

**Item I. A.**

**EMPIRE STATE NEW MARKET CORPORATION**

Meeting of the Directors  
Held at the Offices of  
Empire State Development  
37<sup>th</sup> Floor Conference Room  
633 Third Avenue  
New York, NY 10017

With videoconferencing to:

Empire State Development – Albany Offices  
625 Broadway  
8<sup>th</sup> Floor Conference Room  
Albany, New York 12245

And:

Empire State Development – Buffalo Regional Offices  
95 Perry Street  
5<sup>th</sup> Floor Conference Room  
Buffalo, NY 14203

March 18, 2024

**MINUTES**

**In Attendance**

**Directors:** Kevin Younis, Acting Chair (Via Videoconference)  
Edwin Lee  
Paul Tronolone (Via Videoconference)

**ESNMC Staff:** Yvonne Cooper, Acting Corporate Secretary  
Brendan Healy, Vice President  
Jonevan Hornsby, President

**ESD Staff:** Matthew Acocella, Associate Counsel  
Tiffany Bowie, Director – Subsidiary Finance  
Eugene Kwiatkowski, Senior Director of Budgeting  
Kathleen Mize, Deputy CFO and Controller

The meeting of the Empire State New Market Corporation (“ESNMC” or the “Corporation”) was called to order at approximately 1:00 p.m.

Acting Chair Younis noted for the record that the meeting will be webcast and the public had been given the opportunity to comment on the meeting’s Agenda items by submitting their written comments before 5:00 p.m. on Friday and no comments were received.

Acting Chair Younis then stated that the Directors had received the relevant written materials in advance of the meeting and were free to ask questions at any time.

Before beginning with the substantive portion of the meeting, Acting Chair Younis asked the Directors whether anyone had any potential conflict of interest regarding any of the items on the proposed Agenda. He asked, if so, that the appropriate disclosure be made on the record to ensure that the Director is recused from any discussion or vote regarding such item(s). No comments were noted.

Acting Chair Younis then called for a motion to approve the Minutes of the December 18, 2023 Directors’ Meeting. There being no changes or corrections, upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT DECEMBER 18, 2023 AND MEETING OF THE DIRECTORS OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meeting of the Corporation held on December 18, 2023, as presented to this meeting, are hereby approved and all actions taken by the Directors present

at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

\* \* \*

Next, Acting Chair Younis called on Jonevan Hornsby, President of the Empire State New Market Corporation (“ESNMC”), to present the only item on the Agenda for the Directors’ consideration.

Mr. Hornsby explained that the Directors were being asked to approve the fiscal year 2024-2025 operating budget.

Mr. Hornsby noted that ESNMC was incorporated in 2004 for the purpose of applying for an allocation of Federal New Markets Tax Credits from the Department of Treasury’s Community Development Financial Institutions Fund. To date ESNMC has received four allocations totaling \$180 million, including consecutive awards in the 2021 and 2022 rounds amounting to \$45 million and \$50 million respectively.

Mr. Hornsby further noted that ESNMC is deploying the allocations consistent with the related New Market Tax Credit (“NMTC”) applications and allocation agreements with the Community Development Financial Institute (“CDFI”) fund. In December of 2023, ESNMC submitted an NMTC allocation application requesting a new \$63 million allocation, which is still awaiting approval from the CDFI.

Mr. Hornsby explained that ESNMC revenue comes from fees charged on the transactions. In the fiscal year 2022-2023 budget, ESNMC’s revenue was approximately

\$842,000, and in the fiscal year 2023-2024 budget, ESNMC's revenue is projected to be approximately \$1.6 million. In the fiscal year 2024-2025 budget, ESNMC's revenue is projected to be approximately \$2.1 million, primarily from fees and newly closed transactions.

Mr. Hornsby noted that if ESNMC received a new 2023 round of NMTC allocation, the fiscal year 2024-2025 revenue is likely to be even higher.

Mr. Hornsby further noted that in addition to expenses funded by fees, ESNMC receives certain transaction-specific consulting expenses paid by borrowers directly from transactions closing costs. Such expenses and the reimbursements associated therewith have been excluded from this budget.

Mr. Hornsby explained that the proposed fiscal year 2024-2025 operating budget of \$939,864 includes: \$423,000 for expenses related to personal service; \$400,000 for consulting expenses from Rise Community Capital for the preparation of the 2024 NMTC allocation application; and \$100,000 for legal and accounting services associated with closed NMTC transactions. The remaining \$16,864 is projected for insurance and other non-personal services.

Acting Chair Younis then called for any further questions or comments. Director Lee noted that the operating budgets for the previous two years were about \$400,000 and wanted to know if this year's budget is also around \$400,000.

Mr. Hornsby stated that two years ago the budget was around \$300,000.

Director Lee wanted to know if the increase in the budget was due to personal services.

Mr. Hornsby stated yes it was primarily for personal services.

Director Lee asked if there was not an increase in personal services, whether the additional \$100,000 would not be needed.

Mr. Hornsby stated yes. A new agreement with the consultants was entered into and our compensation structure had been pretty much flat for the past eight years.

Acting Chair Younis asked, in regards to the consulting fees, does the consultant get a percentage of the projects closed or some amount that increases, commensurate to the work.

Mr. Hornsby stated that that was correct. With each application that ESNMC submits, the consultant receives an Upfront Fee for assisting with the preparation of the application. If ESNMC receives an NMTC award as a result of that application, then the consultant receives a Success Fee. So the consultant can get two fees related to the application and then with deployment of an award, the consultant receives 30 percent of the fee ESNMC receives for closing each transaction. ESNMC currently charges a fee of 4 percent of the total Qualified Equity Investment in the transaction; therefore, the consultant's share would be 1.2 percent of

the total Qualified Equity Investment in the transaction and ESNMC's share would be 2.8 percent.

The Acting Chair asked how the \$400,000 fits into the two fees.

Mr. Hornsby stated that its an assumption that we're going to be closing probably between 40 percent of our exiting \$50 million allocation and about 50 percent of our existing \$45 million allocation.

Acting Chair Younis asked if this is part of the current structured fee and not in addition to the \$400,000.

Mr. Hornsby stated that it is not an additional fee.

Acting Chair Younis then asked in terms of the additional funds being used for an accounting and program associate.

Mr. Hornsby stated that the funds could potentially be used for a program associate for NMTC, ESNMC specifically, and a staff accountant for NMTC.

Acting Chair Younis stated that they could potentially be used for the provisions for other compensation because that is a high number for two positions and that it's not just for two people.

Mr. Hornsby also noted that fringed benefits are also included in this amount.

Mr. Tronolone stated that these funds are for two permanent positions with a portion going towards salaries for ESD employees.

Mr. Hornsby stated that that was correct.

The Acting Chair called for any further questions or comments. Hearing none, and noting no comments were received from the public, upon motion duly made and seconded, the following Resolution was unanimously adopted:

EMPIRE STATE NEW MARKET CORPORATION – Empire State New Market Corporation FY 2024-25 Operating Budget – Approval of the Corporation’s Operating Budget for the Fiscal Year (“FY”) 2024-25 (April 1, 2024 – March 31, 2025)

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RESOLVED, that the Corporation hereby adopts the proposed Fiscal Year 2024-25 budget on substantially the terms and for the purposes set forth in the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, with such changes as the President or his designee(s) may deem appropriate.

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There being no further business, the meeting was adjourned at 1:18 p.m.

Respectfully submitted,

Yvonne M. Cooper  
Acting Corporate Secretary

# **Item II. A.**



FOR CONSIDERATION

June 24, 2024

TO: The Directors

FROM: Jonevan Hornsby

SUBJECT: Bronx and East New York (New York City Region – Bronx and Kings Counties) – New Markets Tax Credit Sub-Allocation to provide financing for the renovation and/or purchase of equipment for one food store and one warehouse

REQUEST FOR: Authorization to Adopt the Proposed General Project Plan (“GPP”); Sub-Allocate New Markets Tax Credits (“NMTCs”) to an Empire State New Market Corporation (“ESNMC”) Subsidiary; Close the NMTC Transaction and Take all Related Actions

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General Project Plan

I. Project Summary

Project Sponsor: The sponsor is Bogopa Enterprises, Inc. (“Bogopa” or the “Project Sponsor”).

Borrower: ESNMC Subsidiary CDE XV, LLC, a New York limited liability company, or another subsidiary of ESNMC (the “Subsidiary CDE”), is expected to make loans to two borrowers, which will qualify as Qualified Low Income Community Investments (“QLICs”, each a “QLICI”) as defined under the NMTC program (further described below) to the Borrowers. The borrower for the Bronx store is Bogopa-Bruckner, Inc., an operating entity that is an affiliate of the Project Sponsor, and the East New York Warehouse borrowing entity is a portion of business of Bogopa Enterprises, Inc. for NMTC purposes (each, a “Borrower,” and collectively, the “Borrowers.”) Each Borrower will be a Qualified Active Low Income Business (“QALICB”) under the NMTC program (further described below).

ESNMC\* Request: Approval (1) to allocate up to \$8,000,000 in federal NMTCs for the purpose of enabling the Subsidiary CDE to make small loans (in the amount of \$4 million or less as defined by the CDFI Fund) to the Borrowers to finance the renovation and/or equipment purchases for two Bogopa sites, and (2) to delegate authority to the President of Empire State New Market Corporation (“ESNMC”) and his designee(s) to take any and all actions with

respect to such allocation of NMTCs, the final terms of all transaction documents, and closing the transaction.

\*ESNMC is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”).

**Project Location:** The Subsidiary CDE will make loans to two Borrowers at the following locations:  
Borrower 1 (Bogopa-Bruckner, Inc.). Bogopa Bronx (food store)- 1630 Bruckner Blvd., Bronx, NY 10473  
Borrower 2 (Bogopa Enterprises, Inc.). Bogopa East New York (warehouse) – 650 Fountain Ave., Brooklyn, NY 11208

**Proposed Project:** The Subsidiary CDE will make loans to two (2) Borrowers to finance the renovation and/or equipment purchases for one food store in the Bronx, NY and one warehouse in underserved low-income neighborhoods in East New York (Brooklyn), NY.

**Project Type:** This Project will bring quality and fresh food options to underserved low-income communities located in an NYC FRESH Zone, and enable quality and accessible job creation. These investments address ESNMC’s goals of (i) increasing access to essential goods and services in underserved, low-income communities; (ii) create/retain quality jobs by growing the manufacturing, warehousing, and distribution base; (iii) making small Qualified Low Income Community Investments (“QLICs”), which the CDFI Fund defines as loans that are less than \$4 million; and (iv) providing capital for Non-Real Estate purposes.

**Alignment with Priorities:** This investment aligns with the following ESNMC priorities and focus areas in the NMTC allocation application submitted to the CDFI Fund and the related Allocation received by ESNMC.

- (1) Finance projects that provide critical goods and services to LICs: The Bronx store will bring fresh, quality and affordable food to the local, underserved community with increased access to fresh, healthy and affordable foods in an NYC FRESH Zone. The Store is expected to receive 763,000 visits annually, including approximately 419,650 (55%) visits from low-income people annually.
- (2) Invest in projects that create quality jobs by growing the manufacturing, warehousing, and distribution base. 172 quality and accessible jobs will be retained.

- (3) Make small loans (those less than \$4 million) to QALICBs: QLICs will be made to 2 QALICBs as part of the Project. The loans are for approximately \$3.84 million each.
- (4) Provide capital for Non-Real Estate purposes: Loans to the Bronx store will be used for purchase new equipment, inventory and/or other uses that do not include construction as required by NMTC program regulations.
- (5) Highly Distressed Areas  
The Project sites are located in areas of severe distress because the census tract meets the following criteria (based on 2015 data):
  - Bogopa – Bronx Food Store
    - 1630 Bruckner Blvd., Bronx, NY 10473
    - Census Tract: 36005002800
    - Average Median Income: 66.91%
    - Poverty Rate: 8.50%
    - Unemployment: 12.80%, or 1.54x the national average
    - NYC Fresh Food Zone
    - Opportunity Zone
  - Bogopa – East New York Warehouse
    - 650 Fountain Ave., Brooklyn, NY 11208
    - Census Tract: 36047111600
    - Average Median Income: 44.25%
    - Poverty Rate: 37.80%
    - Unemployment: 8.50%, or 1.02x the national average
    - Opportunity Zone

II. Project Cost and Financing Sources

The table below outlines approximate amounts of the NMTC Allocation targeted to the Borrower and the expected Project uses and financing sources, which will be finalized, reviewed and approved by ESNMC prior to closing.

	Bronx Food Store	East New York Warehouse	TOTAL
<b>Targeted NMTC Allocation<sup>(1)</sup></b>	<b>\$4,000,000</b>	<b>\$4,000,000</b>	<b>\$8,000,000</b>
<b>Sources</b>			
QLICs <sup>(2)</sup>	\$3,840,000	\$3,840,000	<b>\$7,680,000</b>
Equity	\$445,000	\$66,000	<b>\$511,000</b>
<b>Total Sources</b>	<b>\$4,285,000</b>	<b>\$3,906,000</b>	<b>\$8,191,000</b>
<b>Uses</b>			

Hard Construction Costs	\$445,000	\$1,875,000	<b>\$2,320,000</b>
Equipment	\$650,000	\$645,000	<b>\$1,295,000</b>
Inventory	\$2,804,000	\$1,000,000	<b>\$3,804,000</b>
NMTC Closing Fees/Reserves	\$386,000	\$386,000	<b>\$772,000</b>
<b>Total Budget</b>	<b>\$4,285,000</b>	<b>\$3,906,000</b>	<b>\$8,191,000</b>

Notes

- (1) These funds are indirectly sourced partially from equity from JPMorgan Chase Bank, N.A. (“Chase”), which will be ESNMC’s NMTC Investor and partially from a loan made by the Sponsor.
- (2) This figure is the \$8,000,000 NMTC Allocation net of approximately \$320,000 of ESNMC’s CDE fee paid at closing.

III. Project Description

A. Borrowers

**Industry:** The Project Sponsor is Bogopa Enterprises, Inc., that operates 32 full-service supermarkets serving NY, NJ, and CT. They operate under the Food Bazaar Brand.

**Borrower and Sponsor History:** Bogopa is a minority family-owned company that started in 1958 by catering to lower income densely populated areas that did not have access to grocery stores, and continues to serve these communities today. The stores serve some of the most diverse neighborhoods in New York City and cater to the needs of the local community with international and mainstream groceries, dairy/frozen items, a full-service fish market within most of the stores and a custom meat cutting department.

**Ownership** The QALICBs and ESNMC’s Borrowers are expected to be two separate entities. The borrower for the Bronx Store is Bogopa-Bruckner, Inc., an operating entity that is an affiliate of the Project Sponsor and the East New York Warehouse borrowing entity is a portion of business of Bogopa Enterprises, Inc. for NMTC purposes. Ownership details are as follows:

Bogopa Enterprises, Inc.: The Hwee Ill An Grantor Trust (67.53%), Spencer An Grantor Trust (27.41%), Francis An Bogopa Trust (2.43%), Spencer An (1.63%), Edward Suh (1.00%)

Bogopa – Bronx: Bogopa Enterprises, Inc. (100%)

Bogopa – East New York: a portion of business of Bogopa Enterprises, Inc. (above) where only the activities of the warehouse in East New York are included.

**Market:** Located in underserved low-income neighborhoods, the Bronx store is 37,000 SF and the East New York warehouse is 110,000 SF. The Bronx location is an existing food store and is expected to receive 763,000 visits annually, including approximately 420,221 (55%) visits from low-income

people annually. Both sites are located in highly distressed communities with high poverty rates (23.2% on average), low area median incomes (55.6% on average), and/or high unemployment rates (10.5% on average, which is 1.3x the national average). The Bronx food store is located in an NYC FRESH zone. The details for each location are provided above.

**ESD Involvement:** New York State legislation requires ESD to select and prioritize projects demonstrating certain goals or benefits and approve the Project as an ESD project. In accordance therewith, on July 18, 2024 the ESD board of directors will be requested to separately approve the Project.

**Past ESD Support:** ESNMC closed a project with Bogopa in September 2023 and provided \$10,080,000 in QLICs to fund the construction, renovation, and/or equipment purchases for three food stores in low-income communities in Brooklyn, NY. The Borrowers were:

1. Bogopa-Junius, Inc. (Junius Store): \$3.84 million in QLICs for renovation of an existing store
2. AFS Market, Inc. (Myrtle Store): \$3.84 million in QLICs for equipment purchases for a new store which was part of a larger mixed-use development that included housing above the food store
3. Bogopa, Inc. (Wycoff Store): \$2.4 million in QLICs for equipment purchases for an existing store

## B. The Projects

**Activity** As noted above, the Subsidiary CDE will make small loans to two Borrowers to finance the renovation, equipment purchase, and/or inventory purchases to one food store in Bronx, NY and a warehouse in East New York (Brooklyn), NY.

Bogopa – Bronx Food Store: ESNMC will provide up to \$4 million in NMTC Allocation to make up to \$3.84 million in QLICs to Bogopa-Bruckner, Inc. to equip an existing 37,000 SF food store with upgraded equipment. renovate an existing outdated and dilapidated 46,000 SF food store.

Bogopa – East New York Warehouse: ESNMC will provide up to \$4 million in NMTC Allocation to make up to \$3.84 million in QLICs to a portion of business of Bogopa Enterprises, Inc. to renovate, upgrade equipment, and replace the roof in a 110,000 SF warehouse that serves Bogopa stores in the NYC area.

**Results:** The Bronx store will provide local, underserved communities with increased access to fresh, healthy and affordable foods, and both sites will

retain quality and accessible jobs. The following are important outcomes that are expected to be achieved:

Estimated Job Creation: The Project is expected to retain 172 permanent full-time equivalent (“FTE”) jobs. The table below details the job creation/retention per store:

<b>Position Type</b>	<b>Retained Jobs</b>	<b>Accessible</b>	<b>Quality</b>
Bronx Food Store – FTE Jobs	110	110	110
East New York Warehouse - FTE Jobs	62	62	62
<b>TOTAL</b>	<b>172</b>	<b>172</b>	<b>172</b>
<b>Percentage</b>		<b>100%</b>	<b>100%</b>

Quality Jobs/Benefits Offered to Employees

- All of the full time and part time jobs of the total permanent FTE jobs that will be created and retained will be union jobs, receive comprehensive benefits, be paid an average of \$26.15/hr, and receive on-the-job training.
- The Project Sponsor is committed to its employees and recognizes that its people are its biggest asset. Even when Bogopa has had store closures for renovations, it has never laid off anyone, but instead moved those employees to other stores.

Job Accessibility to the Low-Income Community

- All of the full-time and part-time jobs are expected to be Accessible jobs, available to people without a college degree or that face other barriers to employment (prior criminal record, veterans, workers with disabilities, non-native English speaking).
- 99.5% of all managerial and upper tier level positions are promoted from within and “homegrown.”

Commercial Goods and Services

The Bronx store will provide the local, underserved community with increased access to fresh, healthy, and affordable foods in an NYC Fresh Zone. The Project Sponsor focuses on serving communities that are lower income, in highly densely populated areas that don’t have access to fresh foods, serving some of the most diverse neighborhoods in the world. The Project will support a total of 763,000 visits annually, 55% from Low-Income People.

Minority Impacts

The Project Sponsor and all QALICBs are minority owned. The Bronx store will also serve a highly diverse community, with an estimated 98.5% of customers being minorities, and the East New York Warehouse is in a 98.4% minority LIC, based on demographic data from the Federal Financial Institutions Examination Council (“FFIEC”).

Sponsor Contact: Edward Suh  
[edward.suh@bogopausa.com](mailto:edward.suh@bogopausa.com)

Project Team:	Origination	Jonevan Hornsby
	Project Management	Brendan Healey
	Contractor & Supplier Diversity	Denise Ross
	Finance	Jonevan Hornsby
	Environmental	Soo Kang

Statutory Basis  
And Findings: Section 45D of the Internal Revenue Code, Section 10 (g) and Sections 12 and 16 (2) of the New York State Urban Development Corporation Act of 1968, as amended (the “UDC Act”). As noted below, the NMTC program, enacted in 2000, offers a non-refundable tax credit intended to encourage private capital investment in low-income communities. The Project will comply with all applicable NMTC program requirements. ESD is required to approve the Project (and is scheduled to do so at a meeting to be held on July 18, 2024) and ESNMC will comply with applicable federal tax laws and consummate the transaction. ESNMC is making certain findings as part of its approval of the Project.

IV. NMTC Program Background and ESNMC Role

The NMTC program, enacted in 2000, offers a non-refundable tax credit intended to encourage private capital investment in low-income communities. The U.S. Department of the Treasury’s Community Development Financial Institutions Fund (the “CDFI Fund”) allocates NMTCs under a competitive application process. Investors who make qualified equity investments (“QEIs”) in community development entities (“CDEs”) reduce their federal income tax liability by claiming the NMTC.

CDEs, such as ESNMC, the CDE that is controlled by ESD, apply to the CDFI Fund for an allocation of NMTCs. After an award of NMTC allocation, the CDE uses subsidiary CDEs to attract private equity investors who make QEIs in the subsidiary CDEs in order to claim the NMTCs. The subsidiary CDE then makes loans or equity investments in qualified businesses that are located in low-income communities. These loans and/or equity investments are made on better rates and terms than market.

The tax credit value is 39% of the cost of the QEI and is claimed over a seven-year credit allowance period. In each of the first three years, the investor receives a credit equal to 5% of the total amount paid for the stock or capital interest in the subsidiary CDE at the time of purchase. For the final four years, the value of the credit is 6% annually. Investors must retain their interest in a QEI throughout the seven-year period.

By federal law, any CDE must be a domestic corporation or partnership that must go through a certification process to obtain its status. Partnerships and limited liability companies (that are treated as partnerships or corporations for federal income tax purposes) (“LLCs”) are the preferred subsidiary to structure NMTC projects. ESNMC has created certified subsidiary CDEs as LLCs and has sub-allocated and will sub-allocate its NMTCs to one of these LLCs for each project.

Through the NMTC program, \$76 billion in NMTCs have been awarded to CDEs across the country since inception.

ESNMC received its first allocation of NMTCs in 2009 in the amount of \$30 million. All of this initial allocation was deployed in two NMTC projects. ESNMC received a second allocation in the amount of \$55 million in the 2015-2016 round of the NMTC program and deployed it into 12 projects across NYS. ESNMC received a third allocation in the amount of \$45 million for the 2021 round, and has deployed \$29.5 million into GLOW YMCA, Flanigan Square, and Bogopa. ESNMC received a fourth allocation in the amount of \$50 million in the 2022 round of the NMTC program (the “Allocation”). ESNMC has used \$15 million of the Allocation in connection with Cimolai-HY.

#### V. Overall Structure of NMTC Project Transaction

The Project will be structured as follows: Chase will make an equity investment in the approximate amount of \$2,433,600 (the “NMTC Equity”) in a special purpose fund (the “Fund”) wholly-owned (directly or indirectly) by Chase and formed for the purpose of this transaction. Bogopa Service Corp, a C-Corporation with the same ownership as the Project Sponsor, will be the Leverage Lender for this transaction and will provide approximately \$5,566,400 in leverage debt to the Fund (the “Fund Loan”).

The proceeds of the Fund Loan and the NMTC Equity will be combined by the Fund and used to make one or more QEIs in the aggregate amount of \$8,000,000 in the Subsidiary CDE. ESNMC will sub-allocate \$8,000,000 of NMTC allocation authority to the Subsidiary CDE. The Subsidiary CDE will use the proceeds of the QEI(s) from the Fund to make loans to the Borrowers in an aggregate amount equal to approximately \$7,680,000 and to pay a fee to ESNMC in the aggregate amount of \$320,000.

Each Borrower will receive QLICs in amounts of less than \$4 million. Approximately \$3,840,000 will be loaned in connection with the Bogopa Bronx project, and approximately \$3,840,000 will be loaned in connection with the Bogopa East New York project.

The balance of funding required by each Borrower to finance the renovation or purchase of equipment for each Borrower's respective grocery store project(s) will be equity provided by the Sponsor.

Chase will require the Subsidiary CDE and its managing member, ESNMC, to indemnify Chase from the recapture or disallowance of the NMTC caused by acts or omissions of the Subsidiary CDE, so that Chase will be made whole (subject to any caps that may be negotiated) in respect to its investment even if the NMTCs are lost or recaptured.

Notwithstanding the foregoing, the structure of the overall transaction and each project is still under review and discussion and may be affected by receipt of additional documentation and further evaluation by the transaction parties.

VI. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Articles 15-A and 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises (MWBEs) and service disabled veteran owned businesses (SDVOBs) in the performance of ESD projects. Accordingly, ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to the project. No specific MWBE or SDVOB participation goals shall be required of this project, however, the sponsor shall adhere to ESD's Non-Discrimination and Equal Employment Opportunity ("EEO") policy.

VII. Environmental Review

ESD staff on behalf of ESNMC has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VIII. Requested Actions

The Directors are being asked to adopt, subject to the requirements of Section 16(2) of the UDC Act, the herein described General Project Plan ("GPP"), and to make a sub-allocation of up to Eight Million Dollars (\$8,000,000) from the Allocation for the purposes set forth in the GPP. The Directors are also being asked to delegate to one or more authorized officers of ESNMC, acting in its own capacity, or as managing member of the Subsidiary CDE, the authority to determine the terms of the NMTC transaction documents and to execute such NMTC transaction documents on behalf of ESNMC and the Subsidiary CDE in connection with the closing of the NMTC transaction.

IX. Additional Submissions to Directors

Resolutions  
New York State Map

June 24, 2024

EMPIRE STATE NEW MARKET CORPORATION – New Markets Tax Credit Sub-Allocation to provide financing for the renovation and/or equipment purchase for one Bogopa food store and one Bogopa warehouse – Authorization to Adopt the Proposed General Project Plan (the “GPP”); Authorization to Sub-Allocate New Markets Tax Credits (“NMTCs”); Perform Certain Acts in Connection with the Sub-Allocation of NMTCs to an ESNMC Subsidiary CDE; Close the NMTC Transaction and Take All Related Actions

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WHEREAS, Empire State New Market Corporation, a New York corporation (the “Corporation”), has been certified by the Community Development Financial Institutions Fund (the “CDFI Fund”) as a “qualified community development entity” (a “CDE”), as such term is defined in the Internal Revenue Code of 1986, as amended (the “Code”), the Treasury Regulations and the related guidance, and the Corporation is expected to enter into an Allocation Agreement (the “Allocation Agreement”), with the CDFI Fund in connection with a calendar year 2022 allocation of NMTCs under Section 45D of the Code in the amount of \$50,000,000 (the “Allocation”);

WHEREAS, the Corporation desires to sub-allocate to ESNMC Subsidiary CDE XV, LLC, a New York limited liability company, or another subsidiary CDE of the Corporation (the “Subsidiary CDE”), up to \$8,000,000 in NMTC authority from the Corporation's Allocation (the “Sub-Allocation”) in connection with the proposed investment to Bogopa to finance the renovation and/or equipment purchases for one food store and one warehouse in underserved, low-income communities in Bronx and East New York (Brooklyn), New York respectively (the “Project”) as described in the GPP;

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the UDC Act, the proposed GPP for the Project submitted to this meeting, together with such changes therein as the President of the Corporation or his designee(s) may deem appropriate, a copy of which GPP, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, the President of the Corporation or his designee(s) be, and each of them hereby is, authorized to cause the Corporation to make to the Subsidiary CDE, the Sub-Allocation for the purposes of making NMTC financing available to the Project described in the GPP, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President of the Corporation or his designee(s) may deem appropriate, and be it further

RESOLVED, that pursuant to Section 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the location of the Project; and be it further

RESOLVED, that the President of the Corporation or his designee(s) be, subsequent to the making

of the allocation, and each of them hereby is, authorized to cause the Corporation to take such actions and make such modifications to the terms of the Sub-Allocation as he or she may deem necessary or appropriate in the administration of the allocation; and be it further

RESOLVED, that the President or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation acting in its own capacity, or as managing member of the Subsidiary CDE, to negotiate, issue, execute and deliver any and all transaction documents and instruments, including but not limited to, operating agreement(s), loan and security agreements, indemnity agreement(s), fee agreements, asset management agreements, bank accounts, account control agreements, disbursement agreements, and any other security agreements, financing statements, notices, requests, demands, directions, consents, approvals, waivers, acceptances, appointments, applications, certificates, agreements, supplements, amendments, further assurances or other instruments or communications (collectively, the "Transaction Documents"), and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions, including such modifications to the terms of the transaction as he or she may deem necessary or appropriate and reasonably consistent with the GPP. Any actions previously taken by the Corporation in furtherance of the GPP are hereby ratified and approved.

\* \* \*

**Bogopa Food Store & Warehouse**  
New York City (Bronx & Brooklyn)  
Bronx and Kings Counties

