

**COUNCIL ON DEVELOPMENT FINANCE**  
**October 22, 2012**

**PUBLIC HEARING 388**

**THOSE PRESENT:**

Mr. Andy Lubin, Chairperson  
Steve Biener, Esquire  
Honorable Nancy Cook  
Mr. Jack Riddle  
Representative Darryl Scott  
Mrs. Richelle Vible

Director Alan Levin  
Mrs. Rachael Mears  
Mr. Stephen Bach  
Ms. Cassie Robbins  
Mrs. Lee Porter  
Ann Marie Johnson, DAG  
Mrs. Bernice Whaley  
Mr. Tim McLaughlin  
Mr. Joe Zilcosky  
Ms. Nikki Lavoie

**ALSO PRESENT:** **Archmere Academy, Inc.** – Mr. John Cirillo, Emilie R. Ninan, Esquire with Ballard Spahr and Sandra Massa with PNC Bank; **Kaizen Karate Academy, Inc.** – Mr. Patrick Preece, and Ms. Lynne Schaefer with Dover Federal Credit Union; **CrossFit Dover** – Mr. George Dobbins, and Ms. Lynne Schaefer, Dover Federal Credit Union; **Berkley Technology Services Inc.** – Mr. Josh Polan; Ms. Courtney Stewart, Controller General’s Office; Mr. Adam Danin, OMB and Mr. Richard Matoni - Intern, Attorney General’s Office

**LOCATION:** Buena Vista, 661 South DuPont Highway, New Castle, Delaware 19720

**TIME:** 9:00 A.M.

**CALL TO ORDER**

The meeting was called to order at 9:00 A.M. by Chairman Lubin, on Monday, October 22, 2012.

**OLD BUSINESS:**

Mr. Biener made a motion that the minutes for the September 22, 2012 Council on Development Finance meeting be approved as presented. Mr. Riddle seconded the motion which was then adopted by unanimous vote.

**NEW BUSINESS:**

**Archmere Academy, Inc., a Delaware corporation and 501(c)(3) organization exempt from federal income taxes (“Archmere” or the “Applicant”)** – Archmere is

requesting approval of the issuance of industrial revenue bonds in an amount not to exceed at any time outstanding \$15,000,000, exclusive of original issue. The proceeds of the revenue bonds (the "Series 2012 Bonds") will be issued in one or more series of tax-exempt and taxable bonds, to fund a project consisting of: (a) the refunding of the outstanding amount of The Delaware Economic Development Authority, Variable Rate Demand Revenue Bonds (Archmere Academy, Inc. Project) Series 2006 (the "2006 Bonds") and (b) the costs of issuance of the 2012 Bonds. The proceeds of the 2006 Bonds were used for one or more of the following undertakings: (1) various capital projects of the Applicant (collectively, the "Project") including, (a) the construction of a new Student Life Center which will include a new dining hall and other facilities to provide student related services such a guidance, career counseling, wellness, discipline and the main office, (b) improvement to athletic facilities including creation of a new community fitness center, new locker rooms, new campus playing fields, re-grading of the upper soccer field and a new field hockey and softball complex, (c) renovations to the Diny Science Center (the "Science Center") which will include development of certain ground floor space into a meeting room and two multi-media classrooms and the addition of a two-story physics laboratory and (d) the addition of parking spaces, water drainage improvements and the construction of a storage building to house the maintenance department; (2) the refinancing of a loan in the amount of approximately \$3 million which originally financed certain improvements to the Science Center; (3) capitalized interest; (4) the costs of credit enhancement, and (5) the costs of issuance of the bonds. Discount, for its facility located at 3600 Philadelphia Pike in Claymont, Delaware 19703. The Project will be owned by the Applicant and/or an affiliated organization.

Mrs. Mears presented this request to the Council. Mrs. Ninan stated that the Authority issued industrial revenue bonds in 2006 for a capital project. She added that the original bonds were structured with a variable rate and a Letter of Credit. Mrs. Ninan stated that with this 2012 issue, they will not have a Letter of Credit and the new issue will pay off the old bonds which will be purchased by PNC. She stated that this financing is a typical 501 (c) project whereby the funding is backed by the credit of the bonds.

Mr. Cirillo stated that Archmere had made a decision to restructure its financing so it would allow it to better plan for its future.

Ms. Massa stated that PNC is pleased to have the opportunity to continue its relationship with Archmere and it feels this is the best course of action for Archmere.

Mr. Riddle asked about removing the Letter of Credit but keeping the "swap". Mrs. Ninan stated that the "swap" is a variable fixed rate which will give Archmere something to hedge. She stated it would be a perfect match. She stated that the bonds would have a five year term.

Mr. Lubin asked if there were any public comments.

After duly considering, inter alia, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following finding: financing the Project will meet a need for assistance in financing the facilities and activities of the Applicant, as an exempt person within the meaning of 29 *Del. C.* §5052(8), in order to contribute to the prosperity, health and general welfare of the citizens of Delaware. Mr. Biener made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson of The Delaware Economic Development Authority, approval of an amount not to exceed Fifteen Million Dollars (\$15,000,000.00), of revenue bonds, not guaranteed by the State, to be used for the Project; and that such approval will remain in effect through and including October 21, 2013. Mr. Riddle seconded the motion, which was then adopted by unanimous vote.

**Berkley Technology Services Inc. (“Berkley” or the “Applicant”)** – The Applicant received a grant approval on July 25, 2011 to expand its data center operations at a new facility located on Bellevue Parkway in Wilmington, Delaware. The Applicant is requesting that the date for the final Capital Expenditure draw request in the Grant Agreement be extended from December 31, 2012 to June 30, 2013 and that the relocation date be extended from September 2012 until September 2013 (the “Request”).

Mrs. Whaley presented this request to the Council. She stated that Berkley Technology Services is a wholly owned subsidiary of W. R. Berkley Corporation (“WRBC”). She stated that Berkley provides a common set of transactional systems to all the companies in WRBC.

Mrs. Whaley stated that the Grant Agreement obligated Berkley to relocate its primary data center to the new facility on or before September 30, 2012 and to also make all Capital Expenditure draw requests on or before December 31, 2012. She added that however, Berkley was not able to finalize the purchase of the new building until September, 2012. Mrs. Whaley stated that is the reason Berkley is now requesting that both of these dates be extended.

Mrs. Whaley stated that if the Capital Expenditure draw request date could be extended until June 30, 2013, it would allow Berkley to perform the significant work that is needed to be performed at this facility. She stated that by extending the relocation date to September 2013, it would allow Berkley to start the move in March 2013 and which will take about six months to complete. Mrs. Berkley stated that DEDO staff supports Berkley’s request.

Mr. Riddle asked for clarification on the grant funds. Mr. Polin stated the Capital Expenditures portion of the Grant has not been funded as of yet but the relocation portion has been funded. He stated that Berkley signed the Grant Agreement about ten months ago but just signed the contract for the renovations to be done. He stated that the renovations will cost approximately \$15,000,000.

Chairman Lubin asked if this would affect Berkley's current lease. Mr. Polin stated that Berkley will have to pay lease payments or come to some kind of an agreement.

Chairman Lubin asked if there were any public comments; there were none.

Representative Scott made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of the Request, contingent upon the approval remaining in effect through and including October 21, 2013. Mr. Riddle seconded the motion, which was then adopted by unanimous vote.

**Kaizen Karate Academy, Inc. ("Kaizen" or the "Applicant")** - The Applicant is requesting a participation loan in the amount of \$10,000 from the State Small Business Credit Initiative Loan Program in conjunction with Dover Federal Credit Union. The Applicant proposes to use the funds to build out its new facility at 155 Commerce Way in Dover, Delaware (the "Project").

Mr. Zilcosky stated that Kaizen has been at a facility at Baycourt Plaza in Dover for twelve years and Mr. Preece has actually been there for ten of those years. Mr. Zilcosky stated that earlier this year, Mr. Preece purchased the company and is hoping to relocate it to a facility located off of Route 8 in Dover. Kaizen will be sharing the space with CrossFit Dover.

Mr. Zilcosky stated that this SSBCI participation loan will be in the amount of \$10,000 and Dover Federal Credit Union will be supplying the \$40,000 match for a total financing package in the amount of \$50,000.

Mr. Preece stated that he comes from a big company that has eight locations. He stated that the owner of the other company that will be sharing this space, Mr. Dobbins, has a great business plan. He stated that the two companies will be under the same roof. Kaizen teaches family karate and promotes character development. Mr. Preece stated that he feels it will be a great fit.

Mr. Riddle asked about the new building. Mr. Preece stated that it is a warehouse with store frontage. He stated that they are going to take it forty feet back – utilizing the store frontage. He added that because it is not a retail location, it will not be as expensive. He stated that the facility is in a great area. Kraft Foods is right across the street. Mr. Preece stated that a lease has been signed and applications have been put in for the permits. The lease will be for six years, with the first year being rent free. There is also an additional five year option.

Mrs. Vible asked if this type of "partnership" was something that has done before or is it Mr. Preece and Mr. Dobbins' own idea. Mr. Preece stated that Mr. Dobbins had heard of this before.

Mrs. Schaeffer stated that this is a good location and she has always heard good comments about both of these companies.

Mr. Biener asked about the employment numbers. Mr. Preece stated that he has run this business for the last ten years; it is going well and believes it should work out well. He stated that when he purchased this portion of the business from a bigger company, he has kept the student base which has grown by twenty percent. He stated that he is the sole paid employee and he does have a couple of people that assist.

Chairman Lubin asked if there were any public comments; there were none.

After duly considering, Mr. Riddle made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of this Project under the State Small Business Credit Initiative Program. Mr. Biener seconded the motion, which was then adopted by unanimous vote.

**CrossFit Dover (“CrossFit” or the “Applicant”)** - The Applicant is requesting a participation loan in the amount of \$10,000 from the State Small Business Credit Initiative Loan Program in conjunction with Dover Federal Credit Union. The Applicant proposes to use the funds to build out its new facility at 155 Commerce Way in Dover, Delaware (the “Project”).

Mr. Zilcosky presented this request to the Council. He stated that this SSBCI participation loan will be in the amount of \$10,000 and Dover Federal Credit Union will be supplying the \$40,000 match for a total financing package in the amount of \$50,000.

Mr. Zilcosky stated that Mr. Dobbins has been around for six years and this is his third location and his business is growing and he needs more space.

Mr. Dobbins stated that he has worked in this industry since 2001, and was introduced to CrossFit in 2006. He stated that he started conducting group workouts in a town park. He stated that CrossFit training is unique as it is conducted in a group setting. He stated that the concept is that you don’t walk into a conventional gym and do as you wish – you work out in a group setting. He stated that he started doing these group workouts on a Saturday morning, and then went to a couple of days a week. He stated that they moved into a 1,250 square foot facility, where they were for around two years, then they doubled that size and from there they are currently looking to double their current space.

Mrs. Schaeffer stated that Mr. Dobbins’ current facility is limiting. Mr. Dobbins stated that this new facility will give him more flexibility. He stated that CrossFit is unique because it is not a twenty-four hour facility. He stated that you walk into a structured coached setting. He stated that the members range in ages from 18 – 65. He added that they are looking to implement different programs to cater to all needs and this will require more staff. He stated that they could possibly add two positions.

Mr. Riddle stated that he was aware that there is a cross fit competition going in Lewes this week. Mr. Dobbins stated that they were able to compete for the “Cup” which they didn’t win but did well in the competition. He stated that in the last challenge, his group came third.

Mr. Dobbins stated that CrossFit is an international program which started as an online fitness club and it really grew. He stated that his club is now 89<sup>th</sup> and there are over 4,000. He stated that there are seven other CrossFit clubs in the State - Middletown, Newark, Wilmington, Lewes and Rehoboth with his being one of the seven. Mr. Dobbins stated that his facility was the first one in the State of Delaware. He stated that this is not a franchise, but an association.

Representative Scott complimented the program.

Chairman Lubin asked if there were any public comments; there were none.

After duly considering, Representative Scott made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of this Project under the State Small Business Credit Initiative Program. Mr. Biener seconded the motion, which was then adopted by unanimous vote.

**Revised Memorandum** - Mrs. Mears presented to the Council a proposed memorandum for future projects to be reviewed by the Council. She stated that new sections had been added, such as terms, sources of funds and clarification of the security position and claw backs.

Director Levin stated that DEDO would like to have a uniform form across the board which will make it easier for the Council and the staff.

Mrs. Vible asked if it was an evaluation report to be completed by the staff when it receives the information from the submitted application. Mrs. Vible asked if this form would be shared with the Applicant. Mrs. Mears stated that this memo will coincide with DEDO’s commitment letter which is prepared by a joint effort of the Business Development Unit which is the relationship manager with the applicant, Capital Resources Section and Director Levin. Mrs. Vible stated that she was thinking that if this form was given to the applicant, the applicant would make sure that they give DEDO the correct information. Director Levin stated this is more like a term sheet.

Mr. Riddle suggested coming up with a more consistent way to give the CDF members the financials/financial analysis where DEDO would spread the numbers and this could save a lot of paper currently sent to CDF members. Mr. Riddle suggested utilizing a specific computer financial program which would make it consistent and easier.

**Delaware Access Program** – DEDO is requesting approval for transferring \$250,000 of Delaware Strategic Funds to the Master Access Reserve Account (the “Request”).

Mrs. Mears also presented to the Council a newly drafted policy and procedures for the Access Program to serve as a guide on decision making. She stated that the program is geared toward all businesses. Mr. Biener asked for an explanation of how the multiplier works. Mrs. Mears stated that the lender is incentivized to build up this fund as an insurance reserve. She stated that the original idea was that the funds were to be used as incentives for minority businesses and women owned businesses. She stated that when there is a loan enrolled, the banker and/or borrower pay a fee into the reserve. DEDO will match it and if it is one of the specialized businesses, DEDO would multiply by five until that loan matures and it is pulled from the insurance reserve.

Mrs. Vible asked how wide spread in other states is the addition of veterans to the specialized business list. Mrs. Mears stated that many states are involved and that a lot of states use the Access Program, but use it differently. She doesn't know of any states that utilize the multiplier feature.

Chairman Lubin stated that because there are two members absent today, he would like to share the memo with them and discuss the policy matter at the November meeting.

Mr. Riddle asked if DEDO would be coming back to the Council for additional funds in the spring. Director Levin stated that he made the decision to go with \$250,000 at this time. He stated that he thought the Council should be given periodic updates. Director Levin stated that this is a great program and it has made a big difference. He added that the staff would like to come back quarterly to update the Council and request funds if necessary.

Chairman Lubin asked if there were any public comments; there were none.

After duly considering, Senator Cook made a motion that the Council recommend to Mr. Alan B. Levin, Chairperson, The Delaware Economic Development Authority, approval of the Request, contingent upon the approval remaining in effect through and including October 21, 2013. Representative Scott seconded the motion, which was then adopted by unanimous vote.

Director Levin stated that the staff hoped to have its audit complete for the November meeting.

**Executive Session:** Mr. Biener made a motion that the Council go into executive session to discuss strategy involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, in a matter which, if conducted in an open meeting, would have an adverse effect on the bargaining or litigation position of the Authority, and for which is not a public record within the meaning of Section

10002 of Title 29 of the *Delaware Code*. The motion was seconded by Mr. Riddle which was then adopted by unanimous vote.

Mr. Riddle made a motion that the Council go out of executive session. The motion was seconded by Mr. Biener which was then adopted by unanimous vote.

**ADJOURMENT**

The meeting adjourned at 10:20 A.M.

Respectfully submitted,

Lee Porter, Secretary

LKP

Cc: Members of the Council on Development Finance  
Director Alan Levin  
Ann Marie Johnson, Esquire

The next CDF meeting is scheduled for Monday, November 26, 2012 at 9:00 A.M. at Buena Vista.