



MARYLAND

## 2010 ADVOCACY AGENDA

*build green | everyone profits*

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## MESSAGE FROM THE CHAIR

October 9, 2009

To our elected officials:

At an increasing rate, governments across the country are enacting green building laws that seek to articulate environmental solutions and energy policy. Many of these laws are being enacted in part as a response to the overwhelming public sentiment that government has not done enough to protect the planet. Thus far, the State of Maryland has been a leader in the green building movement, but there is more that we as a state can do to reduce our carbon footprint. The initiatives set forth in the 2010 advocacy agenda promote sustainable goals that can solidify Maryland's position as a leader in green building.

Given the current economic climate, the advocacy agenda is rather modest. Even so, green buildings cost less to operate and government, as well as private building owners, can save money by engaging in sustainable development practices. This agenda is by no means a comprehensive treatment of the broader subject of green building. The USGBC Maryland Chapter's goal is designed to assist you in moving forward with your legislative duties in the coming months.

This document is the product of months of work by various representatives from more than 600 member-businesses across the State. The positions outlined in the agenda represent the views of a new environmental community, which ranges from the State's largest real estate construction firms to proprietors of home based environmental consulting firms.

The Board of Directors thanks all of the members of the Advocacy Committee, without whom this agenda would not have been possible, and we look forward to working with you in the months ahead.

Sincerely,

A handwritten signature in black ink that reads "Rex Wright, PE". The signature is written in a cursive style.

Rex Wright,  
Johnson Controls



## MESSAGE FROM THE ADVOCACY CHAIRS

October 9, 2009

To our elected officials and all readers:

As the co-chairs of the USGBC Maryland, Advocacy Committee, we are proud to present the 2010 advocacy agenda.

For those unfamiliar with our organization, the U.S. Green Building Council is committed to a prosperous and sustainable future for our nation through cost-efficient and energy-saving green building. With a community comprised of 78 local affiliates, over 20,000 member companies and organizations, and more than 131,000 LEED Accredited Professionals, the USGBC is the driving force of an industry that is projected to soar to \$60 billion by 2010.

The impetus behind the green building industry is due in large part to the staggering impact that buildings have on the environment. Buildings in the United States are responsible for 39% of CO2 emissions, 40% of energy consumption, 13% of water consumption and 15% of GDP per year. Greening America's buildings presents a significant economic and environmental opportunity. Increasing building efficiency in the United States can meet 85% of future domestic demand for energy and has the potential to generate an estimated 2.5 million additional American jobs.

Through the 2010 advocacy agenda, the Co-Chairs of the Maryland affiliate of the USGBC's Advocacy Committee welcome the opportunity to work with you to establish Maryland as a frontrunner in green building and sustainable practices.

Sincerely,

A handwritten signature in cursive script that reads "Joe Maheady".

Joe Maheady  
Advocacy Committee  
Board Co-Chair

A handwritten signature in cursive script that reads "Marc Shaener".

Marc Shaener  
Advocacy Committee  
Board Co-Chair

A handwritten signature in cursive script that reads "Adam Baker".

Adam Baker  
Advocacy Committee  
Member Co-Chair



## HIGHLIGHTS FROM OUR STATE INITIATIVES

### **ENERGY LABELS**

Buildings use 74% of all electricity in the U.S. The Maryland government can raise awareness of the need to reduce energy use by requiring that all government (state and local) buildings measure and publicly post their respective Energy Star rating.

### **GREEN ROOFS**

New government buildings in Maryland are currently required to achieve a minimum of LEED Silver certified. Require those buildings, and any roof replacement on existing buildings, to have no less than 50% green roof coverage (a vegetated roof or appropriate reflective white roof). Such measures can be incorporated in a cost effective manner.

### **EXPAND GREEN BUILDING PROGRAM**

To reduce building operating costs, expand the existing State green building law to require that all construction on State owned or leased land achieve a minimum of LEED Silver or equivalent certification. Require that all capital projects funded with state money (in any amount) meet the same requirement. Expansion of the existing Act beyond wholly state-owned and funded buildings will reduce building operating costs and help achieve the State's energy and carbon emission reduction goals.

### **STATE RENEWABLE ENERGY CREDIT**

By 2022, 20% of Maryland power must be from renewable sources. Require that 20% of those Renewable Energy Credits (RECs) purchased by utilities in Maryland and 25% of solar RECs be derived from sources within Maryland. This will stimulate the production of renewable energy in Maryland.

### **HEALTH CARE – GREEN BUILDING**

Expand the existing State green building laws to require that construction of hospitals funded with state money, whether in part or in whole, achieve a minimum of LEED Silver or equivalent certification. Require that the State's policy for the Certificate of Need include specific requirements according to the LEED standards, as appropriate.

### **GRAYWATER RECYCLING SYSTEMS**

Water reuse strategies, including the use of storm water, are a key component of water conservation. Such measures are necessitated by the lack of potable water in some areas and overloaded sewerage treatment plants in other locales. Enact legislation prohibiting local governments from banning the use of Graywater in local codes.

## HIGHLIGHTS FROM OUR LOCAL INITIATIVES

### **CREATE CLEAN ENERGY LOAN PROGRAMS**

The 2009 General Assembly authorized local governments to establish local Clean Energy Loan Programs for assisting residential and commercial property owners in financing certain energy efficiency and renewable energy projects through property tax bills. With rising interest in energy efficiency and increased access to renewable and energy efficient products, now is the time to implement this initiative at the local level.

### **AMEND MASTER PLANS TO BE CONSISTENT WITH LEED-ND**

State law now requires local zoning laws be changed such that conditional uses authorized in a zoning ordinance must be "consistent" with the local master plan. Local governments' master plans or general plans should specifically incorporate the principles of the U.S. Green Building Council's LEED for Neighborhood Development Rating System (LEED-ND) in order to ensure that sustainable design practices are fostered in Maryland.



### State Initiative

#### ENERGY LABELS

**ISSUE:** Buildings use a staggering 72% of all electricity in the United States. Maryland can raise public awareness of the need to reduce energy use by requiring all government (state and local) buildings to measure and post that building's respective Energy Star rating at the front door.

In a recent announcement by Maryland's Department of General Services, Maryland has launched a program to provide a database that collects and publishes information on power and water consumption in state buildings. While the database will provide a baseline for the state's utility use and thereby assist in gauging progress under Governor Martin O'Malley's EmPower Maryland goal—a 15% reduction in energy use by 2015—having the information available at each building's front door will provide a more accessible means for the general public to discern a government building's overall energy usage.

**BACKGROUND:** Increasing energy transparency in government buildings will raise the public consciousness about energy use and will provide the state and local governments with an opportunity to lead by example. It also has the potential to encourage private sector building owners to imitate the initiative. The effort is consistent with Governor O'Malley's EmPower Maryland goal and takes the Department of General Services' database program a step further. It is a low or no cost program.

Under the initiative, the government would post each building's respective Energy Star rating using the free online EPA Energy Star Portfolio Manager software. The law would be phased in over one year for all state buildings over 100,000 square feet; over two years for all other state and county buildings, including schools; and at the time of lease initiation or renewal for space leased by the government.

**TALKING POINTS:** This program will provide information to the public regarding the energy usage of government buildings in an easy to understand manner. In addition, it will demonstrate Maryland's commitment to energy efficiency, raise overall awareness of energy usage in state buildings and potentially prompt private sector developers to post similar information in their projects.

**POLICY POSITION:** We urge the state, and every county and municipality therein, to enact ordinances mandating energy labels on government buildings within their respective jurisdictions.



## State Initiative

### STATE RENEWABLE ENERGY CREDIT

**ISSUE:** Enact legislation to incentivize the development of renewable energy generated within Maryland. By 2022, 20% of Maryland power must be derived from renewable sources. As that goal is phased in, it should be an immediate requirement that at least 20% of the Renewable Energy Credits (RECs) overall and at least 25% of the solar RECs be derived from sources located within Maryland. Currently, the law provides that the renewable sources need not come from within Maryland.

**BACKGROUND:** The current policy on this issue, as set forth in Title 7 of the Public Utility Companies Article of the Annotated Code of Maryland, provides that RECs may be derived from a source that is either located in Maryland or within 16 other states. The revised law would require that at least 20% of RECs using Tier 1 fuel sources must be derived from a source located within Maryland. In addition, the revised law would mandate that at least 25% of the solar RECs be derived from a source within Maryland.

This initiative would encourage the development of renewable energy sources within the State of Maryland. Such an effort could potentially lend a boost to the economy and distinguish Maryland as a leader in the renewable energy industry.

**TALKING POINTS:** The current law provides that, over the next eleven (11) years, an increasing percentage of electricity sales within the state come from renewable sources. The proposed legislation would make a portion of the requirement source-specific.

**POLICY POSITION:** We urge the state to enact legislation mandating that a portion of RECs overall and a portion of solar RECs be derived from sources located within Maryland.

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<sup>1</sup> A Tier 1 renewable source is defined under the Public Utilities Companies Article of the Annotated Code of Maryland as: one or more of the following types of energy sources: (1) solar; (2) wind; (3) qualifying biomass; (4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; (5) geothermal; (6) ocean, including energy from waves, tides, currents, and thermal differences; (7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection; and (8) a small hydro-electric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission. Md. Code Ann., Public Utility Companies, § 7-101 *et seq.*



## State Initiative

### GREEN ROOFS

**ISSUE:** Newly constructed government buildings and major renovations of existing government buildings in Maryland are already required to be LEED Silver certified. Maryland should take an additional step by requiring that new government buildings or any replacement roof on existing government buildings should have no less than 50% green roof coverage (a vegetated roof or appropriate reflective white roof). Additionally, authorizing counties and municipalities to grant incentives would further encourage the use of green roofs on privately owned buildings.

**BACKGROUND:** Green roofs—which include roofs with vegetated surfaces or roofs with highly reflective surfaces or a combination of the two—provide a variety of benefits to the buildings in which they are installed as well as to the surrounding area. Green roofs not only maximize energy savings and reduce heat island effect, but they reduce stormwater runoff and provide an attractive amenity for building occupants and visitors.

Projects that incorporate a green roof are eligible to earn points toward LEED certification under the U.S. Green Building Council's LEED for New Construction and LEED for Existing Buildings rating systems. Because Maryland already requires that new government buildings and major renovations of existing government buildings achieve a minimum of LEED Silver certified, requiring green roofs on these projects can be achieved at no additional cost to the overall project.

In addition, it is important that the counties and municipalities be authorized to grant incentives or provide regulatory flexibility that encourages the use of green roofs on privately owned buildings. Such authorization could include, but not be limited to: a streamlined approval process when green roofs are employed, a reduction in permit fees when green roofs are used, counting the square footage of a vegetated green roof twice for the purposes of stormwater management, and not calculating a green roof within the area of impervious surface for the purposes of Chesapeake Bay Critical Areas.

**TALKING POINTS:** This initiative is consistent with Maryland's current green building standard. It will provide many benefits, including energy and cost savings, reducing heat island effect, and assisting stormwater management.

**POLICY POSITION:** We urge the state to require green roofs on all new government buildings and any replacement roof installation and to authorize counties and municipalities to grant incentives to encourage the use of green roofs on privately owned buildings.

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<sup>2</sup> Heat island effects occur when warmer temperatures are experienced in urban landscapes (compared to adjacent rural areas) as a result of solar energy retention on constructed surfaces.



## State Initiative

### HEALTH CARE – GREEN BUILDING

**ISSUE:** Require that all newly-constructed, state-funded health care facilities meet the LEED Silver or equivalent certification requirement of the Maryland High Performance Buildings Act. Green building principles benefit patients, employees, and visitors in health care environments and they also lower operating costs.

**BACKGROUND:** Health care facilities operate 24/7, use large amounts of energy and water, and create huge volumes of waste. Hospitals must meet many regulatory requirements from a variety of governing bodies to address issues ranging from air quality to mortality rates. Green building strategies can alleviate many of the pressures felt by hospitals and can improve the overall health of the community it serves.

In light of the potential negative effects of poor air quality and toxic building materials to patients, employees, and visitors in health care facilities, it is critical that the environment within health care facilities be improved as new facilities are constructed. A number of recent studies have shown that the use of green cleaning products and access to more daylight, natural settings, gardens, and open spaces can positively impact patient wellbeing, improve employee satisfaction, retention and attendance, and reduce medication errors and patient falls. In addition, the “green teams” currently operating in several Maryland hospitals are implementing and sustaining green operational strategies that save money and improve operations.

Health care facilities in Maryland should be required to build on the success of their green teams by adopting the LEED rating system or the Green Guide for Health care (a voluntary standard providing guidance for operations and maintenance of health care facilities). Both LEED and the Green Guide provide a menu of achievable strategies for health care facilities to improve the environment and increase the return on investment. Health care facilities will save money and reduce costs through implementing green strategies, particularly those that are incorporated at the beginning of any project. Also, adopting a proven and effective green building standard will better address the State’s objectives to reduce carbon emissions and energy and water consumption. Such a standard can readily be achieved as a number of health care facilities across the country have achieved LEED certification, and several facilities in Maryland are currently pursuing LEED certification.

**TALKING POINTS:** This initiative will provide a healthier and more productive environment for patients, employees and visitors of health care facilities while simultaneously assisting the state’s efforts to reduce carbon emissions and enhance energy efficiency and water conservation.

**POLICY POSITION:** We urge the state to enact legislation that expands the reach of the existing state green building law to require that all state funded construction of health care facilities—whether funded in whole or in part by the state—meet LEED Silver or equivalent certification.



## State Initiative

### EXPAND EXISTING GREEN BUILDING PROGRAM

**ISSUE:** Enact legislation expanding the existing High Performance Building Act to require that all construction or major renovation on State owned or State leased property (regardless of source of funds), be constructed to meet LEED Silver or equivalent certification. Expansion of the existing Act beyond state-owned buildings will reduce building operating costs and help achieve the State's energy and carbon emission reduction goals.

**BACKGROUND:** As a result of the enactment of Senate Bill 208 in 2008, state funded capital projects are being designed and constructed in conformity with green building principles. Also, beginning this fiscal year, dozens of local public school buildings are being designed and constructed as green buildings. However, beyond those local schools, the existing law applies only to new or renovated State buildings that are at least 7,500 square feet and are built or renovated entirely with State funds.

This proposal would expand those buildings subject to the existing enactment by requiring that all capital projects funded in any amount with state money (e.g., local bond bills, money to local governments, community colleges, independent colleges, certain affordable housing projects, etc.) meet the same requirements of newly constructed State buildings (LEED Silver or equivalent). USGBC Maryland also encourages the State to explore opportunities to design and build non-traditional State building types (e.g., prison, parking garages, etc.) in accordance with green building principles. Additionally, the State should require that it lease only green tenant spaces for any lease of 7,500 square feet or larger. This mirrors what the Federal government is already doing.

State government can provide a positive example to the development community by constructing and leasing environmentally friendly and energy efficient buildings. Moreover, the cost-saving innovations and technological advancements that flow from constructing these new high performance buildings will lead to the creation of Maryland green jobs and lower the spending of taxpayer dollars.

**TALKING POINTS:** Require that all State construction (regardless of source of funds) on State owned or State leased property meet the LEED Silver or equivalent certification as a green building. By way of example, today community colleges are exempt from the requirement to build green despite accessing the State capital budget for construction funding and being responsible for training and education many of our state's young people. This proposal would change that.

**POLICY POSITION:** Enact legislation expanding the applicability of the existing High Performance Building Act to include all construction or major renovation (regardless of source of funds) on State owned or State leased property, including new leases for 7,500 square feet or more, be constructed to meet or exceed the U.S. Green Building Council's LEED silver rating or equivalent.



## State Initiative

### AUTHORIZE GRAYWATER RECYCLING SYSTEMS

**ISSUE:** Today many local governments in Maryland do not permit the use of Graywater, which is defined as non-potable water generated by roof drains, clothes washing machine, showers, bathtubs, and the like. This proposal encourages statewide legislation to expressly authorize the use of Graywater Recycling Systems for toilet flushing, landscape irrigation, supply water for ornamental ponds, water for cooling towers, and other similar uses.

**BACKGROUND:** Currently in Maryland, concerns over water conservation, moratoriums on sewer connections and restrictions on new water connection permits are emblematic of the lack of available water in some areas. When coupled with overloaded sewerage treatment plants in other locales, it is time to address graywater reuse. Additionally, the new stormwater management regulations will rely upon on micro-scale practices, including rainwater harvesting and other alternative measures for use of rainwater.

Some Maryland counties and municipalities have removed Appendix G, the “Graywater Recycling Systems” provisions from the 2006 National Standard Plumbing Code Illustrated, when adopting the Code. This, and similar changes to the ICC International plumbing codes, has the effect of barring the reuse of water from within a building or the reuse of harvested rainwater. This proposed enactment will expressly permit the reuse of Graywater—upon it being treated by one of the acceptable methods in the plumbing code—for toilet flushing, landscape irrigation, supply water for ornamental ponds, make up water for cooling towers, and other like uses.

**TALKING POINTS:** USGBC MD proposes that the State forbid the local counties and municipalities to remove Appendix G, the “Graywater Recycling Systems” provisions from the 2009 National Standard Plumbing Code Illustrated, such that treated graywater can be used. Water reuse is a key component of green buildings across the country and is vital to the long term sustainability of Maryland and its groundwater supply.

**POLICY POSITION:** Enacting local legislation to expressly authorize and employ Graywater Recycling Systems.



## Local Initiative

### CREATE CLEAN ENERGY LOAN PROGRAMS

**ISSUE:** Recognizing that the largest obstacle to installing solar power systems is the large initial cost, the 2009 General Assembly authorized each county and municipality to establish a Clean Energy Loan Program to provide loans at favorable terms to residential and commercial property owners for the financing of energy efficiency and renewable energy projects. Local governments should enact legislation creating a Clean Energy Loan Program. Such local initiatives will reduce energy use and assist in the creation of green jobs in Maryland.

**BACKGROUND:** HB 1567 in the 2009 General Assembly authorized counties and municipalities to establish, by ordinance or resolution, a Clean Energy Loan Program within their respective jurisdictions. The program would allow the county or municipality to provide loans to residential and commercial property owners for the financing of energy efficiency and certain renewable energy projects that may not exceed 100 kilowatts. The law authorizes the county or municipality to issue bonds to finance the loans made through the program, but “Stimulus” funds or other dollars may also be used. A property owner must repay the loan through a surcharge appearing on the owner’s property tax bill. A person who acquires property subject to a Clean Energy Loan Program assumes the obligation to repay the loan. It should be noted, however, that the resulting surcharge is not a lien on the property. As a result, this program avoids the criticism of similar programs across the country that actually create superliens, which take priority over existing recorded mortgages without due process of law. This initiative is similar to the widely discussed Berkeley Financing Initiative for Renewable and Solar Technology (FIRST) Program that began two years ago in Berkeley, California.

This program will allow solar power systems to be financed similar to the way in which gas lines or water lines are funded. The systems will be covered by a loan from the county or municipality and repayable along with property taxes. The local government may recover all costs associated with issuing the bonds and administering the program, thus minimizing any fiscal impact on government. There are potential meaningful benefits for small businesses and the creation of green jobs for the installation of these energy efficiency projects. In addition, the value of improved properties will increase and demand on the power grid will be reduced.

**TALKING POINTS:** This local government program will allow solar power systems and the like to be financed much like gas lines or water lines, covered by a loan with a very low interest rate payable over a long period of time, from the county or municipality and repayable along with property taxes.

**POLICY POSITION:** We urge every county and municipality to enact local ordinances creating a Clean Energy Loan Program within their respective jurisdiction.

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<sup>3</sup> It is anticipated that ‘housekeeping’ legislation may be introduced in the 2010 General Assembly session cleaning up some of the language in last year’s enactment (e.g., related to the characterization of the ‘surcharge’). That will not preclude any county or municipality from acting now.



## Local Initiative

### AMEND MASTER PLANS TO BE CONSISTENT WITH LEED-ND

**ISSUE:** Local government land use master plans (or general plans) are becoming increasingly important in Maryland in matters of land development. In light of Maryland SB 280/HB297, passed during the 2009 legislative session, the plans are no longer simply a guide to zoning and subdivision approvals as they have historically been. Development within a jurisdiction must be consistent with the applicable county or municipality master plan. To that end, each local government master plan should specifically incorporate the principles of the U.S. Green Building Council's LEED for Neighborhood Development (LEED-ND) rating system.

**BACKGROUND:** LEED-ND is a nationwide collaboration among the USGBC, the Congress for the New Urbanism, and the Natural Resources Defense Council. LEED-ND integrates the principles of smart growth, urbanism and green building into the first national standard for neighborhood design. It is anticipated that it will become a national standard (much the way LEED certification has become the de facto standard for green building in the U.S.) and it is critical that residential building and development throughout Maryland is able to participate in this nationwide movement that seeks to protect the overall health, natural environment, and quality of life within our neighborhoods.

The urgency of incorporating these LEED-ND principals into each local government master plan and general plan is a result of the 2009 enacted SB 280/HB 297 (i.e., overturning the Court of Appeals ruling in David Trail et al. v. Terrapin Run, LLC, et al.). Among other requirements, SB 280/HB 297 mandates that local zoning laws be changed such that zoning special exceptions (i.e., conditional uses authorized in a zoning ordinance) must be "consistent" with a local master plan. In order for green neighborhood development to satisfy the standard of consistent, each master plan must incorporate the principals of LEED-ND or the national movement of LEED-ND neighborhoods will stop at the borders of our State and not be permitted here.

**TALKING POINTS:** It is anticipated that LEED-ND will quickly become a national residential subdivision standard and it is important that residential development and building throughout Maryland be able to participate in this national movement. Without the suggested changes in master plans, residential development in Maryland will be unable to participate.

**POLICY POSITION:** Each county and municipality with planning and zoning authority should amend its land use master plan to specifically incorporate the principles of the U.S. Green Building Council's LEED for Neighborhood Development (LEED-ND) rating system.



ABOUT USGBC MARYLAND

The Maryland Chapter of the US Green Building Council is the leading forum for green buildings statewide, providing leadership, education, advocacy and resources for the green building industry and the community at large.

We are the leading advocate for sound green building practices and public policy at the state and local government levels in Maryland

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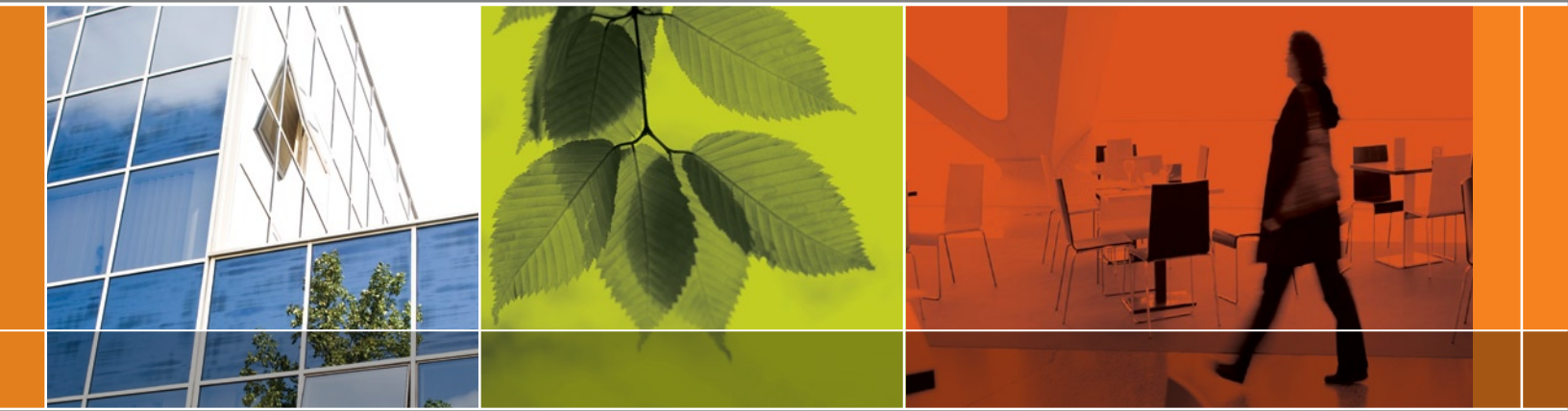


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