



October 3, 2024

Robert J. Rodriguez  
President and Chief Executive Officer  
Dormitory Authority of the State of New York

Felicia A. B. Reid  
Acting Executive Director  
Office of Cannabis Management

**RE: Consistent with the Freedom of Information Law (FOIL) and basic expectations of transparency, publish NY Social Equity Investment Fund and associated loan agreements**

Dear Mr. Rodriguez and Ms. Reid,

We write to ask that the Dormitory Authority of the State of New York (DASNY) and Office of Cannabis Management (OCM) publish on their websites the following records related to the New York Social Equity Investment Fund (“the Fund”) and the Cannabis Adult Use Recreational Dispensary (CAURD) licensee loan program:

1. Any Memoranda of Understanding (MOUs) between OCM and DASNY as relates to their relationship with the Fund, dispensary build-outs, and licensees;
2. The Limited Partnership Agreement between DASNY and other parties creating the Fund; and
3. The loan agreement between Chicago Atlantic and the Fund (of which DASNY is a partner).

We are aware that you have already denied [FOIL requests](#) by journalists at The City for some of the same records we are requesting you to publish. According to The City, you denied your agencies had a copy of the loan agreement, arguing that FOIL did not apply because the Fund – which by statute has DASNY as a partner – is not a public entity. We believe you are mistaken and should supply the requested records to the public.

We note that the Committee on Open Government states in 21 NYCRR PART 140 that per the intent of the Freedom of Information Law, “Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.”

We believe the documents listed above are subject to FOIL because they are statutory requirements and have been signed off on by DASNY, OCM, or subject to discussion at public meetings. However, we remind you that FOIL is a floor, not a ceiling when it comes to

transparency; DASNY and OCM should release these records regardless of their opinion of their FOIL status because they are of great interest to the public.

Given the extensive controversy and numerous accusations surrounding the “fund” and CUARD program, we believe it is in your best interest and crucial for restoring public confidence that DASNY and OCM fully disclose the agreements. The Fund was created by the FY 2023 state budget, allowing for the use of [\\$50 million in state cannabis revenues](#) authorized under [Section 99-II of the State Finance Law](#).

The loans provided to CAURD licensees have received [considerable scrutiny](#) and [been called “predatory”](#) by legislators who created the state’s cannabis law and the Fund. The intent of the Fund and CAURD licensee program was to correct past wrongs through a social equity lens, not further harm those affected by prior drug laws of the state. Without being able to review the records regarding the loan program, stakeholders cannot ensure that similar mistakes are not made in the future.

#### ***Memorandum of Understanding Between OCM and DASNY***

According to the Office of Cannabis Management’s [2023 Annual Report](#), OCM has entered into a number of Memoranda of Understanding (MOUs) with partner agencies. This includes the NYS Department of Health, with which it has an MOU that has been [published on OCM’s website](#) regarding the sharing of staff to hold administrative hearings.

We see no reason that any MOUs between OCM and DASNY should not also be published. Public review of any MOUs is crucial to understand DASNY and OCM’s relationship regarding the administration of The Fund and its loan program. DASNY is also authorized under [Section 1678\(30\) of the Public Authorities Law](#) to enter into such agreements with OCM.

#### ***Limited Partnership Agreement***

Also pursuant to [Section 1678\(32\)\(a\)](#) of the Public Authorities Law, DASNY is authorized to select a private equity fund to finance the costs of establishing CAURD dispensaries. The law specifically provides that any partnership agreement between such the Fund and DASNY is subject to the written approval or resolution of the Cannabis Control Board, the Board of DASNY, and the director of the Division of the Budget.

The Fund also must have a Public Policy Committee pursuant to PAL §1678(32) that is charged with reviewing partnership agreements, and ensuring the Fund meets the policy goals of the state. The Public Policy Committee is made up of the Chair of the Cannabis Control Board, Executive Director of the Office of Cannabis Management, and the DASNY President.

According to public records, the Limited Partnership Agreement regarding the Fund was [amended and voted on by the DASNY Board on May 16, 2023](#), and approved on May 22, 2023 by the [Public Policy Committee](#). While the Cannabis Control Board’s [resolution approving the agreement](#) is available online, the Limited Partnership Agreement it references is not.

This lack of transparency regarding agreements is in stark contrast to the level of transparency that is provided by DASNY for other records like [project labor agreements](#) and [union contracts](#).

### ***Loan Agreement***

Lastly, a draft of the loan agreement between Chicago Atlantic and the Fund was obtained by The City, which [published a detailed article](#) about its terms that described considerable risks to both the state of New York and CAURD licensees. These include a 15% interest rate and a guarantee of payment by the state of New York should licensees default on the loans. Additional [reporting by The City](#) indicates that loans to individual licensees can climb to 18% interest rates, with licensees responsible for large monthly payments of \$25,000 or more for the design and buildout costs of their dispensaries – not including rent payments.

At an [oversight hearing](#) held by the State Senate in October 2023, DASNY, OCM, licensees and advocates testified about the loans and state’s cannabis program. Numerous concerns were raised about individual loans to licensees, begging the question of how much the agreement between the Fund and Chicago Atlantic dictated the terms of individual loans to licensees. In particular, restrictive financial covenants were noted as increasing the likelihood of default. As [reported in The City](#), these terms restrict how much dispensaries can spend on staffing, what profit margins a store may charge on products, as well as executive salaries.

Thank you for your attention to this matter. Should you wish to discuss it further, please contact Rachael Fauss, Senior Policy Advisor for Reinvent Albany at [rachael@reinventalbany.org](mailto:rachael@reinventalbany.org).

Sincerely,

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