AMENDED AND RESTATED

ACQUISITION, DISPOSITION & LEASE OF REAL PROPERTY POLICY AND GUIDELINES

OCTOBER 28, 2024

TABLE OF CONTENTS

I. PURPOSE

New York State and federal laws govern not-for-profit corporations' acquisition and disposition of property, including those of New York Center for Research, Economic Advancement, Technology, Engineering and Science Corporation ("**NY CREATES**"), Fuller Road Management Corporation ("**FRMC**"), and Fort Schuyler Management Corporation ("**FSMC**"; NY CREATES, FSMC and FRMC are each referred to herein as a "**Corporation**" and, collectively, the "**Corporations**"). The Acquisition, Disposition & Lease of Real Property Policy and Guidelines (this "**Policy**") establishes the policies and procedures for the Acquisition, Disposition and Lease of Property by the Corporations to comply with applicable law.

II. SCOPE

This Policy outlines the obligations of the Corporations with respect to Acquisitions, Dispositions, and Leases of Real Property in order to comply with applicable law and provides a framework for the actions of Management, the Advisory Committee, the Finance Committee and the Board of Directors ("**Board**") with respect thereto. Without requiring any additional approval or other action on the part of the Advisory Committee, the Finance Committee or the Board, Management shall have the authority to approve and execute any grant of (i) a temporary right to use or license Property which is freely terminable or revocable with or without cause by the Corporation (e.g., a facility use agreement or license), or (ii) any other interest in Property that does not convey title or possession (e.g. an easement), and unless otherwise specifically stated herein, the remainder of this Policy shall not apply to such transaction.

This Policy will be updated by the Board from time to time based upon recommendations by the Finance Committee, upon recommendations of the Advisory Committee, or upon recommendations of Management, or as otherwise required by applicable law.

Where any particular Property (as defined below) was purchased with grant funds or other funds restricted by the underlying funding documents, there may be additional approval requirements in the transactional documents which could impose alternative thresholds and/or requirements regarding the acquisition, disposition or lease of the Property to those thresholds and requirements contained in this Policy.

III. DEFINITIONS

3.1 **Acquire or Acquisition** means the purchase or other acquisition of Property (other than the acquisition of a leasehold interest where any one of the Corporations is the lessee/tenant, which specifically falls outside of this policy unless otherwise specifically stated herein) for consideration by any one of the Corporations.

3.2 **Advisory Committee** means the Advisory Committee of the Corporation. The Advisory Committee would consist of five total committee members, including four permanent members comprised of four officers of the Corporation (including the Chief Operating Officer, the Chief Financial Officer, the General Counsel and the Secretary), as well as one of two alternate committee members (being the Vice President for Tenant Relations for all real property related matters associated with this Policy) or the Director of Procurement for all procurement related matters (associated with the Amended and Restated Procurement Policies and Guidelines for the Corporation(s)).

3.3 **Dispose, Disposal** or **Disposition** means the sale, mortgage, exchange or other disposition of title in Property (other than the disposition of a leasehold interest, which is specifically covered by Article VI of this policy) by any one of the Corporations.

3.4 **Due Diligence.** To the extent deemed necessary or appropriate by Management, at Management's sole discretion, Management may hire independent consultants to perform the following: (i) obtain an appraisal and/or

broker price opinion; (ii) conduct an environmental site review of the Property; (iii) survey the subject Property; (iv) conduct a title search of the subject Property; (v) perform a physical inspection of the Property; (vi) conduct any other due diligence as determined by Management; and/or (vii) inspection report, all in accordance with the Corporation's Amended and Restated Procurement Policies and Guidelines.

3.5 Fair Market Value or "FMV" means the approximate dollar amount that a willing buyer would pay to or otherwise exchange with a willing seller for the Property in an arms-length transaction in the appropriate marketplace and under similar circumstances.

3.6 Finance Committee means the Finance Committee of the Board.

3.7 Independent Appraiser means any licensed appraiser who is not also representing an adverse party to the Corporation(s) in the same transaction.

3.8 Lease means a contract by which a Corporation, as lessor/landlord, conveys the right to possess and use Property to another party in exchange for consideration for a specified time period. The type of lease in which one of the Corporations is the tenant/lessee are specifically and intentionally excluded from the definition of Lease for the purpose of the policy, and unless otherwise specifically stated herein, the remainder of this Policy shall not apply to such leases in which the Corporation is a tenant/lessee. Without requiring any additional approval or other action on the part of the Advisory Committee, the Finance Committee or the Board, leases in which one of the Corporations is the tenant/lessee shall be approved by the President and executed by Management.

3.9 Management means the officers of the Corporation, acting individually or collectively, or their designees, as applicable. Execution of any documents authorized by Management shall be executed by either the President, Treasurer, Chief Financial Officer or Chief Operating Officer of the Corporation. Each member of Management may designate in writing any other Officer of the Corporation to act in their place in connection with any required approvals set forth in this policy, which designation shall remain in place until withdrawn in writing.

3.10 Property(ies) means real property, and any inchoate interest in such land or other real property, whether vested or contingent, to the extent that such interest may be legally or equitably conveyed to another person for any purpose.

3.11 Relative means a (i) spouse, parent, grandparent, child (whether natural or adopted), grandchild, great-grandchild, sibling (whether whole or half-blood), (ii) spouse of a child (whether natural or adopted), grandchild, great-grandchild or sibling (whether whole or half-blood), or (iii) a domestic partner.

3.12 Valuation: The determination of Management as to the estimated value of the subject real property, which may be based on cost approach, sales comparison approach, income approach, or any other methodology chosen at the discretion of Management, taking into account any factors deemed relevant by Management. Management may, at its discretion (but is not obligated to, other than where appraisals may be required, if no exceptions apply, under Section 4.4 or Section 5.4 for the Acquisition or Disposition of Property), obtain an appraisal or broker price opinion or any other Due Diligence tool to assist with determining the Valuation of real property.

IV. ACQUISITIONS OF PROPERTY BY THE CORPORATIONS

4.1 Supervision and Direction. Except as otherwise provided in this Section, Management and the Advisory Committee shall supervise and direct all Acquisitions.

4.2 Selection of Property. The Corporations may Acquire Property to further their respective mission(s). The Finance Committee, upon the advice and guidance of the Advisory Committee, shall determine whether an Acquisition will assist in the furtherance of the applicable Corporation's mission.

4.3 Method of Acquisition. The Corporations may Acquire Property with cash, credit, or other property or other consideration, with or without warranty, and upon such other terms and conditions as Management and the Advisory Committee deems proper. Management may take any actions as it deems necessary or proper to Acquire such Property, including, without limitation, executing such documents as it deems necessary or proper for the Acquisition of Property; *provided that* all contracts for Acquisitions of Property shall be first approved by the President, and subsequently approved by the Finance Committee (without the necessity of further Board action) pursuant to either (a) the unanimous written consent of all of the members of the Finance Committee, without a meeting, or (b) by a majority vote at a meeting of the Finance Committee, unless (i) such Acquisition will constitute all, or substantially all of the Property of the Corporation, in which case the provisions of Section 4.6 below shall apply; or (ii) the Finance Committee otherwise determines, in its discretion, that the subject Acquisition contract should be approved by the Board, in which case the Acquisition contract shall be approved by a majority vote of the Board. Prior to considering any acquisition(s),of real property, the President and the Finance Committee shall review a report from the Advisory Committee which shall include a summary of all of the proposed acquisition(s),) of real property to be considered, with the Advisory Committee's recommendation for approval, and the Finance Committee may vote on each acquisition included in such report individually, or in bulk, approving or denying all transactions included on such report in one motion and through one vote. The Finance Committee shall notify the Board of any Acquisition contract approved by the Finance Committee at or before the next meeting of the Board through the means of a summary report (which may be provided to the Board Members by email and shall include the location, size of the property being acquired, the names of the parties involved, the Valuation of the Fair Market Value and the total purchase price) which report shall be for informational purposes only and does not require any further action by the Board unless the Finance Committee has determined that the subject Acquisition contract should be approved by the Board.

4.4 Valuation. Management shall determine a Valuation of the Fair Market Value of the Property proposed to be Acquired by the Corporation prior to the completion of any transaction to Acquire Property. In determining such Valuation, Management shall obtain an appraisal of the value of any Property to be Acquired from an Independent Appraiser, which appraisal shall be included in the record of the transaction. When an appraisal is not feasible or practical (as determined by the Advisory Committee in a report issued to the Finance Committee and as certified by the President, as evidenced by his signature on said report), Fair Market Value shall be determined by the Finance Committee, upon recommendation of the Advisory Committee. In making such recommendation, the Advisory Committee shall make due inquiry of values of comparable properties including, without limitation, geographic location, use, occupancy, condition, obsolescence, outstanding debts, taxes and liens and intended future use, as appropriate. In such cases where an appraisal is not feasible or practical, the Advisory Committee may, at its discretion, choose to obtain a broker price opinion or other due diligence tool, to assist in ascertaining the Valuation of the Property.

4.5 Contract Negotiation. Management shall negotiate the purchase contract and the purchase contract terms (including, but not limited to, any renegotiation or termination of a contract during the performance of Due Diligence). Upon the recommendation of the Advisory Committee, Management shall have the right to execute and enter into an acquisition contract prior to obtaining Finance Committee approval such that Management may complete reasonable and necessary Due Diligence prior to seeking Finance Committee or Board approval, provided that such contract contains a provision that such Acquisition contract shall terminate in the event that Finance Committee or Board approval is not obtained prior to the expiration of the applicable due diligence period or other period established in the Acquisition contract as the deadline for Finance Committee or Board approval. In the event Management determines to proceed with the transaction following completion of any applicable Due Diligence, Finance Committee or Board approval shall be required in accordance with Section 4.3 above.

4.6 Substantially All. Notwithstanding anything to the contrary contained in this Policy, in the event an Acquisition involves Property which would, upon the purchase thereof, constitute all or substantially all of the assets of NY CREATES, FRMC or FSMC (as determined in the opinion of counsel to the applicable Corporation(s)), such Acquisition shall be approved in accordance with the applicable Corporation's By-Laws and applicable law.

V. DISPOSITIONS OF PROPERTY BY THE CORPORATION

5.1 Supervision and direction. Except as otherwise provided in this Section, Management and the Advisory Committee shall supervise and direct all Dispositions.

5.2 Custody and control. The custody and control of the Property of the Corporations, pending its Disposition, shall remain with NY CREATES, FRMC or FSMC, as applicable. A deed, bill of sale, or other instrument executed by either the President, Treasurer, Chief Financial Officer or Chief Operating Officer on behalf of the Corporations, purporting to Dispose of Property under this Policy, shall be conclusive evidence of compliance with the provisions of this Policy regarding concerns of title or other interests of any bona fide grantee or transferee who has given valuable consideration for such title or other interests and has not received actual or constructive notice of lack of such compliance prior to the closing of the Disposition transaction.

5.3 Method of Disposition. The Corporations may Dispose of Property in a manner and for cash, credit, or other property or other consideration, with or without warranty, and upon such other terms and conditions as Management and the Advisory Committee deem proper. Management may take such other actions as it deems necessary or proper to Dispose of such Property, including, without limitation, executing any such documents as it deems necessary or proper for the Disposal of Property, *provided that* all contracts for the Disposition of Property shall be approved first by the President and subsequently approved by the Finance Committee (without the necessity of further Board action), pursuant to either (a) the unanimous written consent of all of the members of the Finance Committee without a meeting, or (b) by the approval of a majority vote of the Finance Committee at a meeting, unless (i) such Disposition constitutes a disposition of all, or substantially all of the Property of the Corporation, in which case the provisions of Section 5.8 below shall apply; or (ii) the Finance Committee otherwise determines, in its discretion, that the subject Disposition contract should be approved by the Board, in which case the Disposition contract shall be approved by a majority vote of the Board. Prior to considering any disposition(s) of real property, the President and the Finance Committee shall review a report from the Advisory Committee which shall include a summary of all of the proposed disposition(s) of real property to be considered, with the Advisory Committee's recommendation for approval, and the Finance Committee may vote on each disposition included in such report individually, or in bulk, approving or denying all transactions included on such report in one motion and through one vote. The Finance Committee shall notify the Board of any Disposition contracts approved by the Finance Committee at or before the next meeting of the Board through the means of a summary report (which may be provided to the Board Members by email and shall include the location, size of the property being disposed of, the names of the parties involved, the Valuation of the Fair Market Value and the total sales price) which report shall be for informational purposes only and does not require any further action by the Board unless the Finance Committee has determined that the subject Disposition contract should be approved by the Board.

5.4 Valuation**.** Management shall determine a Valuation of the Fair Market Value of the Property proposed to be Disposed of by the Corporation prior to the completion of any transaction for Disposition of Property. In determining such Valuation, Management shall obtain an appraisal of the value of any Property to be Disposed of from an Independent Appraiser, which appraisal shall be included in the record of the transaction. When an appraisal is not feasible or practical (as determined by the Advisory Committee in a report issued to the Finance Committee and as certified by the President, as evidenced by his signature on said report), Fair Market Value shall be determined by the Finance Committee, upon recommendation of the Advisory Committee. In making such recommendation, the Advisory Committee shall make due inquiry of values of comparable properties including, without limitation, geographic location, use, occupancy, condition, obsolescence, outstanding debts, taxes and liens and intended future use, as appropriate. In such cases where an appraisal is not feasible or practical, the Advisory Committee may, at its discretion, choose to obtain a broker price opinion or other due diligence tool, to assist in ascertaining the Valuation of the Property.

5.5 Contract Negotiation. Management shall negotiate the Disposition contract and the Disposition contract terms (including, but not limited to, any renegotiation or termination of a contract during the performance of Due Diligence) with the proposed purchaser. Upon the recommendation of the Advisory Committee, Management shall have the right to execute and enter into a Disposition contract prior to obtaining Finance Committee approval such that Management

may allow the proposed purchaser to complete reasonable and necessary Due Diligence prior to seeking Finance Committee or Board approval, provided that such contract contains a provision that such Disposition contract shall terminate in the event that Finance Committee or Board approval is not obtained prior to the expiration of the applicable due diligence period or other period established in the contract as the deadline for Finance Committee or Board approval. In the event Management and the proposed purchaser determines to proceed with the transaction following completion of any applicable Due Diligence, Finance Committee or Board approval shall be required in accordance with Section 5.3 above.

5.6 Substantially All. Notwithstanding anything to the contrary contained in this Policy, in the event a Disposition involves all or substantially all of the assets of NY CREATES, FRMC or FSMC (as determined in the opinion of counsel to the applicable Corporation(s)), such Disposition shall be approved in accordance with the applicable Corporation's By-Laws and applicable law.

VI. LEASES

6.1 Supervision and Direction. Except as otherwise provided in this Section, Management and the Advisory Committee shall supervise and direct all Leases.

6.2 Right to Rely. A Lease executed by either the President, Treasurer, Chief Financial Officer or Chief Operating Officer on behalf of the Corporation(s) as a lessor, purporting to transfer possession and use of Property under this Policy, shall be conclusive evidence of compliance with the provisions of this Policy regarding the Lease to any bona fide lessee who has given valuable consideration for such Lease and has not received actual or constructive notice of lack of such compliance prior to execution of the Lease.

6.3 Method of Leasing. The Corporations may Lease Property in a manner and for cash, credit, or other property or other consideration, with or without warranty, and upon such other terms and conditions as Management and the Advisory Committee deems proper. Management may take such other action as it deems necessary or proper to Lease such Property, including, without limitation, executing any such documents as it deems necessary or proper for the Lease of Property, *provided that* all Leases shall be approved first by the President and subsequently approved by the Finance Committee (without the necessity of further Board action) pursuant to either (a) the unanimous written consent of all of the members of the Finance Committee, without a meeting, or (b) by a majority vote at a meeting of the Finance Committee (without the necessity of further Board action) unless (i) such Lease is of all, or substantially all of the Property of the Corporation, in which case the provisions of Section 6.6 below shall apply; or (ii) the Finance Committee otherwise determines, in its discretion, that the subject Lease should be approved by the entire Board, in which case the Lease shall be approved by a majority vote of the Board. Prior to considering any lease(s) of real property, the Finance Committee shall review a report from the Advisory Committee which shall include a summary of all of the proposed Lease(s) of real property to be considered, with the Advisory Committee's recommendation for approval, and the Finance Committee may vote on each Lease included in such report individually, or in bulk, approving or denying all transactions included on such report in one motion and through one vote. The Finance Committee shall notify the Board of any Leases approved by the Finance Committee at or before the next meeting of the Board through the means of a summary report (which may be provided to the Board Members by email and shall include the location, the size of the property being leased, the names of the parties involved, the Valuation of the Fair Market Value, the total annual Lease amount, and the on-site job numbers for companies leasing space from the Corporation), which report shall be for informational purposes only and does not require any further action by the Board unless the Finance Committee has determined that the subject Lease should be approved by the Board.

6.4 Negotiation. Management shall negotiate the written Lease and the Lease terms. Upon the recommendation of the Advisory Committee, Management shall have the right to enter into a Lease prior to obtaining Finance Committee approval, such that the parties may complete reasonable and necessary Due Diligence prior to Management seeking Committee or Board approval, provided that such Lease contains a provision that such lease shall terminate in the event that Finance Committee or Board approval is not obtained prior to the expiration of the

applicable Due Diligence period or other period established in the Lease as the deadline for Finance Committee or Board approval. In the event the parties determine to proceed with the Lease following completion of any applicable diligence, Finance Committee or Board approval shall be required in accordance with Section 6.3 above.

6.5 Valuation. Management shall determine a Valuation of the Fair Market Value of the property proposed to be leased by the Corporation.

6.6 Substantially All. Notwithstanding anything to the contrary contained in this Policy, in the event a Lease involves all or substantially all of the assets of NY CREATES, FRMC or FSMC (as determined in the opinion of counsel to the applicable Corporation(s)), such Lease shall be approved in accordance with the applicable Corporation's By-Laws and applicable law.

VII. TRANSACTIONS FOR OTHER THAN FAIR MARKET VALUE

7.1 Transaction Must Serve Mission of Corporation(s). The Corporations shall endeavor to Acquire, Dispose or Lease Property for Fair Market Value. However, it is recognized that the majority of the Property owned or used in connection with the mission(s) of the Corporation(s) is very unique, often with no comparable Properties available to assist in determining an accurate Valuation. Additionally, third-parties that would have an interest in purchasing or leasing the type of Property held by the Corporation(s) are often other not-for-profit entities, start-up companies, or entities which are not able to offer standard forms of consideration in exchange for the purchase or use of such Property. Likewise, because of the benefits related to the use of certain equipment or lab space, etc. located at the Corporation(s) facilities are also extremely unique, the value of being located at one of the Corporation(s) facilities includes a convenience and access to technology factor that makes it essentially impossible to compare the Property of the Corporations to other commercial Properties in the area. Further, there are often instances where other non-standard factors are involved with the transaction, such as where the consideration exchanged for the Property being Acquired, Leased or Disposed of is not solely for cash, or involves a combination of non-standard exchangeable interests which have value that is not easily measurable in terms of dollars and cents (for example, where the transaction results in jobs created or preserved, and/or where benefits result to the communities in which the asset is situated as a consequence of such purchase, sale or lease, etc.) Therefore, it is contemplated that there will be transactions involving the Acquisition, Disposition or Lease of Property which are for more or less than what may typically be determined to be for Fair Market Value, which shall be permissible provided that such transaction supports the mission(s) of the Corporation(s), and provided that the file is adequately documented to reflect the information required in Section 7.2 hereinafter.

7.2 Advisory Committee Reports to the Finance Committee. If any report presented by the Advisory Committee to the Finance Committee for approval or ratification includes a contract for Disposition or Acquisition which involves Property for which Management or the Finance Committee (as applicable) has determined a Valuation of Fair Market Value which is significantly more than the price included in a Disposition contract or significantly less than the price indicated in the Acquisition contract (either being known hereinafter as an "Other Than FMV Transaction"), then such report shall also include (a) a statement of the value to be exchanged compared to the Fair Market Value; (b) a copy of the appraisal (or a copy of the report certified by the President, pursuant to Sections 4.4 or 5.4 above, confirming that an appraisal was not feasible or practical); (c) a written determination that there is no reasonable alternative to the proposed Other Than FMV Transaction that would achieve the mission of the Corporation(s); (d) a written determination that the purpose of the transfer is within the purpose or mission of the Corporation(s); (e) the certification of the President, as evidenced by his signature on said report; and, only in the case where the Other Than FMV Transaction involves a Disposition of Property for less than Fair Market Value, (f) the approval of the President and Chief Executive Officer of Empire State Development ("ESD").

7.3 Execution of Agreements for Other Than Fair Market Value. Upon the recommendation of the Advisory Committee, Management shall have the right to execute and enter into a contract or lease for an other than Fair Market Transfer prior to obtaining Finance Committee approval or ESD approval, provided that the subject contract/lease

contains a provision that such contract/lease shall terminate in the event that Finance Committee or ESD approval is not obtained prior to the expiration of the period established in the contract/lease as the deadline for Finance Committee or ESD approval.

VIII. ETHICAL CONSIDERATIONS

8.1 No Corporation employee who is involved in the Acquisition, Disposition or Lease of Property may ask any purchaser, seller, grantor, grantee, lessor, or lessees or officers, directors or employees of such current or prospective purchaser, seller, grantor, grantee, lessor or lessee to reveal: (a) the political party affiliation of the individual, (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.

8.2 No Corporation employee may take part in any Acquisition, Disposition or Lease decision involving the payment of more than $1,000: (i) to or from a Relative; or (ii) to or from any entity in which a Relative (a) owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange), or (b) serves as an officer, director, or partner of that entity. If such a situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to such matter.