

New York City Economic Development Corporation
New York City Council Oversight Hearing:
Evaluating the Effectiveness of Tax Benefits Offered by NYCEDC
Jeffrey Lee, Senior Vice President – NYCEDC &
Executive Director – Industrial Development Agency (IDA)
October 2, 2014

Good afternoon Chairman Garodnick and members of the Committee on Economic Development. My name is Jeffrey Lee, and I am a Senior Vice President of the Strategic Investments Group at New York City Economic Development Corporation (NYCEDC). I also serve as the Executive Director of the New York City Industrial Development Agency (NYCIDA) and Build NYC Resource Corporation (Build NYC), two entities administered by NYCEDC, pursuant to NYCEDC's contract with New York City. I am pleased to be here to discuss NYCIDA and Build NYC programs that provide certain discretionary tax incentives to help encourage economic development throughout the five boroughs. After my remarks, I will be happy to take questions.

First, I'd like to start by giving you a brief overview of who we at NYCIDA are, what we do and who we work to help. The NYCIDA is a public benefit corporation formed by state law in the 1970s. It is administered by NYCEDC employees but has a separate legal existence, an independent board and authority independent of NYCEDC. The NYCIDA helps a wide range of small and medium-sized industrial businesses. From the family-run HVAC systems fabricator in Queens, to the 20-person growing millwork shop in the Bronx, to the immigrant-owned metalworker company in Brooklyn, the NYCIDA can help companies invest in growth, build skills and capacity, and capture market share. We've helped TV and film prop manufacturers invest in a new facility in Queens; we're helping solar energy systems companies in the Bronx go from 60 to 160

jobs. We've moved the direction of what we do from big companies in Manhattan to small companies in neighborhoods across the boroughs. And we do this in a rigorous, process-oriented way that is consistent with our role as a steward of public tax dollars -- a role we take very seriously.

Our metrics bear this out. During the years prior to 2002, commercial incentive projects -- the kind that go to large financial services companies, for example -- represented 11.3% of NYCIDA projects. This percentage has since fallen to just 3.3% since that time. 90% of IDA projects that closed in the past fiscal year were for projects outside of Manhattan. 45% of NYCIDA projects involve companies with fewer than 50 employees, and over one-fifth of our project companies are very small companies that have 20 employees or fewer. But we're not stopping there; we're looking to find new ways to better help small and medium-sized businesses throughout the five boroughs to grow and hire more New Yorkers.

To give you a feel of the impact of our work, I want to share just a few examples of recent projects we have authorized.

- Cubit Power is an MWBE-owned father-and-son team that we are helping to build their "green" manufacturing/electrical facility in Staten Island, a project that is projected to create 19 jobs, manufacturing dry-ice and generating electrical power while cutting CO2 emissions by 100 tons every day relative to standard technologies.
- Falcon Builder, an immigrant owned company whose workers are members of Ironworkers Local 580, is a 7-person metalworking company. The company

purchased a 5,000 SF shop space in Red Hook for metal railing and staircase fabrication, allowing it to add 7 more jobs and increase its ability to do contract work for agencies like MTA, SCA and Parks Department.

- AKS International, a mechanical contractor based in Astoria, Queens who will be building an additional 18,000 SF to allow their employees – all members of the Steamfitters and Metal Trades Local 638 – to keep working on public and private jobs like the New York Public Library and NYU Hospital.
- The Specialists, a high-tech fabrication factory specializing in replica weapons, were able to purchase a new Maspeth facility to allow them to keep manufacturing replica weapons for movie productions such as “Noah”, “Boardwalk Empire”, “The Amazing Spiderman 2,” and “Men in Black 3”. So the next time you see Tom Cruise or Will Smith blowing up stuff in their next movie, you have the NYCIDA to thank.
- Bogopa, LIC – a local grocery store operator will be renovating a supermarket space to serve working communities in Western Queens, utilizing FRESH Program incentives. The nationally-acclaimed FRESH Program uses IDA benefits to incentivize the development of supermarkets in communities that have limited access to fresh foods.

These companies – most of them located in the Bronx, Brooklyn, Queens and Staten Island – face constant pressure from escalating real estate prices and high costs of construction, compared to their competitors in other jurisdictions. If a company can demonstrate that it needs IDA incentives in order to expand its factory floor or buy a larger distribution facility, and without these incentives it would have to scale back, and

not grow their capacity and add jobs, then we at the IDA want to assist them. We require all companies to demonstrate that IDA benefits are necessary and will provide good returns on investment, including by creating new jobs. IDA benefits are simply not available to any old company who comes asking.

We want to help these businesses to expand and grow, so to that end we make our process fairly straightforward. Companies often find out about the IDA through word-of-mouth, or through the economic development community. We meet with the company and get a sense of whether its project meets city policy goals of quality job creation and capital investment. Many proposed projects – over 50% of the projects that are pitched to us – are denied at this stage, since just on their face they fail to meet our core policy goals. Assuming the concept passes muster, the company then submits an application, and our Economic Research and Analysis team evaluates the economic aspects of the deal to ensure that the city is getting a healthy return on our “investment.” We present the project to our independent board, and if the board approves it, the company can move forward with their project. They can buy new equipment or fit out new space, all at a lower cost than if they sought financing in the private market.

I’ve given you a brief overview of the types of projects we support, where those projects happen, and what our process is like. Now I’ll spend a couple of minutes explaining how the NYCIDA makes a difference for these companies — what is the benefit that they are getting?

Types of IDA Benefits

To incentivize companies to make significant capital investments in industrial facilities, the NYCIDA can provide three kinds of tax incentives to businesses: real estate tax benefits, sales tax benefits, and mortgage recording tax benefits. I'll go into more detail about each shortly, however the big picture is that these tax benefits were designed to reduce companies' transactional costs and operating costs, helping them to move forward on building new industrial facilities, purchasing new equipment, and renovating and upgrading to remain competitive in today's economy.

The highest value NYCIDA benefit is the real estate tax benefit. This benefit allows the company, after having built a new facility or made improvements to an existing building, to essentially be taxed at today's levels. Without the IDA, these "building" taxes would shoot up dramatically. So these "building" taxes stay where they are today, rather than going up. In addition, real estate taxes can also be partially reduced depending on the number of employees they maintain on site and whether the project is located within an Industrial Business Zone (IBZ). As you know, IBZ's exist in communities across the City, including in areas like Maspeth, North Brooklyn and East New York, and provide services to support and bolster the city's industrial firms.

Another tax benefit provided by the NYCIDA is an exemption from sales tax. NYCIDA project companies are allowed to make purchases of building materials and non-moveable equipment on a sales-tax-free basis to be used in connection with the project. This benefit exempts not only the City portion of sales tax, but the State portion as well.

The third tax benefit the NYCIDA can offer is the mortgage recording tax benefit (MRT). As you may know, every mortgage loan in New York City above \$500,000 is subject to a 2.8% tax. The NYCIDA has the ability to exempt or defer that tax, allowing industrial and manufacturing companies to obtain financing with fewer transactional costs. Just like the sales tax benefit, there is both a State and a City component, and therefore benefit, to the tax.

As I mentioned earlier, these are the 3 types of benefits offered through the IDA. There are other city-level incentives that are available to New York companies, such as Relocation Employment Assistance Program, Commercial Expansion Program, or Commercial Revitalization Program. Most of these are administered the Department of Finance, not by NYCEDC or NYCIDA. For example, Industrial and Commercial Abatement Program (ICAP), a program which provides a real estate tax abatement for commercial or industrial projects, is one of these incentive programs administered by NYCDOF.

Some energy programs, like Energy Cost Savings Program, are administered by the Department of Small Business Services. One energy program, the Business Incentive Rate Program, is jointly administered by Con Edison and NYCEDC. Through BIR, Con Edison directly provides an electricity discount to eligible businesses in exchange for agreeing to certain job requirements. While I can speak generally on some of these incentive programs that are offered at other levels of government, questions may best be addressed to DOF, SBS and others.

So, how does a company go about securing benefits through NYCIDA? The application process is fairly straightforward for the company, but we at the NYCIDA then undertake a comprehensive and thorough due diligence process. Applicants must submit a basic, 7-page application, as well as other background materials. Our Economic Research and Analysis group helps analyze the economic benefits, and our staff vets projects and performs diligence to assess whether the project is creating quality jobs – for example, paying a living wage, providing paid sick leave and healthcare benefits. If the company's application passes this analysis, the proposals are subject to a public hearing before being presented to our board of directors, which generally meets on the 2nd Tuesday of each month. We now webcast those hearings and make transcripts available on the IDA's website.

Following board approval and subsequent closing, the approved tax benefits are available to a company subject to the restrictions of their particular agreement. At this point, our role with the project shifts to one of compliance and reporting. Our Compliance Department is devoted full time to monitoring and compliance, and when necessary, enforcing these agreements. We consistently collect, review and analyze an extensive list of financial and other supporting data for projects, actively monitoring over 600 projects at a time. This work involves producing documents required under State and local laws by collecting annual employment and benefits information for disclosure, numerous audits, staff field visits, and close coordination with the City's Department of Finance and the State's Department of Taxation and Finance. I know, Chairman Garodnick, that there are several historical IDA deals that you'd like to discuss, and I

look forward to addressing those and talking about new measures we have taken to further improve our own oversight.

Build NYC Resource Corporation (Build NYC)

The NYCIDA isn't the only incentive program administered by NYCEDC. Besides the NYCIDA, another discretionary program administered by NYCEDC is Build NYC Resource Corporation (Build NYC). Build NYC was formed in late 2011 at the direction of the Mayor of the City of New York. It was created in order to create a financing vehicle that would give nonprofit organizations access to tax exempt bond financing. Its administration and application process is similar to that of NYCIDA. Build NYC serves nonprofits of various sizes, from large cultural institutions to small, community based organizations providing vital services and creating local jobs.

Build NYC is a conduit bond issuer that provides tax-exempt and taxable bond financing to eligible projects. Through Build NYC we have issued tax-exempt bonds for a wide-range of nonprofit organizations, including household names like the YMCA, as well as higher education institutions such as Queens College (CUNY), and pre-K, primary and secondary schools such as the Bronx Early Learning Center or the Trey Whitfield School in East New York. We have also financed eligible public-private infrastructure projects, such as Pratt Paper based on Staten Island, the only paper mill in New York City. By financing through Build NYC, borrowers benefit from a lower cost of capital and, in some cases, are also able to receive a mortgage recording tax benefit.

Reforms and Transparency

Over the past few years, we have taken important steps to improve both the NYCIDA and Build NYC processes and establish guidelines for greater transparency and accessibility. This includes more rigorous job reporting and compliance requirements, incorporating public review and comment into our overall approval process, broadcasting of public hearings and board meetings, and dissemination of project information to the public prior to hearings. In fact, this past March we announced three new transparency initiatives that are now in effect – creation of an interactive map of active deals on the agency's website, transition from audiocast to videocast over the internet of our board meetings, and transcription of public hearings. In addition, we post copies of all applications on our website and distribute them at public hearings. We also publish bi-monthly reports showing whether any NYCIDA or Build NYC projects are in default. Every January, we publish a report on the status of all active projects that includes data on job creation and will now include some information on wages.

These reforms are part of a continuous and ongoing review of policies and procedures to make NYCIDA more open and efficient. In fact, good government groups have praised NYCIDA as a model for increased transparency that should be replicated by other IDAs around the state. Still, we welcome feedback from the Council, this Committee, and the public at large on ways we can more easily share information about the work we do.

Conclusion

The small industrial business of today and of tomorrow – the art supply fabricator based in Sunset Park employing 12 people; the 40-person electrical supply wholesaler moving to the Bronx – these businesses need some – not much, but some – help to get over the top and make critical investments that can have enormous, catalytic effects on their business and on the city's economy. We're looking forward to continuing to help these kinds of businesses, while continuing to think strategically about how to best serve these small businesses that are the lynchpin of New York City's industrial economy.



New York Lawyers
For The Public Interest, Inc.
151 West 30th Street, 11th Floor
New York, NY 10001-4017
Tel 212-244-4664 Fax 212-244-4570
TTD 212-244-3692 www.nylpi.org

**Testimony of
GAVIN KEARNEY,
NEW YORK LAWYERS FOR THE PUBLIC INTEREST
on
The Effectiveness of New York City Economic Development Practices
October 2, 2014**

Good afternoon Chairperson Garodnick and Members of the Council, thank you for the opportunity to provide testimony today. My name is Gavin Kearney, and I direct the Environmental Justice Program at New York Lawyers for the Public Interest (NYLPI). NYLPI has worked for more than two years with South Bronx Unite (SBU), a coalition of hundreds of residents and dozens of community-based organizations committed to improving and protecting the social, environmental and economic future of the South Bronx. The primary focus of our work with SBU has been to prevent the proposed relocation of FreshDirect to the Port Morris and Mott Haven areas of the South Bronx, a massively subsidized move that would inundate the local community with diesel truck traffic. I would like to focus my testimony today on the FreshDirect project because it starkly illustrates the need for reform of New York City economic development policy.

The proposed relocation of FreshDirect from Long Island City, Queens to the South Bronx was first publicly noticed on January 30, 2012. At the time it was revealed that under threat of relocation to New Jersey, FreshDirect was seeking \$127 million in state and local subsidies. At the time, FreshDirect's own low-ball estimate was that it would introduce 2,000 vehicle trips, including 936 diesel truck trips to the local community every day. The notice, provided by the New York City Industrial Development Agency (IDA) indicated that there would be a public hearing on the proposed local subsidy package ten days later, on February 9, 2012. This hearing - held in the morning, on a workday, in downtown Manhattan, with 10 days' notice - is the only opportunity the City has provided to date for public engagement around this controversial plan.

On February 7, 2012, two days before the IDA hearing, the City issued a press release titled "Governor Cuomo, Mayor Bloomberg, and Borough President Diaz Announce FreshDirect to Open New Headquarters in the Bronx." Given its timing, the press release sent a clear message to community members with concerns about the project - don't bother, this is a done deal. Nonetheless, South Bronx residents turned out at the hearing on the 9th and expressed their opposition to the deal.

Five days later, on February 14, 2012, the IDA Board adopted an inducement resolution approving \$81 million in local subsidies for FreshDirect (this figure has since increased to \$95 million for reasons unknown). This vote was a surprise to no one given the composition of the IDA board - fifteen members, thirteen of whom are appointed by the Mayor. At the same time, the IDA Board also adopted a resolution concluding that there was no need to prepare an

environmental impact statement (EIS) for the project. The Board, upon the recommendation of EDC staff and consultants hired by FreshDirect, reasoned that an EIS was unnecessary because an EIS prepared in 1993 for a different, but similarly polluting, project at the same site was sufficient. Thus there would be no consideration of the environmental conditions in the South Bronx today, of the specific impacts of the FreshDirect project, or of measures that might be undertaken to mitigate the environmental and public health harms brought on by the project.

The most obvious lesson to be drawn from FreshDirect's efforts to move to the South Bronx is that public engagement in the subsidy process is deficient to the point of meaninglessness. Subsidy deals are in the works for months, or even years, before they see the light of day and by the time they do the City is often set on a course of action. Community residents and advocates for responsible development view the hearings as an opportunity to bring some attention to their concerns, but not as an opportunity to actually influence IDA or EDC decision-making in a significant way. By providing the minimum public notice required by law and holding public hearings during the workday in downtown Manhattan, EDC and IDA send a clear message that potential public concern is a risk to be minimized rather than a legitimate issue to be engaged.

The FreshDirect project also illustrates significant issues with the way that EDC and IDA assess the costs and benefits of a proposal. In its application to the IDA, FreshDirect asserted that "the Company's market share for groceries sold in the metropolitan New York area is less than 5%, indicating significant room for growth." FreshDirect further stated that its competitors were existing grocers. In essence, FreshDirect was indicating that it would expand at the expense of existing bricks-and-mortar grocery stores, businesses that compete without the benefit of state and local subsidies. Despite these admissions, EDC's assessment of employment impacts from the FreshDirect project only considered jobs that might be added at FreshDirect and failed to consider jobs that would be lost at other grocers.

This oversight is particularly troubling given that FreshDirect claims that one of its significant competitive advantages is reduced labor costs. Specifically, FreshDirect CEO Jason Ackerman boasted in a letter to IDA that "because we gain economies of scale as compared to a typical grocery store through batch processing, we can reduce labor costs." Thus, FreshDirect is essentially stating that it can provide the same grocery services while hiring fewer employees and/or paying out less in wages than its competitors. Job openings at FreshDirect since the proposal was announced bear this out, advertising wages for \$8.25 and \$8.75 per hour. This points to another failing of the analysis performed for the FreshDirect project, a consideration of the quality of jobs provided by the company.

In their cost-benefit analysis, EDC also failed to consider broader costs created by bringing a low-wage, truck intensive business into the Bronx. Diesel emissions are associated with a litany of negative health outcomes including asthma, lung cancer, and cardiovascular disease. And it is well established that residents of the South Bronx are particularly vulnerable to diesel pollution. Asthma rates in the Bronx are eight times the national average. Studies have shown, among other things, that exposure to fine particulate matter, a significant diesel pollutant, is the most significant source of pollution-related asthma exacerbations for South Bronx school children and high traffic density in the South Bronx is associated with increased asthma

hospitalization rates among children ages 0-5 in the South Bronx. The human and economic costs of adding to this pollution burden were entirely absent from EDCs cost-benefit analysis even though the company estimated that it would add nearly 1,000 diesel truck trips to the local community every day and our estimates suggest that the real number is closer to 1,500.

The environmental review performed for the Fresh Direct project does not compensate for this oversight. As noted above, IDA declined to prepare an EIS for the project. In so doing, it claimed that a 20 year-old EIS undertaken for an earlier pollution-intensive proposal was sufficient to meet IDA's legal obligations. It is worth noting that in arriving at this conclusion, IDA declined to apply the City's own methods for assessing environmental impacts. These methods are found in the City Environmental Quality Review Technical Manual, which is widely acknowledged to be the most effective tool for assessing the environmental impact of New York City projects. Had Technical Manual methods been followed, it is clear that IDA would have found a full EIS to be necessary. The IDA opted not to use it on the technicality that it is a creature of state law, and thus not obligated to use the manual, even though it functions under the control of the local Executive.

The FreshDirect debacle points to the need for economic development reform on a number of fronts. Subsidy processes need to be more transparent and provide opportunities for meaningful public involvement. Subsidies need to be targeted to businesses that operate on sustainable models, provide quality jobs, and represent real economic growth for the City. To do so, the cost-benefit model employed by EDC needs to be broadened to consider community and public health impacts, impacts on existing businesses, and the costs and benefits, of creating job opportunities at various wage levels. Accountability is also a significant issue. The City has no clawback provisions in place should FreshDirect fail to deliver on its promises.

We are heartened by the fact that the Committee is holding this hearing and asking questions about the prudence of New York City's economic development practices. We encourage the Council to use its oversight authority and leverage gained through small business services contracting to help reform these practices and would welcome the opportunity to collaborate with you on that effort. Thank you.



Urban Justice Center

123 William Street, 16th Floor, New York, NY 10038

Direct: (646) 459-3004 • Fax: (212) 533-4598

**Testimony of Adrien A. Weibgen
before the New York City Council Committee on Economic Development
Concerning the Effectiveness of Tax Benefits Offered by
the New York City Economic Development Corporation**

Thank you Chairperson Garodnick and Council Members of the Committee for the opportunity to testify today. My name is Adrien A. Weibgen, and I am a Staff Attorney at the Community Development Project of the Urban Justice Center.

The mission of the Community Development Project is to strengthen the impact of grassroots organizations in New York City's low-income and other excluded communities. We partner with community organizations to win legal cases, publish community-driven research reports, assist with the formation of new organizations and cooperatives, and provide technical and transactional assistance in support of their work towards social justice.

The Community Development Project urges the EDC to adopt a participatory approach to economic development that involves low-income communities as partners in growth and change. Under the Bloomberg administration, the EDC was often seen as an adversary to poor communities, not their advocate. In the Bronx, Coney Island, and elsewhere, poor people of color often came to feel that the EDC did not listen to them, did not support their interests, and did not prioritize their needs. But the Community Development Project believes that a better way is possible. Our experience has shown us that City funding can be a powerful tool to promote economic growth in partnership with impacted communities, and community groups will eagerly support development projects that meet local needs. We encourage the EDC to stay true to its mission of building from the bottom up and helping neighborhoods thrive,¹ focusing more of its resources on the small businesses that have helped make New York City what it is today and that will ensure that the City retains its vibrant, diverse economy for generations to come. We also support the adoption of new measures that would require the EDC to hold developers accountable when projects fail to deliver promised local benefits, ensuring that public funds are spent wisely and to the benefit of all New Yorkers.

During the Bloomberg years, the EDC often invested in large projects backed by wealthy developers who did little to help local people and businesses. Many of these projects generated fierce resistance from the low-income communities of color the projects purport to assist. For example, in the Bronx, the EDC entered into a controversial agreement to provide \$130 million in subsidies to Fresh Direct, a private corporation whose expansion will hasten the demise of

¹ *About NYCEDC*, NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION, <http://www.nycedc.com/about-nycedc>.

small neighborhood grocery stores throughout New York City. Relying on a decades-old environmental review that failed to account for significant neighborhood change,² the EDC approved a project that will permit Fresh Direct to move its diesel trucking operation to a community already burdened by many high-pollution industries. The project fails to guarantee any jobs for South Bronx residents and will permit Fresh Direct to retain more than \$100 million in City funding even if it fails to create a single job.³ As a result, it has generated fierce opposition from local people.

The residents of Coney Island tell a similar story. As one lifelong resident and community advocate explains, "Since I was a little girl, they've been saying, 'Coney Island is going to be this, Coney Island is going to be that.' There is a feeling that you have the residents on one side and the powers that be on the other."⁴ Although the EDC has invested millions of dollars in Coney Island's amusement district, most of these benefits have accrued to large private businesses and developers, not longtime residents. At present, "no effective mechanism exists to connect residents with fresh economic opportunities, should they ever arrive"⁵ – and Coney Island remains one of the poorest areas in the City.

Because of projects like these, the EDC in the Bloomberg era came to be seen as an entity that was not interested in fostering meaningful, on-the-ground partnerships with the New Yorkers who need the EDC's help the most. But a different story is possible. The Community Development Project's own experiences show that communities can be powerful partners in promoting responsible, equitable development, if the project is the right one. All it takes is a real conversation, a genuine spirit of partnership, and a commitment to making sure the community's needs are met.

Several years ago, when the city announced plans to redevelop the Kingsbridge Armory in the Northwest Bronx, a coalition of 27 community-based organizations came together to ensure that local residents would benefit from the project. With CDP's assistance, the Kingsbridge Armory Redevelopment Alliance negotiated a Community Benefits Agreement (CBA) with the developer of the new Kingsbridge National Ice Center, a project that is expected to create over 260 permanent jobs. The historic CBA guarantees that hiring preference will be given to Bronx residents, that workers will be paid a living wage, and that local children and community groups will have a significant amount of free access to the ice rink. Where other EDC-supported projects have been the subject of protests and legal challenges, this project was embraced. The Ice Center is now poised to become part of the fabric of the community, and the CBA provides a strong model for development done right.

² Rowley Amato, *Judges Okay FreshDirect Relocation Plan to South Bronx*, CURBED NY (Mar. 29, 2014), http://ny.curbed.com/archives/2014/03/29/judges_okay_freshdirect_relocation_plan_to_south_bronx.php.

³ *Why We Fight FreshDirect*, SOUTH BRONX UNITE, <http://www.southbronxunite.com/p/why-we-fight-freshdirect.html>.

⁴ Statement of Mathylde Frontus, Executive Director, Urban Neighborhood Services. Chris Pomoroski, *Carnival Games: Was Coney Island's Rebirth Doomed From the Start?*, NEW YORK OBSERVER (Aug. 1, 2014), <http://observer.com/2014/08/what-happens-in-coney-stays-in-coney-can-coney-islands-revival-fix-years-neglect/>.

⁵ Pomoroski, *Carnival Games*.

Right now, the EDC has another opportunity to support an innovative local initiative – this time, a cooperative of small business owners and workers in the automotive business in Willets Point, Queens. When Mayor Bloomberg announced plans to redevelop the area in 2007, many wondered what would become of the small local businesses that stood to be displaced by the planned project, many of which are operated by working-class Latino immigrants.⁶ Hoping to protect the thriving businesses they had spent years establishing, a group of residents in the automobile industry approached the EDC to craft a plan for relocation from Willets Point. With the assistance of the Community Development Project, this group united as the Sunrise Cooperative, formally incorporated, and secured a new space in the Bronx that will allow them to keep their businesses close together while growing as a collective enterprise. After seven years of negotiations, we are close to reaching an agreement with the EDC, but we are at a critical moment. Our clients have waited years to reach a deal with the City, and as the pressure to relocate continues to mount, they will not be able to hold out for a solution very much longer. But the EDC has the power to write a happy ending for the Sunrise Cooperative and to begin to rewrite the tale of two cities. With just \$7.45 million in project support, the EDC can secure the futures of these fifty businesses and the many workers, families, and New Yorkers who depend on them.

Research has shown that supporting small businesses is not just good for public relations – it is vital for the City’s economic growth. Big-ticket development projects “actually take[] money out of neighborhoods”⁷ when global retailers and grocery chains displace more local businesses and jobs than the new projects help to create.⁸ Jobs created through projects that focus on mall development or tourist attractions “are [also] notoriously low-paying and dead-end and usually result in high turnover rates.”⁹ In contrast, small businesses generally create more and better jobs, and their deep ties to the community ensure stability in the long-term.

The Way Forward

Nearly every major development project in the city benefits from City subsidies such as tax abatements, bond financing, publicly funded transit improvements, and low-cost land. The EDC can leverage these subsidies to require developers to create local jobs and other benefits that will accrue directly to impacted communities. At the same time, the EDC should partner more closely with local people and extend more support to small businesses, which often do not have access to the credit they need, limiting growth.¹⁰ Finally, the EDC must take a hard line with developers who fail to create promised jobs and other local benefits. A 2012 study of tax

⁶ See *Off Point: the Destruction of Immigrant-Owned Businesses and Low-Wage Jobs in the Willets Point Section of Queens*, URBAN JUSTICE CENTER (Sept. 2009), https://cdp.urbanjustice.org/sites/default/files/willets_22sep09.pdf.

⁷ Tom Angotti, *NEW YORK FOR SALE: COMMUNITY PLANNING CONFRONTS GLOBAL REAL ESTATE* 40 (2008).

⁸ Numerous studies have shown that big-box retailers often destroy more jobs than they create, driving locally owned businesses out of business and putting people out of work. See e.g. Steven Barrison, *Study Proves It: Walmart Super-Stores Kill Off Local Small Businesses*, NEW YORK DAILY NEWS (May 4, 2011), <http://www.nydailynews.com/new-york/brooklyn/study-proves-walmart-super-stores-kill-local-small-businesses-article-1.140129>.

⁹ Angotti, *NEW YORK FOR SALE*, *supra* note 7.

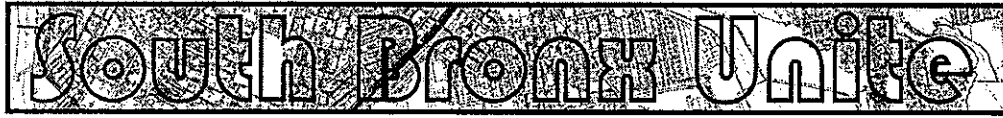
¹⁰ *New York Fed’s New Small Business Poll Shows Evidence of Credit Demand; Cash Flows for Small Businesses Key to Credit Approval*, FEDERAL RESERVE BANK OF NEW YORK (Oct. 18, 2010), http://www.ny.frb.org/newsevents/news/regional_outreach/2010/an101018.html.

breaks managed by the EDC revealed that the EDC failed to properly evaluate entities selected for public assistance, neglected to monitor the companies to ensure that promised jobs were created, and opted not to terminate public benefits even after the companies had become noncompliant with job creation goals.¹¹ The EDC under the de Blasio administration must and should do better, and must take back public funds when developers fail to deliver. Any customer expects to get what it pays for. The people of New York deserve no less.

The EDC has a valuable public mission, and it could do much to eliminate the gap between the “two cities” we now live in. By supporting small, locally-owned businesses and innovative grassroots projects like the Sunrise Cooperative, the EDC can help begin a new chapter in the economic development of New York’s most distressed neighborhoods.

In closing, I would like to thank the Committee for the opportunity to give testimony today. Please call me at 646-459-3027, or email me at aweibgen@urbanjustice.org, if you have any questions.

¹¹ According to the study, “Of the \$497 million in tax breaks that 576 companies received under the IDA’s supervision [in fiscal year 2009], more than half — \$318 million — went to 334 companies that failed to meet their job retention and creation obligations. *Liu: EDC Subsidizes Empty Job Promises*, N.Y.C. COMPTROLLER (Mar. 19, 2012), <http://comptroller.nyc.gov/newsroom/liu-edc-subsidizes-empty-job-promises>.



Testimony of Arthur Mychal Johnson | mychaljohnson@gmail.com | 212.810.0862

My name is Arthur Mychal Johnson. I am a resident of the Mott Haven neighborhood in the South Bronx and cofounder of South Bronx Unite. I am here to give testimony in support of City Council oversight hearing on tax payer subsidy disbursements of the EDC to corporations for job creation and economic development.

Almost three years ago, the Economic Development Corporation's industrial development arm, the IDA, answered a call from then Mayor Bloomberg and Governor Cuomo, who publicly announced their joint intention to give nearly \$127 million in taxpayer subsidies to FreshDirect, the online grocery warehousing company. Even though public hearings were to take place in the coming days, our Mayor and Governor proclaimed success before examining the effects of putting another diesel trucking company on public waterfront flood land in the South Bronx, where 1 in 5 children have asthma.

Not one dollar of city subsidies have yet been given to FreshDirect, and this administration can stop this deal. City council can stop this deal.

Back in 2012, then Comptroller Lius pointed out that the FreshDirect \$127 million subsidy would equate to more than \$100,000 per job promised to be created by FreshDirect. Even more concerning is the fact that only a very small percentage of the proposed subsidies are actually tied to job creation. If FreshDirect does not create even one of its promised jobs, the company would still keep over \$100 million of the subsidies.

And, despite this being one of the largest pending corporate subsidies in New York City history, the company is not required to pay a living wage to its workers, where nearly half of its workforce is making \$8 - \$9 an hour. FreshDirect has an alarming record of discriminatory and unfair labor practices and is currently being sued by its workers in a class action for more than \$23 million in unpaid tips and wages.

This is the company that then Mayor Bloomberg proposed to give \$127 million, and during the final month of his administration, the amount of subsidies was mysteriously raised to \$140 million with no public record of a vote on the matter.

And our city government is proposing to give this money to FreshDirect to move its diesel trucking operation from LIC, Queens to the South Bronx, bringing more than 3,000 vehicle trips and 1,000 diesel truck trips through our South Bronx community every single day. Our community is notoriously known as "asthma alley" because of poor policy decisions by our city and state governments for more than 5 decades, disproportionately burdening our community with a subsidized oversaturation of waste transfer stations and industrial and diesel truck intensive businesses without examining the impact on our health.

In the case of FreshDirect, the EDC and IDA staff oversaw and approved a cursory environmental assessment that relied on a full environmental impact statement that is 21 years old. EDC and IDA concluded that a thousand additional diesel truck trips and more than 3000 vehicle trips daily would not



Testimony of Arthur Mychal Johnson | mychaljohnson@gmail.com | 212.810.0862

negatively impact local residents, despite the fact that we already suffer asthma hospitalization rates 21 times higher than other New York City neighborhoods.

The residents of this city require laws and oversight to ensure that our tax dollars are creating living wage jobs that are bound to actual job creation. We cannot rely on the proposed recipients of these tax subsidies to evaluate the impact of their projects on the lives of city residents. We can't pay the fox to secure the chicken coup.

As you've heard from my testimony, the subsidy package to FreshDirect has grown from \$127 million to \$140 million without the light of day. What are the consequences this City Council is prepared to levy, including with respect to the new executive order on living wage?

Finally, our economic development revenue dollars after Superstorm Sandy should not pay for warehouse construction in flood zones. I thought we all learned this is unsustainable; every other waterfront community is developing green landscapes and open spaces as a major part of economic development. We deserve better and, to protect the health and well-being of our residents, we can no longer accept the subsidized relocation of what the city does not want in its own back yard.



11 Park Place, #701
New York, NY 10007
www.goodjobsny.org
212.721.4865

Testimony before the New York City Council Committee on Economic Development

Oversight: Evaluating the Effectiveness of Tax Incentives Offered by the New York City Economic Development Corporation.

October 2, 2014

Comments of Elizabeth Bird, Good Jobs New York

Good afternoon Chairman Garodnick and committee members. Thank you for the opportunity to testify today. My name is Elizabeth Bird and I am the Project Coordinator of Good Jobs New York, a project of Good Jobs First based in Washington, DC in partnership with the Fiscal Policy Institute.

Good Jobs New York promotes accountability to taxpayers in the use of economic development subsidies. Since our launch in 2000, we have worked to improve public participation in and transparency of these subsidy programs including our online database of over 40,000 subsidies approved by the Industrial Development Agency (IDA), the Lower Manhattan Development Corporation and the Industrial and Commercial Incentive Program. Our Database of Deals is available on our website, www.goodjobsny.org.

As a subsidy watchdog and provider of technical assistance to community-based organizations, GJNY has had a unique view of economic development in this city throughout the Bloomberg Administration. In that time, there has been progress in transparency, especially at the New York City Industrial Development Agency thanks to the council's passage of Local Law 62 and administrative actions taken by the agency that expanded its public hearing process and required greater data accessibility.

The time is ripe for a deep and comprehensive review of the New York City Economic Development Corporation and I applaud this committee for initiating this important oversight and beginning the process of demanding greater accountability in the outcomes of subsidized projects, and in the process of allocating subsidies.

In your review of the effectiveness of the EDC, we offer three main points to consider:

Review the EDC's contract with the Department of Small Business Services

We recognize that the Economic Development Corporation has limited oversight from the New York City Council, but we urge this committee to work closely with the City Council Committee on Small Businesses to oversee the EDC's contract with the Department of Small Business Services. This contract defines EDC's resources to undertake such massive development projects and provides the best leverage point to require greater accountability from EDC.

The city's contract with EDC should ensure that subsidized developments help, not hurt communities and small businesses, create good, permanent jobs and improve the environment of our neighborhoods. Every economic development project should have clearly defined community benefits incorporated in their initial project materials. Such benefits should include benchmarks for job creation and other investments in infrastructure, open space, or education.

To ensure that all EDC subsidized projects create and maintain public benefit, mandatory recapture policies should be in place for all subsidy programs that provide a benefit that lowers the cost of doing business for corporations. Commercial growth projects through the IDA, for example, have no standard recapture provisions.

Require a more inclusive decision-making process for how EDC selects projects to promote.

As the system exists today, a community's concerns about a development project – and the impacts or outcomes it will have – are a mere afterthought. Community needs are not assessed in the cost/benefit analysis required for subsidized projects. Even though IDA subsidized projects do require a public hearing, this hearing happens so late in the authorization process that it provides no real opportunity for the community to express concerns or change the course of a project's plan. The EDC does not hold public hearings for its projects.

A more inclusive process should include the following:

1. **The board of directors at both IDA and EDC should have a voice representing the needs of low-income communities and other stakeholders affected by large economic development proposals.** EDC's projects affect neighborhoods throughout the city, and yet its board of directors does not reflect the diversity of incomes in this city. A more socially responsible corporate board structuring that reflects the communities that need economic development would enable a more informed conversation about how developments may impact a

community. Also, while IDA has a board appointee from the Comptroller's Office, the EDC board of directors does not.

2. **Community boards could play a greater role in reviewing EDC proposals before they are authorized by the board.** Community leaders are often the last to know about a proposed development and given little time to review specifics of a proposal, forcing last minute efforts to negotiate community benefits that have no reliable enforcement mechanisms. Accountable and fair development happens only with communities' oversight.
3. **Make economic development proposals more transparent to communities.** Communities should be given access to a project's cost/benefit analysis at least thirty days in advance of required public hearings. And when appropriate, depending on the size of the subsidy or impact on a community, hearings should be held in the community where the development is proposed. The public hearing process must also be expanded to include EDC proposals.

To give an example of the need for a more inclusive decision-making process, consider the proposal for online grocer FreshDirect to move from its subsidized home in Long Island City, Queens to the Harlem River Yards in The Bronx and receive a \$128 million subsidy. [The February 7, 2012 press release announced the subsidy two days before the Industrial Development Agency's public hearing on the project and failed to mention that a public hearing and vote by the board of directors was necessary for the project's approval.¹ As documented by South Bronx Unite, community members, including members of Bronx Community Board 1, were not informed of the proposal.]

FreshDirect's proposal failed to address the employment, housing and environmental justice needs of within the community – concerns that should have been raised early in the process. FreshDirect's business model relies on thousands of daily truck trips, and yet the proposed location in the South Bronx is an area already overburdened with traffic and air pollution that exacerbates some of the highest asthma rates in the city. Additionally, like many retailers, its wages are low.² And because there was no consideration from the community's point of view, this has become another contentious project forced onto a community in the name of 'economic development.'

In another troubled project in the South Bronx, by the time the Yankee Stadium proposal held any public meetings city officials were clearly already committed to the project, rendering the public meetings useless. The city and state had already alienated the parkland the Yankees wanted via a "message of necessity" which ensured the deal would move forward as the team had envisioned.³ It was evident that the required hearings, including those for land use changes and subsidies were merely a formality rather than a means for the community to change the course of the Yankee's plan.

¹ <http://www.nycedc.com/press-release/mayor-bloomberg-governor-cuomo-and-borough-president-diaz-announce-fresh-direct-open>

² 36% of Fresh Direct workers earn less than \$25,000 a year, 37% earn between \$25,001 and \$40,000. More wage and employment data in Local Law 62 FY13 report.

³ More details on the Yankee deal is on our website: goodjobsny.org and in our report, "Insider Baseball: How Current and Former Public Officials Pitched a Community Shutout for the New York Yankees".

The Bronx is home to two examples of the unbalanced process of pushing forward economic development projects in the city, but there are numerous other developments that would likely have had a much different outcome had there been a more inclusive, community-based process: Brooklyn Atlantic Yards, Albee Square (aka City Point), Manhattan's Far West Side, Willets Point and Citifield to name a few.

Establish stronger requirements for the outcomes of subsidies

Thanks to reporting standards established at the NYCIDA, notable for being a best practice among similar agencies across the nation, we have a decent idea of how many jobs are reported at firms that receive IDA subsidies, and some details that imply what kind of jobs they are. (Unfortunately, EDC does not report with such detail the outcomes of all its projects – and the projects EDC funds outside of the IDA should be included in its annual investment projects report pursuant to Local Law 62.) What we can tell from looking closely at the data is that we can do better.

For example, in 2009 the New York Yankees received a subsidy of about \$55 million from the IDA to move their stadium across the street to its current location (hundreds of millions more in public dollars were awarded to the firm for this project through other city, state and federal tax breaks⁴). And yet, for all the public money that went to this project, the new Yankee Stadium reports just 6% full-time permanent jobs.⁵ The majority are low-wage, part-time, seasonal jobs. And let's not forget that the bonds allocated by the IDA for the already heavily subsidized Stadium parking garages built on city park land (fiercely protested⁶ by planning and transportation groups) are now in default.⁷

These are certainly not the type of jobs the city should be investing in, particularly at a time when our city's resources are badly needed for greater infrastructure and climate resiliency improvements, investments in education, and ensuring a more livable city – investments that will benefit all companies, not only wealthy firms that may not be good stewards of city resources.

Thank you.

⁴ A breakdown of the subsidies awarded to the Yankee's can be found here:

http://www.goodjobsny.org/sites/default/files/docs/yankee_public_costs_january16.pdf

⁵ Jobs data per Local Law 62, FY13: Jobs total 3,740, Full time permanent jobs 229.

⁶ http://www.tstc.org/press/2006/032206_Sign-on_Letter_to_Speaker_Quinn-Yankee_Stadium.html

⁷ <http://www.nydailynews.com/new-york/yankee-stadium-garage-company-strikes-opening-day-article-1.1305278> and <http://goodjobsny.org/economic-development/yankee-stadium-and-mets-citifield#parking>



50 Broadway, 29th Floor
New York, NY 10004

T 212 631 0886
F 888 370 3085

www.ALIGNny.org

**Testimony to the New York City Council Committee on Economic Development
regarding the NYC Economic Development Corporation
October 2, 2014**

Good afternoon. Thank you for the opportunity to provide testimony today. My name is Josh Kellermann and I am a Senior Researcher and Policy Analyst at ALIGN: the Alliance for a Greater New York. ALIGN is permanent alliance of community and labor organizations united for a just and sustainable New York.

For the last seven years, ALIGN has worked with a broad coalition of labor, community, faith, environmental and good government groups to make New York's economic development system more just, transparent and accountable. During this time, the EDC has made important improvements in its transparency and job standards, particularly through LL62 reporting and the Living Wage law. However, additional reforms are both feasible and necessary to facilitate economic development that creates good jobs, reduces greenhouse gas emissions, and moves NYC towards a sustainable economy.

It should be noted that the City Council lacks certain powers to directly reform the EDC. However, there is ample opportunity to leverage reforms through calling oversight hearings like this one, approving the budget for Small Business Services (SBS) that then leads to the contract between SBS and the EDC, and through the Speaker's appointment of 5 members to the EDC board. It should also be noted that the EDC staffs the NYCIDA. It is often unclear where one entity ends and the other begins. Any reform should ensure that one of these entities cannot be used to avoid compliance with the reformed rules.

ALIGN suggests the following six reforms to the EDC:

1. The EDC should have a mandatory clawback policy for all subsidy recipients.
 - a. Currently the EDC has different clawback policies for commercial and manufacturing projects, with commercial projects lacking any standard.
 - i. Manufacturing projects have a very specific, uniform clawback policy that is triggered by several circumstances, such as liquidating assets, or falling below agreed upon employment levels.
 - ii. Commercial growth projects, on the other hand, have no standard recapture policy:
 1. The Uniform Tax Exemption Policy (UTEP) states: "For Commercial Growth Projects, the Staff in its sole discretion, upon approval by the Board, shall determine the nature of recapture events." This voluntary clawback policy should be updated and made mandatory.

2. Project reporting should be expanded:
 - a. Project specific data via Local Law 62 should be expanded to include all EDC projects, not just projects financed by the Industrial Development Agency (IDA).
 - i. The EDC currently produces two project specific reports:
 1. The PARIS annual report (produced for the state-level Authorities Budget Office) covers only EDC projects and is lacking in many project details.
 2. The LL62 report (produced for NYC), covers only IDA projects and has over 100 columns of information, although it lacks certain details that are essential to accurate project assessment.
 - ii. The EDC should ensure that every project it funds is included in the LL62 report.
 - b. In addition, the LL62 report should be expanded to include:
 - i. A summary of each project. Currently, LL62 reporting has only generic information on each project that does not describe in sufficient detail the purpose of each project.
 - ii. A link to each project's "cost-benefit analysis," "project description," and "financial assistance agreement."
 - iii. A list of all other city, state and federal funding that is being used for each project.
 - c. The EDC's Land Sale Spreadsheet and Land Lease Spreadsheet should be expanded to include not only the actual sale and lease price of the land, but also the fair market value of the land.
 - d. The EDC should develop a concise, project-specific budget that explains how city funds in the SBS contract will be used. This project budget should be provided to the New York City Comptroller, NYC Council, and be made available to the public prior to approval of the contract by the Comptroller.
3. The quarterly report on PILOT payments provided to the Speaker's office by OMB should be available to the public, and should ensure accurate reporting.
 - a. Clarification should be made about where PILOT funds authorized by the NYCIDA are held: which payments are held in the city coffers and used in the general fund, and which are held in separate bank accounts and are allocated by the EDC.
 - i. All PILOT funds, whether in the city coffer or in EDC bank accounts should be clearly identified and documented.
4. The EDC should incorporate best practices of socially responsible corporate board structuring by doing the following:
 - a. Ensure participation on the EDC board by representatives of community groups that represent affordable housing, economic equality, labor, or other social and environmental justice organizations.
 - i. The structure of the board is created through the EDC Bylaws, and therefore does not have to be changed through state law, but can be changed at the local level.
 - b. Actively soliciting community, housing, labor and environmental input for specific projects being considered for development in their neighborhoods.

5. The EDC should adopt economic impact criteria beyond its current cost-benefit analysis
 - a. The EDC employs the RIMS II (Regional Input–Output Modeling System) model to determine whether a proposed project’s benefits outweigh its costs. RIMS II does not take into account the full range of costs that a project will generate.
 - i. The EDC should adopt a Fiscal Impact Analysis, which includes an analysis of the impact of the project on the “triple bottom line.”
 1. Considerations should include impact on carbon emissions and NYC’s 80x50 goal, impact on existing wage standards such as where a project might undermine the prevailing wage, cost of the social safety net to support low-wage workers, as well as costs of additional services related to education, public works, public safety, parks and recreation, public health, and so forth.¹
 - ii. Include all public expenditures in this analysis, specifically identifying public infrastructure investments that are intended to benefit each project.
 - b. The EDC should not finance residential projects that lack affordable housing components.

These reforms will help move the EDC in line with the priorities of the Council and Administration, as well as with the public who have been demanding such common sense economic development policy for decades.

Thank you for your time.

¹ For a thoughtful analysis of cost-benefit analyses, see: Analyzing the Benefits and Costs of Economic Development Projects, Jonathan Morgan, University of North Carolina Chapel Hill, Community and Economic Development Bulletin, No. 7, April 2010, at <http://sogpubs.unc.edu/electronicversions/pdfs/cedb7.pdf>

**Increasing EDC and NYC IDA Online Transparency
Recommendations for the Economic Development Committee Oversight Hearing
October 2, 2014**

Prudence Katze - Policy Coordinator, Reinvent Albany

Good afternoon, my name is Prudence Katze and I am the Policy Coordinator for Reinvent Albany, which co-chairs the New York City Transparency Working Group.

Thanks to the tenacity of Good Jobs New York and other advocates, the EDC has made major strides towards making its activities more transparent. However, the overall goal is to make it as easy as possible for the public and City Council to see what the EDC and IDA are doing with public property and funds. A clear and transparent process allows us to better understand how well EDC subsidies are working, and ensure that investments are not at risk for corruption.

We have four basic requests for improving EDC Online transparency:

1) Create a unified database of “deals” facilitated by the EDC and the IDA which includes all forms of subsidies to a business or project.

It is still murky how subsidies are distributed and to what entities they go to. EDC needs to create a single database which includes all forms of subsidies provided by the EDC and the IDA and is downloadable in a CSV, or other machine-readable, format. This database should have a bottom line total subsidy value which includes, the full market value of land sales and land leases, discretionary funding distribution, tax-abatements, and other financial incentives. Currently, some of this information is published online in separate spreadsheets, and some information, like operating subsidies, are not publicly viewable at all.

2) Fully share EDC and IDA data with NYC Comptrollers Checkbook NYC website.

We commend the EDC for the initial step of sharing its data with the Comptroller's Checkbook NYC site. However, we would also like to see IDA data represented, as well. Checkbook NYC is an important repository because it is equipped with an API which allows data to stream immediately into websites maintained by watchdog groups. We would also like to see the actual vendor names in Checkbook NYC to which payments and contracts are made to. As of today, there are 387 spending transactions listed under the EDC section of Checkbook NYC, and 198 are under “To Be Announced.” That means that over half of the vendors are anonymous.

3) Release EDC and IDA data on NYC's Open Data Portal

Real Estate listings, Economic Snapshot data, and other tabular data available in a spreadsheet form should be published on the city's Open Data Portal to ensure its maximum availability and use.

4) Webcast EDC Board Meetings as the IDA started doing as of this year

We believe that a culture of transparency is best fostered by example on the leadership level. We request that EDC board and committee meetings be webcast live and archived for later viewing. As of this year, the IDA started to webcast and archive their board meetings, while the EDC meetings are currently only archived via .pdf meeting minutes.

Thank you for giving me this opportunity to testify.

**THE COUNCIL
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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: _____

Name: A. Michael Johnson (PLEASE PRINT)

Address: _____

I represent: South Bronx Unit

Address: Bronx, NY

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Name: GAVIN KEARNEY (PLEASE PRINT)

Address: 151 W. 30TH STREET NY NY

I represent: NY LAWYERS FOR THE PUBLIC INTEREST

Address: _____

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Stopping Subsidies to Fresh Direct 10/2/14
Date: _____

Name: HARRY RUBBINS (PLEASE PRINT)

Address: _____

I represent: South Bronx Unit

Address: P230x 301 Bx NY 10454

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(PLEASE PRINT)

Name: Adrien Weibgen

Address: 123 William St. 16th fl, 10038

I represent: Urban Justice Center - Community Dev. Project

Address: 123 William St. 16th fl, 10038

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ending subsidies for FreshDirect
Date: 10/2/14

(PLEASE PRINT)

Name: Lily Kesselman

Address: 441 East 139 Street Bronx NY

I represent: South Bronx Union, South Bronx Farmers Market

Address: same

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Date: 10/2/14

(PLEASE PRINT)

Name: Bruce Rosen

Address: 600 WEST END AVE, NY, NY 10024

I represent: United for Action

Address: _____

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(PLEASE PRINT)

Name: Christine Austria

Address: 949 West End Ave

I represent: South Bronx Unite

Address: Brook Park - 140th & Brook Av 10454

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Date: 10/2/2014

(PLEASE PRINT)

Name: Prudence Katze

Address: 148 Lafayette st, 12th Floor

I represent: Reinvent Albany

Address: _____

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Date: 10/2/2014

(PLEASE PRINT)

Name: Elizabeth Bird

Address: 11 Park Place #701

I represent: Good Jobs New York

Address: _____

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(PLEASE PRINT)

Name: Robert LaPalma
Address: NYCEDC 110 William Street NY NY

I represent: New York City Economic Development Corp.
Address: 110 William Street NY NY

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(PLEASE PRINT)

Name: Joe Coletti
Address: 110 William

I represent: EDC
Address: _____

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Name: Jeffrey Lee (PLEASE PRINT)

Address: 46 Prospect Park SW, Brooklyn, NY

I represent: NYCEDC / NYCIDA

Address: 110 William St., NY NY 10038

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Date: _____

Name: Josh Kellermann (PLEASE PRINT)

Address: 443 Eastern Pkwy Brooklyn NY

I represent: ALIGN

Address: 70 Broadway 29th Fl NY 10004

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