

**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
*Immigrant Investor Program*  
131 M Street, NE, Mailstop 2235  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

**Date:** May 14, 2024

EB5AN Southeast Regional Center LLC  
C/O Samuel Silverman  
954 Avenida Juan Ponce de Leon, Suite 205  
San Juan, PR 00907

**Application:** Form I-956F, Application for Approval of an Investment in a Commercial Enterprise

**Applicant(s):** EB5AN Southeast Regional Center LLC  
RC2200000128

**Re:** Initial I-956F, Application for Approval of an Investment in a Commercial Enterprise  
INF2360005692

On November 22, 2023, the EB5AN Southeast Regional Center LLC (“the Regional Center”) filed a Form I-956F to request an Initial I-956F, Application for Approval of an Investment in a Commercial Enterprise in accordance with section 203(b)(5)(F) of the Immigration and Nationality Act (“INA”). The Regional Center was initially approved for designation in the Regional Center Program (“the Program”)<sup>1</sup> on October 13, 2022.

Specifically, the Form I-956F requests the following:

- Determination of EB-5 compliance for Initial I-956F, Application for Approval of an Investment in a Commercial Enterprise.

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<sup>1</sup> INA § 203(b)(5)(E) and its predecessor at Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. 102-395 (repealed by the EB-5 Reform and Integrity Act of 2022, Div. BB of the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103).

Effective as of the date of this notice, and as discussed further below, USCIS approves the Regional Center's request.

### **I. Determination of EB-5 Compliance for an Initial I-956F, Application for Approval of an Investment in a Commercial Enterprise**

Through this Form I-956F and the documents submitted, the Regional Center requests determination of EB-5 compliance for an Initial I-956F, Application for Approval of an Investment in a Commercial Enterprise. The Regional Center presented evidence asserting that EB5AN Boynton Beach Multifamily Fund XIX LP ("Fund XIX"), the new commercial enterprise (NCE), seeks to raise up to \$35.2 million in equity from up to 44 immigrant investors through the sale of Class A membership interests in a private offering. The NCE will use the proceeds of the offering to make a preferred equity investment in Boynton Beach Multifamily Funding LLC ("Funding Company").<sup>2</sup> The Funding Company was established by the sponsors<sup>3</sup> to accept the preferred equity investment from the NCE and use the proceeds either to repay outstanding principal advanced to the Funding Company to fund costs connected to the development of the subject project solely in contemplation of receipt of EB-5 proceeds from the NCE, or to contribute the capital to KMF Boynton Beach JV LLC, the job-creating entity (JCE).<sup>4</sup>

The JCE will use the EB-5 capital to partially fund and/or repay bridge financing connected to the development, construction, and operation of a multifamily active adult apartment community to be built on an 8.94-acre parcel of land located at 7401 Tropical World Way, Boynton Beach, FL 33437 ("Project"). The Project consists of 210 apartment units and certain amenities including a commercial kitchen, communal dining room, resort-style pool, fitness center, hair salon, and movie theater. The Project's total development cost is estimated at approximately \$90.5 million. The anticipated capital stack is comprised of \$35.2 million in EB-5 equity from the NCE, \$24 million in EB-5 debt from an affiliated NCE,<sup>5</sup> \$5.5 million in developer equity, and \$25.8 million in senior debt. The construction phase of the Project is expected to last at least 24 months starting in May 2024 and ending in May 2026.

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<sup>2</sup> USCIS notes that the Regional Center sponsors established an entity Urban Capital Bridge LLC ("UCB") to fund shortfall amounts of capital calls issued by the JCE. Pursuant to a Revolving Credit Agreement dated November 17, 2023, UCB has agreed to provide a revolving line of credit facility to the Funding Company in the maximum principal amount of \$35.2 million, which mirrors the amount of capital the NCE seeks to raise.

<sup>3</sup> USCIS notes that the sponsors, Samuel Siverman and Michael Schoenfeld, control the following entities involved directly or indirectly in providing capital to the JCE: EB5AN LLC, Regional Center, EB5AN Boynton Beach Multifamily Equity GP LLC (the NCE General Partner), NCE, UCB, Funding Company, and Fund XX (defined in footnote 5).

<sup>4</sup> The Business Plan dated November 2023 states that on April 30, 2024, KMF Boynton Beach JV LLC ("Venture") intends to acquire 100% of the membership interests in KMF Boynton Beach LLC f/k/a KT Boynton Tropical LLC ("Landowner"), which owns the parcel of land on which the project will be built. The Business Plan generally refers to Venture and Landowner collectively as the JCE. The JCE entities are affiliates of The Kolter Group LLC.

<sup>5</sup> The Regional Center is sponsoring a second NCE, Boynton Beach Multifamily Fund XX LP ("Fund XX"), which seeks to raise up to \$24 million from up to 30 immigrant investors in a parallel offering and then provide the capital as a mezzanine loan to the JCE. The Form I-956F receipt number associated with the Fund XX offering is INF2360005697.

After review of the documents submitted in connection with this request, USCIS has determined that the Regional Center has demonstrated that the Initial I-956F, Application for Approval of an Investment in a Commercial Enterprise complies with the EB-5 requirements.

The Regional Center asserts construction activity will last longer than 2 years. Therefore, USCIS approves the Form I-956F based on evidence submitted indicating that the investment from EB-5 petitioners will create sufficient direct jobs and indirect/induced jobs in accordance with INA § 203(b)(5)(E)(iv)(I)<sup>6</sup> to support 44 EB-5 investors.<sup>7</sup>

USCIS also approves the Regional Center's assertion that the project address noted above is located in a census tract that qualifies as a high unemployment area in accordance with INA § 203(b)(5)(D)(viii).

The high unemployment area designation is valid until two years from the filing date of this I-956F application.<sup>8</sup>

The approval of an I-956F shall be binding for purposes of the adjudication of subsequent Forms I-526E, Immigrant Petition by Regional Center Investor, filed by immigrants investing in the same offering described in this I-956F application, and of petitions by the same immigrants filed under INA § 216A unless—

- (I) the applicant engaged in fraud, misrepresentation, or criminal misuse;
- (II) such approval would threaten public safety or national security;
- (III) there has been a material change that affects eligibility;

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<sup>6</sup> INA § 203(b)(5)(E)(iv)(I) permits aliens seeking admission to satisfy only up to 90 percent of the job creation requirement with jobs that are estimated to be created indirectly through investment. An employee of the new commercial enterprise or job-creating entity may be considered to hold a job that has been directly created. If the jobs estimated to be created are created by construction activity lasting less than 2 years, Applicants may satisfy only up to 75 percent of the job creation requirement with jobs that are estimated to be created indirectly through investment. INA § 203(b)(5)(E)(iv)(II). If the number of direct jobs estimated to be created has been determined by an economically and statistically valid methodology, and such direct jobs are created by construction activity lasting less than 2 years, the number of such jobs that may be considered direct jobs for purposes of clause (iv) shall be calculated by multiplying the total number of such jobs estimated to be created by the fraction of the 2-year period that the construction activity lasts. INA § 203(b)(5)(E)(v)(II)(cc).

<sup>7</sup> USCIS notes that Economic Impact Analysis prepared by EB5 Economist Consulting LLC, dated November 17, 2023, demonstrates that construction and operation of the Project will create sufficient jobs to satisfy the minimum requirement of 740 jobs for the potential maximum of 74 investors across the two offerings connected to funding the Project (i.e., assuming fully subscribed offerings, 44 investors in Fund XIX and 30 investors in Fund XX). Additionally, USCIS notes the inclusion in the application of a Job Allocation and Sharing Agreement, dated November 17, 2023, which explains the manner in which jobs will be allocated to Fund XIX and Fund XX investors in the event of a job creation shortfall.

<sup>8</sup> An immigrant investor who has invested the required amount of capital in a targeted employment area designated as a high unemployment area during the period in which the area is designated will not be required to increase the amount of investment due to the expiration of the designation.

EB5AN Southeast Regional Center LLC

RC2200000128

INF2360005692

Page 4

(IV) the discovery of other evidence affecting program eligibility was not disclosed by the applicant during the adjudication process; or

(V) the previous adjudication involved a material mistake of law or fact.

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If the Regional Center has any questions concerning its designation under the Immigrant Investor Program, please contact the USCIS by email at:

[USCIS.ImmigrantInvestorProgram@uscis.dhs.gov](mailto:USCIS.ImmigrantInvestorProgram@uscis.dhs.gov)

Sincerely,

A handwritten signature in black ink that reads "Alissa Emmel". The signature is written in a cursive, flowing style.

Alissa L. Emmel

Chief Immigrant Investor Program