

MINUTES OF THE
MEETING OF THE BOARD OF DIRECTORS
OF
NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
HELD AT THE 110 WILLIAM STREET OFFICES OF
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
June 11, 2019

The following directors and alternates were present, constituting a quorum:

HeeWon Brindle-Khym
Brian Cook, alternate for Scott M. Stringer,
Comptroller of The City of New York
Khary Cuffe
Albert De Leon
Barry Dinerstein, alternate for Marisa Lago,
Chair of the City Planning Commission of The City of New York
Jacques-Philippe Piverger
James Prendamano
Robert Santos
Betty Woo, alternate for Zachary W. Carter, Esq.,
Corporation Counsel of The City of New York

The following directors were not present:

James Patchett
Marlene Cintron
Andrea Feirstein
Shanel Thomas
Carl Rodrigues, alternate for Vicki Been,
Deputy Mayor for Housing and Economic Development

Also present were (1) members of New York City Economic Development Corporation (“NYCEDC”) staff and interns, (2) Scott Singer from Nixon Peabody LLP, (3) Arthur Cohen from Hawkins Delafield & Wood LLP, (4) Seth Bryant from Bryant Rabbino LLP, (5) Alex Deland from Katten Muchin Rosenman LLP and (6) other members of the public.

Eric Clement, a Senior Vice President of NYCEDC, convened the meeting of the Board of Directors of the New York City Industrial Development Agency (“NYCIDA” or the “Agency”) at 9:05 a.m., at which point a quorum was present.

1. Adoption of the Minutes of the April 9, 2019 Board of Directors Meeting

Mr. Clement asked if there were any comments or questions relating to the minutes of the April 9, 2019 Board of Directors meeting. There were no comments or questions; a motion to approve such minutes was made, seconded and unanimously approved.

2. Financial Statements for April 30, 2019 (Unaudited)

Carol Ann Butler, Assistant Vice President of NYCEDC, presented the Agency's Financial Statements for the ten-month period ending April 30, 2019 (Unaudited). Ms. Butler reported the following. For the month of April, the Agency recognized revenues in the amount of \$1,100,000, which came from project finance fees from six transactions. The Agency recognized revenues derived from compliance, application, post-closing, recapture and termination fees in the amount of \$1,100,000 for the ten-month period. The Agency recognized operating expenses, largely consisting of the monthly management fee, in the amount of \$3,700,000 for the ten-month period ending in April 30, 2019. Ms. Butler stated that in the category of special projects the Agency incurred \$1,800,000 in special project expenses.

3. Audit Committee Member Appointment

Mr. Clement presented for review and adoption a resolution to appoint James Prendamano as an alternate member to the Audit Committee. A motion was made to adopt the resolution. The motion was seconded and unanimously approved.

4. Presentation of Fiscal Year 2019 Board Meeting Dates

Emily Marcus, a Senior Project Manager for NYCEDC, presented for review the Board meeting dates for Fiscal Year 2019, attached hereto as Exhibit A. There were no comments or questions.

5. Approval of Annual Contract with NYCEDC

Krishna Omolade, a Vice President for NYCEDC and Deputy Executive Director of the Agency, presented for review and approval the Agency's Annual Contract with NYCEDC (the "Contract"), pursuant to which NYCEDC would provide administrative services to the Agency in support of the Agency's programs. Mr. Omolade stated that under the Contract, NYCEDC provides services to the Agency such as project management, legal and accounting services.

There being no further comments or questions, a motion to approve the Agency's Annual Contract with NYCEDC attached hereto as Exhibit B, as submitted, was made, seconded and unanimously approved.

6. Approval of Investment Guidelines Policy

Mr. Omolade presented for review and approval the Agency's Investment Guidelines Policy, as required by the Public Authorities Accountability Act.

7. Approval of Disposition of Personal Property Policy

Mr. Omolade presented for review and approval the Agency's Disposition of Personal Property Policy, as required by the Public Authorities Accountability Act.

8. Approval of the Acquisition and Disposition of Real Property Policy

Mr. Omolade presented for review and approval the Agency's Acquisition and Disposition of Real Property Policy, as required by the Public Authorities Accountability Act.

9. Approval of the Procurement Policy

Mr. Omolade presented for review and approval the Agency's Procurement Policy, as required by the Public Authorities Accountability Act.

10. Mission Statement and Performance Measurements

Mr. Omolade presented for review and approval the Agency's Mission Statement and Performance Measurements, as required by the Public Authorities Accountability Act.

There being no comments or questions, a motion to approve the Agency's Investment Guidelines Policy attached hereto as Exhibit C, Disposition of Personal Property Policy attached hereto as Exhibit D, Acquisition and Disposition of Real Property Policy attached hereto as Exhibit E, Procurement Policy attached hereto as Exhibit F and Mission Statement and Performance Measurements attached hereto as Exhibit G was made, seconded and unanimously approved.

11. BOP SE LLC

Mac Thayer, an Assistant Vice President for NYCEDC, presented for review and adoption an inducement and authorization resolution for a Hudson Yards Commercial Construction Project for the benefit of BOP SE LLC and recommended the SEQRA determination that the project will not generate any additional significant adverse environmental impacts beyond those identified and analyzed in the (a) the Hudson Yards Final Generic Environmental Impact Statement ("FGEIS") for the No. 7 Extension Hudson Yards Rezoning and Development Program, approved by the New York City Planning Commission and the MTA in November 2004, and (b) their Co-Lead Agencies Findings Statement, dated November 22, 2004 which is included in the resolution. Mr. Thayer described the project and its benefits, as reflected in Exhibit H.

In response to a question from Mr. Piverger, Mr. Thayer stated that there will be 5,500 tenant jobs in the building as part of the project. In response to a question from Ms. Brindle-Khym, Mr. Thayer stated that currently there are no tenants confirmed for this project. In response to a question from Ms. Brindle-Khym, Mr. Thayer stated that Agency staff could provide more information on other Hudson Yards projects to her.

There being no comments or questions, a motion to approve the inducement and authorizing resolution and recommended the adoption of a SEQRA determination attached hereto as Exhibit I for the benefit of BOP SE LLC was made, seconded and unanimously approved.

12. Life Science Presentation

Joshua Stephens, an Assistant Vice President for NYCEDC, presented an update on the City's LifeSci NYC initiative. Mr. Stephens stated that the purpose of LifeSci NYC initiative, which was announced and unveiled by the Mayor in December of 2016, is to make the City a global leader in the life sciences industry. Mr. Stephens stated that the initiative is to be deployed over ten years with approximately \$500 million in investment in the life sciences industry in New York City. Mr. Stephens stated that the program consists of three key pillars, the first of which is to better connect the research and industry sectors and then deepen those partnerships. Mr. Stephens stated that a goal of the program is to increase the rate of commercialization in order to bring medicines to patients faster and more effectively. Mr. Stephens stated that the first pillar of the plan is being addressed through two initiatives: the applied life sciences campus and innovating the research and development sectors. Mr. Stephens stated that the second pillar is focused on attacking the fundamental problem of a lack of laboratory space. Mr. Stephens stated that the Agency is the biggest component of support for this pillar because of the proposed \$300 Million Agency commitment to unlock lab space within New York City. Mr. Stephens stated that the third pillar is to promote job investment in the City to create the next generation of life sciences and health care talent. Mr. Stephens stated that it is important to connect New York City residents to training and jobs in order to put them on the path to success because without the talent the whole initiative will not work.

In response to a question from Mr. Piverger, Mr. Stephens stated that in terms of the first pillar, connecting research and industry as it relates to the applied life sciences campus and the R&D facilities, NYCEDC has issued two procurements, one for each of those programs. Mr. Stephens stated that Agency staff are currently evaluating respondents and performing the appropriate due diligence in an effort to make decisions on potential awards. Mr. Stephens stated that Agency staff are currently working on that first pillar. Mr. Stephens stated that for the second pillar, unlocking lab space, the land-use policy guidance was one of the first things that led the initiative and was unveiled around the same time as the Mayor's announcement in December of 2016. Mr. Stephens stated that Agency staff are working with the City's Fire Department, Department of Buildings and Department of City Planning on some interpretations to existing land-use regulations in the City in order to make it easier for lab space to go in more

places under current zoning regulations. Mr. Stephens stated that this is a big early win for the initiative. Mr. Stephens stated that Agency staff have been working on the incubator and accelerator component. Mr. Stephens stated that there's around \$10 Million allocated to building out incubator space. Mr. Stephens stated that the City has the best scientists, academic centers, and researchers in the world but that without the appropriate lab space, scientists and researchers cannot further develop new ideas, commercialize them and take the resulting product to market. Mr. Stephens stated that over a year and a half ago the Agency announced a partnership with BioLabs, a well-established incubator operator based out of Boston-Cambridge, and with NYU Langone to open up a 50,000 square foot incubator at 1 Varick Street, New York NY. Mr. Stephens stated that with respect to the third pillar Agency staff have launched the LifeSci NYC internship program in an effort to create career pathways for students. Mr. Stephens stated that if students do not connect with employers to get hands-on industry experience then it becomes more difficult to create new LifeSci operations and employment opportunities in the City. Mr. Stephens stated that the internship program would reduce that barrier between industry and the workforce.

In response to a question from Mr. Santos, Mr. Stephens stated that Agency staff are reaching out to every school in the city. Mr. Stephens stated that Agency staff have relationships with Columbia University, Albert Einstein College of Medicine, Montessori, LaGuardia Community College Health Services Center, City University of New York ("CUNY") School of Medicine and other parties that have an interest in advancing health care life sciences. In response to a question from Mr. Santos, Mr. Stephens stated that in the early stages of this initiative the focus is on cultivating ideas coming out of the labs of schools by very highly educated individuals who have spent most of their career in the lab doing very technical, scientific research and discovery work. Mr. Stephens stated that the City would need to provide companies the proper support to grow. Mr. Stephens stated that these companies primarily need funding and that there has been an increase in capital funding for start-ups in the City over the past few years. Mr. Stephens stated that companies would also need the proper space so that scientific ideas have room to incubate and grow. Mr. Stephens stated that the Agency's program, combined with a large injection of capital, would provide them the space necessary to grow. Mr. Stephens stated that as companies grow so will their talent needs so there will be a an increased demand for highly-trained, doctorate-level talent as well as demand for related business services such as accounting, finance and sales, which will create high-paying jobs, well in excess of \$50,000, as the City defines a good-paying job today. In response to a question from Mr. Santos, Mr. Stephens stated that Agency staff are focused on the workforce that will be necessary as the industry grows over time. Mr. Stephens stated that as the talent needs evolve, a second tier of talent is required as companies mature, which is another area of focus of the initiative. Mr. Stephens stated that these are reasons why the initiative will be most effective at creating access to good-paying jobs for the greatest amount of New Yorkers. Mr. Santos stated that Columbia University and CUNY School of Medicine are developing incubator space up in the same vicinity in Harlem partly because they prefer to be near each other.

Mr. Stephens stated that Agency staff have learned that location proximity is key. Mr.

Stephens stated that due to the geographic and cost constraints of different parts of the City, pockets of lab spaces are beginning to emerge near each other. Mr. Stephens stated that there is already established activity in the City, such as the First Avenue life sciences healthcare corridor, Long Island City, where spaces are being developed for companies as they begin to grow, and Columbia University's Harlem incubator location. Mr. Stephens stated that last year NYCEDC partnered with Quentis Therapeutics who took space in West Harlem at the Mink Building. Mr. Stephens stated that Quentis Therapeutics was using incubator space in Alexandria on First Avenue and needed more space because they were growing and wanted to stay in the City. Agency staff were able to assist them through one of the programs as part of the LifeSci initiative so they could not only stay in the City but also go to a location with a cluster of other incubators focused on rapidly developing life science.

13. Deerfield Management Company, L.P.

Ms. Marcus presented for review and adoption an Commercial Program inducement and authorizing resolution for the benefit of Deerfield Management Company, L.P. ("Deerfield"), a deviation from the Agency's Uniform Tax Exemption Policy ("UTEP") and recommended the Board adopt a SEQRA determination that the proposed project is a Type II action and therefore no further environmental review is required. Ms. Marcus described the project and its benefits as set forth in Exhibit J.

Ms. Brindle-Khym stated that she supports this project but was concerned about the importance of focusing on the third pillar of the LifeSci initiative, which is to support all communities of the City. Ms. Brindle-Khym stated that this project, as well as some others, have been in non-distressed communities and that although encouraging growth in the life science industries, as the Mayor is striving to do, is a great endeavor, the initiative needs to support all communities in the City. Ms. Brindle-Khym stated that the jobs created within the projects are not the sole impacts that the project will have on communities in the City. Ms. Brindle-Khym stated that there are secondary and tertiary businesses and workers who are impacted by this initiative and that she wants to make sure that those types of investments go to communities that will thrive as a result of the project moving forward. Ms. Brindle-Khym stated that she supports this project but in the future, she would like to see other projects that do not seek a deviation in the Agency's Uniform Tax Exemption Policy particularly in terms of highly distressed communities.

Mr. Omolade stated that Agency staff are hoping that future lab space will cluster in more areas in the City outside of Manhattan, such as in the Bronx and Queens, as this industry grows. Mr. Omolade stated that it is relatively early in terms of at the LifeSci program and we hope that this industry develops to allow greater geographic diversity in terms of where these projects are located. In response to a question from Mr. Prendamano, Mr. Stephens stated that Agency staff would look into the City's opportunity zones as potential locations for future projects.

Mr. Clement stated that it's important to note that Agency doesn't necessarily see

everything that takes place so there are many other projects, many other investments, that NYCEDC staff and Strategic Investments Group staff are looking at related to life sciences and the health care industry which are accretive to the over-all goal that Agency staff are looking to achieve. Mr. Stephens stated that Agency staff are looking to increase space in healthcare and life sciences at the Brooklyn Army Terminal where there are already a number of investments already being made by NYCEDC. Mr. Stephens stated that, as mentioned earlier, the Agency made an investment earlier this year in Quentis Therapeutics, which is in Harlem, and Agency staff are discussing potential locations in the outer boroughs as well. Mr. Cook stated that he was happy to hear that the Agency is expanding more toward other boroughs as part of this initiative, if for no other reason than at a \$300 Million commitment, any location where the taxes are less means more space can be built. Mr. Cook also encouraged the Agency to find ways to support additional industries and income streams that could stabilize hospitals given hospital closures that have been happening all around the City. Mr. Cook stated that anything the Agency could do to add additional industries and income streams that could potentially work with those hospitals and help stabilize industry. Mr. Cook stated that he would like to hear more detail about the United States Securities and Exchange Commission (“SEC”) issue that Agency staff discovered, particularly the resolution and compliance changes that came with it.

Ms. Marcus stated that as part of the transaction Deerfield filled out a thorough background investigation questionnaire that disclosed an SEC investigation. Ms. Marcus stated that Agency staff discussed the issue with NYCEDC counsel and with Deerfield to the point where they were comfortable to proceed with the project. Ms. Marcus stated that in 2017 the SEC settled a complaint with Deerfield regarding alleged violations of the Investment and Advisors Act of 1940. Ms. Marcus stated that there were three analysts who had been convicted in separate proceedings of related to their use of non-public material information for securities trades. Ms. Marcus stated Agency staff were comfortable moving forward with the project because the SEC settled its charges against Deerfield and none of Deerfield’s chief executives were prosecuted as a result of the investigation. Ms. Marcus stated that the activities that subsequently led to criminal charges were limited to three individual analysts and the SEC determined that no one else at Deerfield had any knowledge of this misuse of information. Ms. Marcus stated that the three analysts were convicted, after which their employment was terminated by Deerfield. Ms. Marcus stated that following resolution of the SEC matter, Deerfield has indicated that it has implemented a variety of compliance procedures to make sure that such an incident does not happen again. Ms. Marcus stated that Deerfield hired a third-party compliance firm that periodically and randomly reviews Deerfield’s procedures, all employee email communications, and all investment decisions. Ms. Marcus stated that the SEC has not conducted any subsequent investigations with respect to Deerfield. Ms. Marcus stated that based on all of these facts, Agency staff feel comfortable moving forward with the project.

There being no comments or questions, a motion to approve the inducement and authorizing resolution, the associated deviation from UTEP and SEQRA determination attached hereto as Exhibit K for the benefit of Deerfield Management Company, L.P. was made,

seconded and unanimously approved.

14. JLJ Bricken LLC

Mr. Thayer presented for review and adoption an Industrial Incentive Program inducement and authorizing resolution for the benefit of JLJ Bricken LLC, an associated deviation from the Agency's UTEP, recommended the Board adopt a SEQRA determination that the proposed project is a Type II action and therefore no further environmental review is required, and recommended the Agency pay legal service fees to Nixon Peabody LLP as project counsel for this project and all NYCIDA Garment Center transactions going forward. Mr. Thayer described the project and its benefits as set forth in Exhibit L.

In response to a question from Mr. Dinerstein, Mr. Omolade stated the Agency has approved a total of 240,000 square feet of garment center district project space, which includes this project and the two others approved at the September Board meeting. Mr. Thayer stated that the overall goal is approximately 500,000 square feet of space within the garment center.

There being no comments or questions, a motion to approve the inducement and authorizing resolution, the associated deviation from UTEP, the SEQRA determination and the payment of legal service fees attached hereto as attached hereto as Exhibit M for the benefit of JLJ Bricken LLC was made, seconded and unanimously approved.

15. New Anns, Inc.

Jenny Osman, a Project Manager for NYCEDC, presented for review and adoption a Food Retail Expansion to Support Health ("FRESH") Program inducement resolution for the benefit of New Anns, Inc. and the SEQRA determination that the proposed project is a Type II action and therefore no further environmental review is required. Ms. Osman described the project and its benefits, as reflected in Exhibit N.

In response to a question from Mr. Piverger, Ms. Osman stated that the owner of the company covers 65% of his employees' insurance cost. In response to a question from Mr. Prendamano, Ms. Osman stated that the company is not required to participate in the HireNYC program but that Agency staff will make sure that the operator is aware of it and can access it.

There being no further comments or questions, a motion to approve the inducement resolution and SEQRA determination attached hereto as Exhibit O for the benefit of New Anns, Inc. was made, seconded and unanimously approved.

16. Adjournment

There being no further business to come before the Board of Directors at the meeting, pursuant to a motion made, seconded and unanimously approved, the meeting of the Board of Directors was adjourned at 10:05 a.m.


Assistant Secretary

Dated: 7/16/19
New York, New York

Exhibit A

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

June 11, 2019

Meetings of the Board of Directors of the Agency during Fiscal Year 2020 shall be held on the respective dates indicated below.

Tuesday, July 16, 2019

Tuesday, September 24, 2019

Tuesday, November 05, 2019

Tuesday, December 17, 2019

Tuesday, February 18, 2020

Tuesday, March 31, 2020

Tuesday, May 12, 2020

Tuesday, June 23,, 2020

Exhibit B

AGREEMENT

between

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

and

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

FOR FISCAL YEAR

~~2019~~2020

Dated as of July 1,

~~2018~~2019

[LDCMT-26-10276](#)

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AGREEMENT, dated as of the 1st day of July, ~~2018~~2019 between NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION (“EDC”), a corporation incorporated under the Not-for-Profit Corporation Law of the State of New York, having an office at 110 William Street, New York, New York 10038, and NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY (“IDA”), a corporate governmental agency constituting a body corporate and politic and public benefit corporation of the State of New York organized under the laws of the State of New York, having an office at 110 William Street, New York, New York 10038.

WHEREAS, Financial Services Corporation of New York City (“FSC”) entered into an agreement with The City of New York to act as the City's agent in managing and administering various financial assistance programs; and

WHEREAS, FSC and IDA entered into an agreement dated as of July 1, 1984 (the “Original Contract”) relating to the provision by FSC of certain services to IDA and the Board of

Directors of IDA; and

WHEREAS, pursuant to agreements dated July 1, 1985, July 1, 1986, July 1, 1987, July 1,

1988, July 1, 1989, and July 1, 1990, as amended, the Original Contract was duly amended, restated, supplemented and modified; and

WHEREAS, effective July 1, 1991 FSC was merged into New York City Public Development Corporation, and the name of the surviving corporation was New York City Economic Development Corporation, a not-for-profit local development corporation incorporated pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York (“Old EDC”); and

WHEREAS, Old EDC assumed FSC's contractual obligations, and, by agreement dated as of July 1, 1991, and by subsequent agreements each dated as of every July 1 through and including

July 1, 2012, Old EDC and IDA renewed, amended, restated, supplemented and modified the Original Contract; and

WHEREAS, on November 1, 2012, the following actions occurred simultaneously: (a) Old EDC merged into New York City Economic Growth Corporation, a New York not-for-profit corporation, (b) New York City Economic Growth Corporation survived as successor in interest to Old EDC and assumed the rights and obligations of the latter, and (c) New York City Economic Growth Corporation changed its name to “New York City Economic Development Corporation,” which is the party hereinabove defined as “EDC”; and

WHEREAS, pursuant to an agreement dated July 1, 2013, IDA and EDC, as successor-in-interest to Old EDC, renewed the Original Contract; and

WHEREAS, pursuant to an agreement dated July 1, 2014, as amended, the Original Contract was duly amended, restated, supplemented and modified; and

WHEREAS, pursuant to an agreement dated July 1, 2015, as amended, the Original Contract was duly amended, restated, supplemented and modified; and

WHEREAS, pursuant to an agreement dated July 1, 2016, as amended, the Original Contract was duly amended, restated, supplemented and modified; and

WHEREAS, pursuant to an agreement dated July 1, 2017, as amended, the Original Contract was duly amended, restated, supplemented and modified; and

WHEREAS, pursuant to an agreement dated July 1, 2018, as amended, the Original Contract was duly amended, restated, supplemented and modified; and

WHEREAS, IDA and EDC (as successor-in-interest to Old EDC) desire to renew the contractual relationship between IDA and EDC by entering into this Agreement; and

WHEREAS, EDC desires to enter into this Agreement in the capacity of an independent contractor for the purpose of providing certain staff services to IDA and the Board of Directors of IDA; and

WHEREAS, IDA desires to retain EDC, as an independent contractor, under the terms set forth in this Agreement, to provide to IDA those services as are deemed necessary and desirable by the Board of Directors of IDA for the administration of IDA and the implementation of IDA programs; and

WHEREAS, IDA was created and organized for the purposes, *inter alia*, of promoting the economic welfare of the inhabitants of the City and to actively promote, attract, encourage and develop economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration in the City in accordance with the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended; and

WHEREAS, under the Act, IDA is authorized to make contracts and to employ private

consultants for professional and technical assistance and advice; and

WHEREAS, IDA and EDC have agreed that EDC, as an independent contractor, shall provide certain staff services to IDA for the administration of IDA programs and shall render such other services to IDA as IDA may from time to time request, in the manner and to the extent set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, IDA and EDC agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 For the purposes of this Agreement the following terms shall have the respective meanings ascribed to them below:

“Act” shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated

Laws of New York), as amended, and Chapter 1082 of the 1974 Laws of New York, as amended.

“Agreement” shall mean this agreement as the same may from time to time be modified, amended, renewed or supplemented in accordance with the provisions contained herein.

“Applicant” shall mean any person, firm, corporation, partnership or association that has submitted an application for financial assistance from IDA.

“Base Contract Fee” shall have the meaning provided in Section 5.1 of this Agreement.

“Board” shall mean the Board of Directors of IDA, including any duly designated committee thereof.

“City” shall mean the City of New York, a municipal corporation of the State of New York.

“Executive Director” shall mean the chief executive officer of IDA.

“EDC” shall mean New York City Economic Development Corporation, a New York not-for-profit corporation.

“Fees” shall mean, collectively, the fees referred to in Section 5.1 hereof.

“Financial Advisor” shall have the meaning assigned to such term in Section 2.3(d) of this Agreement.

“Financial Services Program” shall mean the various financial assistance programs as managed and administered by EDC pursuant to a certain contract between EDC and the City as amended and renewed from time to time.

“FSC” shall mean the former Financial Services Corporation of New York City.

“IDA” shall mean New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York.

“IDA Annual Budget” shall mean the statement of annual estimated expenses (as the same may be amended from time), which IDA shall or may incur for any fiscal year, whether directly or through EDC, pursuant to this Agreement. The IDA Annual Budget previously approved for the fiscal year ending June 30, ~~2019~~2020 is annexed hereto as Exhibit “A”.

“IDA Bank Accounts” shall mean all bank accounts of IDA as of the effective date of this Agreement and all subsequent bank accounts established in accordance with applicable laws and the by-laws of IDA for the deposit of funds of the Agency.

“Services” shall have the meaning provided in Section 2.1 of this Agreement.

“Term” shall mean the term of this Agreement as set forth in Article IV hereof.

ARTICLE II

SCOPE OF SERVICES

Section 2.1 The services described and set forth in this Article II shall hereinafter be collectively referred to as the “Services”.

Section 2.2 In order to assist IDA in furthering the purposes of the Act and so long as this Agreement is effective, EDC covenants and agrees to provide, in coordination with the Executive Director as provided in Article IX hereof and in accordance with the terms and conditions of this Agreement, such personnel, office space, access to equipment, furniture, conference rooms, other materials and services deemed necessary by the Board for the efficient (i) distribution, receipt, evaluation and processing of all applications for industrial development revenue bonds and straight-lease transactions, (ii) monitoring, review, evaluation and servicing of all IDA projects and all financings entered into by IDA with respect thereto and (iii) coordination with local, state and federal agencies (including but not limited to the timely disclosure of all financial incentives and benefits provided by such agencies and EDC) with respect to the projects financed and to be financed by IDA.

Section 2.3 EDC covenants and agrees to provide to IDA, in accordance with the Act, the by-laws of IDA and all other applicable laws, rules, regulations and agreements, such services as may be authorized by the Board and provided for in the IDA Annual Budget, including but not limited to the following:

(a) Such advertising, marketing and other outreach services as are necessary and desirable to make Applicants and potential Applicants aware of the availability of IDA services;

(b) Such technical assistance services to Applicants and potential Applicants as are necessary and desirable in connection with the administration of IDA programs;

(c) Such information and assistance as may be deemed necessary by the Executive Director, on behalf of the Board, to monitor, report upon, timely enforce and evaluate the

performance by EDC of its obligations under this Agreement;

(d) Upon approval of the Board, to engage a financial advisor (a “Financial Advisor”) to provide the following services to IDA:

(i) Assist in the development of new IDA financing programs and alternative financing mechanisms available to IDA;

(ii) Assist in the development and structuring of IDA bond issues, including but not limited to, issues of tax-exempt or taxable bonds, notes, commercial paper or variable rate instruments, and financing either single borrowers or multiple borrowers through pooled or composite issues;

(iii) Perform financial analysis of select entities and projects seeking financing through IDA and assist in the design of appropriate financing structures for those entities and projects;

(iv) Analyze the market for potential purchasers of IDA bonds with a view toward optimal targeting of new issues;

(v) Assist in negotiations with managing underwriters, placement agents and credit enhancement providers;

(vi) Prepare for and participate in meetings with Federal, State and City officials, underwriters, placement agents, credit enhancement providers, investors, counsel, rating agencies and entities obtaining financing through IDA;

(vii) Assist in the preparation of official statements, private placement memoranda, flow of funds memoranda and other documents in connection with IDA financings; and

(viii) Work with rating agencies to obtain timely and proper ratings for IDA issues; provided, however, that the Financial Advisor may also provide services to EDC in

furtherance of the Financial Services Program.

(e) Such other services or assistance as the Board may request, *provided however*, that the expenses incurred in connection with such services or assistance must have been provided for in the IDA Annual Budget.

Section 2.4 So long as this Agreement is effective, IDA hereby authorizes EDC and EDC covenants and agrees to take all necessary action to promptly collect, on behalf of IDA: (i) any and all fees that are owed to IDA in connection with the providing of financial assistance, including but not limited to the issuance of bonds; and (ii) any and all fees owed to IDA under IDA project documents in connection with the administration of IDA programs; and (iii) payments in lieu of taxes owed to IDA under IDA project documents; and (iv) recapture amounts owed to IDA under IDA project documents, such amounts representing the financial assistance provided by IDA in the form of exempted or waived taxes; and (v) interest and penalty amounts owed to IDA under IDA project documents in connection with the amounts referred to in clauses “iii” and “iv;” and (vi) any other amounts as may from time to time be owed to IDA, including but not limited to damage awards and settlement amounts. The parties hereto agree that the Services described in this Section 2.4 also include collection by EDC on behalf of IDA when the monies so collected are intended to be collected by IDA on behalf of governmental jurisdictions and subdivisions.

Section 2.5 EDC covenants and agrees to administer the programs of IDA in a manner consistent with the policies of the Board and to develop recommendations in connection therewith for approval by the Board, consistent with the following guidelines that shall be in accordance with the Financial Services Program:

(i) consolidate services, including, where appropriate, combined application,

review, analysis, monitoring and reporting procedures for all financial assistance incentives offered through the Act and the Financial Services Program;

(ii) expedite the assistance process, including, where appropriate, assigning one professional staff member to each Applicant, which member shall be responsible for structuring a financial package consisting of appropriate incentives available under the Act and the Financial Services Program and guiding the Applicant through the assistance process in a timely and efficient manner;

(iii) standardize financial analysis, including, where appropriate, performing uniform analysis in connection with each Applicant which shall be utilized in the review of that Applicant's application for any incentive under the Act and the Financial Services Program;

(iv) standardize fees, including, where appropriate, a unified fee structure for all incentives available under the Act and the Financial Services Program;

(v) standardize employment projections and analysis, including, where appropriate, establishing a uniform procedure with regard to the definition, calculation and monitoring of employment opportunities in connection with incentives available under the Act and the Financial Services Program;

(vi) centralize outreach, publicity and marketing, including, where appropriate, implementing seminars and conferences to alert the public and private sectors to the availability of incentives under the Act and the Financial Services Program;

(vii) standardize reporting and monitoring, including, where appropriate, creating a single reporting procedure to monitor Applicant compliance and performance;

(viii) standardize term sheets for each of the incentives available under the Act and the Financial Services Program, including where appropriate, the name of the Applicant, the amount of the incentive issued or awarded, interest rate, term, use of proceeds, collateral security

and employment information;

(ix) standardize requirements with regard to financial statements from recipients of incentives available under the Act and the Financial Services Program;

(x) standardize documentation and analysis to support the issuance of incentives available under the Act and the Financial Services Program in order to induce Applicants to remain, expand or locate within the City;

(xi) standardize documentation and analysis in connection with market justifications to support Applicants' sales growth projections;

(xii) standardize documentation and analysis in connection with each Applicant's capability to manage a proposed project;

(xiii) develop program proposals with regard to the use of IDA funds which are not dedicated to the costs incurred or to be incurred by EDC in connection with the administration of the programs of IDA pursuant to the IDA Annual Budget; and

(xiv) perform such other services and render such other assistance as the Board or the Executive Director shall request.

In addition, the administrative services to be provided to IDA by EDC with respect to certain larger projects, including but not limited to the monitoring of sales tax exemptions taken in connection with the purchase of machinery and equipment for such projects, shall be included in the "Services."

Section 2.6. EDC shall, in the performance of the Services, follow procedures substantively similar to the rules issued by the City to enhance the ability of minority and women owned business enterprises ("MWBE(s)") to compete for City contracts. Specifically, for the purpose of procuring consulting and professional services, EDC shall assist IDA in seeking to

obtain responses from MWBEs. In addition, EDC shall assist IDA in marketing efforts to obtain project applications from MWBE applicants.

Section 2.7. Services related to IDA closings shall be limited to sixteen (16) IDA closings.

EDC shall be compensated for additional IDA closings pursuant to Section 5.1(c) of this Agreement.

ARTICLE III

ADMINISTRATION AND ACCOUNTING OF FUNDS; INSPECTION RIGHTS

Section 3.1 EDC covenants and agrees that all funds received by EDC pursuant to Section 2.4 shall be promptly deposited into IDA Bank Accounts or remitted to appropriate governmental jurisdictions in accordance with requirements of applicable law.

Section 3.2 EDC shall provide to the Board and IDA's Treasurer investment recommendations and such other advisory services with respect to any monies held in IDA Bank Accounts as the Board may reasonably request.

Section 3.3 EDC will keep proper books of records and accounts in which proper entries will be made of its transactions with respect to all monies received and investments made pursuant to the terms of this Agreement, all in accordance with generally accepted accounting principles.

Section 3.4 EDC will permit IDA or its agents to examine the books of account and records of EDC and to make copies and extracts therefrom, and to discuss the affairs, finances

and accounts of EDC with its officers and with its independent public accountants, all at such reasonable times and as often as IDA may reasonably request.

ARTICLE IV

TERM

Section 4.1 The Term of this Agreement shall be for a period from the date of this Agreement to June 30, ~~2019~~2020 or until the earlier termination of this Agreement pursuant to Article

XI hereof.

Section 4.2 This Agreement shall be renewable pursuant to Article X hereof for successive additional 12 month periods.

ARTICLE V

PAYMENT TO EDC

Section 5.1 (a) Payment for the Services. IDA shall remunerate EDC in the amounts required under this Section 5.1.

(b) Base Contract Fee. In consideration of the Services provided to IDA by EDC during the Term, IDA shall pay to EDC a base contract fee in the amount of \$~~4,356,000~~4,400,000 (the “Base Contract Fee”). IDA shall so remunerate EDC by paying to EDC, on the first day of each calendar month during the Term, an amount equal to one twelfth (1/12) of the Base Contract Fee.

(c) Additional Contract Fee. In addition to the Base Contract Fee, IDA shall pay to EDC an additional contract fee or fees (collectively, the “Additional Contract Fee”) of \$135,000

for each IDA closing beyond the sixteenth (16th) IDA closing during the Term of this Agreement. IDA shall pay EDC an amount equal to the Additional Contract Fee within thirty (30) days of the related closing.

(d) Contribution toward Tenant Improvements. In consideration of any cost incurred by EDC in the improvement of its tenanted offices at 110 William Street, New York, New York, IDA shall make a contribution toward such cost in a reasonably-allocated amount based upon the number of EDC personnel providing the Services and the time expended by such personnel. At the direction of the Chief Financial Officer of IDA, such contribution (if any) shall be deemed a part of the Base Contract Fee or it shall be payable as a separate fee in addition to the amount of the Base Contract Fee.

(e) Contingency Fees. In consideration of the Services rendered during the Term by EDC to IDA pursuant to Section 2.4 hereof, EDC may charge, and IDA shall pay to EDC, a contingency fee or fees (collectively, the “Contingency Fee”) for any amounts recovered by EDC on behalf of IDA under Section 2.4 hereof, other than the amounts described in clauses “iii” and “iv” of such Section 2.4; *provided, however,* that the payment to EDC of a Contingency Fee, and the amount thereof, when arising out of the recovery by EDC of the amounts described in clause “v” of such Section 2.4, shall be subject to applicable requirements of law, if any. The Contingency Fee shall equal fifteen (15%) per centum of the aggregate amount recovered by EDC pursuant to Section 2.4; and such Contingency Fee shall be payable exclusively out of the recovered amount, it being the express understanding and agreement of the parties hereto that EDC shall have no recourse to other monies or assets of IDA for the payment of the Contingency Fee.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF EDC

EDC represents and warrants that:

Section 6.1 EDC is a not-for-profit corporation duly organized and validly existing and in good standing under the laws of the State of New York, and has all requisite power and

authority to execute, deliver and perform this Agreement.

Section 6.2 This Agreement has been duly authorized by all necessary corporate action on the part of EDC and has been duly executed and delivered by EDC and, assuming due execution and delivery by IDA, constitutes a legal, valid and binding obligation of EDC, enforceable in accordance with its terms.

Section 6.3 There are no actions, suits or proceedings (whether or not purportedly on behalf of EDC) pending or, to the knowledge of EDC, threatened against or affecting EDC at law or in equity or before any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality which involves the possibility of any material adverse change in the business, operations, property or assets, or in the condition, financial or otherwise of EDC.

Section 6.4 Neither the execution and delivery of this Agreement, consummation of the transactions herein contemplated, nor compliance with the terms, conditions or provisions hereof, will conflict with or result in a breach of any of the terms, conditions or provisions of the Certificate of Incorporation or by-laws of EDC or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which EDC is bound, or to the knowledge of EDC, any order, rule, or regulation of any court or governmental agency or body having jurisdiction over EDC or any of its activities or properties.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF IDA

IDA represents and warrants that:

Section 7.1 IDA is a corporate governmental agency constituting a body corporate and politic and public benefit corporation of the State of New York, duly organized, validly existing and in good standing under the laws of the State of New York and has all requisite power and authority to execute and deliver this Agreement.

Section 7.2 This Agreement has been duly authorized by all necessary corporate action on the part of IDA and has been duly executed and delivered by IDA, and assuming due execution and delivery by EDC, constitutes the legal, valid and binding obligation of IDA, enforceable in accordance with its terms.

Section 7.3 Neither the execution and delivery of this Agreement, consummation of the transactions herein contemplated, nor compliance with the terms, conditions or provisions hereof, will conflict with or result in a breach of any of the terms, conditions or provisions of the by-laws of IDA or any statute, indenture, mortgage, deed of trust or other agreement or instrument to which IDA is bound, or to the knowledge of IDA, any order, rule, or regulation of any court or governmental agency or body having jurisdiction over IDA or any of its activities or properties.

ARTICLE VIII

ADDITIONAL COVENANTS OF EDC

So long as this Agreement is effective, EDC further covenants and agrees as follows:

Section 8.1 EDC will maintain its corporate existence under the laws of the State of

New York as a not-for-profit corporation and that it will maintain its tax-exempt status pursuant to the Internal Revenue Code of 1986, as amended.

Section 8.2 EDC will keep and maintain adequate books and records relating to its operations, including but not limited to records with respect to:

- (a) any funds received in connection with IDA and its program;
- (b) the disbursement of such funds; and
- (c) financial documents relating to IDA and its programs, e.g. bank statements, fund balances, cancelled checks, bills, invoices, receipts, and deposit slips.

Section 8.3 EDC will provide monthly and year-to-date financial reports regarding IDA and its program to the Board and the Executive Director, which reports, shall include the

following: (a) Total deposits at the beginning and end of the month;

- ~~(a) Total deposits at the beginning and end of the month;~~
- (b) Amount, source, application and date of all monies received and/or disbursed by or on behalf of IDA during the month;
- (c) Amount and application of any interest received during the month on IDA funds;
- (d) A monthly operations report; and
- (e) Such other information as the Board or Executive Director shall reasonably request.

Section 8.4 EDC will deliver to IDA, as soon as practicable and in any event not later than 90 days prior to the end of the Term and each successive term thereafter, an operations report setting forth at least the following information:

- (i) discussion of the operations of EDC pursuant to this Agreement during the period covered by such report, including but not limited to IDA funds received and disbursed,

project financings closed, revenues and scope of other activities hereunder;

(ii) an officer's certificate stating whether or not any default has occurred and is continuing hereunder and if so, specifying each such default, the nature of such default, and what action or actions it plans to take with respect thereto; and

(iii) such other information as the Board shall reasonably request.

Section 8.5 As soon as practicable and in any event not later than 120 days after the end of EDC's fiscal year, EDC will deliver to IDA the audited financial statements of EDC including a balance sheet and statement of profits and losses prepared in accordance with generally accepted accounting principles consistently applied.

Section 8.6 Promptly upon receipt thereof, EDC will deliver to IDA copies of any report on accounting procedures or internal controls submitted to EDC by independent certified public accountants in connection with any annual examination of the financial statements of EDC.

Section 8.7 EDC will deliver to IDA such other information as to the business or operations of EDC filed with any governmental department, bureau, commission or agency, as the Board may, from time to time, reasonably request.

Section 8.8 EDC will, in a timely manner, obtain all approvals necessary and make all filings required under city, state and federal laws with respect to the performance of this Agreement and the administration of IDA program.

Section 8.9 EDC will perform all acts to be performed in connection with this

Agreement in strict conformity with applicable city, state and federal laws, rules, regulations and orders.

ARTICLE IX

EXECUTIVE DIRECTOR

Section 9.1 EDC and IDA covenant and agree that the Executive Director shall coordinate all aspects of this Agreement with the Board and shall dutifully undertake and be responsible for insuring the proper performance by EDC of the terms and provisions of this Agreement, in accordance with the Act, the by-laws of IDA and policies and procedures of the Board.

Section 9.2 EDC shall provide to the Board and the Executive Director, in accordance with the terms of this Agreement, such personnel, reports, forms and other information and assistance necessary and desirable to fulfill and properly perform the obligations contained in this Agreement.

ARTICLE X

RENEWAL OF AGREEMENT

Section 10.1 EDC shall annually submit to the Board this Agreement and any proposed amendments thereto. The Board shall, if it is so advised, offer proposed amendments to the Agreement to EDC.

ARTICLE XI

EVENTS OF DEFAULT; TERMINATION

Section 11.1 If one or more of the following events (“Events of Default”) shall occur:

(a) EDC shall fail to perform or shall violate any provision of this Agreement and such default or violation shall continue for a period of thirty (30) days after the Chairman or Vice Chairman of the Board has given written notice thereof to EDC, or, in the case of a default or violation which cannot with due diligence be cured within such period of thirty (30) days, EDC shall not have commenced curing the same within such thirty (30) day period and thereafter shall not have prosecuted the curing of such default or violation with all due diligence to completion (it being understood in connection with a default or violation not susceptible to being cured with due diligence within thirty (30) days that the time to cure the same shall be extended for such period as the Board may deem reasonably necessary to complete the curing thereof with all due diligence); or

(b) The contract between the City and EDC dated as of June 30, ~~2017~~2018 as amended from time to time (the “Master Contract”) shall be terminated or an Event of Default (as defined in the Master Contract) shall occur and as a result of such Event of Default or for any other reason, the City or EDC shall elect to terminate the Master Contract; or

(c) EDC shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent or shall file any petition or answer seeking any reorganization, arrangement, recapitalization, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of EDC or of all or any substantial part of its ~~properties or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or~~
properties or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(d) Within ninety (90) days after the commencement of any proceedings against EDC seeking any reorganization, arrangement, recapitalization, readjustment, liquidation, dissolution or similar relief under the present or any future Federal Bankruptcy Act or any other statute or law, such proceedings shall not have been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of EDC, of any trustee, receiver or liquidator of EDC or all or any substantial part of its properties, such appointment shall not have been vacated or stayed on appeal or otherwise, or within ninety (90) days after the expiration of any such stay

such appointment shall not have been vacated; then, in any such Event of Default, IDA, at any time thereafter (but prior to the curing of all such Events of Default), may give written notice to EDC specifying such Event of Default or Events of Default and stating that this Agreement shall expire and terminate on the date specified in such notice, which shall be at least ten (10) days after the giving of such notice, and on the date specified in such notice, this Agreement shall expire and terminate and EDC shall remain liable for all its obligations incurred pursuant to this Agreement prior to the date of such termination. EDC shall assume no further binding obligations in connection with any services to be rendered pursuant to this Agreement after the date of receipt of such notice from IDA, provided that IDA may direct such wind up work as it deems necessary.

Section 11.2 This Agreement shall terminate ninety (90) days after IDA shall have given to EDC, or EDC shall have given to IDA, written notice of the respective party's intention to terminate this Agreement. EDC shall assume no further binding obligations pursuant to any agreement after the date of receipt of such notice from IDA, provided that IDA may direct such wind-up work as it determines is necessary.

Section 11.3 On the date fixed for termination as provided in Sections 11.1 or 11.2 hereof, EDC shall transfer, assign and set over to IDA immediately (a) any and all documentation maintained by EDC in connection with services rendered hereunder and (b) all agreements, records, correspondence and other documents of any kind relating to outstanding IDA monies, projects and other matters.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1 This Agreement may be assigned by EDC to its successor in function with the consent of the Board.

Section 12.2 No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose unless in writing and duly executed by the parties hereto.

Section 12.3 The table of contents and captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

Section 12.4 This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to be binding upon any of the parties hereto.

Section 12.5 Each written notice, demand, request or other communication in connection with this Agreement shall be either served in person, with delivery or service acknowledged in writing by the party receiving the same, or deposited in the United States mails, postage prepaid, and addressed:

~~(a) To EDC: 110 William Street, New York, N.Y. 10038 Attention: President~~

~~(b) To IDA: 110 William Street, New York, N.Y. 10038 Attention: Executive Director~~

(a) To EDC: 110 William Street, New York, N.Y. 10038 Attention: President

(b) To IDA: 110 William Street, New York, N.Y. 10038 Attention: Executive Director

or addressed to either party at any other address that such party may hereinafter designate by written notice to the other party.

Section 12.6 This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 12.7 The parties agree that each and every provision of federal, state or local law, rule, regulation or order, required to be inserted in this Agreement, is deemed by this reference to be so inserted in its correct form, and upon the application of either party, this Agreement shall be amended by the express insertion of any such provisions not so inserted and by the deletion of any such provision which is inserted incorrectly.

Section 12.8 No director, officer, member, employee, agent or other person authorized to act on behalf of EDC or IDA shall have any personal liability in connection with this Agreement or any failure of EDC or IDA to perform its obligations hereunder. Each of the parties

hereto agrees that no action in connection with this Agreement shall lie or be maintained unless such action is commenced within six (6) months after the termination of this Agreement, or the accrual of the cause of action, whichever is earliest.

Section 12.9 EDC agrees to indemnify, defend and hold IDA, its members, directors, officers, employees and agents, harmless from any and all claims, demands, suits, expenses, judgments or liabilities of every kind and nature to which they may be subject because of any act or omission of EDC, its agents, or employees, in connection with this Agreement or because of any negligence of the EDC, its agents, or employees. EDC shall be solely responsible for the safety and protection of all its employees and shall assume all liability for injuries, including death, that may occur to said employees due to the negligence, fault or default of EDC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day
and year first above written.

NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION

By: _____
Name:
Title:

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name:
Title:

EXHIBIT A

*New York City Industrial Development Agency
Budget for Fiscal Year
~~2019~~2020 follows this page*

**NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
FISCAL YEAR 2020 BUDGET**

| | FY 2018 Actual | FY 2019 Budget | FY 2019 Projected Year-End Actual | FY 2020 Budget | FY 2021 Budget | FY 2022 Budget | FY 2023 Budget |
|---|---------------------------|---------------------------|--|---------------------------|---------------------------|---------------------------|---------------------------|
| REVENUES | | | | | | | |
| Financing Fees* | 2,982,100 | 3,155,311 | 1,297,577 | 2,816,210 | 3,525,126 | 3,876,914 | 4,500,610 |
| Application Fees | 90,000 | 142,630 | 90,000 | 117,000 | 135,000 | 135,000 | 140,000 |
| Compliance Fees | 841,164 | 847,387 | 797,244 | 877,703 | 895,257 | 913,163 | 931,426 |
| Post-Closing Fees | 102,500 | 108,150 | 95,000 | 119,862 | 121,060 | 122,271 | 123,494 |
| Investment Income | 369,898 | 220,929 | 496,066 | 218,385 | 193,255 | 175,650 | 179,645 |
| Other Income | 619,375 | 300,000 | 73,039 | 300,000 | 300,000 | 300,000 | 300,000 |
| TOTAL REVENUES | 5,005,037 | 4,774,407 | 2,848,926 | 4,449,160 | 5,169,699 | 5,522,997 | 6,175,174 |
| EXPENSES | | | | | | | |
| Contract Fee | 3,300,000 | 4,356,000 | 4,400,000 | 4,400,000 | 4,400,000 | 4,400,000 | 4,400,000 |
| Audit and Accounting Fees | 64,350 | 79,676 | 79,676 | 79,676 | 79,676 | 79,676 | 82,066 |
| Outreach / Marketing | 3,467 | 25,000 | 4,322 | 25,000 | 25,000 | 25,000 | 25,000 |
| Public Notice Fees | 28,887 | 34,327 | 14,104 | 33,526 | 43,368 | 44,249 | 48,464 |
| Miscellaneous Expenses | 59,349 | 47,120 | 8,815 | 65,377 | 65,377 | 65,377 | 65,377 |
| TOTAL EXPENSES | 3,456,053 | 4,542,123 | 4,506,917 | 4,603,579 | 4,613,421 | 4,614,302 | 4,620,908 |
| OPERATING EXCESS/(DEFICIT) FROM IDA OPERATIONS | 1,548,984 | 232,285 | (1,657,991) | (154,419) | 556,278 | 908,694 | 1,554,266 |
| Contract Purchases | | | | | | | |
| Contract Expenses/Special Projects** | 3,171,378 | 2,968,440 | 2,876,160 | 2,416,291 | 2,357,313 | 500,000 | 500,000 |
| NET OPERATING EXCESS/(DEFICIT) | (1,622,394) | (2,736,156) | (4,534,151) | (2,570,710) | (1,801,035) | 408,694 | 1,054,266 |
| NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY NET ASSETS | | | | | | | |
| Unrestricted Net Assets (Beginning) | 38,730,526 | 36,512,463 | 37,108,132 | 22,123,981 | 19,553,271 | 17,752,235 | 18,160,930 |
| Operating Excess/(Deficit) | (1,622,394) | (2,736,156) | (4,534,151) | (2,570,710) | (1,801,035) | 408,694 | 1,054,266 |
| Asset Increase | - | - | - | - | - | - | - |
| Asset Decrease | - | (10,450,000) | (10,450,000) | - | - | - | - |
| UNRESTRICTED NET ASSETS (ENDING) | 37,108,132 | 23,326,307 | 22,123,981 | 19,553,271 | 17,752,235 | 18,160,930 | 19,215,196 |

* FY19 projected year-end financing fees are based on 9 transactions. FY20 financing fees are based on 12 transactions.

** Pursuant to various Board approved agreements between the Agency and NYCEDC, the Agency is committed to fund various projects being performed by NYCEDC related to the City's economic and industrial development projects and initiatives.

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
BUDGETED REVENUES, EXPENDITURES, AND CHANGES IN CURRENT NET ASSETS
(Office of the State Comptroller's Submission Format)

| | Last Year (Actual) 2018 | Current Year (Estimated) 2019 | Next Year (Adopted)* 2020 | Proposed 2021 | Proposed 2022 | Proposed 2023 |
|--|-------------------------------|-------------------------------------|---------------------------------|--------------------|------------------|------------------|
| <u>REVENUE & FINANCIAL SOURCES</u> | | | | | | |
| Operating Revenues | | | | | | |
| Charges for services | 4,015,764 | 2,279,821 | 3,930,775 | 4,676,444 | 5,047,347 | 5,695,529 |
| Other operating revenues | 619,375 | 73,039 | 300,000 | 300,000 | 300,000 | 300,000 |
| Nonoperating Revenues | | | | | | |
| Investment earnings | 369,898 | 496,066 | 218,385 | 193,255 | 175,650 | 179,645 |
| Total Revenues & Financing Sources | 5,005,037 | 2,848,926 | 4,449,160 | 5,169,699 | 5,522,997 | 6,175,174 |
| <u>EXPENDITURES</u> | | | | | | |
| Operating Expenditures | | | | | | |
| Professional services contracts | 6,627,431 | 7,383,077 | 7,019,870 | 6,970,734 | 5,114,302 | 5,120,908 |
| Total Expenditures | 6,627,431 | 7,383,077 | 7,019,870 | 6,970,734 | 5,114,302 | 5,120,908 |
| Excess (deficiency) of revenues and capital contributions over expenditures | (1,622,394) | (4,534,151) | (2,570,710) | (1,801,035) | 408,694 | 1,054,266 |

* The FY2020 budget will be presented to the Board of Directors on April 9, 2019.

Exhibit C

**NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
COMPREHENSIVE INVESTMENT GUIDELINES POLICY
Adopted June 13, 2006; as amended through June ~~12, 2018~~ 11, 2019**

I. PURPOSE

The purpose of this Policy is to establish procedures and guidelines regarding the investing, monitoring and reporting of funds of the New York City Industrial Development Agency (the “Agency”).

II. GENERAL PROVISIONS

A. Scope of Policy

This Policy applies to the funds of the Agency which, for purposes of this Policy and the guidelines stated herein, consist of all moneys and other financial resources available for deposit and investment by the Agency on its own behalf and for its own account (collectively, the “Funds”). As defined herein, “Funds” shall not include the proceeds of bonds issued by the Agency as financial assistance in connection with a project under the General Municipal Law (as such terms are defined in the General Municipal Law).

B. Investment Objectives

The Funds shall be managed to accomplish the following objectives:

1. *Preservation of Principal* – The single most important objective of the Agency’s investment program is the preservation of the principal of the Funds.
2. *Maintenance of Liquidity* – The Funds shall be managed in such a manner that assures that funds are available as needed to meet immediate and/or future operating requirements of the Agency.
3. *Maximize Return* – The Funds shall be managed in such a fashion as to maximize income through the purchase of Permitted Investments (hereinafter defined), taking into account the other investment objectives.
4. *Compliance with law* – The Funds shall be managed in compliance with Sections 10, 11 and 858-a(3) of the General Municipal Law of the State of New York (respectively, the “GML” and the “State”).

III. IMPLEMENTATION

Under the direction of the Chief Financial Officer of the Agency, the Treasurer of the Agency and any Assistant Treasurer of the Agency (respectively, the “Chief Financial Officer,” the “Treasurer,” and an “Assistant Treasurer”) shall be responsible for the implementation of the Agency’s investment program and the establishment of investment procedures and a system of controls to regulate the activities of subordinate staff, consistent with this Policy. The Treasurer

or an Assistant Treasurer shall additionally have the authority to invest the Funds of the Agency and shall invest prudently and in accordance with the requirements of this Policy.

IV. AUTHORIZED DEPOSITS

A. Authorized Institutions for Deposit

In accordance with relevant provisions of the General Municipal Law, the Board of Directors must designate one or more banks or trust companies for the deposit of Funds (“Designated Institution(s)”), and shall additionally specify the maximum amount of Funds which may be deposited in each such Designated Institution.

Accordingly: I. the Board of Directors hereby designates as the Designated Institutions, those banks and/or trust companies that, from time to time, the City of New York shall have designated, or shall have been permitted to designate, for the deposit of the City’s funds; II. the Board of Directors hereby determines and specifies that each account of the Agency at any such Designated Institution, shall be subject to a maximum deposit amount and that such amount shall be, for purposes of day-to-day operations, no greater than two million dollars, and for purposes of extraordinary receipts having a deposit duration of no longer than two business days, no greater than ten million dollars.

B. Deposits; Responsibility for Making Deposits

The Agency shall cause Funds potentially needed for immediate expenditure to be deposited at Designated Institutions in accounts that permit nearly immediate withdrawal (“Deposit Accounts”). The Chief Financial Officer, the Treasurer, an Assistant Treasurer, or any other officer of the Agency authorized to have custody of the Funds, shall be responsible for depositing the Funds in accordance with this Section IV.

C. Collateral

In the event that the Funds on deposit in any one Deposit Account exceed the amount that is insurable by the Federal Deposit Insurance Act, as now or hereafter amended, such excess shall be secured by collateral in accordance with the requirements of GML Section 10(3).

V. AUTHORIZED TEMPORARY INVESTMENTS

A. Responsibility for Temporary Investments

In accordance with relevant provisions of the General Municipal Law, the Board of Directors may delegate the authority to temporarily invest such portion of the Funds as are not needed for immediate expenditure. Accordingly, the Board of Directors hereby delegates to the Chief Financial Officer and, if under the direction of the Chief Financial Officer, to the Treasurer and any Assistant Treasurer, the authority to temporarily invest such portion of the Funds not needed for immediate expenditure; *provided*, such investments are made in accordance with the requirements of relevant provisions of the General Municipal Law.

B. Permitted Temporary Investments

Permitted temporary investments for the Funds are the investments permitted under Section 11 of the GML (The securities purchased as temporary investments for the Funds are hereinafter referred to as the “Securities.”)

C. Requirements

The Agency shall instruct its Agents (as such term is defined in Subdivision XI of this Policy) to obtain competitive quotes for each purchase or sale of Securities, other than governmental Securities, when such transaction equals or exceeds \$2,500,000 in amount.

All Securities of the Agency shall be purchased, sold, payable, paid, redeemed, delivered, registered, inscribed, held in custody, and co-mingled or not co-mingled in accordance with the requirements and limitations of the GML.

The Treasurer shall maintain, or cause to be maintained, proper books and records of all Securities held by or for the Agency and for all transactions pertinent thereto. Such books and records shall at least identify the Security, the fund for which held, and the place where kept; and the entries made therein shall show the competitive quotes obtained therefor, the date of sale or other disposition, and the amount realized therefrom.

VI. WRITTEN CONTRACTS

The Agency shall enter into written contracts pursuant to which investments are made which conform with the requirements of this Policy and Section 2925.3(c) of the Public Authorities Law unless the Board of Directors determines by resolution that a written contract containing such provisions is not practical or that there is not a regular business practice of written contracts containing such provisions with respect to a specific investment or transaction, in which case the Board of Directors shall adopt procedures covering such investment or transaction.

VII. DIVERSIFICATION

The investment portfolio for the Funds shall be structured diversely to reduce the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issuer or a specific type of security. The maximum percentage of the total portfolio permitted for the indicated category of security is as follows:

| SECURITIES | MAXIMUM |
|--|---------|
| Time deposits and certificates of deposit permitted under the GML provided same are secured by <i>eligible securities</i> as defined under the GML | 45% |
| Obligations of the USA; obligations of agencies of the USA if guaranteed by the USA | 100% |
| Obligations of New York State | 40% |

VIII. MAXIMUM MATURITY

Maintenance of adequate liquidity to meet the cash flow needs of the Agency is essential. Accordingly, the Agency's portfolio of Permitted Investments will be structured in a manner that ensures sufficient cash is available to meet anticipated liquidity needs. Selection of investment maturities must be consistent with cash requirements in order to avoid the forced sale of securities prior to maturity.

For purposes of this Policy, assets of the portfolio shall be segregated into two categories based on expected liquidity needs and purposes – Cash Equivalents and Investments. Assets categorized as Cash Equivalents will be invested in Permitted Investments maturing in ninety (90) days or less or in Deposit Accounts. Assets categorized as Investments will be invested in Permitted Investments with a stated maturity of no more than two (2) years from the date of purchase.

IX. MONITORING AND ADJUSTING THE INVESTMENT PORTFOLIO

Those responsible for the day-to-day management of the Agency's portfolio of Permitted Investments will routinely monitor the contents of the portfolio, the available markets and the relative values of competing instruments, and will adjust the portfolio as necessary to meet the requirements and goals of this Policy. It is recognized and understood that the non-speculative active management of portfolio holdings may cause a loss on the sale of an owned investment.

X. INTERNAL CONTROLS

Under the direction of the Chief Financial Officer, the Treasurer or an Assistant Treasurer, shall establish and be responsible for monitoring a system of internal controls governing the administration and management of the portfolio. Such controls shall be designed to prevent and control losses of the portfolio funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by any personnel.

XI. ELIGIBLE BROKERS, AGENTS, DEALERS, INVESTMENT ADVISORS, INVESTMENT BANKERS AND CUSTODIANS.

The following are the standards for the qualifications of brokers, agents, dealers, investment advisors, investment bankers and custodians:

A. Brokers, Agents, Dealers

The categories of firms listed below are the categories from which the Agency may select firms to purchase and sell Securities (as selected an “Agent”). Factors to be considered by the Agency in selecting Agents from these categories shall include the following: size and capitalization; quality and reliability; prior experience generally and prior experience with the Agency specifically; and level of expertise for the transactions contemplated.

1. any bank or trust company organized and/or licensed under the laws of the USA which is authorized to do business in NYS;
2. any bank or trust company organized and/or licensed under the laws of any state of the USA which is authorized to do business in NYS;
3. any broker-dealer licensed and/or permitted to provide services under federal law and, when necessary, qualified to do business in NYS

B. Investment Advisors

In addition to the requirements set forth in “A” preceding, any Agent selected by the Agency to be an investment advisor shall be registered with the SEC under the Investment Advisors Act of 1940.

C. Investment Bankers

In addition to the requirements set forth in “A” preceding, any Agent selected by the Agency to serve as a senior managing underwriter for negotiated sales must be registered with the SEC.

D. Custodians

In addition to the requirements set forth in “A” preceding, any Agent selected by the Agency to be a custodian shall have capital and surplus of not less than \$50,000,000.

XII. REPORTING

A. Quarterly

Under the direction of the Chief Financial Officer, the Treasurer or an Assistant Treasurer, shall prepare and deliver to the Board of Directors once for each quarter of the Agency’s fiscal year a report setting forth a summary of new investments made during that

quarter, the inventory of existing investments and the selection of investment bankers, brokers, agents, dealers, investment advisors and auditors.

B. Annually

1. *Audit* – the Agency’s independent accountants shall conduct an annual audit of the Agency’s investments for each fiscal year of the Agency, the results of which shall be made available to the Board of Directors at the time of its annual review and approval of these Guidelines.
2. *Investment Report* – Annually, the Treasurer or an Assistant Treasurer, under the direction of the Chief Financial Officer, shall prepare and the Board of Directors shall review and approve an Investment Report, which shall include:
 - a. This Policy and amendments thereto since the last report;
 - b. An explanation of this Policy and any amendments made since the last report;
 - c. The independent audit report required by paragraph 1 above;
 - d. The investment income record of the Agency for the fiscal year; and
 - e. A list of fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to the Agency since the last report.

The Investment Report shall be submitted to the Mayor and the Comptroller of the City of New York and to the New York State Department of Audit and Control. Copies of the report shall also be made available to the public upon reasonable request.

XIII. APPLICABILITY

Nothing contained in this Policy shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement for the investment of the Funds, made or entered into in violation of, or without compliance with, the provisions of this Policy.

XIV. CONFLICT OF LAW

In the event that any portion of this Policy is in conflict with any State, City or federal law, that law will prevail.

XV. PRIOR POLICIES

This Policy, when originally adopted on June 13, 2006, superseded the *Deposit and Investment Policy* that the Board of Directors adopted at its meeting held on July 9, 1996. This Policy does not supersede, in any relevant part, the amended By-Laws of the Agency.

XVI. AUTOMATIC AMENDMENT

This Policy shall be deemed automatically amended to conform with enactments that amend or succeed any of GML Sections 10, 11 or 858-a(3).

XVII. MWBEs

The Agency shall seek to encourage participation by minority and women-owned business enterprises (i.e., “MWBEs”) in providing financial services to the Agency.

Exhibit D

**NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
POLICY FOR THE DISPOSITION OF PERSONAL PROPERTY
Adopted June 13, 2006; as amended through June ~~12, 2018~~ 11, 2019**

Personal Property Valued at \$5,000 or Less

Whenever New York City Industrial Development Agency (the “Agency”) wishes to transfer title to or a beneficial interest in an item of personal property or an interest therein with an estimated value of \$5,000 or less, it shall obtain offers from one or more persons or entities as the Agency’s contracting officer for personal property dispositions (the “Contracting Officer”), appointed by the Agency’s Board of Directors, or his or her designee deems appropriate. The Agency shall maintain a record of the persons or entities approached and their responses. The Agency may conduct discussions with some or all of the persons and entities. The property may be disposed of to whichever person or entity the Contracting Officer or his or her designee selects based on the proposed price and any other factors that the Contracting Officer or his or her designee deems appropriate.

All personal property that the Contracting Officer or his or her designee considers to be of no sale value and no use to the Agency may be destroyed or otherwise disposed of in such manner as is determined by the Contracting Officer or his or her designee. Notwithstanding the foregoing, records may only be destroyed or disposed of at a time and in a manner not in conflict with applicable law, regulation or contract.

No approval of a disposition of a type described above is required from the Board of Directors or any committee thereof. All disposal documents must be approved and executed by an officer who is an authorized signatory of all agreements of the Agency.

Personal Property Valued in Excess of \$5,000

Whenever the Agency wishes to transfer title to or a beneficial interest in an item of personal property or an interest therein with an estimated value in excess of \$5,000 it shall first obtain an appraisal of the property if, because of the unique nature of the property or the unique circumstances of the proposed transaction, it is not readily valued by reference to an active market for similar property. However, an appraisal of the property will not be required if an appraisal of the property or similar property has been made within the past two years.

The person or entity to which the property shall be disposed of shall be determined through a procurement conducted in accordance with Title 5-A of Article 9 of the Public Authorities Law. The Agency shall publicly advertise for proposals for the disposal of the property in accordance with Title 5-A, provided that it may dispose of the property without public advertising, obtaining such competition as is feasible under the circumstances, when permitted to do so under Title 5-A. In connection with the disposition, in addition to complying with the requirements of Title 5-A, the Agency shall also comply with the lobbying-and-procurement requirements of Sections 139-j and 139-

k of the State Finance Law, and with all other laws, if any, that are applicable to the disposition of personal property.

Prior to the disposal of the property, the project manager involved in the disposition shall be the primary person responsible for the monitoring of compliance with the terms of the contract for the disposal, and shall keep the Contracting Officer or his or her designee informed of all major issues that arise and of the status of the disposition.

The disposal must be approved by the Board of Directors if the disposal (i) is on a sole source basis for an amount in excess of \$20,000, or (ii) is for an amount in excess of \$100,000 and has been competitively procured, or (iii) is for property valued in excess of \$5,000 and will be disposed of for less than fair market value. For disposals for less than those amounts, no approval is required of the Board of Directors. In all cases, the disposal must be approved by the Contracting Officer or his or her designee and disposal documents must be approved and executed by an officer who is an authorized signatory of all agreements of the Agency.

The Contracting Officer shall cause a record to be maintained of all personal property disposed of for an amount in excess of \$5,000 and shall cause to be prepared and transmitted all reports relating to the disposition of personal property required by Title 5-A.

Acknowledgment of Inapplicability

It is acknowledged that acquisition and disposition by the Agency of interests in personal property, when the Agency so acquires and disposes in the course of providing financial assistance to projects (as such terms are defined in the General Municipal Law) in accordance with relevant requirements of the General Municipal Law, are exempt from the requirements of Title 5-A; and that, accordingly, this Policy will have no application to such financial-assistance-related transactions of the Agency.

Exhibit E

**NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
POLICY FOR THE ACQUISITION AND DISPOSITION OF REAL PROPERTY
Adopted June 13, 2006; as amended through June ~~12, 2018~~ 11, 2019**

I. Introduction

In accordance with the requirements of Title 5-A of Article 9 of the Public Authorities Law and Section 2824(1)(e) of the Public Authorities Law, as amended by the Public Authorities Accountability Act of 2005, as amended (“PAAA”), the following comprehensive guidelines (“Guidelines”) set forth for the New York City Industrial Development Agency (“NYCIDA”) (i) the operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property through means of real property sale, ground lease, space lease and roof top lease, (ii) the guidelines relating to the acquisition of real property, and (iii) the related policies and procedures.

It is acknowledged that acquisition and disposition by NYCIDA of interests in real property, when NYCIDA so acquires and disposes in the course of providing financial assistance to projects (as such terms are defined in the General Municipal Law) in accordance with relevant requirements of the General Municipal Law, are exempt from the requirements of the PAAA; and that, accordingly, these Guidelines will have no application to such financial-assistance-related, real estate transactions of NYCIDA.

II. Methods of disposing of real property

NYCIDA shall dispose of real property in accordance with Title 5-A and other applicable laws in a manner so as to permit such full and free competition as is appropriate under the circumstances and shall award contracts to parties offering the most advantageous terms, financial and/or otherwise. The Contracting Officer for real property dispositions, appointed by NYCIDA’s Board of Directors (the “Board”), shall supervise and direct all dispositions of NYCIDA real property. The real property may be disposed of for not less than fair market value for cash, credit, or other property, with or without warranty, upon such terms and conditions as the Contracting Officer or his/her designee deems proper, except as otherwise permitted herein. No disposition of real property shall be made unless an appraisal has been made by an independent appraiser whose written report will be included in the NYCIDA file. To the extent reasonably feasible, the appraisal shall be dated within twelve months of the date on which NYCIDA enters into a contract to dispose of the real property. The independent appraiser must be a New York State Certified General Real Estate Appraiser and may not be an entity owned or controlled by the City, New York City Economic Development Corporation, or the prospective purchaser or lessee, or any of their affiliates. An appraisal meeting the foregoing requirements is a “Conforming Appraisal”. Before approving the disposal of any property the Board shall be advised of the date of the Conforming Appraisal.

Under the Contracting Officer's or his/her designee's direction, NYCIDA primarily uses two methods of disposition: Request for Proposals ("RFP") and negotiated disposition.

RFPs

The RFP process is a process whereby the development community and other entities and individuals are invited to submit proposals for one or more properties. In an effort to create full and free competition consistent with the value and nature of the property, as certified in writing by the Contracting Officer, RFPs will be advertised in the City Record and shall be advertised in local newspapers, including community-based newspapers, in multi-language publications, and/or in a trade publications, where appropriate given the nature of the property. In addition, RFPs shall be posted on NYCIDA's web-site (or the portion of another entity's web-site devoted to NYCIDA), and, on occasion, distributed to a direct mailing list. All advertisements shall list when and where proposals shall be disclosed, except that if the disposition falls within one of the criteria for a negotiated disposition described below, as certified in writing by the Contracting Officer, at the discretion of the Contracting Officer, the advertisement may omit such disclosure information and/or the disclosure may or may not be made. The Contracting Officer shall approve the location of all advertisements and postings and any omission of disclosure information.

RFPs for real property sales and ground leases may, but are not required to, include an introduction and sections on development strategy, objectives, disposition process, public review process, general conditions and, where appropriate, economic development benefits. All RFPs for real property sales and ground leases must include a site description, proposal requirements and selection criteria.

Although the selection criteria for each RFP varies, as appropriate, NYCIDA will include at least the following selection criteria in reviewing submissions and selecting a proposal:

- *Economic Impact on / Spending in New York City* - projected expenditures, including purchase price, construction costs and annual operating costs; projected temporary (construction) and permanent on-site employment and payroll; projected applicable New York City taxes such as real property, sales and personal income taxes; and the extent, if any, to which the proposed project will create additional sources of revenue to the City.
- *Development Team Qualifications* – experience and development skills to complete the proposed project on time and within budget, for which experience in completing projects of a similar nature and scope as is contemplated by the RFP shall be taken into account.
- *Financial Viability* – developer's financial means to complete the project, availability of funding sources to finance the project, and sufficient use to support operating expenses, capital costs and any debt service.
- *Integration into Surrounding Community* – environmental issues such as pedestrian access, vehicular access and circulation, building mass, parking

availability, landscaping, environmental impact, and overall integration into surrounding community.

- *Design* – architectural design, urban design, environmental development techniques, and compliance with applicable zoning, environmental and other regulatory controls.
- *MWBE Participation* – participation by minority-owned and women-owned businesses, or partnering arrangements with minority-owned and women-owned businesses.
- *Purpose* – whether the project involves an industry or activity which the City seeks to retain and foster and conforms with NYCIDA’s mission

Depending on the nature of the real property, RFPs may or may not include additional selection criteria, deemed appropriate by the Contracting Officer or NYCIDA’s President.

With regard to an RFP for a real property sale or ground lease, NYCIDA shall notify the City Council Member and Community Board whose districts include the property, that an RFP is being issued.

The contract will be awarded to the candidate presenting the most advantageous terms, price and other factors considered in connection with the criteria enumerated in the RFP. NYCIDA may reject the proposals when the minimum terms and conditions have not been met, competition is insufficient and/or it is in the public interest to do so. The award/designation will be made by notice within a reasonable time of the original advertisement, all circumstances considered.

Notwithstanding anything that may be to the contrary in the foregoing description of the RFP process, NYCIDA shall, when using the RFP process, comply with the requirements of Sections 139-j and 139-k of the State Finance Law pertaining to procurements by a governmental entity (collectively, the “Procurement Requirements”) by acting in accordance with NYCIDA’s Procurement Policy.

Negotiated Disposition

RFP by advertisement is not always the most appropriate and effective means of disposal of real property. In certain instances, including when the disposition is for less than fair market value but the purpose of the disposition is within NYCIDA’s purpose, mission or governing statute or the disposition is otherwise authorized by law, Title 5-A permits a negotiated disposition subject to obtaining such competition as is feasible under the circumstances. In some circumstances, the disposition will involve a sole source disposition. Title 5-A, Sections 2897(6)(c)(ii)-(vi) and 2897(7), sets forth that real property may be disposed of through a negotiated disposition when:

- (i) the fair market value of the property does not exceed fifteen thousand dollars;

- (ii) bid prices after advertising therefor are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- (iii) the disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
- (iv) the disposal is for an amount less than the fair market value of the property, and (a) the transferee is a government or other public entity and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity, (b) the purpose of the transfer is within the purpose, mission or governing statute of NYCIDA, or (c) in the event NYCIDA seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with Agency's mission, purpose or governing statutes, NYCIDA shall provide written notification thereof to the governor, the speaker of the state assembly, and the temporary president of the state senate, and such proposed transfer shall be subject to denial by the governor, the state senate, or the state assembly in the manner specified in Section 2897(7)(iii); provided, however, that with respect to a below-market transfer by NYCIDA that is not within the purpose, mission or governing statute of NYCIDA, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which NYCIDA resides, and the transfer is of property obtained by NYCIDA from that political subdivision, then such approval shall be sufficient to permit the transfer; or
- (v) such action is otherwise authorized by law.

In the event a below fair market value asset transfer (pursuant to an RFP or negotiated disposition) is proposed to NYCIDA's Board of Directors for approval, the following information must be provided to NYCIDA's Board of Directors and the public:

1. a full description of the asset;
2. a Conforming Appraisal and any other information establishing fair market value as may be sought by the Board;
3. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages, or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
4. a statement of the value to be received compared to the fair market value;

5. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph “4” of this paragraph, a statement of the value to the private party; and
6. the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

Before approving the disposal of any property for less than fair market value, the Board shall consider the information described in the above paragraph, and the justification(s) provided in a written certification made by the Contracting Officer or NYCIDA’s President and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer. The Contracting Officer shall provide such supplemental information as the Board may require.

If an RFP involves a disposition that meets one of the criteria described above for negotiated dispositions, the Contracting Officer or his/her designee may direct that the disposition of the real property be considered a negotiated disposition. In such circumstance, a public disclosure of the proposals would not be necessary unless otherwise required but an explanatory statement and 90 days’ notice (or such other period as the statute may be amended to require) would be required as detailed below.

Upon meeting Title 5-A’s requirements for a negotiated disposition, the decision to proceed with a negotiated disposition in a situation where an RFP will not be used is based on an analysis of the facts and nature of the project. In such instance, a negotiated disposition may be undertaken without limitation under the following circumstances (which shall be explained to the Board in writing) where appropriate:

- risk of business relocation or expansion outside the City
- to permit expansion of business in the City
- due to number of jobs to be created or retained
- development of sites which lack private sector interest (as demonstrated by a failed RFP or other competitive means within the past two years)
- proximity of real property to a business’ existing location, or
- other important public purpose

Regardless of the reason the negotiated disposition is deemed permissible, such competition as is “feasible” under the circumstances is still required. In some instances where advertisement is not used, NYCIDA might notify neighboring businesses of an available parcel to give them the opportunity to submit a proposal, thereby effecting competition. However, in other instances, even such notification might not be feasible. Realistically, in certain situations a sole source disposition or little competition will be the only feasible alternative. For example, if a lease is for a sum below fair market value and failure to renew could threaten relocation outside the City, loss of jobs or business failure, a sole source negotiated disposition will be permissible under Title 5-A Section 2897(6)(c)(v). So too, if a space is leased at fair market value to a tenant that provides many jobs and services as well as promises future economic development to the

community, a sole source negotiated disposition might also be appropriate to preserve the jobs in the City. Similarly, if a tenant requires an adjacent available space to expand his/her business and such expansion would create new jobs and prevent the business from leaving the City, a sole source negotiated disposition at fair market value might also be appropriate. In cases where a sole source disposition is presented to NYCIDA's board of directors for approval, the board of directors should be informed of the justification for doing a sole source.

If a negotiated disposition is undertaken, in accordance with Section 2897(d) of the PAAA, in most cases not less than 90 days (or such other period as the statute may later require) prior to the disposal of the property, an explanatory statement must be submitted to the state comptroller, state director of the budget, state commissioner of general services and state legislature, a copy of the same to be maintained in NYCIDA's files.

III. Acquisitions

Real property may be purchased or acquired by eminent domain by NYCIDA for purposes of use, resale, leasing or otherwise permitting the use of the property or space therein, and may be leased by NYCIDA for purposes of use, subleasing or assignment of lease or otherwise permitting the use of the leased property or space. The purpose of such acquisition shall be to further a purpose of NYCIDA under the General Municipal Law. Except for acquisitions arising out of the enforcement of remedies, the following requirements shall apply to acquisitions by NYCIDA. The Contracting Officer or his/her designee shall approve the terms of the acquisition and obtain the approval of the Board for the same. Further, at the discretion of the President of NYCIDA or his/her designees, where NYCIDA has a right of reacquisition of previously disposed of property, it may exercise this right. In NYCIDA's consideration of the acquisition of real property for the reasons enumerated above, the following information must be provided to the Board :

1. a full description of the real property;
2. a Conforming Appraisal and any other information establishing fair market value as may be sought by the Board;
3. a description of the purpose of the acquisition, and a reasonable statement of the kind and amount of the benefit to the public resulting from such acquisition, such as the kind, number, location, wages, or salaries of jobs created or preserved as required by the acquisition, the benefits, if any, to the communities in which the property is situated as are required by the acquisition;
4. a statement of the acquisition costs as compared to the fair market value, if such acquisition costs are above the fair market value; and
5. the names of any private parties participating in the acquisition; and
6. any known environmental issues.

IV. Approvals

All purchases, sales and leases of real property by NYCIDA must be approved by its Board. Approvals may be obtained for specific purchases, sales or leases or the Board

may grant approval to purchases, sales or leases in accordance with Board-approved guidelines.

V. Monitoring and Reporting Contracts for Disposal

Prior to the disposal of the real property, the project manager involved in the disposition shall be the primary person responsible for the monitoring of compliance with the terms of the contract or other agreement or memorandum for the disposal and shall keep the Contracting Officer or his/her designee informed of all major issues that arise and of the status of the disposition.

The Contracting Officer shall cause a record to be maintained of all real property disposed of and shall cause to be prepared and transmitted all reports relating to the disposition of real property required by Title 5-A.

Exhibit F

PROCUREMENT POLICY OF THE
NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

Adopted June 13, 2006; as amended through June ~~12, 2018~~[11, 2019](#)

In accordance with relevant requirements of the General Municipal Law, the Public Authorities Accountability Act, and the Lobbying and Procurement Act, all of the foregoing being enactments of the State of New York.

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APPENDIX I RECORD OF PROCUREMENT

Exhibit A: Record of Procurement
Exhibit B: Supplemental Record of Procurement
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APPENDIX II PERMITTED CONTACTS

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Exhibit A: Affirmation
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APENDIX IV REQUIREMENTS TO BE INSERTED IN SOLICITATIONS

Section A. GENERAL

(1) **Definitions.** The following terms shall have the meanings respectively provided:

Agency means the New York City Industrial Development Agency.

Board of Directors means the Board of Directors of the Agency.

City means The City of New York.

Competitive Method of Procurement means the following Methods of Procurement: Section C, Small Purchases (but not with respect to contracts under \$5,000); Section F, Competitive Sealed Bids; Section G, Competitive Sealed Proposals; and Section H, Contractors Recommended by Construction Manager.

Construction-Related Supplies means the providing of tangible personalty, whether or not capital in nature, in connection with Construction Services, including but not limited to fixtures, furnishings and equipment.

Construction Services means construction and/or renovation activities.

Consultant Committee has the meaning provided in subsection 7 of this Section A.

NYCEDC means the New York City Economic Development Corporation in its capacity as the contract provider to the Agency for all administrative services.

Executive Director means the Executive Director of the Agency, or, upon his or her direction, the Deputy Executive Director of the Agency.

Investigation means the then-current investigatory background check used by NYCEDC.

Method(s) of Procurement means collectively and individually the following procurement procedures: (i) *Use of NYCEDC* under Section B; (ii) *Small Purchases* under Section C; (iii) *Sole Source Procurement* under Section D; (iv) *Emergency Procurements* under Section E; (v) *Competitive Sealed Bidding* under Section F; (vi) *Competitive Sealed Proposals* under Section G; (vii) *Contactors Recommended by Construction Manager* under Section H; and (viii) *Use of other Governmental Contracts* under Section I.

Minimum Requirements has the meaning provided in subsection 8 of this Section A.

Offeror(s) has the meaning provided in subsection 5 of this Section A.

Procurement Officer(s) has the meaning provided in subsection 5 of this Section A.

Public Contract has the meaning provided in subsection 6 of this Section A.

Record of Procurement has the meaning provided in subsection 4 of this Section A.

Response means a response to a Solicitation.

Responsible Person means an individual or entity that does not fall within any of the following categories: (i) an Offeror with regard to which a governmental entity has made, within the preceding four years, a finding of non-responsibility on account of (y) impermissible contacts with such governmental entity during the restricted period for a procurement being performed by such governmental entity, or (x) intentionally providing

to such governmental entity false or incomplete information; or (ii) any subsidiary or related or successor entity of the Offeror described in clause “i” preceding when such subsidiary or related or successor entity has a substantially similar function or management; and (iii) for purposes of any procurement of the Agency, an Offeror that has made an impermissible contact with the Agency during the Restricted Period applicable to such procurement, or an Offeror that has intentionally provided the Agency with false or incomplete information in connection with such procurement.

Restricted Period means, with regard to any Competitive Method of Procurement, the period of time commencing with the earliest Solicitation and ending with the final contract award and approval by the Board of Directors.

Selection Criteria has the meaning provided in subsection 9 of this Section A.

Services means professional and consulting services.

Solicitation(s) means any notice, advertisement, bid, request for proposals, or any other request that is published or otherwise disseminated by the Agency as part of one of the Competitive Methods of Procurement.

State means the State of New York.

Supplies means the providing of tangible and intangible goods, including (without limitation) software and capital items, including (with respect to machinery and equipment) installation and servicing, but not including construction-related personalty.

Supplies and/or Services means, depending on the context, all or any one of or any combination of the following: Services, Supplies, Construction Services, and/or Construction-Related Supplies.

(2) **Applicability of this Policy.** Except as provided for Public Contracts, this Policy shall apply to the procurement of contracts for all Supplies and/or Services to be purchased by the Agency for its own use and account. This Policy shall not apply to the review and approval by the Agency of any project or project entity for the purpose of providing to such project or project entity financial assistance in accordance with relevant provisions of Title 1 of Article 18-A of the General Municipal Law Chapter 24 of The Consolidated Laws of New York, as amended.

(3) **Methods of Procurement.** Every contract for Supplies and/or Services procured by the Agency shall be procured in accordance with and pursuant to one of the Methods of Procurement. Any contract for Supplies and/or Services procured by the Agency shall be procured in accordance with and pursuant to *Competitive Sealed Bidding* unless one of the other Methods of Procurement is appropriate for such procurement.

(4) **Record of Procurement.** The Executive Director shall cause to be maintained with respect to each contract procured by the Agency for Supplies and/or Services pursuant to one of the Competitive Methods of Procurement, the “**Record of Procurement**” set forth in *Appendix I*, annexed hereto.

(5) **Procurement Officer; Permitted Contacts.** For every Competitive Method of Procurement, the Executive Director or, at the Executive Director's designation, the head of the contract administration unit for NYCEDC, shall name one or more individuals to act on behalf of the Agency for the purpose of receiving questions from, and providing information to, bidders, respondents or other offerors (or if individuals are acting on behalf of entities that are bidders, respondents or other offerors, then, to such individuals) (the "**Offeror(s)**"). The person or persons so named shall be referred to as the "**Procurement Officer(s)**." During any Restricted Period, permitted contacts between the Agency (including but not limited to the Procurement Officer(s)) and Offeror(s) are limited to those described in *Permitted Contacts, Appendix II*, annexed hereto.

(6) **Public Contracts.** When the Agency funds contract payments with monies provided by the federal government and/or the State and/or the City; and where as a condition to using such monies, federal and/or State and/or City law, rules or regulations prescribe procurement requirements that exceed or conflict with those set forth in this Policy, the requirements of such laws, rules or regulations shall govern. Agency contracts that are so funded, whether in whole or in part, shall be referred to as "**Public Contracts.**"

(7) **Board of Directors; Executive Director; Selection Consultant Committee.**

(a) With the exception of contracts for \$5,000 or less, the Board of Directors shall approve all contracts for Supplies and/or Services except that in the case of Emergency Procurements, such approvals may be retroactive.

(b) The Board of Directors may (but shall not be obligated to) appoint a Selection Consultant Committee (the "**Consultant Committee**") to evaluate and recommend Offerors and their Responses for any Supplies and/or Services for which a Competitive Method of Procurement is used. If the Board appoints a Consultant Committee, then the Consultant Committee shall be responsible for recommending Offerors and Responses (as selected pursuant to a Competitive Method of Procurement) to the Board of Directors. If the Board of Directors does not appoint a Consultant Committee, the Executive Director shall make such recommendations.

(8) **Minimum Requirements.** To be considered in a Competitive Method of Procurement, an Offeror must satisfy (and to the extent possible demonstrate in its Response that it satisfies) the "**Minimum Requirements**" set forth in *Appendix III* annexed hereto.

(9) **Selection Criteria.** For all contracts for which a Competitive Method of Procurement is used, the Executive Director (or, where applicable, the Consultant Committee) shall in writing specify criteria by which potential Offerors (and their Responses) are to be evaluated (the "**Selection Criteria**").

(10) **Applicability of Differing NYCEDC Requirements.** If NYCEDC, whether by contract or decision by the Deputy Mayor for Economic Development or by other means, amends its procurement policy and procedures, this Policy shall be similarly and automatically

amended without approval by the Board of Directors except to the extent otherwise required by law.

(11) **Solicitations of the Agency.** Solicitations of the Agency shall contain the provisions set forth in *Appendix IV* annexed hereto.

(12) **MWBEs.** The Agency shall seek to encourage participation by minority and women-owned business enterprises (i.e., “MWBEs”) in providing Supplies and/or Services to the Agency.

Section B. USE OF NYCEDC

(1) The Agency may procure NYCEDC as the contractor for providing services for the administration and operation of the Agency, and may do so without competition and without complying with any other Method of Procurement. In adopting this Policy, the Board of Directors hereby finds and determines as follows: (a) Agency has no employees; (b) staff personnel of NYCEDC (or its predecessors) have, since the establishment of the Agency, administered and operated the Agency pursuant to contract between the Agency and NYCEDC; (c) as to staffing, the operational identity between the Agency and NYCEDC has always been and remains integrated; (d) it is in the best interests of the Agency to continue this contractual and operational relationship with NYCEDC; and (e) were the relationship to be discontinued, the resulting inefficiencies would be deleterious to the effective operation of the Agency, and (f) to competitively seek an entity to administer and operate the Agency would not be in the Agency’s best interest.

(2) The Agency may procure contracts for Services through NYCEDC (other than those described in subsection (1) immediately preceding) as contractor whereby NYCEDC obtains the desired services from a third party as subcontractor, and the Agency may select NYCEDC for this purpose on a non-competitive basis without the Agency otherwise complying with any other Method of Procurement; *provided, however*, that NYCEDC shall procure the subcontractor in question in accordance with NYCEDC’s then-current procurement policy and procedures. In adopting this Policy, the Board of Directors hereby finds and determines as follows: (a) for certain Services, procuring a contractor competitively when the contractor is merely acting in an administrative or pass-through capacity, is not in the best interests of the Agency; (b) selecting NYCEDC non-competitively for this administrative and pass-through role, given that NYCEDC staff personnel provide all day-to-day administrative services to the Agency, is by far the most efficient alternative to competitively selecting an entity for this purpose; and (c) by requiring NYCEDC to procure the subcontractor in accordance with NYCEDC’s own procurement policy and procedures, the Agency is fulfilling the intent of this Policy.

Section C. SMALL PURCHASES

The procurement of a contract for Supplies and/or Services for an amount greater than \$5,000 but not more than \$100,000, shall consist of using reasonable efforts to obtain Responses from at least three Offerors. With regard to procurements of \$5,000 or less, the Agency shall not

be required to engage in any procurement process. If the Agency only obtains a Response from one Offeror pursuant to this Section C, the procurement will not be considered sole-source under this Policy. In general, procurements shall not be artificially divided so as to constitute a small purchase under this Section C. Procurement under this Section C need not be based exclusively on cost.

Section D. SOLE SOURCE PROCUREMENT

(1) **For Services.** Subject to review and approval by the Consultant Committee (if one has been appointed by the Board of Directors pursuant to subsection A.7 of this Policy), the Executive Director may award a contract for Services to a consultant on a sole-source basis if either of the following circumstances applies: (a) the consultant has unique capabilities or has exclusive access to unique technical data, either of which is relevant to the progress and/or completion of a project; or (b) a consultant's recent experience with a specialized project or its geographical location, or the consultant's familiarity with local community groups, would add significantly to the overall quality of either the planning, design or construction of the project.

(2) **For Supplies.** Subject to review and approval of the Consultant Committee (if one has been appointed by the Board of Directors pursuant to subsection A.7 of this Policy), the Executive Director may award to a vendor a contract for Supplies on a sole-source basis if either of the following circumstances applies: (a) the vendor is the only vendor that makes or supplies or installs or services a unique item (new or replacement); (in other words, this is a circumstance in which the Agency would have no visible alternative); or (b) the Agency has attempted to procure a vendor through one of the Competitive Methods of Procurement but the effort has failed to produce a Response or the Responses that were received were non-responsive; and, as a consequence, the Agency must procure a vendor on a sole-source basis in order to avoid possible cost overruns or a delay in the project.

Section E. EMERGENCY PROCUREMENTS

(1) **General.** Upon determination by the Executive Director that one of the emergency circumstances described in subsection (2) following applies, the Executive Director may direct the Agency to enter into a contract for Supplies and/or Services without the benefit of a Competitive Method of Procurement; provided, however, that the Agency shall use such competitive procedures as may be practicable without endangering life, safety, health, welfare or property, and without impairing the success of the project to which the emergency pertains. Should the Agency use competition, the resulting procurement need not be based exclusively on cost.

(2) **Emergencies.** The following are emergencies under which the Executive Director may direct the Agency to enter into a contract without benefit of a Competitive Method of Procurement: (a) procurement must occur immediately in order to avoid threat to life, safety, health, welfare or property; or (b) the failure to procure immediately is likely to threaten or jeopardize the security or value of a project or the property or goods associated with a project; or (c) immediate procurement is necessary in order to avoid cost overruns or substantial delay in project completion. For purposes of clause "c," "substantial delay" in construction projects

includes, but shall not be limited to, delay in a scheduled delivery date when such date is intrinsic to the progress of the construction.

Section F. COMPETITIVE SEALED BIDDING

(1) **Applicability.** Except as provided in Sections B through E and Sections F through I, all contracts for Supplies and/or Services of the Agency shall be competitively bid under sealed bids in accordance with the provisions of this Section F. (For purposes of this *Section F*, the undefined term “bid(s)” shall be used interchangeably with the term “Response(s)”)

(2) **Invitation for Bids.** The Executive Director shall issue a Solicitation in the form of an “Invitation for Bids.” The Invitation for Bids shall include (whether by attachment or reference) a purchase description, and all contractual terms and conditions applicable to the procurement.

(3) **Public Notice.** Adequate public notice of the Invitation for Bids shall be provided by publication in the City Record a reasonable time prior to the date set forth therein for the opening of bids. In addition, the Agency may publish such notice in a newspaper of general circulation for a reasonable time prior to bid opening.

(4) **Bid Opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, the name of each bidder and the bid security, if any, shall be recorded. The record and each bid shall be open to public inspection.

(5) **Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction on the part of the bidder except as authorized in this *Section F*. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used.

(6) **Correction or Withdrawal of Bids; Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in instances in which the Executive Director finds that it is in the Agency's interest to do so. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Agency or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Executive Director.

(7) **Award.** The contract shall be awarded to the bid that (a) is lowest in cost, and (b) is responsive to the Invitation to Bids, and (c) meets the Minimum Criteria. Notwithstanding the

foregoing, any or all bids may be rejected when the Agency reasonably deems it is in the Agency's interest to do so.

Section G. COMPETITIVE SEALED PROPOSALS

(1) **Applicability.** The Agency may procure contractors through Competitive Sealed Proposals under this Section G for the following: (a) for Services; and (b) when the Executive Director determines (subject to review and approval of the Consultant Committee if one has been appointed by the Board of Directors pursuant to subsection A.7 of this Policy) that one or more of the following circumstances applies, then, under such circumstance, for Supplies, for Construction Services, and for Construction-Related Supplies: (x) Competitive Sealed Bidding is inadequate because of the importance of considerations other than cost; (e.g., the capacity of an Offeror to perform as stated in its Response; experience in the required area of knowledge; experience in the community to be served or studied; experience in the community where the contract work is to be performed); or (y) discussions with Offerors that are potential awardees are necessary in order to insure their full understanding and responsiveness to contract requirements; or (z) in the case of Construction Services, the needed expertise and experience is so specialized as to be outside the expertise and experience of most construction contractors.

(2) **Request for Proposals.** The Agency shall issue a Solicitation in the form of a “Request for Proposals.”

(3) **Public Notice.** The Agency shall provide adequate public notice for the Request for Proposals.

(4) **Receipt of Proposals.** When opening Responses for review, the Agency shall not, for the duration of the Restricted Period, disclose the contents of the Responses to competing Offerors. A “Register of Proposals” shall be prepared and shall be open for public inspection after the Restricted Period. The Register of Proposals shall contain the names of all Offerors and the prices respectively proposed in their Responses.

(5) **Selection Criteria.** For purposes of this Section G, the Selection Criteria shall include but not be limited to the following: cost; whether the Offeror has the capacity to execute the contract in accordance with the Offeror’s Response; whether the Offeror has relevant experience and/or knowledge; and if relevant, whether the Offeror has experience in and knowledge of the community to be served or studied or in which work is to be performed. Procurement under this Section G need not be based exclusively on cost.

(6) **Discussion with Responsible Offerors and Revisions to Proposals.** With respect to those Responses that the Executive Director or the Consultant Committee (as applicable) deem to be (in their sole discretion) candidates for award, the Agency may hold discussions with the relevant Offerors to clarify and fully understand their Responses. The Agency shall treat such Offerors fairly and equably, particularly in connection with providing opportunities to amend Responses so that the Agency may obtain best and final Responses. The Agency shall not divulge information derived from Responses submitted by competing Offerors except as provided in subsection 4 hereinabove

Section H. CONTRACTORS RECOMMENDED BY CONSTRUCTION MANAGER

(1) **Applicability.** When the Agency has retained a construction manager for Construction Services, any contract for Construction Services (other than the contract with the construction manager itself) or Construction-Related Supplies may be procured pursuant to the procedure set forth in this Section H in lieu of other Competitive Methods of Procurement. For purposes of this Section H, “Executive Director” shall mean Executive Director or Consultant Committee as applicable.

(2) **Selection of Contractors.** Procurement under this Section H consists of the following: (a) the construction manager recommends to the Executive Director a minimum of five potential contractors; (b) the Executive Director reviews such list of potential contractors and determines which of them the Agency considers to be appropriate; (c) the selected contractors are invited to submit Responses; (d) the construction manager and the Executive Director review the Responses and in their discretion, negotiate with some or all of the Offerors. Revisions may be permitted to obtain best and final Responses.

(3) **Award.** After consulting with the construction manager, the Executive Director (or the Consultant Committee if one has been appointed pursuant to subsection A(7) of this Policy) shall recommend to the Board of Directors the Response and Offeror deemed to be the most advantageous to the Agency. Procurement under this Section H need not be exclusively based upon cost.

(4) **Procurement of Construction Manager.** Nothing in this Policy may be construed to exempt the procurement of a construction manager by the Agency from the requirements of this Policy.

Section I. USE OF OTHER GOVERNMENTAL CONTRACTS

Notwithstanding any other provision of this Policy, if there is a federal, State or City contract for Supplies and/or Services that permits the Agency to utilize such contract or to obtain Supplies and/or Services from the contractor under substantially similar terms, the Agency may utilize such existing contract (or enter into a new contract on substantially similar terms) without using any Competitive Method of Procurement. Procurement under this Section I need not be exclusively based upon cost.

APPENDIX I

Record of Procurement

The Record of Procurement for each procurement performed by the Agency pursuant to one of the Competitive Methods of Procurement shall consist of the following:

1. The completed *Record of Procurement* (the form of which is provided in *Exhibit A* to this *Appendix I*); and
2. The completed *Supplemental Record of Procurement* (the form of which is provided in *Exhibit B* to this *Appendix I*); and
3. All of the attachments that are required in the *Record of Procurement*, including but not limited to the following additional documents in completed form:
 - a. *Record(s) of Contact* (the form of which is provided in *Exhibit C* to this *Appendix I*);
 - b. The *Affirmation* (the form of which is provided in *Exhibit A* to *Appendix III* to this Policy);
 - c. The *Certification* (the form of which is provided in *Exhibit B* to *Appendix III* to this Policy); and
 - d. The *Disclosure* (the form of which is provided in *Exhibit C* to *Appendix III* to this Policy.)

EXHIBIT A to APPENDIX I

Record of Procurement

RECORD OF PROCUREMENT

**Pursuant to the Procurement Policy of the
New York City Industrial Development Agency**

| | |
|-------------------------------------|-------------------------------------|
| Name of approved Contractor: | _____ |
| Address of Contractor: | _____ |
| Contract No.: | _____ |
| Purpose of Contract: | _____ |
| Term of Contract: | From: _____ To: _____ |

Procurement Officer: _____

Procurement Officer designated by:

Signature: _____

(Deputy) Executive Director

Printed Name:

Date:

***INSTRUCTIONS:** Complete this form upon expiration of the Restricted Period, or, if no Restricted Period applies, immediately after execution and delivery of the contract. For the definitions of all defined terms used herein, see subsection A(1) of the Policy.*

A. FOR ALL CONTRACTS:

Check only one of the following:

- 1. Is NYCEDC the Contractor?**
- 2. Is the contract for \$5,000 or less?**
- 3. Was the contract procured through Small Purchase (i.e., greater than \$5,000 but not more than \$100,000)?**
- 4. Was the Contractor a Sole-Source selection?**

5. Was the Contractor an Emergency Procurement selection?

6. Was Competitive Sealed Bidding used?

7. Were Competitive Sealed Proposals used?

8. Was the Contractor selected through recommendation by a construction manager?

9. Was the contract another government contract?

B. IF A.4 OR A.5 OR A.7 WAS SELECTED, COMPLETE ONE OF THE FOLLOWING:

1. Sole-Source Procurement

If applicable, state the relevant justification for Sole-Source Procurement under Section D of the Policy.

Signature: _____

(Deputy) Executive Director

Printed Name: _____

Date: _____

2. Emergency Procurement

If applicable, state the relevant justification for Emergency Procurement under Section E of the Policy

Signature: _____

(Deputy) Executive Director

Printed Name: _____

Date: _____

3. Competitive Sealed Proposals for Supplies and/or Construction Services and/or Construction-Related Supplies

If applicable, state the relevant justification for Competitive Sealed Proposals under subsection G(1)(ii) of the Policy.

Signature: _____

(Deputy) Executive Director

Printed Name: _____

Date: _____

C. COMPLETE ALL OF THE FOLLOWING FOR ALL CONTRACTS OTHER THAN THOSE WITH NYCEDC OR FOR WHICH EMERGENCY PROCUREMENT WAS USED:

1. **Is the Contractor a Responsible Person?**

Y N

2. **Did the Contractor complete and submit the required forms for the Investigation?**

Y N

3. **Were the Investigation results satisfactory?**

Y N

4. **Is the Investigation report attached?**

Y N

5. **Is the Contractor's *Affirmation* attached in the form set forth in Appendix III to the Agency's Procurement Policy?**

Y N

6. **Is the Contractor's *Certification* attached in the form set forth in Appendix III to the Agency's Procurement Policy?**

Y N

7. **Is the Contractor's *Disclosure* attached in the form set forth in Appendix III to the Agency's Procurement Policy?**

Y N

D. COMPLETE ALL OF THE FOLLOWING FOR ALL CONTRACTS PROCURED THROUGH A COMPETITIVE METHOD OF PROCUREMENT:

1. **Did any Offerors impermissibly contact the Agency during the Restricted Period?**

Y N

2. **If the answer to No. 7 is "yes", are completed *Records of Contact* attached?**

Y N NA

3. **Are the Selection Criteria for this Contract attached either as a separate list or are they incorporated in the Solicitations (which are also required to be attached – see no. 5)?**

Y N

4. **Did the Contractor satisfy the Selection Criteria?**

Y N

5. **Did the Contractor's Response have the lowest proposed price?**

Y N

6. **If the answer to No. 5 is "no":**

a. **Did the Response containing the lowest price come from a Responsible Person?**
 Y N NA

b. **If the answer to No. 6.a is “yes”, why was that Response/Offeror not selected?**

7. **Are copies of all Solicitations attached?**
 Y N

8. **Are copies of all Responses attached?**
 Y N

9. **Regarding approval of the Contract, are the relevant minutes of the Board of Directors attached, including the Executive Summary presented to the Board?**
 Y N

10. **Regarding approval of the Contract, are the relevant minutes of any Consultant Committee attached including the Executive Summary presented to any Consultant Committee?**
 Y N NA

E. COMPLETE THE FOLLOWING FOR CONTRACTS PROCURED BY COMPETITIVE SEALED PROPOSALS:

1. Is there a register attached that contains the names of every Offeror and the prices proposed in every Offeror's Response?

Y N

Signature

:

Title: Procurement Officer

Printed Name: _____

Date: _____

EXHIBIT B to APPENDIX I

Supplemental Record of Procurement

**SUPPLEMENTAL RECORD OF PROCUREMENT
Pursuant to the Procurement Policy of the
New York City Industrial Development Agency**

| | |
|-------------------------------------|-------------------------------------|
| Name of approved Contractor: | _____ |
| Address of Contractor: | _____ |
| Contract No.: | _____ |
| Purpose of Contract: | _____ |
| Term of Contract: | From: _____ To: _____ |

Procurement Officer: _____

Procurement Officer designated by:

Signature: _____
(Deputy) Executive Director

Printed Name: _____

Date: _____

INSTRUCTIONS: complete this form as necessary until the contract terminates. For the definitions of terms used herein, see Section A(1) of the Policy.

A. COMPLETE FOR ALL CONTRACTS OTHER THAN THOSE WITH NYCEDC:

1. **Has this Contract been terminated pursuant to State Finance Law Section 139-k (5)?**

Y N

2. **If the answer to no. 1 is “yes” please provide details and/or attachments.**

B. COMPLETE ALL OF THE FOLLOWING FOR CONTRACTS PROCURED THROUGH A COMPETITIVE METHOD OF PROCUREMENT:

1. **To the extent that the Procurement Officer has been so informed, were written complaints or protests, or appeals filed with the General Counsel of the Agency, the State Comptroller, the State Attorney General, the State Inspector General, the City District Attorney, or either the State or City Department of Investigation, with respect to the procurement process?**

Y N

2. **If the answer to no. 3 is “yes” are copies of those complaints or protests or appeals attached?**

Y N NA

3. **To the extent the Procurement Officer has been so informed, is the procurement the subject of litigation?**

Y N

4. **If the answer to no. 3 is “yes” please provide details and/or attachments.**

C. COMPLETE THE FOLLOWING FOR CONTRACTS PROCURED BY COMPETITIVE SEALED BIDDING:

1. **Did the Executive Director permit the correction or withdrawal or cancellation of one or more bids pursuant to subsection F.6 of the Policy?**

Y N

2. **If the answer to No. 1 is “yes” are those written permissions attached?**

Y N NA

Signature

:

Title: Procurement Officer

Printed Name:

Date:

EXHIBIT C to APPENDIX I

Record of Contact
under State Finance Law Section 139-k(4)

New York City Industrial Development Agency
Record of Contact
Under State Finance Law §139-k(4)

Was the person making the Contact informed that the Contact would be documented?

Yes No

To: Procurement Record Regarding _____

Procurement Contract Number: _____

From: _____
(Name and Title)

Name of Governmental Entity: _____

Date: _____

Subject: Record of contact under New York State Finance Law §139-k(4)

I had contact with the below named individual regarding the above identified procurement. The term “contact” is defined in New York State Finance Law §139-k(1)(c). In accordance with New York State Finance Law 139-k(4), the following information was obtained.

Name: _____

Address: _____

Telephone Number: _____

Place of Principal Employment: _____

Occupation: _____

Is the above named person or organization the “Offeror” in this New York City Industrial Development Agency (the “Agency”) procurement:
(Please circle) yes no

If no, was the above named person or organization retained, employed or designated by the “Offeror to:

- appear before the Agency about the Agency procurement:
(Please circle) **yes** **no**

- contact the Agency about the Agency procurement?
(Please circle) **yes** **no**

List date(s) of Contact: _____

(add additional pages as necessary)

Optional
Summarize the form (e.g., email, letter, conversation) and topic of the communication on each date of Contact: _____

(add additional pages or copies of written communications a necessary)

APPENDIX II

Permitted Contacts

During a Restricted Period the only contacts that an Offeror may have with the Agency in connection with the procurement to which the Restricted Period pertains are the following:

1. Offerors may submit Responses to the Procurement Officer.
2. When the Solicitation provides that all questions submitted by Offerors, and the answers provided by the Agency to such questions, will be disseminated to all other Offerors, then, in such instance, Offerors may submit questions in respect of the Solicitation to the Procurement Officer.
3. Offerors may participate in conferences with the Agency when the Solicitation provides that conferences will occur as part of the procurement process.
4. Offerors may file written complaints with the General Counsel of the Agency in respect of authorized, written contacts with the Procurement Officer to which the Procurement Officer did not respond in a timely fashion.
5. Offerors who have been conditionally designated as contractors may negotiate with the Agency in connection with the potential contract.
6. Offerors may request the Procurement Officer to review the award of the contract.
7. Offerors (including the apparent successful Offeror) may contact the Agency to protest, appeal or other wise cause the review of the Agency's procurement, and seek final administrative determination and subsequent judicial determination.
8. Offerors may file complaints alleging the improper conduct of procurement by the Agency with the State Attorney General, the State Inspector General, the City District Attorney, or a court of competent jurisdiction.
9. Offerors may file written protests, appeals or complaints to the State Comptroller's Office during the process of contract approval, where the State Comptroller's approval is required by law.
10. Offerors may file complaints of alleged improper conduct during the course of the Agency's procurement to the State Comptroller's Office.

APPENDIX III

Minimum Requirements

An Offeror's Response to a Solicitation, if it is to be considered by the Agency, must satisfy the following Minimum Requirements:

1. The Offeror must be a Responsible Person.
2. The Offeror must complete and submit to the Procurement Officer the forms required for the Investigation.
3. The results of the Investigation must be satisfactory to the Agency in its sole discretion.
4. The Offeror must execute and deliver to the Procurement Officer the following documents:
 - a. The *Affirmation* the form for which is provided in *Exhibit A* to this *Appendix III*;
 - b. The *Certification* the form for which is provided in *Exhibit B* to this *Appendix III*;
and
 - c. The *Disclosure* the form for which is provided in *Exhibit C* to this *Appendix III*.

EXHIBIT A to APPENDIX III

*AFFIRMATION
of Understanding of and Agreement pursuant to State Finance
Law Sections 139-j(3) and 139-j(6)(b)*

Offeror affirms that it understands and agrees to comply with the procedures of the New York City Industrial Development Agency relative to permissible contacts as required by New York State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ **Date:** _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

EXHIBIT B to APPENDIX III

*CERTIFICATION
of Compliance with State Finance Law Section 139-k(5)*

Offeror Certification:

I certify that all information provided to the New York City Industrial Development Agency with respect to New York State Finance Law §139-k is complete, true and accurate.

By: _____ **Date:** _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

EXHIBIT C to APPENDIX III

*DISCLOSURE
of Prior Non-Responsibility Determinations*

Offeror Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any governmental entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of New York State Finance Law §139-j (Please Circle):

No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity? (Please circle):

No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-responsibility: _____

(Add additional pages as necessary)

5. **Has any governmental entity terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):**

No Yes

6. **If yes, please provide details below.**

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding : _____

(Add additional pages as necessary)

Offeror certifies that all information provided to the New York City Industrial Development Agency with respect to New York State Finance Law §139-k is complete, true and accurate.

By: _____ **Date:** _____
Signature

Name: _____

Title: _____

APPENDIX IV

Requirements to be inserted in Solicitations

- I. **Every Solicitation will have annexed to it a copy of this Policy (including all attachments).**
- II. **The following language, summarizing requirements of the State Finance Law pertinent to governmental procurement, must be substantially inserted in every Solicitation of the Agency.**

“Pursuant to New York State Finance Law Sections 139-j and 139-K, this [Invitation for Bid]/[Request for Proposals] includes and imposes certain restrictions on communications between the Agency and a [bidder]/[respondent] during the procurement process. A [bidder]/[respondent] is restricted from making contacts from the earliest notice of intent to solicit [an invitation for bid]/[a request for proposals] through final award and approval of the contract by the Agency and, if applicable, the Office of the State Comptroller (the “Restricted Period”), to other than designated staff of the Agency unless it is a contract that included among certain statutory exceptions set forth in New York State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, is identified in this [Invitation for Bid]/[Request for Proposals]. Members of contract staffing, acting on behalf of the Agency, are also required to obtain certain information when contracted during the Restricted Period and make a determination of the responsibility of the [bidder]/[respondent] pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the [bidder]/[respondent] is debarred from obtaining governmental procurement contracts. Further information about these requirements can be found in the *Procurement Policy of the New York City Industrial Development Agency*, a copy of which is annexed to this [Invitation for Bid]/[Request for Proposals].”

- III. **Every Solicitation must notify Offerors that the resulting contract will provide the Agency with a right of termination to be exercised in accordance with provisions of the State Finance Law that are pertinent to governmental procurement. Accordingly, every Solicitation will contain substantially the notice provided below.**

“The Agency will require that the contract that the Agency enters into with the [awarded bidder]/[selected respondent] contain the following right of termination in the Agency:

The Agency reserves the right to terminate this contract in the event it is found that the certification filed by the [bidder]/[respondent] in accordance with New York State Finance Law, Section 139-k, was intentionally false or intentionally incomplete. Upon such finding, the Agency may exercise its termination right by providing written notification to the [bidder]/[respondent] in accordance with the written notification terms of this contract.”

Exhibit G

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
MISSION STATEMENT AND PERFORMANCE MEASUREMENTS
Board of Directors Meeting
June ~~12, 2018~~11, 2019

WHEREAS, the 2009 Public Authorities Reform Act requires New York City Industrial Development Agency (“NYCIDA”) to annually review its mission statement and measurements by which the performance of NYCIDA and the achievement of its goals may be evaluated; and

WHEREAS, for Fiscal Year ~~2019~~2020 NYCIDA proposes to adopt the mission statement and performance measurements as indicated in Attachment A hereto; and

NOW, THEREFORE, RESOLVED that the Board approves the mission statement and performance measurements for use in Fiscal Year ~~2019~~2020, as set forth in Attachment A.

ATTACHMENT A

Authority Mission Statement and Performance Measurements

Name of Public Authority:

New York City Industrial Development Agency (NYCIDA)

Public Authority's Mission Statement:

The mission of the New York City Industrial Development Agency (IDA) is to encourage economic development throughout the five boroughs, and to assist in the retention of existing jobs, and the creation and attraction of new ones.

Proposed Adoption Date: June ~~12, 2018~~ 11, 2019

List of Performance Measurements:

- Number of contracts closed (current fiscal year and previous fiscal year)
- Amount of private investment leveraged (current fiscal year and previous fiscal year)
- Total net New York City tax revenues generated in connection with closed contracts (current fiscal year and previous fiscal year)
- Projected three-year job growth in connection with closed projects (current fiscal year and previous fiscal year)
- Current total jobs in connection with projects that commenced operations in FY ~~2015~~2016¹ as compared to total jobs at the time of application for such projects
- Current total jobs in connection with projects that commenced operations in FY ~~2015~~2016² as compared to the three-year total job projections stated in the applications for such projects
- Square footage of buildings/improvements receiving benefits (current fiscal year and previous fiscal year)
- Number of projects that received a field visit (current fiscal year and previous fiscal year)
- Percentage of projects that received a field visit (current fiscal year and previous fiscal year)
- Percentage of projects in good standing³ (current fiscal year and previous fiscal year)

¹ Also includes projects that closed in FY ~~2015~~2016 but commenced all project operations prior to the closing date.

² Also includes projects that closed in FY ~~2015~~2016 but commenced all project operations prior to the closing date.

³ Defined as those projects that did not receive a Notice of an Event of Default by the end of the Fiscal Year.

Exhibit H

Project Summary

BOP SE LLC (the “Company”), an affiliate of Brookfield Property Partners, L.P. (“Brookfield”), is the developer of a Hudson Yards Commercial Construction Project (“HYCCP”). The Company will construct an approximately 2,000,000 gross square foot, 62-story, LEED certified, class-A office building on an approximately 62,000 square foot parcel of land (the “Project” or “Two Manhattan West”). Total Project costs are estimated to be approximately \$2.4 billion and the Project will be funded with a combination of commercial loans and Company and affiliate equity.

Project Location

375 9th Avenue
New York, New York 10001

Actions Requested

- Approval of an Inducement and Authorizing Resolution for a HYCCP
- As part of a SEQRA determination, adopt the Agency Findings Statement attached to the Resolution as Exhibit A

Anticipated Closing

February 2020

Impact Summary

| | |
|--|------------------------|
| Employment | |
| Jobs at Application: | 0 |
| Projected Tenant Jobs at Project Location (Year 3): | 2,506 ¹ |
| Total Jobs (full-time equivalents) | 2,506 |
| Projected Average Hourly Wage² | \$ 95.10 |
| Estimated City Tax and Other Revenues (NPV, 24 years @ 6.25%)³ | |
| Impact of Construction Activity | 22,931,147 |
| Impact of Operations Jobs | 866,659,627 |
| Real Property Taxes – PILOTs | 169,306,247 |
| Payment in Lieu of Mortgage Recording Tax (PILOMRT ⁴) | 11,608,056 |
| Fees Payable to HYIC ⁵ | 1,775,679 |
| Total Tax and Other Revenue, Gross of IDA Benefits | \$1,072,280,756 |
| Estimated Cost of Benefits Requested: New York City | |
| Real Property Taxes – PILOT Benefits ⁶ | \$ 78,919,072 |
| Overall Total Cost to NYC | \$ 78,919,072 |

¹ Estimate is net of job anticipated to be relocated from within NYC. Total jobs at the site are estimated to be 5,568.

² The average wage is derived from data from NYSDOL, Quarterly Census of Employment and Wages (QCEW).

³ The following is based on the net impact of the Project as determined by the Return to the City analysis.

⁴ PILOMRT is considered a benefit to the City because HYIC receives all of such PILOMRT.

⁵ The total project fee is set at 3% of the NPV of the PILOT savings, with 75% of such fee due to HYIC and 25% of such fee due to the Agency. The Agency’s portion of the fee is capped at \$750,000. The portion of the project fee due to HYIC is considered a benefit to the City. The calculation of the total project fee assumes that the Project will qualify for Zone 2, Second category PILOT benefits as of the date that the Project closes. If less benefits are actually available under UTEP as of the date of closing, then the PILOT savings will be less, and the total project fee will decrease.

⁶ The PILOT Benefit is calculated (on an NPV basis) as the difference between the property tax liability in the absence of PILOT Benefits and the estimated PILOT, which represents the foregone property tax revenues. PILOT is estimated based on the PILOT Calculation Tables set forth in the UTEP. The PILOT Benefit was calculated as the maximum possible benefit that the Project could qualify for under the UTEP as of the date of the Agency’s board meeting, but it is possible that less benefits may be available under UTEP as of the date of closing of the Project.

BOP SE LLC

| Costs of Net City Benefits Per Job ⁷ | | |
|--|----|---------|
| Estimated Net Cost of NYCIDA Benefits per Total Job in Year 3 | \$ | 31,492 |
| Estimated Net City Tax and Other Revenue per Total Job in Year 3 | \$ | 427,885 |

Sources and Uses

| Sources | Total Amount | Percent of Total Financing |
|------------------|------------------------|----------------------------|
| Commercial Loans | \$1,446,000,000 | 60% |
| Equity | 977,000,000 | 40% |
| Total | \$2,423,000,000 | 100% |

| Uses | Total Amount | Percent of Total Costs |
|---------------|------------------------|------------------------|
| Land Costs | \$483,000,000 | 20% |
| Hard Costs | 1,260,000,000 | 52% |
| Soft Costs | 237,000,000 | 10% |
| Leasing Costs | 328,000,000 | 13% |
| Contingencies | 115,000,000 | 5% |
| Total | \$2,423,000,000 | 100% |

Fees

| | Paid At Closing | On-Going Fees (NPV, 24 Years @ 6.25%) |
|-------------------|--------------------|--|
| Application Fee | \$75,000 | |
| Agency Fee | 591,893 | |
| HYIC Fee | 1,775,679 | |
| Project Counsel | Hourly Rates | |
| Annual Agency Fee | 25,000 | \$306,639 |
| Total | \$2,467,572 | \$306,639 |
| Total Fees | \$2,774,211 | |

Financing Summary

Total Project costs are estimated to be approximately \$2.4 billion and are expected to be financed with an approximately \$1.446 billion senior secured construction loan likely to be provided by a banking syndicate, and approximately \$977 million of Company and affiliate equity.

Hudson Yards UTEP Area

The Hudson Yards UTEP Area is an area on the west side of Manhattan defined in the Agency's UTEP for the purpose of providing tax incentives to encourage development in the area. Recognizing that the area presents unique engineering and financial challenges to large scale development, Hudson Yards Commercial Construction Projects ("HYCCPs") are eligible for IDA benefits intended to encourage investment in infrastructure and increase the feasibility of projects in the area. A HYCCP is a project eligible for financial assistance from the Agency because it (a) is located in the Hudson Yards UTEP area, (b) is new construction of non-residential, commercial facilities, and (c) is of sufficient size and density.

⁷ The number of jobs to be created in year three was used in the following calculations.

BOP SE LLC

The Project meets the qualifications for a HYCCP, as (a) it is located at 375 9th Avenue in the Hudson Yards UTEP area, (b) it is new construction of non-residential commercial office space, and (c) the Project's size and density of approximately 1,507,000 zoning square feet and 62-stories exceeds 90% of the zoning square footage commercially available at the site, and is greater than 1,000,000 zoning square feet required by the Agency's UTEP for HYCCPs.

With respect to the Project, the UTEP allows the Agency to provide financial assistance consisting of: (i) a real property tax exemption, the recipient of which shall pay a payment in lieu of taxes ("PILOT") determined by the PILOT calculation tables provided in the UTEP; and (ii) a partial mortgage recording tax exemption for the mortgages securing construction and permanent financing for the Project, provided that the Company must make a payment in lieu of mortgage recording tax ("PILOMRT") in an amount equal to the mortgage recording taxes that would otherwise be due. In addition, a partial exemption from mortgage recording tax will also be utilized by the Agency with respect to mortgages to be recorded to secure repayment of PILOT and no PILOMRT will be due with respect to such mortgages.

This Project is categorized as a Zone 2, Category 2 HYCCP of the Hudson Yards UTEP Area as it is (a) within the geographic boundaries of Zone 2 between 8th and 10th Avenues, and (b) within the first 15,000,000 zoning square feet to be built in Zone 3. As such, the Project is required to pay a PILOT equal to 80% of the actual real property taxes for years 1 through 4 after the construction period, with increases in years five through 19 according to the UTEP schedule for Zone 2 Category 2 projects.

The PILOT and PILOMRT generated by the Project are assigned and pledged as a source of repayment of bonds issued by Hudson Yards Infrastructure Corporation ("HYIC"), the proceeds of which funded the extension of the No. 7 Subway line to the area, the creation of a system of parks, public open spaces and streets, and the acquisition of property and development rights from the MTA.

The Project and Brookfield Properties Manhattan West Development

The Project, Two Manhattan West, will be an approximately 2,000,000 gross square foot, 62-story, LEED certified office building. The Project is scheduled to break ground in Summer 2020 and to be completed in Summer 2023. Based on an analysis by the Agency, it is estimated that construction of the Project will generate approximately 5,352 direct FTE construction jobs, and, at full occupancy, it is estimated that there will be up to 5,568 FTE jobs at the Project in office and building services, with an estimated 2,506 net new FTE jobs at the Project in office and building services.

The Project is one of several buildings at Brookfield's Manhattan West development, a 7.14 million gross square foot commercial development located on a five acre site in the Hudson Yards UTEP area between 33rd and 31st streets to the north and south, respectively, and Tenth Avenue and Ninth Avenue to the west and east, respectively. The site is located east of, and adjacent to, the Oxford/Related Hudson Yards development a portion of which was constructed over the MTA LIRR Eastern Rail yard. In addition to the Project, Brookfield has completed construction or renovation of office, residential, hotel and retail buildings at the site. A major engineering and financial challenge associated with the site is the presence of an operational open railroad yard leading into Penn Station. To address this challenge, Brookfield has constructed a large concrete and steel tension cable decking platform over the railroad yards, which supports the development of the buildings and park above.

Planned and completed construction or renovation on the Manhattan West site includes the following buildings and features:

- One Manhattan West, a 2,100,000 square foot, 67-story office building
- Two Manhattan West, a 2,000,000 square foot, 62-story office building
- Three Manhattan West (The Eugene), an 800,000 square foot, 62-story residential building (844 apartments, 103 affordable)
- Four Manhattan West (The Pendry), a 174,000 square foot, 21-story hotel (164 guest rooms)
- Five Manhattan West, a 1,700,000 square foot, 17-story office building
- The Lofts, a 200,000 square foot, 13-story boutique office building

BOP SE LLC

- 240,000 square feet of ground floor and second level retail space
- A 2-acre public park

Two of the office towers on the site (One Manhattan West and Two Manhattan West) qualify as HYCCPs. One Manhattan West received IDA approval in February 2015, and construction is anticipated to be completed in 2019. Two Manhattan West is anticipated to receive IDA approval (authorization) in late 2019, to commence construction in 2020 and to be completed in 2023.

Project Performance and Projections

The development of the Hudson Yards area is extending the midtown office market and transforming the western side of Manhattan into an important mixed-use district. Several public initiatives established in 2005/2006 are catalyzing ongoing private development in the area. These initiatives include the 2005 rezoning, the construction of public infrastructure (No. 7 Subway extension, public parks and street construction), and the provision of tax incentives for qualifying commercial office developments. Construction of the public infrastructure was financed by \$3 billion in HYIC infrastructure bond issuances in 2006 and 2012.

The City Office of Management and Budget (OMB) commissioned Cushman & Wakefield to perform three key Demand and Development studies of the Hudson Yards area (2006, 2011, 2017) to support the revenue projections underpinning HYIC's infrastructure bond issuances. The reports are consistent in their forecast that the NYC office market can support the development of approximately 25 million square feet of new office space in the Hudson Yards area over a long-term (30-year) period.

A key assumption of the Cushman & Wakefield studies is that the city's public initiatives will be carried out as planned, and also that these initiatives will successfully catalyze a critical mass of new office development, which will both anchor and encourage additional future development in the Hudson Yards area in support of its long-term viability as a new commercial district.

As of June 2019, the public initiatives have been successfully carried out, and have achieved substantial success in catalyzing a critical mass of new office development. Since the 2005 rezoning, the No. 7 Subway extension has been completed, public park and street construction is well underway, and approximately 13.8 million square feet of new office space has been completed or is under construction in the Hudson Yards area⁸ These commercial office projects indicate that the Hudson Yards area is gaining traction as viable new commercial area, and also that there is development capacity to support the Project and additional commercial development.

Inducement

- I. The Hudson Yards UTEP area, which includes the Project site, is part of an emerging district that the City of New York recognizes is vital to its future. Prior to the Hudson Yards project, the area had been under-developed for many years and required infrastructure enhancement and expansion to be developable.
- II. HYIC has issued \$3 billion in bonds and borrowed \$350 million through a term loan facility in order to fund the undertaking of projects such as the extension of the No. 7 subway line and the creation of public and green spaces in the area.
- III. In 2006, the Agency has approved in its UTEP that it would confer tax exemptions on HYCCPs but would require PILOT, sales and use taxes, and mortgage recording taxes.
- IV. The City Council approved the assignment of PILOTs to HYIC in order to repay the issued bonds and the Agency entered into an agreement assigning such payments in lieu of taxes to HYIC.
- V. If the Project is not approved, a vital City-supported project or initiative may be delayed or otherwise adversely affected.

⁸ This figure includes several major buildings that are part of the Related/Oxford Hudson Yards Phase 1 development site over the Western rail yards between 10th and 11th avenues (10, 20, 30, 35, 50, 55 Hudson Yards, Hudson Commons), Brookfield's One Manhattan West building and Tishman's 60 Hudson Blvd building.

BOP SE LLC

- VI. Without the discounted PILOT for which the Project is eligible, the Company has represented that the required gross rental rates would be in excess of market rates and it would become impossible to attract tenants in the current market.

UTEP Considerations

The Agency finds that the Project complies with the Agency's policies, including the Uniform Tax Exemption Policy ("UTEP"), taking into account the following considerations:

- I. The Project will create or retain a significant number of permanent, private-sector jobs.
- II. The value of Financial Assistance is modest relative to the impact of the Project.
- III. The Project will generate approximately \$2.4 billion in private-sector investment.
- IV. The Project will create additional sources of revenue for the City, including payments in lieu of taxes that will be used to repay bonds issued by HYIC for infrastructure improvements and related uses in the Hudson Yards area.

Applicant Summary

Brookfield is a global office property company that owns, manages, and develops premier assets in the world's most dynamic and resilient markets. Brookfield's signature properties define the skylines of cities around the globe including New York, Washington D.C., Houston, Los Angeles, Toronto, Calgary, London, Sydney and Perth. Brookfield's portfolio attracts major financial, energy, government, and professional service organizations.

Alan Chun - Senior Vice President, Development

Mr. Chun is Senior Vice President of Development at Brookfield, U.S. Commercial Operations, where he leads Brookfield's New York City commercial office development team and oversees projects including the company's Manhattan West project, the major mixed-use development located in the Hudson Yards District of Manhattan. Between 2012 and 2014, he served as President of Retail Real Estate Investments in Brazil, overseeing a portfolio of urban retail investments in Sao Paulo, Rio de Janeiro, and Minas Gerais owned and managed by Brookfield. Prior to joining Brookfield, Mr. Chun spent 11 years at Vornado Realty Trust, where he served as Vice President and led various development projects in the New York metropolitan area and abroad. Mr. Chun holds a bachelor's degree from Dartmouth College, a Master of Architecture from Harvard University, and an MBA from the Wharton School at the University of Pennsylvania. He is a licensed architect in the state of New York. Mr. Chun currently serves on the board of the 34th Street Partnership Business Improvement District.

Sabrina Kanner - Executive Vice President, Design and Construction

Since 1982, Ms. Kanner has overseen design and construction in the US for Brookfield and its predecessor Olympia & York. She joined the construction division of Olympia & York in 1982 and was appointed to run Olympia and York's construction company in 1986. In her 36 year tenure with the company, Ms. Kanner has played a key role in the construction, design and development or redevelopment of over 40 million square feet of signature Brookfield projects such as World Financial Center/ Brookfield Place, 300 Madison Avenue, Bay Adelaide Centre, the restoration/renovation of the Winter Garden at World Financial Center after 9/11, and currently Manhattan West. Ms. Kanner is a member of WX and sits on the Boards of Directors of the New York Building Congress (Treasurer), The Salvadori Center, The Opus Group, The Regional Plan Association, Urban Green Council, and Cedar Realty Trust and sits on the Board of Trustees of The National Building Museum (Secretary) and The Beverly Willis Architecture Foundation.

John P. Durschinger - Senior Vice President, Global Design

Mr. Durschinger is responsible for leading the design of new development for the Brookfield portfolio of properties globally. He also directs major renovations of existing properties within the portfolio. Recent projects include Bay Adelaide Centre East, Brookfield Place Calgary, Manhattan West, 100 Bishopsgate, London Wall Place, ICD-Brookfield Place Dubai, Brookfield Place Perth and Wynyard Place Sydney. Prior to joining Brookfield in 2006, Mr. Durschinger was at Skidmore, Owings & Merrill LLP. In his tenure there, his roles included Associate Partner, Senior Designer and Project Manager. His projects included 300 Madison Avenue in New York City, a one million square feet office

BOP SE LLC

building developed by Brookfield Properties for CIBC, as well as other major commercial, mixed use, and hospitality projects throughout the United States and Internationally. Mr. Durschinger received his BARCH at California Polytechnic State University, San Luis Obispo, and his MARCH at Columbia University in the City of New York.

Employee Benefits

Because the Project is to-be-leased or sold commercial construction, and tenants have not yet been identified, the benefits that employees at the Project location will receive upon completion of the Project are not known at this time.

Recapture

As defined by UTEP, if a HYCCP is not commenced or completed by the applicable dates specified in the legal documents pertaining to the project, the Project's status as a HYCCP shall be subject to termination, in the Agency's discretion.

SEQRA Determination

Agency staff has reviewed the environmental impacts of the proposed actions and recommend that the Agency adopt a SEQRA determination that such actions will not generate any additional significant adverse environmental impacts beyond those identified and analyzed in the (a) the Hudson Yards Final Generic Environmental Impact Statement ("FGEIS") for the No. 7 Extension Hudson Yards Rezoning and Development Program, approved by the New York City Planning Commission and the MTA in November 2004 and (b) their Co-Lead Agencies Findings Statement, dated November 22, 2004. Accordingly, Staff recommends that the Agency adopt the Agency Findings Statement attached as Exhibit A to the attached resolution, which includes the finding that the proposed Agency actions in connection with the Project will not generate any additional significant adverse environmental impacts beyond those identified and analyzed in the FGEIS and therefore that a supplemental FGEIS need not be prepared for such actions.

Due Diligence

The Agency conducted a background investigation of the Company and its principals and found no derogatory information.

| | |
|-----------------------------|--|
| Compliance Check: | Satisfactory |
| Living Wage: | To be Compliant |
| Paid Sick Leave: | To be Compliant |
| Affordable Care Act: | ACA Coverage to be Offered |
| Bank Account: | HSBC |
| Bank Check: | Relationships are reported to be satisfactory. |
| Suppliers Check: | Not Applicable |
| Customers Check: | Not Applicable |
| Unions: | Building and Construction Trades Council including the United Brotherhood of Carpenters, International Brotherhood of Electrical Workers, Laborers' International Union of North America, United Association of Plumbers Local No. 1, Sheet Metal Workers' International Association, and the International Brotherhood of Teamsters |

BOP SE LLC

Vendex Check: Satisfactory

Attorney: Tal Golomb, Esq.
Fried, Frank, Harris, Shriver & Jacobson LLP
1 New York Plaza
New York, NY 10004

Accountant: Deloitte & Touche LLP
30 Rockefeller Plaza
New York, NY 10112

Community Board: Manhattan, CB #4

May 30, 2019

Mr. Krishna Omolade
Assistant Vice President
NYC IDA
New York City Economic Development Corporation
110 William Street
New York, New York 10028

Re: BOP SE LLC UTEP PILOT Abatement

Dear Mr. Omolade:

This letter is being delivered by BOP SE LLC (the "Applicant") for the purpose of obtaining financial assistance in the form of UTEP PILOT abatements from the New York City Industrial Development Agency (the "NYCIDA") for Two Manhattan West (the "Project") to be developed by Brookfield.

The Project will be a 62 story best-in-class office tower located at 31st Street and 9th Avenue, on the southeast corner of Brookfield's eight-acre Manhattan West Development. The Project will be the final building to be constructed at Brookfield's flagship mixed-use development site located in the Hudson Yards District. When complete, the Project will total approximately 2,000,000 square feet of Class A office space in one of the fastest growing and dynamic neighborhoods in Manhattan, a result of the City's rezoning vision and investment in public transportation infrastructure and open space (extension of the 7 Line, and Hudson Park and Boulevard).

The UTEP PILOT abatements are critical to the economic viability of the Project. Given the current market fundamentals in the Hudson Yards area, gross market rents do not support new commercial development of this scale. Brookfield views the PILOT abatements as essential to the success of the Project and of the Hudson Yards District in general. Additionally, with these abatements, the City stands to gain thousands of construction and tenant jobs.

The ability to provide high-quality, efficient office space that attracts new and expanding businesses is key to retaining New York City's position as one of the world's premier business capitals. We believe firmly establishing the Hudson Yards District as a world-class office district is largely made possible through the UTEP PILOT program. Brookfield looks forwards to working closely with the NYCIDA and the City's other agencies over the next few years in developing this Project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan Chun", with a long, sweeping flourish extending to the right.

Alan Chun
Senior Vice President, Development

Exhibit I

RESOLUTION INDUCING THE FINANCING OF A COMMERCIAL FACILITY TO BE DEVELOPED BY BOP SE LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS A HUDSON YARDS COMMERCIAL CONSTRUCTION PROJECT (STRAIGHT-LEASE) TRANSACTION AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF AGREEMENTS IN CONNECTION THEREWITH

WHEREAS, New York City Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York (the “State”) and to improve their prosperity and standard of living; and

WHEREAS, BOP SE LLC, a Delaware limited liability company (the “Applicant”), has entered into negotiations with officials of the Agency in connection with the construction by the Applicant of an approximately 2,000,000 gross square foot, class-A office building to be known as Two Manhattan West and to be constructed on an approximately 62,000 square foot parcel of land comprising a portion of Block 729, Lot 51 on the current Tax Map for the Borough of Manhattan, located at 375 9th Avenue, New York, NY 10001 (such building is referred to herein as the “Facility”, and the construction, by the Applicant, of the Facility is referred to herein as the “Project”); and

WHEREAS, the Applicant has submitted to the Agency a Project Application (the “Application”) pursuant to the Hudson Yards Commercial Construction Project Program, as described in the Agency’s Uniform Tax Exemption Policy, as amended, to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the construction of the Facility will generate approximately 5,352 direct full-time equivalent construction jobs and, at full occupancy, it is estimated that over 5,568 full-time equivalent office and build service jobs will be created at the Facility and that, based upon the financial assistance provided through the Agency, the Applicant desires to proceed with the Project; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicant are necessary to induce the Applicant to proceed with the Project; and

WHEREAS, in order to finance a portion of the costs of the Project, the Applicant intends to enter into a loan agreement with one or more banks or other financial institutions acceptable to the Applicant and the Agency (collectively, the “Lender”), pursuant to which the Lender will lend approximately \$1,446,000,000 to the Applicant, and the Agency and the Applicant will grant one or more mortgage(s) on the Facility to the Lender (collectively, the “Lender Mortgage”), with the remaining costs of the Project to be financed with equity or other sources; and

WHEREAS, for purposes of refinancing from time to time the indebtedness secured by the Lender Mortgage (the “Original Mortgage Indebtedness”) (whether such refinancing is in an amount equal to or greater than the outstanding principal balance of the Original Mortgage Indebtedness), the

Applicant may from time to time desire to enter into new mortgage arrangements, including but not limited to consolidation with mortgages granted subsequent to the Lender Mortgage; and therefore the Applicant may request the Agency to enter into the mortgage instruments required for such new mortgage arrangements (“Refinancing Mortgages”); and

WHEREAS, in order to provide financial assistance to the Applicant for the Project, the Agency intends to grant the Applicant financial assistance through a straight-lease transaction in the form of real property tax abatements and mortgage recording tax exemptions all pursuant to the Act;

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the Project and the provision by the Agency of financial assistance to the Applicant pursuant to the Act in the form of a straight-lease transaction will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Applicant to proceed with the Project. The Agency further determines:

(a) that the Project shall not result in the removal of any facility or plant of the Applicant or any other occupant or user of the Project from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Applicant or any other occupant or user of the Project located within the State of New York (but outside of the City);

(b) that no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York; and

(c) that not more than one-third of the total Project cost is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicant for the Project, a straight-lease transaction is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes the Applicant to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Applicant that (i) leasehold title to or other interest of the Agency in the Facility shall be in the Agency for purposes of granting financial assistance, and (ii) the Applicant is hereby constituted the agent for the Agency solely for the purpose of effecting the Project, and neither the Agency nor any of its members, directors, officers, employees, agents or servants, shall have any personal liability for any such action taken by the Applicant for such purpose.

Section 4. The execution and delivery of a Company Lease Agreement from the Applicant leasing the Facility to the Agency, an Agency Lease Agreement from the Agency subleasing the Facility to the Applicant (the "Lease Agreement"), the Lender Mortgage and the Refinancing Mortgages, PILOT Mortgages on the Facility from the Agency and the Applicant to the Agency and Hudson Yards Infrastructure Corporation ("HYIC") securing the Applicant's obligations to make certain payments-in-lieu of real property taxes under the Lease Agreement (the "PILOT Mortgages"), Assignments of PILOT Mortgages from the Agency to HYIC, an Assignment in respect of certain payments-in-lieu of real property taxes from the Agency and The City of New York to HYIC and such subordination agreements and subordination, recognition, non-disturbance and/or attornment agreements as are necessary or proper to carry out the intent of this Resolution, and the acceptance of a Guaranty Agreement from the Applicant, in favor of the Agency (the "Guaranty Agreement") (each document referenced in this Section 4 being, collectively, the "Agency Documents"), each being substantively the same as approved by the Agency for prior transactions, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Applicant to assist in the Project.

Section 6. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity and neither the members nor the directors of the Agency nor any officer executing any Agency Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 7. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution. The Agency recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications

to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 8. Any expenses incurred by the Agency with respect to the Project (including the expenses, fees and costs of the Agency's legal counsel) shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, officers, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project and the financing thereof.

Section 9. This Resolution is subject to approval based on an investigative report with respect to the Applicant. The provisions of this Resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 8 hereof).

Section 10. Pursuant to the State Environmental Quality Review Act, being Article 8 of the New York State Environmental Conservation Law and the implementing regulations, the Agency, as lead agency, hereby makes the findings set forth in Exhibit A hereto and incorporated by reference herein.

Section 11. In connection with the Project, the Agency intends to grant the Applicant real property tax abatements and mortgage recording tax exemptions. The Agency will assign to HYIC payments in lieu of real property taxes and payments in lieu of mortgage recording taxes in respect of the Lender Mortgage and any Refinancing Mortgages. The Agency will also utilize mortgage recording tax exemptions to exempt certain mortgages securing the Applicant's obligation to make payments in lieu of real property taxes. The foregoing exemptions may be transferred to subsequent purchasers of all or a portion of the Facility.

Section 12. This Resolution shall take effect immediately.

Adopted: June 11, 2019

Accepted: _____, 2019

BOP SE LLC

By: _____

Name:

Title:

EXHIBIT A

NYCIDA Findings Statement
Pursuant to the New York State Environmental Quality Review Act

Attached.

**NYCIDA FINDINGS STATEMENT
PURSUANT TO THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT**

1. INTRODUCTION AND DESCRIPTION OF THE PROPOSED ACTION

This Findings Statement has been prepared in accordance with Article 8 of the Environmental Conservation Law, the State Environmental Quality Review Act (SEQRA), and its implementing regulations promulgated at 6 NYCRR Part 617.

This Findings Statement sets forth the findings of the New York City Industrial Development Agency (the "Agency") with respect to potential environmental impacts related to a Hudson Yards Commercial Construction Project straight-lease transaction, for the benefit of BOP SE LLC or its affiliate. The proposed Project is located on the southeast corner of Brookfield's 5-acre Manhattan West site and fronts 31st Street and 9th Avenue in the Midtown West submarket. When completed, the Project is anticipated to be approximately 62-stories, and approximately 2,000,000 gross square feet (gsf).

The proposed project will be located on Block 729, Lot 51 on the current Tax Map of the Borough of Manhattan, at 375 9th Avenue, Manhattan, New York 10001. Benefits that would be conferred by the Agency consist of payments in lieu of New York City real property taxes and New York City and State mortgage recording taxes.

As described in further detail below, this finding is based on an August 8, 2006 action by the Agency, in which the Agency adopted the Hudson Yards Amendment to the Uniform Tax Exemption Policy ("UTEPA"), establishing the parameters by which the Agency would confer financial assistance to Hudson Yards Commercial Construction Projects, consisting of exemptions from City real property taxes, City and State mortgage recording taxes, and City and State sales and use taxes. The Agency also entered into the PILOT Assignment and Agreement, dated as of December 1, 2006, as amended and restated as of May 1, 2017, with the City and Hudson Yards Infrastructure Corporation ("HYIC"), pursuant to which the Agency has assigned to HYIC its rights in and to certain payments in lieu of taxes ("PILOTs"), which will include PILOTs from the proposed project.

2. RELEVANT DOCUMENTS

This Findings Statement is based on: (a) No. 7 Subway Extension - Hudson Yards Rezoning and Development Program Final Generic Environmental Impact Statement ("FGEIS"), approved by the New York City Planning Commission ("CPC") and the Metropolitan Transportation Authority ("MTA") in November 2004; and (b) their Co-Lead Agencies Findings Statement, dated November 22, 2004, (the "Co-Lead Agencies Findings Statement"), The Executive Summary of the FGEIS can be found on the [MTA website](#), and the Co-Lead Agencies Findings Statement can be found on the New York City Mayor's Office of Environmental Coordination website, under [CEQR Project #03DCP031M](#). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Co-Lead Agencies Findings Statement.

a. THE FGEIS

The CPC and the MTA were designated co-lead agencies for the environmental review of the FGEIS Proposed Action. The FGEIS analyzed four projects (collectively, the "FGEIS Proposed Action"): 1) the proposed rezoning of the Project Area; 2) the extension of the No. 7 subway line to 34th Street and Eleventh Avenue; 3) construction of a Multi-Use Facility to function, in part, as the stadium for the New York Jets; and 4) the Jacob K. Javits Convention Center expansion project.

As the FGEIS analyzed multiple project elements that would be developed or implemented over a period of 20 years or more, two analysis years, 2010 and 2025, were considered in the FGEIS. Scenarios with and without the relocation of Madison Square Garden were considered. Construction impacts in the FGEIS were assessed for the estimated peak years of construction for the two phases: 2006 and 2017. In 2006, construction activities for the proposed No. 7 Subway Extension and other large-scale elements of the Hudson Yards project would be under way. A second, more generalized assessment was included for a later period, 2017, when substantial real estate development allowed under the rezoning would be under way.

In addition to analyzing the four large-scale planning initiatives that collectively comprised the FGEIS Proposed Action, the FGEIS also analyzed 21 alternatives. Alternatives were derived from options identified during the public scoping process, developed in previous land use and transportation studies, identified through the internal planning processes of the various project sponsors, or suggested in comments on the draft generic environmental impact statement. Alternative S, developed by the Department of City Planning in response to public comments, adjusted the FGEIS Proposed Action to retain the same overall level of new development, but with more residential and approximately 2 million square feet less office use. As described below, Alternative S, with some refinements established by the CPC and the City Council, became the approved rezoning action for the Project Area.

The FGEIS determined that the FGEIS Proposed Action, as a whole, would involve some significant adverse impacts. The Co-Lead Agencies committed to the program of measures identified in the FGEIS to mitigate (or fully avoid) these impacts. The significant adverse impacts to community facilities, noise, and construction period air quality and traffic would be fully mitigated by these measures. Many, but not all, traffic, transit, and pedestrian impacts would also be fully mitigated by these measures. Significant adverse impacts to architectural historical resources, archaeological resources, and construction period noise would remain unmitigated.

FGEIS Analysis Framework for the Proposed Project Site

The zoning provisions described in the FGEIS identified certain subareas within the Hudson Yards area; the proposed project site on Block 729, Lot 51 falls within the Special Hudson Yards District, Farley Corridor, Subdistrict B2. Sites in Subdistrict B2 would be permitted a commercial base FAR of 10, above which an additional 5 FAR could be obtained through utilization of the District Improvement Bonus.

In the FGEIS, the site of the proposed project (Block 729, Lot 51) was analyzed as Projected Development Site 33, with the following potential program: 2,279,770 sf of office space and 38,580 sf of retail space, for a total of 2,318,350 sf.

THE CO-LEAD AGENCIES FINDINGS STATEMENT

The Co-Lead Agencies Findings Statement set forth the CPC's and MTA's findings with respect to the environmental impacts of the FGEIS Proposed Action, as well as the alternatives analyzed in the FGEIS. The Co-Lead Agencies Findings Statement also certified that the Co-Lead Agencies met the requirements of SEQRA and 6 NYCRR Part 617 in reviewing the FGEIS Proposed Action, including but not limited to:

- Establishing the CPC and the MTA as Co-Lead Agencies;
- Issuing a Positive Declaration on April 21, 2003;
- Issuing a Draft Scoping Document on April 30, 2003;
- Issuing a Final Scoping Document on May 28, 2004;
- Causing the preparation of a DGEIS;
- Accepting the DGEIS for public review and comment on June 21, 2004;
- Holding a public hearing on the DGEIS on September 23, 2004;
- Receiving public comments on the DGEIS within the prescribed period after the close of the public hearing;
- Causing the preparation of the FGEIS; and
- Accepting the FGEIS and filing a Notice of Completion.

The Co-Lead Agencies Findings Statement concluded:

- that the FGEIS Proposed Action and Alternative S had been designed and was expected to achieve its goals and objectives while minimizing the potential for adverse environmental impacts;
- that implementation of the FGEIS Proposed Action and Alternative S would necessarily involve some significant adverse impacts related to community facilities, architectural and archaeological resources, traffic, transit, pedestrian conditions, noise, and construction period air quality, noise, and traffic;
- that the Co-Lead Agencies and involved agencies have committed to a broad program of measures to mitigate (or fully avoid) these impacts;
- that the significant adverse impacts to community facilities, noise, and construction period air quality and traffic would be fully mitigated by these measures;
- that many, but not all, traffic, transit, and pedestrian impacts would also be fully mitigated by these measures; and
- that significant adverse impacts to architectural historical resources, archaeological resources, and construction period noise would remain unmitigated.

The Co-Lead Agencies Findings Statement declared that the Co-Lead Agencies had considered the relevant environmental impacts, facts and conclusions disclosed in the FGEIS and had weighed and balanced relevant environmental impacts with social, economic and other considerations. Based on the foregoing, the Co-Lead Agencies certified that, consistent with social, economic and other essential considerations from among the reasonable alternatives available, both the FGEIS Proposed Action and Alternative S would avoid or minimize adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts would be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable for both the FGEIS Proposed Action and Alternative S.

3. ACTIONS SUBSEQUENT TO THE FGEIS

A. THE HUDSON YARDS REZONING

On November 22, 2004, the CPC approved Applications No. N040500(A) ZMM and C040499 ZMM which, together, provided for the establishment of the Special Hudson Yards District and other rezoning actions on the Far West Side of Midtown Manhattan (the "Hudson Yards Rezoning"). The approved actions are largely described as Alternative S of the FGEIS. Modifications by CPC to the actions described in Alternative S were assessed in a Technical Memorandum dated November 17, 2004. Pursuant to the City's Uniform Land Use Review Procedure, the New York City Council proposed certain additional amendments to the CPC-approved Special Hudson Yards District and related actions. Among other changes, the City Council amendments decreased the total commercial development permitted in the Special District by approximately 1.4 million gross square feet. These were described and their potential for creating significant adverse environmental impacts not already identified in the FGEIS was assessed in a Technical Memorandum dated January 14, 2005. The analysis concluded that the proposed changes would not result in any significant adverse impacts not already identified in the FGEIS.

B. DECISIONS ON OTHER ACTIONS

Following issuance of the Co-Lead Agencies Findings Statement, the MTA approved the extension of the No. 7 subway line and the Multi-Use Facility. Thereafter, the New York State Public Authorities Control Board disapproved the Multi-Use Facility and approved the extension of the No. 7 subway line.

On July 18, 2006, the Convention Center Development Corporation and the Empire State Development Corporation approved a revised Convention Center expansion plan and adopted a lead agency findings statement for that action.

NYCIDA - Hudson Yards UTEP

In August 2006, the NYCIDA adopted a resolution to (a) amend its Uniform Tax Exemption Policy ("UTEP") to approve criteria for the provision of financial assistance by the Agency for certain commercial construction projects within the Hudson Yards UTEP Area; and (b) authorize the Agency to enter into an agreement to assign certain payments in lieu of taxes received by the

Agency from such commercial projects to Hudson Yards Infrastructure Corporation ("HYIC"), or a trustee on behalf of HYIC, to be used as partial repayment of bonds issued by HYIC to fund certain infrastructure costs in the area generally bounded by West 43rd Street on the north, Hudson River Park on the west, West 28th and West 30th Streets on the south and Seventh and Eighth Avenues on the east. NYCIDA prepared a Statement of Findings pursuant to SEQRA, E.C.L. Art. 8, and the regulations promulgated thereunder, found at 6 NYCRR Part 617. The Agency adopted the Statement of Findings in its Resolution dated August 8, 2006.

Hudson Yards Follow-up Text Amendments

On February 11, 2008, the CPC referred a zoning text change application (N 080184 ZRM) submitted by the Department of City Planning relating to the Special Hudson Yards and Special Clinton Districts. The original application (N 080184 ZRM) for the text change included 13 items encompassing use and bulk regulations, location of subway entrances, treatment of floor area related to transit easements and procedural and administrative processes for bonus and floor area transfer provisions for these special districts. In response to concerns raised during the public review relating to one of the items, the application was split into two parts (N 080184 ZRM and N 080184 (A) ZRM) to allow the majority of the application to proceed. On July 2, 2008, the CPC approved application N 080184 ZRM (A) with modifications. On September 4, 2008, the City Council approved the proposed text amendments with modifications relating to the Special Hudson Yards District.

On January 22, 2018, the Department sought a zoning text amendment of Section 93-32 to facilitate the use of that Section's "contribution-in-kind" authorization. The purpose of this amendment was to modify and clarify the transfer of floor area and contribution-in-kind regulations for Phase 2 of the Hudson Boulevard and Park within the Special Hudson Yards District. The application (N 180238 ZRM) for the text change was approved by the CPC on April 23, 2018. On June 7, 2018, the City Council approved the proposed text amendment as well.

Special Clinton District Text Amendments

After further review relating to the aforementioned text amendment from 2008, (the theater bonus in Subarea 2 of the 42nd Street Perimeter Area of the Special Clinton District [Section 96-25]), the Department submitted a modified application (N 080184(B) ZRM) on October 20, 2008 which was referred to Community Board 4 and the Manhattan Borough President. The CPC held a public hearing on the application on November 19, 2008 and on December 17, 2008 approved the proposed text with modifications. On January 28, 2009, the City Council approved the proposed text amendments without modifications and the changes are now in effect.

Additional amendments have been made to the Special Clinton District text and map. On January 3, 2011, the CPC referred a zoning text and zoning map change application (N 110176 ZRM and N 110177 ZMM, respectively) related to this special district. The intention of the changes was to provide new opportunities for residential development, including new affordable housing, in the West Clinton neighborhood, to encourage new manufacturing compatible uses between Eleventh Avenue and the West Side Highway, and to ensure that the form of new buildings relates to and

enhances neighborhood character. Both applications were approved by the CPC (on May 11, 2011) and the City Council (on June 14, 2011).

4. IDA FINDINGS

The proposed project would involve financial assistance proposed to be conferred by the Agency, which would consist of payments in lieu of New York City real property taxes and New York City and State mortgage recording taxes.

The proposed project would result in an approximately 2,000,000 gross square-foot (gsf) commercial tower. This development program will result in a smaller gsf than analyzed in the FGEIS for Site 33 (i.e. Block 729, Lot 51), as the site is being developed in conjunction with the site adjacent to the north (Block 729, Lot 60, i.e., Site 32 from the FGEIS). The two sites represent one zoning lot and the commercial development potential is distributed within the zoning lot and will not exceed FGEIS assumptions. Therefore, overall, the proposed project's development program is comparable to the analysis framework presented for the project site and surrounding sites in the FGEIS. The proposed project is within zoning and there would be no changes to density, height, bulk, or setback regulations as set forth in the FGEIS.

The Agency finds that the FGEIS has made a thorough and comprehensive analysis of the relevant areas of concern under SEQRA and its implementing regulations, considered a reasonable range of alternatives, appropriately assessed the potential environmental and land use impacts of the FGEIS Proposed Action and Alternatives, identified measures to avoid or mitigate adverse impacts to the extent practicable, and set forth appropriate conditions to be imposed as conditions of approval. Furthermore, the Agency has carefully considered the Co-Lead Agencies Findings Statement and finds that this document is an accurate reflection of the FGEIS findings related to the Proposed Action and Alternative S. The Board of Directors of the Agency hereby adopts and incorporates by reference the Co-Lead Agencies Findings Statement (including the conditions therein).

Having considered the FGEIS and the Co-Lead Agencies Findings Statement, the Agency certifies that:

- the requirements of SEQRA, including 6 NYCRR §617.9, have been met and fully satisfied;
- the Agency has considered the relevant environmental impacts, facts and conclusions disclosed in the FGEIS and in the Co-Lead Agency Findings Statement and weighed and balanced relevant environmental impacts with social, economic and other considerations;
- the proposed project has been designed and is expected to achieve goals and objectives while minimizing the potential for significant adverse environmental impacts; and that
- consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed project would avoid or minimize adverse environmental impacts to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable in the FGEIS and the Co-Lead Agencies Findings Statement.

Based on the foregoing, the Agency finds that the proposed project will not generate any additional significant adverse environmental impacts beyond those identified and analyzed in the FGEIS and therefore concludes that the preparation of a supplemental FGEIS is not required.

Exhibit J

Project Summary

Deerfield Management Company, L.P., a Delaware limited partnership specializing in investment, incubation, management and operation of healthcare and life sciences companies or an affiliated entity (“Deerfield”), is seeking financial assistance in connection with the acquisition of an approximately 258,000 gross square foot building located on a 20,737 square foot parcel of land located at 345 Park Avenue South, New York, New York 10154 (the “Facility”) for the purpose of renovating, furnishing and equipping approximately 11 floors of the 12-story Facility for use as laboratories, laboratory support facilities, office space and other uses applicable to life sciences industries (the “Project”). Deerfield proposes to lease, license and/or convey portions of the Facility to users engaged in such life science industry uses.

Project Location

345 Park Avenue South
New York, New York 10154

Actions Requested

- Inducement and Authorizing Resolution for a Commercial Program transaction.
- Approval of deviation from UTEP.
- Adopt a SEQRA determination that the proposed project is a Type II action and therefore no further environmental review is required.

Anticipated Closing

July 2019

Impact Summary

| | |
|---|-----------------|
| Employment | |
| Jobs at Application: | 0 |
| Jobs to be Created at Project Location (Year 3): | 1,274 |
| Total Jobs (full-time equivalents) | 1,274 |
| Projected Average Hourly Wage (excluding principals) | \$113 |
| Highest/Lowest Hourly Wage (excluding principals) | \$179/15 |

| | |
|---|----------------------|
| Estimated City Tax Revenues | |
| Impact of Operations (NPV 20 years at 6.25%) | \$91,515,303 |
| One-Time Impact of Renovation | \$7,744,795 |
| Total impact of operations and renovation | \$99,260,098 |
| Additional benefit from jobs to be created | \$158,663,729 |

| | |
|--|---------------------|
| Estimated Cost of Benefits Requested: New York City | |
| Building Tax Exemption (NPV, 20 years) | \$39,747,190 |
| Land Tax Abatement (NPV, 20 years) | \$29,051,865 |
| MRT Benefit | \$7,515,625 |
| Sales Tax Exemption | \$6,412,500 |
| Agency Financing Fee | (\$2,000,000) |
| Total Value of Benefits provided by Agency | \$80,727,180 |
| Available As-of-Right Benefits (ICAP) | \$4,949,215 |
| Agency Benefits In Excess of As-of-Right Benefits | \$75,777,965 |

Deerfield Management Company, L.P.

| Costs of Benefits Per Job | |
|---|-----------|
| Estimated Total Cost of Net City Benefits per Job | \$59,480 |
| Estimated City Tax Revenue per Job | \$202,452 |

| Estimated Cost of Benefits Requested: New York State | |
|---|---------------------|
| MRT Benefit | \$4,046,875 |
| Sales Tax Exemption | \$6,234,375 |
| Total Cost to NYS | \$10,281,250 |

Sources and Uses

| Sources | Total Amount | Percent of Total Financing |
|------------------|----------------------|----------------------------|
| Commercial Loans | \$495,700,000 | 82% |
| Equity | \$109,300,000 | 18% |
| Total | \$605,000,000 | 100% |

| Uses | Total Amount | Percent of Total Costs |
|-----------------------------------|----------------------|------------------------|
| Acquisition Costs | \$345,000,000 | 57% |
| Hard Costs | \$150,000,000 | 25% |
| Soft Costs | \$62,500,000 | 10% |
| Furnishings, Fixtures & Equipment | \$37,500,000 | 6% |
| Closing Fees | \$10,000,000 | 2% |
| Total | \$605,000,000 | 100% |

Fees

| | Paid At Closing | On-Going Fees (NPV, 20 Years) |
|-------------------|--------------------|----------------------------------|
| Agency Fee | \$2,000,000 | |
| Project Counsel | Hourly | |
| Annual Agency Fee | \$1,250 | \$14,041 |
| Total | \$2,001,250 | \$14,051 |
| Total Fees | \$2,015,301 | |

Financing and Benefits Summary

It is anticipated that Deerfield will finance the Project with a commercial mortgage loan (the "Loan") from Blackstone Real Estate Services L.L.C., or from another lender, in the amount of approximately \$495,700,000, and with approximately \$109,300,000 in equity. The Loan will be secured by a first mortgage lien on the fee interest in the Facility and all improvements thereon, a first priority assignment of leases and rents, a pledge of 100% of direct equity interests in the borrower and a first priority security interest in all cash management accounts, escrows and reserved. The Loan will bear interest at a rate equal to One-month LIBOR + 5% (indicative rate of 7.44% as of May 22, 2019). The financial assistance proposed to be conferred by the Agency will consist of exemption of City and State mortgage recording taxes, exemption from City and State sales and use taxes and payments in lieu of City real property taxes. The debt service coverage ratio is anticipated to be 1.56x.

Deerfield Management Company, L.P.

Market Performance and Projections

New York City (the “City”) is an emerging destination for life sciences tenants as the local economy boasts a rich talent pool, access to global capital, and proximity to a growing tech sector. Additionally, the City is home to one of the nation’s largest concentrations of medical centers, research foundations, and academic institutions. The life sciences industry in the City is also bolstered by its proximity to other biotech enclaves in the greater metro area – namely New Jersey, Long Island, and Westchester County. While overall vacancy in Manhattan’s office sector hovers near 10 percent, its 1.3 million square feet of lab stock is fully occupied. Demand from the City’s budding life sciences industry has outpaced lab supply in Manhattan. In response, the City has launched LifeSci NYC, an initiative that will allocate \$100 million towards the creation of an applied life sciences campus that will ultimately serve as the industry’s anchor along with \$50 million to establish applied research and development centers. LifeSci NYC has also pledged \$300 million in tax incentives for investors who commit to building commercial laboratory and office space. Further, LifeSci NYC is committing \$50 million toward workforce development initiatives and programs focused on nurturing entrepreneurship and innovation.

Inducement

- I. The Project will create critically needed wet lab and commercial office space for life sciences companies in the City.
- II. The Project would not be financially viable without Agency benefits.

UTEP Considerations

The Agency finds that the Project complies with the Agency’s policies, including the Uniform Tax Exemption Policy (“UTEP”), taking into account the following considerations:

- I. The Project will create permanent private-sector jobs.
- II. Financial assistance is required to induce the Project.
- III. The Project is likely to be completed in a timely manner.
- IV. The Project involves the life sciences industry, which the Agency seeks to retain and foster.

Deviation from UTEP

In accordance with the GML, the Agency has adopted the UTEP. The UTEP provides that for a Commercial Program Project located in Manhattan to be eligible for discretionary financial assistance, it must be located within a highly distressed area as defined in the New York State Industrial Development Agency Act. The UTEP also provides that the Recipient of financial assistance for a Commercial Program Project must submit to the Agency binding expressions of interest from one or more anchor tenants for the Project that are acceptable to the Agency. Additionally, the UTEP provides that the Recipient of financial assistance for a Commercial Program Project will be required to pay PILOT during the term of financial assistance in an amount equal to the City real property taxes in respect of the land and existing improvements that would have been payable by the Recipient in the absence of the Agency’s involvement with the Project.

Three deviations from UTEP are necessary because (1) the Project is located in Manhattan but is not located within a highly distressed area as defined in the New York State Industrial Development Agency Act; (2) the Recipient does not currently have an anchor tenant at the Facility; and (3) Deerfield has requested abatements of real property taxes in respect of the Land and existing Facility improvements that would have been payable by the Recipient in the absence of the Agency’s involvement with the Project.

The Agency believes that a deviation from the UTEP is justified because the Project will help establish a life sciences and biomedical research and development ecosystem in the City, which is one of the fastest growing industries in the economy. The Project will be part of the City’s larger \$500M 10-year commitment to the life sciences industry

Deerfield Management Company, L.P.

called LifeSci NYC, an unprecedented initiative announced by Mayor De Blasio in December 2016. Additionally, the Project is anticipated to create approximately 1,274 good-paying jobs. With IDA assistance, Deerfield will be able to make the investments necessary to bring the Facility online as one that caters to life sciences companies. If the deviation is not approved and the proposed Project does not proceed, the City will forego the creation of critically needed life sciences lab space and also the creation of approximately 1,274 good-paying jobs.

Applicant Summary

Founded in 1994, Deerfield is a New York City-based investment management firm focused on advancing healthcare through investment, information and philanthropy—all toward the end goal of improved quality of life and cures for disease. With over nine billion in investable assets, Deerfield is one of the largest investment companies focused solely on healthcare and identifies, incubates and operates companies focused on the life sciences, digital health, and healthcare infrastructure. Deerfield has strong relationships with many universities and research institutions throughout the world with which it sources intellectual property to launch and invest in new companies. Deerfield has demonstrated its commitment to serving the broader community through the activities of the Deerfield Foundation. The Deerfield Foundation pursues philanthropic initiatives with a special focus on children and medical innovation. Examples of recent investments through the Deerfield Foundation include support for maternal health programs in East Harlem, and primary care for students in the Bronx.

As part of the Project, in addition to activation of space for commercial life sciences uses, Deerfield has identified MATTER as a tenant and programmatic partner for entrepreneurial training programs and events. MATTER is an experienced incubator and accelerator operator that has committed to occupying and programming approximately 13,000 – 26,000 rentable square feet. New York City Economic Development Corporation is expected to provide operational and start-up funding to MATTER to create, market, operate and manage the Entrepreneurial Center, which will promote business growth, support entrepreneurs, and spur innovation within the New York City Life Sciences community. MATTER Programming will engage a range of life science stakeholders including students, scientists, programmers, entrepreneurs, small and larger companies, foundations, and venture capital firms, with the objective of advancing the commercial prospects of life science projects and companies.

James Flynn, Managing Partner and CEO

Mr. Flynn joined Deerfield in 2000. In 2004 Mr. Flynn began co-managing the firm with Deerfield's founder, Arnold Snider. Upon Mr. Snider's retirement in 2005, Mr. Flynn assumed his current role overseeing Deerfield's investment activities as well as the management of the firm. Since that time, the firm has expanded its investment capabilities to include private structured financings, developed additional proprietary market research instruments through the Deerfield Institute, and created the Deerfield Foundation to contribute toward the health and welfare of disadvantaged children. Before joining Deerfield, Mr. Flynn was a top ranked analyst at Furman Selz from 1996 to 2000, where he built a team to cover the pharmaceutical and medical device industries and also managed a proprietary trading account. Previously he served from 1993 to 1996 as Vice President of Corporate Development of Alpharma Inc., a pharmaceutical company, where his responsibilities included business development and strategic planning and the management of several licensing transactions. Mr. Flynn began his career in healthcare investing from 1988 to 1993 at Kidder, Peabody & Co., where he ultimately served as a senior analyst covering the specialty pharmaceutical industry.

Jonathan Isler, Partner and CFO

Mr. Isler joined Deerfield in 2012 as a Partner and Chief Financial Officer. Mr. Isler is responsible for Deerfield's accounting and tax functions and for the relationship with Deerfield's independent accountants and the Administrator of the Funds. He also serves as a member of the Private Transactions team. Mr. Isler joined Deerfield from PricewaterhouseCoopers LLP where he worked from 1994 to 2012. He was a Partner from 2007 to 2012 specializing in transaction and valuation services. Mr. Isler holds a B.S. in Accounting from the State University of New York at Albany and an M.B.A. from Columbia Business School.

Recapture

Pursuant to UTEP, all benefits subject to recapture for a 10-year period.

Deerfield Management Company, L.P.

SEQRA Determination

Type II Action which, if implemented, will not result in significant adverse environmental impacts. The completed Environmental Assessment Form for this project has been reviewed and signed by Agency staff.

Due Diligence

The Agency conducted a background investigation of Deerfield and its principals and found no derogatory information.

| | |
|-----------------------------|--|
| Compliance Check: | N/A |
| Living Wage: | Compliant |
| Paid Sick Leave: | Compliant |
| Affordable Care Act: | ACA Compliant |
| Bank Account: | First Republic Bank |
| Bank Check: | Relationships are reported to be satisfactory. |
| Supplier Checks: | Relationships are reported to be satisfactory. |
| Customer Checks: | Relationships are reported to be satisfactory. |
| Unions: | N/A |
| Vendex Check: | No derogatory information was found. |
| Attorney: | Tal Golomb Fried Frank One New York Plaza New York, NY 10004 |
| Accountant: | Julie Canty Ernst & Young 5 Times Square New York, NY 10036 |
| Consultant/Advisor: | Karen Backus U3 Advisors 215 Park Avenue South New York, NY 10003 |
| Community Board: | Manhattan, CB 5 |

April 12, 2019

NYCIDA
110 William Street
New York, NY 10038

Dear Ladies and Gentlemen,

Deerfield Management Company, L.P. (“Applicant”) is a healthcare investment company based and operating in New York City for 25 years. With over nine billion in investable assets, Applicant is one of the largest investment companies focused solely on healthcare and identifies, incubates and operates companies focused on the life sciences, digital health, and healthcare infrastructure. The Applicant has strong relationships with many universities and research institutions throughout the world with which it sources intellectual property to launch and invest in new companies.

Applicant is seeking financial assistance from the NYCIDA (the “Agency”) in connection with the acquisition, furnishing and equipping of an approximately 320,000 square foot building on a 20,737 square foot parcel of land located at 345 Park Avenue South (the “Facility”) as a life sciences Innovation Center (the “Innovation Center”). The goal of the Innovation Center is to attract organizations with leading technologies, intellectual property and know-how to New York City and to foster and fund cutting edge research. The Innovation Center would allow Applicant to incubate new enterprises delivering products and platforms to advance medicine and the delivery of health care services, including laboratory and incubation space. Once the new enterprises can independently fund an expansion in their space, they would move to a new location in a neighboring area thus creating a new and vibrant ecosystem in New York City and allowing for the Innovation Center to develop the next wave of enterprises. The foundation of this development and expansion in life sciences and medical technology is the ability of Applicant to complete the Innovation Center, building out new laboratory and incubation space and equipment, as well as co-housing Applicant’s current (and rapidly expanding). The total cost of the Innovation Center is estimated to be approximately \$570,000,000 and it is expected that the Innovation Center could bring over 800 full time life science employees into one building in New York City and a significant additional amount as companies mature and move out of the Innovation Center (as research discoveries are made and companies are formed and grow we could see over 10,000 jobs created over 10 years).

Applicant has determined that, but for the financial assistance of the Agency, the Innovation Center would not be completed. The Applicant will not be able to build state of the art labs outfitted with the best equipment to attract leaders in science and accelerate commercial success without the financial assistance of the Agency. Additionally, the commitment of the Applicant to New York City and its citizens is beyond that of just the acquisition and development of the Innovation Center. The Applicant intends to continue to utilize the Deerfield Foundation (a private not for profit foundation established by the Applicant) to provide financial and other support for such types of organizations as the Children’s Health Fund, Coalition for the Homeless

and Covenant House. Furthermore, the Applicant intends to expand its support of the LifeSci NYC Internship Program through the Deerfield Fellows program as well as its program to help foster improved diversity in the workplace through its women's focused initiative, Break into the Boardroom.

The immediate impact of the Innovation Center would be the development of a state-of-the-art life sciences incubation facility that would allow Applicant to provide meaningful employment opportunities for life science employees in New York City and grow the next generation of healthcare innovation companies.

Yours truly,

A handwritten signature in blue ink, appearing to read 'J. Flynn', is written over the typed name and title.

James E. Flynn
Managing Partner

Exhibit K

Resolution inducing the financing of a commercial facility for Deerfield Management Company, L.P. and its affiliate, as a Straight-Lease Transaction and authorizing and approving the execution and delivery of agreements in connection therewith

WHEREAS, New York City Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, civic, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Deerfield Management Company, L.P. (the “Applicant”), has entered into negotiations with officials of the Agency for the acquisition, renovation, furnishing and equipping of a 12-story commercial facility (the “Facility”), consisting of the acquisition of an approximately 258,000 square foot office building located on an approximately 20,727 square foot parcel of land located at 345 Park Avenue South, New York, New York and the renovation, furnishing and equipping of approximately eleven floors therein, for lease to the Agency by an affiliate of the Applicant (the “Company”), and sublease by the Agency to the Company for use by various tenants for lab, lab support, office space and other uses applicable to the life sciences industries at the Facility, and having an approximate total project cost of approximately \$605,000,000 (the “Project”); and

WHEREAS, the Applicant has submitted a Project Application (the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the Applicant is a healthcare investment company based and operating in New York, New York (the “City”); that Applicant is one of the largest investment companies focused solely on healthcare and identifies, incubates and operates companies focused on the life sciences, digital health and healthcare infrastructure; that the Applicant has strong relationships with universities and research institutions throughout the world with which it sources intellectual property to launch and invest in new companies; that the Project would allow the Applicant to incubate new enterprises delivering products and platforms to advance medicine and the delivery of health care services; that the Project would foster the development of the next wave of enterprises and provide meaningful employment opportunities for life science employees in the City while growing the next generation of healthcare innovation companies; that the Project is expected to create approximately 974 full time equivalent employees within the three years following completion; that the Agency’s financial assistance will allow for the building out of new laboratory and incubation space and equipment, as well as the co-housing of many of the Applicant's current and expanding portfolio of companies and academic partnerships; that the Applicant must obtain Agency financial assistance in the form of a straight-lease transaction to enable the Applicant to proceed with the Project and thereby remain and expand its operations in the City; that without the Agency’s financial assistance the Applicant would not be able to complete the Project, and that, based upon the financial

assistance provided through the Agency, the Applicant desires to proceed with the Project and remain and expand its operations in the City; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicant and the Company are necessary to induce the Applicant to remain and expand its operations in the City; and

WHEREAS, in order to finance a portion of the costs of the Project, Blackstone Real Estate Services L.L.C. and its affiliates (such financial institution, or any other financial institution as may be approved by a certificate of determination of an Agency officer, the “Lender”) has agreed to enter into a loan arrangement with the Company pursuant to which the Lender will lend approximately \$495,700,000 to the Company, and the Agency and the Company will grant a mortgage or mortgages on the Facility to the Lender (collectively, the “Lender Mortgage”); and

WHEREAS, for purposes of refinancing from time to time the indebtedness secured by the Lender Mortgage (the “Original Mortgage Indebtedness”) (whether such refinancing is in an amount equal to or greater than the outstanding principal balance of the Original Mortgage Indebtedness), the Applicant or the Company may from time to time desire to enter into new mortgage arrangements, including but not limited to consolidation with mortgages granted subsequent to the Lender Mortgage; and therefore the Applicant or the Company may request the Agency to enter into the mortgage instruments required for such new mortgage arrangements (“Refinancing Mortgage(s)”); and

WHEREAS, in order to provide financial assistance to the Applicant and the Company for the Project, the Agency intends to grant the Applicant and the Company financial assistance through a straight-lease transaction in the form of real property tax abatements, a partial exemption of City and State mortgage recording taxes and sales and use tax exemptions, all pursuant to the Act;

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the Project and the provision by the Agency of financial assistance to the Applicant and the Company pursuant to the Act in the form of a straight-lease transaction will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Applicant and the Company to proceed with the Project. The Agency further determines that

(a) the Project shall not result in the removal of any facility or plant of the Applicant or the Company or any other occupant or user of the Facility from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Applicant or the Company or any other occupant or user of the Facility located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York; and

(c) not more than one-third of the total Project cost is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicant and the Company for the Project, a deviation from the Agency's Uniform Tax Exemption Policy is hereby approved and a straight-lease transaction is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes the Applicant and the Company to proceed with the Project as herein authorized. The Applicant and the Company are authorized to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Applicant and the Company that (i) nominal leasehold title to or other interest of the Agency in the Facility shall be in the Agency for purposes of granting financial assistance, and (ii) the Applicant and the Company are hereby constituted the agents for the Agency solely for the purpose of effecting the Project, and the Agency shall have no personal liability for any such action taken by the Applicant or the Company for such purpose.

Section 4. The execution and delivery of a Company Lease Agreement from the Company leasing the Facility to the Agency, an Agency Lease Agreement from the Agency subleasing the Facility to the Company (the "Lease Agreement") (for sub-sublease to the Applicant or its affiliate), a Project Agreement between the Agency and the Applicant and/or the Company, a Sales Tax Agent Authorization Letter from the Agency to the Company, the Lender Mortgage, the Refinancing Mortgages and, if applicable, the acceptance of a Guaranty Agreement from the Company and/or the Applicant and/or the Applicant's and the Company's owners and/or principals in favor of the Agency (the "Guaranty Agreement") (each document referenced in this Section 4 being, collectively, the "Agency Documents"), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Applicant and the Company to assist in the Project.

Section 6. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity and neither the members nor the directors of the Agency nor any officer executing any Agency Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 7. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution. The Agency recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 8. Any expenses incurred by the Agency with respect to the Project shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 9. This Resolution is subject to approval based on an investigative report with respect to the Applicant and the Company. The provisions of this Resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 8 hereof).

Section 10. The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Agency’s review of information provided by the Applicant and such other information as the Agency has deemed necessary and appropriate to make this determination.

The Agency has determined that the proposed action is a Type II action, pursuant to 6 NYCRR Part 617.5(c)(2), ‘replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes...’ which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 11. In connection with the Project, the Applicant and the covenants and agrees to comply, and to cause each of its and the Company’s contractors, subcontractors, agents, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3), as such provisions may be amended from time to time.

(1) The Applicant acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Applicant and/or the Company New York State sales or use tax savings taken or purported to be taken by the Applicant or the Company, and any agent or any other person or entity acting on behalf of the Applicant or the Company, to which the Applicant or the Company is not entitled or which are in excess of the maximum sales or use tax exemption amount authorized in Section 12 of this Resolution or which are for property or services not authorized or taken in cases where the Applicant or the Company, or any agent or any other person or entity acting on behalf of the Applicant or the Company, failed to comply with a material term or condition to use property or services in the manner required by this Resolution or any agreements entered into among the Agency, the Applicant, the Company and/or any agent or any other person or entity acting on behalf of the Applicant or the Company. The Applicant and the Company shall, and shall require each agent and any other person or entity acting on behalf of the Applicant and/or the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such New York State sales or use tax savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”) to assess and determine New York State sales or use taxes due from the Applicant and/or the Company under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(2) The Applicant is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to the Applicant or the Company or any other party) that the Agency is subject to certain requirements under the General Municipal Law, including the following:

(i) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of New York State sales or use tax savings from the Applicant, the Company, any agent or other person or entity, the Agency shall, within thirty days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, New York State sales or use tax savings from Applicant or the Company or any other agent, person or entity.

(ii) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State sales or user tax savings described in General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. Such report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the annual financial statement required by General Municipal Law Section 859(1)(b). Such report shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete such report shall be deemed to be the failure to file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(3) The foregoing requirements of this Section 11 shall apply to any amounts of New York State sales or use tax savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency, the Applicant, the Company or any agent or other person or entity acting on behalf of the Applicant or the Company characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be New York State sales or use taxes and the Agency shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of New York State.

Section 12. In connection with the Project, the Agency intends to grant the Applicant and the Company real property tax abatements, a partial exemption of City and State mortgage recording taxes and sales and use tax exemptions in an amount not to exceed \$12,646,875.

Section 13. This Resolution shall take effect immediately

ADOPTED: June 11, 2019

Accepted: _____, 2019

DEERFIELD MANAGEMENT COMPANY, L.P.

By: _____
Name:
Title:

Exhibit L

Project Summary

JLJ Bricken LLC (the “Company”), a New York limited liability company engaged in the maintenance, operation and leasing of real property, seeks financial assistance in connection with the retention of approximately 40,000 square feet of fashion manufacturing space at the Bricken Arcade, a building complex in the Garment Center District of Manhattan consisting of an approximately 163,103 square foot building, located on an approximately 11,282 square foot parcel of land located at 225 West 37th Street, New York, NY and an approximately 137,887 square foot building, located on an approximately 9,126 square foot parcel of land located at 230 West 38th Street, New York, NY (collectively, the “Facility”). The Company owns and operates the Facility and leases a portion thereof to a fashion industry supplier, Mood Designer Fabrics, Inc. (“Mood”).

Project Locations

225 West 37th Street
New York, NY 10018

230 West 38th Street
New York, NY 10018

Action Requested

- Inducement and Authorizing Resolution for an Industrial Program transaction.
- Adopt a SEQRA determination that the proposed Project is a Type II action and therefore no further environmental review is required.
- Approve a deviation from UTEP.
- Approve the Agency’s payment of legal fees for Garment Center transactions.

Anticipated Closing

Summer 2019

Impact Summary

| | |
|---|-----------------------|
| Employment | |
| Total Fashion Industry Jobs (full-time equivalents) | 71¹ |
| Projected Average Hourly Wage (excluding principals) | \$ 33.67 |

| | |
|--|--------------------|
| Estimated City Tax Revenues | |
| Impact of Operations (NPV 15 years at 6.25%) | \$8,603,982 |
| Total impact of operations | \$8,603,982 |

| | |
|--|--------------------|
| Estimated Cost of Benefits Requested: New York City | |
| Building Tax Exemption (NPV, 15 years) | \$4,455,179 |
| Project Counsel Fees | 55,000 |
| Total Cost to NYC | \$4,510,179 |

| | |
|--|-----------|
| Costs of Net Benefits Per Job | |
| Estimated Net Cost of NYCIDA Benefits per Total Jobs | \$63,523 |
| Estimated Net City Tax Revenue per Total Jobs | \$140,480 |

¹ Estimate based on industry statistics for square feet per job.

Industry Performance and Projections

The Garment Center has been a central part of the apparel production and fashion industry in the United States and internationally for more than a century. Although it has evolved considerably in its size and composition, the area continues to serve as the center of the fashion industry, characterized by an interrelated network of businesses and firms, which include design, manufacturing, supply, showroom, retail, management, and marketing companies.

Over the last several decades, apparel production employment has significantly declined in New York City, as it has nationally, due to major global macroeconomic changes and technological advances impacting the industry. In 1986, apparel manufacturing companies employed approximately 25,200 employees and occupied approximately 9.2 million square feet of space, as compared to approximately 4,400 workers occupying 1.4 million square feet of space in 2017. Despite this decline, fashion production remains a critical component of New York City’s fashion industry, supporting innovation and design by providing local designers with specialized products, prototyping, and time-sensitive orders for New York Fashion Week and other major events.

The tax incentives to be provided by the Agency are vital to the economic sustainability of Mood and its long-term presence at the Facility, which is vital to the fashion manufacturing ecosystem. Otherwise, increased demand for office space would result in increased rent charged to Mood and it likely would no longer be able to afford to remain in the Garment Center.

Inducement

- I. Based on historical trends in the garment industry, it is anticipated that global market forces would continue to shape and redefine the industry. Without further action, it is likely that the number of establishments and people working in fashion manufacturing would decline, and fashion manufacturing firms would continue to either scale back operations, relocate to more affordable areas in the City or elsewhere, or close entirely.
- II. The Company has asserted that without assistance from the Agency, the Project would not occur, resulting in the displacement of Mood from the Garment Center.

UTEP Considerations

The Agency finds that the Project meets one or more considerations from Section I-B of the Agency’s Uniform Tax Exemption Policy (“UTEP”), including the following:

- I. The Project seeks to retain jobs and business activity supporting fashion manufacturing – a critical component of New York City’s industrial profile, which the City seeks to retain and foster.

Company Summary

JLJ Bricken LLC and the Rosen Group

JLJ Bricken LLC is a single purpose entity formed in 2012 to own the Facility. The Facility is part of a portfolio of properties owned by the Rosen Group. The Rosen Group is a privately held real estate development and management group specializing in shopping centers, office buildings and other commercial property. With over 100 properties across fifteen US States, the Rosen Group owns one of the largest, family-owned, commercial real estate portfolios on the East Coast. The Rosen group was founded in 1942 by Joseph Rosen, led by Joseph’s son Abner Rosen until 1994, and now led by Jonathan Rosen, Joseph’s grandson. Under family ownership, the Rosen group portfolio has continued to grow while remaining true to the core principals of its founders — fostering and maintaining strong industry relationships while doing business with the highest standards of integrity. The Rosen Group has headquarters in New York City and regional offices in Delaware, Florida, North Carolina and Virginia.

JLJ Bricken LLC

Jonathan P. Rosen, Principal

Jonathan P. Rosen is Principal of the Rosen Group. Jon has worked at the Rosen Group since shortly after his graduation from Yale Law School in 1970. In 1966, Jon graduated with honors from Amherst College. He also obtained a master’s degree in International Law from the University of London, London School of Economics and Political Science in 1967.

Mood Designer Fabrics, Inc.

Mood was founded in 1991 by owner Jack Sauma, who had previously worked as a fashion contractor for designers such as Michael Kors, Geoffrey Beene, and Pierre Cardin. Mood began as a wholesale fabric store, and in 1993 expanded to include retail sales. In 2001, Mood moved into its current location at the Facility, with 40,000 square feet spread out over three floors. The firm’s clientele includes fashion designers, fashion students, and home sewers, as well as the film, stage and television industries that rely on Mood for fabric to costume their casts. Starting in 2002, Mood has been regularly featured on the hit television series *Project Runway*. Named one of “Fashion’s 50 Most Powerful” by *The New York Daily News*, Mood is considered an icon of the New York City Garment Center District.

Deviation from UTEP

Under the UTEP, projects seeking Agency benefits under the Industrial Program are required to make capital investments of at least \$1,000,000. A deviation from UTEP is necessary because the Company is seeking Industrial Program benefits for a project that does not meet the minimally required capital investment. Additionally, the Company will make payments in lieu of taxes in accordance with a schedule other than that set forth in the UTEP and the recapture period has also been reduced from 10 years to 5 years.

Payment of Legal Fees

The Agency will pay legal services fees to Nixon Peabody LLP as Project Counsel for all NYCIDA Garment Center transactions, including this transaction. The fixed fee will be \$55,000 per transaction, payable at closing, for transactions that close by December 31, 2019. For any transactions that fail to close, the fee will be based on hourly billing rates (plus disbursements), up to a maximum of \$55,000.

Employee Benefits

The Company provides health insurance, vacation time, and on-the-job training to all employees.

Recapture

Pursuant to deviation from UTEP, all benefits subject to recapture for a 5-year period.

SEQRA Determination

Adopt a SEQRA determination that the proposed Project is a Type II action and therefore no further environmental review is required.

Due Diligence

The Agency conducted a background investigation of the Company and its principals and found no derogatory information.

| | |
|-----------------------------|----------------|
| Compliance Check: | Not applicable |
| Living Wage: | Compliant |
| Paid Sick Leave: | Compliant |
| Affordable Care Act: | Compliant |

JLJ Bricken LLC

Bank Account: Lincoln Financial Group, Signature Bank

Bank Check: Relationships are reported to be satisfactory.

Supplier Checks: Not Applicable

Customer Checks: Not Applicable

Unions: Service Employees International Union, Local 32BJ

Vendex Check: No derogatory information was found.

Applicant Contact Person: William M. Silverman, Counsel
The Rosen Group
40 East 69th Street
New York, NY 10065

Community Board: Manhattan, CB 5

JLJ Bricken, LLC
40 East 69th Street
New York, NY 10021
(212) 249-1550

May 9, 2019

NYCEDC

110 William Street
New York, NY 10038

VIA EMAIL: Mac Thayer (mthayer@edc.nyc); Julieanne Herskowitz (jherskowitz@edc.nyc)

Re: 225W37th & 230W38th (the “Property”) – IDA Application Inducement Letter

Dear Mac and Julieanne:

This letter is to confirm that, but for NYCIDA’s tax abatement incentive program supporting the extension of JLJ Bricken LLC’s lease of 37,600 square feet of space to Mood Designer Fabrics, Inc. JLJ Bricken would not have entered into such lease extension. Such abatement consists of up to fifteen years of annual abatement of \$466,240.00 per annum to offset the rent and additional rent for Mood being capped pursuant to IDA program.

Despite JLJ Bricken’s desire to lease space to fashion manufacturing and related garment center tenants in the subject Property, contractions in the garment manufacturing sector have made it increasingly difficult to find such tenants who are capable of paying market rent at the Property.

Sincerely

JLJ Bricken, LLC



By John E. Silverman
as its authorized representative

Exhibit M

Resolution inducing the financing of an industrial facility for JLJ Bricken LLC, as a Straight-Lease Transaction and authorizing and approving the execution and delivery of agreements in connection therewith

WHEREAS, New York City Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, JLJ Bricken LLC, a New York limited liability company (the “Applicant”), has entered into negotiations with officials of the Agency in connection with the retention of up to approximately 40,000 square feet of fashion manufacturing-related space at the Bricken Arcade, a building complex in the Garment District of Manhattan (the “Garment District”) consisting of (i) an approximately 163,103 square foot building on an approximately 11,282 square foot parcel of land located at 225 West 37th Street, New York, New York (the “37th Street Facility”), and (ii) an approximately 137,887 square foot building on an approximately 9,126 square foot parcel of land located 230 West 38th Street, New York, New York (the “38th Street Facility”); and, together with the 37th Street Facility, the “Facility”), for lease to the Agency by the Applicant, and sublease by the Agency to the Applicant for subsequent sub-sublease to Mood Designer Fabrics, Inc. (or another industrial tenant or tenants at the Facility engaged in the design, manufacturer or supply of fabrics, the “Fashion Supplier”) all in connection with fashion manufacturing in the Garment District (the “Project”); and

WHEREAS, the Applicant has submitted a Project Application (the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the Applicant is located in the Special Garment Center District in Manhattan, which was established under the NYC Zoning Resolution to maintain the viability of apparel production in the Garment District and slow the conversion of manufacturing space into office space; that apparel production employment has significantly declined in the City due to major global and macroeconomic changes over the last several decades; that the Project is expected to provide up to 40,000 square feet of space to the Fashion Supplier at the Facility at below market rent; that the financial assistance to be conferred by the Agency is vital to the economic sustainability of the Fashion Supplier and its long-term presence at the Facility; that contractions in the Garment District have made it increasingly difficult to find garment industry tenants who are capable of paying market rent at the Facility, that without the Agency’s financial assistance the Applicant would not be able to enter into a lease extension with the Fashion Supplier at the Facility for below-market rent; and that without the Agency’s financial assistance, the Applicant could not proceed with the Project; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicant are necessary to induce the Applicant to retain space for fashion manufacturing and related uses in the City; and

WHEREAS, in order to provide financial assistance to the Applicant for the Project, the Agency intends to grant the Applicant financial assistance through a straight-lease transaction in the form of real property tax abatements all pursuant to the Act;

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the Project and the provision by the Agency of financial assistance to the Applicant pursuant to the Act in the form of a straight-lease transaction will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Applicant to proceed with the Project. The Agency further determines that

(a) the Project shall not result in the removal of any facility or plant of the Applicant or any other occupant or user of the Facility from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Applicant or any other occupant or user of the Facility located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York; and

(c) not more than one-third of the total Project cost is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicant for the Project, a deviation from the Agency's Uniform Tax Exemption Policy is hereby approved and a straight-lease transaction is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes the Applicant to proceed with the Project as herein authorized. The Applicant is authorized to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Applicant that (i) nominal leasehold title to or other interest of the Agency in the Facility

shall be in the Agency for purposes of granting financial assistance, and (ii) the Applicant is hereby constituted the agent for the Agency solely for the purpose of effecting the Project, and the Agency shall have no personal liability for any such action taken by the Applicant for such purpose.

Section 4. The execution and delivery of a Company Lease Agreement from the Applicant leasing the Facility to the Agency, an Agency Lease Agreement from the Agency subleasing the Facility to the Applicant (for sub-sublease to the Fashion Supplier), a Project Agreement between the Agency and the Applicant and, if applicable, the acceptance of a Guaranty Agreement from the Applicant and the Applicant's owners and/or principals in favor of the Agency (each document referenced in this Section 4 being, collectively, the "Agency Documents"), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Applicant to assist in the Project.

Section 6. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity and neither the members nor the directors of the Agency nor any officer executing any Agency Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 7. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution. The Agency recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which

will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 8. Any expenses incurred by the Agency with respect to the Project shall be paid by the Applicant; provided, however, that fees of Project Counsel related to the initial straight-lease transaction closing shall be paid by the Agency. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 9. This Resolution is subject to approval based on an investigative report with respect to the Applicant. The provisions of this Resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 8 hereof).

Section 10. The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Agency’s review of information provided by the Applicant and such other information as the Agency has deemed necessary and appropriate to make this determination.

The Agency has determined that the proposed action is a Type II action, pursuant to 6 NYCRR Part 617.5(c)(1), ‘maintenance or repair involving no substantial changes in an existing structure or facility’, which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 11. In connection with the Project, the Agency intends to grant the Applicant real property tax abatements.

Section 12. This Resolution shall take effect immediately

ADOPTED: June 11, 2019

Accepted: _____, 2019

JLJ BRICKEN LLC

By: _____

Name:

Title:

Exhibit N

Project Summary

New Anns, Inc., a New York corporation (the “Company”), an affiliate of New Era Foods One, Inc., a New York corporation that is a supermarket developer and operator (the “Developer”), seeks financial assistance in connection with a project (the “Project”) consisting of the leasing, furnishing and equipping of an approximately 14,970 square foot retail condominium (the “Facility”) to be located within a 10-story, approximately 180,040 square foot mixed-use facility including 170 affordable housing units (the “Building”) located on an approximately 24,150 square foot parcel of land located at 345 St. Ann’s Avenue, Bronx, New York 10454 (the “Premises”). The Premises will be owned by TCB Mott Haven Housing Development Fund Corporation (the “Owner”) and the Facility will be leased to the Company for an initial term of 20 years with two 5-year renewal options and operated by the Company as a full-service supermarket. Based on a review of the Project, Agency staff has concluded that the Project is likely to be completed within two years of the closing date of the Agency straight lease transaction, which will occur after construction of the Building.

Project Location

345 St. Ann’s Avenue
Bronx, NY 10454

Actions Requested

- Inducement Resolution for a FRESH Program transaction.
- Adopt a SEQRA determination that the proposed project is a Type II action and therefore no further environmental review is required.

Anticipated Closing

June 2021

Impact Summary

| Employment | |
|---|-------------------------------|
| Jobs at Application: | 0 |
| Jobs to be Created at Project Location (Year 3): | 55 |
| Total Jobs (full-time equivalents) | 55 |
| Projected Average Hourly Wage (excluding principals) | \$15.63 |
| Projected Wage Range (excluding principals) | \$20.00/hr /\$15.00/hr |

| Estimated City Tax Revenues | |
|---|--------------------|
| Impact of Operations (NPV 25 years at 6.25%) | \$1,666,320 |
| One-Time Impact of Renovation | 150,272 |
| Total impact of operations and renovation | \$1,816,592 |
| Additional benefit from jobs to be created | \$4,573,886 |

New Anns, Inc.

| Estimated Cost of Benefits Requested: New York City | |
|---|--------------------|
| Building Tax Exemption (NPV, 25 years) | \$856,963 |
| Land Tax Abatement (NPV, 25 years) | \$711,185 |
| Sales Tax Exemption | \$82,710 |
| Agency Financing Fee | (\$23,507) |
| Total Value of Benefits provided by Agency | \$1,627,351 |
| Available As-of-Right Benefits (ICAP) | \$589,125 |
| Agency Benefits in Excess of As-of-Right Benefits | \$1,038,226 |

| Costs of Net City Benefits Per Job | |
|---|-----------|
| Estimated Net City Cost of Benefits per Job | \$18,877 |
| Estimated Net City Tax Revenue per Job | \$116,191 |

| Estimated Cost of Benefits Requested: New York State | |
|--|-----------------|
| Sales Tax Exemption | \$80,413 |
| Total Cost to NYS | \$80,413 |

Sources and Uses

| Sources | Total Amount | Percent of Total Financing |
|-------------------|--------------------|----------------------------|
| Intercompany Loan | \$1,773,582 | 72.8% |
| Equity | \$663,293 | 27.2% |
| Total | \$2,436,875 | 100% |

| Uses | Total Amount | Percent of Total Costs |
|------------------------------------|--------------------|------------------------|
| Hard Costs | \$840,000 | 34.5% |
| Soft Costs | \$260,697 | 11% |
| Furnishings, Machinery & Equipment | \$1,250,000 | 51.5% |
| Closing Fees | \$86,178 | 3% |
| Total | \$2,436,875 | 100% |

Fees

| | Paid at Closing | On-Going Fees (NPV, 25 Years) |
|-------------------|-----------------|----------------------------------|
| Agency Fee | \$23,507 | |
| Project Counsel | 25,000 | |
| Annual Agency Fee | 750 | 9,364 |
| Total | 49,257 | 9,364 |
| Total Fees | \$58,621 | |

Financing and Benefits Summary

The Project will be financed with \$663,293 in equity and \$1,773,582 from an intercompany loan from an affiliate of the Developer. The financial assistance proposed to be conferred by the Agency will consist of payments in lieu of City real property taxes and exemption from City and State sales and use taxes.

New Anns, Inc.

Developer Performance and Projections

The Developer has successfully operated a supermarket in the Belmont area of the Bronx for the past 40 years. That supermarket is in a highly distressed area, much like where the new supermarket at 345 St. Ann's Avenue will be situated, giving the Developer 40 years of experience operating an efficient and profitable supermarket business that serves its community.

The Developer experienced an increase in revenues from 2016 to 2017 while the cost of goods sold decreased by 2% between those same fiscal years. The Developer's gross margin remained steady at 28% from fiscal year 2015 to fiscal year 2016 and then increased to 30% in fiscal year 2017.

The new supermarket, made possible by the FRESH program, projects year-over-year growth, with gross profit increasing 3.8% over two years. The Company's net income is projected to increase 31% from year one to year three.

Inducement

- I. City policy, as set forth by the Food Retail Expansion to Support Health (FRESH) program, aims to promote the establishment and retention of neighborhood grocery stores in underserved communities
- II. Without the proposed financial assistance from the Agency, the Company would not be able to proceed with the Project as planned

UTEP Considerations

The Agency finds that the Project complies with the Agency's policies, including the Uniform Tax Exemption Policy ("UTEP"), taking into account the following considerations:

- I. The Project complies with the requirements for FRESH projects set forth in the UTEP, is located in a highly distressed area, and involves the grocery retail industry which the Agency seeks to retain and foster;
- II. Financial assistance is required to induce the Project;
- III. The Applicant maintains that, through the Project, it will create 55 full-time equivalent jobs, excluding principals, over the next three years; and
- IV. The Project is likely to be completed in a timely manner

Applicant Summary

The Company is a newly formed affiliate of New Era Foods One, Inc. New Era Foods One, Inc. was founded in 1979 by Radame J. Perez and has been operating at its current location, 668 Crescent Avenue, Bronx, NY 10458 since inception. New Era Foods One, Inc. is a grocery store under the Krasdale supermarket brand C-town the Company will also be operated under a Krasdale supermarket brand banner.

Radame Jose Perez, CEO

Radame Jose Perez was born and raised in the South Bronx and grew up working in his father's grocery store. Radame worked seven days a week and saved enough money to open his own C-Town supermarket at the age of 21. From there Radame owned and operated four more supermarkets. Radame eventually began pursuing urban development projects as well, buying land at auctions starting in 1990 and developing his first building in 1994. Today Radame operates three supermarkets and continues to develop residential, mixed-use and commercial properties.

Employee Benefits

The Developer offers subsidized health insurance policies to employees, who work one-thousand hours per year or more, after one year of service. The Developer pays 65% of the health care policy cost for these employees. All full-time employees are offered retirement benefits. It is anticipated the Company will offer similar benefits.

Recapture

Pursuant to UTEP, all benefits subject to recapture for a 10-year period.

New Anns, Inc.

SEQRA Determination

Type II Action which, if implemented, will not result in significant adverse environmental impacts.

The completed Environmental Assessment Form for this project has been reviewed and signed by Agency staff.

Due Diligence

The Agency conducted a background investigation of the Company and its principals and found no derogatory information.

| | |
|-----------------------------|---|
| Compliance Check: | Not Applicable |
| Living Wage: | Exempt |
| Paid Sick Leave: | Compliant |
| Affordable Care Act: | ACA Coverage Offered |
| Bank Account: | North East Community Bank |
| Bank Check: | Relationships are reported to be satisfactory |
| Supplier Checks: | Relationships are reported to be satisfactory |
| Customer Checks: | Not applicable |
| Unions: | Not applicable |
| Vendex Check: | No derogatory information was found |
| Attorney: | Steve Polivy, Akerman LLP, 666 Fifth Avenue 20 th Floor, New York, NY 10103 |
| Accountant: | Aaron Goldstein, Janover Accountants, 100 Quentin Roosevelt Blvd, Garden City, NY 11530 |
| Consultant: | Wendy Rossi, Akerman LLP, 666 Fifth Avenue 20 th Floor, New York, NY 10103 |
| Community Board: | Bronx, CB #1 |



April 10, 2019

Jenny Osman
FRESH Director and Project Manager – Strategic Investments Group
New York City Economic Development Corporation
110 William Street
New York, NY 10038

Re: 345 St. Ann's Avenue FRESH
Bronx, Block 2268, Lot 27
FRESH Application: New Era Foods One, Inc. on behalf of an entity to be formed as Operator

Dear Ms. Osman,

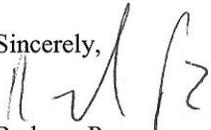
We are requesting assistance from the New York City Industrial Development Agency (the "Agency"), through the FRESH program, in the form of real property tax relief on the land and improvements, sales tax exemption on capital purchases of equipment and furnishings and energy benefits, in connection with our proposed lease of approximately 14,990 sf., approximately 11,115 sf. on the ground floor and 3,884 sf. in the cellar, to be occupied by a FRESH supermarket that will operate under one of the Krasdale Foods banners, by an affiliate of New Era Foods One, Inc. in a mixed-used development located at 345 St. Ann's Avenue, Bronx, New York. The building will be a 10-story tower with 100% affordable housing above the ground floor retail space. The project will be configured with a commercial residential condominium unit for the housing, and a commercial condominium unit for the FRESH Supermarket on the ground floor, which will include that portion of the cellar space dedicated to use by the commercial purpose.

New Era Foods One, Inc. was founded in 1979 and has operated their store at 668 Crescent Avenue continuously since that time. Mastermind Ltd, an affiliate of New Era Foods One, Inc. has been in business for over 20 years and is one of the most active Bronx-based firms in the real estate service industry. Mastermind provides a full array of commercial services to assist its clients in areas of efficiency and profitability by providing merchandising, marketing, communication and public relation services. Radame Perez is the sole shareholder of both of these companies and will establish an entity, as yet to be formed, under which the FRESH supermarket will be operated.

The neighborhood urgently needs a local grocer; one that can provide healthy fruits, vegetables and meats to the residents of the area. With the benefits afforded by the Agency under the FRESH program, a new, full service FRESH supermarket can be constructed that will take advantage of state of the art equipment, refrigeration and standards exceeding disposal and recycling systems. The current design of the building calls for non-combustible materials with fire suppression and pre-emption systems throughout and incorporates environmentally friendly components as well. Unlike older and smaller stores, this market will be designed and built in accordance the Americans with Disabilities Act. In addition, check-out and courtesy counters will display health education and promotional materials provided by the Shop Healthy Bronx Initiative.

The proposed project will have a positive impact in supporting current and existing residential and commercial investments and provide much needed access to healthy foods and market-rate employment.

Thank you for considering our application for FRESH benefits.

Sincerely,

Radame Perez

President, New Era Foods One, Inc.

Exhibit O

Resolution inducing the financing of a commercial facility for New Anns, Inc. as a Straight-Lease Transaction

WHEREAS, New York City Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, New Anns, Inc., a New York business corporation (the “Company”), and its affiliate New Era Foods One, Inc., a New York business corporation (the “Developer”), have entered into negotiations with officials of the Agency for the furnishing and equipping of a commercial facility in the Bronx, New York (the “Facility”), consisting of a retail condominium unit (the “Condominium Unit”) containing 14,970 square feet to be located in an approximately 180,040 square foot mixed-use development on an approximately 24,150 square foot parcel of land at 345 St. Ann’s Avenue, Bronx, New York 10454, which Condominium Unit will be owned by TCB Mott Haven Housing Development Fund Corporation (the “Landlord”) and leased to and operated by the Company for use as a supermarket, for sublease to the Agency by the Company, and sub-sublease by the Agency to the Company, and having an approximate total project cost of approximately \$2,436,875 (the “Project”); and

WHEREAS, the Company has submitted a Project Application (the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company and the Project will meet all requirements of the City’s Food Retail Expansion to Support Health Program (“FRESH”) and that without the discretionary FRESH financial incentives, the Company cannot open and operate the supermarket in the Facility; that the Company, which was recently formed, is an affiliate of the Developer, which is currently located in The City of New York (the “City”) and that the Company will operate in the City and expects to employ approximately 55 full time equivalent employees in the City within the three years following the completion of the Project; that the Company must obtain Agency financial assistance in the form of a straight-lease transaction to enable the Company to proceed with the Project and thereby establish and expand its operations in the City; and that, based upon the financial assistance provided through the Agency, the Company desires to proceed with the Project and establish and expand its operations in the City; and

WHEREAS, in order to finance the costs of the Project, funds consisting of equity in the Company in the amount of approximately \$663,293 will be provided, and the balance of the costs will be funded through an inter-company loan; and

WHEREAS, the Act allows the Agency to provide financial assistance for a project at which facilities or property primarily used in making retail sales of goods or services to

customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost if, among other alternative requirements:

(1) the project is located in a “highly distressed area,” defined in Section 854(18) of the Act to include an area in which a census tract, or tracts or block numbering area or areas or such census tract or block numbering areas contiguous thereto, which, according to the most recent census data available has (i) a poverty rate of at least 20% for the year to which the data relates or at least 20% of households receiving public assistance and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; and

(2) the Agency determines after a public hearing that undertaking the project will serve the public purposes of Article 18-A of the Act by increasing the overall number of permanent, private sector jobs in New York State; and

WHEREAS, based upon the Application, it is requested that the Agency determine if the financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Company are necessary to induce the Company to establish and expand its operations in the City; and

WHEREAS, the Project should not be delayed by the implementation of a straight-lease transaction, which cannot be immediately accomplished, and the Company intends to apply its own equity for a portion of the costs of the Project and to enter into an agreement with the Landlord, which entity will provide funds to finance a portion of the costs of the Project; and

WHEREAS, in order to provide financial assistance to the Company for the Project, the Agency intends to grant the Company financial assistance through a straight-lease transaction in the form of real property tax abatements and sales tax exemptions, all pursuant to the Act, provided that such financial assistance shall not apply to any parking facilities that are included in the Condominium Unit;

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the Project and the provision by the Agency of financial assistance to the Company pursuant to the Act in the form of a straight-lease transaction are necessary to induce the Company to establish and expand its operations in the City and will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Company to proceed with the Project. The Agency further determines that

(a) the Project shall not result in the removal of any facility or plant of the Company or any other occupant or user of the Facility from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Company or any other occupant or user of the Project located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York;

(c) the Project is located in a “highly distressed area” (as defined in Section 854(18) of the Act) because it is located in Census Tract 41 in the Bronx; that the poverty rate calculated from the most recent census data (American Community Survey 2012-2016 5-Year Estimate) for Census Tract 41 indicates that for the year to which the census data relates approximately 52% of the population was living below the poverty level; that the unemployment rate in Census Tract 41 for the year to which the census data relates was approximately 18.5%, while the statewide unemployment rate for such year was 4.7%; that 18.5% is greater than 1.25 times the statewide rate of 4.7%;

(d) the Agency determines after a public hearing that undertaking the Project will serve the public purposes of Article 18-A of the Act by increasing the overall number of permanent, private sector jobs in New York State; and

(e) the proposed action of the Agency described herein must be confirmed by the Mayor of the City.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Company for the Project, a straight-lease transaction is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes the Company to proceed with the Project as herein authorized. The Company is authorized to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Company that (i) nominal leasehold title to or other interest of the Agency in the Facility shall be in the Agency for purposes of granting financial assistance, and (ii) the Company is hereby constituted the agent for the Agency solely for the purpose of effecting the Project, and neither the Agency nor any of its members, directors, officers, employees, agents or servants shall have any personal liability for any such action taken by the Company for such purpose.

Section 4. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Company to assist in the Project.

Section 5. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution.

Section 6. Any expenses incurred by the Agency with respect to the Project shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, officers, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 7. This Resolution is subject to approval based on an investigative report with respect to the Company and the Developer. The provisions of this Resolution shall continue to be effective for three years from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 6 hereof).

Section 8. The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Agency’s review of information provided by the Company and such other information as the Agency has deemed necessary and appropriate to make this determination.

The Agency hereby determines that the proposed action is a Type II action, pursuant to 6 N.Y.C.R.R Part 617.5(c)(2), because it is the “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes”, which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 9. In connection with the Project, the Company covenants and agrees to comply, and to cause each of its contractors, subcontractors, agents, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3), as such provisions may be amended from time to time.

(1) The Company acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Company New York State sales or use tax savings taken or purported to be taken by the Company, and any agent or any other person or entity acting on behalf of the Company, to which the Company is not entitled or which are in excess of the maximum sales or use tax exemption amount authorized in Section 10 of this Resolution or which are for property or services not authorized or taken in cases where the Company, or any agent or any other person or entity acting on behalf of the Company, failed to comply with a material term or condition to use property or services in the manner required by this Resolution or any agreements entered into among the Agency, the Company and/or any agent or any other person or entity acting on behalf of the Company. The Company shall, and shall require each agent and any other person or entity acting on behalf of the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such New York State sales or use tax savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”) to assess and determine New York State sales or use taxes due from the

Company under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(2) The Company is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to the Company or any other party) that the Agency is subject to certain requirements under the General Municipal Law, including the following:

(i) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of New York State sales or use tax savings from the Company, any agent or other person or entity, the Agency shall, within thirty days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, New York State sales or use tax savings from the Company or any other agent, person or entity.

(ii) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State sales or user tax savings described in General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. Such report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the annual financial statement required by General Municipal Law Section 859(1)(b). Such report shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete such report shall be deemed to be the failure to file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(3) The foregoing requirements of this Section 9 shall apply to any amounts of New York State sales or use tax savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency, the Company or any agent or other person or entity acting on behalf of the Company characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be New York State sales or use taxes and the Agency shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of New York State.

Section 10. In connection with the Project, the Agency intends to grant to the Company sales and use tax exemptions in an amount not to exceed \$163,123 and real property tax abatements.

Section 11. This Resolution shall take effect immediately.

ADOPTED: June 11, 2019

ACCEPTED: _____, 2019

NEW ANNS, INC.

By: _____

Name:

Title: