

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

March 12, 2019

MINUTES OF THE MEETING

Members of the Authority present: Commissioner Catherine McCabe of the Department of Environmental Protection; Richard Mumford representing Commissioner Marlene Caride of the Department of Banking and Insurance; Roberto Soberanis representing Commissioner Robert Asaro - Angelo of Department of Labor and Workforce Development; Jennifer Keys Maloney representing State Treasurer Elizabeth Muoio; Public Members Charles Sarlo, Vice Chairman; Fred Dumont, and, Louis Goetting.

Members present via conference call: Public Members Philip Alagia, William Layton, and Thomas Scrivo.

Absent: Public Members Larry Downes, Chairman; Massiel Medina Ferrara, John Lutz, Third Alternate Public Member; and Rodney Sadler, Non-Voting Member.

Also present: Timothy Sullivan, Chief Executive Officer of the Authority; Deputy Attorney General Gabriel Chacon; Adam Sternbach, Governor's Authorities' Unit; and staff.

Mr. Sarlo called the meeting to order at 10:00 am.

Pursuant to the Internal Revenue Code of 1986, Mr. Sullivan 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, Mr. Sullivan 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.

MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the February 19, 2019 meeting minutes. A motion was made to approve the minutes by Mr. Dumont, and seconded by Mr. Soberanis, and was approved by the 7 voting members present.

Mr. Goetting abstained because he was not present for the meeting.

Ms. Maloney abstained because she was not present for the meeting.

The next item of business was the approval of the February 19, 2019 executive session meeting minutes. A motion was made to approve the minutes by Mr. Dumont, and seconded by Mr. Soberanis, and was approved by the 7 voting members present.

Mr. Goetting abstained because he was not present for the meeting.

Ms. Maloney abstained because she was not present for the meeting.

FOR INFORMATION ONLY: The next item was the presentation of the Chief Executive Officer's Monthly Report to the Board.

BOARD PRESENTATION

Commissioner Catherine R. McCabe, New Jersey Department of Environmental Protection gave a presentation on the Community Collaborative Initiative Expansion.

AUTHORITY MATTERS

ITEM: Memorandum of Understanding – NJ DEP

REQUEST: Approve a MOU between NJ EDA and NJ DEP for the expansion of NJ DEP's Community Collaborative Initiative

MOTION TO APPROVE: Mr. Dumont **SECOND:** Ms. Keys-Maloneyn **AYES: 9**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

Commissioner McCabe left the meeting at this time.

Dan Ryan representing Commissioner McCabe joined the meeting at this time.

ITEM: Memorandum of Understanding – NJ LWD

REQUEST: Approve a MOU between NJ EDA and NJ LWD to help strengthen New Jersey's workforce and build awareness of the opportunities and resources available through the NJ LWD.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan **AYES: 9**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 2

ITEM: Mercadien P.C. Contract

REQUEST: Approve a modification to the Mercadien P.C. contract for Auditing and Job Certification Review Consulting Services

MOTION TO APPROVE: Ms. Keys-Maloneyn **SECOND:** Mr. Soberanis **AYES: 9**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

ITEM: Innovation Challenge Program

REQUEST: Approve Innovation Challenge Program grants

MOTION TO APPROVE: Mr. Ryan **SECOND:** Mr. Dumont **AYES: 9**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

Mr. Alagia joined the meeting via conference call at this time.

INCENTIVE PROGRAMS

Grow New Jersey Assistance Program

ITEM: Key Food Stores Co-Operative, Inc. APPL.#45550

REQUEST: To approve the application of Key Food Stores Co-Operative, Inc. for a Grow New Jersey Assistance Program Grant to encourage the applicant to make a capital investment and locate in Old Bridge, NJ. Project location of Old Bridge, Middlesex County qualifies as a Distressed Municipality under N.J.S.A. 34:1B-242 et seq and the program's rules, N.J.A.C. 19:31-18. The project is eligible, pursuant to the statute, for bonus increases to the tax credit award for Jobs with Salary in excess of County Average. The estimated annual award is \$488,750 for a 10-year term.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan AYES: 10

RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

ITEM: Legend Biotech USA Inc. APPL.#45544

REQUEST: To approve the application of Legend Biotech USA Inc. for a Grow New Jersey Assistance Program Grant to encourage the applicant to make a capital investment and locate in Franklin Twp., NJ. Project location of Franklin Twp., Somerset County qualifies as a Priority Area under N.J.S.A. 34:1B-242 et seq and the program's rules, N.J.A.C. 19:31-18. The project is eligible, pursuant to the statute, for bonus increases to the tax credit award for Jobs with Salary in excess of County Average, Large Number of New/Retained F/T jobs and Targeted Industry (Life Sciences). The estimated annual award is \$1,296,250 a 10-year term.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan AYES: 10

RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

Mr. Ryan left the meeting at this time.

ITEM: Singer NY, LLC APPL.#45513

REQUEST: To approve the finding of jobs at risk..

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Soberanis AYES: 9

RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

ITEM: Singer NY, LLC APPL.#45513

REQUEST: To approve the application of Singer NY, LLC for a Grow New Jersey Assistance Program Grant to encourage the applicant to make a capital investment and locate in Paterson, NJ. Project location of Paterson, Passaic County qualifies as a Garden State Growth Zone under N.J.S.A. 34:1B-242 et seq and the program's rules, N.J.A.C. 19:31-18. The project is eligible, pursuant to the statute, for bonus increases to the tax credit award for Deep Poverty Pocket, Transit Oriented Development, Jobs with Salary in Excess of GSGZ average. The estimated annual award is \$647,500 a 10-year term.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Soberanis AYES: 9

RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

Mr. Ryan returned to the meeting at this time.

Grow New Jersey Assistance Program - Appeals

ITEM: Clover Health

REQUEST: Consent to the Hearing Officer's recommendation to uphold staff's determination
MOTION TO APPROVE: Mr. Dumont **SECOND:** Ms. Keys-Maloney

Cynthia Borelli, of Bressler, Avery, and Ross, representing Clover Health, spoke to the Board. Ms. Borelli provided a brief background of Clover Health. She said that the matter for the Board's decision was about a delay of information and the reason for the delay was not within Clover Health's control. Due to the prior actions by EDA when Clover Health had a prior delay in submitting its project completion certification, Clover Health had a tacit understanding with EDA about the EDA deficiencies. On the day the annual report was due, Clover Health's employee decided that her efforts were best spent uploading the annual report rather than contacting EDA. The employee attempted uploading the annual report March 30 and April 1 but was successful only on April 2. Ms. Borelli asserted that the definition of "extenuating circumstances" in the Business Employment Incentive Program (BEIP) regulations and the regulations of other State agencies were inapplicable and that the lack of a definition in the Grow statute and regulations gave the Board discretion and more latitude. She explained that Clover Health's position is that under the circumstances, the extenuating circumstances exception should apply because it was really outside of Clover Health's control. She claimed that the annual report process was time consuming, the report was ready by the date of the deadline, and the company felt that one business day was sufficient. She said that allowing the exception for her client was consistent with the Grow program, which should not base a default on technical deficiencies.

Mr. Sullivan asked Ms. Borelli if Clover Health's email system and phones were working on March 30. She replied that they were.

Mr .Dumont stated that in an email to EDA staff, the company admits fault. Mr. Sarlo explained that while he sympathized and understood the personal appeal about IT difficulties, nothing was demonstrated to mitigate the issues the company ran into in the past. The company waited until the last day. In response to a question from Mr. Sarlo, Mr. Saldutti, the Hearing Officer, stated that there was no indication that the problem was due to an IT issue on EDA's side. Mr. Sarlo also stated that although there was no definition of "extenuating circumstances" in the Grow statute or regulations, it was proper to look at sister agencies for a standard and interpretation to apply here.

The Board then voted on the proposal to adopt the Hearing Officer's report and recommendation. **AYES: 9**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

Mr. Goetting abstained because he has provided consulting services for Clover Health in other matters.

Economic Redevelopment and Growth Grant Program

ITEM: CRT Holdings, LLC

APPL.#45119

REQUEST: To approve the application of CRT Holdings, LLC for a Project located in Jersey City, Hudson County for reimbursement of certain taxes. The recommendation is to award 29.11% of actual eligible costs, not to exceed \$8,746,104 based on the budget submitted.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan

Ms. Maloney proposed making this approval contingent on the Board's decision on the related New Jersey City University P3 Partnership item. Mr. Dumont and Mr. Ryan consented to amend the motion accordingly.

AYES: 8

RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

Mr. Goetting abstained because he represents New Jersey City University.

Mr. Scrivo abstained because he represents Hampshire Real Estate Companies in other matters.

REAL ESTATE

ITEM: New Jersey City University P3 Partnership

REQUEST: Approve the amended application for the modified project for NJCU

MOTION TO APPROVE: Mr. Soberanis **SECOND:** Mr. Ryan **AYES: 8**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

Mr. Goetting abstained because he represents New Jersey City University.

Mr. Scrivo abstained because he represents Hampshire Real Estate Companies in other matters.

Economic Redevelopment and Growth Grant Program - Modification

ITEM: TDAF I Pru Hotel Urban Renewal Company, LLC

REQUEST: Consent to the assignment of TDAF's commercial ERG agreement

MOTION TO APPROVE: Mr. Goetting **SECOND:** Mr. Mumford **AYES: 10**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

Urban Enterprise Zone Energy Sales Tax Program

ITEM: Ardagh Glass Inc.

REQUEST: Approval of Ardagh Glass Inc.'s application to participate in the U-STX program for one year.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan **AYES: 10**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

BOND PROJECTS

Bond Resolutions

PROJECT: 36-54 Rector Urban Renewal LLC APPL.#38101

LOCATION: Newark, Essex County

PROCEEDS FOR: Construction and Renovation

FINANCING: \$5,330,000 Taxable Redevelopment Area Bond

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan AYES: 10

RESOLUTION ATTACHED AND MARKED EXHIBIT: 14

Public Hearing Only

ITEM: Cedar Crest Village, Inc. APPL.# 36863

DESCRIPTION: Modified and reduced interest rate and additional time for repayment

LOANS/GRANTS/GUARANTEES

Hazardous Discharge Site Remediation Fund

ITEM: Summary of NJDEP Hazardous Discharge Site Remediation Fund Program projects approved by the Department of Environmental Protection.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan AYES: 10

RESOLUTION ATTACHED AND MARKED EXHIBIT: 15

PROJECT: Woodbridge Township DPW APPL.#45523

LOCATION: Woodbridge, Middlesex County

PROCEEDS FOR: Remedial Action

FINANCING: \$74,059

Petroleum Underground Storage Tank (PUST)

ITEM: Summary of NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program projects approved by the Department of Environmental Protection.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Soberanis AYES: 10

RESOLUTION ATTACHED AND MARKED EXHIBIT: 16

PROJECT: Joseph Tittermary
LOCATION: Delran, Burlington County
PROCEEDS FOR: Remediation
FINANCING: \$58,995

APPL.#45251

PROJECT: Ira Kaltinick
LOCATION: Lavallette, Ocean County
PROCEEDS FOR: Remediation
FINANCING: \$115,559

APPL.# 45371

Mr. Layton left the call at this time.

OFFICE OF RECOVERY

Stronger NJ Business Loan - Appeal

ITEM: DC Plastic Products Corporation APPL.#SL618984/66381
REQUEST: Approve the recommendation to uphold the declination of the loan
MOTION TO APPROVE: Mr. Mumford **SECOND:** Mr. Soberanis AYES: 9
RESOLUTION ATTACHED AND MARKED EXHIBIT: 17

REAL ESTATE

ITEM: Assignment and Assumption Agreement
REQUEST: Approve the execution of the First Amendment to the Agreement to Assign among the NJ EDA, FMERA and RWJ Barnabas Health, Inc. for Parcel F-1 located on FMERA property
MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Soberanis AYES: 9
RESOLUTION ATTACHED AND MARKED EXHIBIT: 18

ITEM: Purchase and Sale Agreement and Redevelopment Agreement
REQUEST: Consent to FMERA entering into the redevelopment agreement with Asbury Park Development Partners, LLC for the Marina Parcel in Oceanport
MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan AYES: 9
RESOLUTION ATTACHED AND MARKED EXHIBIT: 19

BOARD MEMORANDUMS

Premier Lender Program:

PROJECT: Joshneali LLC APPL.#45517

LOCATION: Englishtown Borough, Monmouth County

PROCEEDS FOR: Refinancing and Working Capital

FINANCING: \$997,500 M&T Brank loan with \$437,500 EDA participation

PROJECT: Mira Property Management, LLC APPL.#45535

LOCATION: East Brunswick, Middlesex County

PROCEEDS FOR: Refinancing

FINANCING: \$1,800,000 Provident Bank loan with \$500,000 EDA participation

Small Business Fund Program:

PROJECT: First class Uniform Inc. APPL.# 45528

LOCATION: Vineland, Cumberland County

PROCEEDS FOR: Purchase of property

FINANCING: \$280,000 direct loan

PUBLIC COMMENT

There was no public comment.

EXECUTIVE SESSION

The next item was to adjourn the public session of the meeting and enter into Executive Session to discuss lease negotiations, where disclosure could adversely affect the public interest. The minutes will be made public when the need for confidentiality no longer exists.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Ryan **AYES:** 9

RESOLUTION ATTACHED AND MARKED EXHIBIT: 20

The Board returned to Public Session.

REAL ESTATE

ITEM: Chromocell Corporation

REQUEST: Approve authorization entering into the Eighth Lease Amendment with Chromocell Corporation.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Soberanis **AYES: 9**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 21

There being no further business, on a motion by Mr. Dumont, and seconded by Mr. Ryan, the meeting was adjourned at 11:47am.

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.


Erin Gold, Chief of Staff
Assistant Secretary

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

March 12, 2019

EXECUTIVE SESSION MINUTES

Members of the Authority present: Dan Ryan representing Commissioner Catherine McCabe of the Department of Environmental Protection; Richard Mumford representing Commissioner Marlene Caride of the Department of Banking and Insurance; Roberto Soberanis representing Commissioner Robert Asaro - Angelo of Department of Labor and Workforce Development; Jennifer Keys Maloney representing State Treasurer Elizabeth Muoio; Public Members Charles Sarlo, Vice Chairman; Fred Dumont, and Louis Goetting.

Members present via conference call: Public Members Philip Alagia, and Thomas Scrivo.

Absent: Public Members Larry Downes, Chairman; Massiel Medina Ferrara, William Layton, John Lutz, Third Alternate Public Member; and Rodney Sadler, Non-Voting Member.

Also present: Timothy Sullivan, Chief Executive Officer of the Authority; Deputy Attorney General Gabriel Chacon; Adam Sternbach, Governor's Authorities' Unit; and staff.

EIGHTH AMENDMENT TO LEASE AGREEMENT AND SURRENDER AND CANCELLATION AGREEMENT WITH CHROMOCELL CORPORATION THE TECHNOLOGY CENTRE OF NEW JERSEY, 685 SOUTH ROUTE 1, NORTH BRUNSWICK, NJ (TECH IV, 1ST FLOOR)

CEO Tim Sullivan stated that the Members were asked to approve entering into an Eighth Lease Amendment Agreement with Chromocell Corporation, and asked Juan Burgos to summarize the matter before the board.

Mr. Burgos provided a recent history of the matter, stating that in August 2018, the Members authorized a rent and PILOT forbearance for three 3 months (July, August and September), with full rent due commencing in October, plus 50% of one month of the forbearance rent, until the July, August and September 2018 rent is paid in full in March 2019.

In late September 2018, Chromocell advised staff that it could not reach a settlement with Astellas and that it would need a further forbearance of the rent, to reduce its footprint in Tech IV, and to fully develop its additional request for assistance from the Authority.

In October, due to the continued financial hardship caused by the Astellas contract termination, Chromocell requested a reduction of leased premises and an additional six month rent forbearance.

In November 2018, the Members authorized Chromocell's request to reduce its leasehold premises and also approved the following:

- Require Chromocell to pay the additional rent, PILOT and utilities for the period July to December 2018 on or before December 31, 2018
- A 50% rent forbearance for the first quarter of 2019 (January through March)
- Amortizing the rent from July through December 2018 over 21 months, at 0% interest, with payments commencing in April 2019.

On January 31, 2019, on the outstanding balance due, Chromocell paid \$62,000. Chromocell did not make a payment in February.

On February 4th, staff advised Chromocell that if full payment of the outstanding balance due is not received on or before February 16, the Lease would be called in default. As of March 1, 2019, Chromocell's balance due was \$354,042.62. In response to staff's request, Chromocell provided its current prospects to improve revenue, and included some executed and prospective letter of intents and agreements.

On March 4th of this year, staff, with a Deputy Attorney General, met with Chromocell and discussed its current situation. Staff advised Chromocell if the Lease could not be made current, the only recourse would be to commence eviction proceedings. Staff proposed the following resolution to the current default under the Lease:

- The Authority apply the current security deposit, \$143,500, to the outstanding balance, and permit Chromocell to repost three months' rent as security deposit over six months. If the Authority would have called a formal default under the Lease, the security would have been applied to the outstanding balance. Staff did not consider this a significant concession.
- Chromocell pay by March 11th, the balance of the amount due, \$219,542.62, which would make the Lease current. If the amount due was not paid by March 15th, it will incur an Additional Rent late charge of 5%.
- Chromocell could either continue to occupy the leased premises or move into 1 or 2 laboratories in BDC within Tech IV, reducing its occupancy costs.
- Any future default under the current Lease or a new BDC lease, would be governed by a Surrender and Cancellation Agreement, in which Chromocell would agree to forgo its rights to contest an eviction proceeding and surrender the premises within 60 days of a default under the Lease. During the 60-day occupancy period, Chromocell would have to pay occupancy costs according to the terms of the Seventh and Eighth Amendments to the Lease.

On March 6th, Chromocell provided the following counter-proposal:

- Chromocell would remain in the current space
- The Authority apply the security deposit to the outstanding balance immediately
- Chromocell pay the outstanding balance, including the late fee (\$221,069.75) on March 29th, the day it would close with bridge loan with the prospective investor.
- Chromocell would pay the new security deposit over six months and will also enter into

the Surrender and Cancellation Agreement

Staff recommends accepting Chromocell's counter proposal for the following reasons:

- An eviction action would not remove Chromocell by March 30th
- If an eviction action is filed before the end of March, at best estimate, it would take approximately 60 days to resolve, depending on the Superior Court's Special Civil Part's docket
- If Chromocell does not make the payment on March 30th, then it would surrender the premises within 60 days under the Surrender and Cancellation Agreement
- If Chromocell does not vacate within 60 days of the default, the Authority may proceed with an action in the Special Civil Part to remove Chromocell and the company cannot contest it under the Surrender and Cancellation Agreement.

The final terms of these agreements will be subject to the approval of the Chief Executive Officer, President/Chief Operating Officer and the Attorney General's Office, and Chromocell.

In conclusion, there being no further business, Vice Chairman Sarlo asked for a motion to close the Executive Session and return to Public Session.

On a motion by Mr. Ryan, seconded by Ms. Maloney, the Board adjourned the Executive Session and opened the Public Meeting.

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.


Erin Gold, Chief of Staff
Assistant Secretary