Other Outside Serv /	175,268	500	8,201	209,609	(59,730)	(9,904)	972	-	100	(24,479)	(2,697)	9,638	(8,303)
Computers, Software & Telephone	-	-	-	-	-	-	-	-	-	-	-	-	255,531
Legal / Consulting / Accounting Fees	-	-	-	(1,611,560)	-	16,728	-	-	-	-	-	-	-
Office Supplies / Printing / Advertising	75,411	200	-	10,000	-	1,500	-	-	50	-	100	-	-
Insurance	-	-	-	129,373	-	-	-	-	-	-	-	-	-
Travel & Meals	7,336	2,974	2,466	-	2,833	3,718	5,866	10,103	285	789	4,028	185	5,778
On-Line Services, Dues & Subscriptions	-	1,500	265	-	-	8,367	2,000	500	150	3,215	-	-	-
Other Post Employment Cost	-	-	-	4,500,000	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>\$ 400,883</b>	<b>\$ 150,266</b>	<b>\$ 541,415</b>	<b>\$ 15,020,264</b>	<b>\$ 455,709</b>	<b>\$ 370,924</b>	<b>\$ 269,175</b>	<b>\$ 62,816</b>	<b>\$ 121,563</b>	<b>\$ 657,974</b>	<b>\$ 139,895</b>	<b>\$ 166,872</b>	<b>\$ 707,050</b>
<b>OVERVIEW</b>													
Annual Budget	\$ 924,485	\$ 231,200	\$ 2,056,387	\$ 30,557,653	\$ 1,284,119	\$ 1,114,763	\$ 666,969	\$ 202,572	\$ 511,200	\$ 1,803,672	\$ 510,413	\$ 625,625	\$ 2,225,715
Actual to Date	\$ 523,602	\$ 80,934	\$ 1,514,972	\$ 15,537,389	\$ 828,410	\$ 743,839	\$ 397,794	\$ 139,756	\$ 389,637	\$ 1,145,698	\$ 370,518	\$ 458,753	\$ 1,518,665
Balance Remaining	\$ 400,883	\$ 150,266	\$ 541,415	\$ 15,020,264	\$ 455,709	\$ 370,924	\$ 269,175	\$ 62,816	\$ 121,563	\$ 657,974	\$ 139,895	\$ 166,872	\$ 707,050
% of Annual Budget Used	57%	35%	74%	51%	65%	67%	60%	69%	76%	64%	73%	73%	68%



**Departmental Budget Variance Report  
December 31, 2016**

	Innovation & Broadband (Broadband)	Innovation & Broadband (Venture)	Internal Audit	Intergov./ Legis. Affairs	Legal	Loans & Grants	Marketing	Minority Women's Business Div	Motion Pictures & TV	Portfolio Mgt	Public Affairs	Real Estate Dev	Regional Councils	Reg Off Cap
	\$ 973,453	\$ 570,202	\$ 350,210	\$ 417,832	\$ 2,589,603	\$ 1,400,231	\$ 1,632,375	\$ 370,020	\$ 232,190	\$ 593,533	\$ 1,218,616	\$ 1,138,012	\$ 1,338,106	\$ 163,500
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
/	50,000	10,000	-	500	16,000	1,000	26,000	45,511	300	12,000	2,500	3,000	135,000	-
	1,070,000	10,000	-	-	400,000	-	10,000	5,000	-	-	-	600,000	500,000	-
	-	2,500	-	-	1,000	-	3,100	1,500	-	100	-	-	2,500	1,000
	-	2,500	-	-	-	-	-	-	-	-	-	-	-	-
	25,000	10,000	1,000	18,000	12,000	2,000	55,000	15,000	8,000	8,000	16,000	12,000	32,500	2,000
	25,000	5,000	1,425	1,500	70,000	200	-	3,000	-	-	2,100	-	50	-
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
\$	\$ 2,143,453	\$ 610,202	\$ 352,635	\$ 437,832	\$ 3,088,603	\$ 1,403,431	\$ 1,726,475	\$ 440,031	\$ 240,490	\$ 613,633	\$ 1,239,216	\$ 1,753,012	\$ 2,008,156	\$ 166,500
\$	\$ 348,789	\$ 375,161	\$ 220,562	\$ 311,114	\$ 1,853,904	\$ 964,216	\$ 1,065,328	\$ 277,515	\$ 170,865	\$ 334,666	\$ 781,064	\$ 745,157	\$ 797,431	\$ 103,863
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
/	43,283	100	-	47	12,630	-	7,064	45,511	53	-	1,781	7,290	75,113	-
	842,054	5,700	-	-	-	-	-	-	-	-	-	-	-	-
	960	-	-	-	124,111	-	-	-	-	-	-	214,851	-	-
	-	-	-	-	-	-	1,935	500	-	-	-	-	709	-
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	17,107	5,295	881	5,305	10,007	1,895	37,651	4,297	631	2,822	15,335	4,481	7,342	877
	1,220	250	544	-	62,330	-	-	-	-	-	1,503	-	500	250
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
\$	\$ 1,253,413	\$ 386,506	\$ 221,987	\$ 316,466	\$ 2,062,981	\$ 966,111	\$ 1,111,978	\$ 327,823	\$ 171,549	\$ 337,488	\$ 799,683	\$ 971,779	\$ 881,095	\$ 104,991
\$	\$ 624,664	\$ 195,041	\$ 129,648	\$ 106,718	\$ 735,699	\$ 436,015	\$ 567,047	\$ 92,505	\$ 61,325	\$ 258,867	\$ 437,552	\$ 392,855	\$ 540,675	\$ 59,637
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
/	6,717	9,900	-	453	3,370	1,000	18,936	-	247	12,000	719	(4,290)	59,887	-
	227,946	4,300	-	-	-	-	-	-	-	-	-	-	-	-
	(960)	-	-	-	275,889	-	10,000	5,000	-	-	-	385,149	500,000	-
	-	2,500	-	-	1,000	-	1,165	1,000	-	100	-	-	1,791	1,000
	-	2,500	-	-	-	-	-	-	-	-	-	-	-	-
	7,893	4,705	119	12,695	1,993	105	17,349	10,703	7,369	5,178	665	7,519	25,158	1,123
	23,780	4,750	881	1,500	7,670	200	-	3,000	-	-	597	-	(450)	(250)
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
\$	\$ 890,040	\$ 223,696	\$ 130,648	\$ 121,366	\$ 1,025,622	\$ 437,320	\$ 614,497	\$ 112,208	\$ 68,941	\$ 276,145	\$ 439,533	\$ 781,233	\$ 1,127,061	\$ 61,509
\$	\$ 2,143,453	\$ 610,202	\$ 352,635	\$ 437,832	\$ 3,088,603	\$ 1,403,431	\$ 1,726,475	\$ 440,031	\$ 240,490	\$ 613,633	\$ 1,239,216	\$ 1,753,012	\$ 2,008,156	\$ 166,500
\$	\$ 1,253,413	\$ 386,506	\$ 221,987	\$ 316,466	\$ 2,062,981	\$ 966,111	\$ 1,111,978	\$ 327,823	\$ 171,549	\$ 337,488	\$ 799,683	\$ 971,779	\$ 881,095	\$ 104,991
\$	\$ 890,040	\$ 223,696	\$ 130,648	\$ 121,366	\$ 1,025,622	\$ 437,320	\$ 614,497	\$ 112,208	\$ 68,941	\$ 276,145	\$ 439,533	\$ 781,233	\$ 1,127,061	\$ 61,509
	58%	63%	63%	72%	67%	69%	64%	74%	71%	55%	65%	55%	44%	63%

**Departmental Budget Variance Report**  
December 31, 2016

Reg Off CNY	Reg Off LI	Reg Off MH	Reg Off MV	Reg Off NC	Reg Off NYC	Reg Off ST	Reg Off WNY	Start-Up NY	Strategic Business Development	Tech & New Media	Trade & Tourism Puerto Rico	Treasury	Total of Departments
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**ANNUAL BUDGET**

Personal Services (incl. Benefits)	\$ 198,960	\$ 269,009	\$ 342,906	\$ 131,819	\$ 124,017	\$ 226,043	\$ 270,833	\$ 1,053,815	\$ 311,644	\$ 867,420	\$ 303,604	\$ 219,000	\$ 782,154	\$ 42,262,289
Occupancy Expenses	-	-	-	-	-	-	-	-	-	-	-	57,600	-	7,885,600
Government Assessment Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	3,736,000
Repairs / Maint / Prop Mgmt / Other Outside Serv /	1,000	200	500	500	-	-	50	2,500	3,000	500	-	30,358	-	927,582
Computers, Software & Telephone	-	-	-	-	-	-	-	-	-	-	-	7,303	-	941,693
Legal / Consulting / Accounting Fees	-	-	-	-	-	-	-	-	-	-	-	51,200	-	2,853,200
Office Supplies / Printing / Advertising	-	-	-	-	-	-	-	5,000	-	500	-	8,432	-	205,000
Insurance	-	-	-	-	-	-	-	-	-	-	-	4,350	-	368,720
Travel & Meals	3,500	2,500	4,500	2,500	5,500	2,350	1,500	20,000	22,000	25,000	9,000	12,000	1,500	508,350
On-Line Services, Dues & Subscriptions	-	100	500	200	100	450	250	1,000	-	2,000	-	1,350	29,500	171,525
Other Post Employment Cost	-	-	-	-	-	-	-	-	-	-	-	-	-	4,500,000
<b>Total</b>	<b>\$ 203,460</b>	<b>\$ 271,809</b>	<b>\$ 348,406</b>	<b>\$ 135,019</b>	<b>\$ 129,617</b>	<b>\$ 228,843</b>	<b>\$ 272,633</b>	<b>\$ 1,082,315</b>	<b>\$ 336,644</b>	<b>\$ 895,420</b>	<b>\$ 312,604</b>	<b>\$ 391,593</b>	<b>\$ 813,154</b>	<b>\$ 64,359,959</b>

**ACTUAL TO DATE**

Personal Services (incl. Benefits)	\$ 144,629	\$ 149,454	\$ 232,580	\$ 79,548	\$ 90,151	\$ 166,013	\$ 162,367	\$ 768,773	\$ 120,591	\$ 635,053	\$ 222,884	\$ 165,927	\$ 575,218	\$ 26,820,447
Occupancy Expenses	-	-	-	-	-	-	-	-	-	-	-	41,751	-	5,495,368
Government Assessment Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Repairs / Maint / Prop Mgmt / Other Outside Serv /	-	8,215	-	-	-	-	-	1,390	21	276	-	2,912	-	493,675
Computers, Software & Telephone	-	-	-	-	-	-	-	-	-	-	-	2,281	-	676,840
Legal / Consulting / Accounting Fees	-	-	-	-	-	-	-	-	-	-	-	27,427	-	3,020,274
Office Supplies / Printing / Advertising	-	-	-	-	-	-	-	-	-	-	-	3,703	-	99,914
Insurance	-	-	-	-	-	-	-	-	-	-	-	5,144	-	237,641
Travel & Meals	3,411	1,656	1,942	1,775	3,747	2,069	1,609	29,893	4,619	35,084	1,817	7,832	1,349	344,367
On-Line Services, Dues & Subscriptions	250	-	242	-	-	690	230	497	250	1,332	250	56	22,785	104,983
Other Post Employment Cost	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>\$ 148,290</b>	<b>\$ 159,324</b>	<b>\$ 234,764</b>	<b>\$ 81,323</b>	<b>\$ 93,898</b>	<b>\$ 168,772</b>	<b>\$ 164,206</b>	<b>\$ 800,554</b>	<b>\$ 125,481</b>	<b>\$ 671,745</b>	<b>\$ 224,952</b>	<b>\$ 257,033</b>	<b>\$ 599,352</b>	<b>\$ 37,293,508</b>

**Balance Remaining**

Personal Services (incl. Benefits)	\$ 54,331	\$ 119,555	\$ 110,326	\$ 52,271	\$ 33,866	\$ 60,030	\$ 108,466	\$ 285,042	\$ 191,053	\$ 232,367	\$ 80,720	\$ 53,073	\$ 206,936	\$ 15,441,842
Occupancy Expenses	-	-	-	-	-	-	-	-	-	-	-	15,849	-	2,390,232
Government Assessment Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	3,736,000
Repairs / Maint / Prop Mgmt / Other Outside Serv /	1,000	(8,015)	500	500	-	-	50	1,110	2,979	224	-	27,446	-	433,907
Computers, Software & Telephone	-	-	-	-	-	-	-	-	-	-	-	5,022	-	264,853
Legal / Consulting / Accounting Fees	-	-	-	-	-	-	-	-	-	-	-	23,773	-	(167,074)
Office Supplies / Printing / Advertising	-	-	-	-	-	-	-	5,000	-	500	-	4,729	-	105,086
Insurance	-	-	-	-	-	-	-	-	-	-	-	(794)	-	131,079
Travel & Meals	89	844	2,558	725	1,753	281	(109)	(9,893)	17,381	(10,084)	7,183	4,168	151	163,983
On-Line Services, Dues & Subscriptions	(250)	100	258	200	100	(240)	20	503	(250)	668	(250)	1,294	6,715	66,542
Other Post Employment Cost	-	-	-	-	-	-	-	-	-	-	-	-	-	4,500,000
<b>Total</b>	<b>\$ 55,170</b>	<b>\$ 112,485</b>	<b>\$ 113,642</b>	<b>\$ 53,696</b>	<b>\$ 35,719</b>	<b>\$ 60,071</b>	<b>\$ 108,427</b>	<b>\$ 281,762</b>	<b>\$ 211,163</b>	<b>\$ 223,675</b>	<b>\$ 87,652</b>	<b>\$ 134,560</b>	<b>\$ 213,802</b>	<b>\$ 27,066,451</b>

**OVERVIEW**

Annual Budget	\$ 203,460	\$ 271,809	\$ 348,406	\$ 135,019	\$ 129,617	\$ 228,843	\$ 272,633	\$ 1,082,315	\$ 336,644	\$ 895,420	\$ 312,604	\$ 391,593	\$ 813,154	\$ 64,359,959
Actual to Date	\$ 148,290	\$ 159,324	\$ 234,764	\$ 81,323	\$ 93,898	\$ 168,772	\$ 164,206	\$ 800,554	\$ 125,481	\$ 671,745	\$ 224,952	\$ 257,033	\$ 599,352	\$ 37,293,508
Balance Remaining	\$ 55,170	\$ 112,485	\$ 113,642	\$ 53,696	\$ 35,719	\$ 60,071	\$ 108,427	\$ 281,762	\$ 211,163	\$ 223,675	\$ 87,652	\$ 134,560	\$ 213,802	\$ 27,066,451
% of Annual Budget Used	73%	59%	67%	60%	72%	74%	60%	74%	37%	75%	72%	66%	74%	58%

**Subsidiary Operating Budget Summary Variance Report**  
December 31, 2016

	Atlantic Yards Comm Dev	Convention Center	Empire State New Market Corp	Erie Canal Harbor	Empowerment Zone	HCDC	Moynihan Station	Queens West	USA Niagara	Total	HCDC Weatherization	LMDC
<b>ANNUAL BUDGET</b>												
Personal Services (incl. Benefits)	\$125,903	\$195,777	\$0	\$1,140,104	\$304,443	\$1,091,140	\$555,484	\$87,819	\$575,574	\$4,076,244	\$604,821	\$1,208,694
Occupancy Expenses	10,000	26,500	0	70,000	0	11,000	0	17,500	57,300	192,300	0	201,200
Government Assessment Fee	0	0	0	0	0	0	0	0	0	0	0	0
Repairs / Maint / Prop Mgmt / Other Outside Serv / Expenses	10,000	10,000	4,910	65,000	1,275	23,400	3,000	400	7,000	124,985	477,706	40,400
Computers, Software & Equipment	500	0	0	0	0	10,000	3,500	0	5,000	19,000	2,000	19,900
Telephone/Fax/Internet	500	1,500	0	7,000	150	22,000	35,000	0	16,000	82,150	6,000	60,740
Legal / Accounting Fees	0	22,000	42,000	5,000	20,000	68,500	0	2,500	500	160,500	13,500	107,175
Consulting Fees	45,000	7,000	30,000	0	0	9,000	10,000	0	0	101,000	0	44,000
Office Supplies / Printing / Advertising	500	1,000	0	4,000	500	30,000	20,000	0	3,750	59,750	8,000	36,900
Insurance	30,597	26,103	8,929	81,277	7,126	42,826	22,959	9,051	10,238	239,106	19,929	15,000
Travel & Meals	1,000	10,000	2,500	3,500	2,500	6,500	1,000	0	500	27,500	15,000	1,500
On-Line Services, Dues & Subscriptions	1,000	50	3,700	1,500	0	9,000	0	0	2,500	17,750	7,500	3,580
<b>Total</b>	<b>\$225,000</b>	<b>\$299,930</b>	<b>\$92,039</b>	<b>\$1,377,381</b>	<b>\$335,994</b>	<b>\$1,323,366</b>	<b>\$650,943</b>	<b>\$117,270</b>	<b>\$678,362</b>	<b>\$5,100,285</b>	<b>\$1,154,456</b>	<b>\$1,739,089</b>
<b>ACTUAL SPENDING TO DATE</b>												
Personal Services (incl. Benefits)	\$66,064	\$105,035	\$0	\$721,313	\$222,558	\$795,347	\$370,121	\$56,431	\$337,955	\$2,674,824	\$461,948	\$798,517
Occupancy Expenses	7,593	7,515	0	37,252	0	0	0	11,086	42,975	106,420	0	22,377
Government Assessment Fee	0	0	0	0	0	0	0	0	0	0	0	0
Repairs/Maint/Prop Mgmt/Other Outside Serv/Expenses	4,772	0	726	51,125	0	6,333	3,278	200	1,875	68,309	79,519	42,935
Computers, Software & Equipment	0	0	0	0	0	249	2,309	0	1,891	4,449	13	5,907
Telephone/Fax/Internet	0	788	0	3,470	20	4,201	21,652	0	4,796	34,926	1,912	7,905
Legal / Accounting Fees	0	22,000	15,890	0	6,000	16,740	0	630	352	61,612	12,500	40,000
Consulting Fees	0	0	0	0	0	0	2,405	0	0	2,405	0	27,413
Office Supplies / Printing / Advertising	0	343	0	2,678	0	11,397	0	0	838	15,256	5,083	2,734
Insurance	19,793	16,576	6,288	10,999	4,438	28,931	13,794	6,416	6,724	113,959	12,372	16,993
Travel & Meals	0	0	0	0	769	2,324	0	0	39	3,133	10,424	226
On-Line Services, Dues & Subscriptions	0	0	0	802	0	1,236	0	0	910	2,948	4,229	2,444
<b>Total</b>	<b>\$98,222</b>	<b>\$152,257</b>	<b>\$22,903</b>	<b>\$827,639</b>	<b>\$233,785</b>	<b>\$866,758</b>	<b>\$413,559</b>	<b>\$74,763</b>	<b>\$398,355</b>	<b>\$3,088,241</b>	<b>\$587,999</b>	<b>\$967,450</b>
<b>BALANCE REMAINING</b>												
Personal Services (incl. Benefits)	\$59,839	\$90,742	\$0	\$418,791	\$81,885	\$295,793	\$185,363	\$31,388	\$237,619	\$1,401,420	\$142,873	\$410,177
Occupancy Expenses	2,407	18,985	0	32,748	0	11,000	0	6,414	14,325	85,880	0	178,823
Government Assessment Fee	0	0	0	0	0	0	0	0	0	0	0	0
Repairs/Maint/Prop Mgmt/Other Outside Serv/Expenses	5,228	10,000	4,184	13,875	1,275	17,067	(278)	200	5,125	56,676	398,187	(2,535)
Computers, Software & Equipment	500	0	0	0	0	9,751	1,191	0	3,109	14,551	1,987	13,993
Telephone/Fax/Internet	500	713	0	3,530	130	17,799	13,348	0	11,204	47,224	4,088	52,835
Legal / Accounting Fees	0	0	26,110	5,000	14,000	51,760	0	1,870	148	98,888	1,000	67,175
Consulting Fees	45,000	7,000	30,000	0	0	9,000	7,595	0	0	98,595	0	16,587
Office Supplies / Printing / Advertising	500	657	0	1,322	500	18,603	20,000	0	2,912	44,494	2,917	34,166
Insurance	10,804	9,527	2,641	70,278	2,688	13,895	9,165	2,635	3,514	125,147	7,557	(1,993)
Travel & Meals	1,000	10,000	2,500	3,500	1,731	4,176	1,000	0	461	24,367	4,576	1,274
On-Line Services, Dues & Subscriptions	1,000	50	3,700	698	0	7,764	0	0	1,590	14,802	3,271	1,136
<b>Total</b>	<b>\$126,778</b>	<b>\$147,673</b>	<b>\$69,136</b>	<b>\$549,742</b>	<b>\$102,209</b>	<b>\$456,608</b>	<b>\$237,384</b>	<b>\$42,507</b>	<b>\$280,007</b>	<b>\$2,012,044</b>	<b>\$566,457</b>	<b>\$771,639</b>
<b>OVERVIEW</b>												
Annual Budget	\$225,000	\$299,930	\$92,039	\$1,377,381	\$335,994	\$1,323,366	\$650,943	\$117,270	\$678,362	\$5,100,285	\$1,154,456	\$1,739,089
Actual to Date	\$98,222	\$152,257	\$22,903	\$827,639	\$233,785	\$866,758	\$413,559	\$74,763	\$398,355	\$3,088,241	\$587,999	\$967,450
Balance Remaining	\$126,778	\$147,673	\$69,136	\$549,742	\$102,209	\$456,608	\$237,384	\$42,507	\$280,007	\$2,012,044	\$566,457	\$771,639
% of Annual Budget Used	43.65%	50.76%	24.88%	60.09%	69.58%	65.50%	63.53%	63.75%	58.72%	60.55%	50.93%	55.63%

# Subsidiary Capital Budget Summary Variance Report

December 31, 2016

	Convention Center	Erie Canal Harbor	Moynihan Station	Farley	Queens West	USA Niagara	Total All Subsidiaries
<b>ANNUAL BUDGET</b>							
Acquisition Costs	\$0	\$100,000	\$0	\$250,000	\$0	\$0	\$350,000
Design & Other Soft Costs	25,000,000	7,164,561	8,075,410	3,380,000	50,000	993,028	44,662,999
Legal Costs	2,400,000	964,111	0	2,445,000	40,000	100,000	5,949,111
Property Management/Maintenance Costs	0	3,313,937	0	5,500,000	120,000	1,550,000	10,483,937
Insurance	4,000,000	143,000	0	3,050,000	0	30,000	7,223,000
Demolition & Site Clearance	3,200,000	0	0	0	20,000	0	3,220,000
Construction Costs	21,500,000	22,220,219	66,046,248	100,000	1,500,000	3,745,700	115,112,167
Other Misc. Costs	0	300,000	0	229,500	0	920,000	1,449,500
<b>Total</b>	<b>\$56,100,000</b>	<b>\$34,205,828</b>	<b>\$74,121,658</b>	<b>\$14,954,500</b>	<b>\$1,730,000</b>	<b>\$7,338,728</b>	<b>\$188,450,714</b>
<b>ACTUAL SPENDING TO DATE</b>							
Acquisition Costs	\$0	\$5,929	\$0	\$250,000	\$0	\$0	\$255,929
Design & Other Soft Costs	18,975,128	633,886	642,039	2,919,153	0	432,469	23,602,675
Legal Costs	521,026	199,654	0	243,711	4,747	160	969,299
Property Management/Maintenance Costs	0	1,919,073	0	0	37,880	1,051,126	3,008,079
Insurance	0	74,889	0	515,595	0	29,524	620,007
Demolition & Site Clearance	0	0	0	0	0	0	0
Construction Costs	713,385	833,865	34,959,320	0	10,000	1,406,203	37,922,773
Other Misc. Costs	0	134,542	0	0	0	120,500	255,042
<b>Total</b>	<b>\$20,209,539</b>	<b>\$3,801,837</b>	<b>\$35,601,359</b>	<b>\$3,928,459</b>	<b>\$52,627</b>	<b>\$3,039,982</b>	<b>\$66,633,803</b>
<b>BALANCE REMAINING</b>							
Acquisition Costs	\$0	\$94,071	\$0	\$0	\$0	\$0	\$94,071
Design & Other Soft Costs	6,024,872	6,530,675	7,433,371	460,847	50,000	560,559	21,060,324
Legal Costs	1,878,974	764,457	0	2,201,289	35,253	99,840	4,979,812
Property Management/Maintenance Costs	0	1,394,864	0	5,500,000	82,120	498,874	7,475,858
Insurance	4,000,000	68,111	0	2,534,405	0	476	6,602,993
Demolition & Site Clearance	3,200,000	0	0	0	20,000	0	3,220,000
Construction Costs	20,786,615	21,386,354	31,086,928	0	1,490,000	2,339,497	77,189,394
Other Misc. Costs	0	165,458	0	229,500	0	799,500	1,194,458
<b>Total</b>	<b>\$35,890,461</b>	<b>\$30,403,991</b>	<b>\$38,520,299</b>	<b>\$11,026,041</b>	<b>\$1,677,373</b>	<b>\$4,298,746</b>	<b>\$121,816,911</b>
<b>ANNUAL OVERVIEW</b>							
Annual Budget	\$56,100,000	\$34,205,828	\$74,121,658	\$14,954,500	\$1,730,000	\$7,338,728	\$188,450,714
Actual Spending to Date	\$20,209,539	\$3,801,837	\$35,601,359	\$3,928,459	\$52,627	\$3,039,982	\$66,633,803
Balance Remaining	\$35,890,461	\$30,403,991	\$38,520,299	\$11,026,041	\$1,677,373	\$4,298,746	\$121,816,911
% of Budget Used	36.02%	11.11%	48.03%	26.27%	3.04%	41.42%	35.36%