NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
May 16, 2014

MINUTES OF THE MEETING

Members of the Authority present: Al Koeppe, Chairman; Steve Petrecca representing State Treasurer; Commissioner Kenneth Kobylowski of the Department of Banking and Insurance; Colleen Kokas representing the Commissioner of the Department of Environmental Protection; Fred Zavaglia representing the Commissioner of the Department of Labor and Workforce Development; Public Members: Joseph McNamara, Vice Chairman; Larry Downes, Charles Sarlo, Fred B. Dumont, Elliot M. Kosoffsky, Second Alternate Public Member; and Harold Imperatore, Third 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; and staff.

Absent: Melissa Orsen representing the Executive Branch; Public Member Jerry Langer, and Rodney Sadler, Non-Voting Member.

Chairman Koeppe 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 April 8, 2014 regular meeting minutes. A motion was made to approve the minutes by Mr. Downes, seconded by Mr. Zavaglia, and was approved by the 10 voting members present.

Commissioner Kenneth Kobylowski abstained from voting because he was absent.

The next item of business was the approval of the April 8, 2014 executive session meeting minutes. A motion was made to approve the minutes by Mr. Downes, seconded by Mr. Zavaglia, and was approved by the 10 voting members present.

Commissioner Kenneth Kobylowski abstained from voting because he was absent.

CEO Michele Brown thanked outgoing Board Member Ray Burke for his many years of service to the Board. Chairman Koeppe also thanked Ray Burke for his years of dedication, stating that he will be missed for his guidance on the Board.

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

AUTHORITY MATTERS

ITEM: Modifications to the Authority's Administrative and Real Estate Operating Authorities

REQUEST: To approve certain modifications to the Authority's current Administrative Operating Authority, to reflect the deletion of the "Non-Contracted Expenditures" section, and to update both the Administrative Operating Authority and the Real Estate Operating Authority to reflect recent title changes within the Accounting and Financial Reporting, Real Estate and Executive departments.

MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

BOND PROJECTS

PROJECT: Shining Schools, Inc. APPL.#39159
LOCATION: East Orange/Essex
PROCEEDS FOR: Construction of new building or addition
FINANCING: $3,629,445 Tax-exempt bond
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Kosoffsky **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

COMBINATION PRELIMINARY AND BOND RESOLUTIONS

PROJECT: Garden State Consumer Credit Counseling, Inc. APPL.#39360
LOCATION: Manalapan Twp/Monmouth
PROCEEDS FOR: Building acquisition
FINANCING: $5,590,000 Tax Exempt Bond
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

PRELIMINARY RESOLUTIONS

PROJECT: Atlantic City Sewerage Company APPL.#39369
LOCATION: Atlantic City/Atlantic
PROCEEDS FOR: Purchase of equipment & machinery
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Commissioner Kobylowski **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

LOANS/GRANTS/GUARANTEES

DIRECT LOANS

ITEM: Proposed NJEDA Core Loan Program Revisions
REQUEST: To approve revisions to NJEDA Core Loan Programs. The revisions are intended to make the NJEDA's programs more reflective of current market needs and to enhance our assistance to small to mid-size businesses in the State. In addition, the revisions will align interest rates with risk evaluations for loans and participations.
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Commissioner Kobylowski **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

ITEM: TD Bank New Jersey Advantage Program Pilot Program
REQUEST: To approve the amendment of terms of the TD Bank New Jersey Advantage Program Pilot Program.
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

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.

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

PROJECT: Paula Engelbrecht **APPL.#**38945
LOCATION: Jackson Twp/Ocean
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: $126, 520 Petroleum UST Remediation, Upgrade and Closure Fund Grant
MOTION TO APPROVE: Ms. Kokas **SECOND:** Mr. Zavaglia **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

PROJECT: Jennifer Fedorka **APPL.#**38825
LOCATION: Vernon Twp/Sussex
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: $129,332 Petroleum UST Remediation, Upgrade and Closure Fund Grant
MOTION TO APPROVE: Ms. Kokas **SECOND:** Commissioner Kobylowski **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

PROJECT: Clara Engime **APPL.#38693**
LOCATION: Colingswood Borough/ Camden
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: $108,631 Petroleum UST Remediation, Upgrade and Closure Fund Grant
MOTION TO APPROVE: Ms. Kokas **SECOND:** Commissioner Kobylowski **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

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 Department of Environmental Protection.

The following projects were presented under the Hazardous Discharge Site Remediation Fund Program.
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. Imperatore **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

PROJECT: MMH II, LLC **APPL.#39081**
LOCATION: Elizabeth City/Union
PROCEEDS FOR: Remedial Investigation
FINANCING: $32,722 Hazardous Discharge Site Remediation Fund Grant

INCENTIVE PROGRAMS

ITEM: Reproposed Rule Amendments – New Jersey Economic Opportunity Act of 2013
REQUEST: To approve reproposed amendments to the rules implementing the Economic Redevelopment and Growth Program and Grow New Jersey Assistance Program based on statutory revisions enacted pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161.
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Zavaglia **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

RESIDENTIAL ECONOMIC REDEVELOPMENT AND GROWTH GRANT PROGRAM

ITEM: Glassboro Mixed-Use Urban Renewal, LLC
REQUEST: To approve the application of Glassboro Mixed-Use Urban Renewal, LLC for a Glassboro Borough, Gloucester County primarily residential project which is part of the multi phase Rowan Boulevard Redevelopment Project for the issuance of tax credits. The recommended amount of the tax credit is 30% of the eligible project costs based on the budget submitted, not to exceed $22,045,806.
MOTION TO APPROVE: Mr. Imperatore **SECOND:** Mr. Dumont **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

ECONOMIC REDEVELOPMENT AND GROWTH GRANT PROGRAM

ITEM: Sayreville Seaport Associates L. P.
REQUEST: To approve the application of Sayreville, Seaport Associates, L. P. for reimbursement of certain taxes for a Sayreville, Middlesex County project. The recommended reimbursement is 20% of the eligible costs, not to exceed $223,277,590.
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Kosoffsky **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

GROW NEW JERSEY ASSISTANCE PROGRAM

PROJECT: Artech Information Systems LLC APPL.#39363
LOCATION: Morris Twp/Morris
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Kosoffsky **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

PROJECT: Artech Information Systems LLC APPL.#39363
LOCATION: Morris Twp/Morris
ANNUAL GRANT AWARD: $220,500, 10 year term
MOTION TO APPROVE: Commissioner Kobylowski **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: Better Team USA Corporation APPL.#39090
LOCATION: Clifton/Passaic
ANNUAL GRANT AWARD: $1,125,000, 10 year term
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Imperatore **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 14

PROJECT: Conopco, Inc. d/b/a Unilever APPL.#39350
LOCATION: Englewood Cliffs/Bergen
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Commissioner Kobylowski **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 15

PROJECT: Conopco, Inc. d/b/a Unilever APPL.#39350
LOCATION: Englewood Cliffs/Bergen
ANNUAL GRANT AWARD: $3,800,000, 10 year term
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Zavaglia **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 16

PROJECT: Conopco, Inc. d/b/a Unilever APPL.#39362
LOCATION: Englewood Cliffs/Bergen
STX GRANT AWARD: $2,060,318
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Kosoffsky **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 17

PROJECT: Insight Catastrophe Group, LLC APPL.#39361
LOCATION: Jersey City/Hudson
ANNUAL GRANT AWARD: $248,000, 10 year term
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Nelson **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 18

PROJECT: Jimmy's Cookies, LLC APPL.#39372
LOCATION: Clifton City/Passaic
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Imperatore **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 19

PROJECT: Jimmy's Cookies, LLC APPL.#39372
LOCATION: Clifton City/Passaic
ANNUAL GRANT AWARD: $753,750, 10 year term
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 20

PROJECT: JPMorgan Chase Bank, NA APPL.#39215
LOCATION: Jersey City/Hudson
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 21

PROJECT: JPMorgan Chase Bank, NA APPL.#39215
LOCATION: Jersey City/Hudson
ANNUAL GRANT AWARD: $22,483,500, 10 year term
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Dumont **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 22

PROJECT: RBC Capital Markets, LLC APPL.#39190
LOCATION: Jersey City/Hudson
ANNUAL GRANT AWARD: $7,875,000, 10 year term
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Kosoffsky **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 23

PROJECT: Univision Communications Inc. and Subsidiaries APPL.#39371
LOCATION: Vineland City/Cumberland
ANNUAL GRANT AWARD: $350,000, 10 year term
MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Kosoffsky **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 24

BOARD MEMORANDUMS

ITEM: Atlantic States Cast Iron Pipe Company
$250,000 UEZ Energy Sales Tax Exemption

This item was held from consideration

FOR INFORMATION ONLY: Summary of the projects approved under Delegated Authority in April 2014:

New Jersey Business Growth Fund: ECR Delsea, LLC (P39305)

Premier Lender Program: 2Com Grop, LLC and FusionTech, LLC or Nominee (P39150, P39151, & P39152)

Small Business Fund Program: Luma Enterprises, LLC (P39149)

Stronger NJ Loan Program: Casa Comieda, Inc. t/a Casa Comida (P38762), Charlroy Corporation d/b/a Charlroy Motel (P39044), Malusa and Sons, Inc. (P38779), Providence Pediatric Medical Day Care, Inc. (P38961), Seaside Lumber Company, Inc. (P38956)

New Jersey Business Growth Fund - Modification: CMQV, LLC and Cape May Victorian Inns, Inc. (P39385), Thomas A. Iliadis and Freehold Grill, Inc. (P39390),

Stronger NJ Business Loan Program - Modification: Atlantis Realty Associates LLC (P38662 & P39161), Donovan's Reef, Inc and LBP Corp. t/a Donovan's Reef (P38634 & P38724), Susan Wagner Designs Limited Liability Company (P38777)

OFFICE OF RECOVERY

STRONGER NEW JERSEY BUSINESS LOAN PROGRAM

ITEM: Amendment to Stronger NJ Business Loan Program Policies
REQUEST: To approve an amendment to the Stronger New Jersey Business Loan Program to allow EDA staff to approve projects under delegated authority using applicant prepared financial projects.
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Commissioner Kobylowski **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 25

ITEM: Delegations Regarding Disqualification and Debarment Matters related to Stronger NJ Business Financial Assistance Programs
REQUEST: To approve the establishment of additional delegations for certain disqualification and debarment matters related to applicants to the Stronger New Jersey financial Assistance Programs
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. Imperatore **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 26

PROJECT: Jakeabob's Bay Inc. **APPL.#38805**
LOCATION: Union Beach Borough/Monmouth
PROCEEDS FOR: Working capital
FINANCING: $297,131 loan
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Commissioner Kobylowski **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 27

PROJECT: Margaritaville, Inc and Jakeabob's Bay Inc. **APPL.#39373**
LOCATION: Union Beach Borough/Monmouth
PROCEEDS FOR: Construction
FINANCING: $1,542,000 loan
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 27

PROJECT: Margaritaville, Inc and Jakeabob's Bay Inc. **APPL.#39400**
LOCATION: Union Beach Borough/Monmouth
PROCEEDS FOR: Refinancing
FINANCING: $400,000 NJEDA Direct Term Loan
MOTION TO APPROVE: Mr. Kosoffsky **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 28

PROJECT: Shrewsbury River Associates and Shrewsbury River, Inc. **APPL.#38636**
LOCATION: Sea Bright Borough/Monmouth
REQUEST: To increase the $3,000,000 construction loan approved on December 10, 2013 to $4,913,805
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 29

STRONGER NEW JERSEY BUSINESS GRANT PROGRAM

ITEM: Stronger New Jersey Business Grant Program Appeals

This item was held from consideration

PUBLIC COMMENT

Mr. J. Brian O'Neill, Jr.; O'Neill Properties thanked the Board for its approval of the Sayreville Seaport Associates project.

Ms. Gigi Dorr, Owner of Jakeabob's Bay Inc., expressed her gratitude and enthusiastically thanked staff members and the Board for its approval of her project today.

There being no further business, on a motion Mr. Dumont, and seconded by Mr. Kosoffsky, the meeting was adjourned at 11:50 am.

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, Sr. Governance & Outreach Officer
Assistant Secretary

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Michele Brown
Chief Executive Officer

DATE: May 16, 2014

SUBJECT: Agenda for Board Meeting of the Authority May 16, 2014

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

Chief Executive Officer's Monthly Report to the Board

Authority Matters

Bond Projects

Loans/Grants/Guarantees

Office of Recovery

Incentive Programs

Board Memorandums

Executive Session

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
April 8, 2014

MINUTES OF THE MEETING

Members of the Authority present: Al Koeppe, Chairman; Steve Petrecca representing the State Treasurer; Fred Zavaglia representing the Commissioner of the Department of Labor and Workforce Development; Christopher Hughes representing the Commissioner of the Department of Banking and Insurance; Colleen Kokas representing the Commissioner of the Department of Environmental Protection; Public Members: Joseph McNamara, Vice Chairman; Charles Sarlo, Larry Downes, Brian Nelson, and Harold Imperatore, Third Alternate Public Member.

Present via conference call: Ray Burke, First Alternate Public Member, and Elliot M. Kosoffsky, Second 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; and staff.

Absent: Melissa Orsen representing the Executive Branch, Jerry Langer, Public Member; and Rodney Sadler, Non-Voting Member.

Chairman Koeppe 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 March 13, 2014 meeting minutes, including an amendment to the Association Headquarters, Inc project (P38900). The annual grant award was revised from $336,814 to $442,500 for a 10-year term. A motion was made to approve the minutes by Mr. Downes, seconded by Mr. McNamara, and was approved by the 12 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.

AUTHORITY MATTERS

ITEM: 2013 Comprehensive Annual Report
REQUEST: To approve the Authority's comprehensive annual report for 2013, as required under Executive Order No. 37 (2006)
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

Chairman Koeppe, Mr. Kosoffsky and Mr. Downes recognized the work of the Audit Committee related to the review of the comprehensive annual report.

BOND PROJECTS

ITEM: NJEDA/School Facilities Construction 2014 Obligations
REQUEST: To approve the issuance of one or more series of School Facilities Construction Refunding Bonds and Notes and School Facilities Construction Bonds, together with the Refunding Obligations, as well as various related actions.
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Zavaglia **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2

PROJECT: Cooper Lanning Square Renaissance School, Inc. **APPL.#38339**
LOCATION: Camden/Camden
PROCEEDS FOR: Construction of new building or addition
FINANCING: $60,000,000 Taxable Qualified School Construction Bond
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Imperatore **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

PROJECT: Uncommon Properties II, LLC **APPL.#38414**
LOCATION: Newark City/Essex
PROCEEDS FOR: Renovation of existing building
FINANCING: $37,000,000 Taxable Qualified School Construction Bond
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

PROJECT: Washington Street University Housing Assoc, LLC* **APPL.#39001**
LOCATION: Newark City/Essex
PROCEEDS FOR: Acquisition of existing building, construction of new building or addition
FINANCING: $65,000,000 Tax Exempt Bond
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

AMENDED BOND RESOLUTIONS

PROJECT: The Montclair Art Museum* **APPL.#39186**
LOCATION: Montclair//Essex
PROCEEDS FOR: Refunding
FINANCING: $4,549,200 Tax Exempt Bond
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

COMBINATION PREIMINARY AND BOND RESOLUTIONS

PROJECT: LEAP Cramer Hill, LLC.* **APPL.#39147**
LOCATION: Camden/Camden
PROCEEDS FOR: Renovation of existing building
FINANCING: $9,650,000 Tax Exempt Series A Bond, $350,000 Taxable Series B Bond
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

Preliminary Bond Resolutions

PROJECT: Shining Schools, Inc. **APPL.#39159**
LOCATION: East Orange/Essex
PROCEEDS FOR: Construction of new building or addition, renovation of existing building
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

LOANS/GRANTS/GUARANTEES

LOAN TO LENDERS PROGRAM

PROJECT: Intersect Fund Corporation **APPL.#38978**
LOCATION: New Brunswick/Middlesex
PROCEEDS FOR: Working capital
FINANCING: $500,000 loan
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

Mr. Burke acknowledged the discussion at Director's Loan Review Committee, and noted the project as a great example of the Authority's localized approach and efforts to broaden the reach of assistance.

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.

The following projects were presented under the Petroleum Underground Storage Tank Program.
MOTION TO APPROVE: Ms. Kokas **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

PROJECT: Farahdia Edouard **APPL.**#38828
LOCATION: Montclair/Essex
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: $100,154 Petroleum UST Remediation, Upgrade and Closure Fund Grant

PROJECT: Steven Matthews **APPL.**#38513
LOCATION: Montclair/Essex
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: $125,875 Petroleum UST Remediation, Upgrade and Closure Fund Grant

PROJECT: Stevens Institute of Technology **APPL.**#38693
LOCATION: Hoboken/Hudson
PROCEEDS FOR: Upgrade, Closure, Remediation
FINANCING: $340,635 Petroleum UST Remediation, Upgrade and Closure Fund Grant

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 Department of Environmental Protection.

The following projects were presented under the Hazardous Discharge Site Remediation Fund Program.
MOTION TO APPROVE: Ms. Kokas **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

PROJECT: Peter Mocco **APPL.**#38774
LOCATION: South Amboy/Middlesex
PROCEEDS FOR: Remedial action, remedial investigation
FINANCING: $736,792 Hazardous Discharge Site Remediation Fund Program Grant

PROJECT: Route 21 Associates of Belleville **APPL.**#38688
LOCATION: Belleville/Essex
PROCEEDS FOR: Remedial action, remedial investigation
FINANCING: $1,000,000 Hazardous Discharge Site Remediation Fund Program Grant

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

DIRECT LOANS

PROJECT: Big Top Arcade, Inc. **APPL.#39042**
LOCATION: Seaside Height/Ocean
PROCEEDS FOR: Working capital
FINANCING: $894,974 Direct loan
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

Chairman Koeppe acknowledged the work of staff and committee. Mr. Burke noted the project is an example of the complexity that staff is running into and recognized the work involved.

OFFICE OF RECOVERY

PROJECT: Big Top Arcade, Inc. **APPL.#38623**
LOCATION: Seaside Height/Ocean
PROCEEDS FOR: Working capital
FINANCING: $142,750 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: Big Top Arcade, Inc. **APPL.#39077**
LOCATION: Seaside Height/Ocean
PROCEEDS FOR: Construction
FINANCING: $988,743 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. McNamara **SECOND: Mr. Dumont** **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: BLLS 7th & Broadway Corp. **APPL.#38879**
LOCATION: Barnegat Light Borough/Ocean
PROCEEDS FOR: Working capital
FINANCING: $117,937 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Zavaglia **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: By-The-Sea Too, Inc. **APPL.#39041**
LOCATION: Dover Twp/Ocean
PROCEEDS FOR: Working capital
FINANCING: $198,300 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: SJV, Inc. **APPL.#38951**
LOCATION: Seaside Heights /Ocean
PROCEEDS FOR: Working capital
FINANCING: $1,029,910 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: LASV, Inc.. **APPL.#38950**
LOCATION: Seaside Heights /Ocean
PROCEEDS FOR: Working capital
FINANCING: $1,349,524 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

PROJECT: Saddy Family Trust, LLC **APPL.#38970**
LOCATION: Dover Twp/Ocean
PROCEEDS FOR: Working capital
FINANCING: $457,210 Stronger NJ Business Loan
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. Zavaglia **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

ITEM: Stronger NJ Neighborhood &Community Revitalization Program (NCR) – Streetscape Revitalization Program Delegated Authority and Request for Rejection of applications – Round Two
REQUEST: To move the top seven ranking Municipalities to the next phase of the approval process, to advance three applications that ranked next below the top seven to NJDEP review, in case any issues arise in the review process or additional funds become available, and to approve staff's recommendation to reject the seven applications that were deemed non-responsive or that scored below the minimum threshold score of 55.
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 14

INCENTIVE PROGRAMS

GROW NEW JERSEY ASSISTANCE PROGRAM

PROJECT: ENER-G Rudox Inc. APPL.#39002
LOCATION: East Rutherford/Bergen
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 15

PROJECT: ENER-G Rudox Inc. APPL.#39002
LOCATION: East Rutherford/Bergen
ANNUAL GRANT AWARD: $97,500, 10 year term
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 16

PROJECT: SodaStream USA, Inc. APPL.#39146
LOCATION: Pennsauken Twp/Camden
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Nelson **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 17

PROJECT: SodaStream USA, Inc. APPL.#39146
LOCATION: Pennsauken Twp/Camden
ANNUAL GRANT AWARD: $352,750, 10 year term
MOTION TO APPROVE: Mr. Nelson **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 18

PROJECT: Sys-tech Solutions, Inc. APPL.#39128
LOCATION: Plainsboro/Middlesex
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. Nelson **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 19

PROJECT: Sys-tech Solutions, Inc. APPL.#39128
LOCATION: Plainsboro/Middlesex
ANNUAL GRANT AWARD: $1,118,625, 10 year term
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 20

PROJECT: United Water Management and Services Inc. & United Water, Inc. APPL.#39092
LOCATION: Paramus/Bergen
REQUEST: To approve the finding of jobs at risk
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 12
RESOLUTION ATTACHED AND MARKED EXHIBIT: 21

Mr. Nelson recused himself because of a business relationship.

PROJECT: United Water Management and Services Inc. & United Water, Inc. APPL.#39092
LOCATION: Paramus/Bergen
ANNUAL GRANT AWARD: $551,250, 10 year term
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Downes **AYES:** 12
RESOLUTION ATTACHED AND MARKED EXHIBIT: 22

Mr. Nelson recused himself because of a business relationship.

BOARD MEMORANDUMS

ITEM: American Home Assurance Company and Affiliates/AIG
BEIP Grants: P12490, P14675, and P15826
REQUEST: To approve name changes in the American Home Assurance Company Business Employment Incentive Program grants.
MOTION TO APPROVE: Mr. Downes **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 23

ITEM: The Arc of Bergen and Passaic Counties, Inc.
$849,178 Tax Exempt Bond
REQUEST: To approve a reduction in the Bond interest rate, and extension of the maturity date to September 1, 2026, to provide better repayment terms on the Bond for this not-for-profit social services organization.
MOTION TO APPROVE: Mr. McNamara **SECOND:** Mr. Downes **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 24

FOR INFORMATION ONLY: Summary of the post closing actions approved under Delegated Authority for 1st Quarter 2014.

FOR INFORMATION ONLY: Summary of the projects approved under Delegated Authority in March 2014:

Stronger NJ Loan Program: C-Lyn, LLC (P38840 & P39061); Mel's Furniture LLC (P38854)

Camden ERB: Camden Shipyard & Maritime Museum (P38467); Parkside Business & Community in Partnership, Inc. (P38483)

Small Business Fund Program: Parkside Business & Community in Partnership, Inc. (P39126)

New Jersey Business Growth Fund – Modification: JSN Corlies Real Estate, LLC (P39013); Kashius Anthony Limited Liability Company (P39118)

Stronger NJ Business Loan Program – Modification: Purpuri Shoes, Inc. (P38545 & P38657)

FOR INFORMATION ONLY: Summary of Incentive Modifications approved for 1st Quarter 2014.

FOR INFORMATION ONLY: Summary of Technology & Life Sciences – Delegated Authority Approvals for 1st Quarter 2014.

REAL ESTATE

ITEM: Memorandum of Understanding
Technology Centre of New Jersey & Tech Expansion Site
REQUEST: To approve consent to execute a Memorandum of Understanding between the Authority and PNC Bank, National Association, regarding the sale of the Technology Centre of New Jersey and the Tech Expansion site, subject to approval of the Chief Executive Officer, Chief Operating Officer/President and the Attorney General's Office.
MOTION TO APPROVE: Mr. Dumont **SECOND:** Mr. Sarlo **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 25

As chair of the Real Estate Committee, Mr. Sarlo noted that the Authority is well-positioned and that fair compensation is anticipated. Mr. Sarlo also noted that the CCIT operation will remain with the Authority.

FOR INFORMATION ONLY: Real Estate Division Delegated Authority for Leases, CCIT Grants, and Right of Entry/Licenses for First Quarter 2014

INCENTIVE PROGRAMS

GROW NEW JERSEY ASSISTANCE PROGRAM

ITEM: Grow New Jersey Program
REQUEST: To approve the methodology to calculate the amount necessary to complete projects that have applied for tax credits in excess of $4,000,000/year.
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 26

Mr. Downes acknowledged the work of the Incentives Committee and Authority staff, specifically citing the format of Grow NJ Board memos as providing a clear overview of the program's legislative requirements and connecting that to the award methodology.

PUBLIC COMMENT

There was no comment from the public.

EXECUTIVE SESSION

The next item was to adjourn the public session of the meeting and enter into Executive Session to discuss possible litigation and contract matters. The minutes will be made public when the need for confidentiality no longer exists.
MOTION TO APPROVE: Mr. Zavaglia **SECOND:** Mr. McNamara **AYES:** 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 27

There being no further business, on a motion Mr. McNamara, and seconded by Mr. Downes, the meeting was adjourned at 11:50 am.

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.

Maureen Hassett, Assistant Secretary

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Michele A. Brown
Chief Executive Officer

DATE: May 16, 2014

RE: Chief Executive Officer's Report to the Board

NEW INITIATIVE BUILDS ON EFFORTS TO SUPPORT TECH INDUSTRY

Last month the EDA announced the launch of New Jersey Founders & Funders, a new initiative aimed at spurring the growth of early-stage technology and life sciences companies. The first Founders & Funders event, which will directly connect entrepreneurs and investors, will be held on June 10 at the Commercialization Center for Innovative Technologies (CCIT) in North Brunswick.

Participating investors include ff Venture Capital, Edison Ventures, Genacast Ventures, KEC Ventures, Milestone Venture Partners, NewSpring Capital, NextStage Capital, Osage Venture Partners, ARC Angel Fund, GHO Ventures, Jumpstart NJ Angel Network, Klifer Capital, and SoundBoard Angel Fund. The EDA is continuing to secure additional participants. Companies interested in attending should register at https://application.njeda.com/tls. The EDA expects to host the event quarterly.

New Jersey Founders & Funders will serve to complement ongoing efforts to spur innovation, entrepreneurship and job creation in the State. This includes TechLaunch, New Jersey's premier technology accelerator. In April, Lt. Governor Kim Guadagno visited TechLaunch as part of her effort to celebrate the value of small businesses and the organizations that help them succeed. The EDA entered into a partnership with TechLaunch, LLC in February 2012 to create the technology accelerator. TechLaunch has completed two LaunchPad business boot-camps at Montclair State University since 2012 and has "graduated" a total of 19 companies. TechLaunch began its third class in March.

Also in April, Governor Chris Christie was on hand to celebrate the groundbreaking of Celgene Corporation's 550,000-square-foot expansion of its Summit-based headquarters. With only six weeks of capital and 35 employees, Celgene was among the first to receive assistance under the State's Technology Business Certificate Transfer (NOL) Program 15 years ago. Today, Celgene is one of the largest biotechnology companies in the world, employing over 1,000 in New Jersey. Since the NOL Program was established in 1999, more than 490 different businesses have been approved for awards totaling $770 million.

LARGE-SCALE PROJECTS IN BERGEN, UNION COUNTIES MOVE FORWARD

In addition to the Celgene groundbreaking, EDA-supported projects in Bergen and Union counties, representing over $2.7 billion of private investment and the creation of nearly 19,000 new construction and permanent jobs, also celebrated significant milestones in April.

On April 18, Lt. Governor Guadagno attended the ribbon-cutting for Wakefern Food's new 524,000-square-foot distribution facility in Elizabeth. The new facility replaces the former warehouse at the same site and increases storage capabilities by more than 58 percent. The project, spearheaded by Elberon Development, was supported under the legacy Urban Transit Hub Tax Credit Program.

On April 25, Lt. Governor Guadagno attended the ribbon-cutting for Dress Barn's new corporate headquarters in Mahwah. Ascena Retail Group and Dress Barn Inc. were awarded an incentive under the legacy Grow NJ Program in 2012 and subsequently announced plans to move its combined headquarters to the new facility in Bergen County.

On April 28, Governor Christie joined with developer Triple Five to commemorate the signing of a project labor agreement with the Bergen County Building & Construction Trades Council. The event marks the recommencement of construction at the American Dream complex, which is expected to open in fall 2016. Supported under the legacy Economic Redevelopment and Growth Program, American Dream will be a premier tourism, entertainment and retail destination, featuring an enclosed amusement park, performing arts theater and indoor ski facility.

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY UPDATE

In April, FMERA entered into exclusive negotiations with RPM Development Group for the Officer Housing property, as well as Lennar Corporation for Parcels C and C1. The combined parcels total 87.5 acres, representing significant redevelopment efforts in Oceanport and Tinton Falls.

Buildings on the Officer Housing property will be reused as residential housing. RPM's proposal calls for a total of 116 units, including market-rate, for-sale, and rental housing. Plans also include a community room for tenants and a recreational area. Lennar's proposals for C and C1 include a total of 288 residential units, emphasizing connectivity through the site to the existing roads, while encouraging pedestrian activity to link the neighborhoods with the retail and commercial areas. Parcel C includes a community green, and both parcels will include tree-lined streets and sidewalks to create a vibrant environment throughout the neighborhood.

The final site and development plans for each parcel are subject to ongoing discussions with representatives from Tinton Falls and Oceanport, respectively, and input from FMERA's Housing Staff Advisory and Real Estate committees. Furthermore, FMERA's sale of the Officer Housing to RPM is dependent on the execution of a Phase 2 Economic Development Conveyance (EDC) Agreement/FMERA's acquisition of title from the U.S. Army, and both

transactions are subject to the final approval of the terms and conditions of sale by the FMERA Board at a future date.

The next FMERA board meeting is Wednesday, May 21, 2014 at 7 pm and will be held at the FMERA Office in the former Fort library.

2014 CLOSED PROJECTS

To date in 2014, the EDA has closed financing and incentives totaling more than $53 million for 38 projects that are expected to support the creation of more than 1,000 new jobs and involve total public/private investment of more than $234 million in New Jersey's economy.

EVENTS/SPEAKING ENGAGEMENTS/PROACTIVE OUTREACH

EDA representatives participated as speakers, attendees or exhibitors at 21 events in April. These included the New Jersey Institutional Investors Conference in Newark, the 2nd Annual NJBIN Business Incubator Awards in Bordentown, and the Women's Small Business Owners Forum in New Brunswick.

AUTHORITY MATTERS

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: May 16, 2014

SUBJECT: Modifications to the Authority's Administrative and Real Estate Operating Authorities

Request:

The Board is requested to approve certain modifications to the Authority's current Administrative Operating Authority, to reflect the deletion of the "Non-Contracted Expenditures" section, and to update both the Administrative Operating Authority and the Real Estate Operating Authority to reflect recent title changes within the Accounting and Financial Reporting, Real Estate and Executive departments. These modifications will ensure sufficient staff-level authority necessary to execute normal business transactions within the previously established approval thresholds.

Background:

Previously, each department was responsible for ordering its own goods and services. Staff were required to understand and follow EDA's procurement rules and regulations, which are often complex and multi-faceted. Given the complexity of each procurement, this was often a time consuming process, administered by staff whose core business focus was not Procurement. Previously, the "non-contracted purchases" category was created to define the purchase of specific "goods" rather than defined services, typically transacted at a point-of-purchase. For example, if an item was purchased from a store-front retailer, such as "Best Buy," it was not considered to be a true "contract."

To assist the various departments and ensure compliance with state procurement regulations and laws, the Authority has transitioned to a Centralized Procurement, managed by the Authority's Internal Process Management department – Procurement Section. Under the Centralized Procurement structure, every purchase request results in the issuance of an individual Purchase Order (PO). A Purchase Order is a commercially recognized document that constitutes a legal

offer to buy products or services. A PO defines the goods or services to be procured, and specifies such details of the purchase transaction as price, delivery and terms of sale. Acceptance of a Purchase Order by the Vendor forms an enforceable contract between the buyer and seller.

With the creation of a Centralized Procurement function, every purchase executed by the Authority is issued against a purchase order which is a legal contract; therefore, a "non-contracted expenditure" no longer exists within the Authority business operations. As a result, it is necessary to modify the Operating Authority to reflect this important change in business operations.

In addition, the Administrative Operating Authority is updated to reflect certain title changes, including replacing "Director" and "Assistant Director" of Accounting and Financial Reporting, with the titles of "Controller" and "Assistant Controller," respectively, as well as adding the Senior Vice President - Operations as an eligible initiator/confirmer of outgoing, 3rd party wires and as a signator on administrative checks issued up to $1 million. Given the reorganization of certain functions and the elimination of the previous singular CFO title, the proposed changes will ensure sufficient staff to aid in executing these day-to-day business transactions.

Lastly, the Real Estate Operating Authority is updated to reflect certain title changes within that department; specifically, replacing "Asset Manager" with "Finance & Development Manager" at Operating Level 4 and adding the title of "Program Manager" to Operating Level 5.

Recommendation:

The Members of the Board are asked to approve the deletion of "non-contracted expenditures" from the Administrative Operating Authority, and to approve certain title changes in both the Administrative Operating Authority and the Real Estate Operating Authority, as detailed herein and as reflected in the attached revised Operating Authorities.

Prepared By: Richard LoCascio, Controller

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

ADMINISTRATIVE OPERATING AUTHORITY BY LEVEL

DRAFT

Staff level authority necessary to execute business transactions that support personnel and the various office facilities, not program initiatives or specific projects

Operating Scope: (applicable to the extent Operating Scope and execution of authority conforms to the Enabling Act, By-laws, EO's, defined policy and procedure, and any other authoritative compliance mandate)				
Procurement of Goods & Services:				
Expenditures for Administrative Overhead & Program Costs authority to initiate and execute expenditures with a vendor or a contractor and are applicable to both goods and services. Refer to the Procurement Policy and Procedure Manual for examples and additional information and guidance	**Position** Chief Executive Officer Pres/Chief Operating Officer Controller Chief Information Officer Senior Vice President FM Office Executive Director Managing Director Director FM Office Operations Director Assistant Director FM Office Dir Finance & Admn Program Manager FM Office Asset Officer	**Commitment Level** $250,000 and under in aggregat $250,000 and under in aggregat $150,000 and under in aggregat $150,000 and under in aggregat $150,000 and under in aggregat $150,000 and under in aggregat $150,000 and under in aggregat $50,000 and under in aggregate $50,000 and under in aggregate $50,000 and under in aggregate $25,000 and under in aggregate $25,000 and under in aggregate $25,000 and under in aggregate	Note: a single cost commitment for direct program/project based (non-administrative) expenditures aggregating to $150,000 and abov requires Finance Committee approval before the commitment is made, with the exception of emergency or exigency	**Controls in Place** check requests reviewed for adherance to procurement policy and procedures, proper authorization, and support documentation. a single direct cost commitment aggregating to $150,000 and above requires Finance Committee approval before the commitment is made, with the exception of emergency or exigency expenditure commitments exceeding $250,000 must have Board approval
Physical Assets				
Disposition of Administrative Assets authority to sell, dispose (to include write-off), and donate office furniture, fixtures, and equipment (to include automobiles) used in the administration of the Authority's offices.	**Position** Any one of the following: Chief Executive Officer, Pres/Chief Operating Officer, Controller, or FM Office Executive Director	**Level of Authority** Singular asset or aggregate asset group with the lower of fair market or book value not exceeding $100,000		**Controls in Place** segregation of duties, facility manager oversight and values exceeding $100,000 must have Board approval to dispose
Debt/Credit Management				
Prepayment of Debt authority to prepay comercial credit balance or obligation to a leasing facility on debt/credit incurred to purchase or lease administrative assets (to include office facility, auto, etc.)	**Position** Any one of the following: Chief Executive Officer, Pres/Chief Operating Officer, Controller, or FM Office Executive Director	**Level of Authority** Any amount		

Cash Management Functions:

Account Establishment:	**Position**	**Level of Authority**		**Controls in Place**
authority to establish in any and all applicable financial institutions accounts necessary to fulfill the cash management functions of EDA, to include Agency (e.g. FMERA) Administration. Example accounts follow: checking, deposit, lock-box, investment, asset management, custody, trust, etc.	Chief Executive Officer, Pres/Chief Operating Officer, Controller, FM Office Executive Director FM Office Operations Director FM Office Dir Finance & Admn	Any one individual has authority to establish accounts as necessary		Segregation of Duties: account establishment, deposits, account reconciliation, journal entires, etc. performed by various individuals. Controls tested by independent and State auditor.
Check Signatory	**Position**	**Disbursement Type**	**Any one individual authorized to sign for the following amounts:**	**Controls in Place**
authority to sign checks subject to prior approval by the Board or pursuant to delegated authority as approved by the Board	Chief Executive Officer Pres/Chief Operating Officer Controller FM Office Executive Director Asst Controller FM Office Operations Director FM Office Dir Finance & Admn SVP - Operations Dir Internal Process Management FM Office- any unit Director Dir Closing Services FM Office-any unit Director Mngng Dir Post-Close Financial Svcs Dir Finance & Bond Portfolio Mgm't Dir Incentives Portfolio Mnm't Dir Real Estate Development, and FM Office Asset Officer	Any check Any check Any check Any check Any check Any check Any check Any administrative check Any administrative check Any administrative check checks for project financings checks for project financings checks for project financings checks for project financings checks for project financings checks for project financings and Program Costs	Unlimited Unlimited Unlimited Unlimited $1,500,000 $1,500,000 $1,000,000 $1,000,000 $500,000 $500,000 $250,000 $250,000 $250,000 $250,000 $250,000 $250,000	blank checks secured check sequence maintained segregation of duties check requests verified for proper authority level conformance with policy and procedures supporting documentation
Outgoing Wire Transfers	**Position**	**Disbursement Type**	**Any one individual may:**	**Controls in Place**
authority to initiate or confirm transfer of funds whereby monies leave control of Authority and are transferred to a 3rd party beneficiary account Note: the initiatior of a wire transfer is not authorized to confirm that wire transfer	Chief Executive Officer Pres/Chief Operating Officer Controller FM Office Executive Director SVP-Operations FM Office Operations Director Asst Controller FM Office Dir Finance & Admn Mngng Dir Post-Close Financial Svcs Dir Closing Services Dir Finance & Bond Portfolio Mgm't Dir Incentives Portfolio Mnm't Dir Real Estate Development Dir Internal Process Management FM Office-any unit Director FM Office Asset Officer	any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction	initiate or confirm initiate or confirm initiate or confirm initiate or confirm initiate or confirm initiate or confirm initiate or confirm initiate or confirm confirm only confirm only confirm only confirm only confirm only confirm only confirm only confirm only	segregation of duties all wires must be confirmed by someone else other than the initiator confirmer is randomly selected by wire room personnel initiator and confirmer is provided supporting documentation for the transfer request
Internal Wire Transfers	**Position**	**Disbursement Type**	**Any one individual may:**	**Controls in Place**
authority to transfer funds whereby monies do not leave control of Authority funds are transferred between and among various Authority controlled accounts. Note: the initiatior of a non-repetitive wire transfer is not authorized to confirm that same wire transfer	Chief Executive Officer Pres/Chief Operating Officer Controller FM Office Executive Director FM Office Operations Director Asst Controller FM Office Accountant Accountants FM Office-any unit Director	any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction any transaction	initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary initiate, or confirm if necessary	segregation of duties repetitive code is established with wire room, Authority deposit account is predetermined and fixed all wires without a repetitive code must be confirmed by someone else other than the initiator
Establishment of Investment Policy and Practice	**Position**	**Level of Authority**		**Controls in Place**
pursuant to established Asset Allocation Guidelines and Practice, authority to make or implement investment decisions independently or in concurrence with appointed investment manager as to management of "idle" funds; not specific financing initiatives or project financings	Chief Executive Officer, Pres/Chief Operating Officer, Controller, SVP-Operations, FM Office Executive Director FM Office Operations Director FM Office Dir Finance & Admn	Any one individual authorized to initiate investment instructions pursuant to guidelines or established policy or practice. When policy and guidelines do not exist, authority to place funds with the NJCMF. For any transfer between financial institutions greater than $10,000,000, the initiator must notify one other authorized individual.		segregation of duties, guidelines provided and adhered to by portfolio asset manager, CMF is State administered fund within Treasury

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
	Level 1 **Chief Executive Officer ("CEO") and President/COO ("President")**	**Level 2** **SVP**	**Level 3** **Director - Real Estate Development, Only ("DRE")**	**Level 4** **Finance & Development Manager; Design & Construction Managers - Real Estate Development, Only ("FDRE"; "D&CMRE")**	**Level 5** **Program Managers/Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")**	**BOARD APPROVAL REQUIREMENT**
OPERATING SCOPE:						
PROCUREMENT						
Contracts under Treasury DPP public bidding threshold Subject to 6/12/01 & 8/10/10 Board Approvals Complies with S-2194 & EO 37 (2006) [Refer to Note 3]	Any 1 of Level 1, 2, 3, or 4 are authorized to approve, execute and attest contract.	Any 1 of Level 1, 2, 3, or 4 are authorized to approve, execute and attest contract.	Any 1 of Level 1, 2, 3, or 4 are authorized to approve, execute and attest contract.	Any 1 of Level 1, 2, 3, or 4 are authorized to approve, execute and attest contract.		NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER $300,000.
R/E Development contracts A/E/Survey/related professional services subject to S-2194 over $25,000 up to & including $300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with S-2194 & EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER $300,000.
R/E Development contracts A/E/Survey/related professional services subject to S-2194 over $25,000 with no limit (emergency procurement) Subject to 6/12/01 & 10/15/08 Board Approvals Complies with S-2194 & EO 37 (2006) [Refer to Note 3]	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis.	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis.	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis.			BOARD RATIFICATION REQUIRED IF PROCUREMENT IS OVER $150,000. NOTICE TO BOARD AT NEXT MEETING OR AS SOON AS PRACTICABLE.

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
	Level 1 **Chief Executive Officer ("CEO") and President/COO ("President")**	**Level 2** **SVP**	**Level 3** **Director - Real Estate Development, Only ("DRE")**	**Level 4** **Finance & Development Manager; Design & Construction Managers - Real Estate Development, Only ("FDRE"; "D&CMRE")**	**Level 5** **Program Managers/Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")**	**BOARD APPROVAL REQUIREMENT**
R/E Development contracts A/E/Survey/related professional services subject to S-2194 over $300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with S-2194 & EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS OVER $300,000.
R/E Development contracts for professional services not subject to S-2194 over Treasury DPP public bidding threshold and up to and including $300,000 Subject to 6/12/01, 10/15/08 & 8/10/10 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER $300,000.
R/E Development contracts for professional services not subject to S-2194 over $300,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS OVER $300,000.

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
	Level 1 **Chief Executive Officer ("CEO") and President/COO ("President")**	**Level 2** **SVP**	**Level 3** **Director - Real Estate Development, Only ("DRE")**	**Level 4** **Finance & Development Manager; Design & Construction Managers - Real Estate Development, Only ("FDRE"; "D&CMRE")**	**Level 5** **Program Managers/Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")**	**BOARD APPROVAL REQUIREMENT**
R/E Development contracts for construction related services not subject to S-2194 over Treasury DPP public bidding threshold and up to and including $300,000 Subject to 6/12/01, 10/15/08 & 8/10/10 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER $300,000.
R/E Development contracts for construction related services not subject to S-2194 over $300,000 Subject to 6/12/01 & 10/5/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS OVER $300,000.
R/E Development contracts (direct procurement) up to and including Treasury DPP public bidding threshold Subject to 6/12/01, 10/15/08 & 8/10/10 Board Approvals Complies with EO 37 (2006) [Refer to Note 5]	Any 2 of Level 1, 2 or 3 are authorized to select a vendor, execute and attest contract on a sole source basis if there is only one vendor capable or available to provide the services.	Any 2 of Level 1, 2 or 3 are authorized to select a vendor, execute and attest contract on a sole source basis if there is only one vendor capable or available to provide the services.	Any 2 of Level 1, 2 or 3 are authorized to select a vendor, execute and attest contract on a sole source basis if there is only one vendor capable or available to provide the services.			NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER $150,000.

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
	Level 1 **Chief Executive Officer ("CEO") and President/COO ("President")**	**Level 2** **SVP**	**Level 3** **Director - Real Estate Development, Only ("DRE")**	**Level 4** **Finance & Development Manager; Design & Construction Managers - Real Estate Development, Only ("FDRE"; "D&CMRE")**	**Level 5** **Program Managers/Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")**	**BOARD APPROVAL REQUIREMENT**
R/E Development contracts (direct procurement) over Treasury DPP public bidding threshold up to and including $150,000 Subject to 6/12/01, 10/15/08 & 8/10/10 Board Approvals Complies with EO 37 (2006) [Refer to Note 5]	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Any 4 of Level 1, 2, 3, 4 or 5 are authorized to select vendor, execute and attest contract (1 member must be Level 2 or above).	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	NO BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS UNDER $150,000.
R/E Development contracts (direct procurement) over $150,000 Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 5]	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Any 4 of Level 1, 2, 3, 4, or 5 are authorized to select vendor (1 member must be Level 2 or above). CEO or President authorized to execute contract after Board approval of specific contract. Level 2, 3, and 4 are authorized to attest contracts.	Authorized to be a participant of Evaluation Committee to make recommendation of vendor with any 3 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	BOARD APPROVAL REQUIRED SINCE PROCUREMENT IS MORE THAN $150,000.
R/E Development contracts not subject to S-2194 no dollar limit (emergency procurement) Subject to 6/12/01 & 10/15/08 Board Approvals Complies with EO 37 (2006) [Refer to Note 3]	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis. Subsequent notification to Board for procurement in excess of $150,000.	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis. Subsequent notification to Board for procurement in excess of $150,000.	Any 3 of Level 1, 2 or 3 are authorized to declare "an emergency", select vendor, execute and attest contract on sole source basis. Subsequent notification to Board for procurement in excess of $150,000.			BOARD RATIFICATION REQUIRED IF PROCUREMENT IS OVER $150,000. NOTICE TO BOARD AT NEXT MEETING OR AS SOON AS PRACTICABLE.

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
	Level 1 **Chief Executive Officer ("CEO") and President/COO ("President")**	**Level 2** **SVP**	**Level 3** **Director - Real Estate Development, Only ("DRE")**	**Level 4** **Finance & Development Manager; Design & Construction Managers - Real Estate Development, Only ("FDRE"; "D&CMRE")**	**Level 5** **Program Managers/Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")**	**BOARD APPROVAL REQUIREMENT**
GRANTS						
Authorized to execute financial documents and other instruments in connection with the acceptance of a grant for program initiatives and/or project financings up to $300,000 Subject to 8/10/10 Board approval	Any 2 of Level 1, 2 or 3 are authorized to accept a grant, execute and attest grant agreement.	Any 2 of Level 1, 2 or 3 are authorized to accept a grant, execute and attest grant agreement.	Any 2 of Level 1, 2 or 3 are authorized to accept a grant, execute and attest grant agreement.			NO BOARD APPROVAL REQUIRED IF $300,000 OR LESS.
CCIT LEASES						
Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space Subject to 8/9/04 Board Approval [Refer to Notes 4 and 6]	Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space.	Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space.	Authorized to select CCIT tenants to lease up to 6,000 sq ft of wet lab and related office space.			NO BOARD APPROVAL REQUIRED IF LEASE IS UNDER 6,000 sq ft.
Authorized to allow service provider tenants up to 500 sq ft, high tech tenants up to 2,000 sq ft of office or dry lab space at CCIT Subject to 2/8/05 & 10/15/08 Board Approvals [Refer to Note 4]	Authorized to allow related service provider tenants to lease up to 500 sq ft w/o restrictions of having been in operation less than 5 years and being product development stage company and to allow high tech tenants to lease office or dry labs up to 2,000 sq ft .	Authorized to allow related service provider tenants to lease up to 500 sq ft w/o restrictions of having been in operation less than 5 years and being product development stage company and to allow high tech tenants to lease office or dry labs up to 2,000 sq ft .	Authorized to allow related service provider tenants to lease up to 500 sq ft w/o restrictions of having been in operation less than 5 years and being product development stage company and to allow high tech tenants to lease office or dry labs up to 2,000 sq ft .			NO BOARD APPROVAL REQUIRED IF LEASE IS UNDER 2,000 sq ft.
Authorized to extend term and add or reduce space and rent proportionately after lease expiration up to 1 year to facilitate tenant graduation from CCIT [Refer to Note 6] Subject to 8/10/10 Board approval	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to continue, add or reduce space and rent proportionately up to 1 year (1 member must be Level 2 or above).	Authorized to make recommendation of continuing, adding or reducing space and reducing rent with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	NO BOARD APPROVAL REQUIRED IF MODIFICATION(S) ARE 1 YEAR OR LESS.

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
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ALL LEASES						
Authorized to select tenants to lease up to 8,000 sq ft of space in NJEDA owned or leased property - not applicable to CCIT. [Refer to Note 6] Subject to 9/13/12 Board Approval	Authorized to select tenants to lease up to 8,000 sq ft of space. Any 3 of Level 1, 2, 3, or 4 are authorized to select tenant (1 member must be Level 2 or above). CEO or President authorized to execute lease and Level 2, 3, and 4 are authorized to attest leases.	Authorized to select tenants to lease up to 8,000 sq ft of space. Any 3 of Level 1, 2, 3, or 4 are authorized to select tenant (1 member must be Level 2 or above). CEO or President authorized to execute lease and Level 2, 3, and 4 are authorized to attest leases.	Authorized to select tenants to lease up to 8,000 sq ft of space. Any 3 of Level 1, 2, 3, or 4 are authorized to select tenant (1 member must be Level 2 or above). CEO or President authorized to execute lease and Level 2, 3, and 4 are authorized to attest leases.	Authorized to select tenants to lease up to 8,000 sq ft of space. Any 3 of Level 1, 2, 3, or 4 are authorized to select tenant (1 member must be Level 2 or above). CEO or President authorized to execute lease and Level 2, 3, and 4 are authorized to attest leases.		NO BOARD APPROVAL REQUIRED IF LEASE IS UP TO 8,000 sq ft.
Authorized to reduce or waive late payment fees upon tenant request up to 90 days [Refer to Note 6] Subject to 8/10/10 Board approval	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive late payment fees upon tenant request up to 90 days (1 member must be Level 3 or above).	Authorized to make recommendation of reduction or waiver with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 3 or above).	NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 90 DAYS OR LESS.
Authorized to reduce or waive rent payments upon tenant request up to 90 days or up to $50,000, whichever is less, for operational and CAM adjustments [Refer to Note 6] Subject to 8/10/10 Board approval	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to $50,000, whichever is less (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to $50,000, whichever is less (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to $50,000, whichever is less (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to reduce or waive rent payments upon tenant request up to 90 days or up to $50,000, whichever is less (1 member must be Level 3 or above).	Authorized to make recommendation of reduction or waiver with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 3 or above).	NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 90 DAYS OR LESS OR UP TO $50,000, WHICHEVER IS LESS.
Authorized to waive or reduce holdover rent premium up to 180 days upon tenant request to encourage continued occupancy [Refer to Note 6] Subject to 8/10/10 Board approval	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to waive or reduce holdover rent premium up to 180 days upon tenant request (1 member must be Level 3 or above).	Authorized to make recommendation of waiver or reduction with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 3 or above).	NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 180 DAYS OR LESS.

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Authorized to waive or reduce holdover rent premium upon tenant request from 181 days up to 1 year to encourage continued occupancy [Refer to Note 6] Subject to 8/10/10 Board approval	Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1).	Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1).	Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1).	Any 3 of Level 1, 2, 3, or 4 are authorized to waive or reduce holdover rent premium upon tenant request up to 1 year (1 member must be Level 1).		NO BOARD APPROVAL REQUIRED IF REDUCTION OR WAIVER IS 1 YEAR OR LESS.
Authorized to terminate a lease or reduce space and rent proportionately upon tenant request during last six months of lease term up to $50,000 [Refer to Note 6] Subject to 8/10/10 Board approval	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).	Any 3 of Level 1, 2, 3, 4 or 5 are authorized to terminate a lease or reduce space and rent proportionately during last six months of lease term (1 member must be Level 2 or above).	Authorized to make recommendation of termination and space and rent reduction with any 2 of Level 1, 2, 3 or 4 (1 member must be Level 2 or above).	NO BOARD APPROVAL REQUIRED IF TERMINATION AND/OR MODIFICATION(S) ARE DURING LAST 6 MIONTHS OF LEASE TERM AND $50,000 OR LESS.
RIGHT OF ENTRY / LICENSE AGREEMENTS						
R/E development right of entry and license agreements from third parties (non-monetary/up to 1 year) Subject to 10/15/08 Board Approval	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.			NO BOARD APPROVAL REQUIRED IF RIGHT OF ENTRY OR LICENSE IS NON-MONETARY AND 1 YEAR OR LESS.

REAL ESTATE DIVISION OPERATING AUTHORITY BY LEVEL

4/8/2014	OPERATING LEVELS					
	Level 1 **Chief Executive Officer ("CEO") and President/COO ("President")**	**Level 2** **SVP**	**Level 3** **Director - Real Estate Development, Only ("DRE")**	**Level 4** **Finance & Development Manager; Design & Construction Managers - Real Estate Development, Only ("FDRE"; "D&CMRE")**	**Level 5** **Program Managers/Project Managers/ Project Officers - Real Estate Development, Only ("PMRE")**	**BOARD APPROVAL REQUIREMENT**
R/E development right of entry and license agreements to third parties (non-monetary/up to 1 year) Subject to 10/15/08 & 8/10/10 Board Approvals	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.			NO BOARD APPROVAL REQUIRED IF RIGHT OF ENTRY OR LICENSE IS NON-MONETARY AND 1 YEAR OR LESS.
R/E development right of entry and license agreements to third parties (payments up to & including $100,000/1 year term with two, 1 year extensions) Subject to 10/15/08 & 8/10/10 Board Approvals	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.	Any 2 of Level 1, 2 or 3 are authorized to approve, execute and attest agreement in accordance with approved policy.			NO BOARD APPROVAL REQUIRED IF RIGHT OF ENTRY OR LICENSE FEES ARE $100,000 OR LESS AND FOR 1 YEAR WITH TWO, 1 YEAR RENEWALS.

NOTE 1: Level 2 has been revised from "SVP Operations" to "SVP" to reflect current staff.	NOTE 2: Level 4 authority to attest or execute contracts up to $25,000 is in accordance with existing NJEDA Administrative Operating Authority.	NOTE 3: All procurement approvals are subject to compliance with NJEDA Procurement and Policy Procedures and public bidding requirements, where applicable.	NOTE 4: All tenants are approved in accordance with the CCIT Admission Policy and Procedures.	NOTE 5: Direct procurements are subject to Section 16 (a) through (g) of Executive Order 37 (2006).	NOTE 6: All actions taken pursuant to this delegation will be reported to the Real Estate Committee at the next meeting.

BOND PROJECTS

BOND RESOLUTIONS

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

APPLICANT: Shining Schools, Inc. P39159

PROJECT USER(S): Pride Academy Charter School * * - indicates relation to applicant

PROJECT LOCATION: 117 Elmwood Avenue East Orange City (T/UA) Essex

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

APPLICANT BACKGROUND:

Shining Schools, Inc., established in 2007, is a 501(c)(3) not-for-profit organization formed to provide real estate services and hold title to real estate projects for the benefit of the Pride Academy Charter School located in East Orange, Essex County. Pride Academy Charter School was originally chartered during the 2008-2009 school year by five educators to establish the only charter school in East Orange exclusively for 5th to 8th grade students. Currently the enrollment is 264 students with more than 200 students on the waiting list. Pride Academy is in good standing with the Department of Education. Amanda Quinn is the Chairman of the Board and Fiona Thomas is the principal of the Academy.

In 2011, the Authority approved a $550,000 direct loan (P36119) as a source of funding for the purchase of the School, a three story building of approx. 20,000 sq. ft.

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

APPROVAL REQUEST:

Authority assistance will enable the applicant to (i) refinance an existing Fulton Bank commercial loan; (ii) construct a new 18,000 sq. ft. addition to the current building, effectively doubling the education space; and (iii) pay costs of issuance. The new building will include six new classrooms, two science labs for 7th and 8th graders, a full gymnasium, state of art computer lab and locker space.

FINANCING SUMMARY:

BOND PURCHASER: Fulton Bank of New Jersey (Direct Purchase)

AMOUNT OF BOND: $3,629,445 Tax-exempt bond

TERMS OF BOND: 20 years; Fixed interest rate for 5 years based on the tax-exempt equivalent of the Federal Home Loan Bank of NY 5 year advance rate plus 2.5%; subject to rate resets every 5 yrs. at the same index and a call option on the 10th anniversary; including a 12 month interest only period during the construction. Estimated interest rate as of 4/21/14 is 3.04%.

ENHANCEMENT: N/A

PROJECT COSTS:

Construction of new building or addition	$1,750,000
Refinancing	$1,629,445
Engineering & architectural fees	$150,000
Renovation of existing building	$50,000
Legal fees	$25,000
Finance fees	$25,000
TOTAL COSTS	$3,629,445

JOBS: At Application 40 Within 2 years 25 Maintained 0 Construction 15

PUBLIC HEARING: 05/16/14 (Published 05/01/14) **BOND COUNSEL:** McManimon,Scotland & Bauman
DEVELOPMENT OFFICER: T. Gill **APPROVAL OFFICER:** T. Wells

COMBINATION PRELIMINARY AND BOND RESOLUTIONS

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

APPLICANT: Garden State Consumer Credit Counseling, Inc. P39360

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION: 200 Route 9 North Manalapan Township (N) Monmouth

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

APPLICANT BACKGROUND:

Garden State Consumer Credit Counseling, Inc. (GSCCC) doing business as Novadebt, was formed in 1991, and is a not-for-profit, consumer focused financial management, social service agency. The applicant's mission is to assist families and individuals by providing free financial education, community outreach, housing, debt management, bankruptcy and personal financial counseling services. Most clients are referred to GSCCC by banks and credit card companies. Revenues are generated through grants from the Home Ownership Preservation Foundation, banks and "fair share" fee income based on the banks and credit card company's collections. The applicant has 11 offices across the US, with the corporate headquarters and call center in Freehold. The call center handles 95% of the counseling via phone. GSCCC is a founding member of the Association of Independent Consumer Credit Counseling Agencies. The President and CEO is Joel Greenberg.

GSCCC intends to buy an existing two story vacant office building located in Manalapan, New Jersey. The corporation currently leases a facility in Freehold, New Jersey and desires to maintain its corporate headquarters within the state. The building measures 60,207 square feet and does not require significant construction or renovation. GSCCC expects to save $300,000 in rent expense moving from the current leased facility to an owned facility.

In 2012, the applicant was approved for a BEIP of $75,390 and a BRRAG of $411,750. The applicant is expected to close on those awards in September 2014. The difference between the bond amount and the project cost will be funded by an EDA loan ($1,250,000) and equity from the applicant.

The applicant is treated as 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 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 purchase and renovate an office building and pay the cost of issuance.

FINANCING SUMMARY:

BOND PURCHASER: TD Bank, N.A. Direct (Direct Purchase)

AMOUNT OF BOND: $5,590,000 Tax-Exempt Bond

TERMS OF BOND: 10 years; Fixed interest rate for 10 years at the tax-exempt equivalent of the 10 year FHLB advance rate plus 1.56%. Indicative rate as of 4/23/14 is 3.49% for 10 yrs.

ENHANCEMENT: N/A

PROJECT COSTS:

Acquisition of existing building	$6,932,600
Renovation of existing building	$750,000

Finance fees	$113,520
Engineering & architectural fees	$110,000
Legal fees	$52,000
TOTAL COSTS	$7,958,120

JOBS: At Application 244 Within 2 years 20 Maintained 0 Construction 6

PUBLIC HEARING: 05/16/14 (Published 05/01/14) **BOND COUNSEL:** Wolff & Samson

DEVELOPMENT OFFICER: T. Gill **APPROVAL OFFICER:** J. Horezga

PRELIMINARY RESOLUTIONS

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

APPLICANT: Atlantic City Sewerage Company P39369

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION: 124 N Raleigh Ave. Atlantic City (T) Atlantic

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

APPLICANT BACKGROUND:

Atlantic City Sewerage Company is an investor-owned public utility operating a wastewater collection system serving approximately 7,500 customers in its franchise area of Atlantic City. It is a wholly owned subsidiary of SR Utility Holding Corp and was founded on December 28, 1888 for the purpose of laying, operating and improving a sanitary system for the City. The company had to overcome construction obstacles, such as low street elevations and extremely high water tables, in order to build and maintain a system that today consists of approximately 100 miles of sewers and seven pump stations with a combined capacity of over 40 million gallons a day. The company purchases its sewerage treatment from the Atlantic County Utilities Authority and is the largest of the fourteen participants of this regionalized treatment system.

In order to meet the needs of Atlantic City, various sections and components of the sanitary sewer system currently require expansion or upgrades. Specifically, this request for financing is being submitted for the following projects:

1. Demolition and reconstruction of the Raleigh Avenue pump station
2. Cleaning and rehabilitation of the concrete trunk sewer
3. Relining sewers and rehabilitation of manholes
4. Extension of sewer lines to serve new development
5. Rehabilitation of the Baltic Avenue pump station wet well
6. Upgrading the electrical system at the Baltic Avenue and Texas Avenue pump stations
7. Remediation of property at Huron Avenue
8. Miscellaneous and Emergency Work

The Authority has previously approved various tax-exempt bonds for the applicant to upgrade the infrastructure of Atlantic City. Three are still active including P14146 for $2,040,000 approved in 2002; P22952 for $6,000,000 approved in 2008; and P32290 for $8,000,000 approved in 2010.

This project qualifies as an Exempt Public Facility - Sewage project under Section 142(a)(5) of the IRS Code and therefore is exempt from the $20 million capital expenditure limitation under Section 144 of the Code.

APPROVAL REQUEST:

Authority assistance will enable the applicant to finance the demolition, construction, rehabilitation, remediation, upgrade and expansion of various sections and components of the borrower's sanitary sewer system and property located in Atlantic City.

FINANCING SUMMARY:

BOND PURCHASER:

AMOUNT OF BOND:

TERMS OF BOND:

ENHANCEMENT: N/A

PROJECT COSTS:

Purchase of equipment & machinery	$4,000,000
Renovation of existing equipment & machi	$1,500,000
Construction of new building or addition	$750,000
Engineering & architectural fees	$600,000
Envirn Investigation & Remediation Costs	$250,000
Finance fees	$100,000
Legal fees	$50,000
TOTAL COSTS	$7,250,000

JOBS: At Application 36 Within 2 years 1 Maintained 0 Construction 6

PUBLIC HEARING:

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: D. Benns

APPROVAL OFFICER: K. McCullough

LOANS/GRANTS/GUARANTEES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Board

FROM: Timothy J. Lizura
President/Chief Operating Officer

DATE: May 16, 2014

RE: Proposed NJEDA Core Loan Program Revisions

Request:

The Members of the Board are requested to approve revisions to NJEDA Core Loan Programs as set forth in the attached product sheet. The revisions are intended to make the NJEDA's programs more reflective of current market needs and to enhance our assistance to small to mid-size businesses in the State. In addition, the revisions will align interest rates with risk evaluations for loans and participations.

Background:

Last year, staff began a series of discussions with the Members to develop goals and objectives for the 2014 Strategic Business Plan. Several areas of focus were explored at the annual retreat which has continued with Directors Loan Review Committee. In particular, staff and the Committee have a shared desire to improve our offerings to New Jersey's small business community to result in a more robust pipeline of lending to grow businesses and create jobs. The Committee recognized the achievement of this objective would require an assessment of risk and a balancing of financial resources against our desired outcomes.

As a result, our Business Banking and Underwriting staff partnered to examine our loan products and banking relationships. The results indicated that our programs were somewhat difficult for our banking partners and clients to understand, were not aligned with current pricing standards and penalized applicants who were not working with an EDA premier lender. Attached are the proposed revisions to the current loan and guarantee programs. The revisions streamline our current programs to have one participation and guarantee program, implement risk based pricing to improve our return for our risk,

increasing lending limits for our programs and expedite approval timeframes for non premier lender financings. Below is a summary of the revisions requested per program.

Statewide Loan Pool

The revisions requested under the Statewide Loan Pool program include streamlining the program to add job maintenance as well as job creation to access our participation and guarantee products. In today's economic environment, we have found that while a small to mid-size business applicant expects to create jobs it is difficult to meet the one job per $50,000 requirement. In addition, we are requesting to increase the amount of the participation from $1,250,000 to $2,000,000 to give increased flexibility to our premier lenders and applicants. The option to utilize the participation program is less expensive than utilizing both the participation and guarantee.

Small Business Fund

The revisions requested under the Small Business Fund include increasing loan amounts from $300,000 to $500,000 in order to assist small businesses who may not have the ability to get traditional bank financing to grow/expand their businesses. In addition, we will require a minimum credit score of 680 for the program versus tiered lending amounts based on credit scores. We are requesting to reduce debt service coverage ratio from 1.10:1 to 1:1 global historical cash flow as principals are relied upon to provide credit for the small business which could impact global cash flow.

Direct Loan

The revisions requested under the Direct Loan program include increasing loan amounts from $1,250,000 to $2,000,000 and revising eligibility requirement for job creation or job maintenance to align with other Core Programs. Finally, staff is recommending that approvals for direct loans with non premier lender financing of at least 50% be approved via existing delegated authority approval parameters. All other projects would require board approval.

Risk Based Pricing:

Previously, interest rates were determined by program, with additions made for credit risk. If there was satisfactory public purpose, reductions could be made so that NJEDA's risk exposure was not always meaningful to the interest rate. Staff is recommending risk based pricing methodology as follows: The interest would be determined by the 5 year treasury or the floor of 2% whichever is higher, (5 year treasury currently 1.75%). Additions would be determined by the risk grid as follows: plus 50 basis points for Satisfactory, plus 150 basis points for Acceptable, plus 200 basis points for Watch and 300 basis points for

Substandard. An interest rate model was utilized using financing from the last three years and with the new interest rate methodology, interest rates were determined to be satisfactorily aligned with risk.

Recommendation

The Members of the Board are requested to approve the recommended revisions to the NJEDA Core Lending Programs to consolidate our products, improve pricing for customers that incorporate EDA's risk exposure, increase loan amounts to align with current market needs and to increase pipeline activity to assist in growing New Jersey businesses.

Timothy J Lizura

Prepared by: Tejinder Gill

Attachment

PREMIER LENDER PROGRAM

Current Program	As Proposed
Eligibility: - One new job created (manufacturers are exempt and have to maintain jobs) for every $50,000 of EDA exposure within two years	Eligibility: - One new job **created or maintained** (manufacturers are exempt and have to maintain jobs) for every **$65,000** of EDA exposure within two years
Loan Limits: - Up to 50% Authority participation up to $1,250,000 for fixed assets - Up to 50% Authority participation up to $750,000 for working capital - Up to 50% Authority Guarantee up to $1,500,000 for fixed assets and working capital - Total Authority exposure not to exceed $2,750,000 and no more than 50% of total combined Authority exposure on participations and guarantees - Up to $500,000 Authority Guarantee of line of credits up to 50% of total line of credit	Loan Limits: - Up to 50% Authority participation up to **$2,000,000** for fixed assets - Up to 50% Authority participation up to $750,000 million for working capital - Up to 50% Authority Guarantee up to $1,500,000 for fixed assets and working capital - No proposed changes to Total Authority exposure - Up to **$750,000** Authority Guarantee of line of credits up to 50% of total line of credit
Interest Rate: - Interest Rate based on the 5 year US treasury plus 100 basis points with basis point additions and deductions for credit risk and public purpose per the scoring guideline with a floor of 3%	Interest Rate: - Interest Rate based on the 5 year US treasury or **floor of 2%** whichever is higher with basis point additions for credit risk
Approval: - Delegated Authority Approval Parameters for Banks designated Premier lenders	Approval: No proposed changes to Premier Lender Approval parameters.
No Proposed Changes to: - Terms - Collateral - Cash flow/Debt Service - Delegated Authority Approval Parameters	No Proposed Changes to: - Terms - Collateral - Cash flow/Debt Service - Delegated Authority Approval Parameters

SMALL BUSINESS FUND

Current Program	As Proposed
Eligibility for Profit Business: - Business has been in operation for at least one year - Businesses meeting minimum Guarantor Credit Score and LTV requirements: A. Loans up to $300,000: 1) Minimum of one personal guarantor with a Credit Score(s) equal to or greater than 700 B. Loans up to $125,000: 1) Minimum of one personal guarantor with a Credit Score(s) equal to or greater than 650	Eligibility for Profit Business: - Business has been in operation for at least one year - Businesses meeting minimum Guarantor Credit Score and LTV requirements: A. Loans up to **$500,000**: 1) Minimum of one personal guarantor with a Credit Score(s) equal to or greater than **680** **2) Must have minimum historical debt service rate of 1.0:1**
Eligibility for Not-For-Profits - Not-For-Profits may apply for a loan up to $300,000 A. Must be in operation for a minimum of three years B. Must have debt service coverage of at least 1.1:1	Eligibility for Not-For-Profits - Not-For-Profits may apply for a loan up to **$500,000** A. Must be in operation for a minimum of three years **B. Must have debt service coverage of at least 1:0:1**
Interest Rate: - Interest Rate based on the 5 year US treasury plus 100 basis points with basis point additions and deductions for credit risk and public purpose per the scoring guideline with a floor of 3%	Interest Rate: - Interest Rate based on the 5 year US treasury or **floor of 2%** whichever is higher with basis point additions for credit risk
No Proposed Changes to: - Terms - Collateral - Cash flow/Debt Service - Delegated Authority Approval Parameters	No Proposed Changes to: - Terms - Collateral - Cash flow/Debt Service - Delegated Authority Approval Parameters

DIRECT LOAN PROGRAM

Current Program	As Proposed
Eligibility: - Applicant should demonstrate that they are unable to obtain conventional financing for their project. - Applicant must meet one of the following: A. Located in an urban aid or targeted municipality. B. Operates within a targeted industry C. One new job created or maintained (manufacturers are exempt and have to maintain jobs) for every $50,000 of EDA exposure within two years	Eligibility: - One new job **created or maintained** (manufacturers are exempt and have to maintain jobs) for every **$65,000** of EDA exposure within two years
Loan Limits: - Up to $1,250,000 for fixed assets - Up to $750,000 for working capital	Loan Limits: - Up to **$2,000,000** for fixed assets - Up to $750,000 for working capital
Interest Rate: - Interest Rate based on the 5 year US treasury plus 100 basis points with basis point additions and deductions for credit risk and public purpose per the scoring guideline with a floor of 3%	Interest Rate: - Interest Rate based on the 5 year US treasury or **floor of 2%** whichever is higher with basis point additions for credit risk
Approval: - Board Approval required for all projects	Approval: - If 50% or more of the project financing is from a financial institution, then Delegated Authority Approval Parameters would be used - All other projects would require Board Approval
No Proposed Changes to: - Terms - Collateral - Cash flow/Debt Service	No Proposed Changes to: - Terms - Collateral - Cash flow/Debt Service

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura
President/Chief Operating Officer

DATE: May 16, 2014

SUBJECT: TD Bank New Jersey Advantage Program
Pilot Program

Request:
Amend the terms of the TD Bank New Jersey Advantage Program approved by the members in January, 2013 to enhance the value of the product for New Jersey companies seeking capital to grow their businesses.

Background:
In January, 2013 the members approved a pilot product offering of a subordinate guarantee feature for a new affinity program between the Authority and TD Bank. Under the new program, "TD Bank New Jersey Advantage Program", TD Bank agreed to provide up to $20 million in financing to New Jersey companies and the Authority agreed to provide a partial (up to 50%) subordinate guarantee to support those financings, to a maximum exposure of $10 million.

At that time, the members also approved an agreement between TD Bank and the Authority, the program guidelines, staff delegation to approve projects and authorized establishing a $10 million reserve account within an EDA's Economic Recovery Fund for the program.

Over the past year, EDA and TD Bank along with counsel worked through the terms of the agreement to align the program goals and to enhance the value of the product to the business community.

Below is a summary of changes in terms in this three (3) year pilot program. All other program terms, funding of the program, the staff delegations, the program agreement and guidelines approved by the members in January, 2013 will remain unchanged:

I. EDA's guarantee of TD Bank's loan or line of credit, traditionally pro rata in payment with the bank for payments received after acceleration and demand for payment is made, will be subordinate in payment to TD Bank;

II. EDA's guarantee, which typically reimburses TD Bank to reduce principal outstanding on the loan or line of credit, may now be applied to reduce the bank's principal, interest and fees on the loan or line of credit;

III. EDA's guarantee, which historically is payable upon declaration of a payment default, will now be expanded to include major defaults for which TD Bank accelerates the loan or line of credit (including, but not limited to, the sale of collateral, transfer of ownership, placement of liens, etc.) Payment of EDA's guarantee will not be made in connection with minor covenant defaults for which the TD Bank does not accelerate its loan or line of credit.

IV. EDA's guarantee which ordinarily terminates at its maturity date can be extended for up to 90 days for a major default provided that TD Bank provides written notice of the major default before the expiry date of the guarantee. This extension will allow the Borrower flexibility to cure potential violations and time for the Bank to comply with all procedures for calling the guarantee as required in the agreement.

Recommendation:

Amend the terms of the TD New Jersey Advantage three (3) year pilot program outlined above to enhance the value of the product for New Jersey companies seeking capital to grow their businesses. All other terms and conditions of the program, the funding of the program through the Economic Recovery Fund, staff delegations to approve transactions and the program guidelines and agreement approved by the members in January, 2013 will remain unchanged.

Prepared by: Lisa Coane on behalf of Credit Underwriting and Post Closing Credit Services

PETROLEUM UNDERGROUND STORAGE TANK PROGRAM

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

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

DATE: May 16, 2014

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. Throughout 2013, staff reported the status of those funds to the members monthly. In December, 2013 the board was advised that ongoing reporting of funding would be provided to the members quarterly commencing in May 2014.

Below is the funding availability as of first quarter ending on 3/31/2014:

PUST:
As of March 31st, remaining cash and unfunded appropriations net of commitments was $4.2 million available to support an estimated $44.8 million pipeline of projects, of which approximately $1.3 million are under review at EDA.

HDSRF:
As of March 31st, remaining cash and unfunded appropriations net of commitments was $33.9 million available to support an estimated $67.9 million pipeline of projects, of which approximately $195 thousand are under review at EDA.

Prepared by: Kathy Junghans

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

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

DATE: May 16, 2014

SUBJECT: NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program

The following residential and commercial 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	
Paula Engelbrecht	$ 126,520
Jennifer Fedorka	$ 129,332
	$ 255,852
UST Commercial Grant:	
Clara Engime	$ 108,631
Total UST for May 2014	**$ 364,483**

Prepared by: Kathy Junghans

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

APPLICANT: Paula Engelbrecht P38945

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION: 147 Sams Rd. Jackson Township (N) Ocean

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

APPLICANT BACKGROUND:

Paula Engelbrecht 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 groundwater remedial activities.

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 $126,520 to perform the approved scope of work at the project site.

The NJDEP oversight fee of $12,652 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 $126,520

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade,Closure,Remediation	$126,520
NJDEP oversight cost	$12,652
EDA administrative cost	$250
TOTAL COSTS	$139,422

APPROVAL OFFICER: K. Junghans

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

APPLICANT: Jennifer Fedorka P38825

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION: 15 Vliestra Drive Vernon Township (T) Sussex

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

APPLICANT BACKGROUND:

Between June 2010 and November 2011, Jennifer Fedorka received grants totaling $52,058 under P29608 and P36806 to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank was decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the supplemental project costs are technically eligible to perform additional soil and ground water 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 $129,332 to perform the approved scope of work at the project site for a total funding to date of $181,390.

The NJDEP oversight fee of $12,933 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 $129,332

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Upgrade,Closure,Remediation	$129,332
NJDEP oversight cost	$12,933
EDA administrative cost	$250
TOTAL COSTS	$142,515

APPROVAL OFFICER: K. Junghans

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

APPLICANT: Clara Engime P38964

PROJECT USER(S): Bob Engime's Service * * - indicates relation to applicant

PROJECT LOCATION: 300 Haddon Ave. Collingswood Borough (N) Camden

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

APPLICANT BACKGROUND:

Between May 1999 and December 2000, Ted Engime, the operator of the project site, received grants totaling $175,031 under P10851 and P10851s to remove underground storage tanks (USTs), and perform soil and groundwater remediation. Clara Engime, the owner of the project site is continuing the remediation. The tank was decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the supplemental project costs are technically eligible to perform additional remedial activities.

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 now requesting an additional supplemental grant in the amount of $108,631 to fund these costs for a total funding to date of $283,662.

The NJDEP oversight fee of $10,863 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: $108,631

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	$108,631
NJDEP oversight cost	$10,863
EDA administrative cost	$500
TOTAL COSTS	$119,994

APPROVAL OFFICER: K. Junghans

HAZARDOUS DISCHARGE SITE REMEDIATION FUND PROGRAM

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President/Chief Operating Officer

DATE: May 16, 2014

SUBJECT: NJDEP Hazardous Discharge Site Remediation Fund Program

The following commercial project has been approved by the Department of Environmental Protection for a loan to perform Remedial Investigation activities. The scope of work is described on the attached project summary.

Commercial Loan:

MMH II, LLC	$ 32,722
Total HAZ funding for May 2014	**$ 32,722**

Prepared by: Kathy Junghans

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - HAZARDOUS DISCHARGE SITE REMEDIAT'N PROG PROGRAM

APPLICANT: MMH II, LLC P39081

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION: 315 West Grand Street Elizabeth City (T/UA) Union

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

APPLICANT BACKGROUND:

MMH II, LLC is a real estate holding company that owns the project property located at 315 West Grand Street in Elizabeth City. The property is a 1.57 acre site with a 12 story building with approximately 150,000 square-feet. In 2003, the Company received a $5,959 grant (P14575) for excavation, treatment, disposal, paving of areas, installation of monitoring wells and ground water sampling at the project property. DEP has now recommended approval for two additional innocent party grants (P39184 for $14,339 and P39185 for $80,041) and the proposed loan. The proposed loan is for supplemental funding for continued soil and ground water remediation work at the site. DEP has reviewed the project and determined that it is technically eligible.

APPROVAL REQUEST:

Approval is requested for a $32,722 loan as proposed.

FINANCING SUMMARY:

LENDER: Hazardous Discharge Site Remediation Fund

AMOUNT OF LOAN: $32,722

TERMS OF LOAN: Fixed rate at the Federal Discount Rate set at the time of approval or closing (whichever is lower) with a floor of 5%. 5-year term, 10-year amortization.

PROJECT COSTS:

Remedial Investigation	$32,722
Finance fees	$1,000
TOTAL COSTS	$33,722

APPROVAL OFFICER: S. Brady

INCENTIVE PROGRAMS

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura
President and Chief Operating Officer

RE: Reproposed Rule Amendments – New Jersey Economic Opportunity Act of 2013

DATE: May 16, 2014

Request:
The Members are requested to approve reproposed 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 November 15, 2013, the Board approved proposed rules implementing the provisions of P.L. 2013, c. 161, which were published in the New Jersey Register on January 6, 2014. In response to public comments and EDA review, the reproposed amendments incorporate substantive changes to the original proposal which require new notice, publication and 60-day public comment period. The attached draft reproposal identifies all revisions to rule text in red-line format and provides explanations of all differences in related summary sections, in highlight.

The following provides a summary of the major differences in the reproposed amendments from the January 6th proposal:

Economic Redevelopment and Growth (ERG) Program

19:31-4.2 Definitions
The definition for "developer contributed capital" is established to mean equity contributed by the developer; "eligibility period" includes the 10-year period for the payment of reimbursements to a developer of a qualified residential project; "project cost" clarifies that certain Federal tax credit programs that involve significant private investment, including, but not limited to, the Low Income Housing Tax Credit administered by the New Jersey Housing and Mortgage Financing Agency will not be excluded Federal funding; "project financing gap" clarifies that other non-developer contributed capital and equity is considered with developer contributed capital and equity, including in meeting the 20 percent of eligible project cost requirement, and that when calculating the project financing gap; "qualified residential project" requires the submission to the Authority of a temporary certificate of occupancy by July 28, 2015; and the term "return on investment" is revised to the "internal rate of return on developer's contributed capital" to be

more accurate regarding the factors used for calculating the project financing gap.

19:31-4.6 Financing Gap and Fiscal Impact Analysis
4.6(a)4 clarifies "amount of capital sufficient to complete the project" as another example of a factor considered in the analysis financing gap and fiscal impact analysis.

19:31-4.9 Tax Credits for Qualified Residential Projects
4.9(f)2 revises the date by which the required certification shall be submitted to the EDA from no later than July 28, 2015 to 12 months after the developer's submission to the EDA receipt of a temporary certificate of occupancy.

19:31-4.11 Pledge, Assignment, Transfer, or Sale of Grant Amount
4.11(b) provides that 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, in an amount not less than $100,000 of tax credits, provided that one transfer consisting of any remainder that is less than $100,000 may be made in each tax period in an amount less than $100,000.

Grow New Jersey Assistance (Grow NJ) Program

19:31-18.2 Definitions
"Capital investment" clarifies that any capital investment made within 24 months prior to the date of application requires the business, any affiliate of the business, or any owner to make, after the date of application, a capital investment equal to 50 percent of the capital investment previously made; "complex of buildings" deletes the requirement that the buildings are co-located; the provisions of the definition for "full-time employee at the qualified business facility" are deleted and replaced within the definition for "eligible employee"; "industrial premises" includes the premises used for the assembling, processing, and/or manufacturing of finished or partially finished products from raw materials or fabricated parts, including but not limited to, factories and includes a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed and/or manufactured by the business at the qualified business facility or for the production of oil or gas or the generation or transformation of electricity; "non-industrial premises" is revised to mean premises in which at least 51 percent of the square footage is not an industrial premise, including, but not limited to, office space; and "retained full-time job" clarifies that the definition pertains to an employee previously employed in New Jersey and transferred to the new location in the Garden State Growth Zone (GSGZ) which qualified for the Municipal Rehabilitation and Economic Recovery Act (MRERA), and, that an applicant shall, rather than may, backfill a retained full-time position with an eligible position filled by a full-time employee.

19:31-18.3 Eligibility criteria
18.3(a)1, 2 and 3 are revised to include the exact language from the statute regarding the efforts by the business's landlord or seller will "make, acquire, or lease a capital investment at which it will retain or create the full-time jobs as required."

19:31-18.4 Restrictions

18.4(a)3 clarifies the restriction against entering into an incentive agreement with a business that that has previously received incentives pursuant to the Business Retention and Relocation Assistance Grant (BRRAG) Program Sales and Use Tax Exemption, sections 19 through 22 of P.L. 2004, c. 65 (N.J.S.A. 34:1B-185 through 188), to not apply to such incentives awarded simultaneously with the Grow NJ Tax credit.

19:31-18.7 Review of Application and Certification of Project Completion

18.7(f)2 is revised to clarify that 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, 18.7(g) is clarified to state that the amount of the tax credit certificate will be based on the information submitted by the applicant at the completion of the capital investment and employment requirements, provided it shall not exceed the maximum amount determined by the Board under 18.7(d).

19:31-18.8 Determination of grant amount; bonus award

18.8(a) states that the total tax credit amount, in addition to the maximum amount determined by the Board under 18.7(d) as contained in the original proposal, shall also be capped by the amount calculated pursuant to 18.7(g); 18.8(g) clarifies that the EDA will consider relevant, in its verification of the amount necessary to complete the project, the factors affecting the decision of the business to relocate; 18.8(h)1, 2, 3 and 4, pertaining to certain projects located in a GSGZ that qualifies for the MRERA, delete ranges for minimum job creation requirements that are matched with minimum capital investment thresholds in order to not exclude from eligibility businesses that may create a large number of jobs but a relatively small amount of capital investment; and 18.8(h)1, 2, 3, 4, and 5 pertains to new or retained full-time jobs, and clarifies that these projects have a 10-year eligibility period, similar to the Urban Transit Hub Tax Credit Program, and a 15-year commitment period (by setting the 10-year eligibility period, the Authority avoids an applicant recouping all of its capital investment in a very short term, which would have the anomalous result of an applicant being paid a large tax credit but only being required to remain at the site for a short period).

19:31-18.10 Project Agreement

The minimum number of full time employees required by the program includes a consideration of the tax credits previously paid during the eligibility period. Because the payment of tax credits occurs in the eligibility period but is intended to ensure the existence of full-time jobs throughout the commitment period (which is 1.5 times the eligibility period), it is appropriate to recapture a portion of the tax credits paid in the early years if the number of full time employees is reduced in the later years.

19:31-18.11 Reporting Requirements and Annual Reports

18.11(e) clarifies that the adjustment in a businesses' tax credit amount for a project located within a Garden State Growth Zone may not affect other obligations under the incentive agreement to maintain a minimum number of employees.

19:31-18.13 Application for tax credit transfer certificate
18.13(a) allows a business to transfer $100,000 rather than $1 million of tax credits and allows a business, with tax credits of less than $100,000 total or remaining under the program, to transfer such amount(s) pursuant to existing EDA and Division of Taxation policy.

19:31-18.15 Reduction and Forfeiture of Tax Credits
18.15(d) is added as a new subsection to explain how the amount of tax credits will be reduced based on the information in the annual report submitted pursuant to 18.11(a).

Recommendation:

The Members are asked to approve the attached reproposed 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 asked to authorize staff to submit the reproposed program rules for promulgation in the July 7, 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

D R A F T
5/16/14

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Reproposed Amendments: N.J.A.C. 19:30-6.1, 6.2, 6.3, and 6.4; and 19:31-4, 9.6, 10.12, 14.2, 14.14, 15.7, and 18

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

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 2014-007.

Submit written comments by September 5, 2014 to:

Maureen Hassett, SVP Finance and Development
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
mhassett@njeda.com

The agency proposal follows:

Summary

The New Jersey Economic Development Authority ("EDA" or "Authority") is reproposing amendments to the rules implementing the Economic Redevelopment and Growth (ERG) Program and Grow New Jersey Assistance (Grow NJ) Program – which were originally proposed on January 6, 2014 based on statutory revisions enacted pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161 – to incorporate substantive changes in response to public comments and EDA review.

Specifically, the EDA received comments from the following individuals in response to publication of the original amendments:

1. Jaime S. Reichardt, Reed Smith LLP
2. Michael G. McGuinness, Chief Executive Officer, NAIOP New Jersey
3. Kevin D. Sheehan, Esq., Parker McCay, P.A.
4. Stephen M. Rosario, CAE, Senior Director, Northeast Region, American Chemistry Council
5. Gil Medina, Executive Vice President, CBRE, Inc.

The comments and the Authority's responses thereto are summarized as follows:

COMMENT: The applicability and scope section pertaining to the Economic Redevelopment and Growth (ERG) Program, at N.J.A.C. 19:31-4.1, should add a statement that residential tax credits will be awarded for a 10-year period.

RESPONSE: The applicability and scope section, at N.J.A.C. 19:31-4.1, summarizes the general provisions of the subchapter. The requirements for the award of tax credits for qualified residential projects, which shall be taken over a 10-year period, are contained in N.J.A.C. 19:31-4.9 and summarized in the reproposal. Therefore, the proposed revision is not necessary.

COMMENT: The definition for "eligibility period" at N.J.A.C. 19:31-4.2 should include a statement that although the eligibility period for the ERG Program is up to 20 years, residential tax credits are awarded for a 10-year period.

RESPONSE: The EDA concurs that the definition of "eligibility period" at N.J.A.C. 19:31-4.2 should be revised as proposed.

COMMENT: The definition for "ancillary infrastructure project" does not require location in the public right-of way however, the definition for "infrastructure improvements in the public right-of-way" is defined as public structures located in the public right-of-way that are located within a project area or that constitute an ancillary infrastructure project. Therefore, clarification should be provided whether an ancillary infrastructure project must be located in the public right-of-way.

RESPONSE: The definition for "ancillary infrastructure project," pursuant to statutory revision in P.L. 2013, c. 161, is proposed for revision to mean structures or improvements that are located within the incentive area, but outside the project area of a redevelopment, which no longer are required to be in the public right-of-way.

COMMENT: The definition for "qualified residential project" at N.J.A.C. 19:31-4.2 includes a project completion date of July 28, 2015 however, the statute states that only a temporary certificate of occupancy must be approved by that date, and an eligible project may not be entirely completed to obtain the temporary certificate of occupancy. Therefore, the definition should be revised to reference the statutory provision setting forth the date and thereby precluding the need for amendment should the Legislature revise and extend the date.

RESPONSE: The reproposed amendments state that a temporary certificate of occupancy is required to be submitted to the Authority by July 28, 2015, which is included in the definition of qualified residential project at N.J.A.C. 19:31-4.2 and at N.J.A.C. 19:31-4.9(e). The reproposed amendments are subject to any statutory revisions thereto.

COMMENT: The EDA should add a reference to the green building guidance adopted at by the EDA Board at the January 2014 meeting in the application submission requirements pertaining to minimum environmental standards, set forth at N.J.A.C. 19:31-4.4(b)20.

RESPONSE: The policy guidelines approved by the EDA Board pertaining to the application of green building standards for construction projects receiving tax incentives under the ERG and Grow NJ programs are available on the EDA's website, and the provision, at N.J.A.C. 19:31-4.4(b)20 contains a reference to www.njeda.com.

COMMENT: The provisions, at N.J.A.C. 19:31-4.6, pertaining to the evaluation and validation of the financing gap, should be clarified regarding the impact of project phasing in (a)3 and revised to exclude educational and hospital projects as final point of sale retail businesses in (a)5.

RESPONSE: The provision at N.J.A.C. 19:31-4.6(a)3 distinctly provides that for large, multi-phased projects that are built sequentially over time, the EDA shall only evaluate and validate the project financing gap on phases of the project with funding commitments; and, as reproposed at N.J.A.C. 19:31-4.6(a)5, the EDA has determined that hospital and educational projects are final point of sale retail businesses that are exceptions from the requirement of analyzing the cost of viable alternative locations for out-of-State redevelopment projects.

COMMENT: N.J.A.C. 19:31-4.8(b)5, pertaining to the State incentive grant agreement under the ERG Program, should contain a statement that the tax credit for residential projects will be issued over a 10-year period, since the section references the 20-year eligibility period for non-residential ERG grants.

RESPONSE: The revised N.J.A.C. 19:31-4.8(a) and (b) provides that qualified residential projects that receive tax credits are exceptions from the requirements for a State incentive grant agreement as set forth in the section, therefore the comment is accepted as N.J.A.C. 19:31-4.8(b)5 no longer refers to the incentive agreement for qualified residential projects.

COMMENT: N.J.A.C. 19:31-4.11(b) should be revised to clarify whether EDA will permit the transfer of tax credit certificates in the amount of $100,000 or more as explicitly permitted for urban transit hub tax credits pursuant to N.J.S.A. 34:1B-209.1; and the existing provision, at N.J.A.C. 19:31-18.13(a), requiring that the total amount of tax credits that a business may transfer, by sale or assignment, to any other person(s) that may have a liability for any single tax period shall be at least $1,000,000 in tax credits, does not derive from the statute, may impact the attractiveness of the program for companies that receive less than $1,000,000 in tax credits per year or total, and should be removed.

RESPONSE: The EDA concurs and as a result, N.J.A.C. 19:31-4.11(b) and N.J.A.C. 19:31-18.13(a) are revised to permit the transfer of tax credit certificates in the amount of $100,000 or more and to reflect existing EDA and Division of Taxation policy, which permits a business with tax credits of less than $100,000 total or remaining under the program to transfer such amount(s).

COMMENT: The definition section pertaining to the Grow NJ Program, at N.J.A.C. 19:31-18.2, should add "headquarters" to mean a facility housing the global, national, or regional center of a business or division of a business, pursuant to the bonus credit in N.J.A.C. 19:31-18.8(c)11 and 18.8(e)2.

RESPONSE: The provisions at N.J.A.C. 19:31-18.8(c)11 and 18.8(e)2 refer specifically to "the United State headquarters of an automobile manufacturer" and, therefore, do not need further revision.

COMMENT: The definition for "industrial premises," at N.J.A.C. 19:31-18.2, should be clarified to include research, development, service, production, storage, or distribution of goods, to allow businesses, such as those in life sciences, to meet the lower capital investment threshold.

RESPONSE: The EDA concurs that the definition of "industrial premises" should be further clarified and has revised the definition to include premises used for the assembling, processing, and/or manufacturing of finished or partially finished products and includes a warehouse if the business uses the warehouse as part of the chain of distribution for products manufactured by the business.

COMMENT: The EDA interpretation of P.L. 2013, c.161, requiring separate applicable thresholds for new and retained jobs for eligibility under the Grow NJ Program, should be revised "…to make the program more attractive and flexible for potential applicants" by allowing a business to combine the number of new and retained jobs to qualify for the program.

RESPONSE: The thresholds for new and retained jobs for eligibility under the Grow NJ Program are based on the exact statutory provisions contained in P.L. 2013, c. 161, which list separate applicable thresholds for new and retained jobs. However, if a business's new and retained full-time jobs separately satisfy the respective thresholds, the business may submit a single application for both retained and new full-time jobs.

COMMENT: The definition for "capital investment," at N.J.A.C. 19:31-18.2, should be clarified to state that site acquisition costs shall be included if incurred within 24 months prior to project application or thereafter; determine whether any and all redevelopment and relocation costs pertaining to Garden State Growth Zone capital investment shall also include soft costs other than the soft costs which are specifically enumerated, and whether the enumerated soft costs are includable only if required in connection with site acquisition, or whether they may be included in connection with relocation, site improvement and infrastructure improvements for the project area; and with respect to the contribution of site acquisition expenses where

acquisition is made within the 24-month period prior to application, indicate how the allowable expenses are to be determined.

RESPONSE: The definition of "capital investment" at N.J.A.C. 19:31-18.2 does not need to be revised, as it specifically includes site acquisition both within 24 months prior to the project application and after application. In addition, as stated in the definition of "capital investment," the eligible redevelopment and relocation costs for a project located in a Garden State Growth Zone are not limited to the specific items listed. Finally, the definition of "capital investment" allows site acquisition costs to be included if purchased within 24 months prior to project application therefore, no further clarification is required.

COMMENT: The definition for "capital investment" at N.J.A.C. 19:31-18.2 unfairly promotes and mandates the use of Leadership in Energy and Environment Design (LEED) standards over other green building rating systems that could be equally appropriate in meeting the needs of an energy efficient building.

RESPONSE: The existing provision of "capital investment" specifies the expenses which qualify toward the minimum capital investment requirements for eligibility under the Grow NJ Program and recognizes additional expenses that may be made for obtaining and installing furnishings and machinery, apparatus, or equipment … or other environmental components required to attain the level of silver rating or above in the Leadership in Energy & Environmental Design (LEED) Green Building Rating System. The provision at N.J.A.C. 19:31-18.5(a)2v relates to the statutory requirement that eligible projects meet minimum environmental standards established by the EDA in accordance with the New Jersey Green Building Manual prepared by the Department of Community Affairs 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. In implementing the statutory requirement for eligible projects to meet the minimum environmental standards, the Authority has adopted a policy available at www.njeda.com that incorporates various standards to apply the principles of the New Jersey Green Building Manual and provides a flexible menu of options depending on project type.

COMMENT: With respect to the definition for "minimum environmental and sustainability standards" at N.J.A.C. 19:31-18.2, reference should be added to the green building guidance adopted by the EDA Board in January 2014.

RESPONSE: The policy guidelines approved by the EDA Board pertaining to the application of green building standards for construction projects receiving tax incentives under the ERG and Grow NJ programs, are contained on the EDA's website and not required to be referenced in the EDA's rules.

COMMENT: The definition for "transit oriented development" under N.J.A.C. 19:31-18.2 should be clarified as to whether a project may qualify based on proximity and utilization of passenger and freight rail hubs other than those owned by the New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation.

RESPONSE: The provisions of the definition are based on the exact statutory provisions of P.L. 2013, c. 161 and may not be revised without statutory authorization.

COMMENT: N.J.A.C. 19:31-18.4(a)(1), with respect to the manner of the determination and collection of recapture liability from a business which is terminating an existing incentive agreement, should be amended such that the operative date for calculating the recapture amount is the date upon which the business applies for certification that it meets the capital investment and job retention and creation requirements of the new incentive agreement, with no subsequent incentive to be granted under the new incentive agreement until any recapture amount so determined has been repaid in full.

RESPONSE: The Authority concurs with the concerns presented which are incorporated in the provisions of N.J.A.C. 19:31-14.8(a)1 as reproposed and originally proposed in the January 6th proposal.

COMMENT: The provision at N.J.A.C. 19:31-18.4(b), that in a Garden State Growth Zone or the Atlantic City Tourism District, 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 facility, implies that of all retail facilities within a mixed-use project, only 7.5 percent will be eligible for tax credits, and therefore, should be clarified that up to a maximum of 7.5 percent of a mixed-use project shall be eligible for tax credits.

RESPONSE: The statutory provisions establishing the Grow NJ Program language allow that only 7.5 percent of the retail facilities will be eligible for tax credits therefore, the rules may not provide for any greater amount.

COMMENT: The provision for the description of the incorporation of minimum environmental and sustainability standards within the application submission as set forth at N.J.A.C. 9:31-18.5(a)2v, should include reference to the green building guidance adopted by the EDA Board in January 2014.

RESPONSE: The policy guidelines approved by the EDA Board pertaining to the application of green building standards for construction projects receiving tax incentives under the ERG and Grow NJ programs, are contained on the EDA's website and not required to be referenced in the EDA's rules.

COMMENT: The extensions pertaining to submittal of certification with respect to capital investment and employment at N.J.A.C. 19:31-18.7(f)3, should be extended beyond the four year deadline for projects "...of such magnitude and complexity that obtaining all required approvals and constructing the project cannot reasonably be completed within four years of the incentive effective date."

RESPONSE: The reproposed new N.J.A.C. 19:31-18.7(f)3 provides for two, six-month extensions of the three-year deadline for the submittal of the final capital investment and

employment certification however, the deadline shall not extend past four years, as stated in the statute.

COMMENT: N.J.A.C. 19:31-18.8(c)6 should be revised to provide that the bonus credit is determined using the most recent United States Census or New Jersey Department of Labor and Workforce Development data, as follows: "For a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the per capita income for the county in which the project is located, using the most recently available United States Census or New Jersey Department of Labor and Workforce Development data, or, in the case of a project in a Garden State Growth Zone, a business that employs full-time positions at the project with an average salary in excess of the per capita income for the Garden State Growth Zone, using the most recently available United States Census or New Jersey Department of Labor and Workforce Development data, 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."

RESPONSE: The EDA utilizes New Jersey Department of Labor and Workforce Development, as well as United States Census data, for all salary determinations therefore, the proposed revision is not necessary.

COMMENT: The total tax credit amount for a project located within a Garden State Growth Zone that qualifies for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. c. 43 (N.J.S.A. 52:27BBB-1 et seq.), pursuant to N.J.A.C. 19:31-18.8(h), should be clarified whether the minimum number of jobs created must be new jobs, or whether the minimum can be satisfied by retained jobs, and it would be appropriate to treat retained jobs in such area as new jobs for purposes of meeting the minimum job requirements.

RESPONSE: The EDA concurs that the tax credit amount for certain projects located within a Garden State Growth Zone should be clarified regarding required jobs and the proposal has been revised accordingly.

COMMENT: The criteria establishing total tax credit amounts for a project located within a Garden State Growth Zone that qualifies for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. c. 43 (N.J.S.A. 52:27BBB-1 et seq.), at N.J.A.C. 19:31-18.8(h), should clarify that both new and retained jobs may be used to meet the eligibility requirement for tax credits based on the capital investment.

RESPONSE: The EDA concurs that the criteria establishing tax credits for certain jobs located within a Garden State Growth Zone should be clarified regarding required jobs and the proposal has been revised accordingly.

COMMENT: The provisions pertaining to the determination of grant award/bonus award, at N.J.A.C. 19:31-18.8(h)1-5, should be revised to include "or retained" after "[f]or a project that creates.." as the total tax credit amount for a project located within a Garden State Growth Zone

that qualifies for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. c. 43 (N.J.S.A. 52:27BBB-1 et seq.) is based on new or retained jobs.

RESPONSE: The EDA concurs and the provisions of N.J.A.C. 19:31-18.8(h)1-5 have been revised accordingly.

COMMENT: The requirement at existing N.J.A.C. 19:31-18.10(b)6 that the project agreement include an agreement by the applicant that extends the general statute of limitations for the collection and assessment of corporation business tax and insurance premiums tax for the entire commitment duration, should be limited to an extended audit period only for items related to the Grow NJ tax credits.

RESPONSE: The provision that the project agreement include an agreement by the applicant that extends the general statute of limitations in certain instances, is based on Division of Taxation policy, and may not be limited as requested.

COMMENT: The provisions of N.J.A.C. 19:31-18.15(b), pertaining to the reduction and forfeiture of Grow NJ tax credits, should clarify that the 80 percent threshold is based on the total number of certified retained and new jobs (whether new or retained) rather than 80 percent retained and 80 percent new. The clarification is important pursuant to N.J.A.C. 19:31-18.11(a)(1) which requires a company to meet requirements relating to retained full-time jobs before receiving benefits for new jobs.

RESPONSE: The EDA concurs that clarification is required pertaining to the reduction and forfeiture of tax credits and the provisions of N.J.A.C. 19:31-18.15(b) have been revised accordingly.

COMMENT: The provisions of N.J.A.C. 19:31-18.15(b) should include a description of the factors EDA will evaluate in determining whether to seek a recapture of tax credits already awarded to a business when that business does not maintain at least 80 percent of the employment level as required in the incentive agreement for the full commitment period; and indicate that the 80 percent threshold is based on the number of certified jobs.

RESPONSE: The EDA concurs and therefore, new subsection (d) has been added to establish the conditions under which tax credits shall be reduced or forfeited pertaining to the maintenance of full-time jobs.

COMMENT: The proposed provision at N.J.A.C. 19:31-18.16 pertaining to the sale of a qualified business facility, should provide that if the business receiving Grow NJ tax credits owns the qualified business facility and subsequently sells the facility, the business should be entitled to retain its tax credits, provided that it remains at the qualified business facility with the requisite number of employees needed for the entire commitment duration, and the costs of acquiring the qualified business facility were not used to qualify for the program as eligible capital investment.

RESPONSE: The EDA concurs and the provision of N.J.A.C. 19:31-18.16 pertaining to the sale of a qualified business facility has been revised accordingly.

COMMENT: N.J.A.C. 19:31-18.17, which requires the Authority's prevailing wage and affirmative action requirements apply to State incentive grant projects undertaken in connection with financial assistance received under the Grow NJ Program, should only apply to capital investment used to qualify for the program, separate from any additional construction, renovation or installation of equipment not used to qualify for tax credits.

RESPONSE: The EDA's prevailing wage and affirmative action requirements are based on statutory requirements and may not be revised as requested.

COMMENT: Under the authority of N.J.S.A. 34:1B-249, a phasing mechanism should be established that will permit a project to certify to compliance with the capital investment and/or job retention and creation requirements at one or more points in time for a single application and incentive agreement, with the specific capital and job requirements to be certified at each interval defined in the incentive agreement. This mechanism would allow projects with unique durations to participate in the Grow NJ Program while aggregating capital investment over project-specific horizons.

RESPONSE: The Grow NJ Program is intended to incentivize job creation and retention and therefore, the recognition through separate certification requirements for large, multi-phased projects that are built sequentially over time as provided for under the ERG Program – the State's main capital investment incentive – is not applicable.

COMMENT: Under the authority of N.J.S.A. 34:1B-249, the EDA should establish the latest date upon which a business may certify compliance with the minimum capital investment and job requirements of an incentive agreement for Grow NJ tax credits, in light of the requirement in N.J.S.A. 34:1B-247(b)(2) that any incentive effective date occur no later than four years following the application.

RESPONSE: N.J.A.C. 19:31-18.7(f)3 establishes the final date upon which a business shall submit the required final certification with respect to capital investment and employment as within three years following the date of approval of the application.

COMMENT: The Authority is requested to clarify whether headquarters facilities may qualify as targeted industries under the Grow NJ Program.

RESPONSE: Due to the fact that the statutory revisions to the Grow NJ Program were enacted in September 2013, the EDA intends to allow the program to evolve before changing the definition of "targeted industry."

COMMENT: The definition of "capital investment" states that in order for any capital investment made or acquired within 24 months prior to the date of application to be eligible, the capital investment of a business, any affiliate of the business, or any owner after the date of

application must equal at least 50 percent of the capital investment. The definition of "capital investment" should provide that the 50 percent requirement applies only to the minimum amount of capital investment required pursuant to N.J.S.A. 34:1B- 244(b).

RESPONSE: There is no statutory basis to limit the 50 percent capital investment requirement to the minimum amount of capital investment required pursuant to N.J.S.A. 34:16-244(b). The capital investment of a business, any affiliate of the business, or any owner after the date of application must equal at least 50 percent of all the capital investment made prior to application.

The following provides a summary of the major revisions contained in the reproposed amendments and indentifies differences which were proposed on January 6, 2014 as necessary:

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 reproposed 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 reproposed new N.J.A.C. 19:31-4.5 and summarized below. In addition, reproposed 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.

Subchapter 4. Economic Redevelopment and Growth Program (Program)

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

The reproposed amendments add 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. In addition, the reproposed amendments at N.J.A.C. 19:31-4.1(d) clarify that a developer's right, title, and interest in a redevelopment project may be pledged, assigned, or sold by a developer.

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

The reproposed 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, in addition to the project not being economically viable without the improvements, 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 apply to any person who enters into an approval letter, 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, that is, a lender that completes 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 “output” which is replaced with “benefits” pertaining to the estimate of direct and indirect economic benefits that 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 that 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 word “eligible” pertaining to project costs as the term “eligible project costs” is reproposed 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 hotel 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 "specific work," which is replaced with "specific construction project," clarifies that the definition includes land that 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 reproposed amendments, pursuant to P.L. 2013, c. 161, establish new definitions for "aviation district," "deep poverty pocket," "developer contributed capital," "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 reproposed amendments delete the definition for "eligible project costs," which is replaced by the provisions contained in the reproposed 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 reproposed 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.).

The reproposed 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.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-4.2 clarifies six definitions, specifically, "developer contributed capital" is established to mean equity contributed by the developer; "eligibility period" is revised to include the 10-year period for the payment of reimbursements to a developer of a qualified residential project; "project cost" is revised to clarify that certain Federal tax credit programs that involve significant private investment, including, but not limited to, the Low Income Housing Tax Credit administered by the New Jersey Housing and Mortgage Financing Agency will not be excluded Federal funding; "project financing gap" is revised to clarify that other non-developer contributed capital and equity is considered with developer contributed capital and equity, including in meeting the 20 percent of eligible project cost requirement, and that when calculating the project financing gap; "qualified residential project" is revised to require the submission to the Authority of a temporary certificate of occupancy by July 28, 2015; and the term "return on investment" is revised to the "internal rate of return on developer's contributed capital" to be more accurate regarding the factors used for calculating the project financing gap.

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

The reproposed 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 reproposed 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 reproposed 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 reproposed amendments 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 reproposed new definition for "project cost" and clarifies that reference to projected internal rate of return is on developer's contributed capital.

The reproposed 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 reproposed 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 reproposed 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 reproposed projects; and the reproposed 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 reproposed redevelopment is located shall also pertain to any ancillary infrastructure project or infrastructure improvement in the right-of-way.

Reproposed 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 that a non-profit organization shall submit in such instances at reproposed new N.J.A.C. 19:31-4.4(c)1 through 6.

Reproposed 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 September 18, 2013, 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.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-4.4(a)9 clarifies that reference to "projected internal rate of return" is on "developer's contributed capital."

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

Reproposed 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: reproposed 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; reproposed 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; reproposed 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); reproposed 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; reproposed 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; reproposed new N.J.A.C. 19:31-4.5(f) and (g) relocate 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 reproposed for deletion at N.J.A.C. 19:30-6.4(a)9; reproposed 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; reproposed 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 reproposed 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 reproposed 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; the reproposed 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 reproposed new definition for “project cost;” and, the reproposed amendments at N.J.A.C. 19:31-4.6(a)4 also clarify that reference to “internal rate of return” is on “developer’s contributed capital.”

Reproposed new 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 other penalties, if the certification is found to be willfully false.

The reproposed 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 reproposed amendment at recodified N.J.A.C. 19:31-4.6(c) revises the factors that 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.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-4.6(a)4 clarifies requirements pertaining to the financing gap analysis, as follows: corrects the reference to "project financing gap" by adding "project" before "financing gap," includes "amount of capital sufficient to complete the project" as another example of a factor considered in the analysis, and revises the term "internal rate of return" to "internal rate of return on developer's contributed capital" to be more consistent with the revised definition of "project financing gap" in N.J.A.C. 19:31-4.2; and N.J.A.C. 19:31-4.6(a)5 corrects the reference to "project financing gap" by adding "project" before "financing gap."

N.J.A.C. 19:31-4.7 Approval of Application for State Incentive Grant

The reproposed 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 reproposed amendments at recodified N.J.A.C. 19:31-4.7(b) revise the factors that 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 reproposed 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; 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 5) 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 cost, except for projects in a Garden State Growth Zone, which shall be equal to up to 40 percent of the total project cost.
Reproposed new 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 reproposed 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 reproposed amendments at recodified N.J.A.C. 19:31-4.8(b)1 add the eligibility period and the maximum amount of project cost to the terms and conditions that shall be included in any State redevelopment incentive agreement; revise a citation to 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 reproposed 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 subparagraphs (b)3i, which clarifies that the percentage amount of reimbursement shall be 75 percent of the annual incremental State revenues in the absence of extenuating circumstances (rather than just the 75 percent clause); and new subparagraph (b)3ii establishes, in the absence of extenuating circumstances, the percentage amount of reimbursement of 85 percent of the project's annual incremental revenues in a Garden State Growth Zone.

The reproposed 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,” respectively, pertaining to the frequency of payments.

Reproposed new 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 undertaken in phases.

The reproposed amendments at recodified N.J.A.C. 19:31-4.8(b)7 include 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; and notice that in the event the project cost or square footage of the project are reduced below the approved amounts, the EDA may reevaluate the fiscal impact analysis and financing gap analysis and reduce the size of the grant accordingly.

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

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-4.8(b) clarifies that the requirements of that section will not apply to qualified residential projects that receive tax credits.

N.J.A.C. 19:31-4.9 Tax Credits for Qualified Residential Projects

Reproposed new N.J.A.C. 19:31-4.9 establishes requirements for the award of tax credits for qualified residential projects, as follows: reproposed 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 grant and which shall be taken over a 10-year period, at the rate of 1/10th 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; reproposed new N.J.A.C. 19:31-4.9(b) establishes factors that shall be taken into consideration for allocating tax credits to qualified residential projects; reproposed 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; reproposed 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 EDA's approval of the tax credits shall expire; reproposed new N.J.A.C. 19:31-4.9(e) states that no later than July 28, 2015, each approved developer of a qualified residential facility that has been approved for tax credits shall submit evidence of a temporary certificate of occupancy; reproposed new N.J.A.C. 19:31-4.9(f) requires that the developer submit a certification of an independent certified public accountant that the business has satisfied the conditions relating to capital investment requirements, which pursuant to (f)2, shall be submitted no later than 12 months after the submission to EDA of a temporary certificate of occupancy; reproposed new N.J.A.C. 19:31-4.9(g) establishes the conditions upon which the developer shall receive its tax credit certification subject to the receipt of an annual letter of compliance; reproposed new N.J.A.C. 19:31-4.9(h) 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(h)1 through 4; reproposed new N.J.A.C. 19:31-4.9(j) provides that the EDA 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 reproposed new N.J.A.C. 19:31-4.9(k) establishes the terms that shall be set forth in the tax credit certificate.

The reproposed amendments to the section differ from the January 6th proposal as follows: new N.J.A.C. 19:31-4.9(e) is added as summarized above and all remaining subsections are recodified; N.J.A.C. 19:31-4.9(f) is revised to require the certification of an independent certified public accountant; and N.J.A.C. 19:31-4.9(f)2 revises the date by which the required certification shall be submitted to the EDA from no later than July 28, 2015 to 12 months after the developer's submission to the EDA receipt of a temporary certificate of occupancy.

N.J.A.C. 19:31-4.10 Incremental Revenue Sources

The reproposed amendments at recodified N.J.A.C. 19:31-4.10(a) state 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.

Reproposed new N.J.A.C. 19:31-4.10(a)5 adds 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 utilities, 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 reproposed 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.

Finally, the reproposed amendment at recodified N.J.A.C. 19:31-4.10(b) revises the subsection pertaining to the amount of certain State incremental revenues that 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 reproposed amendments to the section heading and at recodified N.J.A.C. 19:31-4.11(a) add the terms “transfer or sale”; and the reproposed 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. Reproposed new 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.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-4.11(b) provides that 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, in an amount not less than $100,000 of tax credits, provided that one transfer consisting of any remainder that is less than $100,000 may be made in each tax period in an amount less than $100,000.

N.J.A.C. 19:31-4.12 Affirmative Action and Prevailing Wage

The reproposed 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

Reproposed new N.J.A.C. 19:31-4.13 establishes 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, 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 states that challenges are not contested cases subject to the requirements of the Administrative Procedure Act and Uniform Administrative Procedures Rules; new N.J.A.C. 19:31-4.13(c) establishes the procedures that the Authority shall follow regarding all timely

submitted challenges, that is, 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 N.J.A.C. 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.

Subchapter 9. Urban Transit Hub Tax Credit Program

N.J.A.C. 19:31-9.6 Application and Servicing Fees

Reproposed 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

N.J.A.C. 19:31-10.12 Fees

The reproposed 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 total grant disbursements, as projected at the time of approval, 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 total grant disbursements, as projected at the time of approval, 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 total grant disbursements, as projected at the time of approval, 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

N.J.A.C. 19:31-14.2 Definitions

The reproposed amendment at N.J.A.C. 19:31-14.2 revises the definition of "retained full-time job" to conform with the reproposed 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 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.

N.J.A.C. 19:31-14.14 Fees

The reproposed 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 total approved tax credits 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 total approved tax credits 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 total approved tax credits 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. Tax Credit Certificate Transfer Program (Pertaining to BRRAG)

N.J.A.C. 19:31-15.7 Fees

The reproposed 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 total approved tax credits 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 total approved tax credits 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 total approved tax credits 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 reproposed amendment at 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 reproposed 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, 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 that 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, incurred after application through deletion of the existing deadline of 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, and include site acquisition if purchased within 24 months prior to project application or thereafter, 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. § 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 in 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, include site acquisition and 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 reproposed revised definition of "full-time employee" and to establish requirements to be eligible as an eligible position or full-time job; "full-time employee" is revised pursuant to P.L. 2013, c. 161 to: 1) delete the terms "person" and "employee," which are no longer necessary based on reformatting; 2) require that the business provide employee health benefits under a health benefits plan authorized pursuant to State or Federal law; 3) establish certain separate health benefit and employment requirements for a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distributions operations, located in a port district having a container terminal; and 4) for certain retail projects that include a full-service

supermarket or grocery store located in a Garden State Growth Zone that qualified under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or 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, provided that the Authority shall accept a standard of service generally accepted by custom or practice as full-time employment in such entities or other like retail industry; "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, that is, 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, state that for a project located in a Garden State Growth Zone that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), "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 reproposed amendments, pursuant to P.L. 2013, c. 161, establish new definitions for "aviation district," "commitment period," "complex of buildings," "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," "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 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," "urban transit hub municipality" and "withholdings."

The reproposed amendments delete the existing definition for "public transit facility" which is no longer utilized; and delete the definitions for "commitment duration" and "tax credit term" which are replaced by new "commitment period" and "eligibility period."

The reproposed amendments delete the definition for "qualified incentive area," which has been substantially revised to retain and add new delineations pursuant to P.L. 2013, c. 161 as follows: 1) the existing delineations are retained, that is, Planning Area 1 (Metropolitan); Planning Area 2 (Suburban); 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; 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; and, land approved for closure under any Federal Base Closure and Realignment Commission action; and 2) new delineations are added, that is, an aviation district; a port district; a distressed municipality; an area designated as Planning Area 3 (Fringe Planning Area), pursuant to the State Planning Act; the planning area of the Highlands Region or in a highlands development credit receiving area or redevelopment area; a Garden State Growth Zone; 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 reproposed 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.).

The reproposed amendments to the section differ from the January 6th proposal as follows: "capital investment" is revised to clarify that any capital investment made within 24 months prior to the date of application requires the business, any affiliate of the business, or any owner to make, after the date of application, a capital investment equal to 50 percent of the capital investment previously made; "complex of buildings" is revised to delete the requirement that the buildings are co-located; the provisions of the definition for "full-time employee at the qualified business facility" are deleted and replaced within the definition for "eligible employee"; "industrial premises" is revised to include the premises used for the assembling, processing, and/or manufacturing of finished or partially finished products from materials or fabricated parts, including but not limited to, factories and includes a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed and/or manufactured by the business at the qualified business facility or for the production of oil or gas or the generation or transformation of electricity; "non-industrial premises" is revised to mean premises in which at least 51 percent of the square footage is not an industrial premise, including, but not limited to, office space; and "retained full-time job" is revised to clarify that the definition pertains to an employee previously employed in New Jersey and transferred to the new location in the 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 seq.) and, that an applicant shall, rather than may, backfill a retained full-time position with an eligible position filled by a full-time employee.

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

The reproposed amendments revise the provisions of the section pertaining to eligibility for a Grow NJ 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 officer 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 state that for purposes subparagraphs (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, or Salem counties, the minimum capital investment required shall be reduced by one-third; N.J.A.C. 19:31-18.3(a)2 is revised to establish new minimum job requirements based upon the type of business that will occupy the premises of the eligible business in new subparagraphs (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 states 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, 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, 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, establishes a separate material factor requirement for certain projects where the site is acquired within 24 months of application, and provides that for a project located in a Garden State Growth Zone that qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), 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 seq.); 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; 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.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.3(a)1, 2 and 3 are revised to include the exact language from the statute regarding the efforts by the business's landlord or seller will "make, acquire, or lease a capital investment at which it will retain or create the full-time jobs as required."

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

The reproposed 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, 2 and 3 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 EDA, 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, or the incentives pursuant to the Business Retention and Relocation Assistance Grant (BRRAG) Program Sales and Use Tax Exemption, sections 19 through 22 of P.L. 2004, c. 65 (N.J.S.A. 34:1B-185 through 188) are awarded simultaneously with the Grow New Jersey Tax credit. 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 reproposed 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 that qualified under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), 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.

The reproposed amendments delete N.J.A.C. 19:31-18.4(e) through (i), which are relocated or replaced by other new provisions in this rulemaking.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.4(a)3 clarifies the restriction against entering into an incentive agreement with a business that that has previously received incentives pursuant to the Business Retention and Relocation Assistance Grant (BRRAG) Program Sales and Use Tax Exemption, sections 19 through 22 of P.L. 2004, c. 65 (N.J.S.A. 34:1B-185 through 188) to not apply to such incentives awarded simultaneously with the Grow NJ Tax credit.

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

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

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

The reproposed 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 codify part of the subparagraph into sub-subparagraphs, which are amended as follows: 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,” N.J.A.C. 19:31-18.5(a)2iv(2) pertains to the projected creation “or retention” of new full-time jobs, and 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 EDA, 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 seq.), 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 seq.), and establishes a separate material factor requirement for certain projects where the site is acquired within 24 months of application.

The reproposed 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 reproposed amendment at N.J.A.C. 19:31-18.5(a)2vi clarifies that, for purposes of determining geographical location, the qualified business facility shall be considered in the geographical location if at least 51 percent of the square footage of the building or building is in the geographical location.

The reproposed 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 reproposed amendment at N.J.A.C. 19:31-18.5(a)3i deletes a provision that 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 reproposed amendments at N.J.A.C. 19:31-18.5(a)3ii insert the terms “retained” and “jobs” and deletes the term “positions,” all pertaining to full-time jobs at the qualified facility. 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, is deleted, as tenants are eligible to apply for the credit pursuant to P.L. 2013, c. 161.

New N.J.A.C. 19:31-18.5(c) authorizes a business to assign its ability to apply for the tax credit under the Subchapter 18 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 information that shall be submitted by the non-profit in such instances.

New N.J.A.C. 19:31-18.5(d) requires that a business that has already applied for a tax credit incentive award prior to September 18, 2013, the effective date of P.L. 2013, c. 161, but who 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.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.5(a)2vi clarifies that, for purposes of determining geographical location, the qualified business facility shall be considered in the geographical location if at least 51 percent of the square footage of the building or building is in the geographical location.

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

The reproposed 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, is reduced to $1,000 for projects with 100 or fewer new and retained full-time jobs; $2,500 for projects with total tax credits of $10,000,000 or less and 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 reproposed 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 EDA.

The reproposed 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 reproposed amendments at N.J.A.C. 19:31-18.6(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 reproposed 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 two 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 reproposed 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.

Reproposed 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.

Reproposed 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, reproposed 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 reproposed 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 by September 18, 2017, which is four years after the effective date of P.L. 2013, c. 161; 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 reproposed amendments at 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 EDA may award certain bonuses in its net positive economic benefit calculation, and with regard to a project located in a Garden State Growth Zone that qualified for the Municipal Rehabilitation and

Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), the net positive economic benefits test may utilize the value of certain taxes as specified in the subsection. The reproposed 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 EDA 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 seq.), 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 seq.).

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

The reproposed amendments at N.J.A.C. 19:31-18.7(e) extend the dates for submission of progress information indicating the business has site plan approval, committed financing, and site control, as well as the deadline for expiration of the tax credits if the progress information is not received by the EDA, from six months to 12 months.

The reproposed 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: subsection (f) is revised to clarify that the certifications include supporting evidence satisfactory to the EDA; paragraph (f)1 is revised to apply to the amount of the capital investment in the certification that has been approved by the Authority and notice that in the event the capital investment is reduced below the approved amount, the EDA may reevaluate the net positive economic benefit and reduce the size of the grant accordingly; paragraph (f)2 is revised to apply to the number of new and retained full-time jobs in the certification, delete the term “additional employees,” which is replaced with “additional jobs,” state 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, require that the business shall meet the employment requirements related to the retained full-time jobs before receiving benefits for new full-time jobs, and notice that in the event the number of new and/or retained full-time jobs is reduced below the approved amount, the EDA may reevaluate the net positive economic benefit and reduce the size of the grant accordingly; paragraph (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.

The reproposed amendment at N.J.A.C. 19:31-18.7(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; and clarifies that the amount of the tax

credit certificate will be based on the information submitted by the applicant at the completion of the capital investment and employment requirements, provided it shall not exceed the maximum amount determined by the Board under N.J.A.C. 19:31-18.7(d).

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.7(f)2 is revised to clarify that 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, N.J.A.C. 19:31-18.7(g) is clarified to state that the amount of the tax credit certificate will be based on the information submitted by the applicant at the completion of the capital investment and employment requirements, provided it shall not exceed the maximum amount determined by the Board under N.J.A.C. 19:31-18.7(d).

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

The reproposed 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 EDA pursuant to N.J.A.C. 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) and the amount calculated pursuant to N.J.A.C. 19:31-18.7(g) divided by the number of years in the eligibility period.

The reproposed amendments delete N.J.A.C. 19:31-18.8(b), regarding the determination of bonus awards, which is revised and set forth at new N.J.A.C. 19:31-18.8(c), as discussed below; 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 paragraph (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, $500.00 per year.

The reproposed 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.

Reproposed new N.J.A.C. 19:31-18.8(c)1 through 16 establish bonus credits ranging from $200.00 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.

Reproposed 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 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.

Reproposed new N.J.A.C. 19:31-18.8(e) establishes calculations, following the determination by the EDA 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 that 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.

Reproposed 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 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 seq.); 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.

Reproposed 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 EDA 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, including, but not limited to, factors affecting the decision of the business to relocate, the EDA shall independently verify and confirm the amount necessary to complete the project.

Reproposed 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 that qualify for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.).

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.8(a) states that the total tax credit amount, in addition to the maximum amount determined by the Board under N.J.A.C. 19:31-18.7(d) as contained in the original proposal, shall also be capped by the amount calculated pursuant to N.J.A.C. 19:31-18.7(g); N.J.A.C. 19:31-18.8(g) clarifies that the EDA will consider relevant, in its verification of the amount necessary to complete the project, the factors affecting the decision of the business to relocate; N.J.A.C. 19:31-18.8(h)1, 2, 3 and 4, pertaining to certain projects located in a Garden State Growth Zone that qualifies for the Municipal Rehabilitation and Economic Recovery Act, delete ranges for minimum job creation requirements that are matched with minimum capital investment thresholds in order to not exclude from eligibility businesses that may create a large number of jobs but a relatively small amount of capital investment; and N.J.A.C. 19:31-18.8(h)1, 2, 3, 4, and 5 pertains to new or retained full-time jobs, and clarifies that these projects have a 10-year eligibility period, similar to the Urban Transit Hub Tax Credit Program, and a 15-year commitment period (by setting the 10-year eligibility period, the Authority avoids an applicant recouping all of its capital investment in a very short term, which would have the anomalous result of an applicant being paid a large tax credit but only being required to remain at the site for a short period).

N.J.A.C. 19:31-18.9 Tax Credit Amount; Application and Allocation of the Tax Credit

The reproposed 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 period, 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 reproposed amendment at N.J.A.C. 19:31-18.9(c) deletes provisions pertaining to the total value of all credits approved by the EDA, which is revised and addressed in N.J.A.C. 19:31-18.14.

Finally, reproposed new subsections (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 reproposed amendments revise the heading of the section and references therein from "project agreement" to "incentive agreement."

In addition, the reproposed amendments revise N.J.A.C. 19:31-18.10(b), which lists the terms or conditions included in the project agreement, as follows: paragraph (b)1 adds the terms "new or retained full-time employees," deletes the term "employees" from the same phrase 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 required by the program, which shall include consideration bonus award(s) and the net positive economic benefit test pursuant to N.J.A.C. 19:31-18.3(a)3ii," replaces the existing compliance requirement of 80 percent of the number of new and retained jobs specified in the project agreement with the minimum number of full-time employees as required by the program, which includes consideration of bonus award(s) and net positive economic benefit test, revises the reference to the provision permitting the EDA to recapture tax credits if the business does not remain "at the site" to "in compliance with this provision," states that recapture may include certain interest plus other specified costs, and deletes remaining provisions that 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); and N.J.A.C. 19:31-18.10(b)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.

The reproposed amendments differ from the January 6th proposal as follows: the minimum number of full time employees required by the program includes a consideration of the tax credits previously paid during the eligibility period. Because the payment of tax credits occurs in the eligibility period but is intended to ensure the existence of full-time jobs throughout the commitment period (which is 1.5 times the eligibility period), it is appropriate to recapture a portion of the tax credits paid in the early years if the number of full time employees is reduced in the later years.

N.J.A.C. 19:31-18.11 Reporting Requirements and Annual Reports

The reproposed 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 reproposed 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 P.L. 2013, c. 161, and the subchapter.

Reproposed new N.J.A.C. 19:31-18.11(c) provides that the EDA, in conducting the annual review, may require a business to submit any information determined to be necessary and relevant to the review.

Reproposed 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 shall determine whether to approve.

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.11(e) clarifies that the adjustment in a businesses’ tax credit amount for a project located within a Garden State Growth Zone may not affect other obligations under the incentive agreement to maintain a minimum number of employees.

N.J.A.C. 19:31-18.13 Application for tax credit transfer certificate

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.13(a) allows a business to transfer $100,000 rather than $1 million of tax credits and allows a business, with tax credits of less than $100,000 total or remaining under the program, to transfer such amount(s) pursuant to existing EDA and Division of Taxation policy.

N.J.A.C. 19:31-18.14 Cap on Total Credits

The reproposed 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 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 and Forfeiture of Tax Credits

The reproposed 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 reproposed 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 agreement,” which is replaced with “the certification approved by the Authority pursuant to N.J.A.C. 19:31-18.7(g),” pertaining to the specified number of new and retained full-time jobs; 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 certification approved by the Authority pursuant to N.J.A.C. 19:31-18.7(g).”

The reproposed amendments delete N.J.A.C. 19:31-18.15(c) and (d), the provisions of which pertained to outdated requirements following the enactment of P.L. 2013, c. 161; reproposed new N.J.A.C. 19:31-18.15(c) states 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; and reproposed new N.J.A.C. 19:31-18.5(d) details how the amount of tax credits shall be reduced in proportion to the reduction in the number of new or retained full-time jobs for all projects, and for those which awards are calculated pursuant to N.J.A.C. 19:31-18.8(h).

The reproposed amendments to the section differ from the January 6th proposal as follows: N.J.A.C. 19:31-18.15(d) is added as a new subsection to explain how the amount of tax credits shall be reduced in proportion to the reduction in the number of new or retained full-time

jobs for all projects, and for those which awards are calculated pursuant to N.J.A.C. 19:31-18.8(h).

N.J.A.C. 19:31-18.16 Effect of Sale or Lease of Qualified Facilities

The reproposed amendments at 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. In addition, N.J.A.C. 19:1918.16(b) deletes the reference to the "10-year" eligibility period, as well.

The reproposed amendments to the section differ from the January 6th proposal as follows: the deletion of subsection designation for N.J.A.C. 19:31-18.16(a) is removed as the originally proposed deletion of N.J.A.C. 19:31-18.16(b) is removed and the subsection is retained; and, N.J.A.C. 19:31-18.16(b) deletes the references to "10-year" eligibility period.

N.J.A.C. 19:31-18.17 Affirmative Action and Prevailing Wage

Reproposed 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

Reproposed new N.J.A.C. 19:31-18.18 establishes 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, 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 states 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 EDA may consider certain new evidence or information; new N.J.A.C. 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 states 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.

As the Authority has provided a 60-day comment period in this notice of 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 reproposed amendments and new rules are intended to have a positive social impact.

Economic Impact

The reproposed 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, 28 projects have been approved through the ERG Program for more than $936 million, paid over an average term of 20 years. These projects are spurring an estimated $5.78 billion in public/private investment over the term, and are expected to create over 23,299 new jobs and over 16,693 construction jobs. Under Grow NJ, EDA has approved 42 projects for over $840 million based on eligible capital investments of over $1.06 billion. This assistance has resulted in the creation of 5,621 new jobs, 9,272 retained jobs and 4,157 construction jobs. The fees reproposed for adjustments are discussed in the Summary above.

Federal Standards Statement

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

Jobs Impact

The EDA anticipates that the reproposed 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 to 35 new or retaining between 25 to 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 reproposed amendments and new rules will have no impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility 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 reproposed revisions to the Grow NJ Program, which reduce the employment eligibility threshold from 100 new or retained full-time jobs to between 10 to 35 new, and 25 to 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, which are all discussed in the Summary above, 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 reproposed 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 reproposed fee adjustments, as discussed above, will not impact small businesses.

The reproposed 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 reproposed 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 reproposed 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 reproposed 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 reproposed amendments, cannot be estimated, because the actual development that may be eligible and reproposed 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 reproposed 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 reproposed 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)-(g) as **(c)-(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**.

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"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).

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"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 [section 9 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489i and k)] **the Economic Redevelopment and Growth (ERG) Program, 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**.

"Developer contributed capital" means equity contributed by the developer.

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["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.]

"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, 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, an SDA municipality, or a municipality in which a major rail station is located.

"Eligibility period" means 10 years for qualified residential projects that receive tax credits or, for all other redevelopment projects, 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**.

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"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 [output] **benefits, 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.

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"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 U.S. 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).

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"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**.

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"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 the Department 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.

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"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. For purposes of this definition, as determined by the Authority, certain Federal tax credit programs that involve significant private investment, including, but not limited to, the Low Income Housing Tax Credit administered by the New Jersey Housing and Mortgage Financing Agency, will not be considered Federal 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 **or other 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]**4.6(a)4**, including, but not limited to, **internal rate of** return on **developer's contributed capital** [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.

["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.]

"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~~ for which a developer must submit a temporary certificate of occupancy 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 an aviation district, a port district, a distressed municipality, or an area:

1. Designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or 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 [work] **construction project** 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 seq.) 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 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.).

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["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.]

"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.

"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 that 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 one-half-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. For the purposes of determining the transit project bonus pursuant to N.J.A.C. 19:31-4.7(e)4, a bus station platform is a terminal as listed on the EDA's website at www.njeda.com**.**

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"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 under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.).

"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]**4.6(a)2**;

3.-4. (No change.)

5. [Pursuant] **For a State incentive grant, except for a qualified residential project, 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 **on developer's contributed capital**, net margin, return on investment**,** and cash on cash yield;

10. (No change.)

11. For [certain projects consisting of newly-constructed residential units] **qualified residential projects**, a certification that it meets the requirements of N.J.A.C. 19:31-4.3[(c)]**(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 that 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 September 18, 2013, the effective date of P.L. 2013, c. 161, 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 in (a) 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.

(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. For large, multi-phased projects that are built sequentially over time, the EDA shall only evaluate and validate the project financing gap on phases of the project with funding commitments; [and]

4. The **project** financing gap analysis shall include, but not be limited to, an evaluation of the [eligible] project costs, **amount of capital sufficient to complete the project,** proposed rental rates, vacancy rates, internal rate of return **on developer's contributed capital**, 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[.]**; and**

5. Except for final point of sale retail businesses, including, but not limited to, retail, educational, hospital, or hotel projects, the project 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 regard 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 (e) below, shall be equal to up to 30 percent of the total project cost, 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 (e) below, shall be equal to up to 40 percent of the total project cost.**

(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 that 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 that 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 that 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) [Upon] **Except for qualified residential projects that receive tax credits, 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] **Except for qualified residential projects that receive tax credits, 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 cost, 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)]**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] **In the absence of extenuating circumstances, the reimbursement schedule, which will indicate the** annual percentage amount of reimbursement [which shall] **provided that it** not exceed [75]**:**

i. Seventy-five percent of the annual incremental State revenues; **or**

ii. Eighty-five 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. **In the event the project cost or square footage of the project are reduced below the amount of project cost or square footage of the project in the approval of the incentive grant, the Authority may reevaluate the fiscal impact analysis and financing gap analysis and reduce the size of the grant accordingly;**

Recodify existing 7.-12. as **8.-13.** (No change in text.)

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

[14.] **15.** Reporting requirements, as required pursuant to [section 6 of 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 10-year period, at the rate of one-10th of the total amount for each tax accounting or privilege period of the developer. For (a)1 through 4 below, 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. 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; and

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.

(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) No later than July 28, 2015, each approved developer of a qualified residential facility that has been approved for tax credits shall submit evidence of a temporary certificate of occupancy.

(f) 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 an independent 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~~ 12 months after the submission to the Authority of a temporary certificate of occupancy.

(g) 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.

(h) 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 that would cause the business not to be in compliance with the approval, the Act, or this subchapter;

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 an MAI appraiser or governmental official; and

4. Additional reporting requirements as may be contained in the tax credit certificate.

(i) Failure to submit a copy of the annual report, or submission of the annual report without the information required in (g) 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.

(j) 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.

(k) 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 the date of filing relating to each tax accounting or privilege period of 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) [In] **Except for projects receiving an increase in the amount of reimbursement under N.J.A.C. 19:31-4.7(b)4, 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 **of**, **or** 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 [as security for any loan or bond], **transfer, or sell** 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, in an amount not less than $100,000 of tax credits, provided that one transfer consisting of any remainder that is less than $100,000 may be made in each tax period ~~may be~~ in an amount less than $100,000, 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 3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or N.J.S.A. 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 or 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, which shall include the recommendation of the Chief Executive Officer, if any, and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days 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** (No change in text.)

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 approved tax credits of $5,000,000 or less, 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 approved tax credits in excess of $5,000,000, 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) [A] **For each project with total grant disbursements, as projected at the time of approval, 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 total grant disbursements, as projected at the time of approval, 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 total grant disbursements, as projected at the time of approval, in excess of $5,000,000, 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 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) [A] **For each project with total approved tax credits 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 total approved tax credits 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 total approved tax credits in excess of $5,000,000, 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) [A] **For each project with total approved tax credits 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 total approved tax credits 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 total approved tax credits in excess of $5,000,000, 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 businesses 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.] **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 that own or lease such facility shall qualify as a business regardless of the type of the business entity or entities that 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 that 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. §§ 168 and 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 preceding.** 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 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 site acquisition and any capital investment made or acquired within 24 months prior to the herein 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, an 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] **that the business has filled with a full-time employee**. **To be eligible as an eligible position or full-time job, the employee must have his or her primary office at the qualified business facility and must spend at least 80 percent of his or her time at the qualified business facility, or spend any other period of time generally accepted by custom or practice as full-time employment at the qualified business facility, as determined by the Authority.**

"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 that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), 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.

"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 U.S. 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.~~ used for the assembling, processing, and/or

manufacturing of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed and/or manufactured by the business; for the breaking or demolishing of finished or partially finished products at the qualified business facility; or for the production of oil or gas or the generation or transformation of electricity.

"Major rail station" means a railroad station located within a qualified incentive area that 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 the Department 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,~~ which at least 51 percent of the square footage is not an industrial premise, including, but not limited to, office space.

"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).

. . .

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

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

"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, urban transit hub municipality, or an area:

1. Designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or 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 such areas are 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: that contains 100,000 or more square feet of office, laboratory, or industrial space; that 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 that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), "retained full-time job" shall include any employee previously employed in New Jersey and transferred to the new location in the 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 seq.). For the purposes of the certifications and annual reports required pursuant to the incentive agreement, N.J.S.A. 34:1B-245(e) or 247(b)(2), to the extent an eligible position that was the basis of the award no longer exists, a business ~~may~~ shall 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.

. . .

[“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.]

“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., which shall equal at least five percent of the capital investment in a qualified business facility.

“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.

“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. For the purposes of determining the transit project bonus pursuant to N.J.A.C. 19:31-8.8(c)4, a bus station platform is a terminal as listed on the EDA's website at www.njeda.com.

"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 that qualifies for State aid pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-17 178 et seq.), or that 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 that is taxable and that which is tax exempt.

"Withholdings" means the amount withheld by a business from the wages of full-time employees or estimated taxes paid by, or on behalf of, partners that are full-time employees, or any combination thereof, pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and, if the full-time employee is an employee whose position has moved to New Jersey but whose income is not subject to the New Jersey gross income tax pursuant to N.J.S.A. 54A:1-1 et seq., the amount of withholding that would occur if the employee were to move to New Jersey. Withholdings shall not include amounts withheld by a business from stock options or from stock options, money, or other payments given to a full-time employee pursuant to the termination of employment of the full-time employee. Withholdings shall include amounts withheld by a business from money or other payments given to a full-time employee pursuant to a bonus for commencing employment or for services rendered by the full-time employee.

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 [will:]**, expressly including its landlord or seller, will make, acquire, or lease a capital investment equal to or greater than, the applicable capital investment required in (a)1 below at which it will retain full-time jobs and/or create new full-lime jobs in an amount equal to or greater than, the applicable number in (a)2 below.**

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:**~~ **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:

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 $20.00 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 $60.00 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 $40.00 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 $120.00 per square foot of gross leasable area. For purposes of this subparagraph, non-industrial premises shall include vacant industrial premises that are unleased and unoccupied.

[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 in (a)2i, ii, or iii below.~~ 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.

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.

iii. For any other business, a minimum of 35 new or 50 retained full-time jobs;

3. **The business shall also** [Demonstrate] **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)[; and] **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, 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; and

(2) For a project located in a Garden State Growth Zone that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), 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, and shall equal at least 100 percent of the requested tax credit allocation;

[ii.] **iii.** [The] **Except as provided in (b) below, 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. **If the site was acquired within 24 months prior to project application, the business shall provide evidence to demonstrate that the award of tax credits is a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program, including, but not limited to, viable alternatives to the site and the business's ability to dispose of or carry the costs of the site, if the business moves to the alternate site. 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 seq.), 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 seq.).**

(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] **(a)2** 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 leasable 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 leasable area and the denominator of which is the total net leasable 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)** (No change in text.)

[(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)** (No change in text.)

(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, the Authority shall recapture all or part of any award, provided that 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, which shall be executed within 18 months following the date of approval of the business's application; 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.

3. The incentives pursuant to the Business Retention and Relocation Assistance Grant (BRRAG) Program Sales and Use Tax Exemption, sections 19 through 22 of P.L. 2004, c. 65 (N.J.S.A. 34:1B-185 through 188) are awarded simultaneously with the Grow New Jersey Tax credit.

[(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 that qualified under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), 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 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 [an owner or tenant] **a business** 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 subsidizes 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[, 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] **pursuant to N.J.A.C. 19:31-18.3(a)3ii**, 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 [any]**:**

(1) Any existing **full-time** jobs are at risk of leaving the State [and that any] **or being eliminated;**

(2) 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 [that the]

(3) 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 (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 seq.), 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 seq.). If the site was acquired within 24 months prior to project application, the business shall provide evidence**

to demonstrate that the award of tax credits is a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program, including, but not limited to, viable alternatives to the site and the business's ability to dispose of or carry the costs of the site, if the business moves to the alternate site. 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. Identification of the site of the proposed qualified business facility, including the block and lot of the site as indicated upon the local tax map. **For purposes of determining geographical location, the qualified business facility shall be considered in the geographical location if at least 51 percent of the square footage of the building or buildings is in the geographical location**;

vii.-ix. (No change.)

x. The total number of anticipated new **and retained** full-time [positions that would be created] **jobs** 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)** (No change in text.)

(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 that has already applied for a tax credit incentive award prior to September 18, 2013, the effective date of P.L. 2013, c. 161, 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 **in (a)** 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) [A] **For each project with tax credits of $1,000,000 or less annually, 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 [letter of compliance. The] **report. For each project with tax credits of $1,000,000 or less annually, the** annual [review] **servicing** fee shall be [$2,500] **two 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 two 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 total tax credits of $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 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 total tax credits in excess of $5,000,000, 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.

(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 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] **and except for businesses seeking a credit for a mega project, which shall apply by September 18, 2017, four years after the effective date of P.L. 2013, c. 161**.

(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 that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), 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 seq.), 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 seq.).** 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] **12** 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] **12** 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**. In the event the capital investment is reduced below the capital investment in the approval of the incentive grant, the Authority may reevaluate the net positive economic benefit and reduce the size of the grant accordingly.** 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 [employees] **jobs** 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 [employees] **jobs** exceed the number of [employees] **jobs** previously approved by the Board. **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. In the event the number of new and/or retained full-time jobs is reduced below the number of new and/or retained full-time jobs in the approval of the incentive grant, the Authority may reevaluate the net positive economic benefit and reduce the size of the grant accordingly.** 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. 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.] **three years following the date of approval of the application. 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 **which will be based on the information submitted in the certifications under subsection (f), provided it shall not exceed the maximum amount determined by the**

Board under N.J.A.C. 19:31-18.7(d). 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 in this section. 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) and the amount calculated pursuant to N.J.A.C. 19:31-18.7(g), divided by the number of years in the eligibility period.**

[(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).

(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.]

(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, $500.00 per year.

(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 $500.00 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 $500.00 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 $250.00 per year during the commitment

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 commitment 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, $500.00 per year;

ii. If the number of new full-time jobs and retained full-time jobs is between 401 and 600, $750.00 per year;

iii. If the number of new full-time jobs and retained full-time jobs is between 601 and 800, $1,000 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 $500.00 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 $250.00 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 September 18, 2013, the effective date of P.L. 2013, c. 161, 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 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 $250.00 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 that 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. Thirty-five million dollars ($35,000,000) and provides a net positive economic benefit to the State with respect to a qualified business facility 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 seq.);

2. Thirty million dollars ($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;

3. Ten million dollars ($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;

4. Eight million dollars ($8,000,000) and provides a net positive economic benefit to the State with respect to a qualified business facility in a distressed municipality;

5. Four million dollars ($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

6. Two-and-a-half million dollars ($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.

(g) Under (f) 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 paragraph 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, including, but not limited to, factors affecting the decision of the business to relocate, 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 that qualifies for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), the total tax credit shall be:

1. For a project that creates or retains ~~between~~ 35 ~~and 69~~ 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 (a) through (g) above ~~this section~~; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project divided by 10 years but not greater than $2~~0~~,000,000 each year of the grant term;

2. For a project that creates or retains ~~between~~ 70 ~~and 99~~ 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 (a) through (g) above~~this section~~; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project divided by 10 years but not greater than $3~~0~~,000,000 each year of the grant term;

3. For a project that creates or retains ~~between 100 and 149~~ 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 (a) through (g) above ~~this section~~; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project divided by 10 years but not greater than $4~~0~~,000,000 each year of the grant term;

4. For a project that creates or retains ~~between 150 and 249~~ 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 (a) through (g) above ~~this section~~; or

ii. The total capital investment of the project divided by the total number of full-time jobs at that project divided by 10 years but not greater than $5~~0~~,000,000 each year of the grant term; or

5. For a project that creates or retains 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 (a) through (g) above ~~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 divided by 10 years.

19:31-18.9 Tax credit amount; application and allocation of the tax credit

(a) [For the 10 consecutive years following the notification pursuant to N.J.A.C. 19:31-18.7(g)] **For each tax accounting or privilege period during the eligibility period**, a business may apply [10 percent of] **the amount of tax credits equal to** the total credit amount [per each tax accounting or privilege period,] **divided by the duration of the eligibility period in years (fractions of a cent rounded down)** 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] **the commitment period**, with at least [100] **the minimum number of** full-time employees [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] **as required by the program, which shall include consideration of bonus award(s) and net positive economic benefit test pursuant to N.J.A.C. 19:31-18.3(a)3ii and the amount of tax credits previously received by the applicant during the eligibility period,** and a provision to permit the Authority to recapture all or part of any tax credit**s** awarded, at its discretion, if the business does not remain [at the site] **in compliance with the requirements in this paragraph**

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;]**. Such recapture may include interest on the recapture amount at the rate equal to the statutory rate for corporate business or insurance premiums tax deficiencies, plus any statutory penalties and all costs incurred by the Authority and the Division of Taxation in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection;**

4. (No change.)

5. A requirement that [a] **the** certification**s** [by a certified public accountant] relating to the amount of eligible capital investment[, the] **and** 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 [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] **in accordance with N.J.A.C. 19:31-18.7(f)**;

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 [pertaining to the business's Statewide employment] **of full-time employees in its Statewide workforce**, 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) (No change.)

(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)** (No change in text.)

(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~~ affect other obligations under the incentive agreement to maintain a minimum number of employees. 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.

19:31-18.13 Application for tax credit transfer certificate

(a) Tax credits, upon receipt thereof by a business from the Director and the Authority, may be transferred, by sale or assignment, in full or in part, pursuant to this section, to any other person(s) that may have a tax liability pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), pursuant to sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and 54:18A-3), pursuant to section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or pursuant to N.J.S.A. 17B:23-5. A business may apply to the Director of the Division of Taxation in the Department of Treasury

and the Chief Executive Officer of the Authority for an initial tax credit transfer covering one or more tax periods, in lieu of the business being allowed any amount of the credit against the tax liability of the business. Such application shall identify the specific tax credits to be transferred (amounts, tax periods), the consideration received therefor, and the identity of the transferee. The total amount transferred for any single tax period shall be at least [$1,000,000] **$100,000** in tax credits**, provided that one transfer consisting of any remainder that is less than ~~$1 million~~ $100,000, may be made in each tax period for less than ~~$1 million~~ $100,000**. Once approved by the Chief Executive Officer of the Authority and the Director of the Division of Taxation, a tax credit transfer certificate shall be issued to the business, naming the transferee. The certificate issued to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. 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 credits by the business that originally applied for and was allowed the credits.

(b)-(d) (No change.)

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 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 agreement] **certification approved by the Authority pursuant to N.J.A.C. 19:31-18.7(g)**, 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 certification approved by the Authority pursuant to N.J.A.C. 19:31-18.7(g)**.

[(c) The restrictions set forth at N.J.A.C. 19:31-18.4(g) through (i) 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 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.

(d) Provided a business complies with all other requirements of the program, the amount of tax credits a business may take in a tax period shall be reduced in proportion to the reduction in the number of new or retained full-time jobs, as indicated in the annual report, below the number of full-time jobs specified in the incentive agreement. For projects for which awards are calculated pursuant to N.J.A.C. 19:31-18.8(h), if the number of new and retained full-time jobs, as indicated in annual report, is reduced below the required number to qualify under a subsection thereof, the tax credits that the business may take shall be rescored under the subsection that corresponds to the number of new and retained full-time jobs reported. Any tax credits that the business could not take because of a reduction under this subsection shall be forfeited.

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 or 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, which shall include the recommendation of the Chief Executive Officer, if any, and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days 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** (No change in text.)

ECONOMIC REDEVELOPMENT AND GROWTH (ERG) PROGRAM

The following summary is provided for information only. Full eligibility and review criteria can be found in the program's rules.

ECONOMIC REDEVELOPMENT AND GROWTH (ERG) PROGRAM

Created by law in 2012, and substantially revised through P.L. 2013, c. 161, the intent of this program is to provide State incentive grants to a developer, or non-profit organization on behalf of a qualified developer, to capture new State incremental taxes derived from a project's development to address a financing gap, with $600 million authorized for qualified residential projects.

Per N.J.S.A. 34:1B-207 et seq. / N.J.A.C. 19:31-4 and the program's rules, the applicant must:

- Have a redevelopment project that is located in a qualifying area and not have begun any construction at the project site prior to submitting an application, except: if the EDA determines the project would not be completed otherwise; or if the project is undertaken in phases, a developer may apply for phases which construction has not yet commenced.
- Demonstrate to the EDA that 1) the project shall be constructed in accordance with certain minimum environmental standards; 2) except with regards to a qualified residential project, the project will yield a net positive benefit equaling at least 110% of the grant assistance to the State of 75% of the useful life of the project, not to exceed 20 years; and 3) that a financing gap exists.
- Meet a 20% equity requirement.

Staff Review:

- A comprehensive net benefit analysis is conducted to ensure the project has a positive net benefit to the State of at least 110%. The economic impact model used by the EDA includes multipliers from the RIMS II data base, published by the US Department of Commerce, along with internal econometric analysis and modeling to assess economic outputs, impacts and likely jobs creation.

Amount of award based upon:

- Up to 75% of annual incremental State tax revenues or 85% in a Garden State Growth Zone (GSGZ) generated by the project over a term of up to 20 years, provided the combined amount of reimbursements do exceed 20% of total project cost, or 30% in a GSGZ.
- The maximum amount of any grant, including any increase in the amount of reimbursement, shall be up to 30% of total project cost, except for projects in a GSGZ, which may be up to 40%.
- Bonus amounts of up to 10% of total project cost are available if the project is: In distressed municipality which lacks adequate access to nutritious food and will include a supermarket, grocery store or prepared food establishment; In distressed municipality which lacks adequate access to health care/services and will include a health care and services center; Transit project; Qualified residential project with at least 10% of residential units reserved for moderate income housing; In 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 administers as tax credits pursuant to P.L. 2013, c. 161, as follows: 1) $250 million for projects within 8 southernmost counties, of which: $175 million for projects in Camden; $75 million for projects in municipalities with a 2007 MRI Index of 400 or higher; and $250 million for projects in: Urban Transit Hubs that are commuter rail in nature, GSGZ, Disaster recovery projects, and SDA municipalities located in Hudson County that were awarded State Aid in FY 2013 through the Transitional Aid to Localities Program; 2) $75 million for projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas; and 3) $25 million for projects located within a qualifying ERG incentive area

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

To: Members of the Authority

From: Timothy Lizura
President and Chief Operating Officer

Date: May 16, 2014

RE: **Glassboro Mixed-Use Urban Renewal, LLC**
Residential Economic Redevelopment and Growth Grant Program ("RES ERG")
P # 38966

Request

The Members are asked to approve the application of Glassboro Mixed-Use Urban Renewal, LLC (the "Applicant") for a Glassboro Borough, Gloucester County primarily residential project which is part of the multi phase Rowan Boulevard Redevelopment Project (the "Enterprise") for the issuance of tax credits pursuant to the RES ERG program of the Authority as set forth in the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161 ("Act").

The total costs of the Project are estimated to be $74,036,021 and of this amount $73,486,021 are eligible costs under the RES ERG program. The recommended amount of tax credits is 30% of the eligible project costs based on the budget submitted, not to exceed **$22,045,806**.

The Applicant is a single purpose entity owned Nexus Holdings, LLC and Affiliates, which are all controlled by members of the Sussman family.

Project Description

The Applicant is seeking a RES ERG for a $74 million mixed use development (the "Project") which includes the construction of one six story building encompassing 316,555 square feet. The Project is located on land between Rowan Boulevard, Mick Drive and Victoria Street and will consist of housing for undergraduate students at Rowan University, market rate apartments, retail and medical offices. The property is currently owned by the Borough of Glassboro, a body politic and municipal corporation of the State of New Jersey who plans to enter into a 99-year ground lease (the "Ground Lease") with the Applicant. The Project will consist of the following components:

- ***Student Housing/Residential*** - Approximately 126,900 square feet of student housing 119 units with 456 beds, including ten 2-bedroom units and one hundred and nine 4-bedroom units with individual rents ranging from $1,712 to $3,424 per month, with assumed annual increases after year 1.

- ***Market Housing/Residential*** – Approximately 61,300 square feet market rate housing with 59 units and 109 beds, including nine 1-bedroom units and fifty 2-bedroom units with individual rents ranging from $840 to $1,320 per month, with assumed annual increases after year 1.

- ***Retail and Other*** – The Project will include approximately 20,175 square feet of retail and 27,260 square feet of medical office space on the ground level, with assumed rents of $13 square foot and $15 a square foot, respectively. The retail space is anticipated to include restaurants and other convenience services. The medical space is expected to be leased by Inspira Health Network (including their joint venture partner in orthopedics, Cooper Bone and Joint) and includes urgent care, physical therapy, diagnostics, x-ray and MRI.

The Project also includes approximately 142 on-site parking spaces and 34 spaces of on-street parking. Market rate residents will be permitted one parking spot in the parking lot and student housing occupants will not be permitted to park in the lot.

In February of 2014 the Project was granted preliminary and final major site plan approval by the Planning Board of the Borough of Glassboro. The Applicant anticipates construction to commence shortly after approval by the Authority with completion expected in July 2015. 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 RES ERG program are not required to maintain certain employment levels, the Applicant estimates that this Project will create approximately 400 construction jobs and 100 permanent jobs. The Applicant has received a letter of support from the Mayor of the Borough of Glassboro, stating that the Project is an important development for the municipality. The Applicant intends to comply with the green building requirements by meeting the LEED silver standard. The Applicant is bound to provide 20% of the units as affordable and plans to achieve this requirement or alternatively have the units classified as student or graduate student housing units which would alleviate this requirement.

Project Ownership

The Applicant is a single purpose for-profit entity owned by Nexus Holdings, LLC ("Nexus"). Nexus is a second generation business engaged in real estate construction, investment, development and management. Nexus has developed and currently manages in excess of two million square feet of commercial office, warehouse and retail space. In addition, Nexus has also developed and manages three six-level parking facilities and several surface parking lots and has a portfolio of over 760 residential units built and under development. Nexus and their affiliated companies are organized as S-corporations, limited partnerships and limited liability companies which are all controlled by members of the Sussman family.

Financial information on the specific owners of the Applicant can be found in the Confidential Memorandum on Financial Analysis, which follows this analysis.

Project Uses and Sources

The Applicant proposes the following uses of funds for the Project:

Uses	*Total Project Costs*	*RES ERG Eligible Amount*
Acquisition of Land	$ 2,200,000	$ 2,200,000
Construction & Site Improvements	62,817,871	62,817,871
Professional Services	1,532,900	1,532,900
Financing & Other Costs	4,885,250	4,335,250
Contingency	2,600,000	2,600,000
Development Fee	0	0
TOTAL USES	**$ 74,036,021**	**$ 73,486,021**

ERG eligible project costs exclude ineligible costs aggregating $550,000, including marketing and working capital.

The Applicant proposes the following sources of funds for the Project:

Sources of Financing	*Amount*
Senior Debt	$ 42,694,467
ERG Financing	16,534,350
Equity (20% of costs)	14,807,204
Total	**$ 74,036,021**

The Applicant has received a term sheet from M & T Bank to provide approximately $43 million of senior debt for construction as well as $10.6 million as bridge funding until the RES ERG tax credits are monetized. The Applicant anticipates the RES ERG tax credits will generate approximately $16.5 million in net proceeds. If the Applicant is unsuccessful in monetizing the RES ERG tax credits they will provide the necessary additional equity to the Project.

The Applicant has provided detail evidencing approximately $637,641 in pre-development costs incurred by the Applicant as of 2/28/14. Based on the Confidential Memorandum of Financial Analysis, the Applicant has demonstrated the capacity to provide the remaining cash equity of $14.2 million as well as the $6 million necessary to bridge the RES ERG credits until they have been monetized.

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 RES ERG over 11 years.

Without RES ERG	With RES ERG
Equity IRR 2.34%	Equity IRR 12.44%

The Project's economics suggest that the RES ERG benefit will have a material effect on the applicant's decision and ability to advance the Project. **With the benefit of the RES ERG, the Equity IRR is 12.44%. This return is below the rate per the Hurdle Rate Model provided by our contracted consultant, Jones Lang Lasalle which indicates a maximum IRR of 13.68% for this type of project in the Glassboro Borough.**

Of note, the Applicant's equity in determining the IRR above was assumed to be $14.8 million representing 20% of the project costs. The IRR calculation above assumes the tax credits are sold at 75% equating to $16.5 million in proceeds. The Authority recognizes that at this time there is no commitment and pricing level established yet for the ERG monetization. The Applicant has agreed to accept and evidences a need of net proceeds not to exceed $16.534 million from the sale for this to generate an acceptable return on their investment. Based on the eligible costs the project has a maximum RES ERG tax credit amount of $22,045,806. This is the amount of RES ERG tax credits EDA board is being recommended to approve. The Applicant must sell the credits for at least 75 cents on the dollar which equates to $16,534,355. This is the maximum in proceeds from RES ERG tax credits that the Applicant can receive. The actual amount of RES ERG tax credits will be finalized at time the Applicant provides a commitment to purchase said credits.

The Project qualifies under the RES ERG program as a residential project located within one of eight qualifying counties. There is $75 million allocated to projects in municipalities with a 2007 MRI index of 400 or higher (Glassboro Borough has a MRI index of 468). After approval of this Project, the total RES ERG tax credits approved for qualified residential projects located within the eight qualifying counties and more specifically the projects in municipalities with an MRI index of 400 or higher will be $22,045,806 leaving $52,954,194 of the $75 million allocation remaining.

Other Statutory Criteria

In order to be eligible for the program, the Authority is required to consider the following items:

The economic feasibility and the need of the redevelopment incentive grant agreement to the viability of the redevelopment project.

The Project appears to be economically feasible based on the financial strength and prior experience of the Applicant and based on feasibility studies commissioned by the Applicant and Inspira Health Network (for the medical office portion of the Project). Nexus engaged a third party, Brailsford & Dunleavy, to conduct a student housing market study to evaluate the demand for future University-affiliated student housing at Rowan University (within one block of the campus) which was prepared in January 2014. This report, in conjunction with data from Rowan University, supports the demand for student housing and rental rates which form the basis of Applicant's proforma. Inspira's consumer interest in health and medical services was supportive and in conjunction with the Applicant's assertion that the business terms with the occupants have been verbally agreed to is a positive indication of the demand for this space. Retail rental rates were supported by information

provided by the Applicant relative to the actual rates obtained in the Whitney Center (part of phase 2 of the Enterprise which was completed in 2012 by an unrelated developer).

The Project has an anticipated IRR of 2.34% without the RES ERG and 12.44% with the RES ERG. The RES ERG incentive grant is needed for the viability of the Project and to encourage the Applicant to undertake the capital investment which is required to complete the proposed development.

The extent of economic and social distress in the municipality and the area to be affected by the redevelopment project. The extent to which the redevelopment project will advance State, regional and local development and planning strategies, promote job creation and economic development and have a relationship to other major projects undertaken within the municipality.

The Applicant was selected as the developer of the Project in July of 2013. The Applicant has draft versions of the Ground Lease, a Redevelopment Agreement and a Memorandum of Understanding with the Borough of Glassboro ("BG") regarding the Project. BG has designated certain properties including the Project location in and around the Borough's Central Business District to be in need of redevelopment. BG also adopted the Glassboro Central Business District Redevelopment Plan including the Project site, which is to be redeveloped according to that Plan including demolition of existing improvements and construction of new improvements. BG is one of sixty seven Distressed Municipalities in the State of New Jersey. The Project is part of the Rowan Boulevard Redevelopment project (the "Enterprise") with an approximate cost of $300 million. BG acquired 26 acres of dilapidated real estate in the downtown, demolished the existing structures, and set forth on an ambitious, multi-phased Enterprise. The first phase was completed in 2009/2010 and the second phase was completed in 2012. The third phase, completed in 2013, consisted of three buildings. The Enterprise is being undertaken by BG in conjunction with private developers and already includes 1,164 student beds, a 129 room Marriott hotel, a 35,000 square foot Barnes and Noble, 35,000 square feet of retail space, a 1,200 car parking garage and 53,000 square feet of classroom space for Rowan's College of Graduate Education. Of note, Nexus did develop the parking garage and the 53,000 square foot classroom space which are prior phases of the Enterprise. The Project will add student housing, non-student housing, medical office space and retail in the community. In addition, the Borough will benefit from a PILOT that will generate incremental annual taxes of approximately $500,000.

During the construction period of the Project, 400 temporary construction jobs and 100 permanent jobs will be created. The job creation associated with this Project will provide important employment as well as housing opportunities for students and staff at Rowan University.

Recommendation

Authority staff has reviewed the Glassboro Mixed-Use Urban Renewal, LLC application and finds that it is consistent with eligibility requirements of the Act. It is recommended that the Members approve and authorize the Authority to issue a commitment letter to the Applicant. Issuance of the RES ERG tax credits is contingent upon the Applicant meeting the following conditions:

1. Financing commitments for all funding sources for the Project consistent with the information provided by the Applicant to the Authority for the RES ERG; and

2. Evidence of site control and site plan approval for the Project; and

3. Copies of all required State and federal government permits for the Project and copies of all local planning and zoning board approvals that are required for the Project.

Tax Credits shall be issued upon:

1. Completion of construction and issuance of a certificate of occupancy (no later than July 28, 2015; and

2. Submission of a detailed list of all eligible costs, which costs shall be certified by a CPA and satisfactory to the NJEDA; and

3. Evidence that the Applicant has complied with NJSA 19:31-4.3(a) (3), which requires a reserve of at least 20% of residential units for occupancy by low or moderate income households, in the event that the Applicant leases to non-college affiliated occupants.

It is recommended that the members authorize the CEO of the EDA to execute any assignment agreements necessary to effectuate this transaction.

Total Eligible Project Costs: $73,486,021

Eligible Tax Credits and Recommended Award: 30% of the eligible project costs based on the budget submitted, not to exceed **$22,045,806**.

Timothy Lizura
President and Chief Operating Officer

Prepared by: Michael A. Conte

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

To: Members of the Authority

From: Timothy Lizura
President and Chief Operating Officer

Date: May 16, 2014

RE: **Sayreville Seaport Associates L.P.**
Economic Redevelopment and Growth Grant Program
P # 37844

Request

The Members are asked to approve the application of Sayreville Seaport Associates, L.P. ("SSA" or the Applicant") for reimbursement of certain taxes for an Sayreville, Middlesex County project under a "state incentive" by the EDA pursuant to the Economic Redevelopment and Growth Grant ("ERG") program set forth in N.J.S.A. 52:27D-489c (Act).

The total costs related to the project are estimated to be approximately $1.169 billion. The total qualified eligible costs under the ERG Act are **$1,116,387,952.** The recommended reimbursement is **20%** of the eligible costs, not to exceed **$223,277,590**.

Project Description

This application presents the single largest Brownfield redevelopment project in New Jersey's history. SSA has taken over responsibility for remediation of the project site, which is under a memorandum of understanding with NJDEP. The remediation process has been ongoing for approximately 15 years and is anticipated to continue in the future. The site address is 1000 Chevalier Avenue in Sayreville and was formerly owned by NL Industries, Inc. and NL Environmental Services, Inc. (collectively "NL"). NL and various tenants of NL previously operated an industrial inorganic chemical manufacturing facility on the property from 1930's through the 1980's. In June of 1989, CIL Corporation of America, a tenant of NL, entered into an Administrative Consent Order ("ACO") with NJDEP establishing certain remedial obligations under ISRA but allowing the sale to Marsulux, Inc., which continued operations on a portion of the property. In 1997, Marsulux ceased operations and subsequently all of the buildings on the property

were demolished and the property remains vacant. In 1997 NL entered into an amended ACO whereby they became the lead responsible party under the agreement and have since been remediating the premises in accordance with the ACO. Subsequently, remediation responsibilities are specified in a Settlement Agreement and Release dated April 3, 2008 between NL, SSA, Middlesex County and Sayreville Economic & Redevelopment Authority ("SERA").

The site has received approval for a $30 million Brownfield Reimbursement and taxes generated by the project would need to first satisfy this arrangement before any payments would be made to the Applicant under the proposed ERG. The property encompasses 440 acres on the western coast of a peninsular land formation bordered by the Raritan River to the north, east and west near the mouth of the Raritan Bay, 25 miles south of Manhattan. The peninsula is bisected by the Garden State Parkway and US Highway 9, forming the eastern border of the site and providing an exceptional advantage in term of its exposure and accessibility. The site will utilize a liberal signage policy allowing for the use of digital media towers. Seven towers have been approved for locations along the nort-south lanes of the Garden State Parkway. Additionally, the retail buildings, sidewalks and streetscapes will all feature integrated LED signage creating a dynamic sense of arrival and place capitalizing on the exceptionally high level of exposure afforded this location.

In 2005, a public agency known as SERA acquired the property via eminent domain. The property is located within the Sayreville Waterfront Redevelopment Area ("SWRA"), which in June of 1996, was designated by the Planning Board of the Borough of Sayreville as an "area in need of redevelopment" consisting of a total of 900 acres. A redevelopment plan for the SWRA was adopted by the Borough of Sayreville in January of 1999. The municipality had plans for redevelopment along with financing assistance from Middlesex County and undertook a competitive RFP process to designate a master developer. O'Neill Properties Group, L.P., ("OPG") was selected as the designated redeveloper, per resolution adopted in October of 2007, and formed a special purpose entity, SSA, to carry out the responsibilities.

There are three main parcels: A, B and C which are 59, 51 and 305 acres, respectively. The overall development is known as Luxury Point at Sayreville also referred to in this memorandum as ("the Enterprise"). The redevelopment of Parcel C is specific to the requested ERG and is referred to in this memorandum as ("the Project"). Parcel A is used as open space and located on the east side of the Garden State Parkway, between Route 35 and the Raritan River. Parcel B will be used for multifamily residential, hotels and retail in later phases. In October of 2008, Parcel C was acquired for $64 million. Since that time, several transactions have been or are soon to be completed to finalize the assemblage including land set aside for open space preservation (Parcel A being deeded by SSA to the State of New Jersey Green Acres and the County of Middlesex). In September of 2008 a ground lease agreement between SERA and SSA was executed. SERA approved OPG's creation of SSA for the purpose of developing the Enterprise site and confirmed SSA's designation as the conditional master developer to undertake the redevelopment of the NL site as provided in the Master Redevelopment Agreement dated May 14, 2008 between SERA and SSA. SERA and SSA also entered into the Redevelopment Agreement in order to effectuate the public purposes set forth in the SWRA and to set forth the terms on which the parties will carry out their respective obligations with respect to the remediation of the real property of the NL site and the construction of the Enterprise site infrastructure and the various improvements comprising the redevelopment project thereon in accordance with the redevelopment plan. Applicable New Jersey laws require that

SERA hold fee simple title to the property in order for the agency to secure and receive certain public funding for the remediation and redevelopment of the property, and SERA and SSA have agreed to enter a ground lease in order to facilitate such public funding. The ground lease commenced August 1, 2008 with an expiration date of July 31, 2104 for an annual rent of $1.00.

SSA planned (with the Borough, SERA and County officials) and presented their mixed use development in July of 2010. This plan was later refined with an accelerated phasing of the retail components (to correspond to the town's priorities of generating recurring tax revenues plus favorable response from major retailers) and forms the basis of application for the ERG incentive.

Total Enterprise encompasses approximately 8 million of square feet including:

Retail Mall	1,763,000
Power Center	654,500
Office	250,000
Hotel (750 rooms)	400,000
Residential	2,000 units (576 waterfront townhomes and 1,424 apartments)
Open Space	90 acres

This Enterprise has an estimated total cost of approximately $2 billion and has been in the planning stages for several years, which will be marketed as Luxury Point at Sayreville. The residential component will be age-targeted (predominately one and two bedroom apartments, condos and town houses). Also included in the Enterprise is a community center, performing arts center, emergency service facility, outdoor amphitheater, two marinas, entertainment complex and river front promenade along the Raritan Bay (off Chevalier Avenue near the Garden State Parkway exit 125). The Redevelopment Agreement specifies contributions by SSA including: $19 million to construction schools funded via a PILOT (to offset the burden of school aged children added to the public system), $2.5 million towards the fire/EMS services, facilities and equipment for the Enterprise, provide a health club/community center, $2.5 million maximum cost to construct a performing arts center, 10,000 square foot municipal office space within the Enterprise (rent free), redevelopment fee paid to the Borough of Sayreville of $200,000 a year until Enterprise 50% complete and then $100,000 a year until 95% complete. A major off-site benefit to Sayreville will be the millions of dollars in infrastructure improvements, including additional traffic lanes, a bridge-widening project, and two additional off-ramps from the Garden State Parkway Exit 125, providing direct access to the site. The cost of the road improvements were recently revised at an estimated cost of $67 million and SSA has been requested to contribute $15 million towards this work.

As currently presented and corresponding to form the basis of the ERG, the Project will comprise phase 1 and 2 as follows (with remaining build out to occur primarly subsequently):

Phase 1 - Retail 654,500 square feet	Total cost phase 1 = $164,000,000
Phase 2 - Retail 1,763,000 square feet	
Phase 2 - Office 250,000 square feet	
Phase 2 - Hotel 400,000 square feet	Total cost phase 2 = $1,004,623,000

Tenant costs for vertical development as well as other Enterprise costs for later phases are estimated at $943 million and are excluded from the above figures as these are not funded by the Applicant. The Applicant's budget does include approximately $282 million in tenant fit out allowance. As of 4/1/14, the Applicant has incurred $135 million in costs on the Project ($65 million pertains to land and another $30 milion in remediation). The Applicant has borrowed $100 million under a $128.5 million credit facility with Bank of America.

Each phase will obtain a certificate of occupancy. The current time line calls for construction to commence on phase 1 by June 30, 2014 with target opening of December 31, 2015. Phase 1 is expected to have six anchors aggregating 466,000 square feet, 124,000 square feet of in-line space and 64,500 square feet for ten pad sites. Bass Pro Shops has committed to 200,000 square feet under a triple net lease at $18 per square foot. Regal Cinemas has reportedly committed as a second anchor to operate 55,000 square feet under a triple net lease at $24 per square foot. Phase 2 retail would commence in June of 2015 (with office and hotel commencing June 2016) and completion of entire phase 2 anticipated by December of 2017. The phase 2 retail is expected to be developed in partnership with Taubman Centers, Inc., a publicly traded owner and developer of shopping centers in the US. Each phase would have a separate closing and the size of the ERG grant is based upon the two aforementioned phases being completed and could be reduced based upon the ultimate amount of capital investment completed under each phase. The Enterprise will include a three mile walkway and promenade along the waterfront, a park and ampitheater near the entertainment district, two marinas, municipal services (Fire/EMS/offices) and a 14 acre solar farm. Infrastructure will include an extensive roadway network as well as landscaping.

The Applicant proposes to satisfy the green building requirements through the BPU's Pay-for-Performance program.

The applicant is currently negotiating with numerous tenants, undertaking a PILOT approval from the Borough of Sayreville and approval of the ERG from the State. It is anticipated based upon the strength of the developer and its partners along with the economics of the Project, construction financing for phase 1 will be obtained in several increments over the next two quarters. The various financing components for phase 2 would be arranged subsequently as development proceeds.

The Project is expected to create an aggregate of approximately 5,425 construction jobs over both phases. Additionally, there will be a total of 3,900 permanent full time jobs upon full build out of the two phases (phase 1 will create 832 full time jobs and phase 2 will create another 3,068).

Project Ownership

Sayreville Seaport Associates, LP is owned by Limited Partners J. Brian O'Neill 41%, OPG Participation, LLC (Membership split between J. Brian O'Neill and his spouse Miriam) 1% Sayreville Prisa II, LLC 57% and Sayreville Seaport Associates Acquisiton Company, LLC 1% (general partner with J. Brian O'Neill as sole member). Sayreville Prisa II, LLC was formed by Prudential Insurance of America ("PRU") to hold interest in SSA. Pru established Prisa II, LLC as an open ended commingled insurance company separate account designed for use as a funding vehicle for pension plans and non-profit organizations (foundations and endowments). Investments

are primarily real estate either directly owned or through partnership interests and mortgage and other loans on income producing real estate.

J. Brian O'Neill owns the entity that is developing the Project, O'Neill Properties Group, L.P. ("OPG"). Mr. O'Neill founded OPG in 1988 and is the region's leading privately-owned real estate development company specializing in Brownfield redevelopment. OPG transforms abandoned or underutilized industrial sites into high-quality mixed use developments. OPG is a nationally recognized expert in Brownfield redevelopment and has worked on numerous Superfund, NJDEP and PADEP sites. OPG has developed over 13 million square feet of Class A office and industrial space throughout the Northeastern United States. In addition, the company has expanded into residential property development (apartments and condos), resort and retail over the more recent past and has a portfolio of over $4 billion in completed projects. Employment of OPG is approximately fifty with headquarters in King of Prussia, Pennsylvania.

OPG's executive management team has over 100 years of collective industry and real estate development experience. Aside from the founder, key management includes: Richard Hearny, Executive Vice President of Acquisitions and Divesititures, James Savard, Senior Vice President of Office Development, Edmund Campbell, Vice President and Assistant General Counsel, Dale Stesko, Vice President Centralized Purchasing, Drew Wolfington, President of MLP Builders (a wholly owned subsidiary of OPG that is a full service construction contracting organization) and Guy Wolfington, Regional Development Manager. The founder's son, J. Brian O'Neill, Jr. serves as Vice President and has been with the firm for the past six years and is senior project manager of the Enterprise.

Project Uses

Uses (thousands)	*ERG Eligible Amount*	*Total Amount*
Land	$ 121,000	$ 121,000
Construction	$ 735,670	$ 735,670
Professional Services	$ 49,502	$ 49,502
Financing & Soft Costs	$ 174,611	$ 189,841
Contingency	$ 35,605	$ 35,605
Developer Fee	$ 0	$ 37,005
TOTAL USES	**$ 1,116,388**	**$1,168,623**

Hotel costs of approximately $92 million are included in the accounts above. Ineligible costs in formulating the basis of ERG eligible costs includes developer fees ($37 million), marketing ($11 million) and soft costs above the 20% cap ($4.2 million).

The cost of land is based upon an appraisal commissioned by the Authority upon which Carduner Valuation Services, Inc. provided an "as is" value of the 305 acres comprising the Project site (Parcel C) as of January 14, 2014. This value is based on the extraordinary assumption that the remediation efforts have been completed and the property is free and clear of environmental contamination. A second value "as improved" was also generated by the appraiser indicating $189 million, which includes the assumption that the proposed infrastructure, site work and environmental remediation has been completed.

Project Sources

Sources (thousands)	*Amount*
Permanent Loan	$ 934,898 (1)
Equity	$ 233,725 (2)
TOTAL SOURCES	**$1,168,623**

(1) Phase 1 loan estimate is $131 million and the phase 2 loan estimate is $804 million. It is anticipated that the specifics on phase 2 funding will be identified once phase 1 is completed.

(2) 20% equity required amounts to approximately $234 million.

SSA is currently seeking construction funding for the debt listed above and they are subject to market conditions at time of closing.

The project sources and uses above reflect the project with the ERG subsidy included. The project gap is calculated based on the Equity Internal Rate of Return and Cash-on-Cash Yield identified in the gap analysis. which is discussed below.

Gap Analysis

NJSA 19:31-4.5 requires that the Authority validate the project financing gap estimated by the Applicant to determine eligibility for the ERG award. 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 Applicant 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 ERG over 14 years. Equity assumed in the gap analysis is $234 million.

Without ERG	**With ERG**
Equity IRR 12.47% (Market Range = 16-18%)	Equity IRR 17.22% (Market Range = 16-18%)

With the benefit of the ERG, the Equity IRR is 17.22%. Because this Project is deemed to be a large complex destination type project, the Hurdle Rate Model utilized by the Authority to determine the appropriate hurdle rate for the ERG Program does not accommodate this type of Project. As such, the Hurdle Rate Model is not being utilized for this Project and Jones Lang Lasalle ("JLL") has been contracted to determine an appropriate project specific rate of return. JLL has determined that the appropriate hurdle rate for this Project is 16% to 18%. As indicated in the chart above, the Project's economics suggest that the ERG benefit based on a hurdle rate range of 16% to 18% will have a material effect on the applicant's decision and ability to achieve market rate returns to advance the project.

Net Positive Benefit Analysis

NJSA 19:31-4.5 requires that in order to determine eligibility for the ERG award, the Authority undertake a fiscal impact analysis by determining whether public assistance provided to the proposed development will result in net positive economic benefits to the State for a period equal to 75% of the useful life of the Project, not to exceed 20 years. The Authority has conducted the required Net Benefit Analysis and has found that the present value of the Net Positive Benefits to the State at a 6% discount rate over a 20 year period aggregates $679 million and includes the one-time tax benefits. The following taxes were included in the Net Positive Benefit calculation:

1] 66% of the incremental annual corporate business tax;
2] 66% of the incremental gross income tax;
3] 100% of the incremental one-time tax generated from the Project's construction;
4] 100% of the incremental indirect tax revenues from spending and earnings;

This analysis assumes that there are no incremental sales taxes generated for purposes of determining the net benefits despite the fact that the market study referenced the Project as a destination. The Applicant provided market assessment prepared by third-party consultant, which demonstrated that the Project will generate approximately 20% of anticipated incremental tax revenue from other tax jurisdictions. The net positive benefit analysis includes 3,900 new direct full time retail, office and hotel related jobs projected by the Applicant and 5,425 construction jobs as estimated through the Authority's net benefit analysis model.

The Authority has conducted the required Net Benefit Analysis and has found that the present value of the Net Positive Benefits to the State at a 6% discount rate over a 20 year period is $565 million, plus there is another $114 million in one-time tax benefits. The Authority is not considering the Project as a destination facility so therefore none of the taxes collected by the state are considered net new based on Authority policy. If the anticipated 20% of new incremental sales taxes were included in the net benefit analysis the figure would increase by $120 million. The present value of this figure is reduced by the present value of all local and state grants, including the ERG award to the project, resulting in the present value of the Net Positive Benefits to the State of $364 million. It is noted that total sales taxes estimated generated by the project to the State of New Jersey is $506 million over the 20 year period of the ERG. It is noted that the project site is under a Brownfield Reimbursement Agreement (which stipulates an amount not to exceed $30 million) and the associated taxes generated by the project would first go to retire this obligation in full prior to any ERG funds being available to the applicant.

Other Statutory Criteria

In order to be eligible for the program, under NJSA 19:31-4.6(b), the Authority is required to consider the following items:

The economic feasibility and the need of the redevelopment incentive agreement to the viability of the project. The likelihood that the 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 the project costs as provided in the redevelopment incentive grant agreement.

A review of the Enterprise feasibility study performed by Jeff Green Partners (as of October 23, 2013) along with the Hotel market and feasibility analysis performed by HVS Consulting and Valuation Services (as of October 25, 2013) concludes the various financial and operating projections and plans are reasonable. The proposed site has the opportunity to be developed into a unique, upscale, super-regional retail/entertainment hub (similar to the King of Prussia Court in Pennsylvania) that will serve an under-stored central New Jersey Market. The mixed-use center, with the combined components of on-site office space, residential units, hotels, convention center, retail and restaurant/entertainment uses will create a unique walkable destination, unlike typical regional malls or other retail centers, as well as attract consumers to the site for a variety of shopping and entertainment needs. The site will appeal not only to area residents but also to a strong tourism base due to the distinctive mix of retail and entertainment uses.

The financial analysis indicates a rate of return that is considered within the acceptable market range given the risks associated with this project as noted previously in this memo. Based on the expected generation of $500 million of incremental state and local direct taxes (sales, hotel and one time construction) over the 20 year period and a 75% rebate of eligible taxes, there are adequate funds to support the reimbursement of taxes to the Applicant as outlined in the analysis. The current estimation of reimbursements under the ERG would commence in year 2018 with full payout by year 2025. Per the project financial returns described earlier and to obtain the funding necessary to complete the infrastructure improvements surrounding the project, there is a demonstrated need for the redevelopment incentive grant agreement.

The Project appears to be economically feasible based on the financial strength and prior experience and track record of the Applicant and their partners as well as the proposed tenant roster coupled with the anticipated undersupply of retail in the primary market. The market's response to the Applicant's preliminary leasing activity has been satisfactory as the Applicant represents that they are in negotiations on more than 20 LOI's representing a majority of the phase 1 space from interested tenants.

The Project has an anticipated IRR of 12.47% without the ERG and 17.22% with the ERG. As further explained previously, the applicant represents that the ERG incentive grant is needed for the viability of the Project.

The degree to which the redevelopment project within a municipality which exhibits economic and social distress, will advance State, regional, local development and planning strategies, promote job creation and economic development and have a relationship to other major projects undertaken within the municipality.

The site is also within the Metropolitan Planning Area/Planning Area 1 designation of the State Development and Redevelopment Plan and furthers the State Plan goals of revitalizing the existing community and creating communities of place through remediation and redevelopment of underutilized land. The project is located in the Borough's Waterfront Redevelopment Area, and furthers the Borough's planning goals set forth in the municipal redevelopment plan adopted in connection with the Borough's designation of the site as an area in need of redevelopment. Specifically, the Redevelopment Plan seeks to create a new mixed-use area, increase the property

base of the Borough and to promote the creation of job opportunities in the Borough. The project is expected to create at least 3,900 permanent jobs (with an estimated annual payroll in excess of $150 million) as well as up to an aggregate 5,425 construction jobs. Further, the project will result in a material increase in the property tax base of the Borough. The Borough and SSA have entered into a Redevelopment Agreement to guide future development of the site and memorialize certain capital contributions and improvements that SSA will make in connection with the redevelopment. Bringing this project to fruition is a high priority for the Borough as described in the Borough's letter of support provided for this project. SSA is completing the municipal land use review process and expects to finalize approvals and bring the project to construction permit-ready condition within 3 months. The project will become an economic engine of material impact for the Borough, Middlesex County, the region and the State, generating estimated $400 million revenue over the first ten years. The project is estimated to generate more than $8 million in PILOT taxes and fees over twenty years.

Recommendation

Authority staff has reviewed the Applicant's application and finds that it is consistent with eligibility requirements of the Act. The Treasury has reviewed the application and has notified the Authority of the adequacy of the project's estimated tax revenues and specified the percentage reimbursement of total project costs. Therefore, it is recommended that the Members approve the application and authorize the CEO of the Authority to execute the ERG Agreement with the Applicant and the State Treasurer, subject to final review and approval of the Office of the Attorney General. All disbursements under the ERG program are subject to annual appropriation by the New Jersey State Legislature.

Delivery of a commitment letter from the Authority to the Applicant for the ERG award shall be subject to the receipt of tax clearance certificates for the Applicant from the NJ Division of Taxation. Closing of the ERG Agreement and the reimbursement of any taxes is contingent upon the Applicant meeting the following conditions regarding the Project within forty eight months of approval:

1. Financing commitments for all funding sources for the Project consistent with the information provided by the Applicant in its application to the Authority for the ERG; and
2. Evidence of site control and site plan approval for all properties within the Project,
3. Copies of all required State and federal government permits for the Project and copies of all local planning and zoning board approvals that are required for the Project.

Reimbursement shall commence upon:

1. Completion of construction of phase 1 and 2 and issuance of a permanent or temporary certificate of occupancy for each phase and Authority approval of a Project Cost Statement; and
2. Submission of a detailed list of all eligible costs, in an amount not less than $1,116.39 million, which costs shall be satisfactory to the NJEDA; and
3. New tax revenues have been paid to the NJ Treasury and appropriated.

Other conditions of the ERG Agreement include the following:

1. A construction status report shall be provided 60 days after the end of each fiscal quarter.
2. Agreement may terminate if all phases are not completed within eight years of execution of the ERG Agreement.
3. The Applicant shall submit to the Authority for approval any changes to the Project that changes the Project square footage or reduces the capital investment in the Project by more than 25%.
4. No reimbursements under the ERG are permitted until the BRA has been fully satisfied.
5. NJSA 19:31-4.7(b)1 requires that for a project receiving an incentive grant in excess of $50 million, the applicant will negotiate a repayment to the State. Due to the size of the grant and essential assistance that the ERG will provide to the project, and per the amendment to the ERG guidelines regarding ERG payments to be considered by the Board on February 1, 2011, there will be an agreement to share a portion with the State of New Jersey. The Authority requested the Applicant to provide propose a reimbursement formula, which is under consideration. In summary, the arrangement stipulates that the Applicant shall pay to the State in any year that the return on equity of the Project exceeds 18%. The share of distribution of excess cash flow between SSA and the State shall be 90/10 for ROE greater than 18% bult less than 21%, 85/15 for ROE greater than 21% but less than 25% and 80/20 for ROE above 25%. The basis for this formula is the maximum return permitted per JLL in conjunction with our agreed upon arrangement with two other projects that the Authority previously approved for ERG incentives.

The NJ Treasury annually tracks taxes received from job sites and remits reimbursement equal to a percentage of funds collected during the year.

It is recommended that the members authorize the CEO of the EDA to execute the State Economic Redevelopment and Growth Incentive Grant Agreement and any assignment agreements necessary to effectuate this transaction.

Total Eligible Project Costs: $1,116,387,952

Eligible Taxes for Reimbursement: Sales and other eligible taxes not to exceed $223.3 million over 20 years.

Recommended Grant: 20% of actual costs, not to exceed **$223.3 million to be paid over a maximum period of 20 years.**

Timothy Lizura
President and Chief Operating Officer

Prepared by: Michael A. Conte

GROW NEW JERSEY ASSISTANCE PROGAM (GROW NJ)

The following summary is provided for information only. Full eligibility and review criteria can be found in the program's rules.

GROW NEW JERSEY ASSISTANCE PROGRAM (GROW NJ)

Created by law in 2012, and substantially revised through P.L. 2013, c. 161, the intent of this program is to provide tax credits to eligible businesses which make, acquire or lease a capital investment equal to or greater than certain minimum capital investment amounts at a qualified business facility at which it will employ certain numbers of employees in retained and/or new full-time jobs.

Per N.J.S.A. 34:1B-242 et seq. / N.J.A.C. 19:31-18 and the program's rules, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, i.e.: Industrial/Rehabilitation Projects-$20 sq. ft.; Industrial/New Construction Projects-$60 sq. ft.; Office/Rehabilitation Projects-$40 sq. ft.; and Office/New Construction-$120 sq. ft.
  Minimum capital investment amounts lowered to 2/3 in GSGZs and in eight southernmost counties

- Retain full-time jobs and/or create new full-time jobs in an amount equal to or greater than, the applicable minimum requirements, as follows: Tech start ups and manufacturing businesses - 10 new/25 retained FT jobs; Other targeted industries - 25 new/35 retained FT jobs; All other businesses/industries - 35 new/50 retained FT jobs.
  Minimum employment numbers lowered to 3/4 in GSGZs and in eight southernmost counties

- Demonstrate that: the qualified business facility is constructed to certain minimum environmental / sustainability standards; the proposed capital investment and resultant retention and creation of eligible positions will yield a net positive benefit equaling at least 110% of requested tax credit allocation amount prior to taking into account the value of requested tax credit, and shall be based on benefits generated during the first 20 years following project completion (30 years for mega project or project in GSGZ and, for GSGZ-Camden, 35 years and equal to 100% of requested allocation); and, 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 (if the site was acquired within 24 months prior to project application, the business shall provide evidence relating to viable alternatives to the site and ability to dispose of or carry the costs of the site, if the business moves to the alternate site).

Staff Review:

- A comprehensive net benefit analysis is conducted to ensure the project has a positive net benefit to the State of at least 110%. The economic impact model used by the EDA includes multipliers from the RIMS II data base, published by the US Department of Commerce, along with internal econometric analysis and modeling to assess economic outputs, impacts and likely jobs creation.
- For material factor, staff reviews cost benefit analyses provided by the company regarding other out-of-state sites under consideration and cost of rent, property taxes, and utility costs; and, also investigates any existing labor contracts or real estate ownership that would render a re-location out of New Jersey impractical or cost prohibitive.
- For intra-State job transfers, EDA Board shall make a separate determination to verify and confirm that the jobs are at risk of leaving the state, the date(s) at which the EDA expects that those jobs would actually leave, or with respect to projects in a GSGZ-Camden, that the provision of tax credits under the program is a material factor in the businesses decision to make a capital investment and locate there, as attested to in a CEO certification.
- If the business reduces the total number of its full-time employees in the State by more than 20% from the tax period prior to approval, then the business shall forfeit its credit for that tax period and going forward until such time as its full-time employment in the State has increased to the 80% level.

Amount of award based upon:

- Base, gross and maximum amounts of tax credits for each new or retained full-time job, follows:

Project Type	**Base Amount** *Per Job/Per Year*	**Gross Amount** *Per Job/Per Year*	**Maximum Amount** *To be Applied Annually*
Mega Project	$5,000	$15,000	$30 million
GSGZ Project	$5,000	$15,000	$30 million/*$35 million-Camden*
UTHTC Municipality	$5,000	$12,000	$10 million
Distressed Municipality	$4,000	$11,000	$8 million
Priority Area	$3,000	$10,500	$4 million *(Not more than 90% of withholdings)*
Other Eligible Area	$500	$6,000	$2.5 million *(Not more than 90% of withholdings)*
Disaster Recovery Project	$2,000	$2,000	

- Bonus – The amount of 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 EDA from time to time in response to evolving economic or market conditions:

Bonus Type	**Bonus Amount**
Deep poverty pocket or Choice Neighborhoods 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 (e*xcludes mega projects)*	$3,000 maximum
Excess capital investment in industrial site for industrial use (m*ega projects or GSGZ projects)*	$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 400 401 to 600 601 to 800 801 to 1,000 1,001+	 $500 $750 $1,000 $1,250 $1,500
Business in a targeted industry	$500
Exceeds LEED "Silver" or completes substantial environmental remediation	$250
Located in municipality in eight southernmost 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 – Except for in GSGZ-Camden, the final total amount of tax credit, following the determination by EDA of the gross amount of tax credits, shall equal to 100% of the gross amount of tax credits for each new full-time job; and 50% for each retained full-time job.

- For tax credits in excess of $40 million, the amount available to be applied by the business annually shall be the lesser of the permitted statutory maximum amount or an amount determined by EDA necessary to complete the project, determined through staff analysis of all locations under consideration 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 amount of tax credits available to be applied by the business annually shall not exceed certain amounts: 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); and Other Eligible Areas - $2,500,000 (not more than 90% of withholdings).

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: Artech Information Systems L.L.C. P39363

PROJECT LOCATION: 360 Mt. Kemble Avenue Morris Township Morris County

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

APPLICANT BACKGROUND:
Founded in 1992, Artech Information Systems L.L.C. is a provider of information technology and technical consulting and a staffing supplier. With over 15 delivery locations in the US and Asia, Artech employs approximately 5,500 people worldwide, including approximately 235 in New Jersey, 44 of which are at its corporate headquarters in Cedar Knolls. In 2013, this enterprise was ranked the #10 Fastest-Growing Women-Owned/led company in North America. The applicant has demonstrated the financial ability to undertake the project.

Most of Artech's New Jersey employees serve the pharmaceutical, telecommunication and finance related industries. As these jobs are not based at the project location, they are not included in the Grow NJ grant calculation.

MATERIAL FACTOR/NET BENEFIT:
This minority and women-owned business' current global headquarters is in Cedar Knolls, New Jersey. Artech's Cedar Knolls lease expires in September, and it is looking for a larger space to accommodate future growth. The company is considering either Morris Township, New Jersey or Bethlehem, Pennsylvania, the latter being less expensive.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Artech Information Systems L.L.C. 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 by Ranjini Poddar, the Managing Member and President of Artech Information Systems L.L.C., that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $57 million over the 20 year period required by the Statute.

FINDING OF JOBS AT RISK:
The applicant has certified that the 44 New Jersey jobs listed in the application are at risk of being located outside the State on or before September 30, 2014. This certification coupled with the economic analysis of the potential locations submitted to the Authority has allowed staff to make a finding that the jobs listed in the application are at risk of being located outside of New Jersey.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	$ 20
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	**$ 40**
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As a Non-Industrial – Rehabilitation Project for an other targeted industry business in Morris County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	**Minimum Requirement**	**Proposed by Applicant**
Capital Investment	$698,280	$1,479,397
New Jobs	25	41
Retained Jobs	35	44

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	**Requirement**	**Proposed by Applicant**
Priority Area	Base award of $3,000 per year for projects located in a designated Priority Area	Morris Township is a designated Priority Area
Increase(s) Criteria		
Targeted Industry	An increase of $500 per job for a business in a Targeted Industry of Transportation, Manufacturing, Defense, Energy, Logistics, Life Sciences, Technology, Health, or Finance excluding a primarily warehouse, distribution or fulfillment center business	The applicant is a Technology business.

Grant Calculation

BASE GRANT PER EMPLOYEE:		
Priority Area		$3,000
INCREASES PER EMPLOYEE:		
Targeted Industry (Technology):	$ 500	
INCREASE PER EMPLOYEE:		$ 500
PER EMPLOYEE LIMIT:		
Priority Area	$10,500	
LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT:		$3,500
AWARD:		
New Jobs:	41 Jobs X $3,500 X 100% =	$143,500
Retained Jobs:	44 Jobs X $3,500 X 50% =	$ 77,000
	Total:	**$220,500**
ANNUAL LIMITS:		
Priority Area (90% Withholding Limit)	$4,000,000/($318,672)	
TOTAL ANNUAL AWARD		**$220,500**

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$ 1,479,397
NEW FULL-TIME JOBS:	41
RETAINED FULL-TIME JOBS:	44
NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$ 57,035,568
TOTAL AMOUNT OF AWARD (CAPPED ANNUALLY AT 90% OF WITHHOLDINGS)	$ 2,205,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 70,000
SIZE OF PROJECT LOCATION:	17,457 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Non-Industrial
STATEWIDE BASE EMPLOYMENT:	235

PROJECT IS: (X) Expansion (X) Relocation

CONSTRUCTION: (X) Yes ( ) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to: 1) concur with the finding by staff that the jobs in the application are at risk of being located outside New Jersey on or before September 30, 2014; 2) approve the proposed Grow New Jersey grant to encourage Artech Information Systems L.L.C. 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.

DEVELOPMENT OFFICER: D. Ubinger **APPROVAL OFFICER**: D. Sucsuz

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: Better Team USA Corporation P39090

PROJECT LOCATION: 95 Industrial East Way Clifton City Passaic County

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

APPLICANT BACKGROUND:
Better Team Limited (Hong Kong) is a garment manufacturing company, currently operating out of Hong Kong with a significant presence in China and Italy. Better Team specializes in the creation of high quality garments for some of the well known fashion houses in Europe. The company's production capabilities include down outerwear, jackets, coats, evening wear, skirts, dresses, and pants. Horacio Di Battista, the principal of Better Team, has established a new company, Better Team USA Corporation, in the United States to bring a portion of its garment manufacturing back onshore. The applicant has demonstrated the financial ability to undertake the project.

MATERIAL FACTOR/NET BENEFIT:
Due to an increasingly volatile garment market in China and a shift in the domestic market to a demand for "Made in the USA" labels, Mr. Di Battista has decided to expand his operations to the United States and open a state of the art garment factory in either New Jersey or Pennsylvania. The company is considering either Clifton, New Jersey or Bethlehem, Pennsylvania, the latter being less expensive. Better Team USA Corporation's expansion plans will result in the creation of 150 new positions. The company has applied for an award of tax credits under the new Grow New Jersey program to provide an incentive to expand in New Jersey.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Better Team USA Corporation 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 by Horacio Di Battista, the President of Better Team USA Corporation, that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $21 million over the 20 year period required by the Statute.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	**$ 20**
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	$ 40
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As an Industrial - Rehabilitation Project for a manufacturing business in Passaic County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	**Minimum Requirement**	**Proposed by Applicant**
Capital Investment	$330,000	$2,230,000
New Jobs	10	150
Retained Jobs	25	N/A

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	**Requirement**	**Proposed by Applicant**
Distressed Municipality	Base award of $4,000 per year for projects located in a designated Distressed Municipality	Clifton City is a designated Distressed Municipality
Increase(s) Criteria		
Capital Investment in Excess of Minimum (non-Mega)	An increase of $1,000 per job for each additional amount of capital investment that exceeds the minimum amount required for eligibility by 20%, with a maximum increase of $3,000	The proposed capital investment of $2,230,000 is 576% above the minimum capital investment resulting in an increase of $3,000 per year.
Targeted Industry	An increase of $500 per job for a business in a Targeted Industry of Transportation, Manufacturing, Defense, Energy, Logistics, Life Sciences, Technology, Health, or Finance excluding a primarily warehouse, distribution or fulfillment center business	The applicant is a Manufacturing business.

Grant Calculation

BASE GRANT PER EMPLOYEE:		
Distressed Municipality		$4,000
INCREASES PER EMPLOYEE:		
Capital Investment in Excess of Minimum (non-Mega):	$3,000	
Targeted Industry (Manufacturing):	$ 500	
INCREASE PER EMPLOYEE:		$3,500
PER EMPLOYEE LIMIT:		
Distressed Municipality	$11,000	
LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT:		$7,500
AWARD:		
New Jobs:	150 Jobs X $7,500 X 100% =	$1,125,000
Retained Jobs:	0 Jobs X $7,500 X 50% =	$ 0
	Total:	**$1,125,000**
ANNUAL LIMITS:		
Distressed Municipality	$8,000,000	
TOTAL ANNUAL AWARD		**$1,125,000**

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$ 2,230,000
NEW FULL-TIME JOBS:	150
RETAINED FULL-TIME JOBS:	0

NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$ 21,259,535
TOTAL AMOUNT OF AWARD	$ 11,250,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 36,000
SIZE OF PROJECT LOCATION:	16,500 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Industrial
STATEWIDE BASE EMPLOYMENT:	0

PROJECT IS: (X) Expansion ( ) Relocation

CONSTRUCTION: (X) Yes ( ) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Grow New Jersey grant to encourage Better Team USA Corporation 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.

DEVELOPMENT OFFICER: M. Abraham **APPROVAL OFFICER**: D. Sucsuz

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: Conopco, Inc. d/b/a Unilever P39350

PROJECT LOCATION:

700 Sylvan Ave.	Englewood Cliffs	Bergen County
800 Sylvan Ave.	Englewood Cliffs	Bergen County

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

APPLICANT BACKGROUND:
Conopco, Inc. d/b/a Unilever originally was formed in 1930 and is a multinational consumer goods company with operations in over 100 countries. The company has grown exponentially over the years and through numerous acquisitions, distributes over 400 brands in 14 different categories of home, personal care and food products; including Dove, Axe, Ben & Jerry, Lipton, Breyers, Ragu and Hellmann. Unilever's U.S. headquarters is located in Englewood Cliffs, NJ, currently with 1,600 employees. The applicant has demonstrated the financial ability to undertake the project.

In 2006, Conopco, Inc. was approved for BEIP, BRRAG and STX grants to retain its headquarters employees as well as relocation of employees from Connecticut. The company has reached an agreement with the Authority to terminate the existing grants upon approval of the GROW NJ grant award.

MATERIAL FACTOR/NET BENEFIT:
Conopco, Inc. is evaluating its headquarters location as the two buildings it currently utilizes in Englewood Cliffs are in need of major renovation. The company owns the building at 700 Sylvan Avenue ("700 building") and leases the 800 Sylvan Avenue facility ("800 building"), which lease expires at the end of 2015. The options are to consolidate and make extensive renovations at its current NJ facilities or to relocate to Armonk, New York or Stamford, Connecticut, where Unilever has other operations. The renovations in NJ are expected to require a capital investment of approximately $57 million. The project would result in the retention of 1,600 full-time employees. The company is seeking approval of a Grow New Jersey award as an incentive to locate the project in NJ and is also seeking a benefit under the Sales & Use Tax Exemption program that would reduce the renovation costs associated with the project.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Conopco, Inc. 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 by Kees Kruythoff, the CEO of Unilever North America, that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $854 million over the 20 year period required by the Statute.

FINDING OF JOBS AT RISK:
The applicant has certified that the 1,600 New Jersey jobs listed in the application are at risk of being located outside the State on or before December 31, 2015. This certification coupled with the economic analysis of the potential locations submitted to the Authority has allowed staff to make a finding that the jobs listed in the application are at risk of being located outside of New Jersey.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	$ 20
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	**$ 40**
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As a Non-Industrial – Rehabilitation Project for an other business in Bergen County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	Minimum Requirement	Proposed by Applicant
Capital Investment	$16,800,000	$57,074,134
New Jobs	35	N/A
Retained Jobs	50	1,600

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	Requirement	Proposed by Applicant
Priority Area	Base award of $3,000 per year for projects located in a designated Priority Area	Englewood Cliffs is a designated Priority Area
Increase(s) Criteria		
Jobs with Salary in Excess of County/GSGZ Average	An increase of $250 per job for each 35% the applicant's median salary exceeds the median salary of the County, or the Garden State Growth Zone, in which the project is located with a maximum increase of $1,500	The proposed median salary of $97,960 exceeds the Bergen County median salary by 65.6941% resulting in an increase of $250 per year.
Large Number of New/Retained Full-Time Jobs	An increase of $500 per job for 251-400 new or retained jobs, $750 per job for 401-600	The applicant is proposing to create/retain 1,600 Full-Time Jobs at the project location

	new or retained jobs, $1,000 for 601-800 new or retained jobs, $1,250 for 801-1,000 new or retained jobs and $1,500 for more than 1,000 new or retained jobs	resulting in an increase of $1,500.

Grant Calculation

BASE GRANT PER EMPLOYEE:
Priority Area $3,000

INCREASES PER EMPLOYEE:
Jobs with Salary in Excess of County/GSGZ Average: $250
Large Number of New/Retained F/T Jobs: $1,500

INCREASE PER EMPLOYEE: $1,750

PER EMPLOYEE LIMIT:
Priority Area $10,500

LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT: $4,750

AWARD:

New Jobs:	0 Jobs X $4,750 X 100% =	$0,000
Retained Jobs:	1,600 Jobs X $4,750 X 50% =	$3,800,000
	Total:	**$3,800,000**

ANNUAL LIMITS:
Priority Area (90% Withholding Limit) $4,000,000/($8,000,000)

TOTAL ANNUAL AWARD **$3,800,000**

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$57,074,134
NEW FULL-TIME JOBS:	0
RETAINED FULL-TIME JOBS:	1,600
NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$854,496,146
TOTAL AMOUNT OF AWARD (CAPPED ANNUALLY AT 90% OF WITHHOLDINGS)	$38,000,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$97,960
SIZE OF PROJECT LOCATION:	420,000 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing

INDUSTRIAL OR NON-INDUSTRIAL FACILITY? Non-Industrial
STATEWIDE BASE EMPLOYMENT: 1680
PROJECT IS: (X) Expansion ( ) Relocation
CONSTRUCTION: (X) Yes ( ) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to: 1) concur with the finding by staff that the jobs in the application are at risk of being located outside New Jersey on or before December 31, 2015; 2) approve the proposed Grow New Jersey grant to encourage Conopco, Inc. d/b/a Unilever 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.

DEVELOPMENT OFFICER: D. Ubinger **APPROVAL OFFICER**: T. Wells

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – SALES & USE TAX EXEMPTION (STX)

APPLICANT:	Conopco, Inc. d/b/a Unilever		P39362
COMPANY ADDRESS:	700 and 800 Sylvan Ave.	Englewood Cliffs	Bergen County
PROJECT LOCATION:	700 and 800 Sylvan Ave.	Englewood Cliffs	Bergen County

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

APPLICANT BACKGROUND:
Conopco, Inc. d/b/a Unilever originally was formed in 1930 and is a multinational consumer goods company with operations in over 100 countries. The company has grown exponentially over the years and through numerous acquisitions, distributes over 400 brands in 14 different categories of home, personal care and food products; including Dove, Axe, Ben & Jerry, Lipton, Breyers, Ragu and Hellmann. Unilever's U.S. headquarters is located in Englewood Cliffs, NJ, currently with 1,600 employees.

In 2006, Conopco, Inc. was approved for BEIP, BRRAG and STX grants to retain its headquarters employees as well as relocation of employees from Connecticut. The company has reached an agreement with the Authority to terminate the existing grants upon approval of the Grow NJ grant award.

PROJECT DESCRIPTION:
Conopco, Inc. is evaluating its headquarters location as the two buildings it currently utilizes in Englewood Cliffs are in need of major renovation. The company owns the building at 700 Sylvan Avenue ("700 building") and leases the 800 Sylvan Avenue facility ("800 building"), which lease expires at the end of 2015. The options are to consolidate and make extensive renovations at its current NJ facilities or to relocate to Armonk, New York or Stamford, Connecticut, where Unilever has other operations. The renovations in NJ are expected to require a capital investment of approximately $57 million. The project would result in the retention of 1,600 full-time employees. The company is seeking approval of a Grow New Jersey award as an incentive to locate the project in NJ and is also seeking a benefit under the Sales & Use Tax Exemption program that would reduce the renovation costs associated with the project. The company is eligible to receive the Sales Tax Exemption because it has at least 1,000 employees and will relocate at least 500 workers to a substantially rehabilitated facility.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Unilever has indicated that the incentives are a material factor in the company's location decision. The Authority is in receipt of an executed CEO certification signed by Kees Kruythoff, the CEO of Unilever North America, that states that the application has been reviewed and the information submitted and representations contained therein are accurate.

SCOPE OF STX BENEFITS:
Authority assistance will induce the applicant to maintain its North American headquarters within New Jersey by leasing a 420,000 sq ft facility in Englewood Cliffs. The business will be exempt from sales and use tax for eligible property located or placed at the eligible business location(s) for the renovation project pursuant to the terms and conditions of a project agreement. The sales tax exemption certificate applies only to property purchased for installation at the approved project site(s) and will allow the business to purchase machinery, equipment, furniture and furnishings, fixtures, and building materials, other than tools and supplies, without the imposition of sales and use tax. The sales tax exemption (STX) is administered pro rata to reflect the eligible scope of the project, based on the number of retained STX eligible full-time jobs, increased no more than 20 percent, relative to the sum of all of jobs/employees located at the approved project site(s) during the

commitment duration period, subject to the Act, Regulations, and the terms of the Project Agreement. The recommended benefit is contingent upon receipt by the Authority of evidence that the company has met certain criteria to substantiate the recommended benefit amount. If the criteria met by the company differs from that shown herein, the benefit amount will be lowered to reflect the benefit amount that corresponds to the actual criteria that have been met.

APPROVAL REQUEST: **STX COMMITMENT DURATION:** 5 years

The Applicant has represented that the availability of this financial assistance will be an important inducement to undertake this project and to relocate full-time jobs within the State. The Authority staff recommends the award of the proposed Sales and Use Tax Exemption benefit.

ESTIMATED ELIGIBLE EXPENSES:	$	$29,433,115
ESTIMATED VALUE OF STX:	$	$2,060,318
STX ELIGIBLE EMPLOYEES:		1,600
TOTAL JOBS TO BE LOCATED AT THE PROJECT SITE:		1,600
MEDIAN WAGES:	$	97,960
PROJECT LOCATION IN PLANNING AREA 1 OR 2:		PA-2
OPERATED IN NEW JERSEY SINCE:		1930

PROJECT IS: (X) Expansion ( ) Relocation

CONSTRUCTION/RENOVATION: (X) Yes ( ) No

DEVELOPMENT OFFICER: D. Ubinger **APPROVAL OFFICER**: T. Wells

STX benefit calculation formula:

Estimated Eligible Property x Sales Tax Rate = Estimated Gross Sales Tax Liability	$29,433,115 x 0.07 = $2,060,318
(Retained Full-Time Jobs (STX Eligible Jobs) / Estimated Total Occupants of the Facility) x Regulatory 20% Automatic Increase for All STX Projects = Proportionate Value (Pro Rata Eligible Scope) with 20% Increase	1,600/1,600 = 1.00 x 1.2 = 1.20 (max = 1.00)
Adjusted Proportionate Value x Estimated Gross Sales Tax Liability = Estimated Amount of the Sales and Use Tax Exemption Certificate	1.00 x $2,060,318 = $2,060,318

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: Insight Catastrophe Group, LLC P39361

PROJECT LOCATION: 101 Hudson Street Jersey City Hudson County

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

APPLICANT BACKGROUND:
Insight Catastrophe Group, LLC is the parent company and sole member of SageSure Insurance Managers, LLC and Insight Catastrophe Managers, LLC. The Company is dedicated to assisting its clients achieve superior risk-adjusted returns by providing insurance portfolio management and risk advisory services. The company uses proprietary technology to analyze risks and score businesses in real time. The company has successfully brought the power of dynamic financial risk management into the property risk business. The company is moving its headquarters to accommodate expansion and an expiring lease in September. The applicant has demonstrated the financial ability to undertake the project.

SageSure Insurance Managers, LLC (SIM) (previously Coastal Risk Underwriters, LLC) provides underwriting management and administrative services. Leveraging Insight Catastrophe Managers, LLC's risk management capabilities and software platform, SIM provides program management for residential catastrophe-exposed property.

Insight Catastrophe Managers, LLC (ICM) provides property risk management consulting and proprietary risk management software. Its advanced financial analytics, catastrophe modeling tools and revolutionary policy management system provide clients with a comprehensive solution that includes real-time policy evaluation, financial metrics and capital management capabilities.

Insight Catastrophe Group, LLC is considering moving its headquarters out of New York City and into Jersey City, NJ. The new Location will serve as its headquarters and executive offices.

MATERIAL FACTOR/NET BENEFIT:
The applicant has submitted a cost benefit analysis comparing the renovation projects of an 8,626 sf office space in Jersey City to a 7,676 sf office space located in New York City. The one-time cost of moving will be $107,585 greater in New Jersey than New York. The annual operating costs are projected to be $2.7M and $2.8M in New York and New Jersey respectively. The company notes that the New Jersey Location has easy access to New York City and is a strong location to recruit new employees.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Insight Catastrophe Group, LLC 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 by Andrew DiLoreto, the CEO of Insight Catastrophe Group, LLC, that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $8,856,946 over the 20 year period required by the Statute.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	$ 20
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	**$ 40**
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As a Non-Industrial – Rehabilitation Project for an other targeted industry business in Hudson County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	**Minimum Requirement**	**Proposed by Applicant**
Capital Investment	$345,040	$758,000
New Jobs	25	31
Retained Jobs	35	N/A

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	**Requirement**	**Proposed by Applicant**
Urban Transit Hub Municipality	Base award of $5,000 per year for projects located in a designated Urban Transit Hub Municipality	Jersey City is a designated Urban Transit Hub Municipality
Increase(s) Criteria		
Transit Oriented Development	An increase of $2,000 per job for a project locating in a Transit Oriented Development	Jersey City is located in a Transit Oriented Development by virtue of being within ½ mile of the midpoint of a Port Authority Transit Corporation rail station

Jobs with Salary in Excess of County/GSGZ Average	An increase of $250 per job for each 35% the applicant's median salary exceeds the median salary of the County, or the Garden State Growth Zone, in which the project is located with a maximum increase of $1,500	The proposed median salary of $95,000 exceeds the County median salary by 90% resulting in an increase of $500 per year.
Targeted Industry	An increase of $500 per job for a business in a Targeted Industry of Transportation, Manufacturing, Defense, Energy, Logistics, Life Sciences, Technology, Health, or Finance excluding a primarily warehouse, distribution or fulfillment center business	The applicant is a Finance business.

Grant Calculation

BASE GRANT PER EMPLOYEE:
Urban Transit HUB Municipality $5,000

INCREASES PER EMPLOYEE:
Transit Oriented Development: $ 2,000
Jobs with Salary in Excess of County/GSGZ Average: $ 500
Targeted Industry (Finance): $ 500

INCREASE PER EMPLOYEE: $3,000

PER EMPLOYEE LIMIT:
Urban Transit HUB $12,000

LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT: $8,000

AWARD:

New Jobs:	31 Jobs X $8,000 X 100% =	$248,000
Retained Jobs:	0 Jobs X $0,000 X 50% =	$ 0,000
	Total:	**$248,000**

ANNUAL LIMITS:
Urban Transit HUB $10,000,000

TOTAL ANNUAL AWARD **$248,000**

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$ 758,000
NEW FULL-TIME JOBS:	31
RETAINED FULL-TIME JOBS:	0

NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$ 8,856,946
TOTAL AMOUNT OF AWARD	$ 2,480,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 95,000
SIZE OF PROJECT LOCATION:	8,626 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Non-Industrial
STATEWIDE BASE EMPLOYMENT:	0

PROJECT IS: ( ) Expansion (X) Relocation
CONSTRUCTION: ( ) Yes (X) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Grow New Jersey grant to encourage Insight Catastrophe Group, LLC 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.

DEVELOPMENT OFFICER: M. Abraham **APPROVAL OFFICER**: J. Horezga

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: Jimmy's Cookies, LLC P39372

PROJECT LOCATION: 125 Entin Road Clifton City Passaic County

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

APPLICANT BACKGROUND:
Jimmy's Cookies, LLC is an established gourmet cookie and cookie dough manufacturer that began its operations over 28 years ago in a tiny Hungarian bakery in Manhattan. The company now occupies a modern 38,000 sq ft baking facility in Fair Lawn, New Jersey and ships its products to supermarkets and food service distributors all across the United States. Jimmy's Cookies offers both freshly baked cookies shipped frozen for "Thaw-and-Sell" products as well as frozen gourmet cookie dough for "Bake-In-Store" products. All of the company's products are made with all natural ingredients and no preservatives. The applicant has demonstrated the financial ability to undertake the project.

MATERIAL FACTOR/NET BENEFIT:
Jimmy's Cookies has one year remaining on its current lease in Fair Lawn. The company is projecting growth, but is constrained by the capacity of the building. As a result, management has made the decision to move to a larger facility and has narrowed down the search to an 87,280 sq ft building in Clifton City, New Jersey where it would make a capital investment of $3,150,015 to renovate the facility as well as install equipment and machinery. Alternatively, the company is also considering a site in Rockland County, New York. If the company chooses to remain in New Jersey, it would mean the retention of its 43 existing jobs as well as the planned growth of 79 new jobs.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Jimmy's Cookies 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 by Howard Hirsch, the CEO of Jimmy's Cookies, that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $39.5 million over the 20 year period required by the Statute.

FINDING OF JOBS AT RISK:
The applicant has certified that the 43 New Jersey jobs listed in the application are at risk of being located outside the State on or before February 2015. This certification coupled with the economic analysis of the potential locations submitted to the Authority has allowed staff to make a finding that the jobs listed in the application are at risk of being located outside of New Jersey.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	**$ 20**
Industrial - New Construction Projects	$ 60

Non-Industrial – Rehabilitation Projects	$ 40
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As an Industrial - Rehabilitation Project for a manufacturing business in Passaic County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	Minimum Requirement	Proposed by Applicant
Capital Investment	$1,745,600	$3,150,015
New Jobs	10	79
Retained Jobs	25	43

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	Requirement	Proposed by Applicant
Distressed Municipality	Base award of $4,000 per year for projects located in a designated Distressed Municipality	Clifton City is a designated Distressed Municipality
Increase(s) Criteria		
Capital Investment in Excess of Minimum (non-Mega)	An increase of $1,000 per job for each additional amount of capital investment that exceeds the minimum amount required for eligibility by 20%, with a maximum increase of $3,000	The proposed capital investment of $3,150,015 is 80.45% above the minimum capital investment resulting in an increase of $3,000 per year.
Targeted Industry	An increase of $500 per job for a business in a Targeted Industry of Transportation, Manufacturing, Defense, Energy, Logistics, Life Sciences, Technology, Health, or Finance excluding a primarily warehouse, distribution or fulfillment center business	The applicant is a Manufacturing business.

Grant Calculation

BASE GRANT PER EMPLOYEE:		
Distressed Municipality		$4,000
INCREASES PER EMPLOYEE:		
Capital Investment in Excess of Minimum (non-Mega):	$3,000	
Targeted Industry (Manufacturing):	$ 500	
INCREASE PER EMPLOYEE:		$3,500
PER EMPLOYEE LIMIT:		
Distressed Municipality	$11,000	
LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT:		$7,500
AWARD:		
New Jobs:	79 Jobs X $7,500 X 100% =	$592,500
Retained Jobs:	43 Jobs X $7,500 X 50% =	$161,250
	Total:	**$753,750**
ANNUAL LIMITS:		
Distressed Municipality	$ 8,000,000	
TOTAL ANNUAL AWARD		**$753,750**

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$ 3,150,015
NEW FULL-TIME JOBS:	79
RETAINED FULL-TIME JOBS:	43

NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$ 39,492,187
TOTAL AMOUNT OF AWARD	$ 7,537,500
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 40,000
SIZE OF PROJECT LOCATION:	87,280 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Industrial
STATEWIDE BASE EMPLOYMENT:	43

PROJECT IS: ( ) Expansion (X) Relocation

CONSTRUCTION: (X) Yes ( ) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to: 1) concur with the finding by staff that the jobs in the application are at risk of being located outside New Jersey on or before February 2015; 2) approve the proposed Grow New Jersey grant to encourage Jimmy's Cookies, LLC 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.

DEVELOPMENT OFFICER: M. Abraham **APPROVAL OFFICER**: K. McCullough

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: JPMorgan Chase Bank, N.A. P39215

PROJECT LOCATION: 575 Washington Boulevard Jersey City Hudson County
480 Washington Boulevard Jersey City Hudson County

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

APPLICANT BACKGROUND:
JPMorgan Chase Bank, N.A. is a leading global financial services firm with assets of $2.4 trillion and operations worldwide. The company is a leader in investment banking, financial services for consumers and small businesses, commercial banking, financial transaction processing, asset management and private equity. JPMorgan Chase Bank serves millions of consumers in the United States and many corporate, institutional and government clients under its J.P. Morgan and Chase brands. JPMorgan Chase Bank, N.A. (the "Company"), the applicant, is a wholly owned principal banking subsidiary of JPMorgan Chase & Co., with branches in 23 states and other operations nationally and internationally. The applicant's presence in New Jersey consists of 12 disparate facilities in multiple locations: 3 major offices, located in Jersey City, Iselin and Whippany, as well as 9 ancillary offices, with a statewide workforce of over 5,000. In addition the applicant has 2 critical data centers in NJ. The applicant has demonstrated the financial ability to undertake the project.

JPMorgan Chase Bank is the recipient of a BEIP grant which closed in 2000 for the shared services operations located at the Jersey City location and the creation of 1,000 jobs. The BEIP project is currently in its compliance period until 2017 and the 1,000 jobs subject to the existing BEIP are not counted as part of this Grow NJ project.

MATERIAL FACTOR/NET BENEFIT:
The applicant is evaluating the location of its growing and expanding regional technology and operations ("T&O") hub that serves as centers for multiple enterprise support activities. This T&O hub strategy includes consolidation of NJ-based operations currently located in multiple facilities within New Jersey to a consolidated operation in Jersey City or the relocation of most of the New Jersey operations to established hubs in lower cost campuses in Delaware and Ohio, where the company has extensive and successful operations. The project involves the retention of 2,612 employees and the creation of 1,000 new positions.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of JPMorgan Chase Bank, N.A. 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 by Marianne Lake the CEO of JPMorgan Chase Bank, N.A. that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $1.1 billion over the 20 year period required by the Statute.

FINDING OF JOBS AT RISK:
The applicant has certified that the 2,612 New Jersey jobs listed in the application are at risk of being located outside the State on or before January 1, 2017. This certification coupled with the economic analysis of the potential locations submitted to the Authority has allowed staff to make a finding that the jobs listed in the application are at risk of being located outside of New Jersey.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	$ 20
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	**$ 40**
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As an Non-Industrial – Rehabilitation Project for an other targeted industry business, in Hudson County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	Minimum Requirement	Proposed by Applicant
Capital Investment	$43,930,600	$76,906,632
New Jobs	25	1,000
Retained Jobs	35	2,612

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	Requirement	Proposed by Applicant
Mega Project	Base award of $5,000 per year for projects designated as a Mega Project	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 having more than 250 employees created or retained.

Increase(s) Criteria		
Transit Oriented Development	An increase of $2,000 per job for a project locating in a Transit Oriented Development	Jersey City is located in a Transit Oriented Development by virtue of being within ½ mile of the midpoint of a New Jersey Transit Corporation light rail station
Jobs with Salary in Excess of County/GSGZ Average	An increase of $250 per job for each 35% the applicant's median salary exceeds the median salary of the County, or the Garden State Growth Zone, in which the project is located with a maximum increase of $1,500	The proposed median salary of $120,000 exceeds the Hudson County median salary by 139.97% resulting in an increase of $750 per year.
Large Number of New/Retained Full-Time Jobs	An increase of $500 per job for 251-400 new or retained jobs, $750 per job for 401-600 new or retained jobs, $1,000 for 601-800 new or retained jobs, $1,250 for 801-1,000 new or retained jobs and $1,500 for more than 1,000 new or retained jobs	The applicant is proposing to create/retain 3,612 Full-Time Jobs at the project location resulting in an increase of $1,500.
Targeted Industry	An increase of $500 per job for a business in a Targeted Industry of Transportation, Manufacturing, Defense, Energy, Logistics, Life Sciences, Technology, Health, or Finance excluding a primarily warehouse, distribution or fulfillment center business	The applicant is a Finance business.

Grant Calculation

BASE GRANT PER EMPLOYEE:

Mega Project		$5,000

INCREASES PER EMPLOYEE:

Transit Oriented Development:	$2,000	
Jobs with Salary in Excess of County/GSGZ Average:	$ 750	
Large Number of New/Retained F/T Jobs:	$1,500	
Targeted Industry (Finance):	$ 500	
INCREASE PER EMPLOYEE:		$4,750

PER EMPLOYEE LIMIT:

Mega Project	$15,000	

LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT: $9,750

AWARD:

New Jobs:	1,000 Jobs X $9,750 X 100% =	$ 9,750,000
Retained Jobs:	2,612 Jobs X $9,750 X 50% =	$12,733,500
	Total:	**$22,483,500**

ANNUAL LIMITS:

Mega Project	$30,000,000

MAXIMUM AWARD IN EXCESS OF $4,000,000 PER YEAR ($22,483,500):

ANNUAL AMOUNT DETERMINED AS NECESSARY TO COMPLETE THE PROJECT = $22,483,500 ($9,750 PER NEW JOB / $4,875 PER RETAINED JOB)

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$76,906,632
NEW FULL-TIME JOBS:	1,000
RETAINED FULL-TIME JOBS:	2,612
NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$1,189,305,074
TOTAL AMOUNT OF AWARD:	$224,835,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 120,000
SIZE OF PROJECT LOCATION:	1,098,265 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Non-Industrial
STATEWIDE BASE EMPLOYMENT:	5,526

PROJECT IS: (X) Expansion (X) Relocation

CONSTRUCTION: (X) Yes ( ) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.
6. The applicant will maintain the 1,000 positions currently incented by a BEIP for the duration of the Grow NJ award. The number of retained and new positions that are part of this Grow NJ award will only be counted above and beyond the first 1,000 positions at the project site which are deemed to remain incented by the BEIP.

APPROVAL REQUEST:

The Members of the Authority are asked to: 1) concur with the finding by staff that the jobs in the application are at risk of being located outside New Jersey on or before January 1, 2017; 2) approve the proposed Grow New Jersey grant to encourage JPMorgan Chase Bank, N.A. 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.

DEVELOPMENT OFFICER: M. Abraham **APPROVAL OFFICER**: T. Wells

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: RBC Capital Markets, LLC P39190

PROJECT LOCATION: 30 Hudson Street Jersey City Hudson County

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

APPLICANT BACKGROUND:
RBC Capital Markets, LLC is part of a leading provider of financial services, Royal Bank of Canada (RBC). Operating since 1869, RBC is one of the top 15 largest banks in the world and the fifth largest in North America, as measured by market capitalization.

RBC Capital Markets, LLC offers corporate and investment banking services to corporations, governments, and institutions. The firm's services include public and private placement of debt and equity securities, strategic alliances, mergers and acquisitions advice, corporate finance, equity and debt underwriting, and structured and project finance. It also offers corporate credit, real estate advisory services, syndicated loans, equity research, sales and trading, risk management, asset securitization, fixed income, money market, and foreign exchange services. With more than 7,100 professionals, it operates out of 70 offices in 15 countries across North America, the U.K., Europe, and the Asia-Pacific region. According to Bloomberg and Dealogic, it is consistently ranked among the largest global investment banks.

RBC Capital Markets, LLC currently leases approximately 727,522 square feet in five locations in Manhattan housing approximately 2,700 employees. Upcoming lease expirations at One Liberty Plaza and World Financial Center initiated a proactive evaluation of its options. The applicant has demonstrated the financial ability to undertake the project.

MATERIAL FACTOR/NET BENEFIT:
The applicant has submitted a cost benefit analysis comparing the renovation projects of a 206,861 sf facility in Jersey City to a 211,500 sf facility located in Minnesota. The one-time cost of expanding will be $70.3M greater in Minnesota than New Jersey. The annual operating costs are projected to be $87.1M and $121M in Minnesota and New Jersey respectively.

The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of RBC Capital Markets, LLC 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 by Deborah Freer, the CEO of RBC Capital Markets, LLC, that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $295.7 million over the 20 year period required by the Statute.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	$ 20
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	**$ 40**
Non-Industrial – New Construction Projects	$120

Minimum capital investment amounts are reduced by 1/3 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

Minimum employment numbers are reduced by 1/4 in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem

As a Non-Industrial – Rehabilitation Project for an other targeted industry business in Hudson County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	Minimum Requirement	Proposed by Applicant
Capital Investment	$8,274,440	$17,238,101
New Jobs	25	900
Retained Jobs	35	N/A

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	Requirement	Proposed by Applicant
Urban Transit Hub Municipality	Base award of $5,000 per year for projects located in a designated Urban Transit Hub Municipality	Jersey City is a designated Urban Transit Hub Municipality.
Increase(s) Criteria		
Transit Oriented Development	An increase of $2,000 per job for a project locating in a Transit Oriented Development	Jersey City is located in a Transit Oriented Development by virtue of being within ½ mile of the midpoint of a Port Authority Transit Corporation rail station.
Jobs with Salary in Excess of County/GSGZ Average	An increase of $250 per job for each 35% the applicant's median salary exceeds the	The proposed median salary of $126,500 exceeds the County median salary by 153%

	median salary of the County, or the Garden State Growth Zone, in which the project is located with a maximum increase of $1,500	resulting in an increase of $1,000 per year.
Large Number of New/Retained Full-Time Jobs	An increase of $500 per job for 251-400 new or retained jobs, $750 per job for 401-600 new or retained jobs, $1,000 for 601-800 new or retained jobs, $1,250 for 801-1,000 new or retained jobs and $1,500 for more than 1,000 new or retained jobs	The applicant is proposing to create/retain 900 Full-Time Jobs at the project location resulting in an increase of $1,250.
Targeted Industry	An increase of $500 per job for a business in a Targeted Industry of Transportation, Manufacturing, Defense, Energy, Logistics, Life Sciences, Technology, Health, or Finance excluding a primarily warehouse, distribution or fulfillment center business	The applicant is a Finance business.

Grant Calculation

BASE GRANT PER EMPLOYEE:

Urban Transit HUB Municipality		$5,000

INCREASES PER EMPLOYEE:

Transit Oriented Development:	$2,000	
Jobs with Salary in Excess of County/GSGZ Average:	$1,000	
Large Number of New/Retained F/T Jobs:	$1,250	
Targeted Industry (Finance):	$ 500	
INCREASE PER EMPLOYEE:		$4,750

PER EMPLOYEE LIMIT:

Urban Transit HUB	$12,000	

LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT: $9,750

AWARD:

New Jobs:	900 Jobs X $9,750 X 100% =	$8,775,000
Retained Jobs:	0 Jobs X $9,750 X 50% =	$0,000
	Total:	**$8,775,000**

ANNUAL LIMITS:

Urban Transit HUB	$10,000,000

MAXIMUM AWARD IN EXCESS OF $4,000,000 PER YEAR ($8,775,000):

ANNUAL AMOUNT DETERMINED AS NECESSARY TO COMPLETE THE PROJECT = $7,875,000 ($8,750 PER NEW JOB / $0 PER RETAINED JOB)

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$ 17,238,101
NEW FULL-TIME JOBS:	900
RETAINED FULL-TIME JOBS:	0
NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$295,703,584
TOTAL AMOUNT OF AWARD	$ 78,750,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 126,500
SIZE OF PROJECT LOCATION:	206,861 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Non-Industrial
STATEWIDE BASE EMPLOYMENT:	10

PROJECT IS: ( ) Expansion (X) Relocation

CONSTRUCTION: ( ) Yes (X) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Grow New Jersey grant to encourage RBC Capital Markets, LLC 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.

DEVELOPMENT OFFICER: J. Kenyon **APPROVAL OFFICER**: J. Horezga

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – GROW NEW JERSEY ASSISTANCE PROGRAM

APPLICANT: Univision Communications Inc. and Subsidiaries P39371

PROJECT LOCATION: 4449 North Delsea Drive Vineland City Cumberland County

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

APPLICANT BACKGROUND:
Univision Communications Inc. is the leading Spanish-language broadcaster in the United States with a portfolio of television and radio operations, and digital distribution channels. It runs Univision Network, the fifth largest TV network in the country. Univision Network is carried by more than 1,400 broadcast and cable affiliates. The company also owns and operates about 60 local broadcast TV stations along with other networks such as Galavisión. Founded in 1961 and headquartered in Manhattan, Univision Communications Inc. is controlled by a group of private investors. The applicant has demonstrated the financial ability to undertake the project.

Univision Communications Inc., and its subsidiaries Univision of New Jersey Inc. and Univision Management Co., have been running Univision's nationwide local TV "traffic" function and a Philadelphia local TV station out of an owned facility in Vineland, New Jersey. "Traffic" is the broadcast advertising term for the coordination, organization and placement of commercials during network and local broadcasts. Univision is planning to centralize and consolidate most of its traffic related positions across the country to Vineland, Florida or Texas. The Florida location is an existing leased site while the Texas and Vineland locations are owned sites. If the Vineland site is chosen, the applicant plans to maintain 34 existing jobs and create 70 additional positions.

MATERIAL FACTOR/NET BENEFIT:
Univision's expansion plans will result in the creation of 70 new positions. The company has applied for an award of tax credits under the new Grow New Jersey program to provide an incentive to expand in New Jersey. The location analysis submitted to the Authority shows New Jersey to be the more expensive option and, as a result, the management of Univision Communications Inc. 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 by Randy Falco, the CEO of Univision Communications Inc., that states that the application has been reviewed and the information submitted and representations contained therein are accurate and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur. It is estimated that the project would have a net benefit to the State of $8.9 million over the 20 year period required by the Statute.

ELIGIBILITY AND GRANT CALCULATION:
Per the Grow New Jersey statute, N.J.S.A. 34:1B-242 et seq. and the program's rules, N.J.A.C. 19:31-18, the applicant must:

- Make, acquire, or lease a capital investment equal to, or greater than, the minimum capital investment, as follows:

Minimum Capital Investment Requirements	($/Square Foot of Gross Leasable Area)
Industrial - Rehabilitation Projects	$ 20
Industrial - New Construction Projects	$ 60
Non-Industrial – Rehabilitation Projects	**$ 40**
Non-Industrial – New Construction Projects	$120

*Minimum capital investment amounts are **reduced by 1/3** in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, **Cumberland**, Gloucester, Ocean and Salem*

- Retain full-time jobs **AND/OR** create new full-time jobs in an amount equal to or greater than the applicable minimum, as follows:

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

*Minimum employment numbers are **reduced by 1/4** in GSGZs and in eight South Jersey counties: Atlantic, Burlington, Camden, Cape May, **Cumberland**, Gloucester, Ocean and Salem*

As a Non-Industrial – Rehabilitation Project for an other business in Cumberland County, this project has been deemed eligible for a Grow New Jersey award based upon these criteria, outlined in the table below:

Eligibility	**Minimum Requirement**	**Proposed by Applicant**
Capital Investment	$703,520	$3,004,000
New Jobs	27	70
Retained Jobs	38	N/A

The Grow New Jersey Statute and the program's rules also establish criteria for the Grant Calculation. This project has been deemed eligible for a Base Award and Increases based on the following:

Base Grant	**Requirement**	**Proposed by Applicant**
Distressed Municipality	Base award of $4,000 per year for projects located in a designated Distressed Municipality	Vineland City is a designated Distressed Municipality
Increase(s) Criteria		
2007 Revit. Index>465 in Atlantic, Burlington, Camden Cape May, Cumberland, Gloucester, Ocean, Salem	An increase of $1,000 per job for locating in a municipality with a 2007 Revitalization Index greater than 465	Vineland City has a 2007 Revitalization Index of 474

Grant Calculation

BASE GRANT PER EMPLOYEE:
Distressed Municipality $4,000

INCREASES PER EMPLOYEE:
2007 Revit. Index>465 in Atlantic, Burlington, Camden
Cape May, Cumberland, Gloucester, Ocean, Salem: $1,000

INCREASE PER EMPLOYEE: $1,000

PER EMPLOYEE LIMIT:
Distressed Municipality $11,000

LESSER OF BASE + INCREASES OR PER EMPLOYEE LIMIT: $5,000

AWARD:

New Jobs:	70 Jobs X $5,000 X 100% =	$350,000
Retained Jobs:	0 Jobs X $5,000 X 50% =	$ 0
	Total:	**$350,000**

ANNUAL LIMITS:
Distressed Municipality $8,000,000

TOTAL ANNUAL AWARD **$350,000**

ESTIMATED ELIGIBLE CAPITAL INVESTMENT:	$ 3,004,000
NEW FULL-TIME JOBS:	70
RETAINED FULL-TIME JOBS:	0
NET BENEFIT TO THE STATE (OVER 20 YEARS, NET OF AWARD):	$ 8,871,073
TOTAL AMOUNT OF AWARD	$ 3,500,000
ELIGIBILITY PERIOD:	10 years
MEDIAN WAGES:	$ 35,000
SIZE OF PROJECT LOCATION:	26,382 sq. ft.
NEW BUILDING OR EXISTING LOCATION?	Existing
INDUSTRIAL OR NON-INDUSTRIAL FACILITY?	Non-Industrial
STATEWIDE BASE EMPLOYMENT:	265

PROJECT IS: (X) Expansion ( ) Relocation
CONSTRUCTION: (X) Yes ( ) No

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 the Statutory minimum after board approval, but no later than 3 years from Board approval.
3. No employees that are subject to a BEIP, BRRAG, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program 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, legacy Grow New Jersey, Urban Transit Hub or other NJEDA incentive program is eligible to be counted toward the capital investment requirement for Grow New Jersey.
5. Within twelve 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.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed Grow New Jersey grant to encourage Univision Communications Inc. and Subsidiaries 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.

DEVELOPMENT OFFICER: J. Kenyon **APPROVAL OFFICER**: D. Sucsuz

BOARD MEMORANDUM

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy J. Lizura, President and COO

DATE: May 16, 2014

SUBJECT: Projects Approved Under Delegated Authority - **For Informational Purposes Only**

The following projects were approved under Delegated Authority in April 2014:

New Jersey Business Growth Fund:

1) ECR Delsea, LLC (P39305), located in Deptford Township, Gloucester County, is a real estate holding company formed to purchase the project property. The operating company, East Coast Rubber Products, manufactures rubber seals and molds used in the Food and Pharmaceutical Processing Industries. PNC Bank approved a $200,000 term loan with a five-year, 25% of guarantee initially, not to exceed $50,000. The Company currently has ten employees and plans to create five new jobs within the next two years.

Premier Lender Program:

1) 2Com Group, LLC and FusionTech, LLC or Nominee (P39150, P39151 & P39152) is located in Livingston Township, Essex County. 2Com Group, LLC ("2Com") is a provider of telecommunications systems including design and installation. FusionTech Communications LLC ("FC") is a related entity that provides fiber optic systems including design and installation. The companies were formed by the current owners and they began operating in 2011. Peapack-Gladstone Bank approved an $880,000 mortgage with a $220,000 (25%) PLP participation to a common ownership real estate holding company (entity to be formed); a $100,000 term loan with a $50,000 (50%) PLP participation to 2Com and FC to refinance the existing Heritage Bank term loan; and $150,000 line of credit with a 50% Main Street guarantee, not to exceed $75,000, to 2Com and FC to replace the existing line of credit with Heritage. The Company currently has ten employees and plans to create six new jobs over the next two years.

Small Business Fund Program:

1) Luma Enterprises LLC (P39149, located in East Brunswick, Middlesex County, is a real estate holding company formed in 2003 to own and operate the project property. The operating company, Giggles & Wiggles Family Day Care, LLC, is a related entity that was formed in 2002 and is solely owned by Mrs. Grzybek, who has more than 25 years of early childhood education experience. M&T Bank approved an $890,000 loan with a $290,000 (32.58%) Authority participation. Currently, the Company has eight employees and plans to create two additional jobs over the next two years. SSBCI funds will be utilized for this project.

MAILING ADDRESS: | PO BOX 990 | TRENTON, NJ 08625-0990
SHIPPING ADDRESS: | 36 WEST STATE STREET | TRENTON, NJ 08625 | 609.858.6700 | e-mail: njeda@njeda.com | www.njeda.com

Stronger NJ Loan Program:

1) Casa Comieda, Inc. t/a Casa Comida (P38762), located in Long Branch City, Monmouth County, is a Mexican restaurant. The Company was founded in 1981 by Kristen Catlett, who is the sole owner. The Company was approved for a $224,004 working capital loan under the Stronger NJ Business Loan Program to reimburse working capital expenses incurred in FY13.

2) Charlroy Corporation d/b/a Charlroy Motel (P39044), located in Seaside Park Borough, Ocean County, operates a motel across the street from the beach and one block away from the amusement section of the boardwalk in Seaside Heights. The motel has been operated by the same family since 1968. The Company was approved for a $238,755 working capital loan under the Stronger NJ Business Loan Program to reimburse working capital expenses incurred after Superstorm Sandy.

3) Malusa and Sons, Inc. (P38779), located in North Wildwood, Cape May County, is the operator of two Nino's Family Restaurants. The Malusa family has owned these restaurants since 1994. One of the restaurants has been damaged by Superstorm Sandy and has been condemned. The building must be demolished and rebuilt. The other was not damaged and remains open. The Company was approved for an $844,944 working capital loan under the Stronger NJ Business Loan Program to reimburse working capital expenses incurred after Superstorm Sandy.

4) Providence Pediatric Medical Day Care, Inc. (P38961), located in Berlin Township, Camden County, was founded in 1991 and operates three pediatric medical day care centers in NJ. The Company experienced wind and water damage during Superstorm Sandy and was approved for a $1,762,838 working capital loan under the Stronger NJ Business Loan Program. Proceeds will fund expenses expected in 2014, including insurance premiums and other working capital expenses such as payroll and rent.

5) Seaside Lumber Company, Inc. (P38956), located in Seaside Heights Borough, Ocean County, has been in business since 1948 and operates as a True Value hardware and wholesale/retail lumber yard in Seaside Heights. The Company experienced damage from Superstorm Sandy as well as loss income with the business closed for four months. The Company was approved for a $1,017,026 working capital loan under the Stronger NJ Business Loan Program to reimburse working capital expenses incurred after Superstorm Sandy, including reimbursement for the purchase of inventory, and other working capital expenses such as payroll and mortgage expenses.

New Jersey Business Growth Fund - Modification:

1) CMQV, LLC and Cape May Victorian Inns, Inc. (P39385) are located in Cape May City, Cape May County. Cape May Victorian Inns Inc. operates four bed and breakfast hotels comprised of a combined 32 rooms and is located within walking distance to the Atlantic Ocean. CMQV, LLC is a real estate holding company that owns The Queen Victoria (10 rooms) and Prince Albert Hall (10 rooms). The current owners purchased the properties in 2004 and the buildings themselves have been in operation as bed and breakfast hotels since 1980 and consist of restored 1880s homes, a carriage house and an 1875 gambling parlor. PNC Bank approved a five year renewal of a $1,622,768 bank loan with a 25% Authority guarantee of principal outstanding, not to exceed $405,692. Original loan proceeds were used to refinance existing real estate. All other terms and conditions of the original approval remain unchanged.

2) Thomas A. Iliadis and Freehold Grill, Inc. (P39390) are located in Freehold Borough, Monmouth County. Tony's Freehold Grill is a diner in downtown Freehold, NJ and is considered to be one of the best preserved railcar diners in the country and provides diner-style food for breakfast and lunch. Thomas A. Iliadis, a successful chemical engineer consultant for the pharmaceutical industry, has owned the restaurant since taking over for his father in 1968. PNC Bank approved a five year renewal of a $367,701 bank loan with a 25% Authority guarantee of principal outstanding, not to exceed $91,925.25. Original loan proceeds were used to refinance existing debt. All other terms and conditions of the original approval remain unchanged.

Stronger NJ Business Loan Program - Modification:

1) Atlantis Realty Associates LLC (P38662 & P39161) was approved on 12/10/13 for a $2,390,000 construction loan (P38662). On 4/14/14 the approval was modified to a $2,172,000 construction loan (P38662) and a $218,128 working capital loan (P39161) to repair a location impacted by wind and water damage from Superstorm Sandy. All other terms and conditions of the original approvals remain in effect.

2) Donovan's Reef, Inc and LBP Corp. t/a Donovan's Reef (P38634) was approved on 12/05/13 for a $490,000 working capital loan. The financial review was completed for a $710,000 construction loan which also required the completion of a satisfactory DEP review prior to approval. Reflecting a change in product costs, the loans were modified to an $81,612 working capital loan and a $1,469,586 construction loan. All other terms and conditions of the original approvals remain in effect

3) Susan Wagner Designs Limited Liability Company (P38777) was approved on 2/11/14 for a $48,602 working capital loan to repair the significant damage suffered from Superstorm Sandy, including loss of most of its inventory. The Applicant has requested a $3,246 increase in its loan to $51,848 to purchase computer hardware and software for the business. All other terms and conditions of the original approval will remain in effect.

Prepared by: D. Lawyer
DL/gvr

OFFICE OF RECOVERY

STRONGER NJ BUSINESS LOAN PROGRAM

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: May 16, 2014

SUBJECT: **Amendment to Stronger NJ Business Loan Program Policies**

Request

The Members are asked to approve an amendment to the Stronger NJ Business Loan Program to allow EDA staff to approve projects under delegated authority using applicant prepared financial projections.

Background

On 6/11/13, the Members approved the creation of the Stronger NJ Business Loan program in response to Superstorm Sandy.

Allow the Use of Projections under Delegated Authority

Applications under the Stronger NJ Business Loan program may be approved either by the Members of the Board or via delegated authority. Approvals under delegated authority must meet all of the following credit criteria:

- 100% loan-to-cost (inclusive of other funding sources).
- Global debt service coverage of 1.10 in fiscal year before or after Superstorm Sandy.
- Minimum credit score of 650 for at least one guarantor, if applicable.
- The total loan must not exceed $2 million.

In respect to the second credit criterion, if the applicant is unable to illustrate a minimum historical global debt service coverage of 1.10 before or after the storm, EDA staff will offer the applicant an opportunity to provide an internally prepared projection of the business' income statement supported by narrative assumptions. EDA credit underwriting staff will then review the projections and assumptions and have further conversations with the applicant in an effort to conclude that the projected performance is reasonable, attainable, and reflects a minimum debt service coverage ratio of 1.10 once loan amortization is required.

Traditionally, all projection based projects are presented to the board for approval. Given the high level of analysis placed on the projections and the EDA's desire to expedite the disbursement of loans to businesses impacted by the storm, we are requesting consent to approve projection based loan requests under delegated authority. In addition to EDA staff deeming projections to be sound, projection based projects will also have to comply with the maximum 100% loan-to-cost, minimum credit score of 650 for at least one guarantor, and maximum loan of $2 million requirements. Projection based projects that do not meet all of these criteria will require board approval.

Recommendation

It is recommended that the Members approve the amendments to the Stronger NJ Business Loan Program as requested.

Timothy Lizura
President and Chief Operating Officer

Prepared by: David A. Lawyer

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: May 16, 2014

SUBJECT: **Delegations Regarding Disqualification matters**

Request:

Establish additional delegations for certain disqualification matters related to applicants to the Stronger NJ financial assistance programs.

Background:

Beginning in July 2003 and as various times over the past eleven years, the Members' approval has been sought to delegate signing authority to staff on certain financing and incentive transactions to create efficiencies for our customers and to provide fluidity to our business.

New Delegation:

All applicants to EDA's programs are required to answer legal questions as part of the application process. Historically, EDA has required that an applicant's affirmative response to any of the legal questions, especially those in which an applicant has entered a guilty plea or an admission of liability, be subject to a full review by the Attorney General's office to determine whether EDA should disqualify the applicant from receiving EDA assistance.

Delegations, approved by the Board in December 2013, currently exist for certain matters reported by EDA's large incentive customers that typically reflect violations arising out of the ordinary course of business which were prosecuted by the U.S. Department of Justice and/or various States' Attorneys General.

Sandy related customers, with affirmative responses to the legal questions, generally present with matters disposed of in the Municipal and Superior courts of New Jersey or foreign jurisdiction equivalents. It is in these instances that staff is recommending delegation [Level 1: CEO], in consultation with the Attorney General's office, for the following actions:

1. If the applicant has been found guilty or has pleaded guilty to the following classes of offenses or their foreign jurisdiction equivalents:

   a. New Jersey Statutes Title 39, motor vehicle offenses;

   b. New Jersey Statutes Title 2:C, disorderly and petty disorderly persons offenses; or

   c. New Jersey Statutes Title 2:C, indictable offenses of the 3rd and 4th degrees, provided these are first offenses for which the presumption of a non custodial sentence has been applied in the penalty.

2. All recommendations to disqualify will continue to come to the Board.

Recommendation:

Consent to new delegation for disqualification to provide efficiency for our customers while ensuring appropriate oversight in accordance with applicable regulations (N.J.A.C. 19:30-2.1 et seq.) and Executive Orders.

Timothy Lizura, President and COO

Prepared by: Marcus Saldutti

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ BUSINESS LOAN PROGRAM PROGRAM

APPLICANT: Jakeabob's Bay Inc. P38805

PROJECT USER(S): Margaritaville, Inc. * - indicates relation to applicant

PROJECT LOCATION: 525 Front Street Union Beach Borough (T) Monmouth

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

APPLICANT BACKGROUND:

Jakeabob's Bay Inc. is a restaurant/bar in Union Beach, NJ. Gigi Dorr, the owner, opened the business in 1999 and enjoyed a wide following with 70% of her customer base coming from out of town. The location less than a hour from New York City, and Northern and Central New Jersey provided diners with waterside views of Manhattan. The building was destroyed in Superstorm Sandy along with all of the furnishings, equipment and fixtures. To maintain a presence in the community prior to rebuilding, Gigi Dorr opened a new restaurant (Jakeabob's Off the Bay) at 910 Union Street, about a ¼ mile from its old location in Union Beach. However, after some initial success, business dropped off precipitously because of the lack of waterside dining for the out-of-towners. Ms. Dorr closed Jakeabob's Off The Bay on March 31, 2014 to conserve cash and to concentrate on rebuilding Jakeabob's By the Bay.

APPROVAL REQUEST:

Approval is requested for a $297,131 working capital loan under the Stronger NJ Business Loan program.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: $297,131

TERMS OF LOAN: 24 months of 0% interest followed by 336 months of interest payments based on the 5 year US Treasury rate. Rate reset at each 10 year anniversary. During the first 18 months of the loan no principal payments are due followed by 342 months of principal payments in an amount adequate to fully amortize the loan. The first $50,000 of the working capital loan will be forgiven after 1 year after closing provided certain conditions under the loan program are met.

PROJECT COSTS:

Construction of new building or addition	$1,542,000
Refinancing	$400,000
Working capital	$297,131
Finance fees	$8,075
TOTAL COSTS	$2,247,206

JOBS: At Application 2 Within 2 years 35 Maintained 0 Construction 13

DEVELOPMENT OFFICER: D. Ubinger **APPROVAL OFFICER:** T. Bossert

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STRONGER NJ BUSINESS LOAN PROGRAM PROGRAM

APPLICANT: Margaritaville, Inc. and Jakeabob's Bay Inc. P39373

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION 525 Front Street Union Beach Borough (T) Monmouth

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

APPLICANT BACKGROUND:

Margaritaville, Inc. is the real estate holding company for Jakeabob's Bay, Inc., a restaurant/bar in Union Beach, NJ. Gigi Dorr, the owner, opened the business in 1999 and enjoyed a wide following with 70% of her customer case coming from out of town. The location less than a hour from New York City, and Northern and Central New Jersey provided diners with waterside views of Manhattan. The building was destroyed in Superstorm Sandy along with all of the furnishings, equipment and fixtures. To maintain a presence in the community prior to rebuilding, Gigi Dorr opened a new restaurant (Jakeabob's Off the Bay) at 910 Union Street, about a ¼ mile from its old location in Union Beach. However, after some initial success, business dropped off precipitously because of the lack of waterside dining for the out-of-towners. Ms. Dorr closed Jakeabob's Off the Bay on March 31, 2014 to conserve cash and to concentrate on building Jakeabob's By the Bay.

APPROVAL REQUEST:

Approval is requested for a $1,542,000 construction loan under the Stronger NJ Business Loan program.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: $1,542,000

TERMS OF LOAN: 24 months of 0% interest followed by 336 months of interest payments based on the 5 year US Treasury rate. Rate reset at each 10 year anniversary. During the first 24 months of the loan or until a Temporary Certificate of Occupancy is issued no principal payments are due followed by 336 months of principal payments in an amount adequate to fully amortize the loan.

PROJECT COSTS:

TOTAL COSTS	$0 *

* - Indicates that there are project costs reported on a related application.

JOBS:	At Application	0	Within 2 years	0	Maintained	0	Construction	0
Jobs on Related P038805		2		35		0		13

DEVELOPMENT OFFICER: D. Ubinger **APPROVAL OFFICER:** T. Bossert

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - DIRECT LOAN PROGRAM

APPLICANT: Margaritaville, Inc. and Jakeabob's Bay Inc. P39400

PROJECT USER(S): Same as applicant * - indicates relation to applicant

PROJECT LOCATION 525 Front Street Union Beach Borough (T) Monmouth

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

APPLICANT BACKGROUND:

Jakeabob's Bay Inc. is a restaurant/bar in Union Beach, NJ. Gigi Dorr, the owner, opened the business in 1999 and enjoyed a wide following with 70% of her customer base coming from out of town. The location less than a hour from New York City, and Northern and Central New Jersey provided diners with waterside views of Manhattan. The building was destroyed in Superstorm Sandy along with all of the furnishings, equipment and fixtures. To maintain a presence in the community prior to rebuilding, Gigi Dorr opened a new restaurant (Jakeabob's Off the Bay) at 910 Union Street, about a ¼ mile from its old location in Union Beach. However, after some initial success, business dropped off precipitously because of the lack of waterside dining for the out-of-towners. Ms. Dorr closed Jakeabob's Off The Bay on March 31, 2014 to conserve cash and to concentrate on rebuilding Jakeabob's By the Bay.

This loan will be used to payoff the outstanding balance of the BCB Bank/SBA mortgage.

APPROVAL REQUEST:

Approve a $400,000 direct term loan.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: $400,000

TERMS OF LOAN: Deferred Interest payment plus Principal moratorium for the first twenty-four (24) months followed by 96 months of principal and interest payments based on a 20-year amortization. Fixed rate equal to the 5-Year UST, subject to a 2% floor, plus 200 bps. Rate reset after the fifth year at the same index.

PROJECT COSTS:

TOTAL COSTS	$0 *

* - Indicates that there are project costs reported on a related application.

JOBS:	At Application	Within 2 years	Maintained	Construction
	0	0	0	0
	2	35	0	13

DEVELOPMENT OFFICER: D. Ubinger **APPROVAL OFFICER:** T. Bossert

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

TO: Members of the Authority

FROM: Timothy Lizura
President and Chief Operating Officer

DATE: May 16, 2014

SUBJECT: Shrewsbury River Associates and Shrewsbury River, Inc.
Sea Bright Borough, Monmouth County
P38636

Modification Request:

Approval is requested to increase the $3,000,000 construction loan approved on December 10, 2013 to $4,913,805.

Background:

On December 10, 2013, Shrewsbury River Associates and Shrewsbury River, Inc. dba McLoone's Rum Runner (collectively, "McLoone's Rum Runner" or "Applicant") was approved for a $3,000,000 30-year construction loan under the Stronger New Jersey Business Loan program. McLoone's Rum Runner was an upscale restaurant on the Shrewsbury River in the borough of Sea Bright, New Jersey. Shrewsbury was best known for its Boathouse Deck outdoor dining and had been named by NewJersey.com as the best upscale bar with water views. In addition, their piano bar had been voted #1 on the Jersey shore for many years.

McLoone's Rum Runner was one of the nine restaurants and one sports bar controlled by Timothy McLoone. Shrewsbury River Associates owns the property occupied by Shrewsbury River Inc. dba McLoone's Rum Runner. Superstorm Sandy destroyed the interior of the building and Tim McLoone determined along with his engineering consultants that the building was not salvageable.

At the time of the original underwriting in December 2013, the Applicant had only preliminary cost estimates to rebuild the restaurant. Management is confident that the revised construction budget has been prudently prepared and contracts for the work to be performed will be closely in alignment. The proposed financing along with $1.2 million of insurance funds will enable McLoone's Rum Runner to be rebuilt.

Recommendation:

Consent to $1,913,805 in additional debt to Shrewsbury River Associates and Shrewsbury River, Inc. dba McLoone's Rum Runner is recommended.

Prepared by: Ted Bossert, Credit Underwriter