

**MICHIGAN STRATEGIC FUND BOARD MEETING**

**February 27, 2012**

**1:30 p.m.**

**Michigan Association of Realtors**

**720 N. Washington Avenue**

**Lansing, MI 48901**

**REVISED AGENDA**

**Call to Order**

- A. **Adoption of January 25, 2012 Minutes** *[Action Item]*  
**Public Comment** *[Please limit public comment to three (3) minutes]*  
**Communication** *[Information – Ellen Graham]*
  
- B. **Next Michigan Development Corporation** *[Action Item – Karla Campbell]*
  - 1. I-69 International Trade Corridor
  - 2. Grand Traverse Region
  
- C. **Private Activity Bonds –** *[Action Item – Diane Cranmer]*
  - 1. Centerline Engineering, Inc./CEI Properties, LLC Project – NTE \$3,850,000 Refunding of Michigan Strategic Refund Variables Rate Demand Limited Obligation Revenue Bonds, Series 2007
  - 2. Christian Care – NTE - \$8,435,000 – New Financing/Refinancing/Non-Profit – Muskegon Charter Township, Muskegon County
  
- D. **Community Development Block Grant Program - Village of Carp Lake and City of Menominee –** Reallocation of American Recovery & Reinvestment Act [ARRA] Funds – *[Action Item – Deborah Stuart]*
  
- E. **Approval of Delegation of Authority for Confidential Material** *[Action Item – Mike Pohnl]*
  
- F. **21<sup>st</sup> Century Jobs Fund Program**
  - 1. Capital Conduit Program – Funding Commitment *[Action Item – Eric Hanna]*
  - 2. MSDF Guidelines *[Action Item – Eric Hanna]*
  - 3. MSDF – Benore Logistic Systems, Inc. *[Action Item – Christopher Cook]*
  - 4. Michigan Business Development and Community Revitalization – Background Review Policy *[Action Item – Mike Pohnl]*

**MICHIGAN STRATEGIC FUND BOARD MEETING  
JANUARY 25, 2012**

**PROPOSED MEETING MINUTES**

A meeting of the Michigan Strategic Fund [MSF] Board was held on Wednesday, January 25, 2012 at the MEDC Building, 300 N. Washington Square, Lake Michigan Room, Lansing, Michigan.

**MEMBERS PRESENT:** Michael Finney, Paul Hodges [via phone], Michael Jackson, Andrew Lockwood [acting for and on behalf of Andy Dillon, designation attached], Howard Morris, Al Pohl [acting for and on behalf of Steven Hilfinger, designation attached], Richard Rassel [via phone], Shaun Wilson

**MEMBERS ABSENT:** Sabrina Keeley, Bill Martin, James Petcoff

**CALL TO ORDER:** Mr. Finney called the meeting to order at 1:35 p.m.

**APPROVAL OF THE DECEMBER 21, 2011 MEETING MINUTES:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Morris motioned approval of the December 21, 2011 MSF Board meeting minutes. Mr. Lockwood seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

**PUBLIC COMMENT:** Mr. Finney asked if there was any public comment. There was none.

**COMMUNICATIONS:** Ellen Graham, Board Relations Liaison, advised the Board that Sabrina Keeley, Bill Martin and Jim Petcoff were unable to attend the meeting. The Agenda had been revised:

- Item D.3. had been added
- Items D.6 and 7 had been reversed in order
- Item E – a list of the members of the proposed MSF Subcommittees had been inserted in the packet.

**Community Development Block Grant [CDBG] Program**

**Resolution 2012-01 – City of Williamston**

*Deborah Stuart, Manager, Community Development Block Grant, provided the Board with information regarding this action item.*

Ms. Stuart advised the Board the City of Williamston was awarded a CDBG at the September 30, 2009 MSF Board meeting to fund the acquisition and façade improvements of a building built in 1874. The original proposal included the redevelopment of the first floor to house the Michigan Brewing Company, which planned initially to provide beer and wine tasting with longer term plans for a kitchen. Since the project was approved, the Michigan Brewing Company is no longer a partner in the project. The City has requested that the business participating in the project be assigned to Tavern 109, LLC which will be a restaurant with food and beverage services.

**Recommendation:** Staff recommends that an assignment and assumption agreement between the Michigan Brewing Company; Tavern 109, LLC; the Michigan Strategic Fund; and the City of Williamston be executed for a CDBG grant in the amount of \$190,000.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Lockwood motioned approval for Resolution 2012-01. Mr. Morris seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

### Small Business Credit Initiative [SSBCI]

#### **Resolution 2012-02 – Cherry Growers, Inc.**

*Elisabeth Alexandrian, Capital Services Associate, provided the Board with information regarding this action item.*

Ms. Alexandrian explained to the Board the company was requesting an extension for the original commitment of August 2011. The original approval document states that the commitment will remain valid for 90 days with approval by the MSF Fund Manager to extend the commitment for an additional 30 days. The additional 30 day time frame approved by the MSF Fund Manager expired January 15, 2012.

**Recommendation:** Staff recommends approval of a commitment extension for an additional 90 days from January 25, 2012. Staff further recommends finalization of loan participation arrangements, subject to available funding under the Michigan Business Growth Fund –Loan Participation Program [MBGF-LLP] and Michigan Loan Participation Program [MLPP] at the time of closing, completion of due diligence, the results of which meet the satisfaction of the MEDC and finalization of respective loan participation agreements.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Jackson motioned approval for Resolution 2012-02. Mr. Lockwood seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

#### **Michigan Supplier Diversification Fund [MSDF] and SSBCI Quarterly Update**

*Christopher Cook, Capital Services Associate, provided the Board with updated information about the MSDF and SSBCI programs.*

Mr. Cook provided the Board with the actions approved by the MSF Chairperson and MSF Fund Manager between October 1, 2011 and December 31, 2011. Mr. Finney asked how many projects had been approved. Mr. Cook advised that approximately 80 projects had been approved and there is a strong demand for the programs. No credit defaults were experienced. Mr. Cook further advised that 26 financial institutions were presently participating

### 21<sup>st</sup> Century Jobs Fund

[Mr. Finney recused.]

[Mr. Lockwood assumes Chair.]

#### **Resolution 2012-03 – Picometrix, LLC/Advanced Photonix, Inc. [API] – Subordination Request**

*Antonio Luck, Portfolio Manager, provided the Board with information on this action item.*

Mr. Luck provided the Board with an overview of the company. The company is requesting that the MSF subordinate its debt to Silicon Valley Bank in the amount of up to \$6 million. The company has grown dramatically and their export revenues and the international content has reached a point where the company needs a line of credit that allows foreign receivables to be part of the lending base in order to continue to expand operations.

**Recommendation:** Staff recommends approval of the request to subordinate the debt owed by the company to the MSF to the interests of Silicon Valley Bank, not to exceed the maximum principal amount of \$6 million. The company will continue to make scheduled payments to the MSF unless it is in default under the Silicon Valley Bank Loans.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Pohl motioned approval for Resolution 2012-03. Mr. Jackson seconded the motion.** The motion carried – 7 ayes; 0 nays; 1 recused; 3 absent.

[Mr. Finney returns.]

### **Resolution 2012-04 – Delegation of Authority for Certain 21<sup>st</sup> Century Jobs Fund Programs**

*Mike Psarouthakis, Vice President, Business Acceleration, provided the Board with background information on this action item.*

Mr. Psarouthakis advised the Board over the next several months as well as over the past few months; MEDC staff's ongoing day-to-day portfolio management will find increased signs that certain portfolio loans are in or approaching non-performing status. MEDC staff has been contemplating a revised delegation of authority structure that would result in more efficient and effective loan administration in light of the increasing number of requests related to Loan Program(s). To bring this program in line with the levels of delegated authority with other 21<sup>st</sup> Century Jobs Fund and SSBCI Program would allow MEDC staff to be responsive in a timely manner to various requests.

**Recommendation:** Staff recommends a delegation of authority consistent with the authority previously approved by the MSF Board at its June 23, 2010 meeting, in which the following thresholds apply for certain actions, including matters involving restructure requests, voting equity holding and non-performing loans, taken under the program.

1. MSF Board delegates to each of the MSF Chairperson, MSF Fund Manager, or MSF State Treasurer Director the authority to make all decisions with respect to awards under the Loan Program[s] with an original amount of \$1,000,000 or less;
2. MSF Board delegates to the MSF Investment Subcommittee the authority to consider and make recommendations to either the MSF Chairperson, MSF Fund Manager, or the MSF State Treasurer Director for all decisions with respect to awards under the Loan Program[s] for original amounts of \$1,000,001 to \$3,000,000;
3. MSF Board delegates the authority to the MSF Investment Subcommittee to make a recommendation for the MSF Board decision with respect to awards under the Loan Program[s] for original amounts of \$3,000,001 or more.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Jackson motioned approval for Resolution 2012-04. Mr. Lockwood seconded the motion.** Motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

### **MSF Delegated Authority Quarterly Update for 21<sup>st</sup> Century Jobs Loan/Grant Portfolio**

*Steve Haakenson, Portfolio Manager, updated the Board on the MSF Delegated Authority for 21<sup>st</sup> Century Jobs Loan/Grant Portfolio.*

Between October 1, 2011 and December 31, 2011 three approvals for final disbursement were given to Michigan State University [2] and Wayne State University.

### **Resolution 2012-05 – Translume, Inc. – Loan Restructure Request**

*Steve Haakenson, Portfolio Manager, provided the Board with information on this action item.*

Translume, Inc. received a 2006 21<sup>st</sup> Century Jobs Fund award in the principal amount of \$1,650,310. All milestones required under the MSF loan have been completed. The economic market conditions and low market demand for Translume's product have resulted in inadequate cash flow to make the scheduled payments. Although the company has been reporting losses they have been able to maintain operations as a result of management and employee sacrifices as well as receiving support from their primary investor. The company is requesting a 24 month extension on the loan grace period on their convertible loan to January 18, 2014 at which time payments will resume over 60 months, fully amortized, ending on January 1, 2019. In exchange for approval, the company agrees to an increase from 8.25% to 9.25% interest rate and warrants equal to \$120,000 to be exercised at the time of future venture financing event, IPO, or liquidity event. The MSF loan shall be limited to the current \$1,212,902 balance already disbursed, with all undisbursed funds on the loan [\$437,408] to be recaptured by the MSF and returned to the Jobs for

Michigan investment fund. A restructure of all company loans from Ardesta to be on similar terms as those approved by the MSF Board.

**Recommendation:** Staff recommends approval of the loan restructure as presented.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. Mr. Howard asked how the values of the warrants were calculated. Mr. Haakenson explained the value is equal to 10% of the outstanding loan. There being no further questions. **Mr. Wilson motioned approval for Resolution 2012-05. Mr. Lockwood seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

#### **Resolution 2012-06 – Michigan Venture Match Fund [MVM] – Request for Approval of Public Comment Process**

*Mr. Mike Psarouthakis, Vice President, Business Acceleration, provided the Board with information on this action item.*

Mr. Psarouthakis explained to the Board pursuant to Section 88k of the MSF Act, the MSF must establish a competitive process to make awards under the MVM Fund. He further explained the MSF Act also requires that a public hearing be held to provide the opportunity for general public comment on the proposed MVM Fund Program Guidelines and proposed resolution. After consideration of the comments and information received at the public hearing, the final MVM Fund Program Guidelines will be presented to the MSF Board for approval and implementation.

**Recommendation:** Staff recommends authorization for the Issuance of a Notice of Public Hearing to be held on February 8, 2012 for the purpose of receiving public comment on the MVM Fund Program Guidelines and MVM Fund Resolution.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Jackson motioned approval for Resolution 2012-06. Mr. Morris seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

#### **Resolution 2012-07 – Operating Company initiative Award – Grow Michigan, LLC**

*Eric Hanna, Capital Services Associate, provided information to the Board on this action item and introduced guests – Mr. Russell Youngdahl, Northstar Capital; and Mr. Belden Daniels, DFG.*

On December 21, 2011 the MSF created the Capital Conduit Program [CCP] as part of the MSDF and funded the CCP with \$7.5 million from the Jobs for Michigan investment fund. The Operating Company Initiative [OCI] was approved as well as approval of OCI guidelines and delegated the MSF Fund Manager the authority to create and execute a process for selection of a candidate. This initiative strives to emulate the best practices of other states in forming a public/private partnership which consists at all levels including leadership, management and capital contributed. The public capital tends to bear more risk than private capital but the private capital position is sufficient to drive project selection toward profitable projects which can still achieve very meaningful public sector objectives.

**Recommendation:** Staff recommends the MSF award a line of credit to Grow Michigan, LLC in an initial amount of \$2.5 million; MSF Fund Manager be delegated the authority to modify and include any additional conditions on the award, which he in his sole discretion determines are necessary and appropriate; and MSF Board delegate to the Chairperson of the MSF, the MSF Fund Manager or MSF State Treasurer Director, with only two required to act, the authority to negotiate and approve all final award terms and to execute all the necessary documents arising out of this transaction.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Lockwood motioned approval for Resolution 2012-07. Mr. Jackson seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

**Resolution 2012-08 – Real Estate Initiative Award – Develop Michigan, Inc. [DMI]**

*Mr. Hanna provided information to the Board on this action item and introduced guest Mark McDaniel, President, Great Lakes Capital Fund.*

On December 21, 2011 the MSF Board created the Capital Conduit Program [CCP] as part of the MSDF and funded the CCP with \$7.5 million from the Jobs for Michigan investment fund. As a component of the CCP, the MSF Board created the Real Estate Initiative [REI] and approved REI program guidelines and delegated to the MSF Fund Manager the authority to create and execute a process for selection of a candidate. This initiative was developed after a 2008 study of the Michigan banking environment identified a material weakness which exists in nearly all capital markets and which has been addressed successfully in a number of other states. This initiative strives to emulate the best practices of other states in forming a public/private partnership which consists at all levels including leadership, management and capital contributed.

**Recommendation:** Staff recommends the award of a line of credit to DMI in the initial amount of \$5,000,000; MSF delegate to the MSF Fund Manager the authority to modify and include any additional conditions to the award, which he in his sole discretion feels are necessary and appropriate; and the MSF Board delegate to the Chairperson of the MSF, the MSF Fund Manager or the MSF State Treasurer Director, with only two required to act, the authority to negotiate and approve all final award terms and to execute all the necessary documents arising out of this transaction.

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Rassel motioned approval for Resolution 2012-08. Mr. Hodges seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

[Mr. Finney recused]

[Mr. Lockwood assumes chair]

**Resolution 2012-09 – Compendia Bioscience, Inc.**

*Mike Pohnl, Vice President, Program Administration, provided information to the Board on this action item.*

The company is requesting confidentiality for executive summary; business plan; product information future plans; sales and projected sales information; customer names; current and proposed capitalization table; statement of cash flows; balance sheet; profit and loss statement; strategic plan; licenses and contract services for strategic customers.

**Recommendation:** Staff recommends approval of this request.

**Board Discussion:** Mr. Lockwood asked if there were any questions from the Board, there being none, **Mr. Wilson motioned approval for Resolution 2012-09. Mr. Jackson seconded the motion.** The motion carried – 7 ayes; 0 nays; 1 recused; 3 absent.

**Resolution 2012-10 – Pixel Velocity, Inc.**

Mr. Pohnl provided information to the Board on this action item.

The company is requesting confidentiality for executive summary; business plan; product information future plans; sales and projected sales information; customer names; current and proposed capitalization table; statement of cash flows; balance sheet; profit and loss statement; strategic plan; licenses and contract services for strategic customers.

**Recommendation:** Staff recommends approval of this request.

**Board Discussion:** Mr. Lockwood asked if there were any questions from the Board. There being none, **Mr. Morris motioned approval for Resolution 2012-10. Mr. Jackson seconded the motion.** The motion carried – 7 ayes; 0 nays; 1 recused; 3 absent.

[Mr. Finney returns.]

#### **MSF Subcommittee Delegation**

Mr. Pohnl explained the three actions to be taken would rescind previous MSF subcommittee resolutions as well as assign the authority of the MSF Board President and Chairperson to appoint recommended appointees to serve.

**Recommendation:** Staff recommends the three resolutions be approved.

#### **Resolution 2012-11 – MSF Entrepreneurial Subcommittee Resolution**

**Board Discussion:** Mr. Finney asked if there were any limitations for non-Board member appointments. Mr. Pohnl advised there were not. There being no further questions, **Mr. Jackson motioned approval for Resolution 2012-11. Mr. Lockwood seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

#### **Resolution 2012-12 – MSF Incentive Subcommittee Resolution**

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Wilson motioned approval for Resolution 2012-12. Mr. Lockwood seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

#### **Resolution 2012-13 – MSF Investment Subcommittee Resolution**

**Board Discussion:** Mr. Finney asked if there were any questions from the Board. There being none, **Mr. Morris motioned approval for Resolution 2012-13. Mr. Wilson seconded the motion.** The motion carried – 8 ayes; 0 nays; 0 recused; 3 absent.

#### **Tool & Die Recovery Zones – Program Update**

*Karla Campbell, Manager, State Tax Incentives, provided the Board with an update on the Tool & Die Recovery Zone Program and introduced David Morris, Manager, Corporate Research.*

Ms. Campbell stated the MEDC Corporate Research Team had compiled a White Paper on the impact of the Tool & Die Recovery Zone Program. Information was supplied by some of the participating companies on a voluntary basis regarding the pros and cons as well as their concerns. The research found that the program had been successful in retaining the industry in Michigan and helping companies maintain and create employment. As a result, staff met with the Renaissance Zone Subcommittee in December to discuss possible changes to the program. The suggested changes include adding the requirement of an apprenticeship or worker training program to increase skilled workers in this field. Additional collaborative groups will be added in 2012 as well.

The meeting adjourned at 2:20 p.m.



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

RICK SNYDER  
GOVERNOR

ANDY DILLON  
STATE TREASURER

January 24, 2012

Ms. Ellen Graham  
Board Relations Liaison  
MEDC Office  
300 N. Washington Square  
Lansing, Michigan 48913

Dear Ms. Graham:

I hereby designate Andrew Lockwood to represent me at MEDC Board meetings I am unable to attend.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andy Dillon".

Andy Dillon  
State Treasurer

cc: Andrew Dillon





January 25, 2012

Ms. Ellen Graham  
Board Liaison – MEDC  
300 N. Washington Square  
Lansing, MI

Dear Ms. Graham:

This is to advise that I am recusing myself from voting and will leave the meeting room during the discussion of the following items on the Michigan Strategic Fund Board Meeting Agenda on January 25, 2012:

- Picometrix, LLC/Advanced Photnix, Inc. – Subordination Request
- Confidentiality Requests
  1. Compendia Bioscience, Inc.
  2. Pixel Velocity, Inc.

The reason for my recusal and leaving the meeting room during discussion for these items relates to the fact that I may have a potential conflict of interest with respect to the parties involved in this Agenda item[s].

Sincerely,

A handwritten signature in black ink that reads "Michael A. Finney".

Michael A. Finney  
President & CEO

**Michigan Economic Development Corporation**

300 North Washington Square | Lansing, MI 48913 | 888.522.0103 | MichiganAdvantage.org | michigan.org



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

STEVEN H. HILFINGER  
DIRECTOR

### DESIGNATION OF AUTHORITY

As Director of the Michigan Department of Licensing and Regulatory Affairs, I hereby designate Allan Pohl to serve as the LARA representative at the January 25, 2012, meeting of the Michigan Strategic Fund.

A handwritten signature in black ink, appearing to read "Steven H. Hilfinger", written over a horizontal line.

Steven H. Hilfinger, Director  
Department of Licensing and Regulatory Affairs

Dated: 1-10-12

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## MEMORANDUM

**Date:** February 27, 2012  
**To:** Michigan Strategic Fund Board Members  
**From:** Karla Campbell, State Tax Incentives Manager  
**Subject:** Next Michigan Development Corporation  
I-69 International Trade Corridor

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### **BACKGROUND**

The MEDC received the application for the I-69 International Trade Corridor (I-69 Corridor) in February 2012 after approval from Governor's Snyder's office on the interlocal agreement creating the Next Michigan Development Corporation (NMDC). Attached is a list of the various communities involved with Genesee, Shiawassee, St. Clair and Lapeer Counties taking the lead in this initiative. MEDC staff has been working with the I-69 Corridor communities since the summer of 2011 to bring this project to the MSF for approval.

The I-69 Corridor's focus will be on small to medium-sized businesses, as well as major multi-modal sites and industrial parks; linking direct freeway and five different rail connections to the Halifax Deep Water Port in Nova Scotia, Canada; Bishop International Airport, which is the third busiest airport in Michigan; Foreign Trade Zones located in Flint and Port Huron, and Interstate 69. There are three deep-water ports located along the St. Clair River: two in the City of Marysville and one in Port Huron, which was recently renovated in 2003.

Michigan's workforce will provide a mutual benefit to those seeking employment and the available skilled workforce that businesses locating in the I-69 Corridor will find. Over 40,000 students are enrolled in higher education programs within the region offering such curriculums as engineering, technology and management degree programs.

Export and economic activity are key components of this application with many firms in the manufacturing, wholesale trade, and transportation and warehousing sectors as a driving force of transportation and export. To increase this activity, the I-69 Corridor will utilize incentives under the NMDC along with existing federal and state programs to assist with marketing, research, finance, packaging, and translation.

### **REQUEST**

The Michigan Economic Development Corporation (MEDC) received a final application on February 9, 2012, for the designation of the I-69 Corridor as a NMDC. The designation of a NMDC shall empower the I-69 Corridor with the incentive tools identified through Section 6(1) of the Next Michigan Development Act, MCL 125.2956(1), to support its economic development efforts development area. The entire application is available to review for any Board member upon request.

The Board of the Michigan Strategic Fund pursuant to MCL 125.2955(2) shall apply the following criteria in determining whether to designate a NMDC:

(a) The nominal level of unemployed workers within the county or counties which are parties to the interlocal agreement creating the applicant eligible act 7 entity, if the applicant is an eligible act 7 entity, or within the applicant eligible urban entity, if the applicant is an eligible urban entity, in each case

as publicly reported by the state Department of Energy, Labor, and Economic Growth as of the month preceding the filing of the application on an adjusted or unadjusted basis, whichever is greater.

In 2010, the percentage of unemployed workers is outlined below:

- Shiawassee County: 13.0%
- Genesee County: 13.7%
- Lapeer County: 15.3%
- St. Clair County 14.9 %

(b) The number of local governmental unit parties to the applicant's interlocal agreement if the applicant is an Eligible Act 7 Entity.

The applicant is applying as an Eligible Act 7 Entity and is comprised of the following 33 local governmental units (attached) and the Airport Authority:

(c) Whether the application demonstrates evidence of significant job creation potential of a regional or state asset or combinations of enterprises, facilities, or obsolete facilities within the territory of the applicant, as documented by a comprehensive business plan and a third-party study or studies quantifying the job creation potential, and the degree of the job creation potential.

The entire third-party study is available to review for any Board member upon request.

As part of its comprehensive strategic development plan for the I-69 Corridor, the W.E. Upjohn Institute for Employment Research completed a market analysis of the potential impact of the NMDC. The study indicated the I-69 Corridor has the potential to bring in an annual increase of 640 additional jobs to the region. The I-69 Corridor is also projected to have a significant fiscal impact at the state, county and local levels. Overall, the study estimates that the NMDC could add 12,900 manufacturing, distribution and transportation jobs as well as the retention of 5,100 jobs over the next 20 years.

(d) Whether the application is supported by public and private commitment and the degree of the commitment.

The I-69 Corridor has an annual financial commitment of the following governmental units:

Shiawassee County	\$ 10,000
Genesee County	\$ 10,000
St. Clair County	\$ 10,000
Lapeer County	\$ 10,000
Grants and other revenues	\$ 60,000
Office in-kind contributions	<u>\$ 25,000</u>
Total	\$125,000

(e) The extent to which the interlocal agreement or the eligible urban entity creates the possibility of streamlined permitting.

The ADC's interlocal agreement expressly authorizes the ADC to recommend for approval to each of the constituent local units streamlined permitting and approval processes for projects within the geographic territory of the ADC.

**RECOMMENDATION**

Staff recommends to the Michigan Strategic Fund the designation of the I-69 International Trade Corridor Next Michigan Development Corporation as a Next Michigan Development Corporation with immediate effect, Monday, February 27, 2012.

**EXHIBIT A**

**LOCAL UNITS OF GOVERNMENT PARTICIPATING IN THE I-69 INTERNATIONAL TRADE CORRIDOR  
NEXT MICHIGAN DEVELOPMENT CORPORATION**

**ST. CLAIR COUNTY**

ST. CLAIR COUNTY  
ST. CLAIR TOWNSHIP  
CITY OF ST. CLAIR  
KIMBALL TOWNSHIP  
CITY OF MARYSVILLE  
CITY OF PORT HURON

**LAPEER COUNTY**

LAPEER COUNTY  
VILLAGE OF ALMONT  
ATTICA TOWNSHIP  
IMLAY CITY  
CITY OF LAPEER  
TOWNSHIP OF LAPEER  
VILLAGE OF NORTH BRANCH

**GENESEE COUNTY**

GENESEE COUNTY  
TOWNSHIP OF DAVISON  
CITY OF FLINT  
CHARTER TOWNSHIP OF GRAND BLANC  
CITY OF BURTON  
CITY OF FENTON  
CHARTER TOWNSHIP OF FLINT  
CITY OF GRAND BLANC  
CHARTER TOWNSHIP OF MT. MORRIS  
CHARTER TOWNSHIP OF MUNDY

**SHIAWASSEE COUNTY**

SHIAWASSEE COUNTY  
CITY OF PERRY  
CITY OF DURAND  
TOWNSHIP OF VERNON  
VILLAGE OF VERNON  
VILLAGE OF LENNON  
VILLAGE OF MORRICE  
TOWNSHIP OF PERRY  
CITY OF CORUNNA  
CITY OF OWOSSO

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**NEXT MICHIGAN DEVELOPMENT CORPORATION**

**I-69 INTERNATIONAL TRADE CORRIDOR NEXT MICHIGAN DEVELOPMENT CORPORATION**

**WHEREAS**, the Next Michigan Development Act (the “Act”), 2010 PA 275, authorizes the Michigan Strategic Fund (“MSF”) to designate up to five (5) Next Michigan Development Corporations (a “NMDC”) to foster economic opportunities in this state, prevent conditions of unemployment and underemployment, and promote economic growth;

**WHEREAS**, the Act provides that either an eligible Act 7 entity or an eligible urban entity may apply to the MSF Board for designation as a NMDC;

**WHEREAS**, the Act sets forth the criteria the MSF shall apply in determining whether or not to designate a NMDC at MCL 125.2955(2);

**WHEREAS**, the Act requires the MSF to grant or deny an application within forty-nine (49) days of receipt of an application for designation as a NMDC or the application is considered approved;

**WHEREAS**, the MSF received an application from the I-69 International Trade Corridor Next Michigan Development Corporation (“I-69 Corridor”) on behalf of thirty-three communities (collectively the “Applicants”) on February 9, 2012 requesting designation of the I-69 Corridor as a NMDC (the “Application”);

**WHEREAS**, the I-69 Corridor is an eligible Act 7 entity formed by interlocal agreement by and between Genesee County, Shiawassee County, St. Clair County, Lapeer County, St. Clair Twp., City of St. Clair, Kimball Twp., City of Marysville, City of Port Huron, Village of Almont, Attica Twp., Imlay City, City of Lapeer, Twp. of Lapeer, Village of North Branch, Twp. of Davison, City of Flint, Charter Twp. of Grand Blanc, City of Burton, City of Fenton, Charter Twp. of Flint, City of Grand Blanc, Charter Twp. of Mt. Morris, Charter Twp. of Mundy, City of Durand, City of Perry, Twp. of Vernon, Village of Vernon, Village of Lennon, Village of Morrice, Twp. of Perry, City of Corunna, and City of Owosso;

**WHEREAS**, after review of the Application and the criteria set forth at MCL 125.2955(2) staff recommends that the MSF Board approve the Applicants’ Application for designation as a NMDC:

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board approves the Applicants’ Application and designates the I-69 Corridor as a NMDC effective February 27, 2012; and

**BE IT FURTHER RESOLVED**, that the MSF Board authorizes the MSF President or Fund Manager to take any action necessary to effectuate the terms of this Resolution.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012



## MEMORANDUM

**Date:** February 27, 2012  
**To:** Michigan Strategic Fund Board Members  
**From:** Karla Campbell, State Tax Incentives Manager  
**Subject:** Next Michigan Development Corporation  
Grand Traverse Region

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### **BACKGROUND**

The MEDC received the application for the Grand Traverse Region Next Michigan Development Corporation on January 31, 2012 after approval from Governor's Snyder's office on the interlocal agreement creating the Next Michigan Development Corporation ("NMDC"). The communities involved are Grand Traverse County, City of Traverse City, Garfield Charter Township, East Bay Charter Township and Blair Township.

Grand Traverse Region will focus on the following industries:

- Biomedical/Biotechnical
- Agribusiness, Food Processing and Technology
- Fabricated Metal Product Manufacturing
- Machinery Manufacturing
- Computer and Electronic Product Manufacturing
- Electrical Equipment, Appliance and Component Manufacturing
- Transportation Equipment Manufacturing
- Arts, Entertainment, Recreation and Visitor Industries.

Cherry Capital Airport is a great transportation asset as it is the 4<sup>th</sup> busiest airport in Michigan for passenger flights. This area will be one of the focus areas with Aero Park and Peninsula Business Park adjacent to the Airport. The Hammond Corridor is within one mile of the airport and contains four industrial parks with available space for development.

The US 31 Corridor is another focal point with an excellent opportunity for growth. Chum Village is the anchor and the area has developable land with water, sewer and easy access to US 31 and M37.

### **REQUEST**

The Michigan Economic Development Corporation (MEDC) received a final application on February 9, 2012, for the designation of the Grand Traverse Region as a NMDC. The designation of a NMDC shall empower the Grand Traverse Region with the incentive tools identified through Section 6(1) of the Next Michigan Development Act, MCL 125.2956(1), to support its economic development efforts within the development area. The entire application is available to review for any Board member upon request.

The Board of the Michigan Strategic Fund pursuant to MCL 125.2955(2) shall apply the following criteria in determining whether to designate a NMDC:

- (a) The nominal level of unemployed workers within the county or counties which are parties to the interlocal agreement creating the applicant eligible act 7 entity, if the applicant is an eligible act 7 entity, or within the applicant eligible urban entity, if the applicant is an eligible urban entity, in each case



as publicly reported by the state department of energy, labor, and economic growth as of the month preceding the filing of the application on an adjusted or unadjusted basis, whichever is greater.

In 2010, the percentage of unemployed workers is outlined below:

- Grand Traverse County: 8.9%
- Traverse City Metropolitan Area: 9.5%

(b) The number of local governmental unit parties to the applicant's interlocal agreement if the applicant is an eligible act 7 entity.

The applicant is applying as an Eligible Act 7 Entity and is comprised of the following five local governmental units and the Airport Authority:

- Grand Traverse County
- City of Traverse City
- Garfield Charter Township
- East Bay Charter Township
- Blair Township

(c) Whether the application demonstrates evidence of significant job creation potential of a regional or state asset or combinations of enterprises, facilities, or obsolete facilities within the territory of the applicant, as documented by a comprehensive business plan and a third-party study or studies quantifying the job creation potential, and the degree of the job creation potential.

The entire third-party study is available to review for any Board member upon request.

As part of its comprehensive strategic development plan for the Grand Traverse Region, the Northwest Michigan Council of Governments completed a demographic and market analysis of the potential impact of the NMDC. The study indicated that the Grand Traverse Region has a higher than average population with a bachelor's degree, 19% compared to 13% in northern Michigan, 15% of the state and 18% of the nation. With the educated population, health care has been and will continue to be a growing industry. The study estimates a job creation number of 3,410 and, in addition, 2,489 indirect jobs.

(d) Whether the application is supported by public and private commitment and the degree of the commitment.

The Grand Traverse Region has an established group of governmental agencies that have worked together over the years. What the NMDC provides is the opportunity to bring the work they do as a region into a forum allowing for expedited approvals. The Grand Traverse Region currently has a very active Brownfield Redevelopment Authority that has launched several successful projects. The private commitment comes from companies such as the Grand Traverse Pie Company, ShorelineFruit and Lead Screws International, and support letters have been provided from various public local entities.

(e) The extent to which the interlocal agreement or the eligible urban entity creates the possibility of streamlined permitting.

The Grand Traverse Region will be utilizing the County Land Development Review Committee for all NMDC permitting. Construction code and permits for three of the local units of government have been utilizing the LDRC for all permitting. This will continue and expand if the Grand Traverse Region is designated.

(f) By statute, the Michigan Strategic Fund may designate three Next Michigan Development Corporations in a calendar year if one or more of the NMDCs is located entirely north of the 43° 49' (north of Clare) and the Grand Traverse Region NMDC designation, if approved, is completely north of Clare.

**RECOMMENDATION**

Staff recommends to the Michigan Strategic Fund the designation of the Grand Traverse Region Next Michigan Development Corporation as a Next Michigan Development Corporation with immediate effect, Monday, February 27, 2012.

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**NEXT MICHIGAN DEVELOPMENT CORPORATION  
GRAND TRAVERSE REGION NEXT MICHIGAN DEVELOPMENT CORPORATION**

**WHEREAS**, the Next Michigan Development Act (the “Act”), 2010 PA 275, authorizes the Michigan Strategic Fund (“MSF”) to designate up to five (5) Next Michigan Development Corporations (a “NMDC”) to foster economic opportunities in this state, prevent conditions of unemployment and underemployment, and promote economic growth;

**WHEREAS**, the Act provides that either an eligible Act 7 entity or an eligible urban entity may apply to the MSF Board for designation as a NMDC;

**WHEREAS**, the Act sets forth the criteria the MSF shall apply in determining whether or not to designate a NMDC at MCL 125.2955(2);

**WHEREAS**, the Act requires the MSF to grant or deny an application within forty-nine (49) days of receipt of an application for designation as a NMDC or the application is considered approved;

**WHEREAS**, the MSF received an application from the Grand Traverse Region Next Michigan Development Corporation (“Grand Traverse NMDC”) on behalf of five communities (collectively the “Applicants”) on February 9, 2012 requesting designation of the Grand Traverse NMDC as a NMDC (the “Application”);

**WHEREAS**, the Grand Traverse NMDC is an eligible Act 7 entity formed by interlocal agreement by and between Grand Traverse County, City of Traverse City, Garfield Charter Twp., East Bay Charter Twp., and Blair Twp.;

**WHEREAS**, after review of the Application and the criteria set forth at MCL 125.2955(2) staff recommends that the MSF Board approve the Applicants’ Application for designation as a NMDC:

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board approves the Applicants’ Application and designates the Grand Traverse NMDC as a NMDC effective February 27, 2012; and

**BE IT FURTHER RESOLVED**, that the MSF Board authorizes the MSF President or Fund Manager to take any action necessary to effectuate the terms of this Resolution.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012



## MEMORANDUM

**DATE:** February 27, 2012

**TO:** MSF Board Members

**FROM:** Diane Cranmer, Private Activity Bond Specialist

**SUBJECT:** NTE \$3,850,000 Refunding of Michigan Strategic Refund Variable Rate Demand Limited Obligation Revenue Bonds, Series 2007 (Centerline Engineering, Inc./CEI Properties, LLC Project)

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### **COMPANY BACKGROUND**

Centerline Engineering, Inc., a Michigan corporation, (“Company”) was established in 2000, The Company is a manufacturer of tools and dies for metal stamping purposes and is located at 2385 Walker Avenue, Grand Rapids, Kent County. Staff is advised that the Company rents the facility from CEI Properties, LLC.

### **PROJECT DESCRIPTION**

The proposed project consists of refunding the outstanding bonds originally issued by the Michigan Strategic Fund in September of 2007. The project included the acquisition of land, the construction of an approximately 38,000 square foot manufacturing facility and the acquisition and installation of machinery and equipment located at 940 7 Mile NW, Alpine Township, Kent County.

Staff understands that the purpose of refunding is to add a “bank purchase mode” to the existing or restructured documents to permit the purchase of refunding bonds by the PNC Bank, National Association upon mutually agreeable terms and conditions. The originally issued bonds were secured by a letter of credit issued by Mercantile Bank of Michigan.

### **ADDITIONAL INFORMATION**

#### **LEGISLATIVE INFORMATION**

Senator: Mark Jansen – District 28  
Representative: David Agema – District 74

#### **BOND COUNSEL**

Robert Schwartz, Clark Hill PLC

#### **PLACEMENT AGENT**

The refunding bonds will be privately placed with PNC Bank, National Association.

### **RECOMMENDATION**

Based upon a determination by Clark Hill PLC and the State of Michigan Attorney General’s Office that the proposed refunding complies with state and federal tax requirements, staff recommends the adoption of the Resolution approving the addition of a bank purchase mode to the existing or restructured documents and refunding of the prior bonds.

:



## MEMORANDUM

**DATE:** February 27, 2012

**TO:** MSF Board Members

**FROM:** Diane Cranmer

**SUBJECT:** Private Activity Bond – Authorizing  
Christian Care – NTE \$8,435,000 – New Financing/Refinancing / Non-Profit  
Muskegon Charter Township, Muskegon County

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### **COMPANY BACKGROUND**

Christian Care is a Michigan non-profit 501(c)(3) organization that includes a 49 bed nursing home and a 105 bed home for the aged. Christian Care has been operating since 1918 as a ministry of local Reformed and Christian Reformed churches of the Muskegon area. The proposed project will replace the 49 bed nursing center, which is an outdated building. The proposed project will be located on 14+ wooded acres and will include an additional 21 bed secure unit for dementia residents with behavioral issues. Christian Care currently employs approximately 135 people.

### **PROJECT DESCRIPTION**

The project will include construction of a new, approximately 50,000 square foot skilled nursing facility consisting of 49 private rooms and 21 specialty Alzheimer's private units on approximately 14 acres of property located at 2053 S. Sheridan Drive, Muskegon, Muskegon County.

Please Note: The MSF adopted its Inducement Resolution 2010-029 for this project on February 24, 2010, which expired on February 24, 2012. Christian Care has requested the MSF to amend the Inducement Resolution 2010-029, extending the expiration of the resolution to April 30, 2012.

### **ADDITIONAL INFORMATION**

#### **Job Creation:**

Christian Care anticipates creating approximately 18 new jobs at project completion. The jobs created and added to the current 85 Christian Care Nursing Center employees will require the transfer of employment from the City of Muskegon to Muskegon Charter Township.

The City of Muskegon has transmitted to the MSF Resolution 2010-28(a) indicating the City of Muskegon does not object to the transfer of employees from the City of Muskegon to Muskegon Charter Township.



**Legislative Information:**

Senator Goeff Hansen, - District 34

Representative Marcia Hovey-Wright – District 92

**Bond Counsel:**

Dykema Gossett PLLC

**Proposed Placement of the Bond Issue**

The Huntington National Bank will be directly purchasing the bonds.

**Recommendation**

After reviewing the Private Activity Bond Authorizing Resolution for Christian Care, and based upon a determination by Dykema Gossett PLLC and the State of Michigan Attorney General's Office that this project meets state and federal law requirements for tax exempt financing, staff recommends the adoption of a Bond Authorizing Resolution for an amount not to exceed \$8,435,000.

## MEMORANDUM

**Date:** February 27, 2012

**To:** Michigan Strategic Fund (MSF) Board

**From:** Deborah Stuart, CDBG Manager

**Subject:** Community Development Block Grant (CDBG)  
Village of Carp Lake and City of Menominee  
Reallocation of American Recovery and Reinvestment Act (ARRA) Funds

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### DESCRIPTION

The State of Michigan received a CDBG ARRA grant through the Department of Housing and Urban Development (HUD) in the amount of \$9,583,380 on August 6, 2009, to be administered by the MSF. In a recent review of the grant distribution, it has become apparent that the MSF needs to reallocate funds budgeted for administration of the grant to projects to avoid loss of funds for the State. When the grant budget was originally prepared, the administrative costs were overestimated, and actual cost will make approximately \$350,000 available to fund projects.

All ARRA projects need to be completed by September 2012 to comply with the grant agreement. Staff is recommending that two previously approved CDBG projects that are underway, but can meet all of the CDBG ARRA requirements, be amended and transferred to utilize the remaining CDBG ARRA funding allocation. We have confirmed with HUD that this would be an appropriate action.

Recommended projects to be reallocated include:

1. Carp Lake Township was awarded a \$61,463 CDBG at the March 24, 2010, MSF Board meeting to fund sewer system improvements. The grant was awarded as part of the competitive infrastructure capacity enhancement round.
2. The City of Menominee was awarded a \$400,000 CDBG at the March 24, 2010, MSF Board meeting to fund water tank improvements. The grant was awarded as part of the competitive infrastructure capacity enhancement round. The project is coming in under budget, and the community has agreed that the grant should be reduced to \$280,732.

### PROJECT EVALUATION OF NEW PROPOSAL

The projects were evaluated utilizing the CDBG ARRA guidelines. It has been determined that the proposed projects, as approved previously, meet the minimum standards to qualify as an eligible project under the CDBG ARRA program. The communities have agreed to follow any additional regulations, including reporting requirements that would be needed for this transfer of funding.

### RECOMMENDATION

After reviewing the projects, staff has concluded that the projects meet the minimum program requirements to be eligible under the CDBG ARRA program. Staff recommends the following action:

1. The MSF amends Township of Carp Lake's CDBG Grant Agreement to extend the term of work to August 31, 2012, to utilize CDBG ARRA funds, and to incorporate all related regulations.
2. The MSF amends City of Menominee's CDBG Grant Agreement to reduce the grant amount to \$280,732, to utilize CDBG ARRA funds, and to incorporate all related regulations.

## MICHIGAN STRATEGIC FUND

### RESOLUTION 2012-

#### CARP LAKE TOWNSHIP

**WHEREAS**, Executive Order 1999-1, issued pursuant to Article V of the Michigan Constitution of 1963 and the laws of the State of Michigan, consolidated the State's economic development functions and programs and their accompanying powers in the Michigan Strategic Fund ("MSF");

**WHEREAS**, Executive Order 1999-1 transferred from the Michigan Jobs Commission to the MSF all authority, powers, duties, functions, grants, and responsibilities, including the functions of budgeting, procurement, personnel, and management related functions, of the Community Development Block Grant Recovery ("CDBG") program. The American Recovery and Reinvestment Act provided additional funds to CDBG programs, however, they are to be disbursed and managed pursuant to the American Recovery and Reinvestment Act ("CDBG-R");

**WHEREAS**, the CDBG-R program has policies, criteria, and parameters which are enumerated in the 2008 Program Guidelines, as amended (the "Criteria");

**WHEREAS**, the MSF Board on March 24, 2010 by Resolution 2010-049 approved \$61,463 of CDBG funding to be used for infrastructure capacity enhancements, sewer system improvements (the "Project"), within Carp Lake Township (the "Community");

**WHEREAS**, the Community submitted a CDBG application requesting funding to be used for the Project and signed a Grant Agreement with a term of work expiring May 31, 2012;

**WHEREAS**, CDBG program staff have reviewed the Project in light of the CDBG-R program Criteria and have concluded that the Project is eligible for CDBG-R funding, is not speculative in nature, is economically sound, and at least 51 percent of the Project beneficiaries are low and moderate income persons;

**WHEREAS**, an analysis of the CDBG-R program determined that it has excess funds due to an overestimate of administrative costs; and

**WHEREAS**, staff recommends that Resolution 2010-049 and the Project be amended from a CDBG project to a CDBG-R project and extend the term of work to August 31, 2012 for the reasons set forth in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board amends Resolution 2010-049 to revise the Project funding from the CDBG program to the CDBG-R program;

**BE IT FURTHER RESOLVED**, the MSF allocates \$61,463 from the Michigan CDBG-R program for the purpose of funding the Community's Project contingent upon the MSF's continued receipt of CDBG-R funds and availability of adequate funds;

**BE IT FURTHER RESOLVED**, staff is directed to amend the Grant Agreement term of work to August 31, 2012 and other revisions necessary to comply with the CDBG-R program. The Fund Manager or MSF President is authorized to execute, on behalf of the MSF, all documentation necessary to effectuate the revised and amended Project;



**BE IT FURTHER RESOLVED**, if a revised and amended Grant Agreement executed by all parties is not delivered to the MSF within 90 days of the date this Resolution is adopted, this Resolution shall have no effect. Based upon a showing of good cause, staff may extend the time period for submitting an executed grant agreement for an additional 30 day period.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

## MICHIGAN STRATEGIC FUND

### RESOLUTION 2012-

### CITY OF MENOMINEE

**WHEREAS**, Executive Order 1999-1, issued pursuant to Article V of the Michigan Constitution of 1963 and the laws of the State of Michigan, consolidated the State's economic development functions and programs and their accompanying powers in the Michigan Strategic Fund ("MSF");

**WHEREAS**, Executive Order 1999-1 transferred from the Michigan Jobs Commission to the MSF all authority, powers, duties, functions, grants, and responsibilities, including the functions of budgeting, procurement, personnel, and management related functions, of the Community Development Block Grant Recovery ("CDBG") program. The American Recovery and Reinvestment Act provided additional funds to CDBG programs, however, they are to be disbursed and managed pursuant to the American Recovery and Reinvestment Act ("CDBG-R");

**WHEREAS**, the CDBG-R program has policies, criteria, and parameters which are enumerated in the 2008 Program Guidelines, as amended (the "Criteria");

**WHEREAS**, the MSF Board on March 24, 2010 by Resolution 2010-049 approved \$400,000 of CDBG funding to be used for infrastructure capacity enhancements, water tank improvements (the "Project"), within the City of Menominee (the "Community");

**WHEREAS**, the Community submitted a CDBG application requesting funding to be used for the Project and signed a Grant Agreement;

**WHEREAS**, CDBG program staff have reviewed the Project in light of the CDBG-R program Criteria and have concluded that the Project is eligible for CDBG-R funding, is not speculative in nature, is economically sound, and at least 51 percent of the Project beneficiaries are low and moderate income persons;

**WHEREAS**, an analysis of the CDBG-R program determined that it has excess funds due to an overestimate of administrative costs;

**WHEREAS**, the Community has completed the Project, but not yet received reimbursement, under budget in the amount of \$280,732; and

**WHEREAS**, staff recommends that Resolution 2010-049 and the Project be amended from a CDBG project to a CDBG-R project in the amount of \$280,732 for the reasons set forth in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF Board amends Resolution 2010-049 to revise the Project funding from the CDBG program to the CDBG-R program;

**BE IT FURTHER RESOLVED**, the MSF allocates \$280,732 from the Michigan CDBG-R program for the purpose of funding the Community's Project contingent upon the MSF's continued receipt of CDBG-R funds and availability of adequate funds;

**BE IT FURTHER RESOLVED**, staff is directed to amend the Grant Agreement to reflect the amount of \$280,732 and other revisions necessary to comply with the CDBG-R program. The Fund

Manager or MSF President is authorized to execute, on behalf of the MSF, all documentation necessary to effectuate the revised and amended Project;

**BE IT FURTHER RESOLVED**, if a revised and amended Grant Agreement executed by all parties is not delivered to the MSF within 90 days of the date this Resolution is adopted, this Resolution shall have no effect. Based upon a showing of good cause, staff may extend the time period for submitting an executed grant agreement for an additional 30 day period.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**APPROVAL OF DELEGATION OF AUTHORITY FOR CONFIDENTIAL MATERIAL**

**WHEREAS**, Public Acts 270 of 1984 established the Michigan Strategic Fund (“MSF”);

**WHEREAS**, the Michigan Economic Development Corporation provides administrative services for the Michigan Strategic Fund;

**WHEREAS**, the MSF Board may consider financial or proprietary information submitted by an applicant that relates to an application to or with a project or product assisted by the MSF or any of its centers or with an award, grant, loan, or investment as confidential and not subject to the disclosure requirements of the Freedom of Information Act, Public Act 442 of 1976, as amended (“Confidential Material”);

**WHEREAS**, under MCL 125.2005(9), as amended by Public Act 251 of 2011, the MSF Board may delegate the authority to a designee to consider a request for confidentiality and acknowledge materials as confidential; and

**WHEREAS**, the MEDC recommends that the MSF delegate authority to make all decisions with respect to Confidential Material to the MSF Fund Manager.

**NOW, THEREFORE, BE IT RESOLVED**, the MSF hereby approves the delegation of authority for the MSF Fund Manager to make all decisions with respect to Confidential Material for Michigan Strategic Fund programs;

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

## MEMORANDUM

**DATE:** February 27, 2012

**TO:** Michigan Strategic Fund Board

**FROM:** Eric Hanna, Director, Debt Capital Programs

**SUBJECT:** Finalize the Funding Commitment to the Develop Michigan - Capital Conduit Program

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### **Background**

The Michigan Strategic Fund (“MSF”) approved on December 21, 2011 the Develop Michigan - Capital Conduit Program (“CCP”) as a program within the Michigan Supplier Diversification Fund (“MSDF”). The purpose of the MSDF program is to provide loan enhancement capital to Michigan businesses by leveraging private sector capital through a partial de-risking process which takes the form of several different programs. The CCP is one of those component programs.

### **Funding Plan**

At its January 25, 2012 meeting the MSF Board made awards under the CCP to Develop Michigan, Inc. for the Real Estate Initiative (“REI”) and Grow Michigan LLC for the Operating Company Initiative (“OCI”). The funding plan provided initial lines of credit to both designees in the amounts of \$5,000,000 and \$2,500,000, respectively, from the initial allocation of \$7,500,000. Additional funding totaling \$20,000,000 and \$10,000,000, respectively, was contemplated under the awards made by the MSF Board in January.

This request is to approve additional capital from the Jobs for Michigan investment fund (“Investment Fund”) to the CCP in the amount of \$22,500,000. The purpose of this transfer is to reflect to the capital markets the formal commitment of capital that is planned. The availability under specific lines for the designees will be requested of the MSF separately in the future based on their success at fund raising and ultimately the levels of capitalization at various “closes.”

### **Recommendation**

MEDC Staff recommends the transfer of an additional \$22,500,000 from the Investment fund to the CCP, with further transfer and line of credit increase requests under the awards to be considered by the MSF Board in the future.

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**APPROVAL OF FUNDING FOR DEVELOP MICHIGAN – CAPITAL CONDUIT PROGRAM**

**WHEREAS**, the Michigan legislature passed legislation establishing the 21<sup>st</sup> Century Jobs Trust Fund initiative that was signed into law by Governor Jennifer M. Granholm;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services for the Michigan Strategic Fund (“MSF”) for 21st Century Jobs Fund programs;

**WHEREAS**, as part of the 21<sup>st</sup> Century Jobs Trust fund initiative, and pursuant to MCL 125.2088h(1), the Jobs for Michigan investment fund was created as a permanent fund authorized by the state constitution (“Investment Fund”);

**WHEREAS**, pursuant to MCL 125.2088h(3) and MCL 125.2088h(7), the MSF Board shall direct the investment and reinvestment of the Investment Fund as provided under Chapter 8A of the MSF Act (“Chapter 8A”);

**WHEREAS**, pursuant to MCL 125.2088h(5)(b) and (c), the Investment Fund consists of, among other things, return on investments, return on principal, payments made, or other money received by or payable to the MSF under agreements related to loans or investments by the MSF under Chapter 8A;

**WHEREAS**, pursuant to MCL 125.2088d(1) under Chapter 8A, the MSF shall create and operate a loan enhancement program;

**WHEREAS**, on May 20, 2009, the MSF Board approved the creation and operation of the Michigan Supplier Diversification Fund (“MSDF”) as a loan enhancement program under Chapter 8A;

**WHEREAS**, on December 21, 2011, the MSF Board approved the creation and operation of the Develop Michigan – Capital Conduit Program (“CCP”) under the MSDF and allocated \$7,500,000 from the Investment Fund to the CCP;

**WHEREAS**, the MEDC recommends that the MSF allocate additional funds to the CCP using \$22,500,000 from the Investment Fund; and

**WHEREAS**, the MSF Board desires to allocate an additional \$22,500,000 from the Investment Fund to the CCP.

**NOW, THEREFORE, BE IT RESOLVED**, the MSF hereby directs additional funding of the CCP using \$22,500,000 from the Investment Fund.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

## MEMORANDUM

**Date:** February 27, 2012

**To:** Michigan Strategic Fund Board

**From:** Eric Hanna, Director Debt Capital Programs

**Subject:** Michigan Supplier Diversification Fund Request for Public Hearing regarding Guideline Modifications

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### **Background**

On May 20, 2009 the Michigan Strategic Fund (“MSF”) created the Michigan Supplier Diversification Fund (“MSDF”). On May 20, 2009, the MSF Board also approved the creation and operation of the Michigan Loan Participation Program (“MLPP”) under the MSDF and adopted guidelines for the Michigan Loan Participation Program (“MLPP Guidelines”). The MSF Board subsequently approved the Loan Participation and Servicing Agreement (“Lender Agreement”) and the Supplemental Agreement (“Supplemental Agreement”) for the MLPP (collectively the “MLPP Agreements”). On June 24, 2009, the MSF Board approved the (i) creation and operation of the Michigan Collateral Support Program (“MCSP”) under the MSDF, (ii) adopted guidelines for the MCSP (“MCSP Guidelines”); (iii) approved the Authority of the Chairperson, subject to the MCSP Guidelines; and (iv) approved the Cash Collateral Deposit Agreement (“Deposit Agreement”) for the MCSP. Both the MCSP Guidelines and the MLPP Guidelines were later amended by the MSF.

The purpose of the MSDF is to promote access to capital for commercial borrowers who are base job creating companies and who, through the increased capital, will provide for employment opportunities and produce added tax revenue benefits in Michigan.

In addition to the MLPP and the MCSP, the MSF uses federal funds from the State Small Business Credit Initiative (“SSBCI”) to runs similar programs for the same intended purpose. SSBCI programs and MSDF programs provide for similar functionality but utilize different legal agreements, have different requirements and have different levels of delegated approval authority.

### **Guidelines**

In both the MLPP and the MCSP, the MSF has set forth specific guidelines governing eligibility, review process, program mechanics, fees and charges, and various other aspects of the programs. Because both programs are used with participating lending institutions it is important that they be as consistently administered as possible in order to avoid confusion on both the credit evaluation and the legal/administrative sides of the project.

Staff has reviewed the MSDF guidelines and is proposing a number of changes to them in order to both clarify intent and produce alignment with the SSBCI program guidelines. The changes to the MCSP Guidelines are provided in Exhibit A and changes to the MLPP Guidelines are provided in Exhibit B.

In summary, MEDC Staff proposes the following guideline changes:

- For both the MCSP and the MLPP, clarification that the programs are intended to support traditional “extensions of commercial credit” such as Operating and TRAC leases and not just loans specifically.
- For both the MCSP and the MLPP, the removal of a 20% single contract concentration limit and the implementation of a delegation of authority which mirrors exactly the SSBCI delegations.
  - Up to \$2,500,000 approved by two of three approved signatories

- From \$2,500,001 to \$5,000,000 full board approval  
(note that at \$5.0M, no individual project will obligate more than 16% of the programs assets)

- For the MCSP program, the removal of the Tier I fee structure which was rarely used in favor of the Tier II structure which provides for an annual fee of up to 3%.
- For the MCSP program, removal of confusing language in the fee section regarding the declining percentage of claim and the replacement with language related to the moral hazard formula as approved and used within the SSBCI program.
- Addition of an explicit statement for both programs limiting the support or acquisition with either program respectively to 49.9% of the amount of the extension of commercial credit.
- Addition of an explicit statement for both programs that the participating lender must be a depository institution regulated by the FDIC, OCC, or Federal Reserve or a certified Non-Profit Community Development Finance Institution, or a depository institution regulated by the State of Michigan's Office of Insurance and Financial Regulation.

In addition, MEDC Staff proposes to revise the current delegations under MSDF to match those delegations approved by the MSF for SSBCI. Specifically, staff proposes delegated authority to the MSF Chairperson, MSF Manager, and State Treasurer Director, with two of the three required to sign, for MSDF awards up to \$2,500,000 (“Delegation of Authority”), as follows:

<b>Level of Award under the MCSP and MLPP</b>	<b>Delegates</b>
Award less than or equal to an original amount of \$2,500,000	Any two (2) of the following required to act: <ul style="list-style-type: none"> <li>a. MSF Fund Manager, or</li> <li>b. MSF Chairperson, or</li> <li>c. State Treasurer Director</li> </ul>

MEDC Staff will provide quarterly reports to the full MSF Board on all actions taken under the Delegation of Authority.

Finally, staff proposes that the MSF Board delegate to the MSF Fund Manager or the MSF Chairperson, with only one required to act, the authority to revise the MLPP Agreements, the Deposit Agreement and any related documents, and to negotiate and execute all final documents on behalf of the MSF, subject to standard due diligence and the availability of funds.

**Recommendation**

Pursuant to MCL 125.2088c(5), before adopting a resolution that substantially changes a 21<sup>st</sup> century investment program, including any fees, charges or penalties attached to that program, the MSF Board is required to hold a public hearing to provide an opportunity for people to present data, views, questions and arguments related to the proposed changes. MEDC Staff requests that the MSF Board issue a Notice of Public Hearing to be held on March 13, 2012 at the Michigan Economic Development Corporation for the purpose of receiving public comment on the proposed changes to the MLPP and MCSP Guidelines.



Exhibit A  
Michigan Collateral Support Program – Proposed Revised Guidelines

**Program Guidelines\***

- To be eligible for the program a borrower must fall under the definition of a firm which may be eligible to receive a MEGA tax credit. More specifically, a company must have a unique Federal Employer Identification number and participate in one or more of the following; mining, manufacturing, research and development, wholesale and trade, film and digital media production, office operations, or a business that is a qualified high technology business as described in MCL 207.803(n), as amended.
- The participating lending institution must execute a Deposit Agreement under which the terms of deposit, interest accrual, and pledge restrictions will be described.
- *The participating lender must be a depository institution regulated by the FDIC, OCC, or Federal Reserve or a certified Non-Profit Community Development Finance Institution or a depository institution regulated by the State of Michigan's Office of Insurance and Financial Regulation.*
- The Program shall collect at its determination from the lead lending institution its credit analysis, borrower financial statements, risk rating justification, cash flows and other documents which the Program deems necessary in order to determine both 1) that the opportunity meets the economic development criteria established by the Program and 2) that the bank has performed a sufficient and acceptable analysis of the borrowers project and financial condition. This analysis should indicate that participation in the program will result in an extension of **commercial** credit by the bank.
- The program shall enhance the collateral position of borrowers by depositing cash into accounts at participating lending institutions which will then be pledged as collateral on behalf of the borrower on a transaction by transaction basis.
- *The program shall be obligated to support no more than 49.9% of the extension of commercial credit in any individual transaction.*
- Participating lending institutions will be required to collect and supply such information as may be required in order to determine the number of jobs created at the project, the return on investment, and the relative level of risk which each transaction is rated in the bank's risk rating structure. Such information will be reported to the MSF in a program-wide summary format periodically.
- The program balance shall be reduced proportionately with the principal reduction of the loan so as to eliminate over-reliance on program deposits as part of the collateral commitment on the loan.
- All reductions to account balances, interest, fees & charges, and recaptured balances shall be returned to the Michigan Supplier Diversification Fund for recapitalization.
- Program deposits shall not exceed **\$5,000,000** per project. ~~except in the case that such a deposit serves the intended program objectives, is supported by Program leadership, represents a compelling economic development interest, and is approved by the MSF Board. In such cases, a deposit over \$500,000 shall not exceed \$2.5 million. (subject also to all other limitations of the program).~~  
The program shall have two fee structures as follows:
  - ~~Tier One: A fee up to three percent of the value of the cash collateral account will be paid regardless of whether the transaction is new or a renewal. No annual fee is assessed.~~

- The fee structure used will be determined based on an evaluation of the percentage of reliance on deposits vs. the balance of collateral value on the extension of commercial credit as well as the potential economic development value of the project. In no case, can the deposit represent more than 49.9% of the total loan amount of the individual extension of commercial credit in any single Deposit Agreement. ~~The fee structure used will be determined based on an evaluation of the percentage of reliance on deposits vs. the balance of collateral value on the loan as well as the potential economic development value of the project. In no case, can the deposit represent more than 49.9% of the total loan amount in any single Deposit Agreement.~~

- Agreements under the programs shall include a fee which will reduce the claim made against cash collateral on deposit which is calculated based on the effectiveness of the liquidation of borrower's collateral by the participating lending institution.

Exhibit B  
Michigan Loan Participation Program Proposed Revised Guidelines

**Program Guidelines**

- To be eligible for the program a company must fall under the definition of a firm which may be eligible to receive a MEGA tax credit. More specifically, a company must have a unique Federal Employer Identification number and participate in one or more of the following; mining, manufacturing, research and development, wholesale and trade, film and digital media production, office operations, or a business that is a qualified high technology business as described in MCL 207.803(n), as amended.
- The borrower and/or lead lending institution shall apply to the program.
- The Program shall participate in funding ~~loans~~ *extensions of commercial credit* with partner *participating* lending institutions or Michigan Business Development Corporations or subsidiaries.
- *The participating lender must be a depository institution regulated by the FDIC, OCC, or Federal Reserve or a certified Non-Profit Community Development Finance Institution or a depository institution regulated by the State of Michigan's Office of Insurance and Financial Regulation.*
- The participating lending institution shall be considered the "lead lender ~~bank~~." and shall retain no less than 50.1% of the total loan balance at all times. The lead lender ~~bank~~ shall, under the terms of the Loan Participation and Servicing Agreement, service, document, perfect liens, collect interest, fees and principal; and in all other respects manage the loan.
- The Program shall collect at its determination from the lead lending institution its credit analysis, borrower financial statements, risk rating justification, cash flows and other documents which the Program deems necessary in order to determine both 1) that the opportunity meets the economic development criteria established by the Program and 2) that the bank has performed a sufficient and acceptable analysis of the borrowers project and financial condition. This analysis should indicate that participation in the program will result in an extension of *commercial* credit by the bank.
- Reductions in principal, partial losses and total losses, if any, will be taken proportionate to the percent of loan participation.
- All repayments including principal, interest, fees & charges, and recoveries shall be returned to the Michigan Supplier Diversification Fund for recapitalization.
- *The Program may provide for the purchase of no more than 49.9% of an eligible extension of commercial credit.*
- ~~The Program portion of a participation loan, or Program "advance", shall charge interest no later than 36 months after the closing of the loan agreement. After such time the effective rate of interest shall be no less than 1% and no more than 4% above the interest rate of the lead bank loan.~~

- The Program portion of a participation loan, or Program “advance”, shall require principal repayment begin no later than 36 months after the closing of the loan agreement and in such repayment shall be concurrent with any provision for interest repayment such that if interest is being collected a principal payment must also be collected.
- A prepayment fee may be charged to borrowers that pay off Program advances within 12 months of interest accrual.
- Program advances shall not exceed **\$5,000,000** per project ~~except in the case where it is determined that the project provides unique and high level Economic Development or Job Creation benefits to the State of Michigan. In such cases, the MSF Board may authorize larger participation amounts subject to funding availability such that no individual program advance represents more than 20% of the Program’s total funding allocation.~~
- The Program will charge a onetime loan closing fee to the borrower that may be deducted from the loan proceeds. The closing fee will be negotiated per deal. All other fees assessed by the lead bank shall apply to the Program advance and the bank advance and shall be received by both parties proportionate to their percentage of participation.
- ***The program will charge a fee not less than 1% and not more than 4% annually at such time as the participation agreement establishes the payment of interest. If the participation agreement provides for an interest free period, no annual fee is charged during that period.***
- Participating lending institutions will be required to collect and supply such information as may be required in order to determine the number of jobs created at the project, the return on investment, and the relative level of risk which each transaction is rated in the bank’s risk rating structure. Such information will be reported to the MSF in a program-wide summary format periodically.
- ~~A Supplemental Agreement shall be signed by the Borrower and the MSF, which among other things, shall provide the MSF direct rights against the Borrower. The Supplement Agreement shall set forth certain representations, obligations of the Borrower. The Supplemental Agreement~~ ***Any agreement under this program*** shall provide, among other things, affirmative representations of the Borrower that there exists no occurrence of criminal or civil activity prohibited under MCL 125.2088c(4), non-discrimination warranties, reporting requirements and that the Borrower shall provide access to its books and records related to the loan. In addition, the Supplemental Agreement shall provide direct rights against the Borrower for certain events of default, including as of the time determined by the MSF: (i) when the Borrower ceases to have substantially all of its employees (exclusive of sales staff) or operations located within the State of Michigan, or (ii) the occurrence of an event listed in MCL 125.2088(c)(4).

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**NOTICE OF PUBLIC HEARING - AMENDMENTS TO THE  
MICHIGAN LOAN PARTICIPATION PROGRAM GUIDELINES AND  
THE MICHIGAN COLLATERAL SUPPORT PROGRAM GUIDELINES**

**WHEREAS**, Public Acts 215 and 225 of 2005 (collectively, the “Act”) established the 21<sup>st</sup> Century Jobs Trust Fund initiative;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services for the Michigan Strategic Fund (“MSF”) for 21st Century Jobs Fund programs;

**WHEREAS**, pursuant to MCL.125.2088d(1) the MSF shall create and operate a loan enhancement program;

**WHEREAS**, on May 20, 2009, the MSF created the Michigan Supplier Diversification Fund (“MSDF”) as a loan enhancement program;

**WHEREAS**, on May 20, 2009, the MSF Board approved the creation and operation of the Michigan Loan Participation Program (“MLPP”) under the MSDF, and (ii) adopted guidelines for the Michigan Loan Participation Program (“MLPP Guidelines”);

**WHEREAS**, on June 24, 2009, the MSF Board approved the Loan Participation and Servicing Agreement (“Lender Agreement”) and the Supplemental Agreement (“Supplemental Agreement”) for the MLPP (collectively the “MLPP Agreements”);

**WHEREAS**, on June 24, 2009, the MSF Board approved the (i) creation and operation of the Michigan Collateral Support Program (“MCSP”) under the MSDF, (ii) adopted guidelines for the MCSP (“MCSP Guidelines”); (iii) approved the Authority of the Chairperson, subject to the MCSP Guidelines; and (iv) approved the Cash Collateral Deposit Agreement (“Deposit Agreement”);

**WHEREAS**, on August 26, 2009, the MCSP Guidelines were amended by the MSF and on February 24, 2010, the MLPP Guidelines were amended by the MSF;

**WHEREAS**, pursuant to MCL 125.2088c(5), prior to adopting the attached draft resolution (“Proposed Resolution”) that would make substantial changes to the MLPP Guidelines and the MCSP Guidelines, the MSF Board shall hold a public hearing that provides an opportunity for public comment;

**WHEREAS**, the MSF desires to hold a public hearing with respect to the Proposed Resolution on March 13, 2012 to offer persons an opportunity to present data, views, questions and arguments; and

**WHEREAS**, the MSF desires to approve the Notice of Public Hearing and to authorize Eric Hanna to be present at the hearing and participate in the public discussion regarding the Proposed Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, that the Fund Manager is authorized to publish the attached Notice implementing the requirements of MCL 125.2088c(5);

**BE IT FURTHER RESOLVED**, that the MSF designates the Fund Manager to be present at the public hearing and participate in the public discussion of the Proposed Resolution; and

**BE IT FURTHER RESOLVED**, pursuant to MCL 125.2088c(5), that no sooner than 14 days after the public hearing, the MSF intends to adopt a final resolution implementing changes to the MLPP Guidelines and the MCSP Guidelines.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

## NOTICE OF PUBLIC HEARING

On March 13, 2012, the Michigan Strategic Fund Board ("MSF Board") will hold a public hearing with respect to the attached proposed resolution of the MSF Board approving changes to the 21<sup>st</sup> Century Jobs Fund program for fiscal year 2012. The proposed resolution seeks to amend the guidelines of the Michigan Supplier Diversification Fund.

The hearing will commence at 10:00 a.m. and will be held in the Lake Superior Conference Room of the Michigan Economic Development Corporation ("MEDC") located at 300 North Washington Square, Lansing, Michigan 48913. Interested persons wishing to express any data, views or arguments regarding the Proposed Resolution will be given an opportunity to do so at the public hearing. Written comments will be accepted by the MSF Board at Michigan Strategic Fund Board, c/o Eric Hanna, 300 North Washington Square, Lansing, MI 48913, or electronically to [21stCenturyJobs@michigan.org](mailto:21stCenturyJobs@michigan.org), but must be mailed or electronically transmitted on or before the date and time of the hearing.

This hearing will provide a reasonable opportunity for interested persons to express their views, both orally and in writing, on the Proposed Resolution.

The MEDC will provide necessary reasonable accommodation upon seven (7) days' notice to the MEDC. Individuals with disabilities needing a reasonable accommodation to effectively participate in this public hearing should contact MEDC by writing or calling the person listed below.

Dated: February 27, 2012

Ellen Graham  
Michigan Strategic Fund Board  
300 North Washington Square  
Lansing, Michigan 48913  
(517) 241-2244

**MICHIGAN STRATEGIC FUND**

**PROPOSED RESOLUTION 2012-**

**APPROVAL OF AMENDMENTS TO THE  
MICHIGAN LOAN PARTICIPATION PROGRAM GUIDELINES AND  
THE MICHIGAN COLLATERAL SUPPORT PROGRAM GUIDELINES**

**WHEREAS**, Public Acts 215 and 225 of 2005 (collectively, the “Act”) established the 21<sup>st</sup> Century Jobs Trust Fund initiative;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services for the Michigan Strategic Fund (“MSF”) for 21st Century Jobs Fund programs;

**WHEREAS**, pursuant to MCL.125.2088d(1) the MSF shall create and operate a loan enhancement program;

**WHEREAS**, on May 20, 2009, the MSF created the Michigan Supplier Diversification Fund (“MSDF”) as a loan enhancement program;

**WHEREAS**, on May 20, 2009, the MSF Board approved the creation and operation of the Michigan Loan Participation Program (“MLPP”) under the MSDF, and (ii) adopted guidelines for the Michigan Loan Participation Program (“MLPP Guidelines”);

**WHEREAS**, on June 24, 2009, the MSF Board approved the Loan Participation and Servicing Agreement (“Lender Agreement”) and the Supplemental Agreement (“Supplemental Agreement”) for the MLPP (collectively the “MLPP Agreements”);

**WHEREAS**, on June 24, 2009, the MSF Board approved the (i) creation and operation of the Michigan Collateral Support Program (“MCSP”) under the MSDF, (ii) adopted guidelines for the MCSP (“MCSP Guidelines”); (iii) approved the Authority of the Chairperson, subject to the MCSP Guidelines; and (iv) approved the Cash Collateral Deposit Agreement (“Deposit Agreement”);

**WHEREAS**, on August 26, 2009, the MCSP Guidelines were amended by the MSF and on February 24, 2010, the MLPP Guidelines were amended by the MSF;

**WHEREAS**, on March 13, 2012 a public hearing was held a public comments were received on amendments to the MLPP Guidelines and the MCSP Guidelines (collectively the “MSDF Amendments”);

**WHEREAS**, the MSF Board has reviewed, and desires to approve, the MSDF Amendments contained in Exhibits A and B to this resolution;

**WHEREAS**, the MEDC recommends that the MSF delegate to the MSF Fund Manager, the MSF Chairperson, or the State Treasurer Director, with only two required to act, the authority to make all decisions with respect to awards that are less than or equal to an original amount of \$2,500,00 (“Delegation of Authority”); and

**WHEREAS**, the MSF desires to approve the Delegation of Authority.

**NOW, THEREFORE, BE IT RESOLVED**, that the MSF approves the MSDF Amendments and the Delegation of Authority; and

**BE IT FURTHER RESOLVED**, the MSF authorizes to the MSF Fund Manager and the MSF Chairperson, with only one required to act, to revise the MLPP Agreements, the Deposit Agreement, and all related documents, and to negotiate and execute all final documents on behalf of the MSF, subject to standard due diligence and the availability of funds.



Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

DRAFT

Exhibit A  
Michigan Collateral Support Program – Proposed Revised Guidelines

**Program Guidelines\***

- To be eligible for the program a borrower must fall under the definition of a firm which may be eligible to receive a MEGA tax credit. More specifically, a company must have a unique Federal Employer Identification number and participate in one or more of the following; mining, manufacturing, research and development, wholesale and trade, film and digital media production, office operations, or a business that is a qualified high technology business as described in MCL 207.803(n), as amended.

- The participating lending institution must execute a Deposit Agreement under which the terms of deposit, interest accrual, and pledge restrictions will be described.

- *The participating lender must be a depository institution regulated by the FDIC, OCC, or Federal Reserve or a certified Non-Profit Community Development Finance Institution or a depository institution regulated by the State of Michigan's Office of Insurance and Financial Regulation.*

- The Program shall collect at its determination from the lead lending institution its credit analysis, borrower financial statements, risk rating justification, cash flows and other documents which the Program deems necessary in order to determine both 1) that the opportunity meets the economic development criteria established by the Program and 2) that the bank has performed a sufficient and acceptable analysis of the borrowers project and financial condition. This analysis should indicate that participation in the program will result in an extension of **commercial** credit by the bank.

- The program shall enhance the collateral position of borrowers by depositing cash into accounts at participating lending institutions which will then be pledged as collateral on behalf of the borrower on a transaction by transaction basis.

- *The program shall be obligated to support no more than 49.9% of the extension of commercial credit in any individual transaction.*

- Participating lending institutions will be required to collect and supply such information as may be required in order to determine the number of jobs created at the project, the return on investment, and the relative level of risk which each transaction is rated in the bank's risk rating structure. Such information will be reported to the MSF in a program-wide summary format periodically.

- The program balance shall be reduced proportionately with the principal reduction of the loan so as to eliminate over-reliance on program deposits as part of the collateral commitment on the loan.

- All reductions to account balances, interest, fees & charges, and recaptured balances shall be returned to the Michigan Supplier Diversification Fund for recapitalization.

- Program deposits shall not exceed **\$5,000,000** per project. ~~except in the case that such a deposit serves the intended program objectives, is supported by Program leadership, represents a compelling economic development interest, and is approved by the MSF Board. In such cases, a deposit over \$500,000 shall not exceed \$2.5 million. (subject also to all other limitations of the program).~~

~~The program shall have two fee structures as follows:~~

- ~~Tier One: A fee up to three percent of the value of the cash collateral account will be paid regardless of whether the transaction is new or a renewal. No annual fee is assessed.~~

- The fee structure used will be determined based on an evaluation of the percentage of reliance on deposits vs. the balance of collateral value on the extension of commercial credit as well as the potential economic development value of the project. In no case, can the deposit represent more than 49.9% of the total loan amount of the individual extension of commercial credit in any single Deposit Agreement. ~~The fee structure used will be determined based on an evaluation of the percentage of reliance on deposits vs. the balance of collateral value on the loan as well as the potential economic development value of the project. In no case, can the deposit represent more than 49.9% of the total loan amount in any single Deposit Agreement.~~

- Agreements under the programs shall include a fee which will reduce the claim made against cash collateral on deposit which is calculated based on the effectiveness of the liquidation of borrower's collateral by the participating lending institution.

Exhibit B  
Michigan Loan Participation Program Proposed Revised Guidelines

**Program Guidelines**

- To be eligible for the program a company must fall under the definition of a firm which may be eligible to receive a MEGA tax credit. More specifically, a company must have a unique Federal Employer Identification number and participate in one or more of the following; mining, manufacturing, research and development, wholesale and trade, film and digital media production, office operations, or a business that is a qualified high technology business as described in MCL 207.803(n), as amended.
- The borrower and/or lead lending institution shall apply to the program.
- The Program shall participate in funding ~~loans~~ ***extensions of commercial credit*** with partner ***participating*** lending institutions or Michigan Business Development Corporations or subsidiaries.
- ***The participating lender must be a depository institution regulated by the FDIC, OCC, or Federal Reserve or a certified Non-Profit Community Development Finance Institution or a depository institution regulated by the State of Michigan's Office of Insurance and Financial Regulation.***
- The participating lending institution shall be considered the "lead lender ~~bank~~." and shall retain no less than 50.1% of the total loan balance at all times. The lead lender ~~bank~~ shall, under the terms of the Loan Participation and Servicing Agreement, service, document, perfect liens, collect interest, fees and principal; and in all other respects manage the loan.
- The Program shall collect at its determination from the lead lending institution its credit analysis, borrower financial statements, risk rating justification, cash flows and other documents which the Program deems necessary in order to determine both 1) that the opportunity meets the economic development criteria established by the Program and 2) that the bank has performed a sufficient and acceptable analysis of the borrowers project and financial condition. This analysis should indicate that participation in the program will result in an extension of ***commercial*** credit by the bank.
- Reductions in principal, partial losses and total losses, if any, will be taken proportionate to the percent of loan participation.
- All repayments including principal, interest, fees & charges, and recoveries shall be returned to the Michigan Supplier Diversification Fund for recapitalization.
- ***The Program may provide for the purchase of no more than 49.9% of an eligible extension of commercial credit.***
- ~~The Program portion of a participation loan, or Program "advance", shall charge interest no later than 36 months after the closing of the loan agreement. After such time the effective rate of interest shall be no less than 1% and no more than 4% above the interest rate of the lead bank loan.~~

- The Program portion of a participation loan, or Program “advance”, shall require principal repayment begin no later than 36 months after the closing of the loan agreement and in such repayment shall be concurrent with any provision for interest repayment such that if interest is being collected a principal payment must also be collected.
- A prepayment fee may be charged to borrowers that pay off Program advances within 12 months of interest accrual.
- Program advances shall not exceed **\$5,000,000** per project ~~except in the case where it is determined that the project provides unique and high level Economic Development or Job Creation benefits to the State of Michigan. In such cases, the MSF Board may authorize larger participation amounts subject to funding availability such that no individual program advance represents more than 20% of the Program’s total funding allocation.~~
- The Program will charge a onetime loan closing fee to the borrower that may be deducted from the loan proceeds. The closing fee will be negotiated per deal. All other fees assessed by the lead bank shall apply to the Program advance and the bank advance and shall be received by both parties proportionate to their percentage of participation.
- ***The program will charge a fee not less than 1% and not more than 4% annually at such time as the participation agreement establishes the payment of interest. If the participation agreement provides for an interest free period, no annual fee is charged during that period.***
- Participating lending institutions will be required to collect and supply such information as may be required in order to determine the number of jobs created at the project, the return on investment, and the relative level of risk which each transaction is rated in the bank’s risk rating structure. Such information will be reported to the MSF in a program-wide summary format periodically.
- ~~A Supplemental Agreement shall be signed by the Borrower and the MSF, which among other things, shall provide the MSF direct rights against the Borrower. The Supplement Agreement shall set forth certain representations, obligations of the Borrower. The Supplemental Agreement~~ ***Any agreement under this program*** shall provide, among other things, affirmative representations of the Borrower that there exists no occurrence of criminal or civil activity prohibited under MCL 125.2088c(4), non-discrimination warranties, reporting requirements and that the Borrower shall provide access to its books and records related to the loan. In addition, the Supplemental Agreement shall provide direct rights against the Borrower for certain events of default, including as of the time determined by the MSF: (i) when the Borrower ceases to have substantially all of its employees (exclusive of sales staff) or operations located within the State of Michigan, or (ii) the occurrence of an event listed in MCL 125.2088(c)(4).



## MEMORANDUM

**Date:** February 27, 2012

**To:** Michigan Strategic Fund Board Members

**From:** Chris Cook, Capital Services Associate

**Subject:** Benore Logistic Systems, Inc. (and related borrowers/guarantors)

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### **Michigan Collateral Support Program and its Guidelines**

On June 24, 2009, the MSF Board approved the Michigan Collateral Support Program (“MCSP”) guidelines and the MCSP Cash Collateral Deposit Agreement (“MCSP Deposit Agreement”), each as later amended, for use within the MCSP. The MCSP was created under, and is funded by, the state’s 21CJF initiative. Under the MCSP guidelines, the MSF Board must approve requests for loan participation over \$500,000, and requests for collateral support of \$500,000 or less may be approved by the MSF Chairperson. The primary intended objective of the MCSP is to enhance the collateral position of commercial borrowers to promote advancement of credit facilities from lenders.

### **Source of Information**

It is the role of CST to review for eligibility, completeness, and adherence to industry standards and practices, the information provided by the financial institution and to manage the MSF’s structural risk. Explanatory and background information is supplied in summary form to provide context for the request and is drawn exclusively from material submitted by the lending institution and from third party research sources such as Dunn and Bradstreets FirstResearch database.

### **Background**

Benore Logistic Systems, Inc. (“BLS” or “Company”) is a fully integrated logistics provider located in Erie, Michigan. The company was founded in 1994 by brothers Jeffrey and David Benore. Jeffrey acts as President of BLS, while David serves as Vice President. Each brother owns 50% of BLS, as well as all affiliate companies. The company’s strategy is to be a full service supply chain management provider, with services including transportation, freight forwarding and consolidation, warehousing and distribution services, and extensive in-plant/value added services.

The largest customer of BLS is a European automobile, motorcycle, and engine manufacturer with production facilities located in the US. BLS began its relationship with this customer in 1996 when BLS received an inventory management job that required the company to pick-up all parts from the manufacturer’s suppliers that were located within a 50 mile radius of the manufacturer’s South Carolina production facilities. The parts were to be picked-up and staged by BLS in order to accommodate the manufacturer’s just-in-time (JIT) / just-in-sequence (JIS) inventory management system. Based on the

success of this arrangement, BLS was able to expand its business with this manufacturer to include multiple transportation and inventory management contracts.

Business with this auto manufacturer accounts for 89% of the company's year-to-date revenue through October 2011. BLS is currently operating under multiple contracts with this manufacturer. Each of these contracts is evergreen, and require between 3 and 9 months notice prior to termination. In addition to its business with the auto manufacturer, BLS also has contracts with manufacturers of chemical adhesives and consumer goods. BLS is actively working to increase business in these industries, and anticipates non-automotive segments to eventually represent 25% of total revenue.

The company recently established a distribution center in South Carolina in order to better serve the two manufacturing facilities operated by the European auto manufacturer located within that state.

### **INDUSTRY OVERVIEW**

The US warehousing and storage industry includes about 7,000 companies with combined annual revenue of about \$24 billion. The industry is fragmented: the 50 largest companies generate about 40 percent of revenue. Demand is driven by the flow of goods through the US economy. The profitability of individual companies depends on efficiency of operations. Large companies can win business from major customers by operating in multiple locations and by offering wider ranges of services. Small companies can compete effectively by specializing in particular industries or local markets.

Typical customers for warehousing and storage companies are manufacturers, distributors, and retailers. Prices vary widely and depend on location and services. For contract warehousing operations, three- to five-year deals with customers are typical. Warehouse operators that offer related logistics services compete with companies that specialize in logistics.

Total US manufacturers' shipments, an indicator of demand for warehousing and storage facilities and services, rose 11.7 percent in the first ten months of 2011 compared to the same period in 2010. Total US revenue for warehousing and storage rose 10.4 percent in the third quarter of 2011 compared to the same period in 2010.

### **EMPLOYMENT**

The company reports having 674 employees. Of the 674 total employees, 61 are residents of Michigan. This represents an increase of 46 jobs held by Michigan residents compared to five years ago. The company anticipates adding 11 employees within 6 months of the loan closing, and an additional 75 employees within 5 years. All of the 86 jobs to be created are anticipated to be filled by residents of Michigan. The average annual salary for employees of the company is \$51,000.

### **FINANCING OPPORTUNITY**

Huntington National Bank ("Bank") has proposed two new credit facilities for BLS, including a \$9 million dollar working capital line of credit and a \$4 million lease to be used for the acquisition of 62 new tractors. The Bank has requested that the MSF provide collateral support in the amount of \$2 million dollars in order to support line of credit, and collateral support in the amount of \$1.6 million in order to support the equipment lease. The request for collateral support by the MSF of the proposed \$9 million

working capital line of credit has been approved via delegated authority through the Michigan Business Growth Fund – Collateral Support Program (“MBGF-CSP”) under the State Small Business Credit Initiative (“SSBCI”).

The proposed equipment acquisition will be financed through the use of a terminal rental adjustment clause (“TRAC”) lease. A TRAC lease is designed specifically for the financing of over-the-road vehicles and trailers. Under the terms of a TRAC lease, a lender purchases vehicles or trailers, maintains a lien on those vehicles, and leases those vehicles to the operating company. A TRAC lease guarantees a borrower a certain residual price for a vehicle when the lease expires, and allows the operating company to acquire the vehicle at the end of the term based on that pre-determined residual price. A TRAC lease provides several benefits to an operating company serving as a lessee, including 100% financing with no down payment required. As the lessor receives the tax benefits of ownership, typically in the form of depreciation, that benefit is passed on to the lessee in the form of a lower monthly payment than would typically be available through traditional financing.

The TRAC lease being proposed by the Bank will allow for lease financing of 80% of the total cost of the tractors. No down payment would be required. At the end of the 48 month term, a residual price equal to 20% of the total cost will remain. If at that time BLS chooses not to purchase the vehicles, the Bank will assist in a sale of those assets. If the actual sale price is above the pre-determined residual price, BLS would receive the incremental difference. If the sale price is below the residual price, BLS would be responsible for the incremental difference.

The proposed collateral support to be provided by the MSF would support the Bank in the event of default during the term of the lease. The Bank has provided a stipulated loss value table to cover the proposed term of the lease. In the event of default of the lease by BLS, the cash deposit could be accessed to cover any remaining loss by the Bank after liquidation of the equipment. The liquidation value received by the lender would be compared with the stipulated loss value for the period in which the default occurred. If the proceeds received by the Bank is not sufficient to cover the stipulated loss for the given period, the cash collateral provided by the MSF could be accessed in order to cover the remaining shortfall, less an exit fee not to exceed 10% of the MSF cash collateral balance at the time. The proposed MSF cash collateral could not be accessed by the Bank to cover any shortfall occurring as a result of a difference between the actual sale price and the pre-determined residual sale price, as this difference would not be a result of a default by the borrower, but instead a stated expectation of the lease agreement.

The proposed support by the MSF equates to 40% of the principal balance at the time of execution of the proposed lease document. Periodic draws will be made by the MSF of the proposed cash collateral to be deposited at the Bank. These draws will be made with the intention of maintaining the balance in the deposit account at a level equivalent to 40% of the stipulated loss values as determined by the lessor and MEDC.

YTD financial information for BLS through October 2011 indicates an increase of \$24.1 million, or 66%, as compared to the same period in 2010. The increase is due to service contracts/demand with its largest customer. The reported financial performance of BLS through October 2011 results in fixed charge coverage ratio, excluding owner sub debt, of 1.16 YTD and 1.04 on a trailing 12 month basis. Included in



the fixed charge calculation is the anticipated \$836,000 in annual lease savings that will result from BLS replacing its existing lease and rental agreements for tractors with the proposed TRAC lease. Not included as a part of this calculation is an estimated \$662,000 in maintenance and repair savings annually for the new tractors as compared to the existing tractors being used by BLS. Also, BLS is currently in discussions to lease 500 trailers. The projected cost savings for leasing these trailers is \$877,000 annually.

The proposed financing will include the requirement for the unlimited, unsecured personal guarantees of Jeffrey Benore and David Benore, as well as the corporate guarantees of Benore Properties, LLC and BLS Logistics Systems, Inc. The MSF will require subordinated guarantees for each of the individuals and entities noted.

## **REQUEST**

### **A. Bank Facility and MSF Support**

Huntington National Bank has proposed to provide the following credit facilities:

TRAC Lease = Equipment	<u>\$4,000,000</u>
Total Loans Leveraged	\$4,000,000

Given the above structure, the proposed MSF exposure is a maximum of:

TRAC Lease = Equipment	<u>\$1,600,000</u>
Total MSF Contribution	\$1,600,000

Under definitions provided by the US Department of Treasury related to the calculation of leverage, the reported leveraged lending as compared to MSF exposure is 2.5:1. Including the approved MSF collateral support for the working capital line of credit results in reported leveraged lending as compared to MSF exposure at a rate of 3.61:1.

### **B. Confidentiality**

As part of preparation for closing of the facility, there are numerous underwriting documents which contain financial and other proprietary information that are shared with Staff. The MSF Act, (pursuant to MCL 125.2005(9)) provides the MSF the authority to acknowledge such information as confidential information (“Designated Information”). The Bank and the company seek confidentiality protection from the MSF as described on the attached summary of Designated Information.

## **RECOMMENDATION**

MEDC Staff recommends (the following, collectively, “Recommendation”):

- a. Acknowledgment by the MSF that the Designated Information set forth on the attached summary is confidential;
- b. Approval of the MCSP proposal contained herein and:

- c. Subject to available funding under the MCSP at the time of closing (“Available Funding”), completion of due diligence, the results of which are satisfactory to the MEDC (collectively, “Due Diligence”), finalization of a MCSP Cash Collateral Deposit Agreement, and further subject to the following terms and conditions:

**Facility 1 – Benore Logistic Systems, Inc.**

Borrower:	Benore Logistic Systems, Inc. (and/or a related borrower(s))	
Lender:	Huntington National Bank	
Loan Amount:	Up to \$4,000,000	
MSF Cash Collateral:	Up to \$1,600,000	
Loan Type:	TRAC lease featuring up to 90 day draw period followed by 4 year term/4 year amortization	
Fees:	Tier II:	2.125% at Closing 1.0% annually thereafter based on the MSF Share Balance

**Other**

- Commitment will remain valid for 90 days with approval for MSF Fund Manager to extend the commitment an additional 30 days.
- Unlimited, Unsecured Personal Guaranty of Jeffrey Benore and David Benore; Corporate Guaranty of Benore Properties, LLC and BLS Logistics, Inc. All guarantees are for the benefit of the MSF, subordinated to the senior lender and limited by senior lender’s exposure at time of closing, but the subordination of the guarantees to the MSF in favor of the senior lender may not exceed a principal balance of \$13,000,000, along with reasonable interest and fees.
- The proposed line of credit will be subject to a minimum fixed charge coverage ratio, as calculated by the bank. Minimum ratio to be set at a rate agreeable to both the bank and CST. Fixed charge coverage will be defined as:  
the ratio of (a) Net Income for the applicable period plus, without duplication and only to the extent deducted in determining Net Income, (i) depreciation and amortization expense for such period, (ii) interest expense, whether paid or accrued, for such period, and (iii) all taxes measured by income and capital taxes for such period, to (b) the sum, without duplication, of (i) all Interest Expense paid or payable in respect of such period plus, (ii) all scheduled installments of principal on any Senior Debt for such period plus (iii) all capital lease payments for such period plus (iv) all income taxes paid or payable during such period plus (v) the amount of dividends declared and paid or payable in cash in respect of such period plus (vi) unfinanced capital expenditures for such period, all as determined in accordance with GAAP.

**SUMMARY OF DESIGNATED INFORMATION**

**MICHIGAN STRATEGIC FUND CONFIDENTIALITY LOG**

**MCSP**

**Per MSF Approval of the Staff Recommendation dated February 27, 2012**

<b>Name of Applicant</b>	<b>Summary of Designated Information</b>
Benore Logistic Systems, Inc. and any related borrowers and guarantors; and Huntington National Bank, (collectively, "Interested Parties to the Proposed Transaction")	Any portion of any documents or record of any kind containing any of the following business or personal information pertaining to any of the Interested Parties to the Proposed Transaction: Financial statements (including without limitation, income statements, balance sheets, statements of cash flow and profit and loss statements), ratio analysis, appraisals and other appraisal reporting, collateral analysis, accounts receivable aging reports, customer names and lists, tax returns, credit reports, social security or other tax identification numbers, and any analysis, report or record of any kind by or on behalf of any of the Interested Parties to the Proposed Transaction containing any of the foregoing information.

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**APPROVAL OF CASH COLLATERAL DEPOSIT FOR BENORE LOGISTIC SYSTEMS, INC.**

**WHEREAS**, the Michigan legislature passed legislation establishing the 21st Century Jobs Trust Fund initiative that was signed into law by Governor Jennifer M. Granholm;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) provides administrative services for the Michigan Strategic Fund (“MSF”) for 21st Century Jobs Fund programs;

**WHEREAS**, pursuant to MCL.125.2088d(1) the MSF shall create and operate a loan enhancement program;

**WHEREAS**, on May 20, 2009, the MSF approved the creation of the Michigan Supplier Diversification Fund (“MSDF”) as a loan enhancement program;

**WHEREAS**, on June 24, 2009, the MSF approved the: (i) creation and operation of the Michigan Collateral Support Program (“MCSP”); (ii) adopted the guidelines for the MCSP, as later amended, as part of the MSDF; and (iii) approved the MSF Chairperson to negotiate the final terms and conditions of the Deposit Agreement, as later amended, to be used for the MCSP (“Deposit Agreement”) and sign the final Deposit Agreement on the MSF’s behalf, so long as the final terms and conditions of the Deposit Agreement are not materially adverse to the interest of the MSF Board;

**WHEREAS**, the MCSP guidelines require that cash collateral deposits over \$500,000 must be approved by the MSF Board;

**WHEREAS**, Huntington National Bank (“Bank”) has provided a terminal rental adjustment clause (“TRAC”) lease commitment of up to \$4,000,000 (“TRAC Lease”) to Benore Logistic Systems, Inc. (“Proposed Borrower”) toward leasing equipment (“Project”);

**WHEREAS**, the Proposed Borrower has requested a MCSP cash collateral deposit for the Project in the amount not to exceed the lesser of: (i) \$1,600,000; or (ii) up to 49.9% of the total amount of the TRAC Lease (“Cash Collateral Deposit”); and

**WHEREAS**, the MEDC has reviewed the Bank’s current credit documents for the Proposed Borrower, and recommends that the MSF Board approve the Cash Collateral Deposit, subject to: (i) final due diligence performed to the satisfaction of the MEDC; and (ii) execution of the Deposit Agreement.

**NOW, THEREFORE, BE IT RESOLVED** the MSF approves the Cash Collateral Deposit for the Proposed Borrower, subject to: (i) final due diligence performed to the satisfaction of the MEDC; and (ii) execution of the Deposit Agreement.

Ayes:

Nays:

Recused:

Lansing, Michigan  
February 27, 2012

## MEMORANDUM

**Date:** February 27, 2012

**To:** MSF Board Members

**From:** Michael Pohnl, MSF Fund Manager

**Subject:** Michigan Business Development and Community Revitalization Program  
Background Review Guidelines

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### **BACKGROUND**

Two new 21CJF economic incentive programs in Michigan created by the MSF are the Michigan Business Development Program (“MBD”), created under Section 88r of the MSF Act to replace the former MEGA program, and the Michigan Community Revitalization Program (“CRP”), created under Chapter 8C of the MSF Act, to replace the former Brownfield program. The MBD is designed to provide assistance to qualified businesses that make qualified investments or create qualified new jobs, or both, in Michigan. The CRP is designed to provide assistance for eligible investments to eligible property in Michigan.

General duties of the MSF Board include that the MSF is to establish requirements to ensure that monies awarded under certain 21CFJ programs (now including the MBD and the CRP; see Section 88c(4) of the MSF Act) are not provided to any person that has been convicted of a criminal offense or held liable in civil proceedings that negatively reflects on the business integrity of the person based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. Additionally, the MSF Act provides that if the person is a business entity, it includes the affiliates, subsidiaries, officers, directors, managerial employees, and anyone holding 20% or more of a pecuniary interest, directly or indirectly in that business entity (collectively, “Key Personnel”) (“Background Review”). Historically, the 21CJF incentives were limited to awards to start-up or small business entities or funds, such as those award involving the 2006 and 2008 Business Competition programs, the Company Formation Growth Fund program, Accelerator Fund program, and Angel Tax Incentive Programs. To comply with the general duties under Section 88c(4), the Background Review for historical start-up and small businesses have included requiring representations and warranties by the awardee, that neither it or its Key Personnel have such criminal or civil findings, as well as an actual background check being conducted, via available databases on the company and its Key Personnel (even though such background check is not required by the MSF Act).

Over the past few years, MSF incentives have grown to provide cash collateral to support, or purchasing a part of, a credit facility provided by state, regional and national financial institutions (the 21CJF MSDF program, and its federally funded counterpart SSBCI program run by the MSF). The Background Review for transactions under MSDF and the SSBCI have also included, though not required by the MSF Act, actual background checks of the borrower and its Key Personnel, as well as requiring representations and warranties from the financial institutions and borrowers that neither they or their Key Personnel have such criminal or civil findings.

Now, under the 21CJF MBD and CRP, the MSF will be providing incentives to awardees, most of which will not be start-up companies and some of which may include large state, regional, national, and even international, entities that will create jobs or provide needed development to projects in Michigan. Unlike other MSF Act sections which authorized other 21CJF programs including that which authorized the CRP, under Section 88r, the MSF Board is required to establish policies and procedures to actually conduct a background check on a qualified business applying for an MBD award.

### **REQUEST**

Toward complying with the MSF Board general duties for a Background Review for the MBD and CRP under Section 88c(4), as well as to establish guidelines to conduct an actual background check for the MBD as required by Section 88r, MEDC Staff proposes the following Background Review guidelines for both the MBD and the CRP, as part of the MSF's due diligence prior to finalizing a written agreement providing for the incentive (collectively, "MBD and CRP Background Review"):

1. A background check via Westlaw, LexisNexis, Google, or any other internet search engine shall be conducted on all applicants (and its parent company, as may be applicable); and
2. If an applicant (or its parent company) is publicly held, the applicant shall provide a copy of its (or, as applicable, its parent company's) last annual report filed with the SEC, and any subsequent filings with SEC which disclose litigation or other adverse events or otherwise reference the date of the SEC filing for MEDC staff to be able to find and review such information on the SEC website; and
3. If an applicant is not publicly traded and has less than 100 employees, a questionnaire shall be filled out and certified by all Key Personnel, and a background check via Westlaw, LexisNexis, Google, or any other internet search engine shall be conducted on all such Key Personnel; and
4. If an applicant is comprised of one or more business entities, such as a joint venture, or other business combination, each of the involved business entities comprising the business combination, shall be considered an applicant for purposes of the MBD and CRP Background Review process, and each are subject to the above rules; and
5. All written agreements memorializing the final MBD or CRP award shall include the representation and warranty from the applicant, that the applicant and its Key Personnel, do not have the criminal convictions or civil liabilities which would prohibit the MSF from providing the incentive under Section 88c(4).

### **RECOMMENDATION**

MEDC Staff requests approval of the above proposed MBD and CRP Background Review Process. The MSF Incentive Subcommittee has indicated its support of the recommendation.

**MICHIGAN STRATEGIC FUND**

**RESOLUTION 2012-**

**APPROVAL OF THE BACKGROUND REVIEW GUIDELINES FOR THE  
MICHIGAN BUSINESS DEVELOPMENT PROGRAM AND  
THE MICHIGAN COMMUNITY REVITALIZATION PROGRAM**

**WHEREAS**, the Michigan legislature passed legislation establishing the 21<sup>st</sup> Century Jobs Trust Fund initiative that was signed into law by Governor Jennifer M. Granholm;

**WHEREAS**, the Michigan Economic Development Corporation (“MEDC”) which provides administrative services to the Michigan Strategic Fund (“MSF”) for 21<sup>st</sup> Century Jobs Trust Fund programs;

**WHEREAS**, pursuant to MCL 125.2088r and MCL 125.2090b, the MSF shall create and operate the Michigan Business Development Program (“MBD”) and the Michigan Community Revitalization Program (“CRP”) respectively;

**WHEREAS**, on December 21, 2011, the MSF created the MBD and the CRP, and authorized the MSF Fund Manager to develop the overall process for each of the MBD and CRP;

**WHEREAS**, pursuant to MCL 125.2088c(4) (“Section 88c(4)”), the MSF is required to establish requirements toward prohibiting providing incentive awards under the MBD and CRP to awardees with certain criminal convictions or civil liabilities;

**WHEREAS**, pursuant to MCL 125.2088r(5) (“Section 88r(5)”), the MSF, with assistance from the MEDC, is required to establish policies and procedures to conduct background checks on each qualified business applying for an award under the MBD;

**WHEREAS**, the MEDC has recommended to the MSF Incentive Subcommittee that the MSF approve the background review guidelines set forth on the attached Exhibit 1 toward compliance with Section 88c(4) and Section 88r(5) (“Background Review Guidelines for MBD and CRP”); and

**WHEREAS**, the MSF Incentive Subcommittee has indicated its support of the approval of the Background Review Guidelines for MBD and CRP.

**NOW, THEREFORE, BE IT RESOLVED**, the MSF Board approves the Background Review Guidelines for MBD and CRP for incorporation by the MSF Fund Manager into the process for the MBD and CRP.

AYES:

NAYS:

RECUSED:

Lansing, Michigan  
February 27, 2012



## **Exhibit 1**

As of February 27, 2012

### **BACKGROUND REVIEW GUIDELINES FOR THE MICHIGAN BUSINESS DEVELOPMENT PROGRAM AND THE COMMUNITY REVITALIZATION PROGRAM**

The following guidelines shall be utilized as part of the due diligence process for both the MBD and the CRP prior to finalizing a written agreement providing for any incentive under the MBD or CRP:

1. A background check via Westlaw, LexisNexis, Google, or any other internet search engine shall be conducted on all applicants (and its parent company, as may be applicable); and
2. If an applicant (or its parent company) is publicly held, the applicant shall provide a copy of its (or, as applicable, its parent company's) last annual report filed with the SEC, and any subsequent filings with SEC which disclose litigation or other adverse events or otherwise reference the date of the SEC filing for MEDC staff to be able to find and review such information on the SEC website; and
3. If an applicant is not publicly traded and has less than 100 employees, a questionnaire shall be filled out and certified by all Key Personnel, and a background check via Westlaw, LexisNexis, Google, or any other internet search engine shall be conducted on all such Key Personnel; and
4. If an applicant is comprised of one or more business entities, such as a joint venture, or other business combination, each of the involved business entities comprising the business combination shall be considered an applicant for purposes of the MBD and CRP Background Review process, and each are subject to the above rules; and
5. All written agreements memorializing the final MBD or CRP award shall include the representation and warranty from the applicant, that the applicant and its Key Personnel, do not have the criminal convictions or civil liabilities which would prohibit the MSF from providing the incentive under Section 88c(4).

Key Personnel means: if the applicant is a business entity, its affiliates, subsidiaries, officers, directors, managerial employees, and anyone holding 20% or more of a pecuniary interest, directly or indirectly, in that business entity.