NJEDA

# MEMORANDUM

**TO:** Members of the Authority

**FROM:** Timothy Sullivan
Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** Agenda for Board Meeting of the Authority August 11, 2020

**Notice of Public Meeting**

**Roll Call**

**Approval of Previous Month's Minutes**

**CEO's Report to the Board**

**Covid-19 Response**

**Authority Matters**

**Incentives**

**Loans/Grants/Guarantees**

**Board Memoranda**

**Public Comment**

**Executive Session**

**Adjournment**

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

## July 14, 2020

## MINUTES OF THE MEETING

*The Meeting was held by teleconference call.*

Members of the Authority present via conference call: Chairman Kevin Quinn; Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Commissioner Marlene Caride of the Department of Banking and Insurance; State Treasurer Elizabeth Muoio of the Department of Treasury; Jane Rosenblatt representing Commissioner Catherine McCabe of the Department of Environmental Protection; Public Members: Charles Sarlo, Vice Chairman; Philip Alagia, Virginia Bauer, Fred Dumont, Massiel Medina Ferrara, Aisha Glover, Marcia Marley, Robert Shimko, First Alternate Public Member; and Rosemari Hicks, Second Alternate Public Member.

Also present via conference call: Timothy Sullivan, Chief Executive Officer of the Authority; Assistant Attorney General Gabriel Chacon; Stephanie Brown, Governor's Authorities Unit; and staff.

Mr. Quinn called the meeting to order at 10:00 am.

In accordance with the Open Public Meetings Act, Mr. Sullivan announced that notice of this meeting has been sent to the *Star Ledger* and the *Trenton Times* at least 48 hours prior to the meeting, and that a meeting notice has been duly posted on the Secretary of State's bulletin board.

## MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the June 9, 2020 meeting minutes. A motion was made to approve the minutes by Mr. Dumont, and seconded by Commissioner Caride, and was approved by the 13 voting members and one additional alternate member present.

The next item of business was the approval of the June 9, 2020 Executive Session meeting minutes. A motion was made to approve the minutes by Ms. Bauer, and seconded by Mr. Alagia, and was approved by the 13 voting members and one additional alternate member present.

**FOR INFORMATION ONLY:** The next item was the presentation of the Chairman's Report to the Board.

**FOR INFORMATION ONLY:** The next item was the presentation of the Chief Executive Officer's Monthly Report to the Board.

*Ms. Hicks left the call at this time.*

## COVID-19 RESPONSE:

**ITEM: Small Business Emergency Assistance Loan Program – Phase 2**
**REQUEST:** To approve the acceptance of $11 million from the USEDA Revolving Loan Fund, if the USEDA approves NJEDA's application, and delegation to the Chief Executive Officer to execute the grant agreement; to approve the creation of the Small Business Emergency Assistance Loan Program (Phase 2), a pilot program, funded by the USEDA award, and delegations to staff to administer the program.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

## AUTHORITY MATTERS:

**ITEM: Proposed Rule Amendments – Due Diligence/Third Party Analysis**
**REQUEST:** To approve proposed rule amendments to revise and extend, to all programs, the existing provision that an applicant shall reimburse the NJEDA for the actual direct costs of due diligence, and to authorize staff to submit the proposed rule amendments for promulgation in the New Jersey Register, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

## OFFICE OF ECONOMIC TRANSFORMATION:

**ITEM: NJ Accelerate Program Update**
**REQUEST:** To approve clarifications and new conditions to the NJ Accelerate Program to enhance program efficiency and to delegate authority to staff to waive the physical meeting requirement.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

**ITEM: NJ Ignite Program Update Clarification**
**REQUEST:** To approve program eligibility revisions and provide rent support measures for collaborative workspaces accepted into the program.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

*Mr. Alagia left the call at this time.*

**ITEM: Newark Venture Partners II, L.P.**
**REQUEST:** To approve a limited partnership investment in Newark Venture Partners II, L.P. for an amount equal to 5% of the total committed fund size up to a maximum of $5 million of funding to come from the Economic Recovery Fund.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 11**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

*Ms. Glover recused herself from voting because many of the corporate investors are also Members of the Board, that she serves on.*

## INCENTIVES

## NJ Film and Digital Media Tax Credit Program

**ITEM: FILM - C7 Production Inc.** PROD.#00187913
**MAX AMOUNT OF TAX CREDITS:** $5,371,983
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Mr. Sarlo **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

## Grow New Jersey Assistance Program - Modification

**ITEM: Modern Meadow, Inc.**
**REQUEST**: To approve modifications to the applicant's GROW approval, including a decrease in size of the Qualified Business Facility, decrease in anticipated capital investment, decrease in new jobs, and a reduced award.
**MOTION TO APPROVE:** State Treasurer Muoio **SECOND:** Commissioner Caride **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

## BOND PROJECTS

**ITEM: NJEDA NJ Transit Transportation Project Revenue Bonds, 2020 Series (Portal North Bridge Project)**
**REQUEST:** To approve the adoption of the Second Supplemental Resolution authorizing the issuance of the 2020 Series Bonds in the total aggregate principal amount not to exceed $600 million and matters associated with the issuance and sale of the aforementioned bonds; approval of the reduction of the bond closing fee; and approval of related actions and delegations to designated staff in order to issue the 2020 Series Bonds; subject to final review and approval by Bond Counsel and the Office of the Attorney General.
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Mr. Sarlo **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 8**

## LOANS/GRANT/GUARANTEES:

**ITEM: Microbusiness Loan Program – Program Modifications**
**REQUEST:** To approve program clarifications, including the utilization of a simplified debarment legal questionnaire and legal review process for program applicants, and the limit of one application per employer identification number.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 9**

## CDFI LOAN TO LENDER INITIATIVE:

**ITEM: The Union County Economic Development Corporation**
**REQUEST:** To approve a $1.5 million loan to UCEDC under the Loan to Lender Program though the NJEDA's CDFI Initiative; and the addition of UCEDC as a Premier Lender.
**MOTION TO APPROVE:** Ms. Ferrara **SECOND:** Ms. Marley **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 10**

**ITEM: Cooperative Business Assistance Corporation**
**REQUEST:** To approve a $1.5 million loan to CBAC under the Loan to Lender Program though the NJEDA's CDFI Initiative; and the addition of CBAC as a Premier Lender.

**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Commissioner Angelo **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 11**

**ITEM: Community Loan Fund of New Jersey**
**REQUEST**: To approve a $1.5 million loan to CLF under the Loan to Lender Program though the NJEDA's CDFI Initiative; and the addition of CLF as a Premier Lender.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Marley **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 12**

## REAL ESTATE:

**ITEM: Grant of Easement to Township of North Brunswick at the New Jersey Bioscience Center**
**REQUEST:** To approve entering into a Grant of Easement Agreement with the Township of North Brunswick with regard to the construction of a new water line at the New Jersey Bioscience Center on Authority-owned property on Block 194, Lot 28.01.
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Ms. Bauer **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 13**

**ITEM: FMERA Purchase and Sale & Redevelopment Agreement with Fort Monmouth Business Center, LLC for the Allison Hall Parcel in Oceanport**
**REQUEST:** To consent to FMERA entering into the redevelopment agreement that is contained within FMERA's Purchase and Sale & Redevelopment Agreement with Fort Monmouth Business Center for the sale and redevelopment of the Allison Hall Parcel in the Fort's Oceanport Reuse Area.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Mr. Dumont **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 14**

## BOARD MEMORANDA:

**FYI ONLY:** Technology & Life Sciences - Delegated Authority Approvals, 2nd Quarter, 2020

**FYI ONLY:** Credit Underwriting Delegated Authority Approvals, June 2020

**FYI ONLY:** Real Estate Division Delelated Authority for Leases and Right of Entry (ROE)/Licenses, 2nd Quarter, 2020

## PUBLIC COMMENT

There was no public comment.

## EXECUTIVE SESSION

The next item was to adjourn the public session of the meeting and enter into Executive Session to discuss a for a real estate financial transaction where disclosure could adversely impact the public interest.
**MOTION TO APPROVE:** Mr. Quinn **SECOND:** Mr. Dumont **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 15**

The Board returned to Public Session.

## REAL ESTATE:

**ITEM: First Lease Amendment Agreement with Apicore, LLC, New Jersey Bioscience Center**
**REQUEST:** To approve entering into the First Lease Amendment Agreement to the Lease with Apicore, LLC.
**MOTION TO APPROVE:** Mr. Quinn **SECOND:** Ms. Bauer **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 16**

There being no further business, on a motion by Mr. Quinn, and seconded by Ms. Bauer, the meeting was adjourned at 11:33am.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.

Danielle Esser

Danielle Esser, Director
Governance & Strategic Initiatives

**MEMORANDUM**

**To:** Members of the Authority

**From:** Tim Sullivan

**Date:** August 11, 2020

**Re:** August 2020 Board Meeting

While COVID-19 is first and foremost a health crisis, the pandemic has also had severe economic impacts. The New Jersey Economic Development Authority (NJEDA) has spent the past several months working to blunt the virus's economic impact and to ensure that businesses throughout our state have the access to the capital and support they need to weather this turbulent time.

In late July, we announced that we had reached a major milestone in our recovery effort: more than 10,000 COVID-19-impacted businesses supported since March 2020. Since then, we have continued to serve businesses throughout the state and now the NJEDA has provided more than $48.8 million in support to more than 11,800 businesses through grants, low-cost loans, and partnerships with investors and Community Development Financial Institutions (CDFIs).

Importantly, the NJEDA's COVID-19 aid has gone primarily to the smallest and most at-risk businesses. The average grant awarded through our Small Business Emergency Assistance Grant Program has been roughly $3,000, which indicates the average approved business has only three full-time equivalent employees. Of the 8,266 businesses that have been approved for over $25.7 million to date through Phase 2 of the program, 20 percent of grant funding has gone to businesses that identified as minority-owned, 23 percent as women-owned, and two percent as veteran-owned.

We continue to process applications and are excited to report that we are set to receive an additional tranche of $15.3 million in Coronavirus Aid, Relief, and Economic Security (CARES) Act funding. Governor Phil Murphy announced the availability of the funding in late July, and we are seeking the Board's approval today to use the funding to fulfill Small Business Emergency Assistance Grant Program grant applications for businesses from 12 New Jersey counties that did not receive CARES Act funding: Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren.

While the Grant Program is our largest COVID-19 relief program, our other efforts continue to provide crucial support for businesses as well. To date, we have approved 90 small business loans worth a combined total of $6.1 million through the Small Business Emergency Assistance Loan Program. Of the approved loan funding, 30 percent has gone to businesses that self-identified as woman-owned, 13 percent as minority-owned, and five percent as veteran-owned.

Less than five months after creating the New Jersey Entrepreneur Support Program (NJESP) to ensure investment dollars keep flowing to innovation-focused companies during the pandemic, we

NJEDA

have already guaranteed 35 investments for 13 companies through the program. These investments support more than $2.9 million in investment.

We also launched an Ecommerce Technical Assistance Program in July to help New Jersey restaurants, retail stores, and personal care businesses continue to operate safely during the COVID-19 pandemic. We have contracted with three marketing firms – two of which are woman-owned – to work with businesses that normally rely on foot traffic and in-person transactions to identify and implement the website and ecommerce capabilities they need to stay in business while complying with current health guidelines and changing customer preferences.

To ensure historically underserved communities have access to resources to help them succeed, we have asked the three marketing agencies to make a good faith effort to ensure that at least one-third of the clients they serve are located within approved Opportunity Zone-eligible census tracts and to focus on serving small, women-, minority-, veteran- and disabled veteran-owned businesses.

Today we will begin accepting applications for the expanded Micro Business Loan Program from New Jersey small businesses, many of which are facing business interruption as a result of COVID-19. The $10 million expansion will provide financing up to $50,000 for micro businesses and nonprofits with ten or fewer full-time employees and no greater than $1.5 million in annual revenues. To help businesses get back on their feet, ten percent of an approved loan amount may be forgiven if the recipient is in operation 12 months after loan closing.

The COVID-19 pandemic and associated economic challenges are far from over. As we move into the new normal and look toward a post-COVID economy, we remain committed to finding ways to support businesses most in need and fostering a fairer economy that provides equitable access to opportunities for all businesses and workers.

# COVID-19 RESPONSE PROGRAM

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan, Chief Executive Officer

**DATE:** August 11, 2020

**RE:** **New Jersey Small and Micro Business PPE Access Program – Phase One**

## SUMMARY

The Members are asked to approve:

1. The creation of the New Jersey Small and Micro Business PPE Access Program – Phase One, the $4.0 million phase one of a pilot program to ensure that small, medium, and micro sized businesses and non-profits[1] have access to the fairly priced personal protective equipment (PPE) necessary to facilitate safe working conditions;

2. Entering into a Memorandum of Understanding between the New Jersey Department of the Treasury and the Authority to utilize CARES Act funding for this phase (Attachment 1); and

3. Granting delegated authority to:

    a. The CEO, Senior Vice President ("SVP") – Economic Transformation, or SVP, Strategic Initiatives and Operations to approve NJ PPE Access Program "Designated Vendors" based on meeting the NJ PPE Access Program Participant Eligibility Criteria and agreement to abide by the program's Performance Requirements, as outlined herein;

    b. The CEO, SVP – Economic Transformation, or SVP, Strategic Initiatives and Operations to, upon recommendation of the reviewing officer, decline Program participation based solely on non-discretionary reasons;

    c. The CEO, SVP – Economic Transformation, or SVP, Strategic Initiatives and Operations to approve a hearing officer's finding regarding a final administrative decision on appeals based solely on non-discretionary reasons; and

    d. The CEO to decide whether to reduce the Program's revenue requirement and eliminate NJ commercial facility Eligibility Requirements if less than three Designated Vendors have been approved three weeks after the opening of the application period.

The New Jersey Small Business PPE Access Program is intended to be a two-part pilot program:

---

[1] To simplify the language in this document, the word "business" refers to a wide variety of organizations, including for-profit companies, not-for-profit organizations and social service providers.

- Phase One - this initial $4.0 million phase, focused on program website launch, Designated Vendor selection, and subsidies for purchases of PPE made or assembled in New Jersey *or* purchased from small wholesalers in Opportunity Zone Eligible Census tracts, for which the above approvals are being requested (described in detail below); and
- Phase Two – a future $11.0 million grant second phase focused on PPE purchase subsidies for small and micro business (summarized below); Staff anticipate bringing Phase Two to the Board for approval at a future date pending success in Phase One of the program.

## BACKGROUND ON SMALL AND MICRO BUSINESS PPE NEEDS

The NJ Small and Micro Business PPE Access Program is being developed in response to consistent concerns emerging from the Governor's Restart and Recovery Commission, the nine sector-based committees of the Governor's Restart and Recovery Advisory Council and input from numerous other stakeholders. Both the Commission and the Advisory Council highlighted the need for readily available, fairly priced PPE to accelerate economic recovery. Of particular concern was the need to also ensure equitable distribution and pricing of PPE.

During March and April, the State (and the country) saw an unprecedented spike in the demand for PPE, largely driven by the healthcare sector. With much of the economy shut down, market supply for PPE was scarce, but over time began to meet the needs of health care and emergency service workers.

However, as more parts of the economy have reopened, including smaller organizations, the required demand for PPE needed to protect employees and customers has surged and there is concern that shortages may return.

More than one third of all New Jersey workers are employed by organizations of 100 employees or fewer. Many of these companies do not have the reach or the resources to obtain goods outside of their normal retail buying channels, particularly in times of significant supply/demand imbalances. PPE falls squarely into the category of a good that was not essential to many of these organizations before the COVID-19 outbreak but is critical today.

Under normal conditions changes in a business marketplace are met with changes on the part of the supply chain; a new demand will stimulate new sources of supply. We expect that over time normalcy will return to the PPE marketplace. But many businesses, employees, and customers cannot wait for that slow natural rebalancing to occur. They compete each day against much larger, more powerful market participants.

Small businesses or organizations in historically underserved communities are particularly vulnerable to being crowded out of essential goods when tight market conditions occur. The State's commitment to building a stronger and fairer New Jersey makes attention to the needs of this community and in this setting all the more pressing. For the purposes of the Program "historically underserved communities" are defined as the 715 census tract that have been deemed as Opportunity Zone Eligible ("OZE").

Leaving these organizations to fend for themselves exposes them to inconsistent sources of supply as well as to potential price gouging and quality issues. All of this poses a risk to the State's recovery and its economy, in particular employment by New Jersey small businesses.

Members of the Commission and Advisory Council pointed out that the inability to meet this demand for PPE could put workers, customers and other stakeholders at risk and could potentially hinder economic recovery.

## PPE ACCESS PROGRAM REQUEST FOR INFORMATION

Based on these concerns, in mid-June the NJEDA launched a Request for Information (RFI) to gather input and suggestions that could help to shape a possible program. The RFI sought guidance on possible structures for a private market solution, expected timing, product pricing and quality safeguards, steps to ensure equity, and the kinds of support from the State, interested philanthropies or other entities that would contribute to the success of a potential program.

The RFI generated twenty responses plus two expressions of interest that came in following the June 26 deadline. They fell into the following categories:

- Large retail and/or logistics firms (e.g., Wakefern, Amazon, Staples, Office Depot, Henry Schein);
- Not-for-profit organizations (e.g., TechUnited NJ and the NJ PPE Stockpile Foundation);
- Public sector organization (e.g., Educational Services Commission of NJ); and
- Assorted other respondents including technology providers, a project management consultant and a NJ-based manufacturer.

All respondents validated the overall problem statement and all supported State intervention to hasten market response to it. No respondent suggested direct State ownership or operation of the purchasing agent.

Most or all respondents included the following preferences or observations:

- Deploying an end-to-end online purchasing platform as opposed to a marketplace that merely connects buyers and sellers;
- Addressing the PPE needs of both medical and non-medical organizations;
- Favoring a smaller but curated range of PPE and other safeguarding equipment to simplify the buying experience for less sophisticated users;
- Potential for creating a tiered pricing scheme whereby smaller member/users or those from targeted/disadvantaged communities benefitted from a greater pricing discount;
- Protecting small organizations from potential future price spikes would require stockpiling, which in turn would require some amount of financial de-risking on the part of the State; and
- Supporting the program with publicity and messaging to maximize the use of the program, which will be particularly important for reaching underserved communities

Equipped with this information, NJEDA proposes to take proactive steps to accelerate the market's response to the new demand for PPE from smaller organizations while ensuring availability for small organizations in historically underserved communities.

In addition, since the beginning of the pandemic many businesses with manufacturing in New Jersey have invested the time and capital to pivot to making PPE. By providing an offsetting subsidy to Program participants to purchase from these manufacturers, the State can increase its local PPE supply chain resiliency while also ensuring additional manufacturing job opportunities in New Jersey.

## PROGRAM PURPOSE

The NJ Small and Micro Business PPE Access Program has been designed to have a rapid and widespread impact on the availability of PPE in New Jersey, especially ahead of potential school re-openings and the Fall flu season. Specifically, the program will:

1. Facilitate the State's economic recovery by ensuring that small and micro businesses and non-profit organizations – the customers – can access affordably priced PPE and other safeguarding equipment to protect their employees as they return to work and continue to operate in a COVID-19 environment;

2. Ensure small and micro businesses and non-profit organizations have the information they need to select the appropriate PPE needed for their context;

3. Ensure that businesses in historically underserved communities are particularly able to access affordable PPE; and

4. Support the State's small businesses and manufacturing sector by providing an offsetting subsidy for purchases of PPE that has been (i) manufactured or assembled at a manufacturing facility in New Jersey or (ii) purchased from a small wholesaler located in a historically underserved community.

## PROGRAM STRUCTURE

The program has been structured to ensure that smaller organizations of every kind can operate with higher confidence and lower stress. Specifically, it will enable customers to:

- Understand what PPE they need to safely operate;
- Be aware of the variety of reliable sources from which to obtain that PPE at a low price;
- Choose from a limited, curated array of product choices for any given product type;
- Benefit from a price discount of at least 10%; and
- Easily arrange the purchase and delivery of the PPE they need.

As envisioned, the Program will have two phases, the first phase aimed at ensuring access to PPE for all New Jersey business entities and providing subsidies for the purchase of PPE that has been (i) manufactured or assembled in NJ or (ii) sourced from a small wholesaler in a historically underserved community; and (assuming Phase One is successful) a future second phase aimed at subsidizing the purchase of PPE by small and micro businesses that meet certain criteria (e.g., under a certain number of full-time equivalent employees or being located in an Opportunity Zone Eligible (OZE) census tract).

Phase One of the program has four core elements:

1. The development of an online Program landing page on the State's https://covid19.nj.gov website (the "Program Website"), which will include State-developed information and/or a tool to help small businesses understand what types of PPE they should purchase for their workers and in what quantities; and
2. The designation of NJ PPE Access Program "Designated Vendors" that will be listed on the Program's website. They will have been determined to be reliable outlets for the purchase of PPE and must meet certain minimum requirements listed below. Each Designated Vendor will agree to host a dedicated "Vendor's NJ PPE Access Site" offering minimum discounts to all users that access each Designated Vendor's site via links on the State's Program Website;
3. The use of subsidies channeled through the Designated Vendors to support purchases of PPE that has been (i) manufactured or assembled in New Jersey or (ii) purchased from a small wholesaler located in a historically underserved community; and
4. The promotion by NJEDA of the Program and the Program Website to ensure that all NJ small and micro businesses become aware of the PPE access options available to them; NJEDA will make special efforts to ensure businesses in historically underserved communities are aware of the program.

## 1. Online Program Website and PPE Needs Assessment Tool

NJEDA will run a marketing initiative targeted at small and micro businesses to direct them to a dedicated page on the State's https://covid.nj.gov Program Website. On that site they will find information about the Program, how to take advantage of it, and the process by which companies have been approved to serve as Designated Vendors.

In addition, the site will contain information and/or a planning tool that will help small businesses understand what types of PPE they should purchase for their workers and in what quantities.

The site and the tool will be created by NJEDA in partnership with the NJ Office of Innovation. The NJEDA will utilize guidance obtained from the NJ Department of Health (NJ DOH) for this information and/or planning tool.

One option for the planning tool would be for users to input certain information about the type, size and attributes of their small business and be presented with suggestions for the types and quantities of PPE that the user should consider purchasing. (Any and all recommendations will stipulate that they are based on standards obtained from the NJ DOH and will be accompanied by disclaimer language.)

The Program Website will also present a list of the Designated Vendors. Each Designated Vendors' listing will include a link to a dedicated page on their online retail presence that is identified as the "NJ Small Business PPE Access Page." The list of Designated Vendors will either be presented alphabetically or in order based on objective criteria related to the Program, such as the level of discounts offered. The Program Website will be updated as each new Designated Vendor enters the Program. Other than this consolidated list of sites and links, NJEDA will not publicize or provide the direct links to any individual Designated Vendor site; all promotional materials will direct interested users to Program's covid.nj.gov website. However, subject to review and approval by staff of any reference made to the State or NJEDA, Designated Vendors will be permitted to publicize their own sites and URLs independently for the life of the Program.

## 2. Approval of Designated Vendors

Under the Program, any entity that wishes to participate and that (i) meets the prescribed eligibility criteria and (ii) agrees to the performance requirements of the Program may become a NJ PPE Access Designated Vendor.

Staff will establish an online or email-based application system for entities to apply to participate in the program. Staff will review applications on a first come, first served basis until ninety (90) days subsequent to the opening of the application period. Applicants must meet all of the Program criteria in order to participate. Because approval as a Designated Vendor is not competitive, staff may work directly with applicants that apply, but do not initially meet the Program criteria, to update their application with additional information to satisfy the program criteria. Staff may publish a Frequently Asked Questions with additional information to help applicants to submit their application. Full program criteria and performance requirements are listed below.

Once approved, each NJ PPE Access Participant must sign a standard NJ PPE Access Participation and Subsidy Agreement.

After executing the Participation and Subsidy Agreement, the Designated Vendor will be required to present to NJEDA an internal working/demonstration version of their NJ Small Business PPE Access site within two weeks. Subject to staff review and approval of the website design, each Designated Vendor will be permitted to use NJEDA and "NJ: The Road Back" branding to assure users that they are on a designated NJ Small Business PPE Access Site. Staff will review the demonstration site to ensure that the site meets the program requirements and will promptly inform the Designated Vendor of any unmet criteria or performance standards. Once Staff has approved the demonstration version of the site, Staff will work with the Office of Innovation to list the Designated Vendor on the Program's website.

Note: while it is important that each Designated Vendor's NJ Small Business PPE Access Site presents an intentionally limited array of PPE in a simple and readily accessible format, Participants will be able to allow users to access and patronize each Participant's non-program website and catalog. However, the discounts and subsidies available under the program will not extend to any other non-program merchandise.

## 3. NJ PPE Access Designated Vendor Eligibility Criteria

To be designated as a NJ PPE Access Designated Vendor, applicants must meet the following minimum eligibility criteria (as of August 11, 2020):

1. Been engaged in one of the following:
    a. (i) direct[2] consumer-facing or small business online distribution or (ii) wholesale sourcing of COVID-19 PPE, each for not less than two years, *or*

[2] Note: selling through an unrelated company's online marketplace does not meet this criterion

   b. if the applicant company is under two years old, have a Senior Executive (CEO, COO, or other similar level executive) that has such experience on behalf of other companies for not less than four years;

2. Have revenues for the most recently completed fiscal year of not less than $5 million;
3. Be registered to do business in NJ and have at least one commercial facility in the State, such as an office, a retail store, a warehouse, a manufacturing facility, etc.; and
4. Be able operationally, technologically and financially to meet the performance requirements laid out in Section 4, below.

In addition, all applicants must pass NJEDA's standard debarment and legal review process, provide a tax clearance certificate, and be in good standing with the New Jersey Department of Labor and Workforce Development.

If in an instance where there are less than three Designated Vendors in the program after three weeks of the public launch of the Program Website, Staff requests delegated authority for the CEO to decide whether to reduce the company revenue threshold by up to 50% (no lower than $2.5 million) and remove the requirement for a NJ-based commercial facility.

## 4. NJ PPE Access Program Vendor Performance Requirements

In addition to meeting minimum eligibility criteria, all Designated Vendors must agree to the following performance standards:

1. Designate a NJ PPE Access Program project manager with experience in running projects of similar scope and scale and having the authority to report on the performance of and coordinate requested changes to the online platform;
2. Create and support a dedicated website that:
   a. Has a unique URL that clearly identifies the site as part of the NJ PPE Access Program;
   b. Contains co-branding and text (to be provided by NJEDA Staff) that identifies the site as participating in the NJ PPE Access Program;
   c. Offers the site in English and Spanish; and
   d. Is designed so that visitors can learn about, purchase, pay for and have delivered a selection of PPE via a user-friendly and intuitive online platform (e.g., that utilizes pictures for products, has clear and transparent pricing, is mobile-friendly, provides clear totals in check-out process);
3. Offer on the Vendor's NJ PPE Access Site at least seven of the nine Required product categories listed below (five out of the nine for Designated Vendors having under $10 million in revenues):

   **Required:**

   - Cloth face masks
   - 3-ply surgical face mask
   - N95 and K95 masks
   - Face shields and/or goggles

- Gloves
- Sanitizing gels
- Isolation gowns
- Screening devices, e.g., touchless thermometers
- Disinfecting supplies

**Encouraged:**

- Workplace safeguarding equipment, e.g., plexiglass panels and dividers
- Signage, marking devices and other social distancing tools;

4. Ensure that all PPE offered on the site is authentic (e.g., of the quality it proports to be) and meets the performance standards or minimum specifications proscribed by applicable federal and New Jersey health authorities, e.g., FDA, CDC, NJ DOH;
5. Provide NJEDA with a description/plan of how they intend to limit choices for any given product type to make it easier for a small business customer to quickly make choices; Designated Vendors will be expected to commit to executing any plans in good faith;
6. Provide a discount of not less than 10% (compared to the online retailer's main retail channel) for the PPE to all customers, such discount to be applied in the checkout process and identified as the "NJ Small Business PPE Access Program Discount;"
7. Ensure that customers with limited or no access to credit can utilize the site, e.g., by offering payments by debit card or gift card as an option;
8. Agree to coordinate with the NJEDA to develop a technical approach to offer certain businesses additional subsidies on their PPE purchases to be funded out of NJEDA grant funding (see below for additional details) in a potential second phase of the Program;
9. Present to NJEDA an internal working/demonstration version of the proposed solution within two weeks of the execution of the NJ PPE Access Participation and Subsidy Agreement and launch a fully operational site within two weeks thereafter;
10. Ensure that users opting to purchase merchandise from a Designated Vendor's non-Program website or catalog are made aware that they are leaving the Vendor's NJ PPE Access Site and that the benefits of the Program are not available for the purchase of such non-Program merchandise;
11. Provide NJEDA with a description/plan of how they intend to engage with NJ-based small businesses in historically underserved communities as part of this program, including but not limited to: potentially sourcing from such businesses and/or conducting any specific promotional outreach regarding availability of this program; Designated Vendors will be expected to commit to executing any plans in good faith;
12. Provide NJEDA with a description/plan for identifying and purchasing PPE from companies that manufacture or assemble in final form (repackaging excluded) PPE in New Jersey; Designated Vendors will be expected to commit to executing any plans in good faith;
13. Provide NJEDA with a weekly report on key performance metrics for their NJ PPE Access Site, including but not limited to:
    a. Total sales by volume and transaction numbers

    b. Total sales and outreach efforts to historically underserved communities
    c. Total sales to businesses with fewer than 10 and 25 full-time equivalent ("FTE") employees (may be implemented in the potential Phase 2 of the program)
    d. Comparable market pricing or product pricing indices
    e. Total amount of discounts provided; and
    f. Total amount of subsidies using NJEDA advanced grant funding provided (part of the potential Phase 2 of the program)
14. Provide a complete accounting of the site's activity no later than 90 days following the termination of the NJ PPE Access Participant Subsidy and Agreement;
15. Maintain and support the Vendor's NJ PPE Access Site for a period of at least 12 months (or such shorter time as required to support small businesses through the COVID-19 Public Health Emergency); and
16. Remove the site and all NJEDA and NJ "The Road Back" branding at earlier of the end of the Program or the termination of the Designated Vendor's participation therein.

The NJ PPE Access Participation and Subsidy Agreement will include terms whereby NJEDA may remove a participant from the State's https://covid.nj.gov website and take other actions, including possibly recapturing some or all of subsidies provided, should a Designated Vendor fail to comply with these requirements after notice and a reasonable cure period. In addition, Staff will include information in the agreement about the mechanism to shorten or extend the time period that the Designated Vendor is expected to maintain the website.

## 5. Grant Funds and Program Budget

### Subsidies for New Jersey sourced or manufactured/assembled PPE – $3.5 million

The New Jersey Small and Micro Business PPE Access Program will include grant funding to subsidize Designated Vendors' purchase of PPE that has been either (i) manufactured or assembled in New Jersey or (ii) purchased from a wholesaler with less than 25 FTE employees located in a historically underserved community (i.e., the 715 Opportunity Zone Eligible census tracts). Designated Vendors will be able to tap into these funds to receive a subsidy of up to 20% of the purchase price of PPE that meets these criteria.

While global economic forces have traditionally put New Jersey companies at a competitive disadvantage for higher volume, lower margin goods, many of them have pivoted in response to the pandemic to make PPE and are doing so near global benchmark prices. By directing subsidies to help cover the typical extra costs (based on a price differential of 20% or less between NJ and the wider market), the State can support the growth of the local PPE manufacturing, thereby enhancing local sustainability. For small wholesalers in historically underserved communities, the 20% subsidy helps to encourage Designated Vendors to source from new business partners that may not have been previously included in their supply chain network. By encouraging sourcing from NJ-based wholesalers, a greater percentage of the funds will stay in New Jersey and support local job creation and business growth. Over time, these subsidies can help provide NJ-based manufacturers and small wholesalers with the scale they need to compete more broadly in the PPE marketplace.

As the objective of this grant pool is to subsidize local spending, the full $3.5 million will be made available to Designated Vendors on a first-come, first-served basis based on date and time of firm purchase orders submitted to NJEDA, such that those vendors that who are more aggressive in buying locally will have more subsidy funds available.

Use of this portion of the grant funds will be contingent upon prior approval from NJEDA when the proposed PPE purchase (i) is 30% or more above prevailing wholesale market prices or (ii) will require use of $250,000 or more of grant proceeds. NJEDA will review such request to ensure the proposed purchase is reasonable and, if approved, will reserve funds for such purpose for a limited amount of time. As noted below, the Designated Vendor will be required to provide evidence of the prevailing market prices with each purchase for which the Designated Vendor will claim grant funds.

For the manufacturing-based subsidy, "assembly" means material assembly (more than mere repackaging) within the State of New Jersey. The manufacturing company that is selling the PPE does not have to be headquartered in New Jersey, but they must have a physical manufacturing and or assembly facility in the State. NJEDA may request additional documentation from the Designated Vendor to confirm that the PPE that is being subsidized has been manufactured or assembled in New Jersey.

For the wholesale-based subsidy, the wholesalers must have less than 25 FTE as reported on their most recent tax filing. The small wholesale company that is selling the PPE does not have to be headquartered in New Jersey, but they must have a physical location that is fully or partially located with an Opportunity Zone Eligible census tract. NJEDA may request additional documentation from the Designated Vendor to confirm that the wholesaler meets these criteria.

Grant disbursements will be made as reimbursement up to 30 days after receipt of accounting documenting each purchase made from a qualifying manufacturer or wholesaler and the prevailing market prices. To comply with the expenditure requirements of the CARES Act and the MOU with NJ Treasury (described below), the Designated Vendor must provide documentation that the PPE purchased is reasonably anticipated, at the time of PPE purchase, to be bought and used by purchasers before December 30, 2020 (or such later date as set forth by law for the use of CARES Act funds) and must request NJEDA disbursement with enough time for NJEDA to disburse no later than December 1 2020.

### Phase One Program Marketing and Technology Development – $0.3 million

The Program will require funding of approximately $300,000 to cover the cost of NJEDA technology development and to support NJEDA marketing and promotional efforts. Special efforts will be made to ensure that the availability and benefits of the Program reach the State's micro businesses and entities located within OZE census tracts. In addition, where possible, and within the bounds of applicable law, NJEDA intends to utilize up to half of the marketing expenditure with diverse certified firms and/or firms that are located in, and have knowledge and experience marketing in, historically underserved communities.

### Phase One Administration – $0.2 million

In addition, the Program will require administrative funding of approximately $200,000 to cover the cost of evaluating Designated Vendor applications, ensuring Designated Vendors' compliance with required performance requirements and reviewing and approving the reservation and payment of grant funds as described above.

## 6. <u>Potential Phase 2 of the Program - PPE Purchase Subsidies $11 million (anticipated)</u>

If Phase One is successful, future grant funds anticipated to be approximately $11 million may be made available, subject to an additional amendment of the MOU with NJ Treasury, to all NJ PPE Access Designated Vendors as a subsidy to Eligible Subsidy Recipients (ESRs) when purchasing PPE. Subsidies could be, for example, up to 25% of the cost of a PPE purchase cost through a Designated Vendor (on top of the 10% discount offered to participate in the Program).

Examples of ESRs could include:

- Organizations having 10 or fewer FTE employees as reported on their most recent NJ Department of Labor WR-30 or NJ Schedule-C (includes non-profits, sole proprietorships, and home-based businesses);
- Organizations having 25 or fewer FTE employees as reported on their most recent NJ Department of Labor WR-30 or NJ Schedule-C (includes non-profits, sole proprietorships, and home-based businesses) *and* whose registered business address is fully or partially in one of the State's 715 Opportunity Zone Eligible census tracts.

Staff will work to implement Phase One of the Program and determine based on its experience with Designated Vendors the most effective way to execute any future subsidy under Phase Two. Staff will return to the Board with a progress update in September and provide a recommendation for whether, and if so, how and when, to move forward with the second phase of the Program.

## PROPOSED TIMELINE

Staff plan to execute the Program against the following timeline:

| | |
|---|---|
| Aug. 11 | Board approval |
| ASAP | Announcement of Program launch and publication of the Notice of Availability of Funding |
| ASAP | Opening of Designated Vendor application period |
| Mid-to-Late Aug. | Review of applicants (as applications are submitted) followed by execution of Participation and Subsidy Agreement for approved entities |
| Late Aug. | Begin review of Designated Vendor internal working/demonstration sites |
| Early Sept. | Launch of the State Program Website with links to Designated Vendor sites |
| Mid Sept. | Return to the Board with a recommendation for Phase Two of the Program |
| Mid Nov. | Closing of the Designated Vendor application period |
| Dec. 01 | Disbursement of all CARES Act grant funds |

## MEMORANDUM OF UNDERSTANDING

The funds proposed for the Phase 1 will be transferred by the NJ Department of the Treasury to NJEDA through the attached Memorandum of Understanding ("MOU") from the State's Coronavirus Relief Fund moneys. The MOU requires NJEDA to follow the federal requirements that accompany the funds.

NJEDA will be responsible for any audit and demand for repayment by the U.S. Department of the Treasury related to the use of these funds in this Program. Pursuant to the MOU, the NJEDA must disburse funds by December 1, 2020; any undisbursed funds on that date must be returned to NJ Treasury.

## REQUEST OF THE MEMBERS

The Members are asked to approve:

1. The creation of the New Jersey Small and Micro Business PPE Access Program – Phase One, the $4.0 million phase one of a pilot program to ensure that small, medium, and micro sized businesses and non-profits have access to the fairly priced personal protective equipment (PPE) necessary to facilitate safe working conditions;

2. Entering into a Memorandum of Understanding between the New Jersey Department of the Treasury and the Authority to utilize CARES Act funding for this phase (Attachment 1); and

3. Granting delegated authority to:

    a. The CEO, Senior Vice President (“SVP”) – Economic Transformation, or SVP, Strategic Initiatives and Operations to approve NJ PPE Access Program “Designated Vendors” based on meeting the NJ PPE Access Program Participant Eligibility Criteria and agreement to abide by the program’s Performance Requirements, as outlined herein;

    b. The CEO, SVP – Economic Transformation, or SVP, Strategic Initiatives and Operations to, upon recommendation of the reviewing officer, decline Program participation based solely on non-discretionary reasons;

    c. The CEO, SVP – Economic Transformation, or SVP, Strategic Initiatives and Operations to approve a hearing officer’s finding regarding a final administrative decision on appeals based solely on non-discretionary reasons; and

    d. The CEO to decide whether to reduce the Program’s revenue requirement and eliminate NJ commercial facility Eligibility Requirements if less than three Designated Vendors have been approved three weeks after the opening of the application period.

Tim Sullivan, Chief Executive Officer

Prepared by: Doug Yorke, Eric Solomon, and Brian Sabina

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE TREASURER OF THE STATE OF NEW JERSEY**

**AND**

**THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**
**PPE EQUIPMENT**

This **MEMORANDUM OF UNDERSTANDING** ("MOU") made by and between the TREASURER ("Treasurer") of the New Jersey Department of the Treasury ("Treasury) and the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA"), an instrumentality of the State of New Jersey (the "State"). The NJEDA and the Treasurer may sometimes hereinafter be collectively referred to as the "Parties" and individually as a "Party."

## PREAMBLES

**WHEREAS**, due to the increase in the number of novel coronavirus ("COVID-19") cases in New Jersey, the surrounding region and across the globe, the Governor of the State of New Jersey issued Executive Order No. 103 declaring a public health emergency and a state of emergency in the State of New Jersey (the "State") on March 9, 2020, allowing for certain executive actions to respond to the increasing amount of COVID-19 cases in the State; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic (the "COVID-19 Pandemic") and on March 13, 2020, the President of the United States declared a national state of emergency; and

**WHEREAS**, beginning on March 16, 2020 and to the present time, the Governor has issued multiple Executive Orders to deal with the COVID-19 Pandemic, including the restriction of business activities, mandating the wearing of personal protective equipment ("PPE") such as face masks and coverings when social distancing is not possible, and creating the Restart and Recovery Council and subsequently the Restart and Recovery Commission charged with advising the administration on the timing and preparation for New Jersey's recovery from the Covid-19 shutdown; and

**WHEREAS**, as a result of the actions taken by the Governor and by states throughout the United States, the U.S. economy and the State economy are suffering losses which are being compared to more than occurred in the Great Depression of the 1930s and the number of people filing for unemployment insurance both in the State and nationally have reached levels never before seen; and

**WHEREAS**, the impact of the COVID-19 Pandemic on the State, its economy and its finances is unpredictable and rapidly changing; and

**WHEREAS**, the continuation of the COVID-19 Pandemic continues to seriously impact the economic viability of small and medium sized enterprises ("SMEs") as they face difficulties meeting payroll obligations and supporting basic operating expenses and these challenges are expected to continue; and

**WHEREAS**, the nine sector-based subcommittees of the Restart and Recovery Commission indicated the need for readily available, fairly priced, and equitably distributed PPE to help accelerate economic recovery for the State's small and micro businesses and non-profit organizations; and

**WHEREAS**, many New Jersey small and micro businesses and non-profit organizations may not have the means to obtain adequate PPE at affordable prices; and

**WHEREAS**, responses to a Request for Information (RFI) released by the NJEDA seeking ideas and information for market-based solutions to ensure New Jersey small and micro businesses and non-profit organizations have access to sustainable and affordable PPE indicated an interest by a diverse range of respondents for participating in a potential program; and

**WHEREAS,** ensuring that employees of New Jersey's small and micro businesses and non-profit organizations can operate in a safe work environment in light of the COVID-19 pandemic has a positive role for economic development in the State; and

**WHEREAS,** the need to ensure access to affordable PPE is especially important for New Jersey's smallest businesses and businesses located in historically underserved communities; and

**WHEREAS**, in response to the COVID-19 Pandemic, Congress enacted the "Coronavirus Aid, Relief and Economic Security Act," P.L. 116-136, codified at 134 Stat. 281 (the "CARES Act"); and

**WHEREAS**, the CARES Act provides, among other thing, some fiscal relief to the states; and

**WHEREAS,** the NJEDA wishes to encourage the provision of affordably-priced PPE to New Jersey small and micro businesses and non-profit organizations, as well as to provide funds to help subsidize the cost of purchasing PPE for the neediest New Jersey small businesses and non-profit organizations; and

**WHEREAS,** the NJEDA has proposed the creation of the NJ Small and Micro Business PPE Access Program – Phase I ("Program) set forth in Exhibit A attached hereto and made a part hereof to ensure that small, medium, and micro sized businesses and non-profits have access to the fairly priced personal protective equipment (PPE) necessary to facilitate safe working conditions; and); and

**WHEREAS,** under this Program, the NJEDA will: (1) develop a Program website which will include State-developed information and/or a tool to help small businesses understand what types of PPE should be purchased for their workers and in what quantities; (2) designate NJ PPE Access Program "Designated Vendors" who have been determined to provide reliable outlets for the purchase of PPE; (3) make grant funding available to partially subsidize the cost of specified types of PPE to Designated Vendors as defined by the Program; and

**WHEREAS,** Designated Vendors cannot owe any taxes to the State and must be in good standing with the New Jersey Department of Labor and Workforce Development (LWD) at the time of the application to be eligible for grant funding; and

**WHEREAS**, P.L. 2020, c. 8, expanded NJEDA's general powers and specific authority to make grants for projects, including, but not limited to, grants for working capital and payroll purposes, during a period of an emergency declaration and for the duration of the economic disruption due to the emergency; and

**WHEREAS**, pursuant to the Fiscal Year 2020 Appropriations Act, L. 2019, c. 150 (the "FY 2020 Appropriations Act"), monies received from the federal government pursuant to a federal economic stimulus bill are appropriated to the applicable State entity to be spent on the purposes authorized by the federal economic stimulus bill; and

**WHEREAS**, the State received $2.4 billion (the "CARES Funds") from the federal government under the CARES Act, which monies must be used in conformance with the requirements of the CARES Act; and

**WHEREA**S, the Treasurer has determined that it would be in the best interests of the State to use a portion of the CARES Funds, in an amount not to exceed $4,000,000, for funding of the Program, and for NJEDA administrative costs associated with the Program; and

**WHEREAS**, pursuant to this MOU, the Parties wish to set forth their understandings with respect to establishing and implementing the Program; and

**WHEREAS**, N.J.S.A. 52:14-1 et seq. authorizes State agencies to enter into agreements to provide assistance to each other.

**NOW, THEREFORE,** the Treasurer and the NJEDA agree as follows:

Section 1. <u>Grant Award</u>**.**

Subject to the terms and conditions of this MOU, the Treasurer, as recipient of the CARES Funds shall make available to the NJEDA funds in the amount of Four Million Dollars ($4,000,000.00) (the "Grant Funds") for the purpose of funding the Program. The entire amount of the Grant Funds shall be provided upon full execution of this MOU and submission by NJEDA of any requisition or other document required by the Treasurer. The Grant Funds shall be allocated as follows:

- $ 3,500,000 for subsidizing up to 20% of a Designated Vendor's purchase of PPE manufactured or assembled in New Jersey, or sourced from a small wholesaler in a historically underserved community
- $300,000 for the cost of NJEDA technology development, marketing, and promotional efforts
- $ 200,000 for other administrative costs of the NJEDA in administering the Program

Section 2. <u>Terms of the Grant Awards</u>

The NJEDA will reimburse up to 20% of the total cost of PPE sourced by Designated Vendors from either eligible New Jersey manufacturing or assembling companies or sourced from a small wholesaler in a historically underserved community, as set forth in Exhibit A, pay for technology development, marketing and promotional efforts, as well pay for other administrative costs of the Program up to $200,000. Any material changes to any of the Program must be approved by the Treasurer prior to implementation of any such changes, except to the extent such changes are required to conform with federal requirements or conditions of funding.

Section 3. Responsibilities of the NJEDA

3.1 The NJEDA shall establish standards for participation in the Program and ensuring ongoing compliance with those standards;

3.2 The NJEDA will make its best efforts to publicize a Program application opening date through a Notice of Funding Availability to be posted on its website, its social media channels, and outreach to the media and stakeholders to make this information available to the public in advance of the application period opening.

3.3 The NJEDA shall begin accepting applications for participation immediately after the Program opening date as specified in the Notice of Funding Availability, and will accept applications on a rolling basis until all grant funds are depleted;

3.4 All Grant Funds must be disbursed by the NJEDA no later than December 1, 2020. To ensure compliance with the CARES Act and U.S. Department of the Treasury requirements, all Grant Funds must be expended by grantees no later than December 30, 2020.

3.5 The NJEDA shall provide the requisite staff and support required to implement the Program.

3.6 The NJEDA shall comply with the CARES Act, including, but not limited to, the U.S. Department of the Treasury Guidance and Frequently Asked Questions, as they may be updated, in implementing the Program.

3.7 In the event that the NJEDA does not disburse all of the Grant Funds by the time set forth in Section 3.4 above, the NJEDA shall promptly remit to the Treasurer the balance of the remaining Grant Funds.

3.8 The NJEDA is authorized to use $300,000 of the Grant Funds for the cost of NJEDA technology development, marketing, and promotional efforts and $200,000 of the Grant Funds to pay for its other administrative expenses relating to the administration and implementation of the Program. Administrative expenses may include salaries and overhead, purchase or rental of equipment, insurance, Utilities, office supplies, and rental and maintenance (but not purchase) of office space.

3.9 The NJEDA shall be responsible for implementing the Program in accordance with all applicable State and federal laws and regulations. It shall be NJEDA's responsibility to require that all of its grantees adhere to all applicable State and federal laws and regulations. The NJEDA shall conduct all necessary monitoring for such compliance. To the extent that the U.S. Department of the Treasury audits the Grant Funds, the NJEDA shall respond to such audit(s). The NJEDA shall also be responsible for any recoupment of the Grant Funds that the U.S. Department of the Treasury may require.

3.10 The monitor for the NJEDA for this MOU is the Senior Vice President, Strategic Initiatives and Operations, who shall be responsible for overseeing the successful performance and completion of NJEDA's obligations as provided in this MOU. The NJEDA shall submit a report of project progress to the

Treasurer on a schedule and dates to be provided by the NJEDA. The NJEDA shall be required to obtain any necessary information from recipients of grants under the Program to indicate compliance by recipients with the Program and federal requirements.

Section 4. General Provisions

4.1 Termination and Amendments. This MOU may be modified or extended only by prior written agreement by the Parties. This MOU may be terminated by either the NJEDA or the Treasurer upon thirty (30) days prior written notice to the other Party.

4.2 This MOU is being entered into for the sole purpose of evidencing the mutual understanding and intention of the Parties.

4.3 There are no third-party beneficiaries of this MOU.

4.4 This MOU shall be administered consistent with N.J.S.A. 52:14-1 et seq.

4.5 The Effective Date of this MOU shall be the later of the date executed by the Parties below. The term of this MOU shall be for a period of eighteen (18) months from the Effective Date unless extended by agreement of the Parties.

4.6 The Treasurer and the NJEDA shall retain all the powers, obligations and immunities provided by law.

4.7 The Parties acknowledge that the successful completion of each Party's duties hereunder will require cooperation between the Parties. The Parties agree to work cooperatively to achieve the goals of this MOU.

4.8 The recitals appearing before Section 1 are made part of this MOU and are specifically incorporated herein by reference.

**IN WITNESS WHEREOF**, the Parties have executed and delivered this MOU on the date set forth next to their respective signatures below, but effective as of the date set forth above. The Parties agree to accept electronic signatures.

**Treasurer of the State of New Jersey**

___________________________________ Date: ____________________________

By: Elizabeth Maher Muoio

**New Jersey Economic Development Authority**

-------------------------------------------------------- Date: ------------------------------------------

By: Tim Sullivan, Chief Executive Officer

Attachment: Exhibit A – NJ Small and Micro Business PPE Access Program- Phase One Memorandum

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** August 11, 2020

**RE:** Small Business Emergency Assistance Loan Program (Phase 1) – Program Modifications

**Summary**

The Members are asked to approve the following modifications to the Small Business Emergency Assistance Loan Program (Phase 1):

1. Delegation to Regional Director of Business Development, Managing Director of Business Development, Managing Director of Underwriting, or Senior Vice President, upon recommendation of the reviewing officer, authority to decline loan requests based solely on non-discretionary reasons.

2. For final administrative decisions on appeals based solely on non-discretionary reasons, delegated authority is requested for approval of a hearing officer's decision by a Senior Vice President, Vice President, Managing Director, Director – HUD Programs, or the Director of Legal Affairs.

**Background**

On March 9, 2020, Governor Phil Murphy issued Executive Order 103, declaring a State of Emergency and a Public Health Emergency to ramp up New Jersey's efforts to contain the spread of COVID-19. Subsequent containment measures were implemented, including restrictions on public gatherings and mandated closing for non-essential businesses, which are only recently starting to be relaxed. While these measures were consistent with similar measures being taken nationally to limit the public's exposure to COVID-19, our nation's economy has been adversely impacted. Within New Jersey, small businesses, and residents employed by these businesses, have faced significant economic challenges as businesses have had difficulties meeting payroll obligations and supporting basic operating during this prolonged period of business interruption.

On March 26, 2020, the Members approved the creation of the Small Business Emergency Assistance Loan Program (Phase 1) – an emergency loan program to make low-cost financing available to allow small businesses to cover operating expenses and ensure continuity of operation until the COVID-19 outbreak is controlled to the point where normal operations can resume. This program was funded by $10 million from the Economic Recovery Fund or NJEDA general operating budget, and applications for financing were made publicly beginning April 13, 2020. The response to the program was overwhelming, and by the time the application closed a week later, the Authority received 3,528 applications, representing an estimated $248 million in total funding requested.

**Program Modifications**

On the program memorandum and specifications as approved by the Members on March 26, 2020 for the Small Business Emergency Assistance Loan Program (Phase 1), staff indicated that any declinations would be brought before the Board, which is the normal course of business for loan programs administered by the Authority.

As the Authority has gained experience in administering high-volume programs over the past few months, primarily with the Small Business Emergency Assistance grant and loan programs, staff has determined that under the program parameters as approved by the Members, a significant number of applications would be recommended declinations to the Board for non-discretionary reasons based on the applicant not meeting the program eligibility parameters. In subsequent programs that have been developed and presented to the Members for consideration, staff has requested delegated authority to decline these applications for non-discretionary reasons, as bringing a large quantity of applications to the Board for recommended declination would present administrative challenges for both staff and the Members.

Consistent with both phases of the Small Business Emergency Assistance grant programs, as well as the approach approved by the Members for Phase 2 of the Small Business Emergency Assistance loan program, the Members are requested to approve to Regional Director of Business Development, Managing Director of Business Development, Managing Director of Underwriting, or Senior Vice President, upon recommendation of the reviewing officer, authority to decline loan requests based solely on non-discretionary reasons including, but not limited to: inability to meet a 600 FICO for at least one guarantor, inability to meet minimum Global Debt Service Coverage Ratio, inability to demonstrate good standing with the Department of Labor or Division of Taxation, and nonprofit organizations with an ineligible 501c designation. This delegated authority will allow staff to continue to process a high-volume of loan applications efficiently.

Businesses whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 3 days but no longer than 10 days). A Hearing Officer will review the application, the appeal, and any other relevant documents or information, and prepare a Final Administrative Decision. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval by a Senior Vice President, Vice President, Managing Director, Director – HUD Programs, or the Director of Legal Affairs.

**Recommendation**

Approval is requested for the following program modifications to the Small Business Emergency Assistance Loan Program (Phase 1): (1) Delegation to Regional Director of Business Development, Managing Director of Business Development, Managing Director of Underwriting, or Senior Vice President, upon recommendation of the reviewing officer, authority to decline loan requests based solely on non-discretionary reasons; (2) For final administrative decisions on appeals based solely on non-discretionary reasons, delegated authority is requested for approval of a hearing officer's decision by a Senior Vice President, Vice President, Managing Director, Director – HUD Programs, or the Director of Legal Affairs.
.

Tim Sullivan
Chief Executive Officer

Attachments
Exhibit A – Small Business Emergency Assistance Loan Program Specifications

| **Small Business Emergency Assistance Loan Program**<br>**Proposed Program Specifications – Revised 8/11/2020** | |
|---|---|
| **Funding Source** | Up to $10 million – NJEDA Economic Recovery Fund. |
| **Program Purpose** | To provide low-cost financing available to cover operating expenses and ensure continuity of operation for New Jersey small businesses and non-profit organizations that have been impacted by COVID-19. |
| **Eligible Applicants** | Entities must be in existence for at least one full year and have $5 million or less in annual revenue (as determined by financial statements from the fiscal year prior to March 9, 2020 – the declaration of emergency related to COVID-19 outbreak). Financial statements provided may be CPA prepared, management prepared, or filed copies of business tax returns.<br><br>Prohibited businesses include, but are not limited to: gambling or gaming activities; the conduct or purveyance of "adult" (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi-nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sales; sales by transient merchants, Christmas tree sales or other outdoor storage; ; any activity constituting a nuisance; or any illegal purposes.<br><br>The entity must have a physical commercial location in the State of New Jersey (e.g., an office, a physical point of sales, a warehouse, manufacturing facility, etc.).<br><br>• Home-based businesses are not eligible for this program.<br><br>Non-profits entities with the follow designations will also be eligible for the Small Business Emergency Assistance Loan Program: 501(c)(3), 501(c)(4), and 501(c)(7). |

| **Small Business Emergency Assistance Loan Program<br>Proposed Program Specifications – Revised 8/11/2020** | |
|---|---|
| **Eligible Applicants: (continued)** | CEO/equivalent officer of the applying entity must self-certify that the firm:<br><br>• Will make a best effort not to furlough or lay off any individuals from the time of application through six months after the end of the declared state of emergency. SMEs that have already furloughed or laid off workers must make a best-effort pledge to re-hire those workers as soon as possible.<br><br>• Has been negatively impacted by the COVID-19 declared state of emergency on March 9, 2020 (e.g., has been temporarily shut down, has been required to reduce hours, has had at least a 20% drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production).<br><br>Any material breach of its best efforts certification and requirements may result in the NJEDA seeking immediate repayment of the outstanding amount of the loan.<br><br>Entity must be registered to do business in the State of New Jersey and have an up-to-date Tax Clearance Certificate from the New Jersey Department of Treasury at time of approval.<br><br>Entity must be in good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor. |
| **Eligible Uses** | To be used as working capital to support business continuity for a range of COVID-19 related impacts to businesses (reduced revenue, employee shortage, supply chain impact, etc.) |
| | |

| **Small Business Emergency Assistance Loan Program<br>Proposed Program Specifications – Revised 8/11/2020** | |
|---|---|
| **Application Process and Board Approval/ Delegated Authority** | Applications will be accepted until all funding is exhausted or through the end of the declared emergency and public health emergency.<br><br>Managing Director of Underwriting or Post Closing Financial Services, and Senior Vice President of Finance and Development or Vice President – Operations will approve projects for assistance under Delegated Authority. Activity will be reported monthly to the NJEDA Board.<br><br>Upon recommendation of the reviewing officer, the Regional Director of Business Development, Managing Director of Business Development, Managing Director of Underwriting, or Senior Vice President will decline projects based solely on non-discretionary reasons.<br><br>Businesses whose applications are declined will have the right to appeal. A Hearing Officer will review the application, the appeal, and any other relevant documents or information, and prepare a Final Administrative Decision. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval of the hearing officer's decision by a Senior Vice President, Vice President, Managing Director, Director – HUD Programs, or the Director Legal Affairs, after which the appeals process will be complete. |
| **Loan Amounts** | Up to $100,000 direct loan |
| **Rates & Terms** | Term/Amortization: Up to 10 years<br><br>Interest Rate: 0% fixed for first 5 years, NJEDA prevailing floor rate (capped at 3.00%) at the time of the rate reset for remaining five years.<br><br>Deferred principal payments for 12 months, with a delegated approval for an additional 6 months, if needed. |
| **Lien/Collateral/Security** | Consistent with the approach that is being taken by the federal Small Business Administration in its emergency loans, the EDA |

| **Small Business Emergency Assistance Loan Program<br>Proposed Program Specifications – Revised 8/11/2020** | |
|---|---|
| | will require the borrower to pledge all available collateral for the loan which may include real estate if available. This may include but is not limited to business assets, real properties, equipment, and personal assets. No loans will be declined for a lack of collateral.<br><br>Guarantors: Unlimited personal guarantees of individuals having a 10% or more ownership in for-profit applicants and related entities will be required. Personal guarantees will not be applicable for non-profit organizations.<br><br>Minimum Credit Score: 600 FICO for at least one guarantor.<br><br>Minimum Global Debt Service Coverage Ratio (GDSCR) of 1.00x based on financial statements in the year prior to the declaration of emergency related to the COVID-19 outbreak (March 9, 2020). |
| **Fees** | • Due to financial hardship, there will be no fees associated with the Small Business Emergency Loan Program for the first five years of a loan, including application fees, and then standard modification fees will apply. |

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan |
Chief Executive Officer

**DATE:** August 11, 2020

**RE:** Amendment to Memorandum of Understanding (MOU) with the NJ Department of Treasury for Additional Funding to Extend Support under Small Business Emergency Assistance Grant Program (Phase 2)

**Summary**

Members are asked to approve:

1. An amendment to the Memorandum of Understanding between the EDA and the NJ Department of Treasury whereby the EDA will accept an additional $15.3 Million from the Coronavirus Relief Fund to be used to further capitalize the Small Business Emergency Assistance Grant Program (Phase 2) and cover administrative costs associated therewith, and be administered as grant funding to eligible entities in Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren counties.

2. Delegated authority to the Chief Executive Officer to direct any other governmental (Federal, State or County) funding and/or unrestricted gifts or grants that the Authority may accept for the Small Business Emergency Assistance Grant Program (Phase 2), to be administered as grants to eligible entities in Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren counties.

**Background**

On March 9, 2020, Governor Phil Murphy issued Executive Order 103, declaring a State of Emergency and a Public Health Emergency to ramp up New Jersey's efforts to contain the spread of COVID-19. Subsequent containment measures were implemented, including restrictions on public gatherings and mandated closure of non-essential businesses. While these measures are consistent with similar measures being taken nationally that are expected to limit the public's exposure to COVID-19, there has been and will continue to be a significant adverse impact on our state's economy.

In response to the widespread economic disruption caused by COVID-19, the Authority has developed and administered a host of emergency assistance programs designed to deploy funding to small businesses and nonprofit organizations as short-term, immediate support for payroll and working capital.

On May 22, 2020, the Members approved delegated authority for the Chief Executive Officer to execute a Memorandum of Understanding with the NJ Department of Treasury (Treasury) whereby the EDA accepted $51 million in funding through the Coronavirus Relief Fund. In conjunction with this request to execute the MOU with Treasury, the Members also approved the creation of the Small Business Emergency Assistance Grant Program – Phase 2, to be funded with $45 million of the CARES Act funding. Under the Small Business Emergency Assistance Grant Program – Phase 2, grants of up to $10,000 were made available to New Jersey small businesses and non-profit organizations with fewer than 25 full time equivalent employees (FTEs), that that have been negatively impacted during the declared state of emergency, thereby helping to stabilize their operations and minimizing any potential furloughs and/or layoffs.

The application for the Small Business Emergency Assistance Grant Program – Phase 2 opened on June 9, 2020, to which the response was overwhelming. By the time the application closed on July 8, 2020, the Authority received 37,162 applications, representing an estimated $120 million in total grant funding requested, based on the average award size.

In addition to the $45 million in CARES Act funding EDA accepted from Treasury, nine counties (table below) received their own separate allocation of CARES Act funds. Three of those counties, Essex, Ocean and Passaic, contributed $10 million each to the Small Business Emergency Assistance Grant - Phase 2 for the Authority to fund additional applications within those three counties. The other six counties plan to create and administer their own programs or spend the funds on other relief activities.

The twelve remaining counties (Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren) did not receive direct funding from the federal government, and are therefore reliant upon the State's CARES Act funding.

**Table of Payments to States and Eligible Units of Local Government**

| | |
|---|---|
| **Total New Jersey allocation** | **$3,444,163,690.30** |
| *Eligible local governments that certified:* | |
| Bergen County | $162,662,060.40 |
| Camden County | $88,375,283.90 |
| Essex County | $139,414,976.30 |
| Hudson County | $117,327,044.40 |
| Middlesex County | $143,966,956.60 |
| Monmouth County | $107,974,955.70 |
| Ocean County | $105,949,274.70 |
| Passaic County | $87,564,767.20 |
| Union County | $97,077,214.30 |
| **Payment to the state** | **$2,393,851,156.80** |

Even with the funding accepted by the Authority from Treasury and the three counties that made contributions to the Phase 2 grant program, the program is still oversubscribed based on the number of applications received to date, with many businesses waitlisted. These businesses are largely from the twelve counties that did not receive a direct CARES Act allocation, as the contributions made by Ocean, Essex and Passaic counties ensured that funding was available for all approved applications from entities located in those counties.

**Amended MOU and Additional Program Funding**

To enable the Authority to fund approved applications from the waitlisted businesses in the twelve counties that did not receive direct CARES Act allocations, the Members are requested to approved delegated authority for the Chief Executive Officer to execute an amended MOU with Treasury to accept an additional $15.3 Million, to supplement the $45 million that has already been received from Treasury under the original MOU as approved by the Members on May 22, 2020, and the $30 million in contributions made by Essex, Ocean and Passaic counties. The source of this additional funding is expected to be from the Federal Coronavirus Relief Fund.

As approved by the Members on May 22, 2020, the Chief Executive Officer/any Senior Vice President has delegated authority to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants that would be used to fund Phase 2 of the Small Business Emergency Assistance Grant Program. The Members are requested to approve delegated authority for the Chief Executive Officer to direct any other governmental (Federal, State or County) funding and/or unrestricted gifts or grants the Authority may receive for Phase 2 of the Small Business Emergency Assistance Grant Program, to eligible entities in Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren counties.

**Recommendation**

The Members' approval is requested for (1) an amendment to the Memorandum of Understanding between the EDA and the NJ Department of Treasury whereby the EDA will accept an additional $15.3 Million from the Coronavirus Relief Fund to be used to further capitalize the Small Business Emergency Assistance Grant Program (Phase 2) and cover administrative costs associated therewith, and be administered as grant funding to eligible entities in specific counties; and (2) delegated authority to the Chief Executive Officer to direct any other governmental (Federal, State or County) funding and/or unrestricted gifts or grants that the Authority may accept for the Small Business Emergency Assistance Grant Program (Phase 2), to be administered as grants to eligible entities in specific counties.

Tim Sullivan
Chief Executive Officer

Prepared By: Jorge Santos

Attachments:

Proposed Memorandum of Understanding
Small Business Emergency Assistance Grant Program (Phase 2) – Revised Program Specifications

| **Small Business Emergency Assistance Grant Program – Phase 2**<br>**Proposed Program Specifications**<br>**(Revised as of August 11, 2020)** | |
|---|---|
| **Funding Source** | $45,000,000 - from the Coronavirus Relief Fund (the "Fund"), as established under the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.<br><br>*Additional Funding Sources:*<br><br>$30,000,000 – from Essex, Ocean and Passaic Counties – for eligible entities located in those counties, on a first-come, first-served basis.<br><br>$15,000,000 – additional funding from Coronavirus Relief Fund. Available to eligible entities located in the following counties, on a first-come, first-served basis: Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren.<br>Staff is seeking additional funding, including unrestricted gifts and grants through corporate and philanthropic sources. |
| **Program Purpose** | To provide short-term, immediate payroll and working capital support to New Jersey small and medium sized enterprises (businesses and non-profits) ("SMEs"), with no more than 25 Full Time Equivalent employees (FTEs), that that have been negatively impacted during the declared state of emergency, thereby helping to stabilize their operations and minimizing any potential furloughs and/or layoffs. |
| **Eligible Applicants** | Businesses that were approved for grant funding under Phase 1 of the Small Business Emergency Assistance Grant Program with 5 or fewer FTEs will not be eligible for Phase 2 funding, as they will have already received their maximum funding amount of up to $5,000.<br><br>To determine the number of FTEs for the purpose of calculating the grant amount, the Authority will utilize the SME's most recent New Jersey WR-30 filing with the NJ Department of Labor (DOL). Implied FTE calculations will be rounded to the nearest FTE (e.g., 2.24 FTE would be counted as 2 FTE for the program, |

| **Small Business Emergency Assistance Grant Program – Phase 2<br>Proposed Program Specifications<br>(Revised as of August 11, 2020)** | |
|---|---|
| **Eligible Applicants: (continued)** | whereas 2.50 or 2.75 FTE would be counted as 3 FTE). While the calculation of FTEs is based on weeks worked and wages as reported on the WR-30 filing, in no event will a company receive grant funding based on a number of FTEs that exceeds the number of employees employed by the company, EXCEPT that if a sole proprietor or other applying entity has no FTEs, it may be eligible for the minimum grant award of $1,000. For entities like sole proprietors the NJEDA will work with the Department of Treasury, Division of Taxation, to identify tax filing status.<br><br>The SME must have a physical commercial location in the State of New Jersey (e.g., an office, a physical point of sales, a warehouse, manufacturing facility, etc.). With regard to home-based businesses, the home must be located in New Jersey.<br>Non-profits entities organized under Internal Revenue Code section 501(c) will be eligible.<br><br>Prohibited businesses include, but are not limited to: gambling or gaming activities; the conduct or purveyance of "adult" (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi-nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sales; sales by transient merchants, Christmas tree sales or other outdoor storage; ; any activity constituting a nuisance; or any illegal purposes.<br><br>CEO/equivalent officer of the SME must self-certify that the firm:<br><br>• Was in operation on February 15, 2020;<br><br>• Will make a best effort not to furlough or lay off any individuals from the time of application through six months after the end of the declared state of emergency. SMEs that have already furloughed or laid off workers from the time of application must make a best-effort pledge to re-hire those workers as soon as possible. Any material breach of its best efforts certification may result in the NJEDA seeking repayment of the grant; |

<table>
<tr><th colspan="2">Small Business Emergency Assistance Grant Program – Phase 2<br>Proposed Program Specifications<br>(Revised as of August 11, 2020)</th></tr>
<tr><td>Eligible Applicants: (continued)</td><td>
<ul>
<li>Has been negatively impacted by the COVID-19 declared state of emergency on March 9, 2020 (e.g., has been temporarily shut down, has been required to reduce hours, has had at least a 20% drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production); and</li>
<li>Has a material financial need that cannot be overcome without the grant of emergency relief funds at this time (e.g., does not have significant cash reserves that can support the SME during this period of economic disruption).</li>
</ul>
SME must be registered to do business in the State of New Jersey at the time of application.<br><br>
SME must satisfy Taxation’s requirement to ensure that the SME does not have tax debts due to the State. As with Phase 1, this may be accomplished through a certification from the applicant that it does not owe any taxes and will be subject to repayment if the certification is not correct.<br><br>
SME must be in good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor<br><br>
SMEs with multiple EIN can submit one application per EIN. Businesses with multiple locations but only one EIN will be limited to one application (under the sole EIN).<br><br>
Additional eligibility requirements may apply, which will be based on any applicable Federal requirements tied to the CARES Act funding. This may include, but is not limited to:
<ul>
<li>applicants must acknowledge and agree to the requirement that grant proceeds be can only be used for eligible uses as defined below,</li>
</ul>
</td></tr>
</table>

<table>
<tr><th colspan="2">Small Business Emergency Assistance Grant Program – Phase 2<br>Proposed Program Specifications<br>(Revised as of August 11, 2020)</th></tr>
<tr><td>Eligible Applicants: (continued)</td><td>• a restriction on duplication of benefits that could exclude potential applicants that have already received Federal assistance, and<br>• a requirement that the applicant demonstrate that it has had negative impacts from COVID-19.</td></tr>
<tr><td>Eligible Uses</td><td>Grant funding to be used for reimbursement of lost revenue as result of the business interruption caused by COVID19 between March 1, 2020 and the date of the grant agreement (which must occur with enough time for EDA to disburse funding prior to December 1, 2020). If the calculated grant amount calculated is greater than the need, the amount of the award will be capped at the amount of need.<br><br>Funding cannot be used for capital expenses, including construction.</td></tr>
<tr><td>Application Process</td><td>Online application. Applications will be accepted on a first-come, first-served basis, based upon the date in which the Authority receives a completed application submission. Additional funding, that has been committed/received, that is reserved for businesses located in specific counties, will be available on a first-come, first-served basis to eligible businesses located in those counties.</td></tr>
<tr><td>Grant Amounts</td><td>$1,000/FTE, with the calculation based on the WR-30 filing from the most recent payroll period from date of application EXCEPT that if a company is a sole proprietorship or otherwise has no FTEs will receive the minimum grant amount ($1,000).<br><br>• Minimum grant amount (per application): $1,000<br>• Maximum grant amount (per application):<br>    o $10,000 (for entities with more than 10 FTEs)<br><br>One-third of the total funding will be set aside from all contributed or donated funds to support entities that meet all other applicable eligibility criteria and have a commercial business address (or home address for home-based businesses) located (fully or</td></tr>
</table>

| Small Business Emergency Assistance Grant Program – Phase 2<br>Proposed Program Specifications<br>(Revised as of August 11, 2020) | |
|---|---|
| **Grant Amounts (continued)** | partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e. a New Market Tax Credit census tract). Any amount of the set aside that remains after processing all applications from entities in Opportunity Zone eligible census tracks would be used for any other applicant. |
| **Funding Disbursement** | Funding to be fully disbursed as quickly as possible upon approval of grant application. |
| **Fees** | Due to financial hardship, the Authority will collect no fees from the applicant for this program. |

| | |
|---|---|
| **Appeals** | Businesses whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 3 days but no longer than 10 days). A Senior Vice President will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will prepare a recommended decision, which must be approved by a Senior Vice President, Vice President, Managing Director or the Director Legal Affairs, who will approve, reject, or modify the Hearing Officer recommendation for a Final Administration Decision. |
| **Board Approval** | Delegation to Authority staff (any Senior Vice President, Vice President or Managing Director of Underwriting) to approve or deny individual applications. Board to be updated monthly on delegated authority approval activity.<br><br>Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants that would be used to fund Phase 2 of the Small Business Emergency Assistance Grant Program. Delegated Authority also includes ability to direct this funding to eligible entities in specific counties. |

| | |
|---|---|
| **Board Approval (continued)** | Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program. |

**FIRST AMENDMENT TO**
**MEMORANDUM OF UNDERSTANDING**
**BETWEEN**
**THE TREASURER OF THE STATE OF NEW JERSEY**
**AND**
**THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

This First Amendment ("First Amendment") to the Memorandum of Understanding (""Original MOU") made by and between the TREASURER ("Treasurer") of the New Jersey Department of the Treasury ("Treasury") and the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA"), an instrumentality of the State of New Jersey (the "State"). The NJEDA and the Treasurer may sometimes hereinafter be collectively referred to as the "Parties" and individually as a "Party." Except as otherwise defined herein, all capitalized terms shall have their meaning as set forth in the Original MOU.

**WHEREAS**, the Parties entered into the Original MOU dated May 26, 2020 pursuant to which the Treasurer granted to the NJEDA $51 million in CARES Funds, for reimbursement of the funding of the Phase One SME program, the new Phase Two SME Program, and future NJEDA administrative costs associated with both phases of the program (collectively, the "Program") to assist businesses that have been impacted by the COVID-19 Pandemic; and

**WHEREAS**, the continuation of the COVID-19 Pandemic continues to seriously impact the economic viability of SMEs as they face difficulties meeting payroll obligations and supporting basic operating expenses and these challenges are expected to continue; and

**WHEREAS**, nine (9) counties within the State received CARES Act allocations directly from the U.S. Department of the Treasury but the following twelve (12) counties in the State did not: Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren; and

**WHEREAS**, the Treasurer has determined that it would be in the best interests of the State to use additional portions of the CARES Funds, in an amount not to exceed $15.3 million, as further funding for the Program to be dedicated specifically to businesses in the 12 counties that did not receive CARES Funds directly from the U.S. Department of the Treasury.

**NOW THEREFORE**, in consideration of the foregoing the Parties hereby agree as follows:

1. Section 1 of the Original MOU is hereby amended to read as follows:

*Subject to the terms and conditions of this MOU, the Treasurer, as recipient of the CARES Funds, shall make available to the NJEDA funds in the amount of Sixty-Six Million Three Hundred Thousand Dollars ($66,300,000.00) (the "Grant Funds") for the purpose of funding the Programs. The initial amount of Fifty-One Million Dollars ($51,000,000.00) was provided shortly after execution of the Original MOU. The remaining Fifteen Million Three Hundred Thousand Dollars*

*($15,300,000.00) shall be provided upon full execution of this First Amendment and submission by NJEDA of any requisition or other document required by the Treasurer. The Grant Funds shall be allocated as follows:*

- *$5 million for reimbursement of the Phase Once SME Program*
- *$45 million for Phase Two SME Program*
- *$1.3 million for administrative costs of the Program as shown on Exhibit A attached hereto and made a part hereof*
- *$15 million for Phase Two SME Program, which shall be dedicated to eligible businesses located in the 12 counties in New Jersey that did not receive CRF funding directly from the U.S. Department of the Treasury.*

2. Except as otherwise provided in this First Amendment, all of the terms, covenants and conditions of the Original MOU shall remain in full force and effect.

3. All references to the term "MOU" in the Original MOU shall be deemed to refer to the Original MOU, as modified by this First Amendment.

4. The First Amendment shall be effective as of the date of final execution by the parties ("the Effective Date").

**IN WITNESS WHEREOF,** the Parties have executed and delivered this FIRST AMENDMENT on the date set forth next to their respective signatures below, but effective as of the date set forth above. The Parties agree to accept electronic signatures.

**Treasurer of the State of New Jersey**

____________________________________ Date:_________________________

By: Elizabeth Maher Muoio

**New Jersey Economic Development Authority**

____________________________________ Date:_________________________

By: Tim Sullivan, Chief Executive Officer

**EXHIBIT A SUMMARY OF CHANGES TO ADMINISRATIVE COSTS AS PART OF FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING**

Pursuant to this First Amendment to the Original MOU made by and between the Treasurer of the New Jersey Department of the Treasury and NJEDA, the NJEDA is requesting an increase to the amount of funding that the NJEDA is allocating to administrative costs. These administrative costs are above and beyond any costs included in the original budget, and are only for the administration of grant programs for businesses impacted by COVID-19.

The proposed increase is from the original amount of $1,000,000 as outlined in the Original MOU, to $1,300,000 as outlined in the First Amendment to the Original MOU. This represents a total increase of $300,000, which is the amount the NJEDA estimates is necessary to support additional administrative expenses that will be incurred as the NJEDA administers an additional $15 million in grant funding to Small Business Emergency Assistance Grant (Phase 2) eligible businesses located in the 12 counties in New Jersey that did not receive CRF funding: Atlantic, Burlington, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Morris, Salem, Somerset, Sussex, and Warren counties.

NJEDA is estimating this additional administrative expense of $300,000 based on the following methodology:

- Average 12-month salary per NJEDA staff member assigned to process applications: $80,000
- Estimated monthly cost for 38 NJEDA staff members, at 80% of total time/capacity/salary = $202,666.66
- Estimated Monthly Cost x 1.5 (number months estimated to deploy additional funding) = $304,000

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** August 11, 2020

**RE:** Memorandum of Understanding for Information Sharing Related to COVID-19 Programs – **FOR INFORMATION ONLY**

The Members are advised that the Authority intends to execute a Memorandum of Understanding with the NJ Department of Community Affairs, NJ Department of Environmental Protection, the New Jersey Housing and Mortgage Finance Agency, and the New Jersey Redevelopment Authority whereby the parties will share information regarding applicants for their respective programs to help determine eligibility and to comply with the federal duplication of benefits requirements, in connection with the administration of funding received through the Federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

The Board has approved and staff have implemented a number of emergency COVID-19 related programs. Several of those programs are funded through the CARES Act. Similarly, other State entities have implemented or are in the process of implementing their own COVID-19 related programs using CARES Act funding. In connection with programs that are federally funded, the Authority must comply with various federal requirements.

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") directs Federal agencies that provide disaster assistance to assure that people, businesses, or other entities do not receive financial assistance that duplicates any part of their disaster loss covered by insurance or another source (42 U.S.C. 5155(a)). That section also makes recipients of Federal disaster assistance liable for repayment of the amount of Federal disaster assistance that duplicates benefits available for the same purpose from another source (42 U.S.C. 5155(c)).

The MOU will help the Authority comply with the Stafford Act, by permitting the exchange information with the NJ Department of Community Affairs, the NJ Department of Environmental Protection, the New Jersey Housing and Mortgage Finance Agency and the New Jersey Redevelopment Authority. This proposed MOU will enable the Authority to work cooperatively with other State entities to help determine eligibility for their respective programs and to comply with federal duplication of benefits requirements. Each party will bear ultimate responsibility for its own compliance with the CARES Act and other applicable State and federal laws and regulations. The MOU will be effective as of the date executed by all parties and will remain in effect for a period of two years, unless the term is extended by mutual agreement of the Parties or is terminated prior to such time pursuant to its terms and conditions.

Tim Sullivan
Chief Executive Officer

Prepared by: Christine Baker

Attachment: Proposed Memorandum of Understanding

# MEMORANDUM OF UNDERSTANDING
# BETWEEN
# THE NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY, THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, THE NEW JERSEY REDEVELOPMENT AUTHORITY, THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, AND THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

This MEMORANDUM OF UNDERSTANDING ("MOU") made by and between the NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY ("NJHMFA"), the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA"), the NEW JERSEY REDEVELOPMENT AUTHORITY ("NJRA"), the NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS ("NJDCA"), and the NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION ("NJDEP"). The NJHMFA, NJEDA, NJRA, NJDCA, and NJDEP may sometimes hereinafter be collectively referred to as the "Parties" and individually as a "Party."

## PREAMBLES

**WHEREAS**, due to the increase in the number of novel coronavirus ("COVID-19") cases in New Jersey, the surrounding region and across the globe, the Governor of the State of New Jersey issued Executive Order No. 103 declaring a public health emergency and a state of emergency in the State of New Jersey (the "State") on March 9, 2020, allowing for certain executive actions to respond to the increasing amount of COVID-19 cases in the State; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic (the "COVID-19 Pandemic") and on March 13, 2020, the President of the United States declared a national state of emergency; and

**WHEREAS**, beginning on March 16, 2020 and to the present time, the Governor has issued multiple Executive Orders to deal with the COVID-19 Pandemic, including the restriction of business activities; and

**WHEREAS**, as a result of the actions taken by the Governor and by states throughout the United States, the U.S. economy and the State economy are suffering losses which are being compared to more than occurred in the Great Depression of the 1930s and the number of people filing for unemployment insurance both in the State and nationally have reached levels never before seen; and

**WHEREAS**, the long-term and short-term capital markets have experienced significant deterioration in value and volatility, which can affect the liquidity and results of operations of companies in the State and the State economy as a whole; and

**WHEREAS**, the impact of the COVID-19 Pandemic on the State, its economy and its finances is unpredictable and rapidly changing; and

**WHEREAS**, in response to the COVID-19 Pandemic, Congress enacted the "Coronavirus Aid, Relief and Economic Security Act," P.L. 116-136, codified at 134 Stat. 281 (the "CARES Act"); and

**WHEREAS**, the CARES Act provides, among other things, some fiscal relief to the states; and

**WHEREAS**, the State received $2.4 billion from the federal government under the CARES Act (the "CARES Funds"), which monies must be used in conformance with the requirements of the CARES Act; and

**WHEREAS**, under the CARES Act guidance issued by the U.S. Department of the Treasury, it is permissible to create and fund a program to assist small businesses to reimburse the costs of business interruption caused by required closures in order to prevent the economic downturn from continuing to accelerate; and

**WHEREAS**, pursuant to the Fiscal Year 2020 Appropriations Act, L. 2019, c. 150 ("FY 2020 Appropriations Act"), monies received from the federal government pursuant to a federal economic stimulus bill are appropriated to the applicable State entity to be spent on the purposes authorized by the federal economic stimulus bill; and

**WHEREAS**, the NJHMFA created a Small Landlord Emergency Grant Program in order to assist eligible small residential rental property owners that rent low- and moderately-priced units that have missed or reduced rental payments as a result of the COVID-19 Pandemic; and

**WHEREAS**, the NJHMFA Small Landlord Emergency Grant Program is funded with CARES Funds through an MOU entered into by the New Jersey Department of Treasury and NJHMFA; and

**WHEREAS**, pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., every owner of a building occupied or intended to be occupied by three or more persons living independently of each other is required to file with the NJDCA a certificate of registration containing information about the owner and the building; and

**WHEREAS**, the information submitted to the NJDCA with the multiple dwelling certificate of registration contains information about the building such as the number of dwelling units, which information relates to the applicant eligibility requirements for NJHMFA's grant program; and

**WHEREAS**, NJHMFA requires the sharing of information and data with NJDCA in order to ensure that applicants are in compliance with State law and to verify applicants' eligibility for the NJHMFA grant program; and

**WHEREAS**, the NJEDA has implemented a variety of programs intended to address the fiscal and economic impact of the COVID-19 Pandemic on small businesses in New Jersey, including but not limited to: an initial pilot Small Business Emergency Assistance Grant Program, which made grant funding available for short-term operating support to New Jersey small sized businesses and non-profits, using $5 million from the NJEDA's own unrestricted funds as well as additional funds contributed by the Casino Redevelopment Authority to fund grants to eligible businesses in Atlantic County; the Small Business Emergency Assistance Grant Program-Phase 2; the Small Business Emergency Assistance Loan Program, and the NJ Entrepreneur Support Program; and

**WHEREAS**, the NJRA created a Small Business Lease Emergency Assistance Grant Program in order to assist commercial tenants in NJRA eligible communities who are in need of assistance with paying their monthly lease payments due to the COVID-19 Pandemic; and

**WHEREAS**, the NJRA Small Business Lease Emergency Assistance Grant Program is funded with CARES Funds through an MOU entered into by the New Jersey Department of Treasury and NJRA;

**WHEREAS**, the U.S. Secretary of Commerce allocated $300 million in fisheries assistance funding under the CARES Act to states, Tribes, and territories with coastal and marine fishery participants who have been negatively affected by COVID-19; and

**WHEREAS**, from those funds, the National Oceanic and Atmospheric Administration (within the U.S. Department of Commerce) allocated $11,337,797 in funding to NJDEP to address direct or indirect fishery-related losses as well as subsistence, cultural, or ceremonial impacts related to COVID-19, for which NJDEP is creating a grant program; and

**WHEREAS**, pursuant to Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") Federal agencies that provide disaster assistance are required to assure that people, businesses, or other entities do not receive financial assistance that duplicates any part of their disaster loss covered by insurance or another source. 42 U.S.C. 5155(a); and

**WHEREAS**, the Stafford Act also makes recipients of Federal Assistance for a disaster or emergency liable for returning the Federal assistance to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. 42 U.S.C. 5155(c); and

**WHEREAS**, in order to comply with the Stafford Act and to determine whether any applicants to the Parties' grant programs have received financial assistance that duplicates any part of their disaster loss from another source, the Parties have determined that it would be in their best interests to share information about their respective grant programs and grant program applicants; and

**WHEREAS**, the sharing of information about the applicants to the Parties' grant programs will also assist the Parties in determining and verifying the eligibility of the applicants to the Parties' grant programs; and

**WHEREAS**, pursuant to this MOU, the Parties wish to set forth their understandings with respect to the sharing of information regarding the Parties' grant programs and grant program applicants; and

**WHEREAS**, N.J.S.A. 52:14-1 et seq. authorizes State agencies to enter into agreements to provide assistance to each other.

**NOW, THEREFORE,** the Parties agree as follows:

Section 1. Roles and Responsibilities**.**

1.1 The parties agree to provide and share information about the Parties' respective COVID-19 Pandemic related grant programs, including information regarding and received from grant program applicants in order to assist the parties in determining whether there is an improper duplication of benefits or for the purpose of determining or verifying an applicant's eligibility for a grant award under each Party's program guidelines.

1.2 The parties agree to provide a point of contact for their respective agencies to facilitate communication among the Parties.

Section 2. Protection of Data and Confidentiality

2.1. Any information or data obtained from another party pursuant to this MOU may only be used for the purposes set forth in this MOU. The parties agree to strictly control the use and retention of any personal and confidential information provided by another party so that only those personnel who have a need to know have access to such material. No further dissemination or use of material provided by a party is authorized without written permission of the party from which such material originated, unless required by law.

2.2. Information shall be transmitted in a manner to protect sensitive and personally identifiable information ("PII") and shall be done in accordance with the New Jersey Statewide Information Security Manual (effective March 5, 2018), as may be amended from time to time.

2.3. All sharing of information between the parties shall be in accordance with the Federal Privacy Act of 1974, as amended, 5 U.S.C. § 552a et seq.

2.4. Each party's responsibility to protect personal and confidential data from unauthorized disclosures will survive the term of this Agreement.

Section 3. Points of Contact

For NJHMFA:

[Name]
[Title]
[Address]
[Phone number]
[Email]

For NJEDA:

[Name]
[Title]
[Address]
[Phone number]
[Email]

For NJRA:

[Name]
[Title]
[Address]
[Phone number]
[Email]

For NJDCA:

[Name]
[Title]
[Address]
[Phone number]
[Email]

For NJDEP:

[Name]
[Title]
[Address]
[Phone number]
[Email]

Section 4. General Provisions

4.1. This MOU may be modified or extended only by prior written agreement by the Parties. Any party may terminate this MOU upon thirty days prior written notice to the other Parties.

4.2. This MOU is being entered into for the sole purpose of evidencing the mutual understanding and intention of the Parties.

4.3. There are no third-party beneficiaries of this MOU.

4.4. This MOU shall be administered consistent with N.J.S.A. 52:14-1 et seq.

4.5. The Effective Date of this MOU shall be the date executed by the last of the Parties below. The term of this MOU shall be for a period of two (2) years from the Effective Date unless extended by agreement of the Parties.

4.6. The Parties shall retain all the powers, obligations and immunities provided by law.

4.7. The Parties acknowledge that the successful completion of each Party's duties hereunder will require cooperation between the Parties. The Parties agree to work cooperatively to achieve the goals of this MOU.

4.8. All records and data will be subject to existing Federal and State record retention requirements.

4.9. The recitals appearing before Section 1 are made part of this MOU and are specifically incorporated herein by reference.

**IN WITNESS WHEREOF**, the Parties have executed and delivered this MOU on the date set forth next to their respective signatures below, but effective as of the date set forth above. The Parties agree to accept electronic signatures.

**New Jersey Housing and Mortgage Finance Agency**

------------------------------------------------------- Date: -------------------------------------------
By:

**New Jersey Economic Development Authority**

------------------------------------------------------- Date: -------------------------------------------
By:

**New Jersey Redevelopment Authority**

------------------------------------------------------- Date: -------------------------------------------
By:

**New Jersey Department of Community Affairs**

------------------------------------------------------- Date: -------------------------------------------
By:

**New Jersey Department of Environmental Protection**

------------------------------------------------------- Date: -------------------------------------------
By:

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** August 11, 2020

**RE:** Appointment of COVID-19 Accountability Officer

The Members are advised that Christine Baker has been appointed as the Authority's COVID-19 Accountability Officer pursuant to the requirements of Executive Order 166 (Murphy 2020).

Governor Phil Murphy issued Executive Order 166 on July 17, 2020. It required each principal department and agency, as well as each independent authority, that receives COVID-19 Recovery Funds or administers a COVID-19 Recovery Program to appoint or designate a senior-level official as its "COVID-19 Accountability Officer". That person serves as the primary liaison to the Governor's Disaster Recovery Office (which is charged with coordinating the work of all COVID-19 Accountability Officers and developing a transparency website) and to the Office of the State Comptroller (which will provide training and assistance and review potential procurements involving COVID-19 Recovery Funds). The COVID-19 Accountability Officer also oversees the responsible disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs.

The Authority appointed Christine Baker, Senior Vice President, Strategic Initiatives and Operations, as the Authority's COVID-19 Accountability Officer. Christine has significant relevant experience, including several years at the Attorney General's Office handling Superstorm Sandy procurements (among other things), 1½ years at the Governor's Office of Recovery & Rebuilding (the predecessor to Governor's Disaster Recovery Office), and 2 years serving as NJ Transit's Accountability Officer (for Superstorm Sandy).

Tim Sullivan

# AUTHORITY MATTERS

NJEDA

# MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan, Chief Executive Officer

**DATE:** August 11, 2020

**Subject:** Consulting Services for Zero Emission Medium and Heavy-Duty Vehicle (ZE-MHDV) Market Analysis and Program Design

## Request

Members of the Board are asked to approve the Authority entering a contract with Guidehouse, Inc., a global consulting firm, to undertake a commercial vehicle electrification market and supply chain analysis, and to advise the Authority on new incentive and other related program design.

The contract is for a firm fixed-price, not to exceed amount of $593,400.00 for an initial term of 1 year. The scope of work includes the option of additional task orders.

Funding for the contract will be drawn wholly from Regional Greenhouse Gas Initiative (RGGI) funds, which are allocated to the Authority annually under the Global Warming Solutions Fund Act.

Contractor selection was based on a publicly advertised procurement, with six (6) proposals scored by an Evaluation Committee according to technical criteria and price.

**Background: Regional Greenhouse Gas Initiative (RGGI) & Transportation electrification**

On January 29, 2018, Governor Murphy signed Executive Order 7 (EO 7), instructing state government agencies to return New Jersey to full participation in the Regional Greenhouse Gas Initiative (RGGI) as quickly as possible.[1] RGGI is a multi-state, market-based program that establishes a regional cap on carbon dioxide (CO2) emissions from the electric power generation sector allowing for auctioning of emissions rights.

Based on its participation in the quarterly RGGI auctions, New Jersey plans to invest an estimated $80 million each year in programs that reduce GHG, drive forward projects that boost clean energy and create jobs, protect the health of residents in environmental justice communities, and increase the resiliency of coastal communities. New Jersey's proceeds from the first two RGGI auctions of 2020 total approximately $42 million, with full calendar-year proceeds estimated in the range of $80 million – $85 million.

RGGI funds allocation is governed by the Global Warming Solutions Fund Act (P.L. 2008, c. 340). By law, three state agencies (NJEDA, the New Jersey Department of Environmental Protection (NJDEP), and the New Jersey Board of Public Utilities (NJBPU)) are allocated RGGI proceeds, with NJEDA receiving 60 percent (focus area: commercial, institution, and industrial entities), and NJBPU and DEP each receiving 20 percent (focus areas, respectively: low income and moderate income residential; and local government, forest, and tidal marshes).

A significant portion of NJEDA's RGGI funding will be focused on programs and projects that support the deployment of zero emission MHDVs, with a focus in and around communities disproportionately impacted by GHG emissions, as codified in the RGGI Strategic Funding Plan: Years 2020 through 2022, released in April this year.

**Background: reducing transportation sector emissions**

Transportation sector electrification is essential for New Jersey to achieve its target of an 80 percent reduction in greenhouse gas (GHG) emissions by 2050. Transportation accounts for 41 percent of GHG emissions in the State, more than twice that of the second largest source, electricity generation (18 percent). Fossil fuel-powered transportation is also the leading source of air pollutants.

Transitioning to zero-emission technologies is necessary to reduce these societal costs and to advance environmental justice (i.e., the health and quality of life outcomes for communities disproportionately impacted by pollutants); at the same time increasing transport's economic contribution.

**Procurement Objectives & Deliverables**

Through this contractual engagement, NJEDA is seeking to draw on outside, specialized expertise and US and global best practice for the purposes of designing new electric vehicle incentive programs – both to accelerate the transition to clean and equitable transportation in the

[1] Executive Order 7 (EO 7) is available at: https://nj.gov/infobank/eo/056murphy/pdf/EO-7.pdf

State, as well as to attract supply chain jobs and investment to the State. More specifically, the consultant will:

A. Assess current & forecast MHDV fleet and charging infrastructure characteristics;
B. Analyze the ZE-MHDV market and supply chain, and strategy formulation; and
C. Map existing programs and design new program options.

A core principle guiding program design will be the maximization of the environmental return, (i.e., GHG emissions reduced and/or Environmental Justice outcomes achieved per dollar of RGGI proceeds disbursed) – at the same time, leveraging all opportunities to grow and/or attract supply chain jobs and investment to the State. Program design will also seek to strike an appropriate balance between grants (funding) and loans (financing), as well as other forms of assistance (e.g. technical assistance); ensuring a strong incentive for the sector to electrify, while maximizing the efficacy of RGGI fund disbursement.

Staff has worked closely with NJDEP and NJBPU in shaping the scope of this engagement and will continue to partner closely with these agencies on new program design. The three agencies also recently partnered on the issuance of a request for Information (RFI) to the transportation sector focused on commercial vehicle electrification. Findings from the RFI will be fed into the work of the consultant and the program design process.

The consultant is anticipated to begin work in late August 2020, with a final written report due to NJEDA in November 2020. The Authority will use this report, as well as ongoing engagement with government, community, and industry stakeholders, to develop proposed programs. Staff anticipates returning to the Board with proposed programs in Quarter One 2021.

**Procurement Process Utilized**

Authority Staff are procuring services in accordance with public procurement laws and requirements and have followed the Authority's publicly advertised process. Prior to release, the Request for Qualifications/Proposals (RFQ/P) was developed in collaboration with by the Authority's partners in the Partnership to Plug-in – NJDEP and NJBPU – and approved by the Attorney General's Office.

The RFQ/P was posted publicly on July 6, 2020. It was advertised in three (3) newspapers – Courier Post, Trenton Times, and Star Ledger – for two days, posted on the NJ State Business Portal, and posted on the Authority's website, and made available for more than ten (10) days for bidder submissions. A question period was open until July 13, 2020, with twenty-two (22) questions received. NJEDA responses to all questions were shared in Addendum 1 to the RFP, posted on the Authority's website on July 15, 2020.

Prior to the publishing of the RFQ/P, an Evaluation Committee was established comprising qualified Authority staff. Further, as part of its due diligence in this selection process and in accordance with the Partnership to Plug In MOU, the Authority consulted with Subject Matter Experts in the DEP and BPU. These Subject Matter Experts were non-voting members of the Evaluation Committee.

Bids closed on July 24, 2020, and the Committee formally convened on July 27, 2020. Committee

members independently scored proposals, using a highest score system. Categories for scoring were:
- Personnel's individual relevant qualifications for team roles and the Scope;
- Experience of entity, demonstrated through reference projects of similar size and scope to the RFQ/P Scope; and
- Ability to complete the Scope of Work based on the proposer's Technical Proposal.

Each bidder's price was submitted within a sealed second volume, and the Evaluation Committee did not review or utilize price in its scoring. Pricing was separately ranked and weighted by the Sr. Procurement Officer on the basis of the lowest total firm, fixed-price rate.

**Procurement Process Results and Justification for Award Recommendation**

Six (6) vendors submitted proposals by the July 24, 2020 deadline, with all deemed responsive by the Sr. Procurement Officer. The vendors who submitted Proposals were as follows:
- Boston Consulting Group (BCG)
- CALSTART
- Gabel Associates, Inc.
- Guidehouse, Inc.
- Myshka Simeus
- WSP USA, Inc.

Based on the independent scoring by Evaluation Committee members, Guidehouse, Inc., was the highest ranked proposal, based on Personnel, Experience of Entity, and Technical Proposal, and inclusive of the results of the sealed Fee Schedule ranking. The total scores for the vendors are as follows (out of a maximum score of 5):
- Boston Consulting Group (BCG) – 3.13
- CALSTART – 3.73
- Gabel Associates, Inc. – 3.20
- Guidehouse, Inc. – 4.03
- Myshka Simeus – 0.80
- WSP USA, Inc. – 3.83

Guidehouse, Inc., was requested to provide a Best and Final Offer (BAFO). The BAFO fee submitted of $593,400.00 represents an approximately 14% discount on their initial proposal.

Of the anticipated total programs supported by these consulting services, Guidehouse, Inc.'s fee represents approximately 0.5% of forecasted EDA-allocated RGGI funding over the expected 3 year program period.

**Recommendation**

**Members of the Board are asked to approve the Authority entering a contract with Guidehouse, Inc., to undertake commercial vehicle electrification market and supply chain analysis, and to advise the Authority on incentive and related program design.**

Timothy Sullivan
Chief Executive Officer

Prepared by: Office of Economic Transformation (OET)

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** August 11, 2020

**RE:** Disparity Study Partnership with Rutgers University for NJ Wind Port Contracting - **For Informational Purposes**

The Members are advised that conjunction with Governor Murphy's announcement to develop the New Jersey Wind Port in Salem County, the New Jersey Economic Development Authority (NJEDA) will be contracting with Rutgers University to conduct a disparity study to inform the Authority's award of contracts for the proposed New Jersey Wind Port. The study will analyze whether there is a disparity between the number of qualified minority-, women-, veteran- and/or LGBTQ-owned businesses (MWVLOBs) that are ready, willing, and able to contract with the NJEDA and perform services relevant to development of the Wind Port and the number of vendors and contractors that have historically received contracts for similar work. The disparity study will also identify barriers to MWVLOB participation in NJEDA contracts and recommend programs to reduce or eliminate these barriers as well as additional tools and practices the NJEDA could use to encourage MWVLOB participation in contracts, financial assistance, and other support programs. The disparity study will be a vital tool as the Authority continues its efforts to set a new standard for diversity and inclusion during construction of the Wind Port and once the project becomes operational. If opportunities created by the Wind Port project are distributed equitably, it will help achieve our goal of building a stronger, fairer New Jersey economy.

The New Jersey Wind Port is a first-in-the-nation infrastructure investment that will provide a location for essential staging, assembly, and manufacturing activities related to offshore wind projects on the East Coast. It has the potential to create up to 1,500 manufacturing, assembly, and operations jobs, as well as hundreds of construction jobs in New Jersey; and manufacturing and marshalling projects supported by the Wind Port will drive economic growth throughout the state.

The Wind Port will be located on the eastern shore of the Delaware River in Lower Alloways Creek, Salem County; approximately seven-and-a-half miles southwest of the City of Salem. Construction is planned in two phases, beginning in 2021. Phase 1 will develop a 30-acre site to accommodate marshalling activities and a 25-acre component manufacturing site. Phase 2 adds another 150 acres to accommodate expanded marshalling activities and extensive manufacturing facilities for turbine components such as blades and nacelles.

We anticipate receiving the results of the study in September and hope to use those results to guide the procurement of the construction manager for the Phase I of the Wind Port.

______________________________

Tim Sullivan

Prepared by: Michelle Bodden

# INCENTIVE PROGRAMS

# FILM TAX CREDIT PROGRAM

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**
**PROJECT SUMMARY – FILM TAX CREDIT PROGRAM**

As created under the Garden State Film and Digital Media Jobs Act, P.L. 2018, c. 56, the New Jersey Film and Digital Media Tax Credit Program provides a credit against the corporation business tax and the gross income tax for certain expenses incurred for the production of certain films and digital media content in New Jersey. Under the Film Tax Credit Program, applicants are eligible for a tax credit equal to 30% of qualified film production expenses, or 35% of qualified film production expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.

**APPLICANT:** South Cape Film, LLC PROD-00188027

**APPLICANT BACKGROUND:**
South Cape Film, LLC is the production company responsible for "South Cape", a rebellious coming of age drama that follows a young man who returns to a beach town in Southern, NJ to visit his childhood home following the death of his father.

The film content has been reviewed and recommended for approval under the Act by the New Jersey Motion Picture and Television Commission. The Commission has determined that the film shall include, at no cost to the State, marketing materials promoting the State, including the placement of a logo in the end credits of the film.

**ELIGIBILITY AND TAX CREDIT CALCULATION:**
As part of eligibility for tax credits under the New Jersey Film Tax Credit Program, a film must meet at least one of two expense eligibility thresholds:

1. Total Film Production Expenses: A minimum of 60% of the film's total production expenses (calculated excluding post-production expenses) must be incurred after July 1, 2018 but before July 1, 2023 for services performed and goods purchased through vendors authorized to do business in New Jersey. The following film production expenses are projected by the applicant.

| | |
|---|---|
| A. Total Film Production Expenses | $603,900 |
| B. Total Post-Production Expenses | $68,000 |
| C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses) | $535,900 |
| Percentage Calculation = C/(A-B) | 100% |
| **Criterion Met** | **Yes** |

2. Qualified Film Production Expenses: During a single privilege period, the film must have more than $1 million in qualified film production expenses. "Qualified film production expenses" are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. "Qualified film production expenses" shall include, but shall not limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup,

wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a "qualified film production expenses" unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of $500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

| | |
|---|---|
| Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018. | $603,900 |
| **Criterion Met** | **No** |

## AWARD CALCULATION

| Base Award Criteria | Calculation | Result |
|---|---|---|
| 30% of Qualified Film Production Expenses | $603,900 x 30% = | $181,170 |
| | | |
| **Bonus Criteria Met** | | |
| Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses. | $0 x 2% = | $0 |
| 5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County. | $197,600 x 5% = (Cape May County; primarily consisting of site fees and rentals) | $9,880 |
| **Total Award** | | **$191,050** |

**APPLICATION RECEIVED DATE:** 10/19/2019 (Application #30)
**DATE APPLICATION DEEMED COMPLETE:** 1/3/2020
**PRINCIPAL PHOTOGRAPHY COMMENCEMENT:** 11/14/2019
**PRINCIPAL NJ PHOTOGRAPHY LOCATION:** Lower Township
**ESTIMATED DATE OF PROJECT COMPLETION:** 10/28/2020
**APPLICANT'S FISCAL YEAR END:** 6/30/2021
**TAX CREDIT VINTAGE YEAR(S):** 2021
**TAX FILING TYPE:** Gross Income Tax
**ANTICIPATED CERTIFICATION DATE:** 1/31/2021

Film production was suspended due to the COVID-19/novel coronavirus outbreak. The Applicant will be resuming principal photography on August 28, 2020. The estimated date of project completion has been revised to October 28, 2020.

In general, the final documentation shall be submitted to the Authority no later than four years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 and three years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to the N.J.S.A. 54A:1-1 et seq.

The Garden State Film and Digital Media Jobs Act originally provided a total of $75 million in tax credits for State Fiscal Year 2019 and increased to $100 million as amended by law on 1/21/2020. The program amendment also allows $50 million of unused allocation to carry over to the subsequent State Fiscal Year. As a result, $150 million of film tax credits are available for State Fiscal Year 2020. After today's approvals, $87.1 million remains in the program for State Fiscal Year 2020 which may be available to 24 additional applications in the pipeline totaling $73.7 million.

**APPROVAL REQUEST:**
The Members of the Authority are asked to initially approve the proposed award to the applicant under the New Jersey Film and Digital Media Tax Credit Program. The recommended tax credit is contingent upon receipt by the Authority of evidence that the applicant has met certain criteria to substantiate the recommended award, and is subject to final approval by the Authority and the Division of Taxation. Staff may issue the Authority's final approval if the criteria met by the company is consistent with that shown herein. If the criteria met by the company differs from that shown herein, Staff may lower the tax credit amount to reflect what corresponds to the actual criteria that have been met.

**APPROVAL OFFICER:** S. Novak

# LOANS/GRANTS/GUARANTEES

# HAZARDOUS DISCHARGE SITE REMEDIATION FUND

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan, Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** NJDEP Hazardous Discharge Site Remediation Fund Program

The following municipal and commercial grant projects have been approved by the Department of Environmental Protection to perform preliminary assessment, site investigation and remedial investigation activities. The scope of work is described on the attached project summary:

**HDSRF Municipal Grants:**

| | | |
|---|---|---|
| Prod 188328 | Camden Redevelopment Agency (Trailways Plus) | $110,345 |
| Prod 188266 | Cumberland County Improvement Authority (Downtown Bridgeton) | $125,005 |

**Total HDSRF Funding –August 2020** **$235,350**

Tim Sullivan

Prepared by: Kathy Junghans

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Hazardous Discharge Site Remediation - Government Facility**

**APPLICANT:** Camden Redevelopment Agency – Trailways Plus PROD-00188328

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 215 S. Carmen, 400 S 17th, 1600 Admiral Wilson Blvd, 100 S 19th Camden City
Camden County

**APPLICANT BACKGROUND:**

Camden Redevelopment Agency (CRA), identified as Blocks 1212, 1201, 1198, 1208, 1209 and Lots 1, 1, 1, 4, 4, is a former commercial bus terminal which has potential environmental areas of concern (AOCs). Camden Redevelopment Agency currently owns the project site and has satisfied proof of site control. It is CRA's intent, upon completion of the environmental investigation activities to redevelop the project site for commercial use.

NJDEP has approved this request for Preliminary Assessment (PA)/Site Investigation (SI) and Remedial Investigation (RI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

**OTHER NJEDA SERVICES:**

None

**APPROVAL REQUEST:**

Camden Redevelopment Agency is requesting grant funding to perform PA, SI, and RI in the amount of $110,345 at the Trailways Plus project site.

**FINANCING SUMMARY:**

**GRANTOR:** Hazardous Discharge Site Remediation Fund

**AMOUNT OF GRANT:** $110,345.00

**TERMS OF GRANT:** No Interest; No Repayment

**PROJECT COSTS:**

| | |
|---|---|
| Site Investigation | $50,958.00 |
| Preliminary Assessment | $9,725.00 |
| Remedial Investigation | $49,662.00 |
| EDA Administrative Cost | $500.00 |
| **TOTAL COSTS:** | **$110,845.00** |

**DATE:** 8/4/2020

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Hazardous Discharge Site Remediation - Municipal**

**APPLICANT:** Cumberland County Improvement Authority PROD-00188266

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 41 North Laurel Street Bridgeton City Cumberland County

**APPLICANT BACKGROUND:**

In May 2020, Cumberland County Improvement Authority (CCIA), identified as Blocks 84 and 85, Lots 7,9,10,11, 13.1 and 2,3,17,19 & 20 received a grant in the amount of $185,420 under P45650 at the former dry cleaning store which has potential environmental areas of concern (AOCs). The CCIA currently owns the project site and has satisfied proof of site control. It is CCIA's intent, upon completion of the environmental investigation activities to redevelop the project site for commercial use.

NJDEP has approved this request for Remedial Investigation (RI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

**OTHER NJEDA SERVICES:**

$185,420, P45650

**APPROVAL REQUEST:**

Cumberland County Improvement Authority is requesting supplemental grant funding to perform RI in the amount of $125,005 at the Redevelopment Zone project site. Total grant funding including this approval is $310,425.

**FINANCING SUMMARY:**

**GRANTOR:** Hazardous Discharge Site Remediation Fund

**AMOUNT OF GRANT:** $125,005.00

**TERMS OF GRANT:** No Interest; No Repayment

**PROJECT COSTS:**

| | |
|---|---|
| Remedial Investigation | $125,005.00 |
| EDA Administrative Cost | $500.00 |
| **TOTAL COSTS:** | **$125,505.00** |

**DATE:** 8/4/2020

# PETROLEUM UNDERGROUND STORAGE TANK (PUST)

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan, Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program

The following supplemental commercial project has been approved by the Department of Environmental Protection to perform closure/upgrade and site remediation activities. The scope of work is described on the attached project summary:

**PUST Commercial Grant:**

| | | |
|---|---|---|
| Prod 188264 | Tomasello Auto Center | $313,298.54 |

| | |
|---|---|
| **Total UST Funding – August 2020** | **$313,298.54** |

Tim Sullivan

Prepared by: Kathy Junghans

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Underground Storage Tank - Commercial**

**APPLICANT:** Tomasello Auto Center PROD-00188264

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 5300 Atlantic Avenue Ventnor City Atlantic County

**APPLICANT BACKGROUND:**

Between March 2011 and July 2019, Tomasello Auto Center, owned by Frank Tomasello, received an initial grant in the amount of $96,243 under P34113 and supplemental grant in the amount of $89,229 under P36899 and aggregate supplemental grants for $258,222 under P38923 and P128,648 under P44960 to remove two (2) 6,000-gallon, one (1) 4,000 gallon and one (1) 500-gallon underground storage tanks (USTs) and perform required remediation. The NJDEP has determined that the supplemental project costs are technically eligible to perform additional soil and groundwater remedial activities.

Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial test for a conditional hardship grant.

**OTHER NJEDA SERVICES:**

None

**APPROVAL REQUEST:**

The applicant is requesting additional supplemental grant funding in the amount of $313,298.54 to perform the approved scope of work at the project site. The project site is located in a metropolitan area and is eligible for up to $1 million in grant funding. Total grant funding including this approval is $885,640.54.

The NJDEP oversight fee of $31,329.85 is the customary 10% of the grant amount. This assumes that the work will not require a high level of NJDEP involvement and that reports of an acceptable quality will be submitted to the NJDEP.

**FINANCING SUMMARY:**

**GRANTOR:** Petroleum UST Remediation, Upgrade & Closure Fund

**AMOUNT OF GRANT:** $313,298.54

**TERMS OF GRANT:** No Interest; 5 year repayment provision on a pro-rata basis in accordance with the PUST Act.

**PROJECT COSTS:**

| | |
|---|---|
| UST Project: Remediation | $313,298.54 |
| UST Project: NJDEP Costs | $31,329.85 |
| EDA Administrative Cost | $500.00 |
| **TOTAL COSTS:** | **$345,128.39** |

**DATE:** 8/10/2020

# REAL ESTATE

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan

**DATE:** August 11, 2020

**SUBJECT:** Request for Budget Increase – Offshore Wind Port Development Project

**REQUEST**

The Members of the Board are asked to approve the second amendment to the Authority's March 2020 binding letter of intent (LOI) with PSEG Nuclear (PSEG), expanding the capital budget cap associated with New Jersey Wind Port project from $4 million to $7 million (Attachment A). This capital budget cap expansion is in line with the Board action taken at the June board to extend the time period of the PSEG LOI, through the first amendment, to September 30, 2020.

NJEDA staff have completed significant work on the development of the New Jersey Wind Port Project since the Binding LOI with PSEG Nuclear was approved. This work includes studies and analyses on financing options and delivery pathways, technical and nuclear feasibility, and commercial feasibility. As a reminder, that while this capital budget will be spent at risk, it is expected that it will be reimbursed to the Authority as a project development cost at the time of the project's financing.

**PROJECT BACKGROUND**

Over the past 24 months, NJEDA staff have been evaluating options for a co-located marshalling and manufacturing offshore wind port. NJEDA entered a first, non-binding letter of intent (LOI) with PSEG Nuclear in October 2020 to conduct an initial feasibility analysis of the Lower Alloways Creek site for an offshore wind port. After the positive conclusion of this feasibility study, NJEDA entered into a binding LOI with PSEG in March 2020 to continue developing the port project while also working together to reach a long-term commercial agreement.

From February to May 2020, the Authority procured and onboarded several advisors to support on project development. These include a financial advisor (EY Infrastructure Advisors), technical advisor/owner's engineer (WSP) and an appraiser (Sterling & Associates). Additionally, special outside counsel (Ashurst and Love & Long) was retained by the New Jersey Attorney General's Office. These advisors have been fully integrated into the project and have been helping staff to de-risk the project as outlined below. NJEDA extended its binding LOI with PSEG through September 30, 2020 at the June 2020 Board Meeting, and Governor Murphy publicly announced the New Jersey Wind Port development on June 16, 2020.

*De-risking financial options and delivery pathways*
EY Infrastructure Advisors (EYIA) was appointed NJEDA's financial advisor for the New Jersey Wind Port project in March 2020. Since that time, Authority staff – working closely with other government entities – have worked with EYIA to assess the viability of various project financing mechanisms and delivery options.

As part of this process, public financing, private financing, and public-private partnership (P3) financing options were assessed against several criteria including: the ability to meet time to market objectives, impact to the State and Authority's balance sheets, alignment with the State's offshore wind objectives, attractiveness to the private market, ability to mitigate risk, and overall "value for money." Staff simultaneously worked with partner agencies and EYIA to assess a range of potential delivery options for the project. It is expected that a final decision on the financing option and delivery method will be taken in the month of August.

*De-risking the technical and nuclear feasibility studies*
WSP was appointed NJEDA's technical advisor for the New Jersey Wind Port project in early May 2020. Since that time, Authority staff have worked with WSP to review and assess the project's technical and nuclear feasibility. Based on this review, NJEDA staff have been working with PSEG and their design and engineering firm, Moffat and Nichol (M&N), to address high value design decisions/issues.

*De-risking commercial feasibility*
Authority staff have been working closely with members from the Attorney General's Office, outside counsel, and our financial advisor, EYIA, to progress the commercial arrangements between NJEDA, PSEG, and potential port tenants. Authority staff have been in detailed negotiations with PSEG over the past two months.

Since the public announcement of the port on June 16, 2020, there has been increased interest from potential tenants. NJEDA staff released a public RFI on proposed tenant leasing approaches on July 27, 2020 and received nine responses by August 4, 2020. Following a public advertisement, NJEDA staff expect to start accepting offers from potential tenants for initial leases in the next two to three months.

**RECOMMENDATION**

Given the above, staff requests approval to expand the capital budget cap associated with the Authority's binding letter of intent (LOI) with PSEG Nuclear from $4 million to $7 million, as included in the attached second amendment to the LOI. This will enable NJEDA to complete project due diligence and commercial negotiations needed to reach a commercial agreement with PSEG by September 30, 2020.

________________________________

Tim Sullivan

Prepared by: Brian Sabina, David Nuse, Jonathan Kennedy, Bette Renaud, Julia Kortrey, Aaron Roller

# BOARD MEMORANDA -FYI ONLY

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan, Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** Credit Underwriting Projects Approved Under Delegated Authority – **For Informational Purposes Only**

The following projects were approved under Delegated Authority in July 2020:

**Direct Loan Program:**

1) Flame Cut Steel Inc. (PROD-00188280), located in Irvington Township, Essex County, was founded in 2005 as a steel fabrication business specializing in Computer Numerical Control flame cutting of steel plates, sheets and round bars for use in aerospace, energy, construction, hydraulics, medical, robotics, military and other specialized industries. The NJEDA approved a $269,080 loan in conjunction with a $287,570 loan from Credit Union of NJ and applicant equity. The combined proceeds will be used to finance equipment. Currently, the Company has four full time employees and plans to create two new positions within the next two years. USEDA funds will be utilized for this project.

2) Freund Brothers Realty LLC (PROD-00187672), located in Irvington Township, Essex County, is a real estate holding company formed to purchase the project property. The operating company, Affordable Distributors Inc. ("AD"), was incorporated in 2011. AD sells paper and plastic products to bakeries, restaurants and schools in the NY and NJ area. The NJEDA approved a $1,092,000 loan in conjunction with a $1,365,000 loan from Cross River Bank to finance the purchase of land and building. The Company currently has twelve employees and expects to add five new jobs over the next two years. USEDA funds will be utilized for this project.

3) Hampton-Clarke, Inc. (PROD-00218889), located in Fairfield Borough, Essex County, has provided environmental laboratory and field sampling services to its clients in the Northeast and Mid-Atlantic regions since 1986. The NJEDA approved a $150,400 loan in conjunction with a $150,400 loan from Lakeland Bank to purchase upgraded equipment. The Company currently has 85 employees and plans to create three new positions within the next two years. USEDA funds will be utilized for this project.

**Premier Lender Program:**

1) 605-615 Washington Ave LLC (PROD-00192557), located in Carlstadt Borough, Bergen County, is a newly formed real estate holding company formed to own and manage the project property. The operating company, Brooklyn Provisions, Inc. ("BP"), is currently operating as a division of Wonder Meats Inc. ("Wonder"), which purchased BP in 2008. Wonder was founded in 1971 to produce corned beef, brisket, pastrami and other meat products, including meat sold under the Boar's Head and Sabrett labels. ConnectOne Bank approved a $3,555,000 bank loan contingent upon a 49.93% ($1,775,000) Authority participation. Proceeds will be used to purchase the project property. The Company currently has 12 employees and plans to create 28 new positions within the next two years. USEDA funds will be utilized for this project.

**Micro Business Loan Program:**

4) J & J Janitorial Cleaning Service Limited Liability Company ("J & J Janitorial") was founded in 2013 to operate a cleaning business located in Camden, NJ. J & J Janitorial provides janitorial services to businesses throughout South Jersey, providing commercial cleaning such as dusting, vacuuming, mopping, trash removal and disinfecting of vending areas and cafeterias, lobbies, elevators and common hallways. The Company offers specialty services including floor stripping, waxing, carpet steaming and tile cleaning. Industries served include banks, daycare facilities, manufacturers, auto dealerships, schools/universities, retail stores and places of worship. The NJEDA approved a $45,646 loan to purchase equipment. The Company currently has one full time job and plans to create two new positions within the next two years.

.

**Prepared by:** G. Robins

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan**,** Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** Bond Modifications – 2nd Quarter 2020

(For Informational Purposes Only)

The following Post-Closing Bond action was approved under delegated authority in the 2nd quarter ending June 30, 2020:

**Stand Alone Bond**

| Applicant | Modification Action | Bond Amount |
|---|---|---|
| The Fred 101, LLC | Consent to the deferral of principal payments due on the 2015 Bond for April, May and June 2020 due to the COVID-19 Pandemic. | $7,500,000 |

Prepared by: F. Saturne

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan**,** Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** Incentives Modifications – 2nd Quarter 2020

(For Informational Purposes Only)

Since 2001, and most recently in June 2014, the Members have approved delegations to staff for post-closing incentive modifications that are administrative and do not materially change the original approvals of these grants.

Attached is a list of the Incentive Modifications that were approved in the 2nd quarter ending June 30, 2020.

Prepared by: F. Saturne

ACTIONS APPROVED UNDER DELEGATED AUTHORITY

SECOND QUARTER ENDING June 30, 2020

**Business Employment Incentive Grant Program**

| Applicant | Modification Action | Approved Award |
|---|---|---|
| Mclane NJ, Inc. | Consent to add Mclane Company, Inc. to the tax credit conversion amendment. | $704,640 |
| MLB Network, Inc. | Consent to add The MLB Network LLC and Major League Baseball Properties, Inc.to the tax credit conversion amendment. | $8,048,929 |
| Proximo Spirits Inc. | Consent to remove an affiliate from the BEIP Agreement and change of project location. | $2,300,000 |
| TD Ameritrade, Inc. | Consent to add TD Ameritrade, Inc., TD Ameritrade Services Company, Inc. and ThinkTech Inc. to the tax credit conversion amendment. | $1,092,000 |

**GROW NEW JERSEY ASSISTANCE PROGRAM**

| Applicant | Modification Action | Approved Award |
|---|---|---|
| Allergan Sales, LLC | Consent to add an affiliate to the agreement. | $58,284,000 |
| Damascus Bakery OPCO, LLC | Consent to approve a six-month extension of the certification deadline from June 13, 2020 to December 13, 2020. | $18,648,000 |
| Elwyn | Consent to approve two six-month extensions of the certification deadline from February 19, 2022 to February 19, 2023. | $39,582,000 |
| Ernst and Young, LLC | Consent to approve two six-month extensions of the certification deadline from July 14, 2019 to July 14, 2020. | $39,775,000 |
| Fidessa Corp. | Consent to add affiliates to the agreement. | $30,600,000 |
| LifeCell, Corp. | Consent to approve a six-month extension of the certification deadline from June 13, 2020 to December 13, 2020. | $14,872,500 |
| Professional Disposables International, Inc. | Consent to approve a six-month extension of the certification deadline from May 11, 2020 to November 11, 2020. | $7,990,290 |

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan, Chief Executive Officer

**DATE:** August 11, 2020

**SUBJECT:** Post Closing Credit Delegated Authority Approvals for 2nd Quarter 2020
***For Informational Purposes Only***

The following post-closing actions were approved under delegated authority during the second quarter of 2020:

| Name | EDA Credit Exposure | Action |
|---|---|---|
| 2nd Home Newark Operations LLC (2nd Home Adult Medical Day Care Centers) | $ 645,677 DIR | Six-month extension of loan maturity to May 1, 2020, in conjunction with a corresponding extension from senior lender to allow time for refinance. Obligation now paid in full. |
| RLK Realty, LLC (Steel Cut Steel, Inc.) | $ 380,583 SBF | Extend maturity to March 1, 2030 to align with corresponding senior debt from Credit Union of NJ. |

**Prepared by**: Jennifer Bongiorno and Mansi Naik

NJEDA

**EXECUTIVE SESSION - MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan

**DATE:** August 11, 2020

**SUBJECT:** New Jersey Wind Port Project Initial Tenant Leasing – Fair Markets Rents

**Summary**

Members of the Board are asked to approve the following Fair Market annual rents for the initial lease of two parcels of land at the New Jersey Wind Port, which are due to reach construction completion in mid-2023:

- Parcel A (30 acres):
  - $6 million
- Parcel G (25 acres):
  - $4 million for short-term use to support marshalling activities; and
  - $5 million for long-term use, such as offshore wind (OSW) component manufacturing.

Fair Market rents will serve as the minimum acceptable annual rent (i.e a price floor). Actual rents will be determined via a publicly advertised request for offers followed by direct negotiations. Following negotiations, should offers be less than the Fair Market rent, Staff may return to the Board with a recommendation for revisions or adjustments to the Fair Market rent that reflect Staff's experience with the process.

## 1 Summary

The purpose of this Memorandum is to update the Board on the proposed initial tenant selection process for the New Jersey Wind Port project and, relatedly, to request approval of the Fair Market rents that Staff propose to use in order to set a minimum acceptable price. Fair Market rents were established through research into comparable leases at OSW ports/terminals – with Staff also drawing on advice from the Authority's financial advisor, EYIA.

Starting in mid-2023 when Phase One of the Port is complete, but Phase Two sites are still under development, the Authority will be able to lease two land parcels. The first, Parcel A is a 30-acre area purpose-built for OSW component marshalling and assembly. Parcel G is a 25-acre area which can be used for OSW turbine component manufacturing or, in the short term, for additional storage or staging to supplement Parcel A.

As explained below, the Authority's existing leasing procedures will be used to request and potentially accept offers to lease either or both parcels. Offers for Parcel A will be considered for an initial lease period of between 12 to 24 months. NJEDA may allow a lease extension if, at its sole discretion, it develops additional marshalling capacity at the Port as part of the Port's Phase Two development. Offers for Parcel A may also include a price to contemporaneously lease Parcel G for short-term staging.

Offers for longer-term leases of Parcel G, independent of offers for Parcel A, will also be accepted provided they are for OSW related manufacturing.

After following the process as described in the Authority's existing leasing procedures, Staff anticipates entering into a binding Letter of Intent (LOI) with the party (or parties) with the most beneficial offer(s). Staff will bring the selection of the tenant(s) and the corresponding binding LOI (or LOIs) to the Board for approval before finalizing a lease agreement with any prospective tenant.

The anticipated value of initial leases for Parcels A and G is expected to exceed the $12.5 million threshold for upfront review by the Office of the State Comptroller (OSC). Accordingly, Staff are preparing the requisite documentation for lodgment with the OSC for its review, ahead of any public advertisement.

Leasing of all parcels from 2025 onwards (with the exception of Parcel G if it already has a long-term manufacturing tenant in place) will be deferred until after award of the solicitations for the 2020 New Jersey and New York OSW projects. However, Staff are currently preparing an industry-focused information package – for release in September of this year – which will allow OSW developers (and their supply chain partners) that are bidding on solicitations to factor potential use (and costs of use) of the New Jersey Wind Port into their bids.

## 2 <u>Leasing process</u>

In order to get to revenue certainty as soon as practicable, Staff has set its strategy for phasing in securing port tenants. This phasing strategy has been developed with the assistance of the Authority's financial (EYIA) and technical (WSP) advisors, and in consultation with other State stakeholders.

The phased leasing strategy balances the following three core goals:

- Providing an opportunity for the initial tranche of OSW projects to bid on Phase One parcels;
- Maximizing the financial sustainability of the port by encouraging competition for the asset; and
- Ensuring the NJ Wind Port remains a neutral asset.

The Port will be developed in phases, with Phase One targeted to start construction in 2021 and reach completion in mid-2023, and Phase Two targeted to reach completion in early 2026. The phased process for leasing port property, outlined in Figure 1 below, reflects overall construction phasing as well as broader OSW market dynamics.

**Figure 1 – Proposed two-phase lease process**

| Lease Period | Lease start/ end date | Parcels | Begin reviewing offers (expected) | Earliest award (expected) |
|---|---|---|---|---|
| 1 | Parcel A: mid-2023 to 2024/25<br><br>Parcel G: mid-2023 onwards (if manufacturing), Or 2023 to 2024/25 if used in conjunction with Parcel A for additional storage/ staging | Parcels A & G (55 acres combined) | Aug – Sep 2020 | Parcel A: Sept – Oct 2020<br><br>Parcel G: Sept – Oct 2020 for manufacturing *or* Nov – Dec 2021 for additional storage/staging |
| 2 | Parcels A (and possibly G): 2025 onwards<br><br>Parcel B & C 2026 onwards<br><br>Parcel D: mid-2024 onwards | All parcels (200+ acres) | Aug 2021 | Nov – Dec 2021 |

Each period will be outlined in further detail below.

**Lease Period One:**

OSW developers typically lock-in port capacity several years ahead of when that capacity is needed. Recognizing this, the Authority intends to commence the process for leasing parcels A and G, which are expected to reach construction completion in mid-2023.

The Authority's Property Disposition Procedures, based on the power given to NJEDA in its enabling legislation to lease all or part of a project, state "for such consideration and upon such terms as the authority may determine to be reasonable." These procedures were approved by the Board on December 9, 2014, and have been used by the Authority for both sales and leases, including sales reviewed and approved by the OSC. Therefore, Staff will use the procedures governing the leasing of property (Section III – 1- 9), which are copied below – with additional explanation of how they relate to this initial leasing (italicized text).

1. The lease of any property shall conform to current delegations of approval.

2. Staff will establish the Fair Market rent through one or more of the following methods: (i) obtaining an estimate of fair market rent from a state- certified appraiser; (ii) obtaining a market assessment and recommended asking rent from NJEDA's real estate broker; (iii) by researching the market for comparable leases and/or listings; or (iv) by extracting a market rent from recent appraisal data (i.e. prepared within 18 months from the commencement of the disposition process) of the subject property or similar properties, whether prepared for the Authority or a third party, provided the data was prepared by a state- certified independent fee appraiser.

- *Staff is proposing to the Board a Fair Market rent established by researching the market for comparable leases at OSW ports/terminals in the US and overseas – and by drawing on advice of the Authority's financial advisor, EYIA.*

  *In addition, as part of any adjustments to comparable rents, Staff have considered the estimated capital cost of the NJ Wind Port and the level of rent that would be required for full or partial capital cost recovery (further details on the rental price methodology are included in Exhibit A of this Memorandum)*

  *As explained below, the Fair Market rent constitutes the "asking rent" because that is the floor that Staff can accept unless lowered through the process described below. However, because of the uniqueness of the property, Staff does not intend to publish the Fair Market rent – rather, offerors will be invited to propose a rental amount which will form the basis of any ensuing negotiations. Staff expects that this will maximize the amount of rent.*

3. In the event that NJEDA does not have a leasing broker under contract, or if an existing broker contract cannot be amended to include the subject property, staff may retain a valuation consultant or broker in accordance with current procurement procedures.

   - *Staff does not intend to procure a broker given its research into comparable leases in order to arrive at a Fair Market rent. Given the unique nature of OSW ports, Staff expects this will result in a more accurate indicative price and will lessen transaction costs.*

4. Staff will market the property for lease through one or more of the following means: Listing with a real estate broker; electronic media listing (e.g. CoStar, LoopNet); property signage; public advertisement; notifications to NJ Business Action Center, municipality, county/local economic development organization(s), and/or non- profit organization(s); posting on NJEDA web site; or such other means that staff determines to be desirable and appropriate for a period of time which allows for reasonable market exposure.

   - *Staff will publicly market the property for lease using the Authority's website, the NJ Wind Ports dedicated website, as well as via email dissemination to industry stakeholders. A public press release will also be issued. The posting will be available for approximately 14 days.*

     *Staff may also contact potential lessee(s) directly to seek to increase the number of offers to lease received. Such contact with potential lessee(s) will be limited to providing information that is provided to all other potential lessee(s).*

     *As part of the advertisement, Staff will publish a document setting out the form that offers must take as well as the minimum requirements for offers to be considered – such as: inclusion of a (non-binding) annual rental price; (for Parcel A) conformance with minimum and maximum lease periods; use of the site for OSW purposes; and a demonstrated need for OSW port capacity. The document will also explain the Authority's bid submission, evaluation, and selection process.*

5. In the event a property is not leased after six months of being on the market, staff may reduce the asking rent by up to 10%. If the property remains on the market for 12 months or longer, staff may further reduce the price by up to an additional 10%. Staff will obtain updated market data prior to reducing the asking rent by an amount greater than 20% in the aggregate.

    - *As explained above, the "asking rent" is the Fair Market rent, but Staff will not include it in the advertisement for leases. Although Staff has done due diligence and research, OSW port leases remain novel in markets competitive to New Jersey, and, thus, there is some amount of uncertainty as to the rent that may result from this publicly advertised, competitive process. Should offers, following negotiations, fail to equal or exceed the Fair Market rent approved by the Board, Staff will return to the Board with a recommendation for a revised rent amount that reflects the experience with this process and any additional relevant information.*

6. Staff may recommend that the Board discount a property's Fair Market rental rate for government or non- profit tenants where the property will be used or developed for economic development purposes or significant job creation, attraction or retention. In these cases, staff will provide the Board with the estimated Fair Market rent, the proposed rent reduction and a detailed description of the activity to be carried out at the property. The tenant must covenant that it will devote the property to this purpose for the entire lease term; this covenant must be enforceable by NJEDA through the lease.

    - *Staff does not anticipate a situation where a tenant would be a government or non-profit entity given the Port's designation as a built-for-purpose OSW port*

7. NJEDA may credit a lessee for broker commission fees with the consent of the Board.

    - *Staff does not anticipate crediting parties that submit an offer for their broker commission fees*

8. In the event of interest from multiple parties, staff will evaluate the prospective tenants and proposed lease terms and make a recommendation to the Board on the basis of a combination of the following factors: highest net cash return to NJEDA; credit rating; lease terms; resulting job creation, attraction and/or retention; and tax generation.

    - *Of the criteria listed, two require some clarification as to how they will apply in this situation:*

      *"Credit rating," which is used to gauge a tenant's financial capacity in a regular office lease scenario, shall be met by the ability of the prospective tenant to meet the financial obligations of the lease(s).*

      *"Job creation, attraction and/or retention" shall be met by the extent to which a prospective tenants intended use of the site aligns with the State's broader OSW job plan: attraction and supply chain development objectives, as well as objectives for the Port as a marshalling and manufacturing hub.*

*To support evaluations, Staff may seek information outside of the offer to lease to verify its accuracy and responsiveness, and whether the potential lessee(s) is responsible. Staff may request such information from the potential lessee(s), from public records, or from others familiar with the potential lessee(s).*

*Consistent with these procedures, Staff may enter into negotiations with one or multiple parties after an offer or offers are received to achieve terms that are in in the best interests of NJEDA and the State based on the evaluation criteria. That is, Staff may negotiate with the most viable party or parties until a pre-determined deadline consistent with executing a binding Letter of Offer (LOI) in October. Recommendations to the Board on offers will be based on evaluation of the offers submitted, as they may be developed through negotiations. For example, if a binding LOI cannot be reached with the highest ranked party within a reasonable time frame given the time constraints (which may be ten business days), Staff will begin negotiations with the next highest ranked tenant. This process will continue until a deal is reached, there are no additional potential tenants interested in the site, or Staff determines that additional negotiations will not result in a binding LOI that is in the best interests of NJEDA and the State within the time constraints of the initial leases.*

*If a proposed agreement is reached through negotiations, Staff would bring to the Board a recommendation to select the tenant(s), sign the relevant binding Letter(s) of Intent (LOI), and to enter into detailed negotiations with the selected tenant(s) on final lease terms. Any recommendation to enter into an LOI will also identify competing bids or offers to lease that will be rejected by awarding a lease agreement to the selected lessee, if applicable. Final terms would be brought to the Board for its approval.*

9. Pursuant to N.J.S.A. 52:15C- 10, staff will inform the Office of the State Comptroller (OSC) of a proposed lease of property with an expected value of $10,000,000 or more prior to Board approval and for transactions with an expected value of $2,000,000 - $10,000,000, staff will submit required documentation to OSC within 20 business days after the award of Board approval.
   - *On July 1, OSC increased its thresholds of review for pre-approval to $12.5 million. The anticipated value of initial leases for Parcels A and G exceeds the $12.5 million threshold for upfront review by the Office of the State Comptroller (OSC). Accordingly, Staff is preparing to file the requisite documentation with the OSC for approval ahead of any public advertisement.*

**Phase 2 Information Package and Future lease periods**

Leasing of parcels beyond the initial lease period (with the exception of Parcel G if it already has a long-term manufacturing tenant) will be deferred until after awards of the solicitations of the 2020 New Jersey and New York OSW projects; which are expected to conclude by mid-2021. This recognizes that the OSW industry will have greater certainty on port needs at that point, in-turn, increasing competition for use of the New Jersey Wind Port.

However, while the Authority will not be commencing a formal lease process for these future lease periods, Staff is preparing an industry-focused information package for release in September this year – which will enable OSW developers (and their supply chain partners) bidding on OSW solicitations (whether in New jersey or other states) to factor-in to their bids the potential costs of the use of the Port. This package will serve as a prospectus, giving industry line of sight on the Port's asset condition (e.g. developable acreage, weight bearing capacity, etc.), as well as the Authority's proposed timeframe for securing tenants. The information package will also contain an indicative rate sheet – broken down by parcel – which is currently being prepared with the assistance of the Authority's financial advisor.

## 3 Arriving at a Fair Market rent

By researching comparable leases at OSW ports/terminals in the US and overseas (in the case of Parcel A), as well as NJ industrial and commercial property rents (in the case of long-term use of Parcel G), Staff have arrived at the following annual Fair Market rents (Figure 2).

**Figure 2 – Recommended Annual Fair Market rent for Lease Period 1**

| **Parcel A** (2023 – 2024/25) | **Parcel G** | |
|---|---|---|
| | Short-term use (2023-2024/25) | Long-term use |
| **$6,000,000** | **$4,000,000** | **$5,000,000** |

As noted in the above procedures, Fair Market rent is the lower bound of what Staff are able to negotiate without the reduction that may be accepted if the property remains on the market over time. As also stated above, if the process does not result in a binding LOI, Staff will re-evaluate the Fair Market rent based on the additional experience and any other information obtained at that time and may come back to the Board for revisions or adjustments to the Fair Market rent. At this time, Staff anticipate that actual negotiated rental rates will be higher than the Fair Market rates. However, because there are not a large number of comparable port offerings and the demand for the asset in the very first period is expected to be limited to the number of major OSW projects with existing power purchase/OREC contracts, Staff are recommending setting Fair Market rent using a conservative approach. As noted above, Staff will bring back to the Board for approval an LOI that includes the negotiated rent and key terms before entering into a lease agreement.

The following sections detail the methodology that was applied for each parcel.

### 3.1 Parcel A (Marshalling)

For Parcel A pricing, OSW-port specific comparables were chosen – reflecting the fact that OSW ports differ from conventional industrial and maritime real estate in respect to underpinning cost structures, cost recovery and market pricing.

Due to the embryonic nature of the OSW sector in the US, only a limited range of US comparables were publicly available. Further, the absence of a uniform pricing approach, and blending of upfront tenant capital with ongoing rental payments, required Staff to derive an "effective rent". In order to allow for a like-for-like comparison, effective rents were compared on an annualized (i.e divided by the length of the lease), as well as per acre basis.

An assessment of effective rents at comparable ports, alongside the proposed Fair Market rent for the New Jersey Wind Port (Parcel A) is outlined in Figure 3 below – with this analysis indicating an industry average (annual) rent of between $6 million and $10 million.

**Figure 3 – OSW port rent price comparables**

| | **Port of New London (CT)** *(Effective)* | **Port of Norfolk (VA)** *(Effective)* | **New Bedford (MA)** | **Esbjerg (Denmark)** |
|---|---|---|---|---|
| **Annual rent** | $10,500,000 | $6,600,000 - $9,700,000[1] | $6,000,000 | $10,000,000 |
| **Annual rent per acre** | $365,000 | $220,000 - $323,000 | $200,000 | Unknown |
| **Lease length** | 10 years | 7 years | 18 months | Unknown |

As an additional point of reference, Staff considered the level of rent required in order to recoup each parcels' capital costs over a given timeframe (e.g. 30-year useful life). Full cost recovery is not feasible for Parcel A when considered on a standalone basis due to that parcel's high upfront capital costs. These costs, such as dredging and wharf-related costs, are incurred as part of Parcel A's construction but benefit all other inland parcels. By extension, inland parcels have a greater than 100 per cent cost recovery over their useful economic life effectively cross-subsidizing Parcel A's costs.

Staff also requested that EYIA conduct basic research on typical capital recovery ratios for US ports. While the exact levels of these subsidies are difficult to isolate, it is relatively well understood in the port industry more broadly that wharfs and port terminals typically do not fully recover their capital costs through rents. They are often highly subsidized (e.g., 60 percent to 100 percent of capital costs), focusing instead on operating cost recovery. The rationale for this is often that they are economic development drivers for a region.

Staff anticipate that cost recovery for Parcel A will increase in subsequent lease periods in-line the maturation of the OSW market – and as committed and planned OSW projects across the US East Coast (currently totaling 25 GW) approach the installation phase.

Exhibit A provides further detail on the methodology for arriving at a Fair Market price.

Based on the above analysis of comparative ports and cost recovery, Staff are recommending a Fair Market price of $6,000,000 (per annum), which corresponds with the lower bound of OSW port comparables. Staff believe a lower bound estimate is warranted given the limited data set – with the expectation that offers received and/or negotiated will exceed this amount. In order to maximize price, the Fair Market rent will not be published in lease documentation.

[1] A range was used in Norfolk's case due to a lack of clarity on which party (public or private) bore particular costs

The Fair Market rent will only apply to the initial lease period (2023 – 2024/25). Staff anticipate developing new procedures for future lease periods (i.e lease periods that the Authority intends to bring to market from mid to late 2021), and that Fair Market rent for future lease periods will be set higher than the rent thresholds for the initial period.

**3.1 Parcel G (Manufacturing or Marshalling support)**

***Short-term use for marshalling support***

Besides potential long-term leases on Parcel G, the Authority's initial lease process will invite offers for short-term use of Parcel G in conjunction with an offer for Parcel A. This recognizes the intrinsic value that Parcel G represents for an OSW developer-tenant leasing Parcel A – with Parcel G serving as a proximate area for storage and/or laydown space.

Staff are recommending a Fair Market rent of $4 million for short-term leases on Parcel G. This price is pegged at approximately 65 percent of the Fair Market rent for Parcel A which Staff believe reflects the likely intrinsic value to a Parcel A tenant. This analysis is supported by expert interviews on European OSW ports, which indicated that upland plot rental rates ranged from approximately 60-80 percent of quayside rates, depending on the distance from the wharf.

***Long-term use for manufacturing***

Staff established a benchmark rent assumption based on New Jersey industrial and commercial property rents (expressed as average rent per square foot per year) – drawing on over 200 data points across the industrial and commercial property sectors. This industry baseline was adjusted to account for NJEDA's estimated development costs and fact that OSW facilities are special-purpose facilities and therefore differ from general industrial and warehousing in respect to technical requirements, capital costs and pricing. Extrapolating this revised benchmark by the parcel size (25 acres) and proposed facility type[2] (Nacelle manufacturing facility) infers an annual rent of approximately $6,000,000.

Accounting for the nascency of the OSW supply chain in the US, Staff recommend a Fair Market rent of $5,000,000 for Parcel G – with annual escalation in-line with inflation (CPI). Members should note that the actual rental price for long-term use of Parcel G will be dependent on facility cost allocation between the Authority (as landlord) and the tenant.

**Budget**

Costs associated with the initial tenant selection process, such as financial and legal advisory fees, will be covered within the Authority's existing budget for the Port project, which, alongside other project-related costs, will be reimbursed upon financial close.

[2] An assumed facility sizing was developed on the basis of consultation with OSW component manufacturers

**Recommendation**

**Members of the Board are asked to approve the following Fair Market annual rents (i.e a price floor) for the initial lease of two parcels of land at the New Jersey Wind Port, which are due to reach construction completion in mid-2023:**

- **Parcel A (30 acres):**
    - **$6 million**
- **Parcel G (25 acres):**
    - **$4 million for short-term use to support marshalling activities; and**
    - **$5 million for long-term use, such as OSW component manufacturing.**

Timothy Sullivan
Chief Executive Officer

Prepared by: Brian Sabina, Bette Renaud and Jonathan Kennedy, Office of Economic Transformation

## Exhibit A – Fair market value analysis

***Please refer to enclosed slide deck***

NJEDA

# New Jersey Offshore Wind Port Development

# Parcel A and G rent analyses

DRAFT

July 29, 2020

# Parcel A rent should be considered in the context of the overall project – with only partial cost recovery feasible on Parcel A due to its high upfront capital costs

— The methodology to determine rent for a new facility typically involves analyzing a broad set of comparable rents and rent structures. Given the nascency of the OSW port sector, there are few precedent projects in the US and limited information available publicly.

— Therefore to establish an expected range, we have used a combination of both comparable analysis and scenario analyses in the financial model[1]. Our approach and outputs are summarized in the table below.

— The analysis in these slides are **indicative only** and do not constitute actual valuation or determination of fair market value – ranges are also subject to changes in the design, use and capital cost of specific parcels

| | Methodology | Parcel A Rent Calculations[1] | |
|---|---|---|---|
| 1 | Comparable analysis (specifically looking at New Bedford, New London and Norfolk, VA) | $6 –10m | |
| 2 | Financial modeling to solve for the rent amount to achieve: | If Parcel A only[5] | If full build (Phase 1 & 2) |
| | a) Payment of debt principal, interest and O&M during the period of full operations[3] | $38m | $15m |
| | b) Payment of interest and O&M during period of full operations, not principal[4] | $31m | $5m |
| | c) Payment of principal and O&M, not covering associated interest expense | $26m | $1m |
| | d) Payment of O&M only during period of full operations | $12m | $0 |

With the benefit of other parcels' revenues, Parcel A revenues could be set as low as $5m and the parcel could cover its operating costs and interest expense – owing to cross-subsidization from other parcels

On a standalone basis, Parcel A would need $12m of initial revenues to cover its own operating costs

[1] Incorporates $100m of additional CapEx on an unescalated basis for Parcel A relative to prior estimates and a 10% discount to anticipated revenues on parcels other than G
[2] Incorporates $100m of additional CapEx on an unescalated basis for Parcel A relative to prior estimates, and assumed $12m/year fixed Parcel A revenues and a 10% reduction in manufacturing revenues, except for the tenant land rental charge for Parcel G.
[3] Utilizes the financial model sent to NJEDA on 7/20/2020 with adjustments listed in the notes on slide 5.
[4] Scenario compares total cash flow against debt service and/or interest only requirements through 2050. Cashflow may be insufficient to fully cover debt service in early years of operations.
[5] Reflects only higher CapEx, not the decrease in manufacturing revenues as there are no manufacturing revenues in a Parcel A only scenario.

# Three data points exists in the US to help determine an appropriate rent range for Parcel A

| | New Bedford, MA | New London, CT | Tradepoint Atlantic, MD | Norfolk, VA |
|---|---|---|---|---|
| Tenant announced | 2019 | 2019 | 2019 | 2020 |
| Area | 30 acres | 29 acres | 50 acres | 40 acres |
| Projects served | Vineyard Wind (800MW) & Mayflower Wind (800MW) | Revolution Wind (700MW) | US Wind (248MW) & Skipjack Wind (120MW) | |
| Project Developer | Avangrid, Copenhagen Infrastructure Partners & Shell New Energies, EDPR Offshore | Ørsted, Eversource (local utility), National Grid (local utility) | US Wind/Toto & Ørsted | Ørsted, Dominion Energy (local utility) |
| Project / lease revenue start | 2020 & 2022 (original timeline, but now delayed) | Port agreement dated February 2020, development to begin in 2021/2022. | 2020 & 2022 (Original timeline, but now delayed) | 2020 |
| Lease Term and lease revenues | Vineyard Wind - $6 million per year for 18 months<br>Mayflower Wind – No public information | 10-year lease with $2 million annual fixed payment plus operator pays an additional $0.5 to $1.25m p.a. | Not public | Expected $13 million over the 7 year lease period (1.7-acre site with option to expand to 40 acres) |
| Tenant CapEx contribution | - | $50 to $60 million (if bonus earned) | $39.6 million towards the port divided between each project in line with size (MW) of each project plus $76m towards steel fabrication plant. | $20 million towards site upgrades and cranes (assumed to be contributed by tenant but not confirmed) |
| MW per year | 400 | 352 initially | 125 initially | 750* |
| Appropriateness | Straight comparable | Requires adjusting out the upfront-contribution | Insufficient data to compare | Requires adjusting out the upfront-contribution |

[1] Estimated that the planned 2,600MW Coastal Virginia Offshore Wind lease area is developed over 4 years

# Calculating an effective no-contribution metric for New London and Norfolk provides for more helpful benchmarks

Assuming a developer WACC of 5%, converting the upfront tenant contributions to effective adjustments in rent over the lease terms results in a no-upfront contribution effective annual rate of:

1. ~$10.5m at New London, and

1. between ~$6.6m and ~$9.7m at Norfolk based on two scenarios developed

## New London, CT ($m)

| | Acres | Assume base rent $/p.a. | $60m upfront converted to rent | Additional payments from operator | Effective rent |
|---|---|---|---|---|---|
| 2021 | 29 | 2.0 | +7.8 | +0.5 | 10.3 |
| 2022 | 29 | 2.0 | +7.8 | +0.5 | 10.3 |
| 2023 | 29 | 2.0 | +7.8 | +0.5 | 10.3 |
| 2024 | 29 | 2.0 | +7.8 | +0.5 | 10.3 |
| 2025 | 29 | 2.0 | +7.8 | +0.5 | 10.3 |
| 2026 | 29 | 2.0 | +7.8 | +0.8 | 10.5 |
| 2027 | 29 | 2.0 | +7.8 | +0.8 | 10.5 |
| 2028 | 29 | 2.0 | +7.8 | +0.8 | 10.5 |
| 2029 | 29 | 2.0 | +7.8 | +0.8 | 10.5 |
| 2030 | 29 | 2.0 | +7.8 | +0.8 | 10.5 |
| Total rent | | 20.0 | +77.8 | +6.3 | 104.0 |

## Norfolk, VA ($m)

| | | **Scenario 1 –** Upfront investment amortized evenly over 7 years | | | **Scenario 2 –** Upfront investment amortized over last 4 years | | |
|---|---|---|---|---|---|---|---|
| | Acres | Assumed base rent $/p.a. | Upfront converted to rent | Effective rent | Assumed base rent $/p.a | Upfront converted to rent | Effective rent |
| 2020 | 1.7 | 0.1 | +3.5 | 3.6 | 0.1 | | 0.1 |
| 2021 | 1.7 | 0.1 | +3.5 | 3.6 | 0.1 | | 0.1 |
| 2022 | 1.7 | 0.1 | +3.5 | 3.6 | 0.1 | | 0.1 |
| 2023 | 40.0 | 3.1 | +3.5 | 6.6 | 3.1 | +6.5 | 9.7 |
| 2024 | 40.0 | 3.1 | +3.5 | 6.6 | 3.1 | +6.5 | 9.7 |
| 2025 | 40.0 | 3.1 | +3.5 | 6.6 | 3.1 | +6.5 | 9.7 |
| 2026 | 40.0 | 3.1 | +3.5 | 6.6 | 3.1 | +6.5 | 9.7 |
| Total rent | | 13.1 | +24.2 | 37.3 | 13.1 | +26.1 | 39.2 |

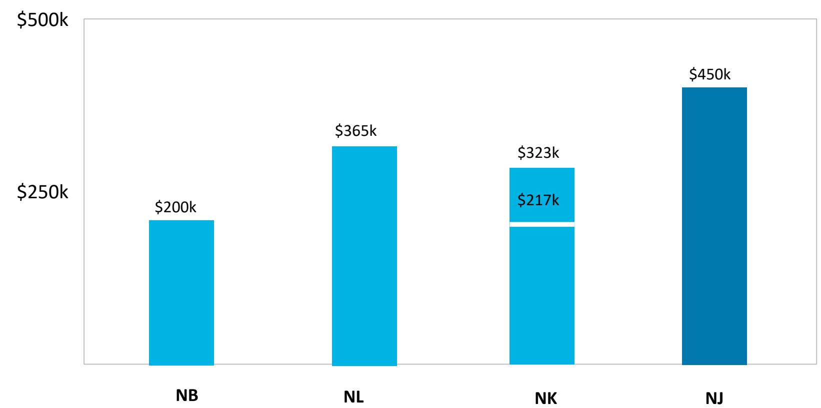
# Comparing adjusted no-tenant-contribution effective rents with prior NJ assumption

— Adjusted effective rents for comparable marshalling facilities provide some support at $10m rent range or above $300k per acre.

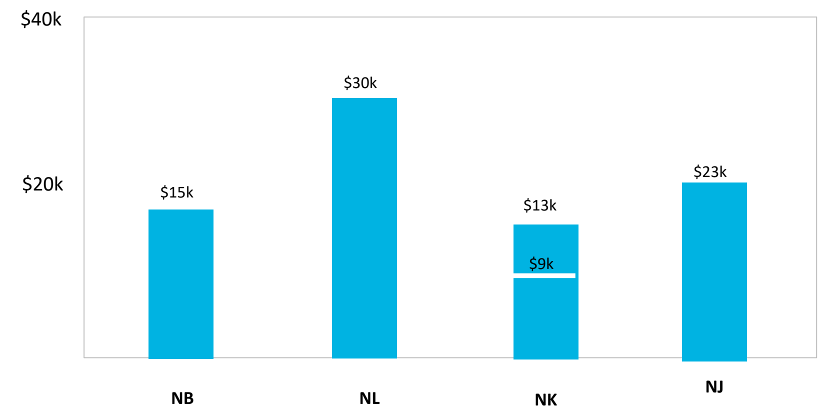
— If the NJ port is able to marshal a higher amount of MWs over a similar time frame as comparables, on a $MW/year basis NJ appears attractively priced.

**Adjusted no-contribution effective rents per annum**


**Adjusted no-contribution effective rents per acre per year ($/acre/year)**




**Adjusted no-contribution effective rents per MW per year ($/MW/year)**



## Financial modeling – break-even point for short-term rent price

- If a long-term manufacturing lease for Parcel G cannot be secured now, NJEDA could accept any short-term rent the market is willing to pay for Parcel G as long as those payments are in excess of the costs to operate and maintain the site (including major maintenance and PSEG land lease costs) estimated at $3.5m in the base year.
- Setting the short-term rent at $3.5m implies:
  - A rental charge of $4.02/SF/year or $175,000/acre/year. That figure is approximately 30% lower than what the long-term market rate rents were determined to be by NJEDA's strategic consultant.
  - If assuming an initial rent on Parcel A of $12m or $400,000/acre/year, a Parcel G short term rental rate of $3.5m represents a 68% discount on a per acre basis to Parcel A.