

**Fort Monmouth Economic Revitalization Authority
Board Meeting
May 17, 2023
Public Meeting and Teleconference**

MINUTES OF THE MEETING

Members of the Authority and/or Designees present:

- Anthony Talerico, Jr. – Mayor of Eatontown – **V (Serving as Vice-Chairperson)**
- Jay Coffey – Mayor of Oceanport – **V**
- Lillian Burry – Monmouth County Commissioner – **V**
- Stephen Gallo – Public Member – **V**
- Tracy Buckley – Tinton Falls Councilwoman – **V - Designee**
- Jamera Sirmans – Associate Counsel, Governor’s Authorities Unit – **V – Designee**
- Jorge Santos – Chief Real Estate Development Officer, NJEDA – **V – Designee (joined at 5:02p.m.)**
- Elizabeth Dragon – Assistant Commissioner Community Investment and Economic Revitalization - Designee
- Robert Long – Deputy Commissioner, NJ Department of Community Affairs – Designee
- William Riviere – Principal Planner, NJ Department of Transportation – Designee

V – Denotes Voting Member

Members of the Authority and/or Designees not present:

- Wayne Smith – State Veterans Program Coordinator, NJ Department of Labor & Workforce Development – Designee

Also present:

- Kara Kopach, Executive Director
- FMERA staff:
 - Regina McGrade – Administrative Manager
 - Jennifer Lepore – Accounting Manager
 - Kristy Dantes – Director of Facilities & Infrastructure
 - Joe Fallon – Senior Environmental Officer
 - Laura Draushak – Director of Legal Affairs
- Matt Reagan, Deputy Attorney General (DAG)

The meeting was called to order by Mayor Anthony Talerico, Jr. at 5:00p.m. and followed by the Pledge of Allegiance.

Kara Kopach announced that in accordance with the Open Public Meetings Act, notice of the meeting was sent to the Asbury Park Press and the Star Ledger at least 48 hours prior to the meeting, and that the meeting notice has been duly posted on the Secretary of State’s bulletin board at the State House, and the FMERA website.

WELCOME

Anthony Talerico, Jr. welcomed attendees to the Authority’s meeting. Mr. Talerico stated that a copy of the Board package was posted to the FMERA website to give the public the opportunity to review the information in advance of the meeting. Mr. Talerico stated that there are 2 public comment periods, the first being public comment regarding any of the Board actions and the second being any FMERA business.

The first item of business was the approval of the April 19th regular meeting minutes. A motion was made to approve the minutes by Lillian Burry and seconded by Jamera Sirmans.

Kara Kopach conducted a roll call vote.

NAME	YES	NO	ABSTAIN
Anthony Talerico	X		
Lillian Burry	X		
Jay Coffey	X		

4. HISTORICAL PRESERVATION STAFF ADVISORY COMMITTEE (JAY COFFEY, CHAIRMAN)

Jay Coffey stated that the Committee did not meet this month.

5. HOUSING STAFF ADVISORY COMMITTEE (ROBERT LONG, CHAIRMAN)

Robert Long stated that the Committee did not meet this month.

6. VETERANS STAFF ADVISORY COMMITTEE (LILLIAN BURRY, CHAIRWOMAN)

Anthony Talerico, Jr. stated that the Committee did not meet this month.

BOARD ACTIONS

- 1) Consideration of Approval of a Memorandum of Understanding between FMERA and the Eatontown Sewerage Authority regarding an interagency agreement for funding and construction.

Laura Draushak read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 1.

A motion was made by Jamera Sirmans and was seconded by Jay Coffey.

Kara Kopach conducted a roll call vote.

NAME	YES	NO	ABSTAIN
Anthony Talerico	X		
Lillian Burry	X		
Jay Coffey	X		
Steve Gallo	X		
Tracy Buckley	X		
Jamera Sirmans	X		
Jorge Santos	X		

Motion to Approve: JAMERA SIRMANS Second: JAY COFFEY

Ayes: 7

- 2) Consideration of Approval of the First Amendment to the Purchase and Sale and Redevelopment Agreement with Netflix, Inc. for the Mega Parcel in Eatontown and Oceanport.

Laura Draushak read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 2.

A motion was made by Steve Gallo and was seconded by Jay Coffey.

Kara Kopach conducted a roll call vote.

NAME	YES	NO	ABSTAIN
Anthony Talerico	X		
Lillian Burry	X		
Jay Coffey	X		
Steve Gallo	X		
Tracy Buckley	X		
Jamera Sirmans	X		
Jorge Santos	X		

Motion to Approve: STEVE GALLO Second: JAY COFFEY

Ayes: 7

- 3) Consideration of Approval of the Sixth Amendment to the Purchase and Sale and Redevelopment Agreement with US Home LLC, a wholly owned subsidiary of Lennar Corporation for the Howard Commons Parcel in Eatontown.

Laura Draushak read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 3.

A motion was made by Jay Coffey and was seconded by Lillian Burry.

Kara Kopach conducted a roll call vote.

NAME	YES	NO	ABSTAIN
Anthony Talerico	X		
Lillian Burry	X		
Jay Coffey	X		
Steve Gallo	X		
Tracy Buckley	X		
Jamera Sirmans	X		
Jorge Santos	X		

Motion to Approve: JAY COFFEY Second: LILLIAN BURRY
Ayes: 7

- 4) Consideration of Approval of the Ninth Amendment to the Purchase and Sale and Redevelopment Agreement with the Borough of Eatontown for a Department of Public Works Complex on the 1123 Parcel.

Laura Draushak read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 4.

A motion was made by Lillian Burry and was seconded by Anthony Talerico.

Kara Kopach conducted a roll call vote.

NAME	YES	NO	ABSTAIN
Anthony Talerico	X		
Lillian Burry	X		
Jay Coffey	X		
Steve Gallo	X		
Tracy Buckley	X		
Jamera Sirmans	X		
Jorge Santos	X		

Motion to Approve: LILLIAN BURRY Second: ANTHONY TALERICO
Ayes: 7

- 5) Consideration of Approval of the Reinstatement and Third Amendment to the Purchase and Sale and Redevelopment Agreement with RWJ Barnabas Health, Inc. for the Tinton Falls Commercial Parcel in Tinton Falls.

Laura Draushak read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 5.

A motion was made by Tracy Buckley and was seconded by Steve Gallo.

Kara Kopach conducted a roll call vote.

NAME	YES	NO	ABSTAIN
Anthony Talerico			X
Lillian Burry	X		
Jay Coffey	X		
Steve Gallo	X		
Tracy Buckley	X		
Jamera Sirmans	X		
Jorge Santos	X		

Mayor Talerico abstained from voting stating that he is an employee of RWJ Barnabas.

Motion to Approve: TRACY BUCKLEY Second: STEVE GALLO

Ayes: 6

OTHER ITEMS

There were no other items before the Board.

PUBLIC COMMENT REGARDING ANY FMERA BUSINESS (5 minutes re: any FMERA business)

Mary Jo Balvo of East Gate, Oceanport asked for the status of Signal Avenue opening, which is located through the Allison Hall parcel. Ms. Balvo stated that due to the three redevelopment projects occurring in that area, Barton Avenue is the only street open for construction vehicles causing a lot of congestion.

Kara Kopach stated that Signal Avenue is privately owned by the Allison Hall developer, and they are under no obligation to open Signal Avenue to through traffic. The timing of the opening of Signal Avenue will be dependent on the completion of the Allison Hall development, but Signal Avenue will not serve as a through street and will remain private.

Ms. Kopach stated that the traffic studies were completed and reviewed by the Oceanport Borough engineer for the Allison Hall and Somerset Development projects and presented at an Oceanport Planning Board meeting. Ms. Kopach stated that FMERA has provided access easements, but the traffic is evaluated by the Borough engineer.

Ms. Kopach stated that FMERA still owns Barton and Carty Avenues. Ms. Kopach stated that Carty Avenue recently had utilities installed and was repaved and the same will be done on Barton Avenue. Upon completion of both roads, FMERA will work with the Borough engineer to confirm that Carty and Barton Avenues meet the municipal road standards in order for the Borough to take title of the roads.

Ms. Balvo asked if FMERA owns Allen and Bennett Avenues. Ms. Kopach stated that some of Allen and Bennett Avenues are owned by both RPM Development and Somerset Development and both developers would have had separate discussions with the Borough of Oceanport to determine if Oceanport would be taking title of these roads.

There being no further business, on a motion by Jamera Sirmans and seconded by Jay Coffey and unanimously approved by all voting members present, the meeting was adjourned at 5:23p.m.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the Fort Monmouth Economic Revitalization Authority at its Board meeting.

Kara Kopach

 Kara Kopach Secretary

ADOPTED
May 17, 2023

Resolution Regarding
Memorandum of Understanding between the Fort Monmouth Economic Revitalization Authority and the
Eatontown Sewerage Authority

WHEREAS, the Eatontown Sewerage Authority (“ESA”), by a certain ordinance dated February 9, 1955, is the duly designated sewerage authority for the Borough of Eatontown. On November 17, 2016, FMERA acquired ownership of the Main Post of the former Fort Monmouth US Army military post including lands and improvements located in the Borough of Eatontown (“Borough”). The existing Army gravity sanitary lines fronting on Wilson and Nicodemus Avenues currently services the ESA service area but drain into a Two Rivers Water Reclamation Authority (“TRWRA”) meter located in Oceanport; and

WHEREAS, on October 28, 2022, FMERA and TRWRA entered into a memorandum of understanding for the design and engineering of a replacement gravity sanitary sewer lines along Wilson and Nicodemus Avenue in the Eatontown Section of Fort Monmouth to untangle the comingled Army gravity sanitary lines (“Design MOU”). The Design MOU intended to provide the final form for a design plan for Construction and Installation Work that is to be bid, constructed and owned by ESA. FMERA received the plans on April 12, 2022, which were prepared by Collier’s Engineering & Design (“Colliers”) on behalf of TRWRA and FMERA. The ESA and the Borough’s engineer firm T&M Associates (“T&M”) have since reviewed the Plans; and

WHEREAS, the Parties enter into this MOU to reflect the mutual understanding of the Parties relative to the Construction and Installation Work of the necessary New Wilson Avenue Gravity Sanitary Sewer Lines serving Wilson Avenue, the Monmouth County Department of Public Works (District 6), the Eatontown Parks Parcel, the proposed Eatontown Department of Public Works site, and the Tech Campus A & B portions of the Eatontown section of Fort Monmouth. The Parties intend this Project to be only the installation of the New Wilson Avenue Gravity Lines needed to service the areas in the Eatontown section of the former Fort Monmouth military post. All future ties shall be the responsibility of any developer(s) of adjacent properties; and

WHEREAS the Parties agree that the statements contained in the Colliers Engineering & Design, Engineering Plans and Specifications for the Project entitled “Wilson Avenue Sanitary Sewer Extension” dated February 14, 2023, and any amendments thereafter be and are hereby incorporated into this MOU; and

WHEREAS, FMERA shall pay 100% of the costs of the Project not to exceed Seven Hundred and Thirty Thousand Six Hundred and Sixteen Dollars and Sixty Cents (“Project Costs”), including but not limited to consulting fees, design fees, permit costs, and all construction costs associated with or arising from the Project. The Parties reserve the right to reject all bids should the costs for construction and construction observation engineering services exceed the Project Costs. ESA shall not be required to utilize any of its own funds to pay costs or expenses for the Project and will return to FMERA upon completion of the Project any amount of the Project Costs that is not expended for the Project; and

WHEREAS, FMERA will grant to ESA such sanitary sewer easements across its lands as the final approved design for the Project as may be required. FMERA shall issue a non-exclusive easement, without charge, to ESA for construction and maintenance of the new gravity sewer lines; and

WHEREAS, in addition, staff requests delegated authority to FMERA’s Executive Director to increase the Project Costs by an amount not to exceed 10% of the Project Costs for unforeseen costs associated with this Project. Any increase in costs beyond this amount is subject to FMERA’s Board approval; and

WHEREAS, the attached MOU between FMERA and the ESA is in substantially final form. The final terms of the MOU will be subject to the approval of ESA, FMERA’s Executive Director and a review as to the form by the Attorney General's Office. The Real Estate Committee has reviewed the request and recommends it to the Board for approval.

THEREFORE, BE IT RESOLVED THAT:

1. The Authority approves a Memorandum of Understanding between the Fort Monmouth Economic Revitalization Authority and the Eatontown Sewerage Authority forming an interagency agreement for the funding and construction of the necessary New Wilson Avenue Gravity Sanitary Sewer Lines to provide sewer service for the portions of the former Fort Monmouth US Army military post located within the Borough of Eatontown and the grant of delegated authority to the Executive Director to increase Project Costs by an amount not to exceed 10% for unforeseen costs associated with the Project with final terms acceptable to the Executive Director and a review as to form by the Attorney General's Office and authorizes the Executive Director to execute the Agreement.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Attachment

Dated: May 17, 2023

EXHIBIT 1

Resolution Regarding
1st Amendment to the Purchase and Sale & Redevelopment Agreement with Netflix, Inc. for the
Mega Parcel in Eatontown and Oceanport

WHEREAS, on January 13, 2023 FMERA and Netflix executed a PSARA for the Mega Parcel, an approximately 292± acre parcel) of land containing former residential, administrative and R&D buildings, warehouses, workshops and additional general-purpose facilities in the Boroughs of Eatontown and Oceanport, within the Main Post section of Fort Monmouth. The Mega Parcel is conveniently located adjacent to State Route 35, providing easy access to the Garden State Parkway, Route 18, NJ Transit Bus Lines & adjacent to County Route 11 (Oceanport Avenue), which provides direct access to the Little Silver NJ Transit Train Station. The westernmost 51.1 acres of the Mega Parcel lie within the Phase 1 area of Fort Monmouth, which requires profit sharing with the U.S. Department of the Army. The remaining Mega Parcel acreage lies within the Phase 2 area of Fort Monmouth; and

WHEREAS, pursuant to the terms of the PSARA, Netflix will pay Forty-Seven Million Dollars for the Mega Parcel. Additionally, Netflix has agreed to pay a utility contribution of Five Million Dollars, and the FMERA office relocation fee of Three Million Dollars. The Total Amount due at Closing shall be Fifty-Five Million Dollars, subject to any adjustment relative to the Environmental Carve-Out Holdback. Netflix's total Capital Investment is estimated at Eight Hundred and Forty-Eight Million Dollars which shall be allocated between Phase 1 representing Eight Hundred Six Million Dollars of investment and Phase 2 representing Forty-Two Million Dollars of investment in furtherance of the Redevelopment Project; and

WHEREAS, the Due Diligence Period will run for ninety days from the PSARA execution date and may be extended under the Executive Director's delegated authority for two additional thirty day periods to complete the due diligence tests, inspections, and reviews; and

WHEREAS,; on March 29, 2023, Netflix requested permission to exercise the first thirty day Due Diligence Extension Period until May 15, 2023, which FMERA's Executive Director granted on April 5, 2023. Subsequently, on April 25, 2023, Netflix sent a letter requesting: 1) permission to exercise the second thirty day Due Diligence Extension Period provided via the original terms of the PSARA until June 14, 2023 subject to approval of FMERA's Executive Director; 2) requesting a new, additional forty-five day extension of the Due Diligence Period from June 14, 2023 until July 31, 2023, and 3) requesting a new, additional forty-five day extension of the Due Diligence Period from July 31, 2023 until September 14, 2023 which may be requested by Netflix prior to the expiration of the Third Due Diligence Extension Period and may be granted by FMERA's Executive Director; and

WHEREAS, FMERA granted the request for the Second Due Diligence Period Extension on April 28, 2023, and the Due Diligence Period is currently scheduled to expire on June 14, 2023 at 5:00p.m.; and

WHEREAS, Netflix's letter cited the size of the transaction contemplated in the Agreement and the complex nature of the Mega Parcel as reasons for the extension request and stated that, among other things, Netflix required additional time to perform and finalize aspects of its due diligence related to: (i) title, survey and traffic mitigation issues, (ii) environmental testing and reports, and (iii) energy and power, and (iv) emergency services arrangements. As Netflix has been proceeding in good faith, staff recommends that the Board approve two additional forty-five day extensions, the second of which may be granted under the Executive Director's delegated authority; and

WHEREAS, subject to the terms of the PSARA, Netflix's first deposit shall become non-refundable upon the conclusion of the Second Due Diligence Extension Period at 5:00pm on June 14, 2023; and

WHEREAS, the attached First Amendment to the PSARA between FMERA and Netflix is in substantially final form. The final terms of the First Amendment to the PSARA are subject to the approval of FMERA's Executive Director, Netflix, Inc., and a review as to form by the Attorney General's office. The Real Estate Committee has reviewed the request and recommends it to the Board for approval.

THEREFORE, BE IT RESOLVED THAT:

1. The Authority approves the First Amendment to the Purchase and Sale & Redevelopment Agreement with Netflix, Inc. for the Mega Parcel in Eatontown and Oceanport to extend the Due Diligence Extension Periods and grant Delegated Authority to the Executive Director to approve the Due Diligence requests on terms substantially consistent to those set forth in the attached memorandum and with final terms acceptable to the Executive Director and the Attorney General's Office and authorizes the Executive Director to execute the Amendment.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Attachment

Dated: May 17, 2023

EXHIBIT 2

**Resolution Regarding
Sixth Amendment to the Purchase and Sale & Redevelopment Agreement with US Home LLC, a wholly owned
subsidiary of Lennar Corporation, for the Howard Commons Parcel in Eatontown**

WHEREAS, on November 30, 2021, FMERA and Lennar executed a PSARA for Howard Commons, an approximately 59.62-acre parcel of land on Pinebrook Road in the Fort's Charles Wood Area in Eatontown; and

WHEREAS, pursuant to the terms of the PSARA, Lennar will pay One Million Eight Hundred Thousand (\$1,800,000) Dollars for the Parcel; FMERA may agree to reduce the Purchase Price to cover the cost of the remediation of any newly discovered environmental issues in an amount not to exceed Three Hundred Thousand Dollars (\$300,000.00). The Purchaser's total Capital Investment is estimated at Sixty-Six Million Dollars (\$66,000,000); and

WHEREAS, the Redevelopment Project shall include the construction of 275 Housing Units along Pinebrook Road, together with a retail component consisting of a maximum building square footage of 33,800 fronting on Hope Road and the paved and parking areas located within the Property with a capital investment of Sixty-Six Million Dollars (\$66,000,000); the Redevelopment Project shall include the buildout of twenty units of supportive housing ("Supportive Housing Units") in the Borough of Eatontown as set forth in a Legally Binding Agreement ("LBA") with the non-profit organization Affordable Housing Alliance ("AHA"); and

WHEREAS, in the First Amendment to the PSARA, executed on January 14, 2022, FMERA and Purchaser agreed to amend the PSARA to provide a 150 square foot office with an adjacent bathroom within the permanent supportive housing unit build out; FMERA will contribute up to \$50,000 toward this addition; and

WHEREAS, in the Second Amendment, executed on January 15, 2022, FMERA's executive director, under his delegated authority, agreed to the extension of the due diligence until March 30, 2022 and memorialized the extension via an administrative amendment; and

WHEREAS, the Third Amendment to the PSARA, executed on April 20, 2022, memorialized the incorporation of the Second Administrative Letter as Exhibit I and the Supportive Housing PSA as Exhibit J, as an administrative amendment; the Third Amendment also acknowledged that U.S. Home Corporation d/b/a/ Lennar had submitted a certificate of conversion from a corporation into and LLC. U.S. Home, LLC d/b/a/ Lennar retains all of the same rights and responsibilities under the terms of the PSARA; and

WHEREAS, the Fourth Amendment to the PSARA, executed on May 17, 2022 reinstated the PSARA and extended the Due Diligence Period by an additional ninety days until June 30, 2022; and

WHEREAS, the Fifth Amendment to the PSARA, executed on June 10, 2022, modified the definition of the Retail Phase of the Redevelopment Project to permit a retail component of up to 40,000 square feet of retail space with a limit of two-stories, 35 feet in height, maximum permitted lot coverage of seventy-five percent, and a maximum floor area ratio of 0.25; and

WHEREAS, by email dated January 19, 2023, Purchaser requested to modify the Redevelopment Project to permit an increase in the amount of contaminated soil to be relocated to the Receiving Parcel from 36 inches above adjacent Pinebrook Road top of curb grade to 60 inches above the adjacent Pinebrook Road top of curb grade. Purchaser found that after completion of environmental Due Diligence, which expired on June 30, 2022, the amount of soil with pesticide exceedances was larger than expected and, therefore, required the additional height to cap all the soil and the expansion of Receiving Parcel to approximately 7.4 acres.; and

WHEREAS, the PSARA permits Purchaser, upon New Jersey Department of Environmental Protection's (NJDEP) concurrence, to convey the Receiving Parcel to the Borough of Eatontown. Eatontown was informed of the request on January 20, 2023, and by way of email dated February 7, 2023 approved of the height increase, which shall be compliant with all necessary requirements for ADA accessibility, relevant NJDEP approvals, FMERA's Mandatory Conceptual Review and Eatontown's planning board review; and

WHEREAS, staff requests that the Board approve the following modifications to the PSARA as described in the attached memorandum; and

WHEREAS, all other terms of the PSARA will remain unchanged. Attached in substantially final form is the Sixth Amendment to the PSARA between FMERA and Lennar. The final terms of the Sixth Amendment are subject to the approval of FMERA's Executive Director and a review as to form by the Attorney General's office. The Real Estate Committee has reviewed the request and recommends it to the Board for approval.

THEREFORE, BE IT RESOLVED THAT:

1. The Authority approves the Sixth Amendment to the Purchase and Sale & Redevelopment Agreement with U.S. Home, LLC a wholly owned subsidiary of Lennar Corporation, for the Howard Commons Parcel in Eatontown on terms substantially consistent to those set forth in the attached memorandum and with final terms acceptable to the Executive Director and the Attorney General's Office and authorizes the Executive Director to execute the Amendment.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Attachment

Dated: May 17, 2023

EXHIBIT 3

ADOPTED
May 17, 2023

Resolution Regarding
Ninth Amendment to the Purchase and Sale Agreement & Redevelopment Agreement with the Borough of Eatontown for a Department of Public Works Complex on the 1123 Parcel

WHEREAS, on May 18, 2016, the Board approved Evaluation Scoring for Local Beneficial Use Requests for the Borough's request to purchase a 7.2-acre tract known as the 1123 Parcel ("the Property") including Buildings 1123, 1124, 1108, 1109 and 1110 located on Echo Avenue, in Eatontown, New Jersey for municipal uses including the relocation of Eatontown's Department of Public Works; and accordingly, the Borough's proposed use of the Property was reviewed and scored by FMERA staff utilizing the Board approved LBU criteria, resulting in a 40% price reduction and sale price of \$886,461.00; and

WHEREAS, on January 16, 2019, the Board authorized the execution of the PSARA between FMERA and the Borough for the Property, and the PSARA was executed on May 8, 2019; and

WHEREAS, pursuant to the terms of the PSARA, the Borough was provided a ninety-day Due Diligence Period commencing on the Effective Date of the PSARA; an Initial Approval Period of twelve months commencing at the end of the Due Diligence period; and a six-month Approval Extension Period, subject to FMERA approval, with Closing to occur within thirty days of satisfaction or waiver of the Conditions Precedent to Closing; and

WHEREAS, under the terms of the First Amendment, executed September 2, 2019, Purchaser agreed to: i) amend the Approval Period to run for a total period not to exceed six months, beginning at the expiration of the Due Diligence Period; and ii) Close within thirty days of the expiration of the amended six month Approval Period, subject to receipt of a NFA letter from the NJDEP for the two environmental carve-out parcels located within the Property and regardless of whether other Conditions Precedent to Closing have been waived or satisfied; and

WHEREAS, under the terms of the Second Amendment to the PSARA, the Executive Director agreed to retroactively extend the Approval Period under his Delegated Authority for five months or until October 30, 2020; the Second Amendment was executed on July 30, 2020; and

WHEREAS, under the terms of the Third Amendment to the PSARA, an additional five-month extension to the Approval Period, or until April 1, 2021 was approved and the PSARA reinstated; Third Amendment was executed November 29, 2020; and

WHEREAS, under the terms of the Fourth Amendment to the PSARA, the Project as set forth in the PSARA was amended to permit the demolition of Building 1124; the Fourth Amendment was executed April 8, 2021; and

WHEREAS, on March 30, 2021, via letter correspondence, the Borough requested an additional extension to the Approval Period, set to expire on April 1, 2021, indicating that the Borough needed additional time to respond to its incomplete Mandatory Conceptual Review (MCR) letter and resubmit a revised MCR package for FMERA's review; the Borough was granted an additional four month extension to the Approval Period at the FMERA Board's April 2021 meeting and the Fifth Amendment was executed June 7, 2021; and

WHEREAS, on July 8, 2021, via letter correspondence, the Borough requested a one year or twelve-month extension to the Approval Period, set to expire on August 1, 2021, citing outstanding environmental approvals from the NJDEP; the Borough indicated that any potential environmental issues that may arise and/or require additional funding to investigate or resolve would pose financial concerns for the approved 2021 budget and would be considered in the next fiscal year; and

WHEREAS, at FMERA's July 2021 Board meeting, the Borough requested and was granted an additional one year or twelve month extension to the Approval Period and the Sixth Amendment was executed on October 14, 2021; and

WHEREAS, on June 22, 2022, via letter correspondence, the Borough requested a six-month extension to the Approval Period, set to expire on August 1, 2022, citing unexpected delays that have significantly impacted the Borough's overall timeline; the Borough indicated that it has experienced numerous delays on the DPW project, beginning with pandemic related challenges that prevented the Borough from adhering to its anticipated timeline; and

WHEREAS, although the Borough had proceeded in good faith, delays caused the existing improvements, which are intended for reuse, to deteriorate significantly. The Borough wished to further investigate the condition of the buildings and reevaluate the costs associated with remediation and renovation of these facilities, noting that should those costs exceed the current budget for the Project, the Borough would need additional time to approve such expenses; and

WHEREAS, the Borough requested and was granted an additional month extension to the Approval Period at the FMERA Board's July 2022 meeting. The Seventh Amendment was executed August 9, 2022; and

WHEREAS, on January 9, 2023, via letter correspondence, the Borough requested a four-month extension to the Approval Period, set to expire on February 1, 2023, citing the continued, compound effect of unexpected delays that have significantly impacted the Borough's overall timeline. At its January 2023 meeting, the Board approved the Eighth Amendment for an extension to the Approval Period to June 1, 2023. The Eighth Amendment was executed on February 23, 2023; and

WHEREAS, on May 9, 2023, via letter correspondence, the Borough requested a seven-month extension to the Approval Period until December 31, 2023, to further evaluate the Project's viability as a DPW site and to investigate potential grant funding for the Project. At this time, the application period for the New Jersey Economic Development Authority's Film & Digital Media Studio Infrastructure Grant PILOT program has not yet begun and the Borough requires additional time to apply; and

WHEREAS, while FMERA wishes to support the Borough's pursuit of additional grant funding for the project to offset the associated expenses, both parties acknowledge that Closing shall not be contingent upon, or delayed by, the receipt of any grant funding, and that upon expiration of the Approval Period, the Borough may proceed with Closing within thirty days or terminate the Agreement. Further, the Borough has represented that this will be final request for an extension to the Approval Period; and

WHEREAS, all other terms of the PSARA will remain unchanged. The attached Ninth Amendment to the PSARA is in substantially final form. The final terms of the amendment will be subject to the approval of FMERA's Executive Director, the Borough of Eatontown, and as to form by the Attorney General's Office. On May 15, 2023, via email, the Real Estate Committee reviewed the request and recommends it to the Board for approval.

THEREFORE, BE IT RESOLVED THAT:

1. The Authority approves the Ninth Amendment to the PSARA with the Borough of Eatontown for the 1123 Parcel for an extension of the Approval Period on terms substantially consistent to those set forth in the attached memorandum and with final terms acceptable to the Executive Director and the Attorney General's Office and authorizes the Executive Director to execute the Agreement.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Attachment

Dated: May 17, 2023

EXHIBIT 4

**Resolution Regarding
Third Amendment to the Purchase and Sale & Redevelopment Agreement with RWJ Barnabas Health,
Inc. for the Tinton Falls Commercial Parcel in Tinton Falls**

WHEREAS, the Tinton Falls Commercial Development Parcel is an approximately 31.25± acre parcel of land containing twelve structures located at Pearl Harbor Avenue and Pinebrook Road in the Tinton Falls Reuse Area of the Charles Wood Area of the Fort (the “Property”), and on August 27, 2021, the Members authorized the execution of the PSARA between FMERA and RWJ Barnabas for the Property. The PSARA was executed on October 25, 2021; and

WHEREAS, pursuant to the terms of the PSARA, RWJ Barnabas will pay Five Million One Hundred Thousand (\$5,100,000) Dollars for the Parcel and Purchaser’s total Capital Investment is estimated at One Hundred Million Dollars (\$100,000,000); and

WHEREAS, the Project shall consist of the demolition of existing improvements and the redevelopment of the parcel as described in the attached memorandum; and

WHEREAS, pursuant to the PSARA, the Due Diligence Period was to run for one hundred and twenty days from the later to occur of 1) the PSARA execution date, or 2) the date on which FMERA delivers to Purchaser a Boundary Survey and may be extended for two additional thirty-day periods, if necessary, to complete environmental investigations; and

WHEREAS, Purchaser’s initial Due Diligence period expired on February 25, 2022; by way of a letter dated February 21, 2022, Purchaser requested and was granted the first thirty-day extension; and

WHEREAS, on March 24, 2022, Purchaser requested and was granted the second additional thirty-day extension until April 27, 2022; and

WHEREAS, as environmental testing had not yet been completed and Purchaser’s Due Diligence Period was set to expire, Purchaser issued a letter on April 27, 2022, conditionally terminating the PSARA and requesting that the staff seek Board approval for an extension to the Due Diligence Period; and

WHEREAS, on May 18, 2022, the Board approved the reinstatement of the PSARA and an extension to the Due Diligence Period for ninety days or until July 26, 2022, as well as to permit upon written approval of FMERA an additional ninety-day extension if the Purchaser was proceeding diligently and in good faith. The First Amendment was executed on July 20, 2022. Staff approved the additional ninety-day extension via letter dated July 11, 2022; and

WHEREAS, the Purchaser’s Due Diligence was set to expire on October 24, 2022. On September 2, 2022, via letter, the Purchaser requested a six-month extension to the Due Diligence Period. Purchaser stated that it had undertaken additional environmental testing at the Property related to contamination in the groundwater and soils, and that the findings from these studies required additional time to analyze and finalize; and

WHEREAS, on September 21, 2022, the FMERA Board granted an extension of the Due Diligence Period for an additional ninety days until January 22, 2023 with the option to extend for an additional ninety days if Purchaser was proceeding diligently and in good faith. Purchaser requested via letter dated January 18, 2023 and FMERA granted, the additional ninety day extension until April 21, 2023, as permitted under the Second Amendment. The Second Amendment was executed on November 14, 2022; and

WHEREAS, purchaser's analysis of its environmental investigations detected the presence of Per- and Polyfluoroalkyl Substances (PFAS), which is an emerging contaminate with developing remediation standards. As the U.S. Army was the prior owner of the Property, the Army may potentially be responsible for any contamination, therefore the Army has agreed to perform a Preliminary Assessment (PA) and Remedial Investigation (RI). The Army has awarded a contract for the PA and anticipates a draft of the PA report will be delivered by June of 2023 and further represented that it will seek to retain a contractor for the RI by October; and

WHEREAS, Army investigations will substantially delay due diligence and Purchaser's progress on the Property. As Purchaser's Due Diligence Period was set to expire, Purchaser submitted a letter dated April 21, 2023, requesting the conditional termination of the Agreement and an extension of the Due Diligence Period to allow the Army additional time to perform its investigations and determine a course forward; and

WHEREAS, FMERA recommends that the Board approve the Reinstatement of the PSARA and an extension to the Due Diligence Period for ninety days or until July 20, 2023. In the event the Army has not completed its investigations or Purchaser is completing its due diligence activities based on the results of the Army's investigation, staff recommends FMERA's Executive Director have authority to extend the Due Diligence period for three additional ninety-day periods. Should the Army complete its investigation prior to the expiration of the Due Diligence Period, Purchaser may request, via written notice, to exercise the remaining due diligence extension periods set forth in this Agreement; and

WHEREAS, recognizing that the on-going environmental investigations will substantially delay the redevelopment of the Property, the parties further agree to work together in good faith to satisfy any additional obligations of the PSARA impacting adjacent parcels; and

WHEREAS, all other material terms of the PSARA will remain unchanged. Attached in substantially final form is the Third Amendment to the PSARA between FMERA and RWJ Barnabas. The final terms of the Third Amendment to the PSARA are subject to the approval of FMERA's Executive Director and a review as to the form by the Attorney General's Office. The Real Estate Committee has reviewed the request and recommends it to the Board for approval; and

THEREFORE, BE IT RESOLVED THAT:

1. The Authority approves the Third Amendment to the Purchase and Sale & Redevelopment Agreement with RWJ Barnabas Health, Inc. for the Tinton Falls Commercial Parcel in Tinton Falls to extend the Due Diligence Period for an additional ninety days with the option to extend for three additional 90-day periods if necessary for the Army to complete environmental investigations.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Attachment

Dated: May 17, 2023

EXHIBIT 5