



MEMORANDUM

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

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

Chief Executive Officer's Monthly Report to the Board

Authority Matters

Bond Projects

Clean Energy Solutions

Loans/Grants/Guarantees

Incentive Programs

Board Memorandums

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

April 13, 2010

MINUTES OF THE MEETING

Members of the Authority present: Al Koepp, Chairman; Steve Petrecca, representing the State Treasurer; Ray Cantor, representing the Commissioner of the Department of Environment Protection; Richard Poliner, representing the Commissioner of the Department of Banking and Insurance; Joe Latoof, representing the Commissioner of the Department of Labor and Workforce Development; Public Members: Joseph McNamara, Vice Chairman; Steve Plofker, Timothy Carden, Dr. Randal Pinkett, Marjorie Perry, Elliot M. Kosoffsky, Second Alternate Public Member and Rodney Sadler, Non-Voting Member.

Present via Phone: Jerold Zaro, representing the Governor's Office, Charles Sarlo, Public Member; and Raymond Burke, First Alternate Public Member.

Absent from the meeting: Kevin Brown, and Laurence Downes, Public Members.

Also present: Caren Franzini, Chief Executive Officer of the Authority; Bette Renaud, Deputy Attorney General, 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

The next item of business was the approval of the March 9, 2010 meeting minutes of the Board. A motion was made to approve the minutes by Mr. McNamara, seconded by Mr. Carden and was approved by the 11 voting members present.

Chairman Koepp acknowledged the service of former Board Members Richard Tolson and Thomas Manning. Chairman Koepp then informed the Board of new Members Marjorie Perry and Laurence Downes and welcomed them to the Board.

Ms. Franzini also welcomed the new Members.

Mr. Poliner entered the meeting at this time.

Mr. Zaro joined the meeting via conf call.

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

AUTHORITY MATTERS

The next item was to approve the Authority's comprehensive Annual Report for 2009, as required under Executive Order No. 37 (2006)

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

BOND RESOLUTIONS

PROJECT: Tribeca Oven, Inc. **APPL.#30457**
LOCATION: Carlstadt/Bergen Cty.
PROCEEDS FOR: equipment and machinery purchase
FINANCING: \$4,000,000 Tax-Exempt Bond
MOTION TO APPROVE: Mr. Plofker SECOND: Mr. Carden AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

PROJECT: Yeshiva Orchos Chaim, Inc. **APPL.#28879**
LOCATION: Lakewood/Ocean Cty.
PROCEEDS FOR: refinance existing debt
FINANCING: \$6,000,000 Tax-Exempt Bond
MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

COMBINATION PRELIMINARY AND BOND RESOLUTIONS

PROJECT: Green Hill, Inc. **APPL.#30582**
LOCATION: West Orange Twp./Essex Cty.
PROCEEDS FOR: building construction and renovation
FINANCING: \$15,000,000 Tax-Exempt bond
MOTION TO APPROVE: Mr. Plofker SECOND: Mr. Carden AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

PROJECT: SEARCH Day Program
LOCATION: Ocean Twp./Monmouth Cty.
PROCEEDS FOR: acquisition of building
FINANCING: \$2,750,000 Tax-Exempt Bond

APPL.#30737

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 12
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

PUBLIC HEARING: Yes

PUBLIC COMMENT: None

Mr. Zaro abstained because the executive director is his neighbor.

PUBLIC HEARING ONLY

PROJECT: The Kintock Group of New Jersey Inc.

APPL.#31130

LOCATION: Bridgeton/Cumberland Cty.

PROCEEDS FOR: refinance existing debt

FINANCING: \$3,500,000 Tax-Exempt Bond and \$300,000 Tax-Exempt Bond

PUBLIC HEARING: Yes

PUBLIC COMMENT: None

CLEAN ENERGY SOLUTIONS

PROJECT: Puglisi Egg Farms, Inc. &
Puglisi Egg Products, Inc.

APPL.#29457

LOCATION: Howell/Monmouth Cty.

PROCEEDS FOR: purchase and installation of solar photovoltaic system

FINANCING: \$1,326,125 Clean Energy Solutions Capital Investment Loan

MOTION TO APPROVE: Mr. Plofker SECOND: Mr. Carden AYES: 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

LOCAL DEVELOPMENT FINANCING FUND

PROJECT: F. Greek Newco 377, LLC

APPL.#30383

LOCATION: Carteret/Middlesex Cty.

PROCEEDS FOR: building construction

FINANCING: \$1,250,000 Local Development Financing Fund loan

This project was withheld from consideration pending further information.

PETROLEUM UNDERGROUND STORAGE TANK PROGRAM

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

MOTION TO APPROVE: Mr. McNamara SECOND: Mr. Latoof AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

PROJECT: Cheryl Brown **APPL.#29174**

LOCATION: Monroe/Gloucester Cty.

PROCEEDS FOR: site remediation

FINANCING: \$200,834 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Frank Lanziano (Fmr. Maple Crest Auto Center) **APPL.#28535**

LOCATION: Westfield/Union Cty.

PROCEEDS FOR: upgrade, closure and site remediation

FINANCING: \$107,235 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

(A legal matter regarding this application was discussed by the Board.)

PROJECT: JoAnn McCain **APPL.#30022**

LOCATION: Fredon/Sussex Cty.

PROCEEDS FOR: upgrade, closure and site remediation

FINANCING: \$157,649 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: John Patalano **APPL.#29132**

LOCATION: Dumont/Bergen Cty.

PROCEEDS FOR: upgrade, closure and site remediation

FINANCING: \$91,866 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Lucy Pignatora **APPL.#30256**

LOCATION: Lodi/Bergen Cty.

PROCEEDS FOR: site remediation

FINANCING: \$62,900 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: Raymond Shamlan **APPL.#30415**

LOCATION: Millstone/Monmouth Cty.

PROCEEDS FOR: upgrade, closure and site remediation

FINANCING: \$115,563 Petroleum UST Remediation, Upgrade, & Closure Fund Grant

PROJECT: JoAnne Terrizzi **APPL.#30210**
LOCATION: Lakewood/Ocean Cty.
PROCEEDS FOR: upgrade, closure and site remediation
FINANCING: \$156,495 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 March 2010. **(For Informational Purposes Only)**

HAZARDOUS DISCHARGE SITE REMEDIATION FUND PROGRAM

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

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

PROJECT: Borough of Bellmawr (Bellmawr Landfill) **APPL.#30714**
LOCATION: Bellmawr/Camden Cty.
PROCEEDS FOR: remedial action
FINANCING: \$5,000,000 Hazardous Discharge Site Remediation Fund

PROJECT: Borough of Glassboro (Former Glassboro Landfill) **APPL.#31021**
LOCATION: Glassboro/Gloucester Cty.
PROCEEDS FOR: remedial investigation
FINANCING: \$250,981 Hazardous Discharge Site Remediation Fund

PROJECT: Jersey City Redevelopment Agency (Turnpike Dump #5) **APPL.#30715**
LOCATION: Jersey City/Hudson Cty.
PROCEEDS FOR: remedial action/remedial investigation
FINANCING: \$849,497 Hazardous Discharge Site Remediation Fund

PROJECT: Borough of Keyport (DPW Storage Yard) **APPL.#31020**
LOCATION: Keyport/Monmouth Cty.
PROCEEDS FOR: remedial action/remedial investigation
FINANCING: \$808,434 Hazardous Discharge Site Remediation Fund

PROJECT: Township of Monroe (Monroe Twp. Landfill) **APPL.#30409**
LOCATION: Monroe Twp./Gloucester Cty.
PROCEEDS FOR: preliminary assessment/site investigation

FINANCING: \$408,938 Hazardous Discharge Site Remediation Fund

PROJECT: Township of Old Bridge (Sommer Property)

APPL.#30486

LOCATION: Old Bridge Twp./Middlesex Cty.

PROCEEDS FOR: remedial investigation

FINANCING: \$730,331 Hazardous Discharge Site Remediation Fund

PROJECT: Borough of South Plainfield (Former Bus Terminal)

APPL.#30062

LOCATION: South Plainfield/Middlesex Cty.

PROCEEDS FOR: remedial investigation

FINANCING: \$111,609 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 March 2010. **(For Informational Purposes Only)**

INCENTIVE PROGRAMS

BUSINESS INCENTIVE EMPLOYMENT PROGRAM

PROJECT: Atlantic Hoisting and Scaffolding LLC & affiliates **APPL.#30775**

LOCATION: Carlstadt/Bergen Cty. **BUSINESS:** manufacturing

GRANT AWARD: 55% Business Employment Incentive grant, 10 years

MOTION TO APPROVE: Mr. Plofker **SECOND:** Mr. Kosoffsky **AYES:** 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

PROJECT: Carlos Bakery, Inc. **APPL.#30752**

LOCATION: TBD **BUSINESS:** food products

GRANT AWARD: 25% Business Employment Incentive grant, 10 years

MOTION TO APPROVE: Mr. Petrecca **SECOND:** Mr. Latoof **AYES:** 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

PROJECT: Holiday Image LLC **APPL.#30774**

LOCATION: TBD **BUSINESS:** manufacturing

GRANT AWARD: 25% Business Employment Incentive grant, 10 years

MOTION TO APPROVE: Mr. Petrecca **SECOND:** Mr. Carden **AYES:** 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

PROJECT: Torus US Services, Inc. and Affiliates **APPL.#30736**

LOCATION: TBD **BUSINESS:** financial services

GRANT AWARD: 40% Business Employment Incentive grant, 10 years

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

PROJECT: Pak-It LLC **APPL.#30654**
LOCATION: Pennsauken/Camden Cty. **BUSINESS:** wholesale
GRANT AWARD: 70% Business Employment Incentive grant, 10 years

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

BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT

PROJECT: United Parcel Service General Services Co. and/or Affiliates
LOCATION: Various **BUSINESS:** package delivery
GRANT AWARD: \$1,111,500 (estimate), 5 years

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

SALES AND USE TAX EXEMPTION PROGRAM

PROJECT: United Parcel Service General Services Co. and/or Affiliates
LOCATION: Various
ESTIMATED ELIGIBLE EXPENSES: Up to \$2,800,789
ESTIMATED VALUE OF STX: \$62,738
MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

UEZ/SALEM SALES TAX EXEMPTION PROGRAM

The next item was to approve the Salem County Energy Sales Tax Exemption Renewal Application of Siegfried (USA), Inc., a manufacturer that is located in Pennsville. The estimated annualized STX benefit is \$128,000.

MOTION TO APPROVE: Mr. Poliner SECOND: Mr. Latoof AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

The next item was to approve the Urban Enterprise Zone Energy Sales Tax Exemption Renewal Application of Alcan Global Pharmaceutical Packaging, Inc. The estimated annualized U-STX benefit is \$671,000.

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

BROWNFIELD REIMBURSEMENT PROGRAM

PROJECT: F. Greek Newco 377, L.L.C.

LOCATION: Carteret/Middlesex Cty.

REIMBURSEMENT GRANT: Up to \$2,411,692

The project was withheld from consideration.

BOARD MEMORANDUMS

The next item was to approve the request to modify a \$2 million Clean Energy Solutions Capital Investment loan approval to Elizabeth Industrial Center, LLC (P28461).

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Petrecca AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT:14

The next item was to approve the request to modify a \$1 million Urban Plus loan approval to Food Basics, Inc. (P29588).

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Poliner AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT:15

The next item was to approve the request to extend the commitment expiration date of a \$5 million limited partnership investment in the New Jersey UrbanAmerica Advantage Fund, L.P., from 4/11/10 to 10/31/10.

MOTION TO APPROVE: Mr. Carden SECOND: Mr. Poliner AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT:16

The next item was a summary of modifications approved under Delegated Authority in the first quarter of 2010. **(For Informational Purposes Only)**

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

New Jersey Business Growth Fund: 1100 State Street LLC and Arline Construction Services LLC; Candace Real Estate Holding LLC and Happy Today and Bright Tomorrow LLC; Charles Chiango and CVR JR LLC; DB Land Holdings LLC and Innovative Orthodontics, LLC; Funeral Associates of NJ LLC; Healthpoint Condominium LLC and Healthpoint Medical Group LLC; Jason Ventures Limited Liability Company; LOJ Properties LLC and Lee's Development Services LLC; Vogel Bus Company, Inc.

NJ Main Street Program: NexAge Technologies USA, Inc.

Preferred Lender Program: ECL Properties, LLC; MKMK of NJ, LLC

Small Business Fund: Artisan Oven, Inc.

PNC Business Growth Fund - Modification: Nutra-Med Packaging, Inc.

REAL ESTATE

The next item was to modify the Members' January 2010 approval of a lease amendment with The Cooper Health System, a New Jersey non-profit corporation at the Waterfront Technology Center at Camden in the Tech One Building, to provide for Authority funding of tenant improvements to be amortized in the rental payments from Cooper.

**MOTION TO APPROVE: Mr. Carden SECOND: Mr. Kosoffsky AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 17**

The next item was to approve a preliminary budget for building demolition and environmental investigation for a 3.5 acre NJEDA-owned property located at 2099 Center Square Road, Logan Township, Gloucester County, New Jersey. The CEO would take this action after a cost benefit is performed that would indicate cost savings would be achieved.

**MOTION TO APPROVE: Mr. Latoof SECOND: Mr. Kosoffsky AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 18**

The next item was to delegate authority to the CEO to execute a Memorandum of Understanding between the Authority and the Department of Treasury, Division of Purchase and Property, and Office of Energy Savings that will allow the Authority to participate in the New Jersey Consolidated Energy Supply Program.

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

PUBLIC COMMENT

Chairman Koeppe requested comments from the public.
There was no comment from the public.

EXECUTIVE SESSION

The next item was to adjourn the public session of the meeting and to enter into Executive Session to discuss a legal matter.

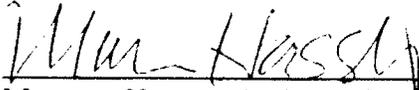
**MOTION TO APPROVE: Mr. Latoof SECOND: Mr. Carden AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 20**

The next item was to consent to: 1) the interest rate reduction on the direct loan from 10% to 8%, and 2) extend the maturity on the demand notes to December 31, 2010 to be co-terminus with the maturity date of the direct loan.

**MOTION TO APPROVE: Mr. Latoof SECOND: Mr. McNamara AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 21**

There being no further business, on a motion by Mr. Petrecca, and seconded by Mr. Plofker, the meeting was adjourned at 11:30 a.m.

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

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

April 15, 2010

MINUTES OF THE SPECIAL MEETING

Members of the Authority present: Steve Petrecca, representing the State Treasurer; Joe Latoof, representing the Commissioner of the Department of Labor and Workforce Development; and Richard Poliner, representing the Commissioner of the Department of Banking and Insurance.

Present via Phone: Al Koepe, Chairman; Public Members: Joseph McNamara, Vice Chairman; Steve Plofker, Timothy Carden, Charles Sarlo, Laurence Downes, Raymond Burke, First Alternate Public Member; Elliot M. Kosoffsky; Second Alternate Public Member; and Kevin Brown, Third Alternate Public Member.

Absent from the meeting: Jerold Zaro, representing the Governor's Office; Ray Cantor, representing the Commissioner of the Department of Environment Protection; Public Members: Dr. Randal Pinkett, Marjorie Perry, and Rodney Sadler, Non-Voting Member.

Also present: Caren Franzini, Chief Executive Officer of the Authority; Bette Renaud, Deputy Attorney General; Rob Romano, Assistant Attorney General; bond counsel, underwriters, and guests.

Chairman Koepe called the meeting to order at 9 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

BOARD MEMORANDUMS

The next item was to approve 1) Consent to the substitution of a third party tenant to lease the space formerly occupied by the now defunct related operating company of 5011 Circle Associates, LLC, All American Camper and RV, LLC (AAC) and 2) Consent to a (second) 6 month principal moratorium on the loan from 4/1/10 – 10/1/10.

MOTION TO APPROVE: Mr. Latoof SECOND: Mr. Plofker AYES: 12
RESOLUTION ATTACHED AND MARKED EXHIBIT:1

The Members are requested to: (i) approve the adoption of the Twenty-First Supplemental Resolution authorizing the issuance of the 2010 Series Bonds and the 2010 Series Notes (including the 2010 Refunding Bonds) in the total aggregate principal amount not to exceed \$2 billion as well as other matters in connection with the issuance and sale thereof and otherwise described above; (ii) approve several actions and delegation of actions to an Authorized Officer as may be necessary or in order to issue the 2010 Series Obligations on terms most favorable to the Authority, in light of changing market and new federal tax subsidy; (iii) approve the Amendment to State Contract; (iv) authorize the use of the aforementioned professional; and (v) authorize Authority staff to take all necessary actions incidental to the issuance of 2010 Series Bonds and 2010 Series Notes; subject to final review and approval of all terms and documentation by Bond Counsel and the Attorney General's Office.

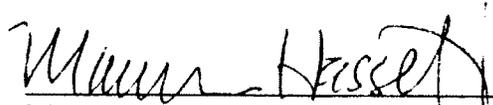
**MOTION TO APPROVE: Mr. Carden SECOND: Mr. McNamara AYES: 12
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

PUBLIC COMMENT

There was no comment from the public.

There being no further business, on a motion by Mr. Latoof, and seconded by Mr. McNamara, the meeting was adjourned at 9:35 a.m.

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

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

April 23, 2010

MINUTES OF THE SPECIAL MEETING

Members of the Authority present: James Kelly, representing the State Treasurer; and Joe Latoof, representing the Commissioner of the Department of Labor and Workforce Development.

Present via Phone: Al Koepp, Chairman; Richard Poliner, representing the Commissioner of the Department of Banking and Insurance; Public Members: Joseph McNamara, Vice Chairman; Timothy Carden, Charles Sarlo, Laurence Downes, Marjorie Perry, and Kevin Brown, Third Alternate Public Member.

Absent from the meeting: Jerold Zaro, representing the Governor's Office; Ray Cantor, representing the Commissioner of the Department of Environment Protection; Public Members: Steve Plofker, Dr. Randal Pinkett, Raymond Burke, First Alternate Public Member; Elliot M. Kosoffsky, Second Alternate Public Member; and Rodney Sadler, Non-Voting Member.

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

Also present via phone: Thomas Hower, Governor Authorities' Unit.

Chairman Koepp called the meeting to order at 9 a.m.

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

AUTHORITY MATTERS

The next item was to approve an amendment to the Urban Transit Hub Tax Credit Program Regulations to reflect that the EDA will include in the net benefit test only benefits derived from capital investments commenced after the date of the application.

**MOTION TO APPROVE: Mr. Poliner SECOND: Mr. Brown AYES: 10
RESOLUTION ATTACHED AND MARKED EXHIBIT:1**

PUBLIC COMMENT

There was no comment from the public.

There being no further business, on a motion by Mr. Latoof , and seconded by Mr. Kelly, the meeting was adjourned at 9:35 a.m.

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.



Caren S. Franzini, Secretary

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

RE: Chief Executive Officer's Report to the Board

EDA NEWS

Making New Jersey a Home for Growth

On April 12, Governor Chris Christie and Lt. Governor Kim Guadagno outlined a comprehensive, aggressive economic development agenda centered on The New Jersey Partnership for Action. The Partnership will be overseen by Lt. Governor Guadagno and will carry out several missions critical to future growth and opportunity. The Partnership will consist of three interconnected and highly focused organizational elements to achieve the Administration's economic development objectives: Choose New Jersey, Government Process Solutions and the New Jersey Economic Development Authority.

The creation of Choose New Jersey, a privately funded, not-for-profit corporation, will help position New Jersey as a world-class leader in the competitive global market, creating a prosperous and vibrant economy for the state and its citizens by effectively leveraging its diverse resource base and utilizing its reputation for innovation. Government Process Solutions (GPS) also will report directly to the Lieutenant Governor and will be staffed by the EDA's current Business Retention and Attraction Division, which will bring a customer service approach to coordination and navigation across state and local government agencies for businesses looking to remain, expand or locate in New Jersey. This division will ultimately transition to the Secretary of State's Office where GPS will be housed.

EDA will continue in its role as the financing component for New Jersey job growth – overseeing many of New Jersey's programs that support the business community. The EDA will act as the State's "bank for business" by providing support to the Partnership for Action with the State's financing and incentive resources to leverage New Jersey's strategic advantages.

Distribution Company to Remain and Grow in Camden County

Pinnacle Foods Group manufactures and distributes iconic, branded packaged foods that can be found in 80 percent of U.S. households. The company has signed a commitment letter to execute a 10-year Business Employment Incentive Program grant worth an estimated \$919,800 over 10 years. The company plans to create 90 new jobs and relocate to 85,000 square feet of space in Cherry Hill. The EDA also approved a \$182,600 Business Retention and Relocation Assistance Grant for the retention of 133 jobs in the State. The company had considered relocating its operations to Pennsylvania.

FINANCING ACTIVITY

The EDA closed financing and incentives for 84 projects through the end of April. These projects involve the creation of more than 1,100 new jobs and total investment of more than \$116 million in New Jersey's economy.

Among the financings completed in April was a \$2.87-million loan under the Clean Energy Solutions Capital Investment Program to support **S. Bertram Inc.**, a food service distribution company located in Linden. S. Bertram will use the financing to purchase a 1-megawatt solar electric system that is expected to save the company approximately \$168,000 in annual energy expenses.

A \$1.6-million Sun National Bank loan with a 50-percent EDA guarantee to the **Levoy Theatre Preservation Society, Inc.** helped to advance the rehabilitation of the Levoy Theatre into a multi-faceted, state-of-the-art performing arts center. To cover the project costs, the Preservation Society raised a total of \$8.3 million that also included federal tax credits, a \$1-million grant from the Cumberland County Improvement Authority, a loan from the Grow Millville Fund and a grant from the local Urban Enterprise Zone. The theatre was originally built in 1908 and is currently dormant.

M&A Holdings, LLC finalized funding under the Main Street Business Assistance Program. The company, which runs a steel processing and distribution center in Camden, closed a \$500,000 EDA loan to meet working capital and refinancing needs. Another Camden-based business, **Arline Construction Services, LLC**, benefited under the New Jersey Business Growth Fund. A \$360,000 PNC Bank loan with a 50-percent EDA guarantee will help the general construction company meet its refinancing needs.

EVENTS/SPEAKING ENGAGEMENTS/PROACTIVE OUTREACH

EDA representatives participated as attendees, exhibitors or speakers at 35 events in April. These included a Cherry Hill Chamber of Commerce luncheon, a Gloucester County Bankers and Brokers Breakfast in West Deptford, the Governor's Sustainable Energy & Economic Forum in New Brunswick, a Green Incentives Symposium in Union, the New Jersey International Life Sciences Workforce Summit at the Woodrow Wilson School at Princeton University, the New Jersey Conference of Mayors Annual Conference in Atlantic City, and a Monmouth County Improvement Authority event in Freehold.

Additionally, we participated in a ribbon-cutting ceremony for Boeing's new Chinook Facility at Millville Airport and took part in a tour of Paterson-based Accurate Box with Governor Christie and Lt. Governor Guadagno. We also hosted a webinar on the Technology Business Tax Certificate Transfer Program, which covered the eligibility criteria, modifications and application process for new and existing customers.

Carl Fj

AUTHORITY MATTERS



MEMORANDUM

To: Members of the Authority

From: Al Koeppe
Chairman

Date: May 10, 2010

Subject: Changes to Committee Memberships
For Information Only

The Authority has six committees that meet throughout the year. Since January of this year, as a result of changing Board membership, there have been several changes to the composition of our standing Committees. This memo is to inform the Board of these changes.

Policy Committee - Chair: Joe McNamara, Kevin Brown, Randall Pinkett, Executive Branch Designee, and the Commissioner of the Department of Labor and Workforce Development.

Real Estate Committee - Chair: Charles Sarlo, Elliott Kosoffsky, Marjorie Perry, the Commissioner of the Department of Environmental Protection and the State Treasurer.

Incentives Committee – Chair: Larry Downes, Joe McNamara, Tim Carden, Commissioner of the Department of Labor and Workforce Development, the State Treasurer and the Executive Branch Designee.

The composition of the Director's Loan Review Committee, Audit Committee and the Compensation Committee has not changed. Open spots remain on the Real Estate and Policy Committees. These open positions will not impact the functioning of the committees and will be filled at our next annual meeting in September.


Al Koeppe



MEMORANDUM

TO: Members of the Authority

FROM: Al Koepp
EDA Chairman

DATE: May 10, 2010

SUBJECT: Appointment of Independent Auditor

The engagement of the Authority's independent auditor expires at the conclusion of the fiscal year 2009 audit process. In order for the Audit Committee to commence the selection process for a successor auditor, the Board is required to appoint at least 3 of its members to serve on an Evaluation Committee.

The Evaluation Committee has the responsibility of drafting the Request for Qualifications/ Proposal, soliciting responses, and accepting and evaluating proposals. The evaluation process concludes with a written report of the results to the Audit Committee. The Audit Committee reviews the findings and submits a recommendation to the members of the Board. The Audit Committee also has the option of interviewing any one, or all, of the qualified bidding firms.

The following members have agreed to serve on the Evaluation Committee:

- James Kelly, Treasurer's Designee to the Audit Committee
- Ray Burke, EDA Board Member
- Larry Downes, EDA Board Member
- Elliot Kosoffsky, EDA Board Member.

In addition, Mr. Kelly has agreed to Chair the Evaluation Committee.

Recommendation

I am asking the Members to approve the individuals listed above to serve on the Evaluation Committee for the selection of the Authority's next independent auditor.



MEMORANDUM

TO: Members of the Board

FROM: Caren S. Franzini
Chief Executive Officer

SUBJECT: Business Retention and Relocation Assistance Grant (BRRAG) Program
BRRAG Tax Credit Certificate Transfer Program
Sales and Use Tax Exemption Program
Energy Sales Tax Exemption Program for Certain Counties

DATE: May 10, 2010

Summary

The Members of the Board are provided with a proposal for the readoption and recodification of rules implementing the above-referenced programs into the EDA's rules in Title 19 of the New Jersey Administrative Code.

Background

The recent consolidation of the Commerce Commission and EDA transferred the responsibility for the jurisdiction and administration of a number of programs to EDA, including the Business Retention and Relocation Assistance Grant (BRRAG) Program, the BRRAG Tax Credit Certificate Transfer Program, the Sales and Use Tax Exemption Program, and the Energy Sales Tax Exemption Program for Certain Counties.

As these rules expire on May 16, 2010, it is necessary for the EDA to propose for readoption the rules implementing these programs to maintain their effectiveness. Accordingly, the attached rule proposal would readopt and recodify the rules into the Authority's rules in Title 19 of the New Jersey Administrative Code.

The proposal would change terms and definitions necessary for the transfer of the program to the EDA and also make other substantive revisions as summarized below:

Business Retention and Relocation Assistance Grant Program

The proposed amendments 1) update the eligibility criteria in accordance with P.L. 2007, c.310 which lowered the eligibility threshold to a minimum of 50 retained full-time jobs; and 2) revise the definition of "full-time employee" to comply with recent statutory language in other EDA incentive programs, as well as the definition of "new business location" to clarify that for businesses undertaking rehabilitation and relocation on a temporary basis, the review of

applications shall be in accordance with criteria adopted by the members of the Authority including rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code.

BRRAG Tax Credit Certificate Transfer Program

The proposed amendments 1) revise the definition of “new business location” to clarify that for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority including rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code; and 2) remove a final approval procedure which is duplicative and unnecessary for implementation of the program by EDA.

Sales and Use Tax Exemption Program

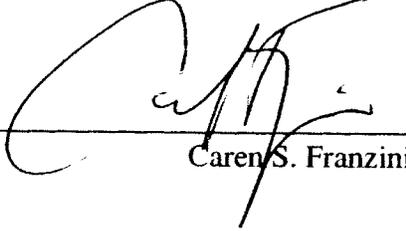
The proposed amendments revise the definition of “full-time employee” to comply with recent statutory language in other EDA incentive programs as well as the definition of “new business location” to clarify that for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority including rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code.

Energy Sales Tax Exemption Program for Certain Counties

The proposed amendments do not make substantive revisions to the subchapter governing the Energy Sales Tax Exemption Program for Certain Counties.

Recommendation

We are requesting action by the Members of the Board to approve the proposed readoption and recodification of rules implementing the Business Retention and Relocation Assistance Grant (BRRAG) Program, the BRRAG Tax Credit Certificate Transfer Program, the Sales and Use Tax Exemption Program, and the Energy Sales Tax Exemption Program for Certain Counties and authorize staff to file the reproposal with the Office of Administrative Law, subject to the approval of the Office of the Attorney General with a request to the Office of Administrative Law to hold the filing pending further instruction. Consistent with Office of Administrative Law procedure, instructions regarding publication of the reproposal will follow subsequently, subject to review by the Office of Administrative Law of the Governor’s Office, including compliance with Executive Order No. 2 and the recommendations of the Red Tape Review Group.


Caren S. Franzini

Prepared By: Jacob Genovay

Attachment

DRAFT

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Proposed Readoption and Recodification with Amendments: N.J.A.C. 12A:2-1.1, 12A:2A-1.1, 12A:2A-2.1 and 12A:2A-4.1

Authorized By: New Jersey Economic Development Authority, Caren S. Franzini,
Chief Executive Officer.

Authority: N.J.S.A. 34:1B-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-

Submit written comments by August 20, 2010:

Maureen Hassett, SVP Governance & Public Information
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (“EDA” or “Authority”) proposes to readopt N.J.A.C. 12A:2-1.1 governing the Business Retention and Relocation Assistance Grant (BRRAG) Program, N.J.A.C. 12A:2A-1.1 governing the BRRAG Tax Credit Certificate Transfer Program, N.J.A.C. 12A:2A-2.1 governing the Sales and Use Tax Exemption Program, and N.J.A.C. 12A:2A-4.1 governing the Energy Sales Tax Exemption Program for Certain Counties.

Pursuant to N.J.S.A. 52:14B-5.1c., the rules in these subchapters are scheduled to expire May 16, 2010. In accordance with N.J.S.A. 52:14B-5.1c., the submission of this notice of proposal to the Office of Administrative Law extended that expiration date 180 days to November __, 2010.

The Authority proposes to amend and recodify these subchapters into the EDA’s rules as effective July 1, 2008, jurisdiction and administration of these programs was transferred to the Authority, pursuant to P.L. 2008, c.27. In addition to changing terms and definitions necessary for the transfer of the programs, the proposed amendments also make other substantive revisions which are summarized as follows:

N.J.A.C. 12A:2-1.1 Business Retention and Relocation Assistance Grant Program

The proposed amendments, which recodify the rules governing the BRRAG Program, N.J.A.C. 12A:2-1.1 through 1.17 as N.J.A.C. 19:31-14.1 through 14.17, update the eligibility criteria in accordance with P.L. 2007, c.310 which lowered the eligibility threshold to a minimum of 50 retained full-time jobs. In addition, the proposed amendments revise the definition of “full-time employee” to comply with recent statutory language in other EDA incentive programs, as well as the definition of “new business location” to clarify that for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority including rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code.

N.J.A.C. 12A:2A-1.1 BRRAG Tax Credit Certificate Transfer Program

The proposed amendments recodify the rules governing the BRRAG Tax Credit Certificate Transfer Program, N.J.A.C. 12A:2A-1.1 through 1.7 as N.J.A.C. 19:31-15.1 through 15.7. In addition, the proposed amendments revise the definition of “new business location” to clarify that for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority including rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code. Finally, the proposed amendments amend N.J.A.C. 12A:2A-1.6 recodified as N.J.A.C. 19:31-15.6 to remove a final approval procedure which is duplicative and unnecessary for implementation of the program by EDA.

N.J.A.C. 12A:2A-2.1 Sales Tax Exemption Program

The proposed amendments recodify the rules governing the Sales Tax Exemption Program, N.J.A.C. 12A:2A-2.1 through 2.14 as N.J.A.C. 19:31-16.1 through 16.14. Also, the proposed amendments revise the definition of “full-time employee” to comply with recent statutory language in other EDA incentive programs as well as the definition of “new business location” to clarify that for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority including rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code.

N.J.A.C. 12A:2A-4.1 Energy Sales Tax Exemption Program for Certain Counties

The proposed amendments recodify the rules governing the Energy Sales Tax Exemption Program for Certain Counties, N.J.A.C. 12A:2A-4.1 through 4.9 as N.J.A.C. 19:31-17.1 through 17.9.

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The BRRAG Program is designed to encourage economic development and to preserve jobs that are in danger of being relocated to other states. The expanded eligibility threshold is intended to increase the number of companies remaining and expanding in the State, thereby increasing job retention and creation.

Economic Impact

The reduction of the BRRAG Program's eligibility threshold from 250 retained full-time jobs to 50 retained full-time jobs has enabled additional companies to apply for the program. To date, 55 companies have been approved for BRRAG assistance for a total estimated benefit of \$33 million.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal requirements or standards.

Jobs Impact

The extension of eligibility to the BRRAG Program for businesses retaining at least 50 employees is intended to help retain additional smaller businesses in the State, which in turn, will preserve and create jobs. Since inception, assistance provided under the BRRAG Program has resulted in the retention of 22,851 jobs in New Jersey.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Statement

The proposed amendments extend eligibility for the BRRAG Program to small businesses. Since eligible businesses will be required to comply with the EDA's standard, on-line application process and regular grant compliance guidelines, the proposed amendments will impose minimal reporting, recordkeeping, or other compliance requirements on small business, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. It should not be necessary however, for small businesses to hire professional services in order to comply with the proposed amendments.

Smart Growth Impact

The proposed amendments may achieve smart growth and implement the State Development and Redevelopment Plan where assistance is provided to businesses in urban and older suburban areas.

Housing Affordability Impact

The proposed amendments will not impact the amount or cost of housing units, including multi-family rental housing and for-sale housing in the State. The proposed amendments revise and recodify certain subchapters implementing certain business assistance programs which were transferred to the Authority pursuant to P.L. 2008, c.27.

Smart Growth Development Impact

The proposed amendments however, will not impact the number of housing units or result in any increase or decrease in the average cost of housing in Planning Areas 1 or 2 of the State Development and Redevelopment Plan. The proposed amendments revise and recodify certain subchapters implementing certain business assistance programs which were transferred to the Authority pursuant to P.L. 2008, c.27.

Full text of the reproposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 2 GRANT PROGRAMS

[12A:2-1.1] 19:31-14.1 Applicability and scope

The rules in this subchapter are promulgated by the [New Jersey Commerce, Economic Growth and Tourism Commission (the "Commission")] **New Jersey Economic Development Authority** ("EDA" or "Authority") to implement P.L. 1996, c.25, as substantially amended by P.L. 2004, c.65, Sections 1 through 16 (the "Act"). The Act provides several incentive programs aimed at retaining in New Jersey the full-time jobs of businesses already active in this State. The Act established a business retention and relocation assistance grant program ("BRRAG Program" or "Program"), a tax credit certificate transfer program, a sales and use tax exemption program, and an energy sales tax exemption program (for businesses located in New Jersey urban enterprise zones). [The BRRAG Program is hereby established as a Program under the jurisdiction of the Commission and shall be administered by the Chief Executive Officer and Secretary of the Commission.] The purpose of the **BRRAG** Program is to encourage economic development and to preserve jobs that currently exist in New Jersey, but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the Program is available, the Program may provide grants of tax credits but in no case shall the amount of an individual grant of tax credits exceed the limitations set forth in this subchapter and further specified in the project agreement of an applicant for a grant of tax credits.

[12A:2-1.2] 19:31-14.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Agreement” or “project agreement” means an agreement between a business and the [Commission] Authority that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount of the applicable grant of tax credits, and other such provisions which further the purposes of P.L. 1996, c.25, as amended by P.L. 2004 c.65, Sections 1 through 16 (N.J.S.A. 34:1B-112 through 123.).

“Authority” means the New Jersey Economic Development Authority established under section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

...

[“Board of Directors” means the Board of Directors for the New Jersey Commerce, Economic Growth and Tourism Commission.]

“Board” means the Board of the New Jersey Economic Development Authority.

...

“Chief Executive Officer” means the Chief Executive Officer of the New Jersey Economic Development Authority.

[“Commission” means the New Jersey Commerce, Economic Growth and Tourism Commission established pursuant to N.J.S.A. 52:27C-61 et seq.]

...

“Full-time employee” means a person who is employed for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., [and who is determined by the Secretary to be employed in a permanent position according to criteria as the Secretary may prescribe], as determined by the Authority, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L. 2001, c. 260 (N.J.S.A. 34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, as determined by the Authority. “Full-time employee” shall not include any person who works as an independent contractor or on a consulting basis for the business. “Full-time employee” shall not include a child, grandchild, parent, or spouse of an individual who has direct or indirect ownership of at least five percent of the profits, capital, or value of the business.

...

“New business location” means the premises that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than eight years from the date of relocation. A new business location may also include the

premises from which the business moves on a temporary basis due to the rehabilitation of permanent premises [that also qualifies as reconstruction as "reconstruction" is defined in the Uniform Construction Code, N.J.A.C. 5:23-6.3.] In that case, [the move to the permanent premises will trigger availability of the grant of tax credits.] **for the purposes of determining eligibility as a new business location for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority, which shall include rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code, N.J.A.C. 5:23-6.3.**

...

["Secretary" means the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission.]

...

[12A:2-1.3] 19:31-14.3 Eligibility criteria

(a) To qualify for the program, a business shall:

1. Enter into a project agreement with the [Commission] **Authority** to undertake a project to:

i. Relocate a minimum of [250] **50** retained full-time jobs from one or more locations within this State to a new business location or locations in this State; and

ii. (No change.)

(b) – (d) (No change.)

Recodify existing N.J.A.C. 12A:2-1.4 as N.J.A.C. 19:31-14.4 (No change in text.)

[12A:2-1.5] 19:31-14.5 Requests for applications

All application requests shall be made to the [Secretary/CEO New Jersey Commerce, Economic Growth and Tourism Commission, 20 West State Street, PO Box 820, Trenton, New Jersey, 08625,] **New Jersey Economic Development Authority, 36 West State Street, P.O. Box 990, Trenton, NJ 08625** on forms and/or in a manner prescribed by the Commission.

[12A:2-1.6] 19:31-14.6 Application submission requirements

[(a)] Each application to the [Commission] **Authority** shall include the following information in an application format prescribed by the [Commission] **Authority**:

1. Business information shall include the following:

i. – x. (No change in text.)

xi. Unless excepted under N.J.A.C. [12A:2-1.3(c)] **19:31-14.3(c)**, certification that the availability of financial assistance from the State as provided in this program at the site proposed for approval is a material factor in the business' decision not to relocate outside of New Jersey, and instead, to undertake the project and to relocate the full-time jobs relating to the project in the State;

xii. (No change.)

xiii. Any other necessary and relevant information as determined by the [Secretary] **Chief Executive Officer** for a specific application.

2. Project information shall include the following:

i. – xii. (No change.)

xiii. Unless excepted under N.J.A.C. [12A:2-1.3(c)] **19:31-14.3(c)**, evidence of alternative relocation plans, such as an analysis of the cost effectiveness of remaining in this State versus relocation under the alternative plans; and

xiv. Any other necessary and relevant information as determined by the [Secretary] **Chief Executive Officer** for a specific application.

3. The employee information shall include the following:

i. – ii. (No change.)

iii. Evidence [that the New Jersey Economic Development Authority has been notified] of the applicant's potential relocation to another site within New Jersey, if the applicant is a BEIP grantee;

iv. (No change.)

v. Any other necessary and relevant information as determined by the [Secretary] **Chief Executive Officer** for a specific application.

[(b) The business applying to the program shall submit the following non-refundable application fee, with payment in the form of a check, payable to the "New Jersey Commerce, Economic Growth and Tourism Commission":

1. If the full-time jobs to be retained and relocated for the project equal or exceed 500, the application fee is \$1,000;

2. If the full-time jobs to be retained and relocated for the project are 250-499, the application fee is \$750.00.]

[12A:2-1.7] 19:31-14.7 Review of application

(a) Applicants shall submit to the [Secretary] **Chief Executive Officer** a completed BRRAG Program application at least 45 days prior to moving to the new business location; provided, however, a business relocating 1,500 or more retained full-time jobs to one or more new locations within a designated urban center shall, if relocating to a leased location, submit an application within six months of executing its lease. The application shall bear either a legible post-mark date or a date-received stamp from the [Commission] **Authority**.

(b) The [Commission] **Authority** shall conduct a review of the applications commencing with the application bearing the earliest submission date, including those applications submitted to the [Commission] **Authority** prior to May 16, 2005. The [Commission] **Authority** may require the submission of additional information to complete the application or may require the resubmission of the entire application, if incomplete. The [Commission] **Authority** shall review, and provide a recommendation to the [Secretary] **Chief Executive Officer** regarding, the applications to determine whether the applicant:

1. – 3. (No change.)

(c) The [Secretary,] **Chief Executive Officer** after receipt and consideration of the recommendation from the [Board of Directors,] **Board** shall approve, approve with modifications, or deny an application in the program.

(d) When the [Board of Directors] **Board** [recommends to either approve or deny a request] **approves or denies a request**, the minutes of the meeting at which such action occurs are submitted to the Governor for review and become effective 10 working days of the Governor's receipt of the minutes unless earlier approval or vetoed.

(e) Upon completion of the review of an application pursuant to (b) above, the [Secretary] **Authority** shall notify the applicant whether the application has been approved, approved with modifications, or denied.

(f) If the application has been approved or approved with modification pursuant to (d) and (e) above, the [Secretary] **Chief Executive Officer** shall notify the Director of the terms and conditions of the project agreement.] Any approval or approval with modification shall be subject to:

1. – 2. (No change.)

[12A:2-1.8] 19:31-14.8 Determination of grant amount

(a) Any business relocating 500 or more full-time employees that is approved for a grant of tax credits, shall receive a grant equal to the total allowable relocation costs, plus any applicable bonus award, up to the aggregate annual limit of \$20,000,000, and subject to the restrictions and limitations on the grant set forth at N.J.A.C. [12A:2-1.4] **19:31-14.4**.

(b) Any business that is relocating between [250] **50** and 499 full-time employees approved for a grant of tax credits, shall receive a grant in an amount determined by the [Secretary] **Chief Executive Officer** that shall not exceed the total allowable relocation costs, up to the aggregate annual limit, and is subject to the restrictions and limitations on the grant set forth at N.J.A.C.

[12A:2-1.4] **19:31-14.4**. In determining the amount of any grant, the [Secretary] **Chief Executive Officer** shall consider the following factors:

1. – 8. (No change.)

9. Any other necessary and relevant information as determined by the [Secretary] **Chief Executive Officer** for a specific application.

Recodify existing N.J.A.C. 12A:2-1.9 as N.J.A.C. 19:31-14.9 (No change in text.)

[12A:2-1.10] 19:31-14.10 Project agreement

(a) All applicants shall execute a project agreement with the [Secretary] **Authority** to establish the terms and the conditions of the grant of tax credits. The [Secretary] **Chief Executive Officer** may provide whatever assistance the [Secretary] **Chief Executive Officer** deems appropriate in the preparation of an application for approval of a project and may issue grants of tax credits pursuant to the project agreement entered between the [Secretary] **Chief Executive Officer** and the business with an approved project at the [Secretary's] **Chief Executive Officer's** discretion subject to the provisions of P.L. 1996, c.25 (N.J.S.A. 34:1B-112 et seq.), as amended by P.L. 2004, c.65.

(b) The project agreement shall include, but not be limited to, the following terms or conditions as determined by the [Secretary] **Chief Executive Officer**:

1. – 2. (No change.)

3. [Unless excepted under N.J.A.C. 12A:2-1.3(e)1,] [c]Certifications by the business, including the following: eligibility for the program and participation in the program as a material factor in the business' decision not to relocate outside of New Jersey and to relocate the project in the State;

4. – 10. (No change.)

(c) (No change.)

[12A:2-1.11] 19:31-14.11 Tax credit applicable; when effective; when adjusted

(a) (No change.)

(b) Provided that the applicant has previously executed the project agreement, within six months of relocation of the retained employees, the applicant shall submit a certification to the [Secretary] **Chief Executive Officer** that it has relocated the retained employees. To the extent

that the number of employees is less than the number indicated on its application, the award of tax credits shall be adjusted accordingly and the project agreement shall be amended to so reflect the reduction.

(c) Upon receipt of the certification referenced in (b) above, for a project that covers 500 or more full-time employees, the Secretary shall allocate a grant of tax credits to the applicant. The [Secretary] **Chief Executive Officer** shall notify the Director of the terms and conditions of the project agreement and the Director shall issue the appropriate tax credit certificate(s).

(d) For a project that covers a business relocating between [250] **50** and 499 full-time employees, a grant of tax credits shall not be issued until the end of the fiscal year in which the certification referenced in (b) above is received.

(e) The total value of the grants of tax credits issued pursuant to this program shall not exceed an aggregate annual limit of \$20,000,000 for any fiscal year. If the sum of the amount of tax credits issued pursuant to (c) above in a fiscal year, plus the amount of tax credits approved pursuant to (d) above exceeds the \$20,000,000 aggregate annual limit, the [Secretary] **Chief Executive Officer** shall reduce the award to each business receiving a grant of tax credits pursuant to (d) above on a pro rata basis to the grant amounts determined in accordance with N.J.A.C. [12A:2-1.8(b)] **19:31-14.8(b)** to the extent necessary to comply with the aggregate annual limit.

[12A:2-1.12] 19:31-14.12 New business location for the project

(a) Once the project agreement is fully executed by the business and the [Commission] **Authority**, the business shall complete the project and seek a temporary certificate of occupancy and such other permits and approvals as may be required for the new business location in a timely manner, as further described in the project agreement.

(b) – (c) (No change.)

(d) To the extent that the business (not an unaffiliated third party) has undertaken the construction of the new business location, the business shall comply with the [Commission's] **Authority's** prevailing wage requirements [(N.J.S.A. 52:27C-73.1 and implementing rules at N.J.A.C. 12A:2A-3)] **P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1)** in the performance of construction contracts.

(e) The [Commission] **Authority** encourages a business constructing a new business location to comply with the [Commission's set-aside program goals and targets] **Authority's affirmative action requirements** set forth at [N.J.A.C. 12A:10 and Executive Order No. 71 (October 2, 2003)] **P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.4)**.

[12A:2-1.13] 19:31-14.13 Reporting requirements and annual reports

(a) If requested by the [Secretary] **Chief Executive Officer**, a business which is awarded a grant of tax credits under this program shall submit a copy of the State tax return for the business showing business income or activity, appropriate to its form of ownership.

(b) As determined by the [Secretary] **Chief Executive Officer**, a business which is awarded a grant of tax credits under this program shall submit annually, no later than March 1st of each year, commencing the year following the calendar year in which the business was approved for the grant of tax credits and for the remainder of the commitment duration, an annual report listing the full-time employees in eligible positions employed at the location or locations approved for the grant of tax credits, to the [Secretary] **Chief Executive Officer**.

(c) Failure to submit a copy of its annual report or submission of the annual report without the information required above, may result in the forfeiture of any grant of tax credits to be received by the business and the recapture of any tax credits issued to the business unless the [Secretary] **Chief Executive Officer** determines that there are extenuating circumstances excusing the business from the timely filing required.

(d) (No change.)

[12A:2-1.14] 19:31-14.14 Events of default

(a) The occurrence of any one or more of the following events (whether such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall constitute an "event of default" under the project agreement:

1. – 3. (No change.)

4. The business reduces or relocates the retained full-time jobs above the percentages certified under N.J.A.C. [12A:2-1.6(a)3iv] **19:31-14.16(a)3iv** (greater than five percent during the first two years of the commitment duration greater than 10 percent during the remainder of the commitment duration); or

5. The business fails to serve or perform in any other material respect any other term, covenant or condition of the business under the project agreement and this subchapter and such failure shall have continued for 30 days after the earlier of delivery to the business of written notice thereof from the [Secretary] **Chief Executive Officer** or the business's actual or constructive knowledge of such failure; provided, however, that if such failure is capable of cure, but cannot be cured by the payment of money or by diligent efforts within such 30 day period, but diligent efforts are properly commenced within the cure period and business is diligently pursuing, and shall continue to pursue diligently, remedy of such failure, the cure period shall be extended for an additional period of time, not to exceed an additional 45 days and in no case to extend beyond the expiration of the project agreement. Violations of the "events of default" provision of the project agreement shall be cause for immediate termination of the tax credit certificate as provided by law and repayment of State tax.

[12A:2-1.15] 19:31-14.15 Remedies

(a) Upon the occurrence of any event of default as described in N.J.A.C. [12A:2-1.14] 19:31-14.15 and the project agreement, the [Secretary] **Chief Executive Officer** may, so long as such event of default is continuing, do one or more of the following as the [Secretary] **Chief Executive Officer** in his or her sole discretion shall determine, without limiting any other right or remedy the [Secretary] **Chief Executive Officer** or the Division of Taxation may have on account of such event of default:

1. The [Secretary] **Chief Executive Officer** may require the surrender by the business to the [Secretary] **Chief Executive Officer** of the tax credit certificate for suspension or cancellation; and/or

2. The [Secretary] **Chief Executive Officer** may exercise any other right or remedy that may be available under applicable law or under the project agreement, including, without limitation:

i. – iv. (No change.)

(b) The rights and remedies of the [Secretary] **Chief Executive Officer** under this subchapter and the project agreement shall be cumulative and shall not exclude any other rights and remedies of the [Secretary] **Chief Executive Officer** or the Division of Taxation allowed by law with respect to any event of default under this subchapter of the project agreement.

[12A:2-1.16] 19:31-14.16 Appeals

(a) The procedure for an appeal of the [Secretary's] **Chief Executive Officer's** action on an application to the program shall be as follows. An applicant may appeal the [Secretary's] **Chief Executive Officer's** action on an application to the program by submitting in writing to the [Commission] **Authority**, within 30 days from the date of the [Secretary's] **Chief Executive Officer's** action, an explanation as to how the applicant has met the program criteria. Only the information that clarifies the application filed shall be reconsidered. In the event the application is reconsidered as eligible for the program, such application shall be presented for action at the next available [Board of Directors'] **Board** meeting.

(b) In general, appeals arising from decisions of the [Secretary] **Chief Executive Officer** may be requested in writing, and an opportunity given for an informal hearing on the papers, in person or via telephone with [Commission] **Authority** staff. Such written request for any informal hearing must be made within 30 days of the receipt of the [Secretary's] **Chief Executive Officer's** decision.

(c) In the event of an adverse decision after an informal hearing under (b) above, or if a business determines not to seek an informal hearing, and providing further, that the dispute or controversy is a contested case, as defined in N.J.S.A. 52:14B-2(b), a business may request, within 45 days of the written decision resulting from the informal hearing or the determination of the [Secretary] **Chief Executive Officer** if any informal hearing is not sought, a formal hearing.

(d) Upon filing of the initial pleading in a contested case, the [Secretary] **Chief Executive Officer** may either retain the matter for hearing directly or transmit the matter for hearing before

the Office of Administrative Law. Such hearings shall be governed by the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Every determination of a dispute or controversy arising from this subchapter by the [Commission] **Authority**, constituting final agency action by the [Secretary] **Chief Executive Officer**, shall be embodied in a written decision that shall set forth findings of fact and conclusions of law pursuant to the applicable rules of the Office of Administrative Law.

Recodify existing N.J.A.C. 12A:2-1.17 as N.J.A.C. 19:31-14.17 (No change in text.)

CHAPTER 2A COMMISSION ASSISTANCE PROGRAMS

[12A:2A-1.1] 19:31-15.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the [New Jersey Commerce, Economic Growth and Tourism Commission (the "Commission")] **New Jersey Economic Development Authority** ("EDA" or "**Authority**") to implement P.L. 1996, c.25, as substantially amended by P.L. 2004, c.65 (the "Act"), and specifically section 17 of the Act (N.J.S.A. 34:1B-120.2). The Act provides several incentive programs aimed at retaining in New Jersey the full-time jobs of businesses already active in this State. The Act established a business retention and relocation assistance grant program, a tax credit certificate transfer program (the "BRRAG Tax Credit Certificate Transfer Program" or "Program"), a sales and use tax exemption program, and an energy sales tax exemption program (for businesses located in New Jersey urban enterprise zones). [The BRRAG Tax Credit Certificate Transfer Program is hereby established as a Program under the jurisdiction of the Commission and shall be administered by the Chief Executive Officer and Secretary of the Commission, in cooperation with the Division of Taxation in the Department of the Treasury. The Commission may also enter into a memorandum of understanding with the New Jersey Economic Development Authority, which administers the Technology Business Tax Certificate Transfer Program (see N.J.A.C. 19:31-12), to provide administrative assistance to the BRRAG Tax Credit Certificate Transfer Program, pursuant to N.J.S.A. 52:27C-73.]

(b) The purpose of the **BRRAG Tax Credit Certificate Transfer Program** is to allow businesses in this State with unused amounts of BRRAG tax credit to surrender those tax credits to other corporations desiring such credits which in exchange will provide private financial assistance to assist in the funding of costs incurred by the relocating business. A BRRAG tax credit may be applied against liability arising in the tax period in which the tax credit is issued and the tax period next following, and shall expire thereafter. However, it is possible that unused credits that remain stranded in the allowable periods may be utilized in the event of future additional liability, like an audit assessment. Therefore, eligibility for this program will require the business to certify that, to the best of its knowledge, it cannot use the tax credits originally issued for the tax periods in which the credits are allowable.

[12A:2A-1.2] 19:31-15.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Agreement” or “project agreement” means an agreement between a business and the [Commission] **Authority** that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount of the applicable grant of tax credits, and other such provisions which further the purposes of P.L. 1996, c.25 (N.J.S.A. 34:1B-112 et seq.), as amended by P.L. 2004, c.65, Sections 1 through 16 (N.J.S.A. 34:1B-112 through 123).

“Application” means the application submitted to the [Commission] **Authority** from the seller of BRRAG tax credits, for approval of the BRRAG tax credit transfer certificate.

“**Authority**” means the New Jersey Economic Development Authority established under section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

[“Board of Directors” means the Board of Directors for the New Jersey Commerce, Economic Growth and Tourism Commission.]

“**Board**” means the Board of the New Jersey Economic Development Authority.

...

“**Chief Executive Officer**” means the Chief Executive Officer of the New Jersey Economic Development Authority.

[“Commission” means the New Jersey Commerce, Economic Growth and Tourism Commission established pursuant to N.J.S.A. 52:27C-61 et seq.]

...

“New business location” means the premises that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than eight years from the date of relocation. A new business location may also include the premises from which the business moves on a temporary basis due to the rehabilitation of permanent premises [that also qualifies as reconstruction as “reconstruction” is defined in the Uniform Construction Code, N.J.A.C. 5:23-6.3.] In that case, [the move to the permanent premises will trigger availability of the grant of tax credits.] **for the purposes of determining eligibility as a new business location for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority, which shall include rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code, N.J.A.C. 5:23-6.3.**

...

[“Secretary” means the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission.]

.....

...

[12A:2A-1.3] 19:31-15.3 Eligibility criteria

(a) A business shall be eligible to apply to the program if the business:

1. Entered into a BRRAG project agreement pursuant to P.L. 1996, c.25 (N.J.S.A. 34:1B-112 et seq.), as amended by P.L. 2000, c.65 and [N.J.A.C. 12:2A-1] **19:31-14.1** and is not in default of that BRRAG project agreement;

2. – 3. (No change.)

4. Has incurred or will incur expenses in connection with the operation of the business in the State, including, but not limited to, the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the [Secretary] **Chief Executive Officer** to be necessary to carry out the purposes of the Act.

[12A:2A-1.4] 19:31-15.4 Requests for applications

All application requests shall be made to the [Secretary/CEO New Jersey Commerce, Economic Growth and Tourism Commission, 20 West State Street, PO Box 820, Trenton, New Jersey, 08625] **New Jersey Economic Development Authority, 36 West State Street, P.O. Box 990, Trenton, NJ 08625**, in a manner prescribed and adopted by the [Secretary] **Authority**, after recommendation from [the Board of Directors, and] the Director.

[12A:2A-1.5] 19:31-15.5 Submission requirements

(a) Each application to the [Commission] **Authority** by a selling company shall include the following information in a format prescribed by the [Secretary] **Chief Executive Officer**, after recommendation by the Board of Directors. Complete applications must be received by at least 120 days prior to the expiration of the second tax period, pursuant to N.J.A.C. [12A:2-1.11] **19:31-14.1**.

1. – 6. (No change.)

7. Any other necessary and relevant information as determined by the [Secretary] **Chief Executive Officer** for a specific application.

(b) Each application submitted by a selling business to the program shall be accompanied by a non-refundable application fee in the amount of \$1,000 and with payment in the form of a check,

payable to the New Jersey Commerce, Economic Growth and Tourism Commission.]

[12A:2A-1.6] 19:31-15.6 Application and review procedures

(a) Applicants shall submit to the [Secretary] **Chief Executive Officer** a completed BRRAG Tax Credit Transfer Program application. The application shall bear either a legible post-mark date or a date received stamp from the [Commission] **Authority**.

(b) The [Commission] **Authority**, in cooperation with the Director, shall conduct a review of the applications commencing with the application bearing the earliest submission date. The [Commission] **Authority** may require the submission of additional information to complete the application or may require the resubmission of the entire application, if incomplete. The [Commission] **Authority**, in cooperation with the Director, shall review the applications to determine whether the applicant:

1. – 3. (No change.)

(c) Once the review in (b) above is completed, the [Board of Directors] **Board** shall [recommend to] either approve or deny a request. The minutes of the meeting at which such action occurs are submitted to the Governor for review and become effective 10 working days of the Governor's receipt of the minutes unless earlier approval or vetoed.

(d) **After action by the Board**, [The Secretary, after receipt and consideration of the recommendation from the Board of Directors,] **the Chief Executive Officer** shall issue a preliminary approval, approval with modifications, or denial of an application in the program and so notify the applicant.

(e) In the event that the applicant receives notification of preliminary approval, that notification will state the conditions that must be met before the [Secretary] **Chief Executive Officer** will issue a final approval. The notification of preliminary approval will state that the [Secretary] **Chief Executive Officer** will forward the application to the Division of Taxation only upon receipt of the following:

1. – 6. (No change.)

[(f) After approval of the tax credit by the Division of Taxation as evidenced by the issuance of the appropriate tax credit transfer certificate(s), the Secretary, after recommendation by the Board of Directors, will issue final approval of the application but only upon the receipt of a certificate from the applicant, dated the date of the closing of the sale of the tax credit transfer certificate that states, among other matters, that as of the date of the certificate, the business is not in default under the project agreement.]

Recodify existing (g) as (f) (No change in text.)

[12A:2A-1.7] 19:31-15.7 Appeals

The procedure for appeals arising from the [Secretary's] **Chief Executive Officer's** action on an application to the program as well as appeals arising from other decisions of the [Secretary] **Chief Executive Officer** relating to the program shall be the procedures set forth at N.J.A.C. [12A:2-1.16] **19:31-14.17**.

CHAPTER 2A
COMMISSION ASSISTANCE PROGRAMS

[12A:2A-2.1] **19:31-16.1 Applicability and scope**

The rules in this subchapter are promulgated by the [New Jersey Commerce, Economic Growth and Tourism Commission (the "Commission")] **New Jersey Economic Development Authority ("EDA" or "Authority")**, after consultation with the Director of the Division of Taxation in the Department of the Treasury, to implement sections 19 through 22 of the Business Retention and Relocation Assistance Act, P.L. 2004, c.65 (the "Act"), which provides several incentive programs aimed at retaining in New Jersey the full-time jobs of businesses already active in this State. [The sales and use tax exemption program ("Sales Tax Exemption Program" or "Program") is hereby established as a Program under the jurisdiction of the Commission and shall be administered by the Chief Executive Officer and Secretary of the Commission.] The purpose of [the Program] **the sales and use tax exemption program ("Sales Tax Exemption Program" or "Program")** is to encourage economic development and to preserve jobs that currently exist in New Jersey. Qualifying businesses will be exempt from sales and use tax for eligible property located or placed at a business location for a construction and or renovation project pursuant to the terms and conditions of a project approval agreement. The sales tax exemption certificate, which applies only to property purchased for installation in that approved project will allow the business to purchase machinery, equipment, furniture and furnishings, fixtures and building materials other than tools and supplies for placement at the project location without the imposition of sales and use tax until the new facility is functional, as further specified in this subchapter.

[12A:2A-2.2] **19:31-16.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Agreement" or "project approval agreement" means the project approval agreement between a business and the [Commission] **Authority** governing the terms and conditions of the project approval for the sales tax exemption program. The Agreement describes the project, the date the commitment duration shall commence, the extent of sales tax exemption, the conditions and limitations of the sales tax exemption, the representations and reporting obligations of the business, and other such provisions which further the purposes of P.L. 2004, c.65, Sections 19 through 22 (N.J.S.A. 34:1B-185 through 188).

...

“Authority” means the New Jersey Economic Development Authority established under section 4 of P.L. 1974, c.80 (N.J.S.A. 34:1B-4).

[“Board of Directors” means the board of directors of the New Jersey Commerce, Economic Growth and Tourism Commission.]

“Board” means the Board of the New Jersey Economic Development Authority.

...

“Chief Executive Officer” means the Chief Executive Officer of the New Jersey Economic Development Authority.

[“Commission” means the New Jersey Commerce, Economic Growth and Tourism Commission established pursuant to N.J.S.A. 52:27C-61 et seq.]

...

“Full-time employee” means a person who is employed for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, [and who is determined by the Secretary to be employed in a permanent position according to criteria as the Secretary may prescribe] as determined by the Authority, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L. 2001, c. 260 (N.J.S.A. 34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, as determined by the Authority. “Full-time employee” shall not include any person who works as an independent contractor or on a consulting basis for the business. “Full-time employee” shall not include a child, grandchild, parent or spouse of an individual who has direct or indirect ownership of at least five percent of the profits, capital, or value of the business.

...

“New business location” means the premises that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than eight years from the date of relocation. A new business location may also include the premises from which the business moves on a temporary basis due to the rehabilitation of permanent premises [that also qualifies as reconstruction as "reconstruction" is defined in the Uniform Construction Code, N.J.A.C. 5:23-6.3.] In that case, [the move to the permanent premises will trigger availability of the grant of tax credits.] for the purposes of determining eligibility as a new business location for businesses undertaking rehabilitation and relocation on a temporary basis, the review of applications shall be in accordance with criteria adopted by the members of the Authority, which shall include rehabilitation costs on a per square foot basis and other factors relating to reconstruction as defined in the Uniform Construction Code.

...

“Sales tax recapture amount” means either:

1. If the event of recapture occurs during the commitment duration, provided the reduction of retained full-time jobs in the aggregate from execution of the project approval agreement until the event of recapture does not exceed 20 percent of the number of the retained full-time jobs: the sum of 1i, ii and iii below. To the extent the reduction of retained full-time jobs in the aggregate exceeds 20 percent of the number of retained full-time jobs, penalties pursuant to the State Uniform Tax Procedure Law, N.J.S.A. 54:49-1 et seq. may also be imposed.

i. – ii. (No change.)

iii. All costs incurred by the [Secretary] **Chief Executive Officer** and the Division of Taxation in connection with the pursuit of the sales tax recapture amount (including, but not limited to, counsel fees, court costs and other costs of collection); or

2. If the event of recapture occurs prior to the commitment duration, provided the reduction of retained full-time jobs in the aggregate from execution of the project approval agreement until the event of recapture does not exceed 20 percent of the number of retained full-time jobs: the sum of 2i, ii and iii below. To the extent the reduction of retained full-time jobs in the aggregate exceeds 20 percent of the number of retained full-time jobs, penalties pursuant to the State Uniform Tax Procedure Law, N.J.S.A. 54:49-1 et seq. may also be imposed.

i. – ii. (No change.)

iii. All costs incurred by the [Secretary] **Chief Executive Officer** and the Division of Taxation in connection with the pursuit of the sales tax recapture amount (including, but not limited to, counsel fees, court costs and other costs of collection).

“Sales tax repayment amount” means the sum of:

1. – 2. (No change.)

3. All costs incurred by the [Secretary] **Chief Executive Officer** and the Division of Taxation in connection with the pursuit of the sales tax repayment amount (including, but not limited to, counsel fees, court costs and other costs of collection).

[“Secretary” means the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission.]

[12A:2A-2.3] 19:31-16.3 Eligibility criteria

(a) Program eligibility requires that:

1. A business shall have operated continuously in New Jersey, in whole or in part, in its current

form or as a predecessor entity, for at least 10 years prior to filing an application with the [Commission] **Authority**;

2. – 3. (No change.)

(b) – (e) (No change.)

(f) If a project consists of both point-of-purchase retail facilities, as defined at N.J.A.C. [12A:2-1.2] **19:31-14.2**, and non-retail facilities, only the portion consisting of non-retail facilities shall be eligible for the sales tax exemption.

[12A:2A-2.4] 19:31-16.4 Requests for applications

All application requests shall be made to the [Secretary/CEO New Jersey Commerce, Economic Growth and Tourism Commission, 20 West State Street, PO Box 820, Trenton, New Jersey 08625] **New Jersey Economic Development Authority, 36 West State Street, P.O. Box 990, Trenton, NJ 08625**, on forms and/or in a manner prescribed by the Commission.

[12A:2A-2.5] 19:31-16.5 Submission requirements

(a) Each application to the [Commission] **Authority** shall include the following information in an application format prescribed by the [Commission] **Authority**:

1. – 2. (No change.)

3. The employee information shall include the following:

i. – iv. (No change.)

v. Any other necessary and relevant information as determined by the [Secretary] **Chief Executive Officer** for a specific application.

[4. The business applying to the program shall submit the following non-refundable application fee, with payment in the form of a check in the amount of \$1,000, payable to the “New Jersey Commerce, Economic Growth and Tourism Commission.”]

[12A:2A-2.6] 19:31-16.6 Application and review procedures

(a) Applicants shall submit to the [Secretary] **Chief Executive Officer** a completed Sales Tax Exemption Program application. The application shall bear either a legible post-mark date or a date received stamp from the [Commission] **Authority**.

(b) The [Commission] **Authority** shall conduct a review of the applications commencing with the application bearing the earliest submission date, including those applications submitted to the [Commission] **Authority** prior to May 16, 2005. The [Commission] **Authority** may require the submission of additional information to complete the application or may require the resubmission

of the entire application, if incomplete. The [Commission] **Authority** shall review[, and provide a recommendation to the Secretary regarding,] the applications to determine whether the applicant:

1. – 3. (No change.)

(c) The [Secretary after receipt and consideration of the recommendation from the Board of Directors] **Board**, shall approve, approve with modifications, or deny an application in the program.

(d) [When the Board of Directors recommends to either approve or deny a request, t] The minutes of the meeting at which such action occurs are submitted to the Governor for review and become effective 10 working days of the Governor's receipt of the minutes unless earlier approval or vetoed.

(e) Upon completion of the review of an application pursuant to (b) above, the [Secretary] **Chief Executive Officer** shall notify the applicant whether the application has been approved, approved with modifications, or denied.

(f) In the event that an application is approved, the [Secretary] **Chief Executive Officer** will notify the Director of the terms and conditions of the project approval agreement and the Director shall issue a certificate pursuant to the terms and conditions of the project agreement. In the event that an application is denied, the applicant shall be notified of the denial and the reasons for such denial.

[12A:2A-2.7] 19:31-16.7 Project approval agreement

(a) If the [Secretary] **Board** approves the application to the program, participation in the program is conditioned upon the applicant executing a project approval agreement with the [Secretary] **Chief Executive Officer** to establish the terms and the conditions of the project approval.

(b) (No change.)

[12A:2A-2.8] 19:31-16.8 Undertaking the project

(a) Once the project approval agreement is fully executed by the business and the [Secretary] **Chief Executive Officer**, the business shall complete the project and seek a temporary certificate of occupancy and such other permits and approvals as may be required in a timely manner.

(b) – (c) (No change.)

(d) To the extent that the business or its project participants (and not an unaffiliated third party who is not a project participant) have undertaken the construction of the project, the business shall comply with the [Commission's] Authority's prevailing wage requirements, [N.J.S.A. 52:27C-73.1 and implementing rules at N.J.A.C. 12A:2A-3] **P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1)**, in the performance of construction contracts.

(e) The [Commission] **Authority** encourages a business constructing a project to comply with the [Commission's set-aside program goals and targets] **Authority's affirmative action requirements** set forth at [N.J.A.C. 12A:10 and Executive Order No. 71 (October 2, 2003)] **P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.4)**.

[12A:2A-2.9] 19:31-16.9 Sales and use tax exemption limitations

(a) – (c) (No change.)

(d) Notifications of violations of the terms and conditions of the sales tax exemption shall be addressed as follows. In the event that a project participant utilizes the sales tax exemption provided pursuant to the sales tax certificate in violation of the terms and conditions of this subchapter and or the project approval agreement, and the business is aware of such violation, the business shall promptly deliver notice of the violation to the [Secretary] **Chief Executive Officer**, and the business shall, upon demand by the Secretary, pay to the Division of Taxation the sales or use tax that would have been paid on purchases not authorized by the project approval agreement in an amount equal to all such authorized sales or use tax exemptions claimed, subject to the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., with regard to unpaid sales or use tax, penalty and interest.

[12A:2A-2.10] 19:31-16.10 Reporting requirements

(a) During the term of the project approval agreement, on the 15th business day of the quarter, the business that is party to the agreement shall furnish to the [Secretary] **Chief Executive Officer** a certified report of all purchases of eligible property made in the preceding quarter on which the sales tax exemption was claimed, including the date of purchase, an itemized description, amount of purchase, name of project participant that purchased the item, and name of vendor. "Certified" for purposes of this section means that the veracity of the report is attested by the business, and does not entail a certification by an outside accountant based upon an audit of any type.

1. A business having difficulty obtaining the itemized information from subcontractors on third-party construction contracts may file an estimated allocation of the costs of eligible property incurred under the construction contract, pursuant to the percentage determined by the [Board of Directors of the Commission] **Board**, which shall be consistent with industry standards, and made available to the public upon its approval by the [Board of Directors] **Board**. Such estimated allocation shall be included in the certified report of all purchases of eligible property. The election of alternative reporting shall be set forth in the project approval agreement, and once selected, may not be revoked or the percentage changed, pursuant to the terms of that agreement.

(b) During the term of the project approval agreement, 30 days prior to each anniversary of the commencement date of the agreement, the business shall furnish to the [Secretary] **Chief Executive Officer** a certified report in a format as may be determined by the [Secretary] **Chief Executive Officer** which shall contain the following information:

1. – 3. (No change.)

4. Any other reports required under the project approval agreement, such as the information provided to the [Secretary] **Chief Executive Officer** demonstrating the number of retained full-time jobs maintained by the business.

[12A:2A-2.11] 19:31-16.11 Events of recapture and default

(a) The occurrence of any one of the following events (whether such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulations of any administrative or governmental body) shall constitute an event of recapture under the project approval agreement:

1. The business reduces or relocates the retained full-time jobs, such that the number of retained full-time jobs falls below the number required pursuant to N.J.A.C. [12A:2A-2.5(a)3iv] **19:31-16.5(a)3iv** (greater than five percent during the first two years of the commitment duration; greater than 10 percent during the remainder of the commitment duration) but has relocated at least the threshold number for project eligibility, 250 or 500 (as applicable to the type of business and as may be reduced up to five percent or 10 percent, as applicable); or

2. The business notifies the [Commission] **Authority**, prior to the commitment duration, that it will not relocate 100 percent of the retained full-time jobs set forth in the project approval agreement, but will relocate at least the threshold number for project eligibility, 250 or 500, as applicable to the type of business.

(b) The occurrence of any one or more of the events in (b)1 through 6 below (whether such events shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulations of any administrative or governmental body) shall constitute an “event of default” under the project approval agreement. Violations of the “events of default” provision of the project approval agreement shall be cause for immediate termination of the sales tax certificate as provided by law and repayment of the State sales tax.

1. – 5. (No change.)

6. The business fails to serve or perform in any other material respect any other term, covenant or condition of the business under the project approval agreement and this subchapter and such failure shall have continued for 30 days after the earlier of delivery to the business of written notice thereof from the [Secretary] **Chief Executive Officer** or the business's actual or constructive knowledge of such failure; provided, however, that if such failure is capable of cure, but cannot be cured by the payment of money or by diligent efforts within such 30-day period, but diligent efforts are properly commenced within the cure period and the business is diligently pursuing, and shall continue to pursue diligently, remedy of such failure, the cure period shall be extended for an additional period of time, not to exceed an additional 45 days and in no case to extend beyond the expiration of the project approval agreement.

[12A:2A-2.12] 19:31-16.12 Remedies

(a) Upon the occurrence of an event of recapture as described in N.J.A.C. [12A:2A-2.11] **19:31-16.12** and the project approval agreement, the [Secretary] **Chief Executive Officer** may demand the payment of the sales tax recapture amount, and in his or her sole discretion, may request that the Director of the Division of Taxation recover the sales tax recapture amount.

(b) Upon the occurrence of any event of default as described in N.J.A.C. [12A:2A-2.11] **19:31-16.12** and the project approval agreement, the [Secretary] **Chief Executive Officer** may, so long as such event of default is continuing, do one or more of the following as the [Secretary] **Chief Executive Officer** in his or her sole discretion shall determine, without limiting any other right or remedy the [Secretary] **Chief Executive Officer** or the Division of Taxation may have on account of such event of default:

1. The [Secretary] **Chief Executive Officer** may require the surrender by the business to the [Secretary] **Chief Executive Officer** of the sales tax certificate for suspension or cancellation; and/or

2. The [Secretary] **Chief Executive Officer** may exercise any other right or remedy that may be available under applicable law or under the project approval agreement, including, without limitation:

i. (No change.)

ii. Recovering damages for loss of a bargain for any default during the commitment duration which damages the parties agree that the [Secretary's] **Chief Executive Officer's** actual damages would be difficult to predict, and that the sales tax repayment amount and any additional repayment amount represents a reasonable approximation of such amount;

iii. – iv. (No change.)

(c) (No change.)

(d) The rights and remedies of the [Secretary] **Chief Executive Officer** under this subchapter and the project approval agreement shall be cumulative and shall not exclude any other rights and remedies of the [Secretary] **Chief Executive Officer** or the Division of Taxation allowed by law with respect to any event of default under this subchapter or the project approval agreement.

[12A:2A-2.13] 19:31-16.13 Appeals

(a) The procedure for an appeal of the [Secretary's] **Board's** action on an application to the program shall be as follows. An applicant may appeal the [Secretary's] action on an application to the program by submitting in writing to the [Commission] **Authority**, within 30 days from the date of the [Secretary's] **Board's** action, an explanation as to how the applicant has met the program criteria. Only the information that clarifies the application filed shall be reconsidered. In the event the application is reconsidered as eligible for the program, such application shall be presented for action at the next available [Board of Directors'] **Board** meeting.

(b) In general, appeals [arising from decisions of the Secretary] may be requested in writing, and an opportunity given for an informal hearing on the papers, in person or via telephone with [Commission] **Authority** staff. Such written request for any informal hearing must be made within 30 days of the receipt of the [Secretary's] **Board's** decision.

(c) In the event of an adverse decision after an informal hearing under (b) above, or if a business determines not to seek an informal hearing, and providing further, that the dispute or controversy is a contested case, as defined in N.J.S.A. 52:14B-2(b), a business may request, within 45 days of the written decision resulting from the informal hearing or the determination of the [Secretary] **Board** if any informal hearing is not sought, a formal hearing.

(d) Upon filing of the initial pleading in a contested case, the [Secretary] **Board** may either retain the matter for hearing directly or transmit the matter for hearing before the Office of Administrative Law. Such hearings shall be governed by the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Every determination of a dispute or controversy arising from this subchapter by the [Commission] **Authority**, constituting final agency action [by the Secretary] shall be embodied in a written decision which shall set forth findings of fact and conclusions of law pursuant to the applicable rules of the Office of Administrative Law.

Recodify existing N.J.A.C. 12A:2A-2.14 as N.J.A.C. 19:31-16.14 (No change in text.)

CHAPTER 2A COMMISSION ASSISTANCE PROGRAMS

[12A:2A-4.1] 19:31-17.1 Applicability and scope

The rules in this subchapter are promulgated by the [New Jersey Commerce, Economic Growth and Tourism Commission (the "Commission")] **New Jersey Economic Development Authority** ("**EDA**" or "**Authority**") to implement P.L. 2005, c. 374 (the "Act"), and specifically, section 2 of the Act. Section 2 establishes an energy sales tax exemption program (the "Program") for retail sales of electricity and natural gas and their transport to a business in counties designated for the 50 percent tax exemption under section 1 of P.L. 1993, c. 373 that employs at least 50 people at that facility, at least 50 percent of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility. The Program is [established under the jurisdiction of the Commission, and is] to be administered by the [Commission,] **Authority** in accordance with the procedures for obtaining the exemption as may be provided under the Sales and Use Tax Act, P.L. 1966, c. 30, and this subchapter.

[12A:2A-4.2] 19:31-17.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Application” means the authorized application submitted to the [Commission] **Authority** from a business for approval of an energy sales tax exemption under the program.

“Authority” means the New Jersey Economic Development Authority.

“Board” means the Board of the New Jersey Economic Development Authority.

“Chief Executive Officer” means the Chief Executive Officer of the New Jersey Economic Development Authority.

[“Commission” means the New Jersey Commerce, Economic Growth and Tourism Commission established pursuant to N.J.S.A. 52:27C-61 et seq.]

...

“Employ” means utilize the productive services of people as full-time employees. “Full-time employee” is defined at N.J.A.C. [12A:2-1.2] **19:31-14.2**.

“Energy sales tax exemption” means the energy sales and use tax exemption for retail sales of energy and utility service approved by the [Secretary] **Chief Executive Officer** pursuant to the Act and this subchapter.

...

[“Secretary” means the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission.]

Recodify existing N.J.A.C. 12A:2A-4.3 as N.J.A.C. 19:31-17.3 (No change in text.)

[12A:2A-4.4] 19:31-17.4 Requests for applications and renewal applications

(a) All application requests shall be made to the [Secretary/CEO, New Jersey Commerce, Economic Growth and Tourism Commission, 20 West State Street, PO Box 820, Trenton, New Jersey 08625] **New Jersey Economic Development Authority, 36 West State Street, P.O. Box 990, Trenton, NJ 08625**, on forms and/or in a manner prescribed by the [Commission] **Authority**.

(b) Annual renewal applications by applicants satisfying the criteria of N.J.A.C. [12A:2A-4.3] **19:31-17.3** shall be required to be submitted annually within 45 days prior to the expiration date of the energy sales tax exemption.

[12A:2A-4.5] 19:31-17.5 Application submission requirements

(a) Applicants shall submit to the [Commission] **Authority** a completed Application for Energy Sales Tax Exemption signed by an authorized representative of the business. The application shall bear either a legible post-mark date or a date received stamp from the [Commission] **Authority**.

(b) Each application for the energy sales tax exemption submitted to the [Commission] **Authority** shall include the following:

1. – 10. (No change.)

11. Such additional information as may be required by the [Secretary] **Chief Executive Officer** to provide a complete and accurate description of a particular business that is applying for the exemption.

[12A:2A-4.6] 19:31-17.6 Application review procedures

(a) The [Commission] **Authority** shall conduct a review of the applications in the order received, commencing with the application bearing the earliest submission date. The [Commission] **Authority** may require the submission of additional information to complete the application. Once the [Commission] **Authority** determines that the application is complete, the [Commission] **Authority** has 20 days to determine whether:

1. – 3. (No change.)

(b) Upon completion of the review of an application pursuant to (a) above:

1. In the event that an application is approved, the [Secretary] **Chief Executive Officer** will promptly notify the applicant, the President of the Board of Public Utilities, and the Director that a business has met the requirements for the energy sales tax exemption. In accordance with P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.), the Division of Taxation shall then issue an Exemption Certificate to the approved applicant business.

2. In the event that an application is denied, the [Secretary] **Chief Executive Officer** will promptly notify the applicant of the denial and the reasons for the denial.

3. After notification of a denial, should the circumstances change so that the applicant reasonably believes its application will be approved, the applicant may reapply to the program no earlier than 90 days from the date the [Secretary] **Chief Executive Officer** issued the denial.

[12A:2A-4.7] 19:31-17.7 Monitoring, inspection, and reporting

(a) The [Commission] **Authority** and agents of the State of New Jersey shall monitor compliance with respect to the eligibility criteria and conditions for this energy sales tax exemption. An applicant that is approved to receive this exemption benefit shall permit any agency of the State of New Jersey to enter said business during reasonable business hours to determine compliance with the eligibility criteria and conditions of the program. Failure to permit access for this purpose

will result in the forfeiture of the exemption benefit and may require repayment of sales and use tax previously exempted from payment, as the [Commission] **Authority** shall determine.

(b) Each business that receives this energy sales tax exemption shall be required to maintain records documenting all of its tax-exempt energy purchases. This information must be supplied to the [Commission] **Authority** upon request. In addition, a report summarizing the totals of all exempt energy purchases must be provided for the prior year as a component of the annual renewal application.

(c) The [Secretary] **Chief Executive Officer** shall provide the President of the Board of Public Utilities and Director with an annual list of all businesses that have been approved under this subchapter.

[12A:2A-4.8] 19:31-17.8 Rescission

(a) The [Secretary] **Chief Executive Officer**, in addition to any other rights or remedies available pursuant to law, may withhold, reduce, or terminate this energy sales tax exemption or any portion thereof for good cause. The circumstances under which this may occur include, but are not limited to:

1. (No change.)
2. Submission of false or misleading information, or failure to submit relevant or complete information to the [Commission] **Authority**;
3. (No change.)
4. Failure to comply with any condition, term, or requirement of the [Commission] **Authority** relating to this program.

(b) The [Secretary] **Chief Executive Officer** shall provide written notice to the business of the intent to rescind the approval of the business' application for the energy sales tax exemption benefit.

(c) The [Secretary] **Chief Executive Officer** shall provide notice of the determination to rescind to the Director, who shall rescind the energy sales tax exemption certificate issued to the business.

(d) Any rescission of the energy sales tax exemption will require repayment by the business of all exempted tax payments, and such penalties as may be assessed in accordance with the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., from the effective date of the rescission as determined by the [Commission] **Authority**.

[12A:2A-4.9] 19:31-17.9 Appeals

Appeals under this subchapter shall be subject to the appeal procedures governing the sub-

chapter on sales and use tax exemption at N.J.A.C. [12A:2A-2.13] 19:31-16.14.



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

SUBJECT: Technology Business Tax Certificate Transfer Program

DATE: May 10, 2010

Summary

The Members of the Board are provided with a proposal for amendments to the rules implementing statutory revisions to the Technology Business Tax Certificate Transfer Program.

Background

The Technology Business Tax Certificate Transfer Program allows technology and biotechnology companies with 224 or fewer U.S. employees to sell their net operating losses and/or research and development tax credits to profitable corporate entities. Proceeds from those sales are required to be re-invested in the seller's business.

The "New Jersey Economic Stimulus Act of 2009", P.L. 2009, c. 90, enacted into law on July 27, 2009, included amendments to the statute establishing the Technology Business Tax Certificate Transfer Program. The amendments were intended to streamline current eligibility and allocation requirements to enable more companies to participate in the program.

Additionally, the Senate and General Assembly recently passed legislation, S920/A2059, which would revise various provisions of the Stimulus Act, including technical revisions to the Technology Business Tax Certificate Program. The measure, which is on the desk of Governor Christie for final consideration, would 1) amend the definition of "biotechnology business" to make ineligible companies without protected proprietary intellectual property that only provide services or products to biotechnology businesses and 2) amend the definition of "new or expanding" to require that each applicant have more than the minimum threshold of employees and less than the maximum number of employees at June 30th and on the closing date.

Regulatory Recommendations

Accompanying this memo are proposed amendments to the rules implementing the Technology Business Tax Certificate Transfer Program interpreting the changes made to the statute. A brief overview of some of the more substantive changes is as follows:

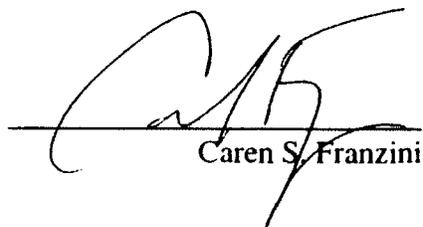
- Definition of “biotechnology business” is changed to require all such applicants own/license Protected Proprietary Intellectual Property.
- Definition of “new or expanding” is changed to eliminate the requirement that each applicant meet the minimum threshold of employees and the maximum number of employees at December 31 of the prior year. It was also changed to have a single minimum employment threshold as of June 30.
- Removal of the requirements to assess likelihood of future job creation and future decrease in net losses.
- Change the requirement of having a net loss for each of the last 2 years to having a net operating loss for each of the last 2 years. This will no longer penalize companies that show a small profit due to the sale of an NOL in a prior year.
- Addition of a permanent full-time NJ employment requirement based on the number of years since the applicant was incorporated.
- Addition of a requirement that the applicant offer a group health care plan to its employees.
- Removal of the requirement that the applicant not have enough resources to operate in the short-term.
- Removal of the requirement that the applicant’s technology is viable and that the applicant has a competitive advantage.
- Removal of recertified and returning applicant categories. All applicants will be reviewed as new applicants, with no applicants grandfathered based on prior year approvals.
- Re-allocate any unused portion of the \$10M set aside for Innovation Zone companies to be used by non-Innovation Zone companies.
- Change the maximum lifetime benefit an applicant can obtain from \$10 million to \$15 million.
- Change the minimum an applicant can sell the NOL benefits from 75% to 80%.
- Create a benefit recapture policy for applicants that move out of NJ within 5 years of selling the NOL benefit or use the proceeds of their benefit sale on expenses that are not allowable under the Statute.
- Change the appeal process to include the Authority’s CEO appointing a hearing officer to review all appeals and make recommendations to the Board.

Selling businesses continue to be required to meet legislatively stated criteria, including the requirement to meet the definition of a technology or biotechnology business; meet a business size maximum of 224 U.S. employees or fewer, cannot have a parent with positive net operating earnings or be part of a group of affiliated companies that has positive net operating earnings, in the aggregate, in either of the most recent two years.

Recommendation

We are requesting action by the Members to approve the proposed amendments of rules implementing recent statutory revisions to the Technology Business Tax Certificate Transfer Program and authorize staff to file the proposal with the Office of Administrative Law, subject to the approval of the Office of the Attorney General with a request to the Office of Administrative

Law to hold the filing pending further instruction. Consistent with Office of Administrative Law procedure, instructions regarding publication of the reproposal will follow subsequently, subject to review by the Office of Administrative Law of the Governor's Office, including compliance with Executive Order No. 2 and the recommendations of the Red Tape Review Group. Finally, applicants to the program will be advised of the rule proposal in order to provide guidance as to how the EDA will implement the statutory changes in the 2010 application cycle.



Caren S. Franzini

Prepared by John Rosenfeld & Michael Krug

Attachment

DRAFT

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Authority Assistance Programs

Technology Business Tax Certificate Transfer Program

Proposed Readoption with Amendments: N.J.A.C. 19:31-12.1 through 12.7

Proposed New Rule: 19:31-12.8

Authorized By: New Jersey Economic Development Authority, Caren S. Franzini,
Chief Executive Officer.

Authority: N.J.S.A. 34:1B-1 et seq., P.L. 2009, c. 90 and P.L. 2010, c. ___.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-

Submit written comments by August 20, 2010:

Maureen Hassett, SVP Governance & Public Information
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (“EDA” or “Authority”) is proposing amendments to the Technology Business Tax Certificate Transfer Program based on statutory revisions pursuant to the “New Jersey Economic Stimulus Act of 2009,” P.L. 2009, c. 90 and P.L. 2010, c. ___.

The New Jersey Economic Stimulus Act of 2009 increases the transferability and amounts of new or expanding emerging technology and biotechnology companies’ research and development tax credits related to net operating losses in order to help those companies raise private financial assistance to maintain operations in New Jersey. In addition, P.L. 2010, c. ___ includes additional revisions to clarify eligibility and provide greater certainty and predictability for new and emerging technology and biotechnology companies making application to the Technology Business Tax Certificate Transfer Program.

The proposed amendments, intended to streamline current eligibility and allocation

requirements and reflect the statutory changes, would:

1) Eliminate current requirement that the applicant must show likelihood of future job creation and future decrease in net losses;

2) Eliminate current requirement that the applicant must show that it does not have enough resources to operate in the short-term;

3) Eliminate current requirement that the applicant show that its' technology is viable and that the applicant has a competitive advantage;

4) Revise the current requirement of having a net loss for each of the last 2 years to having a net operating loss for each of the last 2 years which will no longer penalize companies that show a small profit due to the sale of the NOL in a prior year;

5) Add a permanent, full-time New Jersey employment requirement based on the number of years the applicant has been incorporated;

6) Add a requirement that the applicant offer a group health care plan to its' New Jersey employees; and

7) Authorize the reallocation of any unused portion of the \$10 million set aside for innovation zone companies to be used by non-innovation zone companies.

The following summarizes the major revisions contained in the proposed amendments:

N.J.A.C. 19:31-12.2 Definitions

The proposed amendments address certain terms in this subchapter as follows: "biotechnology business" is revised to require all applicants to own and/or license protected, proprietary intellectual property; "new applicant" deleted; "new or expanding" revised to eliminate the requirement that each applicant meet the minimum threshold of employees and the maximum number of employees at December 31st of the prior year and establishes a minimum employment threshold as of June 30th; "re-certification applicant" is deleted; "returning applicant" is deleted; "unused net operating loss carryover" revised to include tax year deadline for current carryover period of seven years, after which, it shall be 20 years as defined under the "Corporation Business Tax Act." The proposed amendments also provide additional definitions for "full-time employee," "license," and "protected proprietary intellectual property" based on revisions in P.L. 2009, c. 90 or other proposed revisions to the subchapter.

N.J.A.C. 19:31-12.3 Eligibility

The proposed amendments: 1) clarify that net operating income, rather than net income as reported on the business's financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board, will be measured for eligibility to eliminate ineligibility of companies which may have net income due solely to

selling net operating losses and/or research and development credits in the prior year; and 2) delete provision allowing returning applicants to not be required to meet certain conditions of eligibility.

N.J.A.C. 19:31-12.4 Application to the program

The proposed amendments: 1) clarify that all applications to the program including new, recertification and returning applications, shall be accompanied by a uniform \$2,500 non-refundable application fee; 2) increase the amount the purchaser of the net operating loss carry forward must pay to at least 80 percent of the value of the benefits being surrendered; 3) clarify that financial statements shall be filed for the two most recent full years of operation and be prepared by an independent Certified Public Accounting (CPA) firm according to certain generally accepted accounting principles (GAAP); 4) require that the list of all corporations that form a consolidated group of affiliated corporations as filed for Federal income tax purposes, include financial statements for the two most recent full years of operation prepared by a CPA firm according GAAP; 5) delete various requirements for applicants to describe including i. the impact which the proposed or expanded activities in the state may enhance and diversify the New Jersey's capacity and competitiveness in the business' field and ii. efforts made to secure any form of financial assistance to support its operations; 6) eliminate outdated requirement that the applicant's representation of location include a state-sponsored incubator site; 7) clarify that the description of type of business shall be for the applicant's primary business and require documentation of the business's protected proprietary intellectual property; 8) require applicants to provide a list of all full-time employees employed in New Jersey and United States at time of application, as well as most recent year's Federal and New Jersey W-3 forms and other related documentation; 9) require a list of ownership by percentage; and 10) require the submission of a copy of the certificate of incorporation.

N.J.A.C. 19:31-12.5 Evaluation process

The proposed amendments: 1) delete eligibility requirements to remove subjectivity, i.e., actual potential and technological viability if applicant's business product(s), service(s) and/or process(es), as well as tests for capital access, net income trends and job growth to make award of the tax benefit transfer certificate more objective; and 2) delete provision allowing returning applicants to not be required to meet certain conditions of eligibility.

N.J.A.C. 19:31-12.6 Approval process

The proposed amendments establish parameter's pertaining to appeals of determinations of eligibility for the program by the EDA.

N.J.A.C. 19:31-12.7 Allocation of tax benefits

The proposed amendments: 1) increase the maximum lifetime benefit per business from \$10 million to \$15 million; 2) transfer and update existing language from within the subsection pertaining to allocation of funding for eligible companies in innovation zones; 3) delete the provision authorizing businesses with more than \$250,000 in tax benefits to sell at least 50

percent of the amount sold in the prior year; 4) require that unused balances of the annual \$10 million set-aside for businesses in three innovation zones would revert to the general program pool for use by businesses not situated in innovation zones; 5) make technical revisions to formula for calculating available tax benefits; and 6) delete provision referring to businesses reapplying to the program.

N.J.A.C. 19:31-12.8 Recapture of tax benefits

The proposed amendments provide rules for the recapture of proceeds received from surrender of tax benefits as required by the section if a business fails to use the financial assistance received for the surrender of tax benefits as required by the program, or if the business, after receipt of proceeds from the surrender of tax benefits, moves its headquarters or operations out of New Jersey.

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Technology Business Tax Certificate Transfer Program helps spur scientific innovation, create new, high-paying jobs and cultivate an entrepreneurial environment for life sciences and technology companies in New Jersey. The proposed amendments would have a positive social impact as the qualifications for the program are streamlined.

Economic Impact

The Technology Business Tax Certificate Transfer Program allows technology and biotechnology companies with fewer than 225 employees to sell their net operating losses and/or research and development credits to profitable corporate entities. Last year, \$60 million was available and provided to 98 companies for reinvestment in their businesses. The proposed amendments are intended to ensure the available benefit under the program is targeted to those New Jersey-based technology and biotechnology companies most likely to achieve long-term success.

Federal Standards Statement

A Federal standards analysis is not required because the repropoed amendments and new rules are not subject to any Federal requirements or standards.

Jobs Impact

The proposed amendments will result in stimulating the creation of new private sector jobs at emerging technology and biotechnology companies throughout New Jersey.

Agriculture Industry Impact

The proposed amendments and new rules will have no impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Statement

The repropoed amendments, which streamline current eligibility and allocation requirements for participation in the Technology Business Tax Certificate Transfer Program, do not impose any additional reporting, recordkeeping, or other compliance requirements on small business, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Smart Growth Impact

The proposed amendments, in providing financial benefits to businesses located in urban areas and particularly innovation zones in Newark, Greater New Brunswick and Camden, may have a positive impact on smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments will not impact the amount or cost of housing units, including multi-family rental housing and for-sale housing, in the State. The proposed amendments revise the Technology Business Tax Certificate Transfer Program which allows certain technology and biotechnology companies to sell their net operating losses and/or research and development credits to profitable corporate entities.

Smart Growth Development Impact

The proposed amendments will not impact the number of housing units or result in any increase or decrease in the average cost of housing in Planning Areas 1 or 2, or in designated centers, under the State Development and Redevelopment Plan. The proposed amendments revise the Technology Business Tax Certificate Transfer Program which allows certain technology and biotechnology companies to sell their net operating losses and/or research and development credits to profitable corporate entities.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

19:31-12.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority to implement P.L. 1997, c.334, **as amended by P.L. 2009, c. 90 and P.L. 2010, c. __**. This Act establishes a corporation business tax benefit certificate transfer program to assist new or expanding emerging technology and biotechnology companies in New Jersey.

19:31-12.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Allowable expenditures” means costs incurred in connection with the operation of the new or expanding emerging technology or biotechnology [company] **business** in the State, including, but not limited to, the expenses of fixed assets, such as the construction, acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, **and** research and development expenditures.

...

“Biotechnology business” means an emerging corporation that has a headquarters or base of operations located in New Jersey that owns, has filed for, or has a license to use protected, proprietary intellectual property and **whose primary business** is [engaged in] the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes[, or a corporation that has a headquarters or base of operations located in New Jersey, and that is engaged in providing services or products necessary for such research, development, production, or provision].

...

“Camden innovation zone” means the innovation zone in the southern part of the State bounded as follows: in the north by the Ben Franklin bridge, in the east by Interstate 676, in the south by Kaighns Avenue, and in the west by the Delaware River **or as otherwise amended by the members of the Authority.**

...

“Financial statements” means a statement prepared by an independent Certified Public Accountant (CPA), which shall include an opinion letter indicating the scope of the services performed (compilation, review, or audit) in accordance with Generally Accepted Accounting Principles (GAAP) as determined by the Financial Standards Accounting Board (FASB) and shall include a balance sheet, statement of income and expenses, cash flow statement, other statements as determined by the independent CPA, and footnotes where applicable.

“Full-time employee” means a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of

income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology business.

...

"License" means an agreement that states therein that it is granting a license and that authorizes the applicant to control aspects of the development of the protected proprietary intellectual property. The protected proprietary intellectual property must be directly related to the applicant's primary business of providing a scientific process, product, or service. License shall not include an agreement, such as an exclusive distribution agreement or similar business arrangement that is not registered with the U.S. Federal Government, such as the U.S. Patent and Trademark Office, that does not grant the applicant control of the protected proprietary intellectual property.

...

["New applicant" means a biotechnology or technology business that is submitting an application to the Technology Business Tax Certificate Transfer Program that has not been approved to sell unused net operating loss carryover or unused research and development tax credits in a previous program year.]

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (C.34:1B- 7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; [, of whom 75% are New Jersey-based employees filling a position or job in this State]; [and] (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition. In calculating the number of employees under this definition, [The employees referenced in (i) of this definition include] employees of all affiliates and subsidiaries as shown on its consolidated financial statements, employees of any company that owns or controls at least

50 percent of the applicant, as well as the employees of any consolidated group of affiliated corporations as filed for Federal income tax purposes shall be included[; provided that the manner in which net income will be calculated in making the determination set forth in N.J.A.C. 19:31-12.3(b)3 of whether the company is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net income in any of the two previous full years of ongoing operation as determined on its financial statements or is part of a consolidated group of affiliated corporations, as filed for Federal income tax purposes, that in aggregate has demonstrated positive net income in any of the two previous full years of ongoing operations as determined on its combined financial statements, will continue to be calculated on a global status].

“Newark innovation zone” means the innovation zone in the northern part of the State bounded as follows: in the north by Interstate 280, in the east by McCarter Highway (Route 21) and the Pennsylvania Railroad, in the south by Market Street to South Orange Avenue, and in the west by Bergen Street **or as otherwise amended by the members of the Authority.**

“[North/] **Greater** New Brunswick innovation zone” means the innovation zone bounded as follows: in the north by Route 287 to Stelton Road to Metlars Lane to Route 18, in the east by Route 1, in the south by Suydam Road/Claremont Road/Finnegan’s Lane, and in the west by the Millstone River and Raritan River, which includes parts of North Brunswick, New Brunswick, Piscataway and Franklin Township and Rutgers University’s Livingston campus **or as otherwise amended by the members of the Authority.**

...

“**Protected proprietary intellectual property**” means intellectual property that is **protected via a patent pending, patent awaiting approval, approved patent or registered copyright.**

[“Re-certification applicant” means a biotechnology or technology business that is submitting an application to the Technology Business Tax Certificate Transfer Program that was approved in a prior year and is requesting an approval to sell new unused net operating loss carryover or unused research and development tax credits.]

...

[“Returning applicant” means a biotechnology or technology business that is submitting an application to the Technology Business Tax Certificate Transfer Program to sell unused net operating loss carryover or unused research and development tax credits that were approved for sale in a previous year but did not receive a full allocation and, therefore, is applying for an allocation of previously approved benefits.]

...

“Unused net operating loss carryover” means net operating loss for any tax year [ending after June 30, 1984 shall be a net operating loss carryover to each of seven years following the loss.

The amount of net operating loss for any taxable year shall be carried to the earliest taxable year. The portions of loss which shall be carried is the excess, if any, of the amount of the loss over the sum of the entire net income, computed without regard to the dividend exclusion, as provided in] **as defined in N.J.S.A. 54:10A-4(k)(6)(B).**

19:31-12.3 Eligibility

(a) A business shall be eligible to apply to the program if the Authority finds that the business:

1. (No change.)
2. Has unused amounts of research and development tax credits and/or unused net operating loss carryover; **and**
3. Meets the definition of new or expanding], provided that returning applicants are not required to meet this condition of eligibility).

(b) No application shall be approved in which the business:

1. Has demonstrated positive net **operating** income in any of the two previous full years of ongoing operations as determined on its financial statements; **or**
- [2. Has demonstrated a ratio in excess of 110 percent or greater of operating revenues divided by operating expenses in any of the two previous full years of ongoing operations as determined on its financial statements; or]
- [3.] 2. Is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net **operating** income in any of the two previous full years of ongoing operations as determined on its financial statements or is part of a consolidated group of affiliated corporations, as filed for Federal income tax purposes, that in aggregate has demonstrated positive net **operating** income in any of the two previous full years of ongoing operations as determined on its combined financial statements.

[(c) Returning applicants are not required to meet the conditions of eligibility in (b) above.]

19:31-12.4 Application to the program

(a) Each application submitted by a selling business to the program [, including new, recertification and returning applications,] shall be accompanied by a non-refundable \$2,500 application fee. Complete applications must be received by June 30 for each State fiscal year.

(b) In order for the Department of Treasury, Division of Taxation to issue a certificate, each application submitted to the program shall include: a selling business application which includes

the information set forth in (c) below; a spending certification form attesting to having spent the proceeds of the prior year's sale of tax benefits in accordance with the definition of allowable expenditures; a Buying Business Information Sheet which identifies the buying business name, address, telephone number, the estimated value of benefits to be transferred in an amount equal to at least 80 percent of the surrendered tax benefit and from whom and a business certification; an agreement between the buying and selling business defining the terms of the sale of the certificate; and the Tax Benefit Identification Form which summarizes the accumulated net operating losses and research and development credits authorized to be sold and the value intended to be sold. For determination of eligibility for the program, the initial application package shall also include a selling business application and a spending certification form.

(c) In addition to the material specified in (b) above, a completed application shall include, but is not limited to:

1. – 2. (No change.)

3. [Annual consolidated f] **Financial statements** [prepared by an independent account] for the [three] **two** most recent full years of operation [, including balance sheets, operating statements, statements of cash flow and annual company financial statements for the same periods and/or tax returns for the same periods];

[4. Net income or loss for the three most recent fiscal years;

5. The number of permanent full time jobs created by the applicant over the course of the three most recent calendar years as well as documentation supporting the fact that the applicant will create permanent full-time jobs in the near future;]

Recodify existing 6. and 7. as 4. and 5. (No change in text.)

[8.] **6.** A list of all corporations that form a consolidated group of affiliated corporations as filed for Federal income tax purposes, the number and location of all employees of such corporation(s), and **financial statements for** the two most recent full years of [financial statements for each] **operation**;

[9. An explanation of the actual or potential scientific and technological viability of the product(s), service(s) and/or process(es) produced in New Jersey.

10. A description of how the innovation of the product(s), service(s), and/or process(es) represents a competitive advantage in the business' field;

11. A description of how the proposed or expanded activities in the State of New Jersey can enhance and diversify the State of New Jersey's capacity and competitiveness in the business' field;

12. A description of efforts made during the past two years to secure any form of financial assistance to support its operations;

13.] 7. A representation as to the location of the applicant's primary place of business in an Innovation Zone [or a state-sponsored incubator site];

[14.] 8. [A description of the type of technology business or biotechnology business that the applicant engages in; and] **A description of the applicant's technology or biotechnology business which shall demonstrate that such business is the primary business of the applicant and that the applicant meets the other criteria of the definition of technology or biotechnology business. Where applicable, documentation of protected proprietary intellectual property must be provided;**

9. A list of all full-time employees employed in New Jersey and in the United States at the time of application and copies of most recent year's Federal and New Jersey W-3 forms for applicant, parent company and all related entities, or documentation from a professional employer organization summarizing W-2 forms issued on behalf of the applicant, parent company and all related entities in New Jersey and in the United States for the calendar year prior to the year in which the company files its application and at the time of the application;

10. A list of 100 percent of ownership percent of the applicant by percentage;

11. A copy of the certificate of incorporation for the applicant's company; and

Recodify existing 15. as 12. (No change in text.)

(d) – (e) No change in text.)

19:31-12.5 Evaluation process

(a) When all of the required information is received, the Authority shall perform its own review based on **the standards set forth in N.J.A.C. 19:31-12.3.** [the following minimum criteria:

1. The threshold criteria of eligibility in which the applicant meets the definition of technology business or biotechnology business, and satisfies the standards in N.J.A.C. 19:31-12.3;

2. The actual potential scientific and technological viability of the applicant's business product(s), service(s) and/or process(es) as demonstrated by its:

i. Uniqueness of concept;

ii. Creditability/plausibility of concept; and

iii. Scientific/technological resources of the applicant;

3. The degree to which the innovation of the applicant's product(s), service(s) and/or process(es) created in New Jersey offers a competitive advantage to the business and enhances and diversifies the State of New Jersey's capacity and competitiveness in the business' field;

4. The degree to which the proposed financial assistance will result in growth in permanent full-time employment;

5. The short-term financial resources of the applicant or the inability of the applicant to access capital; and

6. The degree to which the proposed financial assistance demonstrates the prospect of a significant positive change in net income or loss;]

(b) (No change.)

(c) After approval of the tax benefit by the Division of Taxation as evidenced by the issuance of a tax certificate which will be sent to the Authority, the Authority will issue final approval of the grant only upon the receipt of a certificate from the applicant, dated the date of the closing of the sale of the tax benefit certificate that states, among other matters, **the number of employees employed on that date by the applicant in the United States of America and in New Jersey, and** that as of the date of the certificate, the company is operating as a new or expanding emerging biotechnology or technology business and has no current intention to cease operating as a new or expanding emerging biotechnology or technology business. [Returning companies are not required to satisfy the definition of "new or expanding."]

19:31-12.6 Approval process

(a) [Only the members of the Authority can deny an applicant's eligibility in the program] **All applications for eligibility in the program shall be presented to the members of the Authority for approval or denial.**

(b) When the members **approve or** deny a request, the minutes at which such [denial] **determination** occurs are submitted to the Governor.

(c) (No change.)

(d) An applicant may appeal the Board's action by submitting in writing to the Authority, within 20 days from the date of the Board's **action**, an explanation as to how the applicant has met the program criteria. The Authority cannot consider any new **evidence or** information about the project **other than evidence or information that would demonstrate that the applicant met all of the application criteria by the June 30 deadline. Appeals will be handled by the Authority as follows:**

1. The Chief Executive Officer shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board. The hearing officer shall perform a review of the written record and may

require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal;

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his/her finding(s) and recommendation(s) on the merits of the appeal; and

3. The Board shall consider the hearing officer's recommendation(s) and, based on that review, shall issue a final decision on the appeal.

19:31-12.7 Allocation of tax benefits

(a) The Program is authorized to provide no more than \$60,000,000 of tax benefits over each State fiscal year. Of the \$60,000,000 of transferable tax benefits authorized for **each** State fiscal year [2005 and each State fiscal year thereafter, \$5,000,000 shall be allocated for the surrender of transferable tax benefits exclusively among the eligible companies that operate within the boundaries of the innovations zones during State fiscal year 2005, and] \$10,000,000 shall be [so] allocated exclusively among the eligible companies that operate within the boundaries of the innovation zones, **except as provided in N.J.A.C. 19:31-12.7(a)2ii below**, [during fiscal year 2006 and for each State fiscal year thereafter]. In the event the total amount of transferable tax benefits approved exceeds these limitations or any subsequent limitations, the Authority shall allocate the transfer of tax benefits as follows:

1. Each company is limited to a maximum lifetime tax benefit of [\$10] **\$15 million.**

2. The Authority shall allocate the \$10 million designated for eligible companies in innovation zones as follows:

i. For eligible companies in innovation zones, each company is eligible for an allocation of the lesser of \$250,000 or the value of their eligible benefits. After these allocations are made to these companies from the \$10 million innovation zone allocation, any remaining balance of the \$10 million shall be apportioned among eligible companies in innovation zones with unmet eligible benefits on a pro rata basis;

ii. If in any State fiscal year, there is an unused portion of the \$10 million allocated exclusively for companies in innovation zones, that portion shall be available for that State fiscal year for the surrender of transferable tax benefits by new and/or expanding emerging technology and biotechnology businesses that do not operate within the boundaries of an innovation zone; and

iii. The eligible companies in innovation zones with remaining unmet eligible benefits shall participate in the allocation of the remaining pool as set forth in (a)3 below.

3. The Authority shall allocate the remaining tax benefits as follows:

[2.] **i. Businesses with less than \$250,000 in tax benefits will be authorized to sell all of their**

benefits in the current year[.];

[3.] **ii.** Businesses with more than \$250,000 in tax benefits will be authorized to sell at least ~~\$250,000 of their benefits in the current year~~. In each successive year in which a selling business reapplies to the program, the applicant will also be authorized to sell at least 50 percent of the amount sold in the prior year, with a minimum of \$250,000. This portion of the allocation will be in addition to the first \$250,000 in benefits pursuant to the first sentence of this paragraph.]; **and**

[4.] **iii.** **If the total amount of benefits authorized under (a)2 and 3i and ii above exceeds \$60 million, each applicant shall receive a lesser amount on an apportioned basis, otherwise** [A] after the dollars are set aside in the amounts provided in (a)2 and 3i and ii above, the remaining funds available to the program, in that fiscal year, shall be allocated among the businesses with more than \$ 250,000 of tax benefits. The available tax benefits shall be determined by reducing the amount of tax benefits to be transferred for each business by the minimum amount of tax benefits authorized for that business and then multiplying that amount by the following factor:

Numerator of Fiscal Year Dollar Authorization[--] less Total Minimum Tax Benefits Authorized[/] over denominator of Total Tax Benefits Requested to be Transferred[--] less Total Minimum Tax Benefits Authorized

The total minimum tax benefits authorized is the amount authorized for businesses with less than \$ 250,000 of tax benefits plus the minimum tax benefits authorized for businesses with more than \$ 250,000 of tax benefits. The total tax benefits requested to be transferred is the total amount of tax benefits requested to be transferred by all businesses.

[5. For eligible companies in innovation zones, each company is eligible for an allocation of the lesser of \$250,000 or the value of their eligible benefits. After allocations are made to these companies from the \$10 million innovation zone allocation, any available balance of the additional \$5 million in State fiscal year 2005, or of the \$10 million in benefits in State fiscal year 2006 and for each State fiscal year thereafter, shall be apportioned among eligible companies in innovation zones with unmet eligible benefits. The formula to be followed for that apportionment is as follows:

i. An allocation factor shall be calculated by dividing the balance of the additional funds authorized for innovation zones by the amount of the unmet eligible benefits for companies in the zones.

ii. Each innovation zone company's unmet eligible benefits will be multiplied by the allocation factor as detailed in (a)5i above to arrive at the enhanced allocation.

iii. The eligible companies in innovation zones with remaining unmet eligible benefits shall participate in the allocation of the remaining pool for State fiscal year 2005 of \$55,000,000 and \$50,000,000 for each State fiscal year thereafter.

(b) In the event the authorized minimums exceed the authorized annual cap, applicants shall be allocated benefits with priority given to those applicants with less than \$250,000 of tax benefits and to businesses with more than \$250,000 in tax benefits that are reapplying to the program pursuant to (a)3 above.}

19:31-12.8 Recapture of tax benefits

(a) Unless excepted pursuant to (b) below, if a selling business fails to use the private financial assistance received for the surrender of tax benefits as required by this subsection or fails to maintain a headquarters or a base of operation in the State during the five years following receipt of the private financial assistance, the seller shall forfeit and remit the face value of the tax credit certificate received for the surrender of tax benefits to the Department of Treasury in accordance with the provisions below.

(b) The forfeiture requirement in (a) above pertaining to the failure to maintain a headquarters or a base of operation in this State shall not be applicable if the failure is due to the liquidation of the new or expanding emerging technology or biotechnology business.

(c) In the event a selling business fails to maintain a headquarters or base of operation in the State during the five years following the receipt of the private financial assistance, the Authority will allow the selling business to retain 20 percent of the face value of the tax credit certificate for each full year the business remained in New Jersey providing the business forfeits and remits to the Department of Treasury 20 percent per year on a cumulative basis for each year the business had remaining on the five year requirement to maintain a headquarters or base of operation in New Jersey.

Example:

Move within 1 year of disbursement, recapture percentage equal to 100% of the face value of the tax credit certificate

Move within 2 years of disbursement, recapture percentage equal to 80% of the face value of the tax credit certificate

Move within 3 years of disbursement, recapture percentage equal to 60% of the face value of the tax credit certificate

Move within 4 years of the disbursement, recapture percentage equal to 40% of the face value of the tax credit certificate

Move within 5 years of the disbursement, recapture percentage equal to 20% of the face value of the tax credit certificate

(d) In the event a selling business fails to use the tax benefits or cash benefits as required by the Act, the Authority shall require the selling business to remit to the Department of Treasury 100 percent of the amount of the unallowable expenditures.

BOND RESOLUTIONS

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

RE: Higher Education Public Private Partnership Program
Montclair State University
Student Dormitory and Dining Facility (567,000 SF, \$245 million)

DATE: May 10, 2010

Summary

The Members are asked to authorize the Authority's staff to approve Montclair State University's ("Applicant") application to develop a 567,000 SF facility that will include a 1,978 bed student dormitory and a 25,000 SF student dining facility under the Higher Education Private Public Partnership Program, P.L. 2009, c. 90.¹ The facility will be developed on approximately 5.8 acres, which includes 5.42 acres of land that the State will deed to the Applicant for nominal consideration. The project's total development cost will not exceed \$245 million. Under the Act, the "Authority shall review all completed applications" and "[n]o project shall be undertaken until final approval has been granted by the [A]uthority." The staff's approval will be subject to the Applicant submitting additional items that are outlined below.

Background

The Authority's Scope of Review

Under the Program, the Authority must review and approve an application, which must contain the following items: (1) a full description of the project; (2) a public-private partnership agreement between the State or county college and the private developer; (3) the estimated costs and financial documentation for the project; (4) a timetable for completion of the project extending no more than five years after consideration and approval. The financial documentation shall include a long range maintenance plan that will "specify the expenditures that qualify as an appropriate investment in maintenance." In addition, the Authority may impose "other requirements that the [A]uthority deems appropriate or necessary."² Staff has reviewed the project documents to confirm that the private partner assumes full financial responsibility for the construction of the project and that the Applicant has no financial responsibility for the construction of the project.

¹ A summary of the Higher Education Public Private Partnership Program is attached as Exhibit A.

² Attached as Exhibit B to this memo is a detailed project description and financial analysis addressing the requirements of the program.

Project Description

Last year, the Applicant issued a request for proposal to select a team to develop a student dormitory and dining facility on its campus. As a result of the process, the Applicant selected Provident Resources Group, Inc. ("Provident") to serve as the project owner and Capstone Development Corp. ("Capstone") and its affiliated companies to develop, manage, and supervise the construction of the proposed project. Provident, a Georgia non-profit corporation that specializes in student housing, has formed a limited liability company, Provident Group – Montclair Properties L.L.C. ("Montclair Properties"), with Provident as the sole member, to own the improvements and issue tax exempt bonds to finance the project. Capstone, an Alabama based company, has over 20 years of experience developing student housing on and off college campuses; it has developed over 53,000 beds totaling over \$2.4 billion for 54 higher education campuses.

The project will contain 2 buildings with 1,978 beds for students, a 25,000 SF dining facility to seat 600 persons, and various student amenities (e.g., multipurpose space, community kitchen, recreation and study spaces, television lounges, and outdoor courtyards). Each suite will contain a complete bathroom, closets, required furniture, space for 1 refrigerator and 1 microwave, and either 1 or 2 bedrooms, depending upon the suite type. The unit mix for each building is outlined in the following table:

	Building One			Building Two		
	No. Units	No. Students	Total Students	No. Units	No. Students	Total Students
Shared Suites (1 bedroom shared + bathroom)	354	2	708	236	2	472
1-Bedroom Suites (2 bedrooms – shared bathroom)	133	2	266	231	2	462
RA Units	30	1	30	40	1	40
Subtotal	517		1004	507		974
Total Units: 1024			Total Students: 1978			

Building one contains the 25,000 SF dining facility.³

Summary of the Partnership Agreements

Each party's role, responsibility and benefits in the transaction are summarized below:

- **Applicant.** The Applicant will lease the land to Montclair Properties for 40 years. The Applicant has complied with the State House Commission's conditions to receive fee simple title from the State (i.e., producing an appraisal valuing the 5.43 acres at less than \$500,000). Under the lease, the Applicant will receive \$250,000 in prepaid rent (to be paid prior to project completion). During the operation of the project, the Applicant has agreed to subordinate payment of certain annual program (cost related to operating the student resident life programs) and operating expenses (e.g., water, gas, electric, cable

³ Attached as Exhibit C is to this memo are: a map of the campus locating the site, building schematics and elevations.

television, internet, trash removal) ("subordinated expenses") to the annual repayment of the bonds that will be issued to pay for the improvements ("A series bonds"). The program expenses are capped at \$760,000 annually, with an annual increase allowance of 4%. Operating expenses are uncapped. In addition, the Applicant will receive an annual lease payment of \$843,000 from surplus cash flow.

Upon construction completion, the Applicant will lease back the dining facility from Montclair Properties and enter into an agreement with a food service provider that will assume the responsibility to repay the proportionate share of the A series bonds, operate and maintain the facility. As outlined in the project summary attached to this memo, the Applicant will remain involved in the design, budgeting (development and operations), and student programming of the building, but will not have any obligation to pay any of the debt service for the improvements or deferred development fee. Upon repayment of the A series bonds, the improvements will be deeded to the Applicant for nominal consideration.

- **Provident/Montclair Properties.** Under the lease, Montclair Properties must engage Capstone as the developer, property manager, and construction supervisor; issue tax exempt bonds; and assume responsibility for the debt service. The A series bonds will have an interest rate between 6% and 7%, a term of approximately 32 years, and not exceed \$221.4 million. In addition, Provident will issue bonds as deferred compensation for Capstone ("B series bonds"). The B series bonds will carry an interest rate not to exceed 9.25% and be paid over 30 years. For these services, Montclair Properties will be paid 25-40 basis points of the construction financing, and an annual fee which will be the greater of 1% of the gross operating income of the project or \$150,000.
- **Capstone.** Capstone will lead the team to design, construct, and manage the project. It will be responsible to develop the building for the budgeted amount and meet the required deadlines for building delivery so that the Applicant may use the facility at the start of the 2011-12 academic year. For its services as developer, Capstone will receive 10% of the total development costs (approximately \$24 million), paid as follows: \$790,312 paid in cash during the construction, and \$23.6 million in B series bonds as deferred compensation, also released during the construction period. The B series bonds will be paid after the following items are paid: operating expenses, A series bonds annual debt service, subordinated operating expenses, deferred management fee, but concurrently with the subordinated program expenses and ground rent; if there is insufficient surplus cash to pay the deferred compensation, the unpaid amount is deferred and accrues simple interest. Because the B series bonds are non-recourse to the land and improvements, at the end of the bond term (or lease term) any unpaid amount is not the Applicant's or Montclair Property's obligation. Capstone's construction and property management companies will also be compensated for their services separately; the management company has agreed to subordinate 50% of its fee to operating costs and the A series bonds annual payment, and the fee will be paid from 50% of the surplus cash flow. In the event that there is insufficient cash to pay the subordinated management fee, it will accrue to the following year.

To ensure that all the fees paid to Capstone and Provident comply with tax exempt bond requirements, an analysis will be prepared to ensure that the fees are "reasonable." If required, the fees will be adjusted to maintain the bond's tax exempt status.

As part of its development team, Capstone has engaged the following New Jersey firms: Paulus, Sokolowski and Sartor as the architect of record, and Terminal Construction as the construction manager.

Project Financing and Feasibility

The project's development budget, construction costs and developer's compensation are within the existing market conditions (taking into account prevailing wage) to develop a commercial facility of this type. The following chart summarizes the project's sources and uses:

Uses		SF Cost	% Proj.
Acquisition (Initial Ground Rent)	\$ 250,000	\$ 0.44	0.10%
Improvements	\$ 145,918,000	\$ 257.35	59.56%
Soft Costs	\$ 11,367,000	\$ 20.05	4.64%
Contingency	\$ 13,391,000	\$ 23.62	5.47%
Financing Fees	\$ 49,686,000	\$ 87.63	20.28%
Development Fee	\$ 24,388,000	\$ 43.01	9.95%
Total Uses	\$ 245,000,000	\$ 432.10	100%

Sources		Rate	Term
A Series Bonds	\$ 221,400,000	6.25% ⁴	32
B Series Bonds	\$ 23,600,000	9.25%	30
Total Sources	\$ 245,000,000		

The underwriting currently assumes that the A series bonds will be Baa rated; because Capstone is receiving the B series as deferred compensation, the B series bonds will be unrated. Capstone will assume the risk that the deferred compensation of \$23.6 million may not be paid from the project's surplus cash flow.

Except for the payment of subordinated expenses, the operating proforma included market assumptions regarding operating costs and increases of costs year over year. The proforma shows that the project can meet the required debt service coverage (1.20), taking into account the subordinated program and operating expenses.

⁴ This is the estimated interest rate during the bond term.

The project's surplus cash flow will be distributed as follows:

Subordinated Operating Expenses. The Applicant's subordinated operating expenses (e.g., water, gas, electric, cable television, internet and trash) will be paid from surplus cash flow after the A series bond debt service payment.

50% of surplus cash will pay the Subordinated Management Fee. After payment of A series bonds debt service and subordinated operating expenses, Capstone's affiliated management company will receive its deferred management fee from 50% of the surplus cash flow; in the event that 50% of the surplus cash is insufficient to pay the deferred fee, it will accrue to the following year.

50% of the surplus cash will pay the Deferred Compensation (B series bonds). After repayment of subordinated operating and program expenses, and deferred management fee, Capstone shall receive its annual payment on the B series bonds, or 50% surplus cash flow, whichever is less. Any unpaid balance shall accrue simple interest.

Bond Redemption. If there is any remaining surplus cash flow after payment of the management fee, subordinated program expenses, lease payments and debt service on the B series bonds, the balance will be used to redeem bonds.

50% of surplus cash will pay Subordinated Program Expenses. After payment of the A series bonds debt service and subordinated operating expenses, the Applicant's subordinated program expenses will be paid from 50% of the surplus cash flow, up to \$760,000 (increasingly annually at 4%). If 50% of the surplus cash is insufficient to repay the subordinated program expenses, the unpaid amount shall accrue interest at the same rate of interest of the B series bonds.

50% of the surplus cash will pay the Lease Payment and other expenses. After repayment of subordinated operating and program expenses, and deferred management fee, the Applicant will receive \$843,000 annually as a lease payment, and receive compensation for any other expense not previously captured in the operating or program expenses.

The market study supports the Applicant's assumptions regarding market demand and the proposed student housing charges, and related increases. Although the study recommended pursuing student housing development in phases, the Applicant has chosen to fulfill the existing student housing need with one project.

After reviewing the project's budget, operating proforma, and market analysis, the Real Estate Division's staff concludes that the project is financially feasible.

Long Term Maintenance Plan

As part of its financial documentation, the Applicant submitted a long term maintenance plan which included standards for the calculation of funds for replacement over the useful of the project, details for the initial calculation of need replacement funds (e.g., estimated an item's useful life, replacement costs, quantity and total costs), the total reserve amount need annually (added to cumulative amounts), and a schedule for use of the replacement reserve over the life of the project. The replacement reserve funds will be held in a separate account and only used for the designated purpose. These submitted items comply with industry standards for replacement reserve accounts and capital maintenance plans and the long term maintenance guidelines prepared by Jones Lang LaSalle on behalf of the Authority.

Project Schedule

The Applicant has proposed a very aggressive schedule to complete the project. As proposed, the development of 567,000 SF must be completed prior to the start of the 2011-12 academic year. Although the developer may be penalized for failure to meet the schedule, the development agreement permits these penalties to be paid from the project's development contingency.

Other Requirements of the Act

The applicant has produced evidence and has certified to the following requirements of the Act:

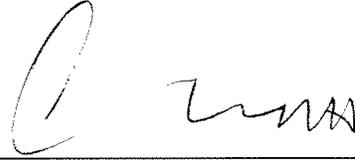
- The private partner will pay prevailing wage during the construction and operation of the project (as required)
- The private partner will enter into the required project labor agreements
- The private partner will post the required bond (or have the bond posted on its behalf)
- The private partner will incorporate green building standards in the building design by meeting LEED Silver standards

Staff recommends that the Board delegate final approval of the application to appropriate staff (e.g., Chief Executive Officer, Senior Vice President of Operations, or the Director of Real Estate), upon the Applicant meeting the following conditions:

- Completion of the site acquisition from the State
- Submittal, in final form, of the development and operating budget and transaction documents that reflect the agreement between the parties (substantially the same as the documents reviewed by the Authority).
- Payment of the application fee, upon the Authority's adoption of rules, estimated at \$298,750 for this project
- Submittal of other items that the Applicant must meet in order to obtain the Authority's final approval.

Recommendation

In summary, I ask for the Members to authorize the Authority's staff to approve the application upon meeting the conditions outlined in this memo.



Caren S. Franzini
Chief Executive Officer

Attachment
Prepared by: Juan Burgos

**EXHIBIT A: HIGHER EDUCATION PUBLIC PRIVATE PARTNERSHIP
PROGRAM SUMMARY**

**NEW JERSEY HIGHER EDUCATION PUBLIC PRIVATE
PARTNERSHIP PROGRAM
P.L. 2009, c. 36, N.J.S.A. 18A:64-85**

On July 28, 2009, Governor Corzine signed into law the New Jersey Economic Stimulus Act of 2009, which now permits a state or county college (hereinafter "college") to enter into a private-public partnership "that permits [a] private entity to assume full financial and administrative responsibility for the on-campus construction, reconstruction, repair, alteration, improvement or extension of a building, structure, or facility of the institution" so long as the college retains ownership of the land, and the project is 100% privately financed. N.J. Stat. 18A:64-85a.

The Act requires that the Authority "review all completed applications, and request additional information as is needed to make a complete assessment of the project." N.J. Stat. 18A:64-85f(3). A complete application must be submitted for approval by February 1, 2011¹; the projects must be completed within five years of the Authority's approval. N.J. Stat. 18A:64-85f(1) and (2)(a)(iv).

Under the Act, the application must contain the following items:

- a public-private partnership agreement between the State or county college and the private developer;
- a full description of the project
- the estimated costs and financial documentation for the project
- a timetable for completion of the project extending no more than five years after consideration and approval.

N.J. Stat. 18A:64-85f(2)(a). The financial documentation must include a long term maintenance plan which that will "specify the expenditures that qualify as an appropriate investment in maintenance." N.J. Stat. 18A:64-85f(2)(b). In addition, the Authority may impose "other requirements that the authority deems appropriate or necessary." N.J. Stat. 18A:64-85f(2)(a). In support of the application, the Authority requests applicants to submit documentation regarding the program's following requirements:

- land ownership by the applicant
- private financing by the applicant's partner
- payment of prevailing wage
- using LEED and New Jersey green building standards for the improvements
- obtaining the required bonds
- entering into the required project labor agreements.
- DPMC registration

A checklist of the Authority's application requirements is attached to this summary.

¹ Upon signature by the Governor or when the State Senate convenes next, this date will change to February 1, 2012.

**Higher Education Private Public Partnership
Application Requirements
[One Copy, submitted in 3 Ring Binder]**

1. Applicant Information

- a. Institution Name
- b. Primary Business Address
- c. Contact Person Title, Telephone, Email and Fax
- d. Tax ID Number
- e. Proposed Ownership Structure
- f. What, if any, Board of Trustees action is required to proceed with the project

2. Development/Operator Description

Include a narrative [not to exceed 10 pages, single spaced, 12 point font] that addresses the following items:

- a. Development Experience (for all team members)
- b. Operation and Management Experience
- c. Financial Capacity
 - i. Development
 - ii. Operating
 - iii. Bonding Capacity (no public funds)
- d. List of Prior Similar Projects with Contact Information

3. Project Narrative

Include a narrative [not to exceed 10 pages, single spaced, 12 point font] that addresses the following items:

- a. Project Description
 - i. Describe the Existing Conditions and Project Need
 - ii. Describe the Proposed Uses (e.g., residential, commercial, educational, other)
 - iii. Describe compliance with NJ DCA green building manual and/or LEED

iv. Describe the process used to establish the guidelines and need of the long term maintenance plan.

~~b. Provide Schematics (site plan, elevations, floor plans)~~

c. Provide Draft Specifications

d. Provide a Detailed Project Schedule

i. Narrative

1. Describe Current Status
2. Describe Major Milestones
3. Describe Next Steps
4. Describe how the project will meet the 5 year deadline (from date of approval), and any tactics or strategies that will be employed to mitigate schedule slippage

ii. Provided a Detailed Schedule with Tasks and Major Milestones (Gantt Chart)

4. Financing

Include a narrative [not to exceed 5 pages, single spaced, 12 point font] that addresses the following items:

- a. Narrative Describing Financing Structure
- b. Financing Commitments (attach of excuted binding commitments)
- c. Budgets

- i. Sources and uses statement with notes
- ii. Operating Proforma with notes

- d. Long term management plan narrative. Describe the assumptions used ot develop the plan.
- e. Long Term Maintenance Plan (attach a copy)

Exhibits

- Land Lease and Board of Trustees approval resolution
- Development Agreement and Board of Trustees approval resolution
- Long Term Management Plan
- Registration

- Evidence of Labor Agreement
 - Development
 - Operation and Maintenance
-

**EXHIBIT B: MONTCLAIR STATE UNIVERSITY DORMITORY AND
DINING FACILITY PROJECT SUMMARY AND FINANCIAL
ANALYSIS**

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
567,000 SF Student Housing and Dining Facility**

Applicant	Montclair State University 1 Normal Avenue Montclair, NJ 07043
Applicant's Contact	Donald D. Cipullo, Vice President for Finance and Treasurer
Project Description	<p>The Applicant proposes the private development of a 567,000 SF dorm that will include 1,978 student beds and a 25,000 SF student dining facility. The project will be developed on 5.8 acres for an amount not to exceed \$245 million. The buildings will be a LEED Silver certified building.</p> <p>The development will contain 2 buildings. Each building will have 4 wings with a central core and will contain various student amenities (e.g., game room, study areas, courtyards, atriums, multi-purpose rooms), and program administrative space. The first building includes the dining facility.</p>
Site Control	<p>For nominal consideration, the Applicant will receive a deed from the State of New Jersey for a 5.43 acre parcel that it will lease to the project owner, Provident-Resources-Montclair Properties, L.L.C., for approximately 40 years, or until the debt service is retired. In addition, the Applicant will also lease to the Provident an additional .4 acres owned and titled to the Applicant by deed. Currently, the Applicant is using the proposed site for parking.</p> <p>For the Applicant to receive the deed to the parcel from the State, the New Jersey Educational Finance Agency (EFA) has transferred 4 acres to the State. The Applicant has provided the unrecorded deed between EFA and the State for the 4.0 acres. The State already has in its possession 1.43 acres that will be used for the project.</p> <p>On December 17, 2009, the State House Commission (SHC) approved the transfer of 5.43 acres to the Applicant once it provided an appraisal valuing the land at less than \$500,000. The Applicant has provided that appraisal to SHC. The land transfer is pending formal execution of the deed from the State to the Applicant.</p>

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
567,000 SF Student Housing and Dining Facility**

As a requirement of approving the project, the Applicant will need to produce ownership of the 5.8 acres.

Method Used to Select the Private Partner

In July 2009, the Applicant issued an open Request for Qualification and Proposal to select the developer and owner. Capstone Development Corp. and Provident Resource Group, Inc. were selected through that process.

The Applicant and the selected developer had a previous business relationship to develop off-campus student housing. In December 2009, the *Bergen Record* reported that the off campus project was no longer proceeding. The Applicant has confirmed that the off campus project will most likely not proceed after the development of this proposed project on campus. Any further student housing development by the Applicant would have to comply with specific requirements of the ground lease.

Summary of Sources and Uses

Uses		
Item	Amount	% TDC
Acquisition	250,000	.10%
Improvements	145,918,000	59.65%
Professional Services	11,367,000	4.64%
Financing and Other Costs	49,686,000	20.28%
Contingency	13,291,000	5.47%
Developer Fee	24,388,000	9.95%
Estimated Total Development Costs (not to exceed)	245,000,000	100%
Sources		
A series bonds (Project Costs)	221,400,000	6.25% for 32 yrs ¹
B series bonds (Deferred Fee)	23,600,000	9.25% for 30 yrs ²

Summary of Financing

The owner will issue 2 series of tax-exempt bonds as follows:

¹ This will be the average interest rate during the bond term.

² The B series bonds will have an approximate term of 30 years, but any deferred amounts may be paid until the end of the lease term, which is 40 years.

**Higher Education Private Public Partnership Application
 Project Summary
 Montclair State University
 567,000 SF Student Housing and Dining Facility**

Series A:
 Not to exceed \$221,400,000, with 32 year term and an interest rate that will not exceed 7%. These bonds will be used to pay for all development costs except for the deferred development fee. These bonds will be in first position.

Series B:
 Not to exceed \$23,600,000, with a 30 year term at 9.25% interest. These bonds will be non-recourse to the property or the improvements, and will be paid from available cash flow. Unpaid balances will accrue and defer with simple interest until the end of the lease term (40 years).

The Partnership Agreement

Applicant's Benefits, Roles & Responsibilities in the Project

Applicant's Benefits, Roles, and Responsibilities During Development

The Applicant will lease the land to the project owner, who in turn will engage the developer to construct the improvements under the terms of the development agreement. The lease term will be 40 years. At closing, the Applicant will receive \$250,000 as an initial lease payment.

The Applicant will approve:

- The construction drawings and specifications
- The project budget
- Applicant requested change orders.

The developer cannot be replaced by the owner without the Applicant's consent and the developer may not assign the development agreement without the Applicant and owner's consent.

Upon the project's completion, the Applicant may retain rights to all of the applicable project documents (e.g., drawings, specifications, consultant work product).

The Applicant will lease the improved dining facility

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
567,000 SF Student Housing and Dining Facility**

from the owner, and then enter into an agreement with a food service provider to operate the dining facility.

Applicant's Benefits, Roles and Responsibilities during Project Operations

- Under the Lease, the Applicant is not "required to render any service of any kind to the Lessee or any other person whatsoever and shall not be required to make payments of any kind" except as provided for in the Lease.
- During the term of the lease, MSU will receive the following cash flow from the project (after payment of the non-subordinated operating expenses and A series debt service):
 - Payment of subordinated operating expenses (e.g., electric, gas, water, cable television, internet service, trash removal)
 - 50% of surplus cash to repay subordinated program expenses (expenses for the resident life programs); these expense are capped at \$760,000 annually with an annual 4% increase), and any unpaid amount will accrue interest; This is paid concurrently with the deferred management fee
 - 50% of surplus cash to pay \$843,000 per year as rent, plus any other additional expenses not captured in the subordinated operating and program expenses; this is paid concurrently with the deferred compensation (B series bonds)

During the lease term:

- The owner cannot replace the property manager without the Applicant's consent

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
567,000 SF Student Housing and Dining Facility**

- The Applicant may exercise a right of first refusal if the owner exercises the right to transfer the improvements;
- The Applicant will retain control of the student resident life program
- The Applicant will participate in the Advisory Committee which will establish the annual operating and capital budgets.

At the end of the lease term, or upon the retirement of the A series bond debt service (whichever comes first), the improvements will be turned over to the Applicant for nominal consideration.

For the benefit of the project, the Applicant will:

- Make the project the housing of choice for incoming freshmen and sophomores (the students reserve the right to opt out)
- Discontinue its hotel program, not have triple occupancy in other student housing facilities, and close Stone and Webster Halls, unless the project is 95% occupied
- Operate the student resident life program in the project
- License the residential units to the student and enforce the terms of the license agreement
- Collect student housing fees and other fees and charges
- Provide the same services to students as the Applicant does in its other student housing facilities
- Include the project in its student housing inventory and student housing marketing material

The Applicant also agrees not to develop competing student housing facilities unless it can show, through an independent analysis, that the additional housing will not impact the financial viability of this proposed project.

Project Owner

Provident Group-Montclair Properties, L.L.C. (PGMP), is a single member limited liability company that will own the improvements. Provident Resource Group, Inc., a Georgia a non-profit corporation that specializes

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
567,000 SF Student Housing and Dining Facility**

	<p>in providing student housing, will be the sole member of PGMP. To develop and operate the project, PRMP will enter into the following agreements:</p> <ul style="list-style-type: none"> • Ground lease with the Applicant • Development Agreement with the Developer and Applicant • Management Agreement with the Capstone On-Campus Management, LLC, and the Applicant • Sublease the dining facility to the Applicant. <p>Under the Lease, the owner's obligation to finance the project "shall not be deemed conditioned upon or limited by the sufficiency, amount or availability of Bond proceeds, other financing, revenue or other funds." In addition, the owner must:</p> <ul style="list-style-type: none"> • Develop the improvements according to the terms of the development agreement • Only use the improvements for the permitted use (e.g., as a student housing facility, with its related uses) • Maintain and insure the property • Pay the operating expenses, taxes and assessments, and retire the A and B series bonds. • Comply with all required state laws <p>The owner cannot assign the lease without the Applicant's consent. In the event that the owner seeks the Applicant's consent to transfer or assign the lease, the Applicant retains an optional right of first refusal to accept the transfer/assignment of the lease.</p>
<p>Owner's Compensation</p>	<p>As the owner, PRMP will receive the following:</p> <p>During development: at the financial closing, 25-40 basis points (of the project financing), which is between \$550,000 and \$880,000 (based on \$220 million TDC).</p> <p>During Operations: the greater of 1% of the annual gross revenue or \$150,000 (until the lease expires or the A series bonds are retired, whichever comes first).</p>
<p>Development Team</p>	<p>Capstone Development Corporation (CDC), an Alabama corporation. Over 20 years the firm has</p>

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
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developed 53,339 beds, totaling \$2.42 billion in development for 54 higher education campuses.

College Town Corporation (CTC). An affiliate of CDC, will provide construction consulting services to the project. It has "managed" construction for 30,000 beds of student housing on 50 college campuses.

Capstone On-Campus Management (property manager). An affiliate of CDC, it will provide property management services to the completed project. The initial term of the management agreement is 15 years. COCM currently manages 13,000 beds on 13 college campuses. As part of the project financing, the property manager has agreed to defer 50% of its management fee to the A series bond payments.

Design Collective, Inc. (Design Architect). The firm's principals have designed 2 student housing projects for John Hopkins University.

Paulus, Sokolowski and Sartor (Architect of Record). This is a NJ architectural and engineering firm with extensive environmental, engineering, and commercial architectural experience, but do not list student housing within its experience background.

Terminal Construction (TC) will be the construction manager/general contractor for the project. TC has experience construction academic facilities with other New Jersey colleges.

Developer's Compensation

During construction, the developer will receive cash compensation of approximately \$790,000 (paid in installments). In addition, the developer will receive \$23.6 million in tax exempt bonds (B series bonds). The B series bonds will be paid over 30 years, and will be paid in this order of priority:

1. Operating expenses (excluding subordinated housing and operating expenses)
2. A series bonds debt service
3. The Applicant's subordinated operating

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
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- expenses
4. The Applicant's subordinated program expenses (capped at 760,000 with a 4% annual increase) and the deferred management fee (these are paid concurrently each from 50% of surplus cash flow; i.e., 50% of cash flow for the deferred management fee and 50% surplus cash flow for the subordinated program expenses)
 5. The B series bonds (actual debt service due or 50% of surplus cash, whichever is less) and the Applicant's lease payment (\$843,000) and other expenses (these are paid concurrently each from 50% of surplus cash flow; i.e., 50% for the B series bonds, 50% for the lease and other payments).

In the event that there is insufficient funds to pay the B series bonds, the unpaid amount will be deferred and accrue simple interest. Because the series B bonds are nonrecourse to the land and improvements, at the end of the bond or lease term any unpaid bond amount will be written off as a bad debt by the bond holder.

Financial Analysis

Financial Review

Development Costs

The project development costs are reasonable considering the size and scope of the development and the prevailing wage requirements. Construction cost for the improvements are estimated at \$258 SF.

The development fee is also reasonable considering the developer is receiving approximately \$790,000 in cash, with an additional \$23.6 million in tax exempt bonds to be paid over 30 years as deferred compensation. The developer assumes the risk that the project does not have sufficient cash flow to pay the deferred fee bonds (B series bonds). In addition, the cash and deferred fee of approximately 10% of the project's total development cost are reasonable in the existing market. However, the project will receive an opinion regarding the reasonableness of the fees and the fees may be lowered so that the bonds will maintain their tax exempt status.

**Higher Education Private Public Partnership Application
Project Summary
Montclair State University
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	<p>Operating Proforma</p> <p>The Applicant has agreed to subordinate payments of various housing and operating expenses to the repayment of the A series bonds. With this concession, the project is able to support the A series bonds with a debt service coverage ratio of 1.20 (which is required by the Bond Indenture).</p> <p>The assumptions regarding annual income and expense increase meet current market underwriting conditions.</p> <p>The market study supports a demand for the number of beds in the proposed development and the proposed student charges. Although the study recommended pursuing the development of student housing in phases, the Applicant has chosen to fulfill its current need in one project.</p>
<p>Long Term Maintenance Plan</p>	<p>The Applicant submitted a long term maintenance plan that addresses the required capital improvements necessary during the project's useful life, and shows adequate reserves to address long term capital needs.</p>
<p>Other Requirements of the Program</p>	
<p>Project Schedule</p>	<p>The Applicant included a schedule reflecting Completion of the project within 5 years.</p>
<p>Prevailing Wage</p>	<p>The Applicant has certified that it will require the payment of prevailing wage during the construction and operation of the project. The project documents include this requirement.</p>
<p>Project Labor Agreement</p>	<p>The Applicant has certified that it will require a project labor agreement during the construction and operation of the project.</p>
<p>DPMC Registration</p>	<p>The application included the DPMC registration of the required professionals currently on the development team.</p>
<p>Bond</p>	<p>As required, the Applicant certified that a bond will be posted.</p>
<p>Green Building</p>	<p>The Applicant has stated that the building will meet the LEED Silver requirements, which is consistent with the interim green building guidelines issued by the Department of Community Affairs and LEED requirements.</p>

**Higher Education Private Public Partnership Application
Project Summary
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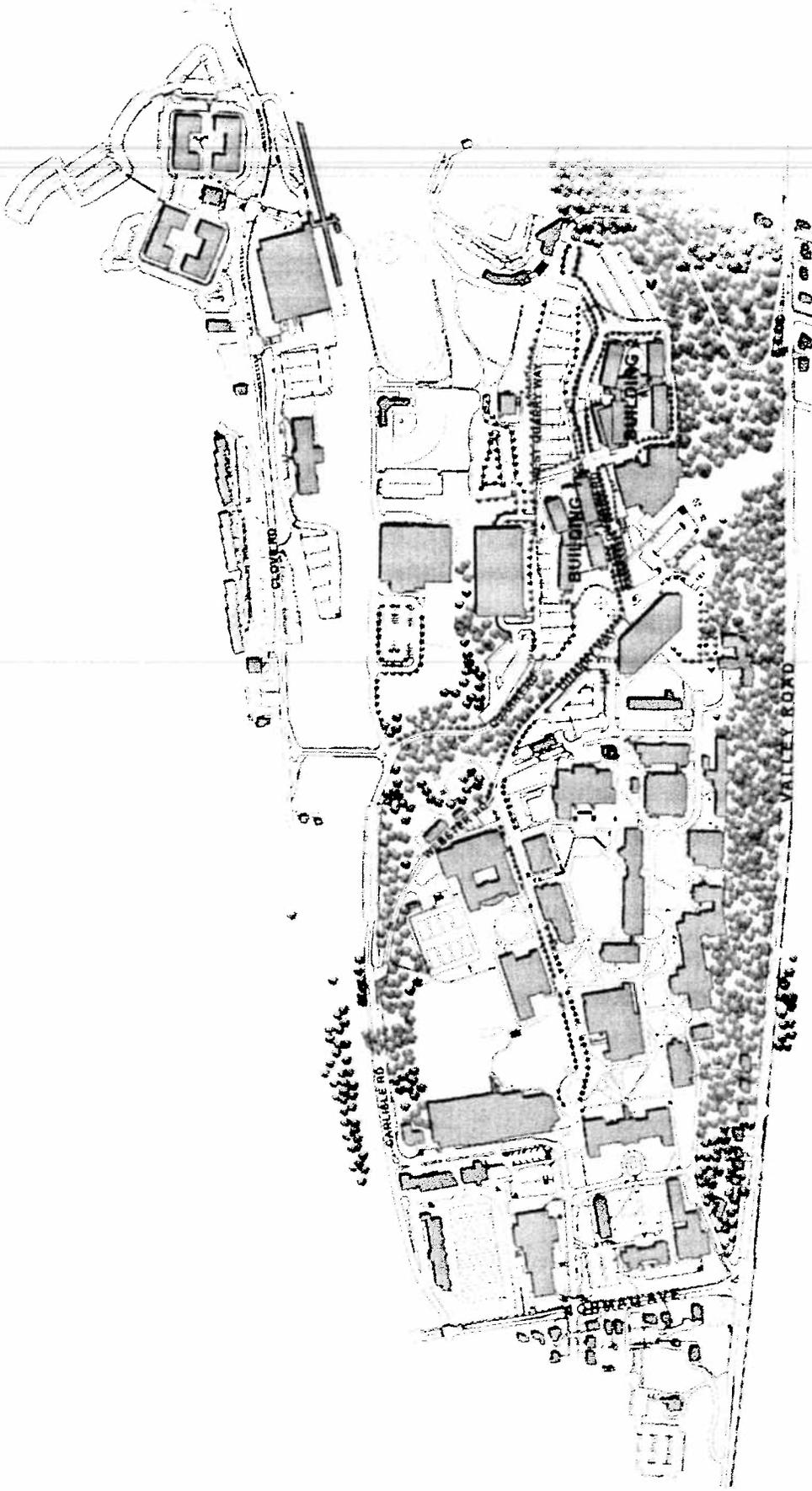
Recommendation

The Real Estate Division recommends that the Board authorize staff (e.g., CEO, Senior Vice President of Operations or the Real Estate Director) to approve the project under the Act, and collect the required fee, after the Applicant satisfies the following conditions:

- Completion of the site acquisition from the State
- Submittal, in final form, of the development and operating budget and transaction documents that reflect the agreement between the parties (substantially the same as the documents reviewed by the Authority).
- Payment of the application fee
- Submittal of other items that the Applicant must meet in order to obtain the Authority's final approval.

Prepared by: Juan Burgos, Sr. Project Manager, Real Estate Division

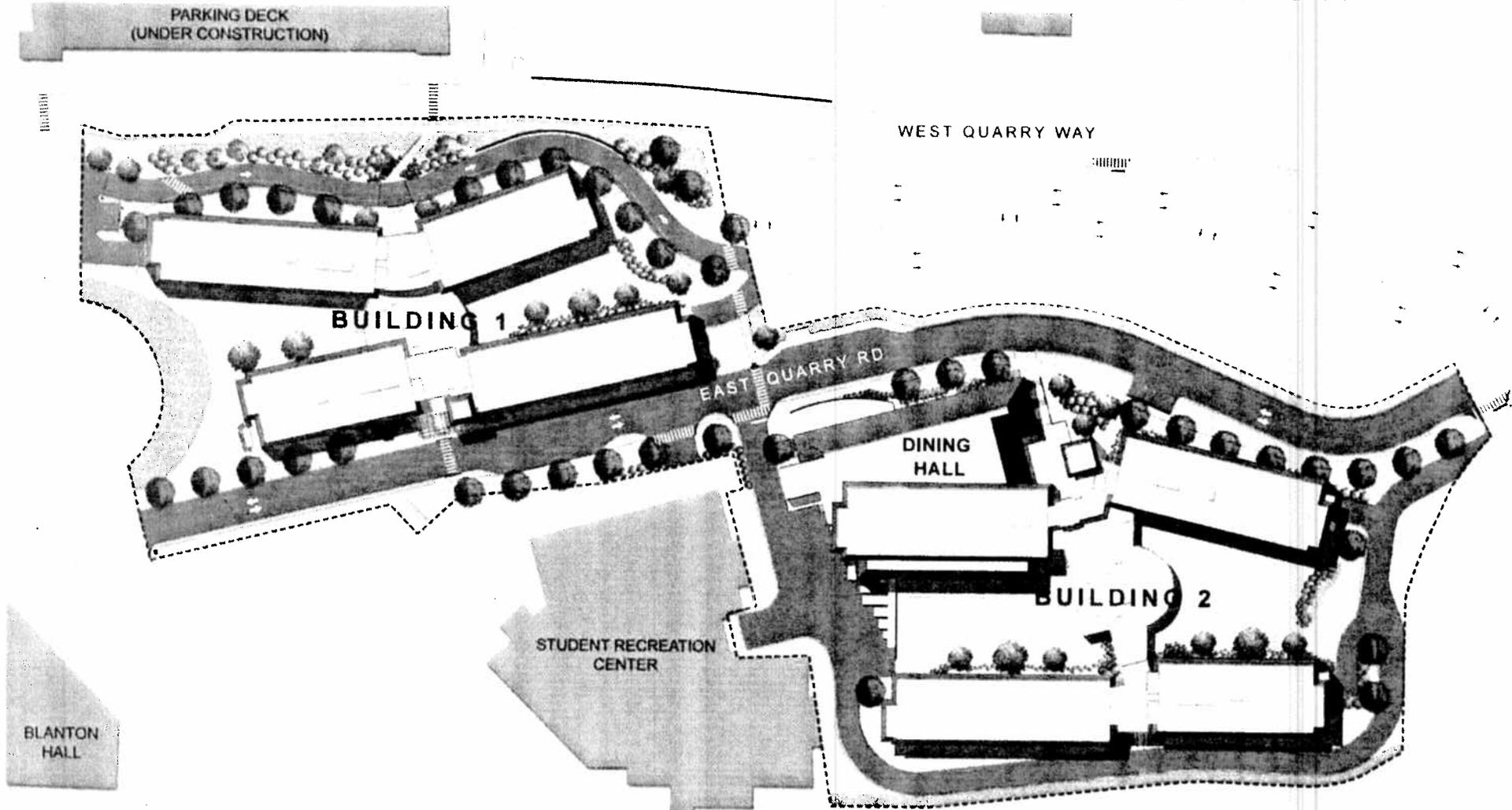
EXHIBIT C: PROJECT MAP, SCHEMATICS AND ELEVATIONS



ILLUSTRATIVE SITE PLAN



MONTCLAIR STATE
UNIVERSITY



BLANTON
HALL



ARCHITECTURE PLANNING INTERIORS



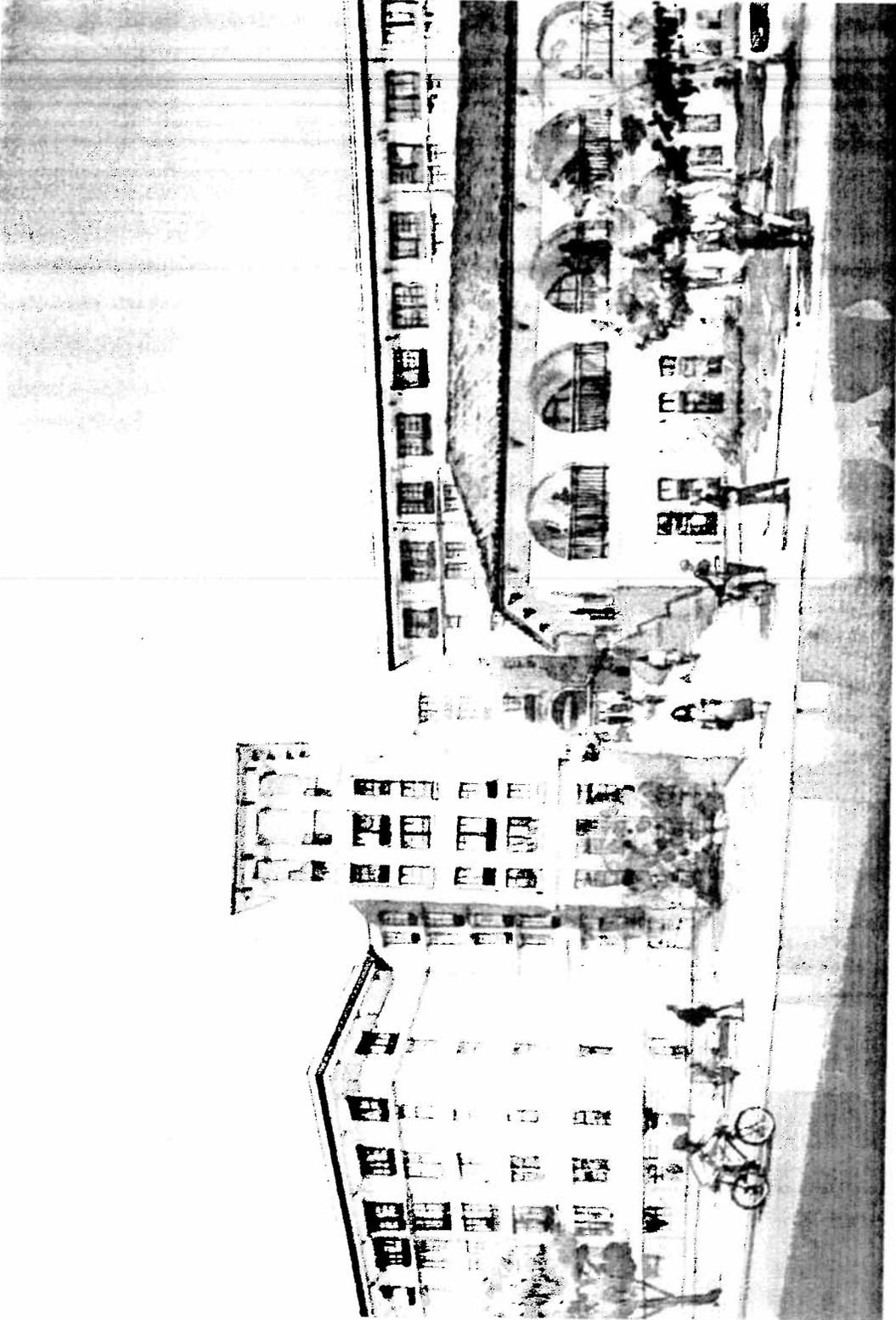
Hillside - Typical Level



Fig 10
12.10.2009

ARCHITECTURE PLANNING INTERIORS





12.10.2009

ARCHITECTURAL PLANNING INTERIORS

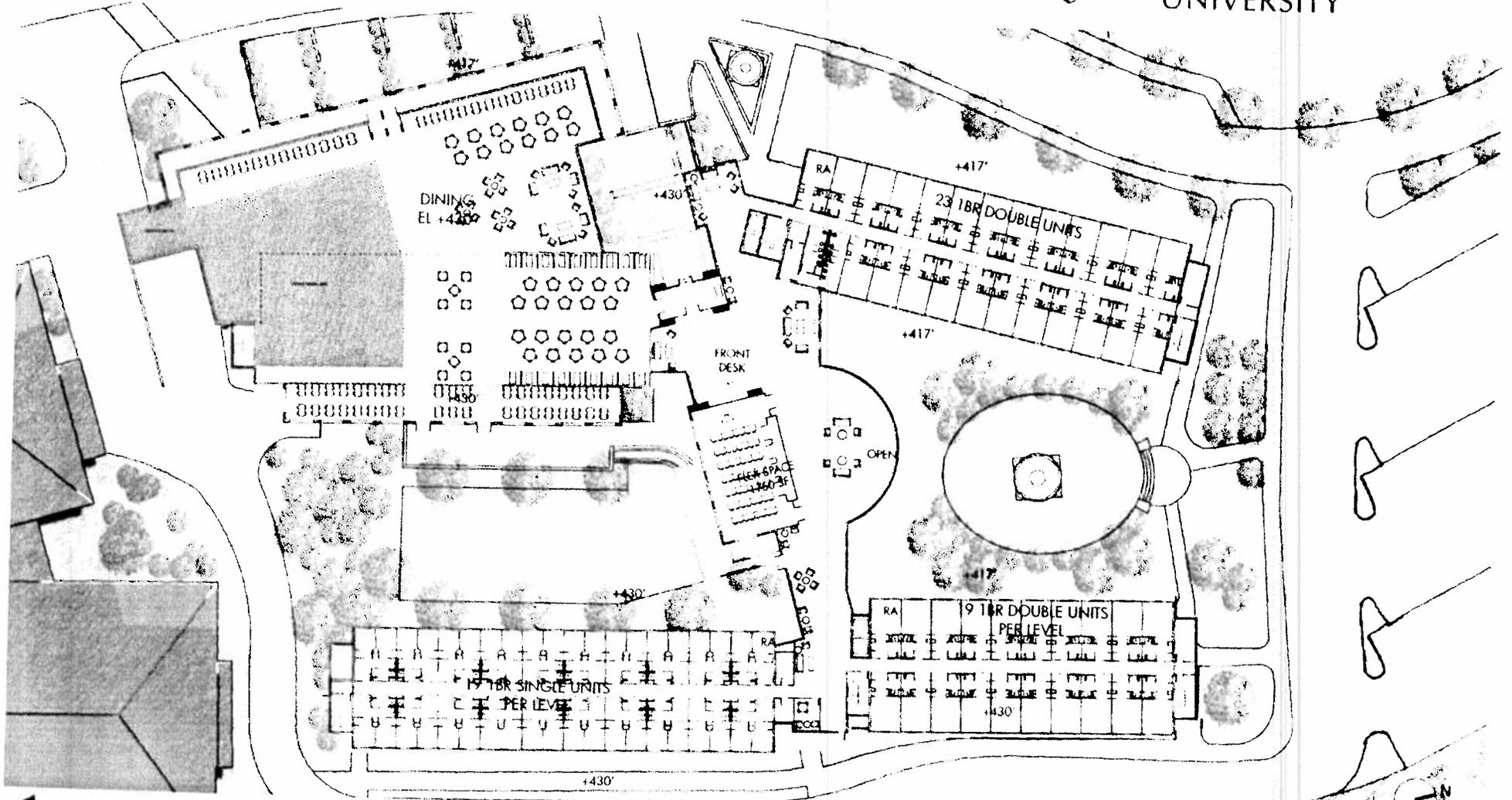
PROJECT: 01.01.01.01.01



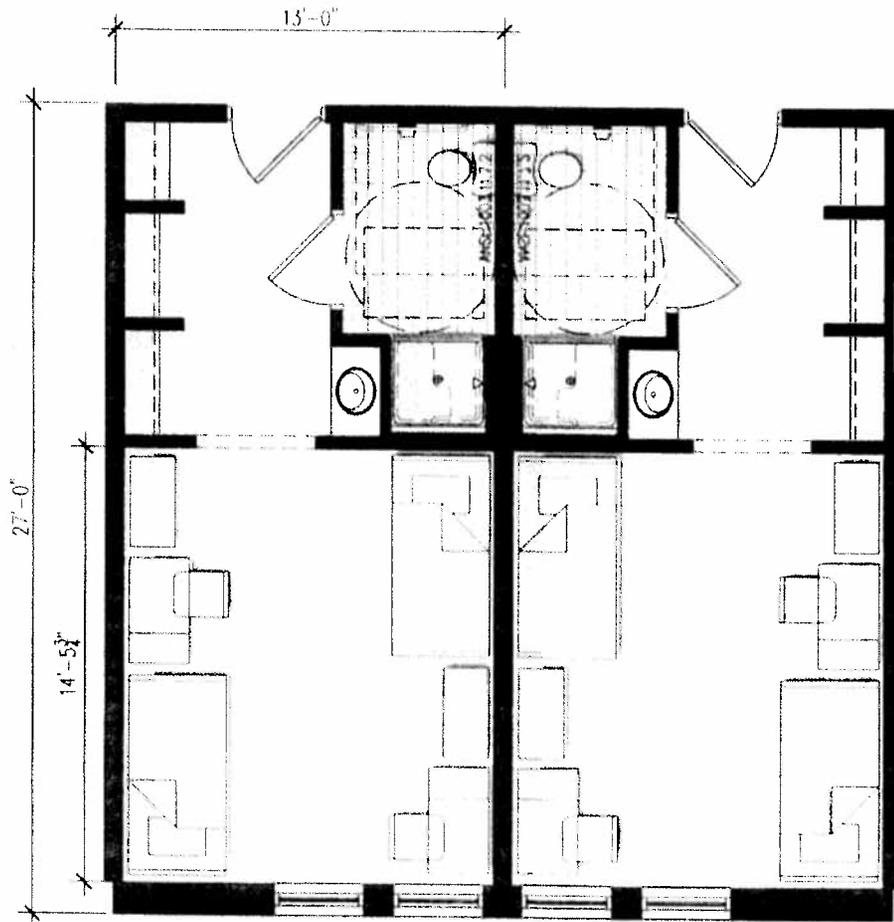
Rec Center Site - Level 430'



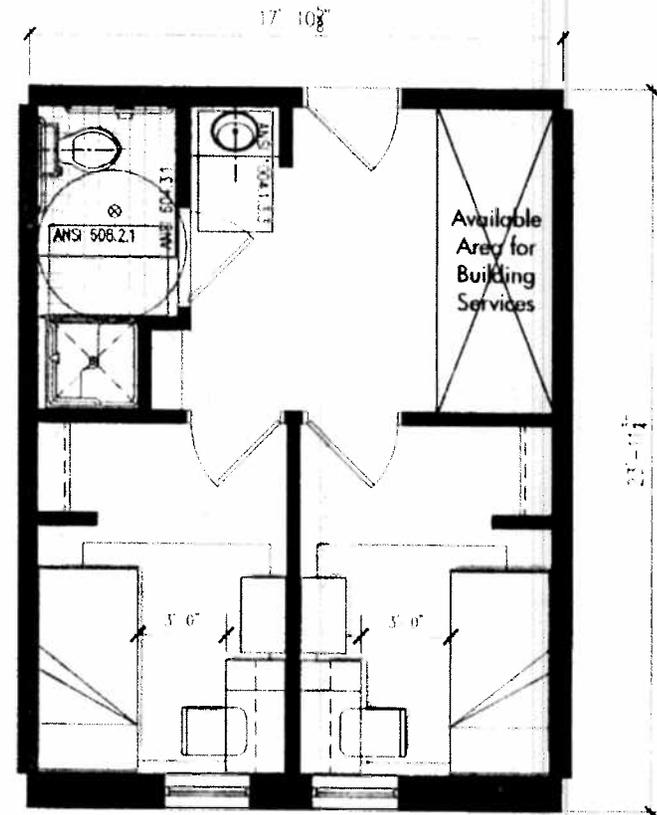
MONTCLAIR STATE UNIVERSITY



Residential Units



Typical 1-Bedroom Double Unit Module
700 sf



Typical 2-Bedroom Single Unit
430 sf

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

APPLICANT: Provident Group - Montclair Properties L.L.C.

P30305

PROJECT USER(S): Montclair State University/Provident Group - Montc * - indicates relation to applicant

PROJECT LOCATION: East Quarry Road Little Falls Township (N) Passaic County

GOVERNOR'S INITIATIVES:

Urban Edison Core Clean Energy

APPLICANT BACKGROUND:

Provident Group - Montclair Properties L.L.C. ("Applicant", "Borrower", or "Initial Owner") is a recently formed New Jersey Limited Liability Company organized for the purpose of developing, financing, owning and operating this on-campus student housing project. The Applicant is a subsidiary of Provident Resources Group Inc., a 501(c)(3) not-for-profit entity. Founded in 1999 and based in Baton Rouge, Louisiana, Provident Resources Group Inc. (formerly known as Provident Foundation Inc.), a Georgia not-for-profit corporation, is a tax-exempt charitable organization that specializes in providing student housing among other charitable missions. The President and Chief Executive Officer of Applicant or its parent is Steve Hicks.

Montclair State University ("MSU"), a public college and the ground lessor of the project site, is located in the Upper Montclair section of Montclair, the Great Notch area of Little Falls, and Clifton, New Jersey. As of October 2009, there were 18,171 total enrolled students: 14,139 undergraduate students and 4,032 graduate students. Montclair State University is New Jersey's second largest school, with Rutgers being the first. The student enrollment at MSU has grown 34.6% in the last 8 academic years, from 13,502 students in 2001 to 18,171 today. The project site lies near the MSU Student Recreation Center and has been primarily used as open parking. The majority of the site is within the borders of Little Falls Township, while a small portion lies within Clifton City, all being within Passaic County.

This is the undertaking of a near 2000-bed student housing project on the campus of Montclair State University. MSU has a significant need for on-campus student housing and desires Applicant to assist it in providing student housing and related facilities. To meet this need, Provident Resources Group Inc. and Capstone Development Corp. are developing this on-campus student housing and its related facilities for the benefit of MSU and its students; the first public-private partnership project on a public university property in the State under the New Jersey Economic Stimulus Act of 2009. The project consists of two residential buildings containing approximately 567,000 sf. The project also includes the construction of an approximately 25,000 sf dining facility. The project is scheduled to be completed in time for Fall 2011 occupancy.

Capstone Development Corp. ("Capstone Development"), an Alabama for profit corporation, is expected to be the project's developer as Applicant expects to enter into a Development Agreement with it to develop the student housing facility, inclusive of the dining facility. Based in Birmingham, Alabama and organized in 1990, Capstone Development and its affiliates are focused exclusively on student housing development, management, interior design, finance coordination, and construction. Being a full service or turn-key developer, finance coordinator and operator, the Capstone Development companies have partnered with more colleges and universities to develop student housing than any other firm - 54 campuses / 31,000+ beds. The Applicant will also enter into a housing management agreement with Capstone On-Campus Management, LLC ("Initial Manager"), a Capstone Development company, to manage the housing portion of the project.

A statutory assessment of this project by the Authority's Real Estate Division, which is separate and distinct from Program Services -the division that handles bond issuances-, pursuant to the New Jersey Economic Stimulus Act of 2009 has been completed, and under a separate cover, is being presented before this Board meeting.

The Applicant, based on its ownership by its parent, 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 construct a college student housing facility, consisting of two buildings containing approximately 567,000 sf of dormitories and an approximately 25,000 sf dining facility on approximately 6 acres of leased land on the campus of Montclair State University, and to equip and furnish same, plus pay the costs of issuance.

The 2010 bonds will be issued in two series of conduit bonds in the maximum principal amount of \$245,000,000, and will be payable solely from the project revenues. As formulated or structured, the underwriter(s) and/or the rating agency are of the opinion that the senior bonds, i.e., Series 2010A, would constitute a marketable investment grade project revenue bonds, and be rated "Baa" by Moody's.

FINANCING SUMMARY:

BOND PURCHASER: - RBC Capital Markets Corporation (Underwriter and/or Senior Co-Manager; Series 2010A only);
 - Capstone Development Corp. (Direct Purchaser of Series 2010B).

AMOUNT OF BOND:	Up to \$221,400,000 Senior Series 2010A - Tax-Exempt Serial and Term Bonds	Up to \$23,600,000 Subordinate Series 2010B - Tax-Exempt Term Bond
TERMS OF BOND:	Up to 32 year term; term bonds callable after Year 10 at par, t/e fixed interest rate not to exceed 7% (estimated t/e fixed rate on the 32-year term bonds as of 04/26/2010 is 6.00%-6.20%)	30 year term, t/e fixed interest rate not to exceed 9.25% (estimated t/e fixed rate as of 02/22/2010 is 9.25%), subordinate to Series 2010A.

ENHANCEMENT: N/A

PROJECT COSTS:

Construction of new building or addition	\$126,260,000
Developer Fee & Exp	\$25,660,000
Interest during construction	\$22,135,000
Construction of roads, utilities, etc.	\$17,000,000
Debt service reserve fund	\$16,415,000
Contingency & Misc.	\$14,150,000
Engineering & architectural fees	\$7,320,000
Other: OID	\$6,750,000
Purchase of equipment & machinery	\$4,945,000
Finance fees	\$3,315,000
Legal fees	\$1,050,000
TOTAL COSTS	\$245,000,000

JOBS: At Application 0 Within 2 years 77 Maintained 0 Construction 1,500

PUBLIC HEARING: 03/09/10 (Published 02/23/10) **BOND COUNSEL:** Gluck Wairath, LLP

DEVELOPMENT OFFICER: M. Piliere

APPROVAL OFFICER: D. Sucsuz

AMENDED BOND RESOLUTIONS

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

APPLICANT: Concordia Learning Center at St. Joseph's School

P31231

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 761 Summit Avenue

Jersey City (T/UA)

Hudson

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

APPLICANT BACKGROUND:

Concordia Learning Center at St. Joseph's School for the Blind had its beginning in 1891 as an outgrowth of the Home for the Blind, owned and operated by the Sisters of St. Joseph of Peace. Concordia Learning Center, led by Executive Director Judy Ortman, is a multi-program provider for individuals with special needs. Programming includes educational services to students ranging from birth to age twenty-one who are blind or visually impaired. The school is a non-profit, non-sectarian agency accepting children of every race, creed, and national origin.

In 2005, the Authority issued tax-exempt bonds in the amount of \$15,000,000 (P#14808) on behalf of St. Joseph's School for the Blind to build Concordia Learning Center. Concordia, which opened to students in February 2007, occupies a 75,000 sq ft facility on 2.8 acres of land in Jersey City. The Authority also helped to finance the construction of a 63,500 sq ft addition to an existing nursing home at St. Joseph's. The original EDA bond of \$17,000,000 (P#12004) closed in March of 2000. Both bonds are in compliance.

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, 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 enable the applicant to refund the \$12,962,000 outstanding on the 2005 Bonds held by TD Bank. The applicant will use funds held in escrow by TD to pay down the principal of the original bond and will issue a refunding bond for the balance plus costs of issuance. This will result in a total tax-exempt financing of approximately \$10,500,000.

FINANCING SUMMARY:

BOND PURCHASER: Provident Bank (Direct Purchase)

AMOUNT OF BOND: \$10,500,000 max Tax-Exempt Bond

TERMS OF BOND: 15 years with a 25 year amortization; Variable interest rate based on the tax-exempt equivalent of the greater of (i) the ten-year US Treasury Note plus 250 basis points or (ii) 6.65%. The rate will be reset at year ten to the greater of (i) the five-year US Treasury Note plus 250 basis points or (ii) 6.4%. The indicative rate as of 05/05/2010 is 4.32%.

ENHANCEMENT: N/A

PROJECT COSTS:

Principal amount of bond to be refunded	\$12,962,000
Redemption premium	\$200,000
Finance fees	\$100,000
Legal fees	\$60,000
Other	\$40,000

TOTAL COSTS

\$13,362,000

PUBLIC HEARING: 05/10/10 (Published 04/26/10) **BOND COUNSEL:** Wolff & Samson

DEVELOPMENT OFFICER: K. Durand

APPROVAL OFFICER: K. McCullough



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

SUBJECT: Register Lithographers, Ltd.
Application P18106
Clifton City, Passaic

MODIFICATION REQUEST

Register Lithographers, Ltd. requests Board approval of an amended bond to modify the terms of the tax exempt bond.

BACKGROUND

In 2007, the Authority issued its \$7,300,000 tax exempt bond for the benefit of Register Lithographers, Ltd. a commercial printer that produces and prints catalogs, price lists, logos, posters, etc. and the Goldmark Group, Inc., the related graphic art design company (collectively the "Borrower"). The bond proceeds were used by Register Lithographers to purchase new equipment. The Borrower operates from a 52,000 sq. ft. facility on 2 acres in the city of Clifton, Passaic County. Capital One Bank (originally North Fork Bank) purchased the 2007 tax exempt Bond for 15 years at a variable interest rate based on the tax-exempt equivalent of 30-day LIBOR plus 150 basis points. On the closing date, the Borrower entered into a swap agreement to a fixed rate of 4.59% for 10 years. The project is in compliance with Authority requirements. *This Bond is a conduit financing for which the Authority has no credit exposure.*

In 2009, Capital One Bank as the bondholder notified the Borrower that an Event of Default had occurred under the Note which secures the 2007 Bond; specifically, for failure to satisfy: (i) the debt service coverage ratio for the fiscal period ending December 31, 2008 and (ii) the debt to net worth ratio for the fiscal period ending December 31, 2008. The Borrower is current in principal and interest payments. Since the date of the default notice, the Bank and Borrower have negotiated to restructure certain terms of the Bond documents in order to cure the current default and address future defaults that may arise. In this regard, the Bank and Borrower have mutually agreed to amend and modify the loan documents as follows:

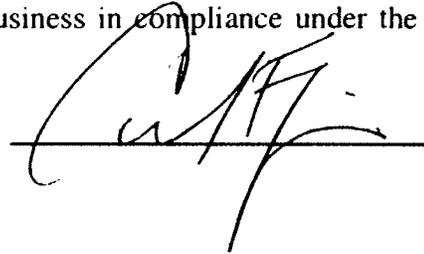
- (1) The interest rate on the 2007 Bond will be increased from the tax-equivalent of 30-day LIBOR plus 150 basis points to the tax-equivalent of 30-day LIBOR plus 350 basis points.

- (2) The maturity date will be revised to March 1, 2015 from December 1, 2022. Debt service payments will not change.
- (3) The current Debt Service Coverage Ratio and Debt to Worth Ratio financial covenants will not be tested until the fiscal year beginning January 2012.
- (4) For the fiscal year ending December 31, 2010, the Borrower will be required to maintain on a combined basis a minimum EBITDA of \$1,600,000 and a minimum Net Worth minus intangible assets, loans/advances to all affiliated and/or related entities of \$3.5 million; for the fiscal year ending December 31, 2011, the EBITDA will increase to \$1.7 million and minimum net worth to all affiliated or related entities will increase to \$3.6 million.

Bond counsel, Wolff & Samson, has reviewed the transaction and advises that the change in the interest rate will constitute a reissuance under the IRS Code.

RECOMMENDATION

It is recommended that the Board approve the requested Modification Request which will maintain the relationship between the Bondholder and the Borrower for next several years and allow the Borrower to continue to operate the printing business in compliance under the 2007 Bond.

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

Prepared By: Teresa Wells

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

APPLICANT: SJF CCRC, Inc.

P31407

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 1110 Laurel Oak Road

Voorhees Township (N)

Camden

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

APPLICANT BACKGROUND:

SJF CCRC, Inc. t/a Lion's Gate ("Lion's Gate"), is a 501(c)(3) not-for-profit entity that was incorporated in 1999 as an affiliate of the Jewish Federation of Southern New Jersey. Lion's Gate was established to own and operate a continuing care retirement community (CCRC) in Voorhees. The facility offers congregate dining and supportive health, personal, and social services, including: housekeeping, assistance with bathing and dressing, recreational, social, and transportation services as well as assistance with medication. The facility is open to persons without regard to color, faith, gender, disability, or national origin. Lion's Gate is comprised of 152 independent living units, 70 assisted living units (including 30 assisted living dementia care beds), 78 skilled nursing beds and a community center. Current occupancy rate for independent living is 93%, and 98% for assisted living. David Ross is the CEO of Jewish Senior Housing and Healthcare Service of Southern New Jersey.

The Authority approved at its May 2005 Board meeting an \$82.9 million tax-exempt bond for Lions's Gate, which closed on July 20, 2005. The bond included 3 series, with maturities ranging from 14 years to 32 years, and tax-exempt rates ranging from 3.5% to 5.875%. Bond proceeds were used to acquire land and a construct a 360,200 s.f. CCRC on approximately 50 acres of land.

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 enable the applicant to current refund \$3.5 million of the \$10 million Series B Bonds issued in 2005 at a 4.53% fixed rate for the first 5 years, with a 15 year maturity. The initial rate, when Series B originally closed, was 5% with a 32 year maturity. The \$5.98 million balance of the Series B bonds will be reset and remarketed at 6.75%. Lion's Gate will realize a \$77,000 first year savings.

FINANCING SUMMARY:

BOND PURCHASER: Sun National Bank (Direct Purchase)

AMOUNT OF BOND: \$3,500,000 Tax-Exempt Bond

TERMS OF BOND: 15 years; 4.53% tax-exempt fixed rate for first 5 years; 5 year rate resets based on the tax-exempt equivalent of the 5 year FHLB advance rate (3.21% as of April 30, 2010) plus 335 basis points.

ENHANCEMENT: N/A

PROJECT COSTS:

Principal amount of bond to be refunded	\$3,500,000
Legal fees	\$64,500
Appraisal	\$9,180
Finance fees	\$9,000
Environmental Report	\$2,250

TOTAL COSTS

\$3,584,930

PUBLIC HEARING: 05/10/10 (Published 04/24/10) **BOND COUNSEL:** Blank, Rome, Comisky & McCauley
DEVELOPMENT OFFICER: R. Fischer **APPROVAL OFFICER:** M. Krug

COMBINATION PRELIMINARY AND BOND RESOLUTIONS

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

APPLICANT: The Kintock Group Of New Jersey Inc.

P31130

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 3 W Industrial Blvd

Bridgeton City (T/UA)

Cumberland County

GOVERNOR'S INITIATIVES:

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

APPLICANT BACKGROUND:

The Kintock Group of New Jersey Inc. ("Kintock") was established to assist the criminal justice system in the reduction and prevention of crime. The organization provides structured rehabilitative environments and programs for selected male and female offenders through its residential community release program under contracts from the New Jersey Department of Corrections and the Federal Bureau of Prisons.

In 2000, the Authority provided financing in the form of a \$3.4 million tax-exempt bond and a \$500,000 loan to enable Kintock to construct a facility in Bridgeton. In 2004, Kintock financed the construction of a second facility in Bridgeton through a \$4 million conventional mortgage with Crown Bank. The EDA guaranteed the loan for 25% of the principal amount not to exceed \$1,000,000. Currently, Kintock is seeking to refinance the debt with Crown Bank through a tax-exempt bond.

The Authority's credit underwriting staff has reviewed historical and projected cash flow and determined that there is adequate cash flow to meet the debt service requirements. The Authority and the State of New Jersey bear no risk and act strictly as a conduit for the issuance of these bonds.

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 allow the applicant to refinance existing debt, held by Crown Bank at a 6.5% interest rate, that was used to construct its 40,000 sq ft facility in Bridgeton.

FINANCING SUMMARY:

BOND PURCHASER: Powell Capital Markets, Inc. (Placement Agent)

AMOUNT OF BOND: Series A

\$3.5 million (Tax-exempt)

Series B

\$300,000 (Taxable bond)

TERMS OF BOND: Series A

Three term bonds maturing at approximately the 3rd, 5th, and 10th year with estimated fixed interest rates from 4.5% to 6.4% as of 4/7/2010.

Series B

Up to 12-months with a fixed interest rate not to exceed 9.75%. The estimated rate is 7.00% as of 4/7/2010.

ENHANCEMENT: N/A

PROJECT COSTS:

Refinancing	\$2,999,000
Debt service reserve fund	\$330,500
Contingencies	\$294,400
Legal fees	\$65,000
Finance fees	\$42,500
Consulting, printing fees,	\$35,550

Underwriters Fee

\$33,050

TOTAL COSTS

\$3,800,000

JOBS: At Application 59 Within 2 years 0 Maintained 0 Construction 0
Jobs on Related 15265 0 55 0 111

PUBLIC HEARING: 04/13/10 (Published 03/30/10) **BOND COUNSEL** Wolff & Samson

DEVELOPMENT OFFICER: J. Kenyon

APPROVAL OFFICER: K. McCullough

LOCAL DEVELOPMENT FINANCING FUND

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

Subject: Applicant: F. Greek Newco 377, LLC
Project Location: 377 Roosevelt Avenue, Carteret Borough, Middlesex County, NJ
P30383

Request:

This memorandum addresses the legal matter presented by ASA Apple, Inc. in their project occupant application which was filed in conjunction with the application by F. Greek Newco 377, LLC a related entity which is seeking financial assistance (LDF loan and a Brownfields Reimbursement Agreement) from the Authority.

Business:

F. Greek Newco 377, LLC is a newly formed single purpose real estate company which will own a 256,000 square foot warehouse which is being planned for construction. Applicant is owned 35.5% by Frank Cardaci who also owns 100% of ASA Apple, Inc. which is a warehousing and trucking company and which will be the sole occupant of the proposed facility.

Background:

On February 1, 2002, Mr. Cardaci pled guilty in federal court in Camden to a “misprision” offense which essentially proscribes neglecting to report, without assisting, a felony committed by another. This offense is a Class E felony, the least serious classification of felonies.

Legal Matters:

In pleading guilty to a “misprision” offense, Mr. Cardaci acknowledged that in 1995, seven years before his 2002 plea, he belatedly learned, but failed to report, that an ASA Apple customer (“the Customer”) that had no relationship with ASA Apple and Mr. Cardaci other than as landlord to tenant

had made misrepresentations to its suppliers regarding the ultimate destination of products (reportedly dried food goods) which the Customer had housed at an ASA Apple warehouse in Carteret, NJ. Specifically, Mr. Cardaci admitted that in or around February 1995, ASA Apple began providing warehouse services to the Customer with respect to products that the Customer was purchasing from a third party supplier. At or around that time, Mr. Cardaci knew that the Customer was representing to that third party that these products were being shipped overseas for resale in the Ukraine which enabled the Customer to get the goods at a lower price. At some point thereafter, however, Mr. Cardaci learned that the Customer was, in reality, selling those products domestically, thus defrauding the third party suppliers which included the Kellogg Corporation. Thereafter, Mr. Cardaci did not disclose the Customer's fraud, and the Customer continued to use ASA Apple's warehouse services and pay ASA Apple, Inc. its normal compensation for these services. Beyond that normal compensation, however, neither ASA Apple nor Mr. Cardaci personally ever profited, or intended to profit, from either the Customer's misconduct or Mr. Cardaci's failure to disclose that misconduct.

Prior to pleading guilty to the "misprision" offense, Mr. Cardaci was not charged with that or any other offense. Rather, when contacted by the government, he immediately cooperated with its investigation of the Customer and his cooperation led directly to the Customer's conviction for fraud (in an amount of at least one million dollars). In a letter to the judge regarding the sentence to be imposed on Mr. Cardaci, the United States Attorney's Office requested that a lesser than standard sentence be imposed based on Mr. Cardaci's important and timely cooperation and stated that "Mr. Cardaci has done everything asked of him by law enforcement, his cooperation led directly to one successful prosecution, and he has provided important background information in a larger ongoing investigation."

On September 13, 2002, the court sentenced Mr. Cardaci to two years of noncustodial probation and fined him \$1,000. Mr. Cardaci successfully completed his probation and paid the fine and reports that he has had no other legal issues since this event.

Analysis of litigation as grounds for possible debarment:

Mr. Cardaci's conviction can provide the basis for instituting debarment procedures pursuant to the Authority's debarment regulations which include as cause for debarment violations of law as follows: conviction of a criminal offense and violation of law showing a lack of business integrity or honesty.

Mitigating Factors:

Mr. Cardaci has presented numerous mitigating factors for Board consideration. These factors include:

1. The criminal behavior occurred in the mid 1990's.
2. No further charges have been pursued and Mr. Cardaci complied with all of the requirements of his sentencing, which included serving two years of noncustodial probation and paying a \$1,000 fine.
3. The United States Attorney's Office and the court determined that Mr. Cardaci did everything that was asked of him by the government and his cooperation directly led to the Customer's conviction and aided in a wider investigation. The light sentence imposed is indicative of the

level of cooperation Mr. Cardaci gave the government. This cooperation was given, in the words of the US Attorney's Office, truthfully and willingly.

4. The charges brought against Mr. Cardaci do not directly pertain to the purchase of the building for which the Authority is considering providing a portion of the financing or the reimbursement of the taxes generated by this property which forms the basis for the Brownfields Reimbursement Agreement.
5. Mr. Cardaci did not receive any of the proceeds of the criminal conduct of the Customer nor was he ordered to pay any restitution to the victims.

Recommendation:

After review of the mitigating factors regarding the legal matter presented by Mr. Cardaci, staff does not believe debarment is warranted. Simultaneously being presented for approval to the Members of the Authority at this meeting is an LDFF loan to the applicant as well as a Brownfields Reimbursement Agreement for the project.



Caren S. Franzini

Prepared by Michael Conte

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - LOCAL DEVELOPMENT FINANCING FUND PROGRAM**

APPLICANT: F. Greek Newco 377, LLC

P30383

PROJECT USER(S): ASA Apple, Inc. *

* - indicates relation to applicant

PROJECT LOCATION: 377 Roosevelt Ave

Carteret Borough (T/UA)

Middlesex

GOVERNOR'S INITIATIVES:

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

APPLICANT BACKGROUND:

F. Greek Newco 377, LLC is a newly formed, single purpose, real estate holding company owned equally by Frank Greek and Frank Cardaci which will be the borrower on the proposed financing. Plans call for the construction of a 256,000 square foot warehouse facility with 36 foot ceilings, 5 loading docks and an estimated completion time of twelve months.

APPROVAL REQUEST:

Approval is recommended for a \$1.25 million loan under the LDFF program (which will be documented as a direct loan or a participation with Provident Bank as this aspect is still under negotiations) which will be in conjunction with a commitment for an \$11 million construction and permanent loan from Provident Bank and owner equity to complete the funding for this project.

FINANCING SUMMARY:

LENDER: LDFF

AMOUNT OF LOAN: \$1,250,000

TERMS OF LOAN: Fixed at closing at 50% of the Federal Discount Rate with a floor of 2%.
Five-year term based on a 15-year amortization.

PROJECT COSTS:

Construction of new building or addition	\$10,594,000
Land	\$6,000,000
Site Work	\$2,930,000
Permits & Testing	\$410,000
Engineering & architectural fees	\$325,000
Interest during construction	\$255,000
Finance fees	\$200,000
Contingency & Other	\$171,000
Legal fees	\$50,000
TOTAL COSTS	\$20,935,000

JOBS: At Application 150 Within 2 years 20 Maintained 0 Construction 318

DEVELOPMENT OFFICER: P. Ceppi

APPROVAL OFFICER: M. Conte

CLEAN ENERGY PROGRAMS

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - CLEAN ENERGY SOLUTIONS CAPITAL INVESTMENT PROGRAM**

APPLICANT: NRG Thermal LLC, et al

P29702

PROJECT USER(S): The University Medical Center of Princeton

* - indicates relation to applicant

PROJECT LOCATION: One Plainsboro Rd

Plainsboro Township (N)

Middlesex

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

APPLICANT BACKGROUND:

Formed in 1999, NRG Thermal, LLC ("NRG Thermal") is a developer of combined heat and power energy centers throughout the United States. NRG Thermal owns energy centers in San Francisco, California, San Diego, California, Minneapolis, Minnesota, Pittsburgh, Pennsylvania and Harrisburg, Pennsylvania. These systems provide steam heating to approximately 505 customers and chilled water cooling to 100 customers. In 2004, NRG Energy (the parent company) closed on a Business Employment Incentive Program grant.

This project involves the development of an on-site "Energy Center" comprised of a central utility plant, combined heat and power facility, and a thermal energy storage system that will produce electricity, steam, and chilled water. The developer and owner of the Energy Center will be NRG Thermal LLC ("NRG Thermal" or the "Company"), through its wholly owned subsidiary NRG Energy Center Princeton LLC ("NRG Princeton"). NRG Thermal is a developer, owner and operator of Energy Centers and currently owns and maintains numerous systems throughout the United States. NRG Thermal is a wholly owned subsidiary of NRG Energy, Inc., ("NRG Energy") a publicly traded corporation that owns and operates a variety of energy-related operations worldwide. The user of energy produced at the Energy Center will be The University Medical Center of Princeton at Plainsboro ("UMCPP"), a 237 single patient room, acute care hospital currently under construction in Plainsboro, NJ.

NRG Thermal LLC, NRG Energy Center Princeton LLC, and NRG Electricity Sales Princeton LLC will be co-borrowers of the CESCO loan.

APPROVAL REQUEST:

A \$3,000,000 term loan under the Clean Energy Solutions Capital Investment program is requested.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: \$3,000,000

TERMS OF LOAN: Ten-year term. Zero percent interest rate.

PROJECT COSTS:

Purchase of equipment & machinery	\$16,822,358
Equip. Installation	\$7,837,683
Soft Costs	\$5,573,850
Construction of new building or addition	\$2,027,554
Engineering & architectural fees	\$1,583,750
TOTAL COSTS	\$33,845,195

JOBS: At Application 205 Within 2 years 11 Maintained 0 Construction 296

DEVELOPMENT OFFICER: P. Ceppi

APPROVAL OFFICER: D. Lawyer

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - CLEAN ENERGY SOLUTIONS CAPITAL INVESTMENT GRANT**

APPLICANT: NRG Thermal LLC, et al

P30386

PROJECT USER(S): The University Medical Center of Princeton * - indicates relation to applicant

PROJECT LOCATION: One Plainsboro Rd Plainsboro Township (N) Middlesex

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

APPLICANT BACKGROUND:

Formed in 1999, NRG Thermal, LLC ("NRG Thermal") is a developer of combined heat and power energy centers throughout the United States. NRG Thermal owns energy centers in San Francisco, California, San Diego, California, Minneapolis, Minnesota, Pittsburgh, Pennsylvania and Harrisburg, Pennsylvania. These systems provide steam heating to approximately 505 customers and chilled water cooling to 100 customers. In 2004, NRG Energy (the parent company) closed on a Business Employment Incentive Program grant.

This project involves the development of an on-site "Energy Center" comprised of a central utility plant, combined heat and power facility, and a thermal energy storage system that will produce electricity, steam, and chilled water. The developer and owner of the Energy Center will be NRG Thermal LLC ("NRG Thermal" or the "Company"), through its wholly owned subsidiary NRG Energy Center Princeton LLC ("NRG Princeton"). NRG Thermal is a developer, owner and operator of Energy Centers and currently owns and maintains numerous systems throughout the United States. NRG Thermal is a wholly owned subsidiary of NRG Energy, Inc., ("NRG Energy") a publicly traded corporation that owns and operates a variety of energy-related operations worldwide. The user of energy produced at the Energy Center will be The University Medical Center of Princeton at Plainsboro ("UMCPP"), a 237 single patient room, acute care hospital currently under construction in Plainsboro, NJ.

NRG Thermal LLC, NRG Energy Center Princeton LLC, and NRG Electricity Sales Princeton LLC will be co-borrowers of the CESCO loan.

APPROVAL REQUEST:

A \$2,000,000 grant under the Clean Energy Solutions Capital Investment program is requested.

FINANCING SUMMARY:

GRANTOR: NJEDA

AMOUNT OF GRANT\$2,000,000

TERMS OF GRANT: No repayment terms.

PROJECT COSTS:

TOTAL COSTS

_____ \$0 *
=====

* - Indicates that there are project costs reported on a related application.

JOBS: At Application	Within 2 years	Maintained	Construction
Jobs on Related 29702	<u>205</u>	<u>11</u>	<u>0</u>
			<u>296</u>

DEVELOPMENT OFFICER: P. Ceppi

APPROVAL OFFICER: D. Lawyer

CAMDEN ECONOMIC RECOVERY BOARD

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

RE: New Jersey Housing and Mortgage Finance Agency (“HMFA”)
P16969

Request:

The Members of the Authority are asked to approve the funding authorization of a \$3,500,000 increase to the \$5,000,000 loan to the HMFA to fund subsequent phases of the Camden Home Improvement Program (“CHIP”).

This proposal was initiated by the Public Members of the ERB and developed by our state and local agency team comprised of DCA, EDA, HMFA, CRA and the City which meets quarterly to advance projects in the City of Camden. On April 19, 2010, the Members of the ERB Policy Committee and the Mayor of Camden agreed to support this additional funding as an exception to ERB Guide to Program Funds which limits funding to \$5 million per project and requires leveraged investment because the CHIP will continue to create significant health, safety, social and economic benefits for the City of Camden and because alternate public and private funding are insufficient at this time. The ERB Policy Committee also supported the reallocation of funds from the Demolition and Redevelopment Financing Fund to the Residential Neighborhood Improvement Fund to support this request.

Background:

On November 22, 2005 the Members approved a \$5,000,000 non-recourse loan to the HMFA to fund a portion of the CHIP. This program was initiated by members of the Camden Churches Organized for People (“CCOP”), Camden Community Development Association (“CCDA”) and the Concerned Black Clergy (“CBC”) who were instrumental in building public support for the Camden recovery initiative and proposed policies that would connect residents to the benefits of the recovery resources. The goal of CHIP was to improve the quality of life for Camden residents by targeting repairs for single family owner occupied houses located throughout the City of Camden over a five year period.

Re: HMFA

The member groups requested the HMFA to assist them in establishing and implementing the program.

Update:

Through a request for proposal, HMFA in partnership with CCOP and CCDA, selected Coopers Ferry Development Association (“CFDA”) and Scungio Borst & Associates (“SBA”) to administer CHIP.

CHIP is a rehabilitation program that provides up to \$20,000 in forgivable loans to eligible Camden homeowners to make life safety home improvements. The program is funded with \$5,000,000 from the ERB, \$2,500,000 from DCA’s Neighborhood Preservation Balance Housing Program, and \$330,000 from the City of Camden. In June 2007, the Members approved a modification to the loan to allow HMFA to utilize up to \$30,000 in ERB funds per home for life/safety concerns as well as exterior improvements.

Phase I and II were funded by ERB. In Phase I, 127 homes were rehabilitated. These homes were located in Beidman, Centerville, Dudley, Gateway, Liberty Park, Rosedale, Waterfront South, and Whitman Park. In Phase II, 72 homes were rehabilitated. These homes were located in Bergen Square, Cooper Point, Pyne Point, Cramer Hill/Pavonia, Stockton and Marlton. Phase III is being funded jointly by DCA and the City. Approximately 110 homes will be rehabilitated in the Central Business District, Central Waterfront, Cooper Grant, Fairview, Lanning Square, Morgan Village and Parkside neighborhoods.

In addition to improving more than 300 residences, the program has had a direct impact on workforce development by creating 42 new construction related jobs and preserving 29 existing jobs. The program has also had a direct impact for local suppliers who have benefited from the purchases of construction materials. Finally, CHIP has motivated other homeowners to make aesthetic improvements to the exterior of their homes after observing the changes made by CHIP.

The response to CHIP has demonstrated tremendous demand. Currently, there is a waiting list of approximately 380 homeowners. In an effort to support this demand, HMFA, in partnership with CCOP and CCDA, is seeking to expand the program into subsequent phases and requesting \$3.5 million in additional funding from the ERB to rehabilitate approximately 140 additional homes scattered throughout the City.

Uses of Funds:

Renovation to Existing Buildings	\$2,800,000
Program Administration	<u>700,000</u>
Total Project Cost:	\$3,500,000

Re: HMFA

Sources of Funds:

Camden ERB	<u>\$3,500,000</u>
Total Sources:	\$3,500,000

Security and Repayment

Consistent with the existing terms, the \$3,500,000 in additional ERB funding will be priced at 0% for 5 years and non-recourse to HMFA. The loan will be secured by subordinate mortgages on the individual residences of which 20% will be forgiven each year over a five-year period. Thus, repayment of the loan will be based solely on the recovery of the individual loans, if any.

Disbursement of Funds

Disbursement of funds will be made to the HMFA in four equal tranches. HMFA will subsequently disburse funds to the program administrator after all improvements are completed and inspected.

Recommendation

The Members of the ERB approved this request at its meeting on April 27, 2010. Accordingly, the Members of the Authority are asked to approve the funding authorization for a \$3,500,000 increase to the \$5,000,000 loan to the HMFA to fund subsequent phases of CHIP. All other terms and conditions of the original loan with HMFA will remain in full force and effect.

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

Prepared By: L. Wallick

**PETROLEUM UNDERGROUND STORAGE TANK
PROGRAM**



MEMORANDUM

TO: Members of the Authority
FROM: Caren S. Franzini
Chief Executive Officer
DATE: May 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:

Estate of Clara Bowens.....	\$122,796
Fouad Nouri.....	\$ 72,036
A.J. Leale.....	\$171,585
Shore Point Marina & Yacht Sales.....	\$167,900

Total UST funding for May 2010..... \$534,317

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

APPLICANT: Estate of Clara Bowens

P28029

PROJECT USER(S): Clara's Coffee Shop *

* - indicates relation to applicant

PROJECT LOCATION: 1700 West Lake Ave.

Neptune Township (T/UA)

Monmouth

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

APPLICANT BACKGROUND:

Clara's Coffee Shop, owned by Clara Bowens, received a grant in March 2009 in the amount of \$163,830 under P21719 to perform groundwater investigation, soil delineation and soil remediation resulting from the closure of five underground storage tanks at the project site. Clara Bowens has since passed away and the Estate is now the owner of the project site. The tanks were decommissioned in accordance with NJDEP requirements. The NJDEP has determined that the supplemental project costs are technically eligible, to perform additional soil and groundwater remediation.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a partial conditional hardship grant. The balance of the project costs (\$83,711) will be funded with a loan from the Fund and should be forthcoming shortly.

APPROVAL REQUEST:

The applicant is requesting supplemental grant funding in the amount of \$122,796 to perform the approved scope of work at the project site, for a total funding to date of \$286,626.

The NJDEP oversight fee of \$20,651 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\$122,796

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

PROJECT COSTS:

Upgrade, Closure, Remediation	\$206,507
NJDEP oversight cost	\$20,651
EDA administrative cost	\$500
TOTAL COSTS	\$227,658

APPROVAL OFFICER: L. Petrizzi

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

APPLICANT: Fouad Nouri

P30257

PROJECT USER(S): Nouri Auto Repair

* - indicates relation to applicant

PROJECT LOCATION: 503 21st Avenue

Paterson City (T/UA)

Passaic

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

APPLICANT BACKGROUND:

In December 1999, Fouad Nouri, owner of Nouri's Auto Repairs and the project site, received a grant in the amount of \$65,700 under P11263 to remove and close the three underground storage tanks (UST's) located at the project site; in June 2000, the applicant received a supplemental grant in the amount of \$125,880 under P12509 to upgrade the UST's; in May 2002, the applicant received a grant in the amount of \$58,420 under P14189 to perform additional upgrade activities; in May 2005, the applicant received a grant in the amount \$54,928 to perform soil analysis and sampling; and in May 2008, the applicant received a grant in the amount of \$68,522 under P20764 to perform soil remediation and groundwater investigation. The NJDEP has determined that the supplemental project costs are technically eligible, to perform groundwater remediation and vapor intrusion investigation.

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

APPROVAL REQUEST:

The applicant is requesting a supplemental grant in the amount of \$72,036 to fund these costs, for a total funding to date of \$445,486.

The NJDEP oversight fee of \$7,204 is the customary 10% of the grant amount. This estimate 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 \$72,036

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

PROJECT COSTS:

Upgrade, Closure, Remediation	\$72,036
NJDEP oversight cost	\$7,204
EDA administrative cost	\$500
TOTAL COSTS	\$79,740

APPROVAL OFFICER: L. Petrizzi

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

APPLICANT: A.J. Leale

P28864

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 181 Summit Ave.

Montclair Township (T/UA)

Essex

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

APPLICANT BACKGROUND:

A.J. Leale 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 \$171,585 to perform the approved scope of work at the project site.

The NJDEP oversight fee of \$17,159 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: \$171,585

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Site Remediation	\$171,585
NJDEP oversight cost	\$17,159
EDA administrative cost	\$250
TOTAL COSTS	\$188,994

APPROVAL OFFICER: K. Junghans

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

APPLICANT: Shore Point Marina & Yacht Sales

P28805

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 1 Corrigan Avenue

Pine Beach Borough (T)

Ocean

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

APPLICANT BACKGROUND:

Shore Point Marina & Yacht Sales is the operator of the project site and is seeking to perform the closure of two 4,000 gallon underground storage tanks (UST's) at the project site and perform the required remediation. The tanks will be decommissioned 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 \$167,900 to perform the approved scope of work at the project site.

The NJDEP oversight fee of \$16,790 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: \$167,900

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

PROJECT COSTS:

Upgrade, Closure, Remediation	\$167,900
NJDEP oversight cost	\$16,790
EDA administrative cost	\$500
TOTAL COSTS	\$185,190

APPROVAL OFFICER: L. Petrizzi



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 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 April 01, 2010 to April 30, 2010

Summary:	# of Grants	\$ Amount
Leaking tank grants awarded	68	\$1,221,412
Non-leaking tank grants awarded	157	\$456,656

Applicant	Description	Grant Amount	Awarded to Date
ltman, Van (P29494)	Initial grant for upgrade, closure and remediation	\$62,878	\$62,878
onilla, Manuel (P30729)	Supplemental grant for site remediation	\$6,953	\$41,095
roce, Freddie (P30731)	Supplemental grant for site remediation	\$4,226	\$15,614
ampbell, W. Robert (P27991)	Initial grant for upgrade, closure and remediation	\$11,333	\$11,333
ao, William (P29397)	Initial grant for upgrade, closure and remediation	\$5,142	\$5,142
arter, Tamara (P30393)	Supplemental grant for site remediation	\$8,870	\$18,427
assutt, Kelly (P30773)	Initial grant for upgrade, closure and remediation	\$15,282	\$15,282
ho, Kyungae (P29280)	Initial grant for upgrade, closure and remediation	\$27,609	\$27,609
onklin, David (P30487)	Initial grant for upgrade, closure and remediation	\$25,795	\$25,795
raig, Teresa (P30692)	Initial grant for upgrade, closure and remediation	\$4,192	\$4,192

Applicant	Description	Amount	Date
DeSessa, Michael (P30691)	Initial grant for upgrade, closure and remediation	\$24,944	\$24,944
DiMauro, James (P30191)	Initial grant for site remediation	\$27,644	\$27,644
Drickson, Mary Beth (P30413)	Initial grant for upgrade, closure and remediation	\$3,646	\$3,646
Dwing, Robert (P29307)	Initial grant for site remediation	\$6,948	\$6,948
Eama, James (P30046)	Supplemental grant for site remediation	\$15,941	\$70,581
Flower, Keith (P30054)	Initial grant for upgrade, closure and remediation	\$15,185	\$15,185
Fantner, Mark (P30072)	Initial grant for upgrade, closure and remediation	\$63,247	\$63,247
Familton, Ken and Amy (P30513)	Initial grant for upgrade, closure and remediation	\$15,724	\$15,724
Farder, David and Karen (P30549)	Initial grant for site remediation	\$20,526	\$20,526
Feizmann, Janice (P30060)	Initial grant for site remediation	\$36,230	\$36,230
Feyl, Jean (P31051)	Initial grant for upgrade, closure and remediation	\$6,010	\$6,010
Fillenbrand, John (P30845)	Initial grant for upgrade, closure and remediation	\$23,945	\$23,945
Flood, Durell (P30188)	Initial grant for upgrade, closure and remediation	\$12,194	\$12,194
Frowitz, Mindy (P30488)	Initial grant for upgrade, closure and remediation	\$72,329	\$72,329
Funken, Mary (P28927)	Initial grant for upgrade, closure and remediation	\$12,608	\$12,608
Flias, Allan and Susan (P30636)	Initial grant for site remediation	\$9,321	\$9,321
Fqbal, Abdur (P30275)	Initial grant for upgrade, closure and remediation	\$16,707	\$16,707
Fohnson, Clifford M. (P30145)	Supplemental grant for site remediation	\$2,672	\$9,773
Farner, Susan (P30578)	Supplemental grant for site remediation	\$2,577	\$22,100
Folwalski, Lydia (P30795)	Initial grant for upgrade, closure and remediation	\$5,250	\$5,250
Fowalewski, Dan (P30634)	Initial grant for site remediation	\$2,904	\$2,904
Fuchera, Lorraine (P30709)	Initial grant for site remediation	\$3,039	\$3,039
Floyd, Phillip (P29587)	Initial grant for upgrade,	\$8,987	\$8,987

Applicant	Description	Amount	Date
	closure and remediation		
ombardi, Helen (P30705)	Initial grant for upgrade, closure and remediation	\$7,236	\$7,236
Janailovich, John (P30689)	Initial grant for upgrade, closure and remediation	\$5,557	\$5,557
Jarples, Susan (P30240)	Initial grant for upgrade, closure and remediation	\$13,424	\$13,424
Jarquez, David and Mary (P30078)	Initial grant for upgrade, closure and remediation	\$24,267	\$24,267
Jeszaros, Robert L. (P29688)	Initial grant for upgrade, closure and remediation	\$1,258	\$1,258
Jorriale, Adriana (P29614)	Initial grant for upgrade, closure and remediation	\$6,344	\$6,344
Keedham, Robert (P30666)	Initial grant for upgrade, closure and remediation	\$59,892	\$59,892
Kochiuzzi, Carmen John (P30576)	Initial grant for upgrade, closure and remediation	\$23,458	\$23,458
Kragliugh, James (P30794)	Initial grant for upgrade, closure and remediation	\$4,101	\$4,101
Kramer, Saverio (P30572)	Supplemental grant for upgrade, closure and remediation	\$23,088	\$30,538
Krusack, Elmer and Karen (P30237)	Initial grant for upgrade, closure and remediation	\$6,464	\$6,464
Krohn, Leroy (P29968)	Initial grant for upgrade, closure and remediation	\$3,929	\$3,929
Kuonones, Ramon (P30420)	Initial grant for upgrade, closure and remediation	\$8,395	\$8,395
Kuonones, Emelio (P30301)	Initial grant for site remediation	\$8,405	\$8,405
Kuonones, Joanne (P29610)	Initial grant for upgrade, closure and remediation	\$5,098	\$5,098
Kuonones Cleaners (P27794)	Initial grant for upgrade, closure and remediation	\$22,129	\$22,129
Kuonones, Virgle (P28386)	Supplemental grant for upgrade, closure and remediation	\$3,979	\$10,913
Kuonones, Judith (P30726)	Initial grant for upgrade, closure and remediation	\$4,653	\$4,653
Kuonones, Edward J. (P28416)	Initial grant for upgrade, closure and remediation	\$6,491	\$6,491
Kuonones, Dennis P. (P29217)	Partial initial grant for upgrade, closure and remediation	\$4,185	\$4,185
Kuonones, Alberta (P30727)	Initial grant for site remediation	\$56,682	\$56,682
Kuonones, Margaret (P30597)	Initial grant for site remediation	\$35,000	\$35,000

Applicant	Description	Amount	Date
Soranno, Joseph (P30563)	Initial grant for upgrade, closure and remediation	\$24,095	\$24,095
Stankovich, George (P29226)	Initial grant for upgrade, closure and remediation	\$7,911	\$7,911
Steinberger, James and Holly (P30025)	Initial grant for upgrade, closure and remediation	\$40,235	\$40,235
Tabernilla, Roy (P29055)	Initial grant for upgrade, closure and remediation	\$25,884	\$25,884
Paraborelli, Armond (P30104)	Initial grant for upgrade, closure and remediation	\$36,900	\$36,900
Taylor, Geneva (P30780)	Initial grant for upgrade, closure and remediation	\$34,712	\$34,712
Thompson, Madeline (P29762)	Initial grant for upgrade, closure and remediation	\$7,227	\$7,227
Tonucci, Pamela (P29398)	Initial grant for upgrade, closure and remediation	\$14,136	\$14,136
Tropitz, Harvey (P29197)	Initial grant for upgrade, closure and remediation	\$5,794	\$5,794
Tunncliffe, Janet (P28829)	Initial grant for upgrade, closure and remediation	\$22,753	\$22,753
Veigel, Lola and Norman P30708)	Initial grant for site remediation	\$5,754	\$5,754
White, Robert and Kathleen P30703)	Initial grant for upgrade, closure and remediation	\$4,658	\$4,658
Williams, Raymond (P29730)	Initial grant for upgrade, closure and remediation	\$76,460	\$76,460

68 Grants

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

\$1,221,412

Belin, Paul J. and Mildred . (P30503)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,802	\$2,802
Berti, John and Gail P30758)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$2,100	\$2,100
Tunncliffe, Eric (P29900)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Veigel, Christian and Corrairie (P30372)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,100	\$4,100
Warr, Deanna (P29477)	Grant to remove an underground storage tank	\$1,200	\$1,200

Applicant	Description	Amount	Date
Batko, Tim and Alan Podkowska (P31156)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Bauer, Azriel and Sally (P29822)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Bechold, Kelly (P30498)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,876	\$2,876
Benedict, Emily (P29810)	Grant to remove an underground storage tank	\$1,200	\$1,200
Bielitz, Erwin and Anne (P29915)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,500	\$4,500
Billek, Doug (P28542)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Bourdon, Joseph and Carolyn P30757)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,485	\$3,485
Bozan, Kathy (P30596)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,718	\$2,718
Brennan, James and Jennifer P29838)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Brocato Sr., Anthony V. P30799)	Grant to remove an underground storage tank and install an above ground storage tank	\$7,000	\$7,000
Brooks, Larry L. and Constance E. (P30461)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,100	\$4,100
Broschansky, Micheline P29796)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Buckner, Harry and Dorothy P29737)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Bundeletti, Louis (P30324)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Burlough, A. Glenn and Deborah A. (P30603)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,390	\$3,390
Carlson, James G. and Synthia B. (P29497)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Carter, Richard A. and	Grant to remove an underground	\$2,725	\$2,725

Applicant	Description	Amount	Date
Rebekah Watson (P30351)	storage tank and install an above ground storage tank		
Carucci, Rose (P31163)	Grant to remove an underground storage tank	\$1,500	\$1,500
Caruso, Joseph and Josephine (P30952)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,288	\$3,288
Caufield, Nancy Lee (P31083)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Cherney, Lisa M. and William T. (P30739)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,272	\$3,272
Chicquenoit, Peter (P30770)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,759	\$2,759
Chowney, Edwin and Elizabeth (P29189)	Grant to remove an underground storage tank	\$1,200	\$1,200
Ciccone, Alberico and Sandra (P29920)	Grant to remove an underground storage tank	\$1,200	\$1,200
Cochran, Robert A. and Veronica S. (P31115)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,288	\$3,288
Cocoran, Joseph L. and Paul E. (P30821)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Coker, Robert and Mary Ann (P30884)	Grant to remove an underground storage tank	\$1,300	\$1,300
Cunniff, Kelly J. and Corrie A. (P30243)	Partial grant to remove an underground storage tank	\$1,200	\$1,200
Curci, Doreen (P29813)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,897	\$3,897
Czerny, Borys and Mary Jo (P31160)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Czekat, Martha (P31111)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,369	\$3,369
Cicelis, Alan and Presicilla (P30178)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,288	\$3,288
Cesella Sala, Ralph and Rosemary (P29679)	Grant to remove an underground storage tank	\$1,227	\$1,227
Cemuth, Robert and Jennifer (P30114)	Partial grant to remove an underground storage tank and install an above ground storage	\$1,890	\$1,890

Applicant	Description	Amount	Date
	tank		
Diebold, Filomena (P30221)	Grant to remove an underground storage tank	\$1,500	\$1,500
Dieckman, Pauline (P30644)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Dombrowski, Margaret (P30247)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,362	\$3,362
Donlan, Phyllis M. (P29894)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,137	\$3,137
Etienne, Dieula (P31154)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Fabrizio, Thomas and Cathy (P30451)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Fields, Josh and Yajuan Cao (P30592)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,414	\$3,414
Flemming, Thomas J. and Michelle (P31204)	Grant to remove an underground storage tank	\$1,500	\$1,500
Gluck, Michael (P29815)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Gox, Bryan and Danielle (P30798)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,100	\$4,100
Garcia, Juan and Maria (P29785)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Gaulin, Richard and Joyce (P31117)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
George, Gerald and Grace (P31155)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Gillmore, Alice Y. (P30858)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,262	\$3,262
Green, Esther and David M. (P30015)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Greene, Joanne and Kenneth (P30245)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,297	\$3,297

Applicant	Description	Amount	Date
Hadley, William R. and Patricia R. (P30368)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,293	\$3,293
Hernandez, Jonathan C. and Maria K. (P29641)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Herrmann, Andrew and Anne (P30505)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,038	\$3,038
Holden, Helen (P30033)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,203	\$3,203
Hurley, Frank V., Sr. and Margaret A. (P29677)	Grant to remove an underground storage tank	\$1,200	\$1,200
Johnson, Yeathus and Katherine P. (P31162)	Grant to remove an underground storage tank	\$1,500	\$1,500
Kaspar, Karim (P30820)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Katcher, Debbi and Keith (P30339)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Keir, Richard and Ingrid (P31123)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,180	\$3,180
Korsen, Nancy (P30476)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,297	\$3,297
Kosakowski, David (P29012)	Grant to remove an underground storage tank	\$1,200	\$1,200
Kurland, Benjamin and Naomi (P29936)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
LaRocca, Mildred A. (P29674)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Leftkowitz, Manny (P29455)	Grant to remove an underground storage tank	\$1,535	\$1,535
Leach, Sandra B. and Robert (P30760)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,193	\$3,193
Logan, Bobby (P30837)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
MacGregor, Richard and Susan (P30829)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,474	\$3,474

Applicant	Description	Amount	Date
MacLennan, Rodrick B. and June Julian (P30521)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Maccarino, John (P29862)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Madigan, John P. and Wendy (P30490)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Manfra, John and Kimberly (P30517)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,362	\$3,362
Martin, Ronald G. and Sandra (P31102)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,288	\$3,288
Marty, Rose (P31016)	Grant to remove an underground storage tank	\$1,570	\$1,570
McBride, Michael and Cynthia (P30672)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,300	\$3,300
McClanahan, Donald W. and Elizabeth A. (P30827)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,333	\$3,333
McDermott, William and Jacqueline (P30183)	Grant to remove an underground storage tank	\$1,500	\$1,500
McGowan, Janet L. (P31208)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,746	\$2,746
Mercer, Arnold G. and Alexis G. (P30761)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,650	\$4,650
Mihahn, Charles R. and Constance P. (P30756)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Miller, John W. and Lois I. (P31138)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Minaian, Mansor and Laura . (P29098)	Grant to remove an underground storage tank	\$1,200	\$1,200
Montanus, Jr., Henry L. and Catherine A. (P31210)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,293	\$3,293
Moore, Patricia and George (P30130)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Morrhineway, Michael and Debra (P30148)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,128	\$3,128

Applicant	Description	Amount	Date
Iastasi, Nicola (P30851)	Grant to remove an underground storage tank	\$1,200	\$1,200
Iivison, Thomas and Dawn M. (P30204)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
O'Brien, Jeanette and Livia Coleman (P30354)	Grant to remove an underground storage tank and install an above ground storage tank	\$5,645	\$5,645
O'Dougherty, David and Susan (P31135)	Grant to remove an underground storage tank	\$1,500	\$1,500
Olson, Thomas and Susan (P30606)	Grant to remove an underground storage tank	\$2,600	\$2,600
Oras, Stephen Jr. and Gina (P29911)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,297	\$3,297
Orr, Daniel J. and Rachael L. (P30658)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Oardun, Christine and Brett (P30472)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,362	\$3,362
Ough III, Frederick A. and Sara Lynn (P30287)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,150	\$3,150
Orez, George and Aura (P30595)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,277	\$3,277
Orotto, Jayson and Kim (P30195)	Grant to remove an underground storage tank	\$1,375	\$1,375
Oetitt, David and Sonya (P29872)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Oierce, Richard and Sheryl (P30840)	Grant to remove an underground storage tank	\$1,500	\$1,500
Orol, Cornelius B and Maureen B. (P30766)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Ooas, Scott W. and Ann G. (P30675)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Oaine, David A. (P30425)	Grant to remove an underground storage tank	\$1,500	\$1,500
Oaymond, Fred and Joan (P30670)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,900	\$3,900
Oeich, Mordechai and Gefen, Miriam (P29799)	Grant to remove an underground storage tank and install an above	\$3,900	\$3,900

Applicant	Description	Amount	Date
	ground storage tank		
Rivera, Ricky and Amanda (P30539)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Robbins, David and Constance (P30234)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,328	\$3,328
Robinson, Jr., James F. and Sharon N. (P30673)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,967	\$2,967
Romando, Daniel and Janice (P29792)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,288	\$3,288
Ronan, Robert W. and Tatiana Grichko (P30151)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,150	\$3,150
Rosenblatt, Esther (P30270)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Ross, Ronald H. and Lois E. (P29988)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,375	\$2,375
Rubinetti, Thomas (P30008)	Grant to remove an underground storage tank	\$1,375	\$1,375
Russell, Marion (P30473)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,293	\$3,293
Ryan, Robert M. and Lisa M. (P31018)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,200	\$3,200
Salvia, Eda Anna (P30814)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Sanak, Justin and Lori (P29909)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,262	\$3,262
Saperstein, Phil and Jennifer (P29934)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$660	\$660
Shumann, John L. and Patricia E. (P30589)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Shepard, Robert and Claudia (P30465)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,350	\$3,350
Stutz, John H. and Lorraine (P30835)	Grant to remove an underground storage tank and install an above	\$3,500	\$3,500

Applicant	Description	Amount	Date
	ground storage tank		
Siegel, Melynda L. (P30341)	Grant to remove an underground storage tank and install an above ground storage tank	\$4,600	\$4,600
Sienkiewicz, Mary (P30853)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Skelly, Rita (P29722)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,209	\$3,209
Smetana, Matthew and Jeanne (P27044)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Spies, William C. and Joan S. (P30355)	Grant to remove an underground storage tank	\$1,021	\$1,021
Stankiewicz, Dennis and Deborah (P30785)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Stanley, Diane and James (P28869)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Stout, Edward S. and Betty L. (P30677)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Strucich, Joseph and Ernestine (P29811)	Grant to remove an underground storage tank	\$1,200	\$1,200
Tucy, Owen and Kathy Kenny (P31068)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Weerus, Julia (P30881)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,965	\$3,965
Weschko, John and Marlene (P29916)	Grant to remove an underground storage tank and install an above ground storage tank	\$2,655	\$2,655
Weiler, Frederick (P30321)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Wimarchi, Vincent and Kira (P29345)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Wan Lenten, Jacob Robert and Madeline (P30136)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,478	\$3,478
Wan Noord, Thomas P. and Bill Graves (P30561)	Partial grant to remove an underground storage tank	\$1,200	\$1,200
Warkala, Caroline (P29735)	Grant to remove an underground	\$2,800	\$2,800

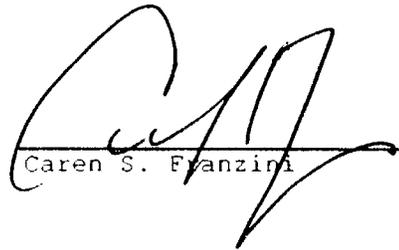
Applicant	Description	Amount	Date
	storage tank and install an above ground storage tank		
Veerman, Gerrit C., II and Sondra A. (P30120)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Vellinga, Eileen (P30746)	Grant to remove an underground storage tank	\$1,200	\$1,200
Vera, David and Deborah (P30482)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$2,800	\$2,800
Vidal, John P. and Marie (P30586)	Partial grant to remove an underground storage tank and install an above ground storage tank	\$1,617	\$1,617
Vitale, Charlton and Audrey (P30110)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,125	\$3,125
Vogler, Paul and Dorothy (P30768)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,288	\$3,288
Walker, Joyce (P30265)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Walker, Jr., Eddie E. and Sharon E. (P30520)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,578	\$3,578
Warren, William A. and Audrey J. (P30453)	Grant to remove an underground storage tank	\$1,250	\$1,250
Weiss, Robert and Miriam (P30319)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500
Wolff, Charles W. and Delaide L. (P31200)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,309	\$3,309
Wood, Gisela and James (P30536)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,275	\$3,275
Wolker, Israel and Jane (P30411)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,000	\$3,000
Wanowitz, Yosef and Dina (P30688)	Grant to remove an underground storage tank	\$1,500	\$1,500
Walen, Stanley J. (P30504)	Grant to remove an underground storage tank	\$1,200	\$1,200
Wong, Scott and LeAnne (P30815)	Grant to remove an underground storage tank	\$1,203	\$1,203

Applicant	Description	Amount	Date
Zollinger, Neil M. and Carolann (P30534)	Grant to remove an underground storage tank and install an above ground storage tank	\$3,500	\$3,500

157 Grants

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

\$456,656



Caren S. Franzini

Prepared by: Lisa Petrizzi, Finance Officer

**HAZARDOUS DISCHARGE SITE REMEDIATION FUND
PROGRAM**



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority
FROM: Caren S. Franzini
Chief Executive Officer
DATE: May 10, 2010
SUBJECT: Hazardous Discharge Site Remediation Fund Program

The following municipal and private projects have been approved by the Department of Environmental Protection for a grant to perform preliminary assessment, site investigation, remedial investigation and remedial action activities. The scope of work is described on the attached project summaries.

Municipal Grants:

Township of Deptford (Frm Fazio/Deptford Landfill).....	\$5,000,000
City of Gloucester (BP/ARCO).....	\$ 302,440
City of Paterson (Belmont Apartments).....	\$ 305,743
City of Salem (Tri County Oil).....	\$ 81,798
Sayreville Economic Redevelopment Agency.....	\$5,000,000
Township of Woodbridge (Spector).....	\$ 256,908

Private Grants:

C. Richard Barfuss	\$ 101,000
Haskell Products Inc./American Candle Company	\$ 113,738
Metuchen Assembly of God.....	\$ 102,925

Private Loan:

NTM Properties, Inc.....	\$ 65,000
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Total HDSRF funding for May 2010..... \$11,329,552

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Township of Deptford (Frm Fazio/Deptford Landfill)

P31397

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: Creek Road

Deptford Township (T)

Gloucester

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

APPLICANT BACKGROUND:

Township of Deptford received a grant in February 2010 in the amount of \$4,951,464 under P29343 to perform Remedial Action (RA). The project site, identified as Block 1.02, Lot 1 is a former landfill which has potential environmental areas of concern (AOC's). The project site is a Brownfield Development Area (BDA) site. The Township of Deptford intends to acquire the project site and has satisfied Proof of Site Control. It is the Township's intent, upon completion of the environmental investigation activities, to redevelop the project site for mixed-use.

According to the HDSRF legislation, a grant can be awarded to a municipality, up to 75% of the costs of Remedial Action (RA) for projects within a BDA. The NJDEP has approved this request for RA grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A. The total annual amount allowed to be approved for a municipality that contains a BDA is \$5,000,000 per calendar year. This grant will utilize the entire limit for the Township of Deptford for 2010.

APPROVAL REQUEST:

The Township of Deptford is requesting grant funding to perform RA in the amount of \$4,951,464 at the Frm Fazio/Deptford Landfill project site, for a total funding \$9,951,464.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT \$5,000,000

TERMS OF GRANT: No Interest; A lien in the amount of \$5,000,000 will be placed on the property and will constitute a debt of the property owner. In the event the property is transferred to the applicant, the lien will be removed.

PROJECT COSTS:

Remedial Action	\$6,666,668
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$6,667,168</u></u>

APPROVAL OFFICER: L. Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: City of Gloucester (BP/ARCO)

P29178

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: Water Street

Gloucester Township (T/UA)

Camden

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

APPLICANT BACKGROUND:

The project site, identified as Block 120, Lot 2 is a former petroleum storage facility, currently vacant, which has potential environmental areas of concern (AOC's). The City of Gloucester intends to acquire the project site and has thus satisfied Proof of Site Control. It is the City's intent, upon completion of the environmental investigation activities, to redevelop the project site as a barge unloading facility and holding area for automobiles.

NJDEP has approved this request for Remedial Investigation (RI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series D.

APPROVAL REQUEST:

The City of Gloucester is requesting grant funding to perform RI in the amount of \$302,440 at the BP/ARCO project site.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$302,440

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial investigation	\$302,440
EDA administrative cost	\$500
TOTAL COSTS	\$302,940

APPROVAL OFFICER: R. Doyle

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: City of Paterson (Belmont Apartments)

P31400

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 95-113 Cliff St

Paterson City (T/UA)

Passaic

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

APPLICANT BACKGROUND:

City of Paterson received a grant in the amount of \$80,605 in March 1996 under P8713 to perform a Preliminary Assessment and Site Investigation. The project site, identified as Block 602, Lots 1 and 24 is a former industrial site which has potential environmental areas of concern (AOC's). The City of Paterson owned the project site at the initial stage of investigation and has satisfied Proof of Site Control. It is the City's intent, upon completion of the environmental investigation activities, to redevelop the project site for affordable housing.

NJDEP has approved this request for Remedial Action (RA) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series C.

According to the HDSRF legislation, a grant can be awarded to a municipality up to 50% of the costs of remedial action for projects involving the redevelopment of contaminated property for affordable housing.

APPROVAL REQUEST:

The City of Paterson is requesting grant funding to perform RA in the amount of \$305,743 at the Belmont Apartments project site.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT \$305,743

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$611,486
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$611,986</u></u>

APPROVAL OFFICER: L. Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: City of Salem (Tri County Oil)

P28391

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 1 Front Street

Salem City (T/UA)

Salem

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

APPLICANT BACKGROUND:

The City of Salem received a grant in the amount of \$71,213 in July 2005 under P16185 to perform Preliminary Assessment (PA) and Site Investigation (SI), a grant in the amount of \$49,149 in March 2008 under P19515 to perform Remedial Action (RA) and a grant in the amount of \$178,152 in June 2009 under P24162 to perform Remedial Investigation (RI) at the project site.

The project site, identified as Block 7, Lot 11 is a former bulk fuel oil supplier which has potential environmental areas of concern (AOC's) including several aboveground storage tanks (AST's). The project site is located within the Salem Industrial District Brownfield Development Area (BDA). The City of Salem currently holds a Tax Sale Certificate on the project site and has satisfied Proof of Site Control. It is the City's intent, upon completion of the environmental investigation activities, to redevelop the project site for commercial development as outlined in the City's Redevelopment Plan.

NJDEP has approved this request for additional Remedial Investigation (RI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

APPROVAL REQUEST:

The City of Salem is requesting supplemental grant funding to perform RI in the amount of \$81,798 at the Tri County Oil project site, for a total funding to date of \$380,312.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT\$81,798

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial investigation	\$81,798
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$82,298</u></u>

APPROVAL OFFICER: C. Cope

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Sayreville Economic Redevelopment Agency (Former National P31417

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 1000 Chevalier Avenue

Sayreville Borough (N)

Middlesex

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

APPLICANT BACKGROUND:

Sayreville Economic Redevelopment Agency ("SERA") received a grant in the amount of \$1,242,103 in October 2008 under P23276 to perform Remedial Investigation (RI), a grant in the amount of \$3,757,897 in December 2008 under P24787 to perform Remedial Action (RA), and a grant in the amount of \$5,000,000 in February 2010 under P26463 to perform RA at the project site. The project site, consisting of 400 acres over various parcels has no current operations at the site, but historically has been used for industrial production and processing. Soil and groundwater contamination has been identified. SERA owns the project site and has satisfied Proof of Site Control and received Brownfield Development Area (BDA) designation. It is the Agency's intent, upon completion of the environmental investigation activities, to redevelop the project site as a mixed-use community including office, retail and residential space along with various recreational opportunities.

NJDEP has approved this request for Remedial Action (RA) on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series C. According to the Legislation, a grant can be awarded to a municipality, county or redevelopment entity authorized to exercise redevelopment powers up to 75% of the costs of RA for projects within a BDA. The total annual amount allowed to be approved for a municipality, county or redevelopment entity that contains a BDA is \$5,000,000 per calendar year. This grant will exhaust this limit for SERA for 2010.

APPROVAL REQUEST:

SERA is requesting grant funding to perform RA in the amount of \$5,000,000 at the Former National Lead project site, for a total funding to date of \$15,000,000.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$5,000,000

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$6,666,667
EDA administrative cost	\$500
TOTAL COSTS	\$6,667,167

APPROVAL OFFICER: L. Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Township of Woodbridge (Spector)

P30791

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: Pennval Rd.

Woodbridge Township (T/UA)

Middlesex

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

APPLICANT BACKGROUND:

The Township of Woodbridge received grant funding to perform a Preliminary Assessment (PA) in the amount of \$4,015 at the Spector project site in December 2009 under P28623. The project site, identified as Block 531b, Lot 100 is a former asphalt plant that is currently used for the stockpiling of soil. The site has potential environmental areas of concern (AOC's). The Township of Woodbridge intends to acquire the project site and has thus satisfied proof of site control. It is the Township's intent, upon completion of the environmental investigation activities, to redevelop the project site as a clean energy construction technology incubator/cluster that will include ground mounted solar energy systems, computer and data processing units, and laboratories.

NJDEP has approved this supplemental request for Site Investigation (SI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series B.

APPROVAL REQUEST:

The Township of Woodbridge is now requesting supplemental grant funding to perform SI activities required by NJDEP in the amount of \$256,908 at the Spector project site, for total funding to date of \$260,923.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT \$256,908

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Site investigation	\$256,908
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$257,408</u></u>

APPROVAL OFFICER: R. Doyle

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS DISCHARGE SITE REMEDIATION PROGRAM GRANT**

APPLICANT: C. Richard Barfuss

P30610

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 550 Central Avenue

Orange City (T/UA)

Essex

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

APPLICANT BACKGROUND:

C. Richard Barfuss, the property owner at the initial stage of investigation, received a grant in May 2007 under P18156 in the amount of \$569,286 to perform Remedial Investigation (RI) and Remedial Action (RA) activities at the project site. The NJDEP Bureau of Case Management has found the applicant's proposal for financial assistance to be administratively and technically complete and has approved funding to be provided in the form of a Hazardous Discharge Site Remediation Innocent Party Grant under N.J.S.A. 58:10B-Subsection 4, Series C. The grant has been calculated using 50% of the approved RI project costs.

APPROVAL REQUEST:

The applicant is requesting supplemental grant funding in the amount of \$101,000 to perform the approved scope of work at the project site, for a total funding to date of \$670,286.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$101,000 (50% Innocent Party Grant)

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial investigation	\$202,000
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$202,500</u></u>

APPROVAL OFFICER: L. Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS DISCHARGE SITE REMEDIAT'N PROG GRANT**

APPLICANT: Haskell Products Inc./American Candle Company

P30192

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 63 Forth Ave.

Totowa Borough (N)

Passaic

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

APPLICANT BACKGROUND:

Haskell Products, Inc./American Candle Company is the owner of the project site. It's former tenant, American Candle Company manufactured specialty candles. The NJDEP Office of Bureau of Case Management has found the applicant's proposal for financial assistance to be administratively and technically complete and has approved funding to be provided in the form of a Hazardous Discharge Site Remediation 25% Matching Grant under N.J.S.A. 58:10B-Subsection 2, Series A. The grant has been calculated off 25% of the Remedial Action costs \$454,952.

The scope of work includes remedial action activities to achieve an unrestricted or limited restricted re-use classification. In addition, pursuant to the evaluation it has been determined that the applicant meets the Authority's standard guidelines under the program.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$113,738 to perform the approved scope of work at the project site.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT\$113,738

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$113,738
EDA administrative cost	\$500
TOTAL COSTS	\$114,238

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS DISCHARGE SITE REMEDIATION PROGRAM GRANT**

APPLICANT: Metuchen Assembly of God

P30525

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 130 Whitman Avenue

Metuchen Borough (N)

Middlesex

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

APPLICANT BACKGROUND:

Metuchen Assembly of God is the owner of project site, which is a 501(c)(3) not for profit organization. The NJDEP Office of Brownfield Reuse has found the applicant's proposal for financial assistance to be administratively and technically complete and has approved funding to be provided in the form of a Hazardous Discharge Site Remediation Innocent Party Grant under N.J.S.A. 58:10B-Subsection 4, Series D. This Innocent Party Grant has been calculated off 50% of the approved remedial investigation and remedial action project costs (\$205,849).

The scope of work involves remedial investigation and remedial action activities including soil remediation.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$102,925 to perform the approved scope of work at the project site.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$102,925 (50% Innocent Party Grant)

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$162,304
Remedial investigation	\$43,546
EDA administrative cost	\$500
TOTAL COSTS	\$206,350

APPROVAL OFFICER: L. Petrizzi

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS DISCHARGE SITE REMEDIAT'N PROG PROGRAM**

APPLICANT: NTM Properties, Inc.

P30198

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 100 North 12th Street

Kenilworth Borough (N)

Union

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

APPLICANT BACKGROUND:

National Tool and Manufacturing Company was formed in 1933, as a producer and supplier for plastic injection mold makers and die cast die-makers marketed nationally and in Canada. In 2005, the company ended 72 years of manufacturing. The company name has been changed from National Tool and Manufacturing Company to NTM Properties, Inc. ("NTM"). NTM now leases the building to five unrelated companies. NJDEP has found the applicant's proposal for financial assistance to be eligible for funding in the amount of \$65,000 for remedial action activities.

APPROVAL REQUEST:

Approval is recommended for a \$65,000 loan as proposed. NJDEP has determined that the project is technically eligible with an immediate environmental concern.

FINANCING SUMMARY:

LENDER: Hazardous Discharge Site Remediation Fund

AMOUNT OF LOAN: \$65,000

TERMS OF LOAN: 5 year term and amortization. Pricing at the Federal Discount rate, with a floor of 5%.

PROJECT COSTS:

Remedial Action	\$65,000
Finance fees	\$1,500
TOTAL COSTS	<u>\$66,500</u>

APPROVAL OFFICER: K. Tolly



TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

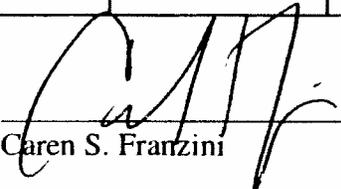
DATE: May 10, 2010

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 April 2010.

Applicant	Description	Grant	Awarded to Date
Borough of Avon-by-the-Sea (2 Main Street) P30408	Initial grant to perform remedial action to redevelop as a park and marina	\$82,662	\$82,662
Township of Cranford (Riverfront Redevelopment Area) P29974	Supplemental grant to perform preliminary assessment to redevelop for mixed-use	\$6,802	\$15,272
Borough of Freehold (Elizabeth Colaner) P29841	Initial grant to perform preliminary assessment and site investigation to redevelop for commercial use	\$45,025	\$45,025
Kathleen Miller P29483	25% matching grant to perform remedial action activities	\$12,742	\$12,742
William Null P30213	25% matching grant to perform remedial action activities	\$15,000	\$15,000
5 Grants	Total Grant Funding for April 2010	\$162,231	


Caren S. Franzini

INCENTIVE PROGRAMS

BUSINESS EMPLOYMENT INCENTIVE PROGRAM

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

APPLICANT: Dr. Reddy's Laboratories, Inc.

P31275

PROJECT LOCATION: To be determined

Locations Unknown (N)

Unknown County

GOVERNOR'S INITIATIVES:

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

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

Dr. Reddy's Laboratories, Inc. is a subsidiary of Dr. Reddy's Laboratories Limited, a leading India-based pharmaceutical company headquartered in Hyderabad, India, which was founded in 1984 by Dr. Anji Reddy. Dr. Reddy's Laboratories' principal areas of operation are in pharmaceutical services and active ingredients, global generics and proprietary products. With a presence in North America, Europe, India and Russia, Dr. Reddy's maintains approximately 11,000 employees worldwide. United States offices include locations in North Carolina, Louisiana and New Jersey (U.S. headquarters). Dr. Reddy's Laboratories in the U.S. has a portfolio of approximately 30 products in the pharmaceutical and medical manufacturing market with 11 new product families launched since April 2007. The Company is economically viable.

MATERIAL FACTOR:

Dr. Reddy's Laboratories, Inc. requests a BEIP grant to offset the costs of expanding the pharmaceutical company in NJ. As Dr. Reddy's is poised for growth, the company is currently evaluating its real estate portfolio and assessing options for the expansion of its US operations and potential relocation of its North Carolina operations and positions. The alternative is to expand in a recently acquired and underutilized facility in Shreveport, Louisiana. When the applicant finalizes a location in NJ depending on smart growth criteria, the BEIP score may increase to as high as 80% with an estimated value of \$2,425,280. The Company has indicated that the award of a BEIP grant is a material factor to expand in NJ.

APPROVAL REQUEST:

PERCENTAGE: 45%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Dr. Reddy's Laboratories, Inc. 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: \$ 1,364,220

(not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 58

ELIGIBLE BEIP JOBS: Year 1 26 Year 2 26 Base Years Total = 52

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$26,235

ANTICIPATED AVERAGE WAGES: \$130,000

ESTIMATED PROJECT COSTS: \$10,650,000

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$3,031,600

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$3,183,180

PROJECT IS: (X) Expansion () Relocation

CONSTRUCTION: (X) Yes () No

PROJECT OWNERSHIP HEADQUARTERED IN: New Jersey

APPLICANT OWNERSHIP: (X) Domestic () Foreign

DEVELOPMENT OFFICER: P. Ceppi

APPROVAL OFFICER: T. Wells

FORMULA EVALUATION

<u>Criteria</u>		<u>Score</u>
1. Location:	Locations Unknown	N/A
2. Job Creation	52	1
	Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk:	30	1
4. Industry:	Pharmaceuticals	2
	Designated : <u> X </u> Non-Designated : _____	
5. Leverage:	3 to 1 and up	2
6. Capital Investment:	\$10,650,000	2
7. Average Wage:	\$ 130,000	4
TOTAL:		12

Bonus Increases (up to 80%):

Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan	20%	_____
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%	_____
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%	_____
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:

0 %

Total Score :

Total Score per formula:	12 = 40 %
Construction/Renovation :	5 %
Bonus Increases :	0 %
Total Score (not to exceed 80 %):	45 %

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

APPLICANT: Inter-Governmental Philatelic Corporation and Ideal Stamp Co., P31055

PROJECT LOCATION: 161 Helen Street South Plainfield Borough Middlesex County

GOVERNOR'S INITIATIVES:

Urban Edison Core Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

Incorporated in 1972, Inter-Governmental Philatelic Corporation acts as philatelic agents for over 65 foreign governments or their postal service organizations. Incorporated in 1968, Ideal Stamp Co., Inc. is a philatelic wholesaler. The two companies (collectively "Applicant") are affiliated as they are 100% controlled by the same individuals and are almost entirely owned by those same principals.

Inter-Governmental Philatelic Corporation focuses on assisting foreign governments in administering, marketing, and promoting stamps of foreign countries by designing, printing and distributing their stamps worldwide. In the meantime, Inter-Governmental Philatelic Corporation generates revenues and promotes those same countries to make them popular and known names or destinations.

As a wholesaler, Ideal Stamp Co., Inc. focuses on serving stamp and coin connoisseurs. It tries to change the way people think about stamps, and strives to improve or revolutionize the way people collect stamps while promoting stamp collecting as a remarkable hobby.

Instead of South Plainfield, if the Applicant chooses Jersey City, Newark, Paterson or New Brunswick, based on the smart growth criteria of those cities, the BEIP score may increase to 80%, at which percentage an estimated amount of the grant would be \$204,160.

Inter-Governmental Philatelic Corporation and Ideal Stamp Co., Inc. are considering moving their headquarters and operations out of their currently leased location in Manhattan to Brooklyn or New Jersey. The main principals live in Brooklyn and Manhattan. For some time, the main principals have already owned both of the competing facilities; the one in Brooklyn, New York and also the one in South Plainfield, New Jersey. The site selection decision is currently underway, and they are considering and comparing incentives from both states. A review of their financial statements indicates economic viability for this group of companies.

MATERIAL FACTOR:

The Applicant is seeking a BEIP grant to support creating 58 (non-retail) positions in New Jersey (including 43 positions to be moved from New York during the first year). The applicant 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 move to New Jersey instead of remaining in New York). The Authority staff recommends the award of the proposed BEIP grant.

APPROVAL REQUEST:

PERCENTAGE: 50%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Inter-Governmental Philatelic Corporation and 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: \$ 174,000

(not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 0

ELIGIBLE BEIP JOBS: Year 1 43 Year 2 15 Base Years Total = 58

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$3,000

ANTICIPATED AVERAGE WAGES: \$35,000

ESTIMATED PROJECT COSTS: \$992,500

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$348,000

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$348,000

PROJECT IS: (X) Expansion (X) Relocation Manhattan (NYS)

CONSTRUCTION: (X) Yes () No

PROJECT OWNERSHIP HEADQUARTERED IN: New York

APPLICANT OWNERSHIP: (X) Domestic () Foreign

DEVELOPMENT OFFICER: D. Johnson

APPROVAL OFFICER: D. Sucsuz

FORMULA EVALUATION

<u>Criteria</u>		<u>Score</u>
1. Location:	South Plainfield Borough	N/A
2. Job Creation	58	1
	Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk:	0	0
4. Industry:	wholesale	0
	Designated : _____ Non-Designated : <u> X </u>	
5. Leverage:	3 to 1 and up	2
6. Capital Investment:	\$992,500	1
7. Average Wage:	\$ 35,000	2
TOTAL:		6

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%	_____
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%	_____
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:		20 %

Total Score :

Total Score per formula:	6 = 25 %
Construction/Renovation :	5 %
Bonus Increases :	20 %
Total Score (not to exceed 80 %):	50 %

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

APPLICANT: JFC International Inc.

P31239

PROJECT LOCATION: 8001 Industrial Avenue

Carteret Borough (T/UA) Middlesex County

GOVERNOR'S INITIATIVES:

Urban Edison Core Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

JFC International Inc. is a Japanese, other Asian and health food products wholesaler and marketer. While its roots date back to early 1900s; in its modern form, JFC International Inc. was incorporated in 1958. In 1969, it became a part of the Kikkoman group of Japan. Today the company's product line consists of some 15,000 items. They expanded to Mexico in 1997, and to Canada in 2001. In 2008, the company's headquarters and main distribution center moved to Los Angeles from south San Francisco. The applicant is economically viable.

The company facilitated substantial increases in exports and imports among Asian countries. Additionally, it has recently acquired specialty and health foods to complement its ever-growing line of food products. With its automated, state-of-the-art warehouse facilities, and modern test kitchens, JFC successfully provides its customers with premium products and fast service.

JFC International Inc. is considering moving its East Coast operations (regional sales office and regional distribution warehouse), and the site selection process is underway.

MATERIAL FACTOR:

The Applicant is seeking a BEIP grant to support moving 75 positions to New Jersey. The company has represented that a favorable decision by the Authority to award the BEIP grant is a material factor in the Applicant's decision to go forward with the project (which is to move to New Jersey instead of remaining in New York State). Authority staff recommends the award of the proposed BEIP grant.

APPROVAL REQUEST:

PERCENTAGE: 75%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage JFC International Inc. 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: \$ 425,845
 (not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 0

ELIGIBLE BEIP JOBS: Year 1 70 Year 2 5 Base Years Total = 75

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$5,677

ANTICIPATED AVERAGE WAGES: \$40,236

ESTIMATED PROJECT COSTS: \$9,000,000

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$567,794

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$425,845

PROJECT IS: () Expansion (X) Relocation New York

CONSTRUCTION: (X) Yes () No

PROJECT OWNERSHIP HEADQUARTERED IN: California

APPLICANT OWNERSHIP: () Domestic (X) Foreign Japan

DEVELOPMENT OFFICER: P. Ceppi

APPROVAL OFFICER: D. Sucsuz

FORMULA EVALUATION

<u>Criteria</u>	<u>Score</u>
1. Location: Carteret Borough	N/A
2. Job Creation 75	1
Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk: 0	0
4. Industry: Transportation & logistics	2
Designated : <u> X </u> Non-Designated : _____	
5. Leverage: 3 to 1 and up	2
6. Capital Investment: \$9,000,000	2
7. Average Wage: \$ 40,236	2
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% _____
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:	40 %

Total Score :

Total Score per formula:	9 = 30 %
Construction/Renovation :	5 %
Bonus Increases :	40 %
Total Score (not to exceed 80 %):	75 %

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

APPLICANT: Scientific Design Company, Inc.

P31316

PROJECT LOCATION: 49 Industrial Avenue

Little Ferry Borough (T)

Bergen County

GOVERNOR'S INITIATIVES:

Urban Edison Core Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

Scientific Design Company, Inc. (SD), formed in 1946, is wholly owned by a partnership between Saudi Basic Industries Corporation (SABIC) and Süd-Chemie AG. The applicant is one of the world's leading process technology and catalyst development companies for the petrochemical industry, resulting in millions of tons of petrochemical intermediates produced in numerous licensed process plants worldwide. Among the products made with the use of the catalyst are antifreeze agents for use in automobiles, and the production of polyester fibers and plastics. High demand for bio-renewable technology has opened new global business opportunities for SD to license its integrated Ethanol to EO/MEG technology in China and Africa. The applicant is economically viable.

MATERIAL FACTOR:

SD is requesting a BEIP grant to support creating 25 new engineering and technical jobs to be located at its Little Ferry facility, which is at capacity to house new employees. In order to make space for the new employees to be housed with the appropriate work groups, the applicant is considering moving its executive office, business development and financial administration to a facility to be leased in Hackensack. The applicant has done extensive analysis, working with Cresa Partners, to determine economic viability of moving the entire operation to Teaneck, NJ, Charlotte, NC, or Texas where its parent company has excess research and development capacity. Management has indicated if they move it would be phased over a 5 year time line, with 50% of the employees moved with the company. The applicant is estimating project costs to update space in Little Ferry will be in excess of \$5 million and would cost \$14 million for a new facility in Teaneck. The award of the BEIP grant is a material factor in management's decision to expand in NJ.

APPROVAL REQUEST:

PERCENTAGE: 65%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Scientific Design Company, Inc. 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: \$ 681,281
 (not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 117

ELIGIBLE BEIP JOBS: Year 1 10 Year 2 15 Base Years Total = 25

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$27,251

ANTICIPATED AVERAGE WAGES: \$105,000

ESTIMATED PROJECT COSTS: \$5,000,000

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$1,048,425

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$890,906

PROJECT IS: (X) Expansion () Relocation

CONSTRUCTION: (X) Yes () No

PROJECT OWNERSHIP HEADQUARTERED IN: New Jersey

APPLICANT OWNERSHIP: (X) Domestic () Foreign

DEVELOPMENT OFFICER: J. Colon

APPROVAL OFFICER: M. Krug

FORMULA EVALUATION

<u>Criteria</u>		<u>Score</u>
1. Location:	Little Ferry Borough	N/A
2. Job Creation	25	1
	Targeted : <u> X </u> Non-Targeted : _____	
3. Job at Risk:	58	1
4. Industry:	Advanced materials	2
	Designated : <u> X </u> Non-Designated : _____	
5. Leverage:	3 to 1 and up	2
6. Capital Investment:	\$5,000,000	2
7. Average Wage:	\$ 105,000	4

TOTAL: **12**

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%	_____
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%	_____
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: **20 %**

Total Score :

Total Score per formula:	12 = 40 %
Construction/Renovation :	5 %
Bonus Increases :	20 %
Total Score (not to exceed 80 %):	65 %

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

APPLICANT: Shionogi USA, Inc.

P31293

PROJECT LOCATION: To Be Determined

Locations Unknown (N)

Unknown County

GOVERNOR'S INITIATIVES:

Urban Edison Core Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

In February 2001, Shionogi USA, Inc. was established as a subsidiary of Shionogi & Co. Ltd., in order to build a stronger international presence for one of the leading global Japanese pharmaceutical companies. Shionogi USA serves as the parent's primary vehicle for overseas development, bringing innovative compounds originated in Shionogi Research Laboratories to the US and Europe for clinical development. The company's current development activities take place independently or in partnership with other pharmaceutical companies such as its joint venture with GlaxoSmithKline to develop and market a drug to treat HIV infection. In addition to HIV drugs, Shionogi USA currently supports the clinical development of several compounds for the treatment of obesity, eczema, and some hematologic conditions. The company is economically viable.

MATERIAL FACTOR:

Shionogi & Co. Ltd is considering merging Shionogi USA with its sister subsidiary Shionogi Pharma which is currently located in Atlanta, Georgia. Should the company choose New Jersey for the corporate headquarters it would mean an expansion of current clinical research and development activities and the relocation of 90 employees from Atlanta to New Jersey in the first two years and potentially 100 more in years 3 and 4. Management has indicated that a favorable decision by the Authority to award a BEIP grant is a material factor in the company's decision to expand in New Jersey. When the applicant finalizes a location in New Jersey, the BEIP award could increase to as high as 80% with an estimated value of \$4,197,600 depending on smart growth criteria.

APPROVAL REQUEST:

PERCENTAGE: 35%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Shionogi USA, Inc. 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: \$ 1,836,450
 (not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 48

ELIGIBLE BEIP JOBS: Year 1 26 Year 2 64 Base Years Total = 90

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$20,405

ANTICIPATED AVERAGE WAGES: \$130,000

ESTIMATED PROJECT COSTS: \$1

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$5,247,000

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$6,034,050

PROJECT IS: (X) Expansion (X) Relocation Atlanta, Georgia

CONSTRUCTION: () Yes (X) No

PROJECT OWNERSHIP HEADQUARTERED IN: New Jersey

APPLICANT OWNERSHIP: (X) Domestic () Foreign

DEVELOPMENT OFFICER: D. Johnson

APPROVAL OFFICER: K. McCullough

FORMULA EVALUATION

<u>Criteria</u>		<u>Score</u>
1. Location:	Locations Unknown	N/A
2. Job Creation	90	2
	Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk:	48	1
4. Industry:	Pharmaceuticals	2
	Designated : <u> X </u> Non-Designated : _____	
5. Leverage:	3 to 1 and up	2
6. Capital Investment:	\$1	0
7. Average Wage:	\$ 130,000	4

TOTAL: 11

Bonus Increases (up to 80%):

Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan	20%	_____
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%	_____
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%	_____
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:

0 %

Total Score :

Total Score per formula: 11 = 35 %

Construction/Renovation : 0 %

Bonus Increases : 0 %

Total Score (not to exceed 80 %): 35 %

PROJECT SUMMARY – BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT

APPLICANT: Scientific Design Company, Inc.
COMPANY ADDRESS: 49 Industrial Avenue Little Ferry Borough Bergen County
PROJECT LOCATION: To Be Determined
GOVERNOR'S INITIATIVES: () NJ Urban Fund (X) Edison Innovation Fund () Core

APPLICANT BACKGROUND:

Scientific Design Company, Inc. (SD), formed in 1946, is today one of the world's leading process technology and catalyst development companies. The applicant has developed some of the petrochemical industry's most significant process technologies, which are used today to produce millions of tons of petrochemical intermediates in numerous licensed process plants worldwide. In March 2003, Saudi Basic Industries Corporation (SABIC) and Süd-Chemie AG formed a partnership for the acquisition of Scientific Design Company, Inc. Products include antifreeze agents for use in automobiles, and the production of polyester fibers and plastics. High demand for bio-renewable technology in the world has opened new business opportunities for SD to license its integrated Ethanol to EO/MEG technology. The applicant is economically viable.

MATERIAL FACTOR:

SD is requesting a BRRAG grant to support retaining and relocating 117 jobs in New Jersey and creating a state of the art production/research facility. The Little Ferry site is a 7 acre site which is at full capacity for headcount. The applicant has done extensive analysis, working with Cresa Partners, to determine the economic viability of moving the entire operation to Teaneck, NJ, Charlotte, NC, or Texas where its parent company has excess research and development capacity. The applicant is estimating project costs will be approximately \$14 million. The award of the BRRAG grant is a material factor in management's decision to relocate within NJ.

APPROVAL REQUEST:

TERM: 5 years

The Members of the Authority are asked to approve the proposed BRRAG grant to Scientific Design Company, Inc. to encourage the company to relocate within New Jersey. The recommended grant is based on the Project Evaluation Factors set forth on the attached BRRAG Score sheet and is contingent upon receipt by the Authority of evidence that the company has met said criteria to substantiate the recommended award amount. If the criteria met by the company differs from that shown on the Score sheet, the award amount will be raised or lowered to reflect the award amount that corresponds to the actual criteria that have been met.

TOTAL ESTIMATED GRANT AWARD OVER TERM OF GRANT:	\$ 152,100
GRANT AMOUNT PER RETAINED EMPLOYEE (see attached score sheet):	\$ 1,300
NEW JERSEY EMPLOYMENT AT APPLICATION:	117
ELIGIBLE BRRAG JOBS:	117
ANTICIPATED AVERAGE WAGES:	\$ 88,300
ESTIMATED PROJECT COST:	\$ 14,000,000
ESTIMATED TOTAL GROSS PAYROLL:	\$ 10,331,100
ESTIMATED TOTAL GROSS STATE WITHHOLDINGS 5YRS:	\$ 1,812,710

PROJECT IS: (X) Expansion (X) Relocation
CONSTRUCTION: (X) Yes () No

BUSINESS DEVELOPMENT OFFICER: Jose Colon **APPROVAL OFFICER:** Michael Krug

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT OF TAX CREDITS**

Score Sheet – Project Evaluation Factors (NJAC 12A:2-1.8)

This scoring system is used to determine the award amount for BRRAG projects retaining 50 to 499 jobs. The award amount determined under the project evaluation factors is an initial determination and is subject to adjustment under the Act, the regulations there under, and the terms and conditions of the Project Agreement. Project Evaluation Factors (NJAC 12A:2-1.8)

Company: Scientific Design Company Inc.

Date Scored: February 18, 2010

1. Full-time jobs retained – maximum points = 5

Range	Eligible Jobs Retained	Score
5 = 410 – 499		
4 = 320 – 409		
3 = 230 – 319		
2 = 140 – 229		
1 = 50 – 139	117	1

2. Quality of the retained jobs (based on average salary of retained jobs) – maximum points = 4

Range	Avg. Salary	Score
4 = \$75,001 +	88,300	4
3 = \$50,001 - \$75,000		
2 = \$30,001 - \$50,000		
1 = \$19,001 - \$30,000		.
0 = up to \$19,000		

3. Capital investment by the applicant in project – maximum points = 5

Range	Capital Investment	Score
5 = \$3,500,000 to \$19,000,000+	14,000,000	5
4 = \$2,900,000 to \$3,499,000		
3 = \$2,200,000 to \$2,899,000		
2 = \$1,500,000 to 2,199,000		
1 = \$700,000 to \$1,499,000		
0 = \$0 to \$699,000		

4. Designated industry type – maximum points = 3

Range	Industry	Score
3 = manufacturing		3
2 = targeted = (life science/biotech)		
0 = non-targeted		

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
 BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT OF TAX CREDITS
 Score Sheet – Project Evaluation Factors (NJAC 12A:2-1.8)**

**5. Job creation/attraction component (impact on the state if the project moved to another state)
 Maximum points = 5**

Range	New Jobs	Score
5 = 100 or more new jobs		
4 = 80-99		
3 = 70-79		
2 = 60-69		
1 = 50-59		
0 = <50	25	0

6. Smart Growth Targeted Areas – maximum points = 4

Description	Type	Score
4 = located in an area targeted for growth pursuant to the State Development and Redevelopment Plan, the Pinelands Comprehensive Management Plan, Highlands Commission Management Plan, and the Meadowlands Development Commission Plan. This includes brownfield sites.	TBD	
0 = non- growth area		

7. Retained jobs average at least 1.5 times the hourly minimum wage – maximum points = 2

		Score
2 = yes	Yes	2
0 = no		

8. Commitment to the State of New Jersey

a. Duration of operations - maximum points = 3

Range of Years	Year Started in NJ	Score
3 = 20 plus years of operation in the state	23 years	3
2 = 15-19 years		
1 = 10-14 years		

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
 BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT OF TAX CREDITS
 Score Sheet – Project Evaluation Factors (NJAC 12A:2-1.8)**

8 b. Total employees in New Jersey – maximum points = 3

Range	Number of Employees in NJ	Score
3 = 350 or greater		
2 = 200-349		
1 = 50-199	117	1

9. Urban Enterprise Zone – maximum points = 3

		Score
3= if relocating from non-UEZ site to a site within an UEZ		
0 = no	No	0

Totals – Value Per Retained Job and Score

Range	Value Per Retained Job	Score
31-36 = \$1,500		
25-30 = \$1,400		
19-24 = \$1,300	19	\$1,300
13-18 = \$1,200		
7-12 = \$1,100		
0-6 = \$1,000		

URBAN TRANSIT HUB TAX CREDIT



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

SUBJECT: Urban Transit Hub Tax Credit Program
Daily News, L.P.

Request

The Members are asked to approve the Urban Transit Hub Tax Credit (UTHTC) Program application for **Daily News, L.P.** for a tax credit amount not to exceed **\$41,650,000**.

Project Background

The Daily News, L.P. was founded by Joseph Medill Patterson who launched the Daily News on June 26, 1919. The Daily News newspaper is the largest and most widely read newspaper in the New York metropolitan market with an average circulation of approximately 600,000. Average daily readership for the Daily News nears 2.3 million, with Sunday readership reaching 2.5 million. The Daily News has the largest combined print and online audience of any metropolitan newspaper at 4.9 million and NYDailyNews.com is the 6th most visited newspaper website in the country. The company has over 1,300 employees with over 50% based in New Jersey.

The Daily News, L.P. has applied for an Urban Transit Hub Tax Credit as an owner of a commercial project on an eligible site in Jersey City. The project site, having a street address of 125 Theodore Conrad Drive, has been verified to be in an eligible municipality as well as served by active freight rail which will be utilized by **Daily News, L.P.** The commercial building consists of 446,000 square feet of office space as well as the company's production facility. The company currently has over 450 jobs on site (in excess of the 250 program minimum jobs requirement). The estimated total capital investment is \$100,695,000 (in excess of the \$50 million minimum capital investment).

For the past several years the Daily News has aggressively considered new business strategies to counter adverse trends in the print media sector. They determined to invest in additional

production equipment to permit the Company to expand into commercial printing for third parties. In addition, the Daily News was in discussions with other newspapers to co-print papers in New York and New Jersey to save distribution costs. In September 2009, the Daily News made its determination to install the third of three new high-speed, full-color printing presses at its New Jersey location rather than to install it in a New York location. The existence and availability of the UTHTC was a significant factor in that determination and as such the EDA staff has used this capital investment and jobs related to the third press as the basis for economic activity in the net benefits analysis for the project. The investments the company committed to prior to the company becoming eligible for the program (July 28, 2009), were not considered in this analysis.

The Daily News has received prior assistance from the EDA. In 1996, the EDA issued a \$4 million dollar bond with an EDA guarantee. The bond is in good standing. In addition, the EDA owns the property on which this project is located. The EDA currently has a land lease agreement with the Daily News.

Net Positive Benefit Analysis

This project commenced prior to application for the Urban Transit Hub Tax Credit (UTHTC) Program, and therefore, the required net benefits test is limited to the economic activity generated by the \$25 million of investment, a decision made by the company after the company reached out to the EDA to discuss applying for the UTHTC Program. The Authority performed the Net Benefit Analysis and has found that the nominal Net Positive Benefits resulting from the \$25 million of investment to the State of NJ over a 20-year period is \$63,060,208.

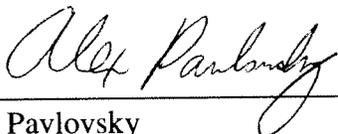
With the present value of the UTHTC at a 6% discount rate being \$30,654,763, (\$41,650,000 over a ten year period) the present value of the Net Positive Benefits to the State of NJ is \$33,745,256 (\$63,060,208 over a twenty year period). This meets the standard of being at least 110% of the recommended grant assistance and supports \$41,650,000 of credits.

The Net Positive Benefit Test relied on the employment associated with the installation of the third press and the projected increase in employment provided by The Daily News for the third party printing contracts which are not yet entered into.

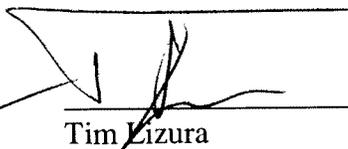
It should be noted that the company's initial request for \$100,000,000 million of credits was declined because it did not meet the Net Positive Benefits test standards requiring the project to provide a minimum of 110% net positive benefit. They reapplied for an amount that could be supported by the \$25 million capital investment attributed to the third press.

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 amount not to exceed **\$41,650,000**. Since two hundred jobs are not new to the State, the applicant is eligible for an 80% credit of the requested amount of \$52,070,000. The final recommended tax credit amount reflects the reduction in the request in order to meet the net positive benefits test. 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. 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

NJEDA Economic Impact	
NJEDA Economic Impact	
Project	Expansion
City	Jersey City
Ongoing Jobs	300
Number of One Time Construction Jobs	118
State Direct Ongoing	
Annual Withholding Tax	\$1.79
Annual Unemployment Taxes	\$0.13
Direct Annual Ongoing Taxes	\$1.91 ^a
State Indirect Ongoing	
Annual Corporate Spend	\$19.69
Final Indirect Demand Multiplier	0.43 ^x
Indirect Annual Spend	\$8.47
Indirect Annual Taxes (3.5%)	\$0.30 ^b
Annual Payroll	\$35.79
Indirect Effect Earnings Multiplier	0.49 ^x
Annual Indirect Earnings	\$17.53
Annual Indirect Withholding (5%)	\$0.88 ^c
Indirect Ongoing Annual Taxes	\$1.17 ^{b+c}
Total State Ongoing Net Benefits	
Annual Net Benefit	3.09
Cumulative Net Benefit (20yrs)	61.76 ^a
Present Value @6%	32.44 ^b
One Time	
Construction costs	\$25.88
Direct One Time Taxes on Spending	\$0.91
Indirect Construction Multiplier	\$0.46
Indirect One Time Spending	\$11.90
Spending Tax Rate	\$0.04
Ind One Time Taxes on Spending	\$0.42
Assumed Portion of Const. on Labor	\$0.50
Dir One Time Earnings	\$12.94
Earnings Tax Rate	\$0.05
Dir One Time Taxes on Earning	\$0.65
Indirect Effect Earnings Multiplier	\$0.37
Indirect One Time Earnings (50% of Construction)	\$4.79
Earnings Tax Rate	\$0.05
Ind One Time Taxes on Earnings	\$0.24
Total One Time Tax Benefits	\$1.30 ^c

Total State Benefits	
Total One Time Tax Benefits	\$1.30 ^c
Total State Ongoing Benefits (PV @ 6%)	\$32.44 ^b
Total Benefits	\$33.75^{c+b}
Previous Local & State Incentives	
Less	\$0.00
UEZ Grant (PV @6%)	\$0.00
BEIP Award	\$0.00
HUB - PV at 6%	\$30.65 ^d
PV of Net Benefits to New Jersey	\$3.091^{(c+b)-d}
NOMINAL BENEFITS	
Ongoing:	\$61.76
One Time	\$1.30
Total Benefits:	\$63.06
	\$0.00
BEIP:	\$0.00
ERG:	\$0.00
HUB	\$41.65
Total Assistance:	\$41.65
	\$0.00
Total Nominal Net Benefit:	\$21.41



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

SUBJECT: Urban Transit Hub Tax Credit Program
Transit Village Associates LLC

Request

The Members are asked to approve the Urban Transit Hub Tax Credit (UTHTC) Program residential application for **Transit Village Associates, LLC** for a tax credit amount not to exceed **\$55,100,000**, which represents **20%** of the Total Eligible Capital Investment of **\$275,500,000**.

Project Background

The New Brunswick Development Corporation (DEVCO) is a not for profit real estate development company founded to initiate redevelopment projects and to serve as the vehicle for public and private investment in the City of New Brunswick. It has overseen more than \$1.6 billion of investment since it was founded in the mid seventies. Christopher Paladino is its President and Ira Novak is its Chairman. The Project, which consists of 3 phases of development, has received redevelopment approval and is the cornerstone of the Downtown Transit Village Redevelopment Initiative. The applicant, Transit Village Associates L.L.C., was created by DEVCO as a holding company for three development LLCs; Brunswick Housing Urban Renewal, LLC for the Arts complex, Ferren Urban Renewal LLC for the Ferren complex and Somerset Street Urban Renewal associates LLC for the Gateway complex.

In January 2010, the Members approved the issuance of \$21,860,000 of UTHTC tax credits for the Somerset Street Urban Renewal LLC for the Gateway portion of the Transit Village project. Devco has submitted a new application as Transit Village Associates L.L.C. requesting consideration for its Gateway, Ferren and Arts facilities to be considered as a single project under the complex provision of the UTHTC program. Staff has reviewed the definition of the complex with the Division of Law and believes that these facilities exhibit

sufficient common characteristics to meet the requirements to be considered as a complex under the Statute. These characteristics include the proximity, continuity of development and ownership structures, shared amenities, and consistency with a master redevelopment plan. On approval of the Transit Village Associates application, the Somerset Street Urban Renewal LLC approval will be withdrawn.

The Transit Village application contemplates the development of three complexes totaling \$326 million of investments known as Gateway, Ferren and Arts (the "Project"). Each complex is mixed use with the inclusion of retail, affordable and market rate residential and commercial activities including an urban grocery store. The New Brunswick Parking Authority, Pennrose Development and Rutgers have all agreed to have interests in portions of the completed projects. Pennrose Properties is one of the most prolific mixed-income residential developers in the nation, having developed over 11,000 units. In total the three facilities will add over 375 residential units, 170,000 square feet of retail and amenities space and almost 50,000 square feet of office space to the downtown core of New Brunswick. Residential is the predominate use in the Transit Village application and as such can be considered under the residential portion of the UTHTC, allowing for up to 20% of eligible costs to be issued as credits.

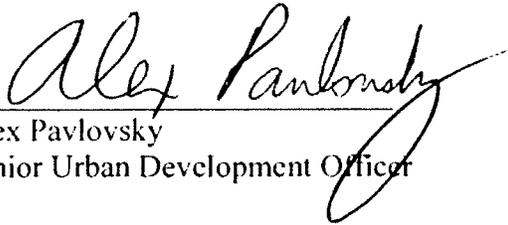
Authority staff has undertaken a pro-forma review of the applicant's combined financials which shows the need for the UTHTC benefit in order to make the project move forward. Specifically, without the UTHTC, the pro forma showed a .84% unleveraged internal rate of return and a 4.05% cash on cash yield, making it infeasible for a developer to advance the project. However, with the benefit of the UTHTC for 20% of eligible costs, the project returns improve to a 8.22% unleveraged internal rate of return and a 6.67% cash on cash yield. This is within the market range and will enable the project to move forward. As a result of this review, it is recommended that the board approve a 20% tax credit not to exceed \$55,100,000, to be taken over 10 years. Pursuant to the Statute, the approval would be subject to either the City of New Brunswick obtaining COAH Substantive Certification, the applicant building a 20% affordable housing component into the project, or a finding by the Attorney General's office that the project is not obligated to provide affordable units.

Recommendation

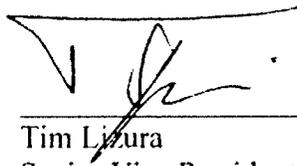
Staff has reviewed the application for consistency with the Act and rules implementing the UTHTC Program (N.J.A.C:19:31-9) and recommends approval of the application for a tax credit amount not to exceed **\$55,100,000** which represents **20%** of the Total Eligible Capital Investment which is \$275,500,000. 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. 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.

The approval of this project under the UTHTC program is contingent upon the Applicant meeting the following conditions regarding the Project. :

1. Financing commitments for all funding sources for the Project by April 30, 2011;
2. Evidence of site control and site plan approval for all properties within the Project by April 30, 2011;
3. Written commitment from the New Brunswick Parking Authority and financing commitments from all funding sources regarding the purchase of a portion of the Gateway component of the Project comprised of the Parking Garage in the amount of \$46,916,745; and a portion of the Ferren component of the Project comprised of the Parking Garage and the commercial space in the amount, not to exceed \$79,824,022 by April 30, 2011;
4. Written commitment from Rutgers University and financing commitments from all funding sources regarding the purchase of a portion of the Gateway component of the Project comprised of residential units and commercial space in the amount of \$15,870.01 by April 30, 2011; and
5. Written commitments of New Market Tax Credit allocation and investors sufficient to allow financing of the project by December 30, 2010.



Alex Pavlovsky
Senior Urban Development Officer



Tim Lizura
Senior Vice President, Business Development



Lori Matheus
Vice President Business Development

BROWNFIELD REIMBURSEMENT PROGRAM



MEMORANDUM

To: Members of the Board

From: Caren S. Franzini
Chief Executive Officer

Date: May 10, 2010

Subject: **Application for Brownfield Reimbursement Agreement
F. Greek Newco 377, L.L.C.**

Summary:

The Members are asked to approve the Brownfield application of **F. Greek Newco 377, L.L.C.** for reimbursement of clean-up costs for a Carteret, Middlesex County redevelopment project under a Brownfield Reimbursement Agreement with the New Jersey Economic Development Authority (“Authority”) and the State Treasurer, pursuant to the Brownfield and Contaminated Site Remediation Act, P.L. 1997, c. 278 (N.J.S.A. 58:10B-1 et seq.) (the “Act”). The recommended reimbursement is **75% of the actual remediation costs**, not to exceed **\$2,411,692**. **The estimated remediation costs are \$3,215,590.**

Project Description:

- The property or “site” is a 12-acre parcel located at 377 Roosevelt Avenue, designated as Block 6.02, Lots 6 and 7 in the City of Carteret.
- The Developer’s planned cleanup, remediation and redevelopment of this property includes the construction of a 256,175 square foot state-of-the-art warehouse and distribution facility.
- Neither the Developer nor its representatives are responsible for any of the historic or present contamination on the site property.
- Remedial investigations have confirmed site-wide contaminants consisting of historic fill and other soil impacts associated with prior operations that exhibit concentrations of volatile organic compounds (VOC’s), semi-volatile organic compounds (SVOC’s), various metals, PCBs and TPHCs at concentrations above NJ Department of Environmental Protection (DEP) standards.
- F. Greek Newco 377, has obtained Final Site Plan approval for the warehouse redevelopment from the Borough of Carteret. Approvals to proceed with the remedial action plan, demolition, and redevelopment construction have been obtained and the Remedial Action Work Plan (RAWP) was approved by DEP on April 7, 2008.
- The proposed warehouse redevelopment is consistent with the economic development recommendations for the site, and is consistent with the Borough’s Master Plan that includes pursuit of revitalization through private investment and reuse as a light-industrial sector to promote employment and increase the Borough’s tax base. Approximately 20 new permanent jobs will be created. New property taxes for the City of Carteret, as well as new Sales and Corporate Business tax revenue will be generated for the State of New Jersey.

Anticipated remediation costs: \$3,215,590

**Recommended reimbursement: 75% of the actual remediation costs, not to exceed \$2,411,692
(75% of \$3,215,590)**

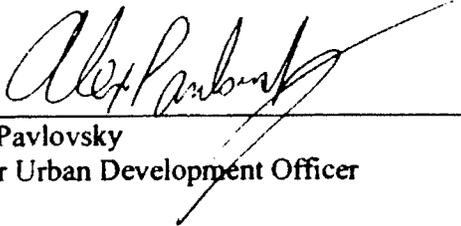
The Authority received an application for a Brownfield Redevelopment Agreement for F. Greek Newco 377, L.L.C., requesting the reimbursement of up to 75% of approved remediation costs for remediation and a redevelopment project. In accordance with the Act, approval of the application by the Authority and the State Treasurer requires finding that the site, the redevelopment project and the clean-up meet statutory economic development and fiscal requirements. Reimbursement under the Redevelopment Agreement is contingent upon the Department of the Treasury ("Treasury") finding that the Project generates sufficient tax revenue to exceed the reimbursement amount and upon the Department of Environmental Protection (DEP) determination that the remediation costs are eligible under the Act and the Agreement. NJ Treasury has found that the project developer and tenants will generate sufficient CBT Tax revenues to provide for reimbursement under this program.

Reimbursement starts once the project has been constructed on the remediated site, only after eligible costs have been approved by DEP and new tax revenues have been generated. Treasury annually tracks taxes received from job sites and remits reimbursement equal to a percentage of funds collected during the year.

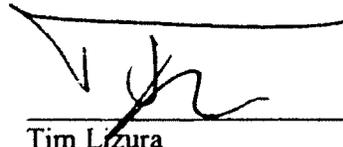
This applicant is also seeking a \$1,250,000 loan (P30383) under the LDFP program. This loan would be a component of an overall financing package that will support the construction of a 256,000 square foot warehouse facility. The proposed LDFP loan is being simultaneously presented for approval.

Recommendation:

Authority staff has reviewed the F. Greek Newco 377, L.L.C., application and finds that it is consistent with eligibility requirements of the Act. Treasury, in reviewing the application, has notified the Authority of the adequacy of the Project's estimated tax revenues and specified the percentage reimbursement of remediation costs. Therefore, it is recommended that the Members approve the application and authorize the CEO of the Authority to execute a Brownfield Reimbursement Agreement with F. Greek Newco 377, L.L.C. and the State Treasurer.



Alex Pavlovsky
Senior Urban Development Officer



Tim Lizura
Senior Vice President, Business Development



Odhis Jones
Director, Urban and Site Development

Prepared by: Alex Pavlovsky, Urban & Site Development

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
BROWNFIELD AND CONTAMINATED SITE
REMEDIATION ACT PROGRAM (BCSRP)
PROJECT SUMMARY
F. Greek Newco 377, L.L.C.
May 10, 2010**

Applicant:

- **Owner(s) and Developer(s):** F. Greek Newco 377, L.L.C.
- **Principals:** Frank Greek, Jr., Managing Member; Frank Greek Development; and Frank A. Cardaci, President, ASA Apple Inc.
- **Site Location:** The Site is a 12-acre parcel located at 377 Roosevelt Avenue, designated as Block 6.02-6.1, Lots 6 and 7 in the City of Carteret.
- F. Greek Newco has obtained Final Site Plan approval for the warehouse redevelopment from the Borough of Carteret. Approvals to proceed with the remedial action plan, demolition, and redevelopment construction have been obtained.
- A pre-application meeting was held between the project representatives and officers from the NJ Dept. of Environmental Protection (DEP), NJ Treasury and NJEDA on October 14, 2009. Prior to the meeting on June 7, 2000, The Memorandum of Agreement (MOA) was accepted by the NJ Department of Environmental Protections (DEP), and DEP Case Number **00-05-17-0250-21** was assigned to the file. A copy of the MOA was provided in the Brownfield Reimbursement application.
- The property was originally subject to the Environmental Cleanup and Responsibility Act (ECRA) which was triggered by cessation of operations at the Site following a fire that occurred in 1989. Since the replacement of ECRA in 1993, the site is now subject to the Industrial Site Recovery Act and ISRA Case No. E90492 was assigned by DEP.
- Pursuant to the MOA, the developer intends to implement the site-wide remedial action plan that addresses the historic fill and groundwater at the building footprint and roadway development and construction plans.

Programs:

- The Brownfield and Contaminated Site Reimbursement Program (BCSRP) remediation application was presented based on pre-application meeting results. The benefit will be administered as a reimbursement of approved remediation costs based on the collection of applicable taxes from the project site contained in the application submission.
- The property is an identified Brownfield site and is currently underutilized, contaminated and is perceived by the community as a social and economic blight by the Borough of Carteret.

Project:

- Remedial investigations have confirmed site-wide contaminants consisting of historic fill and other soil impacts associated with prior operations that exhibit concentrations of volatile organic compounds (VOC's), semi-volatile organic compounds (SVOC's), various metals, PCBs and TPHCs at concentrations above NJ Department of Environmental Protection (DEP) standards.
- F. Greek Newco 377 has obtained Final Site Plan approval for warehouse redevelopment from the Borough of Carteret and approvals to proceed with the remedial action plan, demolition, and redevelopment construction have been obtained. The Remedial Action Work Plan (RAWP) was approved by DEP on April 7, 2008. Additionally, on Sept 23, 2009, DEP completed, reviewed

and approved a Vapor Investigation & Proposed Vapor Depressurized System Design Report and found that the project plan is in compliance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

Description of Jobs

- The Developer has agreed to and understands that from onset through completion during the remediation, redevelopment, and construction, they are obligated to abide by NJ Prevailing Rules and Regulations.
- During remediation and construction activities new union construction jobs with a wide range of trades will be created. Following construction, an estimated 20 new permanent jobs with a wide-range of skill sets will be created.

Qualifications:

- F. Greek Newco 377 L.L.C. is eligible to enter into a Brownfield Redevelopment Agreement as it is not liable for the remediation of any of the property pursuant to the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10B-27(a); has not discharged any “contaminant” at the site, nor associated with any entity that is in any way responsible for hazardous substances contamination or discharge emanating from the site.

1. The economic feasibility of the redevelopment project

- Total project cost is estimated to be \$25,981,931.
- The developer has signed a lease with the major tenant, ASA Apple Inc. which will occupy 256,175 square feet in the building. The developer has also received a commitment for commercial financing for the building, thereby making the project feasible.

2. The extent of the economic and related social distress in the municipality

- The City of Carteret has experienced a decline in tax ratables and jobs over the past several years. Unemployment data from 2008 shows unemployment rate of 5.4% and with the current economic downturn is likely raised in 2010. The proposed warehouse will create employment opportunities that are not currently available within the community.

3. The degree to which the redevelopment project will advance State, regional, and local development and planning strategies

- The proposed warehouse redevelopment is located within PA-1, or Metropolitan Planning District, which is a Smart Growth area set forth by the SDRP, and supports the Statewide goal to protect the environment, prevent and clean up pollution.
- Redevelopment of the Site is strongly supported by the Borough of Carteret and advances the goals and objectives of Carteret’s Redevelopment and Master Plan for this designated Redevelopment Area, which includes new commercial development to increase the City’s tax ratables, create jobs, and facilitate economic revitalization of the tax base.
- Redevelopment of the property will restore the underutilized and contaminated property to productive commercial use.

4. The likelihood that the redevelopment project shall upon completion be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for the remediation costs as provided in the redevelopment agreement

- State Taxes will exceed the amount necessary to reimburse the developer. In the first 10 years of the Project's operation, an estimated \$2,539,084 of CBT taxes will be generated based on projected new corporate tax data provided by F. Greek Newco and the tenant.
- A reimbursement timeline of 10 years is therefore anticipated for the Brownfield Redevelopment Agreement.

5. The relationship of the development project to a comprehensive local development strategy, including other major projects undertaken within the municipality

- The property is under-utilized and will be transformed into a viable warehouse that is compatible with planning goals set by the City of Carteret and complies with the Master Plan for City and redevelopment designation.
- The completion of the warehouse and distribution center has the potential to spur similar redevelopment of other properties in the area that are currently under-utilized.

6. The need of the redevelopment agreement to the viability of the redevelopment project

- Approval of the Brownfield Redevelopment Agreement Application is a critical factor in F. Greek Newco's decision to close on the subject property and commit to the Site-wide remediation and redevelopment of the Site.
- As shown in the applicant's proforma, the development financial returns are below market without the reimbursement provided by the Brownfield Program. These projected returns have been reviewed and verified by Authority staff.

7. The degree to which the redevelopment project enhances and promotes job creation and economic development.

- During remediation and construction activities of the proposed 256,175 square foot warehouse and state-of-the-art distribution center will create new union construction jobs with a wide range of trades. Following construction, an estimated 20 new permanent jobs with a wide-range of skill sets will be created.
- The proposed warehouse will create employment opportunities that are not currently available within the community.

Recommended Reimbursement

After completing an independent review of the application, the Treasurer recommends authorizing F. Greek Newco 377, L.L.C. to be eligible for reimbursement of **75% of the actual remediation costs, not to exceed \$2,411,692 (75% of \$3,215,590)**, pending the issuance of a Response Action Outcome (RAO) from the Department of Environmental Protection (DEP).

**ECONOMIC REDEVELOPMENT AND GROWTH (ERG) GRANT
PROGRAM**



MEMORANDUM

To: Members of the Board

From: Caren S. Franzini
Chief Executive Officer

Date: May 10, 2010

RE: Application for State Incentive Grant Agreement
Saker ShopRites, Inc.

Request

The Members are asked to approve the application of Saker ShopRites, Inc. for reimbursement of certain taxes for a Somerville, Somerset County project under a "state incentive grant" by the EDA pursuant to the Economic Redevelopment and Growth (ERG) Grant program set forth in N.J.S.A. 52:27D-489c (Act). The project has been determined to have a project financing gap.

The project costs are estimated to be \$28,100,000. The recommended reimbursement is for 17.79% of the actual costs, not to exceed **\$5,000,000**.

Project Description and Financing

- The project consists of a 69,982 square foot supermarket in Somerville, NJ and is expected to create over 155 permanent and 116 temporary construction positions
- The operating company and applicant is Saker ShopRites, Inc., and the principal(s) are Richard J. Saker, Joseph J. Saker, Thomas A. Saker, Nadine Saker Mockler, Michael Shapiro, Kenneth Peskin, Thomas H. Flynn, Edward Turkot, Carl Montanaro, and Kevin Moroney
- Saker ShopRites, Inc. is the largest member of the Wakefern Food Corp. Wakefern is the largest retailer owned food cooperative warehouse in the United States. Saker purchases from Wakefern most of the product they sell, and also participates in advertising, supply, insurance and technology programs
- Saker ShopRites intends to invest and repay \$5,865,000 from a revolver to finance a portion of the project, thereby meeting the minimum equity requirement of 20%. The applicant shows sufficient cash on hand to pay off the amount drawn from the revolving line
- Saker will also be financing \$6,000,000 of the equipment costs through a Wakefern member loan program.
- The additional revenue from the prospective ERG makes this project feasible to move forward.

EDA staff has reviewed the application in two forms and determined that there is a project financing gap. Because the applicant is a supermarket, staff analyzed the operating pro forma of the business and compared the financial returns with and without the ERG. The EBITDA, which is the Earnings before Interest, Taxes, Depreciation and Amortization as a percentage of invested capital was determined to be 2.41% on average over 5 years of operations. This rate of return is below market and would not entice a supermarket operator to move forward with the capital investment. However, with the benefit of the ERG, the EBITDA as a percentage of invested capital goes up to 5.46%, which is enough incentive to move forward.

The second method that staff used to analyze the gap is by looking at the project as a real estate deal through our template model and at the current 6.26% Equity IRR and 7.55% Cash on Cash Yield, the project would not otherwise be completed without the benefit of the Economic Redevelopment and Growth (ERG) Grant program. With the benefit of the ERG, the Equity IRR would be 15.04% and the Cash on Cash Yield would be 9.18%, making it more in line with the established acceptable market ranges.

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 NJ over a 20 year period is \$11,808,084. This number is obtained by taking the annual CBT, Gross Income 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 NJ. With the Present Value of the ERG Grant at a 6% discount rate being \$3,375,044 the present value of the Net Positive Benefits to the State of NJ is \$8,433,040. This meets the standard of being at least 110% of the recommended grant assistance.

Other Statutory Criteria

In order to be eligible for the program, the project must exhibit the following:

The economic feasibility and the need of the redevelopment incentive agreement to the viability of the project. The likelihood that the project shall upon completion be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for the project costs as provided in the redevelopment agreement

Based on the expected generation of \$516,000 of incremental annual Sales and Gross Income Taxes and a 75% rebate, there are adequate funds to support the reimbursement of taxes to the developer as outlined in the analysis. Per the project financial returns described earlier, there is a definite need for the redevelopment incentive grant agreement. Given the experience of the developer and capacity of the operator as well as the grant under the program, staff determined that the project has a high likelihood of financial success.

The degree to which the redevelopment project within a municipality which exhibits economic and social distress, will advance State, regional, local development and planning strategies, promote job creation and economic development and have a relationship to other major projects undertaken within the municipality

The project is located in the Borough of Somerville, an area that has had an increase in

unemployment and lower property tax income as a result of commercial vacancies in town. Somerville's median household income is 66% of Somerset County's and, according to 2009 Department of Labor statistics, Somerville's unemployment rate is 10.1%. The project also is part of the municipality's development plans as it is located within an area declared in need of redevelopment according to Somerville's 2004, West Main Street Redevelopment Plan. Within the retail section, the Plan calls specifically for a grocery store and the proposed store will be an anchor tenant to the Plan's retail development. The Redevelopment Plan also references consistency with and incorporation of a 1991 Vision Plan into the town's Master Plan. This project has tremendous municipal support as demonstrated by numerous approvals and municipal financial support of the development. The location is also in Planning Area 1, which is a targeted area for the ERG program and specifically referenced in the Redevelopment Plan. Lastly, the supermarket is expected to create 155 permanent and over 116 temporary construction positions. Finally, this grocery store will be the only one in Somerville. It also supports the goals of the New Jersey Fresh Foods Initiative, a program that EDA initiated to stimulate the development of supermarkets in underserved, low and moderate income areas throughout the State.

Recommendation

Authority staff has reviewed the Saker ShopRites, Inc. application and finds that it is consistent with eligibility requirements of the Act. Treasury, in reviewing the application, has notified the Authority of the adequacy of the project's estimated tax revenues and specified the percentage reimbursement of total project costs. Therefore, it is recommended that the Members approve the Saker ShopRites, Inc. application and authorize the CEO of the Authority to execute an Incentive Grant Agreement with the applicant and the State Treasurer, subject to final review and approval of the Office of the Attorney General.

Reimbursement starts once the project has been constructed on the site only after eligible costs have been confirmed by EDA and new tax revenues have been generated. Treasury annually tracks taxes received from job sites and remits reimbursement equal to a percentage of funds collected during the year.

The Borough of Somerville plans to issue a recovery zone bond with the guarantee of the Borough and the County. The Somerset County Improvement Authority will issue the bond and Somerset County is issuing an ordinance declaring the area a recovery zone.

It is recommended that the members authorize the CEO of the EDA to execute any assignment agreements necessary to effectuate this transaction.

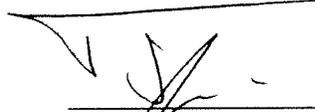
Total Eligible Project Cost: \$28,100,000

Eligible Taxes for Reimbursement: Sales and Gross Income Taxes of \$516,000 annually

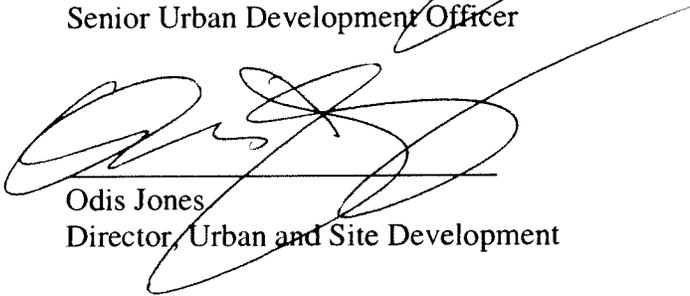
Recommended Grant: 17.79% of actual costs, not to exceed \$5,000,000



Alex Pavlovsky
Senior Urban Development Officer



Tim Lizura
Senior Vice President, Business Development



Odis Jones
Director, Urban and Site Development

UEZ/SALEM SALES TAX EXEMPTION



MEMORANDUM

TO: Members of the Authority

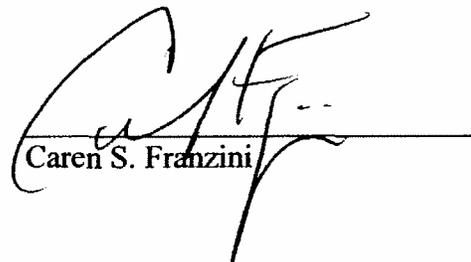
FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

SUBJECT: PolyOne Corporation

The members are asked to approve the Salem County Energy Sales Tax Exemption (“STX”) Renewal Application of PolyOne Corporation (“POC”). PolyOne manufactures the dispersion and suspension of PVC resins and latex. POC is located in Pedricktown. POC was originally approved for the program in March 2006. They have qualified and been approved annually for renewal since then. The estimated annualized STX benefit to POC is \$527,000, which is based on the prior twelve months electric and gas usage multiplied by 7% sales tax.

To qualify for STX, a company must be a manufacturer with a minimum of 50 full-time employees, have 50% of its workforce involved in the manufacturing process and certify that it is not in default with any State program. POC has 65 employees with 82% involved in the manufacturing process. In addition, the company has certified that it is not in default under any State program (confirmed by the Division of Taxation and the Department of Labor and Workforce Development). As a result, it is recommended that POC be granted a renewal through March 23, 2011



Caren S. Franzini

Prepared by: Tyshon Lee



MEMORANDUM

TO: Members of the Authority

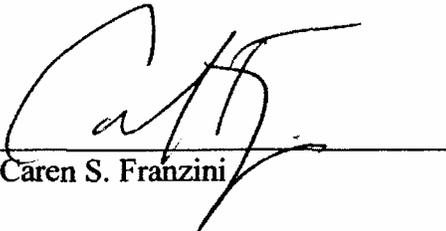
FROM: Caren S. Franzini
Chief Executive Officer

DATE: May 10, 2010

SUBJECT: **J.E. Berkowitz, LP**

The members are asked to approve the Salem County Energy Sales Tax Exemption ("STX") Renewal Application of J.E. Berkowitz, LP ("JEB"). JEB manufactures insulated, tempered and laminated glass for the architectural glass industry. JEB is located in Pedricktown. JEB was originally approved for the program in April 2007. They have qualified and been approved annually for renewal since then. The estimated annualized STX benefit to JEB is \$79,000, which is based on the prior twelve months electric and gas usage multiplied by 7% sales tax.

To qualify for STX, a company must be a manufacturer with a minimum of 50 full-time employees, have 50% of its workforce involved in the manufacturing process and certify that it is not in default with any State program. JEB has 200 employees with 70% involved in the manufacturing process. In addition, the company has certified that it is not in default under any State program (confirmed by the Department of Labor and Workforce Development and the Division of Taxation). As a result, it is recommended that JEB be granted a renewal through April 18, 2011.


Caren S. Franzini

Prepared by: Tyshon Lee



MEMORANDUM

TO: Members of the Authority
FROM: Caren S. Franzini
Chief Executive Officer
DATE: May 10, 2010
SUBJECT: Request for Delegated Authority

Request:

The members are asked to delegate approval authority to staff at Level 3, defined as recommending officer with the Director of Portfolio or Credit Underwriting with the SVP - Operations or alternately any SVP with both Directors, to extend the sales and use tax exemption under the UEZ Sales Tax Exemption for Manufacturers Program ("USTX") and the Salem County Sales Tax Exemption for Manufacturers Program ("SSTX") Delegating approval to staff will improve our efficiency in servicing our customers on these routine extensions which have defined criteria.

Background:

The UEZ Sales Tax Exemption for Manufacturers Program ("USTX") and the Salem County Sales Tax Exemption for Manufacturers Program ("SSTX") provide an exemption from the sales and use tax on electricity and natural gas consumption.

To qualify for the USTX program, the Applicant must be a UEZ certified manufacturer with at least 250 full-time employees (50% of who are involved in the manufacturing process), obtain a tax clearance certificate and the Department of Labor and Workforce Development must certify that the company is in good standing.

To qualify for the SSTX program, the Applicant must be a manufacturer located in Salem County with at least 50 full-time employees (50% of who are involved in the manufacturing process), obtain a tax clearance certificate and the Department of Labor and Workforce Development must certify that the company is in good standing.

Currently, both programs require Board approval to renew the exemptions on an annual basis. To expedite the process, the members are asked to delegate approval authority (Level 3 as defined above) on these routine extensions. Staff will ensure that the companies seeking renewal continue to meet the job eligibility criteria and are in good standing with the Departments of Labor and Taxation. A new tax clearance certificate will also be required. Approvals will be reported to the Board quarterly by Portfolio Services with the other delegated approvals. New requests will continue to require Board approval.

Recommendation:

The Members are asked to approve the request as detailed above.

Prepared by: Jon Maticka

BOARD MEMORANDUMS



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

TO: Members of the Authority

FROM: Caren S. Franzini, Chief Executive Officer

DATE: May 10, 2010

SUBJECT: Alphion Corporation ("Alphion")
Princeton Junction, New Jersey
\$1,000,000 Edison Innovation Fund Loan with warrants

Request:

Consent to 1) a \$10,000,000 line of credit and a \$5,000,000 term loan from Silicon Valley Bank ("SVB"); 2) to subordinate EDA's second lien on corporate assets to both credit facilities; and 3) to permit a shared lien on intellectual property (IP).

Background:

Founded in 2000, Alphion supplies fiber optic based telecom access equipment that enables the delivery of high capacity broadband services.

In June 2009, the Members approved a \$1,000,000 Edison loan to provide growth capital. The loan closed in December 2009 and has been fully disbursed. Based on company forecasts of rapid growth, the loan was structured to fully amortize in three and a half years. EDA's loan was approved as subordinate to a \$5,000,000 lien on corporate assets and a shared lien on IP securing a line of credit from Bridge Bank.

As projected, the company has grown rapidly due to two large contracts with government telecom providers in India, and as a result, requires additional financing to support increases in working capital. Total financing of \$18,500,000 has been arranged by the company and will include a \$10,000,000 line of credit (to refinance Bridge Bank's existing line) and a \$5,000,000 term loan from SVB. Velocity Financial Group will also provide \$3,500,000 term loan which will be subordinate to EDA. Alphion will be permitted to draw up to \$6,000,000 of the line at closing, but the remaining \$4,000,000 of the line of credit and the \$5,000,000 term loan will not be available until the company completes a capital raise of at least \$20,000,000.

Recommendation:

Consent to a \$10,000,000 line of credit, a \$5,000,000 term loan and approve the subordination of EDA's position on corporate assets and shared lien position on IP with SVB. Approval will support the company's operations until December when a \$20,000,000 capital raise is anticipated, will assist an emerging technology company with 77 employees in New Jersey and increase the likelihood of future upside through EDA's warrant position.

Prepared by: Heather M. Coccia

MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini, Chief Executive Officer

DATE: May 10, 2010

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

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

New Jersey Business Growth Fund:

- 1) CAD Signs, LLC or Nominee (P31212), located in Newark City, Essex County, was founded in 2005 as a manufacturer of commercial signs. PNC Bank approved a \$568,000 loan with a five-year, 50% guarantee, not to exceed \$284,000. Loan proceeds will be used to purchase commercial real estate. Currently, the company has eight employees and plans to create eight new jobs within the next two years
- 2) Morris Graphics Inc. and Jeffrey Morris (P31097), located in Woodbury City, Gloucester County, provide commercial printing and mass mailing services to commercial customers. PNC Bank approved a \$350,000 loan with a five-year, 50% guarantee, not to exceed \$175,000. Loan proceeds will be used to refinance real estate. The company currently has two employees and plans to create an additional two new positions over the next two years.
- 3) Prima Pain Relief, LLC or Nominee (P31224), located in East Brunswick Township, Middlesex County, was established in 2007 as a medical practice that specializes in the treatment of pain management. PNC Bank approved a \$1,500,000 loan with a five-year, 25% guarantee, not to exceed \$375,000. Loan proceeds will be used to purchase commercial real estate for the practice. The company currently has eight employees and plans to create eight new positions within the next two years.

NJ Main Street Program:

- 1) Bach Associates PC (P30676 & P30681), located in Haddon Heights Borough, Camden County, is a provider of professional services such as engineering, architectural, environmental and planning services. The Bank has approved a one year, \$850,000 working capital line of credit, contingent upon a 50% guaranty of principal outstanding, not to exceed \$250,000. In addition, The Bank has approved a \$485,000 term loan, contingent upon a 50% guaranty of principal outstanding, not to exceed \$242,500. Proceeds of this loan will be used to refinance term debt currently with another bank. The company currently has 32 employees and plans to create two new positions within the next two years.

- 2) Global Essence, Inc. (P31235), located in Freehold Township, Monmouth County, was incorporated in 1996 as an importer and exporter of premium flavoring and fragrance oils that are primarily sold to cosmetic, consumer and food products companies. TD Bank, N.A. approved an \$800,000 bank loan with a 25% (\$200,000) Authority participation and a 33.33% Authority guarantee of principal outstanding, not to exceed \$200,000. Currently, the company has eleven employees and plans to create an additional three new jobs over the next two years.

Small Business Fund Program:

- 1) Ludwig Enterprises LLC (P30896), located in Millville City, Cumberland County, is a real estate holding company that was created to purchase the project property. The operating company, Animal Clinic of Millville LLC, occupies the property. The company was approved for a \$95,673 loan to be used to purchase equipment and renovate an existing building. Currently, the company has eighteen employees and plans to create an additional three new positions within the next two years.

Camden ERB:

- 1) Elee Porter Rotando (P30892), located in Camden City, Camden County, is the owner of a mixed-use property. The company currently occupies a 1,200 square foot space located at 1268 Haddon Avenue, Camden City, Camden County. She is planning to renovate with upgrades such as new storefront windows, new door signage and adding stucco facades in order to acquire a tenant for the property. The company was approved for an \$11,714 Business Improvement Incentive Grant to be used for the building renovations. The company plans to create two additional jobs over the next two years.

Small Business Fund Program - Modification:

- 1) Hoboken Children's Academy II, LLC (P24581) was approved on May 5, 2009 for a \$230,000 Small Business Fund loan for renovations, equipment and working capital needs associated with the new location. The borrower requested a \$50,000 increase in the loan amount from \$230,000 to \$280,000 as a result of increased project costs. All other terms and conditions of the original approval remain unchanged.

PNC Business Growth Fund - Modifications:

- 1) Peek a Boo Toys and 2901 Boardwalk LLC (P29119) are located in Pennsauken Township, Camden County. In December 2009, PNC Bank approved a \$1,300,000 bank loan with a 25% Authority guarantee, not to exceed \$325,000. PNC Bank requested approval for project revision to increase the guarantee to a 50% guarantee, not to exceed \$650,000. All other terms and conditions of the original approval remain unchanged.
- 2) South Jersey Water Test, LLC (P16440), located in Monroe Township, Gloucester County, was founded in 2002 and is a testing laboratory which specializes in the sampling and analysis of drinking water. PNC Bank has approved an extension of a \$118,872 loan with a five-year, 25% guarantee, not to exceed \$29,718. Original loan proceeds were used to acquire commercial real estate. The company continues to meet program requirements.

- 3) WDDS Enterprises, Inc. and WD Associates (P16519), located in Camden City, Camden County, were founded in 1986 as a supplier of hardware supplies and services. PNC Bank has approved an extension of a \$112,000 loan with a five-year, 25% guarantee, not to exceed \$28,000. Original loan proceeds were used to acquire commercial real estate. All other terms and conditions of the original approval remain unchanged.

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be 'C. Mania'.

Prepared by: S. Mania
SM/gvr