

[Second Reprint]

**SENATE, No. 917**

**STATE OF NEW JERSEY**

**214th LEGISLATURE**

INTRODUCED FEBRUARY 1, 2010

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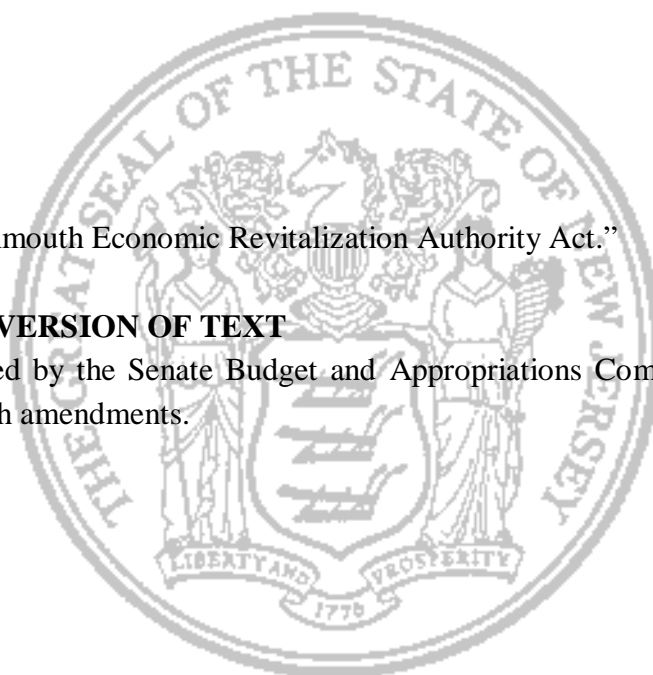
**Senator Kyrillos and Assemblyman Chivukula**

**SYNOPSIS**

“Fort Monmouth Economic Revitalization Authority Act.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 24, 2010, with amendments.



**(Sponsorship Updated As Of: 6/29/2010)**

1 AN ACT establishing the <sup>1</sup>Fort<sup>1</sup> Monmouth Economic Revitalization  
2 Authority, supplementing Title 52 of the Revised Statutes and  
3 repealing parts of the statutory law.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the  
9 **1**["Monmouth"] Fort Monmouth<sup>1</sup> Economic Revitalization  
10 Authority Act."

11  
12 2. The Legislature finds and declares that:

13 a. The closure and revitalization of Fort Monmouth is a matter  
14 of great concern for the host municipalities of Eatontown,  
15 Oceanport, and Tinton Falls; for Monmouth County; and for the  
16 State of New Jersey.

17 b. The economies, environment, and quality of life of the host  
18 municipalities, Monmouth County, and the State will benefit from  
19 the efficient, coordinated, and comprehensive redevelopment and  
20 revitalization of Fort Monmouth. The Fort Monmouth Economic  
21 Revitalization Planning Authority was established pursuant to  
22 P.L.2006, c.16 (C.52:27I-1 et seq.) to plan for the comprehensive  
23 conversion and revitalization of Fort Monmouth, so as to encourage  
24 enlightened land use and to create employment and other business  
25 opportunities for the benefit of the host municipalities, of that  
26 county and the entire State. On September 4, 2008, the Fort  
27 Monmouth Economic Revitalization Planning Authority submitted a  
28 comprehensive conversion and revitalization plan for Fort  
29 Monmouth, known as the "Fort Monmouth Reuse and  
30 Redevelopment Plan," and a homeless assistance submission to the  
31 United States Department of Defense and the United States  
32 Department of Housing and Urban Development, as required under  
33 the applicable federal Base Closure and Realignment law and  
34 regulations. The Fort Monmouth Reuse and Redevelopment Plan is  
35 the result of an extensive, coordinated, and collaborative process  
36 conducted by the Fort Monmouth Economic Revitalization Planning  
37 Authority, and reflects input from the host municipalities,  
38 Monmouth County, State departments and agencies and the general  
39 public as to the future of Fort Monmouth.

40 c. Upon acceptance by the United States Department of  
41 Defense and the United States Department of Housing and Urban  
42 Development as required under applicable federal Base Closure and  
43 Realignment law and regulations, the Fort Monmouth Reuse and  
44 Redevelopment Plan will constitute the plan for the redevelopment

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SEG committee amendments adopted June 3, 2010.

<sup>2</sup>Senate SBA committee amendments adopted June 24, 2010.

1 and revitalization of Fort Monmouth to be implemented pursuant to  
2 and in accordance with the provisions of this act.

3 d. A coordinated and comprehensive redevelopment and  
4 revitalization of Fort Monmouth will be facilitated by establishing  
5 and empowering a new authority, to be known as the  
6 <sup>1</sup>["Monmouth"] "Fort Monmouth"<sup>1</sup> Economic Revitalization  
7 Authority," to implement the Fort Monmouth Reuse and  
8 Redevelopment Plan, including the adoption of any modifications  
9 or amendments to the Fort Monmouth Reuse and Redevelopment  
10 Plan and the adoption of development and design guidelines and  
11 land use regulations in furtherance thereof, as provided in this act.

12 e. The New Jersey Economic Development Authority (EDA)  
13 has substantial and significant experience with partnering with local  
14 communities and leveraging public-private partnerships. The EDA  
15 manages large scale, redevelopment projects, utilizes a system of  
16 internal controls and procedures to ensure the integrity of  
17 redevelopment activities, and maintains a staff with a wide range of  
18 experience in redevelopment projects, real estate, finance, and job  
19 creation. <sup>1</sup>["Therefore the EDA is the appropriate entity to serve as  
20 the staff to the authority to enable the authority to implement the  
21 Fort Monmouth Reuse and Redevelopment Plan."]<sup>1</sup> To this end, an  
22 office is to be created within the EDA staffed by such EDA  
23 employees on a part or full time basis as the EDA determines  
24 necessary to carry out the functions of the office.

25 f. Furthermore, because of the experience and expertise of the  
26 EDA in redevelopment projects, it is appropriate to authorize the  
27 authority established by this act to enter into a <sup>1</sup>["master"]  
28 designated<sup>1</sup> redevelopment agreement with the EDA for the  
29 redevelopment of Fort Monmouth. The activities of the EDA as <sup>1</sup>a  
30 designated<sup>1</sup> redeveloper pursuant to the <sup>1</sup>["master"] designated<sup>1</sup>  
31 redevelopment agreement are to be accounted for, managed and  
32 supervised <sup>1</sup>["separate"] separately<sup>1</sup> and apart from the activities of  
33 the office established by this act, notwithstanding the possible  
34 sharing of staff between the EDA's activities as <sup>1</sup>a designated<sup>1</sup>  
35 redeveloper and EDA's activities in staffing the office.

36 g. The host municipalities have an ongoing interest in the  
37 implementation of the plan, and the planning boards of the host  
38 municipalities have knowledge, expertise, and experience as well as  
39 procedures in place for reviewing and approving proposed  
40 subdivisions and site plans as provided in this act.

41

42 3. The following words or terms as used in this act shall have  
43 the following meaning unless a different meaning clearly appears  
44 from the context:

45 "Act" means the <sup>1</sup>["Monmouth"] "Fort Monmouth"<sup>1</sup> Economic  
46 Revitalization Authority Act."

1 “Authority” means the <sup>1</sup>Fort<sup>1</sup> Monmouth Economic  
2 Revitalization Authority established by section 4 of this act.

3 “Conditional use” means a use permitted within the project area  
4 only upon a showing that such use in a specified location will  
5 comply with the conditions and standards for the location or  
6 operation of such use as contained in the development and design  
7 guidelines or land use regulations adopted by the authority, and  
8 upon the issuance of an authorization therefor by the planning  
9 board.

10 “County” means Monmouth County.

11 “County planning board” means the Monmouth County planning  
12 board.

13 “Density” means the permitted number of dwelling units per  
14 gross area of land to be developed.

15 “Designated redevelopment agreement” means the  
16 redevelopment agreement to be entered into by and between the  
17 authority and the EDA as provided in this act for properties within  
18 the project area acquired by the authority.<sup>1</sup>

19 “Development and design guidelines” means the development  
20 and design guidelines to be adopted by the authority pursuant to this  
21 act, as revised or amended as provided in this act, which when  
22 adopted shall apply to all applications for subdivision or site plan  
23 approval within the project area and shall supersede the zoning  
24 ordinances and land use regulations of the host municipalities and  
25 the county with respect to the project area.

26 “EDA” means the New Jersey Economic Development  
27 Authority, established pursuant to section 4 of P.L.1974, c.80  
28 (C.34:1B-4).

29 “Federal government” means the United States of America, and  
30 any officer, department, board, commission, bureau, division,  
31 corporation, agency or instrumentality thereof, including, but not  
32 limited to, the United States Department of Defense and the United  
33 States Department of Housing and Urban Development.

34 “Floor area ratio” means the sum of the area of all floors of  
35 buildings or structures compared to the total area of the site.

36 “Fort Monmouth” means the federally owned or operated  
37 military installation located in the municipalities of Eatontown,  
38 Oceanport, and Tinton Falls in the county that, as of May 13, 2005,  
39 was functioning, but was scheduled for closure by recommendation  
40 of the federal Base Realignment and Closure Commission issued on  
41 that date, including any facilities, real property and improvements,  
42 infrastructure and appurtenances and personal property.

43 “Homeless assistance submission” means the homeless assistance  
44 submission submitted to the United States Department of Defense and  
45 the United States Department of Housing and Urban Development on  
46 September 4, 2008 required under the Defense Base Closure and  
47 Realignment Act of 1990, Pub.L.101-510 (10 U.S.C. s.2687).

1       “Host municipality” means the municipalities of Eatontown,  
2 Oceanport or Tinton Falls.

3       “Land use regulations” means the regulations to be adopted by  
4 the authority pursuant to this act, revised or amended as provided in  
5 this act, which when adopted shall apply to all applications for  
6 subdivision or site plan approval within the project area and shall  
7 supersede the zoning ordinances and land use regulations of the  
8 host municipalities and the county with respect to the project area.

9       “Master plan” or “plan” or “revitalization plan” means the  
10 comprehensive conversion and revitalization plan and the homeless  
11 assistance submission prepared and adopted by the predecessor  
12 authority and entitled "Fort Monmouth Reuse and Redevelopment  
13 Plan" submitted to the United States Department of Defense and the  
14 United States Department of Housing and Urban Development on  
15 September 4, 2008, pursuant to section 14 of P.L.2006, c.16  
16 (C.52:27I-14), as accepted by the federal government, and as may  
17 be amended, revised, or modified as provided in this act.

18       <sup>1</sup>“Master redevelopment agreement” means the redevelopment  
19 agreement to be entered into by and between the authority and the  
20 EDA as provided in this act for properties within the project area  
21 acquired by the authority. <sup>1</sup>

22       “Minor subdivision” means “minor subdivision” as defined in  
23 section 3.2 of P.L.1975, c.291 (C.40:55D-5).

24       “Nonconforming use” means a legal or pre-existing use or  
25 activity which fails to conform to the development and design  
26 guidelines or land use regulations adopted by the authority.

27       “Planning board” means the planning board of a host  
28 municipality.

29       "Predecessor authority" means the Fort Monmouth Economic  
30 Revitalization Planning Authority established pursuant to section 4  
31 of P.L.2006, c.16 (C.52:27I-4), repealed by this act.

32       “Project area” means that area encompassed by the metes and  
33 bounds of Fort Monmouth.

34       “Project parcel” means a portion of the project area that is the  
35 subject of a development or redevelopment project.

36       "Redevelopment" means clearance, replanning, development and  
37 redevelopment; the conservation and rehabilitation of any structure  
38 or improvement; the construction and provision for construction of  
39 residential, commercial, industrial, public or other structures or  
40 infrastructure; and the grant or dedication of spaces as may be  
41 appropriate or necessary in the interest of the general welfare for  
42 streets, utilities, parks, playgrounds, or other public purposes,  
43 including recreational and other facilities incidental or appurtenant  
44 thereto, in accordance with the approved Fort Monmouth Reuse and  
45 Redevelopment Plan submitted to the federal government, with the  
46 intent of supporting the economic revitalization of the region.

1 "Revitalization" means a comprehensive program of planning,  
2 conservation, rehabilitation, clearance, development and  
3 redevelopment, preservation, and historic restoration.

4 "Site Plan" means "site plan" as defined in section 3.4 of  
5 P.L.1975, c.291 (C.40:55D-7).

6 "Subdivision" means "subdivision" as defined in section 3.4 of  
7 P.L.1975, c.291 (C.40:55D-7).

8 "Variance" means permission to depart from the literal  
9 requirements of the master plan, the development and design  
10 guidelines adopted by the authority or the land use regulations  
11 adopted by the authority.

12

13 4. There is hereby established in, but not of, the Department of  
14 the Treasury a public body corporate and politic, with corporate  
15 succession, to be known as the 'Fort' Monmouth Economic  
16 Revitalization Authority as the successor to the predecessor  
17 authority. The authority is hereby constituted as an instrumentality  
18 of the State exercising public and essential governmental functions  
19 to provide for the public safety, convenience, benefit, and welfare.  
20 The exercise by the authority of the powers conferred by this act  
21 shall be deemed and held to be an essential governmental function  
22 of the State. For the purposes of complying with the provisions of  
23 Article V, Section IV, paragraph 1 of the New Jersey Constitution,  
24 the authority is allocated within the Department of the Treasury, but  
25 notwithstanding that allocation, the authority shall be independent  
26 of any supervision or control by the Department of the Treasury or  
27 any board or officer thereof, except as may be provided in this act.

28

29 5. Effective and automatically upon the first meeting of the  
30 authority:

31 a. The authority shall assume all of the powers, rights, assets,  
32 and duties of the predecessor authority to the extent provided by  
33 this act, and such powers shall then and thereafter be vested in and  
34 shall be exercised by the authority.

35 b. The terms of office of the members of the predecessor  
36 authority shall terminate, the officers having custody of the funds of  
37 the predecessor authority shall deliver those funds into the custody  
38 of the person having charge of the financial affairs of the authority,  
39 the property and assets of the predecessor authority shall, without  
40 further act or deed, become the property and assets of the authority,  
41 and the predecessor authority shall cease to exist.

42 c. <sup>1</sup>【The offices and terms of the officers and employees of the  
43 predecessor authority, as provided for through an agreement with  
44 the Department of the Treasury, except as otherwise provided in  
45 this act, shall terminate. Upon such termination, any current  
46 employee may be retained by the EDA at its discretion on either a  
47 full-time or a part-time basis.

1 d.]<sup>1</sup> All debts, liabilities, obligations and contracts of the  
2 predecessor authority, except to the extent specifically provided or  
3 established to the contrary in this act, are imposed upon the  
4 authority, and all creditors of the predecessor authority and persons  
5 having claims against or contracts with the predecessor authority of  
6 any kind or character may enforce those debts, claims and contracts  
7 against the authority as successor to the predecessor authority in the  
8 same manner as they might have had against the predecessor  
9 authority, and the rights and remedies of those holders, creditors  
10 and persons having claims against or contracts with the predecessor  
11 authority shall not be limited or restricted in any manner by this act.

12 [e.] d.<sup>1</sup> In continuing the functions, contracts, obligations and  
13 duties of the predecessor authority, the authority is authorized to act  
14 in its own name or in the name of the predecessor authority as may  
15 be convenient or advisable under the circumstances from time to  
16 time.

17 [f.] e.<sup>1</sup> Any references to the predecessor authority in any  
18 other law or regulation shall be deemed to refer and apply to the  
19 authority.

20 [g.] f.<sup>1</sup> All operations of the predecessor authority shall  
21 continue as operations of the authority until altered by the authority  
22 as may be permitted pursuant to this act.

23 [h.] g.<sup>1</sup> The powers vested in the authority by this act shall be  
24 construed as being in addition to and not in diminution of the  
25 powers heretofore vested by law in the predecessor authority to the  
26 extent not otherwise altered or provided for in this act.

27

28 6. a. There is hereby established in the EDA an office which  
29 shall be staffed by employees of the EDA which shall remain under  
30 the supervision and control of the EDA. The office shall be  
31 responsible for carrying out the policies set forth by the authority,  
32 in a collaborative manner with the host municipalities and the  
33 county. The office shall be administered by a director whose hiring  
34 shall be reviewed and approved by a subcommittee of the members  
35 of the authority to be appointed and convened at the direction of the  
36 chairperson of the authority for the purposes of this action.

37 b. The authority will rely solely on the office for all support  
38 services it requires to carry out its mission under this act, including,  
39 but not limited, to administrative, procurement, budgetary, clerical,  
40 and other similar types of services.

41 c. The authority and the EDA may enter into any agreements  
42 necessary to provide for the establishment, operation, and financial  
43 support of the office.

44 d. The costs of the office shall be paid for by the authority.  
45 The EDA shall on an annual basis submit to the authority a budget  
46 for review and approval by the authority for the anticipated costs of  
47 the office for the succeeding calendar year. If, during the course of

1 the calendar year, it is necessary to amend the budget, the EDA  
2 shall submit an amendment or amendments to the authority for  
3 review and approval by the authority. All costs and expenses of the  
4 office shall be accounted for ~~'[separate]~~ separately<sup>1</sup> and apart from  
5 the costs and expenses of the EDA in its capacity as redeveloper  
6 pursuant to the ~~'[master]~~ designated<sup>1</sup> redevelopment agreement.  
7 'In the event the authority does not have adequate monies to fund  
8 the budget, the EDA may make a loan to the authority in the amount  
9 of the unfunded portion of the budget on terms and conditions  
10 acceptable to the EDA and the authority.<sup>1</sup>

11 e. When it is necessary for the authority to engage the services  
12 of professional consultants, including registered architects, licensed  
13 professional engineers, planners, attorneys, accountants, or other  
14 professional consultants, the office shall assist the authority in the  
15 procurement process.

16  
17 7. It shall be the purpose of the authority to oversee,  
18 administer, and implement the plan as provided in this act, in a  
19 manner that will promote, develop, encourage, and maintain  
20 employment, commerce, economic development, and the public  
21 welfare; to conserve the natural resources of the State; to provide  
22 housing, including housing to address identified needs related to  
23 homelessness; and to advance the general prosperity and economic  
24 welfare of the people in the host municipalities, the county, and the  
25 entire State by cooperating and acting in conjunction with other  
26 organizations, public and private, to promote and advance the  
27 economic use of the facilities located at Fort Monmouth.

28  
29 8. a. The authority shall consist of 13 members to be appointed  
30 and qualified as follows:

31 (1) Three voting members appointed by the Governor with the  
32 advice and consent of the Senate, for staggered terms of five years,  
33 one of whom shall be a representative of the private sector with  
34 relevant business experience or background; one of whom shall be  
35 an individual who is knowledgeable in environmental issues,  
36 conservation, or land use issues; and one of whom shall have  
37 appropriate experience in workforce development and job training.  
38 Preference shall be given to professionals with a background in  
39 technology, finance, energy industry, or real estate. ~~'[At least one]~~  
40 One<sup>1</sup> of the members 'appointed under this paragraph<sup>1</sup> shall be a  
41 resident of the county 'selected from a list of five candidates  
42 recommended by the Monmouth County Board of Chosen  
43 Freeholders and submitted to the Governor; the list of candidates  
44 for the initial selection of this member shall be so submitted within  
45 45 days after the date of enactment of this act. In the event the  
46 Governor rejects all five candidates for the member to be selected  
47 upon the recommendation of the Monmouth County Board of



1 Chosen Freeholders, the Monmouth County Board of Chosen  
2 Freeholders may submit an additional list of five different  
3 candidates within 30 days of the Governor's rejection of the prior  
4 list. If the Monmouth County Board of Chosen Freeholders does  
5 not submit a list of five candidates within either of the  
6 aforementioned time periods, within ten days after the expiration of  
7 such time period, the Governor shall inform the Monmouth County  
8 Board of Chosen Freeholders in writing that the Governor, at the  
9 Governor's discretion, will make such appointment<sup>1</sup>. Not more  
10 than two of the members appointed by the Governor pursuant to this  
11 paragraph shall be members of the same political party <sup>1</sup>, but the  
12 provisions of this paragraph regarding the selection of one such  
13 member from among candidates recommended by the Monmouth  
14 County Board of Chosen Freeholders shall not be construed to  
15 prohibit the appointment of a resident of the county for either or  
16 both of the memberships under this paragraph that are not filled  
17 from among candidates so recommended<sup>1</sup>;

18 (2) The <sup>1</sup>**['Chief Executive Officer'] Chairperson**<sup>1</sup> of the New  
19 Jersey Economic Development Authority, ex officio and voting;

20 (3) <sup>1</sup>**['The Governor shall also appoint another'] Another**<sup>1</sup>  
21 member of the Executive Branch <sup>1</sup>appointed by the Governor<sup>1</sup> to  
22 serve on the authority, ex officio and voting;

23 (4) One voting member, who shall be a <sup>1</sup>**['resident'] member**<sup>1</sup> of  
24 <sup>1</sup>the<sup>1</sup> Monmouth County <sup>1</sup>**[','] Board of Chosen Freeholders**<sup>1</sup> to be  
25 appointed by the Monmouth County Board of Chosen Freeholders  
26 <sup>1</sup>**['for a term of three years, who shall be either:**

27 (a) a member of the board, or

28 (b) a qualified person, who shall be nominated by the board,  
29 with relevant business experience or background, or who may be an  
30 employee of the county]<sup>1</sup>;

31 (5) The mayors of Eatontown, Oceanport, and Tinton Falls, ex  
32 officio and voting;

33 (6) The Commissioner of Labor and Workforce Development,  
34 who shall serve as an ex officio, non-voting member;

35 (7) The Commissioner of Environmental Protection, who shall  
36 serve as an ex officio, non-voting member;

37 (8) The Commissioner of Community Affairs, who shall serve  
38 as an ex officio, non-voting member; and

39 (9) The Commissioner of Transportation, who shall serve as an  
40 ex officio, non-voting member.

41 Each member appointed by the Governor <sup>1</sup>**['and the member**  
42 **appointed by the county Board of Chosen Freeholders']**<sup>1</sup> shall hold  
43 office for the term of that member's appointment and until a  
44 successor shall have been appointed and qualified. <sup>1</sup>The member  
45 appointed by the Monmouth County Board of Chosen Freeholders  
46 shall hold office for the term of that member's service on the board.  
47 In the event that a member appointed by the Monmouth County

1 Board of Chosen Freeholders ceases to serve on that board, that  
2 member shall no longer hold office on the authority and the board  
3 shall appoint a member of the board to serve as a new member of  
4 the authority.<sup>1</sup> A member shall be eligible for reappointment. Any  
5 vacancy in the membership occurring other than by expiration of  
6 term shall be filled in the same manner as the original appointment  
7 but for the unexpired term only.

8 b. Each ex officio member of the authority and the member  
9 appointed by the Monmouth County Board of Chosen Freeholders  
10 may designate an employee of the member's department or office to  
11 represent the member at meetings of the authority. The designee  
12 may act on behalf of the member. The designation shall be in  
13 writing and shall be delivered to the authority and shall be effective  
14 until revoked or amended in writing to the authority.

15 c. Each member appointed by the Governor may be removed  
16 from office by the Governor for cause, after a public hearing, and  
17 may be suspended by the Governor pending the completion of that  
18 hearing. Each such member, before entering the duties of  
19 membership, shall take and subscribe an oath to perform those  
20 duties faithfully, impartially, and justly to the best of the person's  
21 ability. A record of those oaths shall be filed in the office of the  
22 Secretary of State.

23 d. The Governor shall appoint the chairperson of the  
24 authority.<sup>1</sup> The members of the authority shall annually elect a  
25 ['chairperson and']<sup>1</sup> vice-chairperson from among their members.  
26 The chairperson shall appoint a secretary and treasurer. The powers  
27 of the authority shall be vested in the voting members thereof in  
28 office from time to time; five voting members of the authority shall  
29 constitute a quorum, and the affirmative vote of five voting  
30 members shall be necessary for any action taken by the authority,  
31 except as otherwise provided in subsection e. of this section, or  
32 unless the bylaws of the authority shall require a larger number. No  
33 vacancy in the membership of the authority shall impair the right of  
34 a quorum to exercise all the rights and perform all the duties of the  
35 authority.

36 e. The affirmative vote of seven members shall be required for  
37 the following actions taken by the authority:

38 (1) any action to adopt or revise the plan<sup>1</sup>, as provided in section  
39 18 of this act,<sup>1</sup> or to adopt or revise the development and design  
40 guidelines or land use regulations adopted by the authority as  
41 provided in 'section 17 of'<sup>1</sup> this act; (2) any action to enter into a  
42 ['master'] designated<sup>1</sup> redevelopment agreement with the EDA 'as  
43 provided in subsection a. of section 16 of this act'<sup>1</sup>; (3) any action to  
44 adopt any amendment to the plan pursuant to 'paragraph (1) of  
45 subsection e. of'<sup>1</sup> section ['16] 17'<sup>1</sup> of this act; (4) any action to  
46 'approve any project undertaken by the EDA; (5) any action to'<sup>1</sup>  
47 acquire easements, rights of way, or fee title to properties pursuant

1 to subsection g. of section 9 of this act; '(6) in any year that the  
2 authority is anticipated to receive no funding from the federal  
3 government, any action to approve the budget of the office for that  
4 year or any amendment to the budget pursuant to subsection d. of  
5 section 6 of this act;<sup>1</sup> and '[(5)] (7)'<sup>1</sup> consent to the designation of  
6 any portion of the project area as an area in need of redevelopment  
7 or any area in need of rehabilitation pursuant to the provisions of  
8 the "Local Redevelopment and Housing Law," P.L.1992, c.79  
9 (C.40A:12A-1 et al.), as provided in 'subsection o. of section 9 of'  
10 this act.

11 f. The members of the authority shall serve without  
12 compensation, but the authority may, within the limits of funds  
13 appropriated or otherwise made available for such purposes,  
14 reimburse its members for necessary expenses incurred in the  
15 discharge of their official duties.

16 g. (1) No member, officer, employee or agent of the authority  
17 or office shall have a personal interest, either directly or indirectly,  
18 in any project, employment agreement or any contract, sale,  
19 purchase, lease, or transfer of real or personal property to which the  
20 authority or office is a party.

21 (2) The '[members, officers, and employees of the]'<sup>1</sup> authority<sup>1</sup>,  
22 as well as any business entity performing or seeking to perform a  
23 contract for the authority,<sup>1</sup> shall be subject to the provisions of  
24 P.L.2005, c.51 (C.19:44A-20.13 et seq.).

25 (3) The members, officers, and employees of the authority shall  
26 be subject to the same financial disclosure requirements as the  
27 members, officers, and employees of State authorities subject to  
28 executive orders of the Governor with respect to financial  
29 disclosure.

30 h. The authority may be dissolved by act of the Legislature on  
31 condition that the authority has no debts or obligations outstanding  
32 or provision has been made for the payment, retirement,  
33 termination, or assumption of its debts and obligations. Upon  
34 dissolution of the authority, all property, funds, and assets thereof  
35 shall be vested in the State, unless the Legislature directs otherwise.

36 i. A true copy of the minutes of every meeting of the authority  
37 shall be forthwith delivered by and under the certification of the  
38 secretary thereof to the Governor. No action taken at such meeting  
39 by the authority shall have force or effect until 10 days, Saturdays,  
40 Sundays, and public holidays excepted, after the copy of the  
41 minutes shall have been so delivered, unless during such 10-day  
42 period the Governor shall approve the same, in which case such  
43 action shall become effective upon such approval. If, in that 10-day  
44 period, the Governor returns such copy of the minutes with veto of  
45 any action taken by the authority or any member thereof at such  
46 meeting, such action shall be void.

1 j. Any and all proceedings, hearings or meetings of the  
2 authority shall be conducted in conformance with the "Senator  
3 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231  
4 (C.10:4-6 et seq.).

5 k. Records of minutes, accounts, bills, vouchers, contracts or  
6 other papers connected with or used or filed with the authority or  
7 with any officer or employee acting for or in its behalf are declared  
8 to be public records, and shall be open to public inspection in  
9 accordance with P.L.1963, c.73 (C.47:1A-1 et seq.).

10  
11 9. The authority shall have the following powers:

12 a. To enter into a '~~master~~ designated' redevelopment  
13 agreement as set forth in subsection a. of section '~~14~~ 16' of this  
14 act;

15 b. As designated and empowered as the "local redevelopment  
16 authority" for Fort Monmouth for all purposes of the Defense Base  
17 Closure and Realignment Act of 1990, Pub.L.101-510 (10 U.S.C.  
18 s.2687), and, in that capacity, to enter into agreements with the  
19 federal government, State departments, agencies or authorities, the  
20 county, the host municipalities, or private parties;

21 c. To adopt development and design guidelines and land use  
22 regulations consistent with and in furtherance of the plan; and to  
23 adopt, revise, adjust, and implement (1) any aspect of the plan or  
24 the development and design guidelines and land use regulations  
25 adopted in furtherance thereof, or to grant variances therefrom; (2)  
26 the economic revitalization study prepared pursuant to section 16 of  
27 P.L.2006, c.16 (C.52:27I-16); and (3) if designated as the  
28 designated agency pursuant to section 2 of P.L.2008, c.28  
29 (C.52:27I-8.2), any aspect of the homeless assistance submission  
30 required under the Defense Base Closure and Realignment Act of  
31 1990, Pub.L.101-510 (10 U.S.C. s.2687);

32 d. To undertake redevelopment projects pursuant to the plan;

33 e. To acquire or contract to acquire, and to dispose of the  
34 project area or any portion, tract or subdivision of the project area,  
35 or any utility system or infrastructure servicing the project area;

36 f. To lease as lessee, lease as lessor whether as a titleholder or  
37 not, own, rent, use, and take and hold title to, and to convey title of,  
38 and collect rent from, real property and personal property or any  
39 interest therein, in the exercise of its powers and the performance of  
40 its duties under this act;

41 g. To acquire, including by condemnation where necessary  
42 pursuant to the provisions of the "Eminent Domain Act of 1971,"  
43 P.L.1971, c.361 (C.20:3-1 et seq.), easements, rights of way, or fee  
44 title to properties within the project area where necessary in  
45 connection with the provision of utilities, streets, roads or other  
46 infrastructure required for implementation of the plan;

47 h. To arrange for the clearance of any parcel owned or  
48 acquired, and for the installation, construction or reconstruction of

- 1 streets, facilities, utilities, and site improvements essential to the  
2 preparation of sites for use in accordance with the plan;
- 3 i. To contract for the provision of professional services,  
4 including, but not limited to, the preparation of plans for the  
5 carrying out of redevelopment projects by registered architects,  
6 licensed professional engineers or planners, or other consultants;
- 7 j. To issue requests for proposals or requests for qualifications;  
8 to arrange or contract with other public agencies or public or private  
9 redevelopers, including but not limited to nonprofit entities, for the  
10 planning, replanning, construction, or undertaking of any project or  
11 redevelopment work, or any part thereof; to negotiate and collect  
12 revenue from a redeveloper to defray the costs of the authority, and  
13 to secure payment of such revenue; as part of any such arrangement  
14 or contract, to negotiate financial or in-kind contributions from a  
15 redeveloper to the authority or to the host municipalities to offset or  
16 mitigate impacts of the project; as part of any such arrangement or  
17 contract, to require the posting of performance guarantees in  
18 connection with any redevelopment project; as part of any such  
19 arrangement or contract, to facilitate the extension of credit, or  
20 making of loans, by the EDA, by other public agencies or funding  
21 sources, or by private entities to redevelopers to finance any project  
22 or redevelopment work, or upon a finding that the project or  
23 redevelopment work would not be undertaken but for the provision  
24 of financial assistance, or would not be undertaken in its intended  
25 scope without the provision of financial assistance, to facilitate as  
26 part of an arrangement or contract for capital grants to redevelopers;  
27 and to arrange or contract with public agencies or redevelopers for  
28 the opening, grading or closing of streets, roads, roadways, alleys,  
29 or other places or for the furnishing of facilities or for the  
30 acquisition by such agency of property options or property rights or  
31 for the furnishing of property or services in connection with the  
32 project area;
- 33 k. To participate in, conduct, or contract for the performance of  
34 environmental assessment or remediation activities or restoration  
35 arising out of or relating to environmental conditions within the  
36 project area, including but not limited to insurance or bonds related  
37 to such activities;
- 38 l. To enter upon any building or property in the project area in  
39 order to conduct investigations or make surveys, sounding or test  
40 borings necessary to carry out the purposes of the plan;
- 41 m. To arrange or contract with the EDA or other public  
42 agencies to facilitate or provide relocation assistance, of the types  
43 and in the amounts provided for businesses in the “Relocation  
44 Assistance Law of 1967,” P.L.1967, c.79 (C.52:31B-1 et seq.) and  
45 the “Relocation Assistance Act,” P.L.1971, c.362 (C.20:4-1 et seq.),  
46 to businesses operating within the project area who are displaced as  
47 a result of the closure and who request such assistance within a  
48 period to be determined by the authority;

- 1 n. To make, consistent with the plan: (1) plans for carrying out  
2 a program of voluntary repair and rehabilitation of buildings and  
3 improvements; and (2) plans for the enforcement of laws, codes,  
4 and regulations relating to the use and occupancy of buildings and  
5 improvements, and to the compulsory repair, rehabilitation,  
6 demolition, or removal of buildings and improvements;
- 7 o. Notwithstanding any other law to the contrary, to consent to  
8 a request by a host municipality for, or request that the host  
9 municipality consider, the designation of portions of the project  
10 area as being in need of redevelopment or rehabilitation in  
11 accordance with the provisions of the "Local Redevelopment and  
12 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);
- 13 p. To publish and disseminate information concerning the plan  
14 or any project within the project area;
- 15 q. To adopt and from time to time amend and repeal bylaws for  
16 the regulation of its affairs and the conduct of its business;
- 17 r. To adopt and use an official seal and alter it at its pleasure;
- 18 s. To maintain an office at a place or places within the State as  
19 it may designate;
- 20 t. To sue and be sued in its own name;
- 21 u. <sup>1</sup>[To appoint advisory committees to assist in its activities in  
22 such areas as it deems appropriate. The membership of the  
23 committees shall be determined by the authority. If appointed, the  
24 historical preservation committee and the environmental committee  
25 shall for all intents and purposes be the exclusive "historic  
26 preservation commission," as established pursuant to section 21  
27 of P.L.1985, c.516 (C.40:55D-107), and the "environmental  
28 commission," as established pursuant to P.L.1968, c.245  
29 (C.40:56A-1 et seq.), for all land use matters and approvals within  
30 the project area;
- 31 v.]<sup>1</sup> To provide that any revenues collected shall be available to  
32 the authority for use in furtherance of any of the purposes of this  
33 act;
- 34 <sup>1</sup>[w.] v.<sup>1</sup> Pursuant to an adopted cash management plan, to  
35 invest any funds held in reserve or sinking funds, or any funds not  
36 required for immediate disbursement, in property or securities in  
37 which governmental units may legally invest funds subject to their  
38 control;
- 39 <sup>1</sup>[x.] w.<sup>1</sup> To enter into mortgages as mortgagee;
- 40 <sup>1</sup>[y.] x.<sup>1</sup> To apply for, receive, and accept from any federal,  
41 State, or other public or private source, grants or loans for, or in aid  
42 of, the authority's authorized purposes;
- 43 <sup>1</sup>[z.] y.<sup>1</sup> To consent to the modification of any contract,  
44 mortgage, or other instrument entered into by it or on its behalf;
- 45 <sup>1</sup>[aa.] z.<sup>1</sup> To pay or compromise any claim arising on, or  
46 because of any agreement, mortgage, or instrument;

1       **1** **[bb.] aa.**<sup>1</sup> To acquire or contract to acquire from any person,  
2 firm, or corporation, public or private, by contribution, gift, grant,  
3 bequest, devise, purchase, or otherwise, real or personal property or  
4 any interest therein, including such property as it may deem  
5 necessary or proper, although temporarily not required for such  
6 purposes, in the project area or in any area outside the project area  
7 designated by the authority as necessary for carrying out the  
8 relocation of the businesses displaced from the project area as a  
9 result of the closure of Fort Monmouth or other acquisitions needed  
10 to carry out the master plan;

11       **1** **[cc.] bb.**<sup>1</sup> To subordinate, waive, sell, assign or release any  
12 right, title, claim, lien or demand however acquired, including any  
13 equity or right of redemption, foreclosure, sell or assign any  
14 mortgage held by it, or any interest in real or personal property; and  
15 to purchase at any sale, upon such terms and at such prices as it  
16 determines to be reasonable, and take title to the property, real,  
17 personal, or mixed, so acquired and similarly sell, exchange, assign,  
18 convey or otherwise dispose of any property;

19       **1** **[dd.] cc.**<sup>1</sup> To complete, administer, operate, obtain, and pay for  
20 insurance on, and maintain, renovate, repair, modernize, lease or  
21 otherwise deal with any property;

22       **1** **[ee.] dd.**<sup>1</sup> To retain attorneys, planners, engineers, architects,  
23 managers, financial experts, and other types of consultants as may  
24 be necessary;

25       **1** **[ff.] ee.**<sup>1</sup> To arrange or contract with any public agency, to the  
26 extent that it is within the scope of that agency's functions, to cause  
27 the services customarily provided by that agency to be rendered for  
28 the benefit of the occupants of the project area, and have that  
29 agency provide and maintain parks, recreation centers, schools,  
30 sewerage, transportation, water and other municipal facilities  
31 adjacent to or in connection with the project area;

32       **1** **[gg.] ff.**<sup>1</sup> To conduct examinations and investigations, hear  
33 testimony and take proof, under oath at public or private hearings of  
34 any material matter, compel witnesses and the production of books  
35 and papers and issue commissions for the examination of witnesses  
36 who are out of State, unable to attend, or excused from attendance;  
37 and to authorize a committee designated by it consisting of one or  
38 more members, or counsel, or any officer or employee to conduct  
39 the examination or investigation, in which case it may authorize in  
40 its name the committee, counsel, officer or employee to administer  
41 oaths, take affidavits and issue subpoenas or commissions;

42       **1** **[hh.] gg.**<sup>1</sup> To make and enter into all contracts and agreements  
43 necessary or incidental to the performance of the duties authorized  
44 in this act;

45       **1** **[ii.] hh.**<sup>1</sup> After thorough evaluation and investigation, to bring  
46 an action on behalf of a tenant within the project area to collect or

1 enforce any violation of subsection g. or h. of section 11 of the  
2 “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-12);

3 <sup>1</sup>[jj.] ii. To designate members or employees, who shall be  
4 knowledgeable of federal and State discrimination laws, and who  
5 shall be available during all normal business hours, to evaluate a  
6 complaint made by a tenant within the project area pursuant to  
7 section 11 of the “Law Against Discrimination,” P.L.1945, c.169  
8 (C.10:5-12);

9 <sup>1</sup>[kk.] jj. To borrow monies from the EDA to fund an approved  
10 budget on terms and conditions acceptable to the EDA;

11 kk.<sup>1</sup> To adopt, pursuant to the “Administrative Procedure Act,”  
12 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
13 necessary to implement this act; and

14 ll. To do all things necessary or convenient to carry out its  
15 purposes and exercise the powers given and granted in this act.  
16

17 <sup>1</sup>10. The authority shall appoint a historical preservation  
18 advisory committee and an environmental advisory committee to  
19 assist in its activities in such areas, and any other advisory  
20 committee as it deems appropriate. The membership of the  
21 committees shall be determined by the authority. The historical  
22 preservation committee and the environmental committee shall for  
23 all intents and purposes be the exclusive “historic preservation  
24 commission,” as established pursuant to section 21 of P.L.1985,  
25 c.516 (C.40:55D-107), and the “environmental commission,” as  
26 established pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.), for all  
27 land use matters and approvals within the project area.<sup>1</sup>  
28

29 <sup>1</sup>11. All State departments and agencies, to the extent not  
30 inconsistent with law and within budget constraints, shall cooperate  
31 with the authority and respond to requests for such information and  
32 assistance as are necessary to accomplish the purposes of this act.

33 To the extent not inconsistent with law and within budget  
34 constraints, and to the extent necessary to ensure a coordinated and  
35 comprehensive redevelopment and revitalization of Fort Monmouth,  
36 upon the recommendation of the EDA that a project be prioritized, a  
37 State department, agency or authority shall supersede existing  
38 priority setting or ranking systems to place applications that would  
39 benefit that project within the project area in the highest priority or  
40 ranking category for award or approval of grants, benefits, loans,  
41 projects, including highways, roads, sewer, or other infrastructure  
42 projects, or other considerations that would benefit the project area.  
43 Funding from State sources shall augment, and not replace, any  
44 funding from the federal government or as authorized by sections  
45 22 through 24 of this act.<sup>1</sup>



1       ~~'[10.]~~ 12.<sup>1</sup> All property of the authority or EDA shall be exempt  
2 from levy and sale by virtue of an execution and no execution or  
3 other judicial process shall issue against the same nor shall any  
4 judgment against the authority or EDA be a charge or lien upon its  
5 property; provided, that nothing herein contained shall apply to or  
6 limit the rights of the holder of any bonds to pursue any remedy for  
7 the enforcement of any pledge or lien given by the authority or  
8 EDA on or with respect to any project or any revenues or other  
9 moneys.

10

11       ~~'[11.]~~ 13.<sup>1</sup> The authority and the EDA shall not be required to  
12 pay any taxes or assessments upon or in respect of a project or any  
13 property or moneys of the authority and the EDA, and the authority  
14 and EDA, their projects, property, and moneys, their transfer and  
15 the income therefrom, including any profit made on the sale thereof,  
16 shall at all times be free from taxation of every kind by the State  
17 except for transfer, inheritance, and estate taxes and by any political  
18 subdivision of the State; provided, that any person occupying a  
19 project whether as lessee, vendee or otherwise shall, as long as title  
20 thereto shall remain in the authority or EDA, pay to the political  
21 subdivision in which such project is located a payment in lieu of  
22 taxes which shall equal the taxes on real and personal property,  
23 whether for municipal, county, fire, or school purposes, as  
24 applicable, including water and sewer service charges or  
25 assessments, which such person would have been required to pay  
26 had it been the owner of such property during the period for which  
27 such payment is made and neither the authority nor the EDA nor  
28 their projects, property, money or bonds and notes shall be  
29 obligated, liable or subject to lien of any kind for the enforcement,  
30 collection or payment thereof. If and to the extent provided by  
31 contract, the authority or EDA may agree to cooperate with such  
32 person occupying a project, in connection with any administrative  
33 or judicial proceedings for determining the validity or amount of  
34 such payments and may agree to appoint or designate and reserve  
35 the right in and for such person to take all action which the  
36 authority may lawfully take in respect of such payments and all  
37 matters relating thereto, provided such person shall bear and pay all  
38 costs and expenses of the authority thereby incurred at the request  
39 of such person or by reason of any such action taken by such person  
40 in behalf of the authority. If such person occupying a project has  
41 paid the amounts in lieu of taxes required by this section to be paid,  
42 such person shall not be required to pay any such taxes as to which  
43 a payment in lieu thereof has been made to the State or to any  
44 political subdivision, any other statute to the contrary  
45 notwithstanding.

46       b. Except as provided in subsection a. of this section, a host  
47 municipality is authorized to assess and collect taxes on real and

1 personal property within the project area as provided by law for  
2 municipal, county, fire, or school purposes, as applicable.

3

4 <sup>1</sup>~~['12.]~~ 14. Each worker employed on any project to which the  
5 authority is a party, shall be paid not less than the prevailing wage  
6 rate for the worker's craft or trade, as determined by the  
7 Commissioner of Labor and Workforce Development pursuant to  
8 P.L.1963, c. 150 (C.34:11-56.25 et seq.).

9

10 <sup>1</sup>~~['13.]~~ 15. a. All purchases, contracts, or agreements made  
11 pursuant to this act shall be made or awarded directly by the  
12 authority, except as otherwise provided in this act, only after public  
13 advertisement for bids therefor in the manner provided by the  
14 authority and notwithstanding the provisions of any other laws to  
15 the contrary.

16 b. Any purchase, contract, or agreement may be made,  
17 negotiated, or awarded by the authority without public bid or  
18 advertising under the following circumstances:

19 (1) When the aggregate amount involved does not exceed the  
20 amount set forth in, or the amount calculated by the Governor  
21 pursuant to, section 2 of P.L.1954, c.48 (C.52:34-7);

22 (2) To acquire subject matter which is described in section 4 of  
23 P.L.1954, c.48 (C.52:34- 9);

24 (3) To make a purchase or award or make a contract or  
25 agreement under the circumstances described in section 5 of  
26 P.L.1954, c.48 (C.52:34-10);

27 (4) When the contract to be entered into is for the furnishing or  
28 performing of services of a professional or technical nature,  
29 including legal services, provided that the contract shall be made or  
30 awarded directly by the authority;

31 (5) When the authority has advertised for bids and has received  
32 no bids in response to its advertisement, or received no responsive  
33 bids. Any purchase, contract, or agreement may then be negotiated  
34 and may be awarded to any contractor or supplier determined to be  
35 responsible, as "responsible" is defined in section 2 of P.L.1971,  
36 c.198 (C.40A:11-2), provided that the terms, conditions,  
37 restrictions, and specifications set forth in the negotiated contract or  
38 agreement are not substantially different from those which were the  
39 subject of competitive bidding;

40 (6) When a purchase is to be made through or by the Director of  
41 the Division of Purchase and Property pursuant to section 1 of  
42 P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any  
43 of the following: the New Jersey Sports and Exposition Authority  
44 established under section 4 of P.L.1971, c.137 (C.5:10-4); the New  
45 Jersey Meadowlands Commission established under section 5 of  
46 P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority  
47 established under section 3 of P.L.1948, c.454 (C.27:23-3); the New  
48 Jersey Water Supply Authority established under section 4 of

1 P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and  
2 New Jersey established under R.S.32:1-4; the Delaware River Port  
3 Authority established under R.S.32:3-2; or the Higher Education  
4 Student Assistance Authority established under N.J.S.18A:71A-3.

5  
6 **'[14.] 16.'** a. Upon the acceptance by the federal government of  
7 the revitalization plan adopted by the predecessor authority pursuant to  
8 section 14 of P.L.2006, c.16 (C.52:27I-14), the EDA is hereby  
9 designated as **'[master] a designated'** redeveloper for any property  
10 acquired by or conveyed to the authority. The authority and EDA  
11 shall enter into a **'[master] designated'** redevelopment agreement  
12 detailing the terms and conditions of the **'[master] designated'**  
13 redeveloper relationship, including, but not limited to, the tasks and  
14 scope of powers and authorities delegated to the EDA as **'[master] a**  
15 **designated'** redeveloper, which may include the power and authority  
16 to perform all acts and do all things that the authority is empowered to  
17 do pursuant to this act, except for the powers enumerated in  
18 subsections b., c., o., q., r., s., t., **'[u., gg.,] ff., hh.'** ii., jj., kk. **'i'** and  
19 ll. of section 9 of this act and the ability to adopt or amend the plan or  
20 the development and design guidelines and land use regulations  
21 adopted by the authority as provided in this act. In addition to such  
22 delegated power and authority, in order to carry out and effectuate the  
23 purposes of this act and the terms of the plan, the **'[master]**  
24 **designated'** redeveloper may do and perform any acts and things  
25 authorized by the "New Jersey Economic Development Authority  
26 Act," P.L.1974, c.80 (C.34:1B-1 et seq.) necessary or convenient to  
27 carry out the purposes of this act.

28 b. No municipality shall modify or change the drawings, plans,  
29 or specifications for the construction, reconstruction, rehabilitation,  
30 alteration, or improvement of any project of the authority, or of the  
31 EDA, or the construction, plumbing, heating, lighting, or other  
32 mechanical branch of work necessary to complete the work in  
33 question, or require that any person, firm or corporation employed  
34 on any such work shall perform the work in any other or different  
35 manner than that provided by the drawings, plans, and  
36 specifications, or require that any person, firm or corporation obtain  
37 any other or additional authority, approval, permit, or certificate  
38 from the municipality in relation to the work being done, and the  
39 doing of the work by any person, firm, or corporation in accordance  
40 with the terms of the drawings, plans, specifications, or contracts  
41 shall not subject the person, firm, or corporation to any liability or  
42 penalty, civil or criminal, other than as may be stated in the  
43 contracts or incidental to the proper enforcement thereof; nor shall  
44 any municipality require the authority, the EDA, or any person,  
45 firm, partnership or corporation which leases or purchases the  
46 project for lease or purchase to a State agency, to obtain any other  
47 or additional authority, approval, permit, certificate, or certificate of

1 occupancy from the municipality as a condition of owning, using,  
2 maintaining, operating, or occupying any project acquired,  
3 constructed, reconstructed, rehabilitated, altered, or improved by  
4 the authority or by the EDA. Notwithstanding the provisions of  
5 subsections b. and d. of section '[15] 17' of this act, municipal site  
6 plan approval and municipal subdivision approval shall not be  
7 required for any project undertaken by the authority or the EDA,  
8 but '[the] a' project 'undertaken by the EDA' shall require the  
9 affirmative vote of seven members of the authority. The foregoing  
10 provisions shall not preclude any municipality from exercising the  
11 right of inspection for the purpose of requiring compliance by any  
12 project with local requirements for operation and maintenance  
13 affecting the health, safety, and welfare of the occupants thereof,  
14 provided that the compliance does not require changes,  
15 modifications or additions to the original construction of the  
16 project.

17  
18 '[15.] 17.' a. The authority shall propose and adopt  
19 development and design guidelines and land use regulations  
20 consistent with and in furtherance of the plan. Provisions may be  
21 made by the authority for the waiver, according to definite criteria,  
22 of strict compliance with the standards promulgated, where  
23 necessary to alleviate hardship. The plan and the development and  
24 design guidelines and land use regulations adopted by the authority  
25 shall supersede the master plans, the zoning and land use ordinances  
26 and regulations, and the zoning maps of the host municipalities  
27 adopted pursuant to the "Municipal Land Use Law," P.L.1975,  
28 c.291 (C.40:55D-1 et seq.) insofar as the same may pertain to the  
29 project area, except with respect to the procedures to be followed  
30 for submitting and processing applications for subdivision or site  
31 plan approvals.

32 b. Applications for subdivision approval, site plan approval,  
33 and redevelopment within the project area shall utilize the  
34 development and design guidelines and land use regulations  
35 adopted by the authority, and shall be submitted to the planning  
36 board of the host municipality in which the project parcel is located  
37 for review and approval, and where required by law to the county  
38 planning board. The procedures for the approval of subdivisions  
39 and site plans within the project area shall be the procedures  
40 adopted by such host municipality pursuant to the "Municipal Land  
41 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) (including, but not  
42 limited to, notice provisions and the payment of application fees  
43 and the posting of escrow deposits, if any). The authority shall by  
44 regulation provide for mandatory conceptual review by or on behalf  
45 of the authority; provided, however, that unless accompanied by a  
46 request for a variance to be granted by the authority pursuant to  
47 subsection e. of this section, any such mandatory conceptual review  
48 shall be completed within 45 days of the authority's receipt of the

1 application, or within such later time period if agreed to by the  
2 applicant.

3 c. Whenever an application pursuant to subsection b. of this  
4 section is filed with a planning board, a copy of the application  
5 shall be submitted simultaneously to the authority, and notice of all  
6 public hearings in connection therewith shall be provided to the  
7 authority. The authority shall be deemed an interested party  
8 entitled to notice of all applications for properties within the project  
9 area or within 200 feet of the project area's boundaries, irrespective  
10 of whether the authority owns the portion of the project area within  
11 200 feet.

12 d. In connection with subdivision and site plan approval, the  
13 planning boards shall have the authority to grant variances from the  
14 requirements of the development and design guidelines and land use  
15 regulations adopted by the authority to the extent such variances are  
16 permitted pursuant to subsection c. of section 57 of P.L.1975, c.291  
17 (C.40:55D-70).

18 e. (1) The provisions of subsection d. of section 57 of  
19 P.L.1975, c.291 (C.40:55D-70) notwithstanding and except as  
20 provided in paragraph (2) of this subsection, the authority shall  
21 have sole and exclusive jurisdiction to grant for special reasons  
22 shown, a variance from the requirements of the master plan,  
23 development and design guidelines or land use regulations adopted  
24 by the authority to permit: (a) a use or principal structure in a  
25 district restricted against such use or principal structure, (b) a  
26 continuation or an expansion of a nonconforming use, (c) deviation  
27 from a specification or standard pursuant to land use regulations  
28 adopted by the authority pertaining solely to a conditional use, (d)  
29 an increase in the permitted floor area ratio as established by the  
30 land use regulations adopted by the authority, (e) an increase in the  
31 permitted density as established by the land use regulations adopted  
32 by the authority or (f) a height of a principal structure which  
33 exceeds by 10 feet or 10 percent the maximum height permitted in  
34 the district for a principal structure. Such variances shall not be  
35 granted unless the applicant demonstrates to the satisfaction of the  
36 authority that special reasons exist for the granting of such variance,  
37 that the granting of the requested variance will not substantially  
38 impair the intent and purpose of the plan, and that the variance can  
39 be granted without substantial detriment to the public good.  
40 Application for such a variance shall be submitted together with or  
41 prior to an application for mandatory conceptual review pursuant to  
42 subsection b. of this section, and the authority shall approve or deny  
43 the application within 120 days of a complete submission unless the  
44 applicant agrees to extend the time. In lieu of granting a variance,  
45 the authority in its discretion may require the adoption of a plan  
46 amendment.

47 (2) Variances granted pursuant to subparagraphs (a) through (f)  
48 of paragraph (1) of this subsection shall require the affirmative vote

1 of seven members of the authority, except that variances granted  
2 pursuant to subparagraph (e) shall be heard and **'[recommended]**  
3 **decided**<sup>1</sup> by the zoning boards of the host municipalities **'[to the**  
4 **authority for its action on the variance request]**<sup>1</sup>. **'If the zoning**  
5 **board of the host municipality hearing such variance request does**  
6 **not vote in favor of the variance request, the authority shall not be**  
7 **permitted to grant such variance.**<sup>1</sup>

8 f. Notwithstanding any other provision of this act or law to the  
9 contrary, the host municipalities shall not designate the project area  
10 or any portion thereof as an area in need of redevelopment or an  
11 area in need of rehabilitation, or adopt a redevelopment plan for any  
12 property within the project area pursuant to the "Local  
13 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1  
14 et al.) without the consent of the authority.

15  
16 **'[16.] 18.**<sup>1</sup> Prior to the adoption of any amendment to the plan,  
17 the authority shall transmit a copy of the proposed plan amendment  
18 to the governing body of each host municipality. Within 45 days  
19 after referral, each governing body may transmit to the authority a  
20 report containing its recommendation concerning the proposed plan  
21 amendment. The authority, when considering the adoption of the  
22 plan amendment<sup>1</sup>, **and in taking into account a decision by a zoning**  
23 **board of an affected host municipality as to whether a request for a**  
24 **variance to increase the permitted density is granted, as provided in**  
25 **subsection e. of section 17 of this act,**<sup>1</sup> shall review all reports  
26 received from the host municipalities and may accept or not accept  
27 any recommendations of the host municipalities; provided,  
28 however, that the authority shall record in its minutes its reasons for  
29 not accepting any such recommendations.

30  
31 **'[17.] 19.**<sup>1</sup> a. If the authority or the EDA, as **'[master] a**  
32 **designated**<sup>1</sup> redeveloper, shall find it necessary in connection with  
33 the undertaking of any of its projects to change the location of any  
34 portion of any public highway, or road, it may contract with any  
35 government agency, or public or private corporation which may  
36 have jurisdiction over the public highway or road to cause the  
37 public highway or road to be constructed at such location as the  
38 authority or the EDA, as **'[master] a designated**<sup>1</sup> redeveloper, shall  
39 deem most favorable. The cost of the reconstruction and any  
40 damage incurred in changing the location of the highway shall be  
41 ascertained and paid by the authority or the EDA, as applicable, as a  
42 part of the cost of the project. Any public highway affected by the  
43 construction of any project may be vacated or relocated by the  
44 authority or the EDA, as **'[master] a designated**<sup>1</sup> redeveloper, in  
45 the manner now provided by law for the vacation or relocation of  
46 public roads, and any damages awarded on account thereof shall be  
47 paid by the authority or the EDA, as applicable, as a part of the cost

1 of the project. In all undertakings authorized by this subsection, the  
2 authority or the EDA, as **'[master] a designated'** redeveloper, shall  
3 consult and obtain the approval of the Commissioner of  
4 Transportation.

5 b. In addition to the foregoing powers, the authority or the  
6 EDA, as **'[master] a designated'** redeveloper and their respective  
7 authorized agents and, in with respect to EDA, its employees, may  
8 enter upon any lands, waters, and premises for the purpose of  
9 making surveys, soundings, drillings and examinations as it may  
10 deem necessary or convenient for the purposes of this act, all in  
11 accordance with due process of law, and this entry shall not be  
12 deemed a trespass nor shall an entry for this purpose be deemed an  
13 entry under any condemnation proceedings which may be then  
14 pending. The authority or the EDA, as applicable, shall make  
15 reimbursement for any actual damages resulting to the lands,  
16 waters, and premises as a result of these activities.

17 c. The authority or the EDA, as **'[master] a designated'**  
18 redeveloper, shall also have power to make regulations, based on  
19 the appropriate national model code, for the installation,  
20 construction, maintenance, repair, renewal, relocation, and removal  
21 of tracks, pipes, mains, conduits, cables, wires, towers, poles and  
22 other equipment and appliances, herein called "public utility  
23 facilities," of any public utility as defined in R.S.48:2-13, in, on,  
24 along, over or under any project. Whenever the authority or the  
25 EDA, as **'[master] a designated'** redeveloper, shall determine that  
26 it is necessary that any public utility facilities which now are, or  
27 hereafter may be, located in, on, along, over or under any project  
28 shall be relocated in the project, or should be removed from the  
29 project, the public utility owning or operating the facilities shall  
30 relocate or remove the same in accordance with the order of the  
31 authority or the EDA, as **'[master] a designated'** redeveloper. The  
32 cost and expenses of the relocation or removal, including the cost of  
33 installing the facilities in a new location, or new locations, and the  
34 cost of any lands, or any rights or interests in lands, and any other  
35 rights, acquired to accomplish the relocation or removal, shall be  
36 ascertained and paid by the authority or the EDA, as applicable, as a  
37 part of the cost of the project. In case of any relocation or removal  
38 of facilities, as aforesaid, the public utility owning or operating the  
39 same, its successors or assigns, may maintain and operate the  
40 facilities, with the necessary appurtenances, in the new location or  
41 new locations, for as long a period, and upon the same terms and  
42 conditions, as it had the right to maintain and operate the facilities  
43 in their former location or locations. In all undertakings authorized  
44 by this subsection the authority or the EDA, as **'[master] a  
45 designated'** redeveloper, shall consult with the affected utilities in  
46 an attempt to come to agreement on the proposed undertaking. If  
47 the authority or the EDA, as **'[master] a designated'** redeveloper,

1 are not able to come to an agreement on such undertakings, the  
2 authority or the EDA, as **'[master] a designated'** redeveloper, shall  
3 petition the Board of Public Utilities to obtain approval for such  
4 undertakings. The provisions of this subsection shall not affect the  
5 Board of Public Utilities' jurisdiction over any public utility as  
6 defined in R.S.48:2-13.

7  
8 **'[18.] 20.'** The authority is directed to prepare and complete a  
9 business plan which comprises all issues related to the closure,  
10 conversion, revitalization, and future use of Fort Monmouth.  
11 Further, this business plan shall: include a validation review of any  
12 extant studies on the perceived economic impact of this project on  
13 the State, the county, and the boroughs of Eatontown, Oceanport  
14 and Tinton Falls; refine existing market analyses and develop an  
15 absorption schedule; develop a short and long term job creation  
16 schedule; include a detailed fiscal analysis that considers cash flow,  
17 annual revenue and costs, cumulative revenue and costs, off-site  
18 infrastructure costs, and product absorption by year; include an  
19 investment and financing strategy that includes grants, local  
20 funding options such as the tax allocation district, bonds, taxation,  
21 licensing, permitting and fees, and private investment; include a  
22 determination of fair market value of property by parcel and overall,  
23 and propose an appropriate and feasible strategy for using available  
24 BRAC transfer tools.

25  
26 **'[19. All redevelopment] 21. Redevelopment'** within the project  
27 area shall be implemented pursuant to a redevelopment agreement  
28 between the authority and the redeveloper, or **'between'** the  
29 authority and the EDA as **'[master] a designated'** redeveloper, or  
30 between the EDA as **'[master] a designated'** redeveloper and the  
31 redeveloper, as the case may be. All redevelopment agreements  
32 from or between the authority or the **'[master] designated'**  
33 redeveloper and to or with a redeveloper shall contain, without  
34 being limited to, the following provisions: a. a provision limiting  
35 the use of the property to the uses permitted pursuant to the plan; b.  
36 a provision requiring the redeveloper to commence and complete  
37 the project within a period of time that the authority or the  
38 **'[master] designated'** redeveloper fixes as reasonable; c. any lease  
39 to a redeveloper may provide that all improvements shall become  
40 the property of the authority; and d. such other covenants,  
41 provisions, and continuing controls as may be deemed necessary to  
42 effectuate the purposes of this act.

43  
44 **'[20.] 22.'** a. For the purposes of this section:

45 "Affected municipality" means a municipality that is located  
46 within, in whole or in part, a Fort Monmouth special improvement  
47 district established pursuant to subsection b. of this section.



1 “Fort Monmouth special improvement district” means an area  
2 within the project area designated by resolution of the authority  
3 ‘and by concurring ordinance of an affected municipality’<sup>1</sup> as an  
4 area in which a special assessment on property within the project  
5 area shall be imposed for the purposes of promoting the economic  
6 and general welfare of the project area. The resolution shall  
7 exempt residential properties, residential portions of mixed use  
8 properties, or parcels with any number of residential units located  
9 within the Fort Monmouth special improvement district from  
10 special assessment. The resolution may exempt vacant properties  
11 within the Fort Monmouth special improvement district from  
12 special assessment.

13 b. A Fort Monmouth special improvement district resolution  
14 may be adopted if the authority finds: (1) that an area within the  
15 project area, as described by lot and block numbers and by street  
16 addresses in the enabling resolution, would benefit from being  
17 designated as a Fort Monmouth special improvement district; (2)  
18 that the authority would provide administrative and other services  
19 to benefit the businesses, employees, residents and consumers in the  
20 Fort Monmouth special improvement district; (3) that a special  
21 assessment shall be imposed and collected by the affected  
22 municipality or municipalities with the regular property tax  
23 payment or payment in lieu of taxes or otherwise, and that all or a  
24 portion of these payments shall be transferred to the authority to  
25 effectuate the purposes of this act and to exercise the powers given  
26 to it by resolution; and (4) that it is in the best interest of the public  
27 to create a Fort Monmouth special improvement district. If the  
28 authority determines that the imposition and collection of the  
29 special assessment will involve annual costs to an affected  
30 municipality in addition to the initial cost of the imposition and  
31 collection of the regular property tax payment or payment in lieu of  
32 taxes or otherwise, and that such annual costs relate to property tax  
33 payment imposition and collection activities peculiar to the Fort  
34 Monmouth special improvement district, and distinguished from  
35 property tax payment imposition and collection activities normally  
36 provided by the municipality outside of the Fort Monmouth special  
37 improvement district, the authority shall provide that the property  
38 tax payment imposition and collection activities of the affected  
39 municipality be conducted pursuant to the provisions of this act and  
40 provide that ‘[a portion] no more than 25 percent’<sup>1</sup> of the funds  
41 generated from the proceeds of the collection of the special  
42 assessment be retained by the affected municipality to cover the  
43 costs of the property tax payment imposition and collection  
44 activities of the affected municipality conducted pursuant to the  
45 provisions of this act. ‘The percentage amount of funds to be  
46 retained by the affected municipality for such purpose shall be  
47 established by agreement with the authority and by concurring  
48 ordinance of the affected municipality prior to the collection of the

1 special assessment, and such percentage amount shall not be  
2 changed throughout the duration of the agreement.<sup>1</sup>

3 c. The authority may, by resolution, authorize the  
4 commencement of studies and the development of preliminary plans  
5 and specifications relating to the creation and maintenance of a Fort  
6 Monmouth special improvement district, including, whenever  
7 possible, estimates of construction and maintenance, and costs and  
8 estimates of potential gross benefit assessment. These studies and  
9 plans may include criteria to regulate the construction and alteration  
10 of facades of buildings and structures in a manner which promotes  
11 unified or compatible design.

12 d. Upon review of the reports and recommendations submitted,  
13 a resolution may be adopted authorizing and directing the  
14 establishment and maintenance of a Fort Monmouth special  
15 improvement district. In addition to other requirements for the  
16 consideration and adoption of resolutions, at least 10 days prior to  
17 the date fixed for a public hearing thereon, a copy of the proposed  
18 resolution and notice of the date, time, and place of the hearing  
19 shall be mailed to the owners of the lots or parcels of land abutting  
20 or included in the Fort Monmouth special improvement district  
21 proposed by the resolution.

22 e. A Fort Monmouth special improvement district resolution  
23 may provide that a Fort Monmouth special improvement district  
24 shall be deemed a local improvement in accordance with this act  
25 and the provisions of chapter 56 of Title 40 of the Revised Statutes,  
26 R.S.40:56-1 et seq.; that all costs of development, construction, and  
27 acquisition relating to the provision of improvements for a Fort  
28 Monmouth special improvement district, as the case may be, shall  
29 be financed by the authority and assessed by the affected  
30 municipality or municipalities, as the case may be, to properties  
31 especially benefited thereby as provided generally by R.S.40:56-1  
32 et seq., and the resolution shall list and describe, by lot and block  
33 numbers and by street addresses, all properties to be assessed for  
34 the Fort Monmouth special improvement district improvements.  
35 The affected municipality or municipalities, as the case may be,  
36 may provide by ordinance or parallel ordinance for one or more  
37 special assessments within the Fort Monmouth special improvement  
38 district in accordance with chapter 56 of Title 40 of the Revised  
39 Statutes, R.S.40:56-1 et seq.; provided that the special assessment  
40 carried out pursuant to this section shall be deemed an assessment  
41 for benefits and shall be as nearly as may be in proportion to and  
42 not in excess of the peculiar benefit, advantage, or increase in value  
43 which the respective lots and parcels of real estate shall be deemed  
44 to receive by reason of such improvement.

45 f. If the authority determines that the improvements will  
46 involve annual costs to an affected municipality, in addition to the  
47 initial cost of constructing and making the improvements, and that  
48 such annual costs relate to maintenance services peculiar to the Fort

1 Monmouth special improvement district, and distinguished from  
2 maintenance services normally provided by the municipality outside  
3 of the Fort Monmouth special improvement district, and will  
4 provide benefits primarily to property included in the district, rather  
5 than to the municipality as a whole, the resolution shall provide that  
6 the improvements and facilities thereof shall be operated and  
7 maintained pursuant to the provisions of this act and the  
8 municipality shall be authorized to provide that the costs thereof be  
9 assessed or taxed to benefited properties or businesses pursuant to  
10 the provisions of section 16 of P.L.1972, c.134 (C.40:56-80). At  
11 any time after the Fort Monmouth special improvement district  
12 resolution has been adopted or lands have been acquired or  
13 improved for a Fort Monmouth special improvement district, the  
14 authority may upon such determination provide, by separate  
15 resolution or by amendment to the resolution, that the  
16 improvements and facilities thereof shall be so operated and  
17 maintained and the costs so assessed to benefited properties or  
18 businesses. In any such case, such resolution shall describe the  
19 properties to be assessed, or in which any businesses may be  
20 contained which may be assessed, for such annual costs, which area  
21 may be given the name “(name of Fort Monmouth Special  
22 Improvement District) Fort Monmouth Improvement District.”

23

24 <sup>1</sup>[21.] 23.<sup>1</sup> a. There is established the Fort Monmouth  
25 Transportation Planning District which shall consist of those lands  
26 which comprise the project area. The authority shall administer and  
27 manage the transportation planning district and carry out such  
28 additional functions as provided herein.

29 b. In furtherance of the development of a coherent and  
30 sustainable transportation system for the project area, the authority  
31 shall initiate a joint planning process with participation by: State  
32 departments and agencies, corporations, commissions, boards, and  
33 authorities; metropolitan planning organizations, and counties and  
34 municipalities with jurisdiction in the district; and private  
35 representatives. The authority shall oversee the development and  
36 updating of a comprehensive, future-oriented district transportation  
37 plan.

38 c. The district transportation plan shall establish goals,  
39 policies, needs, and improvement priorities for all modes of  
40 transportation, including walking and bicycling, within the district  
41 and shall be consistent with the revitalization plan. The district  
42 transportation plan shall be based on a reasonable assessment of  
43 likely future growth reflected in the revitalization plan.

44 d. The district transportation plan shall quantify transportation  
45 needs arising from anticipated future traffic passing within or  
46 through the district based upon future development anticipated to  
47 occur within or through the district, and reflected in the  
48 revitalization plan. The district transportation plan shall set forth

1 proposed transportation projects designed to address that future  
2 development, prioritized over increments of five years, the  
3 allocation of public and private shares of project costs and  
4 allowable administrative costs, and the amount, schedule, and  
5 collection of development fees. If new developments are proposed  
6 in the district which are not considered in the district transportation  
7 plan which is currently in effect, that plan shall be reevaluated,  
8 notwithstanding the five-year increment provision.

9 e. The district transportation plan shall be in accordance with  
10 the State transportation master plan adopted under section 5 of  
11 P.L.1966, c.301 (C.27:1A-5), the applicable county master plans  
12 adopted under R.S.40:27-2, and the applicable regional  
13 transportation plan or plans adopted by a metropolitan planning  
14 organization pursuant to 23 C.F.R.s.450.322.

15 f. The district transportation plan shall include a financial  
16 element setting forth a statement of projected revenue and expenses,  
17 including all project costs. The financial element of the district  
18 transportation plan shall identify public and private financial  
19 resources which may be available to fund, in whole or in part, those  
20 transportation projects set forth in that plan. The financial element  
21 shall make recommendations for the types and rates of development  
22 fees to be assessed under subsection i. of this section, formulas to  
23 govern the assessment of those fees, and the projected annual  
24 revenue to be derived therefrom.

25 g. The authority staff shall make copies of the district  
26 transportation plan available to the public for inspection no less  
27 than 14 days prior to any formal action by the authority to adopt the  
28 plan. In addition, the authority staff shall take steps to notify  
29 members of the business community and other interested parties of  
30 the district transportation plan and shall hold a public hearing  
31 thereon after having given public notice of the hearing.

32 h. The authority may, by resolution adopt the district  
33 transportation plan as recommended by the staff or with  
34 modifications.

35 i. After the adoption of the district transportation plan by the  
36 authority pursuant to subsection h. of this section, the authority  
37 may, by resolution, provide for the assessment and collection of  
38 development fees on developments within the transportation  
39 planning district as provided hereunder.

40 j. Development fees assessed by the authority shall be based  
41 upon the growth and development forecasts contained in the district  
42 transportation plan and shall be levied in order to raise only those  
43 amounts needed to accomplish the transportation projects set forth  
44 in the district transportation plan and allowable administrative  
45 costs. Those fees shall be assessed based upon the formula or  
46 formulas contained in the resolution adopted pursuant to subsection  
47 i. of this section and shall be uniformly applied, with such  
48 exceptions as are authorized or required herein.

1 k. A formula or formulas adopted by the authority by  
2 resolution shall reflect a methodology which relates the use of land  
3 to the impact of the proposed development on the transportation  
4 system, including, but not limited to: vehicle trips generated by the  
5 development; the square footage of an occupied structure; the  
6 number of employees regularly employed at the development; or the  
7 number of parking spaces located at the development; or any  
8 combination thereof.

9 l. The resolution may provide for credits against assessed  
10 development fees for payments made or expenses incurred which  
11 have been determined by the authority to be in furtherance of the  
12 district transportation plan, including, but not limited to,  
13 contributions to transportation improvements other than those  
14 required for safe and efficient highway access to a development,  
15 and costs attributable to the promotion of public transit, walking,  
16 bicycling, or ridesharing.

17 m. The resolution may either exempt or reduce the development  
18 fee for specified land uses which have been determined by the  
19 authority to have a beneficial, neutral, or comparatively minor  
20 adverse impact on the transportation needs of the transportation  
21 planning district.

22 n. The resolution may provide for a reduced rate of  
23 development fees for developers submitting a peak-hour automobile  
24 trip reduction plan approved by the authority under standards  
25 adopted by the authority. Standards for the approval of peak-hour  
26 automobile trip reduction plans may include, but need not be  
27 limited to, physical design for improved transit, ridesharing, and  
28 pedestrian access; design of developments which include a mix of  
29 residential and nonresidential uses; and proximity to potential labor  
30 pools.

31 o. The assessment of a development fee shall be reasonably  
32 related to the impact of the proposed development on the  
33 transportation system of the transportation planning district and  
34 shall not exceed the development's fair share of the cost of the  
35 transportation improvement necessary to accommodate the  
36 additional burden on the district's transportation system that is  
37 attributable to the proposed development and related allowable  
38 administrative costs.

39 p. A resolution shall be sufficiently certain and definitive to  
40 enable every person who may be required to pay a fee to know or  
41 calculate the limit and extent of the fee which is to be assessed  
42 against a specific development.

43 q. Upon the adoption by the authority of a resolution pursuant  
44 to subsection i. of this section, no separate assessment for off-site  
45 transportation improvements within the transportation planning  
46 district shall be made by the State, a county, or municipality except  
47 as permitted pursuant to this act.

1 r. A resolution adopted by the authority pursuant to subsection  
2 i. of this section shall provide for the establishment of a  
3 transportation planning district fund under the control of the  
4 authority and administered by the New Jersey Economic  
5 Development Authority. All monies collected from development  
6 fees shall be deposited into the fund, which shall be invested in an  
7 interest-bearing account. Monies deposited in the fund shall be  
8 used to defray project costs and allowable administrative costs.

9 s. Every transportation project funded, in whole or in part, by  
10 funds from a transportation planning district fund shall be subject to  
11 a project agreement to which the relevant entities are parties. The  
12 expenditure of funds for this purpose shall not be made from a  
13 transportation planning district fund, except by approval of the  
14 project budget by the authority and upon certification of the chief  
15 fiscal officer of the New Jersey Economic Development Authority  
16 that the expenditure is in accordance with a project agreement or is  
17 otherwise a project cost and has the approval of the authority.

18 t. Notwithstanding any other law to the contrary, no  
19 development fees shall be assessed for any low and moderate  
20 income housing units which are constructed pursuant to the "Fair  
21 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court  
22 order or settlement.

23 u. (1) The payments due to the authority, whether as a lump  
24 sum or as balances due when a series of payments is to be made,  
25 shall be enforceable by the authority as a lien on the land and any  
26 improvements thereon. The lien shall be recorded by the county  
27 officer in the record book of the county office.

28 (2) When the fee is paid in full on the development or portion  
29 thereof, the lien on the development or portion thereof, as  
30 appropriate, shall be removed. When a series of payments is to be  
31 made, failure to make any one payment within 30 days after receipt  
32 of a notice of late payment shall constitute a default and shall  
33 obligate the person owing the unpaid balance to pay that balance in  
34 its entirety.

35 (3) All amounts assessed as a lien pursuant to this section shall  
36 be a lien upon the land against which they are assessed in the same  
37 manner that taxes are made a lien against land pursuant to Title 54  
38 of the Revised Statutes, and the payment thereof shall be enforced  
39 within the same time and in the same manner and by the same  
40 proceedings as the payment of taxes is otherwise enforced under  
41 Title 54 of the Revised Statutes.

42 v. (1) Any fees collected, plus earned interest, not committed  
43 to a transportation project under a project agreement entered into  
44 under subsection s. of this section within 10 years of the date of  
45 collection, or not used for other allowable administrative costs  
46 within 10 years of the date of collection, shall be refunded to the  
47 fee-payer under a procedure prescribed by the authority; provided,  
48 however, that if the fee-payer transfers the development or any

1 portion thereof, the fee-payer shall enter into an agreement with the  
2 grantee in such form as shall be provided by the authority which  
3 shall indicate who shall be entitled to receive any refund, and that  
4 agreement shall be filed with the chief fiscal officer of the EDA.

5 (2) Any person who has been assessed a development fee may  
6 request in writing a reconsideration of the assessment and a hearing  
7 by an employee so delegated by the authority within 90 days of the  
8 receipt of notification of the amount of the assessment on the  
9 grounds that the authority or its officers or employees in issuing the  
10 assessment did not abide by the provisions of this section or the  
11 provisions of the resolution adopted by the authority pursuant to  
12 this section.

13 w. A person may appeal to the authority any decision made in  
14 connection with the reconsideration of an assessment as authorized  
15 pursuant to subsection v. of this section. The authority shall review  
16 the record of the hearing and render its decision, which shall  
17 constitute an administrative action subject to review by the  
18 Appellate Division of the Superior Court. Nothing contained herein  
19 shall be construed as limiting the ability of any person so assessed  
20 from filing an appeal based upon an agreement to pay or actual  
21 payment of the fee.

22 x. ‘If the authority, in conjunction with the New Jersey Transit  
23 Corporation, shall cause a passenger rail station to be designed,  
24 constructed and operated within the project area, prior to taking any  
25 such action, the authority shall receive written approval by  
26 resolution from the governing body of the host municipality in  
27 which the passenger rail station is to be located.

28 y.<sup>1</sup> For the purposes of this section:

29 “Allowable administrative costs” means expenses incurred by the  
30 authority in developing a district transportation plan, including a  
31 financial element, and in managing a transportation planning  
32 district.

33 “Developer” means the legal or beneficial owner or owners of a  
34 lot or of any land proposed to be included in a proposed  
35 development, including the holder of an option or contract to  
36 purchase, or other person having an enforceable proprietary interest  
37 in such land.

38 “Development” means “development” in the meaning of section  
39 3.1 of the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-  
40 4).

41 “Development fee” means a fee assessed on a development  
42 pursuant to a resolution of the authority adopted under subsection i.  
43 of this section.

44 “District” or “transportation planning district” means the Fort  
45 Monmouth Transportation Planning District established pursuant to  
46 subsection a. of this section.

47 “Project agreement” means an agreement between the authority  
48 and a developer providing the terms and conditions under which the

1 developer agrees to perform any work or undertaking necessary for  
2 a transportation project.

3 “Project costs” means expenses incurred in the planning, design,  
4 engineering and construction of any transportation project, and shall  
5 include debt service.

6 “Public highways” means public roads, streets, expressways,  
7 freeways, parkways, motorways, and boulevards including bridges,  
8 tunnels, overpasses, underpasses, interchanges, rest areas, express  
9 bus roadways, bus pullouts and turnarounds, park-ride facilities,  
10 traffic circles, grade separations, traffic control devices, the  
11 elimination or improvement of crossings of railroads and highways,  
12 whether at grade or not at grade, bicycle and pedestrian pathways,  
13 pedestrian and bicycle bridges traversing public highways, and any  
14 facilities, equipment, property, rights-of-way, easements and  
15 interests therein needed for the construction, improvement, and  
16 maintenance of highways.

17 “Public transportation project” means, in connection with public  
18 transportation service or regional ridesharing programs, passenger  
19 stations, shelters and terminals, automobile parking facilities,  
20 ferries and ferry facilities including capital projects for ferry  
21 terminals, approach roadways, pedestrian accommodations, parking,  
22 docks, and other necessary land-side improvements, ramps, track  
23 connections, signal systems, power systems, information and  
24 communication systems, roadbeds, transit lands or rights-of-way  
25 equipment storage and servicing facilities, bridges, grade crossings,  
26 rail cars, locomotives, motorbus and other motor vehicles,  
27 maintenance and garage facilities, revenue handling equipment and  
28 any other equipment, facility or property useful for or related to the  
29 provision of public transportation service or regional ridesharing  
30 programs.

31 “Transportation project” or “transportation improvement” means,  
32 in addition to public highways and public transportation projects,  
33 any equipment, facility, or property useful or related to the  
34 provision of any ground, waterborne, or air transportation for the  
35 movement of people and goods within or through the district,  
36 including rail freight infrastructure.

37  
38 <sup>1</sup>[22.] 24. a. The authority may adopt a resolution creating an  
39 infrastructure district whenever the authority determines that the  
40 improvement of the infrastructure of the property within the  
41 infrastructure district will promote the health and general welfare of  
42 the residents of the project area, the host municipalities, and the  
43 infrastructure district. An infrastructure district created pursuant to  
44 this subsection may be comprised of any or all lands which  
45 comprise the project area. The authority may create, by separate  
46 resolution, more than one infrastructure district.

47 b. (1) If so determined by the authority, the receipts of retail  
48 sales, except retail sales of motor vehicles, of alcoholic beverages



1 as defined in the "Alcoholic beverage tax law," R.S.54:41-1 et seq.,  
2 of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65  
3 (C.54:40A-1 et seq.), <sup>2</sup>[of manufacturing machinery, equipment or  
4 apparatus,]<sup>2</sup> and of energy, made by a certified vendor from a place  
5 of business owned or leased and regularly operated by the vendor  
6 for the purpose of making retail sales, and which place of business  
7 is located within an infrastructure district created pursuant to  
8 subsection a. of this section, will be exempt to the extent of 50  
9 percent of the tax imposed under the "Sales and Use Tax Act,"  
10 P.L.1966, c.30 (C.54:32B-1 et seq.); and the authority for the  
11 purpose of increasing public revenue may adopt a resolution to levy  
12 and collect, within an infrastructure district created pursuant to  
13 subsection a. of this section, a franchise assessment not to exceed  
14 an amount equivalent to 50 percent of the tax imposed under the  
15 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and  
16 to devote the proceeds from those assessments to purposes as  
17 provided in this section.

18 Any vendor having a place of business located within an  
19 infrastructure district may apply to the <sup>2</sup>Executive<sup>2</sup> Director of the  
20 <sup>2</sup>[Division of Taxation in the Department of Treasury] EDA<sup>2</sup> for  
21 certification pursuant to this paragraph. The <sup>2</sup>executive<sup>2</sup> director  
22 shall certify a vendor if <sup>2</sup>[he] the executive director<sup>2</sup> shall find that  
23 the vendor owns or leases and regularly operates a place of business  
24 located in an infrastructure district for the purposes of making retail  
25 sales, that items are regularly exhibited and offered for retail sale at  
26 that location, and that the place of business is not utilized primarily  
27 for the purpose of catalogue, Internet or mail order sales. The  
28 <sup>2</sup>executive<sup>2</sup> director may at any time revoke a certification granted  
29 pursuant to this paragraph. <sup>2</sup>The executive director shall  
30 immediately notify the Director of the Division of Taxation in the  
31 Department of the Treasury of any such certification or revocation.<sup>2</sup>

32 (2) The rate of the franchise assessment shall be uniform  
33 throughout the infrastructure district. The franchise assessment  
34 shall apply only within the territorial limits of the infrastructure  
35 district and shall be in addition to any other assessments, taxes, and  
36 excises.

37 (3) The resolution adopted pursuant to subsection a. of this  
38 section shall continue in force and effect until repealed by the  
39 authority.

40 (4) No franchise assessment shall be imposed on gross receipts  
41 which a municipality or the State is prohibited from taxing under  
42 New Jersey law, or the Constitution and laws of the United States of  
43 America.

44 (5) Upon adoption, the authority shall immediately transmit a  
45 copy of the resolution to the Director of the Division of Local  
46 Government Services in the Department of Community Affairs and  
47 to the Director of the Division of Taxation in the Department of the

1 Treasury. Every resolution levying a franchise assessment pursuant  
2 to this section shall provide for reporting assessments due and for  
3 the collection thereof, and all franchise assessments pursuant to  
4 such a resolution shall be remitted to the chief financial officer of  
5 the EDA. A resolution levying a franchise assessment shall take  
6 effect only on the first day of any month in any year. The  
7 resolution shall provide for the allocation and distribution of the  
8 proceeds of the franchise assessments collected.

9 (6) The resolution shall set forth the person or persons subject to  
10 the franchise assessment payment and collection procedures, and  
11 any other matters deemed relevant by the authority with the  
12 authority having discretion as to the mechanism to be utilized. The  
13 resolution shall also contain findings that the imposition of the  
14 franchise assessment is necessary because of the substantial risks  
15 undertaken to develop an infrastructure district.

16 (7) The resolution shall provide for the collection of the  
17 franchise assessment by an officer of the authority who shall be  
18 designated in the resolution; shall provide methods for enforcement;  
19 shall provide the permitted uses of the franchise assessment; and  
20 may provide penalties for the violation of any of the provisions of  
21 the resolution. "Permitted uses" may include the provision of loans,  
22 grants, or debt service for financing or refinancing the construction,  
23 reconstruction, repair, alteration, improvement, and development of  
24 any on-site or off-site infrastructure improvements, or parking or  
25 transportation facilities, or work that reduces, abates, or prevents  
26 environmental pollution, or other improvements that provide a  
27 public benefit within or to an infrastructure district.

28 c. For the purposes of effective administration of the franchise  
29 assessment, the authority shall have the authority to:

30 (1) Collect the franchise assessment, interest, and penalties  
31 imposed by a resolution adopted pursuant to paragraph (1) of  
32 subsection b. of this section which shall from the time due be a debt  
33 of the person by whom payable to the authority, recoverable in a  
34 court of competent jurisdiction in a civil action in the name of the  
35 authority to be instituted within three years of the date due.

36 (2) Authorize, as an additional remedy, the chief financial  
37 officer of the EDA to issue a certificate to the clerk of the Superior  
38 Court that any person is indebted under the resolution in an amount  
39 stated in the certificate. Thereupon, the clerk to whom the  
40 certificate is issued shall immediately enter upon the record of  
41 documented judgments the name of the person, the address of the  
42 place of business where the franchise assessment liability was  
43 incurred, the amount of the debt so certified, and the date of making  
44 of the entry. The making of the entry shall have the same force and  
45 effect as the entry of a documented judgment in the office of the  
46 clerk, and the chief financial officer of the EDA shall have all the  
47 remedies and may take all the proceedings for the collection of the

1 debt which may be had or taken upon the recovery of a judgment in  
2 an action, but without prejudice to the person's right of appeal.

3 (3) Provide that, if for any reason the franchise assessment is  
4 not paid when due, interest at the rate of 12% per annum on the  
5 amount of the franchise assessment due, and an additional penalty  
6 of one-half of 1% of the amount of the unpaid assessment for each  
7 month or fraction thereof during which the franchise assessment  
8 remains unpaid, shall be added and collected. When action is  
9 brought for the recovery of any franchise assessment, the person  
10 liable therefor shall, in addition, be liable for the reasonable costs of  
11 collection and the interest and penalties imposed.

12 Any aggrieved person may, within 90 days of the entry of the  
13 decision, order, finding, assessment or action of the chief financial  
14 officer of the EDA under this section, file an appeal in the Superior  
15 Court, upon payment of the amount stated by the chief financial  
16 officer of the EDA to be due. The appeal provided by this section  
17 shall be the exclusive remedy available to any person for review of  
18 a determination of the chief financial officer of the EDA with  
19 respect to a liability for the franchise assessment imposed.

20 For the purposes of this section, “franchise assessment” means  
21 an assessment on the amount of the <sup>2</sup>[sale] sales<sup>2</sup> price of all  
22 tangible <sup>2</sup>personal<sup>2</sup> property <sup>2</sup>and specified digital products,<sup>2</sup> sold  
23 by a business, valued in money, whether received in money or  
24 otherwise, <sup>2</sup>[excluding the cost of transportation if such cost is  
25 separately stated in the written contract and]<sup>2</sup> in the amount of 50  
26 percent of the tax imposed pursuant to the “Sales and Use Tax Act,”  
27 P.L.1966, c.30 (C.54:32B-1 et seq.) <sup>2</sup>; “sales price,” “tangible  
28 personal property,” and “specified digital products” have the  
29 meanings given those terms by section 2 of P.L.1966, c.30  
30 (C.54:32B-2)<sup>2</sup>.

31

32 <sup>1</sup>[23.] 25.<sup>1</sup> The following are repealed:  
33 Sections 1 through 13 of P.L.2006, c.16 (C.52:27I-1 to 27:I-13);  
34 Sections 15 and 16 of P.L.2006, c.16 (C.52:27I-15 and 27:I-16).

35

36 <sup>1</sup>[24.] 26.<sup>1</sup> This act shall take effect on the <sup>1</sup>[45th] 30th<sup>1</sup> day  
37 after the date of enactment, except that section <sup>1</sup>[23] 25<sup>1</sup> shall take  
38 effect on the date that the authority assumes all of the powers,  
39 rights, assets, and duties of the predecessor authority.