

**ECONOMIC DEVELOPMENT COMMISSION  
MEETING SUMMARY**

May 16, 2019  
8:00 a.m. – 12:20 p.m.

**MEETING DATE**

May 16, 2019  
CSU Engagement Center  
302 Main Street  
Sterling CO 80751

**MEETING PARTICIPANTS**

**A. Commission Members**

Carrie Schiff, Robert Price, Tara Marshall, Benita Duran, Chris Franz, Tom Clark, Lisa Reeves, Denise Brown, Jay Seaton, and Karen Blumenstein.

**B. Guests**

Ed Sealover, Aldo Svaldi, Stan Lindstadt, Trae Miller, Dan Torres, Glenna Aurish-Phelps, Karen Torres, Tony Lewis, Jessica Erickson, Candace Payne, Jariah Walker, Bob Cope, David Neville, Robin Brown, Mustafa Al-Shawaf, Christian Messmacher, Lisa Harper, Jennifer deGive, Terrance Berland, Rick Garcia, Kyle Sargent, and Tony Lewis.

**C. Staff**

Jeff Kraft, Sean Gould, Ken Jensen, Sonya Guram, Che Sheehan, Jill McGranahan, Glenn Plagens, Dan Lane, Max Nathanson, Katie Woslager, John Kovacs, and Leslie Hylton.

**DECISION/ACTION ITEMS**

1. The Economic Development Commission approved the EDC Meeting Summary from the April 19, 2019 meeting with a request to review the recording for clarification on present board members.
2. The Economic Development Commission approved the following projects/items: **JGITC** – Project Limestone; **SF** – CO Mutual Prosperity Strategy Initiative; **RJS** – Clear Creek County Tax Credit Certificates; **TTC** – EVRA and VF Corporation pre-certifications; **EZ** – Boundary Amendments for East Central, Jefferson County, North Metro and Pikes Peak Zones; **AI** – Early Stage and Proof of Concept Proposals; Fast Track Bioscience Applications; Fast Track Energy, Natural Resources/Cleantech Applications, and Transition Requests.

**A. Meeting Called to Order**

Schiff called the meeting to order.

Mayor Torres welcomed the group to Sterling.

Karen Torres welcomed the group to the CSU Engagement Center.

**Meeting Minutes**

Duran moved approval of the meeting minutes from the April 19, 2019 meeting pending review of the recording for corrections. Franz seconded the motion. Motion passed unanimously.

M/S/P – Duran, Franz – Meeting Minutes approved pending corrections by staff.

**B. Job Growth Incentive Tax Credit (JGITC): Dan Lane**

## **Project Limestone**

Lane presented Project Limestone. Project Limestone is an American subsidiary of a multinational bioscience company that is considering expanding its operations to Colorado. The company behind Project Limestone is a clinical-stage gene therapy company focused on bringing gene therapy out of the lab and into the clinical setting for patients and families devastated by rare neurological genetic diseases. The company is evaluating these respective locations to increase its production capabilities for its gene therapy products. This expansion will help the company keep up with demand for existing product as well as future products still in development. The company anticipates investing \$110,000,000 in whichever facility it chooses to expand in. Job functions for the project include: biomedical engineers, microbiologists, quality control engineers, documentation specialists, administrative and warehouse roles.

It is worth noting that companies of this size in the bioscience industry tend to make opportunistic real estate acquisitions that do not always lead to that real estate being activated as a place of employment. The company recently acquired its Colorado real estate, and the State of Colorado hopes to see that site fully utilized to employ talented bioscience professionals.

Staff is requesting \$7,258,957 in performance-based Job Growth Incentive Tax Credits over an 8-year period. This incentive is contingent upon the creation of up to 400 net new full-time jobs at 100% of the County's AAW the Company decides to locate, in support of this project.

M/S/P - Duran, Clark – Project Limestone approved as presented and recommended by staff.

## **Update of Previously Approved Projects**

Lane said we have several projects that are currently in the decision phase and some that are in the contracting phase. We will likely have some updates at the next EDC meeting.

Kraft provided a farewell and thank you to Dan Lane. This is his last meeting. Dan will be leaving state government in lieu of a position in the private sector. He has done a phenomenal job and we will miss him but wish him well.

## **C. Strategic Fund: Sean Gould, Dan Lane, Glenn Plagens, John Kovacs**

### **SF Fund Balance Forecast**

Gould provided the SF Fund Balance which shows a current available balance of \$5,942,143.

### **CO Mutual Prosperity (COMP) Strategy**

Gould and Lane presented CO Mutual Prosperity (COMP) Strategy.

#### **Purpose:**

To encourage collaboration between key economic development stakeholders in Colorado's urban and rural communities by expanding the benefits of large, urban headquarters relocation/job creation projects from exclusively the Front Range to both on-site employees in urban areas as well as remote employees in rural communities.

#### **Envisioned Structure:**

- JGITC with a Strategic Fund layer on top for remote employees in rural communities
- Waived local match requirement for Strategic Fund portion of incentive
- Worker must work at least 3 days per week on average in rural location.
- Project has rural remote workers doing project based work.
- Incentive starts at 5 rural remote Net New Jobs (NNJs)

- Needs urban Economic Development (ED) organization collaborating with at least one rural community/champion ○ At least one rural community must give a collaborative support letter for the project to be eligible.
- Trial period: State FY2020, may be extended for a total of 3 years.
- Average Annual Wage (AAW) of rural remote workers are included in the JGITC project's AAW calculation. As standard for JGITC projects, the NNJs must have an AAW of at least 100% of the county in which the project is based.

#### Who:

- Companies applying for a JGITC relocation or expansion project (following all application requirements) may get a Strategic Fund Incentive for Net New Job (NNJ) growth of remote workers in rural or Colorado.
- Requires urban Economic Development organizations to collaborate their efforts with rural communities and encourage companies to have rural remote workers in Colorado.

#### What:

- JGITC project that has a Strategic Fund rural hiring component layered on top with at least one letter of support and/or collaboration from a rural community or economic development organization.
- Paid out at the end of a 5 year term. OEDIT will calculate the number of Net New Rural Permanent positions held for one year, each calendar year of the incentive, then average the NNJs and pay based on the scale below: ○ 5 - 10 rural NNJs = \$2,500/NNJ
  - 11 - 15 rural NNJs = \$3,000/NNJ
  - 16+ rural NNJs = \$5,000/NNJ
  - All rural jobs located on Southern Ute Indian or the Ute Mountain Ute Reservation lands = \$5,000/NNJ Where:
- JGITC in an urban/front-range community in order to get some high value job growth in communities that are eligible for the Rural Jump-Start program.

#### When:

- Trial period for EDC approvals is state Fiscal Year 2020

#### Why:

- JGITC awards have been very successful in winning interstate/internationally competitive HQ relocations or expansion projects in urban/metro communities while rural communities have gotten few JGITC awards.
- Rural communities have had limited success using JGITC and Strategic Fund job incentives. Additionally, some rural communities have found the Strategic Fund Local Match requirement challenging. This program removes the local match, incentivizes companies to allow remote working in rural areas or to set up "satellite" offices in rural areas in Colorado.
- Reduces commuting/congestion in metro areas.

This program uses existing growth trends of the Front Range urban areas to stimulate economic growth in rural areas that wouldn't otherwise benefit from urban development. Encourages rural communities to support urban projects and market their community to the company expanding and proactively engage urban economic developers.

The urban areas benefit from less congestion and toll on urban roads, less pressure on housing availability, companies can meet their hiring needs with slightly lower labor costs.

### **Funding Request from Strategic Fund**

We are asking the EDC to allocate a maximum of \$200,000 in marketing funds for this program to be used across 3 years. Funds will be used in 40 increments of up to \$5,000/year per eligible rural community for reimbursable expenses like travel and marketing expenses to support rural communities' ability to collaborate with urban economic developers, evaluate the success of the program after one year. Revert unused funds to the Strategic Fund if the EDC decides to end program after one year.

For each request for marketing support, OEDIT will require that the community:

- Write a commitment letter(s) supporting at least one urban JGITC project
- Show collaboration with urban ED
- Show evidence of interest and effort to market the rural community to the project company as a location for remote workers, a satellite office, or co-working space.

Rick Garcia, Executive Director of DoLA said, this is a tandem opportunity for DoLA to be actively involved in promoting rural economic development. I am willing to commit \$100,000 to the \$200,000 to match these funds. We can take that from our REDI funds which will be a natural fit. This is a great opportunity for us to strengthen our rural strategies.

M/S/P – Marshall, Duran - CO Mutual Prosperity (COMP) Strategy approved for \$200,000 from the Strategic Fund to support this initiative as recommended by staff.

Franz made a motion to direct staff to change the table so that it will begin with one employee and to adopt the provided write-up as a broad policy. Duran seconded the motion. Motion passed unanimously.

Staff will change the table and provide the EDC with an adjusted table.

M/S/P – Franz, Duran – Staff will adjust the table to start with one employee and will move forward with the initiative.

### **Introduction of Glenn Plagens**

Kraft introduced Plagens as the new Director of Business Support & Rural Prosperity.

Plagens provided a brief background of his career history.

Plagens asked Kovacs to provide an update of the Employee Ownership initiative.

Kovacs said, there are eleven Employee Ownership Commission members (EOC) identified. Nine of them have applied through boards and commissions. We are waiting on the final two. Once the final two are in, boards and commissions will reach out. We are inviting people to apply, the ultimate decision is though boards and commission. We are not promising anyone a seat. My goal is to have the first meeting in early June to get the EOC started.

Plagens said there has been a lot of buzz about employee ownership. At this time, if someone calls our office and inquires about employee ownership, we do have a mechanism on tracking people. We are using the Rocky Mountain Employee Ownership Center (RMEOC) as a referral base right and working closely with them. We are making sure that within that funnel that we have a mechanism where we can get them the education and resources they need day-one. Our marketing department put together a landing page for employee ownership so we now have a web presence. In June the SBDC network will convene for one of their statewide meetings where we will hold a train the trainer event. After that the SBDC will have employee ownership classes and workshops. We will also be taking and disseminating that with other

partners. After that we will be getting to what I consider the ribbon cutting of the Employee Ownership network.

Plagens and Kraft is requesting that an EDC member serve on the EOC.

Price said he would like to work with staff and the EOC as the EDC liaison.

The EDC agreed to have Price be the liaison.

#### **D. Regional Tourism Act: Jeff Kraft, Ken Jensen RTA Project Monitoring Update**

Jensen presented the project monitoring update.

#### **Aurora/Gaylord Key Next Steps**

Staff will have conversation about ending quarterly reports and meetings.

#### **Pueblo/PBR University Key Next Steps**

Grand opening was May 3<sup>rd</sup>. We are now working out what ongoing reporting is needed.

#### **Colorado Springs/City For Champions Key Next Steps and Immediate Issues**

OEDIT compiling all modifications into one master amended resolution. Working closely with Attorney General to work on specific resolution language.

- UCCS - OEDIT Staff reached out to Charlie Sweet regarding progress towards spending \$16.87 M before the October 31 deadline.
- Downtown Stadium - CC to propose modified language for milestone document.

#### **NCRTA/Go NoCO Key Next Steps and Immediate Issues**

NCRTA is working to provide audited annual report per statutory requirement. Need to review revised draft Resolution.

- Whitewater Park - OEDIT facilitated a very productive meeting regarding possible funding sources for the whitewater park and suggested combining with Hotel Waterpark or changing developers. There seemed to be a lot of optimism for this. The flip side is that we also discussed the Peligrande and there seemed to be a little bit more hesitancy about the progress of the Peligrande.

Kraft said, things are in the developer's hands right now. They need to decide if they are going to move forward with that concept. What we are hearing from the community is that effort is stalled. They are exploring different concepts and there is a possibility that the golf tournament is a challenge and it feels like there is some probability of it not moving forward.

- Stanley Film Center – They continue to move forward and staff is working with their team on the Resolution.

#### **Denver/National Western Center**

OEDIT working with project on proposal for Commencement of Substantial work to be presented at meeting in the near future.

#### **Aurora Quarterly Reports and Semi Annual Updates**

Jensen said, because there will not be any more substantive updates related to construction of the Gaylord Hotel project, staff and Aurora have asked OEDIT and the EDC to consider whether quarterly

reports are necessary for the entire Financing Term (the next 30 years). OEDIT staff believes that this quarterly report requirement is not necessary and is seeking guidance from the EDC to eliminate this requirement but keep the annual reporting and the annual in-person reporting for the project in place.

Duran asked if there are any issues from the auditor's side of things.

Kraft said, if we go back to Aurora and they say yes, we'll do it, we would come back to the EDC and formally amend the Resolution.

Schiff said, anything we do here, we will be asked to do for all other projects. I assume the flexibility here is that we've got a straight forward project, it's a hotel, and it's operating. We don't have general concerns about whether they are compliant with guardrails. I have a concern about that. Do we want to differentiate if we're going to do this waiver and say it's "because" it's a straight forward project? We have other projects with programming requirements that will require closer than annual monitoring including the Stanley and the Stadiums in Colorado Springs. We want all projects treated similarly. Is it really such an issue for them to submit a quarterly report?

Jensen said, he's not sure what the project thinks. He is looking at it as an efficiency of administration issue.

Duran said, we should have a standard that applies to everybody.

Jensen said, you can change this requirement at any time. There is nothing pressing at this moment to change this requirement at this time.

Kraft said, staff will discuss this. Schiff makes a great point. With this project, the key thing is that it is part of the Gaylord circuit and that's fairly easy to monitor. But, there are projects where the program could be more ephemeral or things could change over time. We will think about other options.

Schiff said, another option would be a Certification of Compliance on a quarterly basis. Which requires that they have internal controls to ensure they are compliant with all the guardrails, which would be a simpler report for them to provide.

Marshall said, that semi often compliance would help as new Commissioners come and go to get up to speed. Having some way to capture the project consistently as they develop, would be helpful.

Schiff directed staff to explore options and come back with some alternatives. The Commission agreed with this direction.

Jensen moved on to Aurora/Gaylord TIF revenue, actuals versus forecast. Staff provided a graph to the EDC showing the cumulative TIF revenue. The actuals are currently running lower than the projected but they are also increasing nicely. We will keep you apprised of what is happening with their TIF revenue.

Jensen moved on the USAFA. The Enhanced Use Lease is now with the Pentagon for review and is expected to be fully executed in the near future.

The Project Element is looking to issue bonds through a Business Improvement District a portion of which will be secured by the state sales tax increment revenue stream from the RTA award. The planned issuance of this Bond is for mid to late summer. This will be a critical point as the projects approaches the Commencement of Substantial Work requirement. Please see the board book for further information regarding the financing for the Visitor Center facility. Please note that the plans for issuing the bonds will

likely require some modifications to resolution No. 3 such as allowing bond terms longer than 30 years for non-RTA revenue streams.

Bob Cope with the City of Colorado Springs is working with Eric Smith at Matrix Design group to put forward another “Milestone” document that will help inform all progress that is consistent with Commencement of Substantial Work. OEDIT Staff expect to see a copy of this document in mid-May and OEDIT staff will present this document to the EDC during the June meeting.

Jensen also provided a Flow of Funds chart around the Colorado Springs project to the Commission. Staff is monitoring how the funds are flowing essentially through five sub accounts.

Franz asked if this matches the expectations.

Jensen said, yes, it does.

Kraft added, it is likely the EDC is going to be asked to change a piece of the Resolution. The way they are going to issue these bonds is likely going to include revenue from their local TIF financing and they are likely going to want to issue bonds that are longer than thirty-years. RTA revenue would only last thirty-years but their local revenue might last a bit longer. Right now, our Resolution is sort of inflexible in the sense that it contemplated issuing bonds solely backed by RTA funds. There isn’t really a good reason to say that as long as everyone understands the RTA revenue is cut off after thirty-years. So, we will probably need to tweak that Resolution to allow them to issue a longer bond.

#### **Colorado Springs Semi-Annual Update**

Walker, Cope, and Neville provided an update of the project.

Walker said, Jensen provided most of the highlights so I will give you next steps for the projects.

For USOM the next step would be just finishing the project and summer of 2020 is when we expect this project will be completed. It is progressing nicely.

UCCS has begun their construction. We provided a few photos in our quarterly report. Their big next step is spending the \$16.9M by the end of October which Jensen eluded to in the update.

USAFA’s next step is getting the signed lease back but the annexation has already been completed. Right now we are trying to get the URA designation completed as well. I expect that to be done by mid-July. There are still some moving parts with this but we anticipate having that tied up very soon.

Walker asked Cope to provide next steps for the Sports Stadium piece of the project.

Cope said, for Colorado College and Robson Arena they are just about to complete their design process. They have held four public meetings that they initiated. They will be holding their final public meeting on June 1<sup>st</sup>. One June 3<sup>rd</sup> they will be formally submitting their development plan to the City to start the land use approval process. They have also committed to building a parking structure which is a very expensive commitment that they have made. This project is on a very good path to receiving prompt approval through Land Use Approval and then building permits after that.

They have demolished several buildings on that site so it is close to being ready to begin construction.

Shifting to Weidner Stadium for the Switchbacks, they are also completing their design process and I would look for them to submit a development plan to the City probably thirty-days behind Robson Arena.

So sometime in the first part of July that would happen. I would expect that to be promptly reviewed and approved by the City and then construction documents submitted and building permits issued.

Both projects are moving forward very well. We have our letter of March 4<sup>th</sup> from OEDIT staff on Commencement of Substantial Work and we are submitting the back-up documentation that verifies compliance with those milestones and we expect on both projects, the culminating milestones to be the agreements between the Colorado Springs Sports Authority and the two entities. And, the issuance of bonds for the stadium and the pledging of revenues. We hope that this would happen in late June, or early July.

The EDC had no questions.

#### **E. Transferrable Tax Credit: Ken Jensen**

Before moving into the update Jensen asked Mustafa with Project 5000 if the name of the company could be made public. Mustafa confirmed that the name of the company could be made public. Project 5000 will now be referred to as EVRAZ.

Jensen provided a TTC update. OEDIT met with VF Corporation late in April. VF Corporation has signed a lease for the property in downtown Denver, which is expected to satisfy their requirement to make a Strategic Capital Investment. This should be documented in VF's June 30th 10-Q. Once OEDIT has had the opportunity to review the 10-Q, OEDIT expects to bring this issue to the EDC for next steps.

EVRAZ has developed a new forecast of capital spending and is presenting this forecast as a part of their updated status report at this meeting. EVRAZ is still expecting capital spending to be in the \$450 million range.

EVRAZ needs to complete an engineering study before they can make a determination as to whether to commit to their project. Their goal is to finish this engineering study by December of 2019, then present the study to their board for the "Go/No Go" decision. Therefore the "Go/No Go" decision is expected in early 2019.

As previously discussed, OEDIT proposes issuing a pre-certifications this fiscal year (which ends June 30, 2019) to EVRAZ for \$100,000, and to VF Corporation for \$6.9 million. Given that \$3 million was pre-certified to VF Corporation earlier this year, this would bring the total pre-certifications for this fiscal year to \$10 million, the statutory maximum.

OEDIT further anticipates that if both projects go forward, in the next fiscal year (which starts July 1, 2019) the EDC would pre-certify \$6.9 million to EVRAZ and \$3.1 million to VF Corporation. This would bring the total pre-certifications for EVRAZ to \$17 million, and the total pre-certifications for VF Corporation to \$13 million.

Al-Shawaf provided an overview of the letter provided to staff regarding the project. Summarizing the information in three key areas: Electricity, Local Incentives, and an Update on Project Progress.

#### **Electricity**

During our last update, we informed the EDC of efforts to convert our August 10, 2018 MOU with Xcel Energy into a contract. We have made substantial progress towards achieving that goal. However, we have faced a setback. The independent power producer (IPP) expected to build and operate the solar facility has withdrawn from this three party transaction. We have started the process to rebid this solar project to other IPPs. However, the absence of a committed IPP with a defined price has complicated



efforts to finalize the contract. Initial proposals from the latest RFP process are due on May 10th, and we hope to have a final contract over the coming months.

#### Local Incentives

During our last update, we informed the EDC that our local incentive package was complete with the exception of the TIF reimbursement agreement. We also informed the EDC that we would commence site specific basic engineering on the project. During the course of the basic engineering, the site layout was changed which shifted the building footprint. This change has resulted in the need to change the TIF boundary. The City of Pueblo and the Pueblo Urban Renewal Authority are aware of this development and are working with us to complete the necessary steps to finalize the TIF district and reimbursement agreement.

Since our last meeting, EVRAZ has entered into binding contracts for executing basic engineering on all the major process equipment, for engineering and contract management support, as well as for abatement and demolition activities at the site of the old coke batteries. Taken together, these contracts represent binding commitments on substantially all the budget authorized by the board of directors for this phase. Engineering is on-track, and we currently expect basic engineering activities to be substantially completed during 2019. Currently, we expect the total project budget to be between \$475M and \$525M with eligible Section 38 property between \$370M and \$460M. As we advance this project, EVRAZ has appointed my colleague, Christian Messmacher, as Vice President and General Manager of the project. Over the course of the next few months, Christian will be taking over my responsibilities in reporting to the EDC as part of his overall responsibility to lead the project.

Jensen asked if Pueblo is the only location being considered for this project.

Al-Shawaf said yes, at this time, there is no other location being considered.

Duran asked if they could speak to the local incentives. What entities are involved, is it the County Commissioners, City Council, and PEDCO and others. How engaged are they and aligned with the project?

Al-Shawaf said, they are engaged and aligned. We just had a meeting a month back. From PEDCO we received a grant from their house and sales tax fund. The city provided a tax abatement on sales and use tax. The County is one of the taxing entities involved with the TIF along with several other entities that were all involved and supportive of using the incremental property tax from this project to support funding the TIF. We've had really great engagement and a lot of support.

Staff is requesting the EDC approve the proposed pre-certifications this fiscal year to EVRAZ for \$100,000, and to VF Corporation and additional \$6.9M.

Clark moved approval of the request. Duran seconded the motion.

Kraft requested that the motion be made clearer. I think it needs to be really clear that VF Corporation is getting an additional \$6.9M in addition to the existing \$3M for a total of \$9.9M and that we are then allocating \$100,000 to EVRAZ.

Marshall made an amended motion that OEDIT issue a precertification for this fiscal year to Project 5000/EVRAZ for \$100,000 and that OEDIT issue a precertification to VF Corporation for an additional \$6.9M, for a total of \$9.9M for this fiscal year. Duran seconded the motion. Motion passed unanimously.

M/S/P – Marshall, Duran – Pre-certifications for this fiscal year to EVRAZ for \$100,000, and to VF Corporation and additional \$6.9M for a total of \$9.9M for this fiscal year was approved as presented and recommended by staff.

Jensen said, our proposed activity for next year is to issue EVRAZ \$6.9M to bring them up to their full \$17M. Also next year we are expecting to issue pre-certifications to VF Corporation for \$3.1M bringing them up to their full \$13M.

Marshall asked, is there any additional projects in the pipeline that might qualify.

Kraft said, there is at least one that we've talked about potentially qualifying and next year would be the last year of course.

Marshall said, unless legislation is passed to continue the program.

Kraft said, we have had some discussions about putting it on our legislative agenda for next year.

#### **F. Advanced Industry: Katie Wosalger**

Wosalger presented the following Fast Track Bioscience Applications, Fast Track Energy, Natural Resources/Cleantech Applications, and the Transition Requests for final approval:

<u>Company Name</u>	<u>Industry</u>	<u>Funding Request</u>
Ageto	Energy, Natural Resources/Cleantech	\$234,100
Aspero	Bioscience	\$250,000
Bolder Industries	Energy, Natural Resources/Cleantech	\$250,000
Colorado School of Mines-Dr. Owen Hildreth	Advanced Manufacturing	\$105,000
Delta Brick and Climate Company, Ltd.	Energy, Natural Resources/Cleantech	\$250,000
Edify Technologies, Inc.	Technology and Information	\$250,000
Guidestar Optical Systems, Inc.	Aerospace	\$249,961
Im Therapeutics	Bioscience	\$250,000
Jujo, Inc.	Technology and Information	\$250,000
Mallinda	Advanced Industry	\$250,000
Opterus Research and Development, Inc.	Aerospace	\$250,000
Pairin, Inc.	Technology and Information	\$250,000
RoGo Fire	Electronics	\$100,000
Arpeggio Biosciences	Bioscience	\$250,000
University of Colorado-Denver-Jeffrey Stansbury	Bioscience	\$150,000
Eximis Surgical, Inc.	Bioscience	\$250,000
Fischer Imaging	Bioscience	\$250,000
Respirogen	Bioscience	\$250,000
Triple Endoscopy, Inc.	Bioscience	\$250,000
Air Squared, Inc.	Energy, Natural Resources/Cleantech	\$199,939
Starfire Energy	Energy, Natural Resources/Cleantech	\$250,000
Global Weather and Climate Solutions dba PlanetIQ	Electronics/Advanced Manufacturing	\$39,635
Nikola Power	Energy, Natural Resources/Cleantech	\$150,000
		<b>TOTAL - \$4,978,635</b>

M/S/P – Clark, Franz – Projects approved as presented and recommended by staff. Schiff recused herself from the vote for Opterus Research and Development, Inc. and Respirogen.

Wosalger presented the budget which shows a total remaining balance of \$3,415,023.

#### **G. Enterprise Zone (EZ): Sonya Guram**

Guram presented the following EZ Boundary Amendments for review.

Colorado Revised Statutes give the Economic Development Commission the authority to designate and terminate enterprise zones or portions thereof upon the recommendation of OEDIT's executive director. Though the statutes now require full review of the zone area's eligibility every ten years (boundaries were re-set January 2016), boundary adjustments may be requested by the Zone Administrators as needs and opportunities arise outside of the mandatory review time-frame. Staff and zone administrators have coordinated to present any boundary amendment proposals just once each calendar year at the May meeting of the EDC.

The proposal is to add targeted blocks within 2 block-groups that both qualify based on high unemployment rates. With the addition of these areas, the Pikes Peak Enterprise Zone's total population will be 78,140.

These boundary amendments are recommended by OEDIT staff and Executive Director Betsy Markey who request the Commission's approval.

Today, the following four enterprise zone administrators are requesting additions to their zones:

### **East Central**

East Central Administrative EZ is proposing an amendment that brings all of Cheyenne County within the EZ. The county as a whole, as well as the internal census subdivisions, census tract and block groups qualify for designation based on the most recent data. The county also meets the criteria for Enhanced Rural Enterprise Zone status – portions of the county designated EZ have the EREZ status. The county as a whole had long been designated EZ, but when areas state-wide were re-evaluated for re-designation in 2016, the central portion of the county was not eligible – a small number of people moving into the county during that survey period had enough impact on the metrics making the area ineligible. Staff supports this request to give EZ designation to all of Cheyenne County. The goal is for EZ incentives to encourage investment in farming, ranching, and wind generation equipment. East Central is part of the North-East-Central Statutory Enterprise Zone; with the addition of this area. The Statutory Zone's total population based on the latest figures is 104,899.

M/S/P – Clark, Marshall – Boundary Amendment for East Central approved as presented and recommended by staff.

### **Jefferson County**

The Jefferson County EZ administration would like to add 5 census tracts and 3 block groups to capture opportunities to revitalizing aging industrial areas, to strengthen and grow industry clusters in line with unique assets, and to encourage business development in growing suburban communities. Each of the census areas proposed qualify with a high unemployment rate. The proposal describes distress conditions and opportunities for economic growth that could be supported with EZ status. With the addition for these areas, the Jefferson County EZ will have a total population of 101,445.

M/S/P – Clark, Franz – Boundary Amendment for Jefferson County approved as presented and recommended by staff.

### **North Metro**

The North Metro EZ proposes additions that support revitalization in alignment with the Longmont Main Street Corridor Plan extending from existing zone north, the Southeast Longmont Urban Renewal Area extending to the east, extension of zone along a western primary corridor, and central contiguous area. These block groups all meet the per capita income requirement and have targeted development goals. With the additions, the North metro EZ will have a total population of 36,625.

M/S/P – Clark, Duran – Boundary Amendment for North Metro approved as presented and recommended by staff.

### **Pikes Peak**

The Pikes Peak EZ zone includes El Paso and Teller Counties. Teller County was first included in the EZ in 2016, and new opportunities for economic development have since evolved. This boundary expansion aims to address affordable housing needs through use of the Contribution Project tool, and to encourage new business development through the business tax credits. This boundary amendment request was put together in November 2018, but the areas proposed to be added are also eligible per the latest data.

M/S/P – Franz, Marshall – Boundary Amendment for Pikes Peak approved as presented and recommended by staff.

### **H. Rural Jump-Start: Ken Jensen**

Jensen presented Violet Gro. Violet Gro builds LED grow lights for indoor agriculture. OEDIT has identified an existing Colorado company that currently operates in this market. Therefore, OEDIT recommends against approving Violet Gro for Rural Jump-Start Program benefits.

Violet Gro meets five out of the six eligibility criteria for RJS companies. The discussion today is strictly around the competition clause. We believe the companies fails on this metric.

In reviewing this company, OEDIT went through its standard process for the competition clause criteria. After this review, we still did not have enough information to make a definitive decision around this company. At that point we had a number of internal discussions and we reached out to the AG's office about how we might further proceed with reviewing the company for competition. In the course of those discussions, we came to the conclusion that we should reach out directly to the company we view as the potential competitor which is Black Dog and that is a company based in Niwot Colorado.

With the concurrence of the AG's office we reached out to that company via a questionnaire. We asked them a number of questions around their operations. We never identified Violet Gro to Black Dog. In the course of talking with them, they made a strong case that Violet Gro would be competing with them.

Based on our review, the consultation with Diana Moss, and the questionnaire with Black Dog, we came to the conclusion that this would be direct competition as it exists, as it's written in the statute, for the RJS program.

This program sunsets next year. OEDIT is working on getting this program extended. Along with the extension of the program, OEDIT has been having discussion with Brown and Marshall around getting the competition clause changed in a way that would be eased.

Schiff said, after I read this I also wanted to find out whether or not a company that I am aware of in Lafayette Colorado, that I believe is actually a stronger competitor than Black Dog, had been considered

in the analysis. It had not. I provided that information to staff about what that company is. I don't think this is just about Black Dog. I want to make people aware that there is another company currently operating, and selling product that I think is a direct competitor as well and I think that needs to be analyzed.

Kraft said, the EDC received a letter from Brown yesterday, outlining some factors she wanted you to take into account.

Schiff asked Brown to comment.

Brown said, I don't want to muddy the waters of future changes to RJS with this application because I still think this application should be approved. The spirit of the law and the way it is written is we don't incentivize a company that is doing the same thing as a current Colorado company. And in manufacturing that means its making the same product. And what we are saying here today is that they are not making the same product. Violet Gro is making a completely different product than any other company in the country, much less Colorado. I think that RJS allows for this because that clause in there that is written in the legislation that says two companies do not directly compete if the start-up, the company being incentivized, only offers a product in a narrow niche market. The fact that this product is completely different and has four factors about that Violet Gro makes do not exist in any other product.

The first factor is the light bars that allow for vertical growing. Nobody else in the market allows for vertical growing and it's because of the way that, most of the lights need fans or cooling and because of the patent that Violet Gro has, they can put a lot of light and energy through a lens without it overheating. So they don't require lights or HVAC systems and they are very energy efficient. Which makes them different than any other light set on the market.

The other thing is they allow for 360° growing instead of directional growing. Every other light set on the market is directional growing. This is a completely different 360° growing range.

And then finally it allows you to be A, B, and C without degradation. Nobody else on the market can do that. I think that this product is different enough that it should be approved and that's why we are here today.

Kraft asked Brown to repeat the last differentiating factor because I didn't hear all of it.

Berland, CEO of Violet Gro, said the third element that Brown discussed was the ability to incorporate ultra violet throughout the entire ultra violet spectrum. In the horticulture state, there is a substantial amount of research that articulates what spectrums of ultra violet actually make a meaningful difference in plant behavior. Most of the research concentrates around 275-285 nanometer. That's at the borderline between UVB and UVC. There is currently no agricultural light anywhere in the marketplace that offers anything in the UV space that gets below about 365 which is actually the top of UVA also known as black light. In the context of the UV product that we have it is also a hundred percent UV only product that is specifically designed for supplemental use in the agricultural growing environment as opposed to most of the other products which are trying to add UV into their standard realm but it is a single unit that is doing both visible light as well as UV light.

Schiff said, I want to split this conversation into two pieces. One is this particular application and the other is the entire issue of the competition clause itself.

Because I am aware of another company in Colorado that was not analyzed and was not taken up with the AG, I don't think this application is quite ripe for us to be making a decision on. The claims that you

are making actually resonate with claims I've heard this company make. I'd like to ask staff to go back and discuss that company with you. Discuss the similarities and differences with the AG and Diana Moss again. I appreciate the arguments you are making around how you'd like to see the statute interpreted, and sincerely, we love RJS we want this to be an effective tool for facilitating economic development in rural Colorado. It's a really important program. We don't like how we have been hamstrung in some of these cases by the Competition Clause, and I am leaning over looking at Hylton and saying, our legislative liaison has a lot of work to do on this. We'd like to see this loosened and maybe this is a helpful story we can tell. But I think one of the things we have to do as a Commission is also defer to the attorneys who have to represent us from the AG's office and how the statute gets interpreted and clearly we need to make sure we are helping them in their analysis by making sure that some of these arguments that Brown is making around how the statute is being interpreted, and that they hear those and are taking them into account in making a decision. This is a great program and we've seen it be very useful especially in Grand Junction and I'd like to see this again get renewed and improved from these experiences.

I would like to hear from my fellow Commissioners, but I'd like to submit that this particular request is not quite ripe yet. There is a little bit more work to do on it. I'd like to open the floor to the Commissioners now to comment.

Brown said, there is precedence on this. We have done this before with Phoenix Haus, a manufacturer of modular homes, was approved for the RJS program. There were other modular home manufacturers in Colorado at the time, but Phoenix Haus was approved because their technology was different, and their modular homes were more efficient than other manufacturers. We see no difference between that approval and this one.

Marshall said, correct me if I'm wrong, because I am remembering the Phoenix Haus a little bit differently, but I thought that what set Phoenix Haus apart was the multi-family component?

Kraft said, you are correct. The primary differentiating factor was almost all the other modular home builders, and we did look at a huge number in Colorado, really were more of single family or maybe duplex style. Things that couldn't be stacked and combined into multi-family.

Schiff said, you have a different technology that leads to a different product. Where here, there may be some distinctions and the technology used but the application, and again, many of these claims, the vertical growing, the energy efficiency, many of these things are claims also made by other companies selling lamps for commercial growing.

We are not saying no right now but there is a little more work that needs to be done. We need to pay deference to the AG's office and how they would interpret this statute.

Brown said, this has taken seven months. So to go back and look at this again, there is something wrong with this process.

Jensen said, the reason this has taken a longer time is because we thought we would have to reject them so we spent a lot of extra time working with them looking for a way to find an argument that would allow us to recommend approval. We never found that argument.

Brown said, she understands but to say you now need more time. At this point we will probably lose the company which doesn't feel it has been served very well by the state. This is frustrating.

Carrie Schiff: Ok let me approach it this way. Is there anyone willing to make a motion in favor of approval?

Jay Seaton: So this is Jay, I will make a motion in favor of a provisional approval pending investigation of that other company that you referenced, Carrie, I want to make the point here with the competition clause, a couple of things. One is, it really is up to the EDC, we can get counsel from the Attorney General's office, but the discretion lies within the EDC itself. That is the way the statute is written. Second, just in terms of the substantive analysis of this company, It is a very different product, at a very different price point, serving a different market. So I think the proper way to look at this thing, is like, you know, Coke and Pepsi are direct substitutes for each other, and so, they are in direct competition and it would be inappropriate to approve one company or the other under those circumstances. Violet Gro and Black Dog are not Coke and Pepsi. A better analogy might be Coke and Aloe Water, they are both beverages, you can drink them, but nobody walks into the grocery store to buy Coke and walks out with Aloe Water instead. These companies aren't direct substitutes for each other, or their products aren't direct substitutes for each other and I think that is the proper analysis that we need to employ in making this decision.

Denise Brown: [Denise makes a motion to outright approve Violet Gro. Nobody seconded the motion, so it appeared to fail, but Jay Seaton had inadvertently disconnected his phone]

Carrie Schiff: [Carrie recapped and restated Jay's motion adding additional follow-up items for staff and asked for a second. Beep indicating Jay rejoins call.]

Robert Price: [Robert Price seconded this motion]

Jeff Kraft: [Jeff Kraft asked for clarity and Chair Schiff discussed]

Jay Seaton: [Jay Seaton, having rejoined the call, interrupted and asked to second Denise Brown's motion for full approval because he had inadvertently dropped the call just as Carrie was asking for a second, and seconds Denise Brown's motion.]

Carrie Schiff: [Chair Schiff call for vote after Jay's second. It fails after only two votes in favor (Brown and Seaton)]

Carrie Schiff: [Goes back to Jay's motion]

Carrie Schiff: What Jay's motion would mean is it is provisionally approved pending review of the second company and discussion with the attorney general's office on the interpretation of the competition clause with the understanding that ... and I would like as part of that discussion to make sure that the arguments around their patent position, precedent that may have been set with Phoenix Haus, the differences in the technology from that company vs black dog and vs the other company as they are applied to the competition clause. All of those things. We want them to have a fair hearing... and if you want to submit your arguments in writing or otherwise to help make sure that you are heard and I am speaking to the company and to Robin, please do. We want to help advocate for you... we don't want a bad outcome for the purpose of telling a story to help us get a legislative improvement which Leslie is working on anyway. If you come back and we can't get a different opinion than we can have another discussion about where we are on this. So I hear you, Jay, it is a policy question, but it is more than a policy question because there is a competition clause in the law and its one where it's got a technical, legal analysis needs to be made and we should be consulting experts on. That would be the proposal and we have a second on that.

Robert Price: [Robert Price Seconded the motion]

Does everyone agree with the description I have just given?

Robert Price: "Yes, very much so"

Nods and general agreement.

Carrie Schiff: Anybody Disagree?

Hearing none

Carrie Schiff: So that is what is on the table now, we will have a vote. All in favor?

One abstention (by Carrie), one nay (Tara Marshall), the rest yeas.

Tara Marshall: No.

Carrie Schiff: no you are still saying no?

Tara Marshall: I am saying no to provisional approval, reticently and only because... may I qualify my no?

Carrie Schiff: Sure.

Tara Marshall: My no is because in working on the Rural Jump-Start legislation in-depth with OEDIT this year, I believe the competition clause is clear in the legislation.

Carrie Schiff: And so you think this violates it or doesn't violate it?

Tara Marshall: I think this violates it, unfortunately. And I am the hugest proponent for changing it, I have been working on it for two years.

Carrie Schiff: Understood. I'm sorry that we couldn't give you a favorable ruling today and again, I would encourage you to help us help you in that discussion with the Attorney General's Office and I am sure that Ken will share with you the company that we are raising, so that you are part of this in a transparent process.

Tara Marshall: Carrie, did you vote?

Carrie Schiff: I actually think I need to recuse on this as well. So you guys have work to do and I would love to see this resolved as soon as possible. I noted that there is a possibility for a meeting between May and June. If there is a need for a meeting between May and June throw it on the agenda as an addition.

[Please note there another small back and forth with Robin and Carrie]

Violet Gro CEO: If I could speak for just a second as the CEO of the company what I will commit to do, because I completely understand and I don't want to create a precedent where people are operating differently than the Intent. Is we will provide you full transparency to all of our patents we will provide you with transparency to the operative opinion that we have been given and we will also provide with a number of visuals in terms of the unique installations that they are talking about, would be very distinctive and ultimately you would make whatever decision you think is the right decision ... I would be completely fine with that and just appreciate being considered.

**Clear Creak County**



Jensen said OEDIT continues to work with Clear Creek County and the municipalities about passing their resolutions. OEDIT expects that they will submit their application to form a RJS zone by August 31, as required.

### **RJS Tax Credit Certificates**

Jensen presented the following companies and individuals for RJS Tax Credit Certificate approval.

The following companies have now submitted their annual reports and are requesting approval of tax credit issuance:

<b>Company</b>	<b>Estimated Value of Company Income Tax Relief</b>	<b>Estimated Value of Sales and Use Tax Relief</b>	<b>Estimated Value of Biz Pers Prop Tax Relief</b>
Kaart Group	\$4,523.00	\$158.00	\$0
Dude Solutions	\$0	\$500.00	\$2,000.00
Bio Comp (Hemp Abode)	\$0	\$0	\$0
Total	\$4,523.00	\$658.00	\$2,000.00

The following people at these companies are eligible for New Hire benefits for 2018:

<b>Company</b>	<b>Employee Name</b>	<b>Wages Exempted</b>
Adaptive Communications	Darren Eneboe	\$25,184.79
Kaart Group	Gary Clark	\$57,000.06
Kaart Group	Zack LaVergne	\$35,989.78
Kaart Group	Ian Malott	\$40,251.04
Kaart Group	Nolan McDonald	\$2,101.20
Kaart Group	Aaron Young	\$119,998.44
Total		\$280,525.31

The following owners at these pass-through companies are eligible for the owner benefit for 2018:

<b>Company</b>	<b>Owner Name</b>
Kaart Group	Aaron Young

Staff is requesting approval of the tax credits as presented.

M/S/P – Franz, Duran – RJS Tax Credits approved as presented and recommended by staff.

### **I. Partner Presentations**

#### **DoLA: Rick Garcia**

Garcia provided a brief background of his career and how DoLA and OEDIT are working together.

#### **Colorado Heath Foundation: Kyle Sargent**

Sargent provided an overview of the Colorado Health Foundation and their mission.

#### **Donald Kay Foundation: Tony Lewis**

Lewis provide an overview of the Donald Kay Foundation and their mission.

### **J. Other: Sean Gould, Carrie Schiff**

#### **EDC Budget**

Gould provided an EDC Budget update which shows a current balance of \$5,942,143 available for future projects.

### **Departing Commissioner**

Schiff wanted to acknowledge this is Marshall's last meeting.

Marshall said thank you to the Commission for this opportunity. I continue to be amazed by the staff's abilities and the things you bring forward. I don't think I have ever seen staff that is, just brilliant in every way, so, compliments, and the friendships that I've made with them. I want to stay in touch with Commissioners. I will provide my contact information.

I think I filled a unique spot in that I work for government and have the whole time I sat on the Commission. Although my background was the private sector I think by coming from local government if I leave anything behind when you think about your decisions, don't forget that in rural areas local governments are the way economic development happens. Somebody carry that flag for me.

In October of 2017 we approved \$700,000 for the Startup Colorado initiative. I was lucky to be asked to be the board liaison and at that time there were two Commissioners Franz was put on the advisory commission and I was put on the executive board. As the board has met on a monthly basis and gone over the dollars and reviewed how the program has developed, I think that through change of management the advisory board hasn't necessarily been used as much. I would strongly recommend that you consider Franz as the liaison from the board. At Markey's invitation, I plan to stay involved in that initiative.

Schiff asked Franz if he accepts.

Franz accepted.

### **Next Meeting**

The next meeting will be on June 20, 2019.

**With all items discussed, the meeting was adjourned.**