

ADOPTED MINUTES

A meeting of the Michigan Economic Growth Authority (MEGA) board was held at the Michigan Economic Development Corporation, 300 North Washington Square, on January 22, 2008 at 10:00 a.m.

Members Present

Susan Corbin (acting on behalf of Keith Cooley, authorization attached)

Jim Epolito

Andrew Lockwood (acting on behalf of Robert Kleine, authorization attached)

Faye Alexander Nelson

Michael Kapp (acting on behalf of Kirk Steudle, authorization attached)

Call to Order

Jim Epolito called the meeting to order at 10:30 a.m.

Approval of Minutes from December 18, 2007

After review, a motion was made, supported and carried that board meeting minutes from the December 18, 2007, meeting be adopted.

Public Comment

There was no public comment.

ACTION ITEM

*Arbor Networks, Inc.
430 Bedford Street, Suite 160
Lexington, MA 02420*

Larry Gormezano introduced Dr. Farnam Jarhanian and Harry Wan with Arbor Networks, Inc. along with Tim Robinson from Ann Arbor SPARK. Dr. Jarhanian described the company for the board. Arbor Networks delivers network security and operational performance products for global business networks, providing real-time views of network activity which enable organizations to instantly protect against worms, denial-of-service attacks, insider misuse, and traffic and routing instability, as well as to segment and harden networks from future threats. Arbor Networks' global customer base is comprised of a broad range of service provider and enterprise customers, demonstrating the depth and breadth of the company's security expertise.

Since the company was founded in 2000, Arbor Networks has been committed to researching next-generation cyber threats and developing solutions that prevent network attacks. The company's patented technology is based on five years of pioneering network security research conducted by Arbor's founders at the University of Michigan under a Defense Advanced Research Projects Agency (DARPA) grant.

Arbor Networks, Inc. is headquartered in Lexington, MA, with a research and development office in Ann Arbor; Europe, Middle East & Africa headquarters in London; and Asia operations in Beijing. The Ann Arbor facility currently employs 72 associates.

Mr. Wann provided information about the project for the board. Arbor Networks is planning to deliver new internet and network security products and services to address upcoming needs and challenges in the internet service provider market. The trend for bandwidth-intense and latency sensitive applications represents a large opportunity for Arbor to expand its current operations and to help service providers meet these needs in a controlled, efficient, cost effective manner.

To accommodate this project's resulting growth, Arbor Networks needs more space than their current Michigan leased facility has. Therefore the company plans to relocate to two adjacent buildings in the city of Ann Arbor. One facility will house office space and current and future employees, while the other facility will be used to host Arbor Networks' IT and development systems.

The proposed project would create a total of 56 jobs over the next five years, paying an average weekly wage of \$1558. It would also include a total capital investment of over \$14 million during the next five years, including \$8.7 million in machinery and equipment; \$1.1 million in leasehold improvements and \$4.2 million in building lease costs.

Mr. Robinson discussed the local contribution for the board. The City of Ann Arbor supports this expansion and anticipates approval of a 50% abatement for a minimum of eight years on personal property taxes under PA198 of 1974 in January of 2008. This abatement has an estimated value of \$193,200.

Amy Deprez provided additional information about the project for the board. It is estimated that this facility will generate a total of 139 jobs in the state by the year 2017. It is also estimated that total state government revenues through the year 2017, would be increased by \$3.3 million due to the presence of this facility.

In order to accommodate this project, Arbor Networks, Inc. could expand their operations in Michigan, which would require relocating to larger facilities and purchasing \$8.7 million in machinery and equipment. Alternatively, the company is considering expanding their operations in Massachusetts with a location in Metro West Boston.

The company is a qualified high-technology business, whose primary business activity is advanced computing, as defined in the Act.

Recommendation

The Michigan Economic Development Corporation recommends a 100 percent high-technology employment tax credit for 10 years, for up to 56 net new employees.

Board Discussion

Faye Alexander Nelson gave the Executive Committee report. The MEGA Executive Committee reviewed the proposed project for Arbor Networks, Inc. and recommends approval of a high-technology employment credit for 10 years.

Jim Epolito asked if the company was pressured by the venture capital investors to move the company. Dr. Jarhanian stated that there was tremendous pressure when they were launching the company to move to the east or west coast. The company knew they could recruit

employees to the Ann Arbor area because of the universities and are committed to making it work in Michigan.

Hearing no further discussion, a motion was made and supported, and Resolution 2008-01, authorizing a MEGA high-technology tax credit for Arbor Networks, Inc., was adopted.

ACTION ITEM

*NxtGen Emission Controls USA Inc.
Unit C 4242 Phillips Avenue
Burnaby, British Columbia
Canada V5A 2X2*

Valerie Hoag introduced Jeremy Holt and Chris Brenner with NxtGen Emission Controls, Inc. and Tony Nowicki from the City of Wixom. Mr. Holt described the project for the board. NxtGen Emission Controls Inc., a high technology company delivering clean, efficient diesel technology, was established in Canada in 2004 to research and develop a breakthrough method for regenerating lean NOx (Nitrous Oxide) traps (LNTs) and diesel particulate filters (DPFs) with the goal to improve overall diesel engine aftertreatment system performance and vehicle fuel efficiency. NxtGen was founded by former employees of Ballard Power Systems (TSE:BLD) and QuestAir Technologies (TSE:QAR). The company currently employs three Michigan associates.

NxtGen's patented (pending) technology is the syngas generator (SGG), its innovative control algorithms and proprietary diverter valving system. This new method of regeneration is a simplified approach compared to the current technology, which drives strategic value from the Original Equipment Manufacturer (OEM) through the value chain to the end-user. It is anticipated that NxtGen's products will be introduced by the major automotive and truck manufacturers between the years of 2010 and 2012. In the interim, NxtGen will commercialize the product technology in the on-highway retrofit market, as well as off-road OEM applications.

NextGen is considering where to locate its administration and manufacturing facility in North America. Should NxtGen choose to locate this operation in Michigan, the project will require an initial capital investment of approximately \$1.2 million, which includes machinery and equipment, lease cost, and leasehold improvements. NxtGen is proposing the lease of a facility in the City of Wixom, Oakland County. Over the course of the next five years, NxtGen expects to create up to 47 new jobs, paying an average weekly wage of \$1,003.

Mr. Nowicki discussed the local contribution for the board. On January 8, 2008, the City of Wixom approved a 50% abatement of the company's new personal property taxes under PA 198 for five years. The estimated value of this abatement is \$15,000.

Oakland County has also committed up to \$20,000 of federal training dollars under the Workforce Investment Act (WIA).

Valeria Hoag provided additional information about the project for the board. It is estimated that this facility will generate a total of 106 jobs in the state by the year 2017. Total state government revenues through the year 2017, would be increased by \$2.8 million due to the presence of this facility.

NxtGen is also considering Windsor, Ontario for the location of this facility. When comparing the two locations, labor costs in Windsor are significantly less than the Wixom location. In addition, local Canadian officials are offering the company the following incentives: Advanced Manufacturing Incentive Subsidy; Target Wage Subsidy; and Rural Economic Development Grant.

To supplement the WIA training funds, the MEDC is also committing up to \$20,000 in Economic Development Job Training funds.

The company is a qualified high-technology business, whose primary business activity is technology for the assessment or prevention of threats to the environment, as defined in the Act.

Recommendation

The Michigan Economic Development Corporation recommends a 100 percent high-technology employment tax credit for 10 years, for up to 47 net new employees.

Board Discussion

Faye Alexander Nelson gave the Executive Committee report. The MEGA Executive Committee reviewed the proposed project for the NxtGen Emission Controls USA Inc. and recommends approval of a high-technology employment credit for 10 years.

Hearing no further discussion, a motion was made and supported, and Resolution 2008-02, authorizing a MEGA high-technology tax credit for NxtGen Emission Controls USA Inc., was adopted.

ACTION ITEM

*City of Manistee Brownfield Redevelopment Authority
American Materials, LLC*

Lydia Murray introduced Keith Rose with Rieth-Riley Construction Company, John V. Byl with Warner Norcross & Judd, LLP, and T. Eftaxiadis for the City of Manistee Brownfield Redevelopment Authority. Mr. Rose described the project for the board. The proposed project will be primarily a material depot/transfer station for liquid asphalt and aggregate materials which are utilized in the construction of public and private infrastructure projects. Site improvements will include four to seven above ground liquid asphalt storage tanks, boat/barge loading/unloading facilities on Manistee Lake, rail sidings and rail loading/unloading facilities, truck scale and loading/unloading facilities, office building, parking spaces and paved and unpaved lots for material stockpiling.

Liquid asphalt will be delivered to the site by water and rail, stored in the above-ground tanks and loaded onto tanker trucks for hauling to bituminous asphalt paving plants throughout Michigan.

The project is expected to create 8 new jobs and retain 8 existing jobs transferred from the existing aggregate dock operation, located on the northern peninsula at the east end of River Street in the City of Manistee. The total capital investment for the project is expected to be approximately \$15 million. The total eligible activities are expected to be \$522,925.

Peter Anastor provided additional information about the project for the board. The project is located within the boundaries of the City of Manistee, a qualified local governmental unit and has been deemed a facility, as verified by the Department of Environmental Quality. The property is the subject of a brownfield plan duly approved by the City of Manistee on December 18, 2007.

Brownfield Work Plan approvals are based on several criteria outlined in the statute. These criteria have been met.

The project will reuse a contaminated site and will provide new full time jobs as well as additional generated ancillary business in the area. The existing aggregate business located at the east end of River Street on the northern peninsula, owned and operated by Edward Seng, will be relocated by American Materials, LLC to this site thus making the peninsula location of the existing operation available for redevelopment. This project is consistent with the City's "Peninsula Redevelopment Plan".

The \$15 million investment will create 8 new jobs at the project site, as well as the retention of 8 jobs transferred from the existing aggregate dock operation located on the northern peninsula in the City of Manistee.

Manistee County's unadjusted unemployment rate was 8.2% in November 2007. This compares to the statewide seasonally adjusted average of 7.4% for the same period.

The total capital investment by American Materials, LLC (Rieth Riley Construction) will be approximately \$15 million.

While Mr. Seng's aggregate operation will be moved by American Materials and relocated at this site, neither American Materials nor any projected occupant of the site has ever operated at any location in the state. It is unknown if the move of the aggregate operation from the former aggregate location will create a brownfield. However, the move is consistent with the City's "Peninsula Redevelopment Plan" and will significantly enhance the land use development opportunities where these operations are currently located.

The financial statements of the parent company, Rieth Riley Construction, have been reviewed and demonstrate sufficient financial strength to undertake the proposed redevelopment.

The relocation of the existing aggregate business from the peninsula to the proposed location will allow for the desirable peninsula location to be redeveloped into a more appropriate use consistent with the City of Manistee's "Peninsula Redevelopment Plan".

A portion of the proposed project site is currently part of a Renaissance Zone, set to expire in 2015. As part of this project the Renaissance Zone will be extended and a subzone will be created offering renaissance zone benefits until December 31, 2023.

In addition, the project anticipates approval of a DEQ TIF in the amount of \$381,190 for environmental assessments, removal of a calcium sulfate pile and due care/soil contamination capping.

There are 55.9458 mills available for capture, with school millage equaling 24 mills (43%) and local millage equaling 31.9458 mills (57%). The recommended tax capture breaks down as follows:

School tax capture (43%)	\$ 224,328
Local tax capture (57%)	\$ 298,597
TOTAL	\$ 522,925

COST OF MEGA ELIGIBLE ACTIVITIES:

Infrastructure Improvements	\$ 349,400
Site Preparation	+ 100,100
Sub-Total	\$ 449,500
Contingency (15%)	67,425
MEGA Review & Preparation	+ 6,000
TOTAL	\$ 522,925

Recommendation

The Brownfield Redevelopment staff recommends approval of local and school tax capture for the eligible activities totaling \$522,925, described above. Utilizing the current state to local capture ratio, the amount of school tax capture for this project is estimated at \$224,328.

Board Discussion

Faye Alexander Nelson gave the Executive Committee report. The MEGA Executive Committee has reviewed the requested tax capture the City of Manistee for the American Materials, LLC project and recommends approval.

Hearing no further discussion, a motion was made and supported, and Resolution 2008-03, authorizing the capture of local and school operating taxes for City of Manistee Brownfield Redevelopment Authority for the American Materials, LLC redevelopment project was adopted.

ACTION ITEM

MEGA SBT/MBT Anniversary Date Amendment

Peter Anastor described the amendment request for the board. Since the enactment of PA 325 of 2006, the initiated law which repeals the Single Business Tax (SBT), the MEGA Board has been unable to authorize MEGA tax credits to eligible businesses with initial tax years that begin after December 31, 2007. The reason for this is that when the SBT was repealed on August 9, 2006, there was no corresponding replacement tax and therefore the MEGA Board did not have the authority to approve tax credits for businesses when there was no tax in place in which to take a credit. This created an issue from that August date where any tax credit approved by the MEGA Board required that we establish an anniversary date of December 31, 2007, the last day of the SBT.

During this time, the staff to the MEGA Board began to include language in the MEGA Tax Credit Agreements of authorized businesses which indicated the MEGA Board would consider an amendment to the December 31, 2007 anniversary date once a new business tax was signed into law and once the MEGA Board had the authority to issue tax credits against that

new tax. On July 12, 2007 PA 36 of 2007 was signed into law creating the New Michigan Business Tax. In addition, legislation allowing the MEGA Board to issue tax credits against this new tax was approved by the Governor on December 14, 2007 and is now PA 150 of 2007.

With all Legislative changes now in place, authorized businesses which were required to have a December 31, 2007 anniversary date are now able to amend their anniversary date to the date which would have been established under normal policies if the Board could have established anniversary dates after December 31, 2007. There are 59 authorized businesses which need an anniversary date amendment and they can be found on Attachment A to the resolution for this amendment.

Recommendation

The Michigan Economic Development Corporation recommends the MEGA Board approve anniversary date amendments for the 59 authorized businesses included in the Attachment A presented to the board and that the anniversary date and be amended to the date which corresponds to each company on Attachment A.

Board Discussion

Faye Alexander Nelson gave the Executive Committee report. The MEGA Executive Committee reviewed the proposed Anniversary Date amendment and recommends approval.

Hearing no further discussion, a motion was made and supported, and Resolution 2008-04, authorizing the amendment to anniversary dates for 59 authorized businesses, was adopted.

ACTION ITEM

MEGA Consecutive Tax Year Amendment

Peter Anastor described the amendment request for the board. MEGA tax credits may be issued to eligible businesses for up to 20 years. Typically, the MEGA Board has awarded tax credits for a period of time defined by consecutive tax years. For example, if a project was being approved for a 10 year MEGA tax credit, they would be awarded a credit for 10 consecutive tax years. Typically, this would entail a company filing 10 annual tax returns based on a 12-month period over a 10-year time frame. There are circumstances, however, where a company may need to file two partial year tax filings. As an example, this may include a 9-month return and a 3-month return, within one calendar year.

When a company needs to file a partial year tax filing, MEGA is able to issue a tax credit certificate for each partial year tax filing, but each filing would count as one consecutive MEGA tax credit year. Therefore, an authorized business that had a new ownership structure requiring a change in tax years may have to use two of their MEGA tax credit years for one 12-month period, reducing the overall credit by one year.

This circumstance will become exacerbated now that the State is changing from the Single Business Tax (SBT) to the Michigan Business Tax (MBT). This change will require every company not on a calendar tax year to file partial tax year filings in order to finalize their Single Business Tax on December 31, 2007. For example, if ABC Company had a tax year ending on September 30 they would have to file their normal annual SBT return on September 30, 2007. They would then be required to file a partial year tax filing from October 1, 2007 through

December 31, 2007 in order to finalize their SBT returns. On January 1, 2008, they would be required to begin utilizing the MBT and would have to file a partial year MBT filing from January 1, 2008 to September 30, 2008, therefore requiring two partial year tax filings for one 12 month period.

Other changes to the MBT, like the unitary tax filing requirement will most likely lead companies to consolidate their business entities leading to additional changes in tax years, if subsidiary and affiliated companies have been formed with different tax years. This issue may lead to additional authorized businesses filing partial year tax filings.

In order to provide authorized businesses with some flexibility to handle these situations and to follow the spirit of the MEGA tax credits awarded, we recommend the Board approve an amendment that would allow the MEGA Board Secretary some discretion in calculating the number of MEGA tax years when considering partial tax year filings as long as these filings continue to be consecutive tax year filings and that credits do not exceed the tax credit period outlined in each tax credit agreement.

Recommendation

The Michigan Economic Development Corporation recommends the MEGA Board approve an amendment to allow businesses with MEGA tax credits that file partial tax year filings to not lose a full MEGA tax credit year as long as the consecutive tax year filings of each authorized business do not exceed the MEGA tax credit years authorized by the MEGA tax credit agreement for each authorized business, as determined by the Secretary to the MEGA Board. We would further recommend that this amendment is effective for tax credit certificates issued after the date of this amendment.

Board Discussion

Faye Alexander Nelson gave the Executive Committee report. The MEGA Executive Committee has reviewed requested amendment and recommends approval.

Hearing no further discussion, motions were made and supported, and Resolution 2008-05 authorizing an amendment to allow business with MEGA tax credits that file partial tax year filings to not lose a full MEGA tax credit year as long as the consecutive tax year filings of each authorized business do not exceed the MEGA tax credit years authorized by the MEGA tax credit agreement for each authorized business, as determined by the Secretary to the MEGA Board, was adopted.

The meeting was adjourned at 11:15 p.m.

The next board meeting is scheduled to take place on February 19, 2008.