

CHAPTER 51

AN ACT establishing the Fort Monmouth Economic Revitalization Authority, supplementing Title 52 of the Revised Statutes and repealing parts of the statutory law.

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

C.52:27I-18 Short title.

1. This act shall be known and may be cited as the “Fort Monmouth Economic Revitalization Authority Act.”

C.52:27I-19 Findings, declarations relative to Fort Monmouth economic revitalization.

2. The Legislature finds and declares that:

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

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

c. Upon acceptance by the United States Department of Defense and the United States Department of Housing and Urban Development as required under applicable federal Base Closure and Realignment law and regulations, the Fort Monmouth Reuse and Redevelopment Plan will constitute the plan for the redevelopment and revitalization of Fort Monmouth to be implemented pursuant to and in accordance with the provisions of this act.

d. A coordinated and comprehensive redevelopment and revitalization of Fort Monmouth will be facilitated by establishing and empowering a new authority, to be known as the “Fort Monmouth Economic Revitalization Authority,” to implement the Fort Monmouth Reuse and Redevelopment Plan, including the adoption of any modifications or amendments to the Fort Monmouth Reuse and Redevelopment Plan and the adoption of development and design guidelines and land use regulations in furtherance thereof, as provided in this act.

e. The New Jersey Economic Development Authority (EDA) has substantial and significant experience with partnering with local communities and leveraging public-private partnerships. The EDA manages large scale, redevelopment projects, utilizes a system of internal controls and procedures to ensure the integrity of redevelopment activities, and maintains a staff with a wide range of experience in redevelopment projects, real estate,

finance, and job creation. To this end, an office is to be created within the EDA staffed by such EDA employees on a part or full time basis as the EDA determines necessary to carry out the functions of the office.

f. Furthermore, because of the experience and expertise of the EDA in redevelopment projects, it is appropriate to authorize the authority established by this act to enter into a designated redevelopment agreement with the EDA for the redevelopment of Fort Monmouth. The activities of the EDA as a designated redeveloper pursuant to the designated redevelopment agreement are to be accounted for, managed and supervised separately and apart from the activities of the office established by this act, notwithstanding the possible sharing of staff between the EDA's activities as a designated redeveloper and EDA's activities in staffing the office.

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

C.52:2I-20 Definitions relative to Fort Monmouth economic revitalization.

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

“Act” means the “Fort Monmouth Economic Revitalization Authority Act.”

“Authority” means the Fort Monmouth Economic Revitalization Authority established by section 4 of this act.

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

“County” means Monmouth County.

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

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

“Designated redevelopment agreement” means the redevelopment agreement to be entered into by and between the authority and the EDA as provided in this act for properties within the project area acquired by the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Variance” means permission to depart from the literal requirements of the master plan, the development and design guidelines adopted by the authority or the land use regulations adopted by the authority.

C.52:27I-21 Fort Monmouth Economic Revitalization Authority.

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

C.52:27I-22 Powers, rights, assets, duties assumed by authority.

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

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

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

c. All debts, liabilities, obligations and contracts of the predecessor authority, except to the extent specifically provided or established to the contrary in this act, are imposed upon the authority, and all creditors of the predecessor authority and persons having claims against or contracts with the predecessor authority of any kind or character may enforce those debts, claims and contracts against the authority as successor to the predecessor authority in the same manner as they might have had against the predecessor authority, and the rights and remedies of those holders, creditors and persons having claims against or contracts with the predecessor authority shall not be limited or restricted in any manner by this act.

d. In continuing the functions, contracts, obligations and duties of the predecessor authority, the authority is authorized to act in its own name or in the name of the predecessor authority as may be convenient or advisable under the circumstances from time to time.

e. Any references to the predecessor authority in any other law or regulation shall be deemed to refer and apply to the authority.

f. All operations of the predecessor authority shall continue as operations of the authority until altered by the authority as may be permitted pursuant to this act.

g. The powers vested in the authority by this act shall be construed as being in addition to and not in diminution of the powers heretofore vested by law in the predecessor authority to the extent not otherwise altered or provided for in this act.

C.52:27I-23 Office established in the EDA.

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

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

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

d. The costs of the office shall be paid for by the authority. The EDA shall on an annual basis submit to the authority a budget for review and approval by the authority for the anticipated costs of the office for the succeeding calendar year. If, during the course of the calendar year, it is necessary to amend the budget, the EDA shall submit an amendment or amendments to the authority for review and approval by the authority. All costs and expenses of the office shall be accounted for separately and apart from the costs and expenses of the EDA in its capacity as redeveloper pursuant to the designated redevelopment agreement. In the event the authority does not have adequate monies to fund the budget, the EDA may make a loan to the authority in the amount of the unfunded portion of the budget on terms and conditions acceptable to the EDA and the authority.

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

C.52:27I-24 Purpose of authority.

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

C.52:27I-25 Members, appointment, terms.

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

(1) Three voting members appointed by the Governor with the advice and consent of the Senate, for staggered terms of five years, one of whom shall be a representative of the private sector with relevant business experience or background; one of whom shall be an individual who is knowledgeable in environmental issues, conservation, or land use issues; and one of whom shall have appropriate experience in workforce development and job training. Preference shall be given to professionals with a background in technology, finance, energy industry, or real estate. One of the members appointed under this paragraph shall be a resident of the county selected from a list of five candidates recommended by the Monmouth County Board of Chosen Freeholders and submitted to the Governor; the list of candidates

for the initial selection of this member shall be so submitted within 45 days after the date of enactment of this act. In the event the Governor rejects all five candidates for the member to be selected upon the recommendation of the Monmouth County Board of Chosen Freeholders, the Monmouth County Board of Chosen Freeholders may submit an additional list of five different candidates within 30 days of the Governor's rejection of the prior list. If the Monmouth County Board of Chosen Freeholders does not submit a list of five candidates within either of the aforementioned time periods, within ten days after the expiration of such time period, the Governor shall inform the Monmouth County Board of Chosen Freeholders in writing that the Governor, at the Governor's discretion, will make such appointment. Not more than two of the members appointed by the Governor pursuant to this paragraph shall be members of the same political party, but the provisions of this paragraph regarding the selection of one such member from among candidates recommended by the Monmouth County Board of Chosen Freeholders shall not be construed to prohibit the appointment of a resident of the county for either or both of the memberships under this paragraph that are not filled from among candidates so recommended;

(2) The Chairperson of the New Jersey Economic Development Authority, ex officio and voting;

(3) Another member of the Executive Branch appointed by the Governor to serve on the authority, ex officio and voting;

(4) One voting member, who shall be a member of the Monmouth County Board of Chosen Freeholders to be appointed by the Monmouth County Board of Chosen Freeholders;

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

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

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

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

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

Each member appointed by the Governor shall hold office for the term of that member's appointment and until a successor shall have been appointed and qualified. The member appointed by the Monmouth County Board of Chosen Freeholders shall hold office for the term of that member's service on the board. In the event that a member appointed by the Monmouth County Board of Chosen Freeholders ceases to serve on that board, that member shall no longer hold office on the authority and the board shall appoint a member of the board to serve as a new member of the authority. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

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

c. Each member appointed by the Governor may be removed from office by the Governor for cause, after a public hearing, and may be suspended by the Governor pending the completion of that hearing. Each such member, before entering the duties of

membership, shall take and subscribe an oath to perform those duties faithfully, impartially, and justly to the best of the person's ability. A record of those oaths shall be filed in the office of the Secretary of State.

d. The Governor shall appoint the chairperson of the authority. The members of the authority shall annually elect a vice-chairperson from among their members. The chairperson shall appoint a secretary and treasurer. The powers of the authority shall be vested in the voting members thereof in office from time to time; five voting members of the authority shall constitute a quorum, and the affirmative vote of five voting members shall be necessary for any action taken by the authority, except as otherwise provided in subsection e. of this section, or unless the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

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

(1) any action to adopt or revise the plan, as provided in section 18 of this act, or to adopt or revise the development and design guidelines or land use regulations adopted by the authority as provided in section 17 of this act; (2) any action to enter into a designated redevelopment agreement with the EDA as provided in subsection a. of section 16 of this act; (3) any action to adopt any amendment to the plan pursuant to paragraph (1) of subsection e. of section 17 of this act; (4) any action to approve any project undertaken by the EDA; (5) any action to acquire easements, rights of way, or fee title to properties pursuant to subsection g. of section 9 of this act; (6) in any year that the authority is anticipated to receive no funding from the federal government, any action to approve the budget of the office for that year or any amendment to the budget pursuant to subsection d. of section 6 of this act; and (7) consent to the designation of any portion of the project area as an area in need of redevelopment or any area in need of rehabilitation pursuant to the provisions of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), as provided in subsection o. of section 9 of this act.

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

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

(2) The authority, as well as any business entity performing or seeking to perform a contract for the authority, shall be subject to the provisions of P.L.2005, c.51 (C.19:44A-20.13 et seq.).

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

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

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

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

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

C.52:27I-26 Powers of authority.

9. The authority shall have the following powers:

a. To enter into a designated redevelopment agreement as set forth in subsection a. of section 16 of this act;

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

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

d. To undertake redevelopment projects pursuant to the plan;

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

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

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

h. To arrange for the clearance of any parcel owned or acquired, and for the installation, construction or reconstruction of streets, facilities, utilities, and site improvements essential to the preparation of sites for use in accordance with the plan;

i. To contract for the provision of professional services, including, but not limited to, the preparation of plans for the carrying out of redevelopment projects by registered architects, licensed professional engineers or planners, or other consultants;

j. To issue requests for proposals or requests for qualifications; to arrange or contract with other public agencies or public or private redevelopers, including but not limited to nonprofit entities, for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; to negotiate and collect revenue from a redeveloper to defray the costs of the authority, and to secure payment of such revenue; as part of any such arrangement or contract, to negotiate financial or in-kind contributions from a redeveloper to the authority or to the host municipalities to offset or mitigate impacts of the project; as part of any such arrangement or contract, to require the posting of performance guarantees in connection with any redevelopment project; as part of any such arrangement or contract, to facilitate the extension of credit, or making of loans, by the EDA, by other public agencies or funding sources, or by private entities to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, to facilitate as part of an arrangement or contract for capital grants to redevelopers; and to arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with the project area;

k. To participate in, conduct, or contract for the performance of environmental assessment or remediation activities or restoration arising out of or relating to environmental conditions within the project area, including but not limited to insurance or bonds related to such activities;

l. To enter upon any building or property in the project area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of the plan;

m. To arrange or contract with the EDA or other public agencies to facilitate or provide relocation assistance, of the types and in the amounts provided for businesses in the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), to businesses operating within the project area who are displaced as a result of the closure and who request such assistance within a period to be determined by the authority;

n. To make, consistent with the plan: (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

o. Notwithstanding any other law to the contrary, to consent to a request by a host municipality for, or request that the host municipality consider, the designation of portions of the project area as being in need of redevelopment or rehabilitation in accordance with the provisions of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

- p. To publish and disseminate information concerning the plan or any project within the project area;
- q. To adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business;
- r. To adopt and use an official seal and alter it at its pleasure;
- s. To maintain an office at a place or places within the State as it may designate;
- t. To sue and be sued in its own name;
- u. To provide that any revenues collected shall be available to the authority for use in furtherance of any of the purposes of this act;
- v. Pursuant to an adopted cash management plan, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which governmental units may legally invest funds subject to their control;
- w. To enter into mortgages as mortgagee;
- x. To apply for, receive, and accept from any federal, State, or other public or private source, grants or loans for, or in aid of, the authority's authorized purposes;
- y. To consent to the modification of any contract, mortgage, or other instrument entered into by it or on its behalf;
- z. To pay or compromise any claim arising on, or because of any agreement, mortgage, or instrument;
- aa. To acquire or contract to acquire from any person, firm, or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in the project area or in any area outside the project area designated by the authority as necessary for carrying out the relocation of the businesses displaced from the project area as a result of the closure of Fort Monmouth or other acquisitions needed to carry out the master plan;
- bb. To subordinate, waive, sell, assign or release any right, title, claim, lien or demand however acquired, including any equity or right of redemption, foreclosure, sell or assign any mortgage held by it, or any interest in real or personal property; and to purchase at any sale, upon such terms and at such prices as it determines to be reasonable, and take title to the property, real, personal, or mixed, so acquired and similarly sell, exchange, assign, convey or otherwise dispose of any property;
- cc. To complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease or otherwise deal with any property;
- dd. To retain attorneys, planners, engineers, architects, managers, financial experts, and other types of consultants as may be necessary;
- ee. To arrange or contract with any public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by that agency to be rendered for the benefit of the occupants of the project area, and have that agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with the project area;
- ff. To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, compel witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance; and to authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct the examination or investigation, in which case it may authorize in its name the

committee, counsel, officer or employee to administer oaths, take affidavits and issue subpoenas or commissions;

gg. To make and enter into all contracts and agreements necessary or incidental to the performance of the duties authorized in this act;

hh. After thorough evaluation and investigation, to bring an action on behalf of a tenant within the project area to collect or enforce any violation of subsection g. or h. of section 11 of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-12);

ii. To designate members or employees, who shall be knowledgeable of federal and State discrimination laws, and who shall be available during all normal business hours, to evaluate a complaint made by a tenant within the project area pursuant to section 11 of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-12);

jj. To borrow monies from the EDA to fund an approved budget on terms and conditions acceptable to the EDA;

kk. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this act; and

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

C.52:27I-27 Appointment of committees.

10. The authority shall appoint an historical preservation advisory committee and an environmental advisory committee to assist in its activities in such areas, and any other advisory committee as it deems appropriate. The membership of the committees shall be determined by the authority. The historical preservation committee and the environmental committee shall for all intents and purposes be the exclusive "historic preservation commission," as established pursuant to section 21 of P.L.1985, c.516 (C.40:55D-107), and the "environmental commission," as established pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.), for all land use matters and approvals within the project area.

C.52:27I-28 Cooperation with State departments, agencies.

11. All State departments and agencies, to the extent not inconsistent with law and within budget constraints, shall cooperate with the authority and respond to requests for such information and assistance as are necessary to accomplish the purposes of this act.

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

C.52:27I-29 Property exempt from levy, sale.

12. All property of the authority or EDA shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the authority or EDA be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to

pursue any remedy for the enforcement of any pledge or lien given by the authority or EDA on or with respect to any project or any revenues or other moneys.

C.52:27I-30 Taxes, assessments, payment not required; payments in lieu of taxes.

13. a. The authority and the EDA shall not be required to pay any taxes or assessments upon or in respect of a project or any property or moneys of the authority and the EDA, and the authority and EDA, their projects, property, and moneys, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance, and estate taxes and by any political subdivision of the State; provided, that any person occupying a project whether as lessee, vendee or otherwise shall, as long as title thereto shall remain in the authority or EDA, pay to the political subdivision in which such project is located a payment in lieu of taxes which shall equal the taxes on real and personal property, whether for municipal, county, fire, or school purposes, as applicable, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made and neither the authority nor the EDA nor their projects, property, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent provided by contract, the authority or EDA may agree to cooperate with such person occupying a project, in connection with any administrative or judicial proceedings for determining the validity or amount of such payments and may agree to appoint or designate and reserve the right in and for such person to take all action which the authority may lawfully take in respect of such payments and all matters relating thereto, provided such person shall bear and pay all costs and expenses of the authority thereby incurred at the request of such person or by reason of any such action taken by such person in behalf of the authority. If such person occupying a project has paid the amounts in lieu of taxes required by this section to be paid, such person shall not be required to pay any such taxes as to which a payment in lieu thereof has been made to the State or to any political subdivision, any other statute to the contrary notwithstanding.

b. Except as provided in subsection a. of this section, a host municipality is authorized to assess and collect taxes on real and personal property within the project area as provided by law for municipal, county, fire, or school purposes, as applicable.

C.52:27I-31 Prevailing wage rate.

14. Each worker employed on any project to which the authority is a party, 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.).

C.52:27I-32 Awarding of purchases, contracts, agreements.

15. a. All purchases, contracts, or agreements made pursuant to this act shall be made or awarded directly by the authority, except as otherwise provided in this act, only after public advertisement for bids therefor in the manner provided by the authority and notwithstanding the provisions of any other laws to the contrary.

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

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

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

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

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

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

(6) When a purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the New Jersey Meadowlands Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; or the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3.

C.52:27I-33 Designated redeveloper.

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

b. No municipality shall modify or change the drawings, plans, or specifications for the construction, reconstruction, rehabilitation, alteration, or improvement of any project of the authority, or of the EDA, or the construction, plumbing, heating, lighting, or other mechanical branch of work necessary to complete the work in question, or require that any person, firm or corporation employed on any such work shall perform the work in any other or different manner than that provided by the drawings, plans, and specifications, or require that any person, firm or corporation obtain any other or additional authority, approval,

permit, or certificate from the municipality in relation to the work being done, and the doing of the work by any person, firm, or corporation in accordance with the terms of the drawings, plans, specifications, or contracts shall not subject the person, firm, or corporation to any liability or penalty, civil or criminal, other than as may be stated in the contracts or incidental to the proper enforcement thereof; nor shall any municipality require the authority, the EDA, or any person, firm, partnership or corporation which leases or purchases the project for lease or purchase to a State agency, to obtain any other or additional authority, approval, permit, certificate, or certificate of occupancy from the municipality as a condition of owning, using, maintaining, operating, or occupying any project acquired, constructed, reconstructed, rehabilitated, altered, or improved by the authority or by the EDA. Notwithstanding the provisions of subsections b. and d. of section 17 of this act, municipal site plan approval and municipal subdivision approval shall not be required for any project undertaken by the authority or the EDA, but a project undertaken by the EDA shall require the affirmative vote of seven members of the authority. The foregoing provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any project with local requirements for operation and maintenance affecting the health, safety, and welfare of the occupants thereof, provided that the compliance does not require changes, modifications or additions to the original construction of the project.

C.52:27I-34 Development and design guidelines, land use regulations; variances.

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

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

c. Whenever an application pursuant to subsection b. of this section is filed with a planning board, a copy of the application shall be submitted simultaneously to the authority, and notice of all public hearings in connection therewith shall be provided to the authority. The authority shall be deemed an interested party entitled to notice of all applications for

properties within the project area or within 200 feet of the project area's boundaries, irrespective of whether the authority owns the portion of the project area within 200 feet.

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

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

(2) Variances granted pursuant to subparagraphs (a) through (f) of paragraph (1) of this subsection shall require the affirmative vote of seven members of the authority, except that variances granted pursuant to subparagraph (e) shall be heard and decided by the zoning boards of the host municipalities. If the zoning board of the host municipality hearing such variance request does not vote in favor of the variance request, the authority shall not be permitted to grant such variance.

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

C.52:27I-35 Adoption of amendment to plan.

18. Prior to the adoption of any amendment to the plan, the authority shall transmit a copy of the proposed plan amendment to the governing body of each host municipality. Within 45 days after referral, each governing body may transmit to the authority a report containing its recommendation concerning the proposed plan amendment. The authority, when considering the adoption of the plan amendment, and in taking into account a decision by a zoning board of an affected host municipality as to whether a request for a variance to increase the permitted density is granted, as provided in subsection e. of section 17 of this act, shall review all reports received from the host municipalities and may accept or not accept any

recommendations of the host municipalities; provided, however, that the authority shall record in its minutes its reasons for not accepting any such recommendations.

C.52:27I-36 Procedure relative to changing location of public highway, public utility facility.

19. a. If the authority or the EDA, as a designated redeveloper, shall find it necessary in connection with the undertaking of any of its projects to change the location of any portion of any public highway, or road, it may contract with any government agency, or public or private corporation which may have jurisdiction over the public highway or road to cause the public highway or road to be constructed at such location as the authority or the EDA, as a designated redeveloper, shall deem most favorable. The cost of the reconstruction and any damage incurred in changing the location of the highway shall be ascertained and paid by the authority or the EDA, as applicable, as a part of the cost of the project. Any public highway affected by the construction of any project may be vacated or relocated by the authority or the EDA, as a designated redeveloper, in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the authority or the EDA, as applicable, as a part of the cost of the project. In all undertakings authorized by this subsection, the authority or the EDA, as a designated redeveloper, shall consult and obtain the approval of the Commissioner of Transportation.

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

c. The authority or the EDA, as a designated redeveloper, shall also have power to make regulations, based on the appropriate national model code, for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "public utility facilities," of any public utility as defined in R.S.48:2-13, in, on, along, over or under any project. Whenever the authority or the EDA, as a designated redeveloper, shall determine that it is necessary that any public utility facilities which now are, or hereafter may be, located in, on, along, over or under any project shall be relocated in the project, or should be removed from the project, the public utility owning or operating the facilities shall relocate or remove the same in accordance with the order of the authority or the EDA, as a designated redeveloper. The cost and expenses of the relocation or removal, including the cost of installing the facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the authority or the EDA, as applicable, as a part of the cost of the project. In case of any relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in their former location or locations. In all undertakings authorized by this subsection the authority or the EDA, as a designated redeveloper, shall consult with

the affected utilities in an attempt to come to agreement on the proposed undertaking. If the authority or the EDA, as a designated redeveloper, are not able to come to an agreement on such undertakings, the authority or the EDA, as a designated redeveloper, shall petition the Board of Public Utilities to obtain approval for such undertakings. The provisions of this subsection shall not affect the Board of Public Utilities' jurisdiction over any public utility as defined in R.S.48:2-13.

C.52:27I-37 Business plan.

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

C.52:27I-38 Redevelopment agreement.

21. Redevelopment within the project area shall be implemented pursuant to a redevelopment agreement between the authority and the redeveloper, or between the authority and the EDA as a designated redeveloper, or between the EDA as a designated redeveloper and the redeveloper, as the case may be. All redevelopment agreements from or between the authority or the designated redeveloper and to or with a redeveloper shall contain, without being limited to, the following provisions: a. a provision limiting the use of the property to the uses permitted pursuant to the plan; b. a provision requiring the redeveloper to commence and complete the project within a period of time that the authority or the designated redeveloper fixes as reasonable; c. any lease to a redeveloper may provide that all improvements shall become the property of the authority; and d. such other covenants, provisions, and continuing controls as may be deemed necessary to effectuate the purposes of this act.

C.52:27I-39 Fort Monmouth special improvement district.

22. a. For the purposes of this section:

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

“Fort Monmouth special improvement district” means an area within the project area designated by resolution of the authority and by concurring ordinance of an affected municipality as an area in which a special assessment on property within the project area shall be imposed for the purposes of promoting the economic and general welfare of the project area. The resolution shall exempt residential properties, residential portions of mixed use properties, or parcels with any number of residential units located within the Fort Monmouth special improvement district from special assessment. The resolution may

exempt vacant properties within the Fort Monmouth special improvement district from special assessment.

b. A Fort Monmouth special improvement district resolution may be adopted if the authority finds: (1) that an area within the project area, as described by lot and block numbers and by street addresses in the enabling resolution, would benefit from being designated as a Fort Monmouth special improvement district; (2) that the authority would provide administrative and other services to benefit the businesses, employees, residents and consumers in the Fort Monmouth special improvement district; (3) that a special assessment shall be imposed and collected by the affected municipality or municipalities with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the authority to effectuate the purposes of this act and to exercise the powers given to it by resolution; and (4) that it is in the best interest of the public to create a Fort Monmouth special improvement district. If the authority determines that the imposition and collection of the special assessment will involve annual costs to an affected municipality in addition to the initial cost of the imposition and collection of the regular property tax payment or payment in lieu of taxes or otherwise, and that such annual costs relate to property tax payment imposition and collection activities peculiar to the Fort Monmouth special improvement district, and distinguished from property tax payment imposition and collection activities normally provided by the municipality outside of the Fort Monmouth special improvement district, the authority shall provide that the property tax payment imposition and collection activities of the affected municipality be conducted pursuant to the provisions of this act and provide that no more than 25 percent of the funds generated from the proceeds of the collection of the special assessment be retained by the affected municipality to cover the costs of the property tax payment imposition and collection activities of the affected municipality conducted pursuant to the provisions of this act. The percentage amount of funds to be retained by the affected municipality for such purpose shall be established by agreement with the authority and by concurring ordinance of the affected municipality prior to the collection of the special assessment, and such percentage amount shall not be changed throughout the duration of the agreement.

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

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

e. A Fort Monmouth special improvement district resolution may provide that a Fort Monmouth special improvement district shall be deemed a local improvement in accordance with this act and the provisions of chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.; that all costs of development, construction, and acquisition relating to the provision of improvements for a Fort Monmouth special improvement district, as the case may be,

shall be financed by the authority and assessed by the affected municipality or municipalities, as the case may be, to properties especially benefited thereby as provided generally by R.S.40:56-1 et seq., and the resolution shall list and describe, by lot and block numbers and by street addresses, all properties to be assessed for the Fort Monmouth special improvement district improvements. The affected municipality or municipalities, as the case may be, may provide by ordinance or parallel ordinance for one or more special assessments within the Fort Monmouth special improvement district in accordance with chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq.; provided that the special assessment carried out pursuant to this section shall be deemed an assessment for benefits and shall be as nearly as may be in proportion to and not in excess of the peculiar benefit, advantage, or increase in value which the respective lots and parcels of real estate shall be deemed to receive by reason of such improvement.

f. If the authority determines that the improvements will involve annual costs to an affected municipality, in addition to the initial cost of constructing and making the improvements, and that such annual costs relate to maintenance services peculiar to the Fort Monmouth special improvement district, and distinguished from maintenance services normally provided by the municipality outside of the Fort Monmouth special improvement district, and will provide benefits primarily to property included in the district, rather than to the municipality as a whole, the resolution shall provide that the improvements and facilities thereof shall be operated and maintained pursuant to the provisions of this act and the municipality shall be authorized to provide that the costs thereof be assessed or taxed to benefited properties or businesses pursuant to the provisions of section 16 of P.L.1972, c.134 (C.40:56-80). At any time after the Fort Monmouth special improvement district resolution has been adopted or lands have been acquired or improved for a Fort Monmouth special improvement district, the authority may upon such determination provide, by separate resolution or by amendment to the resolution, that the improvements and facilities thereof shall be so operated and maintained and the costs so assessed to benefited properties or businesses. In any such case, such resolution shall describe the properties to be assessed, or in which any businesses may be contained which may be assessed, for such annual costs, which area may be given the name “(name of Fort Monmouth Special Improvement District) Fort Monmouth Improvement District.”

C.52:27I-40 Fort Monmouth Transportation Planning District.

23. a. There is established the Fort Monmouth Transportation Planning District which shall consist of those lands which comprise the project area. The authority shall administer and manage the transportation planning district and carry out such additional functions as provided herein.

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

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

d. The district transportation plan shall quantify transportation needs arising from anticipated future traffic passing within or through the district based upon future development anticipated to occur within or through the district, and reflected in the revitalization plan. The district transportation plan shall set forth proposed transportation projects designed to address that future development, prioritized over increments of five years, the allocation of public and private shares of project costs and allowable administrative costs, and the amount, schedule, and collection of development fees. If new developments are proposed in the district which are not considered in the district transportation plan which is currently in effect, that plan shall be reevaluated, notwithstanding the five-year increment provision.

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

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

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

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

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

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

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

l. The resolution may provide for credits against assessed development fees for payments made or expenses incurred which have been determined by the authority to be in furtherance of the district transportation plan, including, but not limited to, contributions to

transportation improvements other than those required for safe and efficient highway access to a development, and costs attributable to the promotion of public transit, walking, bicycling, or ridesharing.

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

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

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

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

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

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

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

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

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

(2) When the fee is paid in full on the development or portion thereof, the lien on the development or portion thereof, as appropriate, shall be removed. When a series of payments

is to be made, failure to make any one payment within 30 days after receipt of a notice of late payment shall constitute a default and shall obligate the person owing the unpaid balance to pay that balance in its entirety.

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

v. (1) Any fees collected, plus earned interest, not committed to a transportation project under a project agreement entered into under subsection s. of this section within 10 years of the date of collection, or not used for other allowable administrative costs within 10 years of the date of collection, shall be refunded to the fee-payer under a procedure prescribed by the authority; provided, however, that if the fee-payer transfers the development or any portion thereof, the fee-payer shall enter into an agreement with the grantee in such form as shall be provided by the authority which shall indicate who shall be entitled to receive any refund, and that agreement shall be filed with the chief fiscal officer of the EDA.

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

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

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

y. For the purposes of this section:

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

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

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

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

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

“Project agreement” means an agreement between the authority and a developer providing the terms and conditions under which the developer agrees to perform any work or undertaking necessary for a transportation project.

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

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

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

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

C.52:27I-41 Creation of infrastructure district.

24. a. The authority may adopt a resolution creating an infrastructure district whenever the authority determines that the improvement of the infrastructure of the property within the infrastructure district will promote the health and general welfare of the residents of the project area, the host municipalities, and the infrastructure district. An infrastructure district created pursuant to this subsection may be comprised of any or all lands which comprise the project area. The authority may create, by separate resolution, more than one infrastructure district.

b. (1) If so determined by the authority, the receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages as defined in the “Alcoholic beverage tax law,” R.S.54:41-1 et seq., of cigarettes as defined in the “Cigarette Tax Act,” P.L.1948, c.65 (C.54:40A-1 et seq.), and of energy, made by a certified vendor from a place of business owned or leased and regularly operated by the vendor for the purpose of making retail sales, and which place of business is located within an infrastructure district created pursuant to subsection a. of this section, will be exempt to the extent of 50 percent of the tax imposed under the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.); and the authority for the purpose of increasing public revenue may adopt a resolution to levy and collect, within an infrastructure district created pursuant to subsection a. of this section, a franchise assessment not to exceed an amount equivalent to 50 percent of the tax imposed under the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.) and to devote the proceeds from those assessments to purposes as provided in this section.

Any vendor having a place of business located within an infrastructure district may apply to the Executive Director of the EDA for certification pursuant to this paragraph. The

executive director shall certify a vendor if the executive director shall find that the vendor owns or leases and regularly operates a place of business located in an infrastructure district for the purposes of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue, Internet or mail order sales. The executive director may at any time revoke a certification granted pursuant to this paragraph. The executive director shall immediately notify the Director of the Division of Taxation in the Department of the Treasury of any such certification or revocation.

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

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

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

(5) Upon adoption, the authority shall immediately transmit a copy of the resolution to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury. Every resolution levying a franchise assessment pursuant to this section shall provide for reporting assessments due and for the collection thereof, and all franchise assessments pursuant to such a resolution shall be remitted to the chief financial officer of the EDA. A resolution levying a franchise assessment shall take effect only on the first day of any month in any year. The resolution shall provide for the allocation and distribution of the proceeds of the franchise assessments collected.

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

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

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

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

(2) Authorize, as an additional remedy, the chief financial officer of the EDA to issue a certificate to the clerk of the Superior Court that any person is indebted under the resolution

in an amount stated in the certificate. Thereupon, the clerk to whom the certificate is issued shall immediately enter upon the record of documented judgments the name of the person, the address of the place of business where the franchise assessment liability was incurred, the amount of the debt so certified, and the date of making of the entry. The making of the entry shall have the same force and effect as the entry of a documented judgment in the office of the clerk, and the chief financial officer of the EDA shall have all the remedies and may take all the proceedings for the collection of the debt which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the person's right of appeal.

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

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

For the purposes of this section, "franchise assessment" means an assessment on the amount of the sales price of all tangible personal property and specified digital products, sold by a business, valued in money, whether received in money or otherwise, in the amount of 50 percent of the tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); "sales price," "tangible personal property," and "specified digital products" have the meanings given those terms by section 2 of P.L.1966, c.30 (C.54:32B-2).

Repealer.

25. The following are repealed:

Sections 1 through 13 of P.L.2006, c.16 (C.52:27I-1 to 52:27I-13);

Sections 15 and 16 of P.L.2006, c.16 (C.52:27I-15 and 52:27I-16).

26. This act shall take effect on the 30th day after the date of enactment, except that section 25 shall take effect on the date that the authority assumes all of the powers, rights, assets, and duties of the predecessor authority.

Approved August 17, 2010.