



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President/Chief Operating Officer

DATE: November 15, 2013

SUBJECT: Agenda for Board Meeting of the Authority November 15, 2013

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

Chief Executive Officer's Monthly Report to the Board

Bond Projects

Loans/Grants/Guarantees

Incentive Programs

Board Memorandums

Office of Recovery

Authority Matters

Executive Session

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

October 8, 2013

MINUTES OF THE MEETING

Members of the Authority present: Al Koepp, Chairman; Melissa Orsen representing the Executive Branch; State Treasurer Andrew Sidamon-Eristoff; Fred Zavaglia representing the Commissioner of the Department of Labor and Workforce Development; Colleen Kokas representing the Commissioner of the Department of Environmental Protection; Christopher Hughes representing the Commissioner of the Department of Banking and Insurance; Public Members: Joseph McNamara, Vice Chairman; Marjorie Perry, Charles Sarlo, Brian Nelson, Jerry Langer, Rich Tolson, Elliot M. Kosoffsky, Second Alternate Public Member; and Harold Imperatore, Third Alternate Public Member.

Present via conference call: Ray Burke, First Alternate Public Member;

Also present: Michele Brown, Chief Executive Officer of the Authority; Timothy Lizura, President and Chief Operating Officer; Deputy Attorney General Bette Renaud; Amy Herbold, Governor's Authorities' Unit; and staff.

Absent: Public Member Larry Downes, and Rodney Sadler, Non-Voting Member.

Chairman Koepp called the meeting to order at 10 a.m.

Pursuant to the Internal Revenue Code of 1986, Ms. Brown announced that this was a public hearing and comments are invited on any Private Activity bond projects presented today.

In accordance with the Open Public Meetings Act, Ms. Brown announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House.

MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the September 12, 2013 annual Meeting minutes. A motion was made to approve the minutes by Ms. Orsen, seconded by Mr. McNamara, and was approved by the 13 voting members present.

Mr. Tolson abstained because he was not present for the meeting.

The board also approved the September 18, 2013 special Meeting minutes. A motion was made to approve the minutes by Ms. Orsen, seconded by Mr. McNamara, and was approved by the 14 voting members present.

FOR INFORMATION ONLY: The next item was the presentation of the Chief Executive Officer's Monthly Report to the Board.

Mr. Sarlo entered the meeting at this time.

BOND RESOLUTIONS

PROJECT: Newark City & TDAF I Springfield Avenue **APPL.#37151**
Holding Urban Renewal
LOCATION: Newark City/Essex
PROCEEDS FOR: Construction of new building or addition, land, purchase of equipment
and machinery
FINANCING: \$6,600,000 Redevelopment Area Bond
MOTION TO APPROVE: Mr. Tolson **SECOND:** Mr. Kosoffsky **AYES:** 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

Ms. Perry recused herself because she is familiar with the project.

LOANS/GRANTS/GUARANTEES

PETROLEUM UNDERGROUND STORAGE TANK PROGRAM

FOR INFORMATION ONLY: Summary of Funding Status for the Petroleum Underground Storage Tank Program and Hazardous Discharge Site Remediation Fund Programs.

FOR INFORMATION ONLY: Summary of the Petroleum Underground Storage Tank Program project approved by the Department of Environmental Protection.

The following projects were presented under the Petroleum Underground Storage Tank Program.

PROJECT: Gail L. Denber **APPL.#38443**
LOCATION: Collingswood Borough/Camden
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: \$151,285 Petroleum UST Remediation, Upgrade and Closure Fund Grant
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. Kosoffsky **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2

FOR INFORMATION ONLY: Summary of Petroleum Underground Storage Tank Program projects approved by the Delegated Authority.

HAZARDOUS DISCHARGE SITE REMEDIATION FUND

FOR INFORMATION ONLY: Summary of Hazardous Discharge Site Remediation Fund Program projects approved by the Delegated Authority.

INCENTIVE PROGRAMS

BUSINESS EMPLOYMENT INCENTIVE PROGRAM, BUSINESS RETENTION & RELOCATION ASSISTANCE GRANT PROGRAM

PROJECT: EarthCam Incorporated **APPL.#38535**
LOCATION: Upper Saddle River/Bergen **BUSINESS:** Communications
GRANT AWARD: 55% **Business Employment Incentive grant, 10 years**
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. Sarlo **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

PROJECT: EarthCam Incorporated **APPL.#38520**
LOCATION: Upper Saddle River/Bergen **BUSINESS:** Communications
GRANT AWARD: \$180,000 **Business Retention and Relocation Assistance Grant,**
1 year
MOTION TO APPROVE: Mr. McNamara **SECOND:** Ms. Perry **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

Chairman Koeppel recused himself from the following items related to McGraw-Hill Global Education Holdings, LLC and Affiliates because he is a board member of NJ Natural Resources.

Vice Chairman Joe McNamara asked for a motion on the following items:

PROJECT: McGraw-Hill Global Education Holdings, LLC **APPL.#38487**
and Affiliates
LOCATION: East Windsor/Mercer **BUSINESS:** Printing and Publishing
GRANT AWARD: 55% **Business Employment Incentive grant, 10 years**
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. Kosoffsky **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

PROJECT: McGraw-Hill Global Education Holdings, LLC **APPL.# 38488**
and Affiliates
LOCATION: East Windsor/Mercer **BUSINESS:** Printing and Publishing
GRANT AWARD: \$236,250 **Business Retention and Relocation Assistance Grant,**
1 year
MOTION TO APPROVE: Mr. Tolson **SECOND:** Mr. Kosoffsky **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

GROW NEW JERSEY ASSISTANCE PROGRAM

PROJECT: Maplewood Beverage Packers, Inc. and affiliates **APPL.#38331**
LOCATION: Woodbridge/Middlesex **BUSINESS:** Manufacturing & Distribution
Edison/Middlesex
REQUEST: To approve the at risk jobs
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. Imperatore **AYES:** 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

PROJECT: Maplewood Beverage Packers, Inc. and affiliates **APPL.#38331**
LOCATION: Woodbridge/Middlesex **BUSINESS:** Manufacturing & Distribution
Edison/Middlesex
GRANT AWARD: 18,900,000 **Grow New Jersey grant, 10 years**
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. McNamara **AYES:** 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

ANGEL INVESTOR TAX CREDIT PROGRAM

MOTION TO APPROVE: Mr. McNamara **SECOND:** Ms. Perry **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

INVESTOR: John C. Dries **APPL.#38497**
TECHNOLOGY BUSINESS: United Silicon Carbide, Inc.
LOCATION: South Brunswick/Middlesex **BUSINESS:** Electronic Device
QUALIFIED INVESTMENT: \$1,450,000.56

INVESTOR: GHO Ventures **APPL.#38495**
TECHNOLOGY BUSINESS: United Silicon Carbide, Inc.
LOCATION: South Brunswick/Middlesex **BUSINESS:** Electronic Device
QUALIFIED INVESTMENT: \$2,750,000

INVESTOR: Marshall J. Cohen Family Trust **APPL.#38536**
TECHNOLOGY BUSINESS: Princeton Power Systems, Inc.
LOCATION: Lawrence/Mercer **BUSINESS:** Renewable Energy
QUALIFIED INVESTMENT: \$50,000

INVESTOR: Marshall J. Cohen Family Trust **APPL.#38600**
TECHNOLOGY BUSINESS: Princeton Power Systems, Inc.
LOCATION: Lawrence/Mercer **BUSINESS:** Renewable Energy
QUALIFIED INVESTMENT: \$300,000

INVESTOR: Marshall J. Cohen Family Trust **APPL.#38601**
TECHNOLOGY BUSINESS: Princeton Power Systems, Inc.
LOCATION: Lawrence/Mercer **BUSINESS:** Renewable Energy
QUALIFIED INVESTMENT: \$200,000

ECONOMIC REDEVELOPMENT AND GROWTH PROGRAM

ITEM: TDAF I Springfield Avenue Holding Urban Renewal Company LLC
Economic Redevelopment and Growth Grant Program
REQUEST: To approve the application of TDAF I Springfield Avenue Holding Urban
Renewal Company LLC for reimbursement of certain taxes for a Newark,
Essex County project under a “state incentive grant” by the EDA pursuant to
the ERG program.
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Zavaglia **AYES:** 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

Ms. Perry recused herself because she is familiar with the project.

URBAN TRANSIT HUB TAX CREDIT PROGRAM

ITEM: TDAF I Springfield Avenue Holding Urban Renewal Company LLC
Urban Transit Hub Tax Credit Program
REQUEST: To approve the Urban Transit Hub Tax Credit application for TDAF I
Springfield Avenue Holding Urban Renewal Company LLC for an amount not
to exceed \$23,831,845 or \$2,383,184 annually for 10 years.
MOTION TO APPROVE: Mr. Tolson **SECOND:** Mr. Nelson **AYES:** 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

Ms. Perry recused herself because she is familiar with the project.

ITEM: Harborside Unit A LLC
Urban Transit Hub Tax Credit Program
REQUEST: To approve the Urban Transit Hub Tax Credit program application for
Harborside Unit A LLC for an amount not to exceed \$33,000,000 or
\$3,300,000 annually for 10 years.
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Ms. Perry **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

ITEM: Matrix Upper Lot Urban Renewal, LLC
Urban Transit Hub Tax Credit Program
REQUEST: To approve the Urban Transit Hub Tax Credit program application for Matrix
Upper Lot Urban Renewal, LLC for an amount not to exceed \$28,429,000 or
\$2,842,900 annually for 10 years.
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. Imperatore **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

BOARD MEMORANDUMS

ITEM: Atlantic Realty Group, LLC
\$91,019 Statewide Loan Pool (SLP) Participation
P15132
REQUEST: To extend the Authority's loan maturity to 10/01/2023 at a fixed rate of the 5-year Treasury plus 1.00% with a floor of 3.0% to be reset at 5 years.
MOTION TO APPROVE: Ms. Perry **SECOND:** Ms. Orsen **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

ITEM: Merrill Lynch & Co., Inc.; Merrill Lynch, Pierce, Fenner & Smith
Incorporated and affiliates
Jersey City, New Jersey
\$31,096,800 Business Employment Incentive Program Grant
REQUEST: Consent to the acquisition of Merrill by Bank of America Corporation.
MOTION TO APPROVE: Ms. Perry **SECOND:** Mr. Lang **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

FOR INFORMATION ONLY: Delegated Authority Approvals for 3rd Quarter 2013

FOR INFORMATION ONLY: Incentives Modifications Delegated Authority Approvals.

FOR INFORMATION ONLY: Summary of the projects approved under Delegated Authority in October 2013:

NJ Main Street Program: Triad Advisory Services, Inc. (P38454).

Premier Lender Program: Arlington Machine and Tool Company and Titan Technologies (P38486); Link Burns Manufacturing Company Incorporated (P38518).

Small Business Fund Program: Willie James Enterprises, LLC (P38461)

REAL ESTATE

FOR INFORMATION ONLY: Real Estate Division Delegated Authority for Leases, CCIT Grants, and Right of Entry/Licenses for 3rd Quarter 2013.

OFFICE OF RECOVERY

ITEM: Stronger NJ Business Grant and Stronger NJ Business Loan program modifications.
REQUEST: To approve modifications to the Stronger NJ Business Grant Program to extend the application deadline from October 31, 2013 to December 31, 2013. The Board is also requested to approve modifications to the parameters of the Stronger NJ Business Loan Program.
MOTION TO APPROVE: Ms. Perry **SECOND:** Ms. Orsen **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

ITEM: Stronger NJ Neighborhood and Community Revitalization Program Streetscape Revitalization Program – Guide to Program Funds
REQUEST: To approve the recommendation for the Guide to Program Funds for the Streetscape Revitalization Program established as part of the Stronger NJ Neighborhood and Community Revitalization Program.
MOTION TO APPROVE: Mr. Tolson **SECOND:** Mr. McNamara **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

ITEM: Stronger NJ Neighborhood and Community Revitalization Program – Intersect Fund Corporation
REQUEST: To approve a \$500,000 grant under the Stronger NJ Neighborhood and Community Revitalization program.
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. Imperatore **AYES:** 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 14

PUBLIC COMMENT

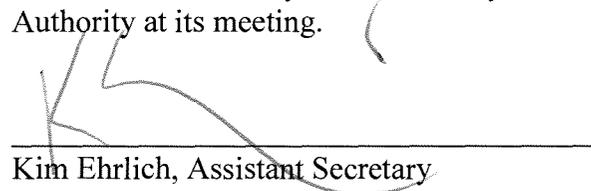
There was no comment from the public.

The Board took a ten minute recess.

EDA President and Chief Operating Officer, Tim Lizura gave a presentation on the New Jersey Economic Opportunity Act of 2013.

There being no further business, on a motion Mr. Burke, and seconded by Mr. Kosoffsky, the meeting was adjourned at 1 pm.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.



Kim Ehrlich, Assistant Secretary

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 1, 2013

MINUTES OF THE SPECIAL MEETING

Members of the Authority present: Al Koepp, Chairman; Christopher Hughes representing the Commissioner of Banking and Insurance; and Public Members: Joseph McNamara, Vice Chairman; and Brian Nelson.

Present via conference call: State Treasurer Andrew Sidamon-Eristoff; Commissioner Hal Wirths of the Department of Labor and Workforce Development; Colleen Kokas representing the Commissioner of the Department of Environmental Protection; Public Members: Larry Downes, Marjorie Perry, Charles Sarlo, Rich Tolson, Jerry Langer, Ray Burke, First Alternate Public Member; and Rodney Sadler, Non-Voting Member.

Also present: Michele Brown, Chief Executive Officer of the Authority; Timothy Lizura, President and Chief Operating Officer; Deputy Attorney General Bette Renaud; Amy Herbold, Governor's Authorities' Unit; Fred Zavaglia representing the Commissioner of the Department of Labor and Workforce Development and staff.

Absent: Melissa Orsen representing the Executive Branch; Public Members Elliot M. Kosoffsky, Second Alternate Public Member; and Harold Imperatore, Third Alternate Public Member.

Chairman Koepp called the meeting to order at 10am.

In accordance with the Open Public Meetings Act, Ms. Brown announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board at the State House.

MINUTES OF AUTHORITY MEETING

Chairman Koepp opened the meeting by thanking the Board for coming together on a Friday to approve an important project. He also thanked the staff of the EDA for their hard work.

CEO Michele Brown then thanked the Board members and staff for their work on this long awaited project. Ms. Brown stated that today the Board will be asked to approve the application for an Economic Redevelopment and Growth (ERG) grant for Ameream LLC, Meadow Amusement LLC and Affiliates for reimbursement of certain taxes relating to a large retail and entertainment redevelopment project in Bergen County known as "American Dream" or "Triple Five".

She continued to state that this Administration, local officials, construction trade unions, chambers of commerce, among others, have all pushed hard to jumpstart the completion of the long-dormant project once known as Xanadu.

She stated that as we know, the American Dream project in East Rutherford commenced about a decade ago by Mack-Cali and has had a colorful past (as well as facade) and that the EDA has worked with public partners: New Jersey Sports & Exposition Authority, Treasury, the county and the Local Finance Board to pull together a financing package for the developer.

Regular meetings with an ad hoc committee of the Board were established at the request of the Chairman to keep members informed on progress made throughout this process.

Ms. Brown stated that Triple Five proposes redevelopment of a 91 acre site – directly across from Met Life Stadium in East Rutherford – into a 3.3 million square foot regional shopping and entertainment destination, featuring amusements and a water park and many other attractions and invest over \$2.5 billion. This project is consistent with the goal of growing jobs in New Jersey, and this project expects to generate over 11,000 jobs.

As part of this overall project, the Board is also asked to approve the assignment of a Brownsfield agreement to reimburse for remediation costs from the property's previous developer to the current applicant.

Ms. Brown concluded that with the Board's action today, we will be able to move forward on the long-awaited redevelopment of a project that will become an asset for the community, the region, and the state with the potential to become a tourist destination and markedly increase the economic vitality of the area.

Chairman Koeppe asked President and COO Lizura to provide an overview of the project before the board.

Mr. Lizura stated the American Dream project is 3.3 million gross square foot of mixed use development. He added that the project is headed by Triple Five which is founded by the Ghermezian family which has several generations of real estate experience.

Mr. Lizura pointed out that unlike a traditional enclosed mall, the project will not be anchored by traditional department stores but will rely on the draw created by a variety of major retail tenants along with various entertainment components, including a movie theater, a performing arts center, a snow dome, an observation wheel, miniature golf and an ice rink, indoor and outdoor amusement park and the water park.

He stated the project will have approximately 7,850 parking spaces consisting of four parking structures and grade level parking under the facility.

The Applicant has engaged Greener by Design LLC, a New Brunswick, NJ based firm that focuses on energy investment and environmental asset management, to assist in compliance with green building requirements.

He stated the Authority performed strenuous due diligence including a Gap Analysis, and a Net Positive Benefit Analysis to determine eligibility for the ERG award. The present value of the Net Positive Benefits to the State, net of the Project's RAB Bonds, is \$487 million.

He noted that the Applicant has a commitment from Deutsche Bank to syndicate a \$700 million senior debt facility and Deutsche Bank has committed to provide \$100 million of this facility. The Applicant also has a commitment from Macquarie Capital to syndicate a \$300 million mezzanine facility and Macquarie has committed to provide \$100 million of this facility.

EDA staff approved outside work including a comprehensive market study on the planned retail and restaurant components of the Project by the Michigan-based, The Strategic Edge. Mr. Lizura stated that because of the complexity of the project, the EDA used JLL Prudential hurdle rate of 16-18 %. With the ERG grant the project was expected to generate at 17.54% IRR.

Cushman & Wakefield conducted an appraisal of the Project site, and Walker Parking Consultants conducted a financial analysis of the Project's parking facilities, which provided an estimate of parking demand as well as the financial viability of the parking facilities.

Mr. Lizura stated that the revenue stream derived from the State Economic Redevelopment and Growth Incentive Grant Agreement will be assigned to the BCIA in order to support the payment of tax-exempt bonds.

He added that Treasury has reviewed the application and has notified the Authority of the adequacy of the project's estimated tax revenues.

In conclusion, Mr. Lizura stressed the following:

- That any change in project scope of 25% or more would require a new approval
- \$1.58 billion in capital expenditures and TCO on the existing retail components will be required within 6 years in order to preserve approval
- Total project will need to be complete within eight years
- No Reimbursement for either the ERG or Brownsfield will be made until the existing retail component is complete (Most of projected sales tax generation will be derived from the retail component.)
- Because of a "turbo" feature on the bonds that will be supported by the ERG payments, ERG bonds could be paid off earlier than their stated maturity. Because the developer has agreed that the ERG agreement ends when the bonds are no longer outstanding, this feature has the potential to save the state money.
- The NJSEA lease will have to be final before we execute our ERG agreement and lease will contain performance controls and additional profit sharing
- Financing commitments will be required within six months of approval.
- The ERG bonds proceeds will be used towards end of construction to minimize risk for the bondholders and to ensure that the proceeds are actually needed.

Chairman Koeppe stated that he felt confident that the Authority took all measure possible to mitigate risk. He also stated that, as Ms. Brown indicated, an ad hoc committee of the Board was established to review this project and keep the Board involved as it advanced before it went to Incentives Committee.

Chairman Koeppe then asked for questions and comments from the Board.

Larry Downes stated that he believed that a comprehensive review was done on this project and it received extensive review by the Incentives Committee. He stated the project merited approval for several reasons. The first is that it meets all of the statutory and regulatory requirements for the ERG program. The project has as strong applicant and will provide a net benefit to the State. He stated that all appropriate contingencies were met in order to mitigate risk. He further stated that in terms of economic development, this is a strong project due to the number of jobs created. In conclusion, Mr. Downes stated that the program is truly performance based.

Richard Tolson asked if the remediation has been completed other than what is unknown. Mr. Lizura said that was correct. Mr. Tolson also asked if the project was located in an Urban Enterprise Zone. Mr. Lizura stated that it was not.

Joe McNamara stated that is project is a result of a partnership with the developer that created a financing structure that would work out.

Colleen Kokas asked if the costs represented for remediation were accurate. Mr. Lizura responded that they were an estimate. Ms. Kokas expressed concern that the costs for remediation may be overstated.

INCENTIVE PROGRAMS

ECONOMIC REDEVELOPMENT AND GROWTH PROGRAM

ITEM: Ameream LLC, Meadow Amusement LLC and Affiliates
Economic Redevelopment and Growth Grant Program

REQUEST: To approve 1) the application of Ameream LLC, Meadow Amusement LLC and Affiliates for reimbursement of certain taxes for an East Rutherford Borough, Bergen County project under a "state incentive grant" by the EDA pursuant to the Economic Redevelopment and Growth Grant program. The total project costs are estimated to be \$2,581,558,701. The total qualified costs under the ERG Act are \$2,222,620,183. The recommended reimbursement is 17.55% of the eligible costs, not to exceed \$390,000,000; 2) the execution of the State Economic Redevelopment and Growth Grant Agreement among the Authority, the State Treasurer and the Applicant in substantially final form and any assignment agreements necessary to effectuate this transaction, including the assignment of the ERG revenue stream to support bonds; 3) The assignment of an Agreement to Reimburse for Remediation Costs on the amount of 75% of approximately \$36,714,411 in remediation costs from the previous developer to the Applicant.

MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Nelson **AYES:** 12
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

Mr. Sarlo recused himself because his firm has a prior business relationship with the developer.

PUBLIC COMMENT

Mr. Jeff Tittel, Executive Director of the NJ Sierra Club spoke before the board regarding numerous concerns regarding the project including environmental hazards, increased traffic, and energy inefficiencies to the board.

Chairman Koeppel noted Mr. Tittel's concerns and thanked him for his participation, noting that representatives of Triple 5, who were present, would have the benefit of his comments.

Mr. Tony Armlin, Vice President, Development and Construction for Triple 5 thanked the board for its approval of the project today. He stated that the project will become his firm's flagship facility creating tourism and many new jobs. He added that they have an aggressive timeline, with construction rigs on site and would start work today.

There being no further business, on a motion by Mr. Nelson, seconded by Mr. McNamara, the meeting was adjourned at 11:15 a.m.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.

A handwritten signature in black ink, appearing to read 'Kim Ehrlich', is written over a solid horizontal line.

Kim Ehrlich, Assistant Secretary



MEMORANDUM

TO: Members of the Authority

FROM: Michele A. Brown
Chief Executive Officer

DATE: November 15, 2013

RE: Chief Executive Officer's Report to the Board

NEW INCENTIVE PROGRAMS UNDER NEW JERSEY ECONOMIC OPPORTUNITY ACT OF 2013 WILL LAUNCH ON NOVEMBER 18

As you may recall, the New Jersey Economic Opportunity Act of 2013 was signed into law by Governor Chris Christie on September 18, 2013. The Act streamlines New Jersey's five existing economic development incentive programs into two: the Grow New Jersey (Grow NJ) Assistance Program will be the State's main job creation and retention incentive program and the Economic Redevelopment and Growth (ERG) Program will be New Jersey's key developer incentive program. The EDA is no longer accepting applications for assistance under the Business Employment Incentive Program (BEIP), Business Retention and Relocation Assistance Grant (BRRAG) Program and Urban Transit Hub Tax Credit (UTHTC) Programs; applications that have been submitted prior to the enactment of the new law will be processed by December 31, 2013.

Amendments to the rules implementing the ERG and Grow NJ programs based on statutory revisions enacted pursuant to the Act are being presented to the Board at today's meeting. Following Board approval of these rule amendments, it is anticipated that EDA will begin accepting applications for the Grow NJ and ERG programs, pursuant to the Act, on Monday, November 18.

For your reference, a summary of the changes to the program, as well as the Act itself, can be found on EDA's website at www.njed.com.

EDA NOW ACCEPTING APPLICATIONS FOR STREETScape REVITALIZATION COMPONENT OF STRONGER NJ NEIGHBORHOOD AND COMMUNITY REVITALIZATION PROGRAM

Pursuant to Governor Christie's announcement on October 8th, EDA has formally launched the application for the \$10 million *Streetscape* component of the Stronger NJ Neighborhood and Community Revitalization (NCR) Program. Through this initiative, Superstorm Sandy-impacted municipalities can apply for grants to advance Main Street revitalization projects.

Grants of \$125,000 to \$1.5 million are available to support various projects, including streetscapes, lighting, sidewalks, facade enhancements, and code-related and other physical upgrades to commercial areas. To be eligible, projects must be targeted within a commercial or mixed-use district. Projects also should result in a public benefit to the municipality.

The application, as well as additional details regarding program eligibility, can be found at www.njeda.com/ncr-streetscape.

EDA PROJECTS PUTTING NJ TO WORK

EDA has posted a video to its website which highlights several of the large-scale, job-creating development projects the Authority has assisted under the Christie Administration.

Among the projects highlighted in the video: Teachers Village, Newark (416 construction jobs/461 permanent jobs); 70 Columbus, Jersey City (350 construction jobs/35 permanent); Somerset St. Mews, New Brunswick (350 construction jobs/50 permanent jobs); and Harrah's Meeting Facility, Atlantic City (340 construction jobs/140 permanent jobs).

The video, titled "EDA Projects Putting N.J. To Work," can be found on the news section of EDA's homepage (www.njeda.com).

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY (FMERA) UPDATE

FMERA continues to move the former Fort's redevelopment forward. FMERA and the Army are having regular discussions on the future transfer of the balance of the Main Post, under the Phase 2 Memorandum of Agreement (MOA).

FMERA is currently evaluating proposals, in accordance with the Authority's Sale Rules, for four Requests For Offers To Purchase (RFOTPs) - Parcel B in Eatontown, Officer Housing in Oceanport and Parcels C and C1 in Tinton Falls. We hope to have recommendations for the Board of Directors' consideration by year-end. In addition, FMERA has issued four RFOTPs - for a Veterans Community in Eatontown, for Russel Hall and the Marina in Oceanport, and for the Pinebrook Road Commerce Center (former fabrication shops) in Tinton Falls. Proposals for Russel Hall are due on November 7th, proposals for the Pinebrook Road Commerce Center are due on November 20th, proposals for the Veterans Community are due on December 6th, and proposals for the Marina are due on January 27th. At its July meeting the FMERA Board of Directors approved entering into exclusive negotiations, in accordance with the Authority's sales rules, with HovWest Land Acquisition LLC for Howard Commons in Eatontown. FMERA hopes to have a Purchase Agreement for their Board of Directors' consideration by year-end.

Cushman & Wakefield, FMERA's Master Broker, made a presentation at the November 13, 2013 Board Meeting on current market conditions, and their efforts to market the former Fort property.

CLOSED PROJECTS IN OCTOBER 2013

Through October 31, 2013, EDA has closed financing and incentives totaling more than \$650 million for 140 projects that are expected to support the creation of more than 5,200 new jobs, the support of more than 28,000 existing jobs, including more than 3,900 jobs at risk of leaving New Jersey, and involve total public/private investment of more than \$1.5 billion in New Jersey's economy. Among the businesses assisted in October:

Soundview Paper Holdings LLC, which closed on a \$25.45 million Grow NJ grant. Soundview acquired Elmwood Park-based Marcal Paper Mills, a regional tissue manufacturer and distributor. Marcal company is one of the oldest environmentally friendly paper companies in the United States. For over 60 years, Marcal has been making paper products using recycled paper. This assistance will enable the

company to make improvements to the Elmwood Park facility, as opposed to relocating to a competing location in South Carolina. This assistance will result in the retention of 509 jobs at risk of leaving New Jersey, as well as \$47.3 million in capital investment.

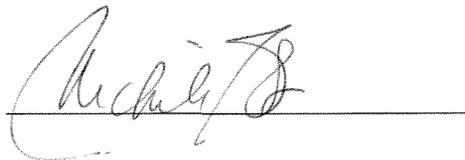
CVS Pharmacy, Inc. and CVS Caremark, which closed on a \$5.9 million Business Employment Incentive Program (BEIP) grant. CVS is a national retail pharmacy that sells prescription drugs and a wide assortment of general merchandise, including over-the-counter drugs, beauty products and cosmetics, film and photo finishing services, seasonal merchandise, greeting cards and convenience foods. This assistance will enable the company to establish a new operations facility in Florham Park to support its pharmacy services, as opposed to establishing the facility at competing locations in Texas or Arizona. This assistance will result in the creation of 250 new jobs and \$4.9 million in capital investment.

Aurora Multimedia Corporation, which closed on a \$175,000 line of credit guarantee under the Main Street Business Assistance Program and a \$167,500 participation under the Small Business Fund. Aurora is a Marlboro-based manufacturer of building control systems, touch panels, matrix switches and video wall processors for commercial and residential applications. As a result of this assistance, the company will create 10 new jobs and maintain 25 existing jobs.

EVENTS/SPEAKING ENGAGEMENTS/PROACTIVE OUTREACH

EDA representatives participated as speakers, attendees or exhibitors at 42 events in October. These included Newark Regional Business Partnership's Regional Economic Outlook and several groundbreaking and ribbon cuttings including BK Specialty Foods, DEEP Foods, Inc and Springfield Avenue Marketplace in Newark.

EDA staff also attended several events to discuss changes to New Jersey's business incentives enabled by the New Jersey Economic Opportunity Act of 2013, including the IEDC Annual Conference in Philadelphia, the Mack-Cali - Roseland Breakfast Symposium in Jersey City, a meeting of the NJ Chapter of the Association for Corporate Growth breakfast in Iselin, the Grow NJ and Our Urban Core seminar held by the Northern New Jersey Urban Land Institute in Trenton, the ChooseNJ Board meeting in Trenton and the CoreNet 2013 Global Summit in Las Vegas. EDA staff will continue to attend these events and use networking and speaking opportunities as a means by which to educate the business/development community on the new incentive programs.



BOND RESOLUTIONS

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Kingston Educational Holdings 1, Inc. (or an affiliate)

P38412

PROJECT USER(S): TEAM Academy Charter School, Inc. *

* - indicates relation to applicant

PROJECT LOCATION: 129 Littleton Avenue

Newark City (T/UA)

Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Kingston Educational Holdings 1, Inc. (or an affiliate), is a not-for-profit created to operate and own real estate for lease by the TEAM Academy Charter Schools, a network of charter schools in Newark, that includes Seek, THRIVE, SPARK, TEAM, Rise and Newark Collegiate Academy. The TEAM Charter Schools are an independent organization and part of the KIPP Foundation charter school network based in California. The KIPP Foundation is a private foundation that supports 141 charter schools with more than 50,000 students in schools across the country. The TEAM Charter Schools currently serve over 2,230 students in grades K-12 in Newark. Timothy Carden is the President of Kingston Educational.

In 2011 and 2012, the Applicant and TEAM Academy Charter Schools closed on two (2) Qualified Zone Academy Bond and one (1) Qualified School Construction Bonds for planned capital projects to be completed over the next two years. The net proceeds from the sale of the QZAB and QSCBs which totaled \$38,176,247, are planned to be utilized for the following projects, all located in Newark, beginning in August 2013:

Location	Use	QZAB/QSCB proceeds
229 18th Ave.	Renovations to existing public school for new elementary/middle school, occupancy expected in August 2014	\$28,050,000
21 Ashland St.	Athletic field construction at the existing Rise Academy Middle School	\$ 2,750,000
129 Littleton Ave.	Fund portion of acquisition costs for new high school	\$ 5,557,357
Various sites	Purchase of furniture, fixtures & equipment	\$ 1,818,890

This project will be occupied by one or more TEAM Charter Schools, all not-for-profit 501(c)(3) entities. The Bonds are being issued as Qualified School Construction Bonds pursuant to Section 54F of the Internal Revenue Code of 1986. The project was selected to receive a QSCB allocation of \$40,000,000 in connection with the Notice of Funding Availability in the amount of \$125 million for Charter Schools, jointly issued by the Authority and Department of Education, to NJ Charter Schools.

APPROVAL REQUEST:

Authority assistance will enable the Applicant to acquire 2.25 acres of land, demolish an existing building and construct an 81,000 sq. ft. school with capacity to house up to 600 students, planned to open in August 2015. The new facility will be occupied by TEAM Charter Schools initially as an elementary school and middle school, while TEAM schools grows its enrollment that will feed students into this facility as TEAM's permanent second high school.

The difference in the QSCB proceeds and the project costs will be funded with a portion of the proceeds from the QSCBs issued in 2012 as referenced above and a conventional loan.

FINANCING SUMMARY:

BOND PURCHASER: Friends of TEAM Academy Charter School or its affiliate (Direct Purchase)

AMOUNT OF BOND: \$40,000,000 (Taxable Qualified School Construction Bond)

TERMS OF BOND: The tax credit rate and the term will be determined prior to issuance of the QSCB based on the tax credit rate and term published by U.S. Treasury. On 10/22/13, the tax credit rate was 5.07% with max. term of 19 years.

ENHANCEMENT: N/A

PROJECT COSTS:

Construction of new building or addition	\$27,181,000
Original Issue Discount	\$12,000,000
Acquisition of existing building	\$2,355,000
Engineering & architectural fees	\$1,764,000
Purchase of equipment & machinery	\$1,500,000
Closing Costs	\$1,300,000
Contingency	\$900,000
TOTAL COSTS	\$47,000,000

JOBS: At Application 0 Within 2 years 73 Maintained 0 Construction 229

PUBLIC HEARING: N/A

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Newark City & Two Center Street Urban Renewal, L.L.C.

P38099

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 34-40 Park Place

Newark City (T/UA)

Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

In November 1998, The City of Newark approved a redevelopment plan and a redevelopment area pursuant to the Local Redevelopment and Housing Law (NJSA 40:12A-1) as amended and supplemented. Included in this area is the project site at 34-40 Park Place/Two Center Street in Newark that will be developed by Dranoff Properties, Inc.

Two Center Street Urban Renewal, L.L.C. (the "Applicant") formed in 2010, is a single purpose limited liability company and urban renewal entity. The Applicant is 100% owned by its sole member/manager, Two Center Street, L.L.C., which is owned by its sole/manager Carl E. Dranoff. Mr. Dranoff is the owner of Dranoff Properties, which specializes in transforming neighborhoods into unparalleled residential destinations to attract new residents and businesses.

The Project will transform an existing surface parking lot and existing building in downtown Newark into a curved 22-story glass and brick tower of approximately 430,000 sq. ft. (including parking) which includes the following components: (i) Residential component of 244 rental units consisting of a mix of studio, 1, 2, and 3 bedroom apartments with rentable building area of 204,590 sq. ft.; (ii) Retail component of 14,918 sq. ft., which will accommodate up to 5 tenants; and (iii) Parking component including 543 parking space of approximately 210,000 sq. ft. of space. The project site, known as One Theater Square, is directly across the street from the New Jersey Performing Arts Center ("NJPAC"). The Project achieves the goals set forth in the City's Redevelopment Plan by transforming a vacant, blighted site into a mixed-use designation and will provide local jobs and increased tax revenue for the City.

The Applicant is concurrently seeking the Members approval of an Urban Transit Hub Tax Credit ("UTHTC") for this project.

APPROVAL REQUEST:

At the request of the City of Newark, Authority assistance will enable the applicant to finance a portion of the development of the Two Center Street Project through Redevelopment Area Bonds ("RAB"). The bonds will be repaid from Payments-In-Lieu-Of-Taxes ("PILOT" payments) to be made by the developer under a finance agreement with the City of Newark, pursuant to the Redevelopment Area Bond Financing Law. The Applicant's RAB application is expected to be approved by the Local Finance Board on November 13, 2013.

Other sources of funds include conventional debt, the Applicant's equity and equity contribution from Prudential Insurance Co. of America in exchange for Prudential's exclusive use of up to 320 parking spaces.

FINANCING SUMMARY:

BOND PURCHASER: NW Capital Markets Inc. (Direct Purchase)

AMOUNT OF BOND: \$1,500,000 (Taxable Bond)

TERMS OF BOND: 20 years; Fixed interest rate not to exceed 9% (as of 11/12/13 estimated interest rate is 6%)

ENHANCEMENT: N/A

PROJECT COSTS:

Construction of new building or addition	\$80,642,000
Marketing	\$7,650,000
Engineering & architectural fees	\$5,143,000
Contingency	\$5,045,000
Interest during construction	\$3,000,000
Furniture & Fixtures	\$3,000,000
Finance fees	\$520,000
Legal fees	\$500,000
Accounting fees	\$500,000
TOTAL COSTS	\$106,000,000

JOBS: At Application 0 Within 2 years 12 Maintained 0 Construction 300

PUBLIC HEARING: N/A

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: M. Abraham

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Uncommon Properties III, LLC

P38413

PROJECT USER(S): North Star Academy Charter School of Newark, * - indicates relation to applicant

PROJECT LOCATION: Various Newark City (T/UA) Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Uncommon Properties III, LLC, an affiliate of Uncommon Schools, Inc. ("USI"), was recently formed to lend the proceeds of the bonds to NSA 559 Broad Street, LLC. NSA 559 Broad Street, LLC, also an affiliate of USI, is a limited liability company formed to hold title to real estate projects for the benefit of the schools within the USI network, including North Star Academy Charter School of Newark, Inc. ("NSA"). USI is a not-for-profit entity that starts and manages public charter schools, and through its subsidiaries, owns real estate that is leased to the school for use as public school facilities. USI currently manages 38 public charter schools across NJ, NY and MA. Brett Peiser is the Chief Executive Officer of USI.

NSA is currently a network of nine public charter schools serving over 2,200 students in grades K-12 across six campuses in Newark, Essex County. Founded in 1997, NSA's mission is to prepare each student to enter, succeed in, and graduate from college. NSA is in good standing with the NJ Department of Education.

In 2009, the Authority issued a \$16,480,000 Qualified School Construction Bond ("QSCB") for the benefit of NSA Central Avenue, LLC (P29061) to build a new high school facility at 13-25 Central Avenue, Newark. The project is completed. In 2012, Uncommon Properties II, LLC (P37823) closed on a \$7,806,000 Qualified Zone Academy Bond. Net proceeds of the sale of the QZAB in the amount of \$5,970,816 are anticipated to be utilized partly for the Uncommon Properties III project presented in Appl. P38415 and the balance in 2014 for various renovations at the following NSA schools in Newark: Downtown Middle School at 10 Washington St., Clinton Hill Middle School at 600 Clinton Avenue, West Side Park Elementary and Middle Schools at 15th Avenue and Fairmount Elementary School at 9th Street.

The project is occupied by North Star Academy Charter School of Newark, Inc., a 501(c)(3) not-for-profit entity. The Bonds are being issued as Qualified School Construction Bonds pursuant to Section 54F of the Internal Revenue Code of 1986. USI and its affiliates, for the benefit of NSA, were selected to receive a QSCB allocation of up to \$77 million for several projects in connection with the Notice of Funding Availability in the amount of \$125 million for Charter Schools, jointly issued by the Authority and Department of Education, to NJ Charter Schools.

APPROVAL REQUEST:

Authority assistance will enable the Applicant to finance the costs of acquiring the land upon which the facility sits and renovations at the NSA Downtown Middle School & High School, located at 559 Broad Street/2 Washington Place, currently serving approximately 600 students in grades 5-12. Renovations include repairs to the building's historic facade due to water damage, roof repairs and other interior and exterior repairs and renovations.

This Application is being presented together with Appl. P38415 for the acquisition and renovations of the NSA Vailsburg Elementary & Middle School located on Hazelwood Avenue, Newark, for a total QSCB financing not to exceed \$40 million.

In the event that there are any remaining QSCB proceeds after the completion of the Hazelwood Avenue and the 559 Broad Street projects, the Applicant seeks authorization under this bond resolution to include the project located at 557 15th Avenue, Newark, for costs associated with the land acquisition and renovations and repairs to the existing building. The 15th Avenue School, which is subject of Appl. P38414, will be presented to the Board at a future date for authorization of additional QSCB allocation of the remaining portion of the \$77 million.

The difference in the QSCB proceeds and the project costs will be funded with a conventional loan and the Applicant's equity.

FINANCING SUMMARY:

BOND PURCHASER: Uncommon NSA Lender II, LLC (Direct Purchase)

AMOUNT OF BOND: approximately \$6,000,000 (Part of an estimated \$40 million Taxable Qualified School Construction Bond with Appl. P38415)

TERMS OF BOND: The tax credit rate and the term will be determined prior to issuance of the QSCB based on the tax credit rate and term published by U.S. Treasury. On 10/22/13, the tax credit rate was 5.07% with max. term of 19 years.

ENHANCEMENT: N/A

PROJECT COSTS:

Renovation of existing building	\$3,760,783
Original Issue Discount	\$1,576,958
Engineering & architectural fees	\$560,398
Closing Costs	\$176,375
TOTAL COSTS	\$6,074,514

JOBS: At Application 79 Within 2 years 15 Maintained 0 Construction 32

PUBLIC HEARING: N/A

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: Uncommon Properties III, LLC

P38415

PROJECT USER(S): North Star Academy Charter School of Newark, * - indicates relation to applicant

PROJECT LOCATION: Various Newark City (T/UA) Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Uncommon Properties III, LLC, an affiliate of Uncommon Schools, Inc. ("USI"), was recently formed to lend the proceeds of the bonds to NSA Hazelwood, LLC. NSA Hazelwood, LLC, also an affiliate of USI, is a limited liability company formed to hold title to real estate projects for the benefit of the schools within the USI network, including North Star Academy Charter School of Newark, Inc. ("NSA"). USI is a not-for-profit entity that starts and manages public charter schools, and through its subsidiaries, owns real estate that is leased to the school for use as public school facilities. USI currently manages 38 public charter schools across NJ, NY and MA. Brett Peiser is the Chief Executive Officer of USI.

NSA is currently a network of nine public charter schools serving over 2,200 students in grades K-12 across six campuses. Founded in 1997, NSA's mission is to prepare each student to enter, succeed in, and graduate from college. NSA is in good standing with the Department of Education.

In 2009, the Authority issued a \$16,480,000 Qualified School Construction Bond ("QSCB") for the benefit of NSA Central Avenue, LLC (P29061) to build a new high school at 13-25 Central Avenue, Newark. The project is completed. In addition, Uncommon Properties II, LLC (P37823) closed on a \$7,806,000 Qualified Zone Academy Bond ("QZAB") in 2012. Net proceeds of the sale of the QZAB in the amount of \$5,970,816 are anticipated to be utilized partly for this project and the balance in 2014 for various renovations at the following NSA schools in Newark: Downtown Middle School at 10 Washington St., Clinton Hill Middle School at 600 Clinton Avenue, West Side Park Elementary and Middle Schools at 15th Avenue and Fairmount Elementary School at 9th Street.

The project will be occupied by North Star Academy Charter School of Newark, Inc., a 501(c)(3) not-for-profit entity. The Bonds are being issued as Qualified School Construction Bonds pursuant to Section 54F of the Internal Revenue Code of 1986. USI and its affiliates, for the benefit of NSA, were selected to receive a QSCB allocation of up to \$77,000,000 for several projects in connection with the Notice of Funding Availability in the amount of \$125 million for Charter Schools, jointly issued by the Authority and Department of Education, to NJ Charter Schools.

APPROVAL REQUEST:

Authority assistance will enable the Applicant to acquire the NSA Vailsburg Elementary & Middle School (1.8 acres of land and an 80,000 sq. ft. facility), located on Hazelwood Avenue, currently serving 675 students in grades K-7. Proceeds of the Bonds will be used to fund the allocable cost of the land being acquired, as well as renovations to the existing facility, classroom and hallway upgrades, interior building systems such HVAC, life safety, plumbing, sprinklers, lighting, etc., improvements to the building's exterior structure, including roof, exterior facade repairs, windows, etc. In addition, bond proceeds will also be applied towards construction of new 9,000 sq. ft. gymnasium.

This Application is being presented together with Appl. P38413, for renovations at the NSA Downtown Middle School & High School, located at 559 Broad Street/2 Washington Place, for total QSCB financing not to exceed \$40 million.

In the event that there are any remaining QSCB proceeds after the completion of the Hazelwood Avenue and the 559 Broad Street projects, the Applicant seeks authorization under this bond resolution to include

the project located at 557 15th Avenue, Newark, for costs associated with the land acquisition and renovations and repairs to the existing building. The 15th Avenue School, which is the subject of Appl. P38414, will be presented to the Board at a future date for authorization of additional QSCB allocation of the remaining portion of the \$77 million.

The difference in the QSCB proceeds and the project costs will be funded with a conventional loan, the 2012 QZAB proceeds and the Applicant's equity.

FINANCING SUMMARY:

BOND PURCHASER: Uncommon NSA Lender II, LLC (Direct Purchase)

AMOUNT OF BOND: approximately \$34,000,000 (Part of an estimated \$40 million Taxable Qualified School Construction Bond with Appl. P38413)

TERMS OF BOND: The tax credit rate and the term will be determined prior to issuance of the QSCB based on the tax credit rate and term published by U.S. Treasury. On 10/22/13, the tax credit rate was 5.07% with max. term of 19 years.

ENHANCEMENT: N/A

PROJECT COSTS:

Renovation of existing building	\$17,444,421
Original Issue Discount	\$8,170,756
Acquisition of existing building	\$7,100,000
Engineering & architectural fees	\$3,078,720
Land	\$2,900,000
Closing Costs	\$1,339,357
Interest during construction	\$885,000
Purchase of equipment & machinery	\$88,450
TOTAL COSTS	\$41,006,704

JOBS: At Application 75 Within 2 years 8 Maintained 0 Construction 147

PUBLIC HEARING: N/A

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: T. Wells

COMBINATION PRELIMINARY AND BOND RESOLUTIONS

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: The Rumson Country Day School

P38580

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 35 Bellevue Avenue

Rumson Borough (N)

Monmouth

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

Founded in 1926, The Rumson Country Day School, a 501(c)(3) not-for-profit organization, is a co-educational private day school located on a 12-acre campus in Rumson, New Jersey. Accredited by the Middle States Association of Independent Schools, the school serves 431 students in preschool through eighth grade. Today the facility has 48 classrooms, 3 libraries, 3 science labs, 3 music rooms, and a 200-seat auditorium. Shawn Reynolds is the President.

The Authority assisted The Rumson Country Day School in 1990 with a \$3.7 million tax-exempt bond issuance (P06164), which was refinanced with a refunding bond in 1998 (P10004). This refunding bond matured in 2010.

The Applicant has existing debt, and is proposing to refinance this debt with a tax-exempt bond. The current outstanding principal is approximately \$5 million.

The Applicant is a not-for-profit, 501(c)(3) entity for which the Authority may issue tax-exempt bonds as permitted under Section 103 and Section 145 of the Internal Revenue Code of 1986, as amended, and is not subject to the State Volume Cap limitation pursuant to Section 146(g) of the Code.

APPROVAL REQUEST:

Authority assistance will enable the Applicant to refinance its existing debt totaling approximately \$5 million with a tax-exempt bond plus pay cost of issuance.

FINANCING SUMMARY:

BOND PURCHASER: Investors Bank (Direct Purchase)

AMOUNT OF BOND: \$5,000,000 Tax-Exempt Bond

TERMS OF BOND: 30 years; fixed rate for the first 10 years at the tax-exempt equivalent of the 10-year Treasury Note plus 220 bps; rate resets after Year 10 and thereafter every 5 years at the tax-exempt equivalent of the 5-year Treasury Note plus 220 bps. Current indicative t/e rate for the first 10 years is 2.875%.

ENHANCEMENT: N/A

PROJECT COSTS:

Refinancing	\$5,000,000
Cost of Issuance	\$80,720
Finance fees	\$12,500
TOTAL COSTS	<hr/> \$5,093,220 <hr/>

JOBS: At Application

90 Within 2 years

1 Maintained

0 Construction

0

PUBLIC HEARING: 11/15/13 (Published 10/31/13) **BOND COUNSEL:** McManimon, Scotland & Bauman

DEVELOPMENT OFFICER: T. Gill

APPROVAL OFFICER: D. Sucsuz

LOANS/GRANTS/GUARANTEES

DIRECT LOANS

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - DIRECT LOAN PROGRAM**

APPLICANT: Procedyne Corp

P38626

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 11 Industrial Drive

New Brunswick City (T/UA) Middlesex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Procedyne Corporation ("Procedyne" or "Company") was founded in 1961 as an engineering and equipment manufacturing company. The Company supplies high temperature fluid bed retort furnace systems to various applications in the heat treating, plastic processing, inorganic chemical, metal working and automotive industries. The Company is jointly owned by Sholom Babad (CEO) and Sidney Rothman (President) since 2005 and has managed day to day operations since 2010.

Through a real estate holding company, SRSB, LLC, the Company currently has a \$750,000 LDFF loan (P18388) with the Authority. This loan has been handled as required.

The proceeds of this loan will be used to purchase a waterjet machine, welding equipment, a 10-ton crane and a 2-ton crane.

APPROVAL REQUEST:

Approval of a \$992,142 direct term loan.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: \$992,142

TERMS OF LOAN: Fixed rate of 5-Year UST + 100 bps, with a floor of 3%, 10-Year Term/10-Year Amortization, Call option and rate reset after the fifth year of the loan.

PROJECT COSTS:

Purchase of equipment & machinery	\$1,102,380
Finance fees	\$18,437
TOTAL COSTS	<u><u>\$1,120,817</u></u>

JOBS: At Application 45 Within 2 years 45 Maintained 10 Construction 0

DEVELOPMENT OFFICER: T. Gill

APPROVAL OFFICER: J. Wentzel

CAMDEN ECONOMIC RECOVERY BOARD



TO: Members of the Authority

FROM: Timothy J. Lizura
President and Chief Operating Officer

DATE: November 15, 2013

RE: ERB Business Incentive Grant Programs
Status Update

The Members of the Authority are asked to extend the ERB Business Incentive Grant Programs an additional 12 months through September 30, 2014.

Background:

On August 23, 2005, the Members approved a \$16 million allocation from the Demolition and Redevelopment Financing Fund to support the pilot of the Business Improvement and Business Lease Incentive initiatives in an effort to stimulate commercial, industrial and retail business activities throughout the City of Camden. On October 23, 2007, the Members approved a modification to the program that reduced the level of funding from \$16 million to \$10.5 million, with maximum allocations of \$500,000 for the Business Improvement Incentive Program (“BII”) and \$10 million for the Business Lease Incentive (“BLI”) Program. On April 27, 2010, the Members approved another reduction in the level of funding for the BLI Program from \$10.5 million to \$7 million.

The incentives are designed to supplement other state and municipal resources that are available to attract businesses to Camden, to create a wide spectrum of job opportunities for the residents of the City, and to foster other economic development activities. As part of the initial approval, the Members asked for annual updates to evaluate the program criteria and funding and to determine its viability as a resource for Camden’s economic growth.

Under the **Business Improvement Incentive** program, \$500,000 is allocated to reimburse financially viable business applicants for 50% of the cost of improvements made to facilities located on any of the city’s major commercial corridors with a maximum incentive of \$20,000.

The program is structured to allow for the full amount of the incentive award to be disbursed to the applicant upon completion and inspection of the improvements. For investment properties owners, there is a limit of three BII grants. The available balance is \$314,259.

As a supplement to this incentive program, the Camden Redevelopment Agency (“CRA”) utilizes its UEZ funding to provide grants, loans or guarantees of loans made by financial institutions to businesses located within the City’s commercial corridors. In addition, the New Jersey Economic Development Authority (“EDA”) promotes its low-cost financing resources to support women, minority and small business enterprises. In February, 2008, the EDA and the Camden Empowerment Zone Corp. (“CEZ”) executed a Memorandum of Agreement that sets forth a financing product to bridge the amount of the ERB BII Incentive. Together, these resources are used to encourage the business community to participate in the revitalization efforts and invest in their business facilities.

Through the **Business Lease Incentive** program, \$7 million is allocated to attract businesses seeking to relocate to the City of Camden and plan to lease more than 500 s.f. of market rate building space. The program can also support existing City businesses seeking to expand and lease a minimum of 500 s.f. of additional space. The program is structured to reimburse financially viable businesses a portion of their annual lease payment according to the type of space leased by the business. The annual incentive payment cannot exceed 50% of the annual lease payment or when combined with any other governmental grants, cannot exceed 80% of the annual lease payment. The incentive payments are paid annually to the applicant upon receipt of a landlord’s confirmation of no monetary or other material lease agreement defaults, a tax clearance certificate, and the applicant’s certification of any other governmental grants received during the lease period. This incentive is used to encourage business owners to explore an alternative location for their business operation and create an opportunity to increase office, industrial, and retail uses throughout the City of Camden.

Both incentive programs set forth criteria requiring applicants to pursue UEZ certification if applicable, and to facilitate job recruitment through the Camden One Stop.

Program Update:

Over the last year, staff has collaborated with state and local agencies and real estate brokers to promote these incentives to stimulate business growth in the City of Camden.

To date, eleven applications have been approved under the BII program for a total of \$185,741 which has leveraged more than \$616,000 in private investment and resulted in the creation of 19 new jobs.

Staff continues to work with PBCIP as part of their neighborhood revitalization program to assist owners of commercial properties along Haddon Avenue complete applications for funding to upgrade facades and make other interior and exterior renovations. In addition, Coopers Ferry Partnership is promoting this resource for businesses on the Broadway corridor in the central business district.

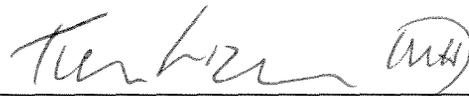
Under the BLI program, 26 applications have been received and approved for a total of \$3,973,686. Of the 26 approved projects, 3 are inactive. The remaining 23 projects have resulted in approximately 295,000 sf. of additional leased space and the creation of approximately 585 new jobs spurring approximately \$40 million in new rents over the next 10 years. The available balance is \$3,973,686.

The BLI incentive is an effective financial tool to attract businesses to Camden. The EDA has successfully utilized the incentive to attract businesses to the Waterfront Technology Center and throughout the Innovation Zone. Steiner and Associates completed construction on the Ferry Terminal Building next to the Adventure Aquarium and promoted the BLI to attract tenants to the facility which is now approximately 95% leased. Carl Dranoff is also promoting this incentive program for the commercial tenants in the Victor Building and the soon to be redeveloped Radio Lofts building. In the near future, this incentive will be important to support the development of the North Camden waterfront, the gateway office park, and the Haddon Avenue transit village project.

Recommendation:

By offering these incentives, the ERB reaffirms its support of the Camden business community as an integral part of the City's revitalization efforts and economic health. The BII and BLI will continue to leverage private investment and stimulate other economic development activities throughout the City of Camden as intended by the Act.

The Members of the ERB approved this request at its Annual meeting on October 29, 2013. Accordingly, the Members of the Authority are asked to extend the ERB Business Incentive Grant Programs an additional 12 months through September 30, 2014.



Prepared By: V. Pepe

**PETROLEUM UNDERGROUND STORAGE
TANK PROGRAM**



MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura, President and Chief Operating Officer

DATE: November 15, 2013

SUBJECT: PUST and HDSRF Program Funding Status
(For Informational Purposes Only)

In December, 2012, the members approved a change in the administration of the subject programs as a result of new Treasury guidance for fund transfers. Provided herein is the remaining funding after October approvals and those proposed for November. Treasury has also been notified of the October approvals and will encumber the funds for those approvals.

PUST:

As of September 30, the UST fund held by EDA had approximately \$9.8 million in net cash (including cash and unfunded 2011-2013 appropriations net of commitments) available to fund October board and delegated approvals [collectively \$417 thousand] and the \$1.8 million of board action approvals requested herein.

HDSRF:

As of September 30, the HD fund held by EDA had approximately \$51 million in net cash (including cash and unfunded 2011-2013 appropriations net of commitments) available to fund \$3.1 million of board action approvals requested herein.

Prepared by: Kathy Junghans



MEMORANDUM

TO: Members of the Authority
FROM: Timothy J. Lizura, President/Chief Operating Officer
DATE: November 15, 2013
SUBJECT: NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program

The following grant projects have been approved by the Department of Environmental Protection to perform upgrade, closure and site remediation activities. The scope of work is described on the attached project summaries:

UST Residential Grants:

Jane Cunningham	\$ 100,070
Dawn Dibella	\$ 322,835
John P. Seery, Jr.	\$ <u>314,708</u>
Total UST Residential Grants	\$ 737,613

UST Commercial Grants:

Atlantic City Jitney Association	\$ 614,703
Tripoli Boccia	\$ 53,757
Butler Foreign Car, Inc.	\$ 264,176
Anthony Colaluca, Jr.	\$ <u>106,107</u>

Total UST Commercial Grants: \$ 1,038,743

Total UST Grants for November 2013 \$ 1,776,356



**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Jane Cunningham

P38466

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 954 Slocum Ave.

Ridgefield Borough (N)

Bergen

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Jane Cunningham is a homeowner seeking to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank will be decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible to perform extensive soil remediation and site restoration.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$100,070 to perform the approved scope of work at the project site.

The NJDEP oversight fee of \$10,007 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT \$100,070

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade, Closure, Remediation	\$100,070
NJDEP oversight cost	\$10,070
EDA administrative cost	\$250
TOTAL COSTS	<hr/> <hr/> \$110,390

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Dawn Dibella

P38514

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 120 Wood Street

Wyckoff Township (N)

Bergen

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

In September 2011, Dawn Dibella, a homeowner, received a grant in the amount of \$22,142 under P33623 to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank will be decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible to perform extensive remediation and restoration at the project site.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$322,835 to perform the approved scope of work at the project site for a total funding to date of \$344,977.

The NJDEP oversight fee of \$32,284 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$322,835

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade, Closure, Remediation	\$322,835
NJDEP oversight cost	\$32,284
EDA administrative cost	\$250
TOTAL COSTS	<hr/> \$355,369 <hr/>

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: John P. Seery, Jr.

P38445

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 20 Elmwood Place

Logan Township (N)

Gloucester

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

John P. Seery, Jr. is a homeowner seeking to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank will be decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible to perform extensive soil and groundwater remediation along with site restoration.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$314,708 to perform the approved scope of work at the project site.

The NJDEP oversight fee of \$31,471 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT \$314,708

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade, Closure, Remediation	\$314,708
NJDEP oversight cost	\$31,471
EDA administrative cost	\$250
TOTAL COSTS	\$346,429

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Atlantic City Jitney Association

P38624

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 201 Pacific Ave.

Atlantic City (T)

Atlantic

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

In April 2011, Atlantic City Jitney Association (AC Jitney) received a grant in the amount of \$53,500 under P36474 to perform soil and groundwater remediation for the closure of the former underground storage tanks (USTs) at the project site, which was used as a transportation depot. AC Jitney sold the property to Casino Reinvestment Development Authority (CRDA) under the threat of eminent domain and the lien was removed without repayment, pursuant to the PUST regulations. The applicant is under contract with CRDA to complete the remediation of the project site. The NJDEP has determined that the supplemental project costs are technically eligible to perform aggressive and substantial soil and groundwater remediation. The project site is located within a Metropolitan Planning Area and is eligible for grant funding up to one million dollars.

The AG's office has advised because the property was sold to CRDA under threat of eminent domain and as such no lien will be required in connection with any supplemental award.

APPROVAL REQUEST:

The applicant is now requesting a supplemental grant in the amount of \$614,703 to fund these costs for a total funding to date of \$668,203.

The NJDEP oversight fee of \$61,470 is the customary 10% of the grant amount. This estimate assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT \$614,703

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade, Closure, Remediation	\$614,703
NJDEP oversight cost	\$61,470
EDA administrative cost	\$500
TOTAL COSTS	<hr/> <hr/> \$676,673

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Tripoli Boccia

P38404

PROJECT USER(S): Sal's BP Service Station *

* - indicates relation to applicant

PROJECT LOCATION: 195 McBride Ave.

Paterson City (T/UA)

Passaic

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Between September 1998 and December 1999, Tripoli Boccia, the owner of the project site and Sal's BP Service Station, received grants totaling \$213,187 under P10360 and P10360s to perform groundwater remediation for the closure of the former underground storage tanks (USTs) at the project site. The NJDEP has determined that the supplemental project costs are technically eligible to perform additional remedial activities. This funding request exceeds the maximum approval of aggregate supplemental funds of \$100,000 and therefore requires EDA's board approval.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$53,757 to perform the approved scope of work at the project site for a total funding to date of \$266,944.

The NJDEP oversight fee of \$5,376 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$53,757

TERMS OF GRANT: No Interest; 5 year repayment provision on a pro-rata basis in accordance with the PUST Act

PROJECT COSTS:

Upgrade, Closure, Remediation	\$53,757
NJDEP oversight cost	\$5,376
EDA administrative cost	\$500
TOTAL COSTS	\$59,633

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Butler Foreign Car, Inc.

P38311

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 159 Glenwild Ave.

Bloomingtondale Borough (N) Passaic

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

In October 1999, Butler Foreign Car, Inc., an automotive repair shop, received a grant in the amount of \$158,605 under P10957 to remove three underground storage tanks (USTs) and perform the required remediation. The NJDEP has determined the supplemental project costs are technically eligible for continued soil and groundwater remediation.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting supplemental funding in the amount of \$264,176 to fund these costs for a total funding to date of \$422,781.

The NJDEP oversight fee of \$26,418 is the customary 10% of the grant amount. This estimate assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$264,176

TERMS OF GRANT: No Interest; 5 year repayment provision on a pro-rata basis in accordance with the PUST Act

PROJECT COSTS:

Upgrade, Closure, Remediation	\$264,176
NJDEP oversight cost	\$26,418
EDA administrative cost	\$500
TOTAL COSTS	<hr/> \$291,094 <hr/>

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - UNDERGROUND STORAGE TANK GRANT**

APPLICANT: Anthony Colaluca, Jr.

P34470

PROJECT USER(S): Boulevard Car Wash

* - indicates relation to applicant

PROJECT LOCATION 646 Lincoln Blvd

Middlesex Borough (N)

Middlesex

GOVERNOR'S INITIATIVES: () Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Anthony Colaluca, Jr. was the owner of the project site, which was operated as a service station, and sold the property to Sha Ray Properties, LLC in 2007. Under the sale agreement, Anthony Colaluca, Jr. is obligated to complete the remediation of the project site. Sha Ray Properties, LLC has been advised that the lien will be placed on the property in accordance with the PUST Act. The NJDEP has determined that the project costs are technically eligible to perform soil and groundwater remediation along with the demolition of the existing structure.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$106,107 to perform the approved scope of work at the project site.

The NJDEP oversight fee of \$10,611 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT \$106,107

TERMS OF GRANT: No Interest; 5 year repayment provision on a pro-rata basis in accordance with the PUST Act

PROJECT COSTS:

Upgrade, Closure, Remediation	\$106,107
NJDEP oversight cost	\$10,611
EDA administrative cost	\$500
TOTAL COSTS	<hr/> \$117,218 <hr/>

APPROVAL OFFICER: K. Junghans



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

TO: Members of the Authority

FROM: Timothy Lizura
President/Chief Operating Officer

DATE: November 15, 2013

SUBJECT: Petroleum Underground Storage Tank Program - Delegated Authority Approvals
(For Informational Purposes Only)

Pursuant to the delegations approved by the Board in May 2006, the Chief Executive Officer ("CEO") with a Director may approve new grants under the Hazardous Discharge Site Remediation Fund (HDSRF) and Petroleum Underground Storage Tank Program (PUST) up to \$100,000 and may approve supplemental awards for existing grants (of any size) up to an aggregate of \$100,000, provided that the aggregate amount of the supplemental awards do not exceed \$100,000.

The Petroleum Underground Storage Tank Program legislation was amended to allow funding for the removal/closure and replacement of non-leaking residential underground storage tanks (UST's) and non-leaking non-residential UST's up to 2,000 gallons for eligible not for profit applicants. The limits allowed under the amended legislation is equivalent to the New Jersey Department of Environmental Protection cost guide.

Below is a summary of the Delegated Authority approvals processed by Finance & Development for the period October 01, 2013 to October 31, 2013

Summary:	# of Grants	\$ Amount
Leaking tank grants awarded	8	\$266,017
Non-leaking tank grants awarded	0	\$0

Applicant	Description	Grant Amount	Awarded to Date
Ayudant, Fernando (P38442)	Initial grant for upgrade, closure and remediation	\$18,381	\$18,381
Beyer, Jean-David (P38529)	Initial grant for upgrade, closure and remediation	\$47,628	\$47,628
Bosak, Steven (P38477)	Initial grant for upgrade, closure and remediation	\$53,412	\$53,412
Dancer, Donald (P38446)	Initial grant for upgrade, closure and remediation	\$35,765	\$35,765
Delnero, Mary Ellen (P38573)	Supplemental grant for upgrade, closure and remediation	\$35,000	\$194,221*
Lozzi, Kelly (P38524)	Initial grant for upgrade, closure and remediation	\$6,828	\$6,828
Rosinski, Melissa (P38449)	Initial grant for upgrade, closure and remediation	\$55,077	\$55,077
Ruiz, Jose (P38469)	Initial grant for upgrade, closure and remediation	\$13,926	\$13,926

8 Grants

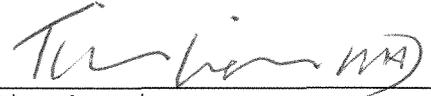
Total Delegated Authority

\$266,017

Applicant	Description	Grant Amount	Awarded to Date
-----------	-------------	--------------	-----------------

funding for Leaking applications.

*This amount includes grants approved previously by the Board and this award does not exceed the supplemental aggregate limit.



Timothy Lizura

Prepared by: Kathy Junghans, Finance Officer

**HAZARDOUS DISCHARGE SITE REMEDIATION
FUND PROGRAM**

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President/Chief Operating Officer

DATE: November 15, 2013

SUBJECT: NJDEP Hazardous Discharge Site Remediation Fund Program

The following municipal grant projects have been approved by the Department of Environmental Protection for a grant to perform investigation and remedial action activities. The scope of work is described on the attached project summaries.

Municipal Grant:

Camden Redevelopment Agency	\$1,500,000
Camden Redevelopment Agency	\$1,018,283
City of Newark	\$ 406,834
Borough of Somerville	\$ 127,351
Total HAZ Municipal Grants	\$3,052,468

Total HAZ funding for November 2013 **\$3,052,468**



Prepared by: Kathy Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Camden Redevelopment Agency (BDA-Harrison Avenue Landfill) P38689

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: Harrison Avenue and State Street Camden City (T/UA) Camden

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Between August 2006 and April 2013, Camden Redevelopment Agency (CRA) received grants totaling \$20,758,384 to perform Remedial Investigation (RI) and Remedial Action (RA) activities at the Harrison Avenue Landfill project site. The CRA was established by ordinance in 1987 as an ongoing coordination with the Mayor and the members of Camden City Council to undertake the redevelopment of blighted, underdeveloped and improperly developed areas for the social and economic well being of the City of Camden. The project site is a former landfill located in a Brownfield Development Area (BDA) and is eligible to receive 75% of the costs of remedial action activities. The City of Camden currently owns the project site and has satisfied proof of site control. It is the City's intent, upon completion of the environmental investigation activities, to redevelop the project site into a recreation center. This funding request is to continue the remediation activities at the balance of the landfill.

NJDEP has approved this request for supplemental RA grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A. The grant has been calculated off 75% of the RA costs (\$2,000,000). CRA will utilize a portion of an EPA grant to fund the remaining 25% of the eligible project costs (\$500,000). The total annual amount allowed for a municipality, county or redevelopment entity that contains a BDA is \$5,000,000 per calendar year. This grant will not exceed this limit for CRA for 2013.

APPROVAL REQUEST:

The applicant is requesting supplemental grant funding in the amount of \$1,500,000 for the approved project costs at the Harrison Avenue Landfill project site. A grant in the amount of \$1,018,283 under P38691 is being considered concurrent to bring the total funding to date to \$23,276,667.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$1,500,000 (75% Matching Grant)

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$2,000,000
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$2,000,500</u></u>

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Camden Redevelopment Agency (BDA-Harrison Ave Landfill) P38691
PROJECT USER(S): Same as applicant * - indicates relation to applicant
PROJECT LOCATION: Harrison Avenue and State Street Camden City (T/UA) Camden
GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Between August 2006 and April 2013, Camden Redevelopment Agency (CRA) received grants totaling \$20,758,384 to perform Remedial Investigation (RI) and Remedial Action (RA) activities at the Harrison Avenue Landfill project site. The CRA was established by ordinance in 1987 as an ongoing coordination with the Mayor and the members of Camden City Council to undertake the redevelopment of blighted, underdeveloped and improperly developed areas for the social and economic well being of the City of Camden. The project site is a former landfill located in a Brownfield Development Area (BDA) and is eligible to receive 75% of the costs of remedial action activities. The City of Camden currently owns the project site and has satisfied proof of site control. It is the City's intent, upon completion of the environmental investigation activities, to redevelop the project site into a recreation center. This funding request is to continue the remediation activities at the fringe area surrounding the Kroc Center.

NJDEP has approved this request for supplemental RA grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A. The grant has been calculated off 75% of the RA costs (\$1,357,711). CRA will utilize a portion of an EPA grant and a DEP Office of Natural Resource Restoration grant to fund the remaining 25% of the eligible project costs. The total annual amount allowed for a municipality, county or redevelopment entity that contains a BDA is \$5,000,000 per calendar year. This grant will not exceed this limit for CRA for 2013.

APPROVAL REQUEST:

The applicant is requesting supplemental grant funding in the amount of \$1,018,283 for the approved project costs at the Harrison Avenue Landfill project site. A grant in the amount of \$1,500,000 under P38689 is being considered concurrent to bring the total funding to date to \$23,276,667.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$1,018,283 (75% Matching Grant)

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$1,357,711
EDA administrative cost	\$500
TOTAL COSTS	\$1,358,211

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Newark City (Central Steel Drum)

P38423

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 843-871 Delancy Street

Newark City (T/UA)

Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Between December 1998 and January 2003, the City of Newark received grants totaling \$301,221 under P10558, P10558s, P12982 and P12982s for Remedial Investigation (RI) of the project site. The project site identified as Block 5074, Lot 1 is an abandoned parcel previously used for storage of cleaning and reclaiming steel drums which has potential environmental areas of concern (AOCs). The City of Newark owns the project site and has satisfied proof of site control. It is the City's intent upon completion of the environmental investigation activities to redevelop the project site for light industrial use.

NJDEP has approved this request for RI grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

APPROVAL REQUEST:

The City of Newark is requesting grant funding to perform RI in the amount of \$406,834 at the Central Steel Drum project site for a total funding to date of \$708,055.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT \$406,834

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial investigation	\$406,834
EDA administrative cost	\$500
TOTAL COSTS	<hr/> \$407,334 <hr/>

APPROVAL OFFICER: K. Junghans

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS SITE REMEDIATION - MUNICIPAL GRANT**

APPLICANT: Borough of Somerville (Color Technology)

P38564

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 60 Cornell Blvd.

Somerville Borough (T)

Somerset

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

The Borough of Somerville identified a project site that has potential environmental areas of concern (AOCs). The project site identified as Block 127, Lot 1, is a former print ink manufacturing facility, which is currently vacant. The Borough intends to acquire the project site and has satisfied proof of site control. It is the Borough's intent upon completion of the environmental investigation activities to redevelop the project site for recreational use.

NJDEP has approved this request for Preliminary Assessment (PA) and Site Investigation (SI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

APPROVAL REQUEST:

The Borough of Somerville is requesting grant funding to perform PA and SI in the amount of \$127,351 at the Color Technology project site.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT \$127,351

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Site investigation	\$122,183
Preliminary assessment	\$5,168
EDA administrative cost	\$500
TOTAL COSTS	<u><u>\$127,851</u></u>

APPROVAL OFFICER: K. Junghans

INCENTIVES

BUSINESS EMPLOYMENT INCENTIVE PROGRAM
BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT
SALES AND USE TAX EXEMPTION



MEMORANDUM

TO: Members of the Authority
FROM: Timothy J. Lizura
President and Chief Operating Officer
RE: Revised Incentive Programs – New Jersey Economic Opportunity Act of 2013
DATE: November 15, 2013

Request:

The Members are requested to approve proposed amendments to the rules implementing the Economic Redevelopment and Growth (ERG) Program and Grow New Jersey Assistance (Grow NJ) Program based on statutory revisions enacted pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161.

Background:

On September 18, 2013, Governor Christie enacted the New Jersey Economic Opportunity Act, P.L. 2013, c. 161, intended to enhance business attraction, retention and job creation efforts and strengthen New Jersey’s competitive edge in the global economy. Specifically, the law merges the State’s five economic development incentive programs, while expanding the geographic boundaries and lowering eligibility thresholds for the ERG and Grow NJ programs, to further the ability of the State to attract and retain businesses; and phases out the Business Employment and Incentive Program (BEIP) and Business Retention and Relocation Assistance Grant (BRRAG) Program by December 31, 2013 and the Urban Transit Hub Tax Credit (UTHTC)-Residential Program by 120 days after the effective date of P.L. 2013, c. 161, which is September 18, 2013. In effect, the Grow NJ Program is now the State’s main job creation incentive program and the ERG Program is the key developer incentive program. Upon approval by the Board, the EDA will launch the revised programs on or about November 18, 2013.

The following provides a summary of the major provisions of the proposed rule amendments:

Economic Redevelopment and Growth Program

Areas of Eligibility

P.L. 2013, c. 161 revises the Economic Redevelopment and Growth (ERG) Program to prioritize development and job creation in smart growth locations that already have infrastructure, particularly areas near train stations and in cities. The proposed rule amendments expand the existing qualifying incentive areas, which focus mainly on Planning Area 1, Planning Area 2 or a center designated under the State Planning Act, to include other key areas including an aviation

district, port district or distressed municipality.

Incentive Amounts

The proposed amendments limit the incentive grant to qualified incentive areas and may increase the amount of the grant from 20% to 40% of the total project cost. In addition, bonus awards of up to an additional 10% are provided for certain types of projects, as described below, capped at 30% except for projects located in a Garden State Growth Zone (GSGZ), i.e., the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census (Camden/Trenton/Paterson/Passaic), where the cap is 40%. The local incentive grant follows the base, bonus and cap elements of the State incentive grant, except when the developer is a municipal redevelopment agency, in which case the cap is 100%.

Bonus Awards

The new bonus awards, referenced above, serve to incentivize targeted redevelopment goals, which include bringing fresh produce to urban “food deserts”, rebuilding tourism destinations that were destroyed by Superstorm Sandy, and supporting development in urban centers and suburban office parks, which have historically struggled with redevelopment due to project financing gaps.

Specifically, bonus amounts of up to 10% are available if the project is:

- Located in a distressed municipality which lacks adequate access to nutritious food, and will include either a *supermarket or grocery store* with a minimum of 15,000 square feet of selling space devoted to the sale of consumable products or a *prepared food establishment selling only nutritious ready to serve meals*;
- Located in a distressed municipality which lacks *adequate access to health care and health services* and will include a health care and health services center with a *minimum of 10,000 square feet of space* devoted to the *provision of health care and health services*;
- Transit project;
- Qualified residential project with at least *10% of the residential units constructed as and reserved for moderate income housing*;
- Located in a highlands development credit receiving area or redevelopment area;
- Disaster recovery project;
- Aviation project;
- Tourism destination project; or
- Substantial rehabilitation or renovation of an existing structure(s).

Qualified Residential Projects

The law authorizes \$600 million in incentives for qualified residential projects, that the EDA proposes to administer as tax credits pursuant to the Act, as follows:

- \$250 million for projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem counties, of which:
 - \$175 million for projects in Camden
 - \$75 million for projects in municipalities with a 2007 MRI Index of 400 or higher

- \$250 million for qualified residential projects located in:
 - Urban Transit Hubs that are commuter rail in nature
 - GSGZ
 - Disaster recovery projects
 - SDA municipalities located in Hudson County that were awarded State Aid in FY 2013 through the Transitional Aid to Localities Program
- \$75 million for projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas
- \$25 million for projects located within a qualifying ERG incentive area

Net Positive Economic Benefit Analysis

The Net Benefits and Internal Rate of Return (IRR) Hurdle Rate models, developed by the EDA, will utilize employment statistics that have been updated with current Regional Input-Output Modeling System II (RIMS II) data from the US Bureau of Labor Statistics.

Other

In addition, the proposed amendments implement other revisions pursuant to P.L. 2013, c. 161:

- Revise the annual percentage amount of reimbursement to an average of 75% of the annual incremental State revenues and an average of 85% of the project's annual incremental revenues in a GSGZ;
- Exclude a qualified residential project from the requirement for such project to result in net benefits to the State;
- Authorize any developer to assign their ability to apply for a State incentive grant to certain not-for-profit organizations and provide that such not-for-profit organizations may make an application on behalf of an eligible developer or a group of non-qualifying developers as a unified project;
- Establish the provisions under which certain developers that have applied for an incentive grant award prior to the effective date of P.L. 2013, c. 161, may proceed under that application or reapply for an incentive grant award for the same project, excluding projects with costs exceeding \$200 million, which shall not be eligible for the revised percentage caps under P.L. 2013, c. 161;
- Establish the provisions under which certain developers may apply to the Director of the Division of Taxation and EDA for a tax credit transfer certificate; and prohibits the sale or assignment of any amount of a tax credit for consideration received by the developer of less than 75% of the transferred credit amount, as determined at present value;
- Provide that, for a State incentive grant solely for infrastructure improvements in the public right-of-way or any ancillary infrastructure project, regardless of whether the work or improvements are part of a larger redevelopment project, only the work relating to the infrastructure improvements in the public right-of-way or the ancillary infrastructure project for which the incentive grant is issued, shall be applicable to the EDA's affirmative action and prevailing wage requirements; and
- Establish procedures for challenges to Authority determinations made under the program

which conform to the existing procedures within the Authority's rules pertaining to other incentive programs.

Application Deadline

A developer shall submit an application for a State incentive grant prior to July 1, 2019.

Grow New Jersey Assistance Program

Areas of Eligibility

The proposed amendments, pursuant to P.L. 2013, c. 161, establish new areas of eligibility as follows:

Mega Projects – Logistics, manufacturing, energy, defense, or maritime businesses in a port district or businesses in the aviation industry located in an aviation district with 1) capital investment in excess of \$20 million and more than 250 jobs created or retained, or 2) 1,000 jobs created or retained; and Businesses located in an Urban Transit Hub with capital investment in excess of \$50 million and more than 250 jobs created or retained.

Garden State Growth Zones (GSGZ) – The New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census (Camden / Trenton / Paterson / Passaic).

Distressed Municipality – A municipality qualified to receive assistance under the Municipal (Urban) Aid Program; is under the supervision of the Local Finance Board; identified by DCA to be facing serious fiscal distress; SDA municipality; or municipality boasting a major rail station (*presently, the number of these municipalities total 63, of which 57 are eligible pursuant to the Municipal (Urban) Aid Program, N.J.S.A. 52:27D-178*).

Priority Areas

- Planning Area 1, Planning Area 2, a designated center under the State Development and Redevelopment Plan or a designated growth center in an endorsed plan;
- Areas that intersect with portions of a deep poverty pocket, a port district, or federally owned land approved for closure under a federal BRAC action;
- Proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or
- Areas that contain a vacant commercial building having over 400,000 s.f. of office, lab, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a UTHTC-supported project.

Other Eligible Areas – Areas not located within a distressed municipality or priority area, including an Aviation District; Planning Area 3; certain portions of Meadowlands, Pinelands and Highlands; and certain portions of Planning Areas 4A, 4B & 5.

Eligibility criteria

The proposed amendments, pursuant to P.L. 2013, c. 161 establish minimum capital investment and employment requirements, as follows:

<u>Minimum Capital Investment Requirements</u>	<u>(\$/Square Foot)</u>
Industrial - Rehabilitation Projects	\$ 20
Industrial - New Construction Projects	\$ 60
Office – Rehabilitation Projects	\$ 40
Office – New Construction	\$120

Minimum capital investment amounts are lowered to 2/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

<u>Minimum Full-Time Employment Requirements</u>	<u>(New / Retained Full-time Jobs)</u>
Tech start ups and manufacturing businesses	10 / 25
Other targeted Industries	25 / 35
All other businesses/industries	35 / 50

Minimum employment numbers are lowered to 3/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

Tax Credit Amounts: Base + Bonus = Maximum

P.L. 2013, c. 161 establishes base, gross and maximum amounts of tax credits for each new or retained full-time employee pursuant to project location, as follows:

Project Type	Base Amount <i>Per New or Retained FT Job, Per Year</i>	Gross Amount <i>Per New or Retained FT Job, Per Year</i>	Maximum Amount <i>To be Applied by the Business Annually</i>
Mega Project	\$5,000	\$15,000	\$30 million
GSGZ Project	\$5,000	\$15,000	\$30 million <i>\$35 million-GSGZ-Camden</i>
Urban Transit Hub Municipality	\$5,000	\$12,000	\$10 million
Distressed Municipality	\$4,000	\$11,000	\$8 million
Priority Area	\$3,000	\$10,500	\$4 million <i>Not more than 90% of business withholdings</i>
Other Eligible Area	\$500	\$6,000	\$2.5 million <i>Not more than 90% of business withholdings</i>
Disaster Recovery Project	\$2,000	\$2,000	

Bonus – Type & Amount

The amount of the tax credit shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the EDA from

time to time in response to evolving economic or market conditions:

Bonus Type	Bonus Amount
Deep poverty pocket or Choice Neighborhood Transportation Plan area	\$1,500
Qualified incubator facility	\$500
Mixed-use development with sufficient moderate income housing on site to accommodate 20% of full-time employees	\$500
Transit oriented development	\$2,000
Excess capital investment in industrial site for industrial use <i>Excludes mega projects</i>	\$3,000 maximum
Excess capital investment in industrial site for industrial use <i>Mega projects or GSGZ projects</i>	\$5,000 maximum
Average salary in excess of county's existing average or in excess of average for GSGZ	\$1,500 maximum
Large numbers of new and retained full-time jobs	
251 to 400	\$500
401 to 600	\$750
601 to 800	\$1,000
801 to 1,000	\$1,250
1,001+	\$1,500
Business in a targeted industry	\$500
Exceeds LEED "Silver" or completes substantial environmental remediation	\$250
Located in municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem counties with a MRI Index greater than 465	\$1,000
Located within a half-mile of any new light rail station	\$1,000
Projects generating solar energy for onsite use	\$250

Final Total Tax Credit Amount

The final total amount of tax credit for each new full-time job, following the determination by the EDA of the gross amount of tax credits, shall be as follows: Each new full-time job = 100% of the gross amount of tax credits; and Each retained full-time job = 50% of the gross amount of tax credits.

For a project located within a GSGZ-Camden, the total tax credit is as follows:

Jobs – Minimum	Cap Investment – Minimum	Total Tax Credit Per Job*
35	\$5 million	\$20 million
70	\$10 million	\$30 million
100	\$15 million	\$40 million
150	\$20 million	\$50 million
250	\$30 million	Uncapped

**Maximum equal to the greater of total tax credit amount for a qualifying project in a GSGZ or total capital investment of the project divided by the total number of new full-time jobs*

In addition, for each application for tax credits in excess of \$40 million, the amount of tax credits available to be applied by the business annually shall be the lesser of the permitted statutory maximum amount or an amount determined by the EDA necessary to complete the project, which shall be determined through staff analysis of all locations under consideration by the business and all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations and potential out-of State location alternatives.

Limits on Annual Tax Credits

The proposed amendments provide that for each application approved by the EDA Board, the amount of tax credits available to be applied by the business annually shall not exceed certain amounts and shall meet certain net benefit requirements, as follows:

- GSGZ-Camden \$35,000,000
- Mega Project-Growth Zone \$30,000,000
- Urban Transit Hub \$10,000,000
- Distressed Municipality \$ 8,000,000
- Priority Areas \$ 4,000,000 *(Not more than 90% of Withholdings)*
- Other Eligible Areas \$ 2,500,000 *(Not more than 90% of Withholdings)*

Other

In addition, the proposed amendments implement other revisions pursuant to P.L. 2013, c. 161:

- Establish exceptions under the net positive economic benefit analysis, specifically: for a mega project or a project in a GSGZ, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the EDA, and for a project located in a GSGZ-Camden, the determination shall be based on the benefits generated during a period of up to 35 years following the completion of the project, as determined by EDA and shall equal at least 100% of the requested tax credit allocation;
- In a GSGZ or Atlantic City Tourism District regulated by the CRDA, up to 7.5% of retail facilities included in a mixed use project shall be eligible for tax credits along with the non-retail facilities and a retail facility of at least 150,000 square feet, of which at least 50% is occupied by a full-service supermarket or grocery store, located in a GSGZ-Camden or a tourism destination project in the Atlantic City Tourism District, or catalog distribution centers, shall not be considered point-of-final-purchase retail facilities;
- Require that the certification, with respect to a project in a GSGZ-Camden, shall indicate that the provision of tax credits is a material factor in the business's decision to make a capital investment and locate in a project in the GSGZ;
- Authorize a business to assign their ability to apply for the tax credit to a not-for-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a GSGZ;
- Require that a business which has already applied for a tax credit incentive award prior to the effective date of P.L. 2013, c. 161, but which has not yet been approved for such tax credits, or has not executed an agreement with the EDA, may proceed under that

application or seek to amend such application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program;

- Revise the provisions of the separate determination made by the EDA Board verifying the at risk nature of jobs leaving the State, to include the determination as to the date, or dates, at which the Authority expects that those jobs would actually leave the State, or, with respect to projects located in a GSGZ-Camden, the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in the GSGZ;
- Revise the requirement that the applicant maintain the project at a location in New Jersey from the existing period of at least 1.5 times the number of years of the term of the tax credits, to the commitment period; and, notice that certifications are required for eligible capital investment and number of employees;
- Revise the cap on the combined value of all credits approved by the EDA pursuant to the Urban Transit Hub Tax Credit Act and Offshore Wind Economic Development Act for applications received prior to December 31, 2013, from \$1.5 billion to \$1.75 billion, which may be increased by the Authority as set forth in prior law;
- Clarify new provisions for recapture of any tax credit awarded pursuant to the revisions in P.L. 2013, c. 161, including that the EDA may pursue recapture at any time during the commitment period, including during certain periods in the eligibility period in which the tax credits are forfeited;
- Address the application of the EDA's affirmative action and prevailing wage requirements which will apply only to State incentive grant projects undertaken in connection with financial assistance received under the program; and
- Establish appeal procedures for challenges to EDA determinations made under the program which conform to the existing procedures within the Authority's rules pertaining to other incentive programs.

Application Deadline(s)

A business shall submit an application for tax credits prior to July 1, 2019, except for businesses seeking a credit for a mega project which shall apply within four years after the effective date of P.L. 2013, c. 161, or September 18, 2017. The EDA is permitted to grant two six-month extensions of the deadline however, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the EDA. In addition, an eligible business that is required to respond to an RFP and to fulfill a contract with the federal government shall complete its application by December 31, 2013.

Fees – ERG and Grow NJ/EDA Legacy Programs

The proposed amendments address fees under the ERG Program and Grow NJ Program commensurate with the increased level of assistance, and eligibility review and compliance monitoring required pursuant to P.L. 2013, c. 161; and, establish and revise certain fees under the Brownfields and Contaminated Site Remediation Program, UTHTC Program, BEIP, BRRAG

Program and BRRAG Tax Credit Certificate Transfer Program, for the costs in administering awards which may extend for up to 15 years following approval by EDA. The Authority will utilize the fee structure in the proposed rules until adopted; if changed upon adoption, the new fee structure will be retroactive and applicants will be required to pay any adopted increased fees.

Recommendation:

The Members are asked to approve the attached proposed amendments to the Economic Redevelopment and Growth (ERG) Program and Grow New Jersey Assistance (Grow NJ) Program based on statutory revisions enacted pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161.

The Members are also requested to approve revised fees under the ERG Program and Grow NJ Program and new and revised modification fees under the Brownfields and Contaminated Site Remediation Program, Urban Transit Hub Tax Credit (UTHTC) Program, Business Employment Incentive Program (BEIP), Business Retention and Relocation Assistance Grant (BRRAG) Program and BRRAG Tax Credit Certificate Transfer Program.

The Members are also asked to authorize staff to submit program rules for promulgation in the January 6, 2014 edition of the New Jersey Register, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law (OAL). The Authority will operate with the proposed rule amendments upon submission to OAL, with risk to the applicant if changes are not adopted as proposed.



Timothy J. Lizura

Attachment

Prepared by: Jacob Genovay/Gina Behnfeldt

DRAFT
11.15.13 - FINAL

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Proposed Amendments: N.J.A.C. 19:30-6.1, 6.2, 6.3 and 6.4; and 19:31-4.1, 4.2, 4.3, 4.4, 9.6, 10.12, 14.2, 14.14, 15.7, 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7, 18.8, 18.9, 18.10, 18.11, 18.14, 18.15 and 18.16

Proposed New Rules: N.J.A.C. 19:31-4.5, 4.9 and 4.13; 19:31-18.17 and 18.18

Proposed Recodifications with Amendments: N.J.A.C. 19:31-4.5, 4.6, 4.7, 4.8, 4.9, 4.10 and 4.11 as 4.6, 4.7, 4.8, 4.10, 4.11, 4.12 and 4.14 respectively; and 19:31-18.17 as 18.19

Administrative Rules; Fees

Authority Assistance Programs; Economic Redevelopment and Growth Program; Urban Transit Hub Tax Credit Program; Business Employment Incentive Program; Business Retention and Relocation Assistance Grant Program; Tax Credit Certificate Transfer Program; and Grow New Jersey Assistance Program

Authorized By: New Jersey Economic Development Authority, Michele Brown, Chief Executive Officer.

Authority: P.L. 2013, c. 161.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2013- .

Submit written comments by March 7, 2014 to:

Maureen Hassett, SVP Finance & Development
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (“EDA” or “Authority”) is proposing amendments to the rules implementing the Economic Redevelopment and Growth (ERG) Program and Grow New Jersey Assistance (Grow NJ) Program based on statutory revisions enacted pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161, intended to enhance business attraction, retention and job creation efforts and strengthen New Jersey’s competitive edge in the global economy.

Specifically, P.L. 2013, c. 161 merges the State's five economic development incentive programs, while expanding the geographic boundaries and lowering eligibility thresholds for the ERG and Grow NJ programs to further the ability of the State to attract and retain businesses; and phases out the Business Employment Incentive Program (BEIP) and Business Retention and Relocation Assistance Grant (BRRAG) Program by December 31, 2013 and the Urban Transit Hub Tax Credit (UTHTC) Program by 120 days after the effective date of P.L. 2013, c. 161, which is September 18, 2013.

In addition to implementing the statutory revisions, the proposed amendments address fees under the ERG Program and Grow NJ Program commensurate with the increased level of assistance, and eligibility review and compliance monitoring required pursuant to P.L. 2013, c. 161; and, establish and revise certain fees under the Brownfields and Contaminated Site Remediation Program, UTHTC Program, BEIP, BRRAG Program and BRRAG Tax Credit Certificate Transfer Program, for the costs in administering awards which may extend for up to 15 years following approval by EDA.

The proposed amendments and new rules are summarized as follows:

N.J.A.C. 19:30 Administrative Rules

Subchapter 6. Fees

N.J.A.C. 19:30-6.1 through 6.4 Application fee; Commitment fees; Closing fees; and Post-closing fees

The proposed amendments delete existing fees for the Economic Redevelopment and Growth (ERG) Program, set forth at N.J.A.C. 19:30-6.1 through 6.4, which are relocated and revised at proposed new N.J.A.C. 19:31-4.5 and summarized below. In addition, proposed new N.J.A.C. 19:30-6.4(a)9 establishes a fee for certain changes, additions or modifications to the reimbursement under the Brownfields and Contaminated Site Remediation Program as follows: 1) for each request for any administrative changes, additions or modifications for projects with an approved maximum aggregate reimbursement of \$5,000,000 or less, \$2,500 shall be paid and for projects with an approved maximum aggregate reimbursement in excess of \$5,000,000, \$5,000 shall be paid; and 2) for each request for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval, for projects with an approved maximum aggregate reimbursement of \$5,000,000 or less, \$7,500 shall be paid, and for projects with an approved maximum aggregate reimbursement in excess of \$5,000,000, \$25,000 shall be paid.

N.J.A.C. 19:31 Authority Assistance Programs

Subchapter 4. Economic Redevelopment and Growth Program

N.J.A.C. 19:31-4.1 Applicability and scope

The proposed amendments clarify that: the EDA and State Treasurer also may enter into a redevelopment incentive grant agreement with a non-profit organization on behalf of a qualified

developer; up to an average of 75 percent of the incremental increase in approved State revenues or 85 percent for a project in a Garden State Growth Zone may be paid to the developer in the form of a grant derived from the realized revenues; for certain qualified residential projects where the estimated amount of incremental revenues is inadequate to fully fund the amount of the State portion of the incentive grant, tax credits equal to the full amount of the incentive grant may be awarded; and the base amount of the combined reimbursements from State and local grants cannot exceed 20 percent of the eligible cost of the project, except for a project in a Garden State Growth Zone, which cannot exceed 30 percent.

N.J.A.C. 19:31-4.2 Definitions

The proposed amendments redefine certain terms used in this subchapter, based on statutory revisions in P.L. 2013, c. 161, as follows: “ancillary infrastructure project” is revised to apply to all structures or improvements located within the incentive area, as opposed to the existing requirement for public structures or improvements located in the public right-of-way, and including docks, bulkheads, parking garages, freight rail spurs, roadway overpasses and train station platforms provided a developer demonstrate that the project promotes the use of public transportation, as approved by the State Treasurer; “applicant” is revised to also include a non-profit organization to which the developer has assigned its ability to apply for the tax credit; “developer” is revised to insert a reference to the ERG Program and delete a citation thereto, and include certain successors or assigns of any person who enters or proposes to enter into a redevelopment agreement, i.e. a lender that contemplates a redevelopment project, operates a redevelopment project, or both; “eligible revenue” is revised to include, in the case of a Garden State Growth Zone, such property tax increment and any other incremental revenues that would have existed notwithstanding the provisions of P.L. 2013, c. 161; “fiscal impact analysis” is revised to clarify that new and retained jobs includes full-time employees at the qualified business facility, delete the term “output” which is replaced with “benefits” pertaining to the estimate of direct and indirect economic benefits which shall also include certain “non-financial community revitalization objectives” including objectives memorialized in a municipal master plan or plan for an area in need of redevelopment or the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project; “infrastructure improvements in the public-right-of-way” is revised to mean public structures or improvements which are dedicated to or owned by a governmental body or agency upon completion, or any payment in lieu of structures, improvements or projects or any costs of remediation associated with such structures, improvements or projects, and that are determined by the EDA, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives; “project area” or “redevelopment project area” is clarified to include land or lands under common ownership located within the incentive area or otherwise established by a redevelopment agreement executed by a State entity to implement a redevelopment project; “project financing gap” is revised to 1) delete the term “eligible” pertaining to project costs as the term “eligible project costs” is proposed for deletion, 2) include in project cost the value of any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, subject to review by the State Treasurer, 3) clarify that the existing developer certification that additional capital cannot be raised from other sources are on a non-recourse basis, and that, except for final point of sale retail businesses, including retail, educational, hospital or retail projects, the financing gap shall include the amount by which the total project cost exceeds the

cost of a viable alternative location for the out-of-State redevelopment project, if certified to by the business's chief executive officer that the project is at risk of leaving the state and would not occur but for the provision of the incentive under the program, and 4) revise a citation to recodified N.J.A.C. 19:31-4.6(a)4 regarding the factors to be considered for calculation of the project financing gap; "redevelopment incentive grant agreement" is revised to include a transit village in the areas upon which a project may be undertaken; and "redevelopment project" or "project" deletes the term "work" which is replaced with "construction project," clarifies that the definition includes land which may be leased by, in addition to a developer, an owner or tenant or both and shall include infrastructure improvements in the public right-of-way, and that the use of the term "redevelopment project" shall not be limited to only redevelopment projects located in areas determined to be in need of redevelopment, but shall also include any work or undertaking in accordance with the Redevelopment Area Bond Financing Law or other applicable law, pursuant to a redevelopment plan adopted by a State entity, or as described in the resolution adopted by a public entity created by State law with the power to adopt a redevelopment plan or otherwise determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it or within its jurisdiction, including but not limited to, the New Jersey Meadowlands Commission, the New Jersey Sports and Exposition Authority and the Fort Monmouth Economic Revitalization Authority.

In addition, the proposed amendments, pursuant to P.L. 2013, c. 161, establish new definitions for "aviation district," "deep poverty pocket," "disaster recovery project," "distressed municipality," "eligibility period," "Garden State Growth Zone" or "growth zone," "Highlands development credit receiving area or redevelopment area," "low-income housing," "major rail station," "minimum environmental and sustainability standards," "moderate-income housing," "Municipal Revitalization Index," "project cost," "qualified incubator facility," "qualified residential project," "SDA district," "SDA municipality," "square feet," "square feet of gross leasable area" or "gross leasable area," "technology startup company," "tourism destination project," "transit project," "urban transit hub," "vacant commercial building" and "vacant health facility project."

The proposed amendments delete the definition for "eligible project costs," which is replaced by the provisions contained in the proposed new definition for "project cost"; delete the definition for "net profit margin" which is no longer utilized in the administration of the program; and delete the definition for "qualifying economic redevelopment and growth grant incentive area" or "incentive area" which, pursuant to P.L. 2013, c. 161 has been substantially revised to mean: an aviation district, a port district, a distressed municipality or an area: 1) designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), pursuant to the State Planning Act; or 2) located within: a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission; any land owned by the New Jersey Sports and Exposition Authority, within the boundaries of the Hackensack Meadowlands District; a regional growth area, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission; the planning area of the Highlands Region or in a highlands development credit receiving area or redevelopment area; a Garden State Growth Zone; land approved for closure under any Federal Base Closure and Realignment Commission action; or only the following portions of the areas designated pursuant to

the State Planning Act, as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive), if located within a designated center under the State Development and Redevelopment Plan; a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts rules to revise this definition as it pertains to Statewide planning areas; any area determined to be in need of redevelopment or in need of rehabilitation; any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided such expansion otherwise complies with all applicable Federal, State, county, and local permits and approvals; the planning area of the Highlands Region or a highlands development credit receiving area or redevelopment area; or any area on which an existing tourism destination project is located. Under the proposed amendments, "qualifying economic redevelopment and growth grant incentive area" or "incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in the Highlands Water Protection and Planning Act, P.L. 2004, c. 120 (N.J.S.A. 13:20-1 et seq.).

Finally, the proposed amendments delete the definition of "soft costs," which is provided for in the new definition for "project cost" pursuant to P.L. 2013, c. 161.

N.J.A.C. 19:31-4.3 Eligibility criteria

The proposed amendments, at N.J.A.C. 19:31-4.3(a), eliminate the reference to the eligibility review which is provided for in N.J.A.C. 19:31-4.6. The proposed amendment, at N.J.A.C. 19:31-4.3(a)2ii, corrects a citation to recodified N.J.A.C. 19:31-4.6(a)2. Finally, the proposed amendments, at N.J.A.C. 19:31-4.3(a)5, revise the paragraph to exclude a qualified residential project from the requirement for such projects to result in net benefits to the State pursuant to P.L. 2013, c. 161.

N.J.A.C. 19:31-4.4 Application submission requirements for State incentive grants

The proposed amendment, at N.J.A.C. 19:31-4.4(a)9, deletes the term "eligible" pertaining to project costs, the definition of which is deleted and replaced by the provisions contained in the proposed new definition for "project cost."

The proposed amendment, at N.J.A.C. 19:31-4.4(b)11, corrects a reference to qualified residential projects and citation for the required certification at recodified N.J.A.C. 19:31-4.3(a)3; the proposed amendment, at N.J.A.C. 19:31-4.4(b)19 corrects a citation to recodified N.J.A.C. 19:31-4.7(b); the proposed amendments at N.J.A.C. 19:31-4.4(b)20 delete the term "green building" which is replaced by "minimum environmental and sustainability" pertaining to required standards to be incorporated into proposed projects; and, the proposed amendment, at N.J.A.C. 19:31-4.4(b)21, requires that the letter of support from the governing body of the municipality in which the proposed redevelopment is located shall also pertain to any ancillary infrastructure project or infrastructure improvement in the right-of-way.

The proposed new N.J.A.C. 19:31-4.4(c) authorizes any developer to assign their ability to apply for a State incentive grant to certain non-profit organizations and provide that such non-profit

organizations may make an application on behalf of an eligible developer or a group of non-qualifying developers as a unified project. The new subsection also establishes additional information which a non-profit organization shall submit in such instances at proposed new N.J.A.C. 19:31-4.4(c)1 to 6.

The proposed new N.J.A.C. 19:31-4.4(d) establishes provisions under which certain developers that have applied for an incentive grant award prior to the effective date of P.L. 2013, c. 161, may proceed under that application or reapply for an incentive grant award for the same project, excluding projects with costs exceeding \$200 million, which shall not be eligible for the revised percentage caps under P.L. 2013, c. 161.

N.J.A.C. 19:31-4.5 Fees

The proposed new N.J.A.C. 19:31-4.5 relocates and revises fees for the program, set forth at N.J.A.C. 19:30-6.1 through 6.4, as follows: proposed new N.J.A.C. 19:31-4.5(a) relocates and retains the existing \$5,000 application fee for the program, which is proposed for deletion at N.J.A.C. 19:31-6.1(a)3; proposed new N.J.A.C. 19:31-4.5(b) relocates and retains the existing fee of the full amount of direct costs of any analysis by a third party retained by the Authority, which is proposed for deletion at N.J.A.C. 19:30-6.1(a)3; proposed new N.J.A.C. 19:31-4.5(c) relocates and, for projects other than qualified residential projects, revises the cap on the existing fee of .5 percent of the incentive grant paid upon the approval of the incentive grant, from \$300,000 to \$500,000, which is proposed for deletion at N.J.A.C. 19:30-6.2(c); proposed new N.J.A.C. 19:31-4.5(d) relocates and, for projects other than qualified residential projects, revises the cap on the existing fee of .5 percent paid upon the execution of the incentive grant agreement, from \$300,000 to \$500,000, which is proposed for deletion at N.J.A.C. 19:30-6.3(g) through (i) pertaining to State, local and combined State and local incentive grants; proposed new N.J.A.C. 19:31-4.5(e) establishes an annual review fee of \$2,500 for a qualified residential project which shall be paid to the Authority by the developer at the time of submittal of its annual report; proposed new N.J.A.C. 19:31-4.5(f) and (g) relocates the existing fee of \$2,500 for approval to pledge or assign a grant amount, application for a tax credit transfer certificate, permission to pledge a tax credit transfer certificate purchase agreement as collateral, or application to pledge, assign, transfer or sell any right, title, and interest in an incentive agreement and grants, which is proposed for deletion at N.J.A.C. 19:30-6.4(a)9; proposed new N.J.A.C. 19:31-4.5(h) establishes a modification fee of \$5,000 for each request for any administrative changes, additions or modifications and \$25,000 for any major changes, additions or modifications; proposed new N.J.A.C. 19:31-4.5(i) establishes a fee of \$1,000 for the first extension to the date by which evidence must be submitted to demonstrate compliance with the conditions set forth in the commitment letter pursuant to N.J.A.C. 19:31-4.8(a) and a non-refundable fee of \$2,500 for the second such extension; and proposed new N.J.A.C. 19:31-4.5(j) establishes a fee of \$5,000 for a business seeking to terminate an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161 and a fee of \$25,000 for terminations that require extensive staff time or Board approval.

N.J.A.C. 19:31-4.6 Financing gap and fiscal impact analysis

The proposed amendment, at recodified N.J.A.C. 19:31-4.6(a) deletes the term “redevelopment” pertaining to project costs pursuant to statutory revisions in P.L. 2013, c. 161; and

the proposed amendments, at recodified N.J.A.C. 19:31-4.6(a)2 and 4, delete the term “eligible” pertaining to project costs, the definition of which is which deleted and replaced by the provisions contained in the proposed new definition for “project cost.”

The proposed new recodified N.J.A.C. 19:31-4.6(a)5 requires, except for final point of sale retail businesses, including retail, educational, hospital or hotel projects, that the financing gap will include the amount by which the total project cost exceeds the cost of a viable alternative location for the out-of-State redevelopment project as certified by the business’s chief executive officer, or equivalent officer, indicating that the project is at risk of leaving or not being located in the State, and the project would not occur but for the provision of the incentive grant. The paragraph also provides that the Authority may revoke any award of an incentive grant, in addition to any other penalties, if the certification is found to be willfully false.

The proposed amendment, at recodified N.J.A.C. 19:31-4.6(b) deletes the term “redevelopment” pertaining to projects and the required fiscal impact analysis conducted by the Authority and excludes a qualified residential project from the net positive economic benefits requirement pursuant to P.L. 2013, c. 161.

The proposed amendment, at recodified N.J.A.C. 19:31-4.6(c), revises the factors which the Authority shall consider in determining whether the project meets the net positive economic benefits analysis to include, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, objectives memorialized in a municipal master plan or plan for an area in need of redevelopment or rehabilitation, or the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

N.J.A.C. 19:31-4.7 Approval of application for State incentive grant

The proposed amendment, at recodified N.J.A.C. 19:31-4.7(a), provides that pursuant to P.L. 2013, c. 161, a qualified residential developer shall be exempt from the requirement that State revenues to be realized from the redevelopment project will be in excess of the amount necessary for reimbursement of the developer portion of the project financing gap allocable to the State incentive grant.

The proposed amendments, at recodified N.J.A.C. 19:31-4.7(b), revise the factors which the Authority shall consider in deciding whether to enter into a redevelopment incentive agreement, as follows: recodified N.J.A.C. 19:31-4.7(b)2 adds, in addition to the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment, the level of site specific distress to include dilapidated conditions, brownfields designation, environmental contamination, pattern of vacancy, abandonment, or under utilization of the property, rate of foreclosures, or other site conditions as determined by the Authority; recodified N.J.A.C. 19:31-4.7(b)4 clarifies that, for a disaster recovery project, the likelihood that the redevelopment project shall be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer, any tax generated by a redevelopment project shall be considered as new, even if the same or more tax revenue was generated at, or on site, prior to the disaster; and recodified N.J.A.C. 19:31-4.7(b)6 and 7 add the promotion of the use of the public transportation to

the need of the redevelopment incentive grant agreement to the viability of the project or the degree to which the project enhances and promotes job creation and economic development.

The proposed amendments, at recodified N.J.A.C. 19:31-4.7(d), 1) revise the exemption for a local redevelopment incentive grant agreement with a municipal redeveloper from the 20 percent cap on reimbursements under State and local incentive agreements to include a developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way, including any ancillary infrastructure project in the public right-of-way; 2) revise the cap on reimbursements to apply to the base amount of combined reimbursements, delete "amount of the" as pertains to reimbursements; 3) replace the terms "eligible cost of the project" with "total project cost" pertaining to the 20 percent cap on the base amount of reimbursements; 4) provide that, in a Garden State Growth Zone, the cap on the base amount of combined reimbursements shall not exceed 30 percent of the total project cost; and 4) establish a cap on the maximum amount of any redevelopment incentive grant, including base and bonus amounts under recodified N.J.A.C. 19:31-4.7(e), which shall be equal to up to 30 percent of the total project costs, except for projects in a Garden State Growth Zone, which shall be equal to up to 40 percent of the total project costs.

The proposed new recodified N.J.A.C. 19:31-4.7(e), establishes the requirements under which the Authority, pursuant to P.L. 2013, c. 161, may increase the amount of the reimbursement under the redevelopment incentive grant agreement by up to 10 percent of the total project cost.

N.J.A.C. 19:31-4.8 State incentive grant agreement

The proposed amendment, at recodified N.J.A.C. 19:31-4.8(a), excludes qualified residential projects from the requirement of executing a commitment letter.

The proposed amendments, at recodified N.J.A.C. 19:31-4.8(b)1, add the eligibility period and the maximum amount of project costs to the terms and conditions which shall be included in any State redevelopment incentive agreement; revise a citation to new recodified N.J.A.C. 19:31-4.10(a) which lists the sources of incremental revenues; clarify that for a project receiving in excess of \$50 million, the amount of any negotiated repayment to the State may include, but not be limited to cash, equity and warrants; and provide that no portion of revenues, pursuant to P.L. 2013, c. 161, shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof at the time of approval.

The proposed amendments, at recodified N.J.A.C. 19:31-4.8(b)3, revise the paragraph to pertain to the reimbursement schedule which will indicate the annual percentage amount of reimbursement as follows: new recodified 4.8(b)3i revises the provision to pertain to an average of 75 percent of the annual incremental State revenues; and new recodified 4.8(b)3ii establishes an amount of an average of 85 percent of the project's annual incremental revenues in a Garden State Growth Zone.

The proposed amendment, at recodified N.J.A.C. 19:31-4.8(b)5, deletes the terms "length of time" and "reimbursement" which is replaced with "eligibility period" and "tax credit" pertaining to the frequency of payments.

The proposed new recodified N.J.A.C. 19:31-4.8(b)6 requires a description of the occupancy permit or other event evidencing project completion and whether the project will be completed in phases.

The proposed amendment, at recodified N.J.A.C. 19:31-4.8(b)7, includes in addition to evidence of a temporary certificate of occupancy, an event evidencing project completion that begins the eligibility period indicated in the incentive agreement.

The proposed amendment, at recodified N.J.A.C. 19:31-4.8(b)15, corrects a citation to N.J.S.A. 52:27D-489f.

Finally, proposed new recodified N.J.A.C. 19:31-4.8(b)16 establishes a requirement to demonstrate that the project continues to be eligible for any increase of reimbursement as part of the terms and conditions of any State redevelopment incentive agreement.

N.J.A.C. 19:31-4.9 Tax credits for qualified residential projects

The proposed new N.J.A.C. 19:31-4.9 establishes requirements for the award of tax credits for qualified residential projects, as follows: proposed new N.J.A.C. 19:31-4.9(a) provides that in certain instances, the developer shall be awarded tax credits equal to the full amount of the incentive grants and which shall be taken over a ten year period, at the rate of one-tenth of the total amount for each tax accounting or privilege period, and also establishes the value of all tax credits, as well as categories for distribution of such tax credits, for qualified residential projects, in N.J.A.C. 19:31-4.9(a) 1 through 5; proposed new N.J.A.C. 19:31-4.9(b) establishes factors which shall be taken into consideration for allocating tax credits to qualified residential projects; proposed new N.J.A.C. 19:31-4.9(c) establishes the amount of tax credits and the maximum percentage amount of allowed tax credits, as well as various conditions to be imposed for tax credits for capital investment in a qualified resident project; proposed new N.J.A.C. 19:31-4.9(d) requires certain progress information to be submitted by each approved developer within one year of the date of application approval, after which the Authority's approval of the tax credits shall expire; proposed new N.J.A.C. 19:31-4.8(e) requires that the developer submit a certification of a certified public accountant that the business has satisfied the conditions relating to capital investment requirements; proposed new N.J.A.C. 19:31-4.9(f) establishes the conditions upon which the developer shall receive its tax credit certification subject to the receipt of an annual letter of compliance; proposed new N.J.A.C. 19:31-4.9(g) requires the developer, owner of the project or tax credit transferee to furnish to the Authority an annual report with information as detailed in N.J.A.C. 19:31-4.9(g)1 through 5; proposed new N.J.A.C. 19:31-4.9(h) provides that the Authority will issue a letter of compliance which shall be required for receipt of the tax credit certificate and will indicate whether the developer or tax credit holder may take all or a portion of the credits allocable to the tax privilege period; and proposed new N.J.A.C. 19:31-4.9(i) establishes the terms which shall be set forth in the tax credit certificate.

N.J.A.C. 19:31-4.10 Incremental revenue sources

The proposed amendments, at recodified N.J.A.C 19:31-4.10(a), clarify that except for certain disaster recovery projects receiving an increase in the amount of reimbursement under recodified N.J.A.C. 19:31-4.7(b)4, the payment of incremental revenue amounts under a State

redevelopment incentive grant agreement shall begin upon the receipt of occupancy permits for any portion of the redevelopment project or upon such other event evidencing project completion, as set forth in the incentive grant agreement, and in an amount up to an average of 75 percent of the projected annual incremental revenues or an average of 85 percent of the projected annual incremental revenues in a Garden State Growth Zone; and the projected annual incremental revenues may be realized from businesses operating at the site of, in addition to on, the redevelopment project.

The proposed amendment, at new recodified N.J.A.C. 19:31-4.10(a)5, add the following sources of revenues to the eligible taxes from which annual increment revenues may be paid to the developer: tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilizes, and cable television companies under the jurisdiction of the New Jersey Board of Utilities, or comparable entity, except those tariffs, fees, or taxes related to certain societal benefits charges pursuant to section 12 of P.L. 1999, c. 23 (N.J.S.A. 48:3-60), any charges paid for compliance with the Global Warming Response Act, P.L. 2007, c. 112 (N.J.S.A. 26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L. 1997, c. 162 (N.J.S.A. 48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities.

The proposed amendments, at recodified N.J.A.C. 19:31-4.10(a)8, extend the tax imposed pursuant to the Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) for the purchase of furniture, fixtures and equipment; and delete taxes imposed for the construction of new residences for the purposes of calculating eligible project annual incremental revenues.

The proposed amendments recodify N.J.A.C. 19:31-4.8(a)5 to 9 as recodified N.J.A.C. 19:31-4.10(a)6 to 10.

Finally, the proposed amendment, at recodified N.J.A.C. 19:4.10(b), revises the subsection pertaining to the amount of certain State incremental revenues which may be retained by the Director of the Division of Taxation to clarify that no portion of revenues pledged pursuant to P.L. 2013, c. 161 shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof at the time of approval.

N.J.A.C. 19:31-4.11 Pledge, assignment, transfer or sale of grant amount

The proposed amendments, to the section title and at recodified N.J.A.C. 19:31-4.11(a), add the terms “transfer or sale”; and the proposed amendment at recodified N.J.A.C. 19:31-4.11(a) deletes the terms “as security for any loan or bond” pertaining to the pledge, assignment, transfer or sale of a developer’s right, title and interest in incentive grants.

The proposed new recodified N.J.A.C. 19:31-4.11(b) establishes the provisions under which certain developers may apply to the Director of the Division of Taxation and EDA for a tax credit transfer certificate; provides that the tax credit transfer certificate may be sold or assigned to any other person that may have a tax liability pursuant to certain tax laws outlined in the subsection; requires that the certificate shall include a statement waiving the developers right to claim that amount of the credit against the taxes that the developer has elected to sell or assign; prohibits the

sale or assignment of any amount of a tax credit for consideration received by the developer of less than 75 percent of the transferred credit amount, as determined at present value; and provides that any amount of a tax credit certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

N.J.A.C. 19:31-4.12 Affirmative action and prevailing wage

The proposed amendments, at recodified N.J.A.C. 19:31-4.12, clarify and provide that, for a State incentive grant solely for infrastructure improvements in the public right-of-way or any ancillary infrastructure project, regardless of whether the work or improvements are part of a larger redevelopment project, only the work relating to the infrastructure improvements in the public right-of-way or the ancillary infrastructure project for which the incentive grant is issued, shall be applicable to the EDA's affirmative action and prevailing wage requirements.

N.J.A.C. 19:31-4.13 Appeals

The proposed new N.J.A.C. 19:31-4.13 establishes procedures for challenges to Authority determinations made under the program which conform to the existing procedures within the Authority's rules pertaining to other incentive programs, as follows: new N.J.A.C. 19:31-4.13(a) sets forth the date when the Board's action shall be effective; new N.J.A.C. 19:31-4.13(b) establishes the amount of time in which an applicant may challenge the Board's action, requires that challenges be in writing and include an explanation as to how the applicant met the program criteria and clarifies that challenges are not contested cases subject to the requirements of the Administrative Procedure Act and Uniform Administrative Procedures Rules; and new N.J.A.C. 19:31-4.13(c) establishes the procedures that the Authority shall follow regarding all timely submitted challenges, as follows: new N.J.A.C. 19:31-4.13(c)1 requires that an employee shall be designated to serve as a hearing officer responsible for review of the written record and shall have sole discretion to determine if an in-person hearing is necessary to reach a decision on the challenge, and that the Authority may consider certain new evidence or information; new 19:31-4.13(c)2 requires that the hearing officer shall issue a written advisory report to the Board containing any finding(s)/recommendation(s) and the Chief Executive Officer or equivalent officer of the Authority may also include a recommendation to the Board pertaining to the written report of the hearing officer, which documents shall be provided to the applicant and, to which, the applicant shall have an opportunity to file written comments and exceptions; new N.J.A.C. 19:31-4.13(c)3 provides that the Board shall consider the report of the hearing officer, the recommendation of the Chief Executive Officer or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant and issue a final decision on the challenge; and new N.J.A.C. 19:31-4.13(c)4 clarifies that final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

N.J.A.C. 19:31-4.14 Severability

The proposed amendments recodify existing N.J.A.C. 19:31-4.11 as 19:31-4.14.

Subchapter 9. Urban Transit Hub Tax Credit Program

The proposed new N.J.A.C. 19:31-9.6(g) establishes a fee for certain changes, additions or modifications to the tax credit, as follows: 1) for each request for any administrative changes, additions or modifications for projects with tax credits of \$5,000,000 or less, \$2,500 shall be paid, and for projects with tax credits in excess of \$5,000,000, \$5,000 shall be paid; and 2) for each request for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval, for projects with tax credits of \$5,000,000 or less, \$7,500 shall be paid, and for projects with tax credits in excess of \$5,000,000, \$25,000 shall be paid.

Subchapter 10. Business Employment Incentive Program

The proposed amendments, at N.J.A.C. 19:31-10.12(e), revise the existing fee for certain changes, additions or modifications to the grant under the program, as follows: 1) for each project with annual grant disbursements of \$1,000,000 or less, \$1,000 shall be paid for each request for any administrative changes, additions or modifications, and \$2,500 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval; 2) for each project with annual grant disbursements of \$1,000,000 to \$5,000,000, \$2,500 shall be paid for each request for any administrative changes, additions or modifications, and \$7,500 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval; and 3) for each project with annual grant disbursements in excess of \$5,000,000, \$5,000 shall be paid for each request for any administrative changes, additions or modifications, and \$25,000 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval.

Subchapter 14. Business Retention and Relocation Assistance Grant (BRRAG) Program

The proposed amendment, at N.J.A.C. 19:31-14.2, revises the definition of “retained full-time job” to conform with the proposed amendment to the definition of “retained full-time job” under the Grow NJ Program and to provide that for the purposes of the certifications required pursuant to the incentive agreement, N.J.S.A. 34:1B-116 or N.J.S.A. 34:1B-120, positions may be backfilled with new positions, provided such positions are not part of another incentive program and are based on date of hire. The proposed amendments, at N.J.A.C. 19:31-14.14(c), revise the existing fee for certain changes, additions or modifications to grant, as follows: 1) for each project with annual grant disbursements of \$1,000,000 or less, \$1,000 shall be paid for each request for any administrative changes, additions or modifications, and \$2,500 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval; 2) for each project with annual grant disbursements of \$1,000,000 to \$5,000,000, \$2,500 shall be paid for each request for any administrative changes, additions or modifications, and \$7,500 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval; and 3) for each project with annual grant disbursements in excess of \$5,000,000, \$5,000 shall be paid for each request for any administrative changes, additions or modifications, and \$25,000 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval.

Subchapter 15. BRRAG Tax Credit Certificate Transfer Program

The proposed amendments, at N.J.A.C. 19:31-15.7(b), revise the existing fee for certain changes, additions or modifications to the grant, as follows: 1) for each project with annual grant disbursements of \$1,000,000 or less, \$1,000 shall be paid for each request for any administrative changes, additions or modifications, and \$2,500 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval; 2) for each project with annual grant disbursements of \$1,000,000 to \$5,000,000, \$2,500 shall be paid for each request for any administrative changes, additions or modifications, and \$7,500 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval; and 3) for each project with annual grant disbursements in excess of \$5,000,000, \$5,000 shall be paid for each request for any administrative changes, additions or modifications, and \$25,000 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval.

Subchapter 18. Grow New Jersey Assistance Program

N.J.A.C. 19:31-18.1 Applicability and scope

The proposed amendment to N.J.A.C. 19:31-18.1 deletes the summary of eligibility requirements for the program, which have been substantially revised pursuant to P.L. 2013, c. 161.

N.J.A.C. 19:31-18.2 Definitions

The proposed amendments redefine certain terms used in this subchapter, based on statutory revisions in P.L. 2013, c. 161, as follows: “business” is revised to apply to an applicant proposing to own or lease premises or that has acquired the premises within 24 months prior to project application, in a qualified business facility, delete the term “limited liability corporation” and add “limited liability company or non-profit corporation” to the list of eligible business types, prescribe the requirements for eligibility of a business or tenant that is a cooperative or part of a cooperative or leases to its member organizations, and establish criteria for the business entity or entities which own or lease a regional distribution facility of foodstuffs; “capital investment” is revised to 1) clarify that expenses are by a business or any affiliate of the business, and include site acquisition if purchased within 24 months prior to project application, clarify that certain expenses regarding site preparation and operation of a business shall be on real property of a building, structure, facility or improvement to real property, and for purposes of obtaining and installing furnishings and machinery, apparatus, or equipment includes material goods subject to bonus depreciation under section 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168); 2) include Highlands Development Credits under the Highlands Transfer Development Rights Program; 3) list the qualifying expenses in a Garden State Growth Zone; 4) delete a citation which is no longer applicable to the acquisition or lease of a qualified business facility; 5) provide that capital investments made or acquired by the seller or owner of a qualified business facility shall be allocated to the premises on the basis of the gross leasable area of the premises in relation to the total gross leasable area; and 6) under certain circumstances, includes any capital investment made or acquired within 24 months prior to the date of application; “eligible position” is revised to refer to “full-time job” which the business has filled with a full-time employee, delete reference to a full-time position being retained or created, as well as provisions pertaining to employee health benefits

which is included in the proposed revised definition of “full-time employee;” “qualified business facility” excludes a final point of sale retail business which shall not include a university research hospital except for certain final point of sale retail businesses located in a Garden State Growth Zone, i.e., those which will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full service supermarket or grocery store or a tourism destination project located in the Atlantic City Tourism District; and “retained full-time job” is revised to pertain to eligible positions that may be at risk of being either lost to another state or country, or eliminated, clarify that for a project located in a Garden State Growth Zone which qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), “retained full-time job” shall include any employee previously employed and transferred to the new location, and for the purposes of the certifications and annual reports required pursuant to the incentive agreement, N.J.S.A. 34:1B-245(e) or N.J.S.A. 34:1B-247(b)(2), allow positions to be backfilled with new positions, provided such positions are not part of another incentive program and are based on date of hire.

In addition, the proposed amendments, pursuant to P.L. 2013, c. 161, establish new definitions for “aviation district,” “commitment period,” “deep poverty pocket,” “disaster recovery project,” “distressed municipality,” “eligibility period,” “full-time employee at the qualified business facility,” “Garden State Growth Zone” or “growth zone,” “Highlands development credit receiving area or redevelopment area,” “incentive agreement,” “incentive effective date,” “industrial premises,” “major rail station,” “mega project,” “minimum environmental and sustainability standards,” “moderate-income housing,” “Municipal Revitalization Index,” “new construction,” “non-industrial premises,” “other eligible area,” “port district,” “priority area,” “project,” “qualified incentive area,” “qualified incubator facility,” “SDA district,” “SDA municipality,” “square feet,” “square feet of gross leasable area” or “gross leasable area,” “substantial environmental remediation,” “targeted industry,” “technology startup company,” “tourism destination project,” “transit oriented development,” “urban transit hub” and “urban transit hub municipality.”

The proposed amendments delete the existing definition for “public transit facility” which is no longer utilized; and delete the definition for “tax credit term” which is replaced by new “eligibility period.”

Finally, the proposed amendments delete the definition for “qualified incentive area” which has been substantially revised pursuant to P.L. 2013, c. 161, to mean: an aviation district, a port district, a distressed municipality or an area: 1) designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), pursuant to the State Planning Act; or 2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission; any land owned by the New Jersey Sports and Exposition Authority, within the boundaries of the Hackensack Meadowlands District; a regional growth area, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission; the planning area of the Highlands Region or in a highlands development credit receiving area or redevelopment area; a Garden State Growth Zone; land approved for closure under any Federal Base Closure and Realignment Commission action; or only the following portions of the areas designated pursuant to the State Planning Act, as Planning Area 4A (Rural Planning Area), Planning Area 4B

(Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) if located within: a designated center under the State Development and Redevelopment Plan; a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts rules to revise this definition as it pertains to Statewide planning areas; any area determined to be in need of redevelopment or in need of rehabilitation; any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided such expansion otherwise complies with all applicable Federal, State, county, and local permits and approvals; the planning area of the Highlands Region or a highlands development credit receiving area or redevelopment area; or any area on which an existing tourism destination project is located. Under the proposed amendments, "qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in the Highlands Water Protection and Planning Act, P.L. 2004, c. 120 (N.J.S.A. 13:20-1 et seq.).

N.J.A.C. 19:31-18.3 Eligibility criteria

The proposed amendments revise the provisions of the section pertaining to eligibility for a Grow New Jersey tax credit, as follows: N.J.A.C. 19:31-18.3(a) is amended to clarify that compliance with the eligibility requirements as demonstrated by the chief executive at the time of application shall expressly include efforts by the business's landlord or seller; N.J.A.C. 19:31-18.3(a)1 is amended to revise the capital investment requirement to delete the existing \$20 million amount which is replaced with an amount "equal to, or greater than, the minimum capital investment" established as minimum per square foot of gross leasable space capital investment requirements in new N.J.A.C. 19:31-18.3(a)1i through iv, and clarify that for purposes (a)1i through iv, industrial premises shall include vacant industrial premises that are unleased and unoccupied, and that for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean of Salem counties, the minimum capital investment required shall be reduced by one-third; N.J.A.C. 19:31-18.3(a)2 is deleted and new (a)2 establishes new minimum job requirements based upon the type of business that will occupy the premises of the eligible business in new (a)2i through iii, and provides that the minimum job requirements shall be reduced by one-quarter for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean of Salem counties; new N.J.A.C. 19:31-18.3(a)3i establishes that the qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards; recodified N.J.A.C. 19:31-18.3(a)3ii deletes the terms "eligible positions" which is replaced with "full-time jobs" pertaining to the net positive economic benefit analysis and clarifies that the analysis shall be calculated prior to taking into account the value of the requested tax credit, and shall be based on the benefits generated during the first 20 years following the completion of the project as determined by the Authority; new N.J.A.C. 19:31-18.3(a)3ii(1) and (2) establish exceptions under the net positive economic benefit analysis, specifically, new N.J.A.C. 19:31-18.3(a)3ii(1) provides that for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the Authority, and new N.J.A.C. 19:31-18.3(a)3ii(2) provides that for a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 35 years following the completion of the project, as determined by the Authority and shall equal at least 100 percent of the requested

tax credit allocation; recodified N.J.A.C. 19:31-18.3(a)3iii exempts projects under subsection (b) from the material factor requirement and provides that for a project located in a Garden State Growth Zone which qualified for the “Municipal Rehabilitation and Economic Recovery Act,” P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the award of tax credits shall be a material factor in the business decision to make a capital investment and to locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.); N.J.A.C. 19:31-18.3(b) is revised to delete the 100 full-time retained job requirement which is replaced with “the minimum number of retained” full-time jobs and to revise the deadline for applications under the subsection to be completed from March 31, 2012 to December 31, 2013; existing N.J.A.C. 19:31-18.3(c), (d) and (f) are deleted pursuant to P.L. 2013, c. 161; N.J.A.C. 19:31-18.3(e) and (g), are recodified as new (c) and (d); and new N.J.A.C. 19:31-18.3(e) provides that, pursuant to P.L. 2013, c. 161, a business may apply for tax credits under the program for more than one project pursuant to one or more applications.

N.J.A.C. 19:31-18.4 Restrictions

The proposed amendments, pursuant to P.L. 2013, c. 161, delete N.J.A.C. 19:31-18.4(a), (b) and (c) and set forth revised restrictions at new N.J.A.C. 19:31-18.4(a)1 and 2 pertaining to assistance received by a business under the Business Retention and Relocation Assistance Act, P.L. 1996, c. 25(N.J.S.A. 34:1B-112 et seq.), the Business Employment Incentive Program Act, P.L. 1996, c. 26 (N.J.S.A. 34:1B-124 et seq.), or any other program administered by the Authority, unless the business has satisfied all of its obligations underlying the previous award of incentives or, is compliant with section 4 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-245), or the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives. Also, new N.J.A.C. 19:31-18.4(a)1 also establishes provisions relating to instances of a business terminating an existing incentive agreement authorized pursuant to P.L. 2013, c. 161.

The proposed amendments, at recodified N.J.A.C. 19:31-18.4(b), provide that 1) in a Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, up to 7.5 percent of retail facilities included in a mixed use project shall be eligible for a grant of tax credits along with the non-retail facilities; and 2) a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District, or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

Finally, the proposed amendments delete N.J.A.C. 19:31-18.4(e) through (i) which are relocated or replaced by other new provisions in the proposal.

N.J.A.C. 19:31-18.5 Application submission requirements

The proposed amendments, at N.J.A.C. 19:31-18.5(a) delete the terms “owner or tenant” which is replaced with “business.”

The proposed amendments, at N.J.A.C. 19:31-18.5(a)1xiii delete an outdated provision which provided examples of development subsidies.

The proposed amendments, at N.J.A.C. 19:31-18.5(a)2iv add a citation for the net positive economic benefit analysis, delete provisions relating thereto, which are included in N.J.A.C. 19:31-18.3(a)3ii, and recodify the subparagraph which is amended as follows: new N.J.A.C. 19:31-18.5(a)2iv(1) clarifies that jobs refers to “full-time” jobs at risk of leaving the State “or being eliminated”, new N.J.A.C. 19:31-18.5(a)2iv(2) pertains to the projected creation “or retention” of new full-time jobs, and new N.J.A.C. 19:31-18.5(a)2iv(3) includes a business’s equivalent officer for North American operations, along with the chief executive officer who may review and certify to the information submitted to the Authority, and provides that the certification with respect to a project in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), shall indicate that the provision of tax credits under the program is a material factor in the business’s decision to make a capital investment and locate in a project in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.).

The proposed amendments, at N.J.A.C. 19:31-18.5(a)2v, delete the term “green building” which is replaced with “minimum environmental and sustainability” standards which are defined in N.J.A.C. 19:31-18.2, and are to be incorporated into the project.

The proposed amendments, at N.J.A.C. 19:31-18.5(a)2x, insert the term “retained” pertaining to full-time jobs and deletes “positions that would be created.”

The proposed amendment, at N.J.A.C. 19:31-18.5(a)3i, deletes a provision which references employees as being subject to withholding as provided in the New Jersey Gross Income Tax Act and relies on the definition of “full-time employee.”

The proposed amendments, at N.J.A.C. 19:31-18.5(a)3ii, insert the terms “retained” and “jobs” and deletes the term “positions” pertaining to full-time jobs at the qualified facility.

The proposed amendments delete N.J.A.C. 19:31-18.5(b) which requires tenants seeking an approval of tax credits to submit certain information in addition to information provided by the eligible business, as tenants are eligible to apply for the credit pursuant to P.L. 2013, c. 161.

The proposed amendments recodify existing N.J.A.C. 19:31-18.5(c) as (b) and new N.J.A.C. 19:31-18.5(c) authorizes a business to assign their ability to apply for the tax credit under the subchapter to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone and establishes additional which shall be submitted by the non-profit in such instances.

Finally, new N.J.A.C. 19:31-18.5(d) requires that a business which has already applied for a tax credit incentive award prior to the effective date of P.L. 2013, c. 161, which is September 18, 2013, but who has not yet been approved for such tax credits, or has not executed an agreement

with the Authority, may proceed under that application or seek to amend such application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

N.J.A.C. 19:31-18.6 Fees

The proposed amendments, at N.J.A.C. 19:31-18.6(a), delete the existing application fee of \$5,000 which for projects with total tax credits of \$10,000,000 or less, which is reduced to \$1,000 for projects with 100 or fewer new and retained full-time jobs, and \$2,500 for projects with more than 100 new and retained full-time jobs; and for projects with total tax credits in excess of \$10,000,000, the fee shall be \$5,000.

The proposed amendment, at N.J.A.C. 19:31-18.6(b), corrects the provisions of the subsection by deleting a reference to “qualified business facility” pertaining to the required payment for the costs of an analysis by a third party retained by the Authority.

The proposed amendments, at N.J.A.C. 19:31-18.6(c), revise the cap on the existing fee of .5 percent of the approved tax credit, due upon execution of the grant agreement, from \$200,000 to \$50,000 for each project with tax credits of \$1,000,000 or less annually and \$200,000 for each project with tax credits of \$1,000,000 to \$4,000,000 annually, due upon execution of the grant agreement. In addition, for each project with tax credits in excess of \$4,000,000 annually, the fee shall be \$500,000, charged prior to the approval of the tax credit, and shall be refunded if the Authority does not approve the tax credits.

The proposed amendments at N.J.A.C. 19:31-16.6(d) revise the cap on the existing fee of .5 percent paid prior to the receipt of the tax credit certificate, from \$200,000 to \$50,000 for each project with tax credits of \$1,000,000 or less annually; and to \$500,000 for each project with tax credits in excess of \$1,000,000 annually.

The proposed amendments, at N.J.A.C. 19:31-18.6(e), delete the term “review” which is revised to “servicing” pertaining to the annual fee set forth in the subsection, which is revised from \$2,500 per year to 2 percent of the annual tax credit amount, not to exceed \$20,000 for projects with tax credits of \$1,000,000 or less annually and \$75,000 per year for projects with tax credits in excess of \$1,000,000 annually.

The proposed amendment, at N.J.A.C. 19:31-18.6(f), extends the existing fee of \$2,500 for application for a tax credit transfer certification to include application for permission to pledge a tax credit transfer certificate purchase contract as collateral.

The proposed new N.J.A.C. 19:31-18.6(g) establishes a fee for certain changes, additions or modifications to the tax credit, as follows: 1) for each request for any administrative changes, additions or modifications for projects with tax credits of \$5,000,000 or less, \$2,500 shall be paid, and for projects with tax credits in excess of \$5,000,000, \$5,000 shall be paid; and 2) for each request for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval, for projects with tax credits of \$5,000,000 or less, \$7,500 shall be paid, and for projects with tax credits in excess of \$5,000,000, \$25,000 shall be paid.

The proposed new N.J.A.C. 19:31-18.6(h) establishes a fee of \$1,000 for the first six-month extension to the date for certain certifications with respect to capital investment and employees and \$2,500 for the second such six-month extension.

Finally, proposed new N.J.A.C. 19:31-18.6(i) establishes a fee of \$5,000 for a business seeking to terminate an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161 and a fee of \$25,000 for terminations that require extensive staff time or Board approval.

N.J.A.C. 19:31-18.7 Review of application and certification of project completion

The proposed amendments, at N.J.A.C. 19:31-18.7(a), revise the deadline for application of the tax credits from July 1, 2014 to July 1, 2019, except for businesses seeking a credit for a mega project which shall apply within four years after the effective date of P.L. 2013, c. 161, or September 18, 2017; and delete and relocate the existing deadline requirement for submission of documentation pertaining to a business's capital investment and employment requirements to N.J.A.C. 19:31-18.7(f)3.

The proposed amendments to N.J.A.C. 19:31-18.7(c) revise the reference to the net positive economic benefits test and include a citation thereto; delete the existing provision specifying that the measurement of the peripheral economic growth caused by the business's relocation shall be for the period equal to 75 percent of the useful life of the improvement or 75 percent of the term of the tenant's lease, both not to exceed 20 years, pursuant to P.L. 2013, c. 161; and provide that for a project located in a Garden State Growth Zone, the Authority may award certain bonuses in its net positive economic benefit calculation, and with regard to a project located in a Garden State Growth Zone which qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the net positive economic benefits test may utilize the value of certain taxes as specified in the subsection.

The proposed amendment, at N.J.A.C. 19:31-18.7(d), revises the provisions of the separate determination made by the EDA Board verifying the at risk nature of jobs leaving the State, to include the determination as to the date, or dates, at which the Authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.).

The proposed amendment, at N.J.A.C. 19:31-18.7(d)1, deletes the term "project" which is replaced with "incentive" agreement.

The proposed amendment, at N.J.A.C. 19:31-18.7(e), extends the date for submission of progress information indicating the business has site plan approval, committed financing and site control from six months to twelve months.

The proposed amendments, at N.J.A.C. 19:31-18.7(f), make various revisions pertaining to the certifications evidencing that the business has satisfied the conditions relating to capital investment and employment requirements, as follows: 18.7(f) is revised to clarify that the certifications include supporting evidence satisfactory to the Authority; (f)1 is revised to apply to the amount of the capital investment in the certification that has been approved by the Authority; (f)2 is revised to apply to the number of new and retained full-time jobs in the certification, delete the term “employees” which is replaced with “jobs,” and clarify that a project located within a Garden State Growth Zone, pursuant to N.J.A.C. 19:31-18.11(e), is exempt from restriction on the increase of new and retained full-time jobs utilized for the calculation of tax credits; (f)3 is revised to clarify that the required certifications apply to capital investment and employment, delete the existing submittal deadlines from six months of receipt of a temporary certificate of occupancy to three years following the date of approval of the application, delete the existing separate deadline for the employment certification, and authorize the Authority to grant two six-month extensions of the deadline pursuant to P.L. 2013, c. 161.

Finally, the proposed amendment, at N.J.A.C. 19:31-18.8(g), provides that the business shall be notified and receive its tax credit certificate, within 90 days of the submission of the certifications and evidence satisfactory to the Authority.

N.J.A.C. 19:31-18.8 Determination of grant amount; bonus award

The proposed amendments, at N.J.A.C. 19:31-18.8(a), delete the term “value” which is replaced with “total amount” of tax credit; delete the existing tax credit amount of \$5,000 per job, per year for a period of 10 years as determined by the Authority pursuant to 19:31-18.3; and provide that the total tax credit amount, as set forth in the section, shall be calculated and credited to the business annually for each year of the eligibility period, and except for projects pursuant to N.J.A.C. 19:31-18.11(e), the total tax credit amount annually credited to the business shall not exceed the maximum amount determined by the Board pursuant to N.J.A.C. 19:31-18.7(d).

The proposed amendments delete N.J.A.C. 19:31-18.8(b) regarding the determination of bonus awards, which is set forth at new N.J.A.C. 19:31-18.8(c); and set forth provisions for base amount of tax credits for each new or retained full-time job at new N.J.A.C. 19:31-18.8(b), as follows: for a qualified business facility located within an urban transit hub municipality or Garden State Growth Zone or is a mega project, \$5,000 per year; for a qualified business facility located within a distressed municipality but not qualifying under (b)1, \$4,000 per year; for a project in a priority area, \$3,000 per year; and for a project in other eligible areas, \$500 per year.

The proposed amendments delete N.J.A.C. 19:31-18.8(c) establishing certain provisions for calculating the total amount of tax credits available to be applied by the business annually, which are revised and set forth at new N.J.A.C. 19:31-18.8(h), discussed below.

The proposed amendments, at new N.J.A.C. 19:31-18.8(c)1 through 16, establish bonus credits ranging from \$200 to \$5,000 annually based upon certain criteria including location of the project, type of business, amount of jobs over the minimum thresholds, creation of moderate income housing for employees, etc.

The proposed amendments, at new N.J.A.C. 19:31-18.8(d), establish the gross amount of tax credits for an eligible business which equal the sum of the base amount set forth at new N.J.A.C. 19:31-18.8(b) and various additional bonus amounts for which the business is eligible pursuant to new N.J.A.C. 19:31-18.8(c), subject to the following: new N.J.A.C. 19:31-18.8(d)1 provides that for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed \$15,000 per year; new N.J.A.C. 19:31-18.8(d)2 provides that for a qualified business facility located within an urban transit hub municipality, the gross amount for each new or retained full-time job shall not exceed \$12,000 per year; new N.J.A.C. 19:31-18.8(d)3 provides that for a qualified business facility in a distressed municipality, the gross amount for each new or retained full-time job shall not exceed \$11,000 per year; new N.J.A.C. 19:31-18.8(d)4 provides that for a qualified business facility in other priority areas, the gross amount for each new or retained full-time job shall not exceed \$10,500 per year; new N.J.A.C. 19:31-18.8(d)5 provides that for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed \$6,000 per year and; and new N.J.A.C. 19:31-18.8(d)6 provides that for a disaster recovery project, the gross amount for each new or retained full-time job shall not exceed \$2,000 per year.

The proposed new N.J.A.C. 19:31-18.8(e) establishes calculations, following the determination by the Authority of the gross amount of tax credits, for the final total amount of tax credit for each new full-time job, as follows: new N.J.A.C. 19:31-18.8(e)1 provides that for each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and new N.J.A.C. 19:31-18.8(e)2 provides that for each retained full-time job, the business shall be allowed tax credits equaling 50 percent of the gross amount of tax credits for each retained full-time job, unless the jobs are part of a mega project which is the United States headquarters of an automobile manufacturer located within a priority area or a qualified business facility in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.

The proposed new N.J.A.C. 19:31-18.18(f) provides that for each application approved by the EDA Board, the amount of tax credits available to be applied by the business annually shall not exceed certain amounts and shall meet certain net benefit requirements, as follows: new N.J.A.C. 19:31-18.8(f)1 – \$35,000,000 and provides a net positive economic benefit to the State herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.); new N.J.A.C. 19:31-18.8(f)2 – \$30,000,000 and provides a net positive economic benefit to the State with respect to a mega project or a qualified business facility in a Garden State Growth Zone; new N.J.A.C. 19:31-18.8(f)3 – \$10,000,000 and provides a net positive economic benefit to the State with respect to a qualified business facility in an urban transit hub municipality; new N.J.A.C. 19:31-18.8(f)4 – \$8,000,000 and provides a net positive economic benefit to the State with respect to a qualified business facility in a distressed municipality; new N.J.A.C. 19:31-18.8(f)5 – \$4,000,000 and provides a net positive economic benefit to the State with respect to a qualified

business facility in other priority areas, but not more than 90 percent of the withholdings of the business's employees from the qualified business facility; and new N.J.A.C. 19:31-18.8(f)6 – \$2,500,000 and provides a net positive economic benefit to the State with respect to a qualified business facility in other eligible areas, but not more than 90 percent of the withholdings of the business's employees from the qualified business facility.

The proposed new N.J.A.C. 19:31-18.8(g) provides that for each application for tax credits in excess of \$4,000,000 annually, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subsection or an amount determined by the Authority necessary to complete the project, with such determination made by the Authority's utilization of a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations, as applicable; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. In addition, the new subsection clarifies that based on this information and any other information deemed relevant by the Authority, the EDA shall independently verify and confirm the amount necessary to complete the project.

Finally, the proposed new N.J.A.C. 19:31-18.8(h) establishes a separate cap for the total tax credit for projects located within a Garden State Growth Zone which qualifies for the Municipal Rehabilitation and Economic Recovery Act, P.L.2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.)

N.J.A.C. 19:31-18.9 Tax credit amount; application and allocation of the tax credit

The proposed amendments, at N.J.A.C. 19:31-18.9(a), revise the subsection to clarify that for each tax accounting or privilege period during the eligibility a business may apply the amount of tax credits equal to a new calculation which is the amount of the total tax credit amount divided by the duration of the eligibility period in years, with fractions of a cent rounded down. The proposed amendment, at N.J.A.C. 19:31-18.9(c), deletes provisions pertaining to the total value of all credits approved by the Authority which is revised and addressed in N.J.A.C. 19:31-18.14. Finally, proposed new (d) and (e) establish provisions for the allocation of the amount of credit of an owner of a business to each owner of a partnership; and in connection with a regional distribution facility of foodstuffs, the amount of credit of a business entity or entities to members, shareholders, partners, or other ownership or leasing participants, respectively.

N.J.A.C. 19:31-18.10 Project Agreement

The proposed amendments revise the title of the section and references therein from "project" agreement to "incentive" agreement.

In addition, the proposed amendments revise N.J.A.C. 19:31-18.10(b) which lists the terms or conditions included in the project agreement, as follows: (b)1 adds the terms "new or retained," deletes the term "employees," and inserts the terms "jobs that are approved for credits" pertaining to full-time jobs resulting from job creation or retention; N.J.A.C. 19:31-18.10(b)2 deletes a reference to the "term" of tax credits which is replaced with "eligibility period" and clarifies that the eligibility period of the tax credits includes the first year for which the tax credits may be claimed;

N.J.A.C. 19:31-18.10(b)3 revises the requirement that the applicant maintain the project at a location in New Jersey from the existing period of at least 1.5 times the number of years of the term of the tax credits, to the commitment period, deletes references to “100” full-time employees which is replaced with “the minimum number of full-time employees as pursuant to N.J.A.C. 19:31-18.15(a) through (c), revises the reference to the provision permitting the Authority to recapture tax credits if the business does not remain “at the site” to “in compliance with this provision,” and deletes remaining provisions which are contained in N.J.A.C. 19:31-18.15; N.J.A.C. 19:31-18.10(b)5 is revised to notice that certifications are required for eligible capital investment and number of employees, delete the provision that the number of employees be those at the time of submission of the certification and if applicable include lease information, which is replaced with a requirement that such information shall be submitted in accordance with N.J.A.C. 19:31-18.7(f), and delete the provision pertaining to submission of certification by a tenant, which has been relocated to N.J.A.C. 19:31-18.7(g); (g)7 is revised to correctly refer to the net positive economic benefit analysis and delete reference to eligibility and participation in the program as a material factor regarding certifications by the business, which are addressed in other provisions throughout the subchapter.

Finally, the proposed amendment, at N.J.A.C. 19:31-18.10(c), deletes the term “project agreement which is replaced with the term “incentive” agreement.

N.J.A.C. 19:31-18.11 Reporting requirements and annual reports

The proposed amendments, at N.J.A.C. 19:31-18.11(a)1, insert the terms “retained”, and “full-time employees” and delete the reference to the “business’s Statewide employment,” pertaining to the number of employees included in the annual report; and clarify that for a business that receives an award for both new and retained full-time jobs, the business shall meet the employment requirements related to the retained full-time jobs before receiving benefits for new full-time jobs. The proposed amendment, at N.J.A.C. 19:31-18.11(a)2, clarifies that the certification to the annual report shall indicate compliance with the incentive agreement, as well as the P.L. 2013, c. 161 and the subchapter. The proposed new N.J.A.C. 19:31-18.11(c) provides that the Authority, in conducting the annual review, may require a business to submit any information determined to be necessary and relevant to the review. In addition, the proposed amendments recodify N.J.A.C. 19:31-18.11(c) as new 18.11(d). Finally, proposed new N.J.A.C. 19:31-18.11(e) authorizes, for a project located within a Garden State Growth Zone, an additional tax credit award representing an increased base credit amount for that tax period and each subsequent tax period for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, under certain circumstances. The new subsection also require a business, to obtain the additional tax credit award, to submit in its annual report, a request to the Authority with supporting evidence documenting the additional full-time employees which, following a review by EDA staff, the Board will determine whether to approve.

N.J.A.C. 19:31-18.14 Cap on total credits

The proposed amendments, at N.J.A.C. 19:31-18.14, delete provisions pertaining to the existing \$200 million cap on the total value of all credits approved by the Authority which, based on application and allocation activity and if sufficient funds are available, may be exceeded if deemed

reasonable, justifiable, and appropriate by the EDA Board; and revise the cap on the combined value of all credits approved by the Authority pursuant to the Urban Transit Hub Tax Credit Act, P.L. 2007, c. 346, and Offshore Wind Economic Development Act, P.L. 2010, c. 57 (N.J.S.A. 34:1B-207 et seq.) for applications received prior to December 31, 2013, from \$1.5 billion to \$1.75 billion, which may be increased by the Authority as set forth in paragraph (5) of subsection a. of P.L. 2009, c. 90 (N.J.S.A. 34:1B-209.3).

N.J.A.C. 19:31-18.15 Reduction, recapture and forfeiture of tax credits

The proposed amendments revise the section title to insert the term “recapture” to reflect additional revisions proposed in new N.J.A.C. 19:31-18.15(c). The proposed amendments, at N.J.A.C. 19:31-18.15(a), delete the terms “tax credit term” which is replaced with the term “eligibility period” pertaining to the period in which a business shall be in compliance with statewide workforce employment requirements. The proposed amendments, at N.J.A.C. 19:31-18.15(b), delete the terms “tax credit term and five years thereafter” which is replaced with the term “eligibility period,” delete the term “project” which is replaced with “incentive” agreement, and delete the 100 employee threshold for employment at the qualified business facility pursuant to P.L. 2013, c. 161, which is replaced with “80 percent of the number of jobs specified in the incentive agreement.” The proposed amendments delete N.J.A.C. 19:31-18.15(c) and (d), the provisions of which pertained to outdated requirements following enactment of P.L. 2013, 161. The proposed new N.J.A.C. 19:31-18.15(c) clarifies new provisions for recapture of any tax credit awarded pursuant to the revisions in P.L. 2013, c. 161, including that the Authority may pursue recapture at any time during the commitment period, including during certain periods in the eligibility period in which the tax credits are forfeited. Finally, the proposed new N.J.A.C. 19:31-18.15(d) clarifies that for certain tax periods for which documentation of a business’s credit amount remains uncertified shall be forfeited, although credits for the remainder of the eligibility period shall remain available.

N.J.A.C. 19:31-18.16 Effect of sale or lease of qualified facilities

The proposed amendments delete the subsection designation for N.J.A.C. 19:31-18.16(a), as existing N.J.A.C. 19:31-18.16(b) is proposed for deletion pursuant to statutory revisions in P.L. 2013, c. 161. In addition, the proposed amendments, at existing N.J.A.C. 19:31-18.16(a), clarify that the provisions of the subsection pertain to sale of a qualified business facility by the owner, delete reference to the “10-year” eligibility period, and delete the term “tenants” which is replaced with “business” regarding remaining credits.

N.J.A.C. 19:31-18.17 Affirmative action and prevailing wage

The proposed new N.J.A.C. 19:31-18.17 addresses the application of the Authority’s affirmative action and prevailing wage requirements which will apply to State incentive grant projects undertaken in connection with financial assistance received under the program.

N.J.A.C. 19:31-18.18 Appeals

The proposed new N.J.A.C. 19:31-18.18 establishes procedures for challenges to Authority determinations made under the program which conform to the existing procedures within the

Authority's rules pertaining to other incentive programs, as follows: new N.J.A.C. 19:31-18.18(a); sets forth the date when the Board's action shall be effective; new N.J.A.C. 19:31-18.18(b) establishes the amount of time in which an applicant may challenge the Board's action, requires that challenges be in writing and include an explanation as to how the applicant met the program criteria, and clarifies that challenges are not contested cases subject to the requirements of the Administrative Procedure Act and Uniform Administrative Procedures Rules; and new N.J.A.C. 19:31-18.18(c) establishes the procedures that the Authority shall follow regarding all timely submitted challenges, as follows: new N.J.A.C. 19:31-18.18(c)1 requires that an employee shall be designated to serve as a hearing officer responsible for review of the written record and shall have sole discretion to determine if an in-person hearing is necessary to reach a decision on the challenge, and that the Authority may consider certain new evidence or information; new 19:31-18.18(c)2 requires that the hearing officer shall issue a written advisory report to the Board containing any finding(s)/recommendation(s) and the Chief Executive Officer or equivalent officer of the Authority may also include a recommendation to the Board pertaining to the written report of the hearing officer, which documents shall be provided to the applicant and, to which the applicant shall have an opportunity to file written comments and exceptions; new N.J.A.C. 19:31-18.18(c)3 provides that the Board shall consider the report of the hearing officer, the recommendation of the Chief Executive Officer or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant and issue a final decision on the challenge; and new N.J.A.C. 19:31-18.18(c)4 clarifies that final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

N.J.A.C. 19:31-18.19 Severability

The proposed amendment recodifies existing N.J.A.C. 19:31-18.17 as 19:31-18.19.

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The purpose of the New Jersey Economic Opportunity Act of 2013 is to enhance the ability of the State to attract and retain jobs and thereby further the overarching goal of creating and retaining jobs in New Jersey. In implementing the provisions of the law, the proposed amendments and new rules are intended to have a positive social impact.

Economic Impact

The proposed amendments and new rules are intended to help improve the State's economy by stimulating new economic development and job creation in certain smart growth areas, distressed municipalities and tourism destinations destroyed by Superstorm Sandy under the ERG Program, and in expanded geographic boundaries within which businesses can qualify for Grow NJ tax credits. To date, 21 projects have been approved through the ERG Program for incentives of just over \$458 million, paid over an average term of 20 years. These projects are spurring an estimated \$2.75 billion in public/private investment over the term, and are expected to create over 11,151 new

jobs and over 9,943 construction jobs. The net benefit to the state tied to these projects is estimated to be more than \$1.1 billion, as measured through the direct and “spin off” economic activity generated by the project. Under Grow NJ, EDA has approved 14 projects for over \$394 million based on eligible capital investments of over \$592 million. This assistance has resulted in the creation of 1,350 new jobs, 5,792 retained jobs and 3,240 construction jobs and net benefits to the State of over \$1.8 billion over 15 years.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and new rules are not subject to any Federal requirements or standards.

Jobs Impact

The EDA anticipates that the proposed amendments and new rules will result in retaining existing private sector jobs and stimulating the creation of new private sector jobs in New Jersey. In addition, the extension of eligibility to the Grow NJ Program for businesses creating between 10 – 35 new or retaining between 25 – 50 full-time jobs reduced from 100 new or retained full-time jobs, is intended to help support additional small businesses in the State, which in turn, preserves and creates additional jobs through the financial assistance offered by the Authority.

Agriculture Industry Impact

The proposed amendments and new rules will have no impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Statement and Analysis

The ERG Program provides State incentive grants to developers of major redevelopment projects, which are invariably large and medium sized businesses. Therefore a regulatory flexibility analysis is not required.

The proposed revisions to the Grow NJ Program, which reduce the employment eligibility threshold from 100 new or retained full-time jobs to between 10 – 35 new, and 25 – 50 retained full-time jobs, are intended to directly benefit small businesses without imposing any additional compliance requirements as outlined in N.J.S.A. 52:14B-16 et seq. Eligible businesses will be required to comply with the EDA’s standard, on-line application process and regular incentive compliance guidelines, however any costs due to reporting, recordkeeping, or other compliance requirements on qualifying businesses will be fully offset by the amount of financial assistance received and the only professional services required for such purposes are from a certified public accountant.

The proposed fee adjustments are generally determined by the amount of the financial assistance and have a maximum, and will enable EDA to better promote economic investment in the State by charging fees to more accurately reflect the actual cost of administering these programs and related services to the business community in New Jersey. Under the ERG Program, the proposed

fee adjustments, as discussed above, will not impact small businesses. The proposed adjustments to fees charged for the Grow NJ Program provide differentiation requirements, based on the amount of eligible total tax credits and the number of new and retained full-time jobs, to benefit qualifying small businesses. Finally, the proposed adjustments to modification fees for the Brownfields and Contaminated Site Remediation Program, UTHTC Program, BEIP, BRRAG Program and BRRAG Tax Credit Certificate Transfer Program, are intended to align the fees with those proposed for the ERG and Grow NJ programs, and also include differentiation requirements based on the amount of eligible reimbursements, tax credits or grant disbursements.

Housing Affordability Impact Analysis

The proposed amendments and new rules may increase an indeterminate number of housing units, particularly multi-family rental housing and for-sale housing, in qualified residential developments and mixed use projects including residential space under the ERG Program. The number of housing units, as well as any increase or decrease in the average cost of housing affected by the proposed amendments, cannot be estimated, because the actual development which may be eligible and proposed as creditable capital investments is not known. Additionally, these amendments and new rules do not modify the requirement, in certain circumstances pursuant to P.L. 2008, c. 46 (N.J.S.A. 52:27D-329.9), to reserve at least 20 percent of the residential units constructed for occupancy by low or moderate income households.

Smart Growth Development Impact Analysis

The proposed amendments and new rules are intended to further encourage new construction in designated centers under New Jersey’s State Strategic Plan. The number of housing units, as well as any increase or decrease in the average cost of housing affected by the proposed amendments, cannot be estimated, because the actual development which may be eligible and proposed as creditable capital investments is not known.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 30
ADMINISTRATIVE RULES
SUBCHAPTER 6. FEES

19:30-6.1 Application fee

(a) Except as set forth in (c) and (d) below, a non-refundable fee of \$1,000 shall accompany every application for Authority assistance, except for:

1. (No change.)

2. An application submitted by a higher education institution pursuant to P.L. 2009, c. 90 for which the fee is .125 percent of the total project cost or \$15,000, whichever is greater; **and**

[3. An application for a State or local incentive grant under the Economic Redevelopment and Growth (ERG) Grant Program, for which the fee is \$5,000; and for a State or local incentive grant, the full amount of direct costs of any analysis by a third party retained by the Authority, if the Authority deems such retention to be necessary, shall be paid; and]

[4.] **3.** (No change in text.)

(b) – (d) (No change.)

19:30-6.2 Commitment fees

(a) – (b) (No change.)

[(c) A non-refundable fee of .5 percent of the maximum aggregate amount of the incentive grant award not to exceed \$300,000 is charged upon approval by the Authority of a State incentive grant and upon approval of the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs of a local incentive grant under the Economic Redevelopment and Growth (ERG) Grant Program.]

Recodify existing (d) through (g) as (c) through (f) (No change in text.)

19:30-6.3 Closing fees

(a) – (f) (No change.)

[(g) For a State incentive grant under the Economic Redevelopment and Growth (ERG) Grant Program, the fee to be charged at closing is .5 percent of the maximum aggregate amount of the incentive grant award not to exceed \$300,000; the commitment and closing fees shall not exceed one percent of the maximum amount not to exceed \$600,000.

(h) For a local incentive grant under the Economic Redevelopment and Growth (ERG) Grant Program, the fee to be charged at closing is .5 percent of the maximum aggregate amount of the incentive grant award not to exceed \$300,000; the commitment and closing fees shall not exceed one percent of the maximum amount not to exceed \$600,000.

(i) For a combined State and local incentive grant under the Economic Redevelopment and Growth (ERG) Grant Program, the fee to be charged at closing is .5 percent of the maximum aggregate amount of the combined incentive grant awards not to exceed \$300,000; the commitment and closing fees shall not exceed one percent of the combined maximum amount not to exceed \$600,000.]

19:30-6.4 Post-closing fees

(a) The fees in this section are due and payable upon closing of the bond amendment, approval of change of ownership, or signing of modification consent, waiver, or similar documents.

1. – 8. (No change.)

[9. For approval to pledge and assign a State incentive grant amount pursuant to N.J.A.C. 19:31-4.11(a) under the Economic Redevelopment and Growth (ERG) Grant Program, a fee of \$2,500 shall be charged.]

9. For each request for any administrative changes, additions or modifications to the reimbursement under the Brownfields and Contaminated Site Remediation Program, a non-refundable fee of \$2,500 shall be paid for projects with an approved maximum aggregate reimbursement of \$5,000,000 or less and a non-refundable fee of \$5,000 shall be paid for projects with an approved maximum aggregate reimbursement in excess of \$5,000,000; and for any major changes, additions or modifications to the reimbursement under Brownfields and Contaminated Site Remediation Program, such as those requiring extensive staff time and Board approval, a non-refundable fee of \$7,500 shall be paid for projects with an approved maximum aggregate reimbursement of \$5,000,000 or less and a non-refundable fee of \$25,000 shall be paid for projects with an approved maximum aggregate reimbursement in excess of \$5,000,000.

(b) – (d) (No change.)

CHAPTER 31

AUTHORITY ASSISTANCE PROGRAMS

SUBCHAPTER 4. ECONOMIC REDEVELOPMENT AND GROWTH PROGRAM

19:31-4.1 Applicability and scope

(a) The EDA and the State Treasurer may enter into a redevelopment incentive grant agreement with a developer, **or non-profit organization on behalf of a qualified developer**, for any qualifying redevelopment project located in an economic redevelopment and growth grant incentive area, except an area that qualifies solely by virtue of being a transit village. Up to **an average of 75 percent** of the incremental increase in approved State revenues **or 85 percent of the project annual incremental revenues in a Garden State Growth Zone** that are directly realized from businesses operating on the redevelopment project premises may be paid to the developer in the form of a grant derived from the realized revenues. **For certain qualified residential projects where the estimated amount of incremental revenues is inadequate to fully fund the amount of the State portion of the incentive grant, tax credits equal to the full amount of the incentive grant may be awarded.** The term of each approved State redevelopment incentive grant agreement may extend for up to 20 years; however, except for a redevelopment incentive grant agreement with a municipal redeveloper, the **base amount of the** combined [amount of] reimbursements from State and local grants cannot exceed 20 percent of the eligible cost of the project **except in a Garden State Growth Zone which cannot exceed 30 percent**; and, a developer seeking an incentive grant is required to make an equity participation for at least 20 percent of the project's eligible cost.

(b) – (c) (No change.)

(d) Upon notice to and consent by the EDA and the State Treasurer, **a developer's right, title**

and interest in, a redevelopment incentive grant agreement may be pledged, [and] assigned **or sold** by a developer.

19:31-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Ancillary infrastructure project” means [public] structures or improvements that are located [in the public right-of-way] **within the incentive area but** outside the project area of a redevelopment project, **including but not limited to, docks, bulkheads, parking garages, freight rail spurs, roadway overpasses, and train station platforms**, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable **or promote the use of public transportation** without such improvements, **as approved by the State Treasurer**.

“Applicant” means a developer proposing to enter into a redevelopment incentive grant agreement **and may include a non-profit organization to which a developer has assigned its ability to apply for a redevelopment incentive grant**.

...

“Aviation district” means the area within a one-mile radius of the outermost boundary of the “Atlantic City International Airport,” established pursuant to section 24 of P.L.1991, c. 252 (N.J.S.A. 27:25A-24).

...

“Deep poverty pocket” means a population census tract having a poverty level of 20 percent or more, according to the 2010 U.S. Census, and which is located within the incentive area.

“Developer” means any person who enters or proposes to enter into a redevelopment incentive grant agreement **or an approval letter** pursuant to the provisions of **the Economic Redevelopment and Growth (ERG) Program** [section 9 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489i and k)], **or its successors or assigns, including but not limited to a lender that has been approved by the Authority and the State Treasurer and that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project**.

...

“Disaster recovery project” means a redevelopment project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster, and which is located within the incentive area.

“Distressed municipality” means a municipality that is qualified to receive assistance under P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.), a municipality under the supervision of

the Local Finance Board pursuant to the provisions of the Local Government Supervision Act (1947), P.L. 1947, c. 151 (N.J.S.A. 52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

[“Eligible project costs” means total costs incurred until the issuance of a permanent certificate of occupancy for a specific work or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including leaseholds discounted to present value, including lands under water, riparian rights, space rights and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, and any environmental remediation costs, plus soft costs and capitalized interest paid to third parties, ancillary infrastructure projects and infrastructure improvements in the public right-of-way unless funded by the municipality, and excluding any costs for which the project has received State grant funding.]

“Eligibility period” means the period of time specified in a redevelopment incentive grant agreement for the payment of reimbursements to a developer, which period shall not exceed 20 years, with the term to be determined solely at the discretion of the applicant, at the time of approval.

“Eligible revenue” means any of the incremental revenues set forth in section 6 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489f), except in the case of a Garden State Growth Zone, in which such property tax increment and any other incremental revenues are calculated as those incremental revenues that would have existed notwithstanding the provisions of the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161.

...

“Fiscal impact analysis” means the analysis to be undertaken by the Authority to determine if the project meets the requirement of providing a net positive economic benefit to the State. For the purposes of determining if the applicant fulfills the net positive economic benefit requirement, the analysis needs to demonstrate that the project's net positive economic benefit equals at least 110 percent of the amount of grant assistance, for the period equal to 75 percent of the useful life of the project not to exceed 20 years. The analysis will be an econometric model that uses project data provided by the developer, including, but not limited to: **full-time employees at the qualified business facility in new and retained jobs, amount of capital investment, type of project, occupancy characteristics and location; and by using this information, shall generate an estimate of direct and indirect economic **benefits [output], including without limitation, non-financial community revitalization objectives including, but not limited to, objectives memorialized in a municipal master plan or plan for an area in need of redevelopment or rehabilitation, or the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project,** as deemed reasonable by the Authority, and projected eligible revenues. This information may be supplemented by the use of industry accepted estimates, that is, U.S. Department of Commerce Regional Input-Output Modeling System data, when specific data is not available.**

...

“Garden State Growth Zone” or “growth zone” means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

“Highlands development credit receiving area or redevelopment area” means an area located within an incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized under section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13).

...

“Infrastructure improvements in the public right-of-way” mean public structures or improvements located in the public right-of-way that are located within a project area or that constitute an ancillary infrastructure project and may include, but not be limited to, signalization and new interchanges, public parking structures, and pedestrian, bicycle-oriented and mass transit improvements; and public utilities such as water, sewer, electric and gas, **either of which are dedicated to or owned by a governmental body or agency upon completion, or any required payment in lieu of such structures, improvements or projects or any costs of remediation associated with such structures, improvements or projects, and that are determined by the Authority, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives.**

...

“Low-income housing” means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

“Major rail station” means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

“Minimum environmental and sustainability standards” means the standards set forth in the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L. 2007, c. 132 (N.J.S.A. 52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

“Moderate-income housing” means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a

gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

...

“Municipal Revitalization Index” means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

[“Net profit margin” means net income as a percentage of project sales value.]

“Project area” or “redevelopment project area” means land or lands located within the incentive area under common ownership or control which shall be located in a qualifying economic redevelopment and growth grant incentive area, including, but not limited to, control through a redevelopment agreement with a municipality pursuant to N.J.S.A. 40A:12A-1 et seq. or as otherwise established by a municipality or a redevelopment agreement executed by a State entity to implement a redevelopment project.

“Project cost” means the costs incurred in connection with the redevelopment project by the developer until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the incentive grant agreement, for a specific investment or improvement, including the costs relating to receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13), lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects, and, for projects located in a Garden State Growth Zone only, the cost of infrastructure improvements including any ancillary infrastructure project and the amount by which total project cost exceeds the cost of an alternative location for the redevelopment project, but excluding any particular costs for which the project has received federal, State, or local funding.

“Project financing gap” means the part of the [eligible] project costs that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital or equity which shall not be less than 20 percent of the eligible project cost which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, subject to review by the State Treasurer, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis, and except for final point of sale retail businesses, including but not limited to, retail, educational, hospital and hotel projects, the amount by which total project costs exceed the cost of a viable alternative location for the out-of-State redevelopment project in the event the business’s chief

executive officer, or equivalent officer for North American operations, submits a certification indicating that the project is at risk of leaving the State and that the project would not occur but for the provision of the incentive grant under the program. When calculating the project financing gap, the factors set forth at N.J.A.C. [19:31-4.5(a)4] **19:31-4.6(a)4**, including, but not limited to, return on investment, net profit margin and cash on cash yield will be considered. The project financing gap may be increased by the cost of capital necessary to raise an amount of current capital sufficient to complete the project when combined with all other sources of capital in recognition that the incremental eligible revenues will be reimbursed over an estimated period of years.

“Qualified incubator facility” means a commercial building located within an incentive area: which contains 100,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration as demonstrated by a written agreement with, a research institution, teaching hospital, college, or university; and within which, at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

“Qualified residential project” means a redevelopment project completed by July 28, 2015, that is predominantly residential and includes multi-family residential units for purchase or lease, or dormitory units for purchase or lease, having a total project cost of at least \$17,500,000, if the project is located in any municipality with a population greater than 200,000 according to the latest federal decennial census, or having a total project cost of at least \$10,000,000 if the project is located in any municipality with a population less than 200,000 according to the latest federal decennial census, or is a disaster recovery project, or having a total project cost of \$5,000,000 if the project is in a Garden State Growth Zone.

[“Qualifying economic redevelopment and growth grant incentive area” or “incentive area” means Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a center as designated by the State Planning Commission; an area zoned for development pursuant to a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21); any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L. 1971, c. 137 (N.J.S.A. 5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L. 1968, c. 404 (N.J.S.A. 13:17-4); a pinelands regional growth area, a pinelands town management area, a pinelands village, or a military and Federal installation area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.); a transit village; and Federally owned land approved for closure under a Federal Base Realignment Closing Commission action.]

“Qualifying economic redevelopment and growth grant incentive area” or “incentive area” means an aviation district, a port district, a distressed municipality, or an area:

1. Designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.); or

2. Located within:

i. A smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21);

ii. Any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L. 1971, c. 137 (N.J.S.A. 5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L. 1968, c. 404 (N.J.S.A. 13:17-4);

iii. A regional growth area, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.);

iv. The planning area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3) or in a highlands development credit receiving area or redevelopment area;

v. A Garden State Growth Zone;

vi. Land approved for closure under any Federal Base Closure and Realignment Commission action; or

vii. Only the following portions of the areas designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive). This subparagraph shall only apply if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) is located within:

(1) A designated center under the State Development and Redevelopment Plan;

(2) A designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts rules to revise this definition as it pertains to Statewide planning areas;

(3) Any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-5 and 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-14);

(4) Any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided such expansion otherwise complies with all applicable Federal, State, county, and local permits and

approvals;

(5) The planning area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3) or a highlands development credit receiving area or redevelopment area; or

(6) Any area on which an existing tourism destination project is located.

“Qualifying economic redevelopment and growth grant incentive area” or “incentive area” shall not include any property located within the preservation area of the Highlands Region as defined in the Highlands Water Protection and Planning Act, P.L. 2004, c. 120 (N.J.S.A. 13:20-1 et seq.).

“Redevelopment incentive grant agreement” means an agreement between the State Treasurer, the Authority and a developer, or a municipality and a developer, or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper, under which, in exchange for the proceeds of an incentive grant, the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, residential, or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area **or a transit village.**

“Redevelopment project” or “project” means a specific **construction project** [work] or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, **leased**, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, **owner or tenant, or both** within a project area and any ancillary infrastructure project [associated therewith] **including infrastructure improvements in the public right-of-way, as set forth in an application to be made to the Authority. The use of the term “redevelopment project” in sections 3 through 18 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489c et al.) shall not be limited to only redevelopment projects located in areas determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-5 and 40A:12A-6) but shall also include any work or undertaking in accordance with the Redevelopment Area Bond Financing Law, sections 1 through 10 of P.L. 2001, c. 310 (N.J.S.A. 40A:12A-64 et seq.) or other applicable law, pursuant to a redevelopment plan adopted by a State entity, or as described in the resolution adopted by a public entity created by State law with the power to adopt a redevelopment plan or otherwise determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it or within its jurisdiction, including but not limited to, the New Jersey Meadowlands Commission established pursuant to P.L. 1968, c. 404 (N.J.S.A. 13:1 17-1 et seq.), the New Jersey Sports and Exposition Authority established pursuant to P.L. 1971 c. 137 (N.J.S.A. 5:10-1 et seq.) and the Fort Monmouth Economic Revitalization Authority created pursuant to P.L. 2010, c. 51 (N.J.S.A. 52:27I-18 et seq.).**

...

“SDA district” means an SDA district as defined in section 3 of P.L. 2000, c. 72 (N.J.S.A.

18A:7G-3).

“SDA municipality” means a municipality in which an SDA district is situate.

[“Soft costs” means all costs associated with financing, design, engineering, legal, real estate commissions, furniture, or office equipment with a useful life of less than five years, provided they do not exceed 20 percent of eligible project costs.]

“Square feet” means the sum of all areas on all floors of a building included within the outside faces of its exterior walls, including all vertical penetration areas, for circulation and shaft areas that connect one floor to another, disregarding cornices, pilasters, buttresses, and similar structures, that extend beyond the wall faces.

“Square feet of gross leasable area” or “gross leasable area” means rentable area of the building as calculated pursuant to the measuring standards of the project. This standard will be defined in the lease for tenant applicants. The rentable area measures the tenant's pro rata portion of the entire office floor, including public corridors, restrooms, janitor closets, utility closets and machine rooms used in common with other tenants, but excluding elements of the building that penetrate through the floor to areas below. The rentable area of a floor is fixed for the life of a building and is not affected by changes in corridor sizes or configuration.

“Technology startup company” means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service which the business intends to move to commercialization.

“Tourism destination project” means a redevelopment project that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the incentive area and has been determined by the Authority to be in an area appropriate for development and in need of economic development incentive assistance.

“Transit project” means a redevelopment project located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

...

“Urban transit hub” means an urban transit hub, as defined in section 10 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), or all light rail stations and property located within a one-mile radius of the mid-point of the platform area of such a rail, bus, or ferry station if the property is in a qualified municipality 1 under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.).

“Vacant commercial building” means any commercial building or complex of commercial buildings having over 400,000 square feet of office, laboratory, or industrial space that is more than 70 percent unleased and unoccupied at the time of application to the Authority or is negatively impacted by the approval of a “qualified business facility,” as defined pursuant to section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), or any unleased and unoccupied commercial building in a Garden State Growth Zone having over 35,000 square feet of office, laboratory, or industrial space, or over 200,000 square feet of office, laboratory, or industrial space in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties available for occupancy for a period of over one year.

“Vacant health facility project” means a redevelopment project where a health facility, as defined by section 2 of P.L. 1971, c. 136 (N.J.S.A. 26:2H-2), currently exists and is considered vacant. A health facility shall be considered vacant if at least 70 percent of that facility has not been open to the public or utilized to serve any patients at the time of application to the Authority.

19:31-4.3 Eligibility criteria

(a) [The Authority, in consultation with the Treasurer for a State grant, shall conduct a review to determine eligibility for any] **In order to be eligible for a State or local incentive grant** [, wherein the following must apply]:

1. (No change.)

2. The developer must not have commenced any construction at the site of a proposed redevelopment project prior to submitting an application, except as set forth in (a)2i or ii below. For purposes of this paragraph, construction shall have commenced if the project has received site plan approval and started site preparation or utility installation.

i. (No change.)

ii. In the event the project is to be undertaken in phases, a developer may apply for phases for which construction has not yet commenced, subject to N.J.A.C. [19:31-4.5(a)2] **19:31-4.6(a)2;**

3. – 4. (No change.)

5. For a State incentive grant, except for a qualified residential project, pursuant [Pursuant] to a fiscal impact analysis, [for a State grant,] the overall public assistance provided to the project will result in net benefits to the State.

19:31-4.4 Application submission requirements for State incentive grants

(a) (No change.)

(b) A developer seeking a State incentive grant shall submit to the Authority the following information in its application:

1. – 8. (No change.)

9. Estimated [eligible] project costs, including any State or local grant funding to the project, and proposed terms of financing, including projected internal rate of return, net margin, return on investment and cash on cash yield;

10. (No change.)

11. For **qualified residential projects** [certain projects consisting of newly-constructed qualified residential units], a certification that it meets the requirements of N.J.A.C. [19:31-4.3(c)] **19:31-4.3(a)3**;

12. – 18. (No change.)

19. A description of how the project addresses the factors contained in N.J.A.C. 19:31-4.6(b)] **4.7(b)**;

20. A description of how the [green building] **minimum environmental and sustainability** standards [set forth in the green building manual prepared by the Department of Community Affairs, pursuant to section 1 of P.L. 2007, c. 132 (N.J.S.A. 52:27D-130.6),] are to be incorporated into the proposed project including use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction, as listed on the EDA website at www.njeda.com;

21. A copy of a letter of support from the governing body of the municipality in which the proposed redevelopment project **or ancillary infrastructure project or infrastructure improvement in the right-of-way** is located; and

22. (No change.)

(c) Any developer shall be allowed to assign their ability to apply for a State incentive grant to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the incentive grant, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this subchapter. In addition to the information required pursuant to (b) above, the non-profit organization shall be required to submit:

1. Evidence of the assignment to apply for the tax credit from the developer or the group of non-qualifying developers;

2. The name of the non-profit organization;

3. The contact information of the non-profit organization;

- 4. The New Jersey employer identification number;**
- 5. The Federal employer identification number; and**
- 6. The mission statement of the non-profit organization.**

(d) A developer who has already applied for an incentive grant award prior to the effective date of P.L. 2013, c. 161, which is September 18, 2013, but who has not yet been approved for such grant, or has not executed an agreement with the Authority, may proceed under that application or seek to amend such application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions established pursuant to P.L. 2013, c. 161, except that projects with costs exceeding \$200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L. 2013, c. 161.

19:31-4.5 Fees

(a) A developer applying for benefits under this program shall submit a one-time non-refundable application fee of \$5,000, with payment in the form of a check, payable to the “New Jersey Economic Development Authority.”

(b) In addition to the application fee above, a developer shall pay to the Authority the full amount of direct costs of an analysis by a third party retained by the Authority, if the Authority deems such retention to be necessary.

(c) For a qualified residential project that receives tax credits, a non-refundable fee of .5 percent of the approved incentive grant or tax credit, not to exceed \$300,000, shall be charged by the Authority prior to the approval of the tax credit. For all other incentive grants, a non-refundable fee of .5 percent of the approved incentive grant, not to exceed \$500,000, shall be charged by the Authority prior to the approval of the incentive grant. The fee shall be refunded if the Authority does not approve the incentive grant or tax credit.

(d) For a qualified residential project that receives tax credits, a non-refundable fee of .5 percent of the tax credit, not to exceed \$300,000, shall be charged upon the receipt of the tax credit certificate. For all other incentive grants, a non-refundable fee of .5 percent of the incentive grant, not to exceed \$500,000, shall be charged upon execution of the incentive grant agreement.

(e) For a qualified residential project that receives tax credits, a developer shall pay to the Authority an annual review fee, beginning the tax accounting or privilege period in which the Authority accepts the certification that the business has met the capital qualifications, and for the duration of the eligibility period. The annual review fee shall be paid to the Authority by the business at the time the business submits its annual report. The annual review fee shall be \$2,500 per year.

(f) For a qualified residential project that receives tax credits, upon application for a tax credit transfer certificate pursuant to N.J.A.C. 19:31-4.10 or permission to pledge a tax credit transfer certificate purchase agreement as collateral, a developer shall pay to the Authority a fee of \$2,500.

(g) Upon application to pledge, assign, transfer or sell any or all of its right, title, and interest in and to an incentive agreement and in the incentive grants payable thereunder, a developer shall pay to the Authority a fee of \$2,500.

(h) A non-refundable fee of \$5,000 shall be paid for each request for any administrative changes, additions or modifications; and a non-refundable fee of \$25,000 shall be paid for any major changes, additions or modifications, such as those requiring extensive staff time and Board approval.

(i) A non-refundable fee of \$1,000 shall be paid for the first six-month extension to the date by which evidence must be submitted to demonstrate compliance with the conditions set forth in commitment letter pursuant to N.J.A.C. 19:31-4.8(a); and a non-refundable fee of \$2,500 shall be paid for the second extension to that date, which will require Board approval.

(j) A business seeking to terminate an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161, shall pay to the Authority an additional fee of \$5,000 for terminations that do not require extensive staff time and Board approval; and a non-refundable fee of \$25,000 for terminations that require extensive staff time or Board approval.

19:31-[4.5]4.6 Financing gap and fiscal impact analysis

(a) The Authority, in consultation with the State Treasurer, shall review the proposed [redevelopment] project costs and evaluate and validate the project financing gap estimated by each developer applying for a State incentive grant, as follows:

1. (No change.)

2. For a redevelopment project involving rehabilitation or improvement of an existing building(s), the costs of land acquisition and rehabilitation shall not exceed 100 percent of the replacement cost for new construction, exclusive of any environmental remediation costs. When evaluating a redevelopment project involving rehabilitation or improvement of existing building(s), if a developer spends more than 50 percent of the total cost of acquisition of the building(s) on such rehabilitation or improvement, then the cost of acquisition shall be included in the eligible project costs. With respect to the Authority's evaluation of a redevelopment project pursuant to the requirements of N.J.A.C. 19:31-4.3(a)2i, a developer's future expenditures will have to be at least 50 percent of the project costs previously expended as of its application date in order for the Authority to include the costs expended prior to the application date to be included in the [eligible] project costs;

3. (No change.)

4. The financing gap analysis shall include, but not be limited to, an evaluation of the [eligible] project costs, proposed rental rates, vacancy rates, internal rate of return, net profit margin, return on investment and cash on cash yield in comparison to market ranges for such items, as noticed on the EDA website at www.njeda.com or, in the Authority's sole discretion, in comparison to alternative financing structures for a comparable project available to the developer or its tenants.

5. Except for final point of sale retail businesses, including but not limited to, retail, educational, hospital or hotel projects, the financing gap will include the amount by which the total project cost exceeds the cost of a viable alternative location for the out-of-State redevelopment project in the event the business's chief executive officer, or equivalent officer for North American operations, submits a certification indicating that the project is at risk of leaving the State or not being located in the State and that the project would not occur but for the provision of the incentive grant under the program. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the Authority may revoke any award of an incentive grant in its entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to.

(b) The Authority, in consultation with the State Treasurer, shall undertake the fiscal impact analysis by determining whether the overall public assistance provided to the proposed [redevelopment] project, **except with regards to a qualified residential project**, will result in net positive economic benefits equaling 110 percent of the amount of grant assistance, to the State for a period equal to 75 percent of the useful life of the project not to exceed 20 years.

(c) In determining whether the project meets the net positive economic benefits analysis, the Authority's consideration shall include, but not be limited to, the State taxes paid directly by and generated indirectly by the developer, taxes paid directly or generated indirectly by new or retained jobs, and peripheral economic growth caused by the project[,] **including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, to be determined by the Authority in its sole discretion, including but not limited to, objectives memorialized in a municipal master plan or plan for an area in need of redevelopment or rehabilitation, or the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project** provided that such determination shall be limited to the net economic benefits derived from the capital investment commenced after the submission of an application to the Authority.

(d) – (e) (No change.)

19:31-[4.6]4.7 Approval of application for State incentive grant

(a) The Authority and the State Treasurer may, **except in the case of a qualified residential project**, approve an application only if they make a finding that the State revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for the portion of the project financing gap allocable to the State incentive grant. This finding may be made by an estimation based upon the professional judgment of the Chief Executive

Officer of the Authority and the State Treasurer.

(b) In deciding whether or not to recommend entering into a redevelopment incentive agreement, the Chief Executive Officer shall consider the following factors prior to approval:

1. (No change.)

2. The extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project **or the level of site specific distress to include dilapidated conditions, brownfields designation, environmental contamination, pattern of vacancy, abandonment, or under utilization of the property, rate of foreclosures, or other site conditions as determined by the Authority;**

3. (No change.)

4. The likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement, **provided, however, that any tax revenue generated by a redevelopment project that is a disaster recovery project shall be considered new tax revenue even if the same or more tax revenue was generated at or on the site prior to the disaster;**

5. (No change.)

6. The need of the redevelopment incentive grant agreement to the viability of the redevelopment project **or the promotion of the use of public transportation;** and

7. The degree to which the redevelopment project enhances and promotes job creation and economic development **or the promotion of the use of public transportation.**

(c) (No change.)

(d) Except for a local redevelopment incentive grant agreement with a municipal redeveloper **or with the developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way,** in no event shall the **base amount of the** combined [amount of the] reimbursements under the redevelopment incentive grant agreements with the State and municipality exceed 20 percent of the [eligible cost of the project] **total project cost, except in a Garden State Growth Zone, which shall not exceed 30 percent. The maximum amount of any redevelopment incentive grant, including any increase in the amount of reimbursement under N.J.A.C. 19:31-4.6(e), shall be equal to up to 30 percent of the total project costs, except for projects located in a Garden State Growth Zone, in which case the maximum amount of any redevelopment incentive grant, including any increase in the amount of reimbursement under N.J.A.C. 19:31-4.6(e), shall be equal to up to 40 percent of the total project costs.**

(e) **The Authority, pursuant to section 19 of P.L. 2013, c. 161 may increase the amount of**

the reimbursement under the redevelopment incentive grant agreement with the State by up to 10 percent of the total project cost if the project is:

1. Located in a distressed municipality which lacks adequate access to nutritious food in the judgment of the Chief Executive Officer of the Authority and will include either a supermarket or grocery store with a minimum of 15,000 square feet of selling space devoted to the sale of consumable products or a prepared food establishment selling only nutritious ready to serve meals;

2. Located in a distressed municipality which lacks adequate access to health care and health services in the judgment of the Chief Executive Officer of the Authority and will include a health care and health services center with a minimum of 10,000 square feet of space devoted to the provision of health care and health services;

3. Located in a distressed municipality which has a business located therein that is required to respond to a request for proposal to fulfill a contract with the federal government as set forth in subsection d. of section 3 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-244);

4. A transit project;

5. A qualified residential project in which at least 10 percent of the residential units are constructed as and reserved for moderate income housing;

6. Located in a highlands development credit receiving area or redevelopment area;

7. Located in a Garden State Growth Zone;

8. A disaster recovery project;

9. An aviation project;

10. A tourism destination project; or

11. A project involving the substantial rehabilitation or renovation of more than 51 percent of an existing structure or structures.

19:31-[4.7]4.8 State incentive grant agreement

(a) **Except for qualified residential projects that receive tax credits, [Upon] upon** approval of the application by the Authority and the State Treasurer, the Authority and the developer will execute a commitment letter providing information specific to the grant amount and containing conditions that must be met prior to receiving the grant. Upon a receipt of evidence from the developer that it has control of the redevelopment project site and offers of financing, which may be conditioned upon execution of the grant agreement, and that it has met any other conditions set forth in the commitment letter, the Authority and the State Treasurer may enter into a State redevelopment incentive grant agreement with a developer for the reimbursement of incremental

State revenues directly realized from businesses operating on the redevelopment project premises.

(b) The Chief Executive Officer of the Authority, in consultation with the State Treasurer, shall negotiate the terms and conditions of any State redevelopment incentive agreement. The State redevelopment incentive grant agreement shall include, but not be limited to, the following terms and conditions as determined by the Authority:

1. The **eligibility period, the maximum amount of project costs, the maximum percentage reimbursement amount, the maximum aggregate dollar amount of the incentive grant to be awarded the developer, the maximum annual percentage of reimbursement, the particular tax or taxes to be utilized from those listed in N.J.A.C. [19:31-4.8(a)] 19:31-4.10(a), the order in which multiple taxes will be applied to determine the incentive grant amount, and, for a project receiving an incentive grant in excess of \$50 million, the amount of the negotiated repayment to the State which may include, but not be limited to cash, equity and warrants and** shall be up to the amount of the maximum aggregate dollar amount of the reimbursement. If the actual project costs are less than the project costs set forth in the application, the percentage reimbursement amount will be based on the actual project costs. For the purposes of determining the amount and timing of any repayment due for projects receiving an incentive grant in excess of \$50 million, the Authority shall consider such factors as the financial structure of the project, risk of the project, developer returns, magnitude of State support, as well as the returns of various types of revenue generating projects, that is, retail, commercial and/or hotel. If the project does not produce the anticipated amount of incremental taxes in a given year, the developer shall only receive the approved percentage of actual tax revenue created. **No portion of revenues pledged pursuant to P.L. 2013, c. 161 shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof in the grant agreement;**

2. (No change.)

3. The **reimbursement schedule which will indicate the annual percentage amount of reimbursement provided that it** [which shall] not exceed:

i. An average of 75 percent of the annual incremental State revenues; or

ii. An average of 85 percent of the projected annual incremental revenues in a Garden State Growth Zone.

4. (No change.)

5. The frequency of payments and [length of time] **eligibility period**, which shall not exceed 20 years, during which that [reimbursement] **tax credit**, shall be granted;

6. Description of the occupancy permit or other event evidencing project completion that begins the eligibility period and whether the project will be undertaken in phases;

[6.] **7.** The requirement that the developer submit, prior to the first disbursement of funds under the agreement, satisfactory evidence of actual project costs, as certified by a certified public

accountant, evidence of a temporary certificate of occupancy, **or other event evidencing project completion that begins the eligibility period indicated in the incentive agreement**, and, if applicable, evidence that the municipality is in substantial compliance with the requirements under N.J.A.C. 19:31-4.3(a)3;

Recodify existing 7. to 12. as 18. to 13. (No change in text.)

[13.] **14.** Default and remedies; [and]

[14.] **15.** Reporting requirements, as required pursuant to section 6 of **N.J.S.A. 52:27D-489f** [P.L. 2009, c. 90 (N.J.S.A. 52:27D-489f)] , and other reporting requirements that may be required by law or agreement, such as an annual report and an annual tax clearance certificate issued by the Division of Taxation pursuant to P.L. 2007, c. 200 (N.J.S.A. 52:39-1 et seq.)[.]; **and**

16. Requirement to demonstrate that the project continues to be eligible for any increase of reimbursement pursuant to N.J.A.C. 19:31-4.7(e).

(c) (No change.)

19:31-4.9 Tax credits for qualified residential projects

(a) In the case of a qualified residential project, if the Authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on such incremental revenue, the developer shall be awarded tax credits equal to the full amount of the incentive grant which shall be taken over a ten-year period, at the rate of one-tenth of the total amount for each tax accounting or privilege period of the developer. The value of all credits approved by the Authority pursuant to this subsection shall not exceed \$600,000,000, of which:

1. \$250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which \$175,000,000 of credits shall be restricted to qualified residential projects in a Garden State Growth Zone located within the aforementioned counties, and \$75,000,000 of credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161;

2. \$250,000,000 shall be restricted to qualified residential projects located in:

i. Urban transit hubs that are commuter rail in nature that otherwise do not qualify under (a)1 above;

ii. A Garden State Growth Zone not located in a county mentioned in (a)1 above;

iii. Disaster recovery projects that otherwise do not qualify under (a)1 above; or

iv. SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under (a)1 above;

3. \$75,000,000 shall be restricted to qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to (a)1 or 2 above;

4. \$25,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under (a)1, 2, or 3 above; and

5. For (a)1 through 4 above, not more than \$40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than \$20,000,000 of credits shall be awarded to any other qualified residential project.

(b) In developing a recommendation for allocating tax credits to qualified residential projects, the Chief Executive Officer of the Authority shall take into account, together with the factors set forth at N.J.A.C. 19:31-4.7(b):

- 1. An evaluation of the residential developer's pro forma analysis;**
- 2. Input from the municipality in which the project is located;**
- 3. Whether the project furthers specific State or municipal planning and development objectives, or both;**
- 4. Whether the project furthers a public purpose, such as catalyzing urban development or maximizing the value of vacant, dilapidated, outmoded, government-owned, or underutilized property or both; and**
- 5. Whether the project contributes to the recovery of areas affected by Superstorm Sandy.**

(c) Upon receipt of a recommendation from the Authority staff on the qualified residential facility application, the Board shall determine whether or not to approve the application, the maximum amount of tax credits and the maximum percentage amount of allowed tax credits for its capital investment in a qualified residential project, and promptly notify the applicant and the Director of the Division of Taxation of the determination. The Board's award of the credits will be subject to conditions subsequent that must be met in order to retain the credits. An approval letter setting forth the conditions subsequent will be sent to the applicant. Such conditions shall include, but not be limited to, the requirement that the project complies with the Authority's prevailing wage requirements P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1) and affirmative action requirements P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.4), that the project does not violate any environmental law requirements, and the requirement that the minimum environmental and sustainability standards, are incorporated into the proposed project

including the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

1. If the application is approved, the project approval is subject to the terms and conditions of the approval letter, and any benefits under the program are subject to the completion of the project and satisfaction of the capital investment required for the tax credits.

2. In the approval letter to the developer, the Authority shall set a date by which its approval will expire.

(d) Within one year following the date of Board approval by the Authority, each approved developer of a qualified residential facility that has been approved for tax credits shall submit progress information indicating that the developer has site plan approval, financing for and site control of the qualified business facility or qualified residential project. Unless otherwise determined by the Authority in its sole discretion, the Authority's approval of the tax credits shall expire if the progress information is not received by the Authority within one year of the date of application approval.

(e) Upon completion of the capital investment and receipt of the occupancy permit or other event evidencing project completion indicated in the approval letter, the developer shall submit a certification of a certified public accountant which may be made pursuant to an "agreed upon procedures" letter acceptable to the Authority evidencing that the developer has satisfied the conditions relating to the capital investment requirements.

1. Once accepted by the Authority, the certification with respect to the capital investment shall define the amount of the tax credits and shall not be increased regardless of additional capital investment in the qualified residential facility, and in no event will the amount of tax credits exceed the maximum percentage amount of allowed tax credits approved by the Board for the developer's capital investment in a qualified residential project.

2. This certification shall be submitted to the Authority no later than July 28, 2015.

(f) Once the Authority accepts the certification of the developer that it has satisfied the capital investment requirements of the program, and the Authority determines that other necessary conditions have been met, the Authority shall notify the developer and notify the Director of the Division of Taxation, and the business shall receive its tax credit certificate. The use of the tax credit certificate shall be subject to the receipt of an annual letter of compliance.

(g) After notification, either the developer, the owner of the project or a tax credit transferee shall furnish to the Authority an annual report in a format as may be determined by the Authority which shall contain the following information:

1. A certification indicating whether or not the party submitting the report is aware of any

condition, event, or act which would cause the business not to be in compliance with the approval, the Act or this subchapter; and

2. Documentary evidence that a deed restriction has been recorded against each residential component of the qualified residential project. The deed restriction shall require that all residential units remain residential units until the eligibility period has expired;

3. Evidence that the residential units of the qualified residential project are not being used for non-residential purposes. Such evidence may include, but is not restricted to, rental receipts, municipal records, and/or a certification by a MAI appraiser or governmental official.

4. Failure to submit a copy of the annual report or submission of the annual report, without the information required above, will result in forfeiture of any annual tax credits to be received by the developer or tax credit holder unless the Authority determines that there are extenuating circumstances excusing the developer or tax credit transferee from the timely filing required. The Authority reserves the right to audit any of the representations made and documents submitted in the annual report.

5. The tax credit certificate may provide for additional reporting requirements.

(h) Annually, upon satisfactory review of all information submitted, the Authority will issue a letter of compliance. No tax credit certificate will be valid without the letter of compliance issued for the relevant tax privilege period. The letter of compliance will indicate whether the developer or the tax credit holder may take all or a portion of the credits allocable to the tax privilege period.

(i) The tax credit certificate shall set forth the following terms:

1. The starting date of the tax period and the commitment duration;

2. The amount of the tax credits;

3. A requirement that any use of the tax certificate be accompanied by a letter of compliance;

4. In the event that the Board has approved an application for a business using one or more affiliates in order to satisfy the capital investment requirements of the program, a schedule setting forth the eligible affiliates and a requirement by the business to notify the Authority at least seven days prior to date of filing relating to each tax accounting or privilege period the proposed allocation of tax credits by the business;

5. Events that would trigger reduction and forfeiture of tax credit amounts; and

6. Reporting requirements and the requirement for an annual tax clearance certificate issued by the Division of Taxation pursuant to P.L. 2007, c. 200.

19:31-[4.8]**4.10** Incremental revenue sources

(a) **Except for projects receiving an increase in the amount of reimbursement under N.J.A.C. 19:31-4.7(b)4, [In] in accordance with a State redevelopment incentive grant agreement beginning upon the receipt of occupancy permits for any portion of the redevelopment project or upon such other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer will pay to the developer up to an average of 75 percent of the projected annual incremental revenues, or an average of 85 percent of the projected annual incremental revenues in a Garden State Growth Zone, directly realized from businesses operating on or at the site of the redevelopment project [premises may be paid to the developer] from the following taxes:**

1. – 4. (No change.)

5. The tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L. 1999, c. 23 (N.J.S.A. 48:3-60), any charges paid for compliance with the Global Warming Response Act, P.L. 2007, c. 112 (N.J.S.A. 26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L. 1997, c. 162 (N.J.S.A. 48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities;

Recodify existing 5. and 6. as 6. and 7. (No change in text.)

[7.] 8. The tax imposed pursuant to P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) from the purchase of **furniture, fixtures and equipment, or materials [used] for the remediation, the construction of new structures [, or the construction of new residences] at the site of a redevelopment project. For the purpose of computing the sales and use tax on the purchase of materials used for remediation, construction of new structures or the construction of new residences at the site of the project, it shall be presumed by the Director of the Division of Taxation, in lieu of an exact accounting from the developer, suppliers, contractors, subcontractors and other parties connected with the project, that the tax equals one percent of the developer's contract price for such remediation or construction or such other percentage, not to exceed three percent, that may be agreed to by the director upon the presentation of clear and convincing evidence that the tax on materials is greater than one percent of the contract price for the remediation or construction;**

Recodify existing 8. and 9. as 9. and 10. (No change in text.)

(b) The Director of the Division of Taxation may retain up to 20 percent of certain State incremental tax revenues, such as the corporate business tax and sales and use tax, for adjustment as necessary which shall be returned to the developer after such time as the statute of limitations has expired for the specific tax withheld. **No portion of revenues pledged pursuant to P.L. 2013, c. 161 shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof in the grant agreement.**

(c) (No change.)

19:31-[4.9]4.11 Pledge, [and] assignment, **transfer or sale** of grant amount

(a) A developer may, upon notice to and consent of the Authority and the State Treasurer, which consent shall not be unreasonably withheld, pledge, [and] assign, **transfer or sell** [as security for any loan or bond,] any or all of its right, title and interest in and to such agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under such agreement. Any such assignment shall be an absolute assignment for all purposes, including the Federal bankruptcy code. Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the records of the Authority. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the Authority.

(b) A developer may apply to the Director of the Division of Taxation and the Chief Executive Officer of the Authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to N.J.A.C. 19:31-4.8(d), covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the Director and the Chief Executive Officer of the Authority, may be sold or assigned, in full or in part, to any other person that may have a tax liability pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or N.J.S. 17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this subsection shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount, as determined at present value. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

19:31-[4.10]4.12 Affirmative action and prevailing wage

The Authority's affirmative action requirements P.L. 1979, c. 203 (N.J.S.A. 34:1B-5.4) and prevailing wage requirements P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1) will apply [only] to State incentive grant projects undertaken in connection with financial assistance received under the Economic Redevelopment and Growth Program; **and, for a State incentive grant solely for infrastructure improvements in the public right-of-way or any ancillary infrastructure project, regardless of whether the work or improvements are part of a larger redevelopment**

project, only to the work relating to the infrastructure improvements in the public right-of-way or the ancillary infrastructure project for which the incentive grant is issued.

19:31-4.13 Appeals

(a) The Board's action on applications shall be effective 10 business days after the Governor's receipt of the minutes, provided neither an early approval nor veto has been issued.

(b) An applicant may appeal the Board's action by submitting in writing to the Authority, within 20 calendar days from the date of the Board's action, an explanation as to how the applicant has met the program criteria. Such appeals are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) Appeals that are timely submitted shall be handled by the Authority as follows:

1. The Chief Executive Officer shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. The Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his/her finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. The Chief Executive Officer, or equivalent officer, of the Authority may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within a reasonable amount of time from receipt of such report.

3. The Board shall consider the hearing officer's report, the recommendation of the Chief Executive Officer, or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the appeal.

4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

19:31-[4.11]4.14 Severability

If any section, subsection, provision, clause, or portion of this subchapter is adjudged to be

unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

SUBCHAPTER 9. URBAN TRANSIT HUB TAX CREDIT PROGRAM

19:31-9.6 Application and servicing fees

(a) - (f) (No change.)

(g) For each project with tax credits of \$5,000,000 or less annually, a non-refundable fee of \$2,500 shall be paid for each request for any administrative changes, additions or modifications to the tax credit; and a non-refundable fee of \$7,500 shall be paid for any major changes, additions or modifications to the tax credit, such as those requiring extensive staff time and Board approval. For each project with tax credits in excess of \$5,000,000 annually, a non-refundable fee of \$5,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$25,000 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

SUBCHAPTER 10. BUSINESS EMPLOYMENT INCENTIVE PROGRAM

19:31-10.12 Fees

(a) – (d) (No change.)

(e) For each project with annual grant disbursements of \$1,000,000 or less, a non-refundable fee of \$1,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$2,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval. For each project with annual grant disbursements of \$1,000,000 to \$5,000,000, a non-refundable fee of \$2,500 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$7,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval. For each project with annual grant disbursements in excess of \$5,000,000, a [A] non-refundable fee of [\$750.00] \$5,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of [\$1,500] \$25,000 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

(f) – (h) (No change.)

SUBCHAPTER 14. BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT PROGRAM

19:31-14.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Retained full-time job” means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered the eligible positions of the business. A retained full-time job is one that will not be included in the calculation of a BEIP grant subsequent to being moved to the approved project site, under the agreement. The number of retained full-time jobs shall mean the business's number of permanent full-time jobs as referred to in the project description in the application and the agreement, which exist as of the effective date of the agreement. In order to demonstrate that a job meets this definition, a business must provide documentation that demonstrates the at-risk nature of these employees which shall include a certification of the business's chief executive officer that the jobs are at-risk at being located outside of New Jersey. **For the purposes of the certifications required pursuant to the incentive agreement, N.J.S.A. 34:1B-116 or N.J.S.A. 34:1B-120, to the extent an eligible position that was the basis of the award no longer exists, a business may include as a retained full-time job a new eligible position that is filled by a full-time employee provided that the position is included in the order of date of hire and is not the basis for any other incentive award.**

...

19:31-14.14 Fees

(a) – (b) (No change.)

(c) For each project with annual grant disbursements of \$1,000,000 or less, a non-refundable fee of \$1,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$2,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval. For each project with annual grant disbursements of \$1,000,000 to \$5,000,000, a non-refundable fee of \$2,500 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$7,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval. For each project with annual grant disbursements in excess of \$5,000,000, a [A] non-refundable fee of [\$750.00] **\$5,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of [\$1,500] **\$25,000** shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.**

(d) (No change.)

SUBCHAPTER 15. TAX CREDIT CERTIFICATE TRANSFER PROGRAM

19:31-15.7 Fees

(a) (No change.)

(b) For each project with annual grant disbursements of \$1,000,000 or less, a non-refundable fee of \$1,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$2,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval. For each project with annual grant disbursements of \$1,000,000 to \$5,000,000, a non-refundable fee of \$2,500 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$7,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval. For each project with annual grant disbursements in excess of \$5,000,000, a [A] non-refundable fee of [\$750.00] \$5,000 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of [\$1,500] \$25,000 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

19:31-18.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority (“EDA” or “Authority”) to implement the Grow New Jersey Assistance Act, P.L. 2011, c. 149 (the “Act”). The Act establishes the Grow New Jersey Assistance Program (“the Program”), administered by the Authority, to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. [To implement this purpose, and to the extent that funding for the program is available, the program may provide tax credits to eligible business which make, acquire or lease a capital investment of at least \$20,000,000 at a qualified business facility at which it will employ at least 100 full-time employees in retained full-time jobs or create at least 100 new full-time jobs in an industry identified by the EDA as desirable for the State to maintain or attract. In addition, the capital investment and resultant retention and creation of eligible positions will yield a net positive benefit to the State; and, with one exception, the award of tax credits will be a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program. Qualified eligible businesses would receive a base tax credit of \$5,000 per job, per year, for 10 years with no distinction between retained or new jobs. The tax credit term of 10 years includes an annual compliance review for credit issuance. In addition, a bonus credit of up to \$3,000 per job, per year may be received by an eligible business that, as determined by the Authority: is in an industry identified by the EDA as desirable for the State to maintain or attract; locates or relocates to a location adjacent to, or within walking distance or short-distance shuttle service of, a public transit facility as determined by the Authority; creates jobs using full-time employees whose annual salaries, according to the Department of Labor and Workforce Development, are greater than the salary of the average worker employed in this State; or is negatively impacted by the approval of a “qualified business facility,” under the Urban Transit Hub Tax Credit program. Businesses may apply for the tax credits by July 1, 2014 shall submit its documentation indicating that it has met the

capital investment employment requirements specified in the project agreement for certification of its credit amount no later than July 28, 2017. The program provides for performance requirement “claw backs” if a business receiving assistance under the program does not meet an 80 percent Statewide job maintenance and 15-year job maintenance (10-year term plus additional five) requirements.]

19:31-18.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Aviation district” means the area within a one-mile radius of the outermost boundary of the “Atlantic City International Airport,” established pursuant to section 24 of P.L. 1991, c. 252 (N.J.S.A. 27:25A-24).

...

“Business” means an applicant proposing to own or lease premises, or that has acquired the premises within 24 months prior to project application, in a qualified business facility that is: a corporation that is subject to the tax imposed pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15) or N.J.S.A. 17B:23-5, or is a partnership, an S corporation, or a [limited liability corporation] **limited liability company or a non-profit corporation. If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates. In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease such facility shall qualify as a business regardless of the type of the business entity or entities which own or lease such facility; the ownership or leasing of such facility by more than one business entity; or the ownership of the business entity or entities which own or lease such facility. Such ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. Such members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. For the purposes of a regional distribution facility of foodstuffs, leasing shall include subleasing and tenants shall include subtenants.** A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

“Capital investment” in a qualified business facility means expenses by a business or any affiliate of the business incurred after application[, but before the earlier of the end of the 10th year

after the effective date of P.L. 2011, c. 149 or July 28, 2017, whichever is sooner] for: **site acquisition, if purchased within 24 months prior to project application or thereafter;** site preparation and construction, repair, renovation, improvement, equipping, or furnishing **on real property** or of a building, structure, facility, or improvement to real property; [and] obtaining and installing furnishings and machinery, apparatus, or equipment, **including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168 and s.179),** for the operation of a business **on real property** in a building, structure, facility, or improvement to real property, including associated soft costs; **and receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13); or any of the foregoing.** Capital investment includes obtaining and installing furnishings and machinery, apparatus, or equipment for the operation of a business in a building, structure, facility, or improvement to real property, site-related utility and transportation infrastructure improvements, plantings or other environmental components required to attain the level of silver rating or above in the LEED building rating system, but only to the extent that such capital investments have not received any grant financial assistance from any other State funding source including N.J.S.A. 52:27H-80 et seq. (The United States Green Building Council has developed the Leadership in Energy & Environmental Design (LEED) Green Building Rating System for measuring the energy efficiency and environmental sustainability of buildings. The LEED Rating System is a third-party certification program and the nationally accepted benchmark for the design, construction, and operation of high performance buildings.) Vehicles and heavy equipment not permanently located in the building, structure, facility, or improvement shall not constitute a capital investment. Also included is remediation of the qualified business facility, but only to the extent that such remediation has not received financial assistance from any other Federal, State, or local funding source. **In addition to the foregoing, in a Garden State Growth Zone, the following qualify as a capital investment: any and all redevelopment and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the Authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.** A business that acquires or leases a qualified business facility[, pursuant to N.J.A.C. 19:31-18.16,] shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord **if pertaining primarily to the premises of the qualified business facility, and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of such premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.**

[“Commitment duration” means the tax credit term and five years from the end of the tax credit term specified in the project agreement entered into pursuant to section 4 of P.L. 2011, c. 149 and

pursuant to this subchapter.]

“Commitment period” means the period of time that is 1.5 times the eligibility period.

“Complex of buildings” means co-located buildings that are part of the same financing plan and operational plan.

“Deep poverty pocket” means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area.

“Disaster recovery project” means a project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster which, after utilizing all disaster funds available from federal, State, county, and local funding sources, demonstrates to the satisfaction of the Authority that access to additional funding authorized pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161, is necessary to complete such redevelopment project, and which is located within the qualified incentive area.

“Distressed municipality” means a municipality that is qualified to receive assistance under P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the Local Government Supervision Act (1947), P.L. 1947, c. 151 (N.J.S.A. 52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

“Eligibility period” means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the Authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey Assistance Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant, at the time of approval.

“Eligible position” or “full-time job” means a full-time position [retained or created by] in a business in this State [for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L. 1997, c. 146 (N.J.S.A. 17B:27-54), a health benefits plan as defined under section 1 of P.L. 1992, c. 162 (N.J.S.A. 17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes] which the business has filled with a full-time employee.

“Full-time employee” means a person: who is employed by [the] a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or [a person] who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L. 2001, c. 260 (N.J.S.A. 34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by

custom or practice as full-time employment, and whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. or [an employee] who is a resident of another state but whose income is not subject to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. **and who is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law. With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal: the requirement that employee health benefits are to be provided shall be deemed to be satisfied if such benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement; full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent; 35 hours of employment per week at a qualified business facility shall constitute one “full-time employee,” regardless of whether or not the hours of work were performed by one or more persons. For any project located in a Garden State Growth Zone which qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, the Authority shall accept a standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery store, or other like retail industry. “Full-time employee” shall not include any person who works as an independent contractor or on a consulting basis for the business.**

“Full-time employee at the qualified business facility” means a full-time employee whose primary office is at the site and who spends at least 80 percent of his or her time at the site, or who spends any other period of time generally accepted by custom or practice as full-time employment at the site, as determined by the Authority.

“Garden State Growth Zone” or “growth zone” means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

...

“Highlands development credit receiving area or redevelopment area” means an area located within a qualified incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13).

“Incentive agreement” means the contract between the business and the Authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the program.

“Incentive effective date” means the date the Authority issues a tax credit based on documentation submitted by a business pursuant to paragraph (1) of subsection b. of section 6 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-247).

“Industrial premises” means premises in which at least 51 percent of the square footage is not non-industrial premises. Industrial premises shall include, but not be limited to, premises used for manufacturing.

“Major rail station” means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

“Mega project” means:

1. A qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:

i. Having a capital investment in excess of \$20,000,000, and at which more than 250 full-time employees of such business are created or retained, or

ii. At which more than 1,000 full-time employees of such business are created or retained;

2. A qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:

i. Having a capital investment in excess of \$20,000,000, and at which more than 250 full-time employees of such business are created or retained, or

ii. At which more than 1,000 full-time employees of such business are created or retained;
or

3. A qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of \$50,000,000, and at which more than 250 full-time employees of a business are created or retained.

“Minimum environmental and sustainability standards” means the standards set forth in the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L. 2007, c. 132 (N.J.S.A. 52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

“Moderate-income housing” means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

“Municipal Revitalization Index” means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

“New construction” means construction that requires the rehabilitation, improvement, fit-out retrofit, or new construction on more than 51 percent of the square footage of a qualified business facility.

...

“Non-industrial premises” means premises that are used for commercial and/or office purposes, including but not limited to, research and development.

“Other eligible area” means the portions of the qualified incentive area that are not located within a distressed municipality, or the priority area.

...

“Port district” means the portions of a qualified incentive area that are located within: the port district of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated or improved by the South Jersey Port District established pursuant to The South Jersey Port Corporation Act, P.L. 1968, c. 60 (N.J.S.A. 12:11A-1 et seq.).

“Priority area” means the portions of the qualified incentive area that are not located within a distressed municipality and which: are designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey’s State Strategic Plan and adopts regulations to revise this definition; intersect with portions of a deep poverty pocket, a port district, or were federally-owned land approved for closure under a federal Base Realignment Closing Commission action; are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or contain a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a “qualified business facility,” as defined pursuant to section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208).

...

“Project” means the capital investment and the employment commitment at a qualified business facility pursuant to the incentive agreement.

...

[“Public transit facility” means a rail station, light rail station, or bus hub.]

“Qualified business facility” means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location which shall not include a university research hospital, unless the building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of: a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full service supermarket or grocery store; or a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219).

[“Qualified incentive area” means an area designated pursuant to P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or any urban, regional, or town designated center under the State Development and Redevelopment Plan; an area zoned for development pursuant to a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21); any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L. 1971, c. 137 (N.J.S.A. 5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L. 1968, c. 404 (N.J.S.A. 13:17-4); a pinelands regional growth area, a pinelands town management area, a pinelands village, or a military and Federal installation area established pursuant to the Pinelands Comprehensive Management Plan adopted pursuant to P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.); an area designated for development, redevelopment, or economic growth within the Highlands Region; Federally owned land approved for closure under any Federal Base Closure and Realignment Commission action; or any property consisting of a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year or is negatively impacted by the approval of a “qualified business facility,” as defined pursuant to section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208).]

“Qualified incentive area” means an aviation district, a port district, a distressed municipality or urban transit hub municipality, or an area:

1. Designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A.

52:18A-196 et seq.); or

2. Located within:

i. A smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21);

ii. Any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L. 1971, c. 137 (N.J.S.A. 5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L. 1968, c. 404 (N.J.S.A. 13:17-4);

iii. A regional growth area, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.);

iv. The planning area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3) or in a highlands development credit receiving area or redevelopment area;

v. A Garden State Growth Zone;

vi. Land approved for closure under any Federal Base Closure and Realignment Commission action; or

vii. Areas designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) only if located within:

(1) A designated center under the State Development and Redevelopment Plan;

(2) A designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts rules to revise this definition as it pertains to Statewide planning areas;

(3) Any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-5 and 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L. 1992, 40 c. 79 (N.J.S.A. 40A:12A-14);

(4) Any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided such expansion otherwise complies with all applicable Federal, State, county, and local permits and approvals;

(5) The planning area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3) or a highlands development credit receiving area or redevelopment area; or

(6) Any area on which an existing tourism destination project is located.

“Qualified incentive area” shall not include any property located within the preservation area of the Highlands Region as defined in the Highlands Water Protection and Planning Act, P.L. 2004, c. 120 (N.J.S.A. 13:20-1 et seq.).

“Qualified incubator facility” means a commercial building located within a qualified incentive area: which contains 100,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with a research institution, teaching hospital, college, or university, which is evidenced by a written agreement that demonstrates this collaboration; and within which, at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

“Retained full-time job” means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being either lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For a project located in a Garden State Growth Zone which qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), “retained full-time job” shall include any employee previously employed and transferred to the new location. For the purposes of the certifications and annual reports required pursuant to the incentive agreement, N.J.S.A. 34:1B-245(e) or N.J.S.A. 34:1B-247(b)(2), to the extent an eligible position that was the basis of the award no longer exists, a business may include as a retained full-time job a new eligible position that is filled by a full-time employee provided that the position is included in the order of date of hire and is not the basis for any other incentive award.

“SDA district” means an SDA district as defined in section 3 of P.L.2000, c. 72 (N.J.S.A. 18A:7G-3).

“SDA municipality” means a municipality in which an SDA district is situate.

“Soft costs” means all costs associated with financing, design, engineering, legal, real estate commissions, furniture, or office equipment with a useful life of less than five years, provided they do not exceed 20 percent of total capital investment.

“Square feet” means the sum of all areas on all floors of a building included within the outside faces of its exterior walls, including all vertical penetration areas, for circulation and shaft areas that connect one floor to another, disregarding cornices, pilasters, buttresses, and similar structures, that extend beyond the wall faces.

“Square feet of gross leasable area” or “gross leasable area” means rentable area of the building as calculated pursuant to the measuring standards of the project. This standard will be defined in the lease for tenant applicants. The rentable area measures the tenant's pro rata portion of the entire office floor, including public corridors, restrooms, janitor closets, utility closets and machine rooms used in common with other tenants, but excluding elements of the building that penetrate through the floor to areas below. The rentable area of a floor is fixed for the life of a building and is not affected by changes in corridor sizes or configuration.

“Substantial environmental remediation” means the completion of the necessary actions to investigate and clean-up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, pursuant to N.J.S.A. 58:10B-1 et seq.

“Targeted industry” means any industry identified from time to time by the Authority including initially, a transportation, manufacturing, defense, energy, logistics, life sciences, technology, health, and finance business, but excluding a primarily warehouse, distribution, or fulfillment center business.

[“Tax credit term” means the 10-year period of time commencing in the year that the tax credits are issued in which the recipient of a grant of tax credits is eligible to apply the tax credits pursuant to section 5 of P.L. 2011 c. 149.]

“Technology startup company” means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service which the business intends to move to commercialization.

“Tourism destination project” means a qualified business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the qualified incentive area and has been determined by the Authority to be in an area appropriate for development and in need of economic development incentive assistance.

“Transit oriented development” means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

“Urban transit hub” means an urban transit hub, as defined in section 10 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208) and also located within a qualified incentive area.

“Urban transit hub municipality” means a municipality which qualifies for State aid pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-17 178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L. 2007, c. 111; and in which 30 percent or

more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

19:31-18.3 Eligibility criteria

(a) In order to be considered for a Grow New Jersey tax credit, the chief executive officer of a business shall demonstrate at the time of application that the business, **expressly including its landlord or seller**, will:

1. Make, acquire, or lease a capital investment [totaling not less than \$20,000,000] **equal to, or greater than, the minimum capital investment required as follows[.]**:

i. For the rehabilitation, improvement, fit-out, or retrofit of an existing industrial premises for continued industrial use by the business, a minimum investment of \$20 per square foot of gross leasable area;

ii. For the new construction of an industrial premises for industrial use by the business, a minimum investment of \$60 per square foot of gross leasable area;

iii. For the rehabilitation, improvement, fit-out, or retrofit of an existing non-industrial premises for continued non-industrial use by the business, a minimum investment of \$40 per square foot of gross leasable area; and

iv. For the new construction of a non-industrial premises for non-industrial use by the business, a minimum investment of \$120 per square foot of gross leasable area.

For purposes of (a)1iii and iv above, non-industrial premises shall include vacant industrial premises that are unleased and unoccupied. The minimum capital investment required shall be reduced by one-third (utilizing even numbers rounded down) for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

[2. Employ not fewer than 100 full-time employees in retained full-time jobs at the qualified business facility, or create at least 100 new full-time jobs at the qualified business facility in an industry identified by the Authority as desirable for the State to maintain or attract; and]

2. Retain full-time jobs and/or create new full-time jobs in an amount equal to or greater than, the applicable number below:

i. For a business that is a technology startup company or a manufacturing company, a minimum of 10 new or 25 retained full-time jobs;

ii. For a business engaged primarily in a targeted industry other than a technology startup company or a manufacturing company, a minimum of 25 new or 35 retained full-time jobs; and

iii. For any other business, a minimum of 35 new or 50 retained full-time jobs.

The minimum number of new or retained full-time jobs required shall be reduced by one-quarter (utilizing even numbers rounded down) for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

3. Demonstrate to the Authority that:

i. The qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards;

[i.] **ii. The proposed capital investment and the resultant retention and creation of [eligible positions] full-time jobs will yield a net positive economic benefit, equaling at least 110 percent of the requested tax credit allocation amount, to the State, as calculated pursuant to N.J.A.C. 19:31-18.7(c) prior to taking into account the value of the requested tax credit, and shall be based on the benefits generated during the first 20 years following the completion of the project, as determined by the Authority, except that:**

(1) For a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the Authority, and

(2) For a project located in a Garden State Growth Zone which qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the net positive economic benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the Authority, and shall equal at least 100 percent of the requested tax credit allocation; [and]

[ii.] **iii. Except as provided in (b) below, the [The] award of tax credits will be a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program. In satisfaction of this requirement, with respect to a project in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the award of tax credits will be a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.).**

(b) The Authority may determine as eligible for tax credits any business that is required to respond to a request for proposals and to fulfill a contract with the Federal government although the business's chief executive officer or equivalent officer for North American operations has not demonstrated to the Authority that the award of tax credits will be a material factor in the business's decision to retain [at least 100] **the minimum number of retained** full-time jobs, as otherwise required by (a)3ii above. The Authority may, in its discretion, consider the economic benefit of the retained jobs servicing the contract in conducting the net benefit analysis required by (a)3i above.

For the purposes of this subsection, “retained **full-time jobs**” includes jobs that are at risk of being eliminated. Applications to the Authority for eligibility pursuant to this subsection shall be completed by [March 31, 2012] **December 31, 2013**. Submission of a proposal to the Federal government prior to Authority approval shall not disqualify a business from the program.

[(c) Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of \$20,000,000. If the owner uses space in a qualified business facility, in order to determine the amount of the owner's capital investment that may be attributed toward the amount of its tax credit, the Authority shall multiply the owner's capital investment by a fraction, the numerator of which is the net leaseable area of the qualified business facility not leased to tenants and the denominator of which is the total net leaseable area.

(d) In order to determine whether the tenant's leaseable area of the qualified business facility satisfies the capital investment eligibility threshold, the Authority shall multiply the owner's capital investment by the fraction, the numerator of which is the leased net leaseable area and the denominator of which is the total net leaseable area. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$20,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$20,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.]

[(e)] (c) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

[(f) The capital investment and employment requirements may be met by the business or by one or more of its affiliates, and the entity satisfying the capital investment requirement does not need to be the same as the entity satisfying the employment requirement.]

[(g)] (d) A business shall be treated as owner of a qualified business facility if it holds fee simple title to the facility, whether it ground leases the land underlying the facility for at least 50 years or holds title to the land underlying the facility.

(e) Pursuant to P.L. 2013, c. 161, a business may apply for tax credits under the program for more than one project pursuant to one or more applications.

19:31-18.4 Restrictions

[(a) Except as set forth in (f) below, a business shall not be allowed Grow New Jersey tax credits if the business participates in a Business Retention and Relocation Assistance Grant Program grant pursuant to P.L. 1996, c. 25 (N.J.S.A. 34:1B-112 et seq.) or Business Employment Incentive Program grant pursuant to P.L. 1996, c. 26 (N.J.S.A. 34:1B-124 et seq.) relating to the same capital investment and employees that qualify the business for Grow New Jersey tax credits.

(b) Except as set forth in (f) below, a business shall not qualify for a tax credit based upon

capital investment and employment of full-time employees, if that capital investment or employment was the basis for which tax credits were provided to the business pursuant to the Urban Transit Hub Tax Credit Act, P.L. 2007, c. 346 (N.J.S.A. 34:1B-207 et seq.).

(c) Except as set forth in (f) below, a business that is allowed a tax credit shall not be eligible for incentives authorized by the Municipal Rehabilitation and Economic Recovery Act pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.).]

(a) The Authority, pursuant to P.L. 2013, c. 161, shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the Business Retention and Relocation Assistance Act, P.L. 1996, c. 25 (N.J.S.A. 34:1B-112 et seq.), the Business Employment Incentive Program Act, P.L. 1996, c. 26 (N.J.S.A. 34:1B-124 et seq.), or any other program administered by the Authority unless:

1. The business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-245). In the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161 such permitted recapture may be calculated to recognize the period of time that the business was in compliance prior to termination and such recapture amount may be paid after approval by the Authority of the business's application for a tax credit incentive award under P.L. 2013, c. 161 but the recapture amount must be paid before the Authority shall execute the incentive agreement; or

2. The capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

[(d)] **(b) A project that consists solely of point-of-final-purchase retail facilities, excluding catalog distribution centers, shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. In a Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, up to 7.5 percent of retail facilities included in a mixed use project shall be eligible for a grant of tax credits along with the non-retail facilities. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this subsection, a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219), or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.**

[(e) Capital investments in a qualified business facility must be incurred after the effective date of P.L. 2011, c. 149, which is January 5, 2012, and the tax credit must be submitted prior to July 1,

2014 except as set forth at N.J.A.C. 19:31-18.3(b). An approved business must submit its documentation for approval of its credit amount no later than July 28, 2017, except as otherwise set forth at N.J.A.C. 19:31-18.3(b). The credit amount allowed for a tax period ending after July 28, 2017 during which documentation of a business's credit amount remains uncertified as of a date three years after the closing date of that period by the Authority, shall be forfeited, although credit amounts for the remainder of the 10 years shall remain available to it.

(f) If a business participating in a Business Employment Incentive Program grant or receiving assistance from the Business Retention and Relocation Assistance Grant Program, Urban Transit Hub Tax Credit Program, or incentives authorized by the Municipal Rehabilitation and Economic Recovery Act for the same capital investment and employees, seeks to qualify for Grow New Jersey tax credits, it shall first repay and terminate assistance pursuant to the rules governing the Business Employment Incentive Program, Business Retention and Relocation Assistance Grant Program, Urban Transit Hub Tax Credit Program, or Municipal Rehabilitation and Economic Recovery Act, as applicable.

(g) Notwithstanding the provisions of (a) and (b) above, the amount of tax credits available to be applied by the business annually shall not exceed the lesser of one tenth of the capital investment certified by the Authority pursuant to section 6 of P.L. 2011, c. 149 or \$4,000,000, and the number of new full-time jobs for which a business receives a tax credit shall not exceed the number of retained full-time jobs for which a business receives a tax credit, unless the business qualifies by creating at least 100 new full-time jobs in an industry identified by the Authority as desirable for the State to maintain or attract.

(h) The amount of credit allowed shall not exceed the capital investment made by the business or the capital investment represented by the business's leased area, as certified by the Authority pursuant to (b) above, as having met the capital investment and employment qualifications, subject to any reduction or disqualification as provided by N.J.A.C. 19:31-18.15 and 18.16 as determined by annual review by the Authority. In conducting its annual review, the Authority may require a business to submit any information determined by the Authority to be necessary and relevant to its review.

(i) The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business's total lease payments for occupancy of the qualified business facility for the tax period.]

19:31-18.5 Application submission requirements

(a) Each application to the Authority made by a **business** [an owner or tenant] shall include the following information in an application format prescribed by the Authority:

1. Business information, including information on all affiliates contributing either full-time employees or capital investment or both to the project, shall include the following:

i. – xii. (No change.)

xiii. A list of all the development subsidies, as defined by P.L. 2007, c. 200, that the applicant is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received. [Examples of development subsidies are tax benefits from programs authorized under P.L. 2004, c. 65; P.L. 1996, c. 26; and P.L. 2002, c. 43];

xiv. – xv. (No change.)

2. Project information shall include the following:

i. – iii. (No change.)

iv. Supporting evidence that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive economic benefit **pursuant to N.J.A.C. 19:31-18.3(a)3ii**, [equaling 110 percent of the requested tax credit allocation amount, to the State, for the period equal to 75 percent of the useful life of the improvement or 75 percent of the term of the tenant's lease, both not to exceed 20 years], taking into account the criteria listed at N.J.A.C. 19:31-18.7(c). In determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer for North American operations, shall submit a certification indicating **that:**

(1) [that any] **Any existing full-time jobs are at risk of leaving the State or being eliminated;**

(2) [and that any] **Any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program[.]; and**

(3) [that the] **The business's chief executive officer, or equivalent officer for North American operations, has reviewed the information submitted to the Authority and that the representations contained therein are accurate provided however, that in satisfaction of 18.5(a)2iv(1) and (2) above, the certification with respect to a project in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.).** The applicant may be required to submit any other information required by the Authority to conduct an analysis of the economic impact of the project;

v. A description of how the [green building] **minimum environmental and sustainability** standards [to be set forth in the green building manual or addendum prepared by the Department of Community Affairs, pursuant to section 1 of P.L. 2007, c. 132 (N.J.S.A. 52:27D-130.6)] are to be incorporated into the proposed project [including] **regarding the** use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction;

vi. – ix. (No change.)

x. The total number of anticipated new **and retained** full-time **jobs** [positions that would be created] in New Jersey and occupy the qualified business facility and the total number of full-time employees that would occupy the qualified business facility, and the distribution of such totals identified by business entity; and

xi. (No change.)

3. Employee information shall include the following:

i. A written certification that the employees that are the subject of this application will be full-time employees at the qualified business facility [and are subject to withholding as provided in the New Jersey Gross Income Tax Act];

ii. The average annual wage and benefit rates of full-time employees and new **and retained** full-time [positions] **jobs** at the qualified business facility;

iii. – iv. (No change.)

[(b) Any tenant seeking an approval of tax credits for a qualified business facility so approved will be required to submit the information required pursuant to (a)1, 2iv through ix, and 3 above.]

[(c)] **(b)** The business applying to the program shall submit an application fee set forth at N.J.A.C. 19:31-18.6(a).

(c) A business shall be allowed to assign their ability to apply for the tax credit under this subchapter to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone, as determined by the Authority. In addition to the information required pursuant to (a) above, the non-profit organization shall be required to submit:

1. Evidence of the assignment to apply for the tax credit from the developer or the group of non-qualifying developers;

2. The name of the non-profit organization;

3. The contact information of the non-profit organization;

4. The New Jersey employer identification number;

5. The Federal employer identification number; and

6. The mission statement of the non-profit organization.

(d) A business which has already applied for a tax credit incentive award prior to the effective date of P.L. 2013, c. 161, which is September 18, 2013, but who has not yet been

approved for such tax credits, or has not executed an agreement with the Authority, may proceed under that application or seek to amend such application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

19:31-18.6 Fees

(a) A business applying for benefits under this program shall submit a one-time non-refundable application fee [of \$5,000], with payment in the form of a check, payable to the “New Jersey Economic Development Authority.” **The application fee shall be as follows:**

1. For projects with total tax credits of \$10,000,000 or less and 100 or fewer new and retained full-time jobs, the fee to be charged at application shall be \$1,000;

2. For projects with total tax credits of \$10,000,000 or less and more than 100 new and retained jobs, the fee to be charged at application shall be \$2,500; and

3. For projects with total tax credits in excess of \$10,000,000, the fee to be charged at application shall be \$5,000.

(b) In addition to the application fee above, [for a qualified business facility,] a business shall pay to the Authority the full amount of direct costs of an analysis by a third party retained by the Authority, if the Authority deems such retention to be necessary.

(c) A non-refundable fee of .5 percent of the approved tax credit [, not to exceed \$200,000] shall be charged by the Authority [upon the approval of the tax credit.] **as follows:**

1. For each project with tax credits of \$1,000,000 or less annually, the fee shall not exceed \$50,000 and shall be charged upon execution of the incentive grant agreement.

2. For each project with tax credits of \$1,000,000 to \$4,000,000 annually, the fee shall not exceed \$200,000 and shall be charged upon execution of the incentive grant agreement; and

3. For each project with tax credits in excess of \$4,000,000 annually, the fee shall not exceed \$500,000 and shall be charged prior to the approval of the tax credit. The fee shall be refunded if the Authority does not approve the tax credit.

(d) **For each project with tax credits of \$1,000,000 or less annually, a [A] non-refundable fee of .5 percent of the tax credit, not to exceed [\$200,000] \$50,000, shall be paid prior to the receipt of the tax credit certificate. For each project with tax credits in excess of \$1,000,000 annually, a non-refundable fee of .5 percent of the tax credit, not to exceed \$500,000, shall be paid prior to the receipt of the tax credit certificate.**

(e) A business shall pay to the Authority an annual [review] **servicing** fee, beginning the tax accounting or privilege period in which the Authority accepts the certification that the business has met the capital investment and employment qualifications, and for the duration of the eligibility

period. The annual [review] **servicing** fee shall be paid to the Authority by the business at the time the business submits its annual **report** [letter of compliance]. **For each project with tax credits of \$1,000,000 or less annually, the [The] annual [review] servicing fee shall be [\$2,500 per year] 2 percent of the annual tax credit amount, not to exceed \$20,000 per year; and for each project with tax credits in excess of \$1,000,000 annually, the annual servicing fee shall be 2 percent of the annual tax credit amount, not to exceed \$75,000 per year.**

(f) A business applying for a tax credit transfer certificate pursuant to N.J.A.C. 19:31-18.13 or **permission to pledge a tax credit transfer certificate purchase contract as collateral** shall pay to the Authority a fee of \$2,500.

(g) **For each project with tax credits of \$5,000,000 or less annually, a non-refundable fee of \$2,500 shall be paid for each request for any administrative changes, additions or modifications to the tax credit; and a non-refundable fee of \$7,500 shall be paid for any major changes, additions or modifications to the tax credit, such as those requiring extensive staff time and Board approval. For each project with tax credits in excess of \$5,000,000 annually, a non-refundable fee of \$5,000 shall be paid for each request for any administrative changes, additions or modifications to the tax credit; and a non-refundable fee of \$25,000 shall be paid for any major changes, additions or modifications to the tax credit, such as those requiring extensive staff time and Board approval.**

(h) **A non-refundable fee of \$1,000 shall be paid for each request for the first six-month extension to the date by which the business shall submit the certifications with respect to the capital investment and with respect to the employees required upon completion of the capital investment and employment requirement; and a non-refundable fee of \$2,500 shall be paid for the second such six-month extension which will require Board approval.**

(i) **A business seeking to terminate an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161, shall pay to the Authority an additional fee of \$5,000 for terminations that do not require extensive staff time and Board approval; and a non-refundable fee of \$25,000 for terminations that require extensive staff time or Board approval.**

19:31-18.7 Review of application and certification of project completion

(a) A business seeking an approval of tax credits for a qualified business facility shall apply for tax credits prior to July 1, [2014] **2019**, except as set forth at N.J.A.C. 19:31-18.3(b) **and except for businesses seeking a credit for a mega project which shall apply within four year after the effective date of P.L. 2013, c. 161, which is September 18, 2013**[, and shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the project agreement for certification of its credit amount no later than July 28, 2017].

(b) (No change.).

(c) In determining whether the company meets the net **positive** economic benefits test **pursuant to N.J.A.C. 19:31-18.3(a)3ii**[.] and as certified by the chief executive officer pursuant to N.J.A.C.

19:31-18.5(a)2iv, the Authority's consideration shall include, but not be limited to, the local and State taxes paid directly by and generated indirectly by the business, property taxes or payment in lieu of taxes paid directly by and generated indirectly by the business, taxes paid directly or generated indirectly by new or retained employees, and peripheral economic growth caused by the business's relocation [for the period equal to 75 percent of the useful life of the improvement or 75 percent of the term of the tenant's lease, both not to exceed 20 years], provided that such determination shall be limited to the net **positive** economic benefits derived from the capital investment commenced after the submission of an application to the Authority. **For a project located in a Garden State Growth Zone, the Authority may award bonuses in its net positive economic benefit calculation including, but not limited to, full payment of taxes for a qualified business facility that receives a tax abatement pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. With regard to a project located in a Garden State Growth Zone which qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the net positive economic benefits test may utilize the value of those property taxes subject to the provisions of section 24 of P.L. 2013, c. 161 and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the New Jersey Urban Enterprise Zones Act, P.L. 1983, c. 303 (N.J.S.A. 52:27H-60 et seq.) or any other law providing for such rebate or retention.**

(d) Upon completion of the review of an application pursuant to (b) and (c) above, and receipt of a recommendation from Authority staff on the application, the Board shall determine whether or not to approve the application, **and** the maximum amount of tax credits to be granted and, **shall** promptly notify the applicant and the Director of the Division of Taxation of the determination. When considering an application involving intra-State job transfers, after staff's review of the materials submitted by the applicant, testing the validity of financial information and assumptions through the use of computer models and, to the extent necessary, seeking input from third-party consultants, the cost which will be paid by the applicant, the Board shall make a separate determination to verify and confirm by way of making a factual finding by separate vote that the jobs are at risk of leaving the State, **and as to the date or dates at which the Authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.)**. The Board's award of the credits will be subject to conditions subsequent that must be met in order to retain the credits. An approval letter setting forth the conditions subsequent will be sent to the applicant. Such conditions shall include, but not be limited to, the requirement that the project complies with the Authority's prevailing wage requirements, P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1), and affirmative action requirements, P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.4), that the project does not violate any environmental law requirements, and requirements regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

1. If the application is approved, the project approval is subject to the terms and conditions of

the approval letter and [project] **incentive** agreement, and any benefits under the program are subject to the completion of the project and satisfaction of the capital investment and employment qualifications required for the Grow New Jersey tax credits.

2. (No change.)

(e) Within [six] **twelve** months following the date of application approval by the Authority, each approved business shall submit progress information indicating that the business has site plan approval, committed financing for and site control of the qualified business facility. Unless otherwise determined by the Authority in its sole discretion, the Authority's approval of the tax credits shall expire if the progress information is not received by the Authority within six months of the date of application approval, or if progress as indicated has not been achieved.

(f) Upon completion of the capital investment and employment requirements of the program, the business shall submit certifications of a certified public accountant which may be made pursuant to an "agreed upon procedures" letter acceptable to the Authority evidencing that the business has satisfied the conditions relating to capital investment and any employment requirements **with supporting evidence satisfactory to the Authority**.

1. The [certification with respect to] **amount of** the capital investment **in the certification that has been approved by the Authority** shall not be increased regardless of additional capital investment in the qualified business facility, provided, however that in no event will the amount of capital investment exceed the amount of capital investment previously approved by the Board. If the certification indicates that the capital investment is less than the minimum eligibility requirement, the business shall no longer be eligible for tax credits.

2. The [certification with respect to the employees] **number of new and retained full-time jobs in the certification** shall be utilized by the Authority in the calculation of tax credits and shall not be increased regardless of additional **jobs** [employees] located at the qualified business facility, and, **except as set forth in N.J.A.C. 19:31-18.11(e)**, in no event will the number of **jobs** [employees] exceed the number of **jobs** [employees] previously approved by the Board. If the certification indicates that the employment is less than the minimum eligibility requirement, the business shall no longer be eligible for tax credits.

3. Absent extenuating circumstances and the written approval of the Authority, the certification with respect to capital investment **and employment** shall be submitted within [six months of receipt of a temporary certificate of occupancy] **three years following the date of approval of the application**. [Absent extenuating circumstances and the written approval of the Authority, the certification with respect to employment shall be submitted to the Authority no later than two years after the business's receipt of a temporary certificate of occupancy for the site, but in no event later than July 28, 2017.] **The Authority may grant two six-month extensions of the deadline, however, in no event, shall the incentive effective date occur later than four years following the date of approval of an application by the Authority.**

4. (No change.)

(g) Once the Authority accepts the certification of the business that it has satisfied the capital investment and employment requirements, if any, of the program, and the Authority determines that other necessary conditions have been met, **within 90 days of the submission of the certifications and evidence satisfactory to the Authority**, the Authority shall notify the business and notify the Director of the Division of Taxation, and the business shall receive its tax credit certificate. The use of the tax credit certificate shall be subject to the receipt of an annual letter of compliance issued by the Authority.

19:31-18.8 Determination of grant amount; bonus award

(a) The [value] **total amount** of [each] tax credit for an eligible business shall be [equal to \$5,000 per job, per year for a period of 10 years] for each new or retained full-time job [determined by the Authority pursuant to N.J.A.C. 19:31-18.3 to be located at the qualified business facility] **as set forth below. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period; however, except as set forth in N.J.A.C. 19:31-18.11(e), the total tax credit amount credited annually to the business shall not exceed the maximum amount determined by the Board under N.J.A.C. 19:31-18.7(d).**

[(b) In addition to any grant of tax credits determined pursuant to (a) above, a bonus award of up to an additional \$3,000 per job, per year of the amount of the original tax credits may be made to any eligible business as determined by the Authority. In making a bonus award to an eligible business, the Authority shall consider the following factors, such that whether the business:

1. Is an industry identified by the Authority as desirable for the State to maintain or attract;
2. Locates or relocates to a location within a qualified incentive area adjacent to, or within one-half mile walking distance or active short-distance shuttle service of, a public transit facility, as determined by the Authority;
3. Creates jobs using full-time employees in eligible positions whose annual salaries, according to the Department of Labor and Workforce Development, are greater than the average full-time salary in this State; or
4. Is locating to a project site that is or has been negatively impacted by the approval of a “qualified business facility,” as defined pursuant to section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208).]

(b) The base amount of the tax credit for each new or retained full-time job shall be as follows:

- 1. For a qualified business facility located within an urban transit hub municipality or Garden State Growth Zone or is a mega project, \$5,000 per year;**
- 2. For a qualified business facility located within a distressed municipality but not qualifying under (b)1 above, \$4,000 per year;**

3. For a project in a priority area, \$3,000 per year; and

4. For a project in other eligible areas, \$500 per year.

[(c) Notwithstanding the provisions of (a) and (b) above, the amount of tax credits available to be applied by the business annually shall not exceed the lesser of one-tenth of the capital investment certified by the Authority pursuant to P.L. 2011, c. 149 or \$4,000,000 and the number of new full-time jobs for which a business receives a tax credit shall not exceed the number of retained full-time jobs for which a business receives a tax credit, unless the business qualifies by creating at least 100 new full-time jobs in an industry identified by the Authority as desirable for the State to maintain or attract.]

(c) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the Authority from time to time in response to evolving economic or market conditions:

1. For a qualified business facility located in a deep poverty pocket or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, an increase of \$1,500 per year;

2. For a qualified business facility located in a qualified incubator facility, an increase of \$500 per year;

3. For a qualified business facility located in a mixed-use development that incorporates sufficient moderate income housing on site that is made available to accommodate a minimum of 20 percent of the full-time employees of the business, an increase of \$500 per year;

4. For a qualified business facility located within a transit oriented development, an increase of \$2,000 per year;

5. For a qualified business facility, other than a mega project or a project in a Garden State Growth Zone, at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L. 2011, c. 149 (N.J.S.A 34:1B-244), an increase of \$1,000 per year for each additional amount of investment, as measured in square feet of measured gross leasable area, that exceeds the minimum amount required for eligibility by 20 percent, with a maximum increase of \$3,000 per year;

6. For a business with new full-time jobs and retained full-time jobs at the project with a median average salary in excess of the existing median average salary for full-time workers residing in the county in which the project is located, or, in the case of a project in a Garden State Growth Zone, a business that employs full-time jobs at the project with a median average salary in excess of the median average salary for full-time workers residing in the Garden State Growth Zone, an increase of \$250 per year during the eligibility period for each

35 percent by which the project’s average salary levels exceeds the county or Garden State Growth Zone average salary, with a maximum increase of \$1,500 per year;

7. For a business with large numbers of new full-time jobs and retained full-time jobs during the eligibility period, the increases shall be in accordance with the following schedule:

i. If the number of new full-time jobs and retained full-time jobs is between 251 and 400, \$500 per year;

ii. If the number of new full-time jobs and retained full-time jobs is between 401 and 600, \$750 per year;

iii. If the number of new full-time jobs and retained full-time jobs is between 601 and 800, \$1000 per year;

iv. If the number of new full-time jobs and retained full-time jobs is between 801 and 1,000, \$1,250 per year;

v. If the number of new full-time jobs and retained full-time jobs is in excess of 1,000, \$1,500 per year;

8. For a business in a targeted industry, an increase of \$500 per year;

9. For a qualified business facility exceeding the Leadership in Energy and Environmental Design’s “Silver” rating standards or completes substantial environmental remediation, an additional increase of \$250 per year;

10. For a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-244), an increase of \$1,000 per year for each additional amount of investment, as measured in square feet of measured gross leasable area, that exceeds the minimum amount by 20 percent, with a maximum increase of \$5,000 per year;

11. For a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of \$1,500 per year;

12. For a project located in a municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties with a 2007 Municipality Revitalization Index rank greater than 465, an increase of \$1,000 per year;

13. For a project located within a half-mile of any light rail station constructed after the effective date of P.L. 2013, c. 161, which is September 18, 2013, an increase of \$1,000 per year;

14. For a marine terminal project in a municipality located outside the Garden State Growth Zone, but within the geographical boundaries of the South Jersey Port District, an increase of \$1,500 per year;

15. For a project located within an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6), and which is located within a quarter mile of at least one United States Highway and at least two New Jersey State Highways, an increase of \$1,500 per year; and

16. For a project that generates solar energy on site for use within the project of an amount that equals at least 50 percent of the project's annual electric supply service needs, an increase of \$250 per year.

(d) The gross amount of the tax credit for an eligible business for each new or retained full-time job shall be the sum of the base amount as set forth pursuant to (b) above and the various additional bonus amounts for which the business is eligible pursuant to (c) above, subject to the following limitations:

1. For a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed \$15,000 per year;

2. For a qualified business facility located within an urban transit hub municipality, the gross amount for each new or retained full-time job shall not exceed \$12,000 per year;

3. For a qualified business facility in a distressed municipality the gross amount for each new or retained full-time job shall not exceed \$11,000 per year;

4. For a qualified business facility in other priority areas, the gross amount for each new or retained full-time job shall not exceed \$10,500 per year;

5. For a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed \$6,000 per year and;

6. For a disaster recovery project, the gross amount for each new or retained full-time job shall not exceed \$2,000 per year.

(e) After the determination by the Authority of the gross amount of tax credits for which a business is eligible pursuant to (d) above, the final total tax credit amount shall be calculated as follows:

1. For each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and

2. For each retained full-time job, the business shall be allowed tax credits equaling 50 percent of the gross amount of tax credits for each retained full-time job, unless the jobs are part of a mega project which is the United States headquarters of an automobile

manufacturer located within a priority area or a qualified business facility in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.

(f) For each application approved by the Board, the amount of tax credits available to be applied by the business annually shall not exceed:

1. \$35,000,000 and provides a net positive economic benefit to the State as provided herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.);

2. \$30,000,000 and provides a net positive economic benefit to the State as provided herein with respect to a mega project or a qualified business facility in a Garden State Growth Zone;

3. \$10,000,000 and provides a net positive economic benefit to the State as provided herein with respect to a qualified business facility in an urban transit hub municipality;

4. \$8,000,000 and provides a net positive economic benefit to the State as provided herein with respect to a qualified business facility in a distressed municipality;

5. \$4,000,000 and provides a net positive economic benefit to the State as provided herein with respect to a qualified business facility in other priority areas, but not more than 90 percent of the withholdings of the business's employees from the qualified business facility; and

6. \$2,500,000 and provides a net positive economic benefit to the State as provided herein with respect to a qualified business facility in other eligible areas, but not more than 90 percent of the withholdings of the business's employees from the qualified business facility.

(g) Under (f)1 through 6 above, for each application for tax credits in excess of \$4,000,000 annually, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subsection or an amount determined by the Authority necessary to complete the project, with such determination made by the Authority's utilization of a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations, as applicable; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the Authority, the Authority shall independently verify and confirm the amount necessary to complete the project.

(h) Notwithstanding anything to the contrary in (a) through (g) above, for a project

located within a Garden State Growth Zone which qualifies for the Municipal Rehabilitation and Economic Recovery Act, P.L.2002, c. 43 (N.J.S.A. 52:27BBB-1 et al.), the total tax credit shall be:

1. For a project which creates 35 or more full-time jobs and makes a capital investment of at least \$5,000,000, the total tax credit amount per new and retained full-time job shall be the greater of:

i. The total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to this section; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$20,000,000 over the grant term;

2. For a project which creates 70 or more full-time jobs and makes a capital investment of at least \$10,000,000, the total tax credit amount per new and retained full-time job shall be the greater of:

i. The total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to this section; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$30,000,000 over the grant term;

3. For a project which creates 100 or more full-time jobs and makes a capital investment of at least \$15,000,000, the total tax credit amount per new and retained full-time job shall be the greater of:

i. The total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to this section; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$40,000,000 over the grant term;

4. For a project which creates 150 or more full-time jobs and makes a capital investment of at least \$20,000,000, the total tax credit amount per new and retained full-time job shall be the greater of:

i. The total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to this section; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$50,000,000 over the grant term; or

5. For a project which creates 250 or more full-time jobs and makes a capital investment of at least \$30,000,000, the total tax credit amount per new and retained full-time job shall be

the greater of:

i. The total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to this section; or

ii. The total capital investment of the project divided by the total number of full-time jobs as defined for this program at that project.

19:31-18.9 Tax credit amount; application and allocation of the tax credit

(a) For each tax accounting or privilege period during the eligibility period, [For the 10 consecutive years following the notification pursuant to N.J.A.C. 19:31-18.7(g),] a business may apply **the amount of tax credits equal to** [10 percent of] the total credit amount **divided by the duration of the eligibility period in years (fractions of a cent rounded down)** [per each tax accounting or privilege period,] subject to the provisions of the Act and this subchapter.

(b) (No change.)

(c) The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter [, provided that the value of all credits approved by the Authority against tax liabilities pursuant to P.L. 2011, c. 149, in any fiscal year shall not exceed \$150,000,000 and the combined value of all credits approved by the Authority pursuant to P.L. 2007, c. 346 (N.J.S.A. 34:1B-207 et seq.) and P.L. 2011, c. 149 shall not exceed \$1,500,000,000].

(d) A business that is a partnership shall not be allowed a credit under this program directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(e) In connection with a regional distribution facility of foodstuffs, the business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this subsection, leasing shall include subleasing and tenants shall include subtenants.

19:31-18.10 [Project] **Incentive** agreement

(a) All approved applicants shall execute an approval letter and [a project] **an incentive** agreement with the Authority to establish the terms and the conditions of the grant of tax credits. The approval letter will be subject to conditions subsequent that must be met in order to retain the award of tax credits. Such conditions shall include, but not be limited to, the execution of [a project] **an incentive** agreement.

(b) The [project] **incentive** agreement shall include, but not be limited to, the following terms or conditions as determined by the Chief Executive Officer of the Authority:

1. A detailed description of the proposed project which will result in job creation or retention, and the number of **new or retained** full-time [employees] **jobs that are approved for tax credits**;

2. The [term] **eligibility period** of the tax credits, [and] **including** the first year for which the tax credits may be claimed;

3. A requirement that the applicant maintain the project at a location in New Jersey for [at least 1.5 times the number of years of the term of the tax credits] **for the commitment period**, with at least [100] **the minimum number of** full-time employees **pursuant to N.J.A.C. 19:31-18.15(a) through (c)** [or 80 percent of the number of new and retained jobs specified in the project agreement, as required by section 6 of P.L. 2011, c. 149], and a provision to permit the Authority to recapture all or part of any tax [credit] **credits** awarded, at its discretion, if the business does not remain [at the site] **in compliance with this provision** for the commitment duration [with at least 80 percent of the number of full-time employees certified pursuant to N.J.A.C. 19:31-18.7(f), reduces the total number of full-time employees below 100, or during the commitment duration reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its State workforce in the last tax period prior to the credit amount approval. The Authority may pursue recapture at any time during the commitment duration, including during any period in the tax credit term in which the tax credits are forfeited pursuant to N.J.A.C. 19:31-18.15];

4. (No change.)

5. A requirement that [a] **the certifications** [certification by a certified public accountant] relating to the amount of eligible capital investment **and** [, the] number of employees [at the time of submission of the certification and, if applicable, the amount of the annual lease payment] with supporting evidence satisfactory to the Authority shall be submitted by the business **in accordance with N.J.A.C. 19:31-18.7(f)** [or, in the case of a tenant, the landlord prior to the commencement of the tax credit term. Provided that such certification and supporting evidence are satisfactory to the Authority, the tax credit certificate will be issued within 90 days of submission];

6. (No change.)

7. Certifications by the business, including the following: the State's financial support will yield a net positive **economic** benefit to the State[; and, eligibility for the program and participation in the

program as a material factor in the business's decision not to relocate outside of New Jersey and to relocate the project in the State];

8. – 16. (No change.)

(c) The [project] **incentive** agreement shall further provide that the Authority is not liable in damages for the issuance or use of the tax credits; and that there is no guarantee that legislation will not be enacted that would cause further changes to P.L. 2011, c. 149.

19:31-18.11 Reporting requirements and annual reports

(a) After notification pursuant to N.J.A.C. 19:31-18.7(g), the business shall furnish to the Authority an annual report certified by a certified public accountant in a format as may be determined by the Authority which shall contain the following information:

1. The number of full-time employees and new **or retained** full-time positions employed at the qualified business facility, the number of **full-time employees in its Statewide workforce** [pertaining to the business's Statewide employment,] total lease payments and information on any change or anticipated change in the identity of the entities comprising the business elected to claim all or a portion of the credit. This certified report is due 120 days after the end of the business's tax privilege period; and failure to submit the certified report within 120 days, absent extenuating circumstances and the written approval of the Authority, will result in forfeiture of the tax credit for that privilege period. **To the extent a business has received an award for both new and retained full-time jobs, the business shall meet the employment requirements related to the retained full-time jobs before receiving benefits for new full-time jobs;** and

2. A certification indicating whether or not the business is aware of any condition, event, or act which would cause the business not to be in compliance with the approval, the Act, **the incentive agreement** or this subchapter.

(b) The tax credit certificate may provide for additional reporting requirements.

(c) In conducting its annual review, the Authority may require a business to submit any information determined by the Authority to be necessary and relevant to its review.

[(c)] **(d)** Annually, upon satisfactory review of all information submitted, the Authority will issue a letter of compliance. No tax credit certificate will be valid without the letter of compliance issued for the relevant tax privilege period. The letter of compliance will indicate whether the business or the tax credit holder may take all or a portion of the credits allocable to the tax privilege period.

(e) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an additional tax credit award representing an increased base credit amount for that tax period and each

subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this subsection; provided that the adjustment may not reduce the number of full-time employees below the number specified in the incentive agreement. To obtain this additional tax credit award, the business shall submit, in its annual report, a request to the Authority with supporting evidence documenting the additional full-time employees added above the number of full-time employees specified in the incentive agreement, which following review by EDA staff, the Board will determine whether to approve the request.

19:31-18.14 Cap on total credits

The [value of all credits approved by the Authority pursuant to P.L. 2011, c. 149 shall not exceed \$200,000,000. Based on application and allocation activity and if sufficient credits are available, the Authority may direct that the \$200,000,000 cap be exceeded if the Board determines the credits to be reasonable, justifiable, and appropriate; provided, however, the] combined value of all credits approved by the Authority pursuant to P.L. 2007, c. 346 and P.L. 2010, c. 57 (N.J.S.A. 34:1B-207 et seq.) **prior to December 31, 2013** shall not exceed [\$1,500,000,000] **\$1,750,000,000 except as may be increased by the Authority as set forth in paragraph (5) of subsection a. of P.L. 2009, c. 90 (N.J.S.A. 34:1B-209.3).**

19:31-18.15 Reduction, **recapture and** forfeiture of tax credits

(a) If, in any tax period during the [tax credit term] **eligibility period**, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the Authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(b) If, in any tax period during the [tax credit term and five years thereafter] **eligibility period**, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below [100 full-time employees or] 80 percent of the number of new and retained full-time jobs specified in the [project] **incentive** agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to [100] **80 percent of the number of jobs specified in the incentive agreement.**

[(c) The restrictions set forth at N.J.A.C. 19:31-18.4[(g) through (i)] (e) shall also apply on an annual basis.

(d) The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business's total lease payments for occupancy of the qualified business facility for the tax period.]

(c) The Authority may recapture all or part of any tax credits awarded, at its discretion, if the business does not maintain the project at a location in New Jersey for the commitment period with at least the minimum number of full-time employees, which is at least 80 percent of the full-time employees in the incentive agreement. The Authority may pursue recapture at any time during the commitment period, including during any period in the eligibility period in which the tax credits are forfeited pursuant to (a) and (b) above.

(d) The credit amount allowed for a tax period for which documentation of a business's credit amount remains uncertified by the Authority, as of a date three years after the closing date of that period, shall be forfeited, although credit amounts for the remainder of the eligibility period shall remain available to it.

19:31-18.16 Effect of sale or lease of qualified facilities

[(a)] If the qualified business facility is sold **by the owner** in whole or in part during the [10-year] eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided, however, that any credits of [tenants] **the business** shall remain unaffected.

[(b) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period, the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.]

19:31-18.17 Affirmative action and prevailing wage

The Authority's affirmative action requirements P.L. 1979, c. 203 (N.J.S.A. 34:1B-5.4) and prevailing wage requirements P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1) will apply to State incentive grant projects undertaken in connection with financial assistance received under the Grow New Jersey Assistance Program.

19:31-18.18 Appeals

(a) The Board's action on applications shall be effective 10 business days after the Governor's receipt of the minutes, provided neither an early approval nor veto has been issued.

(b) An applicant may appeal the Board's action by submitting in writing to the Authority, within 20 calendar days from the date of the Board's action, an explanation as to how the applicant has met the program criteria. Such appeals are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) Appeals that are timely submitted shall be handled by the Authority as follows:

1. The Chief Executive Officer shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. The Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his/her finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. The Chief Executive Officer, or equivalent officer, of the Authority may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within a reasonable amount of time from receipt of such report.

3. The Board shall consider the hearing officer's report, the recommendation of the Chief Executive Officer, or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the appeal.

4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

19:31-[18.17]18.19 Severability

If any section, subsection, provision, clause, or portion of this subchapter is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - BUSINESS EMPLOYMENT INCENTIVE PROGRAM**

APPLICANT: Grant Thornton LLP

P38533

PROJECT LOCATION: 399 Thornall Street Edison Township (N) Middlesex County

GOVERNOR'S INITIATIVES:

Urban Edison Core Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

Founded in Chicago in 1924, Grant Thornton LLP is a U.S. audit, tax and advisory firm. Grant Thornton LLP serves a broad range of clients, including publicly and privately held companies, governmental agencies, financial institutions, and civic and religious organizations. The firm operates 54 offices across the United States with more than 500 partners and 6,000 employees. The Applicant is economically viable.

The CEO of Grant Thornton LLP is Stephen M. Chipman.

Grant Thornton LLP currently has four offices in the greater New York City Metropolitan Area: Manhattan-Midtown, Manhattan-Downtown, Melville, NY, and Edison, NJ. The Edison office currently has 53 employees occupying 16,000 sf of space. This lease is to expire in late 2014 and this expansion project calls for leasing additional space at the same site. The firm's New Jersey leadership group is attempting to more than double the Edison workforce from 53 to 120 employees. Excluding the 33 new jobs to be assigned to audit work at client sites elsewhere in New Jersey, this BEIP project would create 34 BEIP eligible jobs through 2015. The alternative to New Jersey would be expanding in Long Island.

MATERIAL FACTOR:

The Applicant is seeking a BEIP grant to support creating 34 BEIP eligible, full-time positions in New Jersey within the first two years. The firm has submitted a cost benefit analysis comparing the cost of similar facilities in New Jersey and New York. The firm has represented that a favorable decision by the Authority to award the BEIP grant is a material factor in the Applicant's decision to go forward with the project. The Authority is in receipt of an executed CEO certification that states that the application has been reviewed and the information submitted and representations contained therein are accurate.

APPROVAL REQUEST:

PERCENTAGE: 55%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Grant Thornton LLP to increase employment in New Jersey. The recommended award percentage is based on the company meeting the criteria as set forth on the attached Formula Evaluation and is contingent upon receipt by the Authority of evidence that the company has met said criteria to substantiate the recommended award percentage. If the criteria met by the company differs from that shown on the Formula Evaluation, the award percentage will be raised or lowered to reflect the award percentage that corresponds to the actual criteria that have been met.

TOTAL ESTIMATED GRANT AWARD OVER TERM OF GRANT: \$ 820,743
 (not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 53

ELIGIBLE BEIP JOBS: Year 1 17 Year 2 17 Base Years Total = 34

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$24,139

ANTICIPATED AVERAGE WAGES: \$108,000

ESTIMATED PROJECT COSTS: \$1,000,000

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$1,492,260

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$1,417,647

PROJECT IS: Expansion () Relocation _____

CONSTRUCTION: Yes () No

PROJECT OWNERSHIP HEADQUARTERED IN: Illinois

APPLICANT OWNERSHIP: Domestic () Foreign

DEVELOPMENT OFFICER: M. Abraham

APPROVAL OFFICER: D. Sucsuz

FORMULA EVALUATION

<u>Criteria</u>		<u>Score</u>
1. Location:	Edison Township	N/A
2. Job Creation	34	1
	Targeted : _____ Non-Targeted : <u> X </u>	
3. Job at Risk:	0	0
4. Industry:	professional services	0
	Designated : _____ Non-Designated : <u> X </u>	
5. Leverage:	3 to 1 and up	2
6. Capital Investment:	\$1,000,000	1
7. Average Wage:	\$ 108,000	4
TOTAL:		8

Bonus Increases (up to 80%):

Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan or, existing building(s) that have been 100% vacant for 12 months.	20%	<u>20%</u>
Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan AND creation of 500 or more jobs, or, existing building(s) that have been 100% vacant for 12 months.	30%	_____
Located in a former Urban Coordinating Council or other distressed municipality as defined by Department of Community Affairs	20%	_____
Located in a brownfield site (defined as the first occupants of the site after issuance of a new no-further action letter)	20%	_____
Located in a center designated by the State Planning Commission, or in a municipality with an endorsed plan	15%	_____
10% or more of the employees of the business receive a qualified transportation fringe of \$ 30.00 or greater.	15%	_____
Located in an area designated by the locality as an "area in need of redevelopment"	10%	_____
Jobs-creating development is linked with housing production or renovation (market or affordable) utilizing at least 25% of total buildable area of the site	10%	_____
Company is working cooperatively with a public or non-profit university on research and development	10%	_____
Project is located within Federally-owned land approved from closure under a Federal Base Realignment And Closing Commission or military installations allowing private business activity.	15%	_____

Total Bonus Points: **20 %**

Total Score :

Total Score per formula:	8 = 30 %
Construction/Renovation :	5 %
Bonus Increases :	20 %
Total Score (not to exceed 80 %):	55 %

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - BUSINESS EMPLOYMENT INCENTIVE PROGRAM**

APPLICANT: Tipico Products Co. Inc.

P38378

PROJECT LOCATION: 480 Oberlin Avenue, South Lakewood Township Ocean County

GOVERNOR'S INITIATIVES:

(X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND/ECONOMIC VIABILITY:

Tipico Products Co. Inc. ("Tipico"), formed in 1980, is a cheese wholesaler that processes and sells dried, grated and shredded cheese products to supermarkets, food distributors and manufacturers, primarily on the East Coast. Tipico has over 100 client accounts, with the largest customers being Atalanta, Conagra and MBM Food Service. Tipico and Atalanta, who share common ownership, are members of The Gellert Global Group, which consists of many of the leading North American food importing companies. The applicant is economically viable.

MATERIAL FACTOR:

Tipico is close to maximum production capacity at its 46,000 s. f. facility in Lakewood and is seeking a BEIP grant to support expansion plans to create 30 new jobs. Under consideration is acquiring the assets of a Wisconsin cheese manufacturer, and combining operations in one location. If they do not acquire the assets of the Wisconsin company, they will invest in a new processing line. The options are acquiring a 44,400 s. f. building next door to the current facility, for a total of 90,400 s. f. in Lakewood, or moving the current operations to a 93,700 s. f. facility in Bensalem, PA. The current facility was expanded to its maximum build out size of 46,000 s. f. within the past 5 years. In 2012, Tipico installed a new cheese bagger system with a cost of approximately \$500,000. Should they move the company to Bensalem, 98 jobs would be at risk. The project costs are estimated to be \$3.7 million, including the building acquisition. Management has indicated that a favorable decision by the Authority to award the BEIP grant is a material factor in the company's decision to expand in New Jersey. The Authority is in receipt of an executed CEO certification that states the application has been reviewed and the information submitted and representations contained therein are accurate.

APPROVAL REQUEST:

PERCENTAGE: 65%

TERM: 10 years

The Members of the Authority are asked to approve the proposed BEIP grant and award percentage to encourage Tipico Products Co. Inc. to increase employment in New Jersey. The recommended award percentage is based on the company meeting the criteria as set forth on the attached Formula Evaluation and is contingent upon receipt by the Authority of evidence that the company has met said criteria to substantiate the recommended award percentage. If the criteria met by the company differs from that shown on the Formula Evaluation, the award percentage will be raised or lowered to reflect the award percentage that corresponds to the actual criteria that have been met.

TOTAL ESTIMATED GRANT AWARD OVER TERM OF GRANT: \$ 145,762
 (not to exceed an average of \$50,000 per new employee over the term of the grant)

NJ EMPLOYMENT AT APPLICATION: 98

ELIGIBLE BEIP JOBS: Year 1 10 Year 2 20 Base Years Total = 30

ESTIMATED COST PER ELIGIBLE BEIP JOB OVER TERM: \$4,858

ANTICIPATED AVERAGE WAGES: \$40,000

ESTIMATED PROJECT COSTS: \$3,769,200

ESTIMATED GROSS NEW STATE INCOME TAX - DURING 10 \$224,250

ESTIMATED NET NEW STATE INCOME TAX - DURING 15 \$190,612

PROJECT IS: Expansion () Relocation _____

CONSTRUCTION: Yes () No

PROJECT OWNERSHIP HEADQUARTERED IN: New Jersey

APPLICANT OWNERSHIP: Domestic () Foreign

DEVELOPMENT OFFICER: M. Abraham

APPROVAL OFFICER: M. Krug

FORMULA EVALUATION

<u>Criteria</u>	<u>Score</u>
1. Location: Lakewood Township	N/A
2. Job Creation 30 Targeted : _____ Non-Targeted : <u> X </u>	1
3. Job at Risk: 98	1
4. Industry: wholesale Designated : _____ Non-Designated : <u> X </u>	0
5. Leverage: 3 to 1 and up	2
6. Capital Investment: \$3,769,200	2
7. Average Wage: \$ 40,000	2
TOTAL:	8

Bonus Increases (up to 80%):

Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan or, existing building(s) that have been 100% vacant for 12 months.	20%	<u>20%</u>
Located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan AND creation of 500 or more jobs, or, existing building(s) that have been 100% vacant for 12 months.	30%	_____
Located in a former Urban Coordinating Council or other distressed municipality as defined by Department of Community Affairs	20%	_____
Located in a brownfield site (defined as the first occupants of the site after issuance of a new no-further action letter)	20%	_____
Located in a center designated by the State Planning Commission, or in a municipality with an endorsed plan	15%	_____
10% or more of the employees of the business receive a qualified transportation fringe of \$ 30.00 or greater.	15%	_____
Located in an area designated by the locality as an "area in need of redevelopment"	10%	<u>10%</u>
Jobs-creating development is linked with housing production or renovation (market or affordable) utilizing at least 25% of total buildable area of the site	10%	_____
Company is working cooperatively with a public or non-profit university on research and development	10%	_____
Project is located within Federally-owned land approved from closure under a Federal Base Realignment And Closing Commission or military installations allowing private business activity.	15%	_____

Total Bonus Points: 30 %

Total Score :

Total Score per formula:	8 = 30 %
Construction/Renovation :	5 %
Bonus Increases :	30 %
Total Score (not to exceed 80 %):	65 %

**ECONOMIC REDEVELOPMENT AND GROWTH (ERG)
PROGRAM**



MEMORANDUM

To: Members of the Authority

From: Timothy Lizura
President and Chief Operating Officer

Date: November 15, 2013

RE: **Buffalo Pike Associates or Affiliate**
P37459- Economic Redevelopment and Growth Grant Program (“ERG”)

Request

Buffalo Pike Associates or Affiliate (the “Applicant”) has requested an extension until June 15, 2014 in order to provide all of the required documentation to execute the ERG agreement.

Background

On March 15, 2012, the Members of the Authority approved an ERG in the amount of \$11,432,283 for a new retail development located in Hamilton, Atlantic County, New Jersey which had a total cost budget of \$57.2 million.

Pursuant to the Board’s approval, the Authority issued an ERG commitment letter to the Applicant on June 15, 2012 which set June 15, 2013 as the due date to submit various information required to obtain an ERG agreement.

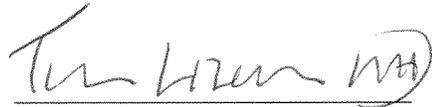
Over the past twelve months, the Applicant has submitted documentation to the Authority as required in order to maintain approval of the ERG, however, the Applicant was not able to submit all the required items necessary to receive an ERG agreement. As of 10/15/13, the Applicant has met all other requirements to receive an ERG agreement with the exception of permits to commence construction and construction contracts. Since the Applicant has been unable to generate significant interest from tenants at the project location it is not prudent to obtain the permits or enter the construction contracts at this time. Over the next twelve months the Applicant is expecting to enhance their marketing of the site along with anticipated uptick in the economic conditions which should enable construction to commence in 2014.

The Applicant executed and returned the Authority's commitment letter as well as provided a letter from the Mayor in support of the project, evidence of site control and preliminary site plan approval from Hamilton. As the sponsor of the project, Benderson Development Company plans to provide the entire amount of project costs as equity until stabilization, there have been no financial commitments submitted or required.

The Applicant has represented there is no change to the scope and costs of the Project from the original submission which formed the basis of the Authority's approval.

Recommendation

Given the difficult economic conditions which have adversely affected the Project's ability to proceed and obtain tenants, recommendation is made to provide an additional twelve months, until June 15, 2014 for the Applicant to deliver the remaining documents required by the Authority in order to receive an ERG agreement.

A handwritten signature in black ink, appearing to read "Tim Lizura" with a circled initial "ML" at the end.

Timothy Lizura

Prepared by: Michael A. Conte



MEMORANDUM

To: Members of the Authority

From: Timothy Lizura
President and Chief Operating Officer

Date: November 15, 2013

RE: **Williamstown Square Urban Renewal, LLC and Affiliates**
P37469- Economic Redevelopment and Growth Grant Program (“ERG”)

Request

Williamstown Square Urban Renewal, LLC (the “Applicant”) has requested an extension until October 17, 2014 in order to provide all of the required documentation to execute the ERG agreement.

Background

On August 14, 2012, the Members of the Authority approved an ERG in the amount of \$11,968,365 for a new retail development located in Williamstown, Gloucester County, New Jersey which had a total cost budget of \$60.6 million.

Pursuant to the Board’s approval, the Authority issued an ERG commitment letter to the Applicant on October 17, 2012 which set October 17, 2013 as the due date to submit various information required to obtain an ERG agreement.

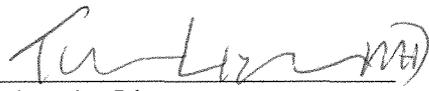
Over the past twelve months, the Applicant has submitted documentation to the Authority as required in order to maintain approval of the ERG, however, the Applicant was not able to submit all the required items necessary to receive an ERG agreement. As of 10/15/13, the Applicant has met all other requirements to receive an ERG agreement with the exception of site plan approval, permits to commence construction and construction contracts. Since the Applicant has been unable to generate significant interest from tenants at the project location it is not prudent to obtain the permits or enter the construction contracts at this time. Over the next twelve months the Applicant is expecting to enhance their marketing of the site along with anticipated uptick in the economic conditions which should enable construction to commence in 2015.

The Applicant executed and returned the Authority's commitment letter as well as provided a letter from the Mayor in support of the project and evidence of site control. As the sponsor of the project, Benderson Development Company plans to provide the entire amount of project costs as equity until stabilization, there have been no financial commitments submitted or required.

The Applicant has represented there is no change to the scope and costs of the Project from the original submission which formed the basis of the Authority's approval.

Recommendation

Given the difficult economic conditions which have adversely affected the Project's ability to proceed and obtain tenants, recommendation is made to provide an additional twelve months, until October 17, 2014 for the Applicant to deliver the remaining documents required by the Authority in order to receive an ERG agreement.


Timothy Lizura

Prepared by: Michael A. Conte

GROW NEW JERSEY ASSISTANCE PROGRAM

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM**

APPLICANT: Mastertaste Inc. and affiliates P38534

PROJECT LOCATION: 200-222 Terminal Avenue Clark Township Union County

GOVERNOR'S INITIATIVES:

NJ Urban Fund Edison Innovation Fund Core Clean Energy

APPLICANT BACKGROUND:

Mastertaste Inc., dba Kerry Ingredients and Flavours, is part of the Kerry Group, a world leader in food ingredients and flavors serving the food and beverage industry. The company supplies over 15,000 food ingredients and flavor products to customers in more than 140 countries worldwide. Mastertaste currently operates a manufacturing facility at 160 Terminal Avenue in Clark, New Jersey. The plant primarily produces liquid and dry flavors and ingredients for the beverage and sweet industries. Specific beverage customers include manufacturers of carbonated, still, alcoholic, and dry beverages. The plant also supplies sweet products for use in cake mixes, candies, and ice cream. The applicant has demonstrated the financial ability to undertake the project.

MATERIAL FACTOR/NET BENEFIT:

Mastertaste's existing building in Clark is nearing capacity and plant management has proposed the acquisition and retrofit of the adjacent, vacant L'Oreal building to significantly expand its New Jersey footprint. The project would relocate a part of its operations from other states which would bring 200 new manufacturing jobs to New Jersey. The company's alternative is to locate the project in Lakeland, Florida.

The Authority previously awarded the applicant a BEIP to provide an incentive to Mastertaste to relocate employees to its facility at 160 Terminal Avenue. Mastertaste is currently in the compliance period of this grant which runs through February 2016. The company's Grow New Jersey application only includes new positions and not those that are included in the prior BEIP award.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and as a result the management of Mastertaste has indicated that the grant of tax credits is a material factor in the company's location decision. The Authority is in receipt of an executed CEO certification that states that the application has been reviewed and the information submitted and representations contained therein are accurate. It is estimated that the project would have a net benefit to the State of \$56.4 million over the 15 years that the company would be committed to keep the jobs here.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Grow New Jersey grant to encourage Mastertaste to increase employment in New Jersey. The recommended grant is contingent upon receipt by the Authority of evidence that the company has met certain criteria to substantiate the recommended award. If the criteria met by the company differs from that shown herein, the award amount and the term will be lowered to reflect the award amount that corresponds to the actual criteria that have been met.

After the approval of this project and other projects for consideration by the Authority today, the total amount of tax credits approved under the Grow New Jersey Assistance Program will increase to \$501,731,293 and the total combined approvals under HUB and Grow New Jersey to \$1,577,855,168.

CONDITIONS OF APPROVAL:

1. Applicant has not entered into a lease, purchase contract, or otherwise committed to remain in New Jersey.
2. Applicant will make an eligible capital investment of no less than \$20 million after board approval, but no later than July 28, 2017.
3. No employees that are subject to a BEIP, BRRAG, or Urban Transit Hub are eligible for calculating the benefit amount of the Grow New Jersey tax credit.
4. No capital investment that is subject to a BEIP, BRRAG, or Urban Transit Hub is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within six months following approval, the applicant will submit progress information indicating that the business has site plan approval, committed financing for, and site control of the qualified business facility.

<u>Grant Calculation</u>	
BASE GRANT PER EMPLOYEE:	\$5,000
BONUS INCREASES:	
(\$1,000 per item with a max of \$3,000)	
INDUSTRY:	1,000
PUBLIC TRANSIT:	0
HIGH SALARIES:	0
AFFECTED SITE:	<u>0</u>
BONUS PER EMPLOYEE:	<u>\$1,000</u>
TOTAL GRANT PER EMPLOYEE:	\$6,000
ELIGIBLE JOBS:	
New Jobs:	200
Retained Jobs:	<u>0</u>
Total:	200
ANNUAL CREDIT AMOUNT (\$4,000,000 max):	\$1,200,000

TOTAL AMOUNT OF AWARD:	\$ 12,000,000
TERM:	10 years
ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	\$ 25,000,000
QUALIFIED INCENTIVE AREA:	PA-1
MEDIAN WAGES:	\$ 35,000
STATEWIDE BASE EMPLOYMENT:	163
PROJECT IS: (X) Expansion () Relocation	
CONSTRUCTION: (X) Yes () No	
DEVELOPMENT OFFICER: M. Abraham	APPROVAL OFFICER: K. McCullough

ANGEL INVESTOR TAX CREDIT PROGRAM



MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura
President/Chief Operating Officer

DATE: November 15, 2013

SUBJECT: Angel Investor Tax Credit Program

As of January 31, 2013, the New Jersey Angel Investor Tax Credit was signed into law with Regulations approved by the Members of the Board in June 2013. The New Jersey Angel Investor Tax Credit establishes credits against corporate business tax or New Jersey gross income tax in the amount of 10% of a qualified investment made to New Jersey emerging technology businesses as of January 1, 2012. The program has an annual approval cap of \$25 million per calendar year. The following angel investors are recommended for approval and are described on the attached project summaries:

Appl. No.	Angel Investor	NJ Emerging Technology Co.	Qualified Investment	Proposed Tax Credit
P38496	GHO Ventures, LLC	Princeton Power Systems, Inc.	\$400,000	\$40,000
P38615	GHO Ventures, LLC	Princeton Power Systems, Inc.	\$500,000	\$50,000
P38616	GHO Ventures, LLC	Princeton Power Systems, Inc.	\$500,000	\$50,000
P38618	GHO Ventures, LLC	Princeton Power Systems, Inc.	\$300,000	\$30,000
P38547	John Christopher Dries	Princeton Power Systems, Inc.	\$50,000	\$5,000
P38555	Lizabeth H. Zlatkus	Edge Therapeutics, Inc.	\$25,025	\$2,502.50
P38661	Marketplace Lofts L.P.	Edge Therapeutics, Inc.	\$581,000	\$58,100
P38619	Marshall J. Cohen Family Trust	Princeton Power Systems, Inc.	\$225,000	\$22,500
P38556	Widelitz Family Trust	Edge Therapeutics, Inc.	\$200,200	\$20,020
		Total:	\$2,781,225	\$278,122.50



**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

GHO Ventures, LLC

P38496

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Princeton, NJ

NJ EMERGING TECHNOLOGY BUSINESS:

Princeton Power Systems, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

3175 Princeton Pike

Lawrence Township (N)

Mercer County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Princeton Power Systems, Inc. is a developer and manufacturer of intelligent power electronic equipment used for renewable energy projects, including solar powered electric vehicle charging and energy storage systems. The Company's intelligent power inverters range from 10 kW to 500 kW and its energy storage systems range from 100 kW to 2 MW. These systems connect with energy sources including solar photovoltaic, wind turbines, generators, batteries and the Grid.

INDUSTRY:

- () **Advanced Computing** () **Information** (X) **Renewable Energy**
() **Advanced Materials** () **Life Sciences**
() **Biotechnology** () **Medical Device**
() **Electronic Device** () **Mobile Communications**

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Princeton Power Systems, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to GHO Ventures, LLC to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

07/27/2012

QUALIFIED INVESTMENT:

\$ 400,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 40,000.00

TOTAL NUMBER OF EMPLOYEES (Worldwide): 32

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION: 30

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

GHO Ventures, LLC

P38615

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Princeton, NJ

NJ EMERGING TECHNOLOGY BUSINESS:

Princeton Power Systems, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

3175 Princeton Pike

Lawrence Township (N)

Mercer County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Princeton Power Systems, Inc. is a developer and manufacturer of intelligent power electronic equipment used for renewable energy projects, including solar powered electric vehicle charging and energy storage systems. The Company's intelligent power inverters range from 10 kW to 500 kW and its energy storage systems range from 100 kW to 2 MW. These systems connect with energy sources including solar photovoltaic, wind turbines, generators, batteries and the Grid.

INDUSTRY:

- | | | |
|------------------------|---------------------------|------------------------|
| () Advanced Computing | () Information | (X) Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| () Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Princeton Power Systems, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to GHO Ventures, LLC to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

04/22/2013

QUALIFIED INVESTMENT:

\$ 500,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 50,000.00

TOTAL NUMBER OF EMPLOYEES (Worldwide):

32

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION:

30

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

GHO Ventures, LLC

P38616

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Princeton, NJ

NJ EMERGING TECHNOLOGY BUSINESS:

Princeton Power Systems, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

3175 Princeton Pike

Lawrence Township (N)

Mercer County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Princeton Power Systems, Inc. is a developer and manufacturer of intelligent power electronic equipment used for renewable energy projects, including solar powered electric vehicle charging and energy storage systems. The Company's intelligent power inverters range from 10 kW to 500 kW and its energy storage systems range from 100 kW to 2 MW. These systems connect with energy sources including solar photovoltaic, wind turbines, generators, batteries and the Grid.

INDUSTRY:

() **Advanced Computing** () **Information** (X) **Renewable Energy**
() **Advanced Materials** () **Life Sciences**
() **Biotechnology** () **Medical Device**
() **Electronic Device** () **Mobile Communications**

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Princeton Power Systems, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to GHO Ventures, LLC to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

04/22/2013

QUALIFIED INVESTMENT:

\$ 500,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 50,000.00

TOTAL NUMBER OF EMPLOYEES (Worldwide): 32

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION: 30

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

GHO Ventures, LLC

P38618

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Princeton, NJ

NJ EMERGING TECHNOLOGY BUSINESS:

Princeton Power Systems, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

3175 Princeton Pike

Lawrence Township (N)

Mercer County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Princeton Power Systems, Inc. is a developer and manufacturer of intelligent power electronic equipment used for renewable energy projects, including solar powered electric vehicle charging and energy storage systems. The Company's intelligent power inverters range from 10 kW to 500 kW and its energy storage systems range from 100 kW to 2 MW. These systems connect with energy sources including solar photovoltaic, wind turbines, generators, batteries and the Grid.

INDUSTRY:

- | | | |
|------------------------|---------------------------|------------------------|
| () Advanced Computing | () Information | (X) Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| () Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Princeton Power Systems, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to GHO Ventures, LLC to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

10/25/2012

QUALIFIED INVESTMENT:

\$ 300,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 30,000.00

TOTAL NUMBER OF EMPLOYEES (Worldwide):

32

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION:

30

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

John Christopher Dries

P38547

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Skillman, NJ

NJ EMERGING TECHNOLOGY BUSINESS:

Princeton Power Systems, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

3175 Princeton Pike

Lawrence Township (N)

Mercer County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Princeton Power Systems, Inc. is a developer and manufacturer of intelligent power electronic equipment used for renewable energy projects, including solar powered electric vehicle charging and energy storage systems. The Company's intelligent power inverters range from 10 kW to 500 kW and its energy storage systems range from 100 kW to 2 MW. These systems connect with energy sources including solar photovoltaic, wind turbines, generators, batteries and the Grid.

INDUSTRY:

- | | | |
|------------------------|---------------------------|------------------------|
| () Advanced Computing | () Information | (X) Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| () Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Princeton Power Systems, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to John Christopher Dries to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

07/27/2013

QUALIFIED INVESTMENT:

\$ 50,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 5,000.00

TOTAL NUMBER OF EMPLOYEES (Worldwide):

32

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION:

30

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

Lizabeth H. Zlatkus

P38555

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Glastonbury, CT

NJ EMERGING TECHNOLOGY BUSINESS:

Edge Therapeutics, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

139 South Street

New Providence Borough

Union County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Edge Therapeutics Inc., is a private, clinical stage biopharmaceutical company focused on developing and commercializing life-saving hospital products that improve patient outcome by addressing acute, fatal or debilitating conditions after brain hemorrhage that have no current effective treatment.

INDUSTRY:

- | | | |
|------------------------|---------------------------|----------------------|
| () Advanced Computing | () Information | () Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| (X) Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The Applicant presented a non-refundable investment of cash to Edge Therapeutics, Inc. in exchange for stocks in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to Lizabeth H. Zlatkus to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

03/18/2013

QUALIFIED INVESTMENT:

\$ 25,025.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 2,502.50

TOTAL NUMBER OF EMPLOYEES (Worldwide):

5

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION:

5

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

Marketplace Lofts Limited Partnership

P38661

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Boston, MA

NJ EMERGING TECHNOLOGY BUSINESS:

Edge Therapeutics, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

139 South Street

New Providence Borough

Union County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Edge Therapeutics Inc., is a private, clinical stage biopharmaceutical company focused on developing and commercializing life-saving hospital products that improve patient outcome by addressing acute, fatal or debilitating conditions after brain hemorrhage that have no current effective treatment.

INDUSTRY:

- | | | |
|------------------------|---------------------------|----------------------|
| () Advanced Computing | () Information | () Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| (X) Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Edge Therapeutics, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to Marketplace Lofts Limited Partnership to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

03/18/2013

QUALIFIED INVESTMENT:

\$ 581,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 58,100.00

TOTAL NUMBER OF EMPLOYEES (Worldwide): 5

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION: 5

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

Marshall J. Cohen Family Trust

P38619

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Princeton Junction, NJ

NJ EMERGING TECHNOLOGY BUSINESS:

Princeton Power Systems, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

3175 Princeton Pike

Lawrence Township (N)

Mercer County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Princeton Power Systems, Inc. is a developer and manufacturer of intelligent power electronic equipment used for renewable energy projects, including solar powered electric vehicle charging and energy storage systems. The Company's intelligent power inverters range from 10 kW to 500 kW and its energy storage systems range from 100 kW to 2 MW. These systems connect with energy sources including solar photovoltaic, wind turbines, generators, batteries and the Grid.

INDUSTRY:

- | | | |
|------------------------|---------------------------|------------------------|
| () Advanced Computing | () Information | (X) Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| () Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Princeton Power Systems, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to Marshall J. Cohen Family Trust to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

04/22/2013

QUALIFIED INVESTMENT:

\$ 225,000.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 22,500.00

TOTAL NUMBER OF EMPLOYEES (Worldwide):

32

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION:

30

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - ANGEL INVESTOR TAX CREDIT**

APPLICANT(S)/ANGEL INVESTOR:

Widelitz Family Trust U/T/D 4/15/94

P38556

APPLICANT(S)/ANGEL INVESTOR LOCATION:

Los Angeles, CA

NJ EMERGING TECHNOLOGY BUSINESS:

Edge Therapeutics, Inc.

TECHNOLOGY BUSINESS NJ LOCATION:

139 South Street

New Providence Borough

Union County

GOVERNOR'S INITIATIVES: () Urban (X) Edison () Core () Clean Energy

TECHNOLOGY BUSINESS BACKGROUND:

Edge Therapeutics Inc., is a private, clinical stage biopharmaceutical company focused on developing and commercializing life-saving hospital products that improve patient outcome by addressing acute, fatal or debilitating conditions after brain hemorrhage that have no current effective treatment.

INDUSTRY:

- | | | |
|------------------------|---------------------------|----------------------|
| () Advanced Computing | () Information | () Renewable Energy |
| () Advanced Materials | () Life Sciences | |
| (X) Biotechnology | () Medical Device | |
| () Electronic Device | () Mobile Communications | |

DESCRIPTION OF QUALIFIED INVESTMENT:

The applicant presented a non-refundable investment of cash to Edge Therapeutics, Inc. in exchange for stock in the company.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Angel Tax Credit to Widelitz Family Trust U/T/D 4/15/94 to encourage the investment in a New Jersey emerging technology business.

QUALIFIED INVESTMENT DATE:

03/18/2013

QUALIFIED INVESTMENT:

\$ 200,200.00

TAXPAYER APPROVAL YEAR: (2013)

\$ 20,020.00

TOTAL NUMBER OF EMPLOYEES (Worldwide):

5

NEW JERSEY FULL-TIME EMPLOYMENT AT APPLICATION:

5

DEVELOPMENT OFFICER: D. Ackerman

APPROVAL OFFICER: T. Wells

URBAN TRANSIT HUB TAX CREDIT PROGRAM



MEMORANDUM

To: Members of the Authority

From: Timothy Lizura
President and Chief Operating Officer

Date: November 15, 2013

RE: **Two Center Street Urban Renewal, L.L.C.**
Urban Transit Hub Tax Credit Program (“UTHTC”)
P#37913

Request

The Members are asked to approve the Urban Transit Hub Tax Credit (“UTHTC”) program application (under P.L. 2007, c.346, P.L. 2008, as amended on July 26, 2011) for Two Center Street Urban Renewal, L.L.C. (“TCS”, the “Project” or the “Applicant”). Tax credits are available for up to 35% of the total qualified capital investment per project with a maximum of \$33 million, whichever is less. The Applicant applied for UTHTC’s under the 2012 Urban Transit HUB Tax Credit Residential Competitive Solicitation (“RS”). TCS did not comply with all eligibility criteria as outlined in the RS primarily due to their inability to provide a financial commitment for the debt as part of the Project’s capital structure. Therefore, there was no UTHTC’s awarded to this Project when the Members of the Authority approved several other projects on April 9, 2013. The Applicant is now applying for \$33 million of UTHTC credits (which is the identical amount previously sought via the RS) under the Economic Opportunity Act of 2013, as signed into law on September 18, 2013. The Project scope and costs have not changed since the RS. This Project is known as One Theater Square and the address 34-40 Park Place (also known as Two Center Street), Newark, New Jersey. The owners and developer of the project is Dranoff Properties, Inc., which is solely owned by Carl E. Dranoff. The Project site is subject to a ninety-nine year ground lease expiring in 2096 between the New Jersey Performing Arts Center (“NJ PAC”) and the State of New Jersey which is the ultimate owner of the land.

Tax credits are available for up to 35% of the total qualified capital investment per project with a maximum of \$33 million, whichever is less. The total costs of the Project are estimated to be \$106,000,000. The total eligible costs under the UTHTC program are \$98,850,000. The recommended award of tax credits is 33.38% of the eligible costs, not to exceed \$33,000,000 or \$3,300,000 annually for 10 years.

It is noted that this Project is concurrently seeking the Members approval of a Redevelopment Area Bond (“RAB”) with a gross amount of approximately \$1.46 million to be issued by the Authority. It is anticipated that following Newark City Council approval the Project will obtain Local Finance Board approval at a meeting scheduled for November 13, 2013.

The Applicant was approved by the Members of the Authority on January 12, 2010 for a \$38 million UTHTC for a moderately larger Project on this site which was abandoned at that time due to the economic downturn.

Project Description

This Project involves a proposed mixed use development located on a 1.2 acre site fronting along Center Street between Park Place and Mulberry Street and immediately across from the NJPAC in Newark, New Jersey. The site is located in an urban transit hub within one half mile of the Center Station on the light rail line (which is 0.3 miles and one stop from New Jersey Transit’s Pennsylvania Station).

NJPAC was envisioned in 1988 and opened in 1997 as a premier cultural institution providing music, theater, dance and children’s programming. NJPAC draws over 600,000 visitors annually to their performances. NJPAC’s mission has been to surround itself with private development including residential, retail and office uses to create a theater square neighborhood. NJPAC undertook a national search for a development partner and in 2006 Dranoff Properties was selected because of its vision, experience and track record.

Located across the street from the NJPAC and Military Park, (which is currently undergoing upgrades and improvements on the six acre tract), within walking distance to the city’s business district and less than one hundred yards from the new headquarters of Prudential Insurance of America, this development provides the opportunity to create an urban lifestyle destination. The Project is one of three development sites adjacent to the NJPAC with the others consisting of 2.67 acres and 1.42 acres respectively located on parcels adjacent to the Project which are for future development. The overall site is bounded on the north by NJPAC, the west by Military Park, the south by Robert Treat Hotel (Best Western) and the east by a surface parking lot. The Project site is part of the Newark Downtown Business Improvement District and is located in a designated Urban Enterprise Zone. While the exact Project address is located in a moderate income census tract, all the adjoining census tracts are distressed in accordance with the 2012 new markets tax credit determination. The site is also located in the Newark 24/7 Downtown Focus Zone delineated by the Brick City Development Corporation.

The Project will transform an existing surface parking lot with structure serving as a police substation and NJPAC offices (to be demolished) in downtown Newark into a dramatic curved 22-story glass and brick tower encompassing approximately 475,000 gross square feet (includes parking and 16,000 square feet of common area) and includes the following components:

- Residential – The residential component will consist of 244 rental units with a mix of studio, 1, 2 and 3 bedroom apartment units with a rentable building area (“RBA”) of approximately 204,590 square feet. Rental rates are anticipated to range from \$1,300 per month for a 520

square foot studio to \$3,300 a month for a 1,320 square foot three bedroom unit. Many apartments are expected to have a view of the Manhattan skyline with amenities including a fitness center, pool, club rooms, concierge service and secured parking.

- Retail – The retail component will consist of 14,918 square feet of RBA, which will accommodate up to five tenants.
- Parking – The Project includes 543 parking spaces with 320 being purchased for use by Prudential Insurance Company of America. The parking will comprise 210,000 square feet of space, of which 41% is attributable to the residential or 86,190 square feet (which brings the total square footage of the residential component to 290,780 square feet which represents 67.7% of the Project). The total cost of the parking is estimated at \$13.6 million).

The Applicant anticipates finalizing all funding sources, permitting, design completion and awarding a GMP contract by June 30, 2014, to be followed by a construction period of approximately 24 months. The application did not contain any information that contradicts the Applicant's representation that the Project will be completed within the stated timeframe.

Although applicants for the residential project portion of the UTHTC program are not required to maintain certain employment levels, it is estimated that this Project will create approximately 200 construction jobs and an estimated 10 permanent jobs.

The Applicant has received a letter of support from the Mayor of Newark and intends to meet Green Building requirements by achieving a LEED Silver designation. In addition, the Applicant has entered into an Affordable Housing Agreement with the City of Newark, which stipulates that 10% of the units (24) shall be deed restricted for use and occupancy by households earning 50% or less of the Area Median Income. The Applicant has received preliminary and final site plan approval from the Central Planning Board, City of Newark and Newark Historical Commission and has site control under a ground lease option agreement whereby NJPAC has an option to enter a ground lease of the project property. The City of Newark Municipal Council has also approved a long term tax exemption and redevelopment area bond financing for this Project.

Developer Capacity

The Project will be developed by Dranoff Properties, Inc. The team consists of:

- ***Dranoff Properties, Inc. – Developer/Project Manager***
Dranoff Properties was founded in 1988 by Carl E. Dranoff and specializes in transforming urban neighborhoods into unparalleled residential destinations to attract new residents and businesses. The company prides itself on creating compelling spaces that are meticulously detailed and unmistakably Dranoff quality, delivering complete live, work and play communities. Noteworthy projects include the adaptive reuse of the former RCA Victor factory into 341 luxury loft apartments in Camden, the 32 story Symphony House in Philadelphia featuring a 365 seat theater, 163 residences, parking and two restaurants, 777 South Broad in Philadelphia a LEED silver, 146 unit mid rise with 20,000 sf of retail.

- **BLT Architects – Lead Architect**

BLT has operated for over fifty years as a diverse architectural and interior design firm specializing in higher education, hospitality, multi-family residential and parking/transportation projects. BLT is currently in the top 100 architecture firms by Building Design and has received numerous awards and has contributed to projects such as the Union League of Philadelphia, Lowes and Marriott Hotels.

Project Ownership

The Applicant is a single purpose limited liability company and urban renewal entity. The Applicant is applying for the UTHTC, developing the Project, obtaining the long term tax abatement, receiving the proceeds of the RAB financing and will enter a ground lease agreement with NJPAC. The Applicant is 100% owned by its sole member/manager, Two Center Street, L.L.C., which is owned by its sole member/manager Carl E. Dranoff. Carl E. Dranoff is 100% owner of Dranoff Properties, Inc., which will enter into agreements with the Applicant to receive a development fee for services rendered in connection with the Project development and to operate and manage the Project on behalf of the Applicant.

Project Uses and Sources

The Applicant proposes the following uses for the Project:

<i>Uses</i>	<i>Total Project Costs</i>	<i>HUB Eligible Amount</i>
Construction of Building & Site Improvements	\$ 80,642,000	\$ 80,642,000
Professional Services	\$ 14,143,000	\$ 9,643,000
Financing & Other Costs	\$ 3,520,000	\$ 3,520,000
Contingency	\$ 5,045,000	\$ 5,045,000
Development Fee	\$ 2,650,000	\$ 0
TOTAL USES	\$ 106,000,000	\$ 98,850,000

HUB eligible costs exclude development fee, marketing and other project expenses that do not fit within the UTHTC definition of eligible hard or soft costs. This includes \$3 million in expenses incurred by NJPAC over the past eight years, which will be reimbursed by the Applicant at the time the financing is closed.

<i>Sources of Financing</i>	<i>Amount</i>
PNC Bank: 30 months interest only followed by principal and interest based on a 30 year amortization. Three year term with two one year extension options. Interest rate option to include Libor + 250 basis points.	\$ 41,500,000
City of Newark Grant	\$ 11,000,000
Redevelopment Area Bond	\$ 1,000,000
UTHTC sale proceeds	\$ 22,500,000
Prudential Equity	\$ 16,000,000
Applicant Equity	\$ 14,000,000
Total	\$ 106,000,000

The Applicant has received a term sheet from PNC Bank, as noted above, which would also include a bridge of 95% of the Prudential equity commitment. Prudential has provided a commitment of \$16 million in exchange for 320 parking spaces for their employees use with funding to occur upon construction completion. The Applicant has term sheets from three funding sources for the purchase of the UTHTC's as well as a bridge loan facility during construction from Goldman Sachs. The Applicant has provided the resolution from the City of Newark regarding the \$11 million in grant funds.

Gap Analysis

EDA staff has reviewed the application to determine if there is a shortfall in the project development economics pertaining to the return on the investment for the developer and their ability to attract the required investment for this Project. Staff analyzed the pro forma and projections of the Project and compared the returns with and without the HUB over 10 years of operating performance.

Without HUB	With HUB*
Equity IRR 8.30 %	Equity IRR 14.81 %

* Includes an assumed sale of the UTHTC netting proceeds of \$22.5 million as well as 15% of proceeds paid to NJPAC upon sale of the Project.

The Project's economics suggest that the HUB benefit will have a material effect on the Applicant's decision and ability to advance the Project. **With the benefit of the HUB, the Equity IRR is 14.81%. This is below the maximum market rate of 20% as adopted by the Members of the Authority and as indicated in the Competitive Residential Solicitation.**

Recommendation

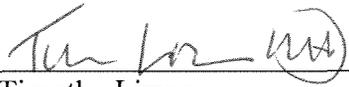
Staff has reviewed the application for consistency with the Act and Rules, as amended, implementing the UTHTC Program and recommends approval of the following:

Application for a tax credit in a maximum amount estimated at \$33,000,000 representing 33.38% of the eligible capital investment. The NJEDA will provide the Applicant with an approval letter for a tax credit amount that will reflect that the Applicant at a maximum will receive \$33,000,000. In addition, the NJEDA may provide approval of assignment of tax credits by the Applicant, as may be required by the Applicant for financing and completion of the Project.

Pursuant to the rules governing the program, the project will need to meet certain milestones within 12 months of approval in order to maintain the project's credit approval. These milestones include:

1. Site control
2. Site plan approval
3. Other project specific items which may be added

Upon project completion and the satisfaction of certain conditions to be outlined in the commitment letter, the Authority shall issue a tax credit certificate based on the final qualified costs, not to exceed the approved amount. The tax credit certificate shall indicate that the Applicant may take one-tenth of the total credit annually over ten years when accompanied by a letter issued by NJEDA indicating the project is compliant with program guidelines.



Timothy Lizura

Prepared by: Michael Conte

BOARD MEMORANDUMS



MEMORANDUM

TO: Members of the Authority
FROM: Timothy J. Lizura, President and Chief Operating Officer
DATE: November 15, 2013
SUBJECT: Red Square Foods, Inc. (R & M, LLC)
\$158,852 SLP Participation

Request:

Extend the SLP participation loan maturity for 10 years to 11/01/2023 at a fixed rate of the 5-year Treasury plus 1.00% with a floor of 3.0%, with a rate reset at 5 years.

Background:

Red Square Foods, Inc. ("RSF"), established in 1995, is a manufacturer of over 100 different Russian food products, mainly blintzes, sausage, kielbasa and other fully cooked delicatessen-type products. The borrower is owned by Boris Rapoport (75%) and Yuri Muzykovsky (25%). R & M, LLC is a related real estate holding company formed to purchase a 27,000 square foot building in Franklin Township. The business currently has 15 employees.

In October 2003, the borrower received a \$1,250,000 SLP loan from Sovereign Bank (formerly SI Bank & Trust) with a \$312,500 (25%) Authority participation and a \$234,375 (25%) guarantee for 10 years, which has since expired. NJEDA participation had a 10-year term with a 20-year amortization and matures on 11/1/2013. The loan has been handled as agreed.

The Borrower and Sovereign Bank have requested extension of the EDA participation for an additional 10 years to allow the food manufacturer to amortize the remaining balance of the loan.

Current Delegated Authority allows loan maturity extensions where original term plus extensions does not exceed 10 years. As the Borrower's loan will have a total term of 20 years, the request no longer meets the criteria for Delegated Authority and the extension is being presented for the Members' approval.

Recommendation:

Extend the loan maturity for 10 years to 11/01/2023 at a fixed rate of the 5-year Treasury plus 1.0% with a floor of 3.0%, with a rate reset at 5 years, to permit the borrower to fully amortize the loan.

Prepared by: Katina Tolly



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 15, 2013

SUBJECT: 2820 Mt Ephraim Avenue, LLC
P37149

Request

Approve an additional six month extension of this commitment.

Background

On February 14, 2012 the Authority approved a \$1,250,000 Authority participation in a \$3,500,000 Parke Bank term loan for 2820 Mt Ephraim Avenue, LLC under the Local Development Financing Fund (“LDFF”). The proceeds of the Authority’s participation will pay down the \$3,750,000 Parke Bank construction loan. CBAC approved a \$250,000 direct term loan, which will be subordinated to the Authorities exposure and will pay down the remaining amount of Parke Bank’s construction loan.

The property located at 2820 Mount Ephraim Avenue, Camden, NJ will be a farmers market and will house over 100 small business tenants selling various fresh food and various services.

The commitment letter dated March 13, 2102 required this loan to be closed by January 31, 2013, which did not occur. One of the conditions to close the EDA financing was receipt of a final Certificate of Occupancy, which did not occur until July 26, 2013. The delay in the final Certificate of Occupancy was caused by confusion with water and sewer plans filed with the City of Camden. The Company revised its plan to meet Camden’s requirements but needed the City’s Planning Board to approve the new plans. The new plans were approved at the March 14, 2013 meeting. The

Authority extended the must close date to April 30, 2013 due to these issues. The Company expected to have the final Certificate of Occupancy in early May, but additional delays occurred due to planning issues that occurred during various inspections after the work was completed. The Authority provided a second extension of the must close date until July 31, 2103. Part of the LDFP loan requirements is to provide a support letter and a resolution must be passed by the sponsor, which was not completed as of July 31, 2013. The resolution was originally supposed to be approved at the August 14, 2013 meeting, but was not actually approved until a special meeting on August 22, 2013.

The only outstanding issue is that a contractor lien has been placed against the property due to a dispute over an amount owed. While this lien does not affect the Authority's lien position, it does inhibit CBAC from obtaining the second lien as they had approved. Once the contractor dispute is settled and the lien is removed, this project will close. It is anticipated the loan should close before year end.

This project was initially approved utilizing projections. The farmers market opened for business in August 2013 and no updated financial information is available at this time. The original approval required an "As-Is" appraisal value of \$5.9 million and the appraisal dated March 26, 2012 showed an "As-Is" value of \$6 million.

Recommendation

Approve a six month commitment extension from August 1, 2013 until January 31, 2014.



Timothy Lizura
President and Chief Operating Officer

Prepared by: Jay M. Wentzel

MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura, President and COO

DATE: November 15, 2013

SUBJECT: Projects Approved Under Delegated Authority - **For Informational Purposes Only**

The following project was approved under Delegated Authority in October 2013:

New Jersey Business Growth Fund:

- 1) Woodbury Investments, LLC (P38579), located in Woodbury City, Gloucester County, is a real estate holding company that will purchase commercial real estate occupied by the operating company, Tire Corral of America, LLC. Tire Corral was opened in 1987 and specializes in selling and installing tires to individual and commercial customers, and provides other automotive services. PNC Bank approved a \$360,000 term loan with a five-year, 25% Authority guarantee of principal outstanding, not to exceed \$90,000. The Company currently has 53 employees and plans to create four additional positions within the next two years.

Small Business Fund Program:

- 1) Business Automation Technologies, Inc. (P38544), located in Newark City, Essex County, operating as Data Network Solutions, was founded in 1989 to provide a wide variety of internet and voice products and services to small and large businesses, schools and government entities. The Company was approved for a \$71,888 direct loan. Proceeds will be used to purchase new equipment, which will replace older equipment and upgrade capacity. The new voice equipment will allow the Company to connect directly to a carrier's lines instead of having to use a third party, which will improve profitability. Currently, the Company has ten employees and plans to create twelve new jobs over the next two years.

Stronger NJ Loan Program:

- 1) Munro's Marina, Inc. (P38620), located in Little Egg Harbor Township, Ocean County, was incorporated in 1983 but has been operating in New Jersey for the past 46 years as a boat repair and storage facility. Prior to Superstorm Sandy, the Company occupied a building located at 124 E. Anchor Drive, which has since been demolished due to property damage. The Company was approved for a ten-year, \$192,000 term loan to finance its working capital needs. Currently, the company has four employees and plans to create seven new positions within two years.

New Jersey Business Growth Fund - Modification:

- 1) RLC Plus, Inc. and Tom Carroll Scenery, Inc. (P38647) are located in Jersey City, Hudson County. Tom Carroll Scenery, Inc. was established in 1994 as a provider of scenery design and manufacture and installation services for stage shows, trade show, show rooms, among others. The property is owned by a related real estate holding company, RLC Plus, Inc. PNC Bank approved a five-year renewal of a \$381,080 loan with a five-year, 25% guarantee of principal outstanding, not to exceed \$95,270. Original loan proceeds were used to refinance an existing mortgage held by Unity Bank for the purpose of lowering its debt service requirement, thus improving cash flow. All other terms and conditions of the original approval remain unchanged.



Prepared by: D. Lawyer
DL/gvr

OFFICE OF RECOVERY



MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura
President and Chief Operating Officer

DATE: November 15, 2013

RE: Stronger NJ Neighborhood and Community Revitalization Program
Streetscape Revitalization Program – Scoring Evaluation

Request:

The Members are requested to: (i) approve the scoring evaluation for project applications received under the Streetscape Revitalization Program established as part of the Stronger NJ Neighborhood and Community Revitalization Program; (ii) allow municipalities under the NCR program to apply for funding on both publicly and privately owned properties; and (iii) remove the requirement for municipalities to file a lien on privately owned properties related to the Seaside Disaster.

Background:

In April of 2013, the Members approved the creation of Stronger NJ Business Grants and later in June approved the creation of Stronger NJ Business Loans, in response to Superstorm Sandy which occurred in October of 2012. In August of 2013, the Members approved the creation of the Stronger NJ Neighborhood and Community Revitalization Program (NCR), the fourth and final program outlined in the State of New Jersey's Action Plan and allocated to the Authority. A total of \$75 million was allocated to this program, which may be used to fund several general activities – building development and public improvement projects, assisting Community Development Financial Institutions (CDFIs) in lending to businesses in the nine most impacted counties, and “Main Street” revitalization.

In October of 2013, the Members approved the Streetscape Revitalization Program which provides \$10 million to provide financial assistance to support improvements such as, but not limited to, streetscapes, lighting, sidewalks, façade enhancements, code-related and other physical upgrades to commercial areas in a minimum amount of \$125,000 and a maximum amount of \$1.5MM per project. The Members also delegated authority to staff to approve projects under the Streetscape Revitalization Program.

The evaluation of applications received under this Program will proceed under the following general guidelines and will be scored by staff on a comparative basis based on the Evaluative Criteria and weighting outlined on the attached Project Proposal Evaluation Sheet.

There will be two rounds of evaluation for this program. The allocation for Round One will be up to \$5 million with a deadline for submittal of applications on December 6, 2013. The allocation for Round Two will be the remaining project funds, including the balance of any funds remaining from Round One with a deadline for submittal of applications on January 20, 2014. Projects considered for funding in Round Two will be: (i) eligible but unfunded project applications submitted for Round One and (ii) eligible project applications submitted between December 7, 2013 and January 20, 2014.

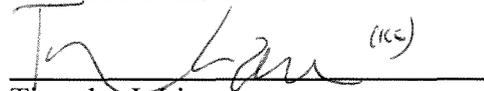
The top scoring projects from each round, with a minimum threshold score of 55 points, will proceed to the mandated environmental and historic preservation review to be conducted by the New Jersey Department of Environmental Protection (DEP). Projects that receive DEP clearance will be deemed approved and those applicants will be required to execute a Subrecipient Agreement with the Authority. The Subrecipient Agreement will outline all of the terms and conditions of the Streetscape Revitalization Program. All complete, but unfunded, applications that score at least the minimum threshold will be held pending available funding. An application will be declined if it does not meet the threshold eligibility requirements, is ineligible or incomplete.

The Members are also requested to approve a revision to the NCR Guidelines. Under the "Eligible Applicants" section, subsection 3, the restriction for projects that are solely "publicly owned or to be publicly owned" will be removed. Municipalities and counties will be able to request funding for projects that are both publicly and privately owned.

With regard to the Seaside Disaster Assistance which was approved in September 2013, the Members are requested to approve the removal of the requirement for each municipality to file a lien on the private properties to be demolished. The municipal liens may obstruct the owner's ability to obtain financing on the affected properties and possible delay reconstruction. The private owners are required to execute a subrogation agreement for the reimbursement of any duplicative insurance proceeds.

Recommendation:

The Members are requested to (i) approve the scoring evaluation outlined above and on the attached Project Proposal Evaluation Sheet for project applications received under the Streetscape Revitalization Program established as part of the Stronger NJ Neighborhood and Community Revitalization Program; (ii) allow municipalities under the NCR program to apply for funding on both publicly and privately owned properties; and (iii) remove the requirement for municipalities to file a lien on privately owned properties related to the Seaside Disaster.


Timothy J. Lizura

Attachment: Streetscape Revitalization Program – Project Proposal Evaluation Sheet
Prepared by: Donna T. Sullivan

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
STREETSCAPE REVITALIZATION PROGRAM - PROJECT PROPOSAL EVALUATION SHEET**

PROJECT NAME: _____

PROJECT LOCATON: _____

Evaluative Criteria	Weight in Points	Score
1-A) Super Storm Sandy Impacted Community - The project is located in one of the nine (9) "most impacted" counties.	10	
1-B) Super Storm Sandy Impacted Community - Level of Damage to Municipality.	15	
1-C) Super Storm Sandy Impacted Community - Level of Damage to Proposed Project Vicinity.	10	
2) Readiness to Proceed and Succeed - project with earlier completion dates will be given priority scoring in order to ensure that all awarded funds are disbursed by December 31, 2015.	10	
3) Low or Moderate Income Communities - Projects will be prioritized based on their location in a low or moderate income community as HUD defines low and moderate incomes by census tract.	10	
4) Experience - Applicant's experience in successfully completing projects of a similar size and scope.	10	
5) Adherence with Plan - Documentation that the project improvements are integral to implementing a comprehensive revitalization strategy or plan.	10	
6-A) Extent to which the project will enhance the neighborhood and community at large as documented in the submission package.	15	
6-B) Protection to the community from future weather-related events.	10	
TOTAL	100	



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 15, 2013

SUBJECT: **Stronger NJ Neighborhood and Community Revitalization Program:
Funding for Community Development Financial Institutions (“CDFI”)**

Background

In April of 2013, the Members approved the creation of Stronger NJ Business Grants and in June 2013 approved the creation of Stronger NJ Business Loans in response to Superstorm Sandy, which occurred in October 2012. In August 2013, the Members approved the creation of the Stronger NJ Neighborhood and Community Revitalization Program (“NCR Program”). The NCR Program is the third and final program outlined in the State of New Jersey’s Action Plan. The Authority was allocated a total of \$75 million to this program, which may be used to fund several general activities such as building development and public improvement projects, assisting CDFIs in lending to businesses in the nine most impacted counties, and “Main Street” revitalization.

In respect to assisting CDFI’s, the program allocated \$2.5 million in aggregate towards this initiative. Up to \$500,000 in grant funds per CDFI are being made available to fund loans to small businesses made through their currently existing lending programs. CDFIs must demonstrate experience with administration of federal funding as well as organizational capacity, lending experience, servicing and portfolio management. CDFIs also will need to satisfy the requirements of a Community Based Development Organization (“CBDO”), which include having a mission to serve communities and perform at least one of the following types of activities: economic development, neighborhood development or energy efficiency. The loans made with CDBG-DR funding will need to be extended for CDBG-DR eligible uses and must comply with the requirements of CDBG-DR funding including, but not limited to, satisfaction of a national objective, duplication of benefits, environmental and historic review, the disbursement timeframe of year-end 2015, and reporting. These loans must also be made to businesses located within the nine “most impacted” counties. Loans made by the CDFIs are anticipated to be used for working capital. Funding uses including furniture, fixtures, machinery and equipment (and installation) that together exceed \$5,000, will trigger the construction-related requirements.

Any funding repaid to the CDFIs as a result of their lending activity and any program income earned on the use of CDBG-DR funding is not required to be repaid to NJEDA. However, these funds are required to be used for economic development activities in the future including, but not limited to, small business lending, technical assistance and other expenses satisfactory to NJEDA.

On October 8, 2013, the Members approved the first grant under this program in the amount of \$500,000 to Intersect Fund Corporation d/b/a The Intersect Fund. A total of four additional requests for \$500,000 each are being presented for approval at this time. Following the Members' consideration of these additional four requests, a total of \$2.5 million will be committed thus utilizing 100% of funds allocated to this component of the NCR Program. The four requests under consideration are as follows:

Name	Location	Grant Requested	Board Approval
New Jersey Community Capital	New Brunswick	\$ 500,000	11/15/2013
UCEDC	Union	\$ 500,000	11/15/2013
Cooperative Business Assistance Corporation	Camden	\$ 500,000	11/15/2013
Greater Newark Enterprises Corporation	Newark	\$ 500,000	11/15/2013
Total Approved		\$ 2,000,000	

Recommendation

It is recommended that the Members award funding in the aggregate amount of \$2,000,000 to the four projects listed above.



Timothy Lizura
President and Chief Operating Officer

Prepared by: David A. Lawyer

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ NCR - CDFI PROGRAM GRANT**

APPLICANT: Community Loan Fund of New Jersey, Inc.

P38632

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 108 Church Street

New Brunswick City (T/UA) Middlesex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Community Loan Fund of New Jersey, Inc. d/b/a New Jersey Community Capital ("NJCC") is a 501(c)(3) not-for-profit formed in 1987 to provide innovative financing and technical assistance to organizations that support housing and sustainable community development ventures that increase jobs, improve education and strengthen neighborhoods. NJCC is a Certified Development Financial Institution. The Company's primary mission is to revitalize neighborhoods through flexible financing, technical assistance and consulting services.

The proceeds of this grant will be part of NJCC's Rebuild New Jersey Fund, a unique loan fund that supports the New Jersey small business community rebuilding effort after Superstorm Sandy.

APPROVAL REQUEST:

Approve a \$500,000 grant under the Stronger NJ Neighborhood and Community Revitalization Program.

FINANCING SUMMARY:

GRANTOR: NJEDA

AMOUNT OF GRANT: \$500,000

TERMS OF GRANT: Grant, no repayment terms

PROJECT COSTS:

Loan Fund	\$500,000
TOTAL COSTS	<u>\$500,000</u>

JOBS: At Application 29 Within 2 years 0 Maintained 0 Construction 0

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: J. Wentzel



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 15, 2013

SUBJECT: **Stronger NJ Neighborhood and Community Revitalization Program –
Community Loan Fund of New Jersey, Inc. dba New Jersey Community Capital**

Request

Approval is requested for a \$500,000 grant under the Stronger NJ Neighborhood and Community Revitalization program to the Community Loan Fund of New Jersey d/b/a New Jersey Community Capital (“NJCC” or “Company”). The grant proceeds will be used by NJCC to serve as an additional and separate funding source to their existing disaster recovery program, Rebuild New Jersey Fund. NJCC will send each loan package record, including full underwriting file, to EDA. To drawdown, NJCC must provide supporting documents from borrower, such as cancelled checks, paid invoices, executed contracts, among others.

Project

NJCC is a 501(c)(3) not-for-profit formed in 1987 to provide innovative financing and technical assistance to organizations that support housing and sustainable community development ventures that increase jobs, improve education and strengthen neighborhoods. NJCC is a Certified Development Financial Institution (“CDFI”). The Company’s primary mission is to revitalize neighborhoods through flexible financing, technical assistance and consulting services.

Since inception, NJCC has financed over 500 projects and has lent approximately \$234 million to support housing and community development, with a goal to increase jobs, expand education, create housing and revitalize neighborhoods. As of September 30, 2013 there were 101 loans with an outstanding principal balance of \$32.3 million and an average loan size of \$320,000, which includes

33 loans totaling \$1 million made under the Rebuild New Jersey Program. Loans can have a variable interest rate ranging from 4.25% to 7% and fixed interest rate ranging from 3.7% to 8.5%.

NJCC created the Rebuild New Jersey Fund, a unique loan fund that will be used to support the New Jersey small business community rebuilding effort after Superstorm Sandy. The Authority provided a \$500,000 term loan into the Fund, which closed in May 2013. There was \$250,000 funded at closing and to date, NJCC has approved nine loans and committed to \$261,000 of financing. NJCC has requested the second tranche of money and the Authority is currently reviewing the request. In addition to the Authority’s loan, NJCC received a \$500,000 grant from Goldman for loans in Jersey City and Newark, a \$250,000 JP Morgan Chase grant and a \$1 million investment from TD Bank. Bank of America and several other privately owned entities have committed and/or funded various amounts of capital into this fund. NJCC is expecting to provide loan decisions within five to ten business days. Loans will generally range from \$10,000 to \$30,000, which will allow for an expedited credit approval. NJCC will consider loans in excess of \$30,000 but will require standard credit committee approval. These loans will have a fixed rate of three percent and will be primarily unsecured, in some cases a UCC-1 will be filed against business assets. The term of each loan will be between 24 and 30 months, which will include an initial three month interest moratorium prior to monthly principal and interest payments for the remaining term. A personal guarantee from the owner(s) will be required for all loans. The owner(s) must have a minimum credit score of 625 to qualify for the program. Currently, NJCC has a pipeline of \$380,000 in various stages of the underwriting and approval process.

The proposed \$500,000 proceeds will only be used to fund loans to businesses within the nine (9) counties most impacted by the storm. Each entity funded by a CDFI loan must meet one of the National Objectives and all reimbursable business costs must be vetted for “Cost Reasonableness.” Loans will range from \$1,000 to \$100,000 at a rate of 5.5% with a maximum term of seven years.

Source of Funds

<u>Source</u>	<u>Amount</u>
NJEDA: Grant, no repayment terms	\$500,000
Total	\$500,000

Use of Funds

<u>Description</u>	<u>Amount</u>
Loan Fund	\$500,000
Total	\$500,000

Loan Underwriting/Portfolio Management

A copy of NJCC's Credit Policy and Procedures Manual was provided for review. The manual outlined in detail all the underwriting, portfolio management and collection processes.

The approval process starts with a call memorandum that outlines the request and is distributed to all members of the Financial Products & Services team, President, Chief Operating Officer and Chief Financial Officer. If the project is deemed creditworthy and fits the mission of NJCC, the Relationship manager prepares and sends a Summary of Terms and Summary Letter to the applicant. Once the applicant indicates it would like to proceed based on the initial terms provided, the Relationship Manager prepares a Credit Approval Memorandum, which includes an analysis of the sponsor, credit, repayment sources, collateral, terms and conditions and community impact. This memorandum is submitted to the Financial Products & Services team and Senior Management for approval. Once this approval is received it is sent to the required internal or Credit Committee for final approval.

The Relationship Manager is responsible for ongoing monitoring of the portfolio.

Loans are considered in a non-accrual status when management believes the financial condition of the borrower has deteriorated, that repayment is unlikely or a loan has been in default for principal and/or interest for over 90 days. Loans are classified as a Charge-Off when a loan is over 90 days in arrears, a loan where the capacity for repayment by the borrower is deemed unlikely and the current market value of the collateral has decreased to a value less than the outstanding balance.

Federal Grant Management

Since 1997, NJCC has received over \$13 million in Federal grants through the Community Development Financial Institution program. Through a subsidiary, NJCC has received three Neighborhood Stabilization Program grants totaling \$1.4 million for properties located in Jersey City, Newark and Plainfield. NJCC also has received over \$80 million in New Market Tax Credit Allocations.

Products/Services

Community Loan Fund of New Jersey, Inc. is a not for profit CDFI, which lends to and invests in affordable housing, community services, and businesses. The goal is to improve underserved neighborhoods by creating jobs, providing better educational opportunities for residents and to further expand neighborhood social programs. Loans are provided from a revolving loan pool that has been provided from individual and private sector business donations, grants and long-term loans. Loans provided can be variable or fixed rate loans with interest rates ranging from 3.7% to 8.5%, with terms ranging from three months to seven years. The average original loan size of the 58 outstanding portfolio loans is \$477,000.

Community Lending Partners, Inc. is a not for profit, which finances affordable housing, community facilities and commercial real estate developer projects. This program tends to have more conservative lending terms than the Community Loan Fund of New Jersey in order to attract new and diverse sources of investment.

NJCC offers several other programs that focus on the stabilization of communities through the purchase of vacant and foreclosed properties, investments in women and minority owned small businesses and a New Market Tax Credit program to fund community facilities and commercial real estate initiatives.

Management

Wayne Meyer, President, joined NJCC's Board in 2007 and became President in 2009. He is currently a member of all board committees. Mr. Meyer provides leadership, establishes strategy, raises funds and promotes and advocates for policy change. Prior to joining NJCC, Mr. Meyer was responsible for all real estate development activities as Director of Housing and Neighborhood Development Services, Inc. In addition, Mr. Meyer is an attorney and a Certified Public Accountant with over 20 years of private sector real estate experience.

Gregory Stankiewicz, Chief Operating Officer, joined NJCC in May 2011. Prior to joining NJCC, Mr. Stankiewicz served as a state budget specialist in the Office of Management and Budget for the State of New Jersey.

Marie Mascherin, Chief Lending Officer, joined NJCC in November 2008. Prior to joining NJCC, Ms. Mascherin was the Vice President of FHA lending for Capmark Finance Inc., formerly GMAC Commercial Mortgage, where she managed a regional loan production office specializing in FHA insured multifamily and senior housing lending.

William Delaney, Interim Chief Financial Officer, joined NJCC in March 2012. Mr. Delaney has over 20 years of experience as a CFO in the non-profit sector. Prior to joining NJCC, Mr. Delaney was the Vice President of Finance and Chief Financial Officer for Saint Barnabas Hospice and Palliative Care Center.

Board of Directors

Kenneth Zimmerman, Board Chairman, joined NJCC's Board in 2009 and currently serves on all committees. Mr. Zimmerman is a civil rights attorney and partner at the law firm of Lowenstein & Sandler.

Dudley Benoit, Board Vice-Chair, joined NJCC's Board in 2001. Currently, Mr. Benoit is a Senior Vice President at JPMorgan Chase, where he manages a loan portfolio in excess of \$700 million which includes loans to small business, affordable housing and commercial real estate financial intermediaries.

Carl Malmstrom, Board Treasurer, joined NJCC's Board and is currently the Chair of the Finance and Audit committees. Mr. Malmstrom is the Chief Financial Officer at Venture Investment Associates, a venture capital fund, where he oversees the organization's finance team and serves on the investment committee.

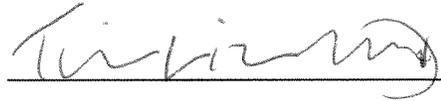
In addition to the above Board of Trustee officers, there are nine additional members of the Board. Board members have various professional experiences, which help the organization keep policies and procedures up to date with the needs of the communities being served.

Conditions

- Certification that NJCC is either a qualified Community Based Development Organization ("CBDO") or qualifies under Section 105(a)(15) of the National Development and Community Act of 1974, whichever is required by HUD for Stronger NJ Neighborhood and Community Revitalization program.
- Requirement for NJCC that all loans must comply with the requirements of CDBG-DR funding including, but not limited to, satisfaction of a National Objective, Duplication of Benefits, Cost Reasonableness and Environmental and Historic Review. In addition, all funds must be disbursed by December 31, 2015.

Recommendation

Approval of the \$500,000 grant to NJCC is recommended based on its financial condition and goal to support small business owners located in the nine most impacted counties of New Jersey by the storm.



Timothy Lizura
President and Chief Operating Officer

Prepared by: Jay M. Wentzel

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ NCR - CDFI PROGRAM GRANT**

APPLICANT: Cooperative Business Assistance Corporation

P38607

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 328 Market Street

Camden City (T/UA)

Camden

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

CBAC is a not for profit that was formed in 1987 to assist the small business community in the City of Camden and the six southern counties in New Jersey by providing loans and technical assistance. CBAC's largest segment is micro lending and it currently manages a portfolio of loans totaling approximately \$13 million. The Authority has an existing relationship with CBAC that includes referring applicants for technical assistance and partnering on various small business loans. In addition, the EDA has provided several loans to CBAC to fund its loan programs, which have been handled as agreed. The proceeds of this grant will be used to increase the size of CBAC's Superstorm Sandy Disaster Relief Fund ("SSDR"). CBAC's SSDR Fund has obtained a \$500,000 loan from Bank of America and a \$500,000 loan from the EDA. The proposed \$500,000 NCR Fund will target only businesses within the nine (9) counties most impacted by the storm.

APPROVAL REQUEST:

Approval of the \$500,000 grant is recommended as proposed.

FINANCING SUMMARY:

GRANTOR: NJEDA

AMOUNT OF GRANT: \$500,000

TERMS OF GRANT: Grant, no repayment terms

PROJECT COSTS:

Loan Fund	\$500,000
TOTAL COSTS	<u><u>\$500,000</u></u>

JOBS: At Application 10 Within 2 years 0 Maintained 0 Construction 0

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: S. Brady



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 12, 2013

**SUBJECT: Stronger NJ Neighborhood and Community Revitalization Program -
Cooperative Business Assistance Corporation**

Request

Approval is requested for a \$500,000 grant to Cooperative Business Assistance Corporation (“CBAC” or “Company”) under the Stronger NJ Neighborhood and Community Revitalization program. CBAC will send each loan package record, including full underwriting file, to EDA. To drawdown, CBAC must provide supporting documents from borrower, such as cancelled checks, paid invoices, executed contracts, among others.

Project

CBAC is a not-for-profit that was formed in 1987 to assist the small business community in the City of Camden and the six southern counties in New Jersey by providing loans and technical assistance. CBAC's largest segment is micro lending and it currently manages a portfolio of loans totaling approximately \$13 million.

The Authority has an existing relationship with CBAC that includes referring applicants for technical assistance and partnering on various small business loans. In addition, the EDA has provided several loans to CBAC to fund its loan programs (all of which have been handled as agreed). Currently, the EDA has two loans to CBAC. The first is a \$780,000 loan (P37960) that closed on 5/14/13 and was used to refinance two existing loans (P19423, funded in 2007, and P24533, funded in 2009). The second is a \$500,000 loan (P38040) that closed on 5/14/13 and was used to partially fund CBAC's Superstorm Sandy Disaster Relief Fund (“SSDR”).

The proceeds of this grant will be used to increase the size of CBAC's SSDR fund. To date, CBAC has obtained a \$500,000 loan from Bank of America and the \$500,000 loan from the EDA listed above. The organization has made seven SSDR loans totaling approximately \$95,000 using the EDA's funding and two SSDR loans totaling \$75,000 using funds from Bank of America.

The proposed \$500,000 grant proceeds will only be used to fund loans to businesses within the nine (9) counties most impacted by the storm. Each entity funded by a CDFI loan must meet one of the National Objectives and all reimbursable business costs must be vetted for “Cost Reasonableness”. Loans will range from \$1,000 to \$100,000 at a rate of 5.5% with a maximum term of seven years. CBAC estimates that at least 15 jobs will be created by the recipients of these loans.

Source of Funds

<u>Source</u>	<u>Amount</u>
NJEDA: Grant, no repayment terms	\$500,000
Total	\$500,000

Use of Funds

<u>Description</u>	<u>Amount</u>
Loan Fund	\$500,000
Total	\$500,000

Loan Underwriting/Portfolio Management

A copy of CBAC’s Credit Policy and Procedures Manual was provided for review. The manual outlines all the underwriting, portfolio management and collection processes and the following provides highlights:

All loan applications submitted to CBAC are reviewed by at least two members of the lending staff. Following staff review, all requests are submitted to the Executive Director for final review and approval before going to loan committee. All loans must go to a loan committee for approval as no staff member has individual lending authority. All loans up to and including \$50,000 go to a microloan committee for approval. This committee consists of four local Camden based business people and a majority approval is required. All loans approved by the microloan committee are reported to the full loan committee and board for ratification. The full loan committee also monitors all past due and defaulted loans, recommends collection strategies, and reviews all lending policies. Any loan greater than \$50,000 goes through the same staff process and then to the full loan committee. The full loan committee is comprised of seven members including six commercial loan officers from commercial banks. All loans approved by the full loan committee are also ratified by the CBAC Board. All of CBAC’s loan programs follow the same approval process excluding USDA Rural Development IRP loans, which require final approval from USDA Rural Development.

The Loan Officer is responsible for ongoing monitoring of the portfolio. Loans are considered in a non-accrual status when management believes the financial condition of the borrower has deteriorated and that repayment is unlikely or a loan has been past due for over 90 days.

Loans are classified as a Charge-Off when it is determined that the capacity for repayment by the borrower is deemed unlikely and the current market value of the collateral has decreased to a value less than the outstanding balance.

Federal Grant Management

Since inception, CBAC has received approximately \$7.5 million in Federal grants. The Federal grants have been comprised primarily of \$5 million in grants from the U.S. Small Business Administration, \$1.4 million in grants from the U.S. Department of Agriculture, \$750,000 in grants from the Community Development Financial Institution program and \$380,000 in grants from the U.S. Economic Development Authority. The grants were utilized to provide technical assistance to small businesses.

In addition, CBAC has received more than \$20 million in Federal loans to fund its loan programs. The Federal loans are comprised primarily of \$7.5 million from the U.S. Department of Commerce and \$12.7 million from the U.S. Small Business Administration.

Products/Services

CBAC offers business loans, technical assistance and business mentoring. CBAC's loan underwriting and loan management policies reflect the needs of its business market as well as its responsibilities to its lenders, investors and charitable mission and purpose. The organization has provided financial and technical assistance to community-based businesses and has developed a unique underwriting approach in dealing with the wide diversity and non-conventional nature of the loan requests. Personal attention and flexibility with regard to start-up and/or young businesses are an integral part of CBAC's credit analysis and monitoring activities.

Small Business Emergency Loans: Loans range from \$1,000 to \$10,000 and are available for existing businesses located in the City of Camden. The loans are for a term of up to five years and can be at no interest, low interest or forgivable interest rates. The loans are provided to business owners who have suffered a physical plant or equipment loss or are experiencing an unusual financial problem.

Micro Loans: Loans range from \$1,000 to \$35,000 and are available to new or existing businesses located in the six most southern counties of New Jersey. The loan terms range from three months to six years and carry a fixed interest rate of 10%. These loans may be used to purchase equipment, inventory or for working capital. New businesses are required to complete entrepreneurial training and submit a complete business plan. CBAC is normally in a subordinate position on collateral. These loans are secured with the best available collateral and personal guarantees.

Commercial Loans: Loans range from \$35,000 to \$250,000 and are available to new or existing businesses located in the City of Camden. These loans generally have a five-year term with a

floating rate of interest of Prime plus 0.5%. CBAC's member banks provide 60% of the financing and 40% is provided by CBAC directly. CBAC is normally in a subordinate position on collateral. These loans are secured with the best available collateral and personal guarantees.

Fixed Asset Loans: Loans range from \$100,000 to \$500,000 and are available to businesses located in the City of Camden with at least two years of positive operations. These loans have up to a 15-year term with a fixed rate of interest set on a deal by deal basis (the average rate is 7%). CBAC requires that for every dollar it lends, the borrower leverage an additional two dollars. The leverage portion generally comes from equity, a bank loan and or/the NJEDA. CBAC is typically in a subordinate position on collateral. These loans are used for commercial real estate acquisition or renovation, equipment purchases and working capital. All loans are personally guaranteed.

SBA 504 Program: This program is for loan requests of up to \$2,000,000. The capital is provided by a bank (50%) U.S. SBA (40%) and owner equity (10%); CBAC's role is to originate and underwrite the loans on behalf of the SBA. Loans are for acquisition of real estate, construction and equipment financing; working capital is excluded. Interest rates are based on the SBA Debenture rates. Terms are 10-years for equipment and 20-years for real estate.

Management

Harry W. Stone, CEO, Executive Director and Director of Lending: Mr. Stone has over 20 years of commercial lending experience with regional area banks. He has served as Director of Lending at CBAC since 1999 and was promoted to Executive Director in February of 2012. His prior experience includes serving as a Commercial Loan Officer at Bank of America, Fleet Bank and PNC Bank. Mr. Stone received his B.S. in Accounting from Rutgers University. In addition, he served as the Vice President and Finance Chairman of the Haddon Heights Board of Education and was a Business Advisory Board member for Cumberland County Community College.

Board of Directors

Art Campbell, President - Mr. Campbell is the President and CEO of the Camden County Regional Chamber of Commerce and has served in that role for the past 15 years.

Joseph Tredinnick, Vice President - Mr. Tredinnick is a Regional Vice President at TD Bank.

Lisa Viscusi Secretary and Treasurer - Ms. Viscusi is an SBA lender for Susquehanna Bank who covers the New Jersey market.

DJ Adams Assistant Secretary and Treasurer - Mr. Adams is a commercial loan officer with Republic Bank covering the New Jersey market.

Patricia Boyle, Member - Ms. Boyle is a Manager at AT&T.

Rod Sadler, Member - Mr. Sadler is the owner of Pyne Point Marine in Camden, New Jersey and a member of NJEDA's ERB Board.

Bryan Freeman, Member - Mr. Freeman is a Vice President of Commercial Lending with Citizens Bank covering the South Jersey market.

Vince Maine, Member - Mr. Maine is a lender with Sun National Bank covering the South Jersey market.

Harry Stone, Member - Mr. Stone is CEO, Executive Director and Director of Lending at CBAC.

Wallace McMichael, Member – Mr. McMichael is CFO and Controller at CBAC.

Conditions

- Certification that CBAC is either a qualified Community Based Development Organization (“CBDO”) or qualifies under Section 105(a)(15) of the National Development and Community Act of 1974, whichever is required by HUD for Stronger NJ Neighborhood and Community Revitalization program.
- Requirement for CBAC that all loans must comply with the requirements of CDBG-DR funding including, but not limited to, satisfaction of a National Objective, Duplication of Benefits, Cost Reasonableness and Environmental and Historic Review. In addition, all funds must be disbursed by December 31, 2015.

Recommendation

Approval of the \$500,000 grant is recommended based on CBAC’s sound financial condition, strong public purpose by assisting small businesses in Camden and the surrounding areas and satisfactory history with the EDA.



Timothy Lizura
President and Chief Operating Officer

Prepared by: Sean V.M. Brady

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ NCR - CDFI PROGRAM GRANT**

APPLICANT: Greater Newark Enterprises Corporation

P38602

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 744 Broad Street

Newark City (T/UA)

Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Greater Newark Enterprises Corporation ("GNEC" or "Company") is a not-for-profit formed in 2007 to provide credit to small businesses, that are primarily located in economically and socially distressed areas in Northern New Jersey. GNEC is a Certified Development Financial Institution ("CDFI"). The Company's primary mission is to provide resources for community redevelopment, which include job creation and provide financial services for low income residents of Northern New Jersey, which encompasses a seven county (Essex, Hudson, Union, Passaic, Bergen, Middlesex and Monmouth) area. To accomplish these goals, GNEC provides small business loans to companies that would not qualify for traditional bank financing.

The proceeds of this grant will be the initial funds used by GNEC to create a Hurricane Sandy Disaster Relief Fund.

APPROVAL REQUEST:

Approve a \$500,000 grant under the Stronger NJ Neighborhood and Community Revitalization Program.

FINANCING SUMMARY:

GRANTOR: NJEDA

AMOUNT OF GRANT \$500,000

TERMS OF GRANT: Grant, no repayment terms

PROJECT COSTS:

Loan Fund	\$500,000
TOTAL COSTS	<u>\$500,000</u>

JOBS: At Application 9 Within 2 years 0 Maintained 0 Construction 0

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: J. Wentzel



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 15, 2013

SUBJECT: **Stronger NJ Neighborhood and Community Revitalization Program
Greater Newark Enterprises Corporation**

Request

Approval is requested for a \$500,000 grant under the Stronger NJ Neighborhood and Community Revitalization program as proposed. GNEC will be required to send each loan package record, including full underwriting file, to EDA. To drawdown, GNEC must provide supporting documents from borrower, such as cancelled checks, paid invoices, executed contracts, among others.

Project

Greater Newark Enterprises Corporation (“GNEC” or “Company”) is a not-for-profit formed in 2007 to provide credit to small businesses, that are primarily located in economically and socially distressed areas in Northern New Jersey. GNEC is a Certified Development Financial Institution (“CDFI”). The Company’s primary mission is to provide resources for community redevelopment, which include job creation and provide financial services for low income residents of Northern New Jersey, which encompasses a seven county area (Essex, Hudson, Union, Passaic, Bergen, Middlesex and Monmouth). To accomplish these goals, GNEC provides small business loans to companies that would not qualify for traditional bank financing.

Since inception, GNEC has provided approximately \$2 million in financing to small businesses. Of the amount of financing provided, 74% was to minority business owners and 93% of those businesses were located in moderate to low income census tracts. Loans range in size from \$1,000 to a maximum of \$50,000. The interest rate is fixed at 300 to 500 basis points over prime. GNEC

requires one new job to be created for every \$20,000 loaned, which was modeled after the Small Business Administration’s 7(a) loan program formula.

The proceeds of this grant will be the initial funds used by GNEC to create a Hurricane Sandy Disaster Relief Fund. GNEC provided two loans to small businesses impacted by Superstorm Sandy from its revolving loan fund. In addition, GNEC worked with two existing borrowers impacted by the storm as well. Approximately \$200,000 has already been disbursed to borrowers negatively impacted by the storm. This program will be aimed to provide capital to small businesses recovering from Sandy in an effort to maintain existing jobs in low to mid income areas. The loans provided under the Disaster Relief Fund are expected to create 40 new full-time jobs. The 40 jobs to be created is an estimate based upon CDFI’s assumption that one new job is created for every \$10,000 lent. The Authority provided a \$500,000 term loan under the Loan to Lender Program, which closed in September 2012. The Authority’s loan supplemented a \$500,000 term loan provided by The Prudential Foundation. The first tranche in the amount of \$167,000 was funded at closing. GNEC has since disbursed \$79,000 via six loans to date. The Company has a loan pipeline totaling approximately \$400,000 and expects to request the second tranche in early 2014.

Loans will range in size from \$1,000 to as large as \$100,000. Term loans will have a maturity ranging from six months to five years and will have an interest rate of 300 to 500 basis points over the prime rate. Proceeds of the loans can be used to fund working capital, equipment, furniture and fixtures, inventory and leasehold improvements.

The proposed \$500,000 proceeds will only be used to fund loans to businesses within the nine (9) counties most impacted by the storm. Each entity funded by a CDFI loan must meet one of the National Objectives and all reimbursable business costs must be vetted for “Cost Reasonableness.”

Source of Funds

<u>Source</u>	<u>Amount</u>
NJEDA: Grant, no repayment terms	\$500,000
Total	\$500,000

Use of Funds

<u>Description</u>	<u>Amount</u>
Loan Fund	\$500,000
Total	\$500,000

Loan Underwriting/Portfolio Management

In 2010, the Company started using Accion Texas Inc. (“Accion”) and its Microloan Management System to standardize pre-qualification of applications for loan products. Accion developed the scoring software that utilizes data from thousands of loans underwritten in its own portfolio since 1994. Utilizing this software costs a third of using internal resources and allows higher capacity levels for loan production. Through the utilization of this software, Accion has experienced a large decrease in delinquencies and defaults in their own portfolio, while saving approximately 30% on costs and less required back office personnel. In addition to standardizing the pre-approval process, each credit decision comes with an experienced underwriter’s recommendation that emphasizes portfolio quality and customer satisfaction. The ultimate credit decision is made by the Board of Trustees, which has the authority to overrule approval recommendations.

GNEC manages the post-approval portfolio using internal resources. Collection efforts for delinquent accounts are handled using GNEC employees when possible.

Federal Grant Management

In 2009 and 2010, GNEC was the recipient of a \$500,000 Financial Assistance award and a \$98,000 Technical Assistance Award from the United States Department of Treasury, under the Community Development Financial Institutions Program.

Products/Services

Micro Loans: Loans range from \$1,000 to \$50,000 and are available to new or existing businesses located in Northern New Jersey. The maximum term is six years for loans with a fixed rate of interest determined by Prime plus 300 to 500 basis points. These loans may be used to purchase equipment, inventory or for working capital. Technical assistance is available to help with the application process which includes assembling the needed information. All applicants are required to have an in person meeting with a Loan Officer.

Urban Entrepreneurs Development Institute (“UEDI”): Assists prospective and existing business owners in the Greater Newark area to become economically self-sufficient and to help develop self-employment and capital resources. To accomplish this goal, in conjunction with their partners, GNEC offers this coordinated program that consists of providing self-employment assistance, microenterprise training, technical assistance and credit to participants. Classes are delivered in a computer lab so that participants have immediate access to the Internet while in class. The class is taught by experienced business people, and the combination of the instructor, guest presenters, and the active participation of the participants leads to an enriching experience that is unmatched.

Technical Assistance Resources: provided to entrepreneurs applying for financing on individual bases in three stages.

For those entrepreneurs looking for microloan financing GNEC provides pre-loan technical assistance to help prepare the client for the application process. This typically ranges from credit building resources, to personal financial management and business plan preparation.

Though GNEC accepts all loan applications submitted, there are those that are more qualified than others. As such, GNEC assists applicants, where necessary, in improving the quality of documentation.

The technical assistance offered during the loan application process also provides an opportunity to evaluate the client's future technical assistance needs and helps to allocate resources accordingly.

Finally and most importantly, GNEC provides ongoing technical assistance to all microloan borrowers in the form of site visits, financial statement analysis, and scheduled one-on-one consultation.

Workshops & Seminars: Sponsors seminars and workshops designed to give entrepreneurs practical training in skills critical to business start-up and daily business management. Areas that have been addressed include how to obtain and manage government contracts, how to obtain financing in a difficult economy, human resource issues for small businesses, and marketing and branding techniques.

Management

Mike Wall, Executive Director, is a former Banking executive with 16 years experience in retail and small business banking development. Mr. Wall is a community advocate, who has earned recognition by Newark Now, Brick City Development Corp., and NewBridge Services for his work with small business and economic development. He previously served as Vice Chair of the Board of Overseers for NJIT University and was an Adjunct Professor for NJIT's summer 2011, Financial Awareness Program, for pre college students. Mr. Wall is a graduate of Drew University and Capital One Leadership Development Program.

Additional staff members of the organization include a Senior Loan Coordinator, Technical Assistance Coordinator, and Program Accountant.

Board of Directors

George E. Jones AIA, Board Chair, is the founder and principal at Johnson Jones Architects, a successful architectural firm that started as a microenterprise business more than 20 years ago. Mr. Jones is the principal of a business that has an office in Newark, NJ. Also, a significant amount of his work is for project owners in LICs in New Jersey.

Chip Hallock, Treasurer, is President of the Newark Regional Business Partnership, a business organization that provides its members with connections, information and advocacy that will enhance their business opportunities, strengthen the region's business infrastructure and revitalize the City of Newark.

Anthony Santiago, Board Member, is the Deputy Chief of Staff-Office of the Mayor for the City of Newark and former Chief Operating Officer of Newark Now, a community based social service agency in Newark that addresses wealth creation and family development of residents of low income communities.

Sandeep Kancherla, Board Member, is the founder and principal of GardenStateApartments.com, a real estate brokerage based in the LIC of Newark, NJ. Mr. Kancherla is an award-winning innovator and hands-on consultant, combining technology and personal relationships to achieve client goals.

Tamara Mangum-Thomas, Board Member, is President and CEO of Sharpened Image, Inc. a full service human resource management and human capital organization. Sharpened Image, Inc. provides a full range of Human Resource Management Solutions designed to enhance workplace and workforce productivity and ensure continuity of service across all levels.

Magdalena M. Czerniawski, CPA, Board Member, is an experienced Tax Senior at J.H. Cohn LLP specializing in not-for-profit tax practices. Ms. Czerniawski belongs to both the New York and New Jersey Society of Certified Public Accountants and is the founder and Vice President of the charity organization, the Polish Club of Newark.

Dr. Michele C. Scott, Board Member, is CEO of WeEmpower Partnerships, LLC and an adjunct professor at New Jersey Institute of Technology. Dr. Scott is an expert in organizational diversity issues and opportunities and looks to foster and manage collaborative relationships within and between Academia Administration through Academic and Industry advisory Boards.

Akinyemi T. Akiwowo, Esq, Board Member, is an Associate at Genova, Burns, & Giantomasi specializing in complex commercial litigation and white collar criminal defense, corporate internal investigations, and corporate ethics. Mr. Akiwowo is a member of the Association of Criminal Defense Attorneys and the Federal Bar Association and serves on the New Jersey Supreme Court Committee on the Rules of Evidence and the New Jersey Supreme Court Committee on Jury Selection in Criminal and Civil trials. Mr. Akiwowo also serves on the Board of Directors for the Garden State Bar Association, the Boys and Girls Clubs of Newark Leadership Council and as an advisory board member of the New Jersey Law and Education.

Conditions

- Certification that GNEC is either a qualified Community Based Development Organization (“CBDO”) or qualifies under Section 105(a)(15) of the National Development and Community Act of 1974, whichever is required by HUD for Stronger NJ Neighborhood and Community Revitalization program.
- Requirement for GNEC that all loans must comply with the requirements of CDBG-DR funding including, but not limited to, satisfaction of a National Objective, Duplication of Benefits, Cost Reasonableness and Environmental and Historic Review. In addition, all funds must be disbursed by December 31, 2015.

Recommendation

Approval of the \$500,000 grant to GNEC is recommended based on its financial condition and goal to support small business owners and not-for-profit entities located in the nine most impacted counties of New Jersey by the storm.



Timothy Lizura
President and Chief Operating Officer

Prepared by: Jay M. Wentzel

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ NCR - CDFI PROGRAM GRANT**

APPLICANT: Union County Economic Development Corporation

P38633

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION 75 Chestnut Street

Cranford Township (N)

Union

GOVERNOR'S INITIATIVES: () Urban () Edison (X) Core () Clean Energy

APPLICANT BACKGROUND:

Union County Economic Development Corporation is a private, independent, not-for-profit that was formed in 1977. Their mission is to promote community economic development by providing businesses with access to start-up capital and other services such as loans, loan packaging, government procedure assistance, training in English and Spanish, and technical support.

This grant will fund a Superstorm Sandy loan fund, that will provide capital to small businesses owners located in the nine most impacted counties in New Jersey.

APPROVAL REQUEST:

Approve a \$500,000 under the Stronger NJ Neighborhood and Community Revitalization Program

FINANCING SUMMARY:

GRANTOR: NJEDA

AMOUNT OF GRANT \$500,000

TERMS OF GRANT: Grant, no repayment terms

PROJECT COSTS:

Loan Fund	\$500,000
TOTAL COSTS	<u><u>\$500,000</u></u>

JOBS: At Application 15 Within 2 years 1 Maintained 0 Construction 0

DEVELOPMENT OFFICER: D. Bennis

APPROVAL OFFICER: J. Wentzel



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 15, 2013

SUBJECT: **Stronger NJ Neighborhood and Community Revitalization Program
Union County Economic Development Corporation dba UCEDC.**

Request

Approval is requested for a \$500,000 grant under the Stronger NJ Neighborhood and Community Revitalization program as proposed. The grant will be subject to periodic site visits by the Authority. Union County Economic Development Corporation dba UCEDC (“UCEDC” or “Company”) will be required to send each loan package record, including full underwriting file to the Authority. To draw funds under the grant, UCEDC must provide supporting documents from borrower, such as cancelled checks, paid invoices, executed contracts, among other things to the Authority.

Project

UCEDC is a private, independent, not-for-profit that was formed in 1977. Their mission is to promote community economic development by providing businesses with access to start-up capital and other services such as loans, loan packaging, government procedure assistance, training in English and Spanish, and technical support.

Since inception, UCEDC has provided approximately \$13 million of financing in the form of 522 loans to small businesses. This has directly resulted in the retention and creation of over 4,899 jobs. Total project costs, or leveraged funds as a result of UCEDC involvement, are in excess of \$167 million. UCEDC’s average loan size is approximately \$25,000. Historically, 33% of UCEDC’s loans have been made to start-up businesses.

In addition, in 2008, UCEDC was selected by the EDA as the provider of Small Business Services through a competitive solicitation process for a three year contract. In 2011, there was another solicitation, and UCEDC was selected for an additional three year contract.

In July 2012, the Authority approved a \$500,000 term loan to UCEDC under the Loan to Lender Program. UCEDC closed the loan but did not draw the first tranche of \$167,000 until October 2013. To date, UCEDC has approved \$250,000 of loans, which will be funded with the first tranche money. UCEDC expects to request the second tranche soon because there are three loans expected be approved at the November Loan Committee meeting totaling \$300,000.

UCEDC currently has its Storm Recovery Loan Program, which currently has 70 closed loans for a total exposure of over \$1.6 million and an additional nine loans have been approved but not closed totaling \$325,000. This program was funded from a grant received from Investors Bank. This program allows for a maximum loan amount of \$50,000, with a five year term at a fixed rate of 2%. These loans are unsecured and are intended to fund working capital needs. This program requires a business to have been in operation for at least two years and a minimum FICO score of 600. This program has no pre-payment penalties, no processing or application fee.

The proceeds of this grant will be used to provide term loans to small businesses in the nine counties most impacted by Sandy. UCEDC has not finalized the lending terms surrounding this new Sandy recovery program, but is considering the parameters of its current Business Growth Fund Program. This would provide loans up to \$150,000 with a term of up to six years and amortizations as long as 10 years. The interest rate would start at 7%.

Source of Funds

<u>Source</u>	<u>Amount</u>
NJEDA: Grant, no repayment terms	\$500,000
Total	\$500,000

Use of Funds

<u>Description</u>	<u>Amount</u>
Loan Fund	\$500,000
Total	\$500,000

Loan Underwriting/Portfolio Management

The Loan and Asset Management committee, consisting of between six and nine members is appointed annually by the Chairman of UCEDC. The Committee members are responsible for adherence to the loan policies and procedures. They are also responsible to review and suggest changes to the UCEDC board of trustees annually. The loan and asset management committee meets monthly or more frequently if necessary. Minutes of each meeting are kept and ratified by the committee chairman. A quorum consists of a majority of the loan and asset management committee members. If there is not a quorum, the UCEDC Chairman and UCEDC Vice Chairman may temporarily serve as a voting member of the committee. Loan approval requires a minimum of four affirmative votes, regardless of the size of the committee. The loan and asset management committee has sole authority to approve loans.

Additionally, credit authority has been given to certain staff to approve loans of \$35,000 or less, based on pre-established parameters; three specific individuals have been granted this “in-house” lending authority, with a minimum of two signatures required. “In-house” approval is tied to specifically named loan officers, and does not automatically transfer to future personnel who may hold these positions at a later date.

UCEDC manages the post-approval portfolio using internal resources. At each loan and asset committee meeting, the members will review the loan-aging schedule of all outstanding loans and direct staff on collection matters. Collection efforts for delinquent accounts are handled using UCEDC employees until such time that legal action or collection agency involvement is necessary. UCEDC staff submits a written monthly status report on each loan to the committee.

Federal Grant Management

The Company has managed grants received from the United States Small Business Association for the last 20 years in connection with its microloan program. UCEDC also has received grants for the last 15 years from the United States Department of Defense Logistics Agency, which funds the procurement technical assistance services.

Products/Services

Microloan Program: Provides both start-up and existing businesses with an opportunity to borrow money for a variety of reasons, including purchasing equipment, fixtures or inventory, working capital, or making renovations on privately owned commercial real estate.

Start-ups (operational for less than two years) can borrow a maximum of \$35,000 at 10.25% for up to six years. Older businesses with a profitable operating history are eligible for up to \$50,000 at 9.0% for the same time period. Closing fees apply, but there are no prepayment penalties.

SBA 7(a) Community Advantage Loans: UCEDC is one of only 30 lenders in the nation to offer the SBA (7a) financing program, designed to encourage business growth in under-served communities. Long-term loans of up to \$250,000 are available to start-up (in operation less than two years) and existing businesses.

Funds can be used for a wide variety of purposes including working capital; furniture/fixtures, machinery and equipment; land acquisition for commercial purposes; construction or renovation for privately owned commercial properties; and business acquisition. Interest rates are based on operational history, and length of the loan depends on the use of the funds.

Business Growth Fund: UCEDC's Business Growth Fund supports growing businesses in need of a mid-sized loan or gap financing as part of a larger loan package with other lenders. Loans can be used for expanding or renovating commercial real estate; improving facades; abating code violations; purchase of fixed assets, inventory or equipment; or working capital. A portion of the funds may be used for refinancing existing debt.

Established businesses (36 months+) with a profitable operating history may borrow \$20,000 to \$150,000 at rates that vary from 7% to 9% and with terms that vary from 12 months to 120 months. Application fees may apply plus applicable closing costs, but there are no prepayment penalties.

Technical Assistance: UCEDC provides a six-week training program, with sessions targeted specifically to start-ups and established businesses. Help is provided, both in the classroom and out, to survive and thrive in any economy.

Additional products and services offered include Child Care Loans, Union County Means Business Loan Initiative, Lines of Credit, Business Basics workshops, Business Mentoring, ISO 9001, and UCEDC's PTAC (Procurement Technical Assistance Center) program.

Management

Maureen A. Tinan, President, has led the UCEDC since 1987. Previously, she served as Executive Director for the Division of Economic Development in Trenton, NJ. She has served in various business and economic development capacities since 1979. She is a graduate of the John Heldrich Leadership Institute of Rutgers University's Bloustein School, as well as a graduate of the Leadership New Jersey program.

Adam A. Farrah, Vice President, is an experienced Economic Development Professional with over 25 years of experience. A former Senior Loan Officer, he now supervises UCEDC's procurement technical assistance center, finance, business development, training and support staff.

John F. King, Controller, is a Trenton State College Graduate and has over 20 years experience in controllership, financial systems, financial planning and budgets, internal controls, and managerial reporting.

Board of Directors

UCEDC's bylaws require a minimum of 25 Trustees, and require that the composition of the Board contain a representative of local government, a member associated with private sector lending institutions, a member associated with community organizations, a member associated with a business in the area of operations, and a member associated with a labor organization. Furthermore, the bylaws require that the County Manager of Union County be a Trustee *ex officio*, and a Freeholder of Union County (chosen by the Board of Chosen Freeholders) also serve as a Trustee. At least one member must possess commercial lending experience. The current Board meets these criteria.

Board meetings are held on a quarterly basis, with additional special meetings called as necessary. The Executive Committee, limited to no more than 12 members, meets monthly, with the exception of there not being a scheduled meeting in December.

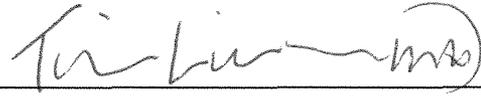
Executive Committee members include Roderick Spearman, Chairperson; Gail Driscoll, Vice Chairperson; Jane E. Rey, Secretary; and John Strydesky CPA, Treasurer.

Conditions

- Certification that UCEDC is either a qualified Community Based Development Organization ("CBDO") or qualifies under Section 105(a)(15) of the National Development and Community Act of 1974, whichever is required by HUD for Stronger NJ Neighborhood and Community Revitalization program.
- Requirement for UCEDC that all loans must comply with the requirements of CDBG-DR funding including, but not limited to, satisfaction of a National Objective, Duplication of Benefits, Cost Reasonableness and Environmental and Historic Review. In addition, all funds must be disbursed by December 31, 2015.

Recommendation

Approval of the \$500,000 grant to UCEDC is recommended based on its financial condition and goal to support small business owners located in the nine most impacted counties of New Jersey by the storm.

A handwritten signature in black ink, appearing to read "Tim Lizura", written over a horizontal line.

Timothy Lizura
President and Chief Operating Officer

Prepared By: Jay M. Wentzel

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ BUSINESS LOAN PROGRAM PROGRAM**

APPLICANT: Thunderball Marketing, Inc.

P38604

PROJECT USER(S): Leryna Realty LLC *

* - indicates relation to applicant

PROJECT LOCATION: 10 Cragwood Road Woodbridge Township (T/UAMiddlesex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

Thunderball Marketing, Inc. was founded in 1988 and incorporated in the State of New Jersey on June 1, 1989. The firm is a distributor of consumer electronics in the following market segments; mobile and security (45%), DJ equipment and home audio (35%) and home video (25%). Major brands carried are Cerwin Vega, Clarion, JBL, JVC, Kenwood, Panasonic, Pioneer, Sanyo, Yamaha, among others. Sales are direct to "bricks and mortar" retailers and indirectly to consumers through online retailers. The Company is owned by Joe Levy, President; Nissim Levy; Ely Levy, Chairman; and Morris Nahmoud, all with 25% ownership.

Superstorm Sandy flooded the Company's 65,000 square foot warehouse located in the community of Avenel in Woodbridge Township, New Jersey, an "orange" jurisdiction designated as having "Much More than Some Damage." Approximately, \$3,000,000 of damage to inventory as well as damage to computers, office furniture and equipment occurred as a result of 40 inches of flood waters impacting the warehouse from the sewer backup resulting from the overflow of the Woodbridge River, a tributary of the Arthur Kill River.

APPROVAL REQUEST:

A \$4,000,000 10-year term loan to finance working capital needs under the Stronger NJ Business Loan program is requested.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: \$4,000,000

TERMS OF LOAN: Ten (10) year term with a principal moratorium during the first 18 months followed by 102 months of equal principal payments. The first \$50,000 of the Loan will be forgivable. The Interest Rate during the first 24 months of the Loan shall be 0%, followed by 96 months of interest payments based on the 5-year US Treasury rate at closing.

PROJECT COSTS:

Working capital	\$4,000,000
TOTAL COSTS	<u>\$4,000,000</u>

JOBS: At Application 28 Within 2 years 18 Maintained 0 Construction 0

DEVELOPMENT OFFICER: H. Friedberg

APPROVAL OFFICER: T. Bossert

AUTHORITY MATTERS



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: November 15, 2013

RE: Retail Fuel Station–Energy Resiliency Program – Program Guidelines

Request:

The Members of the Authority are requested to review and approve the Program Guidelines for the Retail Fuel Station – Energy Resiliency Program (RFS-ERP). The guidelines are attached as Exhibit A. The members are also requested to extend signatory and delegated authority permissions to staff as detailed herein.

Background:

The Hazard Mitigation Grant Program (HMGP) provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Earlier this Fall, the Authority was asked by the Governor’s Office of Recovery and Rebuilding to work with other state agencies to develop and administer a program aimed at providing incentives to gas stations to allow for the installation of electric generators.

As a result of Superstorm Sandy, extensive power outages across the State rendered liquid fuel pumps and point of sale systems at many retail fuel stations inoperable. The RFS-ERP is a voluntary program designed to assist owners/operators of retail fuel stations with enhancing their operational resiliency. Working with the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Board of Public Utilities (NJBPU) approximately 270 retail fuel stations have been targeted for the incentive program based on fuel capacity and geographic

location on evacuation routes and heavily used roadways. Operational resiliency of individual stations will be enhanced by pre-wiring a back-up electric generator “quick-connect (QC),” transfer switch, and/or the installation of back-up electric generator units to energize primary retail fuel pumps, Point of Sale (POS) systems and/or requisite lighting and safety systems/equipment. An individual grant award for any purpose under this program will not exceed \$65,000. No other infrastructure hardening and/or mitigation work is within scope of this program.

The RFS-ERP will be funded with approximately \$7 million in Federal Emergency Management Agency (FEMA) HMGP money. The NJ Office of Emergency Management (NJOEM) designated as Grantee for the FEMA funding has requested the EDA, as sub-grantee, act as program administrator. A forthcoming Memorandum of Understanding (MOU) and State and Local Agreement between the NJEDA and NJOEM will outline each agency’s respective duties.

The generator incentive program is two-tiered as follows:

- Retail stations along targeted routes with gasoline fuel storage capacity between 30,000 gallons and 35,000 gallons are eligible for up to \$15,000 in grant funding to purchase quick connect technology or offset a portion of the cost of purchasing a generator. A limited number of gas stations with less than a 30,000 gallon capacity are eligible as they are the only station available on an identified evacuation route.
- Retail stations along targeted routes with gasoline fuel storage capacity greater than 35,000 gallons are eligible for up to \$65,000 in grant funding toward the purchase and installation of an onsite generator, which will cover in most instances the full cost of equipment and installation.

Under the grant parameters, eligible fuel stations are required to serve both diesel and gasoline, except in very limited instances where a station does not sell diesel but is the only available retail fuel outlet within a quarter mile of an identified evacuation route.

Eligible applicants will be invited to participate in the program. These include retail fuel stations selling gasoline and diesel fuel located within a quarter of a mile of key evacuation routes across the State. There will be an eight week open, rolling period for accepting applications. Applications will be reviewed on a first-received, first-processed basis. Applicants will be notified within approximately 45 days as to eligibility status. The timing will depend upon secondary reviews required by OEM and FEMA and additional time may be required if any issues are raised during the environmental and historical reviews. Assistance is subject to the availability of funds. A July 30, 2015 project completion deadline has been established for this program.

If it is determined that a vendor is required for the program in support of EDA’s Real Estate Division, EDA may work with Treasury to procure a vendor from their established vendor pool through a mini-bid process. Selected vendors may support the NJEDA by providing technical assistance in a number of areas anticipated to include review of cost estimates, perform site

inspections and Prevailing Wage/Davis Bacon/Affirmative Action compliance.

The NJEDA will receive limited support from the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Board of Public Utilities (NJBPU) in administering the program. A forthcoming MOU with these parties will outline their supporting roles with post closing monitoring and creating and maintenance of a database of emergency contact information of gas station owners/operators.

Staff anticipates that the MOU will be recommended to the Board at the December meeting and applications will be available immediately following the meeting.

Provided there is a sufficient number of completed applications available to submit to FEMA in December, then Staff anticipates a January Board presentation for the first State and Local Agreement to be considered for execution.

Recommendation:

The Members are requested to approve the following:

- 1) The RFS-ERP Guidelines (Exhibit A);
- 2) Extend permission for staff delegations to the Managing Director of Post Closing Financial Services and the Director of Real Estate to approve the award of grants and approve any modifications in accordance with the Board approved Program Guidelines.

Staff will provide a monthly report to the board for informational purposes identifying the approvals.

A handwritten signature in black ink, appearing to read "Timothy J. ...", is written over a horizontal line. The signature is cursive and includes a large flourish at the end.

Attachment: Appeal Process

Prepared by: Sandy Zeglarski and Lisa Petrizzi

**RETAIL FUEL STATION – ENERGY
RESILIENCY PROGRAM
PROGRAM GUIDELINES**

November 2013

Retail Fuel Station – Energy Resiliency Program

Retail Fuel Station – Energy Resiliency Program Goal:

To enhance the operational resiliency of retail fuel stations statewide which are located within a quarter of a mile of one of the key evacuation routes across the State and sells both diesel and gasoline from future electric power outages by incentivizing the permanent installation of back-up electric generator “quick-connects” and/or electric generator units to the fuel pumps. In addition to the generator incentive program for retail fuel stations, the State is acquiring and will maintain a strategic cache of emergency generators that can be deployed through state emergency responders during a major power outage to critical assets such as shelters, hospitals, public safety facilities, and retail fuel stations. The generator cache will be stored by the NJ Department of Transportation at strategically located facilities to help cover north, central and south response needs.

Program Description:

Superstorm Sandy caused extensive power outages across the State that rendered liquid fuel pumps and point of sale systems at many retail fuel stations inoperable. The Retail Fuel Station (RFS) – Energy Resiliency Program is a voluntary program designed to assist eligible owners/operators of retail fuel stations enhance their operational resiliency. Operational resiliency of individual stations will be enhanced by pre-wiring a back-up electric generator “quick-connect (QC),” transfer switch, and/or the installation of back-up electric generator units to energize primary retail fuel pumps, Point of Sale (POS) systems and/or requisite lighting and safety systems/equipment. An individual grant award for any purpose under this program will not exceed \$65,000. No other infrastructure hardening and/or mitigation work is within scope of this program.

Program Funding:

The Hazard Mitigation Grant Program (HMGP), administered by FEMA, provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate

recovery from a disaster. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

It is expected that the RFS- Energy Resiliency Program will be funded with approximately \$7 million in FEMA Hazard Mitigation Grant Program (HMGP) money. Grants of up to \$65,000 will be made available for eligible applicants to install back-up electric generator “quick connect” packages and/or back-up electric generators to energize point of sale systems and requisite lighting and safety systems.

- Grant awards up to \$15,000 available for targeted retail stations with gasoline fuel storage capacity between 30,000 to 35,000 gallons to purchase “quick connect” technology or offset a portion of the cost of purchasing a generator. A limited number of gas stations with less than a 30,000 gallon capacity are eligible as they are the only station available on an identified evacuation route.
- Grant awards up to \$65,000 available for targeted retail stations with gasoline fuel storage capacity greater than 35,000 gallons for the permanent installation of back-up electric generator units.

Eligible Retail Fuel Stations:

The targeted list of eligible retail fuel stations can be found here: [pdf download](#). If an eligible retail fuel station is not included on this targeted list, the retail fuel station may apply.

Eligible Costs:

Under the Retail Fuel Station – Energy Resiliency Program, the permanent installation of back-up electric generator “quick-connects” and/or the permanent installation of back-up electric generator units to energize primary retail fuel pumps, Point of Sale systems and/or requisite lighting and safety systems/equipments costs are eligible. No other infrastructure hardening and/or mitigation work is within the scope of this program.

Eligibility Criteria:

- Applicant is owner of the project site or operator with legal authority to make such permitting and construction alterations to the project site.
- Work on project has not commenced prior to approval of the grant.
- Located within a quarter of a mile of one of the key evacuation routes across the State.
- Retail fuel stations with gasoline fuel storage capacity between 30,000 to 35,000 gallons are eligible for up to \$15,000 to purchase quick connect technology or offset a portion of the cost of purchasing a generator. In addition, a limited number of fuel stations with less than a 30,000 gallon capacity are eligible for \$15,000 in grant funding as they were also the only stations available on an identified evacuation route.
- Retail fuel stations with gasoline fuel storage capacity greater than 35,000 gallons are eligible for up to \$65,000 toward the purchase and installation of an onsite generator.
- Retail fuel station must sell both gasoline and diesel fuel. (If a station does not sell diesel but is the only available retail fuel outlet within a quarter mile of an identified evacuation route, it will be eligible).
- Retail fuel station must have an effective UST (underground storage tank) registration

Conditions:

- Work must be completed and documentation submitted to the EDA within 6 months of the applicant's receipt of the grant agreement. If the retail fuel station was lawfully licensed to operate on October 29, 2012 and sustained verifiable physical damage as a result of Superstorm Sandy, the owner/operator will have one year from date of program launch to complete reconstruction and elevation work and meet all program conditions.
- Applicant must ensure a maintenance contract for permanent generator be in place for 5 years from date of final approval of municipal building inspector
- Applicant must comply with Prevailing Wage/Davis Bacon requirements
- Valid Tax Clearance Certificate at approval
- Flood insurance required, if project site in flood plain (V Flood Zone) *and must be maintained in perpetuity in minimum amount of grant award (FEMA to verify)*
- Must be a US citizen or provide proof of non-citizen national or qualified alien status

- Satisfactory debarment review for applicant and contractor(s) (similar to Sandy grant application questions with price gauging)
- Project must comply with all environmental and historic preservation laws and requirements.

All local permitting should be obtained including the Local Use and Occupancy inspection from municipality. A NJDEP air permit may be required should the size of the permanent generator and its heat input exceed the permitted thresholds. Municipalities will be notified of program participation.

Application Process:

- Eligible applicants will be invited to participate in the RFS – Energy Resiliency Program. There will be an eight week open, rolling process for accepting applications.
- Completed applications will be reviewed on a first-received basis. The application will gather specific information about the applicant and project responsive to program requirements.
- Applications received from operator of project site must demonstrate legal authority to make such permitting and construction alterations to the project site.

Application Approval Process:

- If it is determined a vendor is required, EDA may work with Treasury to support the NJEDA in application review process by providing technical oversight, performing site inspections and providing Prevailing Wage/Davis Bacon oversight.
- Once an application is deemed complete, the application and all accompanying documentation will be reviewed by EDA staff and the Vendor to determine if it meets program parameters and is eligible. The application and supporting documentation will be submitted to OEM and FEMA for review and approval.
- The applicant will be notified within approximately 45 days as to eligibility status. The timing will depend upon secondary reviews required by OEM and FEMA and additional time may be required if any issues are raised during the environmental and historical reviews.

A grant agreement will be executed between the EDA and the applicant outlining the conditions of the grant award. The applicant will be required to complete the installation of a quick connect and submit all the necessary documentation no later than 6 months from the date the applicant received the grant agreement. The applicant will be required to complete the installation of a permanent generator and submit all the necessary documentation no later than 9 months from the date the applicant received the grant agreement. If zoning board approval is required in order to complete the installation of the permanent generator, the applicable time waiting for the hearing in front of the local zoning board and its subsequent decision will be tolled. The applicant must inform the EDA in writing upon notification that a zoning board approval is required and provide evidence of its decision.

Project Completion Process

- The applicant will be required to complete a project completion certificate and attach the required documents in order to receive disbursements of funds. A final project review will include a site inspection, anticipated to be performed by the Vendor, to take place two weeks from date of receipt of the project completion certificate.
- Upon satisfactory review of the project completion documentation, EDA will submit said documentation to OEM and FEMA for approval and requisition the funds to be disbursed to the applicant.

Funding of projects will depend on the applicant's ability to provide completed information and all required documentation within the timeframes specified within the grant agreement.

A July 30, 2015 project completion deadline has been established for this program.

All awards are subject to availability of funds.

Appeal Process:

An applicant may appeal NJEDA's decision by submitting in writing to NJEDA no later than 20 calendar days from the date of the denial, an explanation as to how the applicant has met the program criteria. Such challenges are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The CEO of NJEDA shall designate an employee of NJEDA to serve as a hearing officer for the challenge and to make a recommendation on the merits of the challenge to the Board according to the attached process.

Compliance Process

- NJDEP has agreed, in conjunction with their annual underground storage tank inspections, to verify certain program requirements. We anticipate NJDEP verifying the current operation of the quick connect or permanent generator, continued operation and ownership of the project site in a similar manner, and current emergency contact information of the owner or operator of the gas station.
- NJBPU has agreed to create and maintain a database of emergency contact information of station owners who have back-up generation capabilities. This information will be used by NJOEM in an emergency situation whereby portable generators are needed to be strategically deployed throughout the State. In addition, NJOEM will be able to reach out to gas station owners to determine when they will be operational to sell fuel to the surrounding communities.
- The EDA will consider recapturing all or part of a grant or rescinding or terminating a grant agreement if terms or conditions set forth in the grant agreement are not met.

Reporting:

Approved projects will be subject to all reporting required by NJOEM and FEMA including, but not limited to: labor requirements, historical reviews and environmental requirements. To the extent that other reporting requirements may apply, the applicant will be made aware and will have to provide information sufficient to satisfy those requirements.

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (NJEDA)

RETAIL FUEL STATION – ENERGY RESILIENCY PROGRAM

APPEAL PROCESS

An applicant may challenge the NJEDA's decision by submitting in writing to the NJEDA no later than 20 calendar days from the date of the denial, an explanation as to how the applicant has met the program criteria. Such challenges are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Challenges that are timely submitted shall be handled by the NJEDA as follows:

1. The CEO of the NJEDA shall designate an employee of the NJEDA to serve as a hearing officer for the challenge and to make a recommendation on the merits of the challenge to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer shall have sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the challenge. The NJEDA may consider new evidence or information that would demonstrate that the applicant meets all of the application requirements.
2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his or her finding(s) and recommendation(s) on the merits of the challenge. The hearing officer's report shall be advisory in nature and is not binding on the Board. The CEO, or equivalent officer, of the NJEDA may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within a reasonable amount of time from receipt of such report.
3. The Board shall consider the hearing officer's report, the recommendation of the CEO, or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the challenge. Such decision shall become effective 10 working days after the Governor's receipt of the minutes of the public meeting at which such decision occurs, provided no veto has been issued. The applicant shall have the opportunity to attend the public meeting at which the Board considers its challenge.
4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing Courts of the State of New Jersey.

**TECHNOLOGY BUSINESS TAX CERTIFICATE
TRANSFER PROGRAM**



MEMORANDUM

To: Members of the Authority

From: Timothy Lizura
President and Chief Operating Officer

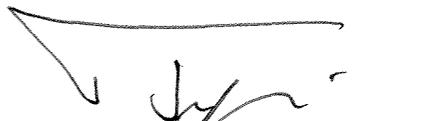
Date: November 15, 2013

Subject: Technology Business Tax Certificate Transfer Program (the "Program")
Appeals

Pursuant to the Program's enabling legislation, NJEDA annually reviews applications to ensure the applicants meet the statutory requirements of the Program. Staff's recommendation for approval or declination is then presented to the Members for approval. Applicants that are declined have 20 days to submit appeals which are reviewed by an independent Hearing Officer.

At EDA's September 12, 2013 Board Meeting, the Members considered 62 requests from companies to participate in the Technology Business Tax Certificate Transfer Program. A total of 11 of those requests were disapproved.

I have reviewed the attached Hearing Officer's report regarding the appeals by for Symbolic IO Corporation, Absecon Mills, Inc., CareKinesis, Inc., Conolog Corporation, Deltronic Crystal Industries, Inc., Midawi Holdings, Inc., and VectraCor, Inc. in regard to the Technology Business Tax Certificate Transfer Program. I concur with the recommendation that the disapprovals under the Program for Absecon Mills, Inc., CareKinesis, Inc., Conolog Corporation, Deltronic Crystal Industries, Inc., and VectraCor, Inc be upheld and the declinations for Symbolic IO Corporation and Midawi Holdings, Inc., to be reversed.



Timothy Lizura



MEMORANDUM

TO: Michele Brown, Chief Executive Officer
Members of the Authority

FROM: Heather M. O'Connell
Hearing Officer

DATE: November 15, 2013

SUBJECT: Technology Business Tax Certificate Transfer Program ("NOL Program") Appeals

Request:

The members are asked to approve the Hearing Officer's recommendation to reverse the declination of the NOL Program application for Midawi Holdings, Inc., and Symbolic IO Corporation and to uphold the declination of NOL Program applications for Absecon Mills, Inc., CareKinesis, Inc., Conolog Corporation, Deltronic Crystal Industries, Inc., and VectraCor, Inc.

Background:

Pursuant to the enabling legislation, NJEDA administers the NOL Program including the review of each application to insure applicants meet the statutory requirements of the NOL Program. Staff recommendations are then presented to the Members for consideration. Applicants disapproved under the NOL Program may appeal the disapprovals and are permitted to submit clarifying (but not new) information to support those appeals. A Hearing Officer is assigned by the CEO to provide an independent review of the appeals. I am fulfilling the role of Hearing Officer to review the appeals, and have completed that review with legal guidance from the Attorney General's Office.

At the September 12, 2013 Board Meeting, the Members considered 62 requests from companies to participate in the NOL Program. A total of 51 (82%) requests were recommended for approval and 11 (18%) requests were disapproved. Average estimated benefits were calculated to be \$1,176,470 per approved company based on this year's budget allocation of \$60 million. If the Board agrees with the recommendation to approve a company previously disapproved or disagrees with any of the decisions of the Hearing Officer to uphold all of the declinations, the benefit amount will be recalculated based on the total new number of approvals; the change to the amount of benefit received by the companies is expected to be de minimus.

Following the September Board meeting, the 11 companies that were disapproved were sent written notice of the Board's action along with the reasons for the disapproval. In that letter, applicants were notified of the decision and were provided 20 days to appeal. Of the 11 disapproved, seven

filed appeals by the deadline of October 2, 2013.

Over the past four weeks, each appeal has been reviewed and in some instances, additional clarifying information has been requested.

Based on the review of the appeals submitted by the applicants and the analyses prepared by the initial review team from EDA, I am recommending that the following companies be approved for participation in the NOL Program:

Midawi Holdings, Inc.

Midawi Holdings, Inc. (“Midawi”) was disapproved for not demonstrating that it had protected, proprietary, intellectual property (“PPIP”) as is required by N.J.A.C. 19:31-12.2 for its software development business. Midawi provides integrated organizational and financial management tools to families. Due to the unique nature of this application as a web based software business, outside counsel was consulted to assist in this review. Based on clarifying information provided by the applicant and consultation with outside counsel, the Hearing Officer has concluded that the company is primarily in the software design and development business having two registered copyrights on the company’s software source code. The company’s business is substantially more than only a revenue source web portal or intermediary providing links for users to financial institutions and other sellers of services to assist families with financial management and saving goals. As such, the company meets the regulatory requirement for PPIP and has provided sufficient evidence that it owns or licenses PPIP on its primary business of software development with qualified employees and therefore meets the definition of being a new or expanding technology company all as required by N.J.S.A. 34:1B-7.42(b).

Symbolic IO Corporation (“Symbolic”)

Symbolic was disapproved for not demonstrating that it had protected, proprietary, intellectual property (“PPIP”) as is required by N.J.A.C. 19:31-12.2 for its enterprise storage systems business of developing and using technologies to create data storage efficiency. Based on clarifying information provided by the applicant, the Hearing Officer has concluded that the 3 patent applications provided by the company meet the regulatory requirement for PPIP and has provided sufficient evidence that it owns or licenses PPIP on its primary business, and therefore meets the definition of being a new or expanding technology or biotechnology company all as required by N.J.S.A. 34:1B-7.42(b).

Based on the review of the appeals and the analyses prepared by the initial review team from EDA, I am recommending the following six declinations be upheld as the applicants have not demonstrated they meet all of the eligibility criteria of the NOL Program.

Absecon Mills, Inc.

Absecon Mills, Inc. (“Absecon Mills”) failed to demonstrate that it is operating as a technology business as required by N.J.S.A. 34:1B-7.42(b) for its traditional textile weaving business, has not demonstrated that it has PPIP as the applicant’s primary business as required by N.J.A.C. 19:31-12.2, and failed to demonstrate that it had a net operating loss in 2011 as required by N.J. S.A. 54:10A-4(k)(6)(c) and N.J.S.A. 34:1B-7.42(a)(b)(5).

Based on a review of the company's appeal it has been determined that (i) the provisional patent application was not in the name of the company at the NOL Program deadline; (ii) the company's primary business at this time is textile weaving and not a PPIP innovative ballistics textile development technology business in connection with weave structure and improvements in related weights and measures; and (iii) the financial statements provided with the application were not prepared according to GAAP. As such, it is recommended that all declinations be upheld.

CareKinesis, Inc.

CareKinesis, Inc. ("CareKinesis") failed to demonstrate that it is operating as a technology business as required by N.J.S.A. 34:1B-7.42(b), and has not demonstrated that it has PPIP as the applicant's primary business as required by N.J.A.C. 19:31-12.2 for its pharmaceutical business.

Based on a review of the company's appeal it has been determined that although software is an integral part of the business model, the company's primary business continues to be a pharmacy and that the company's PPIP software serves only to support the operations of its pharmacy. Since the company is not seeking to commercialize its patent and copyright of being a technology enabled pharmacy solutions provider of specialized services to reduce errors in dosing and incorrect medications and monitoring side effects for the pharmaceutical care of its patients as its primary business there is not sufficient evidence to overturn the declination previously issued for not operating as a technology business possessing the requisite PPIP. As such, it is recommended that all declinations be upheld.

Conolog Corporation

Conolog Corporation ("Conolog") failed to demonstrate that it is operating as a technology business as required by N.J.S.A. 34:1B-7.42(b), and has not demonstrated that it has PPIP for its business as an electronics components manufacturer as its primary business as required by N.J.A.C. 19:31-12.2.

Based on a review of the appeal it has been determined that there was not sufficient information presented to conclude that the copyright or patent presented with its NOL Program application is Conolog's primary business (based on the 2012 sales break down provided by the company). Since the software covered by the copyright and the product covered by the patent (which is still under development and did not produce income in 2012) does not constitute the company's primary business as an electric utilities and communication service and equipment provider, Conolog does not meet the NOL Program regulations. As a result, there is not sufficient evidence to overturn the declinations previously issued for not operating as a technology business possessing the requisite PPIP and it is recommended that all declinations be upheld.

Deltronic Crystal Industries, Inc.

Deltronic Crystal Industries, Inc. ("Deltronic") failed to demonstrate that it had a net operating loss in 2012 as required by N.J. S.A. 54:10A-4(k)(6)(c) and N.J.S.A. 34:1B-7.42(a)(b)(5). Deltronic manufactures and processes crystal material for the electronics, telecommunications and laser photonics industries for the protection of laser sources from optical feedback.

Based on a review of the appeal, it has been determined that the original financial statements for the Fiscal Year Ended February 29, 2012 showed net operating profit. Deltronic stated that these financial statements showed net operating income only as a result of an oversight of a formatting

error. A corrected copy of the 2012 financial statements was included with the appeal that indicated a net operating loss as a result of interest expense being reclassified as an operating expense. GAAP only allows interest expense to be treated as an operating expense if the entity is in the business of borrowing and lending money. Since the company is not in that business, the corrected copy of the 2012 financial statements was deemed to be non-compliant with GAAP standards.

Further, the company was also required to demonstrate that it has not had net operating income for any of the two previous full years of operations. Although Deltronic did not provide a final version of its 2013 financial statements for consideration with the original application or the appeal, the Hearing Officer requested and received a final, CPA signed version of the 2013 financial statements on October 29, 2013 which show a net operating loss. The same issue regarding compliance with GAAP was raised again as these statements also reflected interest expense being included as part of the operating expenses. The CPA indicated that these statements were a compilation only rather than audited. As a result the CPA stated that no representation could be provided about whether the statements complied with GAAP. As the same issue appears in the 2013 financial statements the Hearing Officer concluded that Deltronic did not meet the NOL Program requirements with respect to 2013 and it is recommended that the declination be upheld.

VectraCor, Inc.

VectraCor, Inc. (“VectraCor”) failed to demonstrate it employed the minimum number of 5 full-time employees on June 30, 2013 as required by N.J.S.A. 34:1B-7.42(b). VectraCor is a cardiology early detection medical device business.

VectraCor submitted a signed application exhibit showing 6 full-time employees in the State of New Jersey. However, one of the employees was listed as not applying for health benefits coverage leaving 5 eligible employees under the statute as of June 30, 2013 which is the requirement of the NOL Program for companies that have been in operation for more than three (3) years but less than five (5) years.

The appeal by VectraCor stated that one employee has been working for the company since inception in 2009, but only was retained as a compensated salaried employee beginning in October 2012. In a subsequent email to Mr. Rosenfeld dated October 18, 2013, VectraCor stated that (i) this employee does work 35 hours a week, (ii) no employee at the company punches a time clock, and (iii) there is no evidence of the amount of time any employee works, except the documentation from the CEO himself. Further, the certification to the health care insurance provider was in error regarding the hours of this employee.

To participate in the NOL Program an applicant must provide documentation to EDA regarding its operations and activities including written proof that the company satisfies the requisite full-time employee requirements, which in this case would have also included a revised health care provider certification to correct the stated error showing that the employee actually works the required 35 hours per week. In the absence of any other records indicating the amount of time worked per week, the health care certification is the only form of verification available for review and verification, and this certification is clearly deficient with respect to the NOL Program requirements. As such, the company has not provided sufficient evidence to overturn the previous declination, and it is recommended that the declination be upheld.

Notwithstanding the foregoing, the Hearing Officer received new information from VectraCor consisting of an e-mail dated November 11, 2013 and a corrected insurance form regarding increased weekly hours worked by the one employee above referenced. This information has not changed the recommendation of the Hearing Officer. There was no other documentation provided to verify this revised information and it is unclear whether this insurance certificate has yet been filed. In any event, this submission is determined to be new information pursuant to N.J.A.C. 19:31-12.6 (d) which cannot be considered.

Recommendation:

As a result of careful consideration of the above appeals in consultation with the Attorney General's Office, the following appeal is recommended for approval: Midawi Holdings, Inc., and Symbolic IO Corporation. The following appeals are recommended for denial: Absecon Mills, Inc., CareKinesis, Inc., Conolog Corporation, Deltronic Crystal Industries, Inc., and VectraCor, Inc.

Prepared by: Heather M. O'Connell, Hearing Officer