

**FIRST AMENDMENT AGREEMENT**

between

EUROPEAN INVESTMENT BANK

and

REGIONE CAMPANIA

[date]

**THIS AMENDMENT AGREEMENT IS MADE BETWEEN:**

The European Investment Bank having its seat at 100 boulevard Konrad Adenauer, Luxembourg, L-2950 Luxembourg, represented by [●]

(the “**EIB**”)

Regione Campania, having its seat in Via Santa Lucia n. 81, 80132 Naples, as Managing Authority for the Campania POR FESR 2007/2013, represented by [●]

(the “**Managing Authority**” or the “**Regione Campania**”)

#### WHEREAS:

- (1) On 25 March 2010, Regione Campania and the EIB entered into a funding agreement ("**Funding Agreement**") for the purposes of establishing the JESSICA Holding Fund for Campania (organised as a "separate block of finance" within EIB, as permitted under Article 43, par. 3 of the Commission Regulation (EC) No. 1828/2006) and agreeing on the rules relating to the governance thereof.
- (2) Clause 7.1 of the Funding Agreement provides that the EIB shall implement the JESSICA initiative in accordance with the Investment Strategy and Planning attached to the Funding Agreement as Appendix A ("**Investment Strategy**").
- (3) Clause 7.3 of the Funding Agreement provides that the Investment Strategy may be revised taking into account:
  - (a) integrated plans for sustainable urban development or other urban development strategies;
  - (b) any relevant change to the underlying EU Structural Funds Regulations or national legal provisions for JESSICA (including but not limited to the EU Structural Funds Regulations) or to the interpretation thereof;
  - (c) any relevant change in the Campania OP related to the operations supported through the JESSICA Holding Fund;
  - (d) any recommendations issued by the Investment Board; and
  - (e) any other circumstances which, in the reasoned opinion of EIB, warrant such a modification.
- (4) On 13 June 2013 the EIB requested to the Managing Authority certain amendments to the Investment Strategy which are necessary to increase (to the extent possible under applicable EU laws and regulations) the spending possibilities of the urban development funds, also considering the substantial changes to the social and economic context of the Campania Region occurred since 2010.
- (5) On 18 June 2013 the EIB, following consultation with the ROO, submitted to the Investment Board a draft of the revised Investment Strategy for approval by the same pursuant to Clause 5.6 of the Funding Agreement.
- (6) On ~~12~~<sup>28</sup> June 2013 the Investment Board gave its consent to the amendments of the Investment Strategy indicated in the draft presented by the EIB. Clause 16.3 of the Funding Agreement provides that amendments to the Funding Agreement shall be made in writing and shall become effective upon execution by both Parties thereto.

#### NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

#### CLAUSE 1

##### Recitals and definitions

- 1.01 The recitals set out in this Amendment Agreement shall form an integral part of this Amendment Agreement.
- 1.02 Unless herein expressly defined, capitalised terms in this Amendment Agreement shall have the same meaning ascribed to them under the Funding Agreement.
- 1.03 Any conflict between the provisions of this Amendment Agreement and the provisions of

the Funding Agreement shall be resolved in favour of this Amendment Agreement.

## **CLAUSE 2**

### **Amendment to the Funding Agreement**

- 2.01 The Parties agree that Appendix A "Investment Strategy and Planning" of the Funding Agreement is substituted by the text attached hereto as Annex A.
- 2.02 The Amendment Agreement shall be effective from [•] ("Effective Date").
- 2.03 No other provisions of the Funding Agreement are intended to be amended or integrated or waived by the execution of this Amendment Agreement except as expressly provided herein.

## **CLAUSE 3**

### **Construction**

- 3.01 The Funding Agreement and this Amendment Agreement will, from the Effective Date, be read and construed as one document.

## **CLAUSE 4**

### **Governing law and jurisdiction**

- 4.01 This Amendment Agreement shall be governed by, and construed in accordance with, the general principles of law common to the Member States as interpreted or to be interpreted by the Court of Justice of the European Union.
- 4.02 The Court of Justice of the European Union shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Amendment Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Amendment Agreement to be executed on the date first stated above

Signed for and on behalf of

Signed for and on behalf of

EUROPEAN INVESTMENT BANK

REGIONE CAMPANIA

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[•]

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[•]

## ANNEX A

### INVESTMENT STRATEGY AND PLANNING

#### 1. Context

The Campania OP allocated EUR 1,505 million in support of urban regeneration and quality of life projects in medium-sized cities under Axis 6.

The Regional Administration through the Managing Authority employs part of these financial resources through the Financial Engineering instruments supported by the JESSICA initiative. To this end, the Managing Authority programmed the contribution of an initial amount of EUR 100 million into the JESSICA Holding Fund. The JESSICA Holding Fund will invest in UDFs in order to contribute to the achievement of the objectives set out under Axis 6 of the Campania POR FESR 2007-2013, through the financing of initiatives and projects included, *inter alia*, under the following initiatives:

- the **"PIU Europa" initiative**, aimed at urban regeneration in 19 medium-sized cities in Campania identified with DGR<sup>1</sup> n. 282/08<sup>2</sup>;
- the **"Altre Città" initiative**, aimed at urban regeneration in 22 medium-sized cities (not included in the 20 from "PIU Europa"), identified with DGR n° 1026/2009;
- **Major projects** included in Axis 6 of the Campania OP<sup>3</sup> ("Major Project");
- **Other Urban Projects ("Other Projects")**, i.e. urban regeneration and sustainable development projects aimed at ensuring a sustainable economic and social development of the medium-sized cities in accordance with the objectives set out in Axis 6 of the Campania OP, to be carried out in the 41 medium-sized cities in Campania (including the Municipality of Naples) with more than 30.000 inhabitants (DGR n. 1558/08<sup>4</sup>) and included within an integrated plan for sustainable urban development designed according to the EU Structural Funds Regulations and Regional Law no. 3 on February 19<sup>th</sup> 1996 and any following amendments and integrations thereof<sup>5</sup> ("Regional Law 3/96").

If deemed appropriate, the Managing Authority will further contribute to the JESSICA Holding Fund by bringing in additional funds available under Axis 6, or from other sources, under the urban sustainable development priority, and those supporting schemes launched under the Piano Casa. The definition and implementation of projects will pay particular attention to the integration between renovation/recovery of existing buildings and new construction, as well as support to assisted and subsidised housing, including new types of social housing, self-recovery and self-construction.

Under the coordination of the Managing Authority, this initiative is promoted in order to:

- take advantage of the revolving nature of financial engineering instruments established through JESSICA. The use of financial engineering instruments enables the Managing

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<sup>1</sup> *Deliberazione della Giunta Regionale* (Regional Committee Deliberation).

<sup>2</sup> "REGIONE CAMPANIA - Giunta Regionale - Seduta del 1 ottobre 2008 - Deliberazione N. 1558 - Area Generale di Coordinamento N. 16 - Governo del Territorio, Tutela Beni, Paesistico-Ambientali e Culturali – N. 9 - Rapporti con gli Organismi Nazionali ed Internazionali in Materia di Interesse Regionale – N. 8 - Bilancio, Ragioneria e Tributi – FESR 2007/2013 Programmi Integrati Urbani PIU' Europa - Asse 6 - Obiettivo Operativo 6.1. – Adempimenti". See, in particular, Table 4 in Annex 3.

<sup>3</sup> Major Projects list approved by DGR no. 122/2011.

<sup>4</sup> See, in particular, Table 1 in Annex 3.

<sup>5</sup> Regional Law n. 3 of February 19<sup>th</sup> 1996 on "Integrated plan for urban, building and environmental regeneration" implementing Law n. 179 of February 17<sup>th</sup> 1992, published on the Official Journal of the Campania Region n.12 on the 26<sup>th</sup> February 1996.

Authority to create a tool that will “re-constitute” the financial resources dedicated to urban regeneration projects. Once returned, these resources will represent an independent supply of funding, additional to other potential resources made available in future planning periods;

- promote the development and implementation of long-term urban investment. Aware of the importance of developing and supporting urban projects achieving economic and financial returns along with those with purely socio-environmental gains, the Managing Authority seeks to encourage Local Administrations to plan investments assuring long-term economic, social and environmental benefits, and simultaneously capable to be financially self-sustainable;
- develop the capacity of public entities to plan and promote the use of participative design and planning methodologies. The use of JESSICA financial engineering is dedicated specifically to initiatives included in Integrated Plans for Sustainable Urban Development, promoted by the public and/or the private sector<sup>6</sup>. As of today, the Campania municipalities have undertaken a process of integrated urban planning based on a continuous public-private dialogue, taking into account the private parties’ interest in being awarded grants and/or obtaining land use changes. In this context, the Managing Authority aims at triggering a virtuous process stimulating Local Administrations to plan with a longer-term perspective, and promoting systematic participation of stakeholders during the whole process, from the identification of territorial priorities, to elaborating development guidelines, drafting urban plans, and defining the technical, economic and financial characteristics of projects. The introduction of innovative financial instruments supporting or substituting grants is crucial to move towards a system leading to long-lasting benefits;
- attract private financing into urban regeneration projects. By creating a financial instrument dedicated to finance public and/or private urban regeneration projects, including environmentally sustainable buildings and initiatives connected with social housing, and facilitating access to credit at competitive rates, the Managing Authority intends to attract private capital into urban regeneration. Selected initiatives can be supported jointly by UDFs resources and public subsidies from other sources. Along these lines, a “Credit and Guarantee Revolving Fund” is already in operation to assist urban investment projects, specifically in favour of multi-annual programmes of assisted housing<sup>7</sup>;
- bring into JESSICA financial engineering instruments resources from the Implementation Programme of FAS, Piano Casa, Renewable Energy, as well as social housing, infrastructure, etc. to support initiatives complementary to those envisaged under Axis 6.

#### 1.1. PIU Europa Initiative

The PIU Europa Initiative supports the creation of sustainable urban regeneration interventions included within Integrated Urban Plans (PIU Europa) of 19 medium-sized cities.

Through DGR no. 282/08, the Campania Region:

- has identified the 19 cities object of intervention based on the demographic dimension, and the levels of residential and socio-economic deprivation;
- has defined criteria to assign the resources of Operational Objective 6.1 to the cities;

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<sup>6</sup> According to the provisions of Campania OP 2007-2013, paragraph 4.6.2, page 223, and of COCOF Note 10-0014-04-EN of February 21<sup>st</sup> 2011, as updated on February 8<sup>th</sup> 2012, point 3.3.1, stating: “According to Article 44 first paragraph (b) of the General Regulation, urban development funds shall invest in public-private partnerships or other (public **or private sector-led**) projects included in integrated plans for sustainable urban development.” (emphasis added).

<sup>7</sup> As provided in Regional Law no.1 of 30/01/2008, BURC no. 5 bis of 4/02/2008, disciplined by DGR n. 848 of 08/05/2009.

- has approved the general scheme for the Programme Agreement (*Accordo di Programma*) providing the framework to implement the planning process for PIU Europa.

The initiative is based on an approach that integrates different categories of intervention within the broader scope of an organic urban regeneration programme.

Hence, PIU Europa represents a coordinated collection of Urban Projects aimed at strengthening the attractiveness and competitiveness of Campania cities under a sustainable socio-economic revitalisation perspective, closely aligned to the guidelines set by the Regional Territorial Plan ("PTR").

The Integrated Urban Plans are developed by the 19 cities on the basis of a continuous dialogue with the ROO. The process kick-offs with the stipulation of a Memorandum of Understanding between the Region and the city, as well as other possible key parties, followed by the setting up of a "control room" overlooking the local partnership process and by the creation of a technical-administrative work team.

Each city, through a participative planning process involving major stakeholders, defines the PIU Europa Programme, which constitutes the operating framework - including the identification and intermediate design of candidate projects - to give concrete application to the City Strategy Development Guidelines ("DOS")<sup>8</sup>. The coherence with territorial priorities and guidelines is checked by the ROO and the NVVIP<sup>9</sup> via *ex ante* and *in itinere* evaluations.

The documents presented by the city authorities undergo a process of verification and evaluation consisting of three progressive and interlinked phases. Each phase has a specific content, and implies a judgment on the quality and contents of the documents.

The ROO carries out the first two phases, relating respectively to the technical analysis of the proposed interventions and to the analysis of the regulatory, organisational and procedural aspects. A third phase is performed by the NVVIP as part of the *ex ante* evaluation in parallel to phases one and two. The NVVIP analysis takes place at a comprehensive urban level and aims at evaluating the Integrated Plan within a wider context encompassing the Urban Projects under PIU and DOS.

Such an approach emphasises the role and involvement of the regional administration in order to bring about a successful outcome of the PIU process and facilitate a quick start of the initiatives, under continuous observation and control by the ROO.

The definition of the PIU Europa is followed by the stipulation of a Programme Agreement (*Accordo di Programma*) between the Region and the delegated city.

## 1.2. "Altre Città" Initiative

DGR no. 1026/2009 identifies the 22 medium-sized cities which have been identified from Campania under the "Altre Città" initiative. Criteria applied are those used for the identification of cities within the PIU Europa initiative.

Through public notices, as described in Section 2.2, cities are invited to develop projects aligned both with criteria of the Operational Objective 6.1 and with those defined in the framework of JESSICA.

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<sup>8</sup> City Strategy Development Guidelines (DOS - *Documento di Orientamento Strategico*) is a comprehensive document that identifies priorities and sets general urban development guidelines. The contents of the document are coherent and aligned with guidelines set by the PTR.

<sup>9</sup> Projects Evaluation and Verification Committee

### 1.3. Major Projects

Under the 2007-2013 programming period, a major project is defined as an ERDF operation whose total project costs exceed the thresholds of EUR 25 million in the case of the environment and EUR 50 million in other fields (as stated by Article 39 of Reg. 1083). The Managing Authority is required to inform the EC of projects that exceed these thresholds, and to obtain an EC decision on whether the project can proceed with a financial contribution from the ERDF and be included within the relevant Programme.

Major Projects are subject to two appraisal procedures: an appraisal by the Managing Authority and an EC appraisal. The Managing Authority - on behalf of the promoter - registers the forthcoming Major Project applications with the EC and request a Common Code for Identification (CCI) number, through the computer system for data exchange ('System for Fund Management in the European Community 2007-2013' (SFC 2007)).

Project sponsors must choose between two standard application forms for submission to the EC for Major Project (for infrastructure investment or productive investment). The Managing Authority holds the responsibility for checking admissibility, consistency and accuracy of these forms prior to transmission to the EC. The EC application form establishes the Managing Authority as responsible for the application which requires Managing Authority's endorsement.

The Campania OP contains an indicative list of Major Projects that could be implemented in the Programme area. The inclusion, or not, of this list in the OP does not represent any pre-selection process by either the Managing Authority or the EC, nor does it preclude the possibility of alternative or additional projects being assisted. The main procedures to submit Major Projects to the EC for approval and to identify new Major Projects to be included in the Campania OP were approved by DGR no. 326/2009.

Based on the new priorities to be pursued by the regional development policy, that take into account the strategies of the National Plan for Southern Italy (*Piano Nazionale per il Sud*), the Regional Committee (*Giunta Regionale*) modified the list of Major Projects included in the Campania OP. The new list has been approved by DGR no.122/2011.

According to the list approved by DGR no.122/2011, the Major Projects included in Axis 6 consist of 4 projects:

- Interventions included within the City Planning Instrument (*Piano Urbanistico Attuativo*) and related to the area ex-Italsider of Bagnoli (*Parco Urbano di Bagnoli*);
- Urban regeneration of the port area in the Eastern side of Naples;
- Regional interventions interconnected with the high-speed Naples-Bari;
- Historic centre of Naples, improvement regeneration of the UNESCO heritage site.

DGR no.122/2011 also modified the procedures set by DGR no. 326/2009 for the approval of Major Projects with the aim to simplify and make more efficient the administrative burdens related to Major Projects. A new Technical Unit for Major Projects (*Unità Operativa Grandi Progetti*) has been introduced with the responsibility of managing and coordinating the development of all Major Projects included in the Campania OP.

### 1.4. Other Projects

According to the Campania OP, Priority Axis 6 identifies operational objectives that are implemented through integrated plans and programmes and, in particular, through Urban Development Integrated



Plans as defined by Regional Law no. 3/96 and any following amendments and integrations thereof<sup>10</sup>.

As a consequence, in addition to the initiatives mentioned in paragraphs 1.1, 1.2 and 1.3 above, the operational objectives under Axis 6 can be achieved also through Other Projects, which are included in Integrated Plans for Urban Development (as defined by Regional Law no. 3/96 and any following amendments and integrations thereof), and which should be located in the 41 medium-sized cities with more than 30.000 inhabitants in Campania (including Naples) (DGR no. 1558/08).

## 2. Investment Strategy

### 2.1 Investments selection criteria

The objective of the JESSICA Holding Fund is to manage the financial resources brought in by the Managing Authority by investing them in UDFs with the objective of promoting urban sustainable development.

Subject to further due diligence of the relevant national rules, the UDFs may be established under one of the following forms:

- Joint stock company;
- PPP (Public Private Partnership);
- Investments fund;
- Bank;
- Other financial institution.

The JESSICA Holding Fund may only make investments or commit for investment to support Urban Projects, promoted by the public and/or private sector<sup>11</sup>, fulfilling the following criteria:

- are included in initiatives promoted within the scope of Axis 6, as, for example, but not limited to, those described in Section 14. In line with the objectives of Axis 6, the admissible operations will hence have the following general ends:
  - environmental recovery, social and economic regeneration;
  - renewal, regeneration and valorisation of "waterfronts";
  - renewal, regeneration and valorisation of under-used or unused urban spaces to create urban parks, natural commercial centres, artisan labs, expo areas, and social aggregation areas;
  - improvement of local mobility systems;
  - safety and security.
- offer an acceptable return on investment and/or acceptable comfort as to the repayment of the capital invested or on-lent;
- have received from the Investment Board a positive assessment on their coherence with the Investment Strategy;
- have received from the competent regional officer<sup>12</sup> and/or Managing Authority a positive assessment on their compliance with criteria specified in Axis 6 (see Section 2.2);
- have been notified to and approved by the EC when Major Projects are concerned.

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<sup>10</sup> As also specified in the OP Campania (see, in particular, footnote no. 232.), the PIU Europa Initiative represents an evolution of such Integrated Urban Development Plans, as defined by Regional Law no. 3/96.

<sup>11</sup> According to the Campania OP 2007-2013, paragraph 4.6.2, page 223. Private sector meaning projects promoted by the private sector, not under a "regime di concessione e/o appalto".

<sup>12</sup> Identified in accordance with the Manuale di Attuazione POR Campania FESR 2007-2013

## 2.2 The role of the Managing Authority and of the Responsabile dell'Obiettivo Operativo

The Managing Authority and any competent regional officer in charge of the administration and monitoring of Operations under the relevant Obiettivo Operativo within Axis 6, on the basis of the responsibilities established in paragraph 5.3.5 of POR FESR 2007-2013 (the “**Responsabile dell'Obiettivo Operativo**”) will ensure the strategic coherence of JESSICA actions with regional planning objectives, enabling the EIB to operate within the limits of its mandate, and, at the same time, will support the cities in elaborating projects in line with the principles described in Section 2.1. In particular, the Managing Authority and any competent Responsabile dell'Obiettivo Operativo will:

- actively participate with the EIB in the elaboration of the proposals for modification of the Investment Strategy and Planning to be presented for approval by the EIB to the Investment Board, thus ensuring coherence with the principles of Axis 6;
- actively participate with the EIB in the elaboration of the detailed programme of activities to be presented for approval to the Investment Board, in order to ensure connection between the JESSICA Actions and the activities performed by the Campania Region within the scope of Axis 6;
- stimulate cities to elaborate projects aligned with the characteristics presented in Section 2.1;
- verify the coherence of Urban Projects with the criteria under Axis 6, as described in Section 2.1;
- promote integration between JESSICA instruments and other synergic actions in order to pursue urban regeneration objectives.

## 2.3 Investment Products

The resources contributed by JESSICA HF can be invested by the UDF through:

- equity instruments;
- loans.

## 2.4 Maximum and minimum percentages planned to be held, investment limits

- Limits for the number of Operations: there are no maximum or minimum limits for the number of Operations;
- Limit for the geographic area: as described in Chapter 2.1, the JESSICA HF will invest in Operations located in the 41 medium-sized cities (including Naples) with more than 30.000 inhabitants in Campania (DGR 1558/08). However, should the Regional Administration through the Managing Authority propose an extension of the geographical area of the JESSICA Initiative (for example in order to include also small cities in Campania), such proposal will be submitted for approval to the Investment Board;
- Limits to diversification: the JESSICA HF is not subject to any diversification limit. Therefore, the JESSICA HF could in principle invest in only one Operation;
- Percentage of Stake, in case of equity investments: there shall be no maximum or minimum limits for the holdings in Operations.

## 3. Planning

The strategy presented in Chapter 2 will be developed on the basis of a detailed programme of activities to be elaborated in close cooperation between the EIB and the Managing Authority and submitted for approval by the EIB to the Investment Board.

Modifications to the detailed programme will be elaborated in close cooperation between the EIB and Managing Authority and submitted for approval by the EIB to the Investment Board.