

NJIT BOARD OF TRUSTEES
Thursday, July 16th, 2009

PUBLIC SESSION MEETING



PLEASE BRING TO MEETING

NEW JERSEY INSTITUTE OF TECHNOLOGY

BOARD OF TRUSTEES PUBLIC SESSION July 16, 2009 11:00 AM

Call to Order

1. **Notice of Meeting to Public** (statement to be read by the Chair, a requirement of the NJ Open Public Meeting Act)
2. **Minutes** (Approve minutes of the June 4, 2009 meeting of the Board of Trustees)
3. **Public Comments**
4. **Action Items**
 - A. Approve resolution to set FY 2010 Schedule of Tuition and Fees
 - B. Approve resolution to adopt FY 2010 Operating and Capital Budgets
 - C. Approve appointment of Board Officers and Committee Chairs
 - D. Approve NJIT Campus Gateway Project Redevelopment Agreement with the City of Newark
 - E. Approve Resolution to Amend Bond Documents to allow for cell phone tower installation on GITC
5. **Reports**
 - A. Middle States actions with respect to Beijing University of Technology and a program in Dubai
 - B. Operating Statement Year to Date
 - C. Schedule of Short Term Investments
 - D. Report of Gifts and Fund Raising Activities
 - E. September Board Retreat

6. **Announcement of Next Meeting**

Chair to read resolution regarding Closed Session to discuss Personnel, Real Estate and Contract Matters to be held on Thursday, September 17, 2009, 9:30 AM, Eberhardt Hall NJIT Alumni Center.

Announce next public meeting: Thursday, September 17, 2009, 11:00 AM, Eberhardt Hall NJIT Alumni Center.

Adjourn Public Meeting

New Jersey Institute of Technology
--innovative, entrepreneurial, engaged

Mission

NJIT is the *state's technological research university*, committed to the *pursuit of excellence* —

- in undergraduate, graduate, and continuing professional *education*, preparing students for productive careers and amplifying their potential for lifelong personal and professional growth;
- in the conduct of *research* with emphasis on applied, interdisciplinary efforts encompassing architecture, the sciences, including the health sciences, engineering, mathematics, transportation and infrastructure systems, information and communications technologies;
- in contributing to *economic development* through the state's largest business incubator system, workforce development, joint ventures with government and the business community, and through the development of intellectual property;
- in *service* to both its urban environment and the broader society of the state and nation by conducting public policy studies, making educational opportunities widely available, and initiating community-building projects.

NJIT *prepares its graduates* for positions of leadership as professionals and as citizens; *provides educational opportunities* for a broadly diverse student body; *responds to needs* of large and small businesses, state and local governmental agencies, and civic organizations; *partners with educational institutions* at all levels to accomplish its mission; and *advances the uses of technology* as a means of improving the quality of life.

Vision

A preeminent technological research university known for innovation, entrepreneurship, and engagement.

1. Notice of Meeting to Public

BOARD OF TRUSTEES

**STATEMENT TO BE READ AT THE OPENING OF EACH
MEETING OF THE BOARD OF TRUSTEES**

“NOTICE OF THIS MEETING WAS PROVIDED TO THE PUBLIC AS REQUIRED BY THE NEW JERSEY PUBLIC MEETING ACT, IN THE SCHEDULE OF MEETING DATES OF THE BOARD OF TRUSTEES OF THE NEW JERSEY INSTITUTE OF TECHNOLOGY WHICH WAS MAILED TO THE STAR LEDGER, THE HERALD NEWS, AND THE VECTOR ON NOVEMBER 19, 2008. THIS SCHEDULE WAS ALSO MAILED TO THE COUNTY CLERK ON NOVEMBER 19, 2008 FOR FILING WITH THAT OFFICE AND POSTING IN SUCH PUBLIC PLACE AS DESIGNATED BY SAID CLERK.”

**2. Approve Minutes of the
June 4, 2009 Meeting
of the Board of Trustees**

**NEW JERSEY INSTITUTE OF TECHNOLOGY
BOARD OF TRUSTEES
MINUTES - PUBLIC SESSION (DRAFT)
(June 4, 2009)**

1. The meeting was called to order by Chairperson Wielkopolski, at 12:05 p.m. Other Trustees in attendance were Vice Chairs DeCaprio and DePalma, and Board Members Bone, Beachem, Cistaro, Garcia, Knapp and Montalto. Also in attendance were President Altenkirch, Mr. Mauermeyer, Board Treasurer, and Ms. Holly Stern, Board Secretary.

In accordance with the New Jersey Open Public Meeting Act, the Chairperson read the following statement:

“Notice of this meeting was provided to the public as required by the New Jersey Meeting Act, in the schedule of meeting dates of the Board of Trustees of New Jersey Institute of Technology which was mailed to the Star Ledger, The Herald News and Vector on March 16, 2007. The Schedule was also mailed to the City Clerk of Newark on March 16, 2007, for filing with that office and posting in such public place as designated by said Clerk.”

2. There were no members of the public present or registered to speak.
3. BY A MOTION DULY MADE BY MR. KNAPP, SECONDED BY MR. CISTARO AND UNANIMOUSLY PASSED, the minutes of the April 9, 2009 meeting of the Board of Trustees were approved.
4. BY A MOTION DULY MADE BY MR. BONE, SECONDED BY DR. DeCAPRIO AND UNANIMOUSLY PASSED, the Board voted to approve the Promotion and Tenure Recommendations for 2008-2009.
5. BY A MOTION DULY MADE BY MR. KNAPP, SECONDED BY DR. DeCAPRIO, AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO ESTABLISH THE MS IN MATHEMATICAL AND COMPUTATIONAL FINANCE.
6. BY A MOTION DULY MADE BY DR. DeCAPRIO, SECONDED BY MR. CISTARO AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO AUTHORIZE EXCLUSIVE INTELLECTUAL PROPERTY LICENSE WITH INTELLECTUAL VENTURES (IV).

7. BY A MOTION DULY MADE BY MR. BEACHEM, SECONDED BY MR. BONE AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO AUTHORIZE EXPENDITURE FOR ELECTRICITY AND NATURAL GAS FOR FY 2010.
8. BY A MOTION DULY MADE BY MR. CISTARO, SECONDED BY MR. BEACHEM AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO RENEW STUDENT HEALTH INSURANCE.
9. BY A MOTION DULY MADE BY MR. BEACHEM, SECONDED BY MR. CISTARO AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO UPDATE BANK AND FINANCIAL INSTITUTIONS ACCOUNT AUTHORIZATIONS.
10. BY A MOTION DULY MADE BY MR. BONE, SECONDED BY MR. BEACHEM AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO ENGAGE AUDITORS FOR FY 2009 AUDIT provided there was no increase in the audit fees from the prior year.
11. BY A MOTION DULY MADE BY MR. BEACHEM, SECONDED BY MR. KNAPP AND UNANIMOUSLY PASSED, the Board voted to approve the RESOLUTION TO AMEND INVESTMENT POLICY.
12. Ms. Jean Feeney, Ethics Liaison Officer, presented the yearly Ethics Training to the members of the Board, and emphasized the provisions of EO 14 and the required financial forms. She responded to specific questions of Board members.
13. Dr. Altenkirch discussed issues relative to the FY 10 Budget, Tuition and Fee Schedule for FY 2010. The Governor's budget message in March proposed \$3 million in state support for NJIT. There are no funds for salary increases in the budget. The use of the federal stimulus funds is being discussed, as it relates to student aid and operating support. We need to wait until the final budget bill is signed off on to determine the impact.
14. Dr. Dees discussed development growth strategies, and reported on gifts and fund raising activities, as more specifically detailed in the material in the Board book. The Highlander Campaign was successfully completed in May, 2009, raising \$5.2 million upon a \$5 million goal, and there was an Athletic Hall induction ceremony and campaign victory celebration to mark the event. With respect to the Annual Fund efforts, there have been some increases despite the economic circumstances. There are some significant hosts for cultivation events. Dr. Dees reported on staffing issues. Last year we had a banner year for donations; this year is more of a challenge. We are making good progress in using the internet, Facebook, and similar vehicles, and are looking for new vehicles as well.

15. Senior Vice President Mauermeyer reported on the Operating Statement Year to Date, and the Schedule of Short Term Investments. We are on target for revenue and expenses. Referencing the supplemental schedule, overall we are on target, including firm commitments. Because of the State budget situation, we've slowed expenditures. We are not 100% sure of what the State will do in the month of June, and are monitoring the situation closely. Summer revenue is limited, and the timing of cash disbursements are being watched closely.
16. The Chairperson announced that the next scheduled closed session would be convened on Thursday, July 16, 2009, at 9:30 AM, at Eberhardt Hall Alumni Center Board Room, to discuss personnel, real estate and contract matters. The following resolution was read and approved by all Trustees present.

WHEREAS, there are matters that require consideration by the Board of Trustees that qualify under the Open Public Meetings Act for discussion at a Closed Session;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees shall have a Closed Session to discuss such matters as personnel, real estate and contract matters on Thursday, July 16, 2009 at 9:30 AM, Eberhardt Hall Board Room.

The next Public Session of the Board will take place on Thursday, July 16, 2009 at 11:00 AM, Eberhardt Hall Board Room, following the Closed Session of the Board.

The meeting was adjourned at 12:35 pm.

3. Public Comments

**4A. Approve Resolution to Set
FY 2010 Schedule of Tuition
and Fees**

**STATEMENT
SCHEDULE OF TUITION AND FEES**

The proposed Schedule of Tuition and Fees for FY 2010 has been carefully reviewed and has been the subject of a public hearing as required by Law. The Legislature and Governor have acted to establish the basic appropriation. The FY 2010 appropriation is \$45.134 million.

Shown below are the FY 2009 and proposed FY 2010 per semester tuition and fees for full-time, in-state undergraduates for NJIT and for the Rutgers University engineering program. The proposed complete schedule of Tuition and Fees is shown on Attachment A, while Exhibit A shows a comparison between the FY 2009 and proposed FY 2010 rates.

**UNDERGRADUATE
FULL - TIME, PER SEMESTER**

	TUITION		REQUIRED FEES	
	FY 09	FY 10	FY 09	FY 10
NJIT	\$ 5,250	\$ 5,408	\$ 991	\$ 1,021
RUTGERS ENGINEERING	\$ 5,146		\$ 1,136	

The proposed changes in fees are intended to support increased levels of service and expense. The four fees, academic facilities, technology infrastructure, student senate activities, and athletics would increase the required fees for a full time undergraduate by \$29 or 2.9% per semester.

A resolution to adopt the revised schedule of Tuition and Fees has been prepared for your consideration.

NEW JERSEY INSTITUTE OF TECHNOLOGY
Schedule of Tuition & Fees

EXHIBIT A**Summary Change - In-State Full Time Undergraduate**

	FY 2009	FY 2010	DIFFERENCE	
	Approved	Proposed	AMOUNT	PERCENT
Full-Time Per Semester Tuition	\$ 5,250	\$ 5,408	\$ 158	3.0%
Full-Time Per Semester Fees	\$ 991	\$ 1,020	\$ 29	2.9%
Full-time In-State Tuition and Fees	\$ 6,241	\$ 6,428	\$187	3.0%

Complete Schedule of Mandatory Tuition and Fees

TUITION	FY 2009	FY 2010	DIFFERENCE	
			AMOUNT	PERCENT
Undergraduate				
<u>In-State</u>				
Full-Time Per Semester	\$5,250	\$5,408	\$158	3.0%
Part-Time Per Credit	400	412	12	3.0%
<u>Out-Of-State</u>				
Full-Time Per Semester	9,980	10,280	300	3.0%
Part-Time Per Credit	853	879	26	3.0%
Graduate				
<u>In-State</u>				
Full-Time Per Semester	6,890	7,100	210	3.0%
Part-Time Per Credit	750	772	22	3.0%
<u>Out-Of-State</u>				
Full-Time Per Semester	9,790	10,084	294	3.0%
Part-Time Per Credit	1,033	1,064	31	3.0%
FEES -- Per Semester				
<u>Full-Time (12 or More Credits)</u>				
Registration	\$80	\$80	\$0	0.0%
Academic Facilities	475	\$478	3	0.6%
Technology Infrastructure	171	\$175	4	2.3%
Student Services	65	\$65	0	0.0%
Student Senate Activities -- Undergraduate	53	\$55	2	3.8%
Student Senate Activities -- Graduate	40	\$40	0	0.0%
Athletics	125	145	20	16.0%
Health	22	\$22	0	0.0%
TOTAL UNDERGRADUATE	991	1,020	29	2.9%
TOTAL GRADUATE	978	1,005	27	2.8%
<u>Part-Time</u>				
Per Credit:				
Academic Facilities	\$50	\$50	\$0	0.0%
Technology Infrastructure	22	\$22	0	0.0%
Student Services	9	\$9	0	0.0%
Student Senate Activities - Undergraduate	6	\$6	0	0.0%
Student Senate Activities - Graduate	4	\$4	0	0.0%
Athletics	10	13	3	30.0%
TOTAL UNDERGRADUATE PER CREDIT	97	100	3	3.1%
TOTAL GRADUATE PER CREDIT	95	98	3	3.2%
Part-Time Per Semester:				
Health Services	\$22	\$22	\$0	0.0%
Registration	80	\$80	0	0.0%
TOTAL PER SEMESTER	102	102	0	0.0%

RESOLUTION TO SET FY 2010 SCHEDULE OF
TUITION AND FEES

WHEREAS, after review of the FY 2010 Budget, it has been determined that additional revenues are required to provide necessary resources, and

WHEREAS, the FY 2010 Schedule of Tuition and Fees has been reviewed and increases recommended, and

WHEREAS, pursuant to law, there has been a Public Hearing on the subject of the FY 2010 Tuition and Fees Schedule, and

WHEREAS, the complete FY 2010 Schedule of Tuition and Fees is shown on Attachment A.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees sets the FY 2010 Schedule of Tuition and Fees as shown on Attachment A.

16-Jul-2009

NEW JERSEY INSTITUTE OF TECHNOLOGY
PROPOSED TUITION & FEE SCHEDULE 2009 - 2010

Attachment A

UNDERGRADUATE	RESIDENT	NON-RESIDENT
Less than 12 credit hours per semester	\$ 412	\$ 879
12 to 19 credit hours per semester	\$ 5,408	\$ 10,280
Each credit hour over 19	\$ 412	\$ 879
GRADUATE		
Full-time	\$ 7,100	\$ 10,084
Part-time	\$ 772	\$ 1,064
SUMMER SESSION 2010		
Undergraduate	\$ 412	\$ 879
Graduate	\$ 772	\$ 1,064
ON-LINE PROGRAM TUITION:		
Graduate 100% Distance Learning Per Credit		\$ 863

EXECUTIVE MANAGEMENT PROGRAM

Program cost includes tuition, fees and materials: \$47,500

ROOM AND BOARD: Typical average academic year cost is \$9,828

FEES PER SEMESTER:

	TOTAL (A,B)	REGIS- TRATION	ACADEMIC FACILITIES	TECHNOLOGY INFRA- STRUCTURE	STUDENT SERVICES	STUDENT ACTIVITIES	ATHLETICS	HEALTH
12 or more credits								
Undergraduate	1020	80	478	175	65	55	145	22
Graduate	1005	80	478	175	65	40	145	22
Less than 12 Credits PLUS								
	102	80						22
Per credit								
Undergraduate	100		50	22	9	6	13	0
Graduate	98		50	22	9	4	13	0
Per Term								
Winter/Summer Sessions	160	90	50	20	0	0	0	0

(A) - In addition, students will be charged \$278 for legislated health insurance coverage, which will be refunded if the student can provide proof of insurance. International students will pay \$316.

(B) - In addition, there is a \$125 per semester charge for international students.

NEW JERSEY INSTITUTE OF TECHNOLOGY
TUITION & FEE SCHEDULE 2009 - 2010

Attachment A (Continued)

PER OCCURRENCE FEES	UNDERGRADUATE	GRADUATE
Application/Re-admission/Non-Matriculation	\$50	\$60
Late Registration	100	100
Deferred Payment	50	50
Schedule Change	25	25
Make-up Exam	50	50
Re-instatement	200	200
Thesis	N/A	75
Dissertation	N/A	100
Laboratory	Variable per catalog	Variable per catalog
Maintaining Registration	25	50
Commencement	110	110
BJUT English Placement Test		125
Parking		
· Part-time (per semester)	65	65
· Full-time (per semester)	125	125
Health Insurance (1)		
· In-State and Out-Of-State	278	278
· International Students	316	316
First Year Student Fee	170	N/A
Transfer Student Orientation	15	N/A
Distance Learning (per semester)	75	75

(1) Health insurance coverage is refundable if the student can provide proof of insurance.

**4B. Approve Resolution to Adopt
FY 2010 Operating and Capital
Budgets**

Statement Resolution to Adopt FY 2010 Operating and Capital Budgets

The administration has carefully developed Operating and Capital Budgets for FY 2010, examining revenue and expense options. Following an iterative, consultative process, the FY 2010 Operating Budget is a balanced budget which provides for the allocation of resources consistent with the university mission.

The revenue includes a 3% increase in tuition income based on the FY2010 Schedule of Tuition and Fees set by the Board of Trustees, an appropriation from the State \$45.1 million, which includes \$3 million in Federal Stimulus funding. On the expense side, there is a reduction of \$1.3 million in personnel budgets, increases to support continued implementation of the Strategic plan, and increased financial aid/scholarships. Although many needed positions are being held vacant, the FY 10 budget does provide for faculty lines and related start-up costs reallocated from the Faculty Separation Incentive Program.

The authorized spending limits remained unchanged from the FY 2009 amounts.

Resolution to Adopt FY 2010
Operating and Capital Budgets

Whereas, the administration has developed balanced Operating and Capital Budgets, and

Whereas, the administration has presented said Budgets to the Audit and Finance Committee, and

Whereas, the Audit and Finance Committee of the Board has reviewed same and recommends acceptance of the administration's proposed Budgets, and

Whereas, the Board of Trustees have set the FY 2010 Schedule of Tuition and Fees, and

Whereas, the recommended spending limits from the Budgets to single vendors during the fiscal year without further approval are:

- for university accounts \$750,000;
- for capital accounts within the Approved Capital Budget and
- for Research Contracts as approved by the external source

Now Therefore Be It Resolved that the Board of Trustees adopts the FY 2010 Operating and Capital Budgets, and

Be It Further Resolved that the administration's authorized spending limits from the Budgets to single vendors during the fiscal year without further approval are as follows:

- for university accounts \$750,000;
- for capital accounts the Approved Capital Budget and
- for Research Contracts as approved by the external source

16 July 2009

DRAFT
New Jersey Institute of Technology

FY2010 Proposed Budget

As of 7/5/2009

Submitted to Audit and Finance Committee, Board of Trustees

DRAFT New Jersey Institute of Technology

FY2010 Budget Overview

- \$3.0 million in Federal (one-time) stimulus funds, restoring FY10 Governor proposed appropriation reduction and resulting in an increase of \$752K above the adjusted FY09 appropriation
- Enrollment increase resulting in \$6.1 million of additional tuition & fee revenue
- \$3.2 million in additional tuition and fee revenue generated from a 3% academic year tuition and required fee increase
- 15% increase in student awards, which is consistent with Strategic Plan objectives
- Implement an FY10 faculty recruitment plan (result of Faculty Separation Incentive Plan; reallocation; new program enrollment demand) that includes 23 faculty hires, including start-up packages that total \$2.2 million
- No State funding of FY10 salary program (1.75% to total \$1.5 million expense)

Draft New Jersey Institute of Technology

FY2010 Budget Overview (cont.)

- Includes \$2.7 million in State-mandated personnel expenditure reductions
- Continued investment in Strategic Priorities (\$2.5 million)
- Residence hall rate increase of 4.5%
- Projected 6% increase (\$535K) in utilities
- Additional \$3.0 million to support facility projects for a total of \$6.0 million
- 5% continued steady growth in restricted grants and contracts

Draft

New Jersey Institute of Technology

Future Year Budget Obligations

- FY10 across-the board salary component (3.5% increase) pushed to Jan 2011
- FY11 Salary Program (half of the deferred increase from FY10 plus 5.25% increase to total 7% increase) estimated at \$6.4 million (Based on current contracts, which expire 6/30/11)
- FY12 Salary Program (additional half of the deferred increase from FY10 plus 1.75% merit (State increments)) estimated at \$3.3 million (Carry-forward obligation does not include adjustments for new contracts to begin 7/1/11, if any)

Draft New Jersey Institute of Technology

Review of Annual Operating Budget FY2003 - FY2010

	State Request	Base State Appro.	Fiscal Year Shortfall	% Fiscal Year Shortfall	Tuition/Fee Revenue	Tuition/Fee Revenue Increase	Annual % Increase Tuition	% Tuition Cap	Budgetary Expenditure Reductions/Reallocations
FY03	55,896	49,621	(6,275)	-11.2%	67,596	5,218	9.7	-	(2,896)
FY04	52,367	48,690	(3,677)	-7.0%	72,777	5,181	8.5	9.0	(3,936)
FY05	51,526	50,112	(1,414)	-2.7%	74,462	1,685	8.0	8.0	(6,070)
FY06	53,131	51,512	(1,619)	-3.0%	80,024	5,562	7.0	8.0	(3,303)
FY07	56,564	47,132	(9,432)	-16.7%	83,605	3,581	7.0	8.0	(11,567)
FY08	50,209	49,097	(1,112)	-2.2%	95,038	11,433	7.0	-	827
FY09	53,238	43,957	(9,281)	-17.4%	105,306	10,268	8.2	-	(3,299)
Cumulative (FY03-FY09)									
			(32,810)						
FY10	47,872	45,134	(2,738)	-5.7%	114,975	9,669	3.0	3.0	0

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FY2010 Revenue Operating Budget

	FY2008 <u>Committed</u>	FY2009 <u>Projected Commitments</u>	FY2010 <u>Proposed Budget</u>
INCOME DETAIL - UNRESTRICTED OPERATIONS			
REGULAR TUITION	81,285	89,860	98,260
REGULAR FEES	11,361	13,884	15,182
OTHER TUITION	2,854	2,592	1,533
SUBTOTAL REGULAR TUITION	95,499	106,336	114,975
STATE APPROPRIATIONS:			
STATE APPROPRIATION	48,490	42,685	45,134
SALARY PROGRAM	607	1,273	-
STATE SUPPORTED FRINGES	22,020	23,791	24,136
TOTAL STATE APPROPRIATIONS	71,117	67,748	69,270
OTHER SOURCES:			
OTHER FEES & ASSESSMENTS	2,116	2,133	1,877
INVESTMENTS & UNRESTRICTED GIVING	1,507	1,014	400
AUXILIARIES	12,210	12,454	12,744
NON-RECURRING CARRYFORWARD SAVINGS	-	-	-
ALLOCATED BALANCES	-	-	2,408
UNRESTRICTED RESEARCH ACTIVITIES	12,623	12,555	12,234
SUBTOTAL OTHER SOURCES	28,456	28,157	29,663
TOTAL REVENUE - CURRENT OPERATIONS	195,072	202,241	213,908
RESTRICTED PROGRAMS (NET OF OPERATIONS)	64,439	67,830	71,222
TOTAL OPERATING INCOME BUDGET	259,511	270,071	285,130

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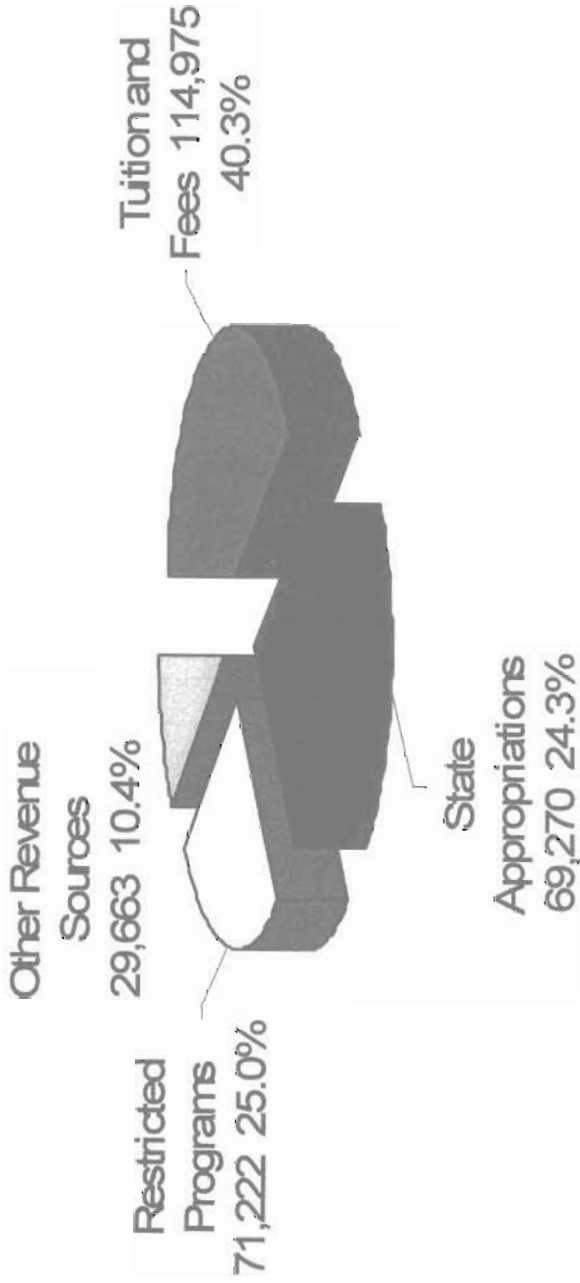
FY2010 Expense Operating Budget

	FY2008 Committed	FY2009 Projected Commitments	FY2010 Proposed Budget
ACADEMIC & PROGRAM AREA SALARIES	77,073	80,222	81,000
ACADEMIC & PROGRAM AREA FRINGE BENEFITS	20,495	22,377	22,741
TOTAL ACADEMIC AREA	97,569	102,599	103,741
SUPPORT AREA SALARIES	19,666	20,257	19,426
SUPPORT AREA FRINGE BENEFITS	5,230	5,650	5,742
TOTAL SUPPORT AREA	24,896	25,907	25,168
TOTAL PERSONNEL	122,464	128,506	128,909
NON-PERSONNEL			
RESTRICTED USE BUDGETS:			
UTILITIES	8,613	9,731	10,311
INSURANCE	2,013	1,615	2,086
LIBRARY COLLECTIONS	1,159	1,119	1,084
STUDENT AWARDS	15,957	17,403	20,279
REST. TRANS., DEBT SVC. & OTHER	20,788	19,525	21,553
COST REC. & CHG. BACKS	(458)	(406)	(486)
INDIRECT COSTS	0	0	(68)
SUBTOTAL RESTRICTED USE BUDGETS	48,072	48,987	54,759
GENERAL OPERATING BUDGETS:			
EQUIPMENT	2,698	3,137	3,346
MATERIALS/SUPPLIES	2,542	2,642	2,631
TRAVEL/CONFERENCES	2,654	2,527	2,517
PROFESSIONAL SERVICES	5,563	6,238	6,213
FACILITY MAINTENANCE, REPAIRS, RENTALS & LEASES	4,245	4,246	4,229
COMPUTER HARDWARE, SOFTWARE, AND MAINTENANCE	1,170	1,178	1,173
GENERAL ADVERTISING	888	1,001	997
OTHER OPERATING EXPENSES	4,348	3,905	3,889
SUBTOTAL GENERAL OPERATING EXPENSES	24,107	24,874	24,995
PRIOR YEAR COMMITMENTS (ALLOCATED BALANCES)			
TOTAL NON-PERSONNEL	72,180	73,860	82,162
BUDGET RESERVES			1,000
FY11 RESERVE			1,837
TOTAL OPERATING EXPENSE BUDGET	194,644	202,367	213,908
RESTRICTED PROGRAMS (NET OF OPERATIONS)	64,439	67,830	71,222
TOTAL OPERATING EXPENSES	259,082	270,197	285,130

New Jersey Institute of Technology

FY2010 Revenue Operating Budget

Revenue = \$285,130
(\$000's)

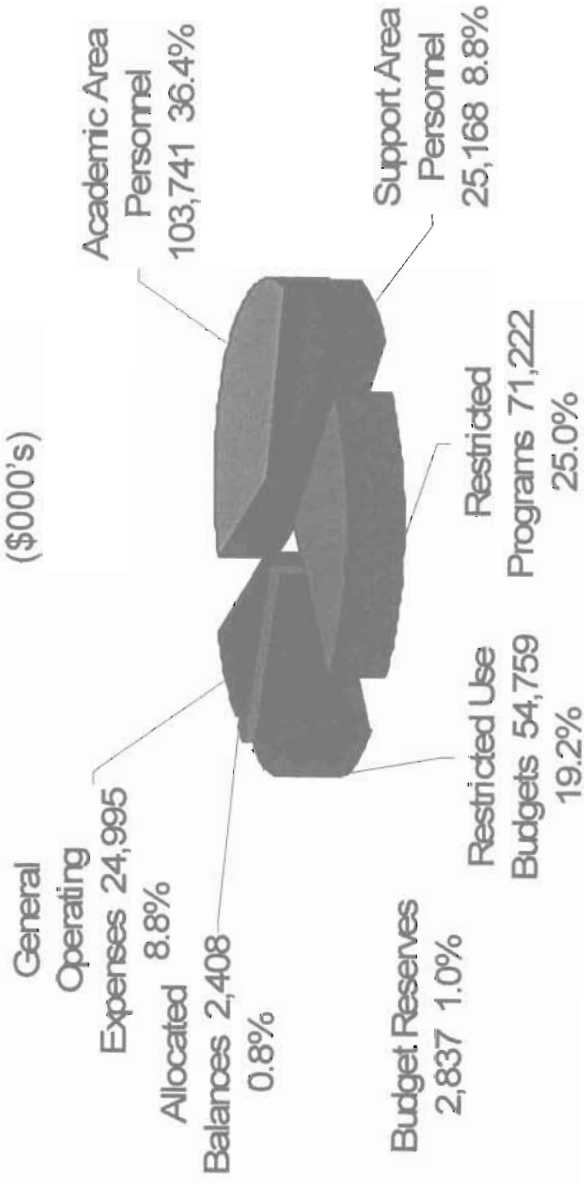


New Jersey Institute of Technology

FY2010 Expenses Operating Budget

Expenses = \$285,130

(\$000's)



New Jersey Institute of Technology

FY 2010 Proposed Facilities Budget/ Cash Disbursements (\$000's)

<u>Resources</u>	<u>FY2009 Approved</u>	<u>FY 2010 Proposed</u>	<u>FY2011+ Planning</u>
Plant Fund Allocation	2,956		
Gift Income		800	
Enterprise Dev Ctr Income			
Plant Fund	4,870	6,000	
Total Resources	7,826	6,800	-

Projected Disbursements Priority/Tactic

*Develop a core of nationally recognized programs
Build three programs to national prominence by 2008*

Expanded SOA studio space Fall 07			
Tiernan, GITC and York Updates/Relocations	2,300		
SOA Studios / Related Relocations	880	780	
SOA Idea Factory		50	
SOA Studios / Related Relocations			
Total	3,180	830	-

New Jersey Institute of Technology

FY 2010 Proposed Facilities Budget/ Cash Disbursements (cont.)

	<u>FY2009</u> <u>Approved</u>	<u>FY 2010</u> <u>Proposed</u>	<u>FY2011+</u> <u>Planning</u>
<i>Enhance and enrich the quality of life of the university community and Develop and implement a landscaping/campus appearance</i>			
York Student Workstations			25
Microelectronics Controls			375
Classrooms Upgrades	100		
Fenster BME Wet Lab			65
Colton Computational Biology Lab			60
Tiernan Fume Hood Upgrade 2 labs	250		
Biology Labs		250	
New Class rooms 2nd Fenster		1,550	
Enclose Tennis Court		2,060	
Rehab - CAPE Upper Level		270	
Jim Wise Library Work Space		30	
Bathroom Fixtures and Plumbing Replacements	100	100	1,070
Academic Departments	100	100	200
Campus Center	550	4,360	1,795
Food Services Update	486		
Total	486		-
Athletics			
Enhance/Replace Heating and Cooling Systems			1,050
BB Locker Room Rehab		300	
Training Room/ Locker Room Upgrades	100		325
Total	100	300	1,375

New Jersey Institute of Technology

FY 2010 Proposed Facilities Budget/ Cash Disbursements (cont.)

	<u>FY2009</u> <u>Approved</u>	<u>FY 2010</u> <u>Proposed</u>	<u>FY2011+</u> <u>Planning</u>
<u>Other Plant Projects</u>			
Replace kitchenettes - Oak Hall (1/2)	375		550
Faculty Hall EPA Compliance - Ductwork Replace Air Handler	55		375
CAB - Repl AC 1,2,3 and Heating Valves			300
Repl Roll filters with Racks / Repl Hydraulic Oil			
Colton - Demolish Boilers, remove asbestos		380	375
Oak Hall - Upgrade Valves/Control System - New Chiller/Pumps Required			200
Parking Deck - Paint and Waterproof		340	1,600
Compressor Replacement			8,530
Roof Replacements			100
MEP Upgrades (Mechanical, Electrical, Plumbing)			200
Specht HVAC Replacement	1,870		700
ECE Replacement of Rooftop Units			1,000
HVAC Upgrades		390	700
Replace Windows			
Elevators Upgrade			
Administrative Computing System	300		
Cullimore Boiler Room Upgrades	80		
Student Mall Boiler Replacement	80		
Kupfrian Installation of New Boiler	150		
Oak Hall - Replace Rooftop Heat Recovery Unit	100		100
Other Projects	500	200	500
	3,510	1,310	15,230
Land Acquisition/Paving			350
Total Projected Disbursements	7,826	6,800	18,750
Net	0	0	(18,750)

**4C. Approve Appointment of Board
Officers and Committee Chairs**

**4D. Approve NJIT Campus
Gateway Project Redevelopment
Agreement with the City of
Newark**

Resolution to Authorize Execution of Redevelopment Agreement with the City of Newark

Whereas, NJIT has been actively engaged in Campus Gateway Project, the objectives of which include to stimulate further growth of Greek life on campus, and to improve and act as an economic catalyst of the area north of the campus, more commonly known as the James Street area, and

Whereas, there has been extensive input to the Project from the campus and nearby communities, and

Whereas, the firm of Jones Lang LaSalle, in consultation with the architectural firm of Elkus Manfredi, has completed a redevelopment plan for the Gateway Project area, and

Whereas, the City has completed a Redevelopment Plan for the Broad Street Station Area that includes the Gateway Project Area redevelopment, and

Whereas, by ordinance the Newark City Council has approved said Plan, and

Whereas, by ordinance, the City Council has designated NJIT as the Redeveloper for the Gateway Project, and

Whereas, there will be a Redevelopment Agreement executed by NJIT and the City to govern the redevelopment process, and,

Whereas, a draft Redevelopment Agreement (Exhibit A) has been prepared by the City's counsel and has been reviewed by NJIT's external counsel, and no substantive changes are expected and

Whereas, Jones Lang LaSalle will be responsible to carry out the Redevelopment Plan, and

Whereas, the administration recommends the President be authorized to execute the Redevelopment Agreement if there are no substantive changes to the draft Redevelopment Agreement in Exhibit A

Now Therefore Be It Resolved that the Board of Trustees authorizes the President to execute the Redevelopment Agreement with the City of Newark in substantially the same form as to all pertinent aspects as the Redevelopment Agreement in Exhibit A

16 July 2009

THIS AGREEMENT (the “Agreement”) made on or as of the ____ day of _____, 2009 by and between **THE CITY OF NEWARK** (the “City”), a public body corporate and politic of the State of New Jersey having its offices at 920 Broad Street, Newark, New Jersey 07102, in its capacity as a redevelopment entity pursuant to N.J.S.A. 40A:12A-4(c), and **THE NEW JERSEY INSTITUTE OF TECHNOLOGY** (the “Redeveloper” or the “NJIT”), a public body corporate and politic created pursuant to N.J.S.A. 18A:64E-12 et. seq. and having its offices at University Heights, Newark, NJ 07102-1982 (collectively, the “Parties”).

WITNESSETH:

WHEREAS, by Resolution 7RM 050405, adopted May 4, 2005, the Municipal Council of the City of Newark (the “Municipal Council”) directed the Central Planning Board of the City of Newark (the “Central Planning Board”) to undertake an investigation to determine if the City satisfied the statutory criteria of an area in “need of rehabilitation” in accordance with the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “LRHL”); and

WHEREAS, the Central Planning Board conducted the requested investigation in accordance with the LRHL, including a public hearing on June 6, 2005, after which hearing the Central Planning Board recommended the designation of the entire City as an area in need of rehabilitation; and

WHEREAS, based upon the recommendation of the Central Planning Board, on June 15, 2005, the Municipal Council adopted Resolution 7RDO (A.S.) 061505, designating the entire City as an “area in need of rehabilitation” (as defined under the LRHL), and such designation became effective on June 17, 2005 upon the transmission of the resolution to the New Jersey Department of Community Affairs by the City Clerk; and

WHEREAS, in or about September 2007, the NJIT, in cooperation with other area stakeholders, created a comprehensive plan for the redevelopment and rehabilitation of approximately 21.5 acres located within the City in order to serve as a gateway between the NJIT campus and existing neighborhoods and in order to enhance the quality of life of both NJIT and existing residential communities (the “NJIT Gateway Plan”); and

WHEREAS, on March 31, 2008, the Municipal Council adopted Resolution 7R3-B(S) conditionally designating NJIT as the redeveloper for the area described within the NJIT Gateway Plan, subject to the adoption of a redevelopment plan for that area by the City and the negotiation of a redevelopment agreement between the City and NJIT; and

WHEREAS, on September 22, 2008, the Central Planning Board adopted a resolution recommending that the Municipal Council adopt a redevelopment plan for certain portions of the City, including the area described within the NJIT Gateway Plan, which included many of the programmatic elements set forth within the NJIT Gateway Plan; and

WHEREAS, on January 21, 2009, the Municipal Council adopted Ordinance 6PSF-a 012109 adopting a redevelopment plan (the “Broad Street Station Area Redevelopment Plan” or

the “Redevelopment Plan”) for certain portions of the City, including the area described within the NJIT Gateway Plan; and

WHEREAS, on January 21, 2009, the Municipal Council adopted Resolution [insert Resolution #] conditionally designating NJIT as the redeveloper for the area described within the NJIT Gateway Plan, subject to the negotiation of this agreement between the City and NJIT; and

WHEREAS, NJIT proposes to design, implement and Facilitate the construction of residential, retail, hotel, and academic uses and parking spaces on parcels within the Project Area (as such term is defined herein) in accordance with the Broad Street Station Area Redevelopment Plan; and

WHEREAS, the City has determined that NJIT appears to possess the proper qualifications and capacity to implement and Facilitate the completion of the Project (as such term is defined herein) in accordance with the Broad Street Station Area Redevelopment Plan and all other applicable laws, ordinances and regulations; and

WHEREAS, the City believes the Project to be in the vital and best interest of the City and that it promotes the health, safety, morals and welfare of the City’s residents;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, and for the benefit of the Parties hereto and the general public and to implement the purposes of the LRHL and the Redevelopment Plan, the Parties do hereby covenant and agree each with the other as follows:

ARTICLE 1 **DEFINITIONS**

1.1. Defined Terms. The Parties agree that the defined capitalized terms used in this Agreement shall have the meaning specified in the recitals above (each of which is hereby incorporated into and made part of this Agreement) or as set forth in the list below, or as may be expressly ascribed to such capitalized terms elsewhere in this Agreement, such definitions to be applicable equally to the singular and plural forms of such terms:

“**Affiliate**” means any individual or entity that controls, is controlled by or is under common control with the Redeveloper, (b) each individual or entity that, directly or indirectly, owns or controls, whether beneficially or as a trustee, guardian or other fiduciary, any of the Stock or other equity interest of the Redeveloper, and (c) each of the Redeveloper’s officers, directors, members, joint venturers and partners. The term “control” as used with respect to any Party, means the ownership, directly or indirectly of more than 50% of the voting stock of such corporation (or its equivalent for a limited liability company or partnership), or the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, partnership, association or other entity or organization, or to receive, directly or indirectly, more than 50% of the profits of such corporation, partnership,

association or other entity or organization (whether through the ownership or voting stock, by contracts or otherwise).

“Agreement” or “Redevelopment Agreement” shall mean this redevelopment agreement between the City of Newark and the NJIT.

“Applicable Laws” shall mean all federal, state and local laws, ordinances, approvals, rules, regulations, statutes, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses and other similar requirements applicable thereto, including but not limited to, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “LRHL”); the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (the “MLUL”); the Zoning Ordinances of the City of Newark, as and to the extent applicable pursuant to the terms of the Redevelopment Plan; relevant construction codes including construction codes governing access for people with disabilities; and all other applicable federal, state or local zoning, land use, environmental, health and safety laws, ordinances, rules and regulations, and federal and state labor standards or regulations, if any, including but not limited to the Prevailing Wage Act.

“Application” means any application for Governmental Approval submitted by or on behalf of the Redeveloper, including all plans, drawings, documentation and presentations necessary and appropriate for the purpose of obtaining any and all Governmental Approvals required to implement and complete the Project.

“Approved Concept Plan” shall have the meaning set forth within Section 3.2(a) of this Agreement.

“Approved Construction Schedule” shall have the meaning set forth within Section 3.2(a) of this Agreement.

“Approved Phasing Schedule” shall have the meaning set forth within Section 3.2(a) of this Agreement.

“Approved Planning Documents” shall have the meaning set forth within Section 3.2(a) of this Agreement.

“Certificate of Completion” means written acknowledgment by the City in recordable form that the Redeveloper has Facilitated the completion of construction of a particular Phase or the entire Project, as the case may be, in accordance with the requirements of this Agreement.

“Certificate of Occupancy” shall be as defined in the City’s Municipal Code and in the applicable provisions of the Uniform Construction Code, N.J.A.C. 5:23-1 et seq.

“City” means the City of Newark, Essex County, New Jersey.

“Commence Construction”, “Commencement of Construction”, or “Commencement Date” shall mean the date on which the construction force and machinery are mobilized for construction of any particular Phase, as applicable, in accordance with Governmental Approvals.

“Completion of Construction”, “Complete Construction” or “Completion Date” means the date on which construction of a particular Phase or the entire Project has been substantially completed,.

“Completion Notice” or “Notice of Completion” means a written notification of Completion of Construction of any particular Phase or of the entire Project, as the case may be, and request by the Redeveloper for the issuance by the City of a Certificate of Completion as to that Phase or of the entire Project.

“Concept Plan” means a general plan depicting the size, type and location of structures and other appurtenances which Redeveloper proposes to Facilitate or have constructed as part of any particular Phase or of the entire Project.

“Construction Period” means the period beginning on the Commencement Date and ending on the Completion Date.

“Construction Schedule” means the timetable and performance milestones for design, obtaining Governmental Approvals, environmental remediation, site preparation, and Completion of Construction of any particular Phase or of the entire Project, as may be modified or adjusted from time to time in accordance with the provisions of this Agreement.

“Control” (when used in the context of the Redeveloper’s Control of any Parcel within the Project Area) shall have the have the meaning set forth within Section 2.1 of this Agreement.

“Days” shall mean calendar days.

“Declaration of Covenants and Restrictions” or “Declaration of Restrictions” means a written instrument intended to be executed by Redeveloper, to be recorded in the Office of the Essex County Clerk as of the Commencement Date, and to encumber the Properties and run with the land, setting forth certain undertakings of and restrictions applicable to Redeveloper and its permitted successors and assigns in connection with the ownership, redevelopment or rehabilitation of the Properties, all as more particularly described within Article 5 of this Agreement.

“Default” means a condition or event which constitutes or would constitute, after notice and a right to cure or lapse of time or both, an Event of Default as more particularly defined within Article 7 of this Agreement.

“Director” shall mean the Director of the City’s Department of Economic and Housing Development.

“Effective Date” means the date of complete execution of this Agreement by Redeveloper and the City.

“Environmental Laws” means any and all federal, state, regional, and local laws,

statutes, ordinances, regulations, rules, codes, consent decrees, judicial or administrative orders or decrees, directives or judgments relating to environmental contamination, damage to or protection of the environment, environmental conditions, or the use, handling, processing, distribution, generation, treatment, storage, disposal, manufacture or transport of Hazardous Substances materials or wastes, presently in effect or hereafter amended, modified, or adopted including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. sect. 9601-9675; the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. sect. 6901, et seq.; the Clean Water Act, 33 U.S.C. sect. 1251, et seq.; the New Jersey Spill Compensation and Control Act (the "Spill Act"), N.J.S.A. 58:10-23.11, et seq.; the Industrial Site Recovery Act, as amended ("ISRA"), N.J.S.A. 13:1K-6, et seq.; the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21, et seq.; the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; the New Jersey Environmental Rights Act, N.J.S.A. 2A:35A-1, et seq.; and the rules and regulations promulgated thereunder, as now in force or as may hereinafter be modified or amended.

"Event of Default" shall have the meaning set forth within Section 7.1 of this Agreement.

"Facilitate" means that the Redeveloper, either on its own or in conjunction with or through assignees, subcontractors, or Parcel owners (as approved by the Director), will take the actions necessary to implement and effectuate the Project; provided, however, that the Redeveloper's duty to Facilitate shall be interpreted to mean that if the underlying actions required to be facilitated by the Redeveloper under this Agreement have not been taken and/or have not occurred within the time periods required hereunder, the Redeveloper will be deemed not to have Facilitated such actions.

"Force Majeure Event" means causes beyond the reasonable control and not due to the fault or negligence of the party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to, declarations of public emergency, acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods not reasonably foreseeable at the time the Construction Schedule is agreed to), acts of the public enemy, acts of war, fire, epidemics, quarantine restrictions, blackouts, power failures or energy shortages, governmental embargoes, strikes or similar labor action by equipment or material suppliers or transporters, litigation pertaining to the Redevelopment Plan or this Agreement, or unavailability of necessary building materials (provided that the Redeveloper has no commercially reasonable alternatives to avoid the impact thereof on the progress of the Project); provided, however, that neither party shall be entitled to claim a delay based upon a Force Majeure Event unless it has within forty-five (45) Days of the event causing delay notified the other party in writing of such delay and the cause therefore. Failure on the part of either party to deliver notice of a Force Majeure Event to the other party within the time period set forth herein shall be a waiver of that party's ability to assert that Force Majeure Event as the basis for an extension of time under this Agreement. The consequential effects of a Force Majeure Event (e.g. impact on market conditions) shall not be considered a Force Majeure Event. During any Force Majeure Event that affects only a portion of the Project, the Redeveloper shall to the maximum extent feasible continue to perform its obligations for the balance of the Project unaffected by the Force Majeure Event. The existence

of a Force Majeure Event shall not prevent the City from issuing a Notice of Default or from the occurrence of an Event of Default by the Redeveloper if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

“Governmental Approvals” means all final and unappealable local, state and federal governmental approvals necessary or appropriate for implementation and completion of the Project in accordance with the terms of this Agreement, including without limitation preliminary and final site plan approval; preliminary and final subdivision approval, if and as applicable; environmental permits, including but not limited to wetlands and storm water drainage permits; permits, consents, permissions or approvals relating to historic preservation matters; utilities-related permits, including permits related to water supply and sewer service; and all other necessary permits, licenses, consents, permissions or approvals from or required by governmental agencies.

“LEED Certified—Silver” shall mean that a structure has been certified by the U.S. Green Building Council pursuant to the Leadership in Energy and Environmental Design (“LEED”) Green Building Rating System as meeting its benchmarks for green building and performance measures to obtain Silver level certification.

“Minority” or **“Minorities”** means a person who is a citizen or lawful permanent resident of the United States and who is either one or a combination of: (i) African American (a person having origins in any of the black racial groups of Africa), (ii) Alaskan Native and/or American Indian (a person having origins in any of the original peoples of North America), (iii) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, Hawaii or the Pacific Islands), (iv) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race), or (v) Female (a person of the female gender).

“NJDEP” shall mean the New Jersey Department of Environmental Protection.

“NJIT” or **“Redeveloper”** means the New Jersey Institute of Technology, or its successors or assigns as set forth in this Agreement.

“Notice of Default” shall have the meaning set forth within Section 7.1 of this Agreement.

“Parcel” shall mean any individual lot within the Project Area as defined herein.

“Parties” means the City and the Redeveloper.

“Phase” shall mean any or all of the phases of the Project as set forth within the Phasing Schedule.

“Phasing Schedule” shall mean the Phasing Schedule described within Section 3.2 of this Agreement.

“Plans and Specifications” mean all plans, drawings, specifications and related documents needed to implement and to Complete Construction of any Phase in accordance with this Agreement and all applicable Governmental Approvals, as set forth within Section 3.2(c) of this Agreement.

“Planning Documents” shall have the meaning set forth within Section 3.2(a) of this Agreement.

“PLA” shall mean a Project Labor Agreement as set forth within Section 9.6 of this Agreement.

“Prevailing Wage Act” shall mean the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et. seq.

“Progress Reports” shall have the meaning set forth within Section 3.3(c) of this Agreement.

“Project” shall have the meaning set forth within Section 2.4 of this Agreement.

“Project Area” shall have the meaning set forth within Section 2.1 of this Agreement.

“Properties” shall collectively mean all of the properties located within the Project Area as listed on **Exhibit A** to this Agreement.

“Redevelopment Entity” means the City of Newark, New Jersey or its successors or assigns acting in the capacity of “redevelopment entity” as defined under the LRHL.

“Redevelopment Plan” means the Broad Street Station Area Redevelopment Plan and any authorized amendments thereto.

“Remediation” or **“Remediate”** means all necessary actions required under Environmental Laws or any other Applicable Law to investigate and clean up, remove, or otherwise respond to the known or suspected presence or threatened discharge of hazardous substances or hazardous wastes on or migrating from the Properties, including, as necessary, preliminary assessment, site investigation, remedial investigation, and remedial action.

“SHPO” means the State Historic Preservation Office of the New Jersey Department of Environmental Protection.

“Sub-Projects” shall have the meaning set forth within Section 2.4(a) of this Agreement.

“Termination Notice” shall have the meaning set forth within Section 7.2 of this Agreement.

“Third Party Applications” shall have the meaning set forth within Section 3.2(h) of this Agreement.

“**Transfer**” shall have the meaning set forth within Section 6.1 of this Agreement.

ARTICLE 2

REDEVELOPER DESIGNATION; TERM OF AGREEMENT; THE PROJECT

2.1 Redeveloper Designation. The City hereby appoints and designates the Redeveloper as the redeveloper for the Project pursuant to the LRHL. In connection with such designation and appointment, the Redeveloper has the right to perform development and redevelopment activities on the Properties located within the Project Area (as listed on **Exhibit A**) in connection with the Project, under the framework and in accordance with the terms of this Agreement, the Redevelopment Plan, and the Applicable Laws. The Parties recognize that the Redeveloper does not own all of the Properties located within the Project Area. As part of the Progress Reports (as defined in Section 3.3 herein), the Redeveloper shall update the City as to status of ownership and/or Control of the Properties. “Control” shall be defined as the Redeveloper gaining a right, through contract or other legal means, to develop a Parcel or Parcels within the Project Area in conformance with the Redevelopment Plan and this Agreement and/or as entering into any agreement with Parcel owners concerning the development of a particular Parcel or Parcels within the Project Area by the Redeveloper or by an assignee of the Redeveloper or by a property owner, all as approved by the Director in accordance with this Agreement.

2.2 Redeveloper’s Scope of Undertaking. The Redeveloper shall take all actions necessary to implement and Facilitate the completion of the Project as provided under this Agreement. The Redeveloper’s obligations shall include the acquisition or Control of the Properties within the Project Area and the facilitation of the design, development, demolition, site preparation, construction and operation of the Project, including, without limitation, engineering, permitting and administrative aspects, the performance of or contracting for and administration and supervision of all construction required in connection with the Project, arrangement for interim and final inspections and any other actions required to satisfy the requirements of all Governmental Approvals necessary to develop the Project, marketing, sales and the administration, operation and management of the Project, and all aspects of the funding of the Project, including equity funding and construction, interim and permanent financing.

2.3 Term of Agreement. This Agreement shall commence as of the Effective Date and shall expire upon the issuance of a Certificate of Completion for the last Phase of the Project or upon the termination of this Agreement in the manner set forth herein.

2.4 The Project. The Project shall consist of the rehabilitation of the Project Area in a manner consistent with the Approved Concept Plans and with the Redevelopment Plan. The Project includes the following Sub-Projects (which shall be performed in accordance with the Approved Phasing Schedule): Greek Village, MLK Gateway, St. Michael’s Medical Center (“SMMC”), and University Park.

2.4(a) Sub-Projects. The Sub-Projects are as follows:

1. **Greek Village.** The Greek Village Sub-Project will consist of, at a minimum,

the construction of new row homes to house NJIT fraternities and sororities along with meeting space for these Greek organizations and the potential development of retail space;

2. **MLK Gateway.** The MLK Gateway Sub-Project, to be constructed primarily on what is now the site of the St. Michael's Medical Center staff parking lot, will consist of, at a minimum, the construction of a multi-level parking structure as well as retail and residential space, and also the rehabilitation of several existing structures;

3. **University Park.** The University Park Sub-Project will be constructed on or near the intersection of Central Avenue and Martin Luther King Jr. Boulevard, and is presently projected to include the development of, at a minimum, a park, a hotel and conference center, ground level restaurants and retail establishments and residential space on the upper floors.

4. **St. Michael's Medical Center.** The SMMC Sub-Project will include, at a minimum, the adaptive rehabilitation of the original, nineteenth century St. Michael's Hospital building while preserving the exterior of the structure.

2.4(b) Conformance of Applications. Each Application for Governmental Approvals submitted by or on behalf of the Redeveloper shall conform in all material respects to the Approved Concept Plans, the Redevelopment Plan that governs the Properties, and all Applicable Laws.

ARTICLE 3 **IMPLEMENTATION OF PROJECT**

3.1 Implementation of the Project. Redeveloper shall have the right to develop, redevelop or rehabilitate the Properties. The Redeveloper agrees to Facilitate the redevelopment or rehabilitation of the Properties in accordance with the terms and conditions of this Agreement, the Redevelopment Plan, the Approved Concept Plans, Applicable Laws, and all Governmental Approvals applicable thereto and in accordance with the Approved Phasing Schedule. All redevelopment activities performed under this Agreement shall be performed timely and diligently and in accordance with the level of skill and care ordinarily exercised by developers of comparable first class developments and using environmentally sensitive techniques, planning and materials necessary to obtain LEED Certification—Silver where economically feasible to do so in accordance with Section 3.6 of this Agreement.

3.2 Pre-development Activities.

3.2(a) Submission and Approval of Planning Documents. (i) Within ninety (90) Days of the Effective Date, the Redeveloper shall submit a detailed Concept Plan (if materially different than the NJIT Gateway Plan) for Phase I of the Project and a Phasing Schedule and a Construction Schedule for each of the Phases of the Project (collectively, the "Planning Documents") to the Deputy Mayor/Director of the City's Department of Economic and Housing Development (the "Director") and, thereafter, no later than forty-five (45) Days prior to the

scheduled commencement date for each subsequent Phase of the Project, the Redeveloper shall submit a detailed Concept Plan for that Phase and any proposed amendments to the Phasing Schedule and Construction Schedule to the Director. The detailed Concept Plan shall include conceptual details as to the rehabilitation/redevelopment activities that the Redeveloper intends to perform for that Phase of the Project and shall address, at a minimum, the placement and size of buildings and appurtenances and their proposed use, details regarding design and materials to be used for all buildings and appurtenances, and a description of the proposed use of all land not being used for buildings or appurtenances (such as parks and open spaces). The Phasing Schedule shall include a description of the Phases that the Redeveloper proposes for the Project, the work to be performed under each Phase, and the timing of each Phase in relation to the other Phases and to the Project as a whole. The Construction Schedule shall include, at a minimum, the schedule by which the Redeveloper shall Facilitate the commencement and completion of construction for each Phase of the Project. The Director will review the Planning Documents submitted by the Redeveloper and shall either accept them or shall require revisions to the Planning Documents by providing written comments thereto to the Redeveloper, which comments shall be made by the Director within thirty (30) Days of the Redeveloper's submission of the Planning Documents. If the Director requires revisions to the Planning Documents for any Phase, the Redeveloper must make such revisions and then re-submit revised Planning Documents for that Phase to the Director within fifteen (15) Days of its receipt of the Director's revisions. If further revisions are required, the Director shall provide his comments to the revised Planning Documents within thirty (30) Days of his receipt of the revised Planning Documents and the Redeveloper shall re-submit revised Planning Documents to the Director within ten (10) Days of its receipt of the Director's comments.

(ii) Once the Director receives acceptable Planning Documents for a Phase, he shall notify the Redeveloper in writing of the City's acceptance of the Planning Documents and such documents shall then be the Approved Planning Documents for that Phase. Once an Approved Concept Plan has been completed for a Phase, the Approved Concept Plan will serve as the basis for the Plans and Specifications for that Phase. The Approved Concept Plan, Approved Phasing Schedule, and Approved Construction Schedule may not be amended without written consent of the Redeveloper and the Director.

(iii) If the Redeveloper is unable to obtain title to or gain Control of any of the Properties necessary to perform the activities required under the Approved Planning Documents for a particular Phase within the time periods set forth in Section 3.2(b), then the Redeveloper shall submit revised Planning Documents to the Director within twenty (20) Days of the expiration of Acquisition/Control Period deleting such Properties from the Planning Documents. Such revised Planning Documents will address how the deletion of the Properties will impact the work to be performed under the Phase and will propose a new Concept Plan, a new Phasing Schedule, and a new Construction Schedule to perform redevelopment activities for the Phase. These revised Planning Documents will be reviewed and approved in accordance with the procedures set forth within Section 3.2(a)(i) and (ii) of this Agreement.

3.2(b) Site Acquisition or Control. (i) Within three hundred sixty (360) Days of the Effective Date (the "Acquisition/Control Period"), the Redeveloper shall acquire title to or gain Control of each of the Properties located within the Project Area for the first Phase (as

established under the Approved Phasing Schedule) and shall provide written proof thereof to the City. If at the end of the Acquisition/Control Period, the Redeveloper has not acquired title to or gained Control of all of the Properties required for the first Phase, the Redeveloper shall submit revised Planning Documents to the Director deleting the Properties that could not be acquired or Controlled from the Phase in which they are located in accordance with Section 3.2(a)(iii).

(ii) Within one hundred eighty (180) Days of the commencement of each subsequent Acquisition/Control Period as provided in the Approved Phasing Schedule (the "Acquisition/Control Period"), the Redeveloper shall acquire title to or gain Control of each of the Properties located within the Project Area for each such Phase and shall provide written proof thereof to the City. If at the end of the Acquisition/Control Period for the Phase, the Redeveloper has not acquired title to or gained Control of all of the Properties for that particular Phase, the Redeveloper shall submit revised Planning Documents to the Director deleting the Properties that could not be acquired or Controlled from the Phase in which they are located in accordance with Section 3.2(a)(iii).

(iii) Upon written notice thereof from the Redeveloper to the Director prior to the expiration date of the Acquisition/Control Period for any Phase of the Project, the Redeveloper shall be entitled to one automatic extension for a period of one hundred twenty (120) Days for Phase 1 and for a period of sixty (60) Days for all subsequent Phases. Thereafter, the Acquisition/Control Period for any Phase of the Project shall not be further extended unless the Director determines in his reasonable discretion that the Redeveloper has demonstrated good cause for such extension and has provided the Director with a reasonable alternative deadline. Good cause for an extension may include, but is not limited to, the failure of the Redeveloper to obtain title to or Control any of the Parcels for the Phase of the Project despite commercially reasonable efforts to do so. Any extension requests to the Acquisition/Control Period for any Phase of the Project must be made in writing by Redeveloper to the Director prior to the expiration date of the Acquisition/Control Period for that Phase of the Project and must then be approved through a writing issued by the Director.

3.2(c) Plans and Specifications. The Redeveloper shall have Plans and Specifications created, which Plans and Specifications must materially conform to the Approved Concept Plans for that Phase, and which shall be used by the Redeveloper in seeking all Governmental Approvals required for the Phase. If for any reason during the Government Approval process or otherwise, the Redeveloper deems it necessary to amend the Plans and Specifications such that they differ in any material respect from the Approved Concept Plan for that Phase, Redeveloper shall submit such revised Plans and Specifications to the Director for the Director's review and approval, which shall not unreasonably be withheld, and shall only proceed to use revised Plans and Specifications which materially deviate from the Approved Concept Plan if authorized in writing to do so by the Director.

3.2(d) Governmental Approvals. The Redeveloper shall take the following actions within the time periods set forth herein:

- (A) within ninety (90) Days of the expiration of the Acquisition/Control Period for each Phase, the Redeveloper shall file an application with the

Newark Landmarks and Historic Preservation Commission seeking approval for the work required under such Phase (if such approval is required for that Phase);

- (B) within ninety (90) Days of the expiration of the Acquisition/Control Period for each Phase, the Redeveloper shall prepare and submit to the City an application to SHPO seeking SHPO approval for such Phase for the City's review and execution (if such approval is required for that Phase);
- (C) within thirty (30) Days of its receipt of Historic Preservation Commission and/or SHPO approval for each Phase, whichever is later, if necessary, the Redeveloper shall file an application with the Central Planning Board seeking Preliminary and Final Site Plan approval for that Phase of the Project. If Historic Preservation Commission and SHPO approval is not required for any particular Phase, then the Redeveloper shall file its application with the Central Planning Board seeking final site plan approval for that Phase of the Project within ninety (90) Days of the expiration of the Acquisition Period for that Phase;
- (D) within ninety (90) Days of the expiration of the Acquisition/Control Period for each Phase, the Redeveloper shall determine if any other Governmental Approvals are required in order to perform the Phase and, if so, shall file all applications necessary to procure such Governmental Approvals;

Failure to file any of the applications listed within this section within the time periods prescribed or to diligently pursue the receipt of these Governmental Approvals shall constitute an Event of Default by the Redeveloper in the performance of its obligations hereunder. All applications for Governmental Approvals shall be in conformity with the applicable Approved Concept Plans, the Redevelopment Plan, this Redevelopment Agreement and Applicable Laws. Redeveloper shall provide the City with a copy of each Governmental Application at the same time those applications are submitted to the governmental agency having jurisdiction over the same and shall have a continuing obligation, at the request of the City, to promptly provide the City with copies of all correspondence to and from each governmental agency relating to these applications.

3.2(e) Diligent Pursuit of Governmental Approvals. Redeveloper agrees to prosecute all of Redeveloper's applications for Governmental Approvals diligently and in good faith. Subject to the requirements of Applicable Law and unless expressly provided otherwise in this Agreement, Redeveloper shall determine when and in what order to file each specific application. At Redeveloper's reasonable request, the City will, in its reasonable judgment, sign consents or other documents required in connection with the Redeveloper's applications for Governmental Approvals and will supply information which is in the City's possession. The City will cooperate with and support the Redeveloper in connection with the applications for

Governmental Approvals as the Redeveloper and the Redeveloper's counsel may reasonably request.

3.2(f) Appeals. If (i) one or more of the Redeveloper's Applications for Governmental Approvals is denied, or approved with conditions that the Redeveloper in its reasonable judgment deems unacceptable, or (ii) anyone contests or challenges the grant of such Governmental Approval to the Redeveloper, then unless the City consents in advance to a different course of action (which consent shall not be unreasonably withheld), the Redeveloper shall appeal or defend against such action, and during the pendency of the appeal proceeding otherwise continue as the Redeveloper deems appropriate to seek the remaining Governmental Approvals.

3.2(g) Application for "Building Permits". The Redeveloper shall promptly and in a commercially reasonable manner, and in no case later than sixty (60) Days from the Central Planning Board's issuance of final site plan approval for any of the Phases, submit applications for building permits for that Phase and use commercially reasonable efforts to diligently prosecute the applications to conclusion.

3.2(h) Redeveloper's Review of Third Party Applications. (i) The City shall provide the Redeveloper with the opportunity to review and comment upon any land use applications seeking approvals to develop Parcels located within the Project Area that are not yet owned or Controlled by the Redeveloper and that are filed with the Central Planning Board and/or the Newark Zoning Board of Adjustment or any sub-committees thereof (collectively, "Third Party Applications"). That opportunity will be provided in the manner set forth herein.

(ii) Upon the filing of a Third Party Application with one of the City's land use boards or sub-committees, the City shall immediately provide the Redeveloper with written notification thereof and shall also provide the Redeveloper with the opportunity, if it so chooses, to inspect and copy the Third Party Application during the City's regular business hours.

(iii) If the Redeveloper wishes to submit comments to the City regarding any Third Party Application, the Redeveloper must do so within thirty (30) Days of the date of written notification of the Third Party Application if the application is filed with the Central Planning Board and/or the Newark Zoning Board of Adjustment and within ten (10) Days of the date of written notification of the Third Party Application if the application is filed with a sub-committee of the Central Planning Board and/or the Newark Zoning Board of Adjustment. The Redeveloper's failure to file timely comments to a Third Party Application shall constitute a waiver of its opportunity to provide comments to the City regarding such application.

(iv) If the Redeveloper submits timely comments of reasonable length to the City regarding any Third Party Application, the City will append such comments to the report that the City provides to the land use boards or sub-committees regarding the Third Party Application and shall thereafter notify the Redeveloper of any hearings scheduled before the Central Planning Board and/or the Newark Zoning Board of Adjustment (or sub-committees thereof) regarding such Third Party Application.

3.3 Commencement and Completion of Construction.

3.3(a) Commencement and Completion of Construction. The Redeveloper shall Facilitate the commencement of Construction of a particular Phase within the time period set forth within the Approved Construction Schedule for that Phase, but in no event later than sixty (60) Days after receipt of Building Permits for that Phase. The Redeveloper shall Facilitate the completion of Construction of each Phase within the time period provided in the Construction Schedule, but in no event more than twenty-four (24) months from the Commencement Date of construction for that Phase. The Construction Schedule for any Phase of the Project shall not be extended unless the Director determines in his reasonable discretion that the Redeveloper has demonstrated good cause for such extension and has provided the Director with a reasonable alternative deadline. Any extension requests to the Construction Schedule for any Phase of the Project must be made in writing by Redeveloper to the Director prior to the expiration date of the Construction Schedule for that Phase of the Project and must then be approved through a writing issued by the Director.

3.3(b) Work to be Performed by Redeveloper. The Redeveloper shall perform or Facilitate the performance of all site preparation, construction, operation, administration and management of the Project. Redeveloper hereby agrees that following an Event of Default, the City and anyone acting on the City's behalf shall be entitled to use the Redeveloper's Approved Concept Plans, Plans and Specifications, Governmental Applications, and Governmental Approvals to complete the Project, without cost to or liability of the City (other than for actual services rendered to the City subsequent to the Event of Default) and all agreements between the Redeveloper and its contractors and consultants shall so indicate; provided, however that this Section 3.3(b) shall not apply to any Property within the Project Area that is owned in fee or Controlled by the Redeveloper as of the Effective Date of this Agreement. In addition, all performance or completion bonds provided by the Redeveloper's contractors shall name the City as an intended beneficiary thereof, as its interests may appear.

3.3(c) Progress Reports and Project Oversight by the City. From the Commencement of Construction until the date that the Certificate of Completion is issued for Project, the Redeveloper shall make reports, in such detail and at such times as may reasonably be requested by the Director, as to the actual progress of the Redeveloper with respect to such construction. If so requested by the Director, Redeveloper agrees to attend progress meetings during the period of implementation of the Project, as follows:

(i) Progress Meetings. Redeveloper shall attend and participate in periodic progress meetings as called by the City based on reasonable need therefore (as determined by the Director in his sole discretion, but in no event more than once every month unless agreed to in writing by the Redeveloper and the Director) to report on the status of the Project and to review the progress under the Construction Schedule.

(ii) Progress Reports. At each progress meeting, and at such other times as may be reasonably requested by the Director, the Redeveloper shall submit to the City a detailed written Progress Report which shall include, among other things, a description of activities completed, milestones achieved, status of the Project with respect to the Construction

Schedule, activities to be undertaken prior to the next regularly scheduled progress meeting, and any unanticipated problems or delays and the explanation therefor. If the Redeveloper fails to meet a milestone or completion date set out in the Construction Schedule and is notified of same in writing by the City, or if Redeveloper conclusively determines between progress meetings that it will fail to meet a milestone or completion date on the Construction Schedule, Redeveloper shall promptly provide written notice to the City stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's proposed method for correcting such failure, (c) Redeveloper's schedule for completing such task, and (d) the method or methods by which Redeveloper proposes to achieve subsequent tasks by the Completion Date. This Section shall not in any way be construed as entitling Redeveloper to an extension of the Completion Date or modification of the Construction Schedule, absent the Director's prior written consent, which shall not be unreasonably withheld.

3.4 Certificate of Occupancy and Certificate of Completion. Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy as required under Applicable Laws. Following the issuance of all required Certificates of Occupancy and the satisfaction of the terms and conditions of this Agreement with respect to any Phase, or the entire Project, as applicable, by Redeveloper, and upon receipt of a Notice of Completion of the Project from Redeveloper and evidence that all structures constructed have obtained LEED Certification—Silver (if economically feasible as set forth within Section 3.6 herein), the City agrees to issue a Certificate of Completion, in proper form for recording, which shall acknowledge that the Redeveloper has performed all of its duties and obligations under this Redevelopment Agreement and has Facilitated the completion of construction of the Phase or the Project, as applicable, in accordance with the requirements of this Redevelopment Agreement. Within thirty (30) Days after receipt of the Notice of Completion from the Redeveloper and evidence that all structures constructed have obtained LEED Certification—Silver (if economically feasible as set forth within Section 3.6 herein) for any Phase, the City shall provide the Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that the Redeveloper has failed to complete the Phase or the Project, as applicable, in accordance with the provisions of this Redevelopment Agreement or is otherwise in Default under this Agreement, and what reasonable measures or acts will be necessary in the opinion of the City in order for the Redeveloper to be entitled to the Certificate of Completion. When issued, the Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants (as limited herein) in this Redevelopment Agreement and the Redevelopment Plan with respect to the obligations of the Redeveloper to Facilitate the completion of construction of the Phase or the Project, as applicable. Unless otherwise provided within this Agreement or unless otherwise required by a related tax abatement agreement, Governmental Approval or Applicable Law, upon the issuance of the Certificate of Completion, the provisions of this Agreement shall no longer encumber the Phase or the Project, as applicable, or the Properties contained therein; provided, however, that any other documents theretofore delivered pursuant to this Agreement that by their terms are intended to survive Completion of Construction (including, without limitation and by of example only, any Deed restrictions, the Declaration of Restrictions, tax abatement agreements, or other similar documents) shall not be affected by delivery of the Certificate of Completion except as otherwise expressly provided therein.

3.5 Escrow Account to Cover City Costs. [Intentionally omitted].

3.6 Process for Viability of LEED-Silver Certification. Redeveloper shall use best efforts to design all new construction to obtain LEED-Silver Certification and shall use best efforts to utilize environmentally responsible design factors and materials in the rehabilitation of any existing buildings that are part of the Project. Before the construction of each Phase, Redeveloper shall submit a report to the Director from a licensed architect or other consultant outlining the economic viability of proceeding with a design that meets the standards for LEED-Silver Certification. If the report demonstrates that it is not economically feasible to construct some or all of the structures in that Phase in the manner necessary to obtain LEED-Silver Certification, then the Director may, in his sole reasonable discretion, approve a design for the Phase that provides for the construction of some or all of the structures in that Phase in a manner that does not achieve LEED-Silver Certification.

As an alternative to seeking LEED-Silver Certification, for any non-residential phase of the Project, Redeveloper may participate in the New Jersey Smart Start Program to obtain a review of all plans and specifications for the Project and to obtain suggested revisions to such plans and specification to ensure that all structures constructed are as efficient and environmentally sensitive as possible, and shall construct the Project pursuant to such suggestions.

ARTICLE 4 **REPRESENTATIONS AND WARRANTIES**

4.1 Representations and Warranties by the Redeveloper. The Redeveloper makes the following representations and warranties:

(1) Redeveloper has the legal capacity to enter into this Redevelopment Agreement and perform each of the undertakings set forth herein and in the Redevelopment Plan as of the date of this Redevelopment Agreement.

(2) Redeveloper is a duly organized and validly existing legal entity under the laws of the State of New Jersey, and all necessary resolutions or authorizations have been duly adopted to authorize the execution and delivery of this Agreement and to authorize and direct the persons executing this Redevelopment Agreement to do so for and on the Redeveloper's behalf.

(3) No receiver, liquidator, custodian or trustee of the Redeveloper has been appointed or is contemplated as of the date of this Redevelopment Agreement, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper has been filed or is contemplated as of the Effective Date.

(4) No indictment has been returned against any director, trustee, member, manager or officer of the Redeveloper.

(5) To the best of the Redeveloper's knowledge and belief after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefor, known or believed to exist which (i) questions the validity of this Redevelopment Agreement, Redeveloper's

execution hereof, or any action or act taken or to be taken by the Redeveloper pursuant to this Redevelopment Agreement; or (ii) is likely to result in a material adverse change in the Redeveloper's property, assets, liabilities or condition which will materially and substantially impair the Redeveloper's ability to perform the Project under this Agreement.

(6) Redeveloper's execution and delivery of this Redevelopment Agreement and its performance hereunder will not constitute a violation of any operating agreement of the Redeveloper or of any other agreement, mortgage, indenture, instrument or judgment to which the Redeveloper is a party.

(7) All information and statements included in any information submitted by Redeveloper to the City and its agents (including but not limited to GluckWalrath, LLP) are complete, true and accurate in all material respects. Redeveloper acknowledges that the facts and representations contained in the information submitted by Redeveloper, incorporated herein by reference, are being relied upon by the City and are a material factor in the decision of the City to enter into this Redevelopment Agreement.

(8) Redeveloper is financially and technically capable of facilitating the development, design, financing, construction, operation and maintenance of the Project.

(9) The party or parties signing the Redevelopment Agreement on behalf of the Redeveloper is or are fully authorized to sign on behalf of the current members of the Redeveloper and to bind them with respect thereto.

4.2 Representations and Warranties by the City. The City hereby makes the following representations and warranties:

(1) The City has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the City is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform their obligations hereunder.

(2) This Agreement is duly executed by the City, and is valid and legally binding upon the City and enforceable in accordance with its terms on the basis of Applicable Laws currently in effect and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a Default under or violate the terms of any indenture, agreement or other instrument to which the City is a party.

(3) To the best of the City's knowledge there is no action, proceeding or investigation now pending nor any basis therefor, known or believed to exist which questions the validity of this Agreement or any action or act taken or to be taken by the City pursuant to this Agreement.

(4) To the best of the City's knowledge there is no pending litigation which affects the Rehabilitation Area designation or the applicable Redevelopment Plan(s).

ARTICLE 5

COVENANTS AND RESTRICTIONS

5.1 Description of Redeveloper Covenants. The Redeveloper hereby covenants that it shall:

(1) in connection with its use or occupancy of the Properties, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Properties or any portion of the Project is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or familial status, and the Redeveloper, its successors and assigns, shall comply with all applicable laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or familial status.

(2) comply with the applicable provisions and public purposes of the LRHL and all obligations under this Agreement and shall at all times Facilitate the development, design, financing, construction and operation of the Project or cause the Project to be developed, designed, financed, constructed and operated pursuant to the conditions and requirements of Applicable Laws, Governmental Approvals, this Agreement and the Redevelopment Plan. All uses to which the Project may be devoted are Controlled by the Redevelopment Plan, the Governmental Approvals, Applicable Laws and this Redevelopment Agreement and under no circumstances can the Redeveloper undertake or Facilitate any construction or development of the Project not in accordance with the Redevelopment Plan, the Governmental Approvals, Applicable Laws and this Agreement, unless otherwise agreed to in writing by the Parties.

(3) in order to effectuate the purposes of this Agreement, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or entities and in general do all things which may be requisite or proper for the construction and development of the Project in accordance with the Redevelopment Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws, provided however, that Redeveloper shall not be deemed to be in breach of this covenant if the Redeveloper diligently contests, in good faith and by appropriate proceedings, such compliance with any of the aforesaid Applicable Laws.

(4) use diligent efforts to (i) obtain all Governmental Approvals requisite to the construction and development of the Project including evidence satisfactory to the City that the Redeveloper's use of the Project is in compliance with this Agreement, the Redevelopment Plan and all Applicable Laws, and (ii) ensure the facilitation of the Completion of Construction of the Project within the time periods specified in the Construction Schedule.

(5) use diligent efforts to obtain all Governmental Approvals authorizing the occupancy and uses of the Project for the purposes contemplated herein. Redeveloper shall enter into such other agreements with respect to its development, financing, construction and management and operation of the Project, containing such provisions as may be required by Applicable Law and such other provisions as may reasonably be requested by the City or as may reasonably be required by Governmental Approvals.

(6) except as otherwise permitted hereunder in the case of a Force Majeure Event, not suspend or discontinue the performance of its obligations under this Redevelopment Agreement

(other than in the manner provided for herein) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project.

(7) diligently undertake the facilitation of the construction and development of each individual component of the Project throughout the Construction Period and use commercially reasonable efforts to Facilitate the completion of each component of the Project on or before the applicable Completion Date.

(8) not encumber, hypothecate or otherwise use the Project, or any part thereof, as collateral for an unrelated transaction, unless the unrelated transaction is for NJIT's purposes within the City of Newark and the property or properties being encumbered were not conveyed by the City of Newark to the NJIT.

(9) during construction of the Project, keep debris and/or waste materials containerized and/or stored and disposed of within normal industry standards.

(10) Facilitate the Project to be developed, designed, financed and constructed at as otherwise set forth in this Agreement.

(11) immediately notify the City of any material change in its financial condition from the information provided to the City by the Redeveloper, or any other material change in Redeveloper's financial capability Facilitate the design, development, financing, construction and operation of the Project in furtherance of the City's consideration in executing this Agreement with the Redeveloper if such change will materially impair the Redeveloper's ability to perform its obligations pursuant to the terms of this Agreement.

(12) keep and maintain in good condition any improvements required under the Governmental Approvals, including but not limited to any landscaping required to be planted or cause an entity in Control of the Project (i.e. condominium or homeowner association) to maintain such improvements.

The covenants and restrictions listed within this section shall be binding upon the Redeveloper, its successors and assigns and shall be recorded in the form of a Declaration of Covenants and Restrictions against each of the Properties within ten (10) Days of the Redeveloper's acquisition or Control of any of the Properties. These covenants and restrictions shall remain in effect for the period set forth in Section 5.2 below.

5.2 Effect and Duration of Redeveloper Covenants. It is intended and agreed that the agreements and covenants set forth in this Agreement shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, its successors and assigns, against the Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project or any part thereof. The covenants shall cease and terminate against a particular Property when a Certificate of Completion for the Phase or for the entire Project, as applicable, for such improvements has been issued, provided however, that the covenants in Sections 5.1(1), (2) and (12) shall remain in effect without limitation as to time.

ARTICLE 6
PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

6.1 Prohibition Against Transfer of Interests in Redeveloper, Redevelopment Agreement Or Properties. (i) Redeveloper recognizes the importance of the Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the City in entering into this Agreement, particularly in view of the public aid that have been or may be made available for the purpose of making such redevelopment possible. The City considers that a Transfer of the ownership in Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership of or with respect to the identity of the parties in control of Redeveloper or the degree thereof, is for practical purposes a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with Redeveloper, and, in so doing, the City is relying on the obligations of Redeveloper and not some other person or entity for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

As a result, prior to completion of the Project as evidenced by the issuance of a Certificate of Completion, except with the express prior written consent of the Director, which consent shall be granted or denied in the Director's discretion, Redeveloper agrees for itself and all successors in interest that there shall be no sale, transfer or assignment of (i) the Properties; (ii) any equity interest in the Redeveloper, nor any direct or indirect change in control of the Redeveloper as it exists on the Effective Date, whether by changes in capitalization, merger, or otherwise; or (iii) the Agreement. With respect to this provision, the Redeveloper and the party or parties signing the Redevelopment Agreement on behalf of the Redeveloper represent that each has authority to agree to this provision on behalf of the current members of the Redeveloper and to bind them with respect thereto.

(ii) In the event the prior written consent of the Director is requested to a sale, transfer or assignment, the Redeveloper shall provide the Director with evidence of the proposed transferee and/or assignee's financial capacity and experience evidencing their ability to complete the Project, and to do so within the timeframe allotted. Any such approval will be granted only if the Director determines that the assignee is capable of completing the Project in a timely matter, and assuming all responsibilities of the Redeveloper. In addition: (i) the assignee/transferee of the Redeveloper shall assume all of the obligations of the Redeveloper hereunder, but the Redeveloper shall remain primarily liable for the performance of the Redeveloper's obligations; (ii) a copy of the written instrument of conveyance and assignment and assumption of this Redevelopment Agreement shall be delivered to the Director for his or her review and approval prior to execution, and once approved and executed, fully executed copies provided to the Director promptly; and (iii) such conveyance or assignment does not violate any of the Government Approvals. A copy of such a request and the Director's response thereto will be filed with City Clerk.

6.2 Exemption from Prohibited Transfers. Notwithstanding the foregoing, with prior knowledge of the City by written notice from the Redeveloper, the following shall not constitute

a prohibited Transfer, for purposes of Section 6.1:

Conveyance of the Properties or an interest therein and/or assignment by the Redeveloper of its rights under this Redevelopment Agreement, but only upon the following conditions: (i) such conveyance or assignment must be to an Affiliate or an entity controlling, controlled by, or under common control of the Redeveloper, including but not limited to an urban renewal entity formed by Redeveloper pursuant to N.J.S.A. 40A:20-4; (ii) the successor and assignee of the Redeveloper shall assume all of the obligations of the Redeveloper hereunder, but the Redeveloper shall remain primarily liable for the performance of the Redeveloper's obligations; (iii) a copy of the written instrument of conveyance and assignment and assumption of this Redevelopment Agreement shall be delivered to the Director for his review and approval prior to execution, and once approved and executed, fully executed copies provided to the City promptly; and (iv) such conveyance or assignment does not violate any of the Government Approvals.

6.3 Consent to Permitted Transfers. The City hereby consents, without the necessity of further approvals from any entity, to the following Transfers: (i) a Mortgage or related security granted by the Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable the Redeveloper to perform its obligations under this Redevelopment Agreement, including any Mortgage or Mortgages and other liens and encumbrances granted by the Redeveloper to a Mortgagee for the purpose of financing costs associated with the acquisition, development, construction, or marketing of the Project; provided, however, that: (a) the Redeveloper shall give the City at least fifteen (15) Days prior written notice of such Permitted Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the transferee and any parties, individuals or entities involved in such Permitted Transfer; (b) the Redeveloper shall simultaneously provide to the City true and complete copies of all construction schedules and project budgets submitted to such Mortgagee; (c) the amount of such mortgage, lien or other encumbrance does not exceed the Redevelopers costs associated with the acquisition, development, construction or marketing of the Project as depicted in the Project Budget approved by the City; and (d) except with regard to any mortgage related to acquisition costs, that any mortgage, lien or other encumbrance for such costs shall not attach until after that portion of the construction is completed and (ii) sale and/or lease of space under this Project.

The City also hereby consents, pursuant to N.J.S.A. 40A:12A-9, to transfers of redevelopment rights under this Agreement to (i) Jones Lang LaSalle Americas, Inc., or an entity Affiliated with Jones Lang LaSalle Americas, Inc., and (ii) St. Michael's Hospital, or an entity Affiliated with St. Michael's Hospital, for certain Properties within the Project Area owned or controlled by St. Michael's Hospital or an entity Affiliated with St. Michael's Hospital, subject to the following conditions: (a) the successor and/or assignee of the Redeveloper shall assume all of the obligations of the Redeveloper hereunder; (b) a copy of the written instrument of conveyance and assignment and assumption of this Redevelopment Agreement shall be delivered to the Director for his review prior to execution, and once executed, fully executed copies provided to the City promptly; and (c) such conveyance or assignment does not violate any of the Government Approvals.

6.4 City Acknowledgement Regarding Transfer of Interests. The City acknowledges and expects Redeveloper to convey, assign or otherwise transfer all or portion of the Project to other developers, sub-developers, community organizations and/or other entities in completing the Project. The City agrees to grant significant deference to NJIT's judgment in conveying, assigning or otherwise transferring all or a portion of the Project.

6.5 Prohibition Against Speculative Development. Because of the importance of the development of the Project to the general welfare of the community, the Redeveloper represents and agrees that any acquisition of the Properties and the Redeveloper's undertakings pursuant to this Redevelopment Agreement are, and will be used, for the purpose of the redevelopment or rehabilitation of the Properties as provided herein, and not for speculation in land holding.

6.6 Information as to Ownership of Redeveloper. The City acknowledges that the Redeveloper is an entity created pursuant to N.J.S.A. 18A:64E-14 and is not "owned" by any individual or entity.

ARTICLE 7 **EVENTS OF DEFAULT**

7.1 Events of Default. Any one or more of the following shall constitute an Event of Default hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Agreement:

(a) Failure of the Redeveloper or the City to observe or perform any covenant, condition, representation, warranty or agreement hereunder, and any act or omission of the Redeveloper characterized elsewhere in this Agreement as a Default, and the continuance of such failure, act or omission for a period of sixty (60) Days after receipt by the defaulting party of written notice from the non-defaulting party specifying the nature of such failure and requesting that such failure, act or omission be remedied (a "Notice of Default"); provided, however, that if the Default is one that cannot be completely cured within sixty (60) Days after receipt of the Notice of Default, it shall not be an Event of Default as long as the defaulting party promptly began to take actions to correct the Default upon its receipt of notice thereof and is proceeding with due diligence to remedy the Default as soon as practicable.

(b) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of the Redeveloper; (iii) Redeveloper, (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against the Redeveloper, and shall not have been dismissed for a period of ninety (90) consecutive Days; (vii) an Order for Relief shall have been entered with

respect to or for the benefit of Redeveloper, under the Bankruptcy Code; (viii) an Order, judgment or decree shall have been entered, without the application, approval or consent of the Redeveloper, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of Redeveloper, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive Days; (ix) Redeveloper shall have suspended the transaction of its usual business.

(c) Redeveloper (i) fails to perform its obligations with respect to the implementation of the Project in accordance with this Agreement and the Construction Schedule, the Redevelopment Plan, Governmental Approvals or Applicable Laws, including but not limited to failure to Facilitate the Commencement of Construction or Completion of Construction in accordance with the Construction Schedule; or (ii) abandons the Project or substantially suspends construction work without the prior knowledge and consent of the City (unless such suspension arises out of a Force Majeure Event), and any such failure, abandonment or suspension shall not be cured, ended, or remedied within sixty (60) Days after receipt by the Redeveloper of a Notice of Default; provided, however, that if the Default is one that cannot be completely cured within sixty (60) Days after receipt of the Notice of Default, it shall not be an Event of Default as long as the Redeveloper promptly began to take actions to correct the Default upon its receipt of notice thereof and is proceeding with due diligence to remedy the Default as soon as practicable.

(d) There is a prohibited Transfer.

(e) Material breach of any warranty or representation made by the Redeveloper.

(f) Violation by the Redeveloper of any covenant or restriction contained in the Declaration of Covenants and Restrictions, which violation is not cured within sixty (60) Days after receipt by the Redeveloper of a Notice of Default from the City; provided, however, that if the Default is one that cannot be completely cured within sixty (60) Days after receipt of the Notice of Default, it shall not be an Event of Default as long as the Redeveloper promptly began to take actions to correct the Default upon its receipt of notice thereof and is proceeding with due diligence to remedy the Default as soon as practicable.

(g) Redeveloper's failure to pay or delinquency in the payment of real property taxes or assessments or PILOTs applicable to the Property conveyed to Redeveloper pursuant to the terms of this Agreement, which violation is not cured within sixty (60) Days after receipt by the Redeveloper of a Notice of Default from the City; provided, however, that if the Default is one that cannot be completely cured within sixty (60) Days after receipt of the Notice of Default, it shall not be an Event of Default as long as the Redeveloper promptly began to take actions to correct the Default upon its receipt of notice thereof and is proceeding with due diligence to remedy the Default as soon as practicable.

7.2 Remedies Upon Event of Default. Whenever any Event of Default of Redeveloper shall have occurred, the City may, on written notice to Redeveloper (a "Termination Notice"), terminate this Agreement and the Redeveloper's designation as the exclusive redeveloper for the Property thereunder and take whatever other action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations,

agreements, or covenants of the Redeveloper under this Agreement. Whenever any Event of Default of the City shall have occurred, the Redeveloper, after issuance of a Termination Notice to the City, may take whatever action at law or in equity as may appear necessary or desirable to enforce the performance or observance of any rights, remedies, obligations, agreements, or covenants of the Redeveloper under this Agreement.

7.3 Force Majeure Extension. For the purposes of this Agreement, neither the City nor the Redeveloper shall be considered in breach or in Default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the City or the Redeveloper shall be extended for the period of the delay; provided, however, that such delay is actually caused by or results from the Force Majeure Event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of a Force Majeure Event; provided, however, that neither party shall be entitled to claim a delay based upon a Force Majeure Event unless it has within forty-five (45) Days of the event causing delay notified the other party in writing of such delay and the cause therefore. Failure on the part of either party to deliver notice of a Force Majeure Event to the other party within the time period set forth herein shall be a waiver of that party's ability to assert that Force Majeure Event as the basis for an extension of time under this Agreement.

7.4 No Waiver. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by the City in asserting any of its rights or remedies as to any Default by Redeveloper, shall not operate as a waiver of such Default, or of any such rights or remedies, or to deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

7.5 Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

7.6 Failure or Delay by Either Party. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any Default, shall not operate as a waiver of any Default, or any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies as established by this Agreement.

7.7 Replacement of Redeveloper. Upon termination of this Agreement by the City due to an Event of Default by the Redeveloper prior to the issuance of a Certificate of Completion for any Phase or the entire Project, the City may, pursuant to its responsibilities under Applicable Law, use reasonable efforts to designate a replacement redeveloper for the Project; provided, however that this provision shall not apply to any Property within the Project Area that is owned in fee or Controlled by the Redeveloper as of the Termination Date of this Agreement unless

such Property is subsequently included within an “area in need of redevelopment” designated in accordance with the LRHL and is identified as a property to be acquired within a subsequently-adopted redevelopment plan. Such replacement redeveloper shall be designated as soon and in such a manner as the City shall find feasible and consistent with the objectives of the Applicable Law and of the Redevelopment Plan. The Redeveloper shall deliver to the City originals of all Project documents to the extent in the possession and Control of the Redeveloper or its consultants, contractors, engineers, architects or agents, and shall upon request execute assignments of all Project documents and other rights and agreements pertaining to the Project in favor of the City.

ARTICLE 8
INSURANCE

[INTENTIONALLY OMITTED]

ARTICLE 9
COMMUNITY INITIATIVES

9.1 Equal Employment Opportunity. Redeveloper agrees that during construction of the Project:

(1) Redeveloper will not discriminate against any employee of Redeveloper or applicant for employment because of race, color, religion, sex, or national origin. Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the City that are consistent therewith.

(2) Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) Subcontractors and suppliers to the Project shall include qualified and certified minority enterprises.

(4) The obligations contained in this Article shall be binding on all contractors and subcontractors to the extent that any work is done by any contractor or subcontractor, and any contract entered into by Redeveloper shall so provide.

9.2 First Source Employment; First Source Pass Through. (i) The Redeveloper shall make good faith efforts to employ and shall provide in its contracts with its contractors and

subcontractors that they must make good faith efforts to employ residents of City in the construction of the Project.

(ii) Upon completion of construction of the Project, as evidenced by the receipt of a Certificate of Occupancy, in every instance when Redeveloper, its successors and/or assigns and/or subsequent purchaser, intends to hire new or replacement employees for businesses located at any structure created as part of the Project, Redeveloper its successors and/or assigns and/or subsequent purchaser, shall first interview and make good faith efforts to hire Newark residents to fill these jobs. The City, through NewarkWorks, shall be available to assist in providing qualified candidates for the above 'first source' interviewing and hiring. The good faith efforts by Redeveloper its successors and/or assigns and/or subsequent purchaser, shall include but not be limited to the following: (1) written notification to NewarkWorks (at 990 Broad Street, Newark NJ) of any new full or part-time job opportunities; (2) notification or marketing in newspapers with local organizations registered with the City; and (3) advertisement in newspapers with local circulation. Redeveloper its successors and/or assigns and/or subsequent purchaser shall maintain records of this 'first source' notification, interviewing and hiring activity for review by the City upon the City's written request.

(iii) Also upon completion of construction of the Project, as evidenced by the receipt of a Certificate of Occupancy, Redeveloper its successors and/or assigns and/or subsequent purchaser shall include a provision in all of its leases for space in a structure constructed as part of the Project providing that:

"In every instance when the lessee (tenant) intends to hire a new or replacement employee for either part time or full time employment, the lessee shall first interview and seek to hire Newark residents to fill those jobs. The City, through NewarkWorks, shall be available to assist in providing qualified candidates for the above 'first source' interviewing and hiring. The Lessee's good faith effort shall include but not be limited to: (1) written notification to NewarkWorks (at 990 Broad Street, Newark, NJ) of any new full or part-time job opportunities; (2) notification or marketing to job training or placement organizations registered in the City; and (3) advertisement in newspapers with local circulation. Lessee will maintain records of this 'first source' notification, interviewing and hiring activity for review by the City upon the City's written request. Failure of the lessee to comply with this 'first source' requirement shall be considered by the lessor (or any successor lessor) to be a material breach of the Lease and shall entitle the lessor to exercise any and all remedies provided for in the Lease for a material breach including eviction."

(iv) Redeveloper agrees to enforce the lease provisions set forth within subsection (iii) above to ensure compliance by all lessees. Redeveloper also agrees to include the terms of this Section 9.2 in any contract for the sale or transfer of the Property or any structure constructed as part of the Project to any other person or entity and to explicitly provide within such contract that these terms shall survive the closing and that the City shall be a third party beneficiary as to the enforcement of these terms.

9.3 Affirmative Action. The Redeveloper acknowledges that, as a condition for undertaking

the Project, the Redeveloper shall use good faith efforts to comply with the terms and conditions of the City's Affirmative Action Program that is in effect as of the Effective Date of this Agreement as stated in Ordinance 6S&FD by the Newark Municipal Council adopted April 5, 1995 and as thereafter codified in Section 2:2-40 of the Newark Municipal Code.

9.4 Local/Minority/Women Participation in Construction.

9.4(a) Contractor/Subcontractor/Supplier Requirements. (i) The Redeveloper hereby agrees and covenants that it shall comply with the following requirements with regard to the construction of the Project:

(1) a minimum of thirty (30%) percent of the contractors, subcontractors and suppliers engaged in the construction of the Project shall consist of certified Minority and Women Business Enterprises, which such ownership to be measured by the dollar amount of all costs incurred in the development of the Project; and

(2) a minimum of thirty (30%) percent of the contractors, subcontractors and suppliers engaged in the construction of the Project shall consist of companies with their principal place of business located in Newark, NJ, with such ownership to be measured by the dollar amount of all costs incurred in the development of the Project.

(ii) If the Redeveloper fails to comply with the requirements of Section 9.4(a)(i), the Redeveloper shall pay the City a penalty based upon a sliding scale in the amount of five thousand (\$5,000.00) dollars for each percentage deviation from the standards of this Section. This penalty shall be paid by the Redeveloper to the City of Newark, Department of Economic and Housing Development. No Certificate of Completion or Certificate of Occupancy shall be issued prior to the Redeveloper filing a report satisfactory to the City evidencing compliance with the provisions of this Section.

9.4(b) Workforce Requirements. (i) The Redeveloper hereby agrees and covenants that it shall comply with the following requirements with regard to the construction of the Project:

(1) a minimum of forty (40%) percent of the workforce engaged in the construction of the projects shall consist of women and minorities, with such participation to be measured by the number of hours spent on all tasks required in the development of the Project; and

(2) a minimum of forty (40%) percent of the workforce engaged in the construction of the Project shall consist of Newark residents, with such participation to be measured by the number of hours spent on all tasks required in the development of the Permitted Development.

(ii) If the Redeveloper fails to comply with the requirements of Section 9.4(b)(i), the City shall be entitled to liquidated damages equal to the average project wage for each hour the Project falls short of the local/minority workforce participation requirements set forth in Section

9.4(b)(i) along with any other relief warranted under law.

9.5 Reporting and Enforcement.

(1) Redeveloper and its contractors and subcontractors shall submit regular reports regarding their compliance with this Article on such forms as the City may reasonably require.

(2) Redeveloper covenants to enforce its contracts with its contractors and subcontractors if such parties are not in compliance with this Article.

9.6 Project Labor Agreement. (i) If required by applicable law or if determined to be appropriate by the Parties hereto, the Redeveloper shall enter into a Project Labor Agreement ("PLA") for this Project in a form acceptable to the Director and approved by the Director in writing.

(ii) In the event that the Redeveloper enters into a PLA for the Project, the Redeveloper shall be obligated to use diligent, good faith commercial efforts to comply with the local/minority participation and workforce requirements set forth within Section 9.4 of this Agreement. In such event, however, the Redeveloper's failure to comply with these local/minority participation and workforce requirements shall not constitute an Event of Default under this Agreement and shall not trigger an obligation on the part of the Redeveloper to pay the City the monetary penalties set forth within Section 9.4 of this Agreement. The Redeveloper shall provide the City with documentation of the Redeveloper's diligent, good faith commercial efforts to comply with these local/minority participation and workforce requirements and shall, at the reasonable request of the City, take such actions as directed by the City to assist in the effectuation of partial or total compliance with such requirements.

(iii) In the event that there is a conflict between the terms of the PLA and terms outlined in this Agreement relating to local/minority participation and workforce requirements as set forth within Section 9.4 of this Agreement, the terms of the PLA shall Control.

9.7 Waiver of Penalties Upon Showing of Good Faith Compliance Efforts. (a) If the Redeveloper can demonstrate that it made good faith efforts to comply with the local/minority participation and workforce requirements set forth within Section 9.4 of this Agreement, but that compliance with such requirements would result in a substantial cost increase and/or substantial Project delays to the Redeveloper, the Director may, in his sole discretion and for good cause shown, waive some or all of the penalties set forth within Section 9.4.

(b) If the Redeveloper, within 90 Days of the Effective Date, submits a "Business Reporting and Outreach Plan" ("BROP") outlining its proposal for compliance with the local/minority participation and workforce requirements of Section 9.4 in connection with the construction of the Project, and the BROP is approved by the Director, then all punitive measures, including the penalties set forth within Section 9.4 of this Agreement, shall be waived, and a Certificate of Completion and/or a Certificate of Occupancy shall not be withheld, if Redeveloper demonstrates to the Director that compliance with any of the terms in this

Agreement would result in a substantial cost increase and/or project delays to the Redeveloper. Upon submittal of the BROP by the Redeveloper, the Director shall within 30 Days either confirm the plan, resulting in the waiver of punitive measures as set forth in this Section, or shall request further additions, revisions or omissions of the BROP. Upon resubmittal of the additions, revisions or omissions by the Redeveloper, the Director shall again either confirm the plan, resulting in the waiver of punitive measures as set forth in this Section, or shall request further additions, revisions or omissions of the BROP.

ARTICLE 10 **FINANCIAL INCENTIVES**

10.1 Financial Incentives. (i) Redeveloper may apply to the City for approval of a financial agreement providing for a tax abatement and/or payment in lieu of taxes (a “PILOT”) pursuant to N.J.S.A. 40A:20-1 et seq. or pursuant to N.J.S.A. 40A:21-1 et. seq. in connection with the Project. If the Redeveloper submits a complete and legally-compliant application for a tax abatement and/or a PILOT pursuant to either of these statutes and such application provides a sufficient basis to grant such financial incentives, the Director shall support the Redeveloper’s application in good faith and in accordance with the applicable criteria set forth in the Applicable Laws, but Redeveloper recognizes and acknowledges that the Municipal Council has and at all times hereunder shall retain full discretion under Applicable Law as to whether to grant or deny Redeveloper’s request for a tax abatement and/or PILOT.

(ii) Additionally, if and to the extent available under Applicable Laws, and as requested by the Redeveloper, the Director also agrees to consider and, if warranted in order to reduce a demonstrated pro forma gap, to support, in accordance with applicable criteria set forth in the Applicable Laws, the Redeveloper’s request for the issuance of redevelopment area bonds, the creation of a Revenue Allocation District (“RAD”) and/or any other necessary financial incentives in connection with the Project. The Redeveloper recognizes and acknowledges that the Municipal Council has and at all times hereunder shall retain full discretion under Applicable Law as to whether to grant the Redeveloper’s request.

(iii) The City agrees to assist the Redeveloper in its applications for any other financial incentives which may be offered by the county, state or federal government.

10.2 Redeveloper’s Defense and Indemnification of City. In the event the City does enter into a financial agreement/PILOT with the Redeveloper or does issue redevelopment area bonds in connection with the Project, and litigation is subsequently instituted challenging the PILOT, the issuance of the redevelopment area bonds, or any City actions to effectuate any of these things, the Redeveloper shall indemnify and hold the City harmless from any liability in such litigation as provided under Section 11.2 of this Agreement and shall reimburse the City for the City’s reasonable costs in defending such litigation.

ARTICLE 11 **OTHER REDEVELOPER OBLIGATIONS**

11.1 Security Cameras. The Redeveloper shall, at its sole cost, cause the purchase and installation of up to two (2) security cameras in connection with or in the vicinity of each of the Phases at the direction of and at locations determined by the Newark Police Department as part of the Newark Police Department Closed Circuit Camera Program. The Newark Police Department shall determine the number, locations and date of installation of the cameras. The Redeveloper shall be solely responsible for all costs associated with the purchase and installation of the security cameras, including but not limited to the cameras, the weather casing, all parts necessary for integration into the City's wireless network, and installation services. After the security cameras have been installed at the Redeveloper's expense, the City shall be solely responsible for all costs associated with the maintenance and replacement of any camera, when deemed necessary and appropriate by the Newark Police Department.

11.2 Defense/Indemnification. (i) The Redeveloper agrees to indemnify and hold the City and its agents, employees and/or representatives harmless against any litigation filed against the City and its agents, employees and/or representatives challenging any aspect of the Agreement or the Project, including but not limited to, the validity of the Project or of any governmental action taken by the City to effectuate the Project, including but not limited to the City's entry into this Agreement, and the City's provision to the Redeveloper of any of the financial incentives described within Article 10 of this Agreement. If such litigation is filed, the City shall retain control over the defense of such litigation and shall appoint counsel of its choice to defend the City in such litigation. The Redeveloper shall reimburse the City for the City's reasonable costs in defending such litigation and shall indemnify and hold the City harmless against any monetary judgment entered against the City in such litigation. The City shall promptly inform the Redeveloper of the filing of any litigation challenging the validity of the Project or of any governmental action taken by the City to effectuate the Project and shall have a continuing obligation to keep the Redeveloper apprised of the status of such litigation until the litigation is concluded.

(ii) Using Redeveloper's counsel or such other counsel as designated by the Redeveloper or the Redeveloper's insurers, the Redeveloper agrees to indemnify and hold harmless the City and its agents, employees and/or representatives, against, and the Redeveloper shall pay any and all liability, loss, cost, damage, claims, judgment, or expenses, of any and all kinds or nature and however arising, imposed by law, which the City may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, relating to the Redeveloper's activities in constructing the Project or based upon or arising out of contracts entered into by Redeveloper which relate to the construction of the Project, whether as a result of Redeveloper's Default or out of the Redeveloper's facilitation of the Project, including but not limited to any all claims by workmen, employees or agents of the Redeveloper and unrelated third parties, which claims arise from the construction of the Project, the maintenance and functioning of improvements installed pursuant to the Project, or any other activities of Redeveloper during the construction of the Project. The Parties agree that neither the City nor its directors, officers, agents, servants or employees shall be liable in any event for any action performed under this Agreement and that Redeveloper shall save the City and its directors, officers, agents, servants or employees harmless from any claim or suit by a third party in connection with Redeveloper's obligations

under this Agreement, except for any claim arising from the intentional or willful acts of the City.

(iii) Redeveloper, at its own cost and expense, shall defend any and all claims, suits and actions, as described more fully within Section 11.2 (ii), which may be brought or asserted against the City and its directors, officers, agents, servants or employees; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance which may be provide for in this Agreement from its obligation to defend Redeveloper, the City, and any other insured named in such policy of insurance in connection with claims, suits or actions covered by such policy

(iv) The Redeveloper releases the City from, agrees that the City shall not be liable for, and agrees to hold the City harmless against any expense or damages incurred because of any litigation commenced as a result of any action taken by the City with respect to this Agreement and the Project.

(v) Upon the commencement of any litigation referred to in this Section, or if and when the City incurs any costs, expenses or damages described in this Section, the City shall give the Redeveloper prompt written notice thereof.

(vi) All covenants, stipulations, promises, agreements and obligations of the City contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any member, officer or employee of the City in his or her individual capacity and no recourse shall be had for any claim based hereunder against any member, officer or employee of the City or any natural person executing this Agreement.

(vii) The covenants and other provisions of this Section shall survive the termination of this Agreement as to any and all claims arising from this Agreement or the Project.

ARTICLE 12 **MISCELLANEOUS**

12.1 Cooperation. The Parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, consents in order to satisfy the terms and conditions hereof and the terms and conditions of this Agreement. The City further agrees to cooperate as may be reasonably requested by any mortgagee of the Redeveloper in connection with obtaining financing for the Project; provided, however, that all costs and expenses of such cooperation by the City shall be reimbursed to City by the Redeveloper within ten (10) Days of a request therefore by the City. The City further agrees, to the extent permitted under Applicable Law, to take all actions reasonably requested by Redeveloper to expedite the Project, including without limitation designating City staff liaisons to assist the Redeveloper in interacting with City departments, commissions, boards, authorities and the like and granting of special meetings and other expedited processing of Redeveloper's applications, submissions and the like.

12.2 Conflict of Interest. No member, official or employee of the City shall have any direct or indirect interest in this Redevelopment Agreement or the Project, nor participate in any decision relating to the Redevelopment Agreement or the Project which is prohibited by law.

12.3 No Consideration For Agreement. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the City any money or other consideration for or in connection with this Redevelopment Agreement.

12.4 Non-Liability of Officials and Employees of the City. No member, official or employee of the City shall be personally liable to the Redeveloper, or any successor in interest, in the event of any Default or breach by the City, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

12.5 Inspection of Books and Records. The City shall have the right, upon reasonable written notice to the Redeveloper, to inspect the books and records of the Redeveloper pertinent to the purposes of this Redevelopment Agreement.

12.6 Modification of Agreement. This Agreement represents the entire agreement by and between the Parties with respect to the development of the Project, the construction of the Project and the conveyance of the Properties. No amendment to this Agreement shall be considered binding on either of the Parties unless such amendment is in writing and specifically recites that it is being entered into by and between the City and Developer with the specific intention to modify the terms of this Agreement. In the event that any such amendment is agreed to by the Parties, such amendment shall not modify, change or amend any portion of this Agreement except those specific portions that are recited in such amendment as being modified by such amendment. All other portions of this Agreement not so specifically amended in writing shall remain in full force and effect. No waiver by the City or the Redeveloper of any covenant, agreement, term, provision or condition of this agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official on behalf of both the City and the Redeveloper. Notwithstanding the foregoing, any amendment to this Agreement must be approved as to form and legality by the City's Corporation Counsel and attested to and acknowledged by the City Clerk and all Material Amendments to this Agreement must be approved by the Municipal Council of the City of Newark. A Material Amendment shall include, but not be limited to, any amendment to the parties, identity or use of the Properties to be rehabilitated, or any change that would adversely affect the interests of the City of Newark, or constitute an unlawful delegation of legislative authority.

12.7 Notices and Demands. A notice, demand or other communication under this Redevelopment Agreement by any party to the other shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged),

or by facsimile transmission (with receipt acknowledged) to the Parties at their respective addresses set forth herein, or at such other address or addresses with respect to the Parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section.

As to the City:

CITY OF NEWARK
Robert Marasco, City Clerk
920 Broad Street, Room 309
Newark, New Jersey 07102

with copies to:

Stefan Pryor
Deputy Mayor and Acting Director of
Economic and Housing Development
City of Newark
920 Broad Street, Room 218
Newark, New Jersey 07102

and

Julien X. Neals, Esq.
Corporation Counsel
City of Newark
920 Broad Street, Room 112
Newark, New Jersey 07102

and

David A. Clark, Esq.
GluckWalrath, LLP
428 River View Plaza
Trenton, New Jersey 08611

As to the Redeveloper:

Mr. Henry Mauermeyer
Senior Vice President for Administration and Treasurer
New Jersey Institute of Technology
University Heights
Newark, NJ 07102

with a copy to:

Porzio, Bromberg & Newman P.C.
c/o Peter J. Wolfson, Esq.
100 Southgate Parkway
Morristown, New Jersey 07962

From time to time either party may designate a different person or address for all the purposes of this Notice provision by giving the other party no less than ten (10) Days notice in advance of such change of address in accordance with the provisions hereof.

12.8 Titles of Articles and Sections. The titles of the several Articles and Sections of this Redevelopment Agreement, as set forth at the heads of said Articles and Sections, are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

12.9 Severability. The validity of any Articles and Sections, clauses or provisions of this Redevelopment Agreement shall not affect the validity of the remaining Articles and Sections, clauses or provisions hereof.

12.10 Successors Bound. This Redevelopment Agreement shall be binding upon the respective Parties hereto and their permitted successors and assigns.

12.11 Governing Law; Jurisdiction and Venue. This Redevelopment Agreement shall be governed by and construed and enforced pursuant to the laws of the State of New Jersey, without regard to its conflict of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey or in a United States Court having jurisdiction in the District of New Jersey, in either case sitting in Essex County, New Jersey, and the Redeveloper hereby waives all objections to such venue. Notwithstanding the above, the Parties may, upon mutual written consent, pursue alternate dispute resolution (such as mediation or binding arbitration) to attempt to resolve any issues or disputes arising from this Agreement.

12.12 Counterparts. This Redevelopment Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

12.13 Exhibits. Any and all Exhibits annexed to this Redevelopment Agreement are hereby made a part of this Redevelopment Agreement by this reference thereto.

12.14 Entire Agreement. This Redevelopment Agreement constitutes the entire agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof.

12.15 Waiver. No waiver made by any party with respect to any obligation of any other party under this Redevelopment Agreement shall be considered a waiver of any other rights of the party making the waiver beyond those expressly waived in writing and to the extent thereof.

12.16 Time of the Essence. Time is of the essence as to each and every provision of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Redevelopment Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

APPROVED AS TO FORM & LEGALITY:

JULIEN X. NEALS, Corporation Counsel

CITY OF NEWARK (Seal)

By: _____
CORY BOOKER, Mayor

ATTEST:

ROBERT P. MARASCO

STEFAN PRYOR, Deputy Mayor/
Acting Director of Economic and
Housing Development

WITNESS:

NEW JERSEY INSITUTE OF
TECHNOLOGY

Corporate Secretary or Notary

(Affix Corporate Seal Here)

By:
Title:

EXHIBIT A
PROPERTIES WITHIN PROJECT AREA

Block 43, Lots 1, 4, 10, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 46, 48, 50, 51, 52, 60, 61.

Block 2857, Lots 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30.

Block 2858, Lots 1, 2, 10, 12, 14, 15, 16, 18, 20, 23, 43, 45, 50.

Block 372, Lots 1, 5, 6, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 22, 24.

Block 384, Lot 1.

Block 2828, Lots 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 37, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61.

Block 2830, Lot 1.

Block 2831, Lots 3, 5, 6, 13, 18.

Block 389, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 32, 33, 34, 35, 36, 46, 47, 48, 49, 51, 53.

Block 40, Lots 1, 2, 3.01, 3.02, 4.01, 4.02, 5, 6, 7.01, 7.02, 8.01, 8.02, 9, 10.01, 10.02, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 25, 32, 35, 36, 37, 38, 42, 47, 48, 52.01, 52.02, 53.

Block 41, Lots 1, 3, 32, 33, 34, 35, 36, 62, 65, 66, 69, 70, 72.

Block 42, Lot 44.

**4E. Approve Resolution to Amend
Bond Documents to Allow for
Cell Phone Tower Installation
on GITC**

**RESOLUTION OF THE BOARD OF TRUSTEES OF NEW JERSEY
INSTITUTE OF TECHNOLOGY AUTHORIZING ENTRY BY THE
INSTITUTE INTO A LEASE AND OPTION WITH OMNIPOINT
COMMUNICATIONS, INC. AND ALL OTHER NECESSARY ACTIONS
RELATED THERETO**

WHEREAS, at the request of New Jersey Institute of Technology (the "Institute" or "Public College"), the New Jersey Educational Facilities Authority (the "Authority") issued its Revenue Bonds, New Jersey Institute of Technology Issue, Series 2004 B (the "2004 B Bonds") to refinance, inter alia, the real property known as the GITC Building, NJIT Campus, Newark, New Jersey, Block 397, Lot 14, Tax Maps City of Newark (the "Financed Property"); and

WHEREAS, in connection with the issuance by the Authority of the 2004 B Bonds, the Institute, as Mortgagor and the Authority, as Mortgagee entered into a Mortgage dated as of April 1, 2004 (the "Mortgage") to which the Financed Property is subject; and

WHEREAS, the Institute wishes to enter into a Rooftop Lease With Option Agreement (the "Lease") with Omnipoint Communications, Inc., as lessee (the "Lessee"), pursuant to which the Lessee shall have the exclusive right, at its expense, to erect and maintain on approximately 100 square feet of the Financed Property, improvements, personal property and facilities necessary to operate its communications system described in Exhibit B to the Lease, including radio transmitting and receiving antennas, and related cables and utility lines and a location based system, as such location based system may be required by any county, state or federal agency/department, including, without limitation, additional antenna(s), coaxial cable, base units and other associated equipment (collectively, the "Antenna Facilities"); and

WHEREAS, the Antenna Facilities will be used for the transmission and reception of radio communication signals and for the installation, operation, maintenance, repair, removal or replacement of antennas and required related facilities as described and depicted in Exhibit B to the Lease; and

WHEREAS, as required pursuant to the Mortgage, the Institute has requested the Authority to consent to entry into the Lease between the Public College and the Lessee; and

WHEREAS, by Resolution duly adopted on January 23, 2008 (the "Authority Resolution"), the Members of the Authority approved the Lease and of a Consent Agreement by and among the Institute, the Lessee and the Authority (the "Consent Agreement") in substantially the respective forms presented to the Members of the Authority at the meeting held on January 23, 2008 and authorized the authorized officers defined in the Resolution to consent to the Lease and execute and deliver the Consent Agreement in substantially the respective forms approved by the Members of the Authority with such changes as deemed necessary and appropriate by the approving and/or executing authorized officers; and

WHEREAS, the Board of Trustees of New Jersey Institute of Technology has determined that it is in the best interests of the Institute to enter into the Lease and Consent Agreement; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF NEW JERSEY INSTITUTE OF TECHNOLOGY, AS FOLLOWS:

Section 1. Approval of Lease and Consent Agreement.

The Board of Trustees of New Jersey Institute of Technology hereby approves the Lease and the Consent Agreement substantially in the forms attached hereto as Exhibit A and Exhibit B, respectively, and hereby authorizes and directs the Chairperson, Vice-Chair Person, the Secretary to the Board, the President and/or the Senior Vice President for Administration and Treasurer (each an "Authorized Officer") as may be required to execute and deliver the Lease and the Consent Agreement with such changes as shall be approved by an Authorized Officer with the advice of counsel, if necessary, such execution and delivery to be deemed conclusive evidence of the approval thereof.

Section 2. Prior Actions Ratified; All Other Necessary Action Authorized.

Any and all prior actions taken by the Institute in connection with the entry into the Lease and the Consent Agreement by the Authority are hereby ratified and confirmed. The Authorized Officers, are each hereby authorized and directed to undertake any and all actions necessary to effect execution, delivery and performance of the Lease and the Consent Agreement and to execute and deliver any other consents, agreements, documents, certificates, directions, amendments and notices as may be necessary, advisable, or appropriate to effect action and the taking of any such action, and the execution and delivery of each such consent, agreement, documents, certificates, directions and notices shall be conclusive evidence of the approval thereof by the Authorized Officer taking such action and of its necessity, advisability or appropriateness.

Section 3. Effective Date.

This Resolution shall take effect immediately.

Holly C. Stern, Esq.
General Counsel and
Secretary to the Board of Trustees
New Jersey Institute of Technology

____ 16 July 2009 _____
Date

**5A. Middle States Actions with
Respect to Beijing University
of Technology and a Program
in Dubai**



Middle States Commission on Higher Education

3624 Market Street, Philadelphia, PA 19104-2680. Tel: 267-284-5000. Fax: 215-662-5501
www.msche.org

June 26, 2009

Dr. Robert Altenkirch
President
New Jersey Institute of Technology
University Heights
Newark, NJ 07102-1982

Dear Dr. Altenkirch:

At its session on June 25, 2009, the Middle States Commission on Higher Education acted:

To thank the institution for receiving its representative and to affirm the decision to include the additional location at Beijing University of Technology within the scope of the institution's accreditation. To document receipt of the Certificate of Approval from the Ministry of Education of the People's Republic of China to operate the program. To remind the institution that a site visit to the additional location in Dubai is pending within six months of commencing operations at the site. Furthermore, to advise the institution that the Commission reserves the right to delay the visit if it determines that security considerations would affect the safety of its staff, team members, or others. The next evaluation visit is scheduled for 2011-2012.

Enclosed for your information is a copy of the Statement of Accreditation Status for your institution. The Statement of Accreditation Status (SAS) provides important basic information about the institution and its affiliation with the Commission, and it is made available to the public in the Directory of Members and Candidates on the Commission's website at www.msche.org. Accreditation applies to the institution as detailed in the SAS; institutional information is derived from data provided by the institution through annual reporting and from Commission actions. If any of the institutional information is incorrect, please contact the Commission as soon as possible.

Please check to ensure that published references to your institution's accredited status (catalog, other publications, web page) include the full name, address, and telephone number of the accrediting agency. Further guidance is provided in the Commission's policy statement *Advertising, Student Recruitment, and Representation of Accredited Status*. If the action for your institution includes preparation of a progress letter, monitoring report or supplemental report, please see our policy statement on *Follow-up Reports and Visits*. Both policies can be obtained from our website.

Please be assured of the continuing interest of the Commission on Higher Education in the well-being of New Jersey Institute of Technology. If any further clarification is needed regarding the SAS or other items in this letter, please feel free to contact Dr. Mary Ellen Petrisko, Vice President.

Sincerely,

A handwritten signature in black ink that reads 'Michael F. Middaugh'.

Michael F. Middaugh
Vice Chair



MIDDLE STATES COMMISSION ON HIGHER EDUCATION
3624 Market Street, Philadelphia, PA 19104-2680. Tel: 267-284-5000. Fax: 215-662-5501
www.msche.org

STATEMENT OF ACCREDITATION STATUS

NEW JERSEY INSTITUTE OF TECHNOLOGY
University Heights
Newark, NJ 07102-1982
Phone: (973) 596-3000; Fax: (973) 596-1528
www.njit.edu

Chief Executive Officer: Dr. Robert Altenkirch, President

INSTITUTIONAL INFORMATION

Enrollment

(Headcount): 5576 Undergraduate; 2822 Graduate

Control: Public

Affiliation: State

Carnegie Classification: Research - High Research Activity

Degrees Offered: Certificate/Diploma, Bachelor's, Master's, Doctoral

Distance Learning Programs: Yes

Accreditors Approved by U.S. Secretary of Education: Accrediting Board for Engineering and Technology (ABET) ; Council on Education for Public Health (CEPH) ; National Architecture Accrediting Board (NAAB)

Other Accreditors: Association to Advanced Collegiate Schools of Business

Instructional Locations

Branch Campuses: None

Additional Locations: Beijing University of Technology, Beijing, China; Dubai, Dubai, United Arab Emirates.

Other Instructional Sites: Camden County College, Cherry Hill, NJ; Gloucester Country College, Sewell, NJ; New Jersey Department of Environmental Protection, Trenton, NJ; New Jersey Department of Transportation, Ewing, NJ; Schering-Plough, Multiple Cities, NJ; Stryker Orthopaedics, Mahwah, NJ; Verizon Wireless, Multiple Cities, NJ.

ACCREDITATION INFORMATION

Status: Member since 1934

Last Reaffirmed: November 15, 2007

Most Recent Commission Action:

June 25, 2009: To thank the institution for receiving its representative and to affirm the decision to include the additional location at Beijing University of Technology within the scope of the institution's accreditation. To document receipt of the Certificate of Approval from the Ministry of Education of the People's Republic of China to operate the program. To remind the institution that a site visit to the additional location in Dubai is pending within six months of commencing operations at the site. Furthermore, to advise the institution that the Commission reserves the right to delay the visit if it determines that security considerations would affect the safety of its staff, team members, or others. The next evaluation visit is scheduled for 2011-2012.

Brief History Since Last Comprehensive Evaluation:

November 15, 2007: To accept the Periodic Review Report and to reaffirm accreditation. The next evaluation visit is scheduled for 2011-2012.

December 17, 2008: To acknowledge receipt of the substantive change request to offer a master of science degree in engineering management in conjunction with Beijing University of Technology and to include this change provisionally within the scope of the institution's accreditation; pending evidence of government approval by the Ministry of Education of the People's Republic of China and a visit within six months of commencing operations at the site. To acknowledge receipt of the substantive change request to offer four undergraduate engineering programs in Dubai and to include this change provisionally within the scope of the institution's accreditation; pending receipt of evidence of the final signed program agreement among NJIT, Educare International Foundation FZ-LLC and Focus Research and Development Private Limited; authorization by the Government of Dubai; and a visit within six months of commencing operations at the site. The next evaluation visit is scheduled for 2011-2012.

Next Self-Study Evaluation: 2011 - 2012

Next Periodic Review Report: 2017

Date Printed: June 26, 2009

DEFINITIONS

Branch Campus - A location of an institution that is geographically apart and independent of the main campus of the institution. The location is independent if the location: offers courses in educational programs leading to a degree, certificate, or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority.

Additional Location - A location, other than a branch campus, that is geographically apart from the main campus and at which the institution offers at least 50 percent of an educational program.

Other Instructional Sites - A location, other than a branch campus or additional location, at which the institution offers one or more courses for credit.

Distance Learning Programs - Yes or No indicates whether or not the institution has been approved to offer one or more degree or certificate/diploma programs for which students could meet 50% or more of their requirements by taking distance learning courses.

EXPLANATION OF COMMISSION ACTIONS

An institution's accreditation continues unless it is explicitly suspended or removed. In addition to reviewing the institution's accreditation status at least every 5 years, actions are taken for substantive changes (such as a new degree or geographic site, or a change of ownership) or when other events occur that require review for continued compliance. Any type of report or visit required by the Commission is reviewed and voted on by the Commission after it is completed.

In increasing order of seriousness, a report by an institution to the Commission may be accepted, acknowledged, or rejected.

Levels of Actions:

Grant or Re-Affirm Accreditation without follow-up

Defer a decision on initial accreditation: The institution shows promise but the evaluation team has identified issues of concern and recommends that the institution be given a specified time period to address those concerns.

Postpone a decision on (reaffirmation of) accreditation: The Commission has determined that there is insufficient information to substantiate institutional compliance with one or more standards.

Continue accreditation: A delay of up to one year may be granted to ensure a current and accurate representation of the institution or in the event of circumstances beyond the institution's control (natural disaster, U.S. State Department travel warnings, etc.)

Recommendations to be addressed in the next Periodic Review Report: Suggestions for improvement are given, but no follow-up is needed for compliance.

Supplemental Information Report: This is required when a decision is postponed and are intended only to allow the institution to provide further information, not to give the institution time to formulate plans or initiate remedial action.

Progress letter: The Commission needs assurance that the institution is carrying out activities that were planned or were being implemented at the time of a report or on-site visit.

Monitoring report: There is a potential for the institution to become non-compliant with MSCHE standards; issues are more complex or more numerous; or issues require a substantive, detailed report. A visit may or may not be required.

Warning: The Commission acts to Warn an institution that its accreditation may be in jeopardy when the institution is not in compliance with one or more Commission standards and a follow-up report, called a monitoring report, is required to demonstrate that the institution has made appropriate improvements to bring itself into compliance. Warning indicates that the Commission believes that, although the institution is out of compliance, the institution has the capacity to make appropriate improvements within a reasonable period of time and the institution has the capacity to sustain itself in the long term.

Probation: The Commission places an institution on Probation when, in the Commission's judgment, the institution is not in compliance with one or more Commission standards and that the non-compliance is sufficiently serious, extensive, or acute that it raises concern about one or more of the following:

1. the adequacy of the education provided by the institution;
2. the institution's capacity to make appropriate improvements in a timely fashion; or
3. the institution's capacity to sustain itself in the long term.

Probation is often, but need not always be, preceded by an action of Warning or Postponement. If the Commission had previously postponed a decision or placed the institution on Warning, the Commission may place the institution on Probation if it determines that the institution has failed to address satisfactorily the Commission's concerns in the prior action of postponement or warning regarding compliance with Commission standards. This action is accompanied by a request for a monitoring report, and a special visit follows. Probation may, but need not always, precede an action of Show Cause.

Suspend accreditation: Accreditation has been Continued for one year and an appropriate evaluation is not possible. This is a procedural action that would result in Removal of Accreditation if accreditation cannot be reaffirmed within the period of suspension.

Show cause why the institution's accreditation should not be removed: The institution is required to present its case for accreditation by means of a substantive report and/or an on-site evaluation. A "Public Disclosure Statement" is issued by the Commission.

Remove accreditation. If the institution appeals this action, its accreditation remains in effect until the appeal is completed.

Other actions are described in the Commission policy, "Range of Commission Actions on Accreditation."

5B. Operating Statement Year to Date

B

NEW JERSEY INSTITUTE OF TECHNOLOGY
EXPENSE REPORT
FOR THE ELEVEN MONTHS ENDED MAY 31, 2009
(dollars in thousands)

	CURRENT MONTH AMOUNT	YEAR TO DATE ACTUAL	BUDGET	91% PERCENT OF BUDGET		
				ACTUAL YEAR TO DATE	INCLUDES ENCUMBRANCES PRIOR YEAR	CURRENT YEAR
ACADEMIC						
Salaries & Fringe Benefits	\$ 9,463	\$ 93,816	\$ 103,323	91%	95%	94%
Equipment Purchases	145	1,688	2,816	60%	75%	95%
Financial Aid to Students	131	17,375	18,197	95%	103%	95%
Other Operating Expenses:						
Materials & Supplies	116	1,233	1,600			
Travel & Development	160	1,870	2,050			
Library Collections	74	1,052	1,064			
Other General Operating	555	5,887	8,686			
Total Other Operating	905	10,042	13,400	75%	96%	84%
TOTAL ACADEMIC	10,644	122,921	137,736	89%	95%	93%
SUPPORT						
Salaries & Fringe Benefits	3,427	27,962	26,289	106%	102%	115%
Equipment Purchases	16	201	417	48%	90%	75%
Utilities	526	7,377	9,005	82%	97%	100%
Other Operating Expenses:						
Materials & Supplies	89	789	920			
Travel & Development	84	450	489			
Other General Operating	504	3,911	4,600			
Total Other Operating	677	5,150	6,009	86%	102%	115%
TOTAL SUPPORT	4,646	40,690	41,720	98%	101%	112%
TRANSFERS	1,173	13,006	14,410	90%	100%	100%
TOTAL ACADEMIC, SUPPORT & TRANSFERS	16,463	176,617	193,866	91%	97%	98%
Auxiliary Enterprises	545	6,428	6,948	93%	101%	101%
Auxiliary Transfers	443	4,870	5,312	92%	100%	100%
TOTAL OPERATING EXPENSES	17,451	187,915	206,126	91%	97%	98%
EXPENSES FROM ALLOCATED FUNDS	113	1,047	2,375	44%	100%	100%
TOTAL UNRESTRICTED EXPENSES	17,564	188,962	208,501	91%	96%	97%
RESTRICTED	4,255	58,182	67,830	86%	87%	86%
TOTAL EXPENSES AND TRANSFERS	\$ 21,819	\$ 247,144	\$ 276,331	89%	94%	94%

A

NEW JERSEY INSTITUTE OF TECHNOLOGY
STATEMENT OF CURRENT FUND REVENUES AND EXPENDITURES
FOR THE ELEVEN MONTHS ENDED MAY 31, 2009
(dollars in thousands)

RESTRICTED YEAR TO DATE							UNRESTRICTED YEAR TO DATE			
BUDGET	AMOUNT		(91%) % OF BUDGET			BUDGET	AMOUNT	(91%) % OF BUDGET		
	2008/2009	2007/2008	2008/2009	2007/2008				2008/2009	2007/2008	
REVENUES										
Education and General										
\$ 67,830	\$ 58,182	\$ 56,441	86%	87%	Tuition and Fees	\$ 105,586	\$ 106,519	101%	100	
					Appropriations, Contracts, Gifts	80,885	73,039	91%	92	
					Other sources	7,595	6,406	84%	102	
					Allocated Balances	2,375	1,047	44%	56	
67,830	58,182	56,441	86%	87%	TOTAL	196,241	187,011	95%	96	
Auxiliary Enterprises										
67,830	58,182	56,441	86%	87%	TOTAL REVENUES	208,501	199,002	95%	97	
EXPENDITURES										
Educational and General										
	1,758	2,602			Instruction	71,800	68,573	96%	89	
	33,067	32,947			Research	8,500	4,434	52%	72	
	255	245			Public Service	3,300	3,123	95%	105	
	328	254			Academic Support	20,700	17,161	83%	90	
	1,792	1,574			Student Services	13,700	12,789	93%	98	
	218	488			Institutional Support	27,900	27,930	100%	90	
	20,764	18,331			Operation and Maintenance of Physical Plant	17,734	13,273	75%	88	
					Financial Aid to Students	18,197	17,375	95%	103	
67,830	58,182	56,441	86%	87%	TOTAL EDUCATIONAL & GENERAL	181,831	164,658	91%	91	
TRANSFERS										
67,830	58,182	56,441	86%	87%	TOTAL	196,241	177,664	91%	91	
Auxiliary Enterprises										
					Auxiliary Transfers	6,948	6,428	93%	92	
						5,312	4,870	92%	92	
					TOTAL AUXILIARY	12,260	11,298	92%	92	
67,830	58,182	56,441	86%	87%	TOTAL EXPENDITURES & TRANSFERS	208,501	188,962	91%	91	
EXCESS OF REVENUES OVER EXPENDITURES AND TRANSFERS										
\$ 0	\$ 0	\$ 0				\$ 0	\$ 10,040			

5C. Schedule of Short Term Investments

NEW JERSEY INSTITUTE OF TECHNOLOGY

SCHEDULE OF INVESTMENTS
AS OF MAY 31, 2009

<u>DATE PURCHASED</u>	<u>MATURITY DATE</u>	<u>RATE</u>	<u>TYPE</u>	<u>USBANK</u>	<u>WACHOVIA BANK</u>	<u>CITY NATIONAL BANK</u>	<u>WACHOVIA</u>	<u>JP MORGAN CHASE</u>	<u>TOTAL</u>
--	OVERNIGHT	0.05	BANK DEPOSIT SWEEP				\$ 144,243	\$	144,243
	VARIES	3.96	WACHOVIA GOV ISSUES				4,234,978		4,234,978
1/23/2009	7/24/2009	2.47	CD			\$ 500,000			500,000
--	VARIES	0.47	PRIME MONEY MARKET					\$ 2,283,377	2,283,377
--	VARIES	0.85	USBANK FHLMC Disc Nt	\$ 8,283,590					8,283,590
	VARIES	0.89	USBANK CP	1,999,264					1,999,264
	VARIES	0.39	USBANK GOV Issues	501,250					501,250
	OVERNIGHT	0.39	USBANK MONEY MARKET	6,234,212					6,234,212
--	OVERNIGHT	0.34	WACHOVIA MONEY MANAGER		\$ 12,066,000				12,066,000
				\$ 17,018,316	\$ 12,066,000	\$ 500,000	\$ 4,379,221	\$ 2,283,377	\$ 36,246,914
								Crossfoot	\$ 36,246,914

INVESTMENT AS OF MAY 31, 2008 WERE \$36,889,277
 * MONIES IN THIS ACCOUNT ARE INVESTED IN GOVERNMENT SECURITIES
 ** NET OF FEES

5D. Report of Gifts and Fund Raising Activities

Summary - 2007 (7/1/2006 to 5/31/2007) vs 2008 (7/1/2007 to 5/31/2008) vs 2009 (7/1/2008 to 5/31/2009)

Comparison of Total Giving Year to Date:

	2007		2008		2009	
To All Sources:		\$7,766,469	\$13,037,447	\$8,854,223		
To All Sources without Gifts in		\$6,667,406	\$10,960,632	\$7,483,359		
Matching Gifts:		\$175,717	\$161,401	\$158,763		

Comparison by Donor Type 2007, 2008, 2009 Year to Date:

Category	2007			2008			2009		
	\$ Giving	%	#	\$ Giving	%	#	\$ Giving	%	#
Alum	\$1,632,479	21.0	4,342	\$2,898,723	22.2	4,497	\$2,488,215	28.1	3,981
Corp	\$3,265,157	42.0	393	\$4,104,890 ¹	31.4	414	\$3,521,049 ²	39.7	347
Foundations	\$1,353,505	17.4	21	\$2,940,865 ³	22.5	24	\$2,040,010 ⁴	23.0	22
Friends	\$780,050	10.0	553	\$2,722,176 ⁵	20.8	792	\$596,293	6.73	410
Other	\$735,277 ⁶	9.47	26	\$370,793 ⁷	2.84	21	\$208,656	2.36	23
Totals:	\$7,766,469	100.	5,335	\$13,037,447	100.	5,748	\$8,854,223	100.	4,783

Year End Totals

	Total Dollars	% of FY 07 Funds Raised	% of Year Elapsed
2007	\$8,205,293	100%	100%
2008	\$13,318,420	163%	100%
2009	\$8,854,223	104%	91%

¹ Corporations - Anonymous GIK \$1.9M

² Corporations - Anonymous GIK \$1.2M

³ Foundations - Stabile \$1.5M

⁴ Foundations - Stabile \$1M

⁵ Friends - Murawski \$1.7M, Metz \$200K

⁶ Other -- Student Senate \$300K, Vanguard (Dow) \$100K

⁷ Other -- Vanguard (Dow) \$100K



COUNCIL FOR ADVANCEMENT
AND SUPPORT OF EDUCATION

*Providing professionals in alumni relations,
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essential tools to advance educational institutions.*

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June 1, 2009

Robert Altenkirch
President
New Jersey Institute of Technology
University Heights
Newark, NJ 07102

Dear President Altenkirch:

It is a great pleasure to offer you my sincere congratulations on the selection of New Jersey Institute of Technology as a winner of the 2009 CASE-WealthEngine Awards for Educational Fundraising. This award honors superior fundraising programs across the country and is a component of CASE's Circle of Excellence program.

Your institution is among the exceptional group of colleges, universities, and independent schools named to the Circle of Excellence for either overall performance or overall improvement in fundraising. New Jersey Institute of Technology was selected to receive an Overall Improvement award based on the judges' analysis of three-years of fundraising data your institution submitted to the Council for Aid to Education's annual *Voluntary Support of Education* Survey.

CASE's Circle of Excellence program honors exemplary advancement programs and activities. Your institution has not only demonstrated the highest levels of professionalism and best practice in its fundraising efforts, it has contributed to the betterment of educational advancement worldwide.

Congratulations again on this outstanding achievement.

Sincerely,

John Lippincott
President

cc: Charles Dees, Vice President, University Advancement

5E. September Board Retreat

Chairperson's Closing Statement

BOARD OF TRUSTEES

**RESOLUTION RE: CLOSED SESSION TO DISCUSS PERSONNEL MATTERS,
REAL ESTATE AND CONTRACT MATTERS.**

**WHEREAS, THERE ARE MATTERS THAT REQUIRE CONSIDERATION BY
THE BOARD OF TRUSTEES THAT QUALIFY UNDER THE OPEN PUBLIC
MEETINGS ACT FOR DISCUSSION AT A CLOSED SESSION.**

**NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF TRUSTEES
SHALL HAVE A CLOSED SESSION TO DISCUSS MATTERS INVOLVING
PERSONNEL, REAL ESTATE AND CONTRACTS TO TAKE PLACE ON
SEPTEMBER 17, 2009 AT 9:30 AM, EBERHARDT HALL NJIT ALUMNI
CENTER BOARD ROOM.**