

CHAPTER 10

AN ACT concerning certain economic stimulus activities and amending and supplementing P.L.2009, c.90 and amending P.L.1999, c.140.

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

1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to read as follows:

C.18A:64-85 State, county college may enter into certain contracts with a private entity.

43. a. A State college or county college may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for the on-campus construction, reconstruction, repair, alteration, improvement or extension of a building, structure, or facility of, or for the benefit of, the institution, provided that the project is financed in whole by the private entity and that the State or institution of higher education, as applicable, retains full ownership of the land upon which the project is completed.

b. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to subsection a. of this section shall not be subject to the procurement and contracting requirements of all statutes applicable to the institution of higher education at which the project is completed, including, but not limited to, the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), and the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of facilitating the financing of a project pursuant to subsection a. of this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the institution of higher education pursuant to a solicitation of proposals or qualifications. For the purposes of this section, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to subsection a. of this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under the "New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(2) As the carrying out of any project described pursuant to this section constitutes the performance of an essential public function, all projects predominantly used in furtherance of the educational purposes of the institution undertaken pursuant to this section, provided it is owned by or leased to a public entity, non-profit business entity, foreign or domestic, or a business entity wholly owned by such non-profit business entity, shall at all times be exempt from property taxation and special assessments of the State, or any municipality, or other political subdivision of the State and, notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15) or section 2 of P.L.1977, c.272 (C.54:4-2.2b) or any other section of law to the contrary, shall not be required to make payments in lieu of taxes. The land upon which the project is located shall also at all times be exempt from property taxation. Further, the project and land upon which the project is located shall not be subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax liability of private parties conducting for profit activities on tax exempt land, or section 1 of P.L.1949,

c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in exempt property that are held by nonexempt parties.

c. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a State or county college pursuant to subsection a. of this section shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

d. (1) All construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location. Further, the general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project. All construction projects proposed in accordance with this paragraph shall be submitted to the New Jersey Economic Development Authority for its review and approval and, when practicable, are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council.

(2) Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

e. A general contractor, construction manager, design-build team, or subcontractor shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project.

f. (1) On or before February 1, 2012, all projects proposed in accordance with this section shall be submitted to the New Jersey Economic Development Authority for its review and approval. The projects are encouraged, when practicable, to adhere to the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6). Any application that is deemed to be incomplete on February 2, 2012 shall not be eligible for consideration.

(2) (a) In order for an application to be complete and considered by the authority it shall include, but not be limited to: (i) a public-private partnership agreement between the State or county college and the private developer; (ii) a full description of the project; (iii) the estimated costs and financial documentation for the project; (iv) a timetable for completion of the project extending no more than five years after consideration and approval; and (v) any other requirements that the authority deems appropriate or necessary.

(b) As part of the estimated costs and financial documentation for the project the application shall contain a long-range maintenance plan and shall specify the expenditures that qualify as an appropriate investment in maintenance. This long-range maintenance plan shall be approved by the authority pursuant to regulations promulgated by the authority that

reflect national building maintenance standards and other appropriate building maintenance benchmarks. All contracts to implement a long-range maintenance plan pursuant to this paragraph shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location.

(3) The authority shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No project shall be undertaken until final approval has been granted by the authority; provided, however, that the authority shall retain the right to revoke approval if it determines that the project has deviated from the plan submitted pursuant to paragraph (2) of this subsection.

(4) The authority may promulgate any rules and regulations necessary to implement this subsection, including provisions for fees to cover administrative costs.

Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall not apply to any project carried out pursuant to this section.

2. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to read as follows:

C.34:1B-7.42b Definitions relative to certain corporation tax benefit program.

1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

"Biotechnology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or

deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology company.

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

"Technology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service.

3. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to read as follows:

C.52:27D-489d Establishment of local Economic Redevelopment and Growth Grant program.

4. a. The governing body of a municipality wherein is located a qualifying economic redevelopment and growth grant incentive area may adopt an ordinance to establish a local Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in that area through the provision of incentive grants to reimburse developers for all or a portion of the project financing gap for such projects. No local Economic Redevelopment and Growth Grant program shall take effect until the Local Finance Board approves the ordinance.

b. A developer that submits an application for a local incentive grant shall indicate on the application whether it is also applying for a State incentive grant. An application by a developer applying for a local incentive grant only shall not require approval by the authority. A municipal redeveloper may only apply for local incentive grants for the construction of: (1) infrastructure improvements in the public right-of-way, or (2) publicly owned facilities.

c. No local incentive grant shall be finally approved by a municipality until approved by the Local Finance Board.

d. In deciding whether or not to approve a local incentive grant agreement the Local Finance Board shall consider the following factors:

- (1) the economic feasibility of the redevelopment project;
- (2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;
- (3) the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;
- (4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;
- (5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;
- (6) the need for the redevelopment incentive grant agreement to the viability of the redevelopment project;
- (7) compliance with the provisions of P.L.2009, c.90 (C.52:27D-489a et al.); and
- (8) the degree to which the redevelopment project enhances and promotes job creation and economic development.

4. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to read as follows:

C.52:27D-489c Definitions relative to economic stimulus.

3. As used in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.):

"Applicant" means a developer proposing to enter into a redevelopment incentive grant agreement.

"Ancillary infrastructure project" means public structures or improvements that are located in the public right-of-way outside the project area of a redevelopment project, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable without such improvements.

"Authority" means the New Jersey Economic Development Authority established under section 4 of P.L.1974, c.80 (C.34:1B-4).

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement pursuant to the provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A developer also may be a municipal government or a redevelopment agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Eligible revenue" means the property tax increment and any other incremental revenues set forth in section 11 of P.L.2009, c.90 (C.52:27D-489k).

"Incentive grant" means reimbursement of all or a portion of the project financing gap of a redevelopment project through the State or a local Economic Redevelopment and Growth Grant program pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).

"Infrastructure improvements in the public right-of-way" mean public structures or improvements located in the public right of way that are located within a project area or that constitute an ancillary infrastructure project.

"Municipal redeveloper" means a municipal government or a redevelopment agency acting on behalf of a municipal government as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an applicant for a redevelopment incentive grant agreement.

"Project area" means land or lands under common ownership or control including through a redevelopment agreement with a municipality or as otherwise established by a municipality.

"Project financing gap" means the part of the total redevelopment project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources.

"Project revenue" means all rents, fees, sales, and payments generated by a project, less taxes or other government payments.

"Property tax increment" means the amount obtained by:

(1) multiplying the general tax rate levied each year by the taxable value of all the property assessed within a project area in the same year, excluding any special assessments; and

(2) multiplying that product by a fraction having a numerator equal to the taxable value of all the property assessed within the project area, minus the property tax increment base, and having a denominator equal to the taxable value of all property assessed within the project area.

For the purpose of this definition, "property tax increment base" means the aggregate taxable value of all property assessed which is located within the redevelopment project area as of October 1st of the year preceding the year in which the redevelopment incentive grant agreement is authorized.

"Qualifying economic redevelopment and growth grant incentive area" means Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a center as designated by the State Planning Commission; a pinelands regional growth area, a pinelands town management area, a pinelands village, or a military and federal installation area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); a transit village, as determined by the Commissioner of Transportation; and federally owned land approved for closure under a federal Base Realignment Closing Commission action.

"Redevelopment incentive grant agreement" means an agreement between, (1) the State and the New Jersey Economic Development Authority and a developer, or (2) a municipality and a developer, or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper, under which, in exchange for the proceeds of an incentive grant, the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, residential, or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area or a transit village.

"Redevelopment project" means a specific work or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer within a project area and any ancillary infrastructure project associated therewith.

"Redevelopment utility" means a self-liquidating fund created by a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-489l) to account for revenues collected and incentive grants paid pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other revenues dedicated to a redevelopment project.

"Revenue increment base" means the amounts of all eligible revenues from sources within the redevelopment project area in the calendar year preceding the year in which the redevelopment incentive grant agreement is executed, as certified by the State Treasurer for State revenues, and the chief financial officer of the municipality for municipal revenues.

"Transit village" means a community with a bus, train, light rail, or ferry station that has developed a plan to achieve its economic development and revitalization goals and has been designated by the New Jersey Department of Transportation as a transit village.

5. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

C.52:27D-489e State Economic Development and Growth Grant Program.

5. a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority.

6. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

C.52:27D-489f Payment to developer from State.

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating on the redevelopment project premises from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of materials used for the remediation, the construction of new structures, or the construction of new residences at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to

section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

b. Up to 75 percent of the projected annual incremental revenues may be pledged towards the State portion of an incentive grant.

c. All administrative costs associated with the incentive grant shall be assessed to the applicant and be retained by the State Treasurer from the annual incentive grant payments.

d. The incremental revenue for the revenues listed in subsection a. of this section shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the State redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. The municipality is authorized to collect any and all information necessary to facilitate grants under this program and remit that information, as may be required from time to time, in order to assist in the calculation of incremental revenue.

7. Section 7 of P.L.2009, c.90 (C.52:27D-489g) is amended to read as follows:

C.52:27D-489g Payment to developers from municipalities.

7. a. Up to the limits established in subsection b. of this section, and in accordance with a redevelopment incentive grant agreement, the municipality shall pay to the developer incremental eligible revenues directly realized from activities or business operations on the redevelopment project premises and may also pay eligible revenues derived from the project area.

b. Up to 75 percent of the incremental local revenues collected pursuant to subsection d. of section 11 of P.L.2009, c.90 (C.52:27D-489k) may be pledged towards the municipal portion, if any, of an incentive grant.

c. All administrative costs associated with the local incentive grant shall be assessed to the applicant and be retained by the municipality from its annual payments to the developer.

8. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to read as follows:

C.52:27D-489h Incentive grant application form, procedure.

8. a. (1) The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program.

(2) (a) The Local Finance Board, in consultation with the New Jersey Economic Development Authority, shall develop a minimum standard incentive grant application form for municipal Economic Redevelopment and Growth Grant programs.

(b) Through regulation, the Economic Development Authority shall establish standards for redevelopment projects seeking State or local incentive grants based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

b. Within each incentive grant application, a developer shall certify information concerning:

- (1) the status of control of the entire redevelopment project site;
- (2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;
- (3) local planning and zoning board approvals, as required, for the redevelopment project;
- (4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the redevelopment project costs, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project will result in net benefits to the State.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the redevelopment project costs, and except with respect to an application by a municipal redeveloper, evaluate and validate the financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project will result in net benefits to the municipality wherein the redevelopment project is located.

(3) The authority, State Treasurer, and Local Finance Board may act cooperatively to administer and review applications, and shall consult with the Office of State Planning on matters concerning State, regional, and local development and planning strategies.

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee.

9. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to read as follows:

C.52:27D-489i Certain grant agreements permitted.

9. a. The authority is authorized to enter into a redevelopment incentive grant agreement with a developer for any redevelopment project located within a qualifying economic redevelopment and growth grant incentive area that does not qualify as such area solely by virtue of being a transit village.

b. The decision whether or not to enter into a redevelopment incentive grant agreement is solely within the discretion of the authority and the State Treasurer, provided that they both agree to enter into an agreement.

c. The Chief Executive Officer of the New Jersey Economic Development Authority, in consultation with the State Treasurer shall negotiate the terms and conditions of any redevelopment incentive grant agreement on behalf of the State.

d. The redevelopment incentive grant agreement shall specify the amount of the incentive grant to be awarded the developer, the frequency of payments, and the length of time, which shall not exceed 20 years, during which that reimbursement shall be granted. Except for redevelopment incentive grant agreements with a municipal redeveloper, in no event shall the combined amount of the reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total cost of the project. For the purposes of calculating the total cost of all projects, the cost of infrastructure improvements in the public right-of-way and publicly owned facilities shall not be included.

The amount of the redevelopment incentive grant for a municipal redeveloper may include the total cost of such infrastructure improvements and publicly owned facilities.

e. The authority and the State Treasurer may enter into a redevelopment incentive grant agreement only if they make a finding that the State revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. This finding may be made by an estimation based upon the professional judgment of the Chief Executive Officer of the New Jersey Economic Development Authority and the State Treasurer.

f. In deciding whether or not to recommend entering into a redevelopment incentive grant agreement and in negotiating a redevelopment agreement with a developer, the Chief Executive Officer of the New Jersey Economic Development Authority shall consider the following factors:

- (1) the economic feasibility of the redevelopment project;
- (2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;
- (3) the degree to which the redevelopment project will advance State, regional and local development and planning strategies;
- (4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;
- (5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;
- (6) the need of the redevelopment incentive grant agreement to the viability of the redevelopment project; and
- (7) the degree to which the redevelopment project enhances and promotes job creation and economic development.

g. (1) A developer that has entered into a redevelopment incentive grant agreement with the authority and the State Treasurer pursuant to this section may, upon notice to and consent of the authority and the State Treasurer, pledge and assign as security or support for any loan or bond, any or all of its right, title and interest in and to such agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under such agreement. Any such assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the records of the authority. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the authority.

10. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to read as follows:

C.52:27D-489k Agreement between developer and municipality.

11. a. The governing body of a municipality is authorized to enter into a redevelopment incentive grant agreement with a developer, which shall not be effective until adopted by ordinance, for any redevelopment project located within a qualifying economic redevelopment and growth grant incentive area.

b. The redevelopment incentive grant agreement shall specify the amount of the incentive grant to be awarded the developer, the frequency of payments, and the length of time, which shall not exceed 20 years, during which that reimbursement shall be granted. Except for redevelopment incentive grants with a municipal redeveloper, in no event shall the combined amount of the reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total cost of the project. For the purposes of calculating the total cost of all projects, the cost of infrastructure improvements in the public right-of-way and publicly owned facilities shall not be included. The amount of the redevelopment incentive grant for a municipal redeveloper may include the total cost of such infrastructure improvements and publicly owned facilities.

c. The municipality may enter into a redevelopment incentive grant agreement only if the chief financial officer of the municipality makes a finding that the incremental revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. Such finding shall be based upon appropriate documentation and calculations supporting the decision.

d. Within a qualifying economic redevelopment and growth grant incentive area a municipality that has entered into a local redevelopment incentive grant agreement may pledge eligible revenues it is authorized to collect as follows:

(1) incremental payments in lieu of taxes, with respect to property located in the district, made pursuant to the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.);

(2) incremental revenues collected from payroll taxes, with respect to business activities carried on within the area, pursuant to section 15 of P.L.1970, c.326 (C.40:48C-15);

(3) incremental revenue from lease payments made to the municipality, the developer, or the developer's successors with respect to property located in the area;

(4) incremental revenue collected from parking taxes derived from parking facilities located within the area pursuant to section 7 of P.L.1970, c.326 (C.40:48C-7);

(5) incremental admissions and sales taxes derived from the operation of a public facility within the area pursuant to section 1 of P.L.2007, c.302 (C.40:48G-1);

(6) (a) incremental sales and excise taxes which are derived from activities within the area and which are rebated to or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention;

(b) within Planning Area 1 (Metropolitan) under the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), a municipality may impose the entire State sales tax on business activities within a redevelopment project located in an urban enterprise zone that would ordinarily be entitled to collect reduced rate revenues under section 21 of P.L.1983, c.303 (C.52:27H-80), and pledge the excess revenues to a local redevelopment incentive grant agreement;

(7) incremental parking revenue collected, pursuant to section 7 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built as part of a redevelopment project, except

for public parking facilities owned by parking authorities pursuant to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

(8) incremental revenues collected, pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.), or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel taxes;

(9) upon approval by the Local Finance Board, other incremental municipal revenues that may become available;

(10) the property tax increment.

The incremental revenue for the revenues listed in this subsection, when applicable, shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the local redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. (1) In calculating the general tax rate of a municipality each year, the aggregate amount of the incremental ratable value over the property tax increment base in the redevelopment project area that is pledged as part of a redevelopment incentive grant agreement shall be excluded from the ratable base of a municipality.

(2) The amount of property tax increment not pledged toward a redevelopment incentive grant agreement shall be allocated pursuant to the normal tax rate distribution.

The full incremental value of a project area shall be included in the value used for county and regional school tax apportionment until such time that the Director of the Division of Taxation in the Department of the Treasury can certify that property tax management systems are capable of handling the technical and legal requirements of treating parcels in areas of redevelopment as exempt from county and regional school apportionment.

f. In addition to the incremental revenues that may be pledged in subsection d. of this section, any amount of tax proceeds collected from the tax on the rental of motor vehicles pursuant to section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a redevelopment incentive grant agreement with a developer, regardless of whether or not the redevelopment project area is within or outside of the designated industrial zone from which the tax on the rental of motor vehicles is collected.

g. (1) A developer that has entered into a redevelopment incentive grant agreement with a municipality pursuant to this section may, upon notice to and consent of the municipality, pledge and assign as security or support for any loan or bond, any or all of its right, title and interest in and to such agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under such agreement. Any such assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the office of the municipal clerk. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the municipality.

C.52:27D-489o Ordinance for payment to municipal redeveloper for certain projects.

11. a. The governing body of a municipality may, by ordinance, agree that certain eligible revenues in a project area may be paid for a period, not to exceed 20 years, to a municipal redeveloper to undertake and fund up to 100 percent of the construction of infrastructure improvements in a public right-of-way or publicly owned facilities.

b. An ordinance adopted pursuant to subsection a. of this section shall set forth in detail the proposed construction, the proposed redevelopment project, the estimated project costs, and the projected eligible incremental revenues to be paid. No ordinance shall be finally approved by the municipality unless approved by the Local Finance Board. In deciding whether or not to approve such ordinance, the Local Finance Board shall determine whether the proposed redevelopment project consists of publicly owned facilities or infrastructure improvements in the public right-of-way. It also shall consider the factors listed at paragraphs (1) through (8) of subsection d. of section 4 of P.L.2009, c.90 (C.52:27D-489d), provided that with respect to infrastructure improvements in the public right-of-way, it shall not consider paragraph (4) of subsection d. of section 4 of P.L.2009, c.90 (C.52:27D-489d). Such proposed redevelopment project shall conform to the requirements of sections 7, 8, and 11 of P.L.2009, c.90 (C.52:27D-489g, C.52:27D-489h, and C.52:27D-489k), except as set forth therein.

12. This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program.

Approved May 5, 2010.