



MEMORANDUM

TO: Members of the Authority
FROM: Caren S. Franzini
Chief Executive Officer
DATE: August 10, 2010
SUBJECT: Agenda for Board Meeting of the Authority August 10, 2010

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

Chief Executive Officer's Monthly Report to the Board

Bond Projects

Clean Energy Solutions

Loans/Grants/Guarantees

Edison Innovation Fund

Incentive Programs

Board Memorandums

Real Estate

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

July 15, 2010

MINUTES OF THE MEETING

Members of the Authority present: Al Koepp, Chairman; John Hutchison representing the Executive Branch; Jim Kelly, representing the State Treasurer; Joe Latoof representing the Commissioner of the Department of Labor and Workforce Development; Michele Siekerka representing the Commissioner of the Department of Environment Protection; Richard Poliner representing the Commissioner of the Department of Banking and Insurance; Public Members: Charles Sarlo; Timothy Carden; Laurence Downes; Steve Plofker; Raymond Burke, First Alternate Public Member; Elliot M. Kosoffsky, Second Alternate Public Member; Kevin Brown, Third Alternate Public Member; and Rodney Sadler, Non-Voting Member.

Absent from the meeting: Joseph McNamara, Vice Chairman; and Marjorie Perry, Public Members.

Also present: Caren Franzini, Chief Executive Officer of the Authority; Bette Renaud, Deputy Attorney Generals, and guests.

Chairman Koepp called the meeting to order at 10 a.m.

Pursuant to the Internal Revenue Code of 1986, Ms. Franzini announced that this was a public hearing and comments are invited on any Private Activity bond projects presented today.

In accordance with the Open Public Meetings Act, Ms. Franzini announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House.

MINUTES OF AUTHORITY MEETING

Chairman Koepp introduced new Members John Hutchison, Chief of Staff to the Lt. Governor, representing the Executive Branch, and Michele Siekerka representing the Commissioner of the Department of Environment Protection.

The next item of business was the approval of the June 8, 2010 meeting minutes amended to reflect that Dr. Randall Pinkett's term has expired in May. A motion was made to approve the minutes by Mr. Plofker, seconded by Mr. Carden, and was approved by the 10 voting members present.

Ms. Siekerka abstained because she was not present.

Mr. Hutchinson abstained because he was not present.

The next item of business was the approval of the June 8, 2010 Executive Session meeting minutes amended to reflect that Dr. Randall Pinkett's term has expired in May. A motion was made to approve the minutes by Mr. Carden, seconded by Mr. Latoof, and was approved by the 10 voting members present.

Ms. Siekerka abstained because she was not present.

Mr. Hutchinson abstained because he was not present.

Ms. Franzini said the minutes would be released once the legal issues discussed in the session are resolved.

The next item of business was the approval of the June 17, 2010 special meeting minutes. A motion was made to approve the minutes by Mr. Carden, seconded by Mr. Burke, and was approved by the 10 voting members present.

Ms. Siekerka abstained because she was not present.

Mr. Hutchinson abstained because he was not present.

The next item of business was the approval of the June 17, 2010 Executive Session special meeting minutes. A motion was made to approve the minutes by Mr. Poliner, seconded by Mr. Latoof, and was approved by the 10 voting members present.

Ms. Siekerka abstained because she was not present.

Mr. Hutchinson abstained because he was not present.

Ms. Franzini said the minutes would be released once the legal issues discussed in the session are resolved.

Chairman Koepp noted that Dr. Pinkett's term had expired in May 2010. He acknowledged his contribution and service to the EDA. He also noted that former Board Member Richard Tolson was appointed to fill Dr. Pinkett's position.

Mr. Koepp also acknowledged Kathie Stucy's strong leadership and guidance while at the EDA and wished her much success in her new position outside of the Authority.

The next item was the presentation of the Chief Executive Officer's Monthly Report to the Board. **(For Informational Purposes Only)**

Ms. Franzini acknowledged Kathie Stucy as an asset to the Authority and thanked her on behalf of the Senior Leadership Team.

Mr. Downes entered the meeting at this time.

AUTHORITY MATTERS

The next item was, in accordance with N.J.S.A. 52:14B-5.1c, approval of the proposed readoption and any non-substantive changes hereafter for submission to the Office of Administrative Law (OAL) to extend program regulations for the next five years, subject to review and approval by the Office of the Attorney General, and final comment by OAL. Amendments to the ERG fee language section on pages 29 and 30 were also approved.

**MOTION TO APPROVE: Mr. Brown SECOND: Mr. Latoof AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

PRELIMINARY RESOLUTIONS

PROJECT: The Atlantic City Sewerage Company **APPL.#32290**
LOCATION: Atlantic City/Atlantic Cty.
PROCEEDS FOR: equipment purchase
MOTION TO APPROVE: Mr. Plofker SECOND: **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT:2

PROJECT: TDAF I Pru Hotel Urban Renewal Company, LLC **APPL.#32289**
LOCATION: Newark/Essex Cty.
PROCEEDS FOR: building construction
MOTION TO APPROVE: Mr. Poliner SECOND: Mr. Plofker **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

PUBLIC HEARING ONLY

PROJECT: Springpoint Senior Living, Inc. Obligated Group* **APPL.#10254**
LOCATION: Various
PROCEEDS FOR: refinance existing debt
FINANCING: \$29,600,000 Tax-Exempt Bond
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

DIRECT LOANS

PROJECT: Phanie M. LLC **APPL.#32111**
LOCATION: Atlantic City/Atlantic Cty.
PROCEEDS FOR: leasehold improvements and equipment purchase
FINANCING: \$1,100,000 Direct Loan
MOTION TO APPROVE: Mr. Carden SECOND: Mr. Downes **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

PROJECT: Sacko AC LLC **APPL.#32138**
LOCATION: Atlantic City/Atlantic Cty.
PROCEEDS FOR: leasehold improvements and equipment purchase
FINANCING: \$1,100,000 Direct Loan
MOTION TO APPROVE: Mr. Sarlo SECOND: Mr. Poliner **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

PROJECT: Total Turf Experience, LLC **APPL.#32176**
LOCATION: Mantua/Gloucester Cty.
PROCEEDS FOR: building construction
FINANCING: \$1,250,000 Direct Loan
MOTION TO APPROVE: Mr. Poliner **SECOND:** Mr. Latoof **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

STATEWIDE LOAN POOL

PROJECT: Metro130 Equities, LLC **APPL.#31998**
LOCATION: Carlstadt/Bergen Cty.
PROCEEDS FOR: building acquisition
FINANCING: \$2,030,000 bank loan with a \$450,000 (22%) Authority participation
MOTION TO APPROVE: Mr. Carden **SECOND:** Mr. Poliner **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

LOCAL DEVELOPMENT FINANCING FUND

PROJECT: 200 Hospital Plaza, Inc. **APPL.#31603**
LOCATION: Paterson/Passaic Cty.
PROCEEDS FOR: building construction
FINANCING: \$1,000,000 Local Development Financing Fund loan
MOTION TO APPROVE: Mr. Brown **SECOND:** Mr. Poliner **AYES: 12**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8
Mr. Sarlo abstained because his firm is doing work on the project.

PETROLEUM UNDERGROUND STORAGE TANK PROGRAM

The following projects were presented under the Petroleum Underground Storage Tank Program.

MOTION TO APPROVE: Mr. Poliner **SECOND:** Mr. Downes **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

PROJECT: Tanya Algozzini **APPL.#30783**
LOCATION: Barnegat/Ocean Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$104,189 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Lillian Applegate (Former Theo's Auto Repair) **APPL.#30871**
LOCATION: South Amboy/Middlesex Cty.
PROCEEDS FOR: site remediation
FINANCING: \$557,561 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: American Tire Center Inc. **APPL.#31183**
LOCATION: South Amboy/Middlesex Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$483,326 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: DTR Automotive **APPL.#30601**
LOCATION: Closter/Bergen Cty.
PROCEEDS FOR: site investigation
FINANCING: \$114,510 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Harvest Outreach Ministry, Inc. **APPL.#31234**
LOCATION: Paterson/Passaic Cty.
PROCEEDS FOR: remediation
FINANCING: \$229,278 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Linda Keyek **APPL.#31079**
LOCATION: Audubon/Camden Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$154,920 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: John Millikin **APPL.#31166**
LOCATION: Mendham/Morris Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$161,046 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Sacred Heart Church (Convent) **APPL.#31516**
LOCATION: Bloomfield/Essex Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$191,645 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Sacred Heart Church (Nardiello Hall) **APPL.#31439**
LOCATION: Bloomfield/Essex Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$159,085 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Steininger Behavioral Care Services, Inc. **APPL.#28860**
LOCATION: Cherry Hill/Camden Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$125,122 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Women's Club of Upper Montclair **APPL.#31883**
LOCATION: Montclair/Essex Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$138,315 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

The next item was a summary of all Petroleum Underground Storage Tank Program Delegated Authority Approvals for the month of June 2010. **(For Informational Purposes Only)**

HAZARDOUS DISCHARGE SITE REMEDIATION FUND PROGRAM

The following municipal and private projects and loans were presented under the Hazardous Discharge Site Remediation Fund Program.

MOTION TO APPROVE: Mr. Plofker SECOND: Mr. Poliner AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

PROJECT: Camden Redevelopment Agency (Sears Tire and Battery) **APPL.#31427**
LOCATION: Camden/Camden Cty.
PROCEEDS FOR: remedial investigation
FINANCING: \$115,495 Hazardous Discharge Site Remediation Fund

PROJECT: Township of Haddon (Lahn Property) **APPL.#31232**
LOCATION: Haddon Twp./Camden Cty.
PROCEEDS FOR: remedial action
FINANCING: \$124,928 Hazardous Discharge Site Remediation Fund

PROJECT: City of Perth Amboy (DPW and Former Landfill) **APPL.#31140**
LOCATION: Perth Amboy/Middlesex Cty.
PROCEEDS FOR: site investigation, remedial investigation, preliminary assessment
FINANCING: \$493,340 Hazardous Discharge Site Remediation Fund

PROJECT: Turkey Hill Realty Corporation **APPL.#31137**
(Former Martell Swine Farm)
LOCATION: Deptford/Gloucester Cty.
PROCEEDS FOR: remedial action
FINANCING: \$103,311 Hazardous Discharge Site Remediation Fund

PROJECT: Betty and Gerald Duncan and Campus Classics **APPL.#31683**
LOCATION: Mt. Laurel/Burlington Cty.
PROCEEDS FOR: remedial action
FINANCING: \$76,170 Hazardous Discharge Site Remediation Fund

The next item was a summary of the Hazardous Discharge Site Remediation Fund Program Delegated Authority Approvals for the month of June 2010. (For Informational Purposes Only)

INCENTIVE PROGRAMS

BUSINESS INCENTIVE EMPLOYMENT PROGRAM

PROJECT: Archimedes Pharma US Inc. **APPL.#32033**
LOCATION: TBD **BUSINESS:** biotechnology
GRANT AWARD: 40% Business Employment Incentive grant, 10 years
MOTION TO APPROVE: Mr. Plofker **SECOND:** Mr. Carden **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

PROJECT: Aricent US Inc., DataLinx Corp. & Affiliates **APPL.#32169**
LOCATION: East Brunswick/Middlesex **BUSINESS:** electronic device technology
GRANT AWARD: 60% Business Employment Incentive grant, 10 years
MOTION TO APPROVE: Mr. Latoof **SECOND:** Mr. Carden **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

PROJECT: Futurewei Technologies, Inc. **APPL.#32061**
LOCATION: TBD **BUSINESS:** electronic device technology
GRANT AWARD: 45% Business Employment Incentive grant, 10 years
MOTION TO APPROVE: Mr. Plofker **SECOND:** Mr. Carden **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

PROJECT: Hilliard Farber & Co., Inc. **APPL.#32202**
LOCATION: Jersey City/Hudson Cty. **BUSINESS:** financial services
GRANT AWARD: 80% Business Employment Incentive grant, 4 years
MOTION TO APPROVE: Mr. Carden **SECOND:** Mr. Poliner **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

PROJECT: Procura Management Inc. **APPL.#31917**
LOCATION: Cranford Twp./Union Cty. **BUSINESS:** finance, insurance & real estate
GRANT AWARD: 45% Business Employment Incentive grant, 5 years
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Plofker **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

PROJECT: Solar Nation Inc., and affiliates **APPL.#32118**
LOCATION: TBD **BUSINESS:** environmental device technology
GRANT AWARD: 35% Business Employment Incentive grant, 10 years
MOTION TO APPROVE: Mr. Latoof **SECOND:** Mr. Carden **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

PROJECT: Tekni-Plex, Inc. **APPL.#32137**
LOCATION: TBD **BUSINESS:** paper/wood
GRANT AWARD: 35% Business Employment Incentive grant, 10 years
MOTION TO APPROVE: Mr. Kelly **SECOND:** Mr. Kosoffsky **AYES:13**
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

GRANT AWARD: \$1,300 (estimate), 5 years Business Retention and Relocation Assistance Grant
MOTION TO APPROVE: Mr. Carden **SECOND:** Mr. Kelly **AYES: 13**
RESOLUTION ATTACHED AND MARKED EXHIBIT:11

ECONOMIC REDEVELOPMENT AND GROWTH GRANT PROGRAM

PROJECT: Summerhill Square L.L.C.
LOCATION: East Brunswick/Middlesex Cty.
REIMBURSEMENT GRANT: Up to \$3,092,241
MOTION TO APPROVE: Mr. Latoof **SECOND:** Mr. Kosoffsky **AYES: 12**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

Mr. Sarlo abstained because Mr. Pagano is a client of his firm's.

PROJECT: RBH-TRB Newark Holdings, LLC
LOCATION: Newark/Essex Cty.
REIMBURSEMENT GRANT: Up to \$20,548,344
MOTION TO APPROVE: Mr. Plofker **SECOND:** Mr. Kelly **AYES: 11**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

Mr. Carden abstained because he is Chair of one of the charter schools at the project.
Mr. Sarlo abstained because his firm is working on the project.

URBAN TRANSIT HUB TAX CREDIT PROGRAM

PROJECT: RBH-TRB Newark Holdings, LLC
LOCATION: Newark/Essex Cty.
MAX AMOUNT OF TAX CREDITS: Not to exceed \$17,384,620
MOTION TO APPROVE: Mr. Kelly **SECOND:** Mr. Brown **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 14

Mr. Carden abstained because he is Chair of one of the charter schools at the project.
Mr. Sarlo abstained because his firm is working on the project.

PROJECT: Boraie Development LLC
LOCATION: New Brunswick/Middlesex Cty.
MAX AMOUNT OF TAX CREDITS: Not to exceed \$19,886,090
MOTION TO APPROVE: Mr. Carden **SECOND:** Mr. Brown **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 15

Chairman Koepp noted that the applicant has another project with the Authority and asked Ms. Franzini if she comfortable with the project proceeding. Or if there were any concerns regarding capacity. Ms. Franzini stated that in her discussions with the firm, they advised that financing for their projects are proceeding according to schedule, and they're also bringing on another firm to assist them. She added that the Authority will closely monitor the projects to ensure the all required conditions and timeframes are met as to their obligations.

Mr. Wasseem Boraie, CEO, Boraie Development stated that they have received an approval from the Historic Commission and that they were in discussions with the City of Newark in support of the Rector Street project with a RAB bond issuance of \$10 – 15 million proceeding well.

BOARD MEMORANDUMS

PROJECT: Lehman Brothers Holdings, Inc. **APPL.#16324**
LOCATION: Various
FINANCING: \$49,800,000 Structured Financing
REQUEST: Postponing the July 22, 2010 acquisition deadline until September 22, 2010 to allow Barclays a reasonable amount of time to negotiate the fee for the acquisition of the assets.
MOTION TO APPROVE: Mr. Brown **SECOND:** Mr. Kosoffsky **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 16

PROJECT: VPI Systems Inc. **APPL.#18345**
LOCATION: Holmdel/Monmouth Cty.
FINANCING: \$1,068,323 Edison Innovation Loan with warrants
REQUEST: Consent to the substitution of lender and an increase of the senior loan from \$750,000 to \$1,500,000 to facilitate the Borrower's refinance of the current SVB debt to Comerica, which will provide needed working capital.
MOTION TO APPROVE: Mr. Carden SECOND: Mr. Brown AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 17

PROJECT: Freedom Healthcare, LLC **APPL.#16452**
LOCATION: Hackensack/Bergen Cty.
FINANCING: \$78,400 Business Employment Incentive Program Grant
REQUEST: Consent to the acquisition of Freedom Healthcare, LLC by Freedom Eldercare, Inc., a newly formed entity.
MOTION TO APPROVE: Mr. Poliner SECOND: Mr. Plofker AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 18

The next item is a summary of BEIP modifications and the BRRAG UEZ and Salem Sales Tax Exemption extensions that were approved in the 2nd Quarter ending June 30, 2010. **(For Informational Purposes Only)**

The next item is a summary of the Delegated Authority approvals prepared by Portfolio Services for the 2nd Quarter of 2010. **(For Informational Purposes Only)**

The next item is a summary of projects approved under Delegated Authority in June 2010. **(For Informational Purposes Only)**

New Jersey Business Growth Fund: Advanced Welding Services Inc. or Nominee; Goldberg Enterprises, Inc. or Nominee; JMC Glass LLC; Len Ram Realty, LLC;

Small Business Fund Program: Handicapped High Riders Club, Inc.; Miracles LLC

PNC Business Growth Fund – Modifications: Permalith Plastics, LLC

REAL ESTATE

The next item is to approve the recommendation to enter into a Parking Lot Lease Agreement for 35 non-exclusive parking spaces in the Barnes Street parking lot in Trenton with the New Jersey Schools Development Authority (NJSDA) for a five-year term.

MOTION TO APPROVE: Mr. Poliner SECOND: Mr. Plofker AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 19

The next item is to authorize execution of the attached Seventh Amendment to Ground Lease between the Authority and L'Oreal USA.

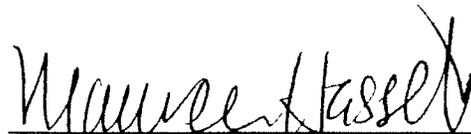
MOTION TO APPROVE: Mr. Latoof SECOND: Mr. Burke AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 20

PUBLIC COMMENT

There was no comment from the public.

There being no further business, on a motion by Mr. Brown, and seconded by Mr. Poliner, the meeting was adjourned at 12pm.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.



Maureen Hassett, Assistant Secretary

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

RE: Chief Executive Officer's Report to the Board

EDA NEWS

Pennsylvania-Based Manufacturing Company to Relocate to West Deptford

SSM Industries, a metal fabricator and installer with facilities in Pittsburgh and Philadelphia, recently announced that they will be relocating the Philadelphia operations to a 46,142 square foot facility in West Deptford. The company stated that the decision was driven by the recent approval of a Business Employment Incentive Program (BEIP) grant for just over \$600,000. This BEIP assistance is leveraging \$2.15 million in capital investment and will enable the company to create 70 new high paying, manufacturing jobs in New Jersey. The company was pleased with the coordination among the state government representatives including Lt. Governor Kim Guadagno, as well as staff from the EDA and Gloucester County Department of Economic Development.

CAMI Study Outlines Need for Policy Changes to Stimulate Medical Innovation

I had the pleasure of speaking at a press conference at the Healthcare Institute of New Jersey regarding NJ as a global epicenter of medical innovation, and the need for our state to maintain and attract new medical innovation, life science or high-tech jobs while protecting and growing New Jersey's workforce and economy. New Jersey remains a leader in the biotechnology industry, with a BioNJ survey indicating that employment at biotech companies increased to an estimated 15,000 this year, up 50 percent from 2007, when the industry employed 10,000 workers. The purpose of the press conference was to discuss findings from a report commissioned by the Council for American Medical Innovation (CAMI) identifying the most effective public policy ideas in the nation for maintaining U.S. leadership in medical innovation. The report presented expert observations on opportunities to drive regulatory reform, open the flow of capital, bridge the gap between basic research and human application, and prepare our nation's young people for great careers in medical innovation.

FINANCING ACTIVITY

The EDA closed financing and incentives totaling nearly \$370 million for 178 projects through the end of July. These projects are expected to spur the creation of more than 2,300 new, full-time jobs and more than 2,700 construction jobs and involve total investment of over \$600 million in New Jersey's economy. Nearly half of the closings were with projects in New Jersey's urban communities. Among the financings that closed in July:

Eden Institute Foundation, a Plainsboro-based nonprofit organization that provides services to children and adults with autism, recently finalized a \$12 million tax-exempt bond that will enable the organization to purchase and renovate a new building. When this expansion is complete, this facility will serve as the new headquarters for Eden, a school for approximately 80 students, and space for administrative offices. Eden currently serves over 250 children and adults with autism through its programs at Mercer and Middlesex counties and employs approximately 250 professional and paraprofessional staff in NJ.

Broadway Industries finalized a \$37,500 BEIP grant that will enable the company to expand and relocate from a 31,000 sq ft. facility in Edison to an 80,000 sq. ft facility in Jamesburg. Broadway Industries is a third generation, family owned manufacturer/distributor of plastic packaging products for moving and storage. The company services the moving and storage industry with its individually packaged polyethylene mattress bags and furniture covers. Along with the expansion, this BEIP will support the purchase of additional equipment as well as the creation of 25 new manufacturing jobs and \$1 million in capital investment. The company originally relocated to New Jersey from Queens, New York in 2004.

Global Essence, Inc. closed on a refinancing package from TD Bank consisting of a \$2 million asset based line of credit and a, \$800,000 term loan with 25% (\$200,000) EDA participation and 33.33% guarantee under the Main Street Business Assistance Program. Global Essence, Inc. was incorporated in 1996 and acts as an importer and exporter of premium flavoring and fragrance ingredients (mainly oils which are sourced from over sixty countries) and sold primarily to cosmetic, consumer and food products companies located in the Northern USA. The company operates out of a 28,000 square foot leased warehouse facility in Freehold.

EVENTS/SPEAKING ENGAGEMENTS/PROACTIVE OUTREACH

EDA representatives participated as attendees, exhibitors or speakers at 19 events in June. These included the NJ Alliance for Action Public/Private Partnership Committee Meeting in Edison, the New Jersey Technology Council Annual Meeting in Monroe Township, International Import & Export Roundtable in Morristown, the Regional Affinity Incubation Network Annual Meeting in Philadelphia, and events for several EDA-assisted projects including the Bayway Circle/Laundry Warehouse grand opening in Elizabeth and the Grand Prix Groundbreaking Ceremony at the New Jersey Motorsports Park in Millville.

Additionally, EDA staff participated in several events related to Fort Monmouth including a seminar on Joint Base Contracting Opportunities in Wall where expert panelists discussed the procurement and business opportunities that continue to evolve as a result of the consolidation of base operations, and a NJTC panel discussion on Business

Development in Coastal Jersey and the Impact of the Fort Monmouth closing that addressed the impact of the fort closure on businesses in Monmouth and Ocean County.

Carl Fj

BOND RESOLUTIONS

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Mercer Street Friends

P31916

PROJECT USER(S): Village Charter School *

* - indicates relation to applicant

PROJECT LOCATION: 101 Sullivan Way

Ewing Township (N)

Mercer

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

Mercer Street Friends (Mercer) is a Quaker-affiliated, nonsectarian human care organization opened in 1958, providing practical solutions to the problems of poverty and health in Mercer County. The applicant serves more than 30,000 people a year from seven locations and 15 program sites. Programs range from day care and intervention for children ages 9 to 17, to programs for special needs children, employment support, parent training and home healthcare. Mercer's annual budget for fiscal 2010 is more than \$13 million, and it employs over 200 employees, with support from 550 dedicated volunteers. The programs are funded by a combination of private donations, government funds, foundation grants and user fees.

In September 1999, Mercer opened Village Charter School in Trenton with 153 students in kindergarten to 2nd grade. Today the school has 360 students in kindergarten to 8th grade, with a staff of 58 people. The school is in good standing with the NJ Department of Education, with its charter expiring in 2013.

Authority issuance of several tax-exempt bond financing, all purchased by Sun National Bank, was utilized by Village Charter School to acquire and renovate historic designated buildings, formerly used by the NJ State Hospital, for the school. The initial bond closed in February 1999 at \$4.1 million (P10238) with a 21 year term having a 5.42% fixed interest rate, with a 5 year rate reset. In December 2002, Mercer closed on two series of tax-exempt bonds totalling \$6.8 million, both with a 5.37% fixed interest rate with a 5 year rate reset; Series A, \$3.4 million (P14677), to refund the bonds issued in 1999 (P10238) with an 18 year 2 month maturity, and Series B, \$3.4 million (P14491) with a 21 year maturity, to expand the existing facility by 15,000 s.f. to 47,000 s.f. As part of the financing to expand the facility, the Authority also closed on a \$400,000 EDA direct loan (P10514) with a 6% interest rate and having a 10 year term with a 20 year amortization.

In addition, \$1.35 million in 20 year variable rate tax-exempt bonds (P8889), were issued for Mercer in November 1996 to acquire and expand 3 community service centers.

The applicant is a 501(c)(3) not-for-profit entity for which the Authority may issue tax-exempt bonds as permitted under Section 103 and Section 145 of the 1986 Internal Revenue Code, as amended, and is not subject to the State Volume Cap limitation, pursuant to Section 146(g) of the Code.

APPROVAL REQUEST:

Authority assistance will allow the applicant to refinance approximately \$1.67 million in outstanding debt with PNC Bank (\$1.4 million), and an EDA direct loan (\$266,000 - P10514). The PNC loan was used to fund the Village Charter School's administrative expenses, such as the Executive Director, accounting and human resource departments in its first five years of operation. The EDA's direct loan was used to fund overruns on the original school construction. In addition, the applicant is requesting at the August Board meeting approval to refund \$5.3 million (P31731) in outstanding bonds issued in December 2002 (P10238 & P14491). The loan refinancing and tax-exempt bond refunding will result in an estimated \$100,000 annual interest savings.

FINANCING SUMMARY:

BOND PURCHASER: TD Bank (Direct Purchase)

AMOUNT OF BOND: Up to \$1,700,000. (Bank Qualified Tax-Exempt Bond). This is part of TD Bank's total commitment not to exceed \$7.2 million.

TERMS OF BOND: 20 years; variate interest rate based on the tax-exempt equivalent of one (1) month LIBOR plus 300 basis points, subject to call options on the 5, 7 or 10th anniversaries. On the closing date, the applicant may enter into a 5, 7 or 10 year swap to an indicative fixed rate of 3.6% for 5 years, 3.95% for 7 years, and 4.24% for 10 years.

ENHANCEMENT: N/A

PROJECT COSTS:

PNC Loan	\$1,421,250
EDA Direct Loan	\$266,413
Finance fees	\$22,966
Legal fees	\$10,800
Other	\$3,000
TOTAL COSTS	\$1,724,429

JOBS: At Application 58 Within 2 years 20 Maintained 0 Construction 0

PUBLIC HEARING: 08/10/10 (Published 07/26/10) **BOND COUNSEL:** McManimon & Scotland

DEVELOPMENT OFFICER: K. Durand **APPROVAL OFFICER:** M. Krug

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - REFUNDING BOND PROGRAM**

APPLICANT: Mercer Street Friends

P31731

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 101 Sullivan Way

Ewing Township (N)

Mercer

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

Mercer Street Friends (Mercer) is a Quaker-affiliated, nonsectarian human care organization opened in 1958, providing practical solutions to the problems of poverty and health in Mercer County. The applicant serves more than 30,000 people a year from seven locations and 15 program sites. Programs range from day care and intervention for children ages 9 to 17, to programs for special needs children, employment support, parent training and home healthcare. Mercer's annual budget for fiscal 2010 is more than \$13 million, and employs over 200 employees, with support from 550 dedicated volunteers. The programs are funded by a combination of private donations, government funds, foundation grants and user fees.

In September 1999 Mercer opened Village Charter School in Trenton with 153 students in kindergarten to 2nd grade students. Today the school has 360 students in kindergarten to 8th grade, with a staff of 58 people. Initial financing for opening the school was a result of tax-exempt bond financing approved by the Authority. The school is in good standing with the NJ Department of Education, with its charter expiring in 2013.

Authority issuance of several tax-exempt bond financings, all purchased by Sun National Bank, was utilized by Village Charter School to acquire and renovate historic designated buildings, formerly used by the NJ State Hospital, for the school. The initial bond closed in February 1999 at \$4.1 million (P10238) with a 21 year term having a 5.42% fixed interest rate, with a 5 year rate reset.

In December 2002, Mercer closed on two series of tax-exempt bonds totalling \$6.8 million, both with a 5.37% fixed interest rate with a 5 year rate reset; Series A, \$3.4 million (P14677), to refund the bonds issued in 1999 (P10238) with an 18 year 2 month maturity, and Series B, \$3.4 million (P14491) with a 21 year maturity, to expand existing facility by 15,000 s.f. to 47,000 s.f.

As part of the financing to expand the facility, the Authority also closed on a \$400,000 EDA direct loan (P10514) with a 6% interest rate and having a 10 year term with a 20 year amortization. Please note, the applicant is requesting the Board to approve the refinancing of the direct loan into a \$1.7 million tax-exempt bond (P31916) at its August 2010 meeting.

In addition, \$1.35 million in 20 year variable rate tax-exempt bonds (P8889), were issued for Mercer in November 1996 to acquire and expand 3 community service centers, not related to the Village Charter School.

The applicant is a 501(c)(3) not-for-profit entity for which the Authority may issue tax-exempt bonds as permitted under Section 103 and Section 145 of the 1986 Internal Revenue Code, as amended, and is not subject to the State Volume Cap limitation, pursuant to Section 146(g) of the Code.

REFUNDING REQUEST:

Authority assistance will allow the applicant to current refund \$5,301,471 outstanding of the 2002 Series bonds and pay costs of issuance. (P14491 & 14677)

In addition, Mercer Street Friends is requesting the Board approve at its August 2010 Board meeting the refinancing of approximately \$1.7 million in outstanding debt with PNC Bank (\$1.4 million), and an EDA direct loan (\$266,000 - P10514). The PNC loan was used to fund the Village Charter School's administrative expenses, such as the Executive Director, accounting and human resource departments in its first five years of operation. The EDA's direct loan was used to fund overrides on the original school construction. The tax-exempt bond refunding and loan refinancing will result in an estimated \$100,000 annual interest savings.

FINANCING SUMMARY:

BOND PURCHASER: TD Bank (Direct Purchase)

AMOUNT OF BOND: Up to \$5,500,000 (Bank Qualified Tax-Exempt Bond). This is part of TD Bank's total commitment not to exceed \$7.2 million.

TERMS OF BOND: 20 years; variable interest rate based on the tax-exempt equivalent of one (1) month LIBOR plus 300 basis points, subject to call options on the 5, 7 or 10th anniversaries. On the closing date, the applicant may enter into a 5, 7 or 10 year swap with an indicative fixed rate of 3.6% for 5 years, 3.95% for 7 years, and 4.24% for 10 years.

ENHANCEMENT: N/A

PROJECT COSTS:

Principal amount of bond to be refunded	\$5,301,471
Other	\$91,603
Finance fees	\$72,726
Legal fees	\$34,200
TOTAL COSTS	\$5,500,000 *

PUBLIC HEARING: 08/10/10 (Published 07/26/10) **BOND COUNSEL:** McManimon & Scotland

DEVELOPMENT OFFICER: K. Durand

APPROVAL OFFICER: M. Krug

AMENDED BOND RESOLUTIONS



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Benedictine Abbey of Newark
Application P12528
Application P10984
Newark, Essex County

MODIFICATION REQUEST

Benedictine Abbey of Newark requests Board approval of the amended, restated and consolidated loan agreement and trust indenture for two series of tax exempt bonds to include an additional interest rate mode, terminate the existing letter of credit while in the new interest rate mode and the purchase of the series bond by the letter of credit bank.

BACKGROUND

In 1999, the Authority issued its \$8,925,000 tax-exempt bond for the benefit of Benedictine Abbey of Newark, a 501(c)(3) not-for-profit school known as St. Benedict's Preparatory School, a Catholic preparatory school (grades 7-12) for boys of any race, color, creed, or national origin. The bond proceeds were used to refund the outstanding balance of a 1989 tax exempt bond in the amount of \$10,125,000, the proceeds of which were used refinance conventional debt of the School in connection with the costs of acquisition of land and construction and equipping of a new academic/athletic facility consisting of classrooms, offices, gymnasium and other facilities. The 1999 Refunding Bond was remarketed by Bank One Capital markets for 20 years, as multi-modal bonds, currently in a weekly variable interest rate enhanced by a direct pay letter of credit by Wachovia Bank, now a division of Wells Fargo.

In addition, in 2000, the Authority issued its \$20,000,000 tax-exempt bond to finance the construction of a 23,300 sq. ft. student residence, the construction of a 21,500 sq. ft. elementary school, the renovation of the three existing school buildings aggregating approximately 87,600 sq. ft., the acquisition of furnishings, fixtures and equipment and the refinancing of existing debt used to fund certain closing costs. The 2000 Series Bonds were privately placed by Bank One Capital Markets for 30 years as multi-mode bonds, currently in weekly variable interest rate, also supported by a direct pay letter of credit by Wachovia Bank. The projects are in compliance with Authority requirements.

Wells Fargo has negotiated with the School to directly purchase the 1999 and 2000 Series Bonds by converting and consolidating the existing Series Bonds to a new interest rate mode, based on the tax exempt equivalent of 1 month LIBOR plus 1.75% ("LIBOR Index Rate"), which will be swapped to a fixed rate of 2.79% for 5 years. At the end of the 5 year period, the consolidated bond will be tendered and either reset at the LIBOR Index Rate or any of the available interest rate modes, including a weekly variable interest rate. Upon a conversion to the LIBOR Index Rate, the existing letters of credit will no longer be in effect and the consolidated bond will be secured by first mortgage on the School located at 520 Dr. Martin Luther King Jr. Boulevard Newark.

In order to accomplish the transaction, The School requests the approval of the Amended, Restated and Consolidated Loan Agreement and Indenture of Trust for the consolidated bond to add the LIBOR Index Rate and other incidental actions necessary to effectuate the conversion to the LIBOR Index Rate and the swap to a fixed rate.

Bond counsel, McManimon & Scotland, has reviewed the transaction and advises that the amended trust indentures and loan agreements will constitute a reissuance under the IRS Code. A Public Hearing is also requested to be conducted on this Modification Request.

RECOMMENDATION

It is recommended that the Board approve the requested Modification Request to amend, restate and consolidate the trust indentures and loan agreements to provide for an additional interest rate mode, which will synthetically fix the interest rate, eliminate interest rate risk and provide debt service savings of approximately \$700,000 for 5 years.



Prepared By: Teresa Wells

COMBINATION PRELIMINARY AND BOND RESOLUTIONS

PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**APPLICANT:** The Midland School

P32356

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 94 Readington Road

Branchburg Township (N)

Somerset

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy**APPLICANT BACKGROUND:**

The Midland School is a not-for-profit corporation that owns and operates The Midland School situated on a 55-acre picturesque campus in the North Branch section of Branchburg Township. Founded in 1960, Midland School is a private comprehensive special education day school serving students from 5 to 21 years of age, including multiply disabled, cognitively impaired, communication impaired and autistic children. The school serves approximately 200 students from public school districts throughout northern and central New Jersey. The tuition at Midland School is determined by an actual cost formula and paid by the local sending district.

The school's class sizes range from six students to twelve students, and all classes have a teacher and an aide. Its facilities were conceived and designed to provide the ideal learning environment for students with developmental disabilities and differing learning needs. In 1989 and 1997, the school was recognized as a US Department of Education Blue Ribbon School, which award program honors to public and private elementary, middle and high schools that are either academically superior or that demonstrate dramatic gains in student achievement to high levels. Affiliates of the school provide high quality community housing (including licensed and supervised group home settings), job training, and employment placement services, as well as social and recreational experiences to support and enrich the lives of adults with special needs.

In 2007, the school completed a facility expansion and campus capital improvement project consisting of a complete campus reconfiguration and construction of a 36,500 sf addition (housing a performance stage/gymnasium, several classrooms and meeting rooms). The cost of the addition and overall facility capital improvements was \$6.5 million, \$3 million of which was financed by Brown Brothers Harriman & Co. on June 15, 2005 through a tax-exempt bond issued by the Somerset County Improvement Authority (17-year term, interest only for the first 5 years/until August 31, 2010, and current interest rate is at 2.60%).

The applicant is a not-for-profit, 501(c)(3) entity for which the Authority may issue tax-exempt bonds as permitted under Section 103 and Section 145 of the Internal Revenue Code of 1986, as amended, and is not subject to the State Volume Cap limitation, pursuant to Section 146(g) of the Code.

APPROVAL REQUEST:

Authority assistance will enable the applicant to refinance its \$3 million tax-exempt debt, which was used for campus capital improvements, with a new lender.

FINANCING SUMMARY:**BOND PURCHASER:** TD Bank, N.A. (Direct Purchaser)**AMOUNT OF BOND:** \$3,000,000 Tax-Exempt Bond

TERMS OF BOND: 25-year term w/call options every 5 years; floating rate at tax-exempt equivalent of one-month LIBOR (one-month LIBOR rate as of 07/14/2010 is 0.34%) plus 220 bps; indicative t/e b/q floating rate as of 07/12/2010 is 1.752%.

ENHANCEMENT: N/A

PROJECT COSTS:

Refinancing	\$3,000,000
Finance fees	\$36,000
Legal fees	\$30,000
TOTAL COSTS	<u>\$3,066,000</u>

JOBS: At Application 93 Within 2 years 2 Maintained 0 Construction 0

PUBLIC HEARING: 08/10/10 (Published 07/27/10) **BOND COUNSEL:** Wolff & Samson

DEVELOPMENT OFFICER: K. Durand **APPROVAL OFFICER:** D. Sucsuz

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Spectrum for Living Corporation

P32533

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 50 Blanche Avenue

Closter Borough (N)

Bergen

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

Spectrum for Living Corporation is a NJ not-for-profit organization, which traces its roots to 1977, when a group of parents of multiple handicapped/developmentally disabled adults came together with the Bergen County Community Development Board and County Board of Chosen Freeholders to address housing, health care, training and employment needs of these disabled adults. Spectrum's overall goal and focus is to develop mental health care services, appropriate residences and other assistance to enable multiple handicapped-developmentally disabled adults to live independently.

Spectrum for Living Corp. owns and operates a 29,500 sq. ft. barrier-free, long-term, intermediate care facility on 3.5 acres in Closter, Bergen County, for developmentally disabled, multiple-handicapped individuals (the "Closter Project"). Three separate living units, accommodating 60 residents, surround a core area housing support services, including private rooms, living and dining areas and bathrooms.

This project is related to two bond financings for affiliate corporations: (1) Spectrum for Living-Middlesex, Inc. (P10796) in the amount of \$2,065,000 for the construction of the Edison Adult Training Center in Middlesex County and (2) Spectrum for Living Development, Inc. (P6211) in the amount of \$935,000 for the purchase of office suites in River Vale, Bergen County. The Bonds for these affiliates are in compliance with outstanding balances as of 7/1/2010 of \$1,150,000 and \$235,000 respectively.

The applicant is a not-for-profit, 501(c)(3) entity for which the Authority may issue tax-exempt bonds as permitted under Section 103 and Section 145 of the 1986 Internal Revenue Code as amended, and is not subject to the State Volume Cap limitation, pursuant to Section 146(g) of the Code.

APPROVAL REQUEST:

Authority assistance will enable the Applicant to refinance conventional debt (by Bank of America in the amount of \$5,865,000 for 10 years at 5.78%) to expand the facility from 54 beds to 60 beds, renovate and upgrade the Closter Project and pay costs of issuance.

FINANCING SUMMARY:

BOND PURCHASER: Bank of America (Direct Purchase)

AMOUNT OF BOND: up to \$5,865,000 (Tax-exempt)

TERMS OF BOND: 25 years; Fixed rate for 10 years based on the tax exempt equivalent of 30 year U.S. Treasury Index plus 1.5%, estimated at 4.7% as of 7/6/2010; call options and rate resets at the same index on 10th and 20th anniversaries.

ENHANCEMENT: N/A

PROJECT COSTS:

Refinancing	\$5,788,000
Finance fees	\$44,000
Legal fees	\$33,000

TOTAL COSTS

\$5,865,000

JOBS: At Application 97 Within 2 years 17 Maintained 0 Construction 0

PUBLIC HEARING: 08/10/10 (Published 07/26/10) **BOND COUNSEL:** McManimon & Scotland

DEVELOPMENT OFFICER: M. Abraham **APPROVAL OFFICER:** T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Young Men's Christian Association of Hunterdon County P32441
PROJECT USER(S): Same as applicant * - indicates relation to applicant
PROJECT LOCATION: 1410 Route 22 West Clinton Township (N) Hunterdon
GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

The Young Men's Christian Association of Hunterdon County ("Hunterdon County YMCA" or "YMCA") was first incorporated in 1921. Currently, the Hunterdon County YMCA operates two primary facilities, the Round Valley Branch and the Deer Path Branch. Programming includes health and wellness programs as well as full-day childcare and senior care. The YMCA has over 9,000 members and serves nearly 20,000 individuals on an annual basis.

The project to be undertaken is the purchase of the property and facility that the YMCA currently leases for its Round Valley Branch in Annandale. It is a 26 acre parcel of land which includes two buildings, totaling approximately 15,000 square feet of space. Purchase of the property will allow for facility expansion and further development of programming to benefit the community. The property will serve as the foundation for the future growth of the YMCA. The master plan calls for the addition of an indoor pool as well as a regulation size gymnasium. In addition, the expansion would include outdoor field space for summer camp programming and youth sports. Campus development would be dependent upon available capital resources and it is likely that the master plan would be implemented in phases.

The applicant is a 501(c)(3), not-for-profit entity, for which the Authority may issue tax-exempt bonds as permitted under Section 103 and Section 145 of the Internal Revenue Code, as amended, and is not subject to the State Volume Cap limitation, pursuant to Section 146(g) of the Code.

APPROVAL REQUEST:

Authority assistance will enable the applicant to purchase land and two buildings totaling 15,000 square feet on 26 acres in Annandale, New Jersey. The tax-exempt bond will be issued for a maximum of \$4,400,000 with the remainder of the funds coming from applicant equity. Purchase of the property will give YMCA ownership of the facility that it currently leases and will allow it to consider further development and expansion on the property.

THIS PROJECT IS BEING PRESENTED AT AUGUST 10, 2010 FOR A PUBLIC HEARING ONLY.

FINANCING SUMMARY:

BOND PURCHASER:

AMOUNT OF BOND:

TERMS OF BOND:

ENHANCEMENT: N/A

PROJECT COSTS:

Acquisition of existing building	\$6,750,000
Finance fees	\$50,000
Legal fees	\$25,000
TOTAL COSTS	\$6,825,000

JOBS: At Application 10 Within 2 years 1 Maintained 0 Construction 0

PUBLIC HEARING: 08/10/10 (Published 07/26/10) **BOND COUNSEL:** McManimon & Scotland

DEVELOPMENT OFFICER: K. Durand

APPROVAL OFFICER: K. McCullough

PRELIMINARY RESOLUTIONS

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: KLIA Property LLC

P32324

PROJECT USER(S): Dart Seasonal Products, Inc. *

* - indicates relation to applicant

PROJECT LOCATION: 192 Summerhill Road

Spotswood Borough (T)

Middlesex

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

KLIA Property LLC, is a recently formed NJ limited liability company formed for the benefit of acquiring real estate for its related company, Dart Seasonal Products, Inc. Dart Seasonal Products, established in 1993, is a manufacturer of snow and ice removal products. The Company's product line encompasses traditional ice melters, ice melt blends, green environmentally friendly ice melters that includes a time release fertilizer that delivers nutrients to the soil once the ice melt washes away; as well as a full line of snow removal products. Products are sold under various names depending on the composition of the product, such as Blue Heat, CMA Pure, Blizzard and Rock Salt. The corporate headquarters is located in Woodmere, NY and a manufacturing plant and warehouse is currently located in Clifton NJ with 6 employees.

APPROVAL REQUEST:

Authority assistance will enable the Applicant to purchase approximately 15 acres of land, a 79,500 sq. ft. facility, renovate and purchase machinery and equipment to relocate the manufacturing from Clifton to Spotswood.

FINANCING SUMMARY:

BOND PURCHASER:

AMOUNT OF BOND:

TERMS OF BOND:

ENHANCEMENT: N/A

PROJECT COSTS:

Acquisition of existing building	\$3,500,000
Renovation of existing building	\$300,000
Purchase of equipment & machinery	\$250,000
Finance fees	\$40,000
Legal fees	\$30,000
TOTAL COSTS	\$4,120,000

JOBS: At Application 6 Within 2 years 20 Maintained 0 Construction 3

PUBLIC HEARING:

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: K. Durand

APPROVAL OFFICER: T. Wells

CLEAN ENERGY PROGRAMS



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

RE: Renewable Energy Grid Connected Program - Amendment to EDA-BPU MOU

DATE: August 10, 2010

Request:

The Members are requested to approve the Authority's role in administering the Renewable Energy Grid Connected grant program through an amendment to our current EDA-BPU MOU. This is a new clean energy competitive grant program offered by the New Jersey Board of Public Utilities (BPU) to encourage the development of renewable electricity generation projects serving the electricity distribution system in New Jersey.

Background:

In its 2009 Renewable Energy budget order, the BPU Board directed the Office of Clean Energy (OCE) to develop a new program, the Renewable Energy Grid Connected grant program, for funding with new 2009 NJCEP funding allocated through the NJCEP trust. The Board set the budget for this program within the 2009 NJCEP at \$6,038,605.

The Renewable Energy Grid Connected program's objective is to encourage the development of renewable energy projects to provide for alternate electrical supply technologies which are viable alternatives to traditional electrical supply methods, and specifically to facilitate the development of commercially available Class I renewable energy projects that are greater than one megawatt, including onshore wind, biopower, Class I renewable energy storage or feedstock for biopower. Offshore wind, hydrokinetic projects, landfill gas injection into a natural gas pipeline or solar projects are not eligible under this solicitation. Appendix A provides the product description.

The Solicitation for this program was released on BPU's website on November 10, 2009. However, given the Office of Clean Energy's late release of responses to the questions submitted as part of this solicitation process, the deadline for proposal submission was extended from November 30, 2009 to January 8, 2010.

Under this Solicitation, two projects were approved for funding, under BPU Order of April 14, 2010. The first award of \$256,320 was provided to Cape May County Municipal Utilities Authority purpose of designing, constructing and installing two landfill gas powered internal combustion engines for the Two Megawatt Generating Plant to be located at the Cape May County Municipal Utilities Authority Sanitary Landfill. The other award of \$3,600,000 was provided to the Port Authority of New York and New Jersey for the purpose of designing, constructing and installing five 1.5 megawatt wind turbine generators for the PANYNJ Port Jersey peninsula in the cities of Bayonne and Jersey City. The two awards represent total of \$3,856,320, against total available funds of \$6,038,605. It is undetermined at this time as to whether a new solicitation will be issued with remaining funds. The program will be reviewed under the New Jersey Clean Energy Program (NJCEP) budget.

The BPU has asked the EDA to handle the administration of this program, which currently constitutes disbursement of grant funds to the two awardees. BPU will undertake program monitoring and reporting functions. Additionally, in the event that BPU should decide to issue a second solicitation for this program against the funds remaining, EDA would agree to perform the duties related to participating in the evaluation process.

To allow for EDA's role in administering the Renewable Energy Grid Connected Program, an amendment will be made to the existing Memorandum of Understanding between the New Jersey Board of Public Utilities ("BPU") and the New Jersey Economic Development Authority ("EDA") that was executed March 19, 2009, and subsequently amended on November 1, 2009¹. The second amendment to this MOU to support the Grid Connected program is attached in substantially final form in Appendix B.

This action was reviewed by the EDA Policy Committee on August 3, 2010.

Recommendations:

Staff recommends the Board authorize the execution of the aforementioned MOU between the EDA and the BPU attached in substantially final form, by the Chief Executive Officer, subject to review by the Office of the Attorney General.


Caren S. Franzini

Prepared By: Sandy Zeglarski

¹ On November 1, 2009, the BPU-EDA MOU was amended to further clarify respective responsibilities in connection with administering the CEMF Program and to make certain changes to the CEMF application and review process in order to best serve the New Jersey clean energy business community.

APPENDIX A

Product Description Renewable Energy Grid Connected Program

Product:	Renewable Energy Grid Connected Program
Product Description:	Facilitate development of Class I renewable energy onshore wind and biopower projects larger than one megawatt renewable in New Jersey.
Product Family:	Grant
Approval Authority:	BPU
Funding Source:	BPU -- \$6MM
Eligibility:	<p>Eligible technology for this solicitation is limited to commercially available Class I renewable energy technologies including: onshore wind, biopower, Class I renewable energy storage or feedstock for biopower.</p> <p>Note: Offshore wind, hydrokinetic projects, landfill gas injection into a natural gas pipeline or solar projects are <u>not</u> eligible for this solicitation.</p>
Uses:	To construct an onshore wind or biopower project
Terms/Conditions:	Payments are expected to be made after the project is permitted, constructed and operational with an allocation of 10% to 20% of total grant funding provided as an upfront payment for pre-development assistance, i.e., siting, permitting, studies, etc.

Maximum/Limits:	The incentives for awardees is based on information supplied by the applicant including as justification for the request the anticipated production costs, permitting costs, cost of interest during construction, cost of equity, cost of debt, depreciation, length of loan, and benefits over the project economic life including sale of electricity, capacity, the RECs, and all tax incentives including any Federal tax credit for the technology proposed.
EDA Fees:	No customer fees. The EDA will be compensated for administration services under the monthly fee as encompassed under the EDA MOU with the BPU Clean Energy Manufacturing Fund.

APPENDIX B

DRAFT

SECOND AMENDMENT TO AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AND NEW JERSEY BOARD OF PUBLIC UTILITIES

This Second Amendment to Amended and Restated Memorandum of Understanding between New Jersey Economic Development Authority and the New Jersey Board of Public Utilities (the "Second Amendment") is dated as of {DATE} 2010.

WHEREAS, the New Jersey Economic Development Authority (the "Authority") and the New Jersey Board of Public Utilities (the "BPU") (the "Authority" and the "BPU" collectively referred to as the "Parties"), through its Office of Clean Energy, have entered into an Amended and Restated Memorandum of Understanding (the "MOU"), dated March 19, 2009, pursuant to which the Parties have set forth their respective roles and obligations in connection with marketing and administering the Clean Energy Manufacturing Fund (the "CEMF") Program, as well as other clean energy technology-related programs to be developed in the future; and

WHEREAS, the Parties, on November 1, 2009, pursuant to paragraph 10.F of the MOU, amended the MOU to further clarify their respective responsibilities in connection with administering the CEMF Program in order to provide for its more efficient implementation and to make certain changes to the CEMF application and review process in order to best serve the New Jersey clean energy business community ("First Amendment"); and

WHEREAS, the Parties now desire to further amend the MOU to set forth their respective roles and obligations in connection with marketing and administering the Renewable Energy Grid Connected Program ("Grid Connected Program").

NOW THEREFORE, in consideration of the promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to further amend the MOU as follows:

- 1) Section 1 of the MOU is hereby amended by adding the following provision:
"BPU will not be transferring any additional monies to the Authority in connection with the administration of the Grid Connected Program. Instead, monies deposited and held in the CEMF Program account will be accessed, on an as needed basis, to fund projects approved under the Grid Connected Program."

2) The program guidelines for the Grid Connected Program, which were developed by BPU, are set forth in the Solicitation for Proposals in the Renewable Energy Grid Connected Program issued by BPU, dated November 10, 2009, (the "Solicitation") a copy of which is attached hereto and made a part hereof.

3) Sections 3 and 4 of the MOU are hereby amended by addition of the following:

By BPU Order, dated April 14, 2010, (Docket No. E007030203), and pursuant to proposals made in response to the Solicitation, awards under the Grid Connected Program were approved for Cape May County Municipal Utilities Authority (\$256,320) and the Port Authority of New York and New Jersey (\$3.6 million) (collectively the "Approved Awards"). In connection with these Approved Awards, EDA agrees to perform the duties set forth in subsections C and J through R of Section 4 of the MOU.

In the event that BPU should decide to issue a second solicitation for the Grid Connected Program, in addition to performing the foregoing duties, EDA agrees to also perform the duties set forth in subsection F of Section 4 related to participating in the evaluation process.

4) Miscellaneous

1. Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the MOU.

2. The First Amendment is hereby amended so that all of the provisions set forth therein shall also relate to the Grid Connected Program.

3. The recitals appearing before section 1 are made a part of this Second Amendment and are specifically incorporated herein by reference.

4. This Second Amendment may be executed in duplicate parts, each of which shall be an original, but all of which shall together constitute one (1) and the same instrument.

5. The Parties hereto agree that, except as set forth hereinabove, the terms and conditions set forth in the MOU and First Amendment shall remain in full force and effect.

NEW JERSEY ECONOMIC
DEVELOPMENT AUTHORITY

By: _____
Caren Franzini
Chief Executive Officer

Dated: _____

NEW JERSEY BOARD OF
PUBLIC UTILITIES

By: _____
Lee Solomon
President

Dated: _____



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Board

FROM: Caren S. Franzini
Chief Executive Officer

RE: New Program Approval – New Jersey Clean Energy Solutions: ARRA CHP/
Amendment to EDA-BPU ARRA MOU

DATE: August 10, 2010

Request:

The Board is requested to review the proposed Clean Energy Solutions American Recovery and Reinvestment Act Combined Heat and Power (“ARRA CHP”) program. Additionally, approval is requested for the EDA to amend the existing MOU with the New Jersey Board of Public Utilities (“BPU”) to memorialize the required duties around this program. This new program will be funded by SEP-ARRA Funds and be administered by the New Jersey Economic Development Authority.

Background:

In 2009, EDA worked with BPU to create two new programs under our Clean Energy Solutions portfolio: The Edison Innovation Project Fund (“ARRA EIP”), and the Retail Margin Fund Combined Heat and Power Program (“RMF CHP”). The ARRA EIP program would be funded by \$15 million through the State Energy Program under ARRA (“SEP-ARRA”), and would serve as a competitive grant program to assist projects which have an innovative use of a commercially available technology in the arena of energy efficiency renewable energy, or alternative energy. The RMF CHP program would utilize up to \$60 million in BPU Retail Margin Funds and would provide performance based grants to support the development of combined heat and power projects in New Jersey.

In July 2009, EDA launched the RMF CHP program. Twenty-eight applications were received from the program Solicitation, representing over \$77 million in grant funding requests. However, due to state budgetary constraints, and specifically through Executive Order 14, funding for this program was eliminated in early 2010 and the program was suspended. It was well recognized, however based on the RMF CHP Solicitation that there was a strong and significant demand for CHP projects. A recent analysis by BPU on the applicant base additionally indicated that the demand for “shovel-ready” CHP projects was at least \$18 million.

As for the second new EDA program, the \$15 million ARRA EIP program, EDA launched the program competitive Solicitation on April, 2010. However, as only one proposal was received by the EDA in response to the Solicitation, EDA rejected that proposal as materially deficient and decided not to extend the Solicitation response period.

Because of the uncommitted funds through the EDA ARRA program and with the understanding of the unmet market need of shovel-ready projects in the CHP domain, in June 2010, representatives from the Governor's Policy Office, Treasury, BPU, EDA, and the Housing and Mortgage Finance Agency ("HMFA") met to discuss options for the EDA's SEP-ARRA program. This meeting resulted in a recommendation that the \$15 million allocated to EDA be reformatted to fund a new co-generation program ("Reformatted EDA ARRA Program") that can deliver on the economic stimulus objective and meet the ARRA requirements, including the ARRA deployment timeframes. In addition, HMFA agreed to provide an additional \$3 Million to fully fund this new program from its subgrantee allocation under the SEP.

On June 18, BPU adopted a Board Order to submit an amended application to the USDOE to amend the SEP-ARRA application in support of the new ARRA CHP program and also allowed BPU to enter into a revised MOU with EDA in support of this program.

Both the subsequent program definition and the scoring criteria for the reformatted EDA ARRA program, the ARRA CHP program, is the result of work undertaken by a cross functional team that included representation from BPU, Treasury, the Governor's Office, as well as EDA Product Management, Business Development, Operations, Governance, and Finance and Accounting. This program was reviewed by the EDA Policy Committee on August 3, 2010. This program will be released as a competitive grant Solicitation utilizing certain key technical elements from the RMF-CHP program but differing in a number of material respects to align to the mandates of ARRA. These differences include a program restructuring to support upfront costs rather than performance rebates when the project is operational. Additionally, the new program would only fund projects that can be reviewed, permitted, constructed, and invoiced by April 30, 2102 as required by ARRA. This program is currently under review by the USDOE and the program launch is subject to its final approval.

The detailed product definition and key program requirements for the proposed ARRA CHP program will be provided in the program Competitive Solicitation. Principal program parameters are also provided below. Preliminary scoring criteria is provided in Appendix A.

Product:	Clean Energy Solutions CHP ARRA
Product Description:	Grants to support the development, design, and construction of commercial, institutional and industrial entity Combined Heat and Power projects in New Jersey in alignment with the goals of the Energy Master Plan and the SEP-ARRA program
Eligibility:	NJ-based Commercial, Institutional or Industrial entity (including public and non-profits) Must demonstrate ability to commence construction by September 2011 and utilize committed project funds by April 2012

Maximum/Limits:

Grant will be a function of the amount of electricity that the CHP project generates.

- Amount = \$450/kw of installed electric generation
- Total project funding cannot exceed \$5MM per generating plant
- Total federal and state funding may not exceed 50% of the total project cost.

EDA Fees:

Application: \$500

Commitment: 1% (amount approved)

Closing: 1% (amount approved)

Reporting Requirements:

All projects awarded funding will be required to meet ARRA reporting requirements as detailed in the Solicitation.

To allow for EDA's role in administering the ARRA CHP program, an amendment will be made to the existing ARRA Memorandum of Understanding between the BPU and the EDA that was executed on February 2, 2010 and approved by BPU to enter into at their June 18, 2010 Board. This amendment is attached in substantially final form in Appendix B.

Recommendation:

Staff recommends the Board approve the program as described herein and to authorize the execution of the aforementioned MOU between the EDA and the BPU, and is attached in substantially final form, by the Chief Executive Officer, subject to review by the Office of the Attorney General.



Caren S. Franzini

APPENDIX A

DRAFT CHP ARRA PROJECT SCORING REVIEW PROCESS

SCORING CRITERIA

Once Applicant eligibility has been established, the following scoring criteria will be utilized by the Evaluation Committee to determine which projects to fund:

- 25% The project's ability to commence work quickly and complete the project within a specified time period.
- 25% The ability to create or maintain jobs.
- 25% Potential reduction in greenhouse gas emissions.
- 25% Total energy to be created or saved

Point Score Evaluation Sheet

Grant Solicitation: The Clean Energy Solutions CHP ARRA Program	
Project:	Date:
Project Location:	Applicant/State Entity:
Evaluator:	Signature:

The evaluation criteria and relative weights are based on ARRA reporting requirements and the objectives of the CHP ARRA Program.

Each Score must consist of a whole number. Decimals and fractions are not permissible. The score should reflect the extent to which grant proposal meets Solicitation criteria. There are four main categories to score: Expediency, Job Creation and Retention, Greenhouse Gas Emissions Reduction and Energy Created or Saved. Within these categories are several individual metrics as listed in the table below. Each metric is given a score within a range of 0 to 5. The average score for the category is calculated, and then multiplied by the relative weight which produces a subtotal score. The subtotal scores of each category are then added to derive a final score.

An Evaluation Committee comprised of representatives from government entities will review and recommend projects to be funded based upon the Applicant's ability to meet the Evaluation Criteria set forth within the Solicitation.

Evaluation Criteria	Avg. Score	Weight	Subtotal
Expediency -- Project's ability to commence work quickly and complete the project within a specified time period		25%	
Ability to create or retain jobs		25%	
Potential reduction in greenhouse gas emissions		25%	
Total energy to be created or saved		25%	

Scoring Legend	
5- Excellent	2 - Fair
4 - Very Good	1 - Poor
3 - Good	0-Not Addressed
NA-Not applicable	

Scoring Sheet	Score
Expediency:	
Availability of Funding	
Permit Standing -- Completed/Pending	
Construction Schedule (Dates Proposed to Start/Finish Project)	
Management Expertise	
Expediency Criteria Average Score:	
Job Creation and Retention:	
Number of Construction Jobs to be created (higher points)	
Number of Operations Jobs to be created retained (higher points)	
Jobs retained or secured by existence of plant	
Job Creation and Retention Average Score:	
Greenhouse Gas (GHG) Emissions Reduction:	
Dollars requested/Tons of Carbon Dioxide (CO2) reduction: (annual) (0-19% = 1 pt; 20-39% = 2 pts; 40-59% = 3 pts; 60-79% = 4 pts; 80-100% = 5 pts)	
GHG Emissions Reduction Score:	
Energy Created or Saved:	
Dollars Requested/Annual electric reduction (KW)	
Dollars Requested/ Annual thermal reduction (KW)	
Energy Savings Average Score:	
Final Score	

Additional Comments:

APPENDIX B

AMENDMENT TO MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NEW JERSEY BOARD OF PUBLIC UTILITIES

AND

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

This Amendment to Memorandum of Understanding (“Amendment”), made as of the Effective Date set forth below, by and between the NEW JERSEY BOARD OF PUBLIC UTILITIES (“BPU” or “Board”) through its Office of Clean Energy (“OCE”), an instrumentality of the State of New Jersey (“State”), with a place of business at Two Gateway Center, Newark, NJ 07102 and the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (“EDA”), an instrumentality of the State, with a place of business at, 36 West State Street, P.O. Box 990, Trenton, New Jersey, 08625 (collectively, the “Parties”).

WHEREAS, the Parties entered into a Memorandum of Understanding, dated as of February 2, 2010, (“MOU”) for purposes of implementing the EDA ARRA Program, a \$15 million grant program which was approved as part of the USDOE Grant to the State of New Jersey under ARRA and which was described in Attachment 3 appended to the MOU and made a part thereof; and

WHEREAS, the State Appropriations Act for Fiscal Year 2010, L. 2009, c.68 (the “Act”) appropriated monies under the USDOE Grant to various New Jersey agencies, including \$15 million to the EDA for the EDA ARRA Program; and

WHEREAS, on April 22, 2010, the EDA issued a Solicitation for The Clean Energy Solutions Edison Innovation Project Fund (the “Solicitation”) requesting grant proposals for the EDA ARRA Program; and

WHEREAS, only one proposal was received by the EDA in response to the Solicitation, but EDA rejected that proposal as materially deficient; and

WHEREAS, pursuant to an Order adopted by the BPU on June 18, 2010 (the “Order”), the BPU found that there is a significant demand for co-generation projects and that the demand for incentives for “shovel ready” co-generation projects in New Jersey is estimated to be at least \$18 million; and

WHEREAS, in the Order, the BPU further found that neither Clean Energy Funds nor Retail Margin Funds are available to finance co-generation projects; and

WHEREAS, the Parties agree that it is advisable to reformat the EDA ARRA Program in a way that can deliver on the economic stimulus objective and meet the ARRA requirements, including

the ARRA timeframes; and

WHEREAS, to this end, the Parties agree to reformat the EDA ARRA Program by developing a co-generation program ("Reformatted EDA ARRA Program"); and

WHEREAS, the Parties also agree that there is a need for additional funds to be added to the EDA Grant in order to satisfactorily fund the Reformatted EDA ARRA Program; and

WHEREAS, the Act provides that, in order to permit flexibility in the handling of appropriations, amounts may be transferred to and from the various items of appropriations set forth therein, provided that the use of such transferred funds is permitted under ARRA and subject to the approval of the Director of the Division of Budget and Accounting and upon recommendation of the State Treasurer; and

WHEREAS, the State Treasurer has recommended, and the Director of the Division of Budget and Accounting has approved, the transfer of \$3 million appropriated to the New Jersey Housing Mortgage Finance Authority to the EDA to be added to the EDA Grant for the Reformatted EDA ARRA Program; and

WHEREAS, the MOU provides that the EDA shall notify the BPU of any proposed material changes to the EDA ARRA Program as described in the USDOE Grant Agreement and request that BPU obtain approval from the USDOE for the proposed material changes prior to EDA making any such changes in the EDA ARRA Program; and

WHEREAS, the EDA has requested that BPU obtain such approval from the USDOE for the Reformatted EDA ARRA Program, and the BPU has agreed to obtain such approval from USDOE; and

WHEREAS, the MOU provides that the Parties may modify or amend the MOU by a writing signed by both of the Parties; and

WHEREAS, the Parties desire to amend the MOU in order to make certain changes thereto, including but not limited to the description of the EDA ARRA Program and the amount of the EDA Grant.

NOW THEREFORE, in consideration of the promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend the MOU as follows:

1) The Whereas clauses recited hereinabove are incorporated as if fully set forth in the body of this Amendment.

2) Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the MOU.

3) Attachment 3, referenced in Section 1 of the MOU and entitled "Narrative Information Worksheet for the EDA Program contained in the USDOE Grant Agreement", shall be replaced with Revised Attachment 3, a copy of which is attached hereto and made a part hereof .

4) BPU agrees that it shall submit the necessary documents to USDOE to request its approval of the proposed change to the EDA ARRA Program, as described in Revised Attachment A.

5) Section 3 of the MOU shall be amended by increasing the amount of spending authority in the EDA Sub-Account from \$15 million to \$18 million, which monies shall be used in connection with the Reformatted EDA ARRA Program.

6) This Amendment may be executed simultaneously in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

7) This Amendment shall be effective as of the date of final execution by the Parties (the "Effective Date").

8) Except as otherwise modified hereinabove, the terms and conditions of the MOU shall remain in full force and effect.

IN WITNESS HEREOF, the Parties have executed this Amendment:

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

By: _____

Dated: _____

NEW JERSEY BOARD OF PUBLIC UTILITIES

By: _____

Dated: _____

CAMDEN ECONOMIC RECOVERY BOARD



TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

RE: City of Camden Police Department
Eyes in the Sky
\$245,375 Non-Recoverable Grant

Request

The Members of the Authority are asked to approve the funding authorization of a \$245,375 non-recoverable infrastructure grant to assist the City of Camden's Police Department ("Department") in funding the costs associated with Phase 1 of the Camden CCTV Camera Program, also known as the Eyes in the Sky Project. The funds will be applied toward equipment, cameras, repeaters, connectors, cabling, mounting brackets, protective enclosures and other related materials for a closed captions monitoring system.

Background

In March 2008, the Members approved a \$700,000 non-recoverable infrastructure grant to assist the Department implement a local proxy server and dedicated Internet to support an upgraded computer-aided dispatch and record management systems that will enable the Department to more efficiently and effectively respond to crime. At the April 8, 2008 the NJEDA Board also approved the funding authorization with funding from the Demolition and Redevelopment Financing Fund ("DRFF Fund"). This infrastructure project will provide the necessary electrical and IT network framework components and system upgrades for a number of information systems. The Eyes in the Sky will operate as part of this large network of information systems out of the Department's Command/Communications center. To date \$106,752 in ERB funds have been disbursed. It is anticipate that this infrastructure project will be completed by the end of 2010.

Project Summary

The City of Camden, in partnership with the Attorney General and the NJ Department of Law and Public Safety, evaluated the Department’s current infrastructure and equipment. Through this process, a needs assessment was compiled which identified specific network connectivity and infrastructure improvements as well as equipment upgrades that are necessary to impact the levels of violence and illegal activity in the City. Over the few last years, the City of Camden’s Police Department has been utilizing obsolete and minimally functional equipment and technologies.

Furthering the Department’s efforts to combat crime in the city using state-of-the-art equipment and technologies, it is now seeking to invest in mounting cameras at locations throughout the City of Camden. The cameras will be monitored at a central monitoring station located within the Communications Center of the Camden Police Department, Police Administration Building. This additional investment will improve public safety in the City and make Camden more attractive for private development.

Phase I and subsequent phases of the Eye in the Sky Program will focus on major commercial corridors and streets in densely populated neighborhoods. By enhancing public safety in those areas and others, the opportunity for additional growth of existing businesses and attracting new businesses to the City of Camden will be improved. As the system expands in additional phases, it will involve the hiring of additional personnel to monitor the camera system.

Project Budget

	Total Cost	State	UEZ	Municipal	COPS	ERB
<u>Installation</u>						
Equipment	\$1,255,000	\$559,625	\$0	\$0	\$450,000	\$245,375
Pole & Electrical Connectivity	\$100,000	\$0	\$80,000	\$20,000	\$0	\$0
<u>Subtotal</u>	<u>\$1,355,000</u>	<u>\$559,625</u>	<u>\$80,000</u>	<u>\$20,000</u>	<u>\$450,000</u>	<u>\$245,375</u>
<u>Operating</u>						
Maintenance	\$120,750	\$0	\$96,600	\$24,150	\$0	\$0
Wireless & Licensing Fee	\$10,000	\$0	\$8,000	\$2,000	\$0	\$0
Electrical Fees	\$10,000	\$0	\$8,000	\$2,000	\$0	\$0
<u>Subtotal</u>	<u>\$140,750</u>	<u>\$0</u>	<u>\$112,600</u>	<u>\$28,150</u>	<u>\$0</u>	<u>\$0</u>
<u>Monitoring Station</u>						
Monitoring Equipment	\$100,000	\$100,000	\$0	\$0	\$0	\$0
Renovations	\$30,000	\$25,375	\$3,700	\$925	\$0	\$0
Office Equipment	\$15,000	\$15,000	\$0	\$0	\$0	\$0
<u>Subtotal</u>	<u>\$145,000</u>	<u>\$140,375</u>	<u>\$3,700</u>	<u>\$925</u>	<u>\$0</u>	<u>\$0</u>
<u>Project Total</u>	<u>\$1,640,750</u>	<u>\$700,000</u>	<u>\$196,300</u>	<u>\$49,075</u>	<u>\$450,000</u>	<u>\$245,375</u>

As evidenced above, the Department will leverage the requested ERB funding from various sources including UEZ grant funding for \$196,300 with a 25% match from the City, \$1 million in grant funding from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS), of which \$450,000 is specific to this project. The State of New Jersey, through the Office of the Attorney General has also committed \$700,000 to the project.

Contingencies

The \$245,375 of ERB funding to support the equipment purchases is contingent upon receipt of a signed commitment for the \$700,000 in funding from the State or alternative source.

Disbursements

The disbursement of ERB funds will be contingent upon receipt and satisfactory review of a detailed scope of work and implementation time line. The ERB funds will be used to pay the City of Camden for the installation of the equipment (camera, repeater, connectors, cabling, mounting brackets and protective enclosures) and will be disbursed based on submission of invoices paid or to be paid for work performed.

Security and Repayment

The requested ERB funding is a non-recoverable grant. As such, NJEDA will not require a security lien on the machinery and equipment to be purchased.

Project Eligibility and Benefits

The City of Camden's request for funding to implement Eyes in the Sky and acquire upgraded equipment to be used by the Police Department is eligible under all of the ERB's general criteria for project financing and priority objectives (d, e). More specifically, the project is eligible for grant assistance per Section 49 of the Act which states "grants shall be made available to qualified municipalities in order to strengthen the provision of municipal services through capital construction and reconstruction of public buildings and financial assistance necessary to allow for the purchase of equipment considered vital to the sustenance of municipal public services, particularly public safety." There are sufficient funds available through the Demolition and Redevelopment Financing Fund for this \$245,375 grant request.

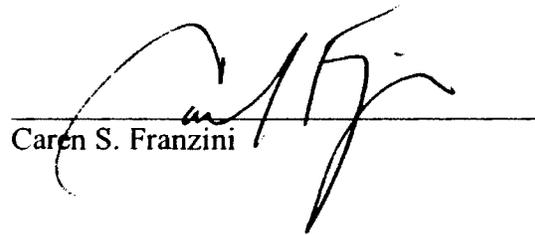
The overall goal of the project is to improve the efficiency and effectiveness of the Department's policing technology. These improvements will enable the Department to identify specific areas of concern, respond to and reduce the level crime, identify specific priorities and generally improve the residents' sense of security.

The City and the Department are committed to working with the Attorney General in implementing and utilizing these improvements to the fullest extent to enhance the safety and well being of the citizens of Camden.

Recommendation

Staff has reviewed the application for consistency with the Act, the Strategic Revitalization Plan, and the Camden Capital Improvement and Infrastructure Master Plan. The project meets all eligibility and statutory requirements and will substantially benefit the residents of Camden as well as improve the viability of the development in the City through a reduction in criminal activity.

The Members of the ERB approved this project at its meeting on July 27, 2010. Accordingly, the Members of the Authority are asked to approve the funding authorization of a \$245,375 non-recoverable infrastructure grant to assist the City of Camden's Police Department in funding the costs associated with Phase 1 of the Camden CCTV Camera Program, also known as the Eyes in the Sky Project.


Caren S. Franzini

Prepared By: Vivian Pepe, Business Development Officer/South



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

RE: Cooper's Ferry Development Association, Inc.
Federal TIGER Grant - Outside Supplement - P32369
\$200,000 Non-Recoverable Infrastructure Grant

Request:

The Members of the Authority are asked to approve the funding authorization for a \$200,000 non-recoverable infrastructure grant to assist the Cooper's Ferry Development Association, Inc. ("CFDA") in the planning, design and implementation of an extensive streetscape project for improving pedestrian and bicycle access linking Philadelphia with greater Southern New Jersey.

Project Background:

The Transportation Investment Generating Economic Recovery ("TIGER") Award is a discretionary grant program brought to life through the American Recovery and Reinvestment Act of 2009 to distribute \$1.5 billion to create jobs, stimulate economic activity, and help develop livable communities.

CFDA, along with the Pennsylvania Environmental Council and the Bicycle Coalition of Greater Philadelphia, prepared the submission of the multi-state grant proposal to The United States Department of Transportation Federal Highway Administration ("USDOT") on behalf of Camden County and Philadelphia in September 2009. The grant proposal will help connect over 128 miles of bicycle trails in the metro region, providing more active transportation options and more multi-modal connections for over 6 million residents and countless visitors. The total cost of the regional project is estimated at \$54.8 million for over 25 trails. The total TIGER grant amount requested was approximately \$36 million for 17 trails. In February 2010, it was announced that Philadelphia and Camden received a \$23 million federal grant from the USDOT

to build 10 multiple trail segments of the regional network. Of the \$23 million, \$17.2 million is going to Philadelphia County. The balance of \$5.8 million is going to Camden County for the implementation of 3 trails in Camden. Camden County is the only TIGER grant recipient in the State of New Jersey.

The program garnered more than 1,400 applications seeking over \$60 billion in grants, and only 51 projects were selected; meaning only about 3% of the total projects earned funding. Only two all bicycle/pedestrian networks were funded, this one and another one in Indianapolis. On April 30, 2010, a conditional and preliminary term sheet was executed between the Federal Government and Camden County along with the New Jersey Department of Transportation ("NJDOT").

This grant will enable the Camden GreenWay trail network to expand in and through Camden City to Camden County and the South Jersey suburbs. All connections will provide improved access between Philadelphia and South Jersey, with Camden City serving as the hub. Walking and biking access to public transit will also be improved, especially along Martin Luther King Boulevard, where the Walter Rand Transportation Center services the PATCO high speed line, the RiverLINE as well as NJ Transit bus service.

Applicant:

Organized in 1984 to combat community deterioration in Camden, the CFDA is a private, non-profit economic development corporation. Its mission is to facilitate the revival of the City of Camden as an urban hub, where people choose to live, to work, and to invest. CFDA develops visionary and strategic long-range plans for the redevelopment of Camden's waterfronts and works with the private sector, governments, and community partners to implement high-quality projects to bring these plans from vision to reality. This non-profit corporation has played a key role in several well-known projects in Camden, including but not limited to, the New Jersey State Aquarium, the River-Link Ferry, Camden Aerospace Center/L3 Communications, Tweeter Center, One Port Center, Camden Children's Garden, and Campbell's Field. CFDA leverages public funds with private funds, and also recruits both public and private developers in assembling project financing and implementation.

The CFDA's operating budget is funded by contributions from Camden County, the Delaware River Port Authority of Pennsylvania and New Jersey ("DRPA"), various private corporations, and fees earned from project management activities. As of December 31, 2009, CFDA's revenues amounted to approximately \$4.8 million with earnings of approximately \$23,000.

In 1998, working in partnership with the City of Camden and NJ Transit, the CFDA initiated the \$35 million 'Interior Gateway' project. The CFDA hired an urban planning and architectural firm to develop a uniform streetscape design and signs for the downtown district. The City's Planning Board adopted these standards, and the City granted a license to the CFDA to carry out these streetscape improvements. Similarly, the CFDA is again acting as an agent (project manager and developer) on behalf of the project owner, the City, and closely working with the TIGER grant applicant/sponsor, the County, to implement the project. NJDOT has endorsed the Federal grant application and supporting the project.

Project Summary:

The Federal Government's conditional and preliminary term sheet for the GREAT PA/NJ TIGER Project in Camden will consist of constructing urban street trail segments to connect into an integrated multi-county bicycle and pedestrian network in eastern Pennsylvania and Southern New Jersey. As part of the Downtown Camden connection, three main corridors (Martin Luther King Boulevard, Pearl Street and Pine Street) will be enhanced. Improvement of these three main corridors will fill out a broader network connecting the Ben Franklin Bridge Pedestrian/Bike walkway to Camden County's Ulysses S. Wiggins Waterfront Park, and to Downtown Camden and its anchor institutions such as Rutgers University, Cooper University Hospital, and Campbell's Soup Company. All improvements will coordinate with existing greenway trail facilities and the Camden GreenWay trail network location plan. The overall goal of the project is to increase non-motorized accessibility between Camden County and Philadelphia via active trails and improve the visual appearance of the entrance to the City of Camden.

Before the TIGER grant can be secured or used for non-motorized accessibility streetscape construction and improvements, detailed infrastructure assessments and feasibility plans must be completed for the three corridors. Due to this Federal grant's use restrictions, tight timeline and funding gap, there is a critical need to obtain additional outside funding for the pre-development phase. Immediate supplemental funds are needed to fund the related architectural and engineering costs; including base mapping, design development, construction documents, permits, and the bidding process so that the design component can be completed, making this project a 'shovel ready project' thus eligible for Federal funding. The design, development and construction documents must be submitted to NJDOT and USDOT before the September 2011 Federal Grant deadline. The design documents need to be completed and submitted by the end of August 2011. Once the construction documents are approved, the implementation of improvements will span approximately 15 months. The actual construction is expected to begin and be completed between July 2011 and December 2011.

Commitments for other funding from the William Penn Foundation (\$82,500 for the MLK Boulevard corridor study) and from the DRPA (\$100,000 for the Pearl Street corridor study) have been received.

CFDA is seeking a \$200,000 ERB grant to fund a portion of the architectural and engineering costs for one of the three corridors. As the two other corridors' study costs have been secured and consultants have been hired, the ERB funds will be specifically used for professional services for an in-depth study and assessment of the infrastructure along the remaining corridor, the Pine Street corridor. The Pine Street corridor's length is more than double that of the Pearl Street corridor and the existing conditions in the Pine Street corridor are in need of significant improvements. The Pine Street corridor project area is along Pine Street from Mt. Ephraim Avenue/Haddon Avenue to New Camden Park, with two smaller portions: (i) Mt. Ephraim Avenue from end of existing improvements to Pine Street, and (ii) Newton Avenue between Haddon Avenue and South 10th Street.

The CFDA has been working with and has sought active input from the local stakeholders. The project has strong support from the community. Camden Greenways Inc., a Camden non-profit

organization actively promoting green trails and open spaces, strongly supports these efforts. In addition, the local community governments have sponsored and endorsed the Federal TIGER grant application.

Sources of Funds:

William Penn Foundation	\$82,500
DRPA	\$100,000
This ERB predevelopment grant	\$200,000
<u>TIGER grant</u>	<u>\$5,800,000</u>
<i>Total Sources of Funds:</i>	<i>\$6,182,500</i>

Uses of Funds:

Predevelopment phase	\$382,500
<u>Construction phase</u>	<u>\$5,800,000</u>
<i>Total Uses of Funds:</i>	<i>\$6,182,500</i>

Disbursements:

The disbursement of ERB funds will be contingent upon receipt of paid or to be paid invoices for professional services and work performed.

Security and Repayment:

This grant is non-recoverable, and is unsecured.

Public Purpose, Project Eligibility and Benefits:

The development and improvement of these active trails will increase non-motorized active transportation and connect residents to transit hubs and strips. In turn, this will enhance the City's and the surrounding area's livability, liveliness and vigor. Improved access to underserved neighborhoods and interconnected trails and green spaces will spark economic development; improve public health and promote pedestrian and bicyclist safety. In addition, decreased motor vehicle mileage will assist with the region's going green efforts, cleaner air goals, and environmental sustainability will be enhanced. It is expected that these streetscape improvements would help with overall riverfront, City and regional redevelopment.

The proposed project will promote the revitalization of Camden by solving current infrastructure needs. Without the support of this infrastructure commitment, the leveraging of the \$5.8 million Federal funding will not be possible. In absence of the completion of a proper and comprehensive design component, the Federal Government will not consider this project a 'shovel ready project', meaning this project will not be eligible for funding before deadline. The project is consistent with the City's master plan, and the Act; and is located within an Employment Opportunity Area. A portion of the Pine Street corridor is also in a Neighborhood Opportunity Area per the Strategic Revitalization Plan adopted by the ERB.

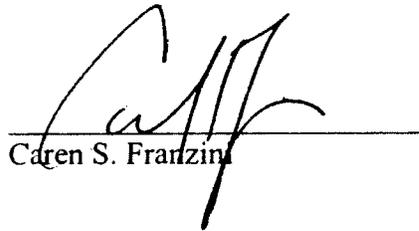
This project is eligible for funding under the ERB's general criteria for project financing (#1a, b, c and d) and priority objectives (#2a, d and e). There are sufficient funds available for this \$200,000 grant request through the Demolition and Redevelopment Financing Fund established by the Act. Furthermore, the project is eligible for grant assistance as an infrastructure project

under the ERB project assistance guideline #4, which defines eligibility for such projects and allows usage of up to \$70 million of ERB funds for this purpose.

Recommendation:

Staff has reviewed the application for consistency with the Act, the City's Master Plan, the Strategic Revitalization Plan, and the Capital Improvement and Infrastructure Master Plan adopted by the Board at its June 20, 2003 meeting. The objectives of this project meet the eligibility and statutory requirements and will enhance the overall development and revitalization of the City of Camden.

The Members of the ERB approved this project at its meeting on July 27, 2010. Accordingly, the Members of the Authority are asked to approve the funding authorization for a \$200,000 non-recoverable infrastructure grant to the Cooper's Ferry Development Association, Inc..



Caren S. Franzini

Prepared By: David Sucsuz, Finance Officer

**PETROLEUM UNDERGROUND STORAGE TANK
PROGRAM**



MEMORANDUM

TO: Members of the Authority
FROM: Caren S. Franzini
Chief Executive Officer
DATE: August 10, 2010
SUBJECT: NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program

The following grant projects have been approved by the Department of Environmental Protection to perform upgrade, closure and site remediation. The scope of work is described on the attached project summary:

Private Grants:

Ricardo Garcia.....	\$246,465
Saint Peter's College.....	\$807,503
Raymond Shamlian.....	\$115,563

Total UST funding for August 2010..... \$1,169,531

Prepared by: Lisa Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Ricardo Garcia

P31360

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 315 17th Street

Union City (T/UA)

Hudson

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Ricardo Garcia received a grant in February 2009 in the amount of \$60,516 under P24775 to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank was decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible, to perform additional remedial activities.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$246,465 to perform the approved scope of work at the project site, for a total funding to date of \$306,981.

The NJDEP oversight fee of \$24,647 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT\$246,465

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade, Closure, Remediation	\$246,465
NJDEP oversight cost	\$24,647
EDA administrative cost	\$250
TOTAL COSTS	\$271,362

APPROVAL OFFICER: C. Frazier

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Saint Peter's College

P32680

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 920 Montgomery Street

Jersey City (T/UA)

Hudson

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Saint Peter's College received a grant in June 2006 in the amount of \$334,655 under P17181 to remove and replace underground storage tanks (UST's) at the project site. The tanks were decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the supplemental project costs are technically eligible, to perform additional remediation, groundwater and soil investigation and delineation, vapor intrusion investigation, and removal of additional UST's.

The legislation allows grant funding for independent institutions of higher education up to \$1,500,000.

APPROVAL REQUEST:

The applicant is requesting a supplemental grant in the amount of \$807,503 for the approved scope of work at the project site, for a total funding to date of \$1,142,158.

The NJDEP oversight fee of \$80,750 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$807,503

TERMS OF GRANT: No Interest; 5 year repayment provision on a pro-rata basis in accordance with the PUST Act

PROJECT COSTS:

Remediation	\$807,503
NJDEP oversight cost	\$80,750
EDA administrative cost	\$500
TOTAL COSTS	\$888,753

APPROVAL OFFICER: L. Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Raymond Shamlian

P30415

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 5 Giant Maple Court

Millstone Township (N)

Monmouth

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Raymond Shamlian is a homeowner seeking to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank will be decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$115,563 to perform the approved scope of work at the project site.

The NJDEP oversight fee of \$11,556 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT \$115,563

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade, Closure, Remediation	\$115,563
NJDEP oversight cost	\$11,556
EDA administrative cost	\$250
TOTAL COSTS	\$127,369

APPROVAL OFFICER: K. Junghans



TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Petroleum Underground Storage Tank Program - Delegated Authority Approvals
(For Informational Purposes Only)

Pursuant to the Boards approval on May 9, 2006, the Chief Executive Officer ("CEO") and Sr. Vice-President ("SVP") of Operations have been given the authority to approve initial grants under the Hazardous Discharge Site Remediation Fund and Petroleum Storage Tank programs up to \$100,000 and supplemental grants up to an aggregate of \$100,000.

In August 2006, the Petroleum Underground Storage Tank Program legislation was amended to allow funding for the removal/closure and replacement of non-leaking residential underground storage tanks. The limits allowed under the amended legislation are \$1,200 for the removal/closure and \$3,000 for the removal/closure and replacement of a non-leaking residential underground storage tank.

Below is a summary of the Delegated Authority approvals processed by Program Services for the period July 01, 2010 to July 31, 2010

Summary:		# of Grants	\$ Amount
	Leaking tank grants awarded	65	\$1,468,991
	Non-leaking tank grants awarded	164	\$492,964

Applicant	Description	Grant Amount	Awarded to Date
Ayerdis, Santos (P31519)	Supplemental grant for upgrade, closure and remediation	\$99,459	\$116,269*
Baran, Bruce R. (P31329)	Initial grant for upgrade, closure and remediation	\$8,673	\$8,673
Bellisano, Joseph (P31981)	Initial grant for upgrade, closure and remediation	\$7,687	\$7,687
Bonnett, Marguerite (P31541)	Initial grant for upgrade, closure and remediation	\$43,525	\$43,525
Bowden, Marie (P30966)	Initial grant for upgrade, closure and remediation	\$8,425	\$8,425
Budik, Milan (P31034)	Initial grant for upgrade, closure and remediation	\$13,892	\$13,892
Callahan, Richard (P30916)	Initial grant for upgrade, closure and remediation	\$8,685	\$8,685
Dahn, Richard and Kathleen (P30917)	Initial grant for upgrade, closure and remediation	\$4,383	\$4,383
DeBenedetto, Nicholas (P30999)	Initial grant for upgrade, closure and remediation	\$37,919	\$37,919
DeCroce, Theresa (P30390)	Initial grant for upgrade,	\$9,657	\$9,657

Applicant	Description	Grant Amount	Awarded to Date
	closure and remediation		
DePalma, Anthony (P31666)	Partial initial grant for upgrade, closure and remediation	\$6,816	\$6,816
Emery, Robert (P31529)	Initial grant for upgrade, closure and remediation	\$24,059	\$24,059
Favretto, Ronald (P31640)	Initial grant for upgrade, closure and remediation	\$26,080	\$26,080
Felician Sisters Immaculate Conception Province (P31191)	Initial grant for upgrade, closure and remediation	\$93,885	\$93,885
Ferrara, Stephen (P30574)	Initial grant for upgrade, closure and remediation	\$27,826	\$27,826
Firth, Paul (P31096)	Initial grant for upgrade, closure and remediation	\$6,600	\$6,600
Fontana, Paul (P30873)	Initial grant for upgrade, closure and remediation	\$87,553	\$87,553
Foust, Debra (P30776)	Initial grant for upgrade, closure and remediation	\$14,735	\$14,735
Fritzs, Stuart (P30944)	Initial grant for upgrade, closure and remediation	\$10,933	\$10,933
Griffin, Verna (P31532)	Initial grant for upgrade, closure and remediation	\$11,209	\$11,209
Hahn, William and Kathleen (P31180)	Initial grant for upgrade, closure and remediation	\$13,320	\$13,320
Hardy, Robert and Katharine (P31106)	Initial grant for upgrade, closure and remediation	\$4,872	\$4,872
Harris, Jeanann (P30394)	Initial grant for upgrade, closure and remediation	\$41,675	\$41,675
Homeyer, Marcus (P31832)	Supplemental grant for upgrade, closure and remediation	\$37,629	\$51,774
Iazzetta, Anthony J., Sr. (P30993)	Initial grant for upgrade, closure and remediation	\$21,294	\$21,294
Jackus, Edward and Ann Marie LaFace (P31036)	Initial grant for upgrade, closure and remediation	\$10,465	\$10,465
Kellett, Trudy (P31286)	Initial grant for upgrade, closure and remediation	\$8,100	\$8,100
Kelman, Marc and Carolyn (P30990)	Initial grant for upgrade, closure and remediation	\$57,478	\$57,478
Kendall, Margaret (P31533)	Initial grant for upgrade, closure and remediation	\$26,659	\$26,659
Konvalinka, Jiri (P31659)	Initial grant for upgrade, closure and remediation	\$23,534	\$23,534
Kravitz, Susan (P30706)	Initial grant for upgrade, closure and remediation	\$10,738	\$10,738

Applicant	Description	Grant Amount	Awarded to Date
Kuri, Robin (P31599)	Initial grant for upgrade, closure and remediation	\$5,364	\$5,364
Leone, Joann (P31711)	Initial grant for upgrade, closure and remediation	\$38,588	\$38,588
Lies, John H. (P31645)	Initial grant for upgrade, closure and remediation	\$15,171	\$15,171
Luster, Vincent and Arlene (P30782)	Initial grant for upgrade, closure and remediation	\$3,198	\$3,198
Manion, Nancy (P31025)	Partial initial grant for upgrade, closure and remediation	\$3,880	\$3,880
McDermott, Tim and Nancy (P31040)	Initial grant for upgrade, closure and remediation	\$23,614	\$23,614
McLean, Clayton (P31773)	Initial grant for upgrade, closure and remediation	\$13,415	\$13,415
Merville, Matt and Taylor, Donna (P31361)	Initial grant for upgrade, closure and remediation	\$11,019	\$11,019
Mimna, Timothy and Shawne (P31324)	Supplemental grant for site remediation	\$15,239	\$280,118*
Morano, Ed (P31288)	Initial grant for upgrade, closure and remediation	\$21,383	\$21,383
Niestempki, Joanne (P31698)	Initial grant for upgrade, closure and remediation	\$4,433	\$4,433
Norris, Dorothy (P31147)	Initial grant for upgrade, closure and remediation	\$3,150	\$3,150
O'Brien, Blase and Maureen (P31531)	Initial grant for upgrade, closure and remediation	\$12,335	\$12,335
Palladino, Peter (P31830)	Initial grant for upgrade, closure and remediation	\$30,103	\$30,103
Palmer, Robert (P31863)	Initial grant for upgrade, closure and remediation	\$98,598	\$98,598
Paradiso, Charlotte (P31642)	Initial grant for upgrade, closure and remediation	\$10,027	\$10,027
Pescatore, Carmine (P31322)	Initial grant for upgrade, closure and remediation	\$11,182	\$11,182
Resner, Mary Lou (P30704)	Initial grant for upgrade, closure and remediation	\$9,118	\$9,118
Ross, Frances (P31951)	Initial grant for upgrade, closure and remediation	\$8,230	\$8,230
Routhier, Gordon and Linda (P31536)	Initial grant for upgrade, closure and remediation	\$18,514	\$18,514
Sake, Victoria (P31303)	Partial initial grant for upgrade, closure and remediation	\$7,886	\$7,886
Scuderi, Thomas (P31164)	Supplemental grant for upgrade, closure and remediation	\$83,184	\$131,984*

Applicant	Description	Grant Amount	Awarded to Date
Smith, Arthur and Linda (P31649)	Initial grant for upgrade, closure and remediation	\$7,248	\$7,248
Smith, Richard (P31062)	Initial grant for upgrade, closure and remediation	\$11,434	\$11,434
South Brunswick Family YMCA (P31769)	Supplemental grant for site remediation	\$6,167	\$9,167
Strahm, Charles (P30901)	Initial grant for site remediation	\$42,055	\$42,055
Stymeist, John (P31181)	Initial grant for upgrade, closure and remediation	\$14,493	\$14,493
Tittermary, Joseph (P30720)	Initial grant for upgrade, closure and remediation	\$52,636	\$52,636
Tsagaratos, Gerasimos (P30236)	Initial grant for upgrade, closure and remediation	\$12,555	\$12,555
Vargas, Gladys (P31312)	Initial grant for upgrade, closure and remediation	\$11,077	\$11,077
Vera, Katty (P30805)	Initial grant for upgrade, closure and remediation	\$11,053	\$11,053
Watson, Rehema (P31146)	Initial grant for upgrade, closure and remediation	\$19,060	\$19,060
Watson, Thomas (P30546)	Partial initial grant for upgrade, closure and remediation	\$4,391	\$4,391
Wolf, Dennis and Ruth (P31653)	Initial grant for upgrade, closure and remediation	\$21,426	\$21,426

65 Grants

Total Delegated Authority funding for Leaking applications.

\$1,468,991

Aloi, Michael and Stacy (P29338)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Andrushkiw, Roman and Svitlana (P31754)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,835	\$4,835
Arcamone, Joseph M. and Emily S. (P32198)	Grant to remove an underground storage tank	\$2,100	\$2,100
Arvizzigno, Frank and Marie (P32199)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,250	\$4,250
Bartee, Lakisha (P32116)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Becker, Milton and Catherine (P30507)	Partial grant to remove an underground storage tank and install an above ground storage	\$1,982	\$1,982

Applicant	Description	Grant Amount	Awarded to Date
	tank		
Berantuo, Kofi (P31308)	Grant to remove an underground storage tank	\$1,934	\$1,934
Bleezarde, Eric and Robin (P31852)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,350	\$3,350
Bloch, Leonard M. (P30733)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Bloomer, Patricia A. and Walter E., Jr. (P30882)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Blythe Jr., Thomas G. and Yvette (P31756)	Grant to remove an underground storage tank	\$1,500	\$1,500
Bogard, Barbara (P31682)	Grant to remove an underground storage tank	\$1,730	\$1,730
Bott, Ruth (P31722)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Breyer, Stephen A. (P31903)	Grant to remove an underground storage tank	\$1,500	\$1,500
Brighton, Stephen L. and Sarah J. Gibson (P32043)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,328	\$3,328
Brink, Kevin and Karen (P31796)	Grant to remove an underground storage tank	\$1,500	\$1,500
Brodsky, Barbara (P32231)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Bruggemann, John J. and Lynn M. (P30970)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,863	\$3,863
Brumwell, Francesca (P31760)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Burke, Joseph and Patricia (P31627)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,100	\$4,100
Cahill, Meredith (P31319)	Grant to remove an underground storage tank	\$3,350	\$3,350
Campanello, Michael (P31833)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Carpenter, Michael D. and Elizabeth C. (P31720)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500

Applicant	Description	Grant Amount	Awarded to Date
Caruso, Michael and Martha (P31703)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,300	\$3,300
Carver, Don E. and Nancy J. B. (P31758)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Casole, Lynn and Christopher (P31782)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Catarella, Gary V. (P31826)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Chernetsky, Sergiy (P31982)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Clerico, Antoinette (P31784)	Grant to remove an underground storage tank	\$2,050	\$2,050
Cliver, Charles and Denise (P31134)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,850	\$3,850
Coelho, Julio (P31685)	Grant to remove an underground storage tank	\$1,292	\$1,292
Cohen, Barbara (P32284)	Grant to remove an underground storage tank	\$1,500	\$1,500
Conover, William (P31341)	Grant to remove an underground storage tank	\$1,500	\$1,500
Culligan, Waltraud E. (P32260)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,505	\$3,505
Cuzzo, Bryan K. and Nancy E. (P32107)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Curtis, Janet L. and Robert A. (P30662)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,400	\$3,400
D'Angelo, Daniel and Camille A. (P31846)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,974	\$2,974
Daisey, Ernestine R. (P31677)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Daniels, Lesley and James (P31740)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,977	\$2,977
DeRogatis, Marc A. and Vickie M. (P31678)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,474	\$3,474

Applicant	Description	Grant Amount	Awarded to Date
Dean, Daniel and Stephanie (P31401)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,493	\$3,493
Delisle, Paul F. (P31448)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,292	\$3,292
DiFedele, Joseph L. and Lois A. (P31625)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Dickenson, Robert (P30283)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,433	\$2,433
Dillon, Michael K. and Rosalie (P31521)	Grant to remove an underground storage tank	\$1,500	\$1,500
Donnelly, Robert and Lynda (P30216)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,888	\$3,888
Dulio, Theresa A. and Kenneth (P31845)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Dunn, David and Tracie (P31934)	Grant to remove an underground storage tank and install an above ground storage tank	\$6,600	\$6,600
Eastridge, Ryan L. (P31893)	Grant to remove an underground storage tank	\$1,500	\$1,500
Edwards, George and Janine (P31794)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Ender, Theresa (P31670)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,450	\$3,450
Fanning, Frank and Sharon (P31881)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Finkel, Eliyahu and Rivka (P31247)	Grant to remove an underground storage tank	\$1,500	\$1,500
Fitzsimmons, Robert and Suzanne (P32035)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Flood, Stephen V. and Susan Oberg (P31733)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Fogarty, Robert (P30929)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,017	\$3,017
Frank, Konrad E. and Irmgard (P32139)	Grant to remove an underground storage tank	\$3,500	\$3,500

Applicant	Description	Grant Amount	Awarded to Date
George, Hugh and Jo-An R. (P30207)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,032	\$3,032
Girgan, Jan and Carl Picillo (P31857)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Gorodeski, Revital and Brian Borchers (P31983)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Green, Michael L. and Luann M. (P31851)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,100	\$4,100
Greene, Steven (P31935)	Grant to remove an underground storage tank	\$1,076	\$1,076
Greenleaf, Todd H. (P32046)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$2,018	\$2,018
Gregory, Jason K. (P31908)	Grant to remove an underground storage tank	\$1,500	\$1,500
Grossman, Richard and Jacklyn (P30655)	Grant to remove an underground storage tank	\$1,200	\$1,200
Hall, Peter J. and Cheryl Provost (P31588)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,338	\$3,338
Halsey, Malcolm and Patricia (P31750)	Grant to remove an underground storage tank	\$1,200	\$1,200
Hegybeli, Stasia (P31579)	Grant to remove an underground storage tank	\$1,500	\$1,500
Hirth, Richard J. (P30900)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,249	\$3,249
Hodorovych, Simeon (P32055)	Grant to remove an underground storage tank	\$1,500	\$1,500
Hurley, Eileen M. (P31751)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,143	\$3,143
Jahn, Judith (P31875)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Johnson, Helen (P31602)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Jones, Steven and Cindy (P31473)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$2,680	\$2,680

Applicant	Description	Grant Amount	Awarded to Date
Kamenetz, Gary and Patricia J. (P31684)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$2,100	\$2,100
Kearney, William M. and Cheryl A. (P30977)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,935	\$3,935
Kieran, Leo and Marge (P31392)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,334	\$3,334
King Mary (P31662)	Grant to remove an underground storage tank	\$1,500	\$1,500
Kleinrock, Daniel and Kim Garrison (P31889)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,703	\$3,703
Kreger, Grace E. (P31892)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,308	\$2,308
Lan, DongPing and Huixian Tang (P31914)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,130	\$3,130
Leberman, Richard (P31829)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,705	\$3,705
Lehmann, Gerald and Linda S. (P31694)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,273	\$3,273
Liehr, Abbie and John (P31901)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,185	\$3,185
Lump, Carl J. and Betty G. (P31789)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,272	\$3,272
Lunz, James D. and Susan (P30680)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Lynch, Barbara (P30899)	Grant to remove an underground storage tank	\$1,500	\$1,500
Lyons, Candy Romania (P31825)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,338	\$3,338
Macari, James (P31915)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Magnotta, Stephen (P31422)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000

Applicant	Description	Grant Amount	Awarded to Date
Mahnken, Scott J. and Josephine Mahnken (P30244)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Martin, Gertrude J. (P31778)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Marvel, Douglas and Patricia (P31402)	Grant to remove an underground storage tank	\$1,500	\$1,500
Maxwell, Ryan and Nicole (P31811)	Grant to remove an underground storage tank	\$1,500	\$1,500
Mayer, Kathleen (P30217)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,297	\$3,297
McCormack, Marjorie (P30268)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,117	\$3,117
McDade, Geoffrey and Sharon (P29700)	Grant to remove an underground storage tank	\$865	\$865
McEwan, Kevin and Paula (P32034)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
McGinley, Margaret A. and Dennis G. (P31692)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,290	\$3,290
Meckstroth, Richard and Field, Carol (P31705)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,347	\$3,347
Meehan, Stephen M. (P31726)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Melia, Kevin and Susan (P30604)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Michaelchuck, Wayne L. and Mary A. (P29914)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,248	\$4,248
Montana, Michael A. and Alice (P31942)	Grant to remove an underground storage tank	\$2,100	\$2,100
Mortenson, Emily and Luke (P31245)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,650	\$3,650
Muehe, Julie (P31578)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$3,460	\$3,460
Nelson, Robert J. and Tracy A. (P31721)	Grant to remove an underground storage tank and install an above	\$4,100	\$4,100

Applicant	Description	Grant Amount	Awarded to Date
	ground storage tank		
Nemeth, Daniel E. and Linda (P31798)	Grant to remove an underground storage tank	\$1,200	\$1,200
Noone, Michael J. and Veronica B. (P32285)	Grant to remove an underground storage tank	\$1,500	\$1,500
Nowicki, Alice (P31897)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
O'Malley, Dorothy C. (P31566)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,300	\$3,300
Onuskonych, Bonnie and Mike (P31680)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,219	\$3,219
Owens, Victoria S. (P31455)	Grant to remove an underground storage tank and install an above ground storage tank	\$5,000	\$5,000
Panebianco, Gloria (P31932)	Grant to remove an underground storage tank	\$1,500	\$1,500
Pankalla, Joseph and Maureen (P31956)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,499	\$4,499
Paterno, Theresa (P31686)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Pizzulo, Patrick and Rosemarie (P31810)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,675	\$3,675
Ploumitsakos, Stavros (P31896)	Grant to remove an underground storage tank	\$1,340	\$1,340
Podber, Julia (P30489)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,654	\$3,654
Pritchard, Randy (P31850)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,786	\$3,786
Quintas, Michael and Lisa (P32129)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,887	\$2,887
Ragaglia, Donna (P32242)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,490	\$3,490
Recht, Joseph and Helen (P30910)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Rein, Richard N. and Grace	Partial grant to remove an	\$1,976	\$1,976

Applicant	Description	Grant Amount	Awarded to Date
L. (P31590)	underground storage tank and install an above ground storage tank		
Rice, Jr., James W. and Wendy A. (P31854)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,956	\$4,956
Ritter, Chris (P30014)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Roan, Audrey E. and Patricia A. Burns (P30950)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,425	\$3,425
Rodger K. Siersma and Susan J. Siersma (P31885)	Grant to remove an underground storage tank and install an above ground storage tank	\$5,486	\$5,486
Roe, Thomas and Michelle (P31561)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,470	\$3,470
Round Valley United Methodist Church (P30448)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Russo, Alphonso C. (P32328)	Grant to remove an underground storage tank	\$1,500	\$1,500
SanFilippo, James and Luisa (P31774)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Schaefer, Helen J. (P31841)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,582	\$3,582
Scherer, Shawn and Donna (P31391)	Grant to remove an underground storage tank	\$1,500	\$1,500
Scholts, Tracey and James (P31327)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Seligamn, Robert (P32148)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Senkier, Thomas C. and Debora S. (P32108)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,344	\$3,344
Settembre, Michael and Leah (P31240)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,230	\$4,230
Skrobacz, Robert S. and Lynn Maszer (P32266)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,306	\$3,306
Smith, Christopher and	Grant to remove an underground	\$1,200	\$1,200

Applicant	Description	Grant Amount	Awarded to Date
Susan (P31831)	storage tank		
Smyth, Edward C. and Eileen D. (P31741)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Stack, Cheryl (P31431)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Street, Maria E. and Claude, Jr. (P31843)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,055	\$3,055
Supchak, Kristen (P31584)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,275	\$3,275
Tantum Jr., Paul E. and Karen G. (P31624)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,700	\$4,700
Tasnady, Roger W. and Lisa M. (P31937)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Thomas, James C. and Andrea J. Thomas (P31500)	Grant to remove an underground storage tank	\$1,200	\$1,200
Thompson, David W. (P31813)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Thompson, Robert and Sheila (P32032)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,293	\$3,293
Tuit, Kenneth and Geraldine Tuit (P31495)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,900	\$2,900
Turitz, Daniel and Hillary (P31395)	Grant to remove an underground storage tank	\$1,200	\$1,200
Van Wingerden, Leonard (P31736)	Grant to remove an underground storage tank	\$2,100	\$2,100
Vandyk, William P. and Helen (P31544)	Grant to remove an underground storage tank	\$1,500	\$1,500
Vetter, Stanley and Alice (P30407)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Vitale, Bradly J. and Deborah E. (P32057)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,452	\$3,452
Walters, Jean (P31887)	Grant to remove an underground storage tank	\$1,400	\$1,400
Weber, William P. and Mary T. (P31700)	Grant to remove an underground storage tank and install an above	\$3,500	\$3,500

Applicant	Description	Grant Amount	Awarded to Date
	ground storage tank		
Weissman, Adam and Chana D. (P31943)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Wiedman, Eric and Deborah (P31895)	Grant to remove an underground storage tank	\$1,500	\$1,500
Williams, Daniel V., Jr. and Lizette A. (P29094)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$1,848	\$1,848
Williams, Mark (P32205)	Grant to remove an underground storage tank and install an above ground storage tank	\$5,522	\$5,522
Woelfle, Paul and Rosemary (P31788)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,434	\$4,434
Woods, Gerald D. (P32181)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,950	\$2,950
Wooler, Richard and Sarah Leslie (P31785)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,600	\$2,600

164 Grants

**Total Delegated Authority
funding for Non-Leaking
applications.**

\$492,964

*This amount includes grants approved previously by the Board and this award does not exceed the supplemental aggregate limit.


 Caren S. Franzini

Prepared by: Lisa Petrizzi, Finance Officer

**HAZARDOUS DISCHARGE SITE REMEDIATION FUND
PROGRAM**



TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

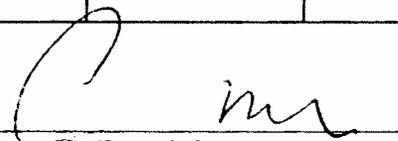
DATE: August 10, 2010

SUBJECT: Hazardous Discharge Site Remediation Fund - Delegated Authority Approvals
(For Informational Purposes Only)

Pursuant to the Board's approval on May 9, 2006, the Chief Executive Officer ("CEO") and Sr. Vice-President of Operations ("SVP") have been given the authority to approve initial grants under the Hazardous Discharge Site Remediation Fund and Petroleum Underground Storage Tank programs up to \$100,000 and supplemental grants up to an aggregate of \$100,000.

Below is a summary of the Delegated Authority approval processed by the Division of Program Services for the month of July 2010.

Applicant	Description	Grant	Awarded to Date
City of Asbury Parky (Springwood Avenue) P29662	Initial grant to perform preliminary assessment to redevelop for open space/recreation	\$15,000	\$15,000
Township of Haddon (Sulock Property) P31296	Initial grant to perform preliminary assessment and site investigation to redevelop for mixed use	\$22,368	\$22,368
Township of Newton (Newton Armory) P28456	Initial grant to perform preliminary assessment and site investigation to redevelop for mixed use	\$63,120	\$63,120
Township of Woodbridge (Elliott Street Site) P30470	Supplemental grant to perform remedial investigation to redevelop for commercial and industrial use	\$60,973	\$136,496
Township of Woodbridge (Fibrenentics) P30869	Supplemental grant to perform site investigation to redevelop for mixed use	\$50,021	\$53,281
5 Grants	Total Grant Funding for July 2010	\$211,482	


Caren S. Franzini

EDISON INNOVATION FUND



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

RE: Portfolio Management Duties from New Jersey Commission on Science & Technology (NJCST) Program/ Administration of Clean Energy R&D Fund for the NJ Board of Public Utilities (BPU)

DATE: August 10, 2010

Request:

The Members are requested to approve the Authority's role in servicing and managing the **Edison Innovation R&D Fund** portfolio for the NJCST and entering into an MOU to memorialize such.

The Members are further requested to approve the Authority's role in assuming the management of the **Edison Clean Energy (R&D) Fund**, including the portfolio management and servicing of six existing portfolio companies and the administration and award of new grants. This program has been funded by the New Jersey Board of Public Utilities (BPU) and was previously managed by NJCST. Approval is requested for the EDA to enter into and/or amend the existing MOU with BPU to memorialize the required duties.

Background:

For fiscal 2011, the budget for the NJCST was eliminated and effective July 16, 2010 the staff of this agency were terminated. In consultation with the NJ Department of Treasury, it was concluded by staff, that based on the Economic Development Authority's knowledge in working with the technology & life sciences community under the Authority's Edison Innovation products, it is in the best interest of this community, for the EDA to assume the management of the Edison R&D portfolio and the Edison Clean Energy R&D Program.

Since 2006, the **Edison Innovation R&D** grant portfolio has funded 28 companies for approximately \$11.9MM, which *may* result in a very modest repayment stream within the next 5-10 years. Because of the long runway to potential repayment, monitoring is required. There remains approximately \$2.18MM in unfunded milestones that occur at timed intervals, which also require review. The Authority has existing business relationships, through other programs, with 14 out of 28 of these businesses. The Authority's portfolio management role would include

reviewing disbursement requests and forwarding payment request to Treasury, along with reviewing annual statements for potential royalty payments. A review is underway by the Attorney General's office if the Authority may use collected royalties as remuneration for portfolio administration.

As a companion program to the Edison Innovation Clean Energy Manufacturing Fund (CEMF) launched by the Authority in partnership with, and funded by the BPU; the **Edison Innovation Clean Energy (R&D) Fund** was launched by NJCST. Appendix A provides the product description. This program provides \$100,000 to \$500,000 in grant dollars to Class 1 Renewable or Energy Efficient projects in New Jersey via a competitive solicitation. The program will be under a similar format as administered by NJCST, until such time that legislation can be amended to allow for a return and/or recycling mechanism for the program. Similar to the Authority's CEMF program, the Clean Energy (R&D) Fund was a multi-year program, which had \$3MM of annual commitments from the BPU over a three year period. Awards of \$2.9MM have been made to date, with another three awards under consideration for \$1.5MM. There remains a balance of \$1,385,857 of uncommitted funds in the program for 2010, (for which another competitive solicitation is recommended in calendar 2010) and \$3MM unfunded for calendar 2011. An administration fee of \$5,000 per month was paid to NJCST by the BPU for their administrative duties under the program, and the same fee would be proposed to be paid to the Authority.

There are two associated MOUs with the programs identified above, an MOU with CST for the administration of NJCST Grants which will be a newly created MOU and an MOU amendment with BPU to allow for the administration of the Edison Clean Energy (R&D) Fund. These MOUs are in substantially final form and attached in Appendix B.

These actions were reviewed by the EDA Policy Committee on August 3, 2010.

Recommendation:

The Members are asked to approve the Authority's role in servicing and managing the **Edison Innovation R&D Fund** portfolio for the NJCST and entering into an MOU to memorialize such.

The Members are further requested to approve the Authority's role in assuming the management of the **Edison Clean Energy (R&D) Fund**, including the portfolio management and servicing of six existing portfolio companies and the administration and award of new grants and entering into an MOU with BPU to memorialize such.

Staff recommends the Board authorize the execution of the aforementioned MOUs between the EDA and the BPU and the EDA and NJCST attached in substantially final form, by the Chief Executive Officer, subject to review by the Office of the Attorney General.



Caren S. Franzini

Prepared by: Kathleen Coviello

APPENDIX A

Product Description Edison Innovation Clean Energy (R&D) Fund

Product:	Edison Innovation Clean Energy R&D Fund
Product Description:	This grant supports technologies that can demonstrate their integral nature to the development Class 1 renewable energy technologies that produce or support the production of renewable or clean electricity generation.
Product Family:	Grant
Approval Authority:	BPU
Funding Source:	BPU
Eligibility:	<p>Funding to New Jersey technology companies for developmental and ancillary activities necessary to commercialize identified renewable energy technologies and innovative technologies that significantly increase energy efficiency.</p> <p>Companies are encouraged to partner with a New Jersey PhD granting university or with a company or institution with a primary business location in New Jersey.</p> <p>Note: This program is not intended to provide financing for construction and installation of renewable energy systems.</p>
Uses:	Research, market development, deployment, and technology demonstrations of innovative products or services that advance the delivery of renewable energy and energy efficiency technologies.

Terms/Conditions:	\$100,000 to \$500,000 to New Jersey technology companies
Maximum/Limits:	Companies that have received NJEDA approval or were awarded the Edison Innovation Commercialization Fund or the Edison Innovation Growth Fund are ineligible to apply for the Edison Innovation Clean Energy Fund.
EDA Fees:	Administration fee: Proposed \$5,000 per month Royalties/other fees TBD

APPENDIX B
MOUs

THIRD AMENDMENT TO AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING BETWEEN
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
AND
NEW JERSEY BOARD OF PUBLIC UTILITIES
(Edison Innovation Clean Energy R & D Fund)

This Third Amendment to Amended and Restated Memorandum of Understanding between New Jersey Economic Development Authority (the "EDA") and the New Jersey Board of Public Utilities ("BPU"), through its Office of Clean Energy ("OCE") ("EDA" and "BPU" collectively referred to as the "Parties") is dated as of {DATE} 2010 (the "Third Amendment").

WHEREAS, the EDA and the BPU have entered into an Amended and Restated Memorandum of Understanding (the "MOU"), dated March 19, 2009, pursuant to which the Parties have set forth their respective roles and obligations in connection with marketing and administering the Clean Energy Manufacturing Fund (the "CEMF") Program, as well as other clean energy technology-related programs to be developed in the future; and

WHEREAS, the Parties, on November 1, 2009, pursuant to paragraph 10.F. of the MOU, amended the MOU to further clarify their respective responsibilities in connection with administering the CEMF Program in order to provide for its more efficient implementation and to make certain changes to the CEMF application and review process in order to best serve the New Jersey clean energy business community ("First Amendment"); and

WHEREAS, the Parties, on { } further amended the MOU to set forth their respective roles and obligations in connection with marketing and administering the Renewable Energy Grid Connected Program ("Second Amendment"); and

WHEREAS, the New Jersey Commission on Science and Technology ("CST") and the BPU entered into a Memorandum of Understanding ("CST MOU"), dated September 17, 2008, for the purpose of setting forth their respective duties and

responsibilities in connection with the administration of the Edison Innovation Clean Energy Fund ("CEF") Program; and

WHEREAS, to date, a total of six grants have been awarded under the CEF Program, which is funded with BPU monies; and

WHEREAS, BPU has remaining funds available to make, and it intends to make, additional grants under the CEF Program; and

WHEREAS, it has been determined that CST no longer has sufficient resources to perform its duties and responsibilities under the CST MOU; and

WHEREAS, as a result thereof, pursuant to Section 9D of the CST MOU, BPU has exercised its right to terminate the CST MOU by giving CST 30 days prior written notice of its intent to so terminate; and

WHEREAS, pursuant to Section 9D of the CST MOU, upon such termination, all responsibilities for administering and enforcing the terms and conditions of the CEF grants are to be retained by the BPU; and

WHEREAS, the BPU desires to transfer certain duties and responsibilities of administering the CEF Program to the EDA; and

WHEREAS, the EDA is agreeable to performing such certain duties and responsibilities on behalf of the BPU.

NOW THEREFORE, in consideration of the promises made herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to further amend the MOU in order to set forth the respective duties and responsibilities of the Parties in connection with the administration of the CEF Program, as follows:

- 1) The CEF program shall be renamed and shall hereafter be known as the Edison Innovation Clean Energy R & D Fund ("R & D") Program.
- 2) Transfer of Funds. The Parties acknowledge that there is \$[approximately \$1,300,000] remaining to be awarded in connection with the R & D Program and that such amount is being held by the New Jersey State Treasury for this purpose. Upon approval of an application by the BPU Board and approval

by the BPU of a request for disbursement of a specific amount awarded under that grant, BPU shall request that the New Jersey State Treasury release such funds to the EDA so that EDA can disburse that approved amount to the grantee.

- 3) BPU/OCE DUTIES. The BPU, through the OCE, will have the exclusive responsibility of ensuring that all clean energy initiatives to be funded pursuant to this Third Amendment satisfy Clean Energy Program requirements under the Electric Discount and Energy Competition Act ("EDECA") and BPU Board Orders issued thereunder. The BPU, through the OCE, shall carry out the following administrative duties:
- A. Jointly publicize and market with EDA the R & D Program, and other future clean energy technology programs administered on behalf of BPU by EDA (such publicity shall include but not be limited to public notices of grant availability);
 - B. Determine the technical criteria, consistent with EDECA, BPU Board Orders issued thereunder, and other authority, including but not limited to applicable New Jersey State Treasury requirements, that will need to be met by applicants to the R & D Program and other clean energy technology programs;
 - C. For new grants, apply technical criteria to determine whether an applicant meets the program requirements as set forth in the CEF Program solicitation;
 - D. Screen the applications regarding technical eligibility, notifying the EDA of the results of the screening;
 - E. Participate in meetings of Clean Technology Evaluation Committee (the "Committee"), which will be comprised of representatives from EDA, BPU and other governmental entities with energy efficiency and/or renewable energy subject matter expertise, to assist in determining which applications should be funded, based on the ability of the applicant to promote and satisfy BPU program eligibility criteria and the amount of financial assistance requested;
 - F. After receiving the recommendations for grant awards from the EDA, promptly submit application packages for BPU Board review as soon as possible considering the schedule of regular Board meetings;
 - G. Upon BPU Board approval or rejection of applications ("BPU Board Action"), notify applicants jointly with the EDA of the BPU Board Action;
 - H. Support EDA in drafting press releases and any other public announcements relating to approved applications;

- I. For approved applications, review customer submitted project milestones and work with EDA to amend if appropriate and monitor milestone activity;
- J. Work cooperatively with EDA staff and the approved applicant to complete funding agreements promptly, making best efforts to complete the review of draft funding agreements within 30 days of receipt from EDA; and
- K. Work in collaboration with EDA to facilitate all aspects of the R & D Program delivery, including quarterly and annual review of all financial reporting by applicants receiving funding.

4) EDA'S DUTIES. EDA will use funding from the R & D Program {and other future clean energy technology programs established within EDA} to leverage private sector capital to fund clean energy projects in collaboration with the BPU. EDA shall carry out the following administrative duties in connection with the R & D Program:

- A. Jointly publicize and market with the BPU the R & D Program and other future clean energy technology programs administered on behalf of the BPU by EDA (such publicity shall include but not be limited to public notices of grant availability);
- B. Review, revise and refine existing CST forms to compliment CEMF documents and forms including the intake form for technical eligibility and the full application form;
- C. Review, revise and refine existing CST funding agreements for consistency with CEMF documents as applicable;
- D. Serve as the point of contact for applicant inquiries;
- E. Receive applications and review for administrative completeness and review business plan for completeness and detail on salient topics;
- F. Participate in meetings of the Committee to assist in determining which applications should be recommended for funding, based on the ability of the applicant to promote and satisfy BPU program eligibility criteria and the amount of financial assistance requested;
- G. Submit the grant awards recommendations of the Committee to BPU Board for review and approval;
- H. After the BPU Board Action, notify applicant jointly with the BPU if the application has been accepted or rejected;
- I. Send draft funding agreements to the BPU for comment and review and discuss any proposed revisions;
- J. Send fully executed funding agreements to applicants, with a copy to the BPU;

- K. Arrange for execution of grant agreement and disburse funds to grant recipient upon prior written instruction from the BPU or designee as to the amount of each disbursement;
- L. Draft press releases and any other public announcements relating to applications in consultation with BPU;
- M. For approved applicants, review customer submitted project milestones and work with BPU to amend if appropriate and monitor milestone activity;
- N. Work in collaboration with the BPU to facilitate all aspects of the R & D Program delivery, including quarterly and annual review of all financial reporting by applicants receiving funding;
- O. Use its best efforts to complete each grant contract agreement within 60 days of BPU/OCE's completion of its duties listed in Section 3 or 60 days from the time the recipient meets EDA grant contract conditions, whichever is later. The Parties acknowledge that certain activities related to EDA's obligations are not within EDA's control and that EDA shall not be responsible for any delays or postponements related to such activities;
- P. Provide to the BPU quarterly reporting reports disclosing and detailing administrative services performed in conjunction with this MOU; and

5) COOPERATION BETWEEN EDA AND BPU/OCE. The Parties hereto acknowledge that the successful completion of each Party's duties and the purposes of EDECA will require cooperation. The Parties agree to work cooperatively to achieve the purposes of this Third Amendment.

6) COMPENSATION To help defray administrative cost of the R & D Program, EDA will be compensated by BPU for the administration services enumerated above in the amount of \$5,000 per month which covers program administration, application review cost, grants management for the duration of the program. Upon completion of the first twelve months after full execution of this Third Amendment, the amount of compensation shall be reviewed by the Parties and revised as appropriate.

7) MISCELLANEOUS

- A. This Third Amendment is being entered into for the sole purpose of evidencing the mutual understanding and intention of the Parties. There are no third-party beneficiaries of the Third Amendment.

B. Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the MOU.

C. The recitals appearing before Section 1 are made part of this Third Amendment and are specifically incorporated herein by reference.

D. This Third Amendment shall be effective as of the date hereinabove written and, unless terminated sooner as set forth herein, shall continue until the earlier of the expiration or termination of the MOU or all grant contract agreement activities are completed.

E. Each Party shall have the right to terminate this Third Amendment upon 30 days prior written notice to the other Party. In the event of such termination, all responsibilities for administering and enforcing the terms and conditions of the R & D Program shall be with the BPU.

F. BPU and EDA shall provide to each other any and all documents requested by the other party in connection with the specific awards made under this Third Amendment, subject to claims of attorney-client and/or deliberative privilege.

G. The BPU and EDA shall administer their responsibilities under this Third Amendment consistent with New Jersey Department of Treasury requirements and State appropriations law, to the extent applicable.

H. The First Amendment is hereby amended so that all of the provisions set forth therein shall also relate to the R & D Program, as applicable.

I. This Third Amendment may be executed in duplicate parts, each of which shall be an original, but all of which shall together constitute one (1) and the same instrument.

J. The Parties hereto agree that, except as set forth hereinabove, the terms and conditions set forth in the MOU, First Amendment and Second Amendment shall remain in full force and effect.

NEW JERSEY ECONOMIC
DEVELOPMENT AUTHORITY

By: _____
Caren Franzini
Chief Executive Officer

NEW JERSEY BOARD OF
PUBLIC UTILITIES

By: _____
Lee Solomon

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

AND

THE NEW JERSEY COMMISSION ON SCIENCE AND TECHNOLOGY

This Memorandum of Understanding ("MOU"), made as of this day of _____, 2010 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and the NEW JERSEY COMMISSION ON SCIENCE AND TECHNOLOGY ("NJCSST"), both instrumentalities of the State of New Jersey (collectively the "Parties").

WHEREAS, NJCSST was established pursuant to N.J.S.A. 52:9X-1 et seq. and is charged with responsibility for the development and oversight of policies and programs in science and technology for New Jersey; and

WHEREAS, NJCSST continues to be and remains an agency in accordance with the terms of its governing statute and regulations but no funding has been provided for NJCSST staff in the fiscal year 2011 budget due to the current economic climate; and

WHEREAS, NJCSST is currently the grantor and is administering certain grant programs in accordance with its statutory mandate; and

WHEREAS, there currently remains a number of outstanding grants under these programs as set forth on Exhibit A attached hereto and made a part hereof ("NJCSST Grants") which require management and oversight that without staff, NJCSST can not administer for fiscal year 2011; and

WHEREAS, the EDA is established pursuant to N.J.S.A. 34:1B-1 et seq. and is charged, among other things, with improving future employment opportunities by encouraging and inducing the undertaking of projects which retain or expand employment within the State; and

WHEREAS, the EDA has the available staff capacity as well as the technical and support expertise to assume on behalf of NJCST the responsibility for the administration and monitoring of those NJCST Grants including but not limited to the previously authorized but undisbursed grant monies and the collection of any intangible property royalties due to the State of New Jersey and NJCST pursuant to both N.J.S.A. 52:9X-9(u) and the express provisions of certain of the NJCST Grants; and

WHEREAS, the State of New Jersey, Department of the Treasury holds and maintains the funds for the previously authorized but undisbursed NJCST Grants; and

WHEREAS, pursuant to N.J.S.A. 52:14-1 which addresses cooperation between departments, NJCST and EDA are desirous of working with each other to effectuate the administration and monitoring of NJCST Grants and of setting forth in this MOU the respective duties and responsibilities of each Party in connection therewith; and

NOW THEREFORE, in exchange for the promises herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by the Parties as follows:

I. Administration of NJCST Grants

1) EDA shall act as servicing agent for the NJCST Grants (“Servicing Agent”) in accord with the following understandings:

a) NJCST hereby agrees to transfer to EDA as Servicing Agent both the custody and control of the files, books and records relating to the NJCST Grants (collectively, the “Documentation”) located at the NJCST offices at 10 South Montgomery Street, Trenton, New Jersey (“NJCST Premises”). EDA may physically transfer the Documentation to the EDA offices. The Documentation shall be maintained by EDA in a manner as to be accessible to personnel from EDA as well as by the NJCST, as necessary to carry out their respective duties.

b) EDA hereby accepts and consents to the transfer and assumption of the custody and control of the NJCST Grants and shall comply with, administer and enforce their terms and conditions including but not limited to arranging thereunder for (i) authorization to the Department of Treasury of payment to grantees of any additional grant monies due, (ii) collection

of any intangible property royalties due to the State of New Jersey and NJCST, and (iii) delivery from the grantees of all interim and final financial, scientific and other reporting due.

c) EDA shall not accept or charge fees to NJCST for serving as the Servicing Agent except as set forth in subparagraph d) below.

d) Any portion of the royalties from intangible property that is received arising from the NJCST Grants that is not required to be delivered to the State of New Jersey shall be retained by the EDA.

e) EDA shall report to NJCST in writing from time to time as to the status of all financial, scientific and other reporting received from the grantees as well as any royalties delivered.

II. NJCST Duties

- 1) NJCST shall retain ownership for the NJCST Grants for which servicing activities are provided to NJCST by EDA.
- 2) NJCST agrees to provide or make available to EDA such information as EDA may need to perform its duties as Servicing Agent for the NJCST Grants. NJCST hereby authorizes EDA to enter the NJCST Premises to accomplish the transfer.

III. Miscellaneous

- 1) NJCST shall retain all of its powers, obligations and immunities provided by statute and under law.
- 2) The Parties acknowledge that the successful completion of each Party=s duties hereunder will require cooperation between the Parties. The Parties agree to work cooperatively to achieve the goals of this MOU.
- 3) This MOU shall be effective as of the date of final execution by the Parties and unless sooner terminated as set forth herein, shall continue until all of the activities regarding the NJCST Grants are completed.
- 4) Each Party shall have the right to terminate this MOU upon 30 days prior written notice to the other Party. In the event of such termination,

all responsibilities for administering and enforcing the terms and conditions of the NJCST Grants shall revert to the NJCST.

5) The Parties may modify this MOU only by a writing signed by both of the Parties.

6) The recitals appearing before Section I are made part of this MOU and are specifically incorporated herein by reference.

IN WITNESS HEREOF, the Parties have executed this MOU on the date set forth above.

NEW JERSEY ECONOMIC DEVELOPMENT
AUTHORITY

By: _____

Caren Franzini
Chief Executive Officer

NEW JERSEY COMMISSION ON SCIENCE
AND TECHNOLOGY

By: _____

James J. Coleman, Jr.
Chairman

Exhibit A
Edison Innovation R&D Fund

2010				
No.	Company	Commitment	Disbursed	Undisbursed
1	3D Biotek	\$195,000.00	\$48,750.00	\$146,250.00
2	CCS Materials	\$500,000.00	\$125,000.00	\$375,000.00
3	Edge Therapeutics	\$500,000.00	\$125,000.00	\$375,000.00
4	Niiki Pharma	\$500,000.00	\$125,000.00	\$375,000.00
5	Orthogen	\$500,000.00	\$125,000.00	\$375,000.00
6	Pheonix Labs	\$250,000.00	\$62,500.00	\$187,500.00
7	Simphotek	\$250,000.00	\$62,500.00	\$187,500.00
8	VectraCor	\$500,000.00	\$125,000.00	\$375,000.00
9	InnoSeptra (Renewable Energy)	\$500,000.00	\$125,000.00	\$375,000.00
	Total	\$3,695,000.00	\$923,750.00	\$2,771,250.00

2009				
No Awards				

2008				
No.	Company	Commitment	Disbursed	Undisbursed
1	Aestus Therapeutics	\$500,000.00	\$500,000.00	\$0.00
2	Li Creative	\$500,000.00	\$500,000.00	\$0.00
3	New Jersey Microsystems	\$500,000.00	\$500,000.00	\$0.00
4	Treadstone Technologies	\$500,000.00	\$500,000.00	\$0.00
5	TRIM-edicine	\$500,000.00	\$500,000.00	\$0.00
6	Carbozyme	\$500,000.00	\$500,000.00	\$0.00
7	Lightening Energy	\$500,000.00	\$500,000.00	\$0.00
8	Niiki Pharma	\$500,000.00	\$500,000.00	\$0.00
	Total	\$4,000,000.00	\$4,000,000.00	\$0.00

2007				
No.	Company	Commitment	Disbursed	Undisbursed
1	MicroDysis	\$390,773.00	\$390,773.00	\$0.00
2	Urovalve	\$264,155.00	\$264,155.00	\$0.00
3	ExSAR	\$300,000.00	\$300,000.00	\$0.00
4	Germgard	\$498,000.00	\$498,000.00	\$0.00
5	Knite	\$450,000.00	\$450,000.00	\$0.00
6	Orthobond	\$498,028.00	\$498,028.00	\$0.00
7	Snowdon	\$500,000.00	\$500,000.00	\$0.00
Total Entrepreneurial Partnering Fund:		\$2,900,956.00	\$2,900,956.00	\$0.00

2006				
No.	Company	Commitment	Disbursed	Undisbursed
1	ProFACT Proteomics	\$182,000.00	\$182,000.00	\$0.00
2	UV Solutions	\$300,000.00	\$300,000.00	\$0.00
3	Princeton Power Systems	\$330,958.00	\$330,958.00	\$0.00
4	Signum Biosciences	\$500,000.00	\$500,000.00	\$0.00
Total Entrepreneurial Partnering Fund:		\$1,312,958.00	\$1,312,958.00	\$0.00

Grand Total				
No. of Companies	Commitment	Disbursed	Undisbursed	
28	\$11,908,914.00	\$9,137,664.00	\$2,771,250.00	

Edison Innovation Clean Energy Fund

2009				
No.	Company	Commitment	Disbursed	Undisbursed
1	New Visual Media Group	\$500,000.00	\$0.00	\$500,000.00
2	PD-LD	\$494,809.00	\$123,702.25	\$371,106.75
3	Nostrum Energy	\$499,834.00	\$125,659.00	\$374,175.00
Total CEF		\$1,494,643.00	\$249,361.25	\$1,245,281.75

2010				
No.	Company	Commitment	Disbursed	Undisbursed
1	Amelio Solar	\$ 500,000.00	\$125,000.00	\$375,000.00
2	PowerFower	\$ 500,000.00	\$125,000.00	\$375,000.00
3	WattsLotts	\$ 500,000.00	\$125,000.00	\$375,000.00
Total CEF		\$1,500,000.00	\$375,000.00	\$1,125,000.00

Grand Total				
	No. of Companies	Commitment	Disbursed	Undisbursed
	6	\$2,994,643.00	\$624,361.25	\$2,370,281.75

INCENTIVE PROGRAMS

BUSINESS EMPLOYMENT INCENTIVE PROGRAM

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - BUSINESS EMPLOYMENT INCENTIVE PROGRAM**

APPLICANT: Bartlett Distribution Services, LLC & Affiliates

P32206

PROJECT LOCATION: 802-814 Bergen Street

Newark City (T/UA)

Essex County

GOVERNOR'S INITIATIVES:

(X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

As part of the Bartlett Dairy, Inc. group of companies, Bartlett Distribution Services, LLC distributes dairy products and other perishable food items to retail and foodservice customers in the northeastern United States. Bartlett Dairy, Inc. was formed in 1963 as a home delivery and retail milk route operating in the borough of Queens. Since then, it has grown into a major regional food and dairy distributor. It was founded by Chairman Thomas Malave, and is managed by his sons.

Today, the company's customer base includes foodservice outlets and supermarkets as well as the New York City schools, the Archdiocese of New York, industrial feeding operations such as ARAMARK, and snack outlets such as Barnes & Noble bookstores and Starbucks Coffee. They serve customers ranging from jails to country clubs and a variety of operations in between. More than just a dairy distributor, Bartlett Dairy carries more than 800 additional inventory items including plastic utensils and paper products, cakes and other pastries, frozen fruit, juice, fresh baked bread and rolls, and a large line of freshly made soups widely used in restaurants.

Bartlett Distribution Services, LLC is considering moving its Clifton, New Jersey operations (regional sales office and regional distribution warehouse) into a new, larger facility that will better meet their current needs with room for their projected future growth. According to the Applicant, the site selection process is underway, including an option to move to and expand at their existing Jamaica, NY location/headquarters. The Applicant is economically viable.

MATERIAL FACTOR:

The Applicant is seeking a BEIP grant to support creating 40 (non-retail/non-driver) positions in New Jersey. The company has represented that a favorable decision by the Authority to award the BEIP grant is an inducement in the Applicant's decision to go forward with the project (which is to remain and expand within New Jersey instead of relocating and expanding out of State, such as in New York). The Authority staff recommends the award of the proposed BEIP grant.

APPROVAL REQUEST:

PERCENTAGE: 80%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Bartlett Distribution Services, LLC & Affiliates to increase employment in New Jersey. The recommended award percentage is based on the company meeting the criteria as set forth on the attached Formula Evaluation and is contingent upon receipt by the Authority of evidence that the company has met said criteria to substantiate the recommended award percentage. If the criteria met by the company differs from that shown on the Formula Evaluation, the award percentage will be raised or lowered to reflect the award percentage that corresponds to the actual criteria that have been met.

TOTAL ESTIMATED GRANT AWARD OVER TERM OF GRANT: \$ 134,400
 (not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 169

ELIGIBLE BEIP JOBS: Year 1 13 Year 2 27 Base Years Total = 40

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$3,360

ANTICIPATED AVERAGE WAGES: \$26,000

ESTIMATED PROJECT COSTS: \$6,600,000

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$168,000

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$117,600

PROJECT IS: Expansion Relocation Clifton, NJ

CONSTRUCTION: Yes No

PROJECT OWNERSHIP HEADQUARTERED IN: New York

APPLICANT OWNERSHIP: Domestic Foreign

DEVELOPMENT OFFICER: D. Johnson

APPROVAL OFFICER: D. Sucsuz

FORMULA EVALUATION

<u>Criteria</u>	<u>Score</u>
1. Location: Newark City	N/A
2. Job Creation 40	1
Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk: 169	1
4. Industry: Transportation & logistics	2
Designated : <u> X </u> Non-Designated : _____	
5. Leverage: 3 to 1 and up	2
6. Capital Investment: \$6,600,000	2
7. Average Wage: \$ 26,000	1
TOTAL:	9

Bonus Increases (up to 80%):

Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan	20%	<u>20%</u>
Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan AND creation of 500 or more jobs	30%	_____
Located in a former Urban Coordinating Council or other distressed municipality as defined by Department of Community Affairs	20%	<u>20%</u>
Located in a brownfield site (defined as the first occupants of the site after issuance of a new no-further action letter)	20%	_____
Located in a center designated by the State Planning Commission, or in a municipality with an endorsed plan	15%	<u>15%</u>
10% or more of the employees of the business receive a qualified transportation fringe of \$ 30.00 or greater.	15%	_____
Located in an area designated by the locality as an "area in need of redevelopment"	10%	_____
Jobs-creating development is linked with housing production or renovation (market or affordable) utilizing at least 25% of total buildable area of the site	10%	_____
Company is within 5 miles of and working cooperatively with a public or non-profit university on research and development	10%	_____

Total Bonus Points:

55 %

Total Score :

Total Score per formula:	9 = 30 %
Construction/Renovation :	5 %
Bonus Increases :	55 %
Total Score (not to exceed 80 %):	80 %

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - BUSINESS EMPLOYMENT INCENTIVE PROGRAM**

APPLICANT: Standard Chartered Bank

P32586

PROJECT LOCATION: 2 Gateway Center, 12th Floor Newark City (TUA) Essex County

GOVERNOR'S INITIATIVES:

(X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

Founded in 1853 as Chartered Bank, today's Standard Chartered Bank is headquartered in London and Singapore. It is the main operating banking subsidiary of Standard Chartered PLC, which is a British financial services company that operates in more than seventy countries. The group has a network of over 1,700 branches and outlets (including joint ventures), and employs 73,000 people globally, primarily in India, Hong Kong, Singapore, South Korea, Malaysia, Africa, the Americas, and Europe, as well as in the United Arab Emirates, Bahrain, Qatar, Oman, Jordan, Lebanon, Pakistan, Bangladesh, and Sri Lanka.

Despite its British heritage, the group has few customers in the United Kingdom and 90% of its profits come from Asia, Africa, and the Middle East. Standard Chartered PLC's stock is listed on the London Stock Exchange, Hong Kong Stock Exchange, and the Indian Stock Exchanges; and it is also a constituent of the FTSE 100 Index. Its largest shareholder is Temasek Holdings (Private) Limited, a sovereign wealth fund of, or an investment company owned by, the government of Singapore.

Standard Chartered PLC provides consumer and wholesale banking products and services to individuals, small and medium enterprises, corporate, and institutional customers. In addition to traditional banking products, it also offers retirement planning; life, health, home, car, and travel insurance; investment advisory; private and priority banking; international and domestic trade finance; and Saadiq Islamic banking services. The Applicant is economically viable. Standard Chartered Bank is licensed as a foreign bank representative office in New Jersey and this license is in good standing.

In 2008, Standard Chartered Bank received a BEIP grant for 300 positions (for relocating existing positions and creating new positions to support their New York Branch office). This BEIP is in good standing and they are now planning to expand these same operations (back office operations) again. According to the Applicant, a different floor of the same Newark building that they are occupying is competing with another New York State location to house this new expansion.

MATERIAL FACTOR:

The Applicant is seeking a BEIP grant to support creating 125 (non-retail) positions in New Jersey. The company has represented that a favorable decision by the Authority to award the BEIP grant is an inducement in the Applicant's decision to go forward with the project (which is to expand within New Jersey instead of expanding out of State, such as in New York). The Authority staff recommends the award of the proposed BEIP grant.

APPROVAL REQUEST:

PERCENTAGE: 80%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Standard Chartered Bank to increase employment in New Jersey. The recommended award percentage is based on the company meeting the criteria as set forth on the attached Formula Evaluation and is contingent upon receipt by the Authority of evidence that the company has met said criteria to substantiate the recommended award percentage. If the criteria met by the company differs from that shown on the Formula Evaluation, the award percentage will be raised or lowered to reflect the award percentage that corresponds to the actual criteria that have been met.

TOTAL ESTIMATED GRANT AWARD OVER TERM OF GRANT: \$ 2,555,000
(not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 361

ELIGIBLE BEIP JOBS: Year 1 125 Year 2 0 Base Years Total = 125

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$20,440

ANTICIPATED AVERAGE WAGES: \$80,000

ESTIMATED PROJECT COSTS: \$1,864,000

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$3,193,750

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$2,235,625

PROJECT IS: Expansion Relocation _____

CONSTRUCTION: Yes No

PROJECT OWNERSHIP HEADQUARTERED IN: _____

APPLICANT OWNERSHIP: Domestic Foreign United Kingdom

DEVELOPMENT OFFICER: M. Abraham

APPROVAL OFFICER: D. Sucsuz

FORMULA EVALUATION

<u>Criteria</u>	<u>Score</u>
1. Location: Newark City	N/A
2. Job Creation 125	2
Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk: 0	0
4. Industry: Financial services	2
Designated : <u> X </u> Non-Designated : _____	
5. Leverage: 3 to 1 and up	2
6. Capital Investment: \$1,864,000	1
7. Average Wage: \$ 80,000	4
TOTAL:	11

Bonus Increases (up to 80%):

Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan	20% <u>20%</u>
Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan AND creation of 500 or more jobs	30% _____
Located in a former Urban Coordinating Council or other distressed municipality as defined by Department of Community Affairs	20% <u>20%</u>
Located in a brownfield site (defined as the first occupants of the site after issuance of a new no-further action letter)	20% _____
Located in a center designated by the State Planning Commission, or in a municipality with an endorsed plan	15% <u>15%</u>
10% or more of the employees of the business receive a qualified transportation fringe of \$ 30.00 or greater.	15% _____
Located in an area designated by the locality as an "area in need of redevelopment"	10% _____
Jobs-creating development is linked with housing production or renovation (market or affordable) utilizing at least 25% of total buildable area of the site	10% _____
Company is within 5 miles of and working cooperatively with a public or non-profit university on research and development	10% _____
Total Bonus Points:	55 %

Total Score :

Total Score per formula:	11 = 35 %
Construction/Renovation :	5 %
Bonus Increases :	55 %
Total Score (not to exceed 80 %):	80 %

URBAN TRANSIT HUB TAX CREDIT PROGRAM



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Urban Transit Hub Tax Credit Program
Newark Farmers Market, LLC
(This project is related to a Wakefern Food Corp. request which is being presented contemporaneously)

Request

The Members are asked to approve the Urban Transit Hub Tax Credit (UTHTC) Program application for Newark Farmers Market, LLC as an owner of a proposed new commercial project on an eligible site in Newark for a tax credit in an amount estimated at \$15,750,000. This represents 35% of the total \$45,000,000 in tax credits generated by the project based on Newark Farmers Market, LLC's allocable share of the planned total leasable area of the project. The final credit amount issued to Newark Farmers Market, LLC shall be based on its proportionate share of the total leasable area upon completion of the project. The total combined tax credit issued to Newark Farmers Market, LLC and Wakefern Food Corporation, which is filing separately as a tenant, shall not exceed \$45,000,000.

Project Description

Newark Farmers Market, LLC has applied for the UTHTC as an owner of a commercial project on an eligible site in Newark for the portion of the project which will be occupied by its affiliates. The project site, having a street address of 140 Joseph Street, has been verified to be in an eligible municipality as well as served by active freight rail which will be utilized by the businesses operating on the site. The proposed project would include the demolition of the existing facility and the construction of two new facilities totaling 260,000 square feet. The project would involve the relocation of 274 employees from the existing facility on the project site to the proposed new facility. The relocated jobs include approximately 147 currently employed by Wuhl Shafman Lieberman Corp. (Wuhl), and approximately 127 employed by Fresh Cuts Produce LLC (Fresh Cuts). In addition, Newark Farmers Market expects to create 138 new jobs initially and potentially 100 additional jobs over the next 10 years through its affiliates. Wuhl and Fresh Cuts currently have 274 employees in New Jersey.

The estimated total capital investment in the project is \$65,000,000. The eligible capital investment in the project is \$55,000,000, which does not include land. Newark Farmers Market, LLC is eligible as an owner under this program since they are making a capital investment of at least \$50,000,000 and

will be employing at least 250 full-time workers at the site through its affiliates. The Authority recommends approval of this project for a tax credit in an amount estimated at \$15,750,000, which represents 35% of the total \$45,000,000 in tax credits generated by the project based on Newark Farmers Market, LLC's allocable share of the planned total leasable area of the project. The final credit amount issued to Newark Farmers Market, LLC shall be based on its proportionate share of the total leasable area upon completion of the project. The total combined tax credit issued to Newark Farmers Market, LLC and Wakefern Food Corp., which is filing separately as a tenant, shall not exceed \$45,000,000. This credit amount was limited by the requirement for the project to provide at least a 110% net positive benefit to the State of New Jersey, after netting out all State and local incentives. The estimated timeline for award of the tax credit is the 2nd Quarter of 2015.

Project Ownership:

The project is owned by Newark Farmers Market, LLC which is 100% owned by Mr. Aron Forem
The proposed tenants at the facility are:

Wuhl Shafman Lieberman Corp.- S Corp with 100% Ownership by Mr. Aron Forem

Fresh Cuts Produce LLC- 50% Ownership by Mr. Aron Forem. The remaining 50% is owned by a Trust which is owned 50% by Mr. Aaron Forem and 50% by the Trustee, Neil Prupis. However, the trust is controlled by Aron Forem.

Project Budget for full 260,000 SF Development

Item	Total Development Cost	Eligible Capital Investment
Land	\$10,000,000	\$ 0
Construction	\$32,000,000	\$32,000,000
Equipment	\$20,000,000	\$20,000,000
Soft Costs	\$ 3,000,000	\$ 3,000,000
TOTAL	\$65,000,000	\$55,000,000

Net Positive Benefit Analysis

The Authority has conducted the required Net Benefit Analysis and has found that the present value of the Net Positive Benefits to the State of New Jersey over a 20 year period for the full project is \$36,400,000. This number is obtained by taking the annual Gross Income Tax, utility tax, property tax and indirect spillover tax revenues from earnings and expenditures minus the local costs. The present value of this figure is reduced by the present value of all local and state grants to the project, resulting in the present value of the Net Positive Benefits to the State of New Jersey. With the Present Value of the UTHTC at a 6% discount rate being \$33,100,000, the present value of the Net Positive Benefits to the State of New Jersey is \$3,300,000. This meets the standard of being at least 110% of the recommended grant assistance. The project was awarded a 25% increase in net benefits and subsequent credit amount because the occupants are logistics-based businesses. The total project is thereby eligible for a tax credit amount not to exceed \$45,000,000 which is less than 100% of the Total Capital Investment.

Recommendation

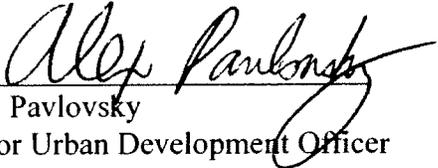
Staff has reviewed the application for consistency with the Act and rules implementing the UTHTC Program (N.J.A.C:19:31-9) and recommends approval of the application for a tax credit in an amount estimated at \$15,750,000, which represents 35% of the total \$45,000,000 in tax credits generated by the project based on Newark Farmers Market, LLC's allocable share of the planned total leasable area of the project. The final credit amount issued to Newark Farmers Market, LLC shall be based on its proportionate share of the total leasable area upon completion of the project. The total combined tax credit issued to Newark Farmers Market, LLC and Wakefern Food Corporation, which is filing separately as a tenant, shall not exceed \$45,000,000. Ten percent of this amount will be issued annually over ten years. EDA will provide the applicant with an approval letter for the total amount of the credit.

Pursuant to the rules governing the program, the applicant will need to meet certain project milestones within 12 months of approval in order to maintain the project's tax credit approval.

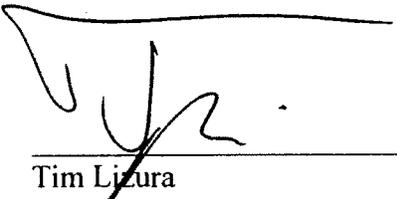
These milestones include:

- 1) site control
- 2) site plan approval
- 3) binding commitment of financing for the entire project
- 4) other project specific items which may be added

Upon project completion, the Authority shall issue a tax credit certificate based on the final qualified costs, not to exceed the approved amount. The tax credit certificate shall indicate that the applicant may take one tenth of the total credit annually over ten years when accompanied by a letter issued by EDA indicating the project is compliant with program guidelines. This approval is subject to the proposed program rule amendments becoming final, with the applicant at risk if the proposed amendments implementing the program are not adopted.



Alex Pavlovsky
Senior Urban Development Officer



Tim Lizura
Senior Vice President, Business Development



Odis Jones
Director, Urban and Site Development

Address		Newark Farmers Mkt
City		Newark
Ongoing Jobs		138 Net New Jobs
One Time Jobs		582
Sales Tax		
	\$0.00	@ 7%
Corporate Income Tax (CIT)	\$0.00	Corp, LLC & S Corp
Gross Income Tax	\$0.35	Actuals
Misc. State Tax Revenue	\$0.25	Utility Tax
Direct Ongoing Annual Taxes	\$0.60	
Annual Corp Spending		
	\$1.47	Actuals
Final Indirect Demand Multiplier	0.37x	
Indirect Annual Spending	\$0.54	
At 3.5 % Tax Rate	\$0.02	
Annual Payroll	\$6.92	Actuals
Indirect Effect Earnings Multiplier	0.27x	
Indirect Earnings	\$1.87	
At 5% Tax Rate	\$0.09	
Indirect Ongoing Annual Taxes	\$0.11	
Annual Net Benefit		
	\$0.71	
Cumulative Net Benefit (20yrs with Actuals)	\$25.94	
Present Value @6%	\$14.22	
Local Direct Ongoing		
Property Taxes & Payroll Taxes	\$0.50	Actuals
Municipal Burden	\$0.00	
Construction Value		
	\$55.0	Actuals
Direct One Time Taxes on Spending	\$1.9	Ass
Indirect Construction Multiplier	0.53x	
Indirect One Time Spending	\$29.06	
Spending Tax Rate	3.5%	
Ind One Time Taxes on Spending	\$1.0	
Assumed Portion of Const. on Labor		
	50%	Ass
Dir One Time Earnings	27.50	
Earnings Tax Rate	5%	Ass
Dir One Time Taxes on Earning	\$1.4	
Indirect Effect Earnings Multiplier		
	0.45x	
Indirect One Time Earnings (50% of Constr)	12.31	
Earnings Tax Rate	5%	Ass
Ind One Time Taxes on Earnings	\$0.61	
Total One Time Tax Benefits		
	\$4.9	
Total State Benefits		
Total One Time Tax Benefits	\$4.9	e
Total State Ongoing Benefits (PV @ 6%)	\$14.2	d
Total Local Ongoing Benefits	\$10.0	
Total State and Local Benefits		
	\$29.12	
Logistics Industry Bonus (25%)	\$7.28	
New Total State & Local Benefits	\$36.40	
Previous Local & State Incentives		
Less:	\$0.00	
State Grant Received (PV at 6%)	\$0.00	f
Urban HUB Request (PV at 6%)	\$33.12	g
Other	\$0.00	h
PV of Net Benefits to NJ	\$3.28	d+e-f+g-h
NOMINAL BENEFITS		
Ongoing:	\$32.42	
One Time	\$6.17	
Local Benefits	\$22.21	
Total Benefits	\$60.80	
State Grant	\$0.00	
Urban HUB Award	\$45.00	
UEZ:	\$0.00	
Total Assistance:	\$45.00	
	\$0.00	
Total Nominal Net Benefit:	\$15.80	



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Urban Transit Hub Tax Credit Program
Wakefern Food Corp.
(This project is related to a Newark Farmers Market, LLC request which is being presented contemporaneously)

Request

The Members are asked to approve the Urban Transit Hub Tax Credit (UTHTC) Program application for Wakefern Food Corp. as a tenant in the proposed new commercial project on an eligible site in Newark for a tax credit in an amount estimated at \$29,250,000. This represents 65% of the total \$45,000,000 in tax credits generated by the project based on the Wakefern Food Corp. allocable share of the planned total leasable area of the project. The final credit amount issued to Wakefern Food Corp. shall be based on its proportionate share of the total leasable area upon completion of the project. The total combined tax credit issued to Wakefern Food Corp. and Newark Farmers Market, LLC, which is filing separately as owner, shall not exceed \$45,000,000.

Project Description

Wakefern Food Corp. operates over 2.5 million square feet of grocery/produce and non-food warehousing and is cooperatively owned and built upon a foundation of independent retailers. Wakefern Food Corp. currently has 2,302 employees in New Jersey. Wakefern will be a tenant in the new project being developed by Newark Farmers Market, LLC. Newark Farmers Market, LLC is proposing to construct new facilities totaling 260,000 square feet, approximately 90,000 square feet of which would be leased to two affiliates, Wuhl Shafman Lieberman Corp. (Wuhl), a produce distribution company; and Fresh Cuts Produce LLC (Fresh Cuts), a manufacturer and distributor of fruit platters. The balance of the facilities, approximately 170,000 square feet would be leased to Wakefern Food Corp. Further, Newark Farmers Market, LLC, through a newly created affiliate, will enter into an operating agreement with Wakefern to operate the facility on their behalf.

Wakefern Food Corp. has applied for the UTHTC as a tenant in a commercial project on an eligible site in Newark. The project site, having a street address of 140 Joseph Street, has been verified to be in an eligible municipality as well as served by active freight rail which will be utilized by the businesses operating on the site. The proposed project would include the demolition of the existing facility and the construction of two new facilities totaling 260,000 square feet. The project would

involve the relocation of 274 employees from the existing facility on the project site to the proposed new facility. The relocated jobs include approximately 147 currently employed by Wuhl and approximately 127 employed by Fresh Cuts, both tenants of the proposed new project. In addition, the tenants expect to create 138 new jobs initially, and potentially 100 additional jobs over the next 10 years.

The estimated total capital investment in the project is \$65,000,000. The eligible capital investment in the project is \$55,000,000, which does not include land. Wakefern Food Corp. will be leasing approximately 65% of the planned new facilities, resulting in an allocable share of the capital investment equal to \$35,750,000. Wakefern Food Corp. is eligible as a tenant under this program since their allocable share of the capital investment based on their proportion of the leasable area is at least \$17,500,000 and based on the employment of at least 250 full-time workers at the project site through the aggregation of the other tenants (and their affiliates) as permitted under the statute. The Authority recommends approval of this project for a tax credit in an amount estimated at \$29,250,000, which represents 65% of the total \$45,000,000 in tax credits generated by the project based on Wakefern Food Corp. allocable share of the planned total leasable area of the project. The final credit amount issued to Wakefern Food Corp. shall be based on its proportionate share of the total leasable area upon completion of the project. The total combined tax credit issued to Wakefern Food Corp. and Newark Farmers Market, LLC, which is filing separately as owner, shall not exceed \$45,000,000. This credit amount was limited by the requirement for the project to provide at least a 110% net positive benefit to the State of New Jersey, after netting out all State and local incentives. The estimated timeline for award of the tax credit is the 2nd Quarter of 2015.

Project Ownership

Wakefern is a tenant of Newark Farmers Market, LLC. They will be entering into operating agreements with the other entities for the leased space. Their executive staff include:

Mr. Joseph Colalillo- CEO
 Mr. Dean Janeway- President & COO
 Joseph Sheridan- EVP

Project Budget for full 260,000 SF Development

Item	Total Development Cost	Eligible Capital Investment
Land	\$10,000,000	\$ 0
Construction	\$32,000,000	\$32,000,000
Equipment	\$20,000,000	\$20,000,000
Soft Costs	\$ 3,000,000	\$ 3,000,000
TOTAL	\$65,000,000	\$55,000,000

Net Positive Benefit Analysis

The Authority has conducted the required Net Benefit Analysis and has found that the present value of the Net Positive Benefits to the State of New Jersey over a 20 year period for the full project is \$36,400,000. This number is obtained by taking the annual Gross Income Tax, utility tax, property tax and indirect spillover tax revenues from earnings and expenditures minus the local costs. The present value of this figure is reduced by the present value of all local and state grants to the project, resulting in the present value of the Net Positive Benefits to the State of New Jersey. With the Present Value of the UTHTC at a 6% discount rate being \$33,100,000, the present value of the Net Positive Benefits to the State of New Jersey is \$3,300,000. This meets the standard of being at least 110% of the recommended grant assistance. The project was awarded a 25% increase in net benefits and subsequent credit amount because the occupants are logistics-based businesses. The total project is thereby eligible for a tax credit amount not to exceed \$45,000,000 which is less than 100% of the Total Capital Investment. To date, a total of \$350,981,282 of Commercial UTHTC Credits have been approved.

Recommendation

Staff has reviewed the application for consistency with the Act and rules implementing the UTHTC Program (N.J.A.C:19:31-9) and recommends approval of the application for a tax credit in an amount estimated at \$29,250,000, which represents 65% of the total \$45,000,000 in tax credits generated by the project based on Wakefern Food Corp. allocable share of the planned total leasable area of the project. The final credit amount issued to Wakefern Food Corp. shall be based on its proportionate share of the total leasable area upon completion of the project. The total combined tax credit issued to Wakefern Food Corp. and Newark Farmers Market, LLC, which is filing separately as a tenant, shall not exceed \$45,000,000. Ten percent of this amount will be issued annually over ten years. EDA will provide the applicant with an approval letter for the total amount of the credit.

Pursuant to the rules governing the program, the project will need to meet certain project milestones within 12 months of approval in order to maintain the project's credit approval.

These milestones for the developer include:

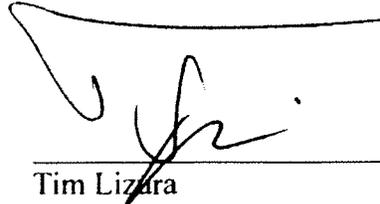
- 1) site control
- 2) site plan approval
- 3) binding commitment of financing for the entire project
- 4) other project specific items which may be added

In addition, the applicant must provide an executed lease with Newark Farmers Market LLC which demonstrates at least \$17.5 million in allocated capital for the project which has met the required milestones.

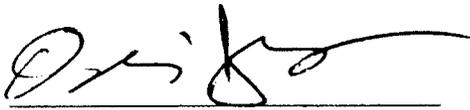
Upon project completion, the Authority shall issue a tax credit certificate based on the final qualified costs, not to exceed the approved amount. The tax credit certificate shall indicate that the applicant may take one tenth of the total credit annually over ten years when accompanied by a letter issued by EDA indicating the project is compliant with program guidelines. This approval is subject to the proposed program rule amendments becoming final, with the applicant at risk if the proposed amendments implementing the program are not adopted.



Alex Pavlovsky
Senior Urban Development Officer



Tim Lizara
Senior Vice President, Business Development



Odis Jones
Director, Urban and Site Development

Address		Newark Farmers Mkt	
City		Newark	
Ongoing Jobs		138	Net New Jobs
One Time Jobs		582	
Sales Tax			
		\$0.00	@ 7%
Corporate Income Tax (CIT)			
		\$0.00	Corp. LLC & S Corp
Gross Income Tax			
		\$0.35	Actuals
Misc. State Tax Revenue			
		\$0.25	Utility Tax
Direct Ongoing Annual Taxes			
		\$0.60	
Annual Corp Spending			
		\$1.47	Actuals
Final Indirect Demand Multiplier			
		0.37x	
Indirect Annual Spending			
		\$0.54	
At 3.5 % Tax Rate			
		\$0.02	
Annual Payroll			
		\$6.92	Actuals
Indirect Effect Earnings Multiplier			
		0.27x	
Indirect Earnings			
		\$1.87	
At 5% Tax Rate			
		\$0.09	
Indirect Ongoing Annual Taxes			
		\$0.11	
Annual Net Benefit			
		\$0.71	
Cumulative Net Benefit (20yrs with Actuals)			
		\$25.94	
Present Value @6%			
		\$14.22	
Local Direct Ongoing			
Property Taxes & Payroll Taxes			
		\$0.50	Actuals
Municipal Burden			
		\$0.00	
Construction Value			
		\$55.0	Actuals
Direct One Time Taxes on Spending			
		\$1.9	Ass
Indirect Construction Multiplier			
		0.53x	
Indirect One Time Spending			
		\$29.06	
Spending Tax Rate			
		3.5%	
Ind One Time Taxes on Spending			
		\$1.0	
Assumed Portion of Const. on Labor			
		50%	Ass
Dir One Time Earnings			
		27.50	
Earnings Tax Rate			
		5%	Ass
Dir One Time Taxes on Earning			
		\$1.4	
Indirect Effect Earnings Multiplier			
		0.45x	
Indirect One Time Earnings (50% of Constr			
		12.31	
Earnings Tax Rate			
		5%	Ass
Ind One Time Taxes on Earnings			
		\$0.6	
Total One Time Tax Benefits			
		\$4.9	
Total State Benefits			
Total One Time Tax Benefits			
		\$4.9	e
Total State Ongoing Benefits (PV @ 6%)			
		\$14.2	d
Total Local Ongoing Benefits			
		\$10.0	
Total State and Local Benefits			
		\$29.12	
Logistics Industry Bonus (25%)			
		\$7.28	
New Total State & Local Benefits			
		\$36.40	
Previous Local & State Incentives			
Less:			
		\$0.00	
State Grant Received (PV at 6%)			
		\$0.00	f
Urban HUB Request (PV at 6%)			
		\$33.12	g
Other			
		\$0.00	h
PV of Net Benefits to NJ			
		\$3.28	d+e-f+g-h
NOMINAL BENEFITS			
Ongoing:			
		\$32.42	
One Time			
		\$6.17	
Local Benefits			
		\$22.21	
Total Benefits			
		\$60.80	
State Grant			
		\$0.00	
Urban HUB Award			
		\$45.00	
UEZ:			
		\$0.00	
Total Assistance:			
		\$45.00	
		\$0.00	
Total Nominal Net Benefit:			
		\$15.80	

BOARD MEMORANDUMS



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

SUBJECT: Barclays Capital Services LLC and Long Island Holding B LLC/Lehman Brothers Holdings, Inc.
Structured Finance Program

DATE: August 10, 2010

REQUEST:

Consent to the acquisition of the leasehold improvements, equipment and fixtures of the structured finance facility formerly provided to Lehman Brothers Holdings, Inc. ("LBI"). Barclays Capital Services LLC and Long Island Holding B LLC (collectively, "Barclays") will pay a 'reset fee' of \$117,829 to EDA as consideration to acquire the assets purchased by LBI under the structured finance agreement.

BACKGROUND:

In 2005, the Members approved a structured finance project for LBI to finance the acquisition of leasehold improvements, and furniture, fixtures, and equipment which it then leased to LBI for the useful life of the equipment and for fifteen years for the leasehold improvements.

As the assets involved were purchased in the Authority's name, no state sales and use taxes were paid on the acquisitions. The applicant purchased approximately \$19.5MM in assets under this Program most of which were leasehold improvements (saving over \$1.1MM in sales taxes). The furniture, fixtures, and equipment could be purchased by LBI at the end of its lease for a pre-determined (by desk-top appraisal) amount and the leasehold improvements could be purchased after the first year but before the end of the fifth year for nominal consideration. After the fifth year (which ended 7/22/2010 and was extended by the Board to 9/22/2010), the applicant would have had to pay the fair market value of the leasehold improvements. The purchases were financed by LBI and the Authority did not incur any financial exposure.

In the Project Agreement, in exchange for saving the sales and use taxes on the acquisitions, LBI agreed to create at least 420 permanent full-time jobs and maintain its statewide base jobs of 1,547 for at least 5 years, subject to a specifically defined penalty for falling below those job creation numbers. LBI also committed to operating the Cranford facility with the equipment and leasehold improvement for fifteen (15) years.

On September 15, 2008 LBI entered Chapter 11 Bankruptcy and on September 22, 2008 transferred all of its rights, title and interest to the facility which houses our leased assets, to Long Island Holding B LLC, part of the Barclays Group, pursuant to a Purchase Agreement approved by the Bankruptcy Court. Currently, Barclays Capital Services LLC, also part of the Barclays Group, is the employer at the Cranford facility and a second Project Agreement approved site (which lease was also transferred to Barclays).

Under the Purchase Agreement, Barclays did not assume the Structured Finance documents from LBI but has been using the leasehold improvements and equipment owned by the Authority. At first, it appeared to staff that Barclays had, in essence, stepped into the shoes of LBI, and should be required to repay the amount LBI would have owed under the documents, approximately \$125,000 a year. Staff learned, however, that Barclays did not control LBI's entire statewide workforce. Also, as it tried to integrate LBI into its business, Barclays laid off some LBI workers but in the end was employing more full time employees at the two Project Agreement approved sites than were required under the LBI documents (571 as opposed to 420).

In lieu of focusing on LBI, Barclay's has offered to maintain its statewide workforce in New Jersey for five years and to purchase the rights, titles and interest of LBI under the Structured Finance documents, which requires a minimal payment. In addition it has agreed:

1. No further purchases will be made under the Program.
2. Barclays will commit to retain its current 1,190 employees in New Jersey for five years; 595 of these were new jobs created after the approval of the Lehman Brothers project in December of 2004.
3. Barclays will pay a penalty similar to that contained in the Structured Finance documents (under Section 19 of the LBI Project Agreement) for each year in which their employment count falls below 1,190 (with a maximum penalty equal to the sales exemption).
4. Barclays will assume LBI's obligations under the Project Agreement, including the obligation to continue to operate the Cranford facility for the remainder of LBI's fifteen (15) year commitment (that is, until 2020).
5. Barclays will be released from any liability relating to LBI and any event that occurred prior to the date of the modification agreement to be signed between the Authority and Barclays.
6. Barclays will purchase the equipment and leasehold improvements before September 22, 2010.
7. To memorialize this agreement, Barclays will execute an agreement that will modify the terms of the original Project Agreement and will pay a reset fee of \$117,829, which is 10% of LBI's sales tax savings. (Ten percent is equivalent to the fee imposed on a new applicant for a structured finance.) Barclays will assign to the Authority a portion of the Barclays Capital Services LLC's FY 2008 BEIP payment, which has been submitted by Barclays and processed by EDA but has not yet been disbursed, to pay this fee.

This modification with Barclays does not affect the Authority's claim filed in LBI's bankruptcy

proceeding for the full \$1.1 MM in sales tax savings.

RECOMMENDATION:

Because it will have the effect of maintaining high paying jobs in New Jersey for a period of at least five years, staff recommends that the Authority consent to Barclays' assumption of LBI's Structured Finance asset acquisition, with modifications as noted above. As additional consideration, Barclays will pay a reset fee of \$117,829.

Caer-Franzin. RL

Prepared by John Rosenfeld



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Delegated Authority Approvals – Edison R&D Wraparound Loans
For Informational Purposes Only

Below is a summary of Edison R&D Wraparound loan approvals prepared by Portfolio Services in conjuncture with NJ Commission on Science and Technology (CST) R&D grants awarded in November 2009.

The Authority provides loans for working capital to recipients of CST R&D grants. Pursuant to a Memorandum of Understanding with CST, the maximum loan amount is \$100,000 or 20% of the R&D grant amount. Loan term is 10 years. Interest accrues at 2% and is capitalized for 60 months. The loan is automatically converted to equity upon a qualified financing; if not converted by the 5th anniversary, then 60 monthly payments of principal and interest are required. EDA receives a 10 year warrant for 50% coverage of the loan.

Name	EDA Exposure	Company Description
VectraCor, Inc.	\$ 100,000	VectraCor, Inc. develops a technology to generate same data as electrocardiogram machine (ECG) without it being attached to a patient.
Edge Therapeutics Inc.	\$ 100,000	Edge Therapeutics, Inc. is a life science company that treats serious types of brain injury.
Orthogen, LLC	\$ 100,000	Orthogen, LLC repairs connective tissue structures and bone attachment of these tissue plant surfaces.
Simphotek, Inc.	\$ 50,000	Simphotek, Inc. develops simulation software for analyzing the interactions of light with materials and optical devices.
Phoenix Labs, LLC	\$ 50,000	Phoenix Labs, LLC designs software and hardware for switched networks.
3D Biotek, LLC	\$ 39,000	3D Biotek, LLC is a biomedical device company that develops innovative technologies and devices for stem cell research.



Prepared by: Daniel Weick



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Delegated Authority Revisions to Credit Delegations, Department of Environmental Protection ("DEP") Loans/Grants and Salem UEZ Incentive Delegations

Request:

Revise the delegations previously granted by the Members for Credit, DEP and Salem UEZ, to align them with the recent changes to our organizational structure while ensuring continued efficiencies for our customers and consistent controls for our business.

Background:

Beginning in July 2003, and continuing through March 2009, the members' approval has been sought to delegate signing authority to staff on a certain financing transactions to create efficiencies for our customers and to provide fluidity to our business.

Historically, the delegation requests have been presented in memo form to the members for approval after thorough review by the Attorney General's Office, and in later years, by the Governor's Authority Unit. Some of the more complex delegations were also shared with the Policy and Director's Loan Committees for review and guidance in advance of board consideration. The most recent changes were requested in March 2009 at which time a comprehensive grid (see attached) was provided to the members.

Over the past 15 months, staff has monitored the delegations from a practical application, and has found that along with the need to improve efficiency, the recent changes in our organizational structure now require a change in the delegations. As such, staff recommends the following changes which reflect the resultant management changes and the responsibility scope to the members for approval.

Proposed Revisions:

Credit Exposure Transactions:

1a) Change Level 2 signing authority on credit exposure transactions from CEO or CFO with SVP – Operations with recommending Director of Credit Underwriting or Portfolio to **CEO or CFO with any SVP and recommending Director of Credit Underwriting or Portfolio Services;**

1b) Change Level 3 signing authority on credit exposure transactions from SVP – Operations with recommending Director of Credit Underwriting or Portfolio or alternately any SVP and both the Directors

of Credit Underwriting and Portfolio. **to any SVP or CFO with the Director of Credit Underwriting or the Director of Portfolio;**

DEP Loans and Grants:

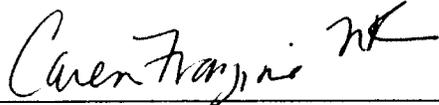
2) Change the required signing authority on DEP loan and grant programs from Level 3 SVP – Operations with recommending Director of Program Services **to Level 4 – Director of Program Services (or alternately the Director of Credit Underwriting or Portfolio);**

Salem Energy Sales Tax:

3) Change the required signing authority on Salem UEZ Energy Tax Credits from Level 3 SVP – Operations with recommending Director of Portfolio Services and staff **to Level 4 – Director of Portfolio Services (or alternately the Director of Credit Underwriting or Program Services) upon recommendation by staff.**

Recommendation:

The members are asked to consent to the above changes to align signing delegations with EDA's recent changes to its organizational structure. The recommended changes will create efficiencies for approving transactions for our customers while continuing to provide consistent oversight and controls provided for in our existing delegation authority policies.



	Level 1	Level 2	Level 3	Level 4	Board Approval Policy	Rationale for Proposed Chg.
	CEO	CEO or CFO with SVP - Operations and Recommending Director (Credit Underwriting, Portfolio Services) Change to: CEO or CFO with any SVP and Recommending Director (Credit Underwriting or Portfolio Services)	SVP - OPS with the Director of Credit Underwriting or Director of Portfolio Services, alternately any SVP with Directors of Credit Underwriting and Portfolio Services (with recommending Underwriter or Credit Officer). Change to: Any SVP or CFO with Director of Credit Underwriting or Portfolio Services (with recommending Officer)	Director of Credit Underwriting with Recommending Officer or Director of Portfolio Services with Recommending Asst. Director and Director of Program Services (or alternately Director of Credit Underwriting or Portfolio Services) with recommending Officer on DEP loans/grants	March 10, 2009 (alternate signing authority in Level 3 in the absence of the SVP-OPS)	August 2010. Provides flexibility and efficiency of signing authority by any SVP or CFO with signature of Director of Credit Underwriting or Portfolio Services (credit transactions). Provides flexibility and appropriate level of signing for the DEP programs (performance based transactions) by the Director of Program Services with recommending Officer.
New Approvals:						
1. NJ Business Growth Fund (PNC Partnership)			Review credit evaluation/approval process conducted by PNC Bank to ensure level of underwriting performed by bank meets the EDA's standards. EDA staff may decline or present to Director's Loan Committee and EDA board. Guarantees will be provided for projects up to \$4 million with EDA exposure varying between 25%-50% of bank's share of loan (capped @ \$1MM)		September 14, 2004 (initial) September 12, 2006 (extension) September 11, 2007 (extension) October 9, 2007 (increases limits)	
2. Preferred Lender Program			Exposure limited to max of \$750,000 (w/c) and \$1,250,000 (f/a) participation and a \$1.5 million (w/c) or (f/a) guarantee of bank's loan as provided for in our published guidelines. A combination participatory guarantee may provide lender max exposure of \$2.250 million (w/c) and \$2.750 million (f/a), but not to exceed 50% total loan amount		March 13, 2001 February 14, 2006 (revised) October 9, 2007 (increase limits) March 10, 2009 (expand approvals for PLP banks)	
3. Fast Start			Exposure up to \$300,000 based on credit scores. Minimum credit score threshold of 650 and fixed asset collateral required for exposures up to \$125,000. Exposures in excess of \$125,000 require a minimum credit score of 700 and fixed asset collateral.		November 13, 2007	
4. Technology Lending		Approve up to an aggregate of \$250,000			March 7, 2005 April 12, 2005 March 10, 2009 (change from Level 2 to Level 3) October 9, 2007	
5. Fund for Community Economic Development			Approve Fund for development financial assistance up to \$50,000 (revised from Level 1)			
6a. ERB Business Improvement Incentive (Façade Improvements)		Approve up to \$20,000 & report approvals to EDA and ERB Boards quarterly			September 13, 2005 March 10, 2009 (change from Level 2 to Level 3)	
6b. ERB Business Lease Incentive Program		Approve up to \$250,000 & report approvals to EDA and ERB Boards quarterly			September 13, 2005 March 10, 2009 (change from Level 2 to Level 3)	

Level 1	Level 2	Level 3	Level 4	Board Approval Date of Delegation Policy	Rationale for Proposed Change
CEO	CEO or CFO with SVP - Operations and Recommending Director (Credit Underwriting, Portfolio Services). Change to: CEO or CFO with any SVP and Recommending Director (Credit Underwriting or Portfolio Services)	SVP - OPS with the Director of Credit Underwriting or Director of Portfolio Services; alternately any SVP with Directors of Credit Underwriting and Portfolio Services (with recommending Underwriter or Credit Officer). Change to: Any SVP or CFO with Director of Credit Underwriting or Portfolio Services (with recommending Officer)	Director of Credit Underwriting with Recommending Officer or Director of Portfolio Services with Recommending Asst. Director and Recommending Officer. Add: Director of Program Services (or alternately Director of Credit Underwriting or Portfolio Services) with recommending Officer on DEP loans/grants	March 10, 2009 (alternate signing authority in Level 3 in the absence of the SVP-OPS October 11, 2005 May 9, 2006	August 2010. Provides flexibility and efficiency of signing authority by any SVP or CFO with signature of Director of Credit Underwriting or Portfolio Services (credit transactions). Provides flexibility and appropriate level of signing for the DEP programs (performance based transactions) by the Director of Program Services with recommending Officer.
7. Supplemental request for funds for HDSRF & PUST		(Grants 1) New approvals up to \$100,000; 2) Supplemental approvals up to \$100,000.			

	Level 1	Level 2	Level 3	Level 4	Board Approval Date of Delegation Policy	Reasons for Proposed Chg.
	CEO	CEO or CFO with SVP - Operations and Recommending Director (Credit Underwriting, Portfolio Services). Change to: CEO or CFO with any SVP and Recommending Director (Credit Underwriting or Portfolio Services)	SVP - OPS with the Director of Credit Underwriting or Director of Portfolio Services; alternately any SVP with Directors of Credit Underwriting and Portfolio Services (with recommending Underwriter or Credit Officer). Change to: Any SVP or CFO with Director of Credit Underwriting or Portfolio Services (with recommending Officer)	Director of Credit Underwriting with Recommending Officer or Director of Portfolio Services with Recommending Assl. Director and Recommending Officer. Add: Director of Program Services (or alternately Director of Credit Underwriting or Portfolio Services) with recommending Officer on DEP loans/grants	March 10, 2009 (alternate signing authority in Level 3 in the absence of the SVP-OPS)	August 2010. Provides flexibility and efficiency of signing authority by any SVP or CFO with signature of Director of Credit Underwriting or Portfolio Services (credit transactions). Provides flexibility and appropriate level of signing for the DEP programs (performance based transactions) by the Director of Program Services with recommending Officer.
Extensions: Pre-Closing:						
1) Commitment Extensions (Loan/Guarantees or Grants)				Extend expiration date of commitment letters upon request of applicant	June 14, 2005 March 10, 2009 change from Level 3 to Level 4.	
2a) Increase in approved loan/guaranty amount; b) change in collateral value			a) Approve increases to loan/guaranty amount no greater than 10% of original approved exposure (up to \$200,000); b) allow for up to 10% increase in LTV and no more than \$200,000 decrease in collateral value.		March 10, 2009 (Allow for changes to project costs/collateral values with no adverse chg)	
Post Closing Modifications:						
1. Collateral - release, substitute or subordinate collateral where either			a) The aggregate current principal exposure does not exceed \$500,000 provided that the loan to value ratio after the release is not greater than the loan to value indicated in the original or most recent project approval or b) The collateral being released represents less than 10% of the current collateral value		July 9, 2003	
2. Guarantors - release where the current aggregate principal exposure does not exceed \$500,000 and the guarantor is no longer affiliated with the business provided			a. The value of the remaining collateral adequately secures the debt within the existing guidelines, or b. The guarantor provides fair value for the release of the guaranty, or c. The guaranty gives no significant support to the credit		July 9, 2003	
3. Change monthly payment terms as long as				a) The change in payment terms does not adversely impact cash flow, and b) does not adversely change the debt service coverage ratio that was stated/approved in the original (Board or Delegated) approval	July 9, 2003	
4. Loan Extension				Extend term on performing loans up to \$1MM with existing bank or substituted lender offering the same terms and conditions. Original plus extension(s) will not exceed 10 years w/ minimum debt service coverage of 1x and LTV is < than or = to 100%.	July 9, 2003 - (up to \$500,000) March 10, 2009 (up to \$1MM)	
5. Payment Moratoriums				Approve initial 6 month moratorium at Borrower's or Bank's Request. Subsequent payment moratoria requests require Board approval	July 9, 2003	
6. Modification of Springboard I Recoverable Grant Terms				Modify grant repayment terms at the request of grantee with notification to the Commission on Science & Technology	April 10, 2007	

	Level 1	Level 2	Level 3	Level 4	Board Approval Date of Delegation Policy	Rationale for Proposed Chg.
	CEO	CEO or CFO with SVP - Operations and Recommending Director (Credit Underwriting, Portfolio Services). Change to: CEO or CFO with any SVP and Recommending Director (Credit Underwriting or Portfolio Services)	SVP - OPS with the Director of Credit Underwriting or Director of Portfolio Services; alternately any SVP with Directors of Credit Underwriting and Portfolio Services (with recommending Underwriter or Credit Officer). Change to: Any SVP or CFO with Director of Credit Underwriting or Portfolio Services (with recommending Officer)	Director of Credit Underwriting with Recommending Officer or Director of Portfolio Services with Recommending Asst. Director and Recommending Officer. Add: Director of Program Services (or alternately Director of Credit Underwriting or Portfolio Services) with recommending Officer on DEP loans/grants	March 10, 2009 (alternate signing authority in Level 3 in the absence of the SVP-OPS)	August 2010. Provides flexibility and efficiency of signing authority by any SVP or CFO with signature of Director of Credit Underwriting or Portfolio Services (credit transactions). Provides flexibility and appropriate level of signing for the DEP programs (performance based transactions) by the Director of Program Services with recommending Officer.
SLM Approvals:						
1. Settlements and Compromises		Maximum loss of principal will not exceed \$300,000 and, the settlement, compromise or forgiveness has been approved by the Attorney General's office and any remaining debt will be satisfied or paid in full			July 9, 2003 (to \$250,000) November 13, 2007 (to \$300,000)	
2. Write-offs (without recourse)		Write-offs with the concurrence of the Attorney General's office, up to \$300,000 when there are no longer any parties legally obligated to pay the obligation and no remaining collateral value			July 9, 2003 (to \$250,000) November 13, 2007 (to \$300,000)	
3. To write-off (with recourse) and remove from the Authority's books.		Write-off (with recourse) and remove from the Authority's books, loans or guarantees up to \$300,000 where there is little or no potential for recovery.			July 9, 2003 (to \$250,000) November 13, 2007 (to \$300,000)	
4. Bidding on foreclosures		Authorize bidding at a foreclosure sale or auction for up to \$1,000,000 to purchase property			November 9, 2005	
Fee Waivers/Changes:						
1. Waive Commitment Extension Fees			Under certain circumstances waive loan/grant commitment extension fees not to exceed \$1,000		June 14, 2005	
2. Waive Late Payment Fees a) EDA Generated Billing Errors; b) Customer reimbursement requests				a) Unlimited \$ waivers for EDA Billing errors; b) reimburse late fees up to for customers who request reimbursement for good cause and are in good standing at EDA (current pays for 24 months) limited to 2 times in 24 month cycle.	June 14, 2005 March 10, 2009 (to \$3K)	
3. Modification Fees			Under certain circumstances (financial hardship) add modification fees to restructure debt not to exceed \$1,000		March 10, 2009 (add fees)	Provides flexibility to Staff to add modification fees to restructured debt for customers who are in good faith willing to pay and are asking to restructure payments due to financial hardship. Supports customer focus directives for the organization.

BEIP DELEGATIONS BY STAFF LEVELS (2010)

Level 1	Level 2	Level 3	Level 4	Board Approval Date of Delegation Policy	Comments for Proposed Change
<p>1. BEIP Program - a) Name Changes, Address Changes, Internal Mergers of Subordinates, delete, without job creation, reducing the NEC or b) adding Professional Employment Organizations (PEO); (NOTE: Mergers and Acquisitions that result in significant job growth and debarment issues will continue to require Board Approval.)</p>		<p>a) Changes are minimal in nature and will not significantly increase employment numbers and b) 1. The PEO is organized under the NJ official definition; 2. The grant company is held responsible for maintaining the NEC at the project site for the commitment duration and for all conditions and requirements under the BEIP Grant Agreement; 3. The grant proceeds are disbursed in a check payable to the grant company; 4. The grant company and PEO agree to the release of tax information to each other and to the Division of Taxation in order to complete and audit the payroll reports; 5. The grant company and PEO enter into a PEO contract which is reviewed and found satisfactory to the Authority; 6. Outsourced jobs are not included</p>		<p>e-b) October 10, 2004</p>	<p>NO CHANGE</p>

BROWNFIELDS DELEGATIONS TO STAFF RECOMMENDATIONS (2010)					
	Level 1	Level 2	Level 3	Level 4	Rationale for Change
Brownfields Redevelopment Program	CEO	CEO or CFO with SVP and Recommending Director	SVP or CEO with Recommending Director	Director	
1) Approve Amendments to Redevelopment Agreements with changes	Board - increase > than 25% of benefit value; CEO - < than 25% of benefit value				No change for Board Level approval. Change from Level 1 to Level 2 to align with current signing authority requirements for BEIP
2) Execute Brownfields Redevelopment Agreements or Amendments to Redevelopment Agreements	(a & b) CEO signs with co signature of State Treasurer. Recommend retaining current approval process				No Change
Municipal Landfill Program					
1) Approve Amendments to Municipal Landfill Agreements	Board - increase > than 25% of benefit value. CEO - < than 25% of benefit value with notification to DEP				Change to Level 2 to align with current signing authority requirements for BEIP
2) Execute Municipal Landfill Development Agreements and amendments to Redevelopment Agreements	CEO with Sr. Prog Director				Change to Level 2 to align with current signing authority requirements for BEIP

BRAGG/SALEM/JUEZ DELEGATIONS TO STAFF RECOMMENDATIONS (2010)

	Level 1	Level 2	Level 3	Level 4	Recommendations for Changes
BRRAG Programs): Grant, STX, Tax Credit	CEO	CEO or CFO with SVP and Recommending Director	SVP or CEO with Recommending Director	Director with Recommending Assistant Director and Recommending Officer	
(1) Approve Amendments to Projects up to a 20% change from the original approval	CEO with Sr. Prog. Director				Change to Level 2 to align with current signing authority requirements for BEIP.
(2) Execute Project Agreement or other approval document with BRRAG Applicant	CEO				Change to Level 4 to align with current signing requirements for EDA commitment letters and amending documents.
(3) Approve Rescissions and/or Recaptures of defaulted obligations	CEO with Sr. Prog. Director				Change to Level 2 to align with EDA policy for BEIP rescission/recapture.
Economic Development Site Fund ("EDSF")	Board with CEO				Change to Level 2 to align with current EDA policies for Delegation of Authority to staff for modifying loan terms.
(1) Amendments to loan terms on loans below \$500,000 without extending maturities beyond 10 years	CEO				Change to Level 4 to align with current signing requirements for EDA commitment letters and amending documents.
(2) Execute Economic Development Site Fund Agreement or amendments to Economic Development Site Fund Agreements					
Sales Tax Exemption Tax Credit (Salem County)					
(1) Approve Annual Renewals subsequent to original Board Approval (See Note Below)	Board with CEO				Change to Level 4 on these non-credit exposure performance based incentives approved by Division of Taxation March 2009 Change to Level 2 August 2010 Change to Level 4
(2) Execute STX (Salem) Agreements or approve amendments to existing agreements	CEO				Change to Level 2 to align with current signing requirements for EDA commitment letters and amending documents.
(3) Approve Rescissions and/or Recapture of defaulted obligations	CEO with Sr. Prog. Director				Change to Level 2 to align with EDA policy for BEIP rescission/recapture.
Urban Enterprise Zone STX Program					
(1) Approval Annual Renewals subsequent to original Board Approval (See Note Below)	CEO with Director				Change to Level 2 to align with maturity extensions for EDA loan products.
(2) Execute UEZ STX Agreements or approve amendments to existing agreements	CEO				Change to Level 4 to align with current signing requirements for EDA commitment letters and amending documents.
(3) Approve Rescissions and/or Recapture UEZ STX on defaulted obligations	CEO				Change to Level 2 to align with EDA policy for BEIP rescission/recapture.

Note: Applicants are required to meet very specific statutory guidelines at the time of application. Once applicants meet those guidelines, renewal of the benefit can be effectuated through a delegated approval as long as applicants can continue to meet those statutory guidelines.

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
SECRETARIAL SIGNATORY**

Financing Documents	Position	Level of Authority
Authority to execute financial documents, indentures, bonds and other instruments in the connection with the issuance of bonds or as necessary to effectuate program (loans, guarantees, awards, agency etc.) initiatives, project financings	Chief Executive Officer	Sign or Attest
	Chief Operating Officer	Sign or Attest
	Chief Financial Officer	Sign or Attest
	Senior Vice President	Sign or Attest
	Vice President	Sign or Attest with Board Approval of the project, program or initiative
	Director of Closing Services	Sign or Attest with Board Approval of the project, program or initiative
	Director of Credit Underwriting	Sign or Attest with Board Approval of the project, program or initiative
	Director of Portfolio Services	Sign or Attest with Board Approval of the project, program or initiative
	Director of Program Services	Sign or Attest with Board Approval of the project, program or initiative
	Director of Real Estate Development	Sign or Attest with Board Approval of the project, program or initiative



TO: Members of the Authority

FROM: Caren S. Franzini, Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Policy Recommendations to Reset the Base Employment Number for Business Employment Incentive Program "BEIP"

Request:

Temporarily amend current policy guidelines for two years to allow a reset of the Base Employment Number of a BEIP grantee under specific guidelines outlined below.

Background:

When the BEIP statute was enacted in 1996, rules and policies were put into place to ensure that businesses maintain the required minimum number of eligible positions at the project site for the commitment duration. Included in those rules was the Base Employment Number, which is defined as the number of employees, employed in New Jersey at the time of application.

After administering the program over time, EDA sought to tighten its rules to, among other things, ensure that jobs were not being created at the BEIP location while simultaneously being downsized or moved out of state from other New Jersey locations.

Beginning in October 2004, companies approved for BEIP grants were required to maintain at a minimum of 80% of their Base Employment Number in New Jersey each year during the term of the grant. If a company fell below that 80% level, under the terms of the grant agreement, the company could backfill any job losses on the base list with the new jobs created under its BEIP, provided it continued to meet its Minimum Threshold Employment ("MET") established at the time of approval based on then operative criteria.

While companies that fall below the 80% Base Employment Number are in technical default, current policy allows those companies two years to bring their Base Employment Number back up 80%. During that two year period, grant payments are suspended, but the company's grant is not terminated as long as they can demonstrate continued effort to re-grow jobs in New Jersey. An additional one year extension may be granted upon application to the Authority.

When the 80% Base Employment Number policy was established it was created specifically to prevent companies from moving employees to the BEIP site from other locations while simultaneously reducing staff or relocating employees out of state from other locations, at a time when our national and state economy was thriving and other states were aggressively competing for our jobs.

Due to the recession, companies are now faced with examining their operations internally and making their businesses more efficient so they can weather the downturn and emerge successfully as the economy slowly rebounds.

An issue recently surfaced with one of our BEIP grantees that will impact the company's operations to the extent that meeting 80% Base Employment Number established at the time of approval is not achievable.

Because staff believes that the issue raised by one grantee is not isolated, and that the recession will impact other BEIP companies in a similar way, the following policy recommendation to reset the Base Employment Number for companies that meet specific guidelines defined below. This temporary two year option will be provided in addition to current policy guidelines described above.

While most companies will be able to utilize the current policy that allows a company a two year window to bring their Base Employment Number back up to the 80% allowable level, some companies that were significantly impacted by the recession may need to radically change their operations to the extent that a reset of the Base Employment Number will be necessary for them to successfully rebound.

As such, EDA staff recommends this additional but temporary policy to offer flexibility to companies that cannot benefit from the current guidelines and specifically request a reset to help them successfully rebound during these tough economic times.

Guidelines for Adoption of a Reset of Base Employment Number:

To be considered for a Base Employment Number reset, the BEIP grantee must certify to EDA that it meets the following criteria:

1. Prior to the downturn in the economy [2007], the company was in compliance with the terms and conditions of its BEIP grant agreement.
2. The change in the business model will change the employment numbers by at least 20% and the level of Base Employment will as the result of the change, not increase to originally stated Base Employment levels.
3. The reduction in the Base Employment Number occurred as a result of an internal business decision to remain financially viable and was a direct result of the recession.
4. The company formally requests in writing a reset of the Base Employment Number and acknowledge acceptance of a reduction of the % of the BEIP award proportionally by the % drop in the Base Employment Number.
5. The formal request is certified as true and correct by the Chief Executive Officer of the grantee that the aforementioned guidelines have been met.

6. The Base Employment Number reset will become effective upon approval of the reset by EDA's Board and the approval of the minutes by the Governor's Office, and will apply to the annual report year that coincides with the date of the business model change.

By example, if Company A notified EDA of the change in business model in 2010 and formally made the change to its business model and was approved by EDA's Board in February 2011, then the approval and the application date of Base Employment Test reset would apply to the Annual Report submission for calendar year 2011.

If Company A had, in advance of requesting, approval by EDA or action of the business model change, submitted Annual Reports to EDA that were still pending review or funding for prior years, [2009, 2010 for example], then those reports would be reviewed and disbursed under the 80% Base Employment Test requirement under the original BEIP approval pursuant to the terms and conditions of the grant agreement.

7. In consideration for approving a Base Employment Number reset, EDA will discount the % of the BEIP award proportionally by the % drop in the Base Employment Number. An example of this discount of the % of the BEIP award would be if a company's Base Employment Number is reduced from 800 to 600 (a 25% decrease), and their original BEIP was at 70%, the new BEIP award would be at 52.5%, which is a 25% reduction in the award percentage.

8. A modification fee will be charged to compensate EDA for its review and documentation preparation.

Recommendation:

Consent to a two year temporary policy to augment current policy guidelines to allow a reset of the Base Employment Number for BEIP grantees that are unable to utilize from current policy guidelines that give companies two years to restore their 80% Base Employment . These companies will be required to make a formal request in writing, meet the guidelines defined above inclusive of a certification from the company's CEO or comparable signer and agree to accept a proportional % reduction in the grant percentage award.



A handwritten signature in black ink, appearing to read 'C. Cruti', is written over a horizontal line.

Prepared by: Karen Gallagher and Lisa Coane

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini, Chief Executive Officer

DATE: August 10, 2010

SUBJECT: Projects Approved Under Delegated Authority - **For Informational Purposes Only**

The following projects were approved under Delegated Authority in July 2010:

New Jersey Business Growth Fund:

- 1) Jersey Blair Realty LLC and Jersey Gasoline Corp. (P32146) are located in Woodbridge Township, Middlesex County. Jersey Gasoline Corporation was formed in 2005 to provide petroleum transport to approximately 100 gasoline stations throughout Central New Jersey. Jersey Blair Realty, LLC is a newly created real estate holding company that will own the project property. PNC Bank approved a \$312,000 bank loan with a five year, 25% guarantee of principal outstanding, not to exceed \$78,000. Loan proceeds will be used to refinance existing real estate. The company currently has nineteen employees and plans to create an additional ten new positions within the next two years.
- 2) Joang Investments, LLC and RSC of Voorhees, Inc. (P32307) are located in Voorhees Township, Camden County. Joang Investments, LLC was formed in 2009 as a real estate holding company formed to purchase the project property. RSC of Voorhees, Inc. was formed in 1975 to sell, install, maintain and repair air conditioners, heaters, humidifiers, thermostats, and provides service to all HVAC makes and models, with emphasis on Carrier models. PNC Bank approved a \$325,000 loan with a five-year, 25% guarantee, not to exceed \$81,250. Loan proceeds will be used to purchase the project property. Currently, the company has eighteen employees and plans to create two new jobs within the next two years.

Small Business Fund Program:

- 1) 2075 E. State Street LLC (P31349), located in Hamilton Township, Mercer County, is a real estate holding company that was formed to purchase the project property. The operating company, Carfaro, Inc., was founded in 1984 to design, manufacture and install metal railings, fencing, columns and architectural and ornamental metalwork for residential and commercial properties. The company was approved for a \$300,000 loan used to refinance an existing mortgage and payoff a line of credit. Currently, the company has 55 employees and plans to create 20 new positions within the next two years.

Camden ERB:

- 1) Drexel University (P31334), located in Camden City, Camden County, was formed in 1891 as a private research university located in Philadelphia, PA. A.J. Drexel Plasma Institute, a major research initiative in the application of plasma science to biology and medicine, is relocating to the WTCC from Philadelphia. The company will occupy a 10,577 square foot of space located at 200 Federal Street, Camden City, Camden County. The company was approved for a \$158,355 Business Lease Incentive Grant. The company plans to create 25 new jobs over the next two years.

PNC Business Growth Fund - Extension:

- 1) Mamatha Realty LLC (P32513), located in New Brunswick City, Middlesex County, was formed as a real estate holding company for the project property. PNC Bank has approved an extension of a \$496,047 loan with a five-year, 25% guarantee, not to exceed \$124,012. Original loan proceeds were used to purchase the project property. All other terms and conditions of the original approval remain unchanged.

PNC Business Growth Fund Modifications:

- 1) Len Ram Realty, LLC (P32305), is located in Union City, Hudson County. On June 29, 2010, PNC Bank approved a \$237,000 loan with a five-year, 25% guarantee of principal outstanding, not to exceed \$59,250. Subsequently, the NJEDA has been asked to increase our approval to a \$60,750 (25%) guarantee of a \$243,000 loan from PNC Bank due to a change in the payoff amount of the loan to be refinanced. All other terms and conditions of the original approval remain unchanged.
- 2) Permalith Plastics, LLC (P32511) was approved for a five-year extension of its 25% loan guarantee under the BGF program. PNC requested a 25% guarantee of a \$205,595 loan as the borrower was providing a 10% equity contribution to reduce the outstanding principal. The borrower has since requested to extend the full outstanding balance of \$227,290 with a 25% guarantee, increasing the EDA's exposure from \$51,398 to \$56,822. All other terms and conditions of the original approval remain unchanged.



REAL ESTATE



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

RE: Update to Operating Authority - Real Estate Development Division

DATE: August 10, 2010

Summary

I am requesting the Members modify the Real Estate Development Operating Authority to: (i) revise Level 2 authority to SVP; (ii) revise the procurement procedures to incorporate Treasury Division of Purchase and Property's public bidding threshold; (iii) delegate authority for staff to execute grant agreements up to \$300,000; (iv) establish guidelines to facilitate graduation of CCIT tenants after lease expiration; (v) establish guidelines for administering leases; and (vi) extend the term of right of entry/license agreements, as outlined on the attached chart entitled Real Estate Development Program Procurement Operating Authority By Level.

Background

Level 2 Authority: In order to provide flexibility, it is requested that the Level 2 Operating Authority be revised from "SVP – Operations or COO" to "SVP".

Procurement Procedures: The Division of Purchase and Property of the Department of Treasury (DPP) establishes and posts a public bidding threshold for State contracts. The threshold is adjusted by the State Treasurer every two years and all State contracts which exceed that amount must be procured through an open competitive process. Unless otherwise statutorily requires (for example, the \$25,000 public bidding threshold for procurement of professional services pursuant to S-2194) the Authority may determine its public bidding threshold. It is recommended that the Authority incorporate DPP's threshold, as adjusted from time to time, as its guideline for public bidding.

Grants: The Real Estate Division applies for grant funds for program initiatives, for example CCIT, and as part of project financing. In order to expedite the receipt of grant funds, it is recommended that staff be assigned delegated authority to execute grant agreements up to \$300,000. Final terms of any grant agreement are subject to the approval of the Chief Executive Officer and the Attorney General's Office.

CCIT Leases: In order to facilitate graduation of CCIT tenants after lease expiration, it sometimes is necessary for the tenant to holdover its tenancy at CCIT to make a smooth transition into a new space. To facilitate the needs of the tenant, it is requested that staff be assigned delegated authority to continue, add or reduce space and rent proportionately up to one year. Final terms of any lease amendment or extension are subject to the approval of the Chief Executive Officer and the Attorney General's Office.

Leases: In order to establish guidelines for administering late payment fees, rent reductions/waivers for operational and CAM adjustments, holdover rental premiums, lease terminations, and space/rent reductions, it is requested that staff be the delegated authority to: (i) reduce or waive tenant late payment fees up to 90 days; (ii) reduce or waive tenant rent payments up to the lesser of 90 days or \$50,000; (iii) reduce or waive tenant holdover rent premium up to 180 days to encourage continued occupancy; (iv) reduce or waive tenant holdover rent premium from 181 days up to 1 year with CEO approval; and (v) terminate a lease or reduce space and rent proportionately up to \$50,000 during the last six months of a lease term. A monthly update of these activities will be provided to the Real Estate Committee.

Right of Entry / License Agreements: In October of 2008, the Board authorized staff to: (i) grant limited use of real estate owned by or leased by the Authority to a third party (non-monetary/up to 90 day term); (ii) acquire the rights for the Authority to enter upon property owned by a third party related (non-monetary/short-term); and (iii) grant a right of entry or license agreement to a third party for a fee (payments up to and including \$100,000/up to 1 year term). Since that time, several requests have been received from third parties for longer term agreements. Therefore, in order to accurately reflect the timeframe required for certain third party requests, it is recommended that staff be assigned the delegated authority to execute a right of entry/license agreement as follows: (i) for non-monetary transactions, up to 1 year; and (ii) for monetary transactions, for 1 year with two, 1 year extensions. In any case, licenses and rights of entry will only be granted when the other party enters into the Authority's standard form of Right of Entry Agreement or License Agreement. Final terms of the document are subject to the approval of the Chief Executive Officer and the Attorney General's Office.

Recommendation

In summary, I am asking the Members to: (i) revise Level 2 authority to SVP; (ii) revise the procurement procedures to incorporate Treasury Division of Purchase and Property's public bidding threshold; (iii) delegate authority for staff to execute grant agreements up to \$300,000; (iv) establish guidelines to facilitate graduation of CCIT tenants after lease expiration; (v) establish guidelines for administering leases; and (vi) extend the term of right of entry/license agreements, as outlined on the attached Real Estate Development Program Procurement Operating Authority By Level chart.



Caren S. Franzini

Prepared by: Donna Sullivan
Development Manager

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM PROCUREMENT OPERATING AUTHORITY BY LEVEL**

		OPERATING LEVELS							
		Level 1	Level 2	Level 3	Level 4	Level 5	REVISION(S) FROM CURRENT OPERATING AUTHORITY	RATIONALE OR REQUIREMENT	BOARD APPROVAL REQUIREMENT
8/1/2010	R/E Development contracts A/E/Survey/related professional services subject to S-2194 over \$300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with S-2194 & EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Asset Manager, Development Manager, Design & Construction Manager - Real Estate Development, Only ("AMRE"; "DMRE"; "D&CMRE")	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	N/A	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS OVER \$300,000.
	R/E Development contracts for professional services not subject to S-2194 over Treasury DPP public bidding threshold and up to and including \$300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	Replaces \$25,000 with current Treasury DPP public bidding threshold as it increases from time to time	Incorporates Treasury Division of Purchase & Property's public advertising guidelines increasing the public bidding threshold	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER \$300,000.
	R/E Development contracts for professional services not subject to S-2194 over \$300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	No change	N/A	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS OVER \$300,000.
	R/E Development contracts for construction related services not subject to S-2194 over Treasury DPP public bidding threshold and up to and including \$300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	Replaces \$25,000 with current Treasury DPP public bidding threshold as it increases from time to time	Incorporates Treasury Division of Purchase & Property's public advertising guidelines increasing the public bidding threshold.	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER \$300,000.

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM PROCUREMENT OPERATING AUTHORITY BY LEVEL**

OPERATING LEVELS								
	Level 1	Level 2	Level 3	Level 4	Level 5	REVISION(S) FROM CURRENT OPERATING AUTHORITY	RATIONALE OR REQUIREMENT	BOARD APPROVAL REQUIREMENT
8/10/2010 R/E Development contracts for construction related services not subject to S-2194 over \$300,000 Subject to 6/12/01 & 10/5/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Asset Manager, Development Manager, Design & Construction Manager - Real Estate Development, Only ("AMRE"; "DMRE"; "D&CMRE") Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Project Managers/ Project Officers - Real Estate Development, Only ("PMRE") Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above)	No change	N/A	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS OVER \$300,000.
R/E Development contracts (direct procurement) up to and including Treasury DPP public bidding threshold Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 5]	Any 2 of Level 1, 2 or 3 are authorized to select a vendor, execute and attest contract on a sole source basis if there is only one vendor capable or available to provide the services.	Any 2 of Level 1, 2 or 3 are authorized to select a vendor, execute and attest contract on a sole source basis if there is only one vendor capable or available to provide the services.	Any 2 of Level 1, 2 or 3 are authorized to select a vendor, execute and attest contract on a sole source basis if there is only one vendor capable or available to provide the services.			Replaces \$25,000 with current Treasury DPP public bidding threshold as it increases from time to time.	Incorporates Treasury Division of Purchase & Property's public advertising guidelines increasing the public bidding threshold	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER \$150,000.
R/E Development contracts (direct procurement) over Treasury DPP public bidding threshold up to and including \$150,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 5]	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above)	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above)	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above)	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above)	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above)	Replaces \$25,000 with current Treasury DPP public bidding threshold as it increases from time to time	Incorporates Treasury Division of Purchase & Property's public advertising guidelines increasing the public bidding threshold	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER \$150,000
R/E Development contracts (direct procurement) over \$150,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 5]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above)	No change	N/A	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS MORE THAN \$150,000

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM PROCUREMENT OPERATING AUTHORITY BY LEVEL**

OPERATING LEVELS								
	Level 1	Level 2	Level 3	Level 4	Level 5	REVISION(S) FROM CURRENT OPERATING AUTHORITY	RATIONALE OR REQUIREMENT	BOARD APPROVAL REQUIREMENT
8/10/2010	CEO	SVP	Director - Real Estate Development, Only ("DRE")	Asset Manager: Development Manager; Design & Construction Manager - Real Estate Development, Only ("AMRE"; "DMRE"; "D&CMRE")	Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")	No change	N/A	BOARD RATIFICATION REQUIRED IF PROCUREMENT IS OVER \$150,000. NOTICE TO BOARD AT NEXT MEETING OR AS SOON AS PRACTICABLE.
R/E Development contracts not subject to S-2194 no dollar limit (emergency procurement) Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis. Subsequent notification to Board for procurement in excess of \$150,000.	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis. Subsequent notification to Board for procurement in excess of \$150,000.	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis. Subsequent notification to Board for procurement in excess of \$150,000.					
GRANTS								
Authorized to execute financial documents and other instruments in connection with the acceptance of a grant for program initiatives and/or project financings up to \$300,000	Any 2 of Level 1, 2 or 3 are authorized to accept a grant, execute and attest grant agreement.	Any 2 of Level 1, 2 or 3 are authorized to accept a grant, execute and attest grant agreement.	Any 2 of Level 1, 2 or 3 are authorized to accept a grant, execute and attest grant agreement.			Allows staff to accept grants for program initiatives and/or project financings up to \$300,000, as long as the terms and conditions of the grant agreement do not exceed the value of the grant funds	Expedites receipt of funds	NO BOARD APPROVAL REQUIRED IF \$300,000 OR LESS.
CCIT LEASES								
Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space Subject to 8/9/04 Board Approval [Refer to Note 4]	Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space	Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space	Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space.			No change	N/A	NO BOARD APPROVAL REQUIRED IF LEASE IS UNDER 6,000 sq ft.
Authorized to allow service provider tenants up to 500 sq ft, high tech tenants up to 2,000 sq ft of office or dry lab space at CCIT Subject to 2/8/05 & 10/15/08 Board Approvals [Refer to Note 4]	Authorized to allow related service provider tenants to lease up to 500 sq ft w/o restrictions of having been in operation less than 5 years and being product development stage company and to allow high tech tenants to lease office or dry labs up to 2,000 sq ft	Authorized to allow related service provider tenants to lease up to 500 sq ft w/o restrictions of having been in operation less than 5 years and being product development stage company and to allow high tech tenants to lease office or dry labs up to 2,000 sq ft.	Authorized to allow related service provider tenants to lease up to 500 sq ft w/o restrictions of having been in operation less than 5 years and being product development stage company and to allow high tech tenants to lease office or dry labs up to 2,000 sq ft.			No change	N/A	NO BOARD APPROVAL REQUIRED IF LEASE IS UNDER 2,000 sq ft.

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM PROCUREMENT OPERATING AUTHORITY BY LEVEL**

OPERATING LEVELS							BOARD APPROVAL REQUIREMENT
Level 1	Level 2	Level 3	Level 4	Level 5	REVISION(S) FROM CURRENT OPERATING AUTHORITY	RATIONALE OR REQUIREMENT	
<p>8/10/2010</p> <p>Authorized to extend term and add or reduce space and rent proportionately after lease expiration up to 1 year to facilitate tenant graduation from CCIT</p> <p>[Refer to Note 6]</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above)</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above)</p>	<p>Asset Manager, Development Manager; Design & Construction Manager - Real Estate Development, Only ("AMRE"; "DMRE"; "D&CMRE")</p> <p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above)</p>	<p>Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")</p> <p>Authorized to make recommendation of continuing, adding or reducing space and reducing rent with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).</p>	<p>Allows staff to extend, add or reduce space and rent proportionately up to 1 year after expiration.</p>	<p>Establishes guidelines to facilitate graduation of CCIT tenants after lease expiration.</p>	<p>NO BOARD APPROVAL REQUIRED IF MODIFICATION(S) ARE 1 YEAR OR LESS.</p>
<p>ALL LEASES</p> <p>Authorized to reduce or waive late payment fees upon tenant request up to 90 days</p> <p>[Refer to Note 6]</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above)</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above)</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above)</p>	<p>Authorized to make recommendation of reduction or waiver with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 3 or above).</p>	<p>Allows staff to reduce or waive late payments for tenants.</p>	<p>Establishes late payment reduction and waiver guidelines up to 90 days.</p>	<p>NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 90 DAYS OR LESS</p>
<p>Authorized to reduce or waive rent payments upon tenant request up to 90 days or up to \$50,000, whichever is less, for operational and CAM adjustments</p> <p>[Refer to Note 6]</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to \$50,000, whichever is less (1 member must be Level 3 or above).</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to \$50,000, whichever is less (1 member must be Level 3 or above)</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to \$50,000, whichever is less (1 member must be Level 3 or above)</p>	<p>Authorized to make recommendation of reduction or waiver with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 3 or above).</p>	<p>Allows staff to reduce or waive rent payments for tenants for operational and CAM adjustments.</p>	<p>Establishes rent payment reduction and waiver guidelines up to 90 days or \$50,000, whichever is less.</p>	<p>NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 90 DAYS OR LESS OR UP TO \$50,000, WHICHEVER IS LESS</p>
<p>Authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above)</p> <p>[Refer to Note 6]</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above)</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above)</p>	<p>Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above)</p>	<p>Authorized to make recommendation of waiver or reduction with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 3 or above).</p>	<p>Allows staff to waive or reduce holdover rent premium for tenants</p>	<p>Establishes holdover rent guidelines up to 180 days to encourage continued occupancy</p>	<p>NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 180 DAYS OR LESS.</p>

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM PROCUREMENT OPERATING AUTHORITY BY LEVEL**

OPERATING LEVELS							REVISION(S) FROM CURRENT OPERATING AUTHORITY	RATIONALE OR REQUIREMENT	BOARD APPROVAL REQUIREMENT
Level 1	Level 2	Level 3	Level 4	Level 5					
<p>8/10/2010</p> <p>Authorized to waive or reduce holdover rent premium upon tenant request from 181 days up to 1 year to encourage continued occupancy</p> <p>[Refer to Note 6]</p>	<p>Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1).</p>	<p>Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1).</p>	<p>Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1)</p>	<p>Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")</p>	<p>Allows staff to waive or reduce holdover rent premium for tenants</p>	<p>Establishes holdover rent guidelines up to 1 year to encourage continued occupancy</p>	<p>NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 1 YEAR OR LESS</p>		
<p>Authorized to terminate a lease or reduce space and rent proportionately upon tenant request during last six months of lease term up to \$50,000</p> <p>[Refer to Note 6]</p>	<p>Any 3 of Level 1, 2, 3, or 4 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).</p>	<p>Any 3 of Level 1, 2, 3, or 4 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).</p>	<p>Any 3 of Level 1, 2, 3, or 4 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).</p>	<p>Authorized to make recommendation of termination and space and rent reduction with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).</p>	<p>Allows staff to terminate a lease and reduce space and rent for tenants during last 6 months of lease term up to \$50,000</p>	<p>Establishes lease termination and space and rent payment reduction guidelines during last 6 months of lease term up to \$50,000</p>	<p>NO BOARD APPROVAL REQUIRED IF TERMINATION AND/OR MODIFICATION(S) ARE DURING LAST 6 MONTHS OF LEASE TERM AND \$50,000 OR LESS.</p>		
<p>RIGHT OF ENTRY / LICENSE AGREEMENTS</p>									
<p>R/E development right of entry and license agreements from third parties (non-monetary/up to 1 year)</p> <p>Subject to 10/15/08 Board Approval</p>	<p>Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy</p>	<p>Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.</p>	<p>Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy</p>	<p>Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.</p>	<p>No change</p>	<p>N/A</p>	<p>NO BOARD APPROVAL REQUIRED IF RIGHT OF ENTRY OR LICENSE IS NON-MONETARY AND 1 YEAR OR LESS</p>		
<p>R/E development right of entry and license agreements to third parties (non-monetary/up to 1 year)</p> <p>Subject to 10/15/08 Board Approval</p>	<p>Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.</p>	<p>Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.</p>			<p>Extends the term of right of entry and license agreements to a third party on property owned by NJEDA from 90 days to 1 year.</p>	<p>Allows tenants, adjacent property owners, government entities, and other third parties the ability to use or access NJEDA property up to 1 year. The increased time reflects a more accurate timeframe required for construction staging, studies, testing and short-term office space requirements</p>	<p>NO BOARD APPROVAL REQUIRED IF RIGHT OF ENTRY OR LICENSE IS NON-MONETARY AND 1 YEAR OR LESS</p>		

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM PROCUREMENT OPERATING AUTHORITY BY LEVEL**

OPERATING LEVELS								
	Level 1	Level 2	Level 3	Level 4	Level 6	REVISION(S) FROM CURRENT OPERATING AUTHORITY	RATIONALE OR REQUIREMENT	BOARD APPROVAL REQUIREMENT
8/10/2010 R/E development right of entry and license agreements to third parties (payments up to & including \$100,000/1 year term with two, 1 year extensions) Subject to 10/15/08 Board Approval	CEO	SVP	Director - Real Estate Development, Only ("DRE")	Asset Manager; Development Manager; Design & Construction Manager - Real Estate Development, Only ("AMRE"; "DMRE"; "D&CMRE")	Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")	Extends the term of right of entry and license agreements to a third party on property owned by NJEDA, for a percentage of its receipts, or other consideration, from 1 year to 1 year with two, 1 year extensions.	Allows tenants, adjacent property owners, and other third parties the ability to use NJEDA property, for a fee, for 1 year, with two, 1 year extensions. The increased time reflects a more accurate timeframe required for longer term space requirements or parking events.	NO BOARD APPROVAL REQUIRED IF RIGHT OF ENTRY OR LICENSE FEES ARE AND FOR 1 YEAR WITH TWO, 1 YEAR RENEWALS.

NOTE 1: Level 2 has been revised from "SVP Operations" to "SVP" to reflect current staff.

NOTE 2: Level 4 authority to attest or execute contracts up to \$25,000 is in accordance with existing NJEDA Administrative Operating Authority.

NOTE 3: All procurement approvals are subject to compliance with NJEDA Procurement and Policy bidding requirements, where applicable.

NOTE 4: All tenants are approved in accordance with the CCIT Admission Policy and Procedures.

NOTE 5: Direct procurements are subject to Section 16 (a) through (g) of Executive Order 37 (2006).

NOTE 6: All actions taken pursuant to this delegation will be reported to the Real Estate Committee on a monthly basis.

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
REAL ESTATE DEVELOPMENT PROGRAM RIGHT OF ENTRY / LICENSE AGREEMENT POLICY OUTLINE**

	AUTHORITY TO EXECUTE AGREEMENT	FEES PAID / COLLECTED	REQUIREMENTS
8/10/2010			
Type of Agreement: R/E development right of entry and license agreements from third parties (non-monetary/up to 1 year)	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	NONE	Standard Right of Entry/License Agreement. Defined term up to 1 year. Review of Agreement by Attorney General's Office.
R/E development right of entry and license agreements to third parties (non-monetary/up to 1 year)	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	NONE	Standard Right of Entry/License Agreement. Review of Agreement by Attorney General's Office. NJEDA indemnification by third party. Insurance coverage naming NJEDA as an additional insured. Defined term up to 1 year. 30 day termination by NJEDA.
R/E development right of entry and license agreements to third parties (payments up to & including \$100,000/1 year term with two, 1 year extensions)	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	20% of the net receipts received by the third party beneficiary or other consideration as approved by any 2 of Level 1, 2 or 3.	Standard Right of Entry/License Agreement. Review of Agreement by Attorney General's Office. NJEDA indemnification by third party. Insurance coverage naming NJEDA as an additional insured. Defined term up to 1 year with two, 1 year extensions. 30 day termination by NJEDA. Reporting guidelines for fee tracking.
Agreements to/from third parties that do not meet policy guidelines, or have a value over \$100,000, or are longer than 1 year (non-transactional), or longer than 1 year with two, 1 year extensions (transactional) require Board approval. Fees to NJEDA may be waived and/or negotiated if third party is a government entity, to be determined by any 2 of Level 1, 2 or 3.			

AUTHORITY MATTERS



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

SUBJECT: NJEDA/ Designated Industries Economic Growth and Development Bonds, 2004 Series A (Federally Taxable) – Transfer of Bond Monies from Proceeds Fund to Debt Service Fund for Payment of Debt Service on the Bonds (as defined below) and to pay certain Ordinary Administrative Expenses of the Authority, namely the Trustee’s Fees

DATE: August 10, 2010

SUMMARY OF ACTION

The Authority is being asked to approve the use of not to exceed \$5, 995,000 representing proceeds of its Designated Industries Economic Growth and Development Bonds, 2004 Series A (Federally Taxable) (the “Bonds”) for the payment of debt service on the Bonds and to pay the Authority’s Ordinary Administrative Expenses consisting of the Trustee’s fees. A portion of the bond proceeds will be transferred from the Proceeds Fund for the Bonds created under the Bond Resolution (defined below) to the Debt Service Fund to pay debt service on the Bonds and the remainder will be deposited to the Surplus Fund created under the Bond Resolution to pay the Authority’s Ordinary Administrative Expenses consisting of the Trustee’s expenses. Under the Bond Resolution, this action requires the consent of the State Treasurer, which the Authority has requested and must be received before action is taken under the resolution being adopted today. The State Treasurer pays debt service on these Bonds and the Authority’s Ordinary Administrative Expenses pursuant to a contract between the State Treasurer and the Authority, dated April 22, 2004 (the “State Contract”) subject to appropriation, from time to time, by the State Legislature. The funds in question are not needed for the program and use of the proceeds to pay debt service and such expenses will free up State funds that would otherwise be required for the payment of the debt service on the Bonds and such expenses.

BACKGROUND

On April 22, 2004, the Authority issued these Bonds in the principal amount of \$50,650,000. The Bonds were issued for the purposes of (a) providing funds to be used by the Authority for payments to, or for the benefit of, Designated Industries, as provided in clause (2) of subsection a. of Section 9 of Chapter 166 of the Laws of 2003 of the State and (b) paying costs of issuance of the Bonds. It has been determined that not to exceed \$5,995,000 of bond proceeds is no longer needed for the program. The State Treasurer has requested that the unused proceeds be used to pay debt service on

the Bonds and the Trustee's administrative expenses relating to these Bonds.

The Bonds were issued pursuant to the Authority's October 14, 2003 Resolution entitled, "Designated Industries Economic Growth and Development Bond Resolution" (the "Bond Resolution"), the First Supplemental Resolution adopted October 14, 2003, as amended and restated on February 10, 2004 (the "First Supplemental Resolution"), and a series certificate dated April 22, 2004. Section 5.03(3) of the Bond Resolution provides that, with the written consent of the State Treasurer, any amounts which are not needed for the purposes of making payments to or for the benefit of Designated Industries may be withdrawn from the Proceeds Fund and deposited into any other Fund or account created or established under the Bond Resolution as the Authority may determine. The Authority has requested the Treasurer's consent for the withdrawal of not to exceed \$5,995,000 from the Proceeds Fund and the deposit of a portion of such monies into the Debt Service Fund to pay debt service on the Bonds as and when due and the remainder to the Surplus Fund to pay the Authority's Ordinary Administrative Expenses consisting of the Trustee's expenses relating to these Bonds.. The Debt Service Fund is established Section 5.07 of the Bond Resolution and pursuant to Section 5.07(2) thereof, monies in the Debt Service Fund are to be used for the payment of debt service as it comes due. Under the provisions of the Bond Resolution and the State Contract, monies in the Surplus Fund may be used to pay the Authority's Ordinary Administrative Expenses consisting of the Trustee's expenses. Pursuant to these provisions and with the State Treasurer's consent, the Authority will direct the withdrawal of not to exceed \$5,995,000 from the Proceeds Fund for transfer and deposit to the Debt Service Fund and the Surplus Fund, as described above, and direct the bond trustee to apply such these funds for the payment of principal and interest on the Bonds as it comes due and the Trustee's expenses. This matter has been reviewed by the Attorney General's Office which has drafted the attached Resolution for your consideration.

APPROVAL REQUEST

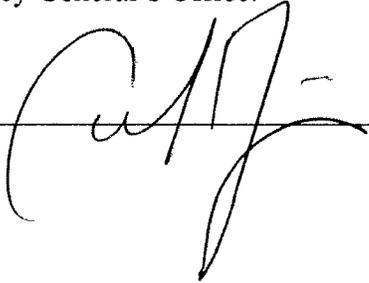
The Members are requested to approve the adoption of a resolution (the "Resolution") authorizing and directing an Authorized Officer of the Authority, upon receipt of the State Treasurer's written consent as described above, to withdraw an amount, as advised by the Office of Public Finance ,not to exceed \$5,995,000 from the Proceeds Fund sufficient to pay debt service on the Bonds and to pay the Authority's Ordinary Administrative Expenses consisting of the Trustee's expenses and to deposit such amounts into the Debt Service Fund and the Surplus Fund, as applicable.

The Resolution also authorizes any Authorized Officer to take any additional acts or execute any additional documents, which may be required to effectuate the purposes of the Resolution. The monies transferred from the Proceeds Fund to the Debt Service Fund will reduce the amount payable by the State Treasurer under the State Contract for debt service on the Bonds.

RECOMMENDATION

Based upon the above description, and subject to the criteria set forth above, the Members are requested to: (i) approve the adoption of the Resolution authorizing and directing an Authorized Officer of the Authority, upon receipt of the State Treasurer's written consent, to withdraw an amount, as advised by the Office of Public Finance, not to exceed \$5,995,000 from the Proceeds

Fund sufficient to pay debt service on the Bonds and to pay the Authority's Ordinary Administrative Expenses consisting of the Trustee's expenses and to deposit such amounts into the Debt Service Fund and the Surplus Fund, as applicable, and directing the bond trustee to use such monies for such purposes; and (ii) authorizing Authority staff to take all necessary actions incidental to the purposes of the Resolution, subject to the approval of the Attorney General's Office.



A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a series of loops and a horizontal line extending to the right, positioned over a horizontal line.



MEMORANDUM

TO: Members of the Authority

FROM: Fred Cole, Director – Internal Process Management

DATE: August 10, 2010

RE: Bid Protest – 2010-RFQ/P-035 – Internet Service Provider (ISP) Services
Response to July 13, 2010 Exceptions to Hearing Officer Report/Memorandum and
Response to August 3, 2010 Supplemental Exception to Hearing Officer
Report/Memorandum

This memorandum contains responses to the exceptions presented by Business Automation Technologies d/b/a Data Network Solutions (“DNS”; the protesting bidder) to the Hearing Officer’s memorandum regarding DNS’ protest of the Authority’s rejection of the DNS proposal submitted in response to 2010 Request for Qualifications and Proposal 035 (“RFQ/P-035” or “RFQ/P”). I have responded based on my experience as Director of the centralized procurement function for the Authority and have incorporated legal advice provided by the Attorney General’s office.

I highlight for the Board that the central points of the DNS exceptions response focused on two fundamental concerns: 1) the EDA undertook an arbitrary and capricious process; and 2) this process improperly denied DNS a hearing that would have allowed the firm an opportunity to supply relevant experience and information.

My review of the process and materials presented by the Hearing Officer and DNS did not find merit in these observations; accordingly, in developing my responses the Members will find:

- Consistently contained throughout the responses below the Authority’s position that: when reviewing bids, the evaluation committee can only rely on the information presented with the proposal; new or supplemental information cannot be considered
- The references contained in DNS’ RFQ/P response did not contain any clear examples of projects that demonstrated the entire converged solution that the Authority requires and intends to implement
- The Authority conducted a hearing on this matter, on the papers. Based on her investigation, the Hearing Officer concluded that she had sufficient information to prepare and issue a complete and accurate recommendation to the Authority’s Board.

As explained below in each response to an exception, I have concluded that DNS does not offer any reason for the Board not to accept the Hearing Officer's recommendation that the Authority reject DNS' bid due to its failure to demonstrate, as required by the RFQ/P, the qualifications or experience in providing services similar to those requested by the Authority.

BACKGROUND

On January 25, 2010, the Authority issued 2010-RFQ/P-035 to provide Internet Service Provider (ISP) services to the Authority. Of the five (5) received proposals, the Procurement Officer determined that four (4) contained material defects, therefore only the proposal received from Data Network Solutions was released to the evaluation committee. After reviewing DNS' proposal, the committee requested a clarification from DNS regarding one (1) of its projects included to demonstrate similar experience. After reviewing DNS' response to the committee's request for additional information, the committee ultimately recommended the rejection of DNS' bid because it did not demonstrate the required experience with services similar to those required by the Authority. This failure to demonstrate relevant experience is a key point in understanding the selection committee review and rejection, and in fact, even upon providing clarification DNS indicated that in this specific experience their implementation was ultimately not successful:

"We had requested that the Nortel PBX be upgraded with a Nortel SIP engine to accept VoIP since everything was ordered originally using traditional voice service. That upgrade did not occur. We tried VoIP but it was not compatible with the main Nortel PBX PRI lines."

DNS submitted a bid protest on April 22, 2010 and on April 27, 2010, a bid protest supplement.

On June 8, 2010, the Hearing Officer issued a memorandum finding DNS' protest to be without merit. The Board accepted the Hearing Officer's findings and voted to reject DNS' proposal for non-responsiveness to the requirements of the RFQ/P, to terminate the 2010-RFQ/P-035 selection process, and to continue the procurement of these services under 2010-RFQ/P-037.

On June 17, 2010, a special board meeting was held to award a contract under the new RFQ/P. The Board voted and then heard the concerns of DNS President/Principal Isaac Fajerman during public comment. Mr. Fajerman objected to the action taken at the June 8, 2010 meeting regarding the noticing of Executive Session and the Hearing Officer's report on RFQ/P-2010-035. After hearing his concerns, the Board motioned to withdraw its vote and the Members decided to hold the contract award in abeyance to allow an exception period of ten business days allowing rejected bidders under 2010-RFQ/P-035 the opportunity to receive and review the hearing officer's report and provide written exceptions for the Board to consider with the ten day period beginning upon release of the report.

On June 23, 2010, the Authority provided DNS the Hearing Officer Memorandum. DNS was given ten (10) business days to submit, in writing, any exceptions or comments to CEO Caren Franzini to share with the Board for consideration and final agency action related to 2010-RFQ/P-035.

On July 13, 2010, DNS submitted an “*Exceptions to Hearing Officer Report/Memorandum*” comprised of a letter from DNS’ attorney Bernard Reilly, Esq. and a supporting memorandum from DNS President/Principal Isaac Fajerman.

RESPONSES TO EXCEPTIONS

Exception I (Reilly): “DNS subsequently submitted a bid protest which was reviewed, without allowing for a hearing or meeting, by NJEDA Hearing Officer Donna T. Sullivan.” Also, quoting Commercial Cleaning Corp. v. Sullivan, 47 N.J. 539, 550 (1966), “as a matter of good practice and fair procedure, an informal hearing or conference should be granted, if requested by a dissatisfied rejected bidder, particularly if he is the low bidder, prior to the execution of the contract with another bidder”. Further, “[t]he DNS request for a hearing or meeting --- the holding of which is defined by the Supreme Court in Commercial Cleaning and later cases as a ‘good practice’ --- was consistently denied of NJEDA”. DNS explains that “[s]uch a hearing or meeting would have allowed DNS to directly confront and point NJEDA to the experience and prior contracts that would have debunked the concern.”

Response: NJEDA did, in fact, conduct a hearing on this matter, on the papers. As documented in NJEDA’s April 9, 2010 rejection letter sent to DNS, “[t]he designated hearing officer will review all timely and complete vendor protests and will have sole discretion if an oral presentation by the protestor is necessary to reach an informed decision on the matter(s) of protest” (emphasis added). The investigation conducted by the Authority’s Hearing Officer was an informal hearing in which she paid careful attention to all the issues raised by DNS and considered the procedures which were followed by the NJEDA evaluation committee. As explained in her report, the Hearing Officer reviewed all the relevant documents regarding the RFQ/P as well as DNS’ detailed Bid Protest (4/22/10) and subsequent Bid Protest Supplement (4/27/10). Based on these documents, the Hearing Officer concluded that she had sufficient information to prepare and issue a complete and accurate recommendation to the Authority’s Board.

In the Commercial Cleaning opinion cited by DNS, the Supreme Court concluded that the Division of Purchase and Property’s lack of any hearing--oral or on the papers--was not a sufficient reason to uphold the bid protest. 47 N.J. at 548-50. Rather, the Court found decisively that no evidence existed that “any prejudice was suffered because of failure to obtain the informal hearing or conference.” Ibid. Although the Court recommended a hearing as the better practice, the Court did not specify or prescribe the nature of the hearing. Ibid.

DNS suffered no prejudice here. In view of the required “fair and expeditious conclusion of the procurement process,” NJEDA offered DNS an opportunity “to present the facts and law supporting its protest.” Nachtigall v. N.J. Turnpike Auth., 302 N.J. Super. 123, 143 (App. Div. 1997), certif. denied, 151 N.J. 77 (1997); see Entech Corp. v. City of Newark, 351 N.J. Super. 440, 461-62 (Law Div. 2002) (“[I]t is possible that a challenge processed completely on the papers could suffice.”).

Exception II (Reilly): “NJEDA initially declined to provide the Evaluation Report, and only after some reconsideration was the Report belatedly supplied”

Response: The Authority elected not to release the evaluation committee’s internal deliberative report on this matter until it sought the advice of counsel, due to the fact that the bid rejection challenge had caused the procurement process to be “reopened” under RFQ/P-035. Once

NJEDA received guidance that the information could be shared, NJEDA immediately forwarded the document to DNS. At that time, NJEDA also extended the due date of the bid protest by a corresponding number of days in order to give DNS ample opportunity to formulate a complete and thorough protest to the rejection of its bid. NJEDA also extended the due date of the rebid of these services under RFQ/P-037 to allow all prior bidders, including DNS, to resubmit bids with information that addressed the reason or reasons for rejection. In the case of DNS, it has had the opportunity to clearly demonstrate similar experience in implementing the specific solution that the Authority was looking for.

Furthermore, while DNS raised this issue in both its protest and its more recent exception, DNS fails to explain its current relevance, or why the Hearing Officer's conclusion - "[t]he concern . . . is without merit because it has been resolved and has become moot by actions taken by the Authority after DNS filed its challenge"- should not be accepted.

Exception III (Reilly): "[P]resumably Hearing Officer Sullivan heard one side of the story from NJEDA personnel who had already made the rejection decision with no opportunity for DNS to explain or rebuke their mistaken or incomplete assertion or information. That hardly qualifies as a fair and unbiased process, consistent with due process. Consequently, it is clear that the very process followed here by NJEDA is arbitrary and capricious."

Response: Despite its assertion, DNS does not state how or why its detailed Bid Protest (4/22/10) and subsequent Bid Protest Supplement (4/27/10) did not provide ample opportunity to present its case, including both facts and law. As documented in NJEDA's April 9, 2010 rejection letter to DNS, the Authority's Hearing Officer had sole discretion to determine whether an oral presentation was necessary in order to conduct a complete and thorough investigation. The Hearing Officer must strike a fine balance in this situation: obtaining sufficient information to render a fair and equitable decision while not allowing the protestor to supplement its original bid proposal with new or different information. Had the protestor introduced new or different information—not merely a redefined or clarified proposal as permitted in the RFQ/P—the other bidders would have been harmed by not having a similar opportunity to add to their respective proposals. See Suburban Disposal, Inc. v. Twp. of Fairfield, 383 N.J. Super. 484, 492 (App. Div. 2006) ("Settled principles of public bidding dictate that no material element of a bid may be provided after bids are opened." (quoting George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 37 (1994))); In re Protest of Award, 279 N.J. Super. 566, 598 (App. Div. 1995) (stating that if RFQ/P did not permit post-opening supplement, supplying essential component after bid opening time "flies in the face of our public bidding scheme"). In this case, the Hearing Officer "determined that an oral presentation by the protester [was] not necessary for [her] to reach an informed decision on the merits of DNS' protest."

Furthermore, as the proposing entity, it is DNS' responsibility for ensuring that its bid conformed to the RFQ/P and provided all the information required by the RFQ/P; NJEDA was constrained to review only what was included with the bid provided and what could be clarified. See In re Protest of Award, 279 N.J. Super. at 593 ("strict rules as to bid conformity are critically important on the state level because of the broad discretion available").

In terms of a fair and unbiased process, NJEDA treated DNS' bid very seriously and consistently sought to maintain a level playing field. While reviewing DNS' bid, the Authority provided DNS with the opportunity to clarify the prior project listed by DNS that most resembled the work required by the Authority. Subsequently, in its rejection letter, the Authority informed DNS of the protest process. The Authority's Chief Executive Officer then selected Hearing Officer

Sullivan after careful consideration of her independence and objectivity in this matter and based on her years of experience in the area of public bidding. The Hearing Officer considered DNS' Bid Protest and Bid Protest Supplement and issued a well-reasoned and detailed report. The term arbitrary describes a course of action or a decision that is not based on reason or judgment but on personal will or discretion without regard to rules or standards. An arbitrary decision is one made without regard for the facts and circumstances presented, and it connotes a disregard of the evidence. My review concludes that the careful and rational process that the Authority followed in arriving at its conclusion and recommendation was not arbitrary.

Exception IV (Reilly): “[R]eferences and projects were all supplied to NJEDA as a basis and support for the DNS’ bid. That the Evaluation Committee failed to check these references, or were not fully cognizant of the applicability of these projects to the NJEDA project, does not serve as a basis to reject the DNS’ bid.” And “the process followed here was itself defective. DNS in fact did supply the references and list of completed projects which clearly demonstrates adequate and substantial experience in relevant work areas. The conclusion that DNS did not is simply arbitrary.”

Response: As noted in the Hearing Officer’s report, the evaluation committee properly found DNS’ bid non-responsive to the RFQ/P requirement for narratives demonstrating: relevant experience by the firm in each of the past eight years and its employees in the past two years, and the firm’s and its employees’ qualifications in four technical areas. Although the DNS proposal provided a list of references and projects, the lists did not describe any project for which DNS had implemented comparable services to what the Authority requires and intends to implement. For example, only one (1) listed project, for the City of Irvington, entailed a Multiprotocol Label Switching (MPLS) implementation, which is a required configuration in the RFQ/P. Even so, DNS states that it has only been involved with this project for 1.5 years. Since DNS’ proposal did not provide any reference for this project, the Authority took the additional step of requesting a clarification from DNS that included a contact person from the City of Irvington and additional information on this project. In its response, DNS indicated that, due to the City of Irvington’s decision not to upgrade the private branch exchange (PBX), DNS had never fully implemented a complete Voice over IP (VoIP) telephone solution for the City. As stated in the RFQ/P, “[a]ll services provided under the resulting contract must be capable of transitioning to the VoIP application / solution”. Thus, DNS’ clarification failed to demonstrate that it had the experience and qualifications required by the RFQ/P since the one MPLS implementation showed only 1.5 years of experience and the VoIP solution was only a partial implementation. Since DNS indicated that a full implementation had not been achieved, the Committee did not contact the reference provided.

The RFQ/P, in the “Future Integration Requirements” section, unambiguously indicates that the provider must be able to implement an effective, efficient solution for the mission-critical voice and data communications needs, which includes an intended transition to VoIP. The evaluation committee made the decision to reject DNS’ bid because the firm did not demonstrate that it had delivered one converged solution on a single robust circuit that handled the totality of communications the Authority requires: inter-site voice, inter-site data, Internet, dynamic IP service, Public Switched Telephone Network, and future VoIP. Once the evaluation committee concluded that none of the projects met the RFQ/P criteria, the committee did not verify quality aspects with DNS’ customers such as telephone call sound quality, percentage of dropped calls, circuit up-time, and call latency, delay, and jitter.

Exception V (Reilly): “It should be noted that the right or ability of NJEDA to reject all bids is not without limits. As noted in Marvec Const. v. Belleville Tp., 254 N.J. Super 282, 288 (App Dev 1992) ‘if the bids have already been opened and each bidder’s competitive position has been explored, rejection of all bids should only occur for cogent or compelling reasons.’ Such ‘cogent or compelling reasons’ have not been supplied by anything presented by NJEDA.”

Response: Unlike the bidding process under the Local Public Contract Law, at issue in Marvec Const. Corp., a State independent authority like NJEDA may reject all bids “in good faith and for sound public reasons.” George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 20 (1994); cf. In re Protest of Award, 279 N.J. Super. 566, 598 (App. Div. 1995) (distinguishing discretion given to State Treasurer under state contracting law from mandatory award to lowest responsible bidder required by Local Public Contract Law).

Nonetheless, the cogent and compelling reasons for which the evaluation committee rejected DNS’ proposal are outlined above in the Response to Exception IV. It should be noted that RFQ/P-035 was not structured as an award to the “lowest responsible bidder” (based on price alone), but rather as a “request for qualifications and proposals” (based on price and other factors) where the proposer’s qualifications and experience was evaluated and scored based on evaluation criteria published in the RFQ/P. Bidders are required to meet the RFQ/P’s minimum qualifications to be eligible for consideration. Not providing these qualifications was the cogent and compelling reason for bid rejection.

Furthermore, the only bid reviewed and in contention for the RFQ/P-035 contract was the one submitted by DNS. Of the five (5) proposals submitted for RFQ/P-035, the Procurement Officer determined that four (4) contained material defects and were non-responsive. Although these bids were opened, the Procurement Officer never released them to the evaluation committee. Finally, the only bidder who attended the bid opening was DNS, so DNS was the only firm to have an opportunity to see the other bids or hear their detailed pricing read aloud at the opening.

Exception VI (Fajerman): “The specifications prepared by the NJEDA Information Technology contained numerous requirements that are unrelated to the above services it seeks to purchase in this RFQP-35. Such services would be required to be sought in another solicitation. Furthermore the wording of the specifications is contradictory and overly burdensome. The requirement for a company to have 8 years experience is extremely uncompetitive and unfair and excludes highly qualified companies that were established in less than eight years.” He also writes that “Hearing Officer Sullivan’s unverified statement that NJEDA knows of companies that have been providing these services for at least eight years is blatantly not competitively neutral and favors the companies that have been in business longer and are larger”.

Response: While DNS is now raising objections to the RFQ/P, DNS merely asked one (1) technical question about the Authority’s needs during the Q&A period. DNS did not seek any clarification or other information on the RFQ/P specifications or requirements that it now claims are contradictory and overly burdensome. Nor did DNS object to the length of experience required.

Even so, DNS does not explain what its objections are to the four, rather standard information technology areas for which the RFQ/P requires the bidder to demonstrate two years of experience. Specifically, RFQ/P-035 required that the proposer include qualifications demonstrating “a minimum of two (2) years, demonstrated hands-on experience and have a working knowledge of:

- i. Voice Over Internet Protocol (VoIP) systems**
- ii. Wireless implementations**
- iii. Infrastructure equipment such as routers and switches**
- iv. Remote access, network security, software and hardware”**

As stated in the RFQ/P, the Authority intends to transition to VoIP and the bidder is required to support such transition. The other three qualifications are aspects of the Authority’s current network architecture and overall needs that the bidder must take into consideration in planning and implementing its proposed solution. These are not contradictory; no one area excludes another. They are nowadays commonplace and should not be overly burdensome to a firm specializing in the highly technical area of information technology.

With the requirement of eight years of experience, the Authority was attempting to ensure that these critical services were handled by a capable firm with a proven track record of providing quality, consistent Internet/VoIP services to its customers. Although DNS now objects to the length of experience required, in its proposal DNS states that “DNS has provided telecommunication services successfully to New Jersey government agencies for 20 years”.

As for the allegation that the RFQ/P favors larger companies, DNS does not identify any requirement that would hinder a smaller company other than the eight years of experience. As noted above, DNS itself asserted twenty years of experience, albeit without providing evidence. Neither the RFQ/P nor the evaluation committee prevented any small company from bidding. In fact, the Authority purposefully did not include any standard language regarding minimum depth of staff so as not to preclude smaller businesses from bidding on these services.

Exception VII (Fajerman): “Sullivan states at page 15 in HOR-035 that NJEDA models the treasury procedures.” Further, “[i]t appears that some [o]f the evaluation errors arose due to the lack of adequate experience and qualifications of the Evaluation Committee itself.” As support, DNS cites the Division of Purchase and Property’s regulation N.J.A.C. 17:12-27(a), which provides that “[t]he Director shall appoint the members of the evaluation committee on the basis of professional resumes supplied by the proposed members.”

Response: As an independent authority, NJEDA follows the procurement directives in Executive Order No. 37 (Corzine 2006) rather than the Division of Purchase and Property’s procurement procedures. Thus, the Authority’s evaluation committee is selected in accordance with NJEDA internal procurement policy and procedures. The Hearing Officer’s report did note that the Authority models Treasury procedures, but this was only in reference to the fact that NJEDA models its protest procedures on the Division of Purchase and Property’s administrative rules in N.J.A.C. 17:12-3.1 to -3.4.

In terms of the committee’s experience, the Authority did not abuse its discretion by staffing the evaluation committee with members of the NJEDA ITS department. See Keyes Martin & Co. v. Dir., Div. of Purchase & Property, 99 N.J. 244, 253 (1985) (holding that State’s discretion in rejecting bid will be upheld “in the absence of bad faith, corruption, fraud or gross abuse of discretion”). The ITS department provided the description of the technical component requirements of the RFQ/P and, therefore, were well qualified to evaluate proposals from firms offering these services. Cf. N.J.S.A. 52:34-10.3(b) (providing that for Division of Purchase and Property RFQ/P for information technology goods or services, “one member of any evaluation committee shall be a person proficient in such technology for public projects”). Moreover, as

stated in the Hearing Officer's report, the evaluation committee has experience with the various specific technologies to which the RFQ/P refers. Cf. N.J.S.A. 52:34-10.3(c) (requiring, for Division of Purchase and Property, that "persons appointed to an evaluation committee shall have the relevant experience necessary to evaluate the project").

Exception VIII (Fajerman): After providing a list of projects with brief descriptions of each, DNS states: "In each of the above installations any outage of services would constitute a major disaster many of which could be life threatening. The requirement for Police, Fire, and Medical services is more stringent and critical than the routine office work of NJEDA. Any reasonable person must conclude that if DNS can successfully service these entities then it can service the needs of the routine office workers of NJEDA."

Response: As noted above in the Response to Exception IV, DNS, in its proposal, did not meet the requirements of the RFQ/P: DNS did not demonstrate that it had delivered and maintained in the past eight (8) years, one (1) completely integrated solution on a single robust circuit that handled the totality of communications similar to the needs of the Authority: inter-site voice, inter-site data, Internet, dynamic IP service, Public Switched Telephone Network, and future VoIP. The services outlined by DNS in this exception are different from the solution that the Authority requires. That the projects implemented and supported by DNS are operated continually or have been implemented for police, fire, or medical services does not invalidate or make irrelevant the criteria contained in the RFQ/P. Moreover, DNS cannot now attempt to supplement the sample projects supplied in the proposal (and subsequent clarification).

Exception IX (Fajerman): "The purpose of providing references is to permit NJEDA to verify the scope of experience and to ascertain whether the project was successful and the level of service response DNS can provide. To conclude DNS would not be successful without contacting its references is arbitrary and capricious and abusive."

Response: As explained above in the Response to Exception IV, DNS did not meet the requirements of the RFQ/P: that the bidder demonstrate its experience and qualifications. Specifically, regarding the narrative required to describe the firm's eight (8) years of experience providing services similar to those requested, the RFQ/P states: "The end result / final product should be fully detailed in the narrative to provide the Authority with a Proposer's experience and ability to perform these services." As to the two (2) years of experience required of the firm and its employees in voice and data systems, the RFQ/P provides: "Experience in these critical areas must be demonstrated and readily identified in the narratives submitted." Finally, in respect of the qualifications in four (4) technical areas, the RFQ/P states: "The resumes submitted for the individual who will perform the work against the resulting contract should clearly demonstrate actual, hands-on experience with the above four (4) requirements."

The evaluation committee saw no relevant examples of projects listed under the references section and had no reason to contact these customers to discuss project specifics. The evaluation committee did note, however, that one (1) of the projects listed in the experience section appeared to have a solution comparable to the one that the Authority required. In an attempt to give this Proposer every opportunity to demonstrate "similar experience", the committee was proactive in requesting a clarification from DNS to obtain additional detail on the work performed and to ask for a customer contact as a reference (See "City of Irvington" project discussed in Response to Exception IV on page 4). In its response, DNS acknowledged that, due to the client's decision not to upgrade a particular component, it had never implemented a complete VoIP solution for this customer. The RFQ/P states that a VoIP solution, although not

immediately required of the bidder, is one that the bidder must be prepared to transition to and support. Therefore, the committee concluded that DNS had not shown the experience or qualifications required by the RFQ/P and recommended the rejection of DNS' bid and the reissuance of the RFQ/P.

Exception X (Fajerman): "Hearing Officer Sullivan stated that DNS further discussing the Branchburg VoIP project included in its bid would be using the protest to supplement its proposal. That is ridiculous inquiry or explanation of prior experience is not supplementing or altering a bid. NJEDA can't ask for reference contacts and more information on a submitted project like Irvington and then refuse to hear more other relevant information on other DNS projects submitted."

Response: NJEDA was constrained to review only what DNS provided in its bid proposal and clarification. Suburban Disposal, Inc. v. Twp. of Fairfield, 383 N.J. Super. 484, 492 (App. Div. 2006) ("Settled principles of public bidding dictate that no material element of a bid may be provided after bids are opened." (quoting George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 37 (1994))). In what DNS submitted, only one listed project, for the City of Irvington, entailed a Multiprotocol Label Switching (MPLS) implementation, which is a required configuration in the RFQ/P. DNS indeed included the Branchburg project in the list of references in its proposal but did not list MPLS among the technology implemented in the project. Thus, the evaluation committee had no reason to further inquire about the Branchburg project at the time it reviewed DNS' proposal. It must be noted again, that the Proposer must demonstrate the required experience; to ensure "fair and equitable" treatment of all Proposers, the Evaluation Committee cannot make assumptions and interpret what the Proposer "meant" to say.

Exception XI (Fajerman): "The NJEDA evaluation committee did not state any specific reasons why each of the submitted projects was not similar. No specific reason has been given as to why Irvington was not similar or what was missing." ... "Hearing Officer Sullivan merely repeats the same hollow conclusions of the committee to wit; 1) DNS does not have similar experience, and 2) they cannot conclude DNS will successfully provide the services.

Response: While many, if not all, of the listed projects provided examples of DNS' capabilities in many of the individual component services required by the Authority, no one project demonstrated a successful implementation of a comprehensive solution similar to that which NJEDA requires and anticipates. As noted in the Response to Exception IV, DNS, in its proposal, did not demonstrate that it could deliver one converged solution on a single robust circuit that could handle the totality of communications the Authority requires: inter-site voice, inter-site data, Internet, Dynamic IP service, Public Switched Telephone Network, and future VoIP.

The Response to Exception IX describes why the DNS project for the City of Irvington did not demonstrate the required experience. Essentially, DNS' response to a request for clarification stated that it had never implemented a complete VoIP solution for this customer, whereas the RFP/Q states that all services provided by the successful bidder must be capable of transition to VoIP.

Exception XII (Fajerman): "Hearing Officer Sullivan did not cite any cogent or compelling reasons for the rejection of the DNS bid. All the statement by the Evaluation Committee is conclusionary." Further, "DNS has disputed the conclusions of the committee which lacks specificity of reasons for its conclusions."

Response: Unlike the bidding process under the Local Public Contract Law, in which the “cogent or compelling reasons” standard applies, a State independent authority like NJEDA may reject all bids “in good faith and for sound public reasons.” George Harms Constr. Co. v. N.J. Tpk. Auth., 137 N.J. 8, 20 (1994); cf. In re Protest of Award, 279 N.J. Super. 566, 598 (App. Div. 1995) (distinguishing discretion given to State Treasurer under state contracting law from mandatory award to lowest responsible bidder required by Local Public Contract Law).

Nonetheless, the evaluation committee had cogent and compelling reasons. As stated in the Hearing Officer report, “the Evaluation Committee unanimously agreed that the Proposal, with clarifications, lacked proof of any project that implemented a similar solution to NJEDA’s requirements under ‘Experience’, ‘Qualifications’ and ‘Required Service Features/Configurations’...” and “[t]he Evaluation Committee determined that the DNS Proposal lacked responsiveness [by] failing to provide any projects to demonstrate it would be capable of successfully implementing its proposed solution.” As explained in the Response to Exception IX, the RFQ/P required the bidder to fully demonstrate in its proposal that it has the capacity to successfully architect and implement the scope of services required by the RFQ/P. Further, DNS did not indicate any concern, either through the Q&A process or by challenging the bid specification, that the requirements of the Authority were unrealistic or unachievable.

Exception XIII (Fajerman): “Assigning a hearing officer and not having a hearing has the potential to in bad faith avoid the purpose of the hearing which is to provide the low bidder an opportunity to address the issues raised by NJEDA as to its qualifications and experience.”

Response: Despite DNS’ assertions, NJEDA’s designated Hearing Officer conducted a hearing on this matter, as explained in the Response to Exception I. The Authority described the availability and purpose of an oral presentation in the April 9, 2010 rejection letter sent to DNS: “The designated hearing officer will review all timely and complete vendor protests and will have sole discretion if an oral presentation by the protestor is necessary to reach an informed decision on the matter(s) of protest” (emphasis added). The Hearing Officer, however, concluded that she had sufficient information on the papers to provide a complete and accurate recommendation to the Authority’s board. As noted above in the Response to Exception III, there was ample opportunity for DNS to present its case, including facts and law, in both its detailed Bid Protest (4/22/10) and subsequent Bid Protest Supplement (4/27/10).

The reference to being the “low bidder” is irrelevant, as DNS’ bid was the only bid that was considered by the committee, due to the material defects in the other submitted bids. There was no award under this RFQ/P. All bids were rejected and the services were rebid. DNS’ challenge can only contest that its bid was rejected, not that the Authority awarded the contract to any other firm. As outlined in Response to Exception V, RFQ/P-035 was not structured as an award to the “lowest responsible bidder” (based on price alone), but rather as a “request for qualifications and proposals” (based on price and other factors) where the proposer’s qualifications and experience was evaluated and scored based on evaluation criteria published in the RFQ/P. Bidders are required to meet the RFQ/P’s minimum qualifications to be eligible for consideration. Not providing these qualifications was the cogent and compelling reason for bid rejection.

Exception XIV (Fajerman): “Hearing Officer Sullivan disregarded entirely any explanation as to why the supplemental protest was without merit. She states the same unsubstantiated conclusions that the evaluation committee cannot effectively or accurately evaluate the proposal. There is no finding or detailing of the specific experience that DNS does not have or has not provided that is relevant or part of the project”.

Response: As noted in the Response to Exception IV, the Authority had adequate reasons to reject DNS' bid. As described in the Response to Exception III, though DNS had ample opportunity to present its reasons for protesting the Authority's action, DNS could not through the protest supplement its bid. Finally, the Response to Exception IX explains that the RFQ/P required the bidder to demonstrate certain experience and qualifications. As the Hearing Officer stated: "The evaluation committee found that the Proposal submitted by DNS did not provide any examples of projects or relevant experience that met these specific requirements."

RESPONSE TO AUGUST 3, 2010 SUPPLEMENTAL EXCEPTION TO HEARING OFFICER REPORT/MEMORANDUM

Subsequent to finalization of this report, DNS submitted a second exception letter on August 3, 2010. Although this supplement is considered a late receipt, in that no extension of time under the exceptions period had been granted after the original ten day period, the Authority is providing a response.

Supplemental Exception (Reilly): "A review of [Paetec's] bid submission further confirms the rejection of the BAT proposals as arbitrary and unreasoned."

Response: It would not be relevant to compare the PAETEC proposal submitted in response to the RFQ/P-035 solicitation with DNS's proposal. PAETEC's response was never released to the Evaluation Committee. The proposal was deemed non-responsive for failure to submit mandatorily required documents.

CONCLUSION

As explained in each of the above responses, DNS has not offered any exception that should cause the Board not to accept the Hearing Officer's recommendation to reject the bid submitted by DNS. DNS' bid did not demonstrate, as required by the RFQ/P, the qualifications or experience in providing services similar to those requested by the Authority.

RECOMMENDATION

Based on my review, it is my recommendation that the Board reaccepts the Hearing Officer's June 8, 2010 report and approves all actions originally taken: reject DNS' proposal for non-responsiveness to the requirements of the RFQ/P, terminate the selection process under 2010-RFQ/P-035, and continue the procurement of these services under 2010-RFQ/P-037.

Respectfully submitted:



Fred Cole, Director

Internal Process Management Department - NJEDA

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July 13, 2010

Caren Franzini, Chief
 Executive Officer
 NJEDA
 P.O. Box 990
 Trenton, New Jersey 08625-0990

Re: **Bid Protest**
Exceptions to Hearing Officer Report/Memorandum
2010-RFQ/P-035
Internet Service Provider (ISP) Services

Dear Ms. Franzini:

As you may be aware, this office represents Business Automation Technologies d/b/a Data Network Solutions, which firm submitted a bid on the above contract. The bid was rejected on the recommendation of the evaluation committee on the alleged basis of non-responsiveness to the requirements of the RFQ/P. DNS subsequently submitted a bid protest which was reviewed, without allowing for a hearing or meeting, by NJEDA Hearing Officer Donna T. Sullivan. Her Memorandum of Decision, basically upholding the rejection of the DNS bid and denying the protest as without merit, has been received and reviewed and the following, including the attachment from DNS President/Principal Isaac Fajerman, constitute the Exceptions to the Hearing Officer's report/memorandum.

An initial point should be made, or more correctly reiterated, with regard to the protest procedures. As

detailed in Hearing Officer's Report, DNS submitted the lowest bid, and was in fact the only responsible bidder. The DNS bid amount is not the cause of the rejection; the cause is supposedly an issue as to the DNS demonstration of sufficient experience and qualifications.

It has long been the law in New Jersey that, although a judicial or trial type hearing is not required prior to the rejection of a low bidder, "as a matter of good practice and fair procedure, an informal hearing or conference should be granted, if requested by a dissatisfied rejected bidder, particularly if he is the low bidder, prior to the execution of the contract with another bidder." Commercial Cleaning Corp v Sullivan, 47 N.J. 539, 550 (1966). The Commercial Cleaning case cites to several earlier cases as authority for this proposition, dating back to the early 1900's. That decision and protocol has been repeatedly upheld as the appropriate practice by the Courts. See Motorola Communications & Electronics Inc. v. O'Connor, 115 N.J. Super 317, 321 (App Div 1971) M.A. Stephens Const. Tp v. Borough of Rumson, 118 N.J. Super 523, 525 (Law Div. 1972).

More recently, the Appellate Court in Hartz Mountain Ind. Inc. v. N.J. Sports & Exposition Authority, 369 N.J. Super 175, 188-189 (App Div. 2004) again cited Commercial Cleaning for the proposition that a bidder is entitled to a hearing, with "ground rules that will ensure the protester's opportunity to present both facts and law and, most importantly, to include in the determination fully developed findings of fact and conclusions of law responsive to the protester's arguments." That has simply not occurred, or been permitted by NJEDA here.

For example, upon the notification of the initial rejection of its bid by NJEDA, DNS requested a copy of the Evaluation Committee Report and a hearing so that it could address the mis-evaluation. NJEDA initially declined to provide the Evaluation Report, and only after some reconsideration was the Report belatedly supplied. In the meantime, NJEDA --- in a clear indication of its position and attitude toward a proper consideration and procedure on DNS bid --- went forward with a re-advertisement for new bids on the same contract. The DNS request for a hearing or meeting --- the holding of which is defined by the

Supreme Court in Commercial Cleaning and later cases as a "good practice" --- was consistently denied of NJEDA. Such a hearing or meeting would have allowed DNS to directly confront and point NJEDA to the experience and prior contracts that would have debunked the concerns.

Surprisingly, the Hearing Officer Sullivan in her Report concludes, without any explanation, that a hearing/meeting or "oral presentation by the protester is not necessary to reach an informed decision regarding the merits of their protest" (at p 6-7). She then lists a number of documents she reviewed and states she "also conducted further inquiry as needed to make my review complete and thorough" (at p.7). None of that "inquiry" or discussion was with DNS, so presumably Hearing Officer Sullivan heard one side of the story from NJEDA personnel who had already made the rejection decision with no opportunity for DNS to explain or rebute their mistaken or incomplete assertion or information. That hardly qualifies as a fair and unbiased process, consistent with due process. Consequently, it is clear that the very process followed here by NJEDA is arbitrary and capricious. That this arbitrary process would lead to an arbitrary and unreasoned conclusion is hardly surprising.

On the substantive validity of the rejection of the DNS bid, and the Hearing Officer's Report upholding that rejection, attached hereto is a Memorandum by DNS principal Isaac Fajerman. As detailed therein, there are several bases supporting the conclusion that DNS failed to provide evidence of adequate and sufficient relevant experience in providing similar internet service provider (ISP) services to other entities at multiple locations.

As detailed in the Fajerman/DNS summary enclosed, the DNS resume of completed successful contracts shows numerous ISP operations established and maintained, several of police/fire 24 hour operations (Irvington, Franklin Township, Chatham Township, Branchburg Township) and several of large multi-site school operations (Paterson, East Windsor, Old Bridge). These operations --- being public safety and 24 hours --- are far more sensitive than a typical office requirement, and certainly provide ample documentation of DNS' superior experience and capabilities in the ISP requirements.

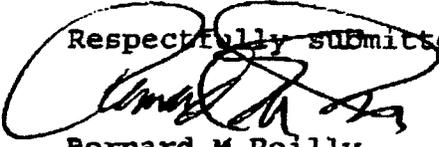
These references and projects were all supplied to NJEDA as a basis and support for the DNS' bid. That the Evaluation Committee failed to check these references, or were not fully cognizant of the applicability of these projects to the NJEDA project, does not serve as a basis to reject the DNS' bid.

The Hearing Officer's Report simply concludes, without factual support, that the Evaluation Committee "exercised due care and effort in finding the DNS' proposal non-responsive." (at p. 9). As indicated earlier, the process followed here was itself defective. DNS in fact did supply the references and list of completed projects which clearly demonstrates adequate and substantial experience in the relevant work areas. The conclusion that DNS did not is simply arbitrary.

It should be noted that the right or ability of NJEDA to reject all bids is not without limits. As noted in Marvec Const. v. Belleville Tp, 254 N.J. Super 282, 288 (App Dev 1992) "if the bids have already been opened and each bidder's competitive position has been explored, rejection of all bids should only occur for cogent or compelling reasons." Such "cogent or compelling reasons" have not been supplied by anything presented by NJEDA. At best what is supplied is a failure to provide an adequate process on this protest and a failure of NJEDA to adequately review the bid submission and references presented by DNS.

Consequently, it is respectfully submitted that based upon the presentation submitted herein, along with the attached submission of DNS, you as Chief Executive Officer should either provide for the hearing that has been requested so a full presentation and discussion of the qualification and experience issues can be aired, or more appropriately the recommendations to date can be reconsidered and the contract properly awarded to DNS.

Respectfully submitted,


Bernard M Reilly



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July 13, 2010

Memo: In Support of Hearing Officer RFQP-035 Report Exceptions

To: Ms. Caren Franzini, CEO NJEDA

New Jersey Economic Development Authority in RFQP-035 and RFQP-037 has solicited the purchase of telecommunications carrier Services to include;

- 1. Internet Service Connections for each of its 5 office locations at Camden, Newark, North Brunswick, and Trenton.**
- 2. Local, Long Distance and international voice minutes.**
- 3. Provide inter-office telecommunications using the MPLS protocol that permit any location to directly connect to any other location.**

The specifications prepared by the NJEDA Information Technology contained numerous requirements that are unrelated to the above services it seeks to purchase in this RFQP-35. Such services would be required to be sought in another solicitation. Furthermore the wording of the specifications is contradictory and overly burdensome. The requirement for a company to have 8 years experience is extremely uncompetitive and unfair and excludes highly qualified companies that were established in less than eight years. "The Town cannot, consistent with the requirement to be competitively neutral, force companies into a competition the terms of which favor larger telecommunications companies with the resources to meet such demands over smaller competitors who may not have similar resources." 299 F3d 235 New Jersey Payphone Association Inc v. Town of West New York. Hearing Officer Sullivan's unverified statement that NJEDA knows of companies that have



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been providing these services for at least eight years is blatantly not competitively neutral and favors the companies that have been in business longer and are larger.

At page 8 of the Hearing Officers Report (HOR-035) states the bidder must have two years, hands on experience with i) VOIP, (ii) Wireless implementations, (iii) Infrastructure equipment such as switches and routers, (iv) Remote Access, network security, software and hardware.

Only item (i) is being purchased in RFQP-035. The rest of the items would require another solicitation and their installation would be performed by those suppliers. In fact the routers mentioned are part of the Cisco Call Manager VoIP phone system NJEDA intends to purchase. Any selected Cisco vendor would refuse to permit the carrier sought under RFQP-035 to have any password or access to these routers and void any warranty or support agreements if the carrier were to access the voice routers.

Donna Sullivan states at page 8, "The evaluation Committee found that the Proposal submitted did not provide examples or relevant experience that meet these requirements". (ii) Wireless implementations, (iii) Infrastructure equipment such as switches and routers, (iv) Remote Access, network security, software and hardware. However, as noted above those items are not even part of the contract. Routers and switches are part of the Cisco Call Manager contract. However, in fact DNS has experience in all of those work areas as part of every project we listed as examples. It was not important to write about experience not required for the NJEDA services requested. If the evaluation committee were diligent they would not have based its recommendation on



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skills unrelated to this project. However, if they had checked our references carefully (or inquired further from DNS) they could have determined that DNS had significant satisfactory experience in all the areas listed.

Clearly the Information technology director issued a confused RFQP-035 including qualifications that were clearly beyond the scope of services sought from the carrier.

As Sullivan states at page 15 in HOR-035 that NJEDA models the treasury procedures. The evaluation committee must be selected pursuant to,

It appears that some of the evaluation errors arose due to the lack of adequate experience and qualifications of the Evaluation Committee itself.

N.J.A.C. 17:12-2.7 (a) Proposals shall be evaluated in either of two ways:

1. By an evaluation committee appointed by the Director prior to the date of the scheduled bid opening. The Director shall appoint the members of the evaluation committee on the basis of professional resumes supplied by the proposed members.

The key member of the Evaluation Committee Thomas Murphy the NJEDA Director of Information Technology graduated from Camden Rutgers with a B.A. in sociology, as stated on the NJEDA web site. That site indicates he had been the Director of IT at Marketingworks, Inc (MW) in Yardley, Pa. and Q Finance Group (QFG) in Princeton, NJ. At HOR-035 page 10 Murphy claims he evaluated, selected and

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implemented a Mitel VoIP solution as Director of IT for Marketingworks. Mr. Murphy apparently left MW and became employed by NJEDA in 2008.

DNS has researched and contacted both MW and QFG. MW was founded by Gerry Bogatz in 1994 and is and has been a very small company. Ms. Bogatz works from her home in Doylestown, Pa. On June 8, 2010 DNS spoke to spoke Ms. Bogatz about her phone system. She said she uses her home phone and has 12 associates that work from home using their home phones. See attachment "A" about MW. It would seem rather clear that Mr. Murphy's experience and knowledge of VoIP or the necessary experience and qualifications is very limited or non-existent. This lack of experience is the likely explanation for why RFQP-035 has significantly confused the vendor contract responsibilities between Phone Routers, Wireless, Remote Access Software and VoIP.

Also the NJEDA indicates that Murphy was employed by Q Financial Group. DNS spoke with Will Robbins President of QFG that has six employees. QFG is a "Payroll Lender". QFG charges between \$5 and \$6 per \$100 paid weekly. That's an extended annual interest rate of 60% to 112%. The company QFG is listed on the NJEDA web site.

Mr. Murphy education and experience does not qualify him to evaluate this work or the DNS qualifications.

Mr. Dooley and Mr. Kuntz both refer to evaluating, selecting and implementing a Cisco VoIP solution in 2009. Their stated experience appears vague and lacks any detail to demonstrate sufficient

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qualifications as evaluators. All the actual details of their education and experience are unverified and likely lack and relevant technical education. The limited experience referenced in Hearing Officer's Sullivan's report that being involved in "Cisco VoIP Solutions with Dynamic IP Service and SIP trunking" is of no real meaning.

Patrick McMillian in networking shows no experience relevant to the carrier services being solicited.

Thus there appear several issues or limitations as the Evaluation Committee's experience and qualifications to properly evaluate DNS.

The Evaluations committees stated reason for rejection of the DNS bid is;

Based upon the lack of demonstrated experience similar to those required by the Authority the committee is unable to accurately and effectively evaluate the proposal based upon the information provided. It is unclear to the members whether this proposer would be capable of successfully implementing its proposed solution since it has not clearly demonstrating similar experience in doing so for others.

Since the services required of this RFQP are critical to the day to day voice and data operations the committee is not satisfied that a successful implementation would, in fact occur...



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DNS provided three resumes of assign staff, nine examples of similar services going back eight years, three references contacts and specified two data centers operated by DNS to support the project. This met the format of the RFQP-035.

Resumes:

- 1. Isaac Fajerman, President. Columbia University '74 B.S., M.S. '75 from the Electrical Engineering & Computer Science Department. Member Columbia teaching faculty 1976-77. Prior projects included programmer U.S.S.S. Columbia Avionics Development for NASA, Submarine Acoustic Array Sensor for US Navy, Space Based Radar Satellite for US Air Force for US Continental perimeter fence, Spread Spectrum Anti-Jam Digital Communication US Air Force, Integrated Battlefield Communications and Data Processing for US Army. Founder Data Network Solutions a provider of Networking and Telecommunications.**
- 2. Patrick Callahan, Cittone Institute AA, Cisco Certified Network Professional.**
- 3. Louis Cagnassola, DeVry Institute BS, Certified Cisco Engineer and Microsoft Systems Engineer.**

Active References.

- 1. Irvington Township six VoIP locations, 450 phones, administration, police and fire 7/24/365 operation. Since 2008**
- 2. Franklin Township Internet Access, 7 sites SIP Trunks for Admin and Police 7/24/365. Selected in a weighted RFP competition that included Verizon, Cablevision, Paetec, Broadview and Metel. Since 2005.**



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3. Chatham Township 65 VoIP phones 7/24/365 police and administration. Since 2001.
4. The Samra Medical Group two sites, 50 VoIP phones 7/24/365. Since 2003.
5. City Paterson and Paterson Schools over 100 locations 7/24/365. Since 1999.
6. Branchburg Township three locations, 150 phones, administration, police and fire 7/24/365 operation connects to Somerset Dispatch. VoIP and SIP trunks to Avaya PBX. Since 2006.
7. Old Bridge Schools 18 sites 2000+ computers on network 7:00 am to 4:30 pm. Since 2009.
8. East Windsor Schools 8 sites 1500+ computers 7:00 am to 4:30 pm. Since 2001.
9. South Brunswick 16 sites 2000+ computers on network 7:00 am to 4:30 pm. Since 2001.

Other ISP references include Camden County, Monmouth County, Essex County, Union County, and City of Trenton.

Past Projects. Specific successful projects for 1) Lt. Governor Kim Guadagno upgraded Prisons Video Recording System Monmouth County Jails 2007, 2) Attorney General Paula Dowe upgraded and provide Internet Access for Essex County Prosecutors office, 3) Education Commissioner Brent Schundler programming 1995 for Jersey City.

Call Manager Installation Essex County Jails 300 extensions and 100 SIP trunks and North Plainfield Schools 250 extensions and 50 SIP trunks.

Data Centers

Pennsauken, NJ

Newark, NJ



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NJEDA operates primarily between the hours of 8:30 am to 4:30 pm. NJEDA is engaged in standard office work with about 300 phones in 5 locations.

Irvington Township operates emergency and public safety services of Police and Fire every day around the clock. It has five locations in an MPLS network. DNS provided the hardware, design, installation and maintenance. Franklin Township has 7 locations, Paterson 100+ locations and Branchburg 3 locations also operate emergency services and public safety services of Police and Fire every day around the clock.

Samra Medical Group is a Surgeon's Group and they are required to accept calls from patients around the clock every day.

The School Districts referenced provide instruction for thousands of students and any loss of Internet Services would disrupt classroom teaching and business accounting and cause alarm to parents.

In each of the above installations any outage of services would constitute a major disaster many of which could be life threatening. The requirement for Police, Fire and Medical services is more stringent and critical than the routine office work of NJEDA. Any reasonable person must conclude that if DNS can successfully service these entities then it can service the needs of the routine office workers of NJEDA.



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The purpose of providing references is to permit NJEDA to verify the scope of experience and to ascertain whether the project was successful and the level of service response DNS can provide. To conclude DNS would not be successful without contacting its references is arbitrary and capricious and abusive.

The fact that "the committee is unable to accurately and effectively evaluate the proposal" is not because DNS did not provide enough information but because the evaluators do not have the experience to make sound technical judgments or did not make even basic inquiries.

Hearing Officer Sullivan stated that DNS further discussing the Branchburg VoIP project included in its bid would be using the protest to supplement its proposal. That is ridiculous inquiry or explanation of prior experience is not supplementing or altering a bid. NJEDA can't ask for reference contacts and more information on a submitted project like Irvington and then refuse to hear more other relevant information on other DNS projects submitted. This censorship or filtering restricts a bidder's presentation arbitrarily. Either accepts all the information or none. Once information regarding the Irvington project was accepted then all other projects should be discussed for the purpose of resolving any ambiguity NJEDA may have.

The NJEDA evaluation committee did not state any specific reasons why each of the submitted projects was not similar. No specific reason has been given as to why Irvington was not similar or what was missing.



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Hearing Officer Sullivan merely repeats the same hollow conclusions of the committee to wit; 1) DNS does not have similar experience, and 2) they cannot conclude DNS will successfully provide the services.

Hearing Officer Sullivan did not cite any cogent or compelling reasons for the rejection of the DNS bid. All the statement by the Evaluation Committee is conclusionary.

DNS has disputed the conclusions of the committee which lacks specificity of reasons for its conclusions. Assigning a hearing officer and not having a hearing has the potential to in bad faith avoid the purpose of the hearing which is to provide the low bidder an opportunity to address the issues raised by NJEDA as to its qualifications and experience.

Hearing Officer Sullivan disregarded entirely any explanation as to why the supplemental protest was without merit. She states the same unsubstantiated conclusions that the evaluation committee cannot effectively or accurately evaluate the proposal. There is no finding or detailing of the specific experience that DNS does not have or has not provided that is relevant or part of the project.

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385 Oxford Valley Road Suite 410
Yardley, Pennsylvania 19067
United States

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Phone: (215) 321-0443
Fax: (215) 321-4249

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When you want to reach the education marketplace, you want the one company that has the experience, resources and connections to help you succeed: Marketing Works, Inc. We're a full-service education marketing, market research, and sales firm, specializing in the PreK-12, Higher Education, Adult Learning, and Library markets. We are leaders in education research, education sales, higher education marketing, and education business development. Since 1994, we have assisted dozens of companies with strategic market planning, telemarketing, library marketing, and selling to schools, colleges, and libraries.

MarketingWorks is a leading education industry consultant. We help companies like yours expand their businesses with strategic planning and intelligent execution, from developing sales plans to meeting sales goals. We understand your needs, whether they are for scientifically based research, assistance in designing marketing strategies, or direct sales. Simply put, we know the education market. And we're ready to put our knowledge to work

Key People

Gerry Bogatz
President and Founder

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Competitors

Access Worldwide Communica
(OTC: AWWC)
Arlington, Virginia
www.accessww.com
Revenue: \$32.8 Million
Employees: 1,000

The Valeo Group LLC
Irvine, California
www.thevaleogroup.com
Revenue: Under \$20 Million
Employees: Under 99

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Revenue: \$6 Million

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Revenue: \$370,000

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August 3, 2010

Caren Franzini, Chief
Executive Officer
NJEDA
P.O. Box 990
Trenton, New Jersey 08625-0990

Re: 2010-RFQ/P-035
Internet Service Provider (ISP) Services

Dear Ms. Franzini:

As you may recall, this office represents Business Automation Technologies Inc., d/b/a Data Network Solutions, which is in the process of protesting the rejection of its bid proposal under RFQ 035. By communication dated July 13, 2010, we submitted to you Exceptions to Hearing Officer Sullivan's Report (arrived at without a hearing) regarding BAT's protest to the RFQ 035 bid rejection. That is still pending.

While that RFQ 035 protest was ongoing, the ISP contract was re-bid. Despite BAT being again the low bidder, the matter was on the Authority's agenda for prospective award to PAETEC based on a staff recommendation, which action was postponed based on BAT's objection. In order to evaluate the PAETEC bid, BAT requested a copy on June 24, 2010, which request was denied. After the filing of an OPRA suit contesting this arbitrary and illegal denial, the PAETEC bid submission was belatedly turned over to BAT on July 29, 2010. A review of that bid submission further confirms the rejection of the BAT proposals as arbitrary and unreasoned.

For example, PAETEC's list of references and experience (see attached Exh. A) consists of listing four small private businesses, with a very limited number of sites, and providing only very limited detail. These references and description of work was much more limited than that proffered by DNS, which listed large public entities with many sites and a 24 hour emergency services requirement. As to the PAETEC references, the only way for the NJEDA to ascertain any relevance would be to contact the references and do a complete investigation. This the NJEDA declined to do as to the BAT proposal, and found its bids unacceptable.

Even more disconcerting is that in the required submission as to providing a list of the number of years of ISP service at remote facility locations, PAETEC responds that it "cannot provide this information as it is proprietary and confidential" (see Exh. B). BAT supplied this information, with 11 pages of detail showing BAT's projects going back 8 years. Paterson alone had over 100 locations. The detail as to the City of Irvington also shows service to numerous locations. There is obviously a different standard being applied to BAT than being applied to PAETEC.

It is respectfully submitted that there is no possible way that the rejection of the BAT proposal can be reconciled with the recommendation for award to PAETEC. It would also appear that the actions to date of the NJEDA in this matter are contrary to its very purpose and charter, which is to foster growth of small New Jersey businesses. That purpose is not being furthered by creating arbitrary standards and barriers against such New Jersey businesses, in favor of purportedly larger national concerns.

Would you kindly consider these comments, arrived at after the belated and blocked review of the PAETEC proposal, as part of the Exceptions previously submitted. As has been detailed in all the previous submissions and communications, BAT is fully capable of performing the

contract and stands ready to begin work as soon as authorized. Your considered attention is requested.

Respectfully submitted,



BERNARD M REILLY

BMR:eam

Cc: Data Network Solutions



PAETEC

Experience / References

PAETEC has been providing Internet services since our inception in May of 1998. PAETEC is a CPN (CISCO Powered Network) and has also partnered with several leaders in the IP/IT industry such as Oracle, EMC, and Microsoft in order to develop an IP backbone and Internet service offering unparalleled in our industry today.

Customer Name: **Parker McCay**
Address: **7001 Lincoln Dr. W., Marlton, NJ 08053**
Contact Name & Title: **Tom Kline, Director of IT**
Telephone Number: **856-810-5858**
E-mail Address: **tkline@parkermccay.com**
Scope of Services: **3 site voice, MPLS, and Internet**

Customer Name: **EMTEC**
Address: **11 Diamond Rd., Springfield, NJ 07081**
Contact Name & Title: **Mike Hubbs, Director of MIS**
Telephone Number: **973-376-4242**
E-mail Address: **michaelhubbs@emtecinc.com**
Scope of Services: **9 site Dynamic IP, voice, MPLS, and Internet**

Customer Name: **Delaware Valley Wholesale Florists**
Address: **520 Mantua Blvd., Sewell, NJ 08080**
Contact Name & Title: **James Young, Network Manager**
Telephone Number: **856-468-7000 ext 1421**
E-mail Address: **jyoung@dvwf.com**
Scope of Services: **6 site voice, MPLS, and Internet**

Customer Name: **SANCOA International**
Address: **92 Ark Rd., Lumberton, NJ 08055**
Contact Name & Title: **Kevin Austin, Purchasing Director**
Telephone Number: **609-953-5050 ext 2112**
E-mail Address: **kaustin@sancoa.com**
Scope of Services: **2 site voice, MPLS, and Internet**



PAETEC

PERFORMANCE of the PROPOSER on CONTRACTS of SIMILAR SIZE AND SCOPE / DESCRIPTION of the PROPOSER's ORGANIZATION:

In an effort to establish the Proposer's ability to successfully perform on projects of similar scope, size and complexity, **interested Proposers should provide a narrative which provides general information about its organization**, to demonstrate its abilities to provide and perform the *Internet Service Provider (ISP) Services* required of this RFQ/IP.

The Proposer should include the following information:

- a. **the number of years providing similar Internet Service Provider (ISP) Services** to other entities, whether public or private sector, at remote facility locations, as evidenced by submitting a copy of the Proposer's list of clients and years serviced.
PAETEC cannot provide this information as it is proprietary and confidential.
- b. **the Proposer's qualifications to perform on similar size and scope Internet Service Provided contracts, servicing and supporting remote facility locations.** Include with this submission, any other information relevant to the Proposer's qualifications, you feel will assist to the Authority in evaluating the bid proposal.
PAETEC has a substantial amount of experience in the delivery of carrier-grade voice, data, and integrated and converged services. We have been providing a full suite of business-class voice services since our inception in 1998. We were one of the early providers in the industry delivering large scale integrated voice and data services on the same circuit in 1999, and pioneered the deployment of the Lucent Long Distance Platform (LDP). As the first carrier to deploy a combination of local and long distance services on the 5ESS platform, PAETEC played an integral role in the design and development of the technology, and helped Lucent bring a new product to market that is now deployed worldwide.
PAETEC personalizes business communications for medium and large businesses, enterprise organizations, and institutions across the United States. Our geographic reach (83 of the top 100 US metropolitan areas in 2008) and comprehensive suite of data, voice, and IP-based solutions have made PAETEC the pre-eminent alternative to incumbent carriers. Our value-added capabilities include managed services, enterprise communications management software, network security solutions, customer premises equipment, and fixed wireless network access.
- c. **location of the Proposer's office** that will be responsible for managing the resulting contract.
The current services provided by PAETEC are handled out of the Mount Laurel, NJ office located at 6000 Irwin Road.
- d. **name, phone number and e-mail address of the individual, who will be responsible for managing the performance** against the resulting contract.
The account manager currently handling the existing services for the NJ Economic Development Authority Account is Joe Principato. Joe can be reached at 856.380.7287 or joe.principato@paetec.com.



PAETEC

- e. a copy of the **Proposer's organizational / staffing chart**, to show each position, for those individuals who it is anticipated will be involved in performing work against the resulting contract. If available, it is requested that an organizational chart also be supplied for the Bidding entity's entire organization. The staffing chart should indicate the individual's name, title and any certifications / licenses held in relation to performing the Internet Service Provider (ISP) Services and Support. If this information is not available in visual graphic form (i.e. charts), Proposers are requested to submit this information by indicating the number of employees on staff, the numbers and types of certifications held, training provided, etc.). *Please reference PAETEC's Account Team Escalation List included in TAB six of the RFP response.*
- f. the name and **Federal Employer Identification Number (FEIN #)** of the Proposer responding to this RFQ/P.
PAETEC's FEIN is [REDACTED]