NJEDA

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Agenda for Board Meeting of the Authority April 10, 2024

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

CEO's Report to the Board

Clean Energy

Economic Security

Authority Matters

Incentives

Real Estate

Board Memoranda

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

March 7, 2024

MINUTES OF THE MEETING

The Meeting was held in-person and by teleconference call.

Members of the Authority present in person: Vice Chairman Charles Sarlo, Aaron Creuz, Executive Representative; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; and Public Members Massiel Medina Ferrara, Robert Shimko, First Alternate Public Member, and Jewell Antoine-Johnson, Second Alternate Public Member.

Members of the Authority present via conference call: Chairman Terry O'Toole, Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Acting Commissioner Justin Zimmerman of the Department of Banking and Insurance; Aaron Binder representing State Treasurer Elizabeth Muoio of the Department of Treasury; and Public Members Phil Alagia, Virginia Bauer, Fred Dumont, Aisha Glover, and Marcia Marley.

Also present: Timothy Sullivan, Chief Executive Officer of the Authority; Assistant Attorney General Gabriel Chacon; Jamera Sirmans, Governor's Authorities Unit; and staff.

Chairman O'Toole 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 at the Department of State.

Pursuant to the Internal Revenue Code of 1986, Mr. Sullivan announced that this was a public hearing and comments are invited on any Private Activity bond projects presented today.

MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the February 7, 2024 meeting minutes. A motion was made to approve the minutes by Ms. Dragon, seconded by Mr. Creuz, and approved by the fourteen (14) voting members present.

The next item of business was the approval of the February 7, 2024 Executive Session meeting minutes. A motion was made to approve the minutes by Ms. Antoine-Johnson, seconded by Mr. Creuz, and approved by thirteen (13) voting members present.

Ms. Glover abstained as she was not in attendance.

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

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

PUBLIC COMMENT

There was no public comment.

AUDIT COMMITTEE REPORT

Vice Chair Sarlo provided the Audit Committee Report.

POLICY COMMITTEE REPORT

Vice Chair Sarlo provided the Policy Committee Report.

REAL ESTATE

ITEM: Urban Investment Fund Grant Program
REQUEST: To approve: (1) the creation of the Urban Investment Fund Grant Program, a pilot grant program funded from the "Urban Investment Fund" in the Fiscal Year 2024 Appropriations Act (P.L. 2023, c.74) from American Rescue Plan Coronavirus State and Local Fiscal Recovery Funds for the revitalization of key commercial corridor areas and to undertake real estate projects location within eligible urban municipalities; (2) delegation to the Authority's CEO to enter into a Memorandum of Understanding with the NJ Department of Community Affairs to accept and use SLFRF funds appropriated in FY24 and deposit into the Economic Recovery Fund for the Urban Investment Fund Grant Program, and comply with federal funding requirements. This request includes the utilization of funds to support the Authority's administrative costs associated with operating the Program; and (3) delegated authority to the Authority's CEO to adjust the maximum funding award amount by up to 20% based on various factors.
MOTION TO APPROVE: Ms. Dragon SECOND: Mr. Glover AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

MS. Ferrara recused as she recently accepted a position with the City of Trenton, which may seek to apply for the program.

INCENTIVES

ITEM: New Jersey Re-assigning In-State Employees (NJ RISE) Program
REQUEST: To approve: (1) The creation of the New Jersey Re-assigning In-State Employees (NJ RISE) Program, a pilot program that will provide grants to businesses principally located in another state to re-assign the location of employment for certain New Jersey-resident employees from out-of-state to New Jersey; (2) The utilization of funding for NJ RISE in any State fiscal year, contingent on continued appropriations; (3) Delegation of authority to the CEO to approve certain individual applications for the NJ RISE Program, within the parameters and the program specifications. (4) Delegation of authority to the CEO to extend the time period for submission of the CPA Certification.
MOTION TO APPROVE: Mr. Creuz SECOND: Mr. Dumont AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2

EMERGE

ITEM: Genmab US, Inc. Emerge Tax Credit Program Application
REQUEST: To approve the proposed Emerge New Jersey tax credit award to induce Genmab US, Inc. to site a project in New Jersey. The recommended tax credit award is subject to conditions subsequent to receive and maintain the award, including submission of certifications and evidence that the company has met the eligibility criteria.
MOTION TO APPROVE: Ms. Dragon SECOND: Ms. Ferrara AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

Ms. Bauer joined the meeting at this time.

ASPIRE

ITEM: DOR Woodbridge Urban Renewal LLC ("Applicant") Hackensack Meridian Ambulatory Care, Inc. ("Co-Applicant")
REQUEST: To approve the issuance of tax credits from the Aspire program for a phased, mixed-use residential project located in Iselin section of Woodbridge Township, up to 50% of the total project cost. Issuance of the Aspire tax credits are contingent upon the Applicant submitting documentation evidencing project financing and planning approvals with respect to the Project within the time one year after approval.
MOTION TO APPROVE: Mr. Shimko SECOND: Ms. Dragon AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

Mr. Sarlo recused to avoid a potential conflict of interest as the applicant is a client of his employer.

ITEM: 930 McCarter Urban Renewal LLC ("Applicant") and Elizabeth Development Company of New Jersey ("Co-Applicant")
REQUEST: To approve the issuance of tax credits from the Aspire program for a residential project located in Newark, New Jersey, Essex County, up to 60% of the total project cost. Issuance of the Aspire tax credits are contingent upon the Applicant submitting documentation evidencing project financing and planning approvals with respect to the Project within the time one year after approval.
MOTION TO APPROVE: Ms. Bauer SECOND: Ms. Antoine-Johnson AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

Mr. O'Toole recused to avoid a potential conflict of interest as his former employer is a potential investor in the project.

Mr. Sarlo recused to avoid a potential conflict of interest as the applicant is a client of his employer.

INCENTIVES COMMITTEE REPORT

Ms. Bauer provided the Incentives Committee Report.

CLEAN ENERGY

ITEM: Modifications to the New Jersey Clean Energy Loans "NJ CELs" Program (SSBCI Clean Energy Business Financing Program)
REQUEST: To approve the modifications to the New Jersey Clean Energy Loans NJ CELs) Program (SSBCI Clean Energy Business Financing Program), as specified in the board memo and program specifications sheet. The modifications requested pertain to transaction size, collateral, reporting requirements, delegated authority, and loan forgiveness.
MOTION TO APPROVE: Ms. Dragon **SECOND:** Ms. Antoine-Johnson **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

Mr. Shimko recused to avoid a potential conflict of interest as his union has a business relationship with a program applicant.

ITEM: New Jersey Clean Energy Loans ("NJ CELs") Approval – PROD-00314195: Solar Landscape, LLC
REQUEST: To approve the application of Solar Landscape, LLC (PROD-00314195) for a loan from NJEDA through the New Jersey Clean Energy Loans (NJ CELs) Program, with the terms and conditions presented in the memo, subject to change based on the co-lender's final terms and conditions presented in their loan documentation.
The memo also requests delegated authority to amend the terms and conditions of the loan post-

approval, in accordance with the NJ CELs Program's design, if needed.
MOTION TO APPROVE: Ms. Dragon **SECOND:** Ms. Ferrara **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

Mr. Shimko recused to avoid a potential conflict of interest as his union has a business relationship with the applicant.

VENTURE

ITEM: New Jersey Innovation Evergreen Fund: March 2024 Qualified Venture Firm Approvals
REQUEST: Approval to designate two applicant venture capital firms as Qualified Venture Firms under the New Jersey Innovation Evergreen Program. The designation will allow the Qualified Venture Firms to apply for program Qualified Investment co- investment capital to invest in eligible high-growth New Jersey-based companies**.**
MOTION TO APPROVE: Ms. Dragon SECOND: Mr. Alagia AYES: 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

DIRECTORS' LOAN REVIEW COMMITTEE REPORT

Ms. Marley provided the Directors' Loan Review Committee Report.

BONDS

APPLICANT: New Jersey Performing Arts Center Corporation* PROD. #00313324
LOCATION: Newark, Essex County PROCEEDS FOR: Stand-Alone Bond AMOUNT OF BOND: $50,000,000.00
MOTION TO APPROVE: Ms. Bauer SECOND: Mr. Shimko AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

Mr. O'Toole recused to avoid a potential conflict of interest as his former employer is a potential investor in the project.

Ms. Ferrara recused to avoid a potential conflict of interest as her husband's employer has an interest in the project.

APPLICANT: NACT Somerset, Inc. PROD. #00314376
LOCATION: Franklin Township, Somerset County
PROCEEDS FOR: Stand-Alone Bond
AMOUNT OF BOND: $11,500,000.00
MOTION TO APPROVE: Ms. Antoine-Johnson SECOND: Ms. Bauer AYES: 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10
PUBLIC HEARING: Yes
PUBLIC COMMENT: None

MOUs/AGREEMENTS

ITEM: Council on the Green Economy MOU – New Jersey Economic Development Authority (NJEDA) and New Jersey Department of Environmental Protection REQUEST: To approve a Memorandum of Understanding between the NJEDA and the New Jersey Department of Environmental Protection (NJDEP). This MOU enables the NJDEP to provide funding to NJEDA to support the continued efforts of the Governor's Council on the Green Economy.
MOTION TO APPROVE: Ms. Dragon SECOND: Mr. Creuz AYES: 15
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

ITEM: Memorandum of Understanding with the Capital City Redevelopment Corporation REQUEST: To approve a Memorandum of Understanding between the Authority and CCRC confirming the mutual understanding and intention between the agencies with respect to the provision of the Authority's support services to CCRC.
MOTION TO APPROVE: Mr. Creuz **SECOND:** Ms. Antoine-Johnson **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

Ms. Ferrara recused to avoid a potential conflict of interest as she was recently hired by the City of Trenton.

AUTHORITY MATTERS

ITEM: Recommendation for Award M4010 – Business and Information Technology Consulting and Advisory Services
REQUEST: To award a contract for Business and Information Technology Consulting and Advisory Services for six months of service to support work related strategic management consulting services.
MOTION TO APPROVE: Mr. Creuz **SECOND:** Ms. Dragon **AYES: 15**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

BOARD MEMORANDA - FYI ONLY

- Economic Security Products: Delegated Authority Approvals, Declinations, and Other Actions Through Q4 2023
- Economic Transformation Products Delegated Authority Approvals, Declinations, & Other Actions, Q4 2023
- Opportunity Zone Challenge- Closeout of Program & Settlement Disbursement
- Real Estate Division Delegated Authority - Q4 2023

There being no further business, on a motion by Mr. Creuz, and seconded by Ms. Bauer, the meeting was adjourned at 11:18am.

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
Assistant Secretary

NJEDA

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

SUBJECT: New Jersey Green Bank Subsidiary Approval

Request

The Members of the Board are asked to approve the formation of a subsidiary to be called the New Jersey Green Bank ("NJGB")[1] of the NJEDA and created pursuant to Section 16 of P.L. 1997, c. 150 (C. 34:1B-159) (the "Subsidiary Act"). In order to form the subsidiary, the Board is asked to approve actions contained in the attached resolution (the "Authorizing Resolution"), which shall approve the establishment of the NJGB as a subsidiary of the NJEDA with all of the powers of the NJEDA, except the power to incur indebtedness independently of the NJEDA.

Also attached to this Board memorandum are the following documents that are approved via the Authorizing Resolution:

1. The NJGB Agreement and Certificate of Incorporation, which will be filed with the Secretary of State;
2. The NJGB By-Laws; and
3. A Memorandum of Understanding ("MOU") between the NJEDA and the NJGB pursuant to which the NJEDA will provide various services to the NJGB.

This Board memorandum is intended to provide background and rationale for approving the Authorizing Resolution and its accompanying documents.

Background

The State of New Jersey ("State"), under Governor Murphy's administration, has taken significant steps to accelerate its transition to a clean energy economy and meet the ongoing challenges of climate change. These include setting several clean energy targets, including 100% clean energy by 2035,[2] 11 gigawatts ("GW") of offshore wind power by 2040,[3] and being one of only a handful of states with an energy storage target (2 GW by 2030).[4] Additionally, the State has made

[1] The NJEDA received approval in January 2024 from the New Jersey Department of Banking and Insurance to name the subsidiary the "New Jersey Green Bank."
[2] Murphy Executive Order #315
[3] Murphy Executive Order #307
[4] P.L. 2018, c.17 (a3723) (njleg.gov)

commitments to accelerate building decarbonization for commercial and residential properties,[5] as well as to incentivize the adoption of zero-emission vehicles.[6] New Jersey has also ensured that prioritizing people in environmental justice communities ("EJCs") (e.g., low-income, minority, and/or with limited English proficiency) who endure a disproportionate share of environmental and public health stressors and have limited access to environmental and public health benefits ("Environmental Justice") is a core consideration in guiding an equitable energy transition.[7]

The NJGB will be a financial organization designed to further build on this progress by making clean energy and climate change investments and providing financial assistance ("Climate Products") that advance the State's efforts to facilitate an equitable energy transition. Specifically, the NJGB plans to make equity investments, provide credit enhancements, and offer loans and/or other financial vehicles to attract private capital to enable the State to reach its climate goals while providing measurable benefits to EJCs.

The NJGB has received prior State legislative and executive support. In Governor Murphy's 2019 Energy Master Plan, an included goal as part of the Governor's efforts to expand the State's clean energy innovation economy during his time in office was the establishment of a New Jersey Green Bank.[8] On February 15, 2023, Governor Murphy signed an executive order directing the NJEDA to coordinate and implement programs supporting building electrification through the implementation of a New Jersey Green Bank.[9] Supplemental appropriations thereafter approved for the 2023 Fiscal Year on June 30, 2023 appropriated forty million dollars ($40,000,000) to the NJEDA as seed capital for this initiative.[10] This seed capital will be transferred from the NJEDA to the NJGB as part of the Authorizing Resolution. Except for this transfer of funds, no NJEDA funds will be linked to the NJGB after the subsidiary is approved.

Beyond the State seed allocation, the NJEDA has been actively pursuing other funding opportunities made available at the federal level, including the Environmental Protection Agency's ("EPA") Greenhouse Gas Reduction Fund ("GGRF") competitions, to bolster the NJGB's planned capital base. The EPA has designed the GGRF competitions to accelerate progress towards the climate goals of the United States, including reducing greenhouse gas ("GHG") emissions 50-52 percent below 2005 levels by 2030.[11] Through the end of 2021, New Jersey had reduced GHG emissions approximately 27 percent below 2005 levels.[12]

NJEDA staff anticipates that the lead applications it supported in October 2023 for the GGRF's National Clean Investment Fund ("NCIF") and Clean Communities Investment Accelerator ("CCIA") competitions will result in at least $100 million in potential subaward grants for the

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[5] Murphy Executive Order #316

[6] EV Act of 2019, P.L. 2019, c. 362

[7] NJDEP| Environmental Justice | Environmental Justice Law, https://dep.nj.gov/ej/

[8] Murphy 2019 Energy Master Plan, https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf

[9] Murphy Executive Order 316 (please note that the NJGB is referred to as the "New Jersey Green Fund")

[10] P.L.2023, c.66 (njleg.gov)

[11] National Clean Investment Fund Notice of Funding Opportunity, https://www.grants.gov/search-results-detail/349234

[12] State GHG Emissions and Removals | US EPA, https://www.epa.gov/ghgemissions/state-ghg-emissions-and-removals

NJGB. If the applications are successful and the NJGB Board approves corresponding subaward agreements, staff expects to receive and deploy these funds starting in July 2024. The NJEDA was listed as a subawardee in the lead NCIF applications for Coalition for Green Capital ("CGC") and Ecority, two organizations that each applied for more than $10 billion from the NCIF competition. In those applications, the NJGB was allocated $202 million from CGC and $350 million from Ecority and is positioned to receive those funds as permanent capital prorata to the funds awarded by EPA to these organizations. Importantly, the NJGB may need to return any funds received as a subawardee through the NCIF competition if such funds are not deployed in a timely manner.

In addition to the GGRF competitions, NJEDA staff is working with the U.S. Department of Energy Loan Programs Office ("LPO") and was recently determined to be an eligible State Energy Financing Institution ("SEFI") that can unlock low-cost capital available through the federal Title 17 Clean Energy Financing Program.[13] NJEDA staff have explored how the NJGB could be similarly determined to be a SEFI on its own, which the LPO has indicated to NJEDA staff is possible once the NJGB is formed.

NJEDA staff has also been engaged in discussions with sister agencies, including the New Jersey Board of Public Utilities, to identify NJGB investment or financial assistance opportunities in community solar projects that could accelerate the State's progress toward achieving its climate goals and advance environmental justice in the State. Additionally, NJEDA staff has been in discussions with private entities and renewable energy developers on mechanisms that would support renewable energy projects in the State.

To help further identify entities within New Jersey that are interested in financial support from the NJGB and the type of financing being sought for these opportunities, the NJEDA released a Request for Expressions of Interest ("RFEI") in December 2023 and is actively gathering responses until a formal application for NJGB financial support is released. While the RFEI is accepting responses for all types of climate-related financial support, it specifically highlighted three priority categories:

1. Clean Energy Generation and Storage
2. Building Decarbonization and Resiliency
3. Zero-Emission Transportation

These categories correspond to both the existing climate goals developed by the State[14] as well as the priority project categories emphasized by the EPA in the GGRF applications.[15] Notably, considerable capital will need to be invested in the State to meet its established targets.

NJEDA staff estimates the following market sizes corresponding to the State's climate goals:

Target/Year Investment Needed

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[13] State Energy Financing Institution (SEFI) Toolkit | Department of Energy, https://www.energy.gov/lpo/state-energy-financing-institution-sefi-toolkit
[14] Murphy 2019 Energy Master Plan, https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf
[15] Greenhouse Gas Reduction Fund Implementation Framework, https://www.epa.gov/system/files/documents/2023-04/GGRF%20Implementation%20Framework_730am.pdf

2 million light duty zero-emission vehicles by 2035	$100 billion[16]
100% clean energy by 2035	$85 billion[17]
11 GW of offshore wind power by 2040	$38 billion[18]

These estimated market sizes indicate a significant need for the NJGB to raise capital and deploy it in a manner that mobilizes private capital.

There is precedence for the NJEDA establishing a subsidiary, namely the Schools Construction Corporation, in 2003 pursuant to the Subsidiary Act. The Subsidiary Act enables the NJEDA to form a subsidiary to effectuate any of its authorized purposes. The Subsidiary Act provides that the subsidiary specifically shall have all the powers vested in the NJEDA which the NJEDA determines to delegate to the subsidiary, except that the subsidiary shall not have the power to contract indebtedness independently of the NJEDA.

There are many reasons why it is necessary and desirable to establish this subsidiary. Expeditious and effective deployment of the NJGB's seed capital and any GGRF allocations will require that the NJGB has sufficient operational flexibility, access to capital, and staff capacity and expertise, as well as the ability to focus entirely on climate and transition investments, mirroring other green banks, such as the New York Green Bank and the Connecticut Green Bank, that have had successful track records of attracting private capital for climate and clean energy projects.[19,20] For instance, since its inception, the Connecticut Green Bank and its private investment partners have deployed over $2.26 billion in capital for climate projects, with approximately $7 in private capital mobilization occurring for every $1 of Connecticut Green Bank's financial support. In addition to these state green banks in Connecticut and New York, a list of some of the other existing green banks in the U.S. can be found in Exhibit A. Given this history of successful green bank capital mobilization, establishing the NJGB as a subsidiary of the NJEDA represents an important opportunity to position the NJGB to play an impactful role in an equitable energy transition in the State.

Crucially, the subsidiary approach will help eliminate market barriers for private investment into projects to help New Jersey meet its climate goals by giving the NJGB the ability to:

- Attract private capital, including funds from public-private partnerships, in a similar manner to the following examples that have occurred at other Green Banks:

[16] Based on industry average cost from EValuateNJ – Atlas Public Policy (atlaspolicy.com), https://atlaspolicy.com/evaluatenj/

[17] Based on industry average cost from Renewable Power Generation Costs in 2022 (irena.org), https://www.irena.org/Publications/2023/Aug/Renewable-Power-Generation-Costs-in-2022

[18] Based on industry average cost from Project Sunroof - Data Explorer | New Jersey, https://sunroof.withgoogle.com/data-explorer/place/ChIJn0AAnpX7wIkRjW0_-Ad70iw/

[19] About Us - CT Green Bank | Accelerating Green Energy Adoption in CT, https://www.ctgreenbank.com/about-us/

[20] About NY Green Bank, https://greenbank.ny.gov/About/About

- Bank of America's $314 commitment to NY Green Bank through a trust for low-cost debt, all funds of which have been repaid by NY Green Bank[21]
- CT Green Bank's partnership with the residential solar developer PosiGen, which resulted in 4,400 solar PV projects (67% of which occurred in low- and moderate-income communities) and represented around $116 million in capital deployed[22]

- Efficiently mobilize private sector capital for financial support mechanisms through an organizational structure akin to other Green Banks and aligned with private sector practices
- Pursue customized and de novo financing structures tailored to transaction specificity to induce private capital participation
- Facilitate the development of climate and clean energy capital markets in the State through forms of financial support, such as warehousing and securitization, that address underdeveloped capital markets for these investments
- Have a self-sufficient entity focused on achieving market scale in a way that complements existing NJEDA clean energy grant/incentive programs

Additionally, the subsidiary approach will allow the NJGB to have the operational flexibility to invest its own capital in an expeditious and market-responsive manner by giving it the ability to:

- Have execution aligned with industry standards
- Have NJGB-centric procedures unique to climate-related investment needs
- Have an exclusive focus on Climate Products that helps recruit green finance expertise to the organization
- Create industry-tailored products and customize investment deal structures, as appropriate
- Have a staff with industry-specific expertise in climate investing, lending, portfolio optimization, capital markets, credit, risk management, and business development
- Ring-fence NJEDA exposure, if any, to NJGB investments
- Build an independent balance sheet with any funds awarded to the State through the GGRF's NCIF and CCIA competitions and grow that balance sheet with retained earnings from the NJGB's investments

NJGB Details

Organizational Structure of the NJGB

Given the NJGB's need to deploy its seed capital and additionally any awarded federal funds, which may have provisions for returning grant subawards if not deployed in a timely manner, to meet the State's climate objectives, hiring a staff with the requisite experience to focus exclusively on the ability to execute climate transactions is a priority. A planned organizational chart for the NJGB can be found in Exhibit B. Among other staffing needs that the NJGB may have, it is

[21] NY Green Bank Announces Completion Of First Private Capital Raise And Largest By A Green Bank In The U.S. - NYSERDA, https://www.nyserda.ny.gov/About/Newsroom/2021-Announcements/2021-08-02-NY-Green-Bank-Private-Capital-Raise-Fund-Largest
[22] Solar For All - CT Green Bank | Accelerating Green Energy Adoption in CT, https://www.ctgreenbank.com/strategy-impact/societal-impact/successful-legacy-programs/solar-for-all/

envisioned that the NJGB, once fully operationalized, will have its own dedicated staff who have expertise in the following areas:

- Financial services, including sales, marketing, and technology expertise
- Strategy, impact, and investor relations
- Business planning and administration
- Investment and portfolio management
- Capital markets
- Risk management

Until the NJGB is able to hire its own staff, NJEDA will loan employees through the NJGB/NJEDA MOU for the NJGB's day-to-day operations ("Loaned Staff"). During and after the period where these NJEDA employees are loaned to the NJGB, the NJGB will leverage the NJEDA for administrative and other services in areas such as accounting, public affairs and communications, HR, ethics, compliance, procurement, IT, corporate governance, and diversity, equity, and inclusion.

For legal services, the NJGB will have its own agreement with the New Jersey Division of Law within the Office of Attorney General ("OAG"), except at the outset of the NJGB's operations, when the NJGB will engage with the OAG through the NJEDA's agreement until the NJGB's own agreement is finalized. The retention of special counsel would go through the OAG, as is currently the practice within the NJEDA.

The NJGB will have a Chairperson of the Board, a Board of Directors, and a Chief Executive Officer, all of whom will provide oversight to the NJGB's activities.

The initial board for the Green Bank ("Initial Board") will consist of three (3) NJEDA employees (the "NJEDA-Affiliated Directors") with qualified backgrounds (e.g., financial administration, lending, financial services, investing, and portfolio management) who are named in the Agreement and Certificate of Incorporation attached to the Authorizing Resolution. Upon authorization of the formation of the NJGB, the Initial Board will be comprised solely of these NJEDA-Affiliated Directors, who will be: Tim Sullivan (Chief Executive Officer of the NJEDA), Kathleen Coviello (Chief Economic Transformation Officer of the NJEDA), and Ram Akella (Executive Vice President of Innovation Impact of the NJEDA). As needed (i.e., if an NJEDA-Affiliated Director leaves the NJEDA or does not wish to renew their term), the NJEDA Board will, based on NJEDA staff recommendations, decide which NJEDA employees should be appointed to the NJGB Board as NJEDA-Affiliated Directors to maintain the NJEDA majority which is required by the Subsidiary Act.

Within one (1) year from the incorporation of the NJGB, the Initial Board will be expanded to five (5) Directors with the addition of two (2) Directors (the "Public Directors") who are knowledgeable and experienced in the field of green energy investments and approved by the Initial Board ("NJEDA-Affiliated Directors and the Public Directors," collectively, the "Board"). Public Directors must be independent of the NJGB, meaning that they (1) do not have a material relationship with the NJGB; (2) are not part of the NJGB's executive team; and (3) are not involved with the day-to-day operations of the NJGB. Initially, nomination of the Public Directors shall be made by NJEDA staff; once the NJGB is operational with its own staff, recommendations for such positions will be made by NJGB staff to the NJGB Board.

Each Director so appointed shall hold their office for terms of three years, except for the initial NJEDA-Affiliated Directors who shall serve staggered terms to avoid rotating members on the same timeframe, with one NJEDA-Affiliated Director serving one (1) year; one (1) NJEDA-Affiliated Director serving two (2) years; and one (1) NJEDA-Affiliated Director serving (3) years. Upon expiration of these initial terms, subsequent NJEDA-Affiliated Directors shall each serve a term of three (3) years. The terms of NJEDA-Affiliated or Public Directors may be extended at time of expiration for up to three (3) consecutive terms. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

Each Public Director may be removed from office by a majority vote of the NJGB Board, for cause, after a public hearing, and may be suspended by the NJGB Board pending the completion of such hearing. Because the NJEDA-Affiliated Directors are NJEDA at will employees, they remain subject to the same policies and procedures as any NJEDA at will employee and do not have any greater right due to their appointment to the NJGB Board.

To support the NJGB Board and staff, the draft NJGB By-Laws establish an Investment and Credit Advisory Committee ("ICAC"). The role of the ICAC will be to evaluate and make recommendations on whether the NJGB Board should approve investment or credit assistance proposals submitted as part of the NJGB's formal application, intake, or other process. The ICAC will be comprised of a group of senior professionals who have relevant expertise, which would include expertise in at least one of the following areas: project finance, clean energy or environmental infrastructure, investment banking, commercial lending, tax-exempt or tax-advantaged financing or municipal banking, or climate policy. The ICAC will have five (5) members, including one (1) to two (2) NJGB Board members.

The draft NJGB By-Laws also establish an Environmental Justice Advisory Committee ("EJAC") to support its efforts to advance an equitable energy transition in New Jersey that benefits the State's EJCs. The EJAC will be comprised of five (5) individuals with expertise in environmental justice and related advocacy, including one (1) to two (2) NJGB Board members. The EJAC will meet periodically to make recommendations and provide feedback on how the NJGB can best advance environmental justice through its investments and financial assistance, including by providing input on how to meet environmental justice requirements of NJGB funding sources.

To assist in the evaluation of particular technologies that are included in investment proposals and financial assistance applications, the draft NJGB By-Laws further contemplate a Technical Advisory Committee ("TAC"). The TAC would be comprised of five (5) individuals, including one (1) to two (2) NJGB Board members, with expertise in various climate and clean energy technologies.

The staff of the NJGB will nominate any candidates for the ICAC, EJAC, and TAC to the NJGB Board for approval by a majority vote, except at the outset of the NJGB's operations, when nomination of ICAC and EJAC candidates will be made by NJEDA Loaned Staff.

Additionally, as required by Executive Order 122 (McGreevey 2004), the NJGB will have its own Audit Committee.[23] The Audit Committee will consist of two (2) NJEDA-Affiliated Director and one (1) New Jersey Department of the Treasury employee designated by the New Jersey Department of the Treasury, provided that one less NJEDA-Affiliated Director will be on the Audit Committee if two Directors comprise a quorum of the Board. The Audit Committee's responsibilities will include assisting the NJGB Board in fulfilling its oversight responsibilities for:

- The independent audit process;
- The financial reporting process;
- The maintenance of effective controls; and
- Compliance with operating policies and ethics requirements.

To better enable the Audit Committee to fulfill its responsibilities, NJGB staff, as well as any NJEDA staff assisting the NJGB as part of the MOU, will periodically report to the Audit Committee on both external and internal audits, auditors' reports and corrective action plans, whistleblower complaints and investigations, ethics complaints and/or claims of non-compliance, pending and threatened litigation, and other items relating to compliance.

Investment Criteria

NJEDA staff proposes that the NJGB establish and adopt its own clearly defined investment policy and related investment criteria that will be used to evaluate potential financial transactions on a portfolio-wide basis. Currently contemplated criteria include:

1. The portfolio will have expected financial returns such that revenues of the NJGB will exceed operating costs and expected portfolio losses;
2. The portfolio will be expected to contribute to financial market transformation for climate-related investments and financial assistance, which may include (i) reaching New Jersey residents in EJCs with investments and financial assistance; (ii) increasing private sector participation in climate-related transactions; (iii) creating scale in investments and financial assistance; and (iv) increasing market awareness and confidence in particular clean energy technologies;
3. The portfolio will have the potential for energy savings and/or clean energy generation that will contribute to GHG emissions reductions and/or increased resiliency related to extreme weather events in support of New Jersey's climate goals; and
4. The portfolio will provide measurable benefits to EJCs (as determined on a portfolio-wide basis), in line with existing State Environmental Justice legislation and guidance from the NJGB's EJAC.

Eligibility

NJEDA staff proposes that the NJGB establish Climate Products. Such Climate Products include investments in and financial assistance of projects, sites, assets, portfolios, and businesses that are

[23] McGreevey Executive Order #122

related to the State's energy transition and climate goals, including, but not limited to, the commercialization, manufacturing of products and services, and implementation of technologies that support clean energy generation and distributed energy resources, grid modernization, energy efficiency and zero-carbon building development, resiliency from extreme weather events, and transport system electrification. Examples would include solar power, onshore and offshore wind, heat pumps and geothermal, and electric battery storage. Excluded from eligible Climate Products would be conventional landfill operations, natural gas projects, and combustion-based waste-to-energy projects.

Additionally, NJEDA staff proposes that NJGB Climate Products be subject to the following limitations:

- Climate Products must be new rather than providing refinancing
- Climate Products must lead to reduced GHG emissions and/or criteria pollutants in the State; or support New Jersey's current climate goals

Additional criteria may be imposed based on recommendations made by the NJGB's EJAC and ICAC, as well as any other established NJGB Board or advisory committee.

Reporting

NJGB will provide the NJEDA Board with quarterly updates on its activities, including any actions approved by the NJGB Board. Within one hundred and twenty (120) days of the end of each fiscal year, the NJGB will submit an annual report for the preceding year to the NJEDA Board. Included in the annual report will be a comprehensive financial report that includes the NJGB's audited financial statements. This annual report will be available to the public on the NJEDA's website.

Diversity, Equity, and Inclusion

Staff's intent is that the NJGB prioritize advancing Environmental Justice in the State through its investments and financial assistance. As outlined in the currently contemplated investment and assistance criteria above, the NJGB would, on a portfolio-wide basis, provide measurable benefits to the State's EJCs, in line with existing State Environmental Justice legislation and guidance from the NJGB's EJAC.

As part of its ongoing operations and through the attached MOU, the NJGB will leverage the expertise and initiatives of the NJEDA's existing diversity, equity, and inclusion staff.

Request

The Members of the Board are asked to approve the formation of a subsidiary to be called the New Jersey Green Bank of the NJEDA and created pursuant to the Subsidiary Act. In order to form the subsidiary, the Board is asked to approve all of the actions in the attached Authorizing Resolution, which shall approve the establishment of the NJGB as a subsidiary of the NJEDA with all of the powers of the NJEDA, except the power to incur indebtedness independently of the NJEDA.

Also attached to this Board memorandum are the following documents that are approved via the Authorizing Resolution:

1. The NJGB Agreement and Certificate of Incorporation, which will be filed with the Secretary of State;
2. The NJGB By-Laws; and
3. An MOU between the NJEDA and the NJGB pursuant to which the NJEDA will provide various services to the NJGB.

This Board memorandum is intended to provide background and rationale for approving the Authorizing Resolution and its accompanying documents.

Tim Sullivan, CEO

Prepared by: Ryan Klaus

Attachments:

Attachment 1 – New Jersey Green Bank Authorizing Resolution

Attachment 2 – New Jersey Green Bank Agreement and Certificate of Incorporation

Attachment 3 – New Jersey Green Bank By-Laws

Attachment 4 – NJGB-NJEDA Memorandum of Understanding

Exhibit A – Other U.S. Green Banks

Exhibit B – NJGB Illustrative Organizational Chart

Resolution Authorizing the Creation of a Subsidiary of the New Jersey Economic Development Authority Pursuant to Section 16 of P.L. 1997, c.150

BE IT RESOLVED THAT:

At the meeting of the Board of the New Jersey Economic Development Authority ("NJEDA") held on April 10, 2024, the Members of the NJEDA approved the actions described below with respect to the establishment of a subsidiary of the NJEDA.

1. A subsidiary of the NJEDA shall be created to be known as the "New Jersey Green Bank" (the "Corporation"). The Corporation shall be established pursuant to Section 16 of P.L. 1997, c. 150 (N.J.S.A. 34:1B-159) (the "Enabling Act") as set forth in the Agreement and Certificate of Incorporation attached hereto as Exhibit A and made a part hereof. The Corporation is being formed by the NJEDA in order to assume all of the responsibilities and obligations of the NJEDA for climate change and clean energy investments and assistance ("Clean Energy Products") except and excluding the power to incur indebtedness independently of the NJEDA.

2. The Agreement and Certificate of Incorporation of the Corporation requires that the Board of the NJEDA approve the By-Laws of the Corporation. A draft of the proposed By-Laws to be adopted by the Corporation is attached hereto as Exhibit B. The Board hereby approves the draft By-Laws, provided that changes, if any, made by the Corporation shall be submitted to the Board of the NJEDA for approval.

3. Upon the filing of the Agreement and Certificate of Incorporation with the Secretary of State, the Corporation shall be authorized to exercise any of the powers, rights and duties conferred upon the NJEDA pursuant to P.L.1974, c. 80 (N.J.S.A. 34:1B-1 et seq) as amended and supplemented with respect to Clean Energy Products, except and excluding the power to incur indebtedness independently of the NJEDA. The Corporation and the NJEDA are directed to cooperate with each other so that the exercise of the powers, rights, and duties by the Corporation shall occur on the Effective Date, which is herein defined as the first day after the period for approval by the Governor of the minutes of the first meeting of the Board of the Corporation has expired or the Governor approves the minutes.

4. Upon the Effective Date or as soon thereafter as is possible, the NJEDA shall make available those funds, books, and records as determined to be necessary for the operation of the Corporation and conducting of its Clean Energy Products responsibilities to the Chief Executive Officer of the Corporation or to such staff provided by NJEDA to the Corporation under any Memorandum of Understanding between the NJEDA and the Corporation.

5. On or as soon as practicable after the Effective Date, the NJEDA shall assign or seek to assign the right to receive subawards under the September 29, 2023 Memorandum of Agreement between the Coalition for Green Capital and the NJEDA and the October 6, 2023 Memorandum

of Agreement between Ecority (collectively, the "MOAs") and the NJEDA shall be assigned to the Corporation without any further act.

6. Upon the Effective Date, all rules and regulations, proposed rules and regulations, and continuing resolutions and specifically including resolutions adopting policies and procedures, and memoranda of understanding of the NJEDA with respect to implementing its responsibilities under Clean Energy Products other than its responsibilities relating to the incurrence of indebtedness shall continue in effect as the rules and regulations, continuing resolutions and memoranda, respectively, of the Corporation until amended, supplemented, adopted or rescinded by the Corporation in accordance with law.

7. The Board hereby approves the Memorandum of Understanding to be entered into between the NJEDA and the Corporation which sets forth the administrative support services to be provided by the NJEDA to the Corporation and is attached hereto as Exhibit C.

8. The Chief Executive Officer of the NJEDA, or such other officer of the NJEDA to which the Chief Executive Officer of the NJEDA delegates authority, is hereby authorized to execute and file the Agreement and Certificate of Incorporation with the Secretary of State, to apply for a federal employer identification number, to execute the attached Memorandum of Understanding and take such other actions as are required to effectuate this resolution.

9. The NJEDA hereby authorizes the transfer of the appropriation of forty million dollars ($40,000,000) to the Corporation on the Effective Date, which appropriation was made by the New Jersey State Legislature pursuant to a supplemental appropriation to the annual appropriations act contained in L. 2023, c.66.

10. The memorandum to the Board dated April 10, 2024 is hereby incorporated into this resolution in its entirety. Any conflict between the Board memorandum and this resolution shall be resolved in favor of the resolution.

11. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the NJEDA meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval, as provided by the Enabling Act.

DATED: April 10, 2024

Exhibits: Exhibit A - Agreement and Certificate of Incorporation
Exhibit B - By-laws
Exhibit C - Memorandum of Understanding

AGREEMENT AND CERTIFICATE OF INCORPORATION OF THE NEW JERSEY GREEN BANK

1. The name of the corporation is the NEW JERSEY GREEN BANK (the "Corporation"), a subsidiary of the New Jersey Economic Development Authority (the "NJEDA"), incorporated under Section 16 of P.L. 1997, c. 150 (the "Subsidiary Act").
2. The purposes for which the Corporation is organized is as follows:

   To exercise all the powers of the NJEDA which the NJEDA is authorized to exercise pursuant to P.L. 1974, c. 80 (C.34:lB-1 et *seq.*) as amended and supplemented except and excluding the power to contract indebtedness independently of the NJEDA; and to exercise all powers, duties, and responsibilities of the NJEDA with respect to climate change and clean energy investments, assistance, and projects ("Clean Energy Products") that advance the State of New Jersey's efforts to facilitate an equitable energy transition.

   To focus, streamline and coordinate the NJEDA activities involved in fostering Clean Energy Products in the State of New Jersey.

3. The Corporation does not have members.

4. The Board of Directors.

   A. The Corporation shall be governed by a Board of Directors, which shall at all times consist of at least three directors, a majority of which shall be employees of the NJEDA. All NJEDA-affiliated directors shall be appointed by the NJEDA Board of Directors. All non-NJEDA-affiliated directors shall be selected by the Corporation's Board of Directors. The qualifications of directors, manner of appointments and elections, officer selection, and the terms of all directors shall be set forth in the By-Laws of the Corporation.

   B. Each director before entering upon his, her, or their duties shall take and subscribe an oath to perform the duties of his, her or their office faithful, impartially and justly to the best of his, her or their ability. A record of such oaths shall be filed in the Office of the Secretary of State.

   C. Each director shall execute a bond to be conditioned upon the faithful performance of the duties of such director in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the Office of the Secretary of State. At all times thereafter, the members and treasurer of the Corporation shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the Corporation.

D. The directors of the Corporation shall serve without compensation, but the Corporation may reimburse the directors for actual expenses necessarily incurred in the discharge of their duties.

E. A true copy of the minutes of every meeting of the Corporation shall be delivered by and under the certification of the Secretary of the Corporation to the Governor and to the NJEDA. No action taken at any meeting of the Corporation shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period, the Governor shall approve the same in which case such action shall become effective upon such approval. If, within the 10-day review period, the Governor returns such copy of the minutes with veto of any action taken by the Corporation or any director thereof at such meeting, such action shall be null and void and of no effect.

5. On or before March 31 of each year, the Corporation shall make an annual report of its activities for the preceding calendar year to the NJEDA and the Governor. Each such report shall set forth a complete operating and financial statement covering the Corporation's activities during the preceding calendar year. The Corporation shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Director of the Division of Budget and Accounting in the Department of the Treasury.

6. No director, officer, employee or agent of the Corporation shall be interested, either directly or indirectly, in any project, special purpose vehicle, or investment of the Corporation or in any contract, sale, purchase, lease or transfer of real or personal property to which the Corporation is a party.

7. Except as provided in this Certificate of Incorporation, the affairs of the Corporation shall be regulated and determined as provided in its By-Laws which shall be approved by the Board of the NJEDA.

8. The address of the initial principal registered office of the Corporation is

New Jersey Green Bank
36 West State Street
Trenton, New Jersey 08625

9. The number of directors appointed to and constituting the first Board of Directors is THREE (3). The names and addresses of the directors are:

Tim Sullivan
Chief Executive Officer
New Jersey Economic Development Authority
36 West State Street
Trenton, NJ 08625

Kathleen W. Coviello
Chief Economic Transformation Officer
New Jersey Economic Development Authority
NJ Bioscience Center
675 US Highway One
North Brunswick, New Jersey 08902

Ram Akella
Executive Vice President – Innovation Impact
New Jersey Economic Development Authority
One Gateway Center
11-43 Raymond Plaza West
Suite 1410
Newark, NJ 07102

10. The name and mailing address of the incorporator is Tim Sullivan, Chief Executive Officer, New Jersey Economic Development Authority, 36 West State Street, Trenton, New Jersey 08625.

11. The duration of the Corporation is perpetual.

12. This Certificate of Incorporation is to be effective on the date of filing.

IN WITNESS WHEREOF, the undersigned incorporator has caused this certificate to be signed this _____day of ___________, 2024.

__________________________Tim Sullivan

BY-LAWS
OF THE
NEW JERSEY GREEN BANK, A SUBSIDIARY OF THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

ARTICLE I

GENERAL PROVISIONS

Section 1. Scope and Provisions of By-laws. These By-laws are adopted pursuant to Section 5.a of the New Jersey Economic Development Act, P.L. 1974, Chapter 80as amended and supplemented (N.J.S.A. 34:1B-1 *et seq.* (hereinafter referred to as the "Act"). Subject to applicable law, they are intended to govern the affairs and the conduct of business of the New Jersey Green Bank ("NJGB"), a subsidiary of the New Jersey Economic Development ("NJEDA") formed pursuant to N.J.S.A, 34:1B-159 (the "Subsidiary Act") with respect to the performance of its functions, powers and duties under the Act and the Subsidiary Act and pursuant to an Agreement and Certificate of Incorporation executed ________________, 2024. The purpose of the NJGB is to make equity investments, provide credit enhancements, and offer loans or other financial assistance to attract private capital to enable the State to reach its energy goals (collectively, the "Clean Energy and Climate Change Initiatives"), while providing measurable benefits to Environmental Justice Communities ("EJCs").

Section 2. Name. The name shall be the "New Jersey Green Bank, a subsidiary of the NJEDA" (hereinafter referred to as the "NJGB").

Section 3. Principal Office. The principal office of the NJGB shall be 36 West State Street, PO Box 990, Trenton, New Jersey 08625 or such other location as the Board may designate. All communications to the NJGB should be addressed to its principal office except as may be otherwise specified by rule or regulation. The NJGB may also have offices at such other places as the Chief Executive Officer may from time to time designate.

Section 4. Seal. The Seal of NJGB shall be in the form of a circle enclosing the seal of the State of New Jersey, and shall bear the name of the NJGB and the year of its creation (2024).

Section 5. Capitalized Words and Phrases. Words and phrases used in these By-laws that are capitalized but not defined shall have the meaning ascribed to them in the Act. The directors (each, a "Director") of the NJGB may be referred to herein as the "Board."

Section 6. Effect. These By-laws shall be in effect as of the date approved by the Board.

Section 7. Powers of the NJGB. The NJGB is organized and shall be operated exclusively as a subsidiary corporation of the NJEDA and shall have and shall exercise only such Act as provided in its Certificate of Incorporation.

ARTICLE II

DIRECTORS

Section 1. Directors. The Board of the NJGB shall consist of five (5) Directors, of which three (3) Directors shall be employees of the NJEDA ("NJEDA- Affiliated Directors") and two (2) Directors shall be public members ("Public Directors"). The NJEDA-Affiliated Directors shall be approved by the Board of the NJEDA, and the Public Directors shall be recommended by the Chairperson of the Board and approved by the Board. The initial NJEDA-Affiliated Directors shall serve staggered terms, with one NJEDA-Affiliated Director serving one (1) year; one NJEDA-Affiliated Director serving two (2) years; and one (1) NJEDA-Affiliated Director serving three (3) years. Upon expiration of these initial terms, subsequent NJEDA-Affiliated Directors shall each serve a term of three (3) years. The Public Directors shall be knowledgeable and experienced in the field of green energy investments, project finance, clean energy or environmental infrastructure, investment banking, commercial lending, tax-exempt or tax-advantaged financing or municipal banking, or climate policy. If any of the NJEDA-Affiliated Directors leaves their employment at the NJEDA, that office shall be filled by an NJEDA employee approved by the NJEDA Board. Each Director shall hold the office for the term of the Director's appointment and until the Director's successor shall have been appointed and qualified. A Director shall be eligible for reappointment for three (3) consecutive terms. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

Section 2. Removal of Directors. Each Public Director may be removed from office by the Board, for cause, after a public hearing, and may be suspended by the Board pending the completion of such hearing.

Section 3. Oath of office. Each Director before entering upon the Director's duties shall take and subscribe an oath to perform the duties of the Director's office faithfully, impartially and justly to the best of the Director's ability. A record of such oaths shall be filed in the office of the Secretary of State.

Section 4. Designees. There shall be no designees of any Directors.

Section 5. Compensation. Directors are not entitled to compensation but may be reimbursed for actual and reasonable expenses incurred while engaged in Board service for the NJGB, including transportation, parking, mileage expenses, and conference admission fees incurred in the performance of official duties of the Board. The reimbursement is limited to five thousand (5,000) dollars per Director per year.

ARTICLE III

MEETINGS

Section 1. Annual Meetings. The annual meeting of the Board shall be held at the principal office of the NJGB on the second Tuesday of September each year, at 10:00 a.m. or such earlier or later date as the Chairperson may designate in accordance with the notice provisions hereinafter provided. The annual meeting shall be conducted for the purposes of:

a. electing the Chairperson, Vice-Chairperson, Secretary, and Treasurer of the NJGB;
b. designating other officers and officials as permitted by these Bylaws or required by law;
c. adopting the annual notice of meetings; and
d. for the transaction of such other business as may properly come before the Board.

Section 2. Regular Meetings. Regular meetings of the Board shall be held at such times and places as may be determined by resolution of the Board in accordance with the provisions of the Open Public Meetings Act, N.J.S.A 10:4-6 *et seq*.

Section 3. Special Meetings. Special meetings of the Board may be called at any time by the Chairperson and must be called by the Chairperson upon receipt of the request of two other Directors of the NJGB. Such meetings shall be scheduled in conformity with the provisions of the Open Public Meetings Act. Notice of any such meeting shall be in writing, shall be given personally or by regular or electronic mail to each Director of the NJGB at the Director's address as it appears on the books or records of the NJGB unless the Director shall have filed a written request with the Secretary that notices intended for the Director shall be mailed to the address designated in such request. Notice of such meeting shall be given no less than forty-eight (48) hours prior to the date of such meeting, and shall specify the time, place and purpose or purposes of the meeting. At such meetings, any and all matters may be considered and acted upon by the Directors of the NJGB.

Section 4. Emergency Meetings. Emergency meetings of the Board may be called by the Chairperson at any time in accordance with the Open Public Meetings Act.

Section 5. Quorum. At any meeting of the Board, a majority of the Board shall constitute a quorum for all purposes and in the event of a vacancy, a quorum consists of a majority of the remaining members. If a quorum is not present at any meeting of the Board, a majority of the Directors present may adjourn the meeting to another time and/or place. Notice of any such adjourned meeting shall be given in accordance with the requirements of the Open Public Meetings Act. No vacancy in the membership of the NJGB shall impair the right of the Directors to exercise all the powers and perform all the duties of the NJGB.

Section 6. Voting. At every meeting of the Board, each Director shall be entitled to one vote. All elections shall be had, action may be taken, and motions and resolutions adopted by the affirmative vote of the quorum, provided however, that there be at least two votes in favor of the action. Except when the vote is unanimous, the yeas and nays shall be entered into the minutes.

Section 7. Conference Calls. Any or all Directors may participate in a meeting of the Board, or a committee of the Board, by means of a conference telephone, video or web conference or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting provided that Directors attending by telephone, video or web conference are able to participate, if so desired, during the discussion of the matter they vote upon.

Section 8. Certificate of Resolutions. Each Director of the NJGB is authorized to certify, when required, the records, proceedings, documents, or resolutions of the NJGB, and to affix the seal of the NJGB to all contracts, documents and instruments to be executed by the NJGB.

ARTICLE IV

OFFICERS

Section 1. Officers. The officers of the NJGB shall be the Chairperson, the Vice-Chairperson, the Secretary, the Assistant Secretary(ies), and the Treasurer.

Section 2. Election. The Chairperson, Vice-Chairperson, Treasurer, and the Secretary shall be elected for a term of one (1) year by a vote of the Directors of the NJGB from their number at each annual meeting of the Board and shall serve for said term until their successors shall have been duly elected, except as Section 3 of this Article provides otherwise for filling vacancies.

Section 3. Vacancies. In case any officer of the NJGB, except any office which is held ex-officio, becomes vacant by death, resignation, removal or any other cause, or in the event additional offices are created by the Board, the Directors may at a meeting elect an officer to fill such vacancy or additional office, and the officer so elected shall serve until the next annual meeting of the NJGB and until the election of the officer's successor.

Section 4. The Chairperson. The Chairperson shall preside at all meetings of the Board and rule on all questions of order, subject to appeal by the Directors.

In connection with the issuance of debt by the NJGB, which debt cannot be contracted independently of the NJEDA, the Chairperson may execute on behalf of the NJGB documents, indentures, bonds and other instruments by original signature (or other signature where permitted by law and NJGB) and shall have such other powers and shall perform such other duties as the Board may prescribe from time to time by resolution.

Section 5. Vice-Chairperson. The Vice-Chairperson shall preside over all meetings in place of the Chairperson in the absence or disability of the Chairperson and shall perform the duties of the Chairperson in the event the position of Chairperson is vacant or in the event the Chairperson is unable to perform such duties by reason of illness, inability or absence. The Vice-Chairperson shall have such other powers and perform such other duties as the Board may prescribe from time to time by resolution.

Section 6. The Secretary. The Secretary shall act as clerk of all meetings of the Board, shall keep the official minutes of the actions taken at Board meetings and shall transmit the minutes of the Board to the Governor on behalf of the NJGB, and shall cause such minutes to be kept in such a manner as to ensure their permanence. The Secretary shall ensure that the NJGB provides notices as and when required, shall have charge of such books, documents and papers as the NJGB may determine, and shall have the custody of the NJGB's seal and the power to affix and attest the same. The Secretary shall in general perform all the duties incident to the office of Secretary, subject to the control of the Board and shall have such other powers to do and perform such other duties as the Board may prescribe from time to time by resolution. The Secretary shall also keep a record, containing the names of all persons who are Directors of the NJGB, showing their places of business and dates of membership or dates of designation.

Section 7. Assistant Secretary. The Board may by resolution appoint one or more Assistant Secretaries. At the request of the Secretary or in the event of the Secretary's absence or inability, an Assistant Secretary may perform any and all duties and possess all the powers of the Secretary.

Section 8. The Treasurer. The Treasurer shall have custody of all funds of the NJGB. He or she shall perform, in general, all the duties incident to the office of Treasurer, and such other duties as may from time to time be assigned by the Board. The Treasurer shall keep account of the NJGB's funds, securities and property. He, she, or they shall keep or cause to be kept regular books of account for the NJGB and shall render such accounts and present such statements as the Board may direct. The Treasurer shall have such additional powers and perform such additional duties as the Board may prescribe from time to time by resolution.

Section 9. Removal of Officers. Any officer or agent of the NJGB may be removed by the Board whenever in its judgment the best interests of the NJGB will be served thereby. The removal of a Director as an officer or agent of the NJGB shall in no way constitute such Director's removal as a Director of the NJGB.

ARTICLE V

STAFF

Section 1. Chief Executive Officer.

a. The NJGB shall employ a Chief Executive Officer ("CEO") qualified by training and experience for the duties of the office. The CEO shall have general supervisory and management responsibility over all the activities of the NJGB, subject to applicable laws, including the rules and regulations of the NJGB. The CEO shall not be a Director or Officer of the NJGB, except the CEO may be an Assistant Secretary. For the appointment of the first CEO, the NJEDA Board shall approve the appointment. Subsequently, the CEO shall be approved by the NJGB Board.

b. Except as the Board may otherwise determine, the CEO shall develop a staffing plan which shall include without limitation a chart of positions and position descriptions for the NJGB, personnel policies and procedures, and related compensation levels. Such staffing plan may provide for staff of the NJGB in addition to those specifically provided for in these By-laws, and the appointment of such staff shall be in the discretion of the CEO. The CEO shall deliver the staffing plan to the Board for its review and approval.

c. Subject to the limitations of the Act and the Subsidiary Act, the Certificate of Incorporation of the NJGB, these By-laws, and other applicable law, the Board may from time-to-time delegate to the CEO the authority to perform such functions or duties as the Board deems necessary, appropriate, or convenient, including, without limitation, any such delegation in a delegation policy adopted by the Board from time to time by resolution. The CEO may enter into and execute contracts and other documents in the name of the NJGB which are authorized, generally or specifically, by the Board.

d. In addition to any other duties assigned to the CEO by these By-laws, by resolution of the Board, or as delegated by the Board from time to time, the CEO shall have the following powers and duties:

1. supervise and manage the internal operations and organization of the staff of the NJGB;
2. serve as lead on matters related to policy, legislation, governance, and strategic initiatives;
3. represent the NJGB at business meetings, legislative sessions; committee meetings and other appropriate functions; interface with the executive and legislative branches of government; and maintain strong relations with State and local government officials, and other State agencies, departments, authorities and other instrumentalities;
4. represent the NJGB and enhance NJGB’s interests with respect to legislative, regulatory, litigation and other legal matters;
5. assign functions and duties to any member of the staff and modify assignments as needed;
6. appoint, promote, remove, suspend, discipline, and supervise employees of the NJGB;
7. oversee the procedures for procurement of all goods, supplies, materials, equipment and professional, technical and other services needed for the efficient and effective operation of the NJGB;
8. execute on behalf of the NJGB documents, indentures, bonds and instruments by original or facsimile signature (or electronic signature where permitted by law and NJGB) in connection with the issuance of bonds by the NJGB or with the granting of any loan or guarantee;
9. prepare and submit a proposed annual fiscal plan for the NJGB for adoption by the Board;
10. oversee operations to ensure efficiency, quality, service and the cost-effective management of resources;
11. review all projects;
12. oversee the NJGB’s investment holdings and development activities; and
13. oversee legal representation of the NJGB.

Section 2. Other Staff. The CEO may from time to time employ such additional personnel as the CEO may deem necessary to assist the CEO in performing the CEO's responsibilities as CEO and Secretary of the NJGB and to exercise the NJGB's powers, duties and functions as prescribed by law.

The CEO may appoint a Chief Investment Officer (CIO), except that the duties and responsibilities of the office of CIO shall not include those required by these By-laws to be performed by the Chairperson or the Board or otherwise in conflict with law. The CIO shall not be a Director or Officer of the Board.

Subject to existing law, the CEO may:

a. Create, determine and prescribe the duties of new and existing positions and qualifications for appointments made thereto;
b. Make appointments of staff to such positions;
c. Make promotions and demotions within the staff;
d. Terminate appointments to the staff;
e. Grant or authorize the granting of vacations, sick leave, other leaves of absence and take all other necessary actions affecting personnel;
f. Approve, administer and maintain salaries, salary ranges and adjustments thereto, merit increases and employee benefit programs in accordance with the NJGB's policies and programs;
g. Prepare, approve, and enact additions, deletions, and modifications to the Employee Handbook and to other personnel policies and procedures; and
h. Approve mobility and other staff assignments to other State entities.

The CEO may in his discretion delegate to any NJGB staff member as the CEO may designate, any of the powers and duties listed above in addition to any other duties assigned by these By-laws, by resolution of the NJGB or by delegation from the Board, unless these By-laws, resolution or delegation prohibit further delegation.

ARTICLE VI

WAIVER OF NOTICE

Whenever the NJGB or any officer thereof is authorized to take any action or to hold any meeting or proceeding after notice or after the lapse of a prescribed period of time, such actions may be taken, or such meeting or proceeding held, without notice and without the lapse of any period of time, if at any time before or after the action to be completed or the meeting or proceeding to be held, the notice or lapse of time requirements be waived in writing by the Director, person or body entitled to said notice or entitled to the benefit of the lapse of time.

ARTICLE VII

FISCAL YEAR

Section 1. Fiscal Year. The fiscal year of the NJGB shall commence on the first day of January of each calendar year and conclude on the last day of December of the same calendar year.

ARTICLE VIII

AUDIT COMMITTEE

Section 1. Members. The Chairperson of the Audit Committee shall be appointed by the Chairperson of the NJGB, and the Board shall approve the members of the Audit Committee. The Audit Committee shall consist of two (2) NJEDA-Affiliated Director and one (1) New Jersey Department of the Treasury employee designated by the New Jersey Department of the Treasury, provided that one less NJEDA-Affiliated Director shall be on the Audit Committee if two Directors comprise a quorum of the Board. The members of the Audit Committee shall be independent and have knowledge of the NJGB's governmental functions and sufficient time to accomplish the responsibilities of the Audit Committee. The Audit Committee shall have a direct relationship with the external, independent auditor.

Section 2. Meetings. Meetings of the Audit Committee shall be held quarterly, unless otherwise determined by the Committee's Chairperson.

Section 3. Duties. The Audit Committee shall monitor the financial operations of the NJGB and perform the duties required by any executive orders issued by the Governor or other law pertaining to the audit of independent authorities. The duties of the Audit Committee shall be further defined by the Audit Committee. The Audit Committee shall perform such other duties as may be prescribed from time to time by the Board by resolution.

ARTICLE IX

INVESTMENT AND CREDIT ADVISORY COMMITTEE

Section 1. Members. The NJGB staff shall recommend to the Board nominees to be appointed to the Investment and Credit Advisory Committee. The Board shall approve said nominees by vote. The Chairperson of the Investment and Credit Advisory Committee shall be appointed by the Chairperson of the NJGB. The Investment and Credit Advisory Committee shall consist of five (5) members, of which at least one (1) but no more than comprises a quorum of the Board shall be Directors and the remainder shall be independent members. The members of the Investment and Credit Advisory Committee shall each have expertise in at least one of the following areas: project finance, clean energy or environmental infrastructure investment, investment banking, commercial lending, tax-exempt or tax- advantaged financing or municipal banking, or clean energy or environmental infrastructure policy.

Section 2. <u>Meetings</u>. The times, places and agenda for the Investment and Credit Advisory Committee shall be set forth at the NJGB's Annual Meeting and at other times deemed necessary by the CEO of the NJGB in consultation with the Chairperson of the Investment and Credit Advisory Committee.

Section 3. <u>Duties</u>. The principal functions, responsibilities, and areas of cognizance of the Investment and Credit Advisory Committee shall be as follows:

a. to recommend and monitor compliance with program, project, and investment guidelines, criteria, policies, and practices supporting the NJGB's mission and management of such by the NJGB's professional staff;
b. with respect to loans, loan guarantees, loan loss reserves, credit enhancements, debt support programs, debt, debt-like instruments, grants, equity, near-equity, and related measurement and verification studies and evaluation audit funding requests, evaluate such requests on behalf of the Board;
c. oversight of policies and practices relating to the evaluation and recommendation of initial investments, follow-on investments, investment modifications and restructurings, and the sale or other disposition of investments by the NJGB's professional investment staff;
d. oversight of policies and practices relating to investment management by the NJGB's professional investment staff, including implementation of investment exit strategies;
e. to make recommendations regarding Board investments, follow-on investments, investment modifications and restructurings, and the sale or other disposition of investments;
f. review and recommend to the Board the issuance of bonds, notes or other obligations of the NJGB;
g. on a periodic basis, but not less frequently than annually, to review and recommend to the Board the establishment and modification of a provision for losses with respect to loans, loan guarantees, loan loss reserves, credit enhancements, debt support programs, debt, debt-like instruments, and any other extensions of credit or the undertaking of risk where it is determined the NJGB (i) may not recover its investment of capital or its expected rate of return, (ii) is contractually or otherwise obligated to pay or commit additional NJGB capital to such transactions without a reasonable expectation for the return of such capital, or (iii) is for any other reason more likely than not to suffer a loss due to an investment or program and
h. the exercise of such other authority as may from time to time be prescribed by the Board to the Investment and Credit Advisory Committee within its areas of cognizance.

ARTICLE X

ENVIRONMENTAL JUSTICE ADVISORY COMMITTEE

Section 1. Members. The NJGB staff shall recommend to the Board nominees to be appointed to the Environmental Justice Advisory Committee. The Board shall approve said nominees by vote. The Chairperson of the Environmental Justice Advisory Committee shall be appointed by the Chairperson of the NJGB. The Environmental Justice Advisory Committee shall consist of five (5) members, of which at least one (1) but no more than comprises a quorum of the Board shall be Directors and the remainder shall be independent members, all of whom shall have expertise in environmental justice and related advocacy.

Section 2. Meetings. The times, places and agenda for the Environmental Justice Advisory Committee shall be set forth by the CEO of the NJGB in consultation with the Chairperson of the Environmental Justice Advisory Committee.

Section 3. Duties. The duties of the Environmental Justice Advisory Committee shall include, but not be limited to: to study, investigate, report, make recommendations and provide oversight with respect to matters of investment policy and such other duties as may be prescribed from time to time by the Board. The Environmental Justice Advisory Committee may make recommendations to the Board on how the NJGB can best advance environmental justice through its investments, including by providing input on how to meet environmental justice requirements of NJGB funding sources and evaluating the NJGB's investment policies and procedures, investment criteria, and transaction process.

ARTICLE XI

TECHNICAL ADVISORY COMMITTEE

Section 1. Members. The NJGB staff shall recommend to the Board nominees to be appointed to the Technical Advisory Committee. The Board shall approve said nominees by vote. The Chairperson of the Technical Advisory Committee shall be appointed by the Chairperson of the NJGB. The Technical Advisory Committee shall consist of five (5) members, of which at least one (1) but no more than comprises a quorum of the Board shall be Directors, and the remainder shall be independent members with expertise in various climate and clean energy technologies.

Section 2. Meetings. The times, places and agenda for the Technical Advisory Committee shall be set forth by the CEO of the NJGB in consultation with the Chairperson of Technical Advisory Committee.

Section 3. Duties. The duties of the Technical Advisory Committee shall include, but not be limited to assist in the evaluation of particular technologies that are included in investment proposals submitted as part of NJGB's formal application process and to make recommendations to the NJGB concerning such proposals. The Technical Advisory Committee shall have such other duties as may be prescribed from time to time by the Board.

ARTICLE XII

ESTABLISHMENT OF AD HOC ADVISORY COMMITTEES

Section 1. The Chairperson may, in the Chairperson's discretion, appoint and abolish temporary or ad hoc committees, other than those standing committees provided herein, as is necessary or convenient to address the affairs of the NJGB. The Chairperson of the NJGB shall appoint the chairperson of these committees, determine the membership of these committees (to be at least three (3) members but no more than five (5) members on each committee but in no event more Directors than comprises a quorum of the Board), and set forth the duties of such committees, including an obligation to provide reports of the committee's activities to the full Board from time to time. Such advisory committees may include as members such individuals as may be knowledgeable in the subject matter whether or not Directors or employees of the NJGB or NJEDA and may also be composed of a group of external experts who may deliver guidance on an ongoing basis to the NJGB management team regarding matters including business planning, strategy, business development, market intelligence, and product development.

Section 2. Meetings. The times, places and agenda for the applicable advisory committee shall be set forth by the CEO of the NJGB in consultation with the Chairperson of the applicable committee.

ARTICLE XIII

MEETINGS OF COMMITTEES

Unless otherwise require by the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., committee meetings shall not be open to the public. Members of the public may attend and provide input or information at committee meetings solely at the invitation of the committee chairperson or a majority of the committee, shall not be present during committee deliberations, and shall not have access to non-public information or documents.

ARTICLE XIV

RIGHTS AND LIABILITIES OF DIRECTORS AND OFFICERS

Property Interest of Directors, Officers and Members. No Officer, Director, employee, or agent of the NJGB shall be interested, either directly or indirectly, in any project or in any contract, sale, purchase, lease or transfer of real or personal property to which NJGB is a party.

ARTICLE XV

INVESTMENT AND FINANCIAL ASSISTANCE POLICY

The NJGB shall employ investment and financial assistance criteria by which it shall evaluate all its potential Clean Energy and Climate Change Initiatives. At a minimum, the criteria shall include:

a. The portfolio shall have expected financial returns such that the anticipated revenues of the NJGB on a portfolio basis shall be in excess of expected portfolio losses;
b. The portfolio shall be expected to contribute to financial market transformation for investments related to clean energy in terms of scale, improved private sector participation, level of awareness and confidence in clean energy investments, reaching EJCs, and/or other aspects of market transformation;
c. The portfolio shall have the potential for energy savings and/or clean energy generation that shall contribute to greenhouse gas reductions and/or increased resiliency related to extreme weather events in support of New Jersey's clean energy policies; and
d. The portfolio shall provide measurable benefits to EJCs in line with existing State environmental justice legislation and guidance from the NJGB's EJAC.

ARTICLE XVI

ANNUAL REPORT

Within one hundred and twenty (120) days of the end of each fiscal year, the NJGB shall submit an annual report of its activities for the Clean Energy and Climate Change Initiatives for the preceding year to the Board of the NJEDA and shall make its annual report available to the public on its website. The NJGB shall also submit reports of its activities on a quarterly basis to the Board of the NJEDA and shall make these quarterly reports available to the public on its website.

ARTICLE XVII

FORCE AND EFFECT OF BY-LAWS

These By-laws are subject to the provisions of applicable New Jersey law and to any restrictions or conditions in the NJGB's regulations, as the same may be amended from time to time. Anything in these By-laws that is inconsistent with applicable law or the NJGB's regulations shall be null and void.

ARTICLE XVIII

AMENDMENTS

These By-laws may be altered, amended, or repealed at any meeting of the Board by the same number of affirmative votes required for any Board action; provided that notice of the proposed action and a copy of such alteration or amendment or a copy of the provisions to be repealed are inserted in the notice of such meeting, given at least seven (7) days in advance of the meeting at which the motion on adoption on such resolution is to be made.

ARTICLE XIX

SUSPENSION OF BY-LAWS

Any and all provisions of these By-laws may be suspended by unanimous consent of the Directors present at any duly constituted meeting of the Board.

CERTIFICATION

The foregoing is a true copy of the Bylaws duly adopted by the New Jersey Green Bank at a meeting of the New Jersey Green Bank held on ____________, 2024.

____
TIM SULLIVAN
Secretary and Chief Executive Officer
The New Jersey Green Bank, a subsidiary of the NJEDA

[SEAL]

ATTEST:

Assistant Secretary NJGB

____
Name

LAST AMENDED: ____

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE NEW JERSEY GREEN BANK AND
THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") by and between the New Jersey Economic Development Authority ("NJEDA") and the New Jersey Green Bank, a subsidiary of the NJEDA ("NJGB"). The NJEDA and the NJGB are each a "Party, and collectively, are the "Parties.

WHEREAS, the NJEDA was created pursuant to N.J.S.A. 34:lB-1 *et seq.;* (the "Act") and

WHEREAS, the NJGB was created pursuant to N.J.S.A. 34:lB-159 (the "Subsidiary Act") by resolution of the NJEDA dated April 10, 2024 and by duly filing its Agreement and Certificate of Incorporation with the Secretary of State; and

WHEREAS, the NJGB shall have all the powers, rights, and duties of the NJEDA for climate change and clean energy investments and assistance ("Clean Energy Products") except and excluding the power to incur indebtedness independently of the NJEDA; and

WHEREAS, the NJEDA has existing administrative support systems and expertise related to activities undertaken with respect to implementation of Clean Energy Products as deemed appropriate by the NJGB; and

WHEREAS, the NJGB seeks to facilitate and streamline the processes used for Clean Energy Products and towards that end desires to utilize existing various support structures of the NJEDA (the "Support Services") as described below, when feasible and expedient to do so; and

WHEREAS, the NJGB has requested, and the NJEDA has agreed, to loan to the NJGB upon the Effective Date employees of the NJEDA in order for the NJGB to commence operation of its activities until such time as the NJGB can hire its own employees to operate Clean Energy Products and

WHEREAS, the NJGB is authorized to exercise any of the powers, rights and duties conferred upon the NJEDA pursuant to N.J.S.A. 34: lB-1 *et seq.* as amended and supplemented except and excluding the power to incur indebtedness independently of the NJEDA; and

WHEREAS, pursuant to these delegated powers, specifically N.J.S.A. 34:lB-5 and 34:lB-159, the NJGB Board of Directors has adopted By-Laws for the conduct of the business of the NJGB, which By-Laws have been approved by the Board of the NJEDA as required by the resolution of the NJEDA dated April 10, 2024; and

WHEREAS, this MOU has been submitted to the respective NJEDA Board and the NJGB Board and approved by both Boards; and

WHEREAS, the NJEDA and the NJGB enter this MOU to establish mutual understandings and agreements, clarify the roles of the respective parties pertaining to the provision of support services by the NJEDA to the NJGB, and establish a mechanism for reimbursement of costs related thereto;

NOW THEREFORE, the Parties agree to the following terms and conditions for the provision of staff and various Support Services to the NJGB.

Section 1. Support Services

1.1 NJEDA shall provide Support Services using its own employees (hereinafter "NJEDA Admin Staff") and provision of tangible services related and incidental to the provision of services by NJEDA Admin Staff in the following areas: Technology Services; Human Resource Functions; Attendance, Payroll and Benefits Administration; Personnel Recruitment, Performance and Termination; Corporate Governance; and Diversity, Equity, and Inclusion. The responsibilities under each of these functions are set forth separately below. The NJEDA Admin Staff shall be provided by the NJEDA from its own staff employees, with the approval of the Chief Executive Officer ("CEO") of the NJGB, who are and shall continue to be under the exclusive management and control of the NJEDA.

1.2 <u>Technology Services</u>. Services necessary and incidental to staff support, including but not limited to: use of computer hardware and software programs; production and publication of summaries and reports; organization, management and maintenance of technical information systems, specifically including but not limited to financial accounting, tracking and reporting systems; and similar tangible support necessary and incidental to the human resource activities. NJEDA Admin Staff shall provide information technology functions necessary for the smooth and efficient conduct of NJGB business which shall include but is not limited to: procurement, installation and implementation of fundamental hardware and software procurement, installation and implementation of custom and unique hardware and software pursuant to specifications provided by the NJGB; provide and/or oversee internal maintenance and contracts for external maintenance of NJGB hardware and software; provide and/or provide IT training for NJGB staff; oversee "help-desk" functions; assist in the procurement of consultation services and implementation of scope of work for IT services; assist EDP auditors; and set up IT work stations for new and relocated employees.

1.3 <u>Human Resource Functions</u>. NJEDA agrees to provide the NJEDA Admin Staff and the tangible services for the human resource functions necessary for NJGB to fulfill its responsibilities as an employer needed for the lawful and efficient administration of the human resources functions.

1.4 <u>Attendance, Payroll and Benefits Administration</u>. NJEDA shall establish a separate account for NJGB with the various agencies and insurance companies that provide employee benefits; conduct new employee benefit orientations; explain the various benefits offerings and applicable changes to staff; obtain and process corresponding paperwork; enroll personnel on a timely basis; reconcile invoices from benefit providers; process payments to benefits providers;

administer individual account changes and terminations; manage Family Medical Leave (FMLA) and other similar programs; disseminate benefits information; distribute COBRA materials; coordinate Short Term and Long Term Disability; manage Deferred Compensation, Flexible Spending, Vision and other applicable programs; manage employee retirement including liaison with the Division of Pensions and Benefits; issue ID cards; manage workers compensation issues; monitor conference, seminar and educational activities; and process automobile allowance and cellular telephone reimbursements.

1.5 Personnel Recruitment. Performance and Termination.

1.5.1 Recruitment of NJGB employees includes but is not limited to the following: aid NJGB in the development of position details; aid in the development of position grade levels and salary structure; place in-house and external advertisements; review and track applicant resumes; conduct reference checks; conduct applicant interviews; coordinate recruitment activities with NJGB hiring managers; prepare letters of offer; generate rejection notices; schedule new employee orientations; obtain and coordinate the use of temporary employees if requested by NJGB and maintain records incidental thereto.

1.5.2 Performance evaluation of NJGB employees includes but is not limited to the following: establish and educate NJGB managers and employees as to evaluation procedures; assist in goals development for the year; coach managers; train staff on evaluation software; review completed evaluations to assure compliance with professional and legal requirements; maintain and guard confidentiality of NJGB personnel files; work with NJGB managers regarding staff promotions and transfers.

1.5.3 Other personnel issues and workplace grievances of NJGB employees include but are not limited to the following: aid in the development or adoption of an NJGB employee handbook; pending adoption of an alternative procedure, conduct grievance hearings as established in the NJEDA employee handbook; as appropriate, activate the services of the designated Affirmative Action Officer, Ethics Liaison Officer or representative; investigate and resolve employment discrimination and other complaints in assist NJGB executive staff and employees with problematic situations.

1.5.4 Other technological human resource functions related to NJGB employees include but are not limited to the following: maintain and update HR sections of the State Intranet, Employee Self Service and phone lists.

1.5.5 Other miscellaneous human resource functions related to NJGB employees include but are not limited to the following: ensure NJGB staff compliance with regulatory requirements; review ethics and conflict of interest requirements; and consult and employ the services of the Attorney General’s Office in appropriate employment-related matters.

1.6 Procurement. Assist the NJGB in the procurement of consultants, goods and services for the NJGB, including drafting scopes of works, requests for proposals, requests for information and other requests; assisting in the evaluation of responses; assisting in onboarding consultants; and performing such other tasks as may be required in order to effectuate such procurements. In addition, the NJEDA Admin Staff shall assist in the preparation, distribution and evaluation of responses to requests for proposals for search firms to identify and engage staff for the NJGB at the director or above level.

Section 2 - General Office and Facilities Management

2.1 General. NJEDA Admin Staff shall provide the following general office and facilities management functions to the NJGB:

2.2 Office Supplies and Purchasing. Procure general office supplies; procure office equipment and maintenance services; comply with Set-Aside and Affirmative Action requirements; oversee vending machine activities.

2.3 Mail delivery. Coordinate mail to and from the Capitol Post Office; interact with mail equipment vendors; install and update postage software: establish delivery service accounts; negotiate service rates; train mail room staff; provide backup mail services.

2.4 Facility Management. Address facility related issues that arise; establish and train staff on security procedures and fire drills; issue office keys to NJGB employees as appropriate; with the assistance of the NJEDA Real Estate staff locate and establish parking in the local area for NJGB employees, and address parking related issues.

2.5 Insurance. Initial notice to the State of New Jersey, Division of Risk Management of NJGB as a new entity; establish required insurance; work with designated insurance broker on insurance related matters; ensure renewal of coverage.

Section 3 - Accounting and Financial Reporting Functions

3.1 General. NJEDA Admin Staff will coordinate with NJGB staff and maintain the books, records and accounts of the NJGB and provide support in all areas of accounting and financial reporting, but shall specifically exclude program and project reporting. The Parties agree that the NJEDA will administer the financial affairs of NJGB pursuant to approved NJEDA operating levels in existence at the date of this MOU, until such time as the NJGB establishes its own levels of operating authority. Upon adoption of same by the NJGB Board, the NJGB levels of operating authority shall control and NJEDA Admin Staff shall comply therewith.

3.2 Administrative Accounting and Cash Management. Administrative accounting includes but is not limited to the following: process administrative expenses and costs, post receipts, record project expenditures from bank statements and prepare and post all journal entries necessary to prepare and issue general purpose financial statements, reports and schedules on a monthly basis; reconcile project expenditures posted by NJGB personnel, to bank statements and the general ledger.

3.3 Budget and Cash Management. To the extent expressly authorized by NJGB, NJEDA Admin Staff shall undertake the following: open accounts as needed, transfer cash as required, ensure compliance with policies, procedures and operating authority. Assist in the preparation and compilation of the NJGB annual administrative budget; facilitate NJGB Audit Committee and reviews by the Office of Management & Budget in the New Jersey Department of the Treasury ("OMB").

3.4 Financial Reporting and Audit. NJEDA will act as a liaison for NJGB with OMB concerning NJGB's financial reporting. Financial reporting shall be undertaken in accordance with GASB and subject to independent audit and includes but is not limited to the following: prepare NJGB financial statements to include accompanying Notes and Management's Discussion and Analysis. Audit functions include but are not limited to the following: provide for an annual independent financial audit; provide and coordinate, as appropriate, client support; upon request of NJGB, assist in the procurement of auditors to conduct an operational and/or electronic data processing (EDP) audit; use best efforts to assist in responding to audits conducted by the Office of the State Auditor or other State entities.

3.5 Legal Services. It is the intention of the NJGB that it will enter into its own funding agreement with the Division of Law in the Department of Law & Public Safety for the provision of legal counsel to the NJGB. Until such time as such funding agreement is entered into, the NJEDA, upon the request of the NJGB, shall request that the Division of Law provide legal services to the NJGB which services shall be billed to the NJEDA and which costs shall be reimbursed by the NJGB to the NJEDA.

Section 4 - Executive Administration Functions.

4.1 NJEDA agrees to provide staff and tangible services for executive functions which provide oversight to ensure that all agreed upon services that are the subject of this MOU are provided to the NJGB by the NJEDA Admin Staff in a timely and efficient manner. The NJEDA CEO will provide guidance on an as needed basis to the CEO of the NJGB in all matters relating to the management and operation of the NJGB.

4.2 NJEDA agrees to provide staff and tangible services for executive administration functions which provide oversight to ensure that all agreed upon services that are the subject of this MOU are provided to the NJGB by the NJEDA Admin Staff in a timely and efficient manner.

Section 5 – Loaned Employees

Upon mutual agreement by NJEDA and NJGB, NJEDA shall lend ("NJEDA Loaned Staff") to the NJGB for the initial operation ("Initial Phase") of the NJGB until the NJGB is able to hire its own staff. The Initial Phase is expected to be for a period of one year, except that it can be extended at the request of the NJGB.

Section 6 – Reimbursement

For services and goods rendered pursuant to this MOU by the NJEDA as set forth above, NJGB will compensate NJEDA based solely on the New Jersey legislative appropriation of forty million dollars ($40,000,000) made to the NJGB in a maximum amount of one million dollars ($1,000,000) per annum for the cost incurred on behalf of NJGB. Such payments will be made quarterly in arrears against the NJEDA invoices. Other costs not contemplated in this MOU arising from the Parties' joint activities will be mutually agreed upon in writing before incurring them. The Parties agree that from time to time this Section 6.2 may be modified with mutual consent of the Parties.

Section 7 – General Terms and Conditions

7.1 Administration and Coordination. The NJEDA Admin Staff and NJGB staff agree to cooperate and coordinate all services and activities undertaken by NJEDA Admin Staff pursuant to this MOU. NJEDA Admin Staff assigned to provide services to NJGB under this MOU shall maintain and protect the rights, privileges, immunities and confidentiality of NJGB in the performance of these services and shall owe NJGB the same duty of loyalty as if directly employed by NJGB. In the event a conflict arises between employment with NJEDA and duties undertaken pursuant to this MOU, the conflict shall be immediately disclosed to the NJEDA Ethics Liaison Officer for resolution.

7.2 Ownership and Control of Records. All documents, files, records, reports and other work product prepared pursuant to services provided under this MOU shall be the sole property of NJGB.

7.3 Use of Real Property and Fixtures. NJEDA agrees to permit NJGB, its officers, agents and employees to use and occupy any NJEDA offices to the same extent as that allocated to NJEDA employees assigned to Clean Energy Products at the creation of the NJGB. NJEDA agrees to allocate and permit NJGB, its officers, agents and employees to use NJEDA parking facilities to the same extent as that allocated to staff assigned to Clean Energy Products at the creation of NJGB. NJGB use is permissive and this MOU does not grant NJGB any property interests.

7.4 Liability. The parties acknowledge that they are both public entities of the State of New Jersey, organized as parent and subsidiary corporations under the Act and the Subsidiary Act. Therefore, the Parties agree each entity shall be liable for its own conduct (except as to any indebtedness contracted by NJGB) and any claims against it without indemnification from the other.

7.5 Limitations. The responsibilities assumed and services provided are generally administrative in nature and ordinarily conducted within the existing NJEDA offices. In the event the NJGB requires services necessitating additional office space, such additional office space shall be set forth in an Addendum to this MOU.

7.6 Effective Date. This MOU shall become effective on the date the MOU is fully executed by both of the authorized signatories.

7.7 Term. This MOU shall be for a term of two (2) years from the date of execution, except that the MOU may be terminated earlier upon formal action of the Board of either Party and sixty (60) days prior written notice to the other Board. The term may be extended by the CEOs of the Parties by mutual agreement.

7.8 Amendments. This MOU may be amended from time to time as agreed upon between NJEDA and NJGB.

7.9 Governing Law. This MOU shall be governed by the laws of the State of New Jersey.

7.10 No Third Party Beneficiaries. There are no third-party beneficiaries of this MOU.

7.11 Notices. All legal notices (not including day-to-day business communications) from one Party to the other regarding this MOU shall be sent to the designated contacts provided below. The Parties will notify each other in writing of any change in these contacts within ten (10) business days:

NJEDA	NEW JERSEY GREEN BANK
Tim Sullivan, CEO 36 West State Street P.O. Box 990 Trenton, NJ 08625	Ram Akella 36 West State Street P.O. Box 990 Trenton, NJ 08625

The Parties duly authorize and execute this MOU.

NEW JERSEY ECONOMIC DEVELOPMENT

AUTHORITY

BY: ______________________________________ **DATE:**

NEW JERSEY GREEN BANK

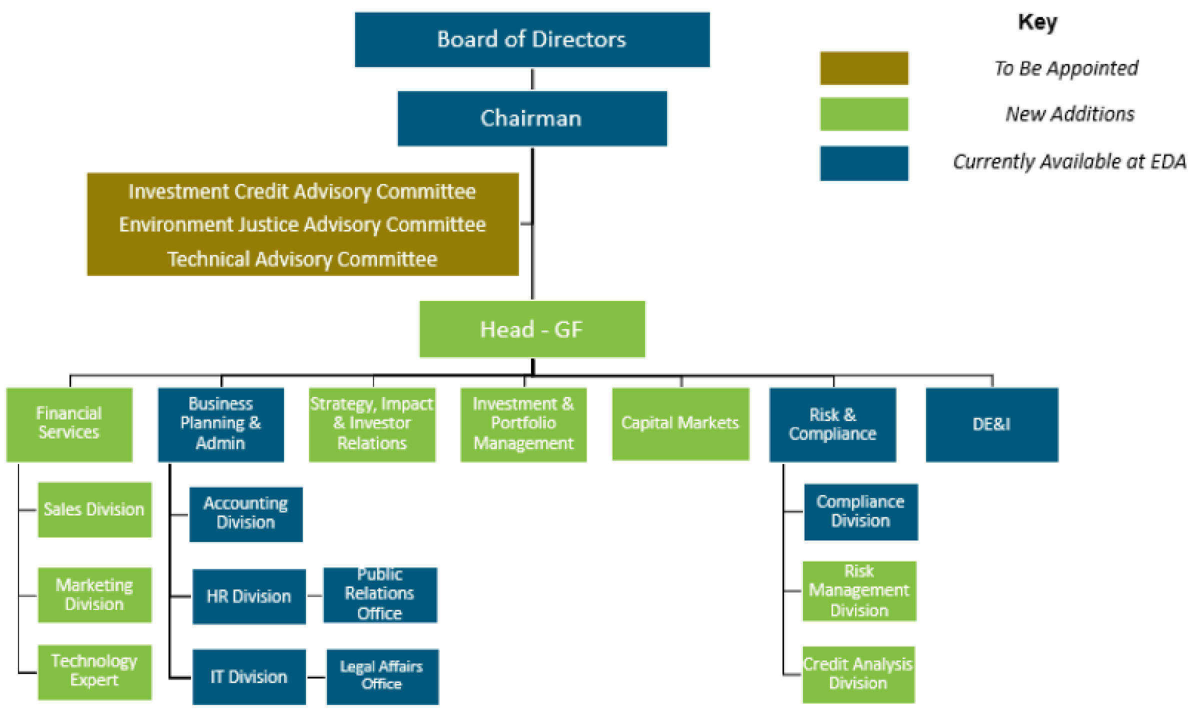
BY: ______________________________________ **DATE:**

Exhibit A: Other U.S. Green Banks

The following is a list of some of the other green bank entities that have been formed or are currently under development in states and cities throughout the United States with offerings focused on mobilizing private capital for climate-related projects:

- California Infrastructure and Economic Development Bank
- Clean Energy Fund of Texas
- Climate Access Fund (Maryland)
- Colorado Clean Energy Fund
- Columbus Region Green Fund (Ohio)
- Connecticut Green Bank
- DC Green Bank
- Energize Delaware
- Efficiency Maine
- GO Green Energy Fund (Ohio)
- Hawaii Green Infrastructure Authority
- Illinois Climate Bank
- Inclusive Prosperity Capital (Connecticut, Regional Focus)
- Maryland Clean Energy Center
- Massachusetts Clean Energy Center
- Massachusetts Community Climate Bank
- Michigan Saves
- Minnesota Climate Innovation Finance Authority
- Missouri Green Banc
- Montgomery County Green Bank (Maryland)
- New Mexico Climate Investment Center
- Nevada Clean Energy Fund
- New York City Energy Efficiency Corporation (Regional Focus)
- New York Green Bank
- North Carolina Clean Energy Fund
- Philadelphia Green Capital Corporation
- Rhode Island Infrastructure Bank
- Solar and Energy Loan Fund (Florida, Regional Focus)

Exhibit B: NJGB Illustrative Organizational Chart
(subject to change)



ADOPTED
APR 10 2024

Attachments

Resolution of the New Jersey Economic Development Authority Regarding Approval of the New Jersey Green Bank Subsidiary Approval

WHEREAS, the Members of the New Jersey Economic Development Authority have been presented with and considered Board Memoranda attached hereto; and

WHEREAS, Board Memoranda requested the Members to adopt a resolution authorizing certain actions by the New Jersey Economic Development Authority, as outlined and explained in said Board Memoranda.

NOW, THEREFORE, BE IT RESOLVED by the Members of the New Jersey Economic Development Authority as follows:

1. The actions set forth in the Board Memoranda, attached hereto, are hereby approved, subject to any conditions set forth as such in said Board Memoranda.

2. The Board Memoranda, attached hereto, are hereby incorporated and made a part of this resolution as though set forth at length herein.

3. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10-day period the Governor shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

DATED: April 10, 2024

EXHIBIT

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

RE: New Jersey Green Workforce Training Grant Challenge

Summary

The Members are requested to approve (1) the creation of the Green Workforce Training Grant Challenge (Grant Challenge), a competitive program that will award grants to selected applicants that will aide in implementing innovative workforce training and skills programs focused on strengthening and diversifying New Jersey's green economy talent pipeline. The Members are also requested to approve (2) utilization of a total of $7 million through this program, which funds consist of $2.65 million provided through the Offshore Wind Sector Initiatives Memorandum of Understanding (MOU) between NJEDA / NJBPU dated October 12, 2023, and $4.35 million from the Green Council MOU between NJEDA/NJDEP dated March 28, 2024.

Background

Governor Murphy's economic development plan, "The State of Innovation: Building a Stronger and Fairer New Jersey Economy," identifies investment in our talent through apprenticeships, career readiness, and workforce development as one of the administration's key priorities. The plan asserts a commitment to investing in people to empower New Jersey students and workers to take advantage of high-growth, high-wage jobs. In April 2020, Governor Murphy released the Wind Council report calling for a coordinated effort to support offshore wind workforce development, education, research and innovation. Since that time, the Wind Institute for Innovation and Training, housed within NJEDA, has been developing programs and partnerships to meet that objective. In February 2021, Governor Murphy announced the creation of a Council on the Green Economy that convenes cross-sector leaders in New Jersey's growing green economy to harness the opportunity created by the state's robust climate and clean energy policy accomplishments. The Council is overseen by the Office of Climate Action and the Green Economy, and is comprised of members from State entities, the business community, organized labor, utilities, environmental justice communities and organizations, and workforce development groups. The Council released a "Green Jobs for a Sustainable Future" report which defines the pathways for green job creation, development of workforce capacity, and support for an innovation ecosystem that will be critical to building a nation-leading green economy. The report defines the green economy as comprising the following five sectors: environmental infrastructure, grid infrastructure and storage, renewable generation and fuels, energy efficiency, and alternative vehicles, which were chosen due to their alignment with New Jersey's green policy landscape, both currently and into the future.

NJEDA is issuing a Green Workforce Training Grant to support the State's goals to prepare New Jersey residents for jobs in the green economy and to grow the green economy in an equitable and inclusive manner. The Grant Challenge is a competitive funding opportunity for entities that can implement workforce training programs that will position NJ residents for green economy careers, with a particular focus on advancing diversity, equity, and inclusion and serving New Jersey's overburdened communities. NJEDA is anticipating applications from a broad range of applicants and expects to make multiple awards through this challenge.

Program Details

The Grant Challenge is a competitive program for applicants that can provide skill development, workforce training, job placement, and other related workforce supports to develop and implement workforce development programs to bolster the green economy talent pipeline in the state with a particular focus on NJ's Overburdened Communities [1]. A total of $7 million is available for programs under this Grant Challenge, including $2.65 million from the Wind Institute for Innovation and Training and $4.35 million through the Governor's Council on the Green Economy. The minimum and maximum amounts for individual awards are set at $250,000 and $1.5 million respectively. NJEDA anticipates making multiple awards in this grant challenge. Program specifications can be found in Exhibit A.

Eligibility

Eligible applicants (see Exhibit A) can include, but are not limited to the following:

- Community-based organizations
- Non-profit or private workforce training organizations
- Labor unions
- Technical high schools
- County colleges
- Other non-profit organizations
- Regional workforce development boards
- For-profit companies

Applicants must include, at a minimum, one Community-Based Organization[2] (CBO) that serves one or more NJ Overburdened Communities as part of their application (see Exhibit B). The CBO must either be the applicant or, in the alternative, a strategic collaborator with the applicant that is serving a defined role in the proposed program. All applications that include the CBO as a strategic collaborator must submit a signed letter of intent from the CBO stating that they are a strategic collaborator with the applicant for the proposed program, the role the CBO will have in the proposed program, and the amount of the requested budget allocated to the CBO. The applicant is responsible for transferring the allocated budget to the CBO for their assigned tasks for the proposed program.

Applicants may, but are not required to, collaborate with additional entities, including for-profit or non-profit entities of all types, to design and implement the training program as needed.

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[1] NJ's Environmental Justice Law at N.J.S.A 13:1D-157 defines overburdened communities as any census block group, as determined in accordance with the most recent United States Census in which: 1) at least 35 percent of the households qualify as low-income households; 2) at least 40 percent of residents identify as minority or as members of a State recognized tribal community; or 3) at least 40 percent of the households have limited English proficiency. (NJDEP| Environmental Justice | What are Overburdened Communities (OBC)?)

[2] For the purposes of this training challenge, a CBO is defined as a 501(c)(3) non-profit organization with demonstrated experience serving a NJ Overburdened Community as defined by NJ's Environmental Justice Law that provides direct services or supports to a specific geographic NJ community(ies) or specific segments of a New Jersey community(ies). For the purposes of this Challenge, government entities, K-12 schools, and institutions of higher learning do not qualify as CBOs. However, these entities may be the applicant or an additional collaborator on the applicant team. Entities that are not 501(c)3 organizations do not qualify as a CBO for the purposes of this grant challenge even if they serve a New Jersey Overburdened Community. Per the NJ Division of Taxation, a 501(c)(3) Organization refers to a nonprofit organization that has received a determination letter from the Internal Revenue Service (IRS) stating that the organization is exempt from federal Income Tax under Section 501(c)(3) of the Internal Revenue Code. The term also may refer to a church or ministry that may qualify for an IRS 501(c) (3) determination letter, even though it does not intend to apply for an IRS determination.

In addition to the eligibility parameters already stated above, the applicant must also be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and NJ Department of Environmental Protection (DEP) to participate in the program. The applicant must provide a current tax clearance certificate as part of the application to demonstrate the applicant is properly registered to do business in New Jersey and in good standing with the NJ Division of Taxation.

Proposal Scope

Applicants must submit proposals that outline compelling plans to:

- Implement an existing program or new program that will allow New Jerseyans to access workforce opportunities in green economy industries, as referenced below and in Exhibit C, by providing tangible skills sought by employers in those industries. Components of programs must include direct workforce training/skill development, and, where relevant, support services such as access to career services, mentorship, family services (such as childcare, eldercare, or other similar services), counseling, transportation, etc. Proposed initiatives must focus on one or two (but no more than two) of the following industries (see Exhibit C for detailed descriptions):
    - Offshore Wind (OSW)
    - Other Renewable Energy Technologies
    - Green Design & Construction
    - Environmental and Green Infrastructure
    - Grid Resilience
    - Clean Transportation
    - Energy Efficiency
- Connect with industry and other stakeholders to design and/or implement a program that prepares and connects participants with job opportunities in the green economy in high-growth and in-demand occupations. Applicants are expected to demonstrate that their proposed program will provide meaningful career opportunities through labor market research, employer and industry engagements, and other relevant analysis.
- Develop and/or utilize outreach, recruitment best practices, program design approaches, and wraparound supports as needed such as mentorship, transportation, and childcare that target and support a diverse and inclusive pool of training participants to successfully complete the program.
- Define program evaluation and success metrics such as: recruitment, enrollment, completion, job placement, and learning acquisition goals.
- Reach and target New Jersey’s Overburdened Communities and provide opportunities for economic mobility for these communities in green economy careers.
- Collect, track, and report programmatic data, including trainee demographics, trainee surveys, instructor evaluations, training enrollments and completions, and job placement and retention information.
- If applicable, include strategies to connect current and aspiring workforce with skills-based training targeted to transitioning legacy energy workers.
- Execute the project efficiently and on schedule, achieving well-defined milestones to complete the proposed initiative.

Virtual training programs operated in New Jersey or other states are eligible under this grant challenge so long as the program includes a clear approach to make the training accessible for and targeted to NJ residents and is linked to NJ employment opportunities in green economy careers.

Eligible Funding Uses

Eligible uses of grant funding include:
- Costs associated with planning (e.g., staff costs for program development, curriculum materials, etc.)
- Soft launch (e.g., outreach costs, recruitment materials and related costs, etc.)
- Capital costs (e.g., procurement, construction or renovation of program space, equipment, and material purchases, etc.)
- Implementation costs (e.g., instructor time, facility fees, participant stipends, equipment or materials, delivery of support services, etc.)
- Administration and indirect costs

No more than ten percent (10%) of the grant amount may be used on indirect costs such as general administration and overhead. No more than thirty percent (30%) of the grant amount can be applied for construction costs.

If capital costs are proposed, the applicant and collaborators performing capital work will be subject to labor compliance, including New Jersey affirmative action, prevailing wage requirements, and the requirement to complete New Jersey Contractor Registration. Applicants who identify capital costs as an expected use of funding will acknowledge as part of the application that they understand the grant is subject to these requirements and documentation may be audited.

Applicants must provide a detailed budget using the budget template included within the Grant Challenge application materials. The budget should demonstrate how the grant will be used to cover eligible costs related to the proposed program. All program collaborators must be included in the application budget, and identified for their role in the project, and status as a Community-Based Organization, non-profit, or for-profit.

Evaluation Process

Applications will be accepted during a defined application window, which NJEDA will make all potential applicants aware of through a Notice of Funding Availability and other information posted to NJEDA's website. There will be a defined window for potential applicants to submit questions and receive answers, including if a particular organization would be considered a CBO for the purposes of this challenge.

After the defined application window is closed, NJEDA staff will review all proposals for completeness and compliance with required documentation and minimum requirements. All compliant applications will be evaluated, scored, and ranked by an Evaluation Committee comprised of NJEDA staff. Staff from the Governor's Office of Climate Action, New Jersey Department of Environmental Protection, New Jersey Department of Labor, and the Office of the Secretary of Higher Education may serve as Subject Matter Experts (SMEs) and advise the evaluation committee. NJEDA staff may request clarifying information from respondents at any point during the evaluation process and applicants must submit a response within ten business days. All complete responses will be reviewed by the Evaluation Committee.

The Evaluation Committee will review, and rank proposals based on five primary criteria (see Exhibit A for more detail):

- Impactful program design[3] and implementation approach[4], and the ability of the initiative to meet the needs of New Jersey's growing green economy
- Ability to serve NJ's Overburdened Communities
- Ability to provide wraparound supports and low or no-cost training
- Prior experience creating and implementing workforce development initiatives
- Justification for the proposed use of funds with a reasonable budget to implement the proposed training program

The minimum score required to be considered for an award is 80 points, with the highest score possible being 100 points. Within the application, applicants will be required to identify which of the priority green economy industries (Exhibit C) will be the focus of their initiative.

Funding will be made available according to the following criteria:

- Of the $7 million total available in funding through this grant challenge, $2.65 million of the funding is earmarked to fund offshore wind programs
- Of the $7 million total available in funding through this grant challenge, $4.35 million of the funding is earmarked to fund proposals across all eligible green economy industries (see Exhibit C), including offshore wind
- If a proposal covers offshore wind and one other eligible green economy industry from Exhibit C, NJEDA, at its discretion, may combine funds from the Council on the Green Economy and the Wind Institute

To maximize the total amount of funding allocated through this challenge, NJEDA may opt to request revisions to the proposed budgets or scopes per the following protocol:

- NJEDA will fully fund the top scoring proposals within the maximum program funding of $7 million and within the funding sub-allocations as described above. If the next highest scoring applicant has a budget request that would exceed the total maximum program funding available, NJEDA may request that the applicant revise their budget and/or scope. The applicant has the right to decline or accept the budget revision option.
    - If this applicant declines, NJEDA may make the same offer to the next highest scoring applicant.
    - This process may continue until a qualifying applicant's proposal either fits within the maximum of $7 million available (or the sub-allocations as described above) or accepts the offer to revise its budget to fit within the maximum program funding available.
    - Any applicant that accepts the offer to revise its budget will have the revised application evaluated by NJEDA to determine if the revision would lower their proposal's ranking to an extent that they are no longer the next highest ranked proposal.

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[3] Program design is defined to include the activities leading up to the launch of the program including curriculum development, facility, and technology setup, and planning documents (e.g., recruitment plans, marketing strategies, etc.). The launch of the program is defined as initiation of marketing and recruitment activities that advertise the program to the program target audience.

[4] Program implementation is defined to include activities after the launch of the training program including curriculum delivery and instruction, wraparound services, and job placement.

Applicants whose applications are declined will have the right to appeal. All declinations based on discretionary reasons will be brought to the NJEDA board for approval.

Grant Disbursement

Upon Board approval of the grant recipients, NJEDA will deposit the funds into NJEDA's Economic Recovery Fund and utilize the grant-making powers as defined in the New Jersey Economic Recovery Fund Act per N.J.S.A. 34:1B-7.13 a(12) to disburse funds to each awardee per the disbursement schedule described below. The statutory provision permits grant funding for initiative-based activities which stimulate growth in targeted industries as defined by NJEDA's board or supports increasing diversity and inclusion within the State's entrepreneurial economy.

Selected applicants will enter into a grant agreement with NJEDA, and funds will be disbursed according to the following schedule:

- 25 percent of the grant will be disbursed upon execution of a grant agreement between NJEDA and the selected applicant.
- 25 percent of the grant will be disbursed upon the applicant's submission of quarterly and mid-program reports and associated materials, with exact timing and format to be determined based on the grantee's design and/or implementation plan and reflected in the grant agreement.
- 50 percent of the grant amount will be disbursed upon meeting specific program milestones and deliverables to be defined by the applicant in their application and negotiated and finalized with NJEDA if a grant award decision is made.

Additional Specifications

- NJEDA will reserve a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use any copyrightable materials developed utilizing funds awarded through this grant, inclusive of training curriculum materials and program reports.
- NJEDA will require quarterly expense reporting from grantees in a template approved by NJEDA, which is expected to include an expense cover sheet and supporting documentation, including receipts, invoices, and proofs of payment for all grant-related expenses. The grantee will be expected to adhere to Generally Accepted Accounting Principles (GAAP) and utilize grant funding for agreed upon allowable costs as defined within the grant budget. NJEDA, at its discretion, may conduct an audit and/or reject proposed costs incurred by the grantee that are determined to not be allowable under the project scope of work defined in the grant agreement. At the end of the grant agreement period, any underspent funds or disallowed costs will be returned by the grantee to NJEDA.
- NJEDA will require grantees to provide quarterly reporting on program data, including enrollment, completion, and job outcomes from the training, attendance, exam and credential results, recruitment plans, wraparound services, trainee evaluations, expenses, progress against milestones, challenges/successes, and demographics information.
- The term of the grant period for respective awarded applicants will meet the following criteria: For programs that do not involve program design components and only include program implementation, the term of the grant cannot exceed two years. For programs that involve both program design and implementation, the term of the grant can be a maximum of three years with no more than one year of the three-year term dedicated to program design.

- NJEDA will review and approve all branding for programs offered by grantees through the funding received from this grant challenge, including program names, flyers, websites, use of logos, and communication materials.

Additional details on proposal requirements, scoring criteria, and disbursement structure are outlined in the attached product specifications (Exhibit A).

Recommendation

The Members are asked to approve the creation of the Green Workforce Training Grant Challenge, a competitive grant program to implement workforce and skills development programs to strengthen and diversify New Jersey's green economy talent pipeline, utilizing $2.65 million from the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA / NJBPU October 12, 2023 and $4.35 million from the Council on the Green Economy MOU between NJEDA/NJDEP dated March 28, 2024, for a combined total of $7 million.

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Tim Sullivan, CEO

Prepared by: Ahmed Chaudry, Cathy Yuhas, and Aina Yadav

Attachments
Exhibit A –Green Workforce Training Grant Challenge Program Specifications
Exhibit B - Application Eligibility Flow Chart
Exhibit C – Eligible Industries for Grant Challenge

Exhibit A: Green Workforce Training Grant Product Specifications

Green Workforce Training Grant Proposed Program Specifications	
Funding Source	A total of $7 million will be available through this program, with minimum and maximum award amounts set at $250,000 and $1.5 million, respectively. Of the $7 million total, $2.65 million will be provided through the Offshore Wind Sector Initiatives Memorandum of Understanding (MOU) between NJEDA / NJBPU dated October 12, 2023, and $4.35 million from the Green Council MOU between NJEDA/NJDEP dated ______ 2024 that furthers the work of the Governor's Council on the Green Economy.
Program Purpose	The Green Workforce Training Grant will provide New Jersey residents, with a particular focus on New Jersey's overburdened communities, with access to workforce development training, apprenticeship, and learning opportunities for green economy careers in industries, including, but not limited to, offshore wind and other renewable energy technologies, green construction, environmental infrastructure, and energy efficiency. NJEDA is seeking proposals from entities who can provide skills development, workforce training, job placement, professional growth, wraparound services, and other related supports to implement workforce development initiatives that establish New Jersey's talent pipeline and address identified labor market shortages for our burgeoning green economy.
Eligible Applicants	Eligible applicants can include, but are not limited to the following: • Community-based organizations • Non-profit or private workforce training organizations • Labor unions • Technical high schools • County colleges • Other non-profit organizations • Regional workforce development boards • For-profit companies Applicants must include, at a minimum, one Community-Based Organization[5] (CBO) that serves one or more NJ Overburdened Communities[6] as part of their application (see Exhibit B). The CBO

[5] For the purposes of this training challenge, a CBO is defined as a 501(c)(3) non-profit organization with demonstrated experience serving a NJ Overburdened Community as defined by NJ's Environmental Justice Law that provides direct services or supports to a specific geographic NJ community(ies) or specific segments of a New Jersey community(ies). For the purposes of this Challenge, government entities, K-12 schools, and institutions of higher learning do not qualify as CBOs. However, these entities may be the applicant or an additional collaborator on the applicant team. Entities that are not 501(c)3 organizations do not qualify as a CBO for the purposes of this grant challenge even if they serve a New Jersey Overburdened Community. Per the NJ Division of Taxation, a 501(c)(3) Organization refers to a nonprofit organization that has received a determination letter from the Internal Revenue Service (IRS) stating that the organization is exempt from federal Income Tax under Section 501(c)(3) of the Internal Revenue Code. The term also may refer to a church or ministry that may qualify for an IRS 501(c) (3) determination letter, even though it does not intend to apply for an IRS determination.

[6] NJ's Environmental Justice Law, N.J.S.A 13:1D-157, defines overburdened communities as any census block group, as determined in accordance with the most recent United States Census in which: 1) at least 35 percent of the households qualify as low-income households; 2) at least 40

	must either be the applicant or, in the alternative, a strategic collaborator with the applicant. All applications that include the CBO as a strategic collaborator must submit a signed letter of intent from the CBO stating that they are a strategic collaborator with the applicant for the proposed program, the role the CBO will have in the proposed program, and the amount of the requested budget allocated to the CBO. The applicant is responsible for transferring the allocated budget to the CBO for their assigned tasks for the proposed program. Applicants may, but are not required to, collaborate with additional entities, including for-profit or non-profit entities of all types, to design and implement the training program as needed. In addition to the eligibility parameters already stated above, the applicant must also be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and NJ Department of Environmental Protection (DEP) to participate in the program. The applicant must provide a current tax clearance certificate as part of the application to demonstrate the applicant is properly registered to do business in New Jersey and in good standing with the NJ Division of Taxation.
Eligible Uses	Eligible uses of grant funding include: • Costs associated with planning (e.g., staff costs for program development, curriculum materials, etc.) • Soft launch (e.g., outreach costs, recruitment materials and related costs, etc.) • Capital costs (e.g., procurement, construction or renovation of program space, equipment, and material purchases, etc.) • Implementation costs (e.g., instructor time, facility fees, participant stipends, equipment or materials, delivery of support services, etc.) Proposed initiatives must focus on one or two (but no more than two) of the following industries (see Exhibit C for detailed descriptions): • Offshore Wind • Other renewable energy technologies • Green Design & Construction • Environmental & Green Infrastructure • Grid Resilience • Clean Transportation • Energy Efficiency Funding will be available based on the criteria listed below:

percent of residents identify as minority or as members of a State recognized tribal community; or 3) at least 40 percent of the households have limited English proficiency.[6] (NJDEP| Environmental Justice | What are Overburdened Communities (OBC)?)

	- Of the $7 million total available in funding through this grant challenge, $2.65 million of the funding is earmarked to fund proposals for offshore wind programs. - Of the $7 million total available in funding through this grant challenge, $4.35 million of the funding is earmarked to fund proposals across all eligible industries (see Exhibit C), including offshore wind. - If a proposal covers offshore wind and one other eligible industry NJEDA, at its discretion, may combine funds from the Council on the Green Economy and the Wind Institute. No more than ten percent (10%) of the grant amount may be used on indirect costs such as general administration and overhead. No more than thirty percent (30%) of the grant amount can be applied for construction costs. If capital costs are proposed, the applicant and collaborators performing capital work will be subject to labor compliance, including New Jersey affirmative action prevailing wage requirements, and requirement to complete New Jersey Contractor Registration. Applicants who identify capital costs as an expected use of funding will acknowledge as part of the application that they understand the grant is subject to these requirements and documentation may be audited. Applicants must provide a detailed budget using the budget template included within the Grant Challenge application materials. The budget should demonstrate how the grant will be used to cover eligible costs related to the proposed program. All program collaborators must be included in the application budget, and identified for their role in the project, and status as a Community-Based Organization, non-profit, or for-profit.
Term of Grant Period	For programs that do not involve program design components and only include program implementation, the term of the grant cannot exceed two years. For programs that involve both program design and implementation, the term of the grant can be a maximum of three years with no more than one year of the three-year term dedicated to the program.
Grant Amounts	$7,000,000 will be available through this grant challenge. Grants will be subject to minimum and maximum amounts of $250,000 and $1,500,000, respectively.
Scoring Criteria	The minimum score requirement to be considered for an award is 80 points, with the highest score possibility being 100 points. Applications will be scored by an Evaluation Committee based on the following criteria: Highest Score Possibility: 100 points

	Minimum Score Requirement: 80 points In general, applicants will have the opportunity to receive the points outlined below based on the following criteria: • Full Credit/Points: Compelling plan and ample evidence of ability to execute • Partial Credit/Points: Moderately compelling plan and/or minimal evidence of ability to execute • No Credit/Points: No compelling plan and/or no evidence of ability to execute Criteria 1 – Ability to meet the needs of New Jersey's burgeoning green economy industries (Up to 35 points) • Details a compelling, impactful, and scalable program concept that will fulfill a workforce-related need in one or more of NJ's green economy industries and position New Jerseyans to enter a thriving career in a green economy sector (up to 20 points) • Outlines a clear strategy to engage industry and build a network of employer partners who will be integrated into the program, including to develop industry vetted curriculum, selection of training candidates, job placement, and other relevant processes (up to 15 points) Criteria 2 – Ability to serve NJ's Overburdened Communities (Up to 10 points) • Identify steps for how the applicant will recruit and serve members of: New Jersey's overburdened communities based on geographical considerations; (Up to 10 points) Criteria 3 – Ability to provide wraparound supports and low- or no-cost training (Up to 15 points) • Clearly identify which wraparound supports will be provided to training participants, such as transportation, social services, career readiness, childcare, housing assistance, etc., and an approach for providing these services (Up to 10 points) • Outlines an approach to offer low- or no-cost training to participants (Up to 5 points) Criteria 4 – Prior experience creating and implementing workforce development initiatives (Up to 30 points) • Details a track record of related experiences operating workforce development programs, including experience recruiting, training, and/or providing services to a diverse group of participants (Up to 10 Points) • Has a team with the qualifications and experience required to design and implement the program (Up to 5 Points) • Provides a realistic implementation plan, including strategies to mitigate anticipated challenges (Up to 10 Points) • Describes an approach to conduct ongoing program evaluation and improvement (Up to 5 Points)

	Criteria 5 – Budget and associated milestones (Up to 10 points) • Provides a realistic budget and budget-associated milestones for the program in spreadsheet format utilizing the template provided in the application guidance (Up to 10 Points) To maximize the total amount of funding allocated through this challenge, NJEDA may request revisions to the proposed budgets or scopes of select high-scoring proposals that, if awarded, would bring the allocation above the funding cap. These changes may result in some applicants not receiving the full amount of their requested grant award.
Funding Disbursement	The grant will be disbursed according to the following milestones: • 25 percent of the grant will be disbursed upon execution of a grant agreement between NJEDA and the selected applicant; • 25 percent of the grant will be disbursed upon the applicant's submission of quarterly and mid-program reports and associated materials, with exact timing and format to be determined based on the grantee's design and/or implementation plan and reflected in the grant agreement; and • 50 percent of the grant amount will be disbursed upon meeting specific program milestones and deliverables to be defined by the applicant in their application and negotiated and finalized with NJEDA if a grant award decision is made.
Additional Specifications	• NJEDA will reserve a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use any copyrightable materials developed utilizing funds awarded through this grant, inclusive of training curriculum materials and program reports. • NJEDA will require quarterly expense reporting from grantees in a template approved by NJEDA, which is expected to include an expense cover sheet and supporting documentation, including receipts, invoices, and proofs of payment for all grant-related expenses. The grantee will be expected to adhere to Generally Accepted Accounting Principles (GAAP) and utilize grant funding for agreed upon allowable costs as defined within the grant budget. NJEDA, at its discretion, may conduct an audit or disallowance action for any costs incurred by the grantee that are determined to not be allowable under the project scope of work defined in the grant agreement. At the end of the grant agreement period, any underspent funds or disallowed costs will be returned by the grantee to NJEDA. • NJEDA will require grantees to provide quarterly reporting on program data, including enrollment, completion, and job outcomes from the training, attendance, exam and credential results, recruitment plans, wrapround services, trainee evaluations, expenses, progress against milestones, challenges/successes, and demographics information. • The term of the grant period for respective awarded applicants will meet the following criteria: For programs that do not involve program design components and only include program implementation, the term of the grant cannot exceed two years. For programs that involve both program design and implementation, the

	term of the grant can be a maximum of three years with no more than one year of the three-year term dedicated to program. • NJEDA will review and approve all branding for programs offered by grantees through the funding received from this grant challenge, including program names, flyers, websites, use of logos, and communication materials.

Exhibit B: Application Eligibility Flow Chart

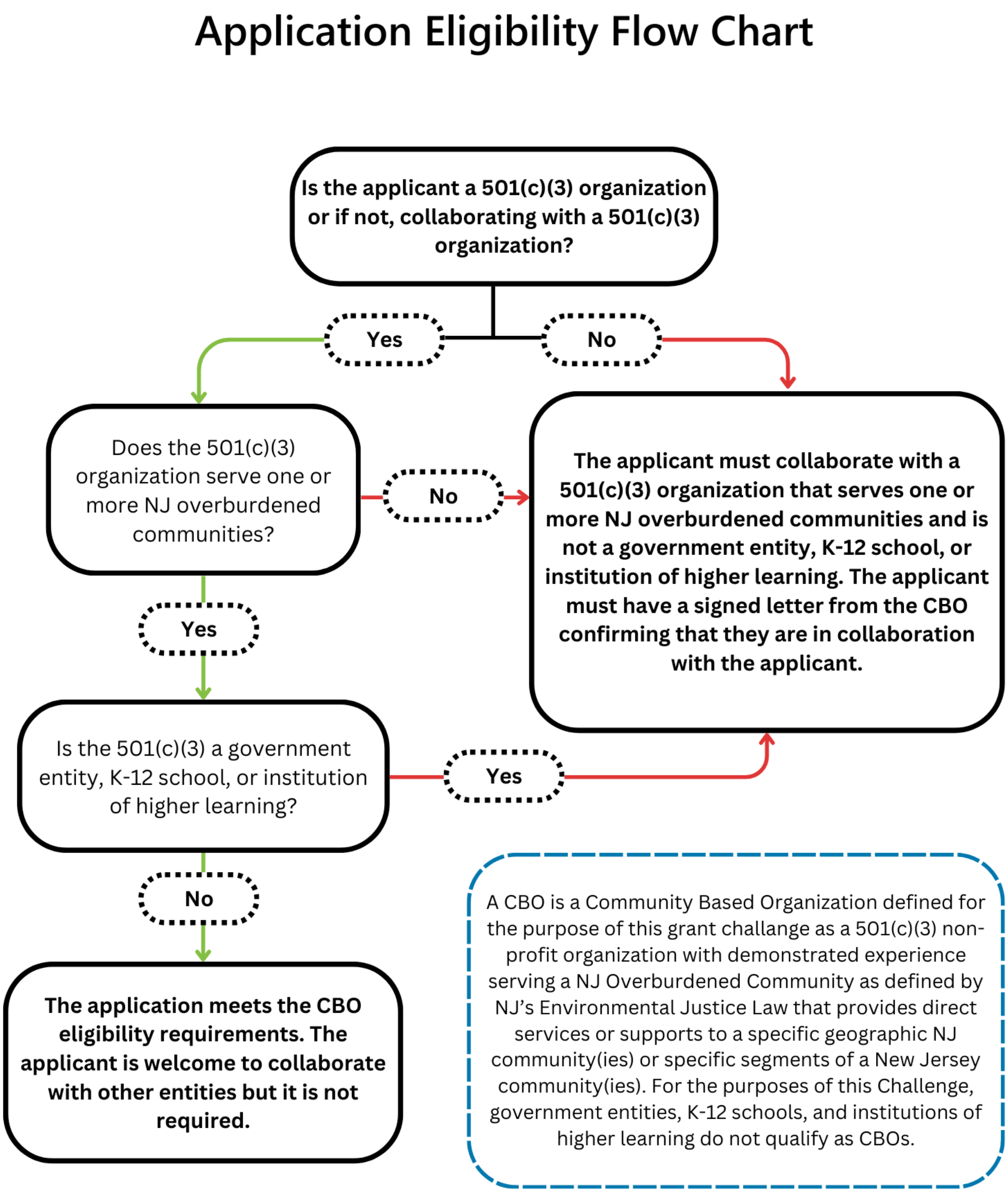

Exhibit C – Eligible Industries for Grant Challenge

Eligible Industries for Grant Challenge	
Industry	**Description**
Offshore Wind	This industry is inclusive of careers in the development and generation of offshore wind. Relevant occupations include but are not limited to component manufacturing, fabrication, assembly, energy engineering, maritime, environmental surveying, logistics, and offshore wind associated construction roles.
Other Renewable Energy Technologies	This industry is inclusive of careers in the development and generation of solar, geothermal, hydropower, marine, and biomass energy. Relevant occupations include but are not limited to technology innovation, component manufacturing, fabrication, assembly, energy engineering, energy system installation, and service technician roles.
Green Design & Construction	This industry is inclusive of careers in the green design and construction of new and retrofitting of existing buildings, as well as the installation of green construction technology (e.g., low-carbon materials) that can help decarbonize and improve the resiliency of our built environment. Relevant occupations include but are not limited to architects, engineers, electricians, carpenters, welders, plumbers, and roofers.
Environmental and Green Infrastructure	Environmental and green infrastructure is inclusive of careers that utilize natural systems and innovative technologies (e.g., cool roofs, permeable pavements, bioswales, rain gardens, etc.) that help mitigate and adapt to climate change impacts and reduce stormwater runoff. Relevant occupations include but are not limited to foresters, arborists, ecosystem (e.g., wetlands) restoration, wildlife conservation and biodiversity, soil and plant scientists, and environmental engineers.
Grid Resilience	Grid resilience is inclusive of careers that transform our power sector infrastructure to supply clean electricity and increase the reliability and resilience of our power grid. Relevant occupations include but are not limited to transmission line workers, service technicians, electrical engineering, energy storage, electrical power line installers and repairers, and electrical, electronic, and electromechanical assemblers.
Clean Transportation	Clean transportation careers reduce the environmental impact of the transportation sector, including across all classes of automotive vehicles, mass transit, vessels, and aviation while advancing infrastructure developments that support walking and micro-mobility options. Relevant occupations include but are not limited to automotive technicians, commercial drivers, transportation engineers, electric vehicle charging station installation and maintenance, and rail track laying and maintenance equipment operators.
Energy Efficiency	This industry is defined to include careers that improve energy efficiency and reduce greenhouse gas emissions. Relevant occupations include but are not limited to building operations & maintenance, high-efficiency heating, ventilation, and air conditioning (HVAC) installers and repairers, energy auditors, ENERGY STAR & efficient lighting installers, insulation workers, and weatherization installers and technicians.

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Request for Additional Funds for the Child Care Facilities Improvement Program - Phase 1

Request:

The Members are asked to approve:

1. An amendment to the existing Memorandum of Understanding with the New Jersey Department of Community Affairs (DCA) whereby the Authority will accept up to an additional $14,500,000 in American Rescue Plan (ARP) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) appropriated to the Authority pursuant to P.L. 2021, c. 144, to provide additional funds for the Child Care Facilities Improvement Pilot Program – Phase 1.

2. Utilization of $15,500,000 of State funds appropriated to the Authority pursuant to the supplemental appropriations act for State Fiscal Year 2024, P.L. 2023, c.66, to provide additional funds for the Child Care Facilities Improvement Pilot Program – Phase 1.

3. Delegation to the Chief Executive Officer to accept up to $50,000,000 in additional funds to be deposited into ERF for the Child Care Facilities Improvement Pilot Program – Phase 1 from any available governmental (Federal, State, or County) funding and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program.

Background:

As part of the State's commitment to supporting the child care sector, in June 2021 the New Jersey State Legislature passed and Governor Phil Murphy signed into law (P.L. 2021, c.144) a bill appropriating $100 million of ARP SLFRF to DCA to support child care providers and the child care workforce through a number of initiatives, including making $54.5 million available to the Authority for facilities improvements to licensed child care providers (i.e., child care centers serving 6 or more children). This was followed in June 2022 by the Fiscal Year 2023 Appropriations Act, P.L. 2022, c. 49, ("FY23 Appropriations Act") which made available an additional $30 million in ARP SLFRF to the Authority for the Child Care Facilities Fund to further invest in facility improvements for the child care sector. Most recently, P.L. 2023, c.66 allocated $20.5 million of State General Funds to the Authority for the Child Care Facilities Fund.

In May 2022, the Board approved the use of up to $20 million of the $54.5 million available to the Authority through P.L. 2021, c.144, as well as an additional $4.45 million in state funds, to capitalize Phase 1 of the Child Care Facilities Improvement Pilot Program ("Phase 1"). In May 2023, the Board approved the use of up to an additional $50 million for Phase 1. This consisted of an additional $20 million of the $54.5 million of ARP SLFRF funds made available to the Authority through P.L. 2021, c.144 and $30 million of ARP SLFRF funds appropriated to the Authority in the FY23 Appropriations Act. The amount of funds currently approved for Phase 1 is $74.45 million.

In addition to the funds approved for Phase 1, in February 2024 the Board approved the use of $5 million for Phase 2 from the Child Care Facilities Improvement Pilot Program ("Phase 2"), from the $20.5M made available to the Authority through P.L. 2023, c.66.

Phase 1 provides grants to licensed child care providers (also referred to as "centers") to make improvements to their child care facility, covering total project costs between $50,000 and $200,000. The Phase 1 application opened on November 15, 2022 and closed on October 20, 2023. In that time, 749 applications were submitted, requesting over $151 million—far exceeding the $74.45 million in available funds approved by the Board in May 2022 and May 2023. If all applications were approved, these facility improvements would have the potential to impact the learning environments of more than 60,000 children and more than 15,000 child care workers across New Jersey.

As of April 1, 2024, the Authority has issued 182 approvals totaling over $37.6 million. Approved projects have included funding for new playgrounds to prevent injuries on current broken equipment, replacing roofs that are leaking into classrooms, and installing new windows to increase energy efficiency, among other projects.

Prior to approval, all applications undergo a multi-step review process that includes review of: (1) the applicant's eligibility; (2) the contractor's eligibility; (3) the proposed facility improvement project's eligibility; (4) alignment with federal cost reasonableness standards. Based on current reviews, the Authority anticipates the majority of applications will ultimately be eligible, making Phase 1 vastly oversubscribed based on the $74.45 million in funding previously approved by the Board.

Funding

The Members are asked to approve the utilization of the following sources to further capitalize the Child Care Facilities Improvement Pilot Program – Phase 1:

- $14,500,000 of ARP SLFRF funding, which is the remainder of the funds allocated to the Authority by P.L. 2021, c.144, up to 2.5% of which the legislation authorized to be used for Authority administrative expenses.

- $15,500,000 of State funds reallocated to the Authority by the supplemental appropriations act for State Fiscal Year 2024, P.L. 2023, c.66. These funds were initially appropriated to the Authority for two child care programs in 2022, and were reallocated to the Authority's Child Care Facilities Fund by the supplemental appropriations act due to the demand for Phase 1:

    - $12,500,000 initially appropriated to the Authority for Child Care Employer Innovation in the FY23 Appropriations Act.

    - $3,000,000 initially appropriated to the Authority for the Thriving by Three program in P.L. 2022, c.25, 5% of which the legislation authorized to be used for Authority administrative expenses.
- Up to $50,000,000 from any available governmental (Federal, State, or County) funding. Delegated authority to the CEO to accept such funding is requested because Phase 1 remains considerably oversubscribed, even beyond the additional $30 million in existing funding requested in this memorandum. This delegated authority would allow the addition of funds if such funds became available.

All ARP SLFRF allocations are managed on behalf of the State by the New Jersey Department of Community Affairs (DCA). The Members are also being asked to authorize amending an existing Memorandum of Understanding (MOU) with DCA to transfer the remaining ARP SLFRF funds allocated by P.L. 2021, c.144 to the Authority.

The Authority already has an existing MOU for the funds allocated through P.L. 2021, c.144 for $40 million of the $54.5 million. When P.L. 2021, c.144, also known as the Child Care Revitalization Act (CCRA), was originally passed and signed into law in 2021, it was the only funding source for child care facilities improvements and contained language requiring that the funds be used for grants to licensed child care providers *and* registered family child care homes for facilities improvements. There is legislation pending in which the CCRA will be amended to eliminate the language requiring that it fund facilities improvement grants for FCCs, as this program could instead be fully funded from State funds that have been appropriated to the Authority for the Child Care Facilities Fund since the CCRA was passed. Because of this, the existing MOU with DCA will be amended to utilize the entire remaining balance of $14.5 million for Phase 1 rather than withholding a portion of the funding for grants to FCCs as previously planned.

The additional $30 million in existing funding requested in this memo will enable the Authority to fulfill a minimum of 125 additional eligible requests. If additional funding becomes available, the maximum of $50 million to be accepted by the CEO would allow for full funding of the remaining queue of applications. All funds will be governed by the same program specifications approved by the Board in May 2022, as may be amended from time to time, as requested in this memorandum, and similarly up to 40% of grant funding will be set aside for child care providers located in Opportunity Zone eligible census tracts.

<u>Recommendation:</u>

The Members are requested to approve:

1. An amendment to the existing Memorandum of Understanding with DCA whereby the Authority will accept up to an additional $14,500,000 in ARP CSLFRF funds appropriated to the Authority pursuant to P.L. 2021, c. 144, to provide additional funds for the Child Care Facilities Improvement Pilot Program – Phase 1.

2. Utilization of $15,500,000 of State General Funds appropriated to the Authority pursuant to the supplemental appropriations act for State Fiscal Year 2024, P.L. 2023, c.66, to provide additional funds for the Child Care Facilities Improvement Pilot Program – Phase 2.

3. Delegation to the CEO to accept up to $50,000,000 in additional funds to be deposited into ERF for the Child Care Facilities Improvement Pilot Program – Phase 1 from any available governmental (Federal, State, or County) funding and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program.

Tim Sullivan, CEO

Prepared by: Alex Himmel, Director, Child Care
Riley Edwards, Senior Advisor, Economic Security

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

RE: Predevelopment Agreement between NJEDA, Rutgers University and University Hospital for Collaboration and Funding for Activities Related to the Development of the UH/RBHS Academic Health Center Campus in Newark (#PROD-00315137)

Request

The Members are requested to approve entering into a Predevelopment Agreement ("Agreement") with Rutgers University ("RU") and University Hospital ("UH") whereby the Authority will collaborate with the Parties and commit up to $5,000,000 in funding for specific Predevelopment Activities in furtherance of the UH/Rutgers Biomedical and Health Sciences ("UH/RBHS") Academic Health Center Campus in Newark. In addition, the Members are requested to approve a delegation of authority to the Chief Executive Officer, in an amount not to exceed $2,000,000, should a) additional predevelopment activities be identified that are necessary to the completion of Phase 1 as described and will be performed by the Authority, or b) additional costs be incurred as part of the predevelopment activities described in Components I – V of Phase 1 below. Lastly, the Members are requested to approve a delegation of authority to the Chief Executive Officer to execute contracts as necessary to carry out the defined Predevelopment Activities, in total not exceeding $7,000,000, which will be negotiated consistent with the Authority's procurement policy and practices.

Background

University Hospital, an instrumentality of the State of New Jersey, is the State's only public acute care hospital and the state-designated Level I Trauma Center for Northern NJ. It also serves as the principal teaching hospital for all Newark-based medical education, including the Rutgers New Jersey Medical School and School of Dental Medicine. Co-located with these RU academic facilities on a 60+ acre campus in Newark, the UH/RBHS Academic Health Center Campus was one of the primary developments to occur following the signing of the Newark Agreements of 1968. The campus is owned by the State of New Jersey and is subject to a Master Lease Agreement with RU and UH through 2089. The healthcare delivery facilities have not had any significant renovation or capital investment since they were built in the early 1970s.

As part of the State of New Jersey's Fiscal Year 2023 Budget, the State appropriated to the Authority $50,000,000 ("FY23 Funds") from the Coronavirus State Fiscal Recovery Fund "…to study and plan for new health care facilities at the University Hospital site to meet community health care needs in the City of Newark, and to fund site development and capital construction." Pursuant to a contract awarded to Innova Healthcare Solutions, the Authority completed the legislatively mandated study (the "Study"), which concluded that the UH facilities are "functionally obsolete." The Study further determined that the Master Plan for the campus published by University Hospital in January 2023, which carries an estimated total cost of $1.8B and would take at least 8 years to complete, is designed to replace, modernize and right-size the existing healthcare capacity.

Following the conclusion of the Study, the Authority convened a Working Group consisting of representatives of UH, RU, the Governor's Office of Recovery and Rebuilding, and the Department of Community Affairs, with the goal to collaborate and implement the steps necessary to begin the site development and capital construction articulated by the UH Master Plan. As a result of these meetings, the Authority now seeks to lead the Predevelopment Activities necessary to begin Phase 1 of the Master Plan pursuant to an Agreement with UH and RU.

Phase 1 consists of an outpatient medical office building and an administrative building, both of which will be built on state-owned land that currently contains temporary office structures (the "Administrative Complex") in which UH and RU employees work. The Predevelopment Activities to be performed and/or coordinated by the Authority include:

(a) COMPONENT I – the preparation of detailed plans for relocations that are required to vacate RU's buildings that are slated to be demolished, including securing the services of associated professionals.

(b) COMPONENT II - the advancement of design of the administrative building, including sitework. The sitework will also include the area of land associated with the outpatient medical office building. At the same time, it is contemplated that UH will execute the procurement for the medical office building, in collaboration with the Authority and RU;

(c) COMPONENT III – the preparation of detailed construction documents, including plans and specifications, for demolition of certain buildings within the existing Administration Complex, including testing for asbestos–containing materials and design of any required abatement effort;

(d) COMPONENT IV – the investigation of the site, including the study of subsurface environmental conditions, geotechnical data, survey, title and land use, including a review of the reports currently in RU's records, preliminary inquiries to utility companies and municipal utility providers, and the development of strategies for stormwater management;

(e) COMPONENT V – the engagement of a construction manager to provide day-to-day coordination of all components of the Predevelopment Agreement, including guidance on construction logistics, detailed project schedules, and construction and development cost estimates

(f) COMPONENT VI – the development of the Development Agreement, ground lease amendment(s), and related documents for the full scope of Phase 1.

Given the Authority's history of engaging in development activities throughout the State and in consideration of the alignment of goals between all Parties, the Authority desires to enter into a Predevelopment Agreement with UH and RU to commit up to $5,000,000 of the FY23 Funds to enable the Predevelopment Activities to occur. The Predevelopment Agreement attached as Exhibit A to this memo is in substantially final form. The final document may be subject to revision, although the basic terms and conditions will remain consistent with the attachment. The final terms of the Agreement will be subject to the approval of the Chief Executive Officer and the other parties to the Agreement.

In addition, to avoid any unnecessary delays in executing the Predevelopment Activities, the Members are requested to delegate authority to the Chief Executive Officer to approve an additional expenditure of up to $2,000,000 from the same source of funds to implement the Predevelopment Agreement. These additional expenditures would be utilized in the event of a) additional Predevelopment Activities identified that are necessary to the completion of Phase 1 as described and will be performed by the Authority, and/or b) additional costs incurred as part of the Predevelopment Activities described in Components I – V above.

Further, the Authority intends to contract with vendors, including but not limited to a construction management firm, to carry out the work of the Predevelopment Activities. To gain efficiencies, the Authority seeks to access vendors either procured directly by the Authority or procured by another State entity in a manner that is consistent with the Authority's procurement policy. In an effort to streamline this work and consistent with the Board's desire to explore opportunities to further delegate authority, the Authority seeks delegation of authority to the Chief Executive Officer to negotiate and execute such contracts in total not exceeding $7,000,000, so that work can begin in a timely manner in order to meet all federal spending deadlines. Such situations pose limited operational risk to the Authority as the funding source remains clear and the work continues to be performed by the Authority.

Recommendation

The Members are requested to approve entering into a Predevelopment Agreement with Rutgers University and University Hospital whereby the Authority will collaborate with the Parties and commit up to $5,000,000 in funding for specific Predevelopment Activities in furtherance of the UH/Rutgers Biomedical and Health Sciences Academic Health Center Campus in Newark. In addition, the Members are requested to approve a delegation of authority to the Chief Executive Officer, in an amount not to exceed $2,000,000, should a) additional Predevelopment Activities be identified that are necessary to the completion of Phase 1 as described and will be performed by the Authority, or b) additional costs be incurred as part of the Predevelopment Activities described in Components I – V above. Lastly, the Members are requested to approve a delegation of authority to the Chief Executive Officer to execute contracts as necessary to carry out the defined Predevelopment Activities in total not exceeding $7,000,000, which will be negotiated consistent with the Authority's procurement policy and practices.

Tim Sullivan, CEO

Prepared by: Mary Maples, Jorge Santos

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PREDEVELOPMENT AGREEMENT BETWEEN RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY AND UNIVERSITY HOSPITAL AND NEW JERSEY ECONOMIC DEVELOPMENT CORPORATION

THIS PREDEVELOPMENT AGREEMENT ("**Agreement**") dated as of the ____ day of February 2024 (the "**Effective Date**"), by and among RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY, an Instrumentality of the State of New Jersey having an office at 33 Knightsbridge Road, Piscataway, New Jersey 08854 (the "**University**"), UNIVERSITY HOSPITAL, a body corporate and politic and an Instrumentality of the State of New Jersey having an office at 150 Bergen Street, Newark, New Jersey 07103 (the "**Hospital**") and NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, an Authority of the State of New Jersey having an address at 36 West State Street, Trenton, NJ 08625 (the "**NJEDA**"). The University, the Hospital, and the NJEDA may each be referred to herein as a "**Party**" or collectively as the "**Parties**."

WITNESSETH

WHEREAS, the State of New Jersey, Department of Treasury is the owner of the real property designated as Block 427, Lot 1 on the City of Newark's tax maps, generally known as the Rutgers Administrative Complex or ADMC, and located at 30 Bergen Street, Newark, New Jersey (the "**Property**"); and

WHEREAS, portions of the Property are, under the terms of a Lease agreement between the State of New Jersey, Department of Treasury and the University of Medicine and Dentistry of New Jersey dated March 17, 1989, as amended by Amendment 1 (dated August 4, 1982), and Amendment 2 (dated July 1, 2013) leased to both the University and the Hospital, with the Shared Demised Premises shown on and described in the Exhibits to Amendment 2; and

WHEREAS, the Parties desire to develop the Property with certain improvements and facilities, including, but not limited to, a new medical office building (the "**MOB**"), a new administrative building of approximately 350,000 sq ft with associated structured parking (the "**ADMB**"), and required environmental remediation, utilities, excavation, backfill, and grading (the "**Sitework**"), together and as a whole to be referred to as the "**Proposed Development**"; and

WHEREAS, the Parties have determined that the NJEDA has the requisite experience, training, knowledge, and ability to engage and manage the Predevelopment Activities needed to plan for the development of the ADMB, undertake required Sitework, assist the Hospital with development of the MOB, and coordinate certain components of the Proposed Development; and

WHEREAS, the Parties intend to negotiate and execute an agreement or agreements to provide for the construction and operation of the Proposed Development (the "**Development Agreement**"), which agreement(s) shall include terms and conditions regarding the ownership, financing, and use of the Proposed Development; and

WHEREAS, the Parties desire to enter into this Agreement to generally outline their understandings and intent relative to the development of the Property and other elements of the Proposed Development; and

WHEREAS, the 2022-2023 State Budget allocated $50,000,000 (Fifty Million Dollars) of American Rescue Act Funds ("ARP Funds") to NJEDA "to study and plan for new health care facilities at the University Hospital site to meet community health care needs in the City of Newark, and to fund site development and capital construction;" and

WHEREAS, the Parties agree that NJEDA will use a portion of the above-referenced monies to fund the work contemplated in this Agreement; and

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. **Recitals Incorporated**. The above recitals are hereby incorporated in and made a part of this Agreement as if fully forth verbatim herein.

2. **Definitions.** As used in this Agreement the following terms shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Agreement shall include the corresponding masculine, feminine and neuter.

(a) The following terms shall have the meanings ascribed to them in the Recitals to this Agreement:

Agreement	Party
Effective Date	Parties
Development Agreement	Proposed Development
University	Hospital
NJEDA	MOB
ADMB	Sitework

(b) The following terms shall have the definitions ascribed to them herein:

(i) "*AHJ Approval*" shall mean approvals from authorities having jurisdiction required for the construction, use, and occupancy of the ADMB and Sitework, including, without limitation, construction permits; environmental permits, approvals, consents or authorizations from the New Jersey Department of Environmental Protection ("NJDEP") and any other applicable governmental agencies; sewerage capacity approvals; utilities-related permits; and any and all other necessary permits, licenses, consents and approvals.

(ii) *"Contract Sum"* shall mean the maximum amount to be used by NJEDA for the work contemplated in this Agreement. The Contract Sum is, at date of execution of this Agreement, $7,000,000 (Seven Million Dollars). The Contract Sum may be modified during the term of this Agreement with written consent of all parties.

(iii) *"Contract Time"* shall mean the length of time from start of the work of this Agreement to the latter of September 30, 2024 or the date of the completion of the Predevelopment Activities. The work shall start on the date of this Agreement. Contract Time may be modified during the term of this Agreement with written consent of all parties. Contract Time may also be changed by termination of this Agreement in accordance with Paragraph 6 of this Agreement.

(iv) "*Predevelopment Activities*" shall mean the hiring by the NJEDA of appropriate professionals, including, but not limited to, architects, counsel, construction managers/advisors, landscape architects, engineers, environmental consultants, financial consultants, and any other professional as required to determine the feasibility and preliminary design for the Proposed Development. Predevelopment Activities are further described in Exhibit A and in Section 4 of the Agreement.

(v) "*Predevelopment Costs*" shall mean any and all costs incurred by the NJEDA in performing the Predevelopment Activities that are generally consistent with cost estimates described in Exhibit A to the Agreement and within the Contract Sum. Note that Exhibit A provides estimates of costs of various components of the work but is not a schedule of values; the Grand Total is fixed but the amounts shown on other lines are not.

(vi) "*Substantial Completion*" shall mean the mutual consent of the Parties to this agreement concurring that a component, described below, has been completed.

3. **Purpose and Scope**. The Parties hereby enter into this Agreement to summarize their mutual agreements relating to the Proposed Development.

4. **Predevelopment Activities**. The NJEDA hereby agrees to perform the necessary Predevelopment Activities for the purpose of presenting to the Hospital and University a variety of information to advance the Proposed Development, as described in the paragraphs below. The following paragraphs generally describe components of the Predevelopment Activities but are not intended to provide exhaustive and detailed lists of tasks. The Component numbers listed below correspond with those listed in Exhibit A.

(a) COMPONENT I – the NJEDA, in collaboration with the Hospital and University, will begin the advancement of design of the ADMB and associated Sitework. The design will be advanced to the point where the information can be packaged into a Basis of Design (BOD) that can be used for a future procurement for the ADMB. It is understood and agreed that the anticipated procurement method may change as information becomes available during the due diligence process. It is further understood and agreed that the procurement for construction, be it Construction Manager at Risk or another delivery method, cannot occur until if and when the Development Agreement is executed, which will include the necessary terms associated with the use of ARP Funds.

(b) COMPONENT II – Simultaneously with the commencement of Component I, the NJEDA, in collaboration with the Hospital and University, will begin the preparation of detailed construction documents, including plans and specifications, for demolition of certain buildings within the existing Administration Complex; identification of the specific buildings to be demolished is in Exhibit B and Exhibit C. Work includes design of utility system modifications to allow certain buildings in the complex to be demolished while other buildings in the complex remain occupied and in use. Work also includes testing for asbestos–containing materials and design of any required abatement effort.

(c) COMPONENT III – Simultaneously with the commencement of Component I, the NJEDA, in collaboration with the Hospital and University, will undertake a site investigation and the investigation's due diligence will include the study of subsurface environmental conditions, geotechnical data, survey, title and land use, including a review of such types of the reports currently in the University's records. This work will also include preliminary inquiries to utility companies and municipal utility providers as well as development of strategies for stormwater management.

(d) COMPONENT IV – Simultaneously with the commencement of Component I, the NJEDA, in collaboration with the Hospital and University, will engage a construction manager to provide day-to-day coordination of all components of the Predevelopment Agreement. The firm retained will also provide guidance onpre-construction activities including but not limited to: construction logistics, develop detailed project schedules, and undertake construction and development cost estimates. It is anticipated that this work will continue until the Predevelopment Agreement expires or is terminated.

(e) COMPONENT V – During the Contract Time the NJEDA, in collaboration with the Hospital and University, will lead the development of the Development Agreement, ground lease amendment(s), and related documents. It is understood and agreed that commencement of this work will lag behind commencement of other work, as the results of the work of other components will inform and guide this component. It is further understood and agreed that although the NJEDA will lead the work of this component, all Parties must be equally engaged in the effort. It is further understood and agreed that each Party will need to retain its own legal counsel for participation in the work of this component. It is the intent, but not guarantee, of the Parties to have this component substantially complete by September 30, 2024.

5. **NJMS Clinical Skills Testing Center:** The Parties understand and agree that the temporary relocation of the Rutgers New Jersey Medical School's Clinical Skills Testing Center is essential to allow expeditious progress of the work of the Predevelopment Agreement. It is further understood and agreed that the temporary relocation of the Rutgers New Jersey Medical School's

Clinical Skills Testing Center is not work of the Predevelopment Agreement, but that the ongoing efforts of UH and RU on this project are parallel to the work of the Predevelopment Agreement.

6. **Procurements Associated with the Medical Office Building Construction:** While NJEDA is leading the enumerated Predevelopment Activities above, the Hospital will collaborate with the Parties and will lead the development and execution of a procurement strategy for development of the MOB. It is understood and agreed that commencement of this work will lag behind commencement of other work, as the results of the work of other components will inform and guide this component. It is the intent, but not guarantee, of the Hospital to begin the solicitation process by September 30, 2024.

7. **Additional roles of the Parties.** It is the express intent of the Parties to work collaboratively and transparently in the execution of the Predevelopment Activities. To that end, the Parties acknowledge and agree that any Party tasked with engaging contractors or other professionals or designing and implementening project timelines shall consult and involve the other two Parties to the level and extent desired by those said Parties, subject to any restrictions in law or regulation. For example, when the NJEDA conducts solicitation processes and engages subcontractors to perform the Predevelopment Activities, the Hospital and the University will maintain direct insight into those processes and decisions within the limits of the law.

8. **The Parties' Access to the Property**. While this Agreement is in effect, the Parties and their respective agents, representatives, and employees, shall have the continuing right, at any time and from time to time, to enter and go upon the Property in furtherance of this Agreement.

9. **Termination of Agreement**. Until the Development Agreement is fully executed, any Party may terminate this Agreement for any reason or no reason by delivering at least thirty (30) days advance written notice to the other Parties. Upon expiration or earlier termination of this Agreement, no Party shall have any further obligation to the other Parties under this Agreement or with respect to the Proposed Development, the Property or otherwise, except with respect to any breach of this Agreement prior to its expiration or termination or as otherwise expressly provided herein. 10. **Payment of Funds**. The NJEDA shall allocate up to the Contract Sum of $5,000,000 (Five Million Dollars) to cover anticipated Predevelopment Costs. The Contract Sum may be may be modified during the term of this Agreement with written consent of all parties.

10. **Negotiation of the Development Agreement**. During the Contract Time the Parties will negotiate and draft the Development Agreement, which will include, among other things, the terms and conditions and other rights and obligations of the Parties with respect to the Proposed Development and in consideration of the use of ARP Funds. The Parties anticipate that the Development Agreement will contemplate a project described in Exhibit B and Exhibit C. The Development Agreement will supersede this Agreement and will incorporate mutually agreed upon terms and conditions.

(a) The Parties agree and understand that there are key conditions that must be met in order to execute the Development Agreement. These key conditions include, but are not limited to, the following:

1. That the ongoing work of the Predevelopment Agreement does not clearly undermine the feasibility of the Proposed Development, considering matters including, but not limited to:

a. Environmental/subsurface conditions and associated remediation

b. Projected construction schedule, including encumbrance and spending constraints imposed by use of Coronavirus State Fiscal Recovery Funds as well as timing of governmental approvals

c. Estimated project cost

(ii) That a financial strategy for the activities contemplated in the Development Agreement is in place.A

(iii) That execution of the Development Agreement will require consent of each Party's governing board.

Notwithstanding the foregoing, the parties may, by mutual agreement, determine to execute the Development Agreement prior to competition of all of these conditions.

(b) The Parties agree and understand that the MOB is, at the time of execution of this Agreement, anticipated to be developed under the terms and conditions of an agreement separate from the Development Agreement, with University Hospital and a currently undetermined development partner being parties to that agreement. The Parties also agree and understand that the work of this Agreement, the work of the Development Agreement, and the work of the agreement associated with the MOB must be closely coordinated to allow proper development of the Proposed Development, and the Parties agree to cooperate in the necessary coordination.

11. **Assignability**. This Agreement shall not be assignable by any Party without the express written consent of other Parties. However, it is the intent of the NJEDA to ensure that the work product being produced as a result of this Agreement may be assigned and otherwise relied upon by University and Hospital.

12. **Notices**. Notices hereunder shall be in writing and shall be delivered by certified mail, return receipt requested, or by recognized overnight carrier such as Federal Express, addressed as follows and deemed to be given on the date of receipt. Copies of notices sent by email shall be considered courtesy messages and shall not constitute Notice.

If to the University:

Rutgers, The State University of New Jersey
Office of the EVP and COO
33 Knightsbridge Road
Piscataway, New Jersey 08854

Email: antonio.calcado@rutgers.edu

With Copy to:

Rutgers, The State University of New Jersey
Planning, Development, and Design
33 Knightsbridge Road
Piscataway, New Jersey 08854
Email: dave.schulz@rutgers.edu

If to the Hospital:

University Hospital
Office of the President and CEO
150 Bergen Street
Newark, New Jersey 07103-2406
Email: ed.jimenez@uhnj.org

With Copy to:

University Hospital
Office of the Chief Legal Officer
150 Bergen Street
Newark, New Jersey 07103-2406
Email: wilsonm4@uhnj.org

If to NJEDA:

New Jersey Economic Development Authority
Office of the CEO
PO Box 990
Trenton, New Jersey 08625-0990
Email: tim.sullivan@njeda.gov

With Copy to:

New Jersey Economic Development Authority
Mary K. E. Maples
502 Brewer Avenue
Oceanport, New Jersey 07752
Email: mary.maples@njeda.gov

13. **Governing Law**. This Agreement and all claims, disputes, or controversies arising hereunder, shall be governed by the laws of the State of New Jersey, without regard to conflict of law principles.

14. **Review by Counsel; Drafting Ambiguities and Interpretation**. Each Party hereto for itself, its successors and assigns warrants and represents that it has had the advice of counsel of its choosing and that it has been informed of and understands the rights and obligations contained within this Agreement. In light of the foregoing, no weight shall be given to, nor any construction or interpretation be influenced by, the fact that counsel for one of the Parties and/or one of the Parties drafted this Agreement. If any clause, provision or section of this Agreement shall be determined to be apparently contrary to or conflicting with any other clause, provision or section of this Agreement, then the clause, provision or section containing the more specific provisions shall control and govern with respect to such apparent conflict.

15. **Dispute Resolution.** Where a dispute arises under this Agreement, the Parties shall consult in good faith in an effort to resolve the dispute by mutual agreement by referring the dispute to the Chief Executive Officer of each Party.

16. **Aspire Tax Credits.** The University, Hospital, or another undetermined development partner may apply for Aspire tax credits. The Parties acknowledge that NJEDA's participation as described in the Agreement and as anticipated in this Agreement does not provide any assurance that the Proposed Development will be eligible for an Aspire tax credit. NJEDA shall review and determine eligibility, at its sole discretion, of any such Aspire application

17. **Entire Agreement; No Modification Unless in Writing**. This Agreement represents the entire understanding between the Parties with respect to the subject matter expressed herein. Neither prior or contemporaneous written statements, nor any prior, contemporaneous or future oral agreements shall be admissible to interpret, alter, modify or amend this Agreement. This Agreement may only be altered or amended by a subsequent writing duly authorized and executed by the Parties.

18. **Severability**. In the event a court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

19. **Headings.** The section headings in this Agreement are inserted only as a matter of convenience and for reference, and they in no way define or limit, or describe the scope or intent of any provision of this Agreement.

20. **Counterparts**. This Agreement may be signed in counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts shall together constitute but one and the same instrument.

21. **Representation on Authority of Parties/Signatories**. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and

delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized, and that this Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

LIST OF EXHIBITS

Exhibit A	Predevelopment Development Budget April 2, 2024
Exhibit B	Project Description, dated March XX, 2024
Exhibit C	Concept Document (PowerPoint), dated February 13, 2024

[***REMAINDER OF PAGE INTENTIONALLY LEFT BLANK***]

INTENDING TO BE LEGALLY BOUND, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the Effective Date set forth above.

Witness:	**RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY**
By:____________________________	By:____________________________ Antonio M. Calcado Executive Vice President and Chief Operating Officer
Witness:	**UNIVERSITY HOSPITAL**
By:____________________________	By:____________________________ Edward Jimenez President and CEO
Witness:	**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**
By:____________________________	By:____________________________ Tim Sullivan Chief Executive Officer

Exhibit A
University Hospital - Predevelopment Budget
4/2/2024

	Project Component/Task	Estimate
1.00	**Architecture/Engineer and Construction Manager - Bridging Document**	$3,000,000
	230,000 SF Administrative Building (ADMB)	
	875 space parking garage	
	Site Investigation and Planning (e.g., geotechnical, utilities)	
	Executive Order 215 Study (e.g., Historic/Cultural, Traffic)	
	Cost Estimating	
	Program Management	
	Relocation planning	
2.00	**Environmental and Demolition Specifications**	$1,000,000
	Environmental Assessments and Investigations	
	Remediation Specifications	
	Demolition Specifications	
3.00	**Professional Surveying Services**	$100,000
	Survey (boundary and topograhic)	
4.00	**Legal Services and Other Services**	$250,000
	Legal services for development, financing and site control	
	Title Search	
	Subtotal	**$4,350,000**
	Contingency	$650,000
	Total	**$5,000,000**
	Available for Additional Services	$2,000,000
	Total Predevelopment Budget	**$7,000,000**

Excludes: MOB studies, audit and advisory

PROJECT DESCRIPTION

Expansion of University Hospital Phase I
Rutgers University RBHS Newark Campus

Newark, New Jersey

March XX, 2024

3/28/24 Draft

EXHIBIT B TO PREDEVELOPMENT AGREEMENT

Introduction

The New Jersey Economic Development Authority (NJEDA) has been working with Rutgers University (RU) and University Hospital (UH), the Newark-based principal teaching hospital for RU, and to enable the first phase of a multi-phased transformational project that will ultimately provide for the modernization of both outpatient and inpatient spaces of University Hospital. The modernization will permit the hospital to accommodate its patient volumes in appropriately sized space, supported by modern infrastructure, with state-of-the-art technology, in a reasonable timeframe. Given that the dense urban campus of Rutgers Biomedical and Health Sciences is shared with University Hospital, careful planning and coordination of strategic and physical plans is a must.

In early 2023, UH announced formal plans for a nine-year multi-phased $1.8 billion physical plan (the “Plan”) that would, in its ultimate scenario, provide for a new outpatient care building, new inpatient hospital tower attached to the existing hospital building, significant renovations to that existing hospital building, and related site and parking improvements. The Plan’s phased approach relied on redevelopment of a portion of the campus that is prime for reuse and redevelopment - a site that currently houses the Administration Complex – to effectuate the eventual construction of the new tower. The Administration Complex, a series of interconnected buildings constructed in the late 1960’s, provides 200,000 square feet of space primarily for Rutgers, although University Hospital does have a substantial footprint in the complex.

Rutgers and UH are co-located on 60+ acreas of land that is owned by the State of New Jersey, subject to a Master Lease through 2089. Due to the severe physical constraints of the campus, there needs to be a carefully developed phasing strategy that will allow the Hospital’s plan to proceed in a manner that allows for limited disruption to ongoing hospital and university operations while also avoiding impeding the Rutgers physical and strategic plans for the campus. That phasing strategy has been developed, and both Rutgers University and University Hospital agree that strategy shows that physical development can occur with no interference to the campus plans, operations, and infrastructure, and indeed can proceed with no adverse effects on the students, employees, patients, and visitors that come to the campus.

The phasing strategy identifies a number of phases that end with ultimate build-out of the campus. Rutgers, University Hospital, and NJEDA agree that it would benefit the parties individually and collectively to make progress on the first phase of the project. Undertaking Phase I is a necessary initial step that will open up other areas of the campus for advancement of the complete hospital Plan. The first step of the first phase comprises predevelopment and due diligence efforts that will be completed by NJEDA, working closely with University Hospital and Rutgers University.

Phase I of the expansion of University Hospital is composed of two buildings. A new building providing administrative space for both Rutgers and University Hospital will be constructed, includingstructured parking. Schedule constraints associated with available funding drive the development of this building first – the straightforward nature of general office layout and structured parking allow for rapid delivery of this building. Two hundred million dollars (out of over $300 million in total cost for this building) must be spent by December 31, 2026, based on federal deadlines associated with the source of these funds. The first building of Phase I is referred to as the Administrative Building (ADMB).

The second building, referred to as a Medical Office Building (MOB), will be developed concurrently with the first. This building, anticipated to house same-day-surgery operating rooms and myriad outpatient practices, will require significant strategic, business, and physical planning; there will need to be strategic conversations between Rutgers Biomedical Health Science and Hospital leadership on clinical planning for this building. The preliminary planning and coordination will occur while the ADMB is being designed, and construction of the MOB will therefore lag behind construction of the ADMB. Architectural and site design will be coordinated to ensure that the two buildings of the first phase complement each other and function as a comprehensive whole.

Once complete, the new buildings will have a significant impact on outpatient clinical programs and operations on campus. Aged and inefficient buildings will be removed from the campus, and the outpatient experience will be enormously improved. The project will allow the longer-term plan of University Hospital to continue, thereby allowing Rutgers and University Hospital to continue to deliver high-quality health care, employment, and educational opportunities to the people of Newark, consistent with the legislative intent underpinning the New Jersey Medical and Health Sciences Restructuring Act of 2012 and the promises articulated in the Newark Agreements of 1968.

Scope

The redevelopment of University Hospital Phase I is generally divided into three major elements – the Administrative Building (ADMB), the Medical Office Building (MOB), and associated site work that includes environmental remediation and site utilities (Sitework). Phase I also includes demolition of a number of existing buildings that stand in the way of the new construction.

Administrative Building (ADMB)

The ADMB will contain spaces for both Rutgers and University Hospital as well as provide structured parking for faculty, staff, patients, and visitors. The building will include two floors of shell space, to accommodate future growth. The building will provide parking for approximately 875 vehicles, and have approximately 230,000 gross square feet of conditioned space in addition to the volume of the structured parking. The ADMC will have five building floors atop five parking levels, with a mechanical penthouse topping the building. The first floor of the building, on grade, will have 10,000 square feet of healthcare-related space, facing the Medical Office Building, creating a clinical corridor between the buildings that will complement the overall campus plan with its pedestrian paths and connections.

More specifically, the ADMB will accommodate the following functions and spaces, beginning at the first (ground) floor and moving up.

Floor	**Functions**
1	Building entry for the administrative floors, 10,000 square feet of outpatient clinical space (facing MOB), vehicular entry (facing 12th Avenue), structured parking
2	Structured parking
3	Structured parking
4	Structured parking
5	Structured parking
6	Class B non-custom office space for University Hospital, sky lobby, accommodation for future bridge connection to MOB; office space is 70/30 open/enclosed; floor plate is approximately 43,900 gross square feet
7	Class B non-custom office space for Rutgers; office space is 70/30 open/enclosed; floor plate is approximately 43,900 gross square feet
8	Class B non-custom office space for Rutgers; office space is 70/30 open/enclosed; floor plate is approximately 43,900 gross square feet
9	Warm shell space for future use; floor plate is approximately 43,900 gross square feet
10	Warm shell space for future use; floor plate is approximately 24,500 gross square feet
PH	Mechanical Penthouse

Warm shell space is unfinished enclosed space that has minimal heat so as to prevent damage to infrastructure, and code-required minimum life safety systems in place.

The building is anticipated to have its own infrastructure, fed by utilities in the street, and not be connected to campus infrastructure and central plant, given the building's location across 12th Avenue from the main campus and the campus utilities distribution loops.

The anticipated Development Agreement (as defined in the Predevelopment Agreement to which this Exhibit is attached) will discuss the ownership and operation of the ADMB. The structured parking would be another component of the campus-wide parking program, and is anticipated to be operated by Rutgers. It is also anticipated that delivery of this project would be by Rutgers, for an estimated cost of $327 million including Sitework (see Financial below).

Medical Office Building (MOB)

The MOB will contain clinical spaces to replace functions in the existing Doctors Office Center and to accommodate appropriate patient volumes. As such the new MOB will accommodate same day surgery and therefore house operating rooms and the required pre-operating and post-anesthesia recovery spaces. Myriad outpatient clinical practices, including specialty exam spaces, will be in the building. Specialty functions such as diagnostic imaging including MRI, CT, and radiology can be expected in the building.

The size and height of the MOB will be determined based on detailed medical planning. The size will be determined considering patient volume, types of practices, code and regulatory requirements, and specific needs of practices located in the building. The overall concept plan can accommodate a 350,000 gross square foot building, ten stories in height. The existing Doctors Office Building, undersized for current volumes, is approximately 200,000 gross square feet. The detailed medical planning will determine the size of the building, and the concept plan demonstrates that the appropriately-sized building can certainly be accommodated.

The building is anticipated to have its own infrastructure, fed by utilities in the street, and not be connected to campus infrastructure and central plant, given the building's location across 12th Avenue from the main campus and the campus utilities distribution loops.

It is anticipated that University Hospital would own and operate the MOB. It is also anticipated that the likely delivery method would be engagement of a medical building developer by University Hospital, with lease-to-purchase possibly being an effective strategy. The cost of the MOB will depend on the program, size, and timing of the building; these will be determined while the ADMB is under development. The cost of the MOB is in addition to the $327 million.

Sitework

The Sitework includes demolition of buildings known as ADMC 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. Sitework includes environmental remediation of subsurface contamination that may be expected in any project undertaken in an urban location with its historic fill. Sitework includes stormwater management infrastructure as well as connections to water, sewer, electric, and gas as required for the buildings. The Sitework includes provision of a flat, clean, and clear site for the MOB developer to construct the MOB.

Financial

The estimated project cost for development of the ADMB and Sitework for the two-building effort, inclusive of predevelopment activities, is $327,000,000. A capital stack and funding strategy will be developed during the predevelopment phase. Preliminary financial conversations center on $200 million in American Rescue Plan (ARP) Coronavirus State Fiscal Recovery Fund monies and $100 million from sources to be determined. The cost and funding strategy for development of the MOB is not included within the $327 million.

It is anticipated that the ultimate financial structure and project parameters will require approval of the Rutgers Board of Governors, the University Hospital Board of Directors, and the NJEDA Board.

Schedule

As verified by the State of New Jersey Department of Community Affairs, the Parties understand that the $200 million in ARP funds have been encumbered, prior to the federal deadline of December 31, 2024. In addition, the Parties understand that the funds must be spent by December 31, 2026. The project approach and anticipated schedule reflect this. The fast-moving ADMB will focus on appropriate spend, and the ARP funds will be expended by the deadline. It is anticipated that the construction of the ADMB will continue into 2027, with the 2027 construction drawing down on non-ARP funds. It is further understood that the additional $100 million must be identified by July 1, 2024 for a successful project completion.

The detailed schedule for project development will be determined during the Predevelopment Phase Work.

Time is of the essence to authorize the Predevelopment Phase Work. This work must be undertaken promptly in order to determine feasibility of the two-building project and to ensure that the ARP funds are encumbered and spent timely.

Predevelopment Phase Work

There must be detailed and fast-moving activities to determine the feasibility of the project. These activities include environmental assessments, relocation planning, design of utility work to support demolition of buildings, and advancement of design based on concept planning. Activities also include construction cost estimating, construction scheduling and logistics assessment, project delivery determination, and plan review/permit strategies. Financial and legal work is required as well. The cost of the predevelopment work is estimated not to exceed $7 million, and said cost is included within the $327 million described in the Financial section.

RUTGERS

Institutional Planning and Operations

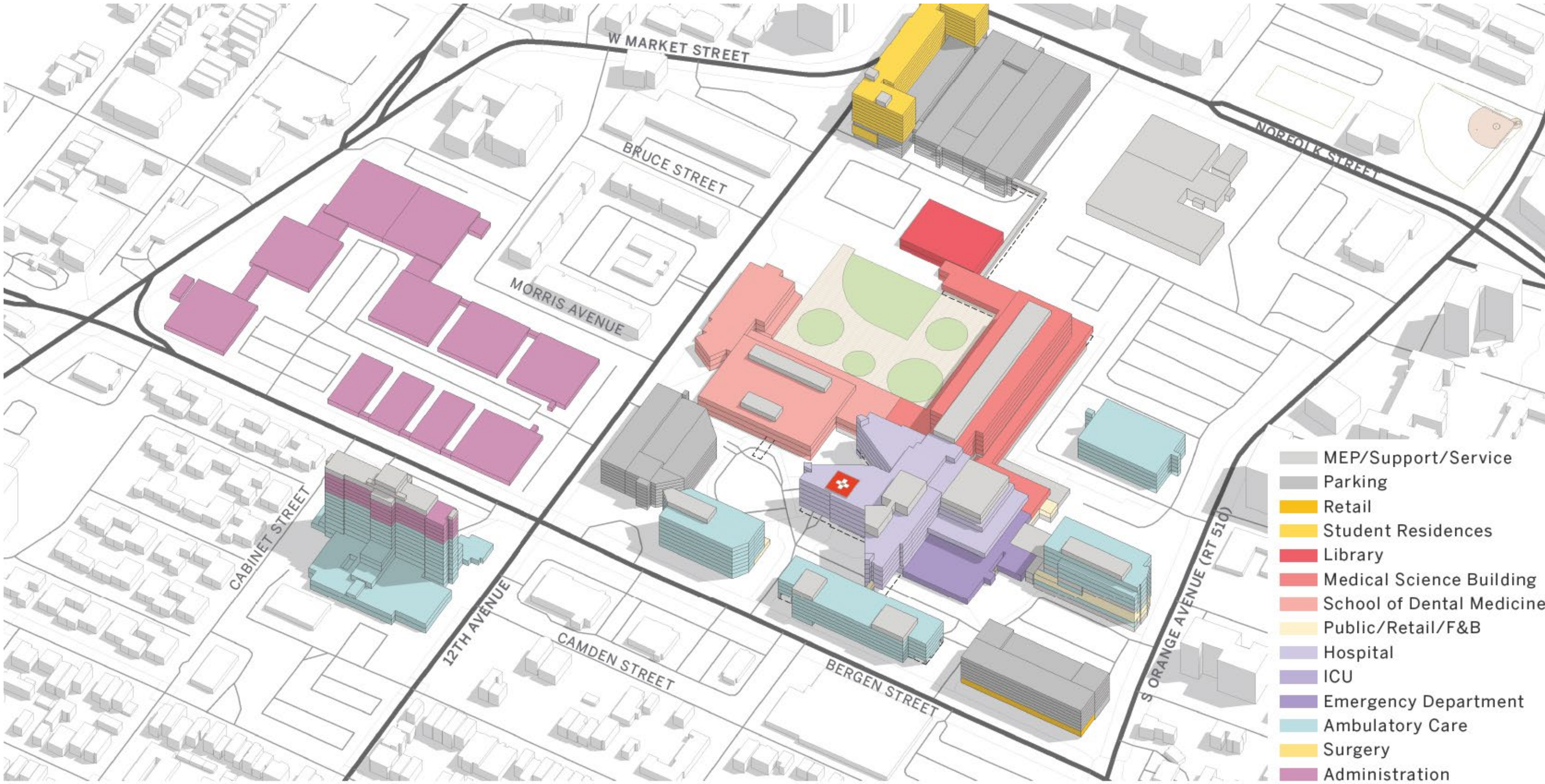
EXPANSION OF UNIVERSITY HOSPITAL
PHASE I

RUTGERS UNIVERSITY RBHS CAMPUS
NEWARK, NJ

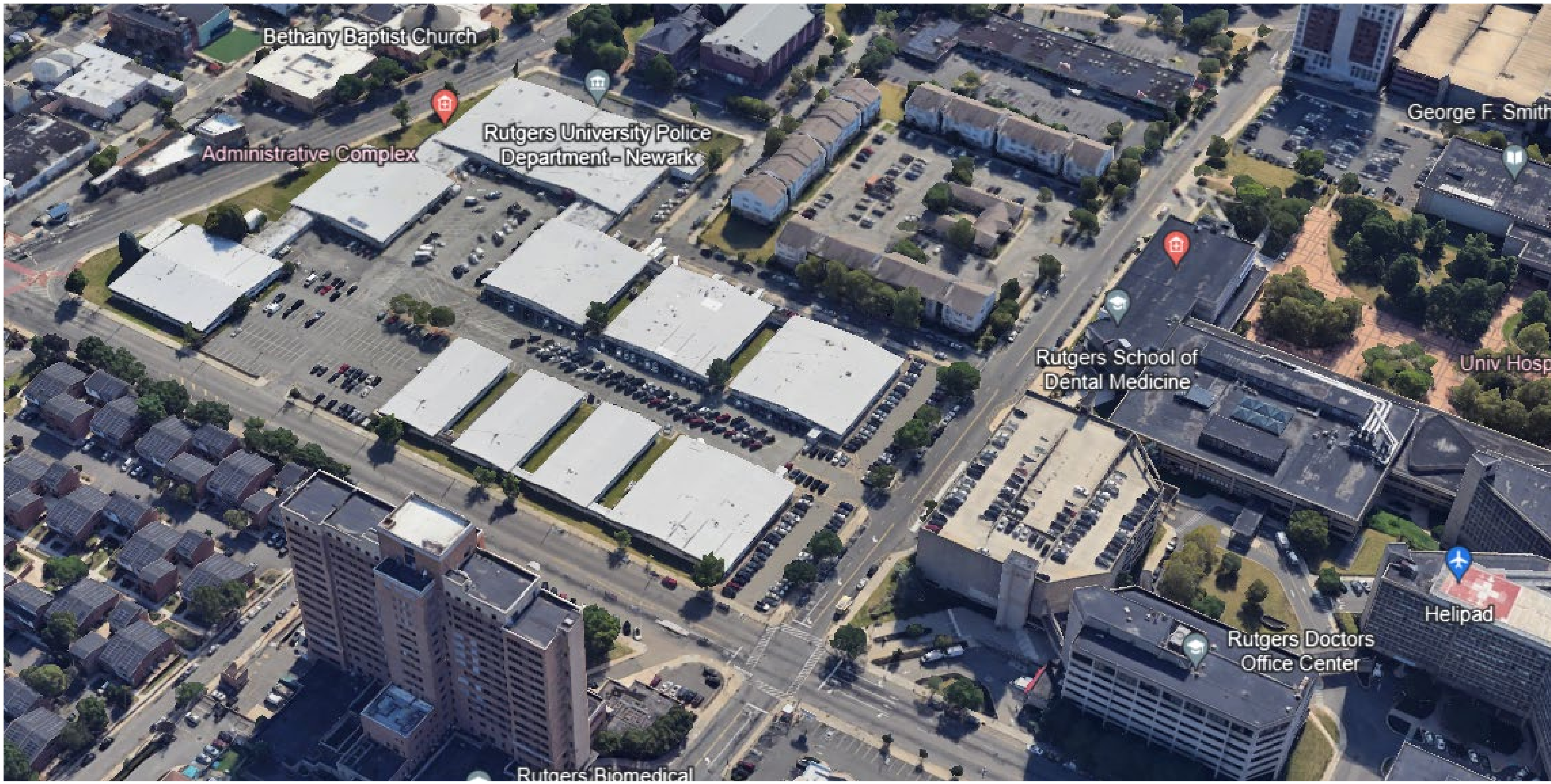
February 13, 2024

Concept Document (PowerPoint)
Exhibit C to Predevelopment Agreement

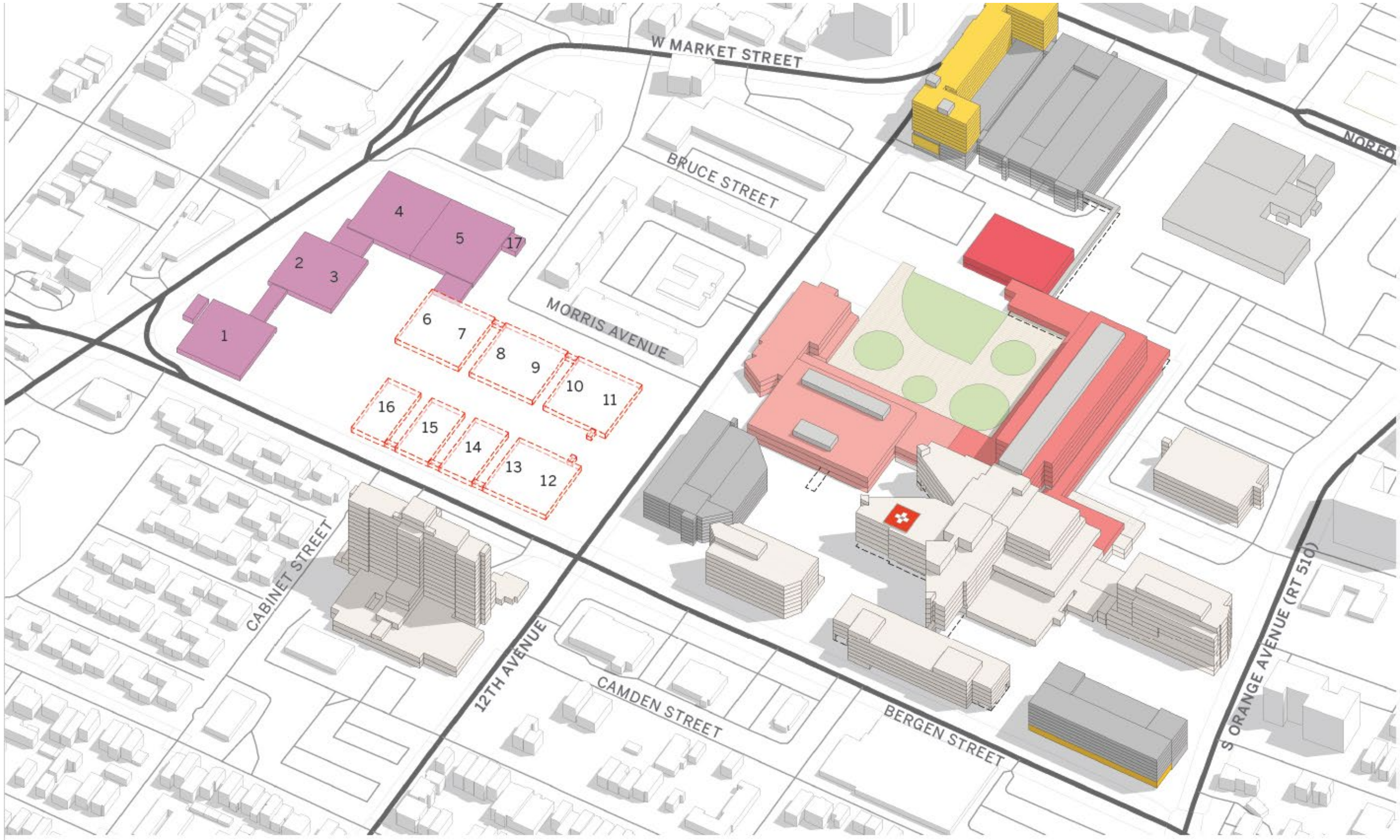
Existing Conditions



Existing Conditions

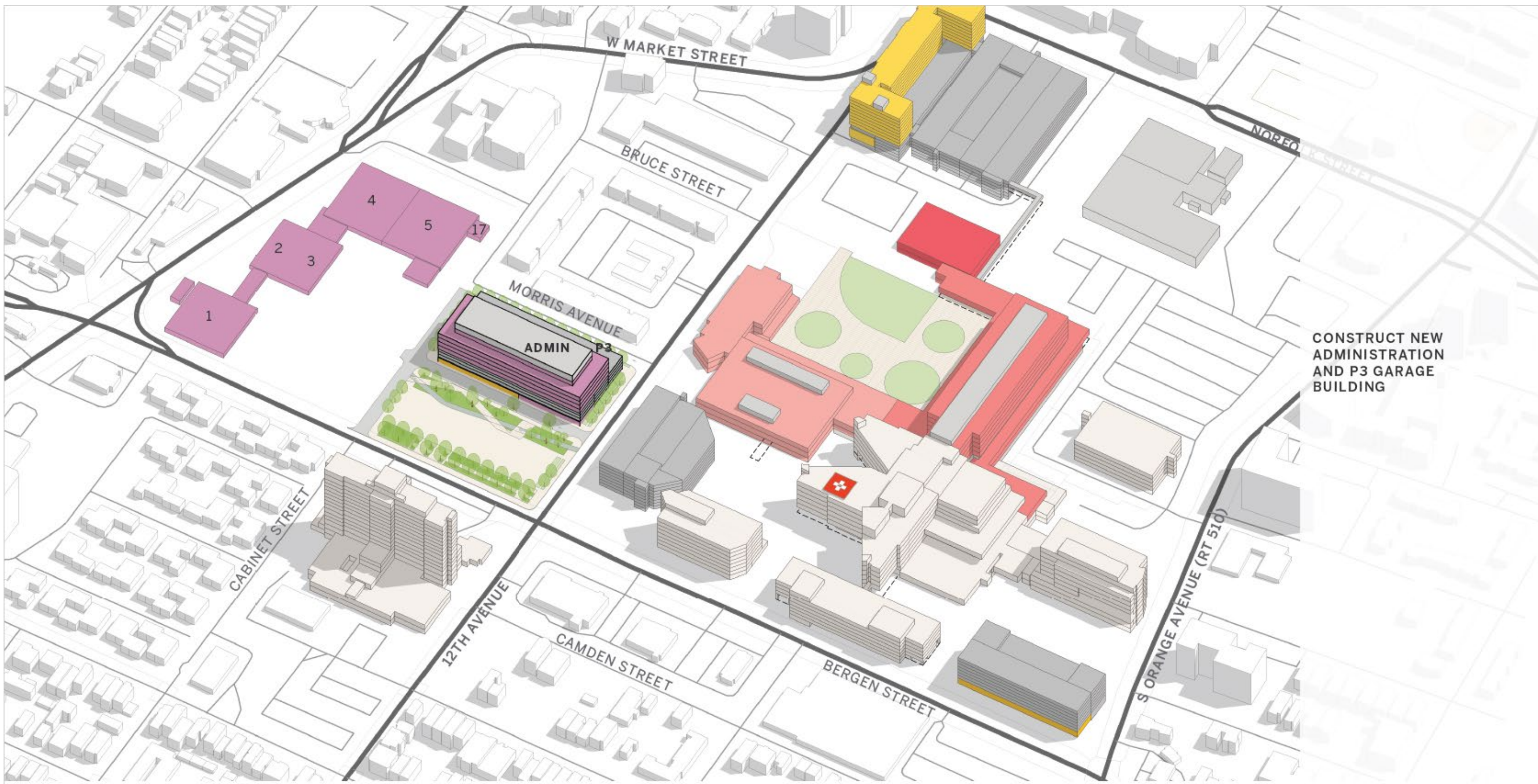


Proposed Development- Demolition

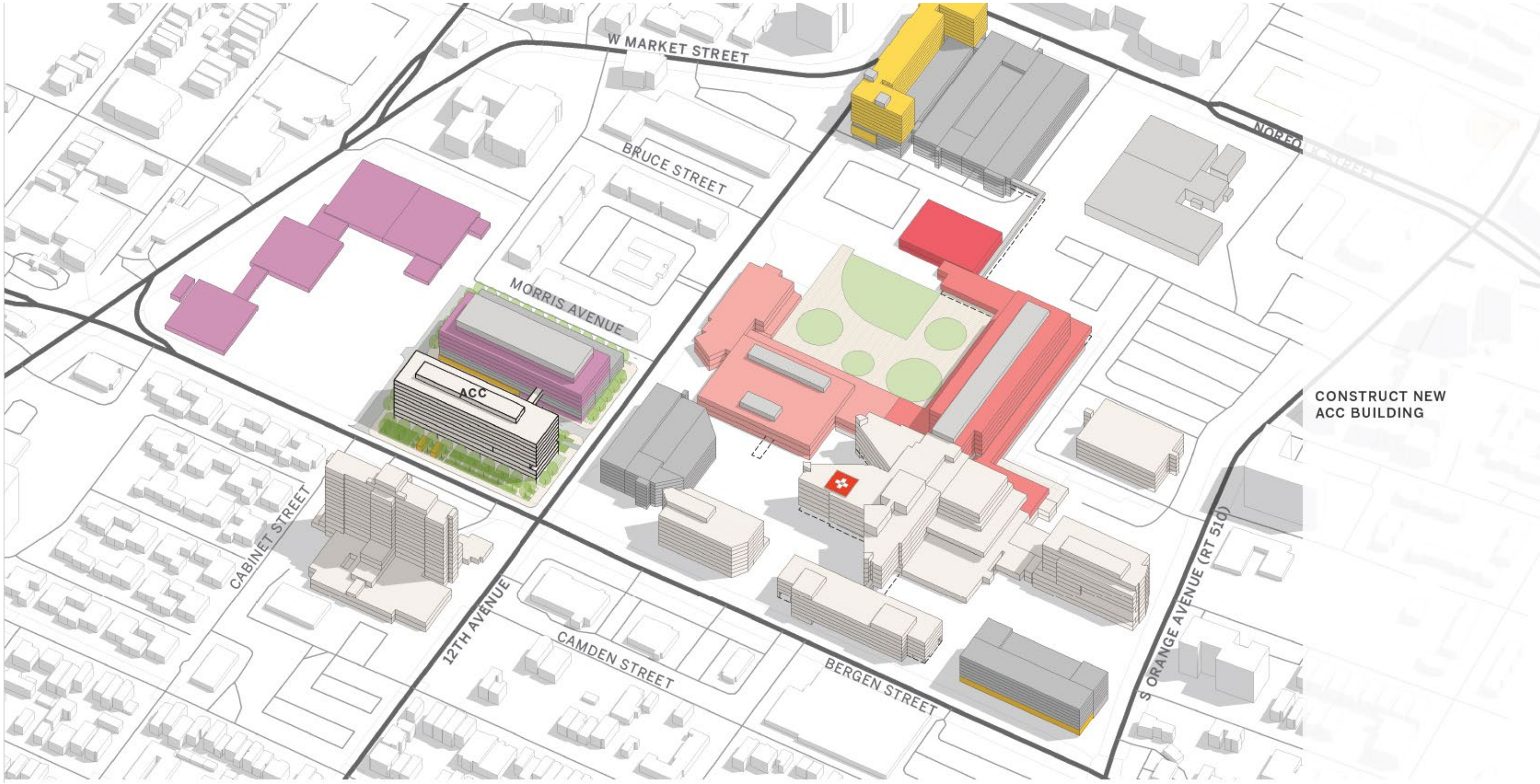


DEMOLISH ADMINISTRATION COMPLEX BUILDINGS 6-16

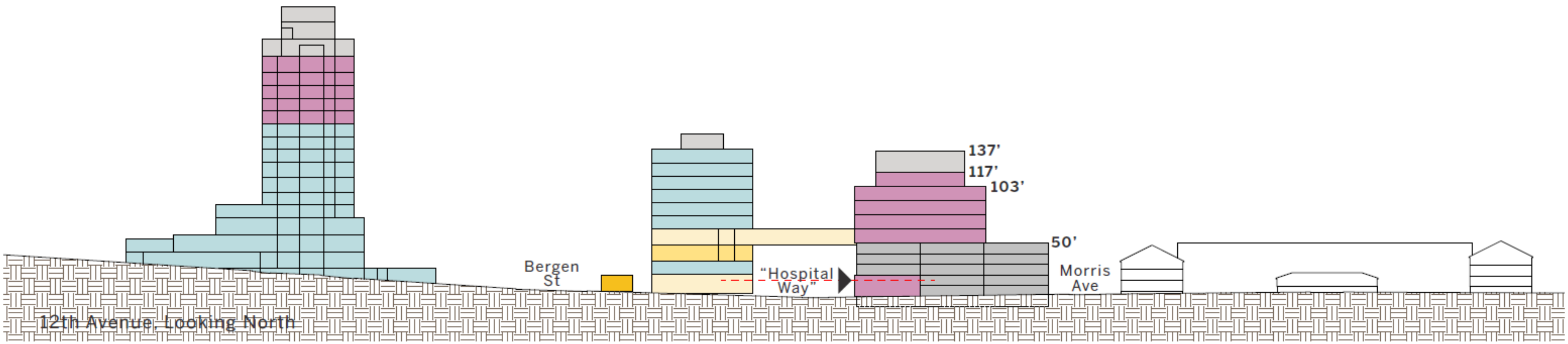
Proposed Development- ADMB and Sitework



Proposed Development- MOB



Proposed Development (Section)



Rutgers Bergen Building (Existing)

Medical Office Building

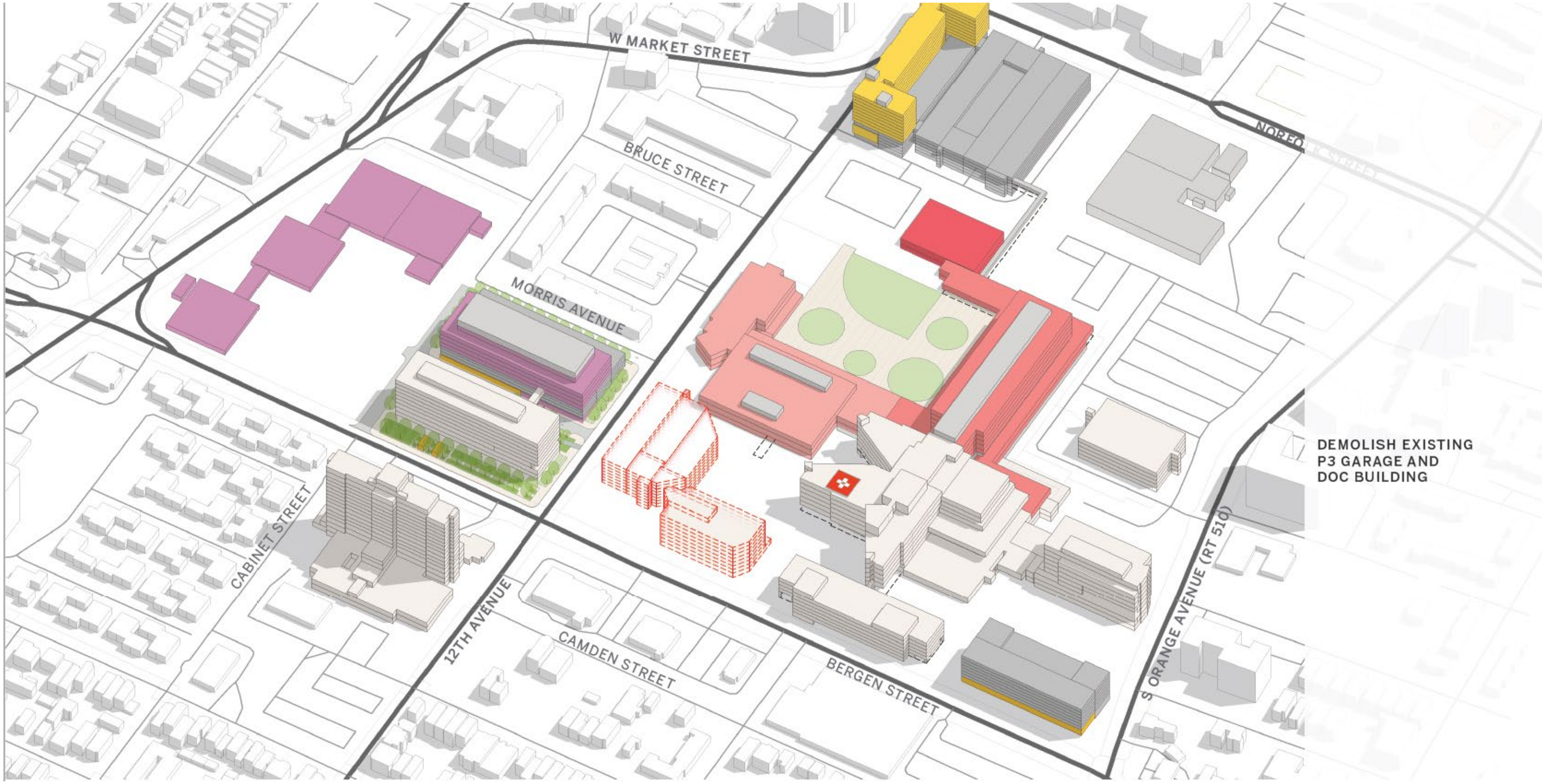
Administrative Building

Housing Development (Existing)

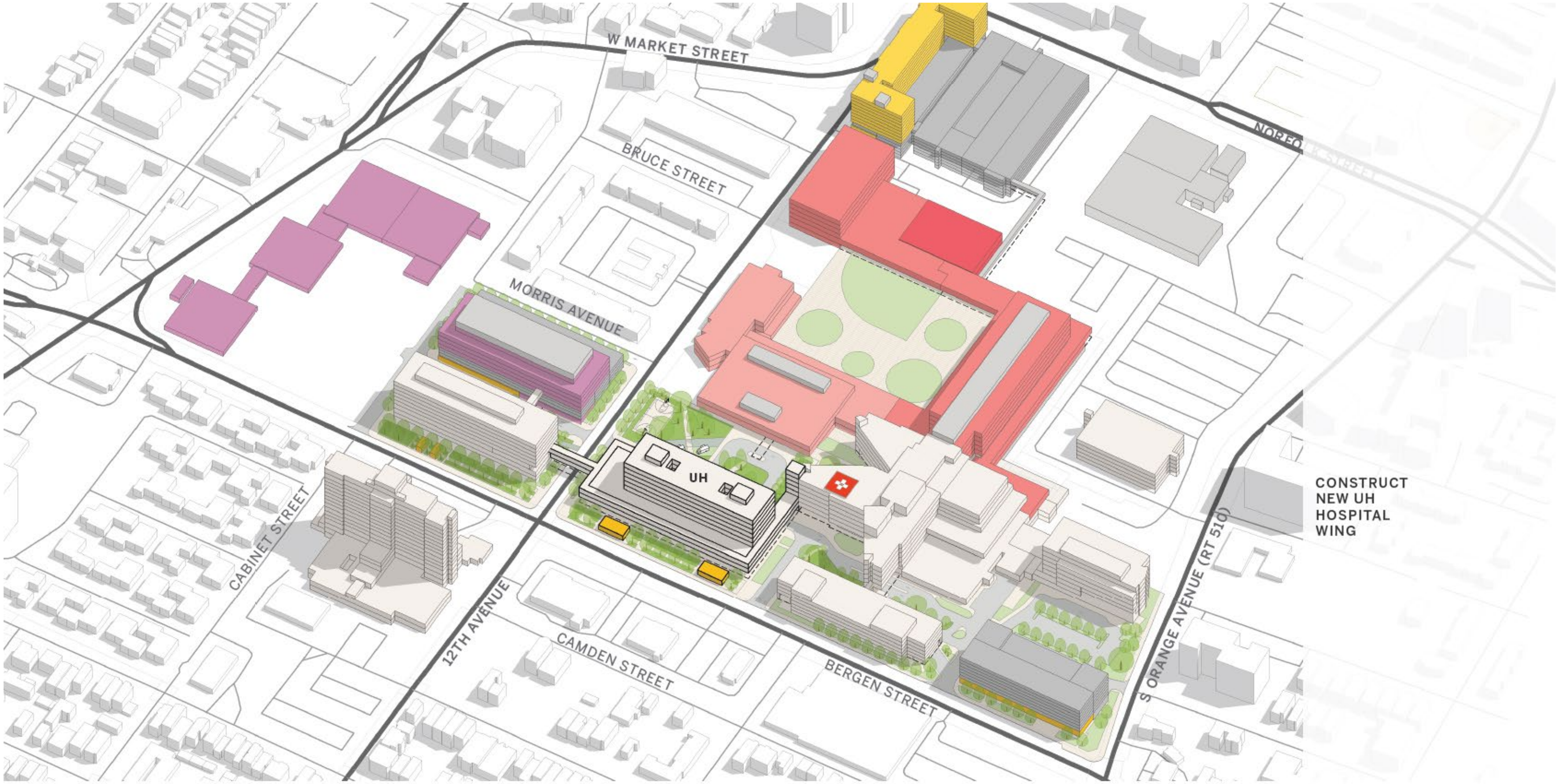
New MOB, New ADMB, and associated

Sitework comprise Proposed Development

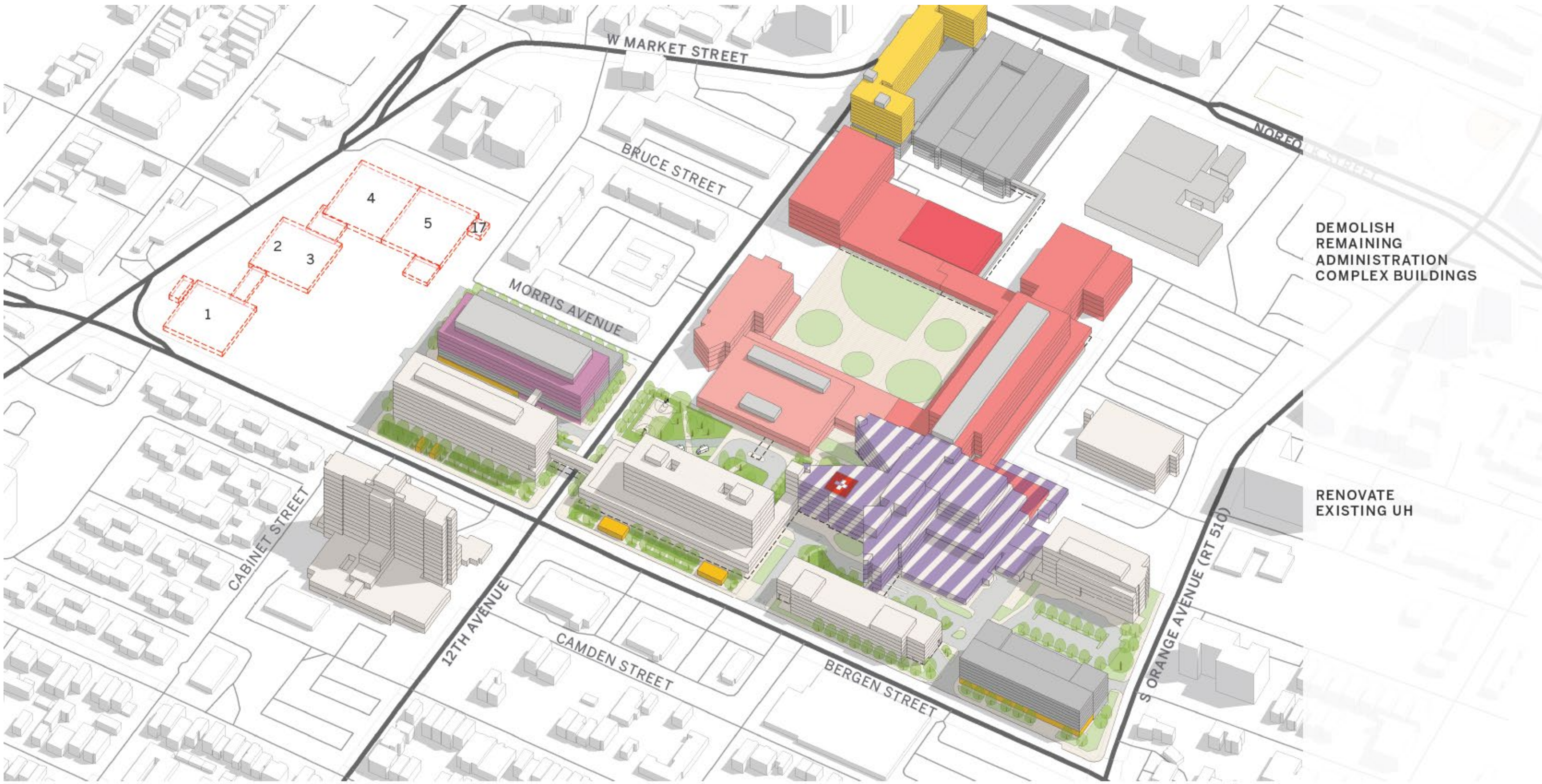
Future Planning- Phase 2



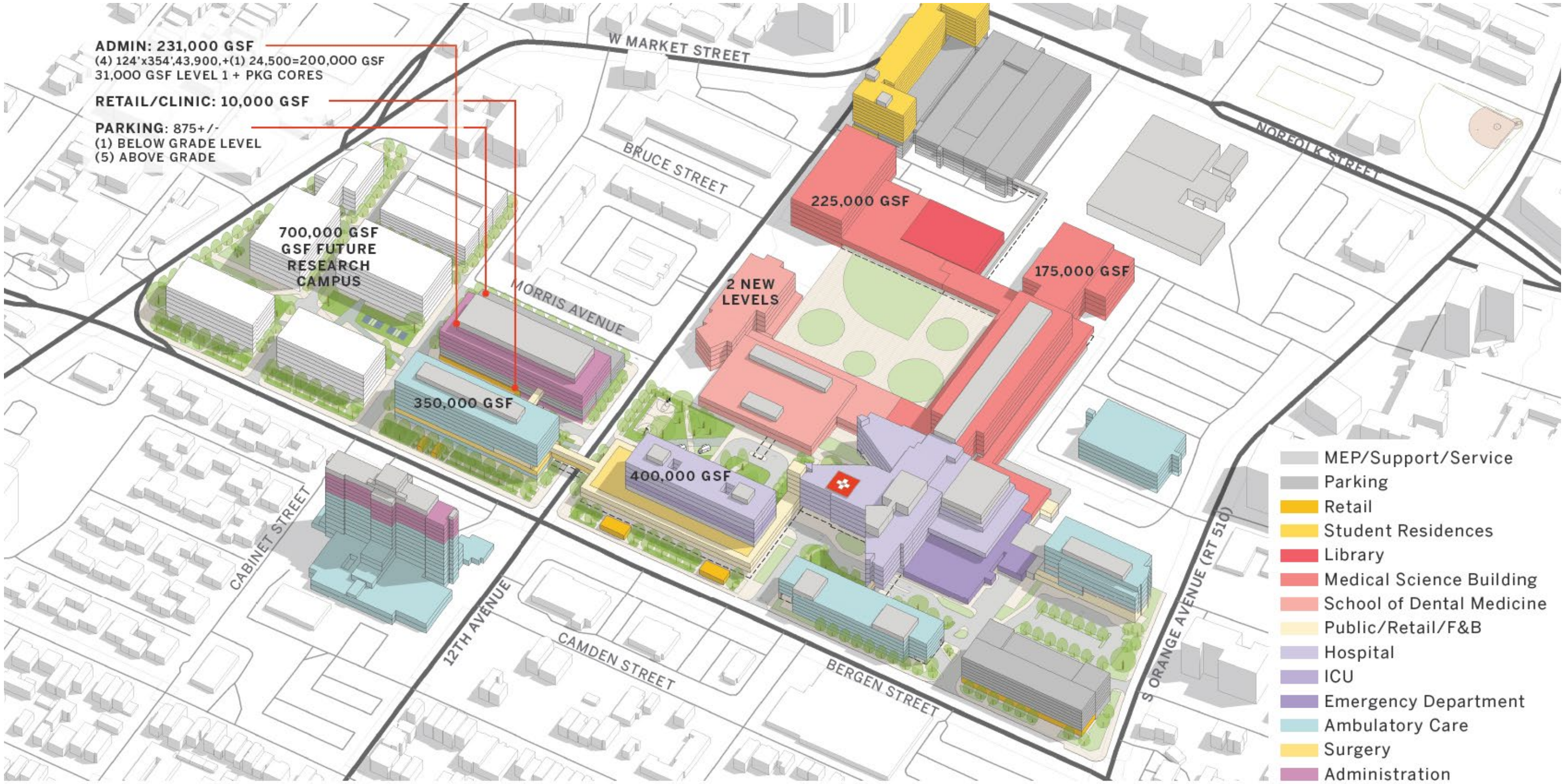
Future Planning- Phase 3



Future Planning- Phase 4



Future Planning- Research Scenario



Note: this shows research at north end of block, but any number of scenarios that support the mission and activities of the Rutgers and University Hospital Academic Health Center campus including mixed use, Continuing Care Retirement Community, residential, extended stay, incubator space could be developed.

RUTGERS

Institutional Planning and Operations

SUPPORTING TODAY, ENVISIONING TOMORROW.

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan, Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Recommendation for Award – 2023-RFP-169
Maternal and Infant Health Innovation Center - Lead Roles

Request:

The Members of the Board are requested to approve the Authority's award recommendation for the Maternal and Infant Health Innovation Center (MIHIC) Lead Role 2023 Request for Proposal (RFP). The Authority requests to award the highest scoring bidders for the Lead Role RFP in the following (1) Lead Healthcare Clinical Services Provider; (2) Lead Institution of Higher Education; and (3) Lead Trenton-based Multi-Service Organization. Based on evaluation of the proposals, the Authority recommends Capital Health as the Lead Healthcare Clinical Services Provider, Rutgers University (School of Nursing) for the Institution of Higher Education and Trenton Health Team for the Multi-Service Organization. The Members are further requested to delegate to the Chief Executive Officer the authority to finalize any remaining contract conditions as contained within the RFP documents.

The award grants one five-year contract for each of the three Lead Roles, with the possibility of two, five-year extensions. Subject to the terms and conditions of the contracts, the three Lead Role agencies, also referred to as the three Lead Anchor Tenants, will be provided with office space at the MIHIC in exchange for delivering specific services focused on addressing the myriad of issues around maternal and infant health in the city of Trenton and broader New Jersey, including pre- and post-natal clinical services; degree and non-degree education programs to cultivate the perinatal workforce; and social and wrap-around services.

The Lead Anchor Tenants upon receipt of award will negotiate more definitive lease and services agreements with the NJEDA. Awardees will also collaborate on the development and design on the MIHI Center. The Authority shall have sole discretion on all real estate components associated with this project (e.g., site selection, planning, construction, planning, etc.) which tenants have agreed and acknowledge upon acceptance on award. The Authority will not be liable for any incurred cost by the awardees or in an event that the Center is not built. The Authority reserves the right, without the awardees' consent, to transfer any aspects of the contract to the Maternal and Infant Health Authority[1] once established. All aspects on the contract will be negotiated in good faith.

[1] Maternal and Infant Health Innovation Authority https://www.njleg.state.nj.us/bill-search/2022/S3864/bill-text?f=S4000&n=3864_I1

Background:

The NJEDA issued a Request for Qualifications (RFQ) for the MIHIC Lead Roles on April 3, 2023, seeking well-qualified entities with demonstrated experience in maternal and infant health services, including pre- and post-natal clinical care, educational programs, and social services.

The RFQ was publicly advertised in print and online and was distributed to 1,711 email contacts that were identified by the Procurement Department as potential bidders.

Qualification submissions were due by May 22, 2023. Submissions were provided by the following:

(1) Lead Healthcare Clinical Service Provider
- Capital Health Systems

(2) Lead Institution of Higher Education
- Kean University
- Rutgers, the State University
- Stockton University

(3) Lead Trenton-based Multi-Service Organization
- Trenton Health Team

All of the entities that provided submissions were deemed qualified and eligible to respond to a future Request for Proposal (RFP) for the MIHIC Lead Role services. On December 1, 2023, the NJEDA issued an RFP to solicit Proposals for MIHIC Lead Roles to the above qualified and eligible entities. The RFP language provided for the award of one, five-year contract, with the possibility of two, five-year extension options for each of the respective MIHIC Lead Roles.

Prior to the receipt of the proposals, an Evaluation Committee of qualified EDA staff was established. Four* proposals were received electronically, prior to the application close date. The Evaluation Criteria for the RFP were comprised of three (3) categories: Personnel, Experience of Entity, and Technical Proposal. The technical scores were individually prepared and separately e-mailed by each voting Evaluation Committee member to the Manager - Procurement Goods & Services. Procurement tabulated the evaluation committee scores for the RFP submissions. Results are as follows:

(1) Lead healthcare clinical service provider

Rank	Proposer	Score
1.	Capital Health Systems	3.75

(2) Lead institution of higher education

Rank	Proposer	Score
1	Rutgers, the State University (Consortium Lead) *	4.58
2.	Kean University	2.79

*Rutgers submitted a proposal reflecting a consortium of Higher Education partnership, including Rutgers University, Mercer County Community College, Stockton University, the College of New Jersey and Thomas Edison State University.

(3) Lead Trenton-based multi-service organization

Rank	Proposer	Score
1.	Trenton Health Team	4.25

The RFP required a bidder to receive a score of three (3) or higher to be considered for Award.

As to the lead healthcare clinical service provider: Capital Health Systems successfully received a passing total score of 3.75. Capital Health Systems is therefore, recommended for award.

As to the lead institution of higher education: Kean University received a total score of 2.79; as Rutgers, the State University received a passing total score of 4.58. As Rutgers received the higher total score, it is therefore recommended for award.

As to the lead Trenton-based multi-service organization: Trenton Health Team received a passing score of 4.25. Trenton Health Team is therefore recommended for award.

Recommendation:

The Members of the Board are requested to approve the Authority's award recommendation for the Maternal and Infant Health Innovation Center (MIHIC) Lead Role 2023 Request for Proposal. The Authority recommends Capital Health as the Lead Healthcare Clinical Services Provider, Rutgers Consortium as the Lead Institution of Higher Education, and Trenton Health Team as the Lead Multi-Service Organization. The Members are further requested to delegate to the Chief Executive Officer the authority to finalize any remaining contract conditions as contained within the RFP documents.

Upon Board approval, each of these three Lead Anchor Tenants will be awarded a single five-year contract, with the option for two additional five-year extensions to be exercised at the sole discretion of the Authority staff at the same terms and conditions. This contract will enable them to offer a range of maternal and infant health services, including pre- and post-natal clinical services, degree and non-degree education programs aimed at cultivating the perinatal workforce, as well as social and wrap-around services for the city of Trenton and broader New Jersey. All aspects on the contract will be negotiated in good faith.

Tim Sullivan, CEO

Prepared by: Tara Colton, Mary Maples, Pamela Taylor

NJEDA

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

RE: Recommendation for Award
M4010 – Business and Information Technology Consulting and Advisory Services

Summary

The members of the Board are asked to approve the award of a contract for Business and Information Technology Consulting and Advisory Services to Boston Consulting Group, Inc. (BCG) for a total of $900,000 for six months of support for the Information Technology workstream.

Background

Last month, at the March 7, 2024 Board meeting staff requested, and the Board approved, the award of a contract to McKinsey & Company, Inc. Washington, D.C. (McKinsey) for a total of $2,857,000 for six months of support across the following workstreams: Human Resources (HR), Accounting and Financial Reporting (A&FR), and the Office of the Chief Executive. This memorandum requests approval of a contract to BCG for the remaining workstream.

In July of 2022, the Board approved entering into a Strategic Management Consulting Services contract with McKinsey and Company for six months, with two three-month extensions valued at $3,352,302. During this support period, McKinsey provided consulting services for the Authority's Product Development, Information Technology (IT), and A&FR departments.

Over the past several years, the Authority has transformed itself from a "transaction-oriented bank" into a comprehensive economic development organization. As part of this transformation, the NJEDA has significantly expanded the number of new programs it launches each year, the number and types of programs it runs, the types of industries it supports and entities with which it engages, and the number and types of services it procures. During that same time, the NJEDA has reorganized several of its internal functions and reallocated responsibilities for others. Given the significant expansion in activity, several of the Authority's centralized functions have faced dramatic increases in demand. In response, the Authority issued a request seeking to retain a management consulting company to provide additional operational and implementation services for the following internal Authority business functions:

- Human Resources
    - Determine highest priority changes needed to update NJEDA's processes for the new organization's size, including capability building, and talent development and training.
    - Develop new ways of working and materials to support HR.

    - Provide sustained implementation/staff augmentation support to execute new processes.
- Information Technology
    - Support the launch of new IT processes and cadences, specifically FTF, IT leadership meetings, roadmap review, and coach on core capabilities (ex: Agile). Support roadmap implementation for the new IT strategy.
    - Design and pilot a data and analytics function for strategic performance management, including one to two test cases of program evaluation.
- Accounting and Financial Reporting Implementation Support
    - Advance next iteration of managerial reporting.
    - Support process improvement working team, including on implementing workload rebalancing, digitization, and other identified interventions.
    - Provide onboarding support for 3-4 new roles, including candidate identification.
    - Launch a new budget process and cadence.
- Office of the Chief Executive
    - Creation of an Authority wide strategic plan, with a specific focus on program evaluation, organizational direction, and staffing.

Procurement Process

The Division of Purchase and Property (DPP) within the NJ Department of the Treasury procured and awarded State Contract M4010 – Business and Information Technology Consulting and Advisory Services to several vendors, of which, Authority staff submitted a request through DPP's Central Intake process, as set forth in the Method of Operation (MOO), and received responses from three vendors on the M4010 contract. Those vendors were Berry Dunn McNeil & Parker, LLC, the Boston Consulting Group, Inc, and McKinsey & Company, Inc. Washington D.C.

Proposals were evaluated by a committee of staff members, with a team of four staff reviewing the technical submissions contained in the proposals for the IT scope, and then a team of three reviewing for the HR, A&FR, and the Office of the CEO scopes. The technical evaluation was based on the following criteria established by the MOO: (1) approach to the project and prior experience on similar projects, (2) project timetable which includes a project start date, periodic check-ins, draft report, and final report, and (3) summary of qualifications and experience of key personnel involved with the project.

Pursuant to the MOO, the committee reviewed and evaluated the engagement responses based on the above criteria detailed in the Mini-Bid request, and reached a consensus on which respondents to recommend across all four workstreams. Upon review of all three proposals, staff determined that BerryDunn could not satisfy the full requirements of the scope of work, only responding to partial components, and was removed from consideration, with the committee only scoring and ranking McKinsey and BCG. The evaluation committee determined that Boston Consulting Group was ranked the highest for the IT task due to their expertise with similarly related Authorities in technical consulting, including IT systems, IT optimization and integration, and utilization of the CRM platform. The committee's scores for each workstream are as follows:

Work Stream	McKinsey	Boston Consulting Group
Information Technology	2	1

The MOO includes the proposed budget with fully burdened hourly rates as a fourth criteria for evaluation and authorizes the Authority to negotiate pricing reductions. As such, Authority staff issued Best and Final Offer (BAFO) requests and corresponded with all three vendors as to various price reductions according to the scope of work. There were two (2) rounds of same with the vendors.

After several back-and-forth communications for the vendors' best and final offers (BAFOs), the total price from BCG (the highest ranked vendor) for the IT workstream was $900,000.

The evaluation committee, and the Chief Executive Officer, concluded that the pricing was reasonable given the work to be performed and the proposed deliverables. Thus, the evaluation committee, with concurrency by the Chief Executive Officer, recommends awarding the IT component of the scope of work to BCG as the most advantageous to the NJEDA, price and other factors considered.

<u>Recommendation</u>

Staff recommends that the Authority award the contract for one workstream for Business and Information Technology Consulting and Advisory Services – Information Technology - to BCG, for a total of $900,000 for six months of service.

____

Tim Sullivan, CEO

Prepared by: E. Corrado, T. Fanikos, and D. Albin

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Updated Delegation of Authority: Litigation and Compromise and Settlement of Claims

REQUEST

The Members of the Board are asked to grant the Chief Executive Officer authority to settle and compromise claims against the Authority up to $500,000. The Members are also asked to grant the Chief Executive Officer authority to compromise affirmative claims brought by the Authority against third parties and accept payments that are up to $500,000 less than the claim amount.

BACKGROUND

A. NJEDA Delegation of Authority Policy

On March 9, 2022, the Members approved the adoption of a Delegation of Authority Policy governing delegations by the Board to the Authority's Chief Executive Officer.[1] The Policy acknowledged that, pursuant to the Authority's by-laws, the CEO is responsible for the supervision over, and the direction of, the affairs of the Authority and has such powers and duties as assigned by the Board in the by-laws and in separate delegations of authority. The by-laws provide that the CEO has the power and duty to "represent the Authority and enhance NJEDA's interests with respect to legislative, regulatory, litigation and other legal matters." The Policy provided that the Board will delegate authority to the CEO and permits the CEO to delegate to their subordinates any portion, or all, of that authority, unless the Board has specifically required the CEO to act personally.

B. Existing Program/Asset Specific Settlement Delegations

- Special Loan Management. On July 9, 2003, the Members approved delegated authority to settle, compromise, or forgive debt where the maximum loss of principal did not exceed $250,000, provided that the settlement was approved by the Attorney General's Office and any remaining debt be considered satisfied or paid in full. This delegation has been updated over the years, most recently on December 10, 2013, when the Members increased the authorized settlement amount to $500,000.
- Post-Closing/Bond Financing. On May 11, 2022, the Members approved delegated authority to the CEO to approve voluntary closing agreements as well as settlements up to $500,000 related to conduit tax-exempt and taxable private activity bonds subject to the prior approval of bond counsel and the Attorney General's Office.

[1] Board Memorandum, *Adoption of Amended and Restated By-Laws and Board Policy on Delegation of Authority*, as approved on March 9, 2022.

- Real Estate. On February 8, 2023, the Members approved the Litigation and Compromise and Settlement of Claims (real estate agreements, occupancy agreements, transactional and professional services agreements, and other claims) memorandum, which in part, granted delegated authority to the CEO to approve settlements up to $500,000 related to prelitigation and litigation with third parties involving Authority-owned, leased, or partial interest assets. The delegation applies where payment is made by EDA or its insurance carrier that does not impose any new non-monetary obligation or concede any liability. It also applies where a third party or the third-party insurance company has tendered defense of EDA in the matter, provided that neither EDA nor its insurance carrier are required to remit any payment directly, and that the settlement does not impose any new non-monetary obligation or concede any liability. In all instances, whether EDA is a named party or not, the terms of all settlement agreements and/or final disposition documents are subject to the prior approval of the Attorney General's Office.

PROPOSED REVISIONS TO EXISTING DELEGATIONS

Delegated authority is requested to authorize the CEO to enter into settlement agreements and/or other final disposition documentation to compromise and/or settle all types of claims, disputes, or litigation related to any EDA program, contract, or asset under the following circumstances:

- for prelitigation and active litigation agreements with third parties where a third party or the third-party insurance company has tendered defense of EDA and neither EDA nor its insurance carrier are required to remit any payment directly, and the settlement does not impose any new non-monetary obligation on the EDA and does not require the EDA to admit any fault or concede any liability;
- where payment is being made by EDA and/or its insurance carrier up to $500,000 collectively to settle a claim, dispute or litigation against the EDA in exchange for a general release;
- where EDA has made one or more affirmative claims against a third party, and EDA is compromising its affirmative claim(s) against the third party and accepting payment up to $500,000 less than the value of the claim.

When EDA is named as a party in pending litigation, final terms of the settlement agreement and/or disposition document are subject to the prior approval by the Attorney General's Office.

Justification:

This delegation of authority modifies existing program/asset specific settlement delegations to make them apply to all types of claims, disputes and litigation and to make them internally consistent. It revises the CEO's settlement authority to make it clear that it applies to all types of claims, disputes, or litigation related to any EDA program, contract, or asset, regardless of status (prelitigation and litigation), and whether EDA is named as a party or not named but has a financial interest in the outcome. An example where EDA is not a named party is a claim against one of EDA's contractors or vendors where the cost of any related settlement would ultimately be borne by or cost-shared with EDA. Another example is when the EDA has received a Notice of Tort Claim or a Notice of Contract Claim but has not yet been sued.

The threshold would remain the same ($500,000), which is consistent with thresholds for other similar delegations of authority (such as for procurement). This delegation would also apply to any actions or claims brought by EDA against third parties where EDA desires to settle the claim for up to $500,000 less than the stated claim amount. EDA staff shall regularly report all approved settlements to the Audit Committee.

This delegation would allow the CEO to settle claims expeditiously and within a discretionary amount aligned with other program/asset-specific settlement delegations. The delegation would allow EDA to settle claims without expending significant litigation costs.

RECOMMENDATION

Members of the Board are asked to approve the settlement and compromise delegations of authority as requested above.

Tim Sullivan, CEO

Prepared by: John Kuehne
Bonny Serratelli

NJEDA

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Updates to Delegation of Authority - New Jersey Innovation Evergreen Fund Qualified Venture Firm Approvals

SUMMARY

The Members are asked to approve an update to the New Jersey Innovation Evergreen Program delegations of authority to include approvals and non-discretionary declinations of Qualified Venture Firms. Consistent with the Delegation Policy approved on March 9, 2022, all delegations are to the Chief Executive Officer unless specified otherwise.

BACKGROUND

The New Jersey Innovation Evergreen Act ("Act") (N.J.S.A 34:1B-288 to 302) was signed into law by Governor Murphy as part of the Economic Recovery Act of 2020 (N.J.S.A. 34:1B-269 *et seq*.). In April 2022, the Board of the Authority approved specially adopted and concurrently proposed New Jersey Innovation Evergreen Fund regulations (N.J.A.C. 19:31-25 *et seq*.), which were approved for submission to the Office of Administrative Law for publication in the New Jersey Register as final adopted rules in March 2023. The Act established both the New Jersey Innovation Evergreen Fund ("NJIEF", or "Evergreen Fund") and the New Jersey Innovation Evergreen Program ("Program"), which supports the private sector's investment in high growth New Jersey-based companies. The Program will increase venture capital funding available to the State's innovation ecosystem and create the conditions necessary for entrepreneurs to succeed.

The Act authorizes the NJEDA to sell up to $300 million of Corporation Business Tax (CBT) credits through a series of competitive auctions, proceeds of which are to be deposited in the Evergreen Fund to be used for Program investments. The Board approved the sale of $50 million in tax credits through the inaugural Program auction in December 2022. Based on the outcome of the inaugural auction, participants were approved to purchase the $50 million of tax credits for an aggregate amount of $41.1 million. The proceeds of the auction are added to the $5 million of Program funds received through a FY2023 State budget appropriation to fund initial Evergreen Fund investments and expenses. As of March 26th, 2024, $41,059,131 of unallocated capital remains available for program investments and expenses after accounting for the Program's first $500,000 Qualified Investment, $3,740,000 of reserves for investment-related follow-on investments into the business, management fees, and direct investment expenses, and $806,855 of additional reserves and expenses for Program administrative expenses and to fund programs administered by the Authority to support the State's innovation ecosystem.

To invest the Evergreen Fund monies, the Program establishes an application process through which venture firms first may apply for designation as a Qualified Venture Firm. Venture firms, which do not need to be located in the State, may apply for designations on a rolling basis, and applications are reviewed in order of submission. To access Program co-investment capital, Qualified Venture Firms may then apply for Qualified Investments on a rolling basis. The Program application for Qualified Investments opened on May 23, 2023.

Qualified Venture Firms may apply to the Authority to access capital in the Evergreen Fund to make up to two initial Qualified Investments per year into eligible New Jersey-based high-growth businesses. Each request for a Qualified Investment may be for the maximum Program investment limit of $5 million, or up to $6.25 million for businesses that meet any of the following criteria: i) certified by the State as a "minority business" or "women's business" pursuant to P.L. 1986, c. 195 (N.J.S.A. 52:27H-21.17 et seq.), ii) considered a NJ university spin-off business, or iii) utilizes intellectual property that is core to its business model and was developed at a NJ-based college or university. All Qualified Investments from the Fund must be a co-investment that is matched by the Qualified Venture Firm at least 1:1. The Authority will reserve Fund capital for follow-on investments in Qualified Businesses in an amount based on the same ratio used by the Qualified Venture Firm, up to the Program investment limits noted above in any twelve-month period. The terms of each eligible Qualified Investment will be presented to the Board of the Authority, along with the recommendation for approval of each initial Qualified Investment.

The application for designation as a Qualified Venture Firm opened on December 16, 2022. Applications are made on a rolling basis, and applications are reviewed in the order in which they are received. Since December 16, 2022, the NJEDA has received twenty-five applications; thirteen Qualified Venture Firms have been approved by the Members and onboarded onto the platform, nine applications have been withdrawn, and three remain in-progress. The first Qualified Venture Firm was approved by the Members on May 10th, 2023, and since then the Members have approved Qualified Venture Firms at five out of the nine Board meetings through March 7th, 2024. Please refer to **Appendix A** for an overview of Qualified Venture Firms currently participating on the Program's co-investment platform.

<u>CURRENT PROGRAM DELEGATIONS OF AUTHORITY</u>

On April 13, 2022, the Board approved the New Jersey Innovation Evergreen Program and related delegations to the Authority's Chief Executive Officer to establish a date/s for the corporate business tax credit auction (to occur no more than annually) and to approve follow-on investments (with certain exceptions).

<u>QUALIFIED VENTURE FIRM CERTIFICATION REQUIREMENTS</u>

Venture firm applicants can apply for designation as a Qualified Venture Firm either before identifying a potential Qualified Investment, or in conjunction with an application for a Qualified Investment. Venture firm applicants that meet all Program eligibility requirements (detailed in N.J.A.C. 19:31-25.7) and that have submitted all required documentation are scored based on the Program's formulaic weighted criteria evaluation model for venture firms. The objective primary eligibility requirements, which are detailed below, must be met both at the time of application for initial certification and at the time of application for investment.

1) Number of Investors Employed by the Firm: Qualified Venture Firms must have least two full-time persons employed to direct investment capital with at least five years of professional money management experience (each) at the time of application.

2) Minimum Assets Under Management: Qualified Venture Firms must demonstrate at least $10,000,000 in assets under management at the time of application, which will be measured as the sum of a firm's net assets of the funds managed by the qualified venture firm, equity capitalization of the funds managed by the qualified venture firm, and written commitments of cash or cash equivalents committed by investors.

Applications that meet all Program eligibility requirements must also meet or exceed the minimum acceptable score through an objective weighted criteria scoring model, which is made publicly available on the Program's website. Only venture firm applicants that meet or exceed the minimum acceptable score, which was approved by the Board in April 2022, may be considered for a Qualified Venture Firm designation.

The evaluation methodology places a material emphasis on venture firm applicants' diversity, equity, and inclusion policies and implementation thereof. Diversity, equity, and inclusion are foundational elements of building a stronger and fairer State economy. Based on the 2023 Program's weighted criteria scoring model, venture firm applicants must demonstrate robust diversity, equity, and inclusion policies to meet the Program minimum acceptable score. For firms with policies that have been in place for at least a year, the weighted criteria scoring model also places material emphasis on each firm's track record of progress against that firm's diversity, equity, and inclusion policy goals. Applicant responses to diversity, equity, and inclusion policy categories are evaluated independently by the Authority's Diversity, Equity, and Inclusion Department using an objective policy demonstration framework tool made publicly available on the Program website to test applicant policies' conformity with industry best practices.

Please refer to **Appendix B** for an overview of specific Program weighted criteria evaluation model and minimum acceptable score.

NEW PROPOSED DELEGATION

Delegation of authority to the Chief Executive Officer is requested to approve applicants as Qualified Venture Firms under the New Jersey Innovation Evergreen Program that meet all Program eligibility requirements and meet or exceed the Program minimum acceptable score on the weighted criteria evaluation model. Additionally, delegation of authority to the Chief Executive Officer is requested to decline applications based solely on non-discretionary reasons.

JUSTIFICATION

The evaluation process to approve applicants as Qualified Venture Firms under the New Jersey Innovation Evergreen Program follows a Board-approved objective and formulaic process, as outlined above. Approving Qualified Venture firms under delegated Authority will enable staff to approve firms on a rolling basis and move nimbly outside the cadence of Authority Board meetings. Moving quickly is an important requirement in participating in many fast-moving venture capital co-investments. Moreover, the Members will retain approval authority over any Program initial Qualified Investments and over changes to the Board-approved weighted criteria scoring model used to evaluate Qualified Venture Firm applicants. Finally, Qualified Venture Firm Approvals have become routine, with the Members approving Qualified Venture Firms at five out of the nine Board meetings between the first approval on May 10th, 2023 and the most recent Board meeting on March 7th, 2024.

RECOMMENDATION

The Members are asked to approve an update to the New Jersey Innovation Evergreen Program delegations of Authority to now include approvals and non-discretionary declinations of Qualified Venture Firms. Consistent with the Delegation Policy approved on March 9, 2022, all delegations are to the Chief Executive Officer unless specified otherwise.

____
Tim Sullivan, CEO

Prepared by:
Alexander Pachman– Manager, Venture Programs

Attachment:
Appendix A - Summary of Previously Approved Qualified Venture Firms
Appendix B - Qualified Venture Firm Weighted Criteria Evaluation Model

Appendix A – Summary of Current Qualified Venture Firms

Table 1: Previously Approved and Closed Qualified Venture Firms

Qualified Venture Firm	Headquarter	Assets Under Management*	Strategy
Creative Ventures Management LLC	CA	$98M	Early-stage deep technology companies.
Cornucopian Capital Management LLC	NJ	$26M	Early-stage food innovation and health technology companies.
Covenant Venture Capital LLC	NY	$54M	Late-stage AI technology and early-stage technology and life sciences companies.
Edison Partners Management LLC	NJ	$1.8B	Growth equity software and tech-enabled companies.
Emerging Fund Management LLC	IL	$44M	Revenue-generating restaurant technology companies.
Fin Venture Capital Management LLC	CA	$1.1B	Late-stage and early-stage enterprise financial technology software companies.
Lumira Capital Investment Management Inc.	Toronto	$404M	Early, clinical, and revenue stage biotherapeutic, medical device, and digital health companies.
Newark Venture Accelerator LLC	NJ	$152M	Early-stage enterprise software as a service companies.
RV3 Management LLC	PA	$34M	Early-stage revenue generating healthcare and technology companies.
Signet Healthcare Management LLC	NY	$328M	Commercial-stage healthcare companies.
SOSV Investments LLC	NJ	$1.2B	Early-stage deep tech for human and planetary health.
Tech Council Ventures LLC	NJ	$56M	Early-stage technology, clean energy, healthcare, and advanced materials companies.
VamosVentures Management Company, LLC	CA	$44M	Early-stage Latinx-led technology companies.

*Note: Assets Under Management calculated as the sum of a firm's net assets of the funds managed by the Qualified Venture Firm, equity capitalization of the funds managed by the Qualified Venture Firm, and written commitments of cash or cash equivalents at the time of Board approval.

Appendix B – Qualified Venture Firm Weighted Criteria Evaluation Model

The New Jersey Innovation Evergreen Fund venture firm weighted criteria evaluation model and scoring methodology was approved by the Board of the Authority in April 2022 and is publicly available on the program website.

Qualified Venture Firms must meet all program eligibility requirements and meet or exceed the Program minimum acceptable score on the weighted criteria evaluation model. Section 28 of the NJIEF statute, P.L. 2020, c. 156 (amended by P.L. 2021, c. 160) outlines the required categories to be included (further clarified in N.J.A.C. 19:31-25.7 of the Program's regulations). The scoring criteria and weights will be evaluated on a continual basis by Authority staff for potential annual adjustments, to be approved by the Members.

Dynamic Scoring

The weighted criteria model uses dynamic scoring to increase the total possible points and total acceptable score by 7 points for firms that have had a diversity, equity, and inclusion policy in place for at least one year. These firms will be required to demonstrate a track record of making progress towards achieving their policy goals to receive the additional 7 points. Firms unable to do so will be able to earn 5 points if they are able to demonstrate a track record of best efforts towards achieving their policy goals. Venture firm applicants with a newly created diversity, equity, inclusion policy will not be penalized for a failure to demonstrate a track record of achieving policy goals. For those firms, criteria #3a and #3b are removed from the scoring model, reducing the maximum achievable score and the minimum acceptable score by 7 points. This dynamic approach to the Program's total possible score and minimum acceptable score will enable the NJIEF to serve as a catalyst within the venture capital ecosystem, requiring firms that lack diversity, equity, and inclusion policies to establish such policies, while also requiring firms with preexisting policies to demonstrate progress made towards achieving policy goals.

Minimum Acceptable Scores

Venture firm applicants with diversity, equity, and inclusion policies that have been in place for at least one year must receive a score of at least 24 out of a possible 37 points on the Program's weighted criteria scoring model to be certified as a qualified venture firm. Firms with a newly created diversity, equity, and inclusion policy, including firms that may be creating a policy in conjunction with their Program application, must receive a score of at least 17 points out of a possible 30 points. In both cases, it will not be possible for firms to achieve the minimum acceptable score without robust diversity, equity, and inclusion policies.

Table 1: Venture Firm Weighted Criteria

Criteria Number	Scoring Criteria	Score Weight
1	Does the firm have a clearly articulated internal policy promoting diversity, equity, and inclusion within the venture firm/management company, specifying relevant evaluation metrics when applicable?	8.5
2	Does the firm have a clearly articulated investment policy promoting diversity, equity, and inclusion within their portfolios, specifying relevant evaluation metrics when applicable?	5.0
	Have any of the firm's diversity, equity, and inclusion policies been in place for at least one year?	
3a	Does the firm have a demonstrable track record of making progress against its diversity, equity, and inclusion policy goals?	7.0/0.0
3b	If not, does the firm have a demonstrable track record of making best efforts towards achieving its diversity, equity, and inclusion policy goals?	5.0/0.0
4	Has the NJEDA been an investor in a current or prior fund with the firm?	0.5
5	Has the firm worked with other NJEDA programs or participated in NJEDA organized functions to support targeted industries and the innovation ecosystem?	0.5
6	Does the firm have a New Jersey office?	0.5
7	Has the firm made at least two investments into NJ startups from funds raised in the past five years?	0.5
8	Does at least one member of the firm's senior management team have at least 2 years of relevant experience working for a business in a targeted industry?	1.0
9	Does at least one member of the firm's senior management team have at least 5 years of relevant experience working for a business in a targeted industry?	1.0
10	Does the senior management team have at least 2 years of experience working together?	1.0
11	Does the senior management team have at least 5 years of experience working together?	1.0
12	Does the firm control sufficient assets under management such that a $5M investment would represent less than 15% of the firm's total assets under management?	1.0
13	Does the firm control sufficient assets under management such that a $10M investment would represent less than 15% of the firm's total assets under management?	1.0
14	Has the firm formally raised capital for the fund that will co-invest alongside the NJIEF in the coming year?	1.0
15	Regarding the fund that would co-invest alongside the NJIEF in the coming year, does the fund have an annual management fee less than or equal to 2.5% of capital committed by investors?	1.0
16	Regarding the fund that would co-invest alongside the NJIEF in the coming year, is the fund's incentive compensation rate (commonly referred to as carried interest rate) at or below 20% of investment profits?	1.0
17	Has the firm previously raised and invested an institutional fund?	1.0
18	Does the firm have a regional investment policy, directing at least 25% of invested capital to New Jersey or surrounding geographic areas, not to encompass more than the Mid-Atlantic region?	0.5

19	Does the firm have at least one fund, raised within the past 10 years, that has performed better than the median relative to its peer group of investors with the same strategy for the same vintage year?	1.0
20	Have all the firm's funds, raised within the past 10 years, performed better than the median relative to peer group investors with the same strategy for the same vintage years?	1.0
21	Have any of the firm's institutional funds distributed more capital back to its investors than they have invested, including fees.	1.0
22	Does the firm have an office in an incentive area in New Jersey?	0.5
23	Does the firm's senior management team agree to create policy certifying that the firm will dedicate a greater portion of Evergreen funding into businesses located in New Jersey incentive areas?	0.5
	Total Possible Points	**37.0/30.0**
	Minimum Acceptable Score	**24.0/17.0**

Applicant responses to diversity equity and inclusion policy categories will be evaluated by the Authority's Diversity, Equity, and Inclusion Department using a policy demonstration framework tool made publicly available on the Program's website, to test conformity with industry best practices. Only firms that demonstrate internal or investment diversity, equity, and inclusion policies sufficiently robust such that they meet the requirements of at least 4 out of the 10 categories included in the policy demonstration framework tool presented in Tables 3 and 4 will be rewarded the related criteria points for categories #1 and #2 outlined in Table 2. If needed, applicants may strengthen their diversity, equity, & inclusion policies and submit additional supporting documentation throughout the application process, which enables the Program to catalyze increased focus on diversity, equity, and inclusion in the innovation ecosystem.

Table 2: Venture Firm Internal DE&I Policy Demonstration Framework Tool

Criteria Number	Scoring Criteria	Score Weight
1	Does the firm track diversity metrics for the Firm/Management Company, including Ownership, Investment Committee and Professionals?	1.0
2	Does the firm have a diversity, equity, and inclusion policy that addresses recruitment and retention?	1.0
3	Does the firm have Code of Conduct/Code of Ethics, that covers harassment, discrimination, or workplace violence?	1.0
4	Does the firm have an equitable pay policy?	1.0
5	Does the firm track diversity metrics for carried interest distributions across the firm?	1.0
6	Does the firm have a formal employee engagement policy, to further the retention and advancement programs for diverse staff?	1.0
7	Does the firm have a performance appraisal policy that incorporates individuals' contributions to advancing DE&I?	1.0
8	Are the firms internal DE&I policies codified in a formal policy document available to be shared with the Limited Partners?	1.0
9	Is a member of the firm's senior management team responsible for the firm's internal DE&I policy?	1.0
10	Were the firm's internal DE&I policies in place prior to the events of June 2020?	1.0

	Total Possible Points	**10.0**
	Minimum Acceptable Score	**4.0**

Note: Applicants that demonstrate supporting documentation to satisfy 4 of the 10 categories in the internal DE&I policy demonstration framework tool will receive 8.5 points on the weighted criteria scoring awarded model through category #1 in Table 2.

Table 3: Venture Firm Investment DE&I Policy Demonstration Framework Tool

Criteria Number	Scoring Criteria	Score Weight
1	Does the firm track diversity metrics of portfolio company Senior Management?	1.0
2	Does the firm track diversity metrics of its investment pipeline?	1.0
3	Does the firm have an investment target to invest in underrepresented founders?	1.0
4	Does the firm track diversity metrics of portfolio company Board of Directors?	1.0
5	Does the firm have a DE&I target in place to improve the diversity of the Board of Directors of portfolio companies?	1.0
6	Does the firm have a policy in place to encourage portfolio companies to implement DE&I hiring and/or retention within portfolio companies?	1.0
7	Does the firm have a policy in place to encourage portfolio companies to implement DE&I policies, programs, or processes among suppliers?	1.0
8	Are the firm's investment DE&I policies codified in a formal policy document available to be shared with the Limited Partners?	1.0
9	Is a member of the firm's senior management team responsible for the firm's investment DE&I policy?	1.0
10	Were the firm's investment DE&I policies in place prior to the events of June 2020?	1.0
	Total Possible Points	**10.0**
	Minimum Acceptable Score	**4.0**

Note: Applicants that demonstrate supporting documentation to satisfy 4 of the 10 categories in the investment DE&I policy demonstration framework tool will receive 5 points on the weighted criteria scoring model awarded through category #2 in Table 2.

MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: April 10, 2024

RE: Aspire Program- Product #00312575
SUW K Urban Renewal LLC ("Applicant")

Request

Issuance of tax credits from the Aspire program ("the Program") for a residential project located in Newark, Essex County up to 60% of the total project cost ("eligible costs"), not to exceed $52,338,353.

Aspire Program Background

The New Jersey Economic Recovery Act of 2020, N.J.S.A. 34:1B-322, et seq., provides that the "authority shall administer the program to encourage redevelopment projects through the provision of incentive awards to reimburse developers for certain project financing gap costs." N.J.S.A. 34:1B-324. As authorized by recently enacted revisions, P.L. 2023, c. 98 ("Chapter 98"), this application is proceeding under the act and rules in effect immediately prior to Chapter 98 (respectively, "Former Act" and "Former Rules," with the Former Rules currently still promulgated as N.J.A.C. 19:31-23.1 et seq.). However, Chapter 98 also allows for projects to proceed under the Former Act and Former Rules while benefitting from increases to project award caps contained in these revisions. Such projects would also be reviewed using the Chapter 98 definition of "reasonable and appropriate return on investment," which requires both a deferred developer fee and a cash flow internal return on investment analysis for residential projects with Low-Income Housing Tax Credits and returns on equity other than federal or local grants. To do so, an applicant would need to provide a complete application to the Authority, a statement in writing electing to proceed under this option and obtain all applicable approvals under the Municipal Land Use Law prior to November 4th, 2023. This Applicant has provided a complete application and received Final Major Site Plan Approval from the City of Newark on October 26, 2021.

Accordingly, this application was evaluated to determine eligibility in accordance with the Former Act and the Former Rules with the exception of the new project award cap and "reasonable and appropriate return on investment" definition. To meet basic eligibility requirements, developers of residential projects must demonstrate (1) that without the incentive award, the Redevelopment Project is not economically feasible, (2) that a project financing gap exists after the developer has contributed an equity participation of at least 20 percent of the total development cost, and (3) the project meets specific cost thresholds, depending on where the project is located.

The Program provides tax credits for ten years (the "Eligibility Period"). The amount of tax credits a real estate development project or "Redevelopment Project," receives is generally a percentage of the project's costs and is subject to a statutory cap determined by project location and other aspects of each project.

Project Description

The proposed Project known as 430 Market Street will be a 13-story mixed-use, new construction multi-family development located on a vacant site at 430-436 Market Street, Newark, NJ, steps from Newark Penn Station. The Project will have a gross building area of 206,779 square feet within a single 13-story midrise building containing 225 residential units.

The Project includes 2,120 square feet of retail space located on the ground floor.

Project Ownership

SUW K Urban Renewal LLC, formerly SUW K LLC, is the owner of the subject property by way of a Deed between them and 430 Market Street Holding Co., Inc., dated July 31st, 2019.

SUW K Urban Renewal LLC is a single purpose entity formed to undertake this Project owned in equal shares of 25% by four individuals including Judy Spitzer, Blimie Ungar, Joel Weisz, and Chaim Weisz. David Weisz, the principal of the Lead Development Entity, is the non-owning Manager of this entity and has pledged personal capital as needed to fund the developer equity.

Lead Development Entity:

David Weisz & Sons USA LLC dba SUW Group is the Lead Development Entity for this project that will be overseeing the development and operations. SUW Group is wholly owned by the non-owning Manager, David Weisz. SUW Group has been actively engaged in real estate development for nearly 24 years. Starting in Austin, TX in 2000, SUW Group invested in unfinished commercial buildings, completed construction and leasing, eventually selling the completed projects to other real estate investors. More recently, the company has developed residential buildings in Brooklyn, NY. SUW Group has an in-house team of real estate project management and financial professionals.

Legal Review and Sister Agency Check:

A Legal Review (debarment/disqualification review) was completed on the Applicant, Lead Development Entity, and related entities by the Authority and all entities were cleared. All of these entities were also found to be in substantial good standing with the Department of Labor and Workforce Development, Environmental Protection, and the Treasury.

Architect:

The architect for this development is Comito Associates PC, a full-service architecture, engineering and planning design firm with offices in Newark, New Jersey. Founded by Gregory Comito in 1987, Mr. Comito and the firm have built a significant portfolio for clients in government, commercial real estate as well as land development industries. Comito Associates PC offers services that include office restoration, structural and civil engineering, and construction administration.

General Contractors:

The general contractor for the Project is YNH Construction NJ LLC. YNH Construction NJ LLC was established in February of 2022 and has offices located in Newark, New Jersey and Brooklyn, New York.
YNH specializes in construction & project management, CPM scheduling consulting, and design creation for large scale projects.

Construction is expected to commence in December 2024 and the Project will take 30 months to construct.

Project Details

As noted previously, the Project will consist of 204,659 square feet of 225 residential unit space and 2,120 square feet of retail space.

The residential unit mix includes 180 market rate units and 45 affordable units, making the development 20% affordable. The unit mix is broken down into studios, one, and two-bedroom units. Market rate units include 28 studios, 125 one-bedrooms, and 27 two-bedrooms with a monthly price of $2,200, $2,600, and $3,300, respectively. Affordable units include 38 studios and 7 two-bedrooms. Monthly rents will be priced at $916 and $1,143, respectively, targeting affordability levels at 47.5% of the Area Median Income in Essex County.

Tenants will have access to amenities that will include a lobby, bike storage room, gym, laundry room, maintenance room, green roof, and a parking garage that will include and 59 parking spaces. The parking spaces consist of 57 stacked parking spaces and two ADA parking spaces within 21 mechanical parking stalls.

The mezzanine within the first story of the building will include the above-mentioned residential amenities and additional utility rooms. The second floor will contain 21 residential units, ten of which are designated to include a private terrace area that fronts the green roof. Each additional residential floor will include a trash room and two utility rooms. The thirteenth floor primarily consists of amenity spaces for the residential units. This area consists of a second green roof area, a 3,069 square foot amenity room, a 502 square foot media lounge, a 357 square foot private meeting room, a 2,277 square foot co-working area, and a boiler room.

Additionally, there will be a terrace that wraps around these amenity spaces. The Project will include new trees along the newly constructed sidewalks as well as new lighting fixtures along the street front. Artwork will be applied to the exterior wall along Prospect Street.

The project will comply with the Energy Star Homes Program as per NJHMFA's Green Standard Requirements which satisfies NJEDA Green Building Standards.

Project Uses and Sources

The Applicant proposes the following uses for the Project:

	Total Development Costs	**Project Costs**
Acquisition and Land Costs	$16,100,000	$0
Hard construction costs	$71,218,904	$71,218,904
Professional Services	$2,775,393	$2,775,393
Financing and other soft costs	$20,457,216	$13,236,291
Developer Fee	$9,252,738	$0
Total	**$119,804,251**	**$87,230,588**

The total project cost is the cost included in total development costs that is used for sizing the tax credit. The total project cost excludes developer fee(s) and land acquisition, as well as construction interest that is incurred following the issuance of a TCO and additional construction interest that would exceed the 20 percent cap on soft costs.

The minimum total project cost is $5,000,000 for this residential project located in a qualified incentive track.

The Applicant proposes the following permanent Sources for the Project:

Sources	Type	Amount
HMFA 1st Mortgage	Tax Exempt Permanent Loan	$12,928,511
Newpoint 1st Mortgage	Taxable Permanent Loan	$36,762,834
Aspire Bridge Loan	Aspire Proceeds	$33,092,408
LIHTC Investor Proceeds	Tax Credit Equity	$7,320,091
Land Contribution	Equity	$16,100,000
Deferred Developer Fee	Equity	$9,100,383
Developer Cash Contributions	Equity	$4,500,024
	Total	**$119,804,251**

Developer Contributed Equity

Based on the equity requirement of 20% of total development costs for a residential project not in a government-restricted municipality, the required equity in this Project equates to $23,960,850. Equity consists of land valued at $16,100,000 based upon an Appraisal dated July 25, 2023, a Deferred Developer fee of $9,100,383, LIHTC proceeds in the amount of $7,320,091, and $4,500,023 in developer contributed cash.

Statutory Aspire Award Cap

As noted above, pursuant to Chapter 98, this Project may benefit from increases to project award caps. This Project is in a qualified incentive tract and, thus, eligible for an Aspire tax credit equal to the lesser of 60 percent of the total project cost or $90 million. The total project cost is estimated to be $87,230,588. As such, the Project is eligible for an Aspire tax credit not to exceed $52,338,353 which is the lesser of $90 million and 60 percent of the total project cost.

Financing Gap Analysis

NJEDA staff has reviewed the application to determine if there is a financing gap pertaining to the return on the investment for the developer and ability to attract the required investment. Staff analyzed the pro forma and projections and compared the returns with and without the Aspire award over 15 years. The investment analysis assumes that the Applicant will utilize a 48-month timeframe to build and stabilize the Project. It also assumes a 10-year cash flow with an exit through the sale of the Project in year 11.

IRR without Aspire tax credit	4.26%
IRR with Aspire tax credit	11.28%

Without the benefit of the Aspire tax credit, the Equity IRR is 4.26%, which is below the Hurdle Rate of 17.69%, calculated based upon the Project's debt to equity composition and the hurdle rate model provided by EDA's contracted consultant Jones Lang LaSalle ("JLL") for comparable multi-family residential developments in Newark, NJ. As indicated in the chart above, a developer would not generally complete the Project without the benefit of the Aspire tax credit. Additionally, the Equity IRR with the Aspire tax credit award is below the Hurdle Rate contained in the hurdle rate model provided by JLL. Applicant has elected to move forward with the Project even though the IRR with the award is still below the market hurdle rate.

Because the Project is receiving Low-Income Housing Tax Credits, NJHMFA's deferred fee model was also used to measure the appropriate and reasonable rate of return. The total developer fee is $9,252,738 with $9,100,383 deferred and not fully realized until after the 8th year of operations following stabilization. This conforms to the Agency's policy, as the total developer fee is less than 15% of total development costs and the non-deferred fee is less than the cap on non-deferred fees of 8% of total development costs.

Aspire Tax Credit Sale Price:

For projects that represent the new construction of residential units and including a Low-Income Housing Tax Credit Allocation the consideration for the sale or assignment of the Aspire tax credits can be no less than 65 percent of the transferred credit amount before considering any further discounting to present value. The Applicant has provided documentation to the Authority that the consideration contemplated in the current financing structure is 90 percent of the transferred credit amount before considering any further discounting to present value. Currently it is anticipated that a bridge loan will be secured by the future sale proceeds from the tax credits, and when accounting for these loan proceeds received during construction, it represents a discount rate of 4.33% from the 90 percent consideration of the transferred credit amount. The sources identified above in the Sources table as "Aspire Bridge Loan" reflect the value of this bridge loan. The ultimate financing structure and any changes in the future will be subject to this requirement and the Applicant will need to evidence this prior to any assignment or transfer of Aspire tax credits.

Net Positive Benefit Analysis:

The NJEDA shall conduct a fiscal impact analysis to determine and ensure that the overall public assistance provided to an Aspire awarded project will result in a net positive economic benefit to the State. In the Former Act, exceptions to the requirement are capital investment for a residential project, a capital investment for a food delivery source, or a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services that is located in a municipality with a Municipal Revitalization Index distress score of at least 50 lacking adequate access. The Project is a residential project and, therefore, the entire award and capital investment are not subject to the net positive economic benefit analysis.

Other Statutory Criteria

Scoring:

The Applicant is required to achieve a minimum score to be eligible for an Aspire award. The Project was scored in the areas of Equitable Development, Smart Growth, Environmental Justice, and Climate Resilience. The Applicant has satisfactorily evidenced to staff that the Project is consistent with the policy objectives represented by this scoring criteria.

Community Benefits Agreement:

For a Redevelopment Project whose total project cost equals or exceeds $10 million, a community benefits agreement is required to be entered into by the Authority, chief executive of the municipality and the Applicant. The Applicant has provided a letter of support from the chief executive of the municipality acknowledging this requirement.

Labor Harmony Agreement:

NJEDA shall not enter into an incentive award agreement for a Redevelopment Project that includes at least one retail establishment which will have more than 10 full-time employees, at least one distribution center that will have more than 20 full-time employees, or at least one hospitality establishment which will have more than 10 full-time employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment, distribution center, or hospitality establishment enters into a labor harmony agreement with a labor organization or cooperating labor organizations that represent retail or distribution center employees in the State. However, a labor harmony agreement shall be required only if the State has a proprietary interest in the Redevelopment Project and shall remain in effect for as long as the State acts as a market participant in the Redevelopment Project. This project does not have a State proprietary interest and therefore is not subject to this requirement.

Prevailing Wage Obligations:
For any project awarded Aspire tax credits all workers employed to perform construction work or building services work at the Redevelopment Project shall be paid prevailing wages, which continue through the end of the Eligibility Period. The Applicant has acknowledged this requirement and that in any year where this is found not to be the case, the Applicant shall forfeit the tax credit for that year.

Substantial Good Standing/Subcontractor and Contractor Requirements:
For the duration of the Eligibility Period, the developer must be in substantial good standing (or have entered into an agreement) with the Department of Labor and Workforce Development, Environmental Protection, and the Treasury for any project awarded Aspire tax credits and that each contractor and subcontractor performing work at the Redevelopment Project: is registered as required by the Public Works Contractor Registration Act, has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State, and possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

Availability of Emerge/Aspire Resources
At the time of this recommendation, there are $1,548,977,377 in unallocated tax credit resources available to Aspire projects located in the northern-most counties in the State for the fiscal year.

Recommendation
Authority staff has reviewed the application for SUW K Urban Renewal LLC and finds that it satisfies the eligibility requirements of the Former Act and Former Rules. It is recommended that the Members approve and authorize the Authority to execute an incentive award agreement. The tax credit award would be credited against the total available North Jersey award authority.

Issuance of the Aspire tax credits are contingent upon the Applicant submitting documentation evidencing project financing and planning approvals with respect to the Project within the time required in the Former Rules (one year after approval), which includes:

1. Financing commitments for all funding sources for the Project consistent with the information provided by the Applicant to the Authority for the Aspire tax credit;
2. Evidence of site control and site plan approval for the Project; and
3. Copies of all required State and federal government permits for the Project and copies of all local planning and zoning board approvals that are required for the Project.

Additionally, Applicant must submit an executed Community Benefits Agreement consistent with all of the requirements included in the Former Rules within six months after approval.

The recommendation is approval of an award of up to 60% of the total project cost, not to exceed $52,338,353 in Aspire tax credits based upon the financing gap illustrated by the Project's actual capital stack at time of commitment.

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Tim Sullivan, CEO

MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: April 10, 2024

RE: Aspire Program- Product #00313059
Fulton Street Newark LLC ("Applicant")

Request

Issuance of tax credits from the Aspire program ("the Program") for a mixed-income residential project located in Newark, Essex County up to 60% of the total project cost ("eligible costs"), not to exceed $90,000,000.

Aspire Program Background

The New Jersey Economic Recovery Act of 2020, N.J.S.A. 34:1B-322, et seq., provides that the "authority shall administer the program to encourage redevelopment projects through the provision of incentive awards to reimburse developers for certain project financing gap costs." N.J.S.A. 34:1B-324. As authorized by recently enacted revisions, P.L. 2023, c. 98 ("Chapter 98"), this application is proceeding under the act and rules in effect immediately prior to Chapter 98 (respectively, "Former Act" and "Former Rules," with the Former Rules currently still promulgated as N.J.A.C. 19:31-23.1 et seq.). However, Chapter 98 also allows for projects to proceed under the Former Act and Former Rules while benefitting from increases to project award caps contained in these revisions. Such projects would also be reviewed using the Chapter 98 definition of "reasonable and appropriate return on investment," which requires both a deferred developer fee and a cash flow internal return on investment analysis for residential projects with Low-Income Housing Tax Credits and returns on equity other than federal or local grants. To do so, an applicant would need to provide a complete application to the Authority, a statement in writing electing to proceed under this option, and obtain all applicable approvals under the Municipal Land Use Law prior to November 4th, 2023. This Applicant has provided a complete application and received Final Major Site Plan Approval from the City of Newark on September 20, 2021.

Accordingly, this application was evaluated to determine eligibility in accordance with the Former Act and the Former Rules with the exception of the new project award cap and "reasonable and appropriate return on investment" definition. To meet basic eligibility requirements, developers of residential projects must demonstrate (1) that without the incentive award, the Redevelopment Project is not economically feasible, (2) that a project financing gap exists after the developer has contributed an equity participation of at least 20 percent of the total development cost, and (3) the project meets specific cost thresholds, depending on where the project is located.

The Program provides tax credits for ten years (the "Eligibility Period"). The amount of tax credits a real estate development project or "Redevelopment Project," receives is generally a percentage of the project's costs and is subject to a statutory cap determined by project location and other aspects of each project.

Project Description

The proposed Project, 22 Fulton Street, entails the new construction of a mixed-income residential development on a .75-acre site located on an existing parking lot at 22 Fulton Street in Newark, Essex County. The Project site is situated on the light rail line and is within a 15-minute walk from the Newark Penn and Newark Broad Street rail stations. The Project will include 396 residential units representing 407,109 square feet with an additional 4,726 square feet of retail space within a 22-story high rise building consisting of studios, one, and two-bedroom apartment units. The residential unit mix includes 315 market rate units and 80 affordable units, making the development 20% affordable. Also, within the unit mix will be a one-bedroom rent-free super's unit. The Project will also include various amenities and a 106-space structured parking component.

Project Ownership

The Project site is owned by Ten Park Place Associates, Inc. as evidenced by the deed dated December 27, 2004. Miles Berger, the principal of the Lead Development Entity, is the owner of Ten Park Place Associates, Inc., and per the Third Amendment to the Applicant's Limited Liability Agreement dated June 23, 2023, Miles Berger's contribution will include an in-kind contribution of the land at the appraised value of $8.25 million.

The Applicant, Fulton Street Newark LLC, is jointly owned by Berger Fulton LLC (45%), Berger Fulton OZ LLC (5%), CBSK Newark LLC (31.875%), Big Red QOF LLC (10.625%), and AZ Kingston OZ Fund LLC (7.5%).

Upon the start of construction and following completion of the Project, Fulton Street Newark LLC will be jointly owned by a newly added entity, A. Walker and Co. (40.6%). Berger Fulton LLC and Berger Fulton OZ LLC interests will remain the same, with the remaining entities ownership reverting as follows: CBSK Newark LLC (6%), Big Red QOF LLC (2%), and AZ Kingston OZ Fund LLC (1.4%).

As a convention to the Low-Income Housing Tax Credits used to finance the affordable component of the Project, following completion of the Project the Applicant will master lease the affordable units to Fulton Street Newark LIHTC Condo which will be owned by a managing member (0.01%) owned by the principals of the Lead Development Entity and a Low-Income Housing Tax Credit investor member (99.99%), currently anticipated to be an affiliate of Walker and Dunlop.

Lead Development Entity:

Berger Organization was established in 1929 by Benjamin and Nathan Berger as a diversified real estate company engaged in the development and management of residential, commercial and hospitality properties throughout Northern New Jersey and New York City.

The firm specializes in urban repositioning, development and management targeting residential and transit-oriented mixed-use development projects.

Key staff involved in the project include Miles Berger- Chairman and Chief Operating Officer; and Brendan Berger- Vice President.

Berger Organization has led several projects including 1] 33 Washington Street, Newark, New Jersey, office space development; 2] 58 Park Place, Newark, New Jersey, office space development; 3] Jersey City Ramada, Jersey City, New Jersey, hotel development; and 4] TRYP by Wyndham, Newark, New Jersey, hotel development.

Legal Review and Sister Agency Check:
A Legal Review (debarment/disqualification review) was completed on the Applicant, Lead Development Entity, and related entities by the Authority and all entities were cleared. All of these entities were also found to be in substantial good standing with the Department of Labor and Workforce Development, Environmental Protection, and the Treasury.

Architect:
Design for the Project has been undertaken by Beyer Blinder Belle a full-service design firm providing architecture, master planning, urban design, and interiors. The firm was founded in 1968 by John H. Beyer, Richard Blinder and John Belle.

Beyer Bell has a wide range of completed work including 1] Essex Crossing, New York, New York, residential; 2] Hudson Exchange Phase II, Jersey City, New Jersey, residential, mixed-use; 3] 110 Livingston Street, Brooklyn, New York, residential, historic preservation; 4] Hahne and Company Building, Newark, New Jersey, residential, mixed-use, commercial, student housing; 5] Newark International Airport Building 1, Newark, New Jersey, civic, transportation, historic preservation, adaptive use.

General Contractors:
The general contractor for the Project is CM & Associates Construction Management, LLC, a full-service general contracting company specializing in areas of pre-construction, risk management, general contracting, value engineering, quality control, and estimating.

Construction is expected to commence on July 1, 2024, and the Project will take 36 months to construct.

<u>Project Details</u>
As noted previously, the proposed Project entails the new construction of a mixed-income residential development situated on an existing parking lot. The Project will include 396 residential units representing 407,109 square feet with an additional 4,726 square feet of retail space within a 22-story high rise building consisting of studios, one, and two-bedroom apartment units. The residential unit mix includes 315 market rate units and 80 affordable units, making the development 20% affordable. Also, within the unit mix will be a one-bedroom rent-free super's unit. Market rate units include 130 studios measuring 507 square feet; 152 one-bedroom units measuring 679 square feet; and 33 two-bedroom units measuring 1,118 square feet. Affordable rate units include 33 studios measuring between 608 and 651 square feet; 38 one-bedroom units measuring between 670 and 687 square feet; and 9 two-bedroom units measuring 1,015 square feet. The one-bedroom supers unit measures 687 square feet. The gross rents will range from $1,226 to $3,700 with the affordability levels at 50% or less of Area Median Income.

Tenant amenities will include full-service doorman, on-site management and building maintenance, bicycle room, storage locks, pet grooming room, laundry room, co-working lounge, indoor and outdoor exercise fitness/gym area, outdoor garden area, outdoor gaming area, rooftop outdoor and interior lounge, and dining areas. Rooftop will also include sunbathing, and grilling areas.

The Project will also include a 106-space structured parking component. The Project will comply with the Energy Star Homes Program as per NJHMFA's Green Standard Requirements which satisfies NJEDA Green Building Standards.

Project Uses and Sources

The Applicant proposes the following uses for the Project:

	Total Development Costs	Project Costs
Acquisition and Land Costs	$8,250,000	$0
Hard construction costs	$138,427,550	$138,427,550
Professional services	$7,335,808	$5,190,311
Financing and other soft costs	$33,330,796	$27,879,073
Developer Fee	$26,060,809	$0
Total	**$213,404,963**	**$171,496,934**

The total project cost is the cost included in total development costs that is used for sizing the tax credit. The total project cost excludes developer fees, land acquisition, and a variety of soft costs incurred prior to application.

The minimum total project cost is $5,000,000 for this residential project located in a qualified incentive track.

The Applicant proposes the following Permanent Sources for the Project:

Sources	Type	Amount
HMFA 1st Mortgage	Tax Exempt Permanent Loan	$28,330,000
Walker Dunlop 1st Mortgage	Taxable Permanent Loan	$64,670,000
LIHTC Proceeds	Equity	$18,264,631
Aspire Bridge Loan	Aspire Proceeds	$48,684,346
Aspire Interest Reserve	Aspire Proceeds	$7,726,386
Land Contribution	Equity	$8,250,000
Cash	Equity	$23,427,456
Deferred Developer Fee	Equity	$14,052,144
	Total	**$213,404,963**

Developer Contributed Equity

Based on the equity requirement of 20% of total development costs for a residential project not in a government-restricted municipality, the required equity in this Project equates to $42,680,993. Equity consists of cash equity in the amount of $23,427,456, land contribution of $8,250,000, a deferred developer fee in the amount of $14,052,144, and LIHTC proceeds in the amount of $18,264,631.

Statutory Aspire Award Cap

As noted above, pursuant to Chapter 98, this Project may benefit from increases to project award caps. This Project is in a qualified incentive tract and, thus, eligible for an Aspire tax credit equal to the lesser of 60 percent of the total project cost or $90 million. The total project cost is estimated to be $171,496,934. As such, the Project is eligible for an Aspire tax credit not to exceed $90,000,000 which is the lesser of $90 million and 60 percent of the total project cost.

Financing Gap Analysis
NJEDA staff has reviewed the application to determine if there is a financing gap pertaining to the return on the investment for the developer and ability to attract the required investment. Staff analyzed the pro forma and projections and compared the returns with and without the Aspire award over 15 years. The investment analysis assumes that the Applicant will utilize a 42-month timeframe to build and stabilize the Project. It also assumes an 11-year cash flow with an exit through the sale of the Project in year 11.

IRR without Aspire tax credit	-.67%
IRR with Aspire tax credit	15.54%

Without the benefit of the Aspire tax credit, the Equity IRR is -.67%, which is below the Hurdle Rate of 22.44%, calculated based upon the Project's debt to equity composition and the hurdle rate model provided by EDA's contracted consultant Jones Lang LaSalle ("JLL") for comparable multi-family residential developments in Newark, NJ As indicated in the chart above, a developer would not generally complete the Project without the benefit of the Aspire tax credit. Additionally, the Equity IRR with the Aspire tax credit award is below the Hurdle Rate provided by JLL. Applicant has elected to move forward with the Project even though the IRR with the award is still below the market Hurdle Rate.

Because the Project is receiving Low-Income Housing Tax Credits, NJHMFA's deferred fee model was also used to measure the appropriate and reasonable rate of return. The total developer fee is $26,060,809 with $14,052,144 deferred and not fully realized until after the 30th year of operations following stabilization. This conforms to the Agency's policy, as the total development fee is less than 15% of total development costs and the non-deferred fee is less than the cap on non-deferred fees of 8% of total development costs.

Aspire Tax Credit Sale Price:
For projects that represent the new construction of residential units and including a Low-Income Housing Tax Credit Allocation the consideration for the sale or assignment of the Aspire tax credits can be no less than 65 percent of the transferred credit amount before considering any further discounting to present value. The Applicant has provided documentation to the Authority that the consideration contemplated in the current financing structure is 87 percent of the transferred credit amount before considering any further discounting to present value. Currently it is anticipated that a bridge loan will be secured by the future sale proceeds from the tax credits sales, and when accounting for these loan proceeds received during construction, it represents a discount rate of 5.92% from the 87 percent consideration of the transferred credit amount. The sources identified above in the Sources table as "Aspire Proceeds" reflect the value of this bridge loan. The ultimate financing structure and any changes in the future will be subject to this requirement and the Applicant will need to evidence this prior to any assignment or transfer of Aspire tax credits.

Net Positive Benefit Analysis:
The NJEDA shall conduct a fiscal impact analysis to determine and ensure that the overall public assistance provided to an Aspire awarded project will result in a net positive economic benefit to the State. In the Former Act, exceptions to the requirement are capital investment for a residential project, a capital investment for a food delivery source, or a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services that is in a municipality with a Municipal Revitalization Index distress score of at least 50 lacking adequate access. The Project is a residential project and, therefore, the entire award and capital investment are not subject to the net positive economic benefit analysis.

Other Statutory Criteria

Scoring:
The Applicant is required to achieve a minimum score to be eligible for an Aspire award. The Project was scored in the areas of Equitable Development, Smart Growth, Environmental Justice, and Climate Resilience. The Applicant has satisfactorily evidenced to staff that the Project is consistent with the policy objectives represented by this scoring criteria.

Community Benefits Agreement:
For a Redevelopment Project whose total project cost equals or exceeds $10 million, a community benefits agreement is required to be entered into by the Authority, chief executive of the municipality and the Applicant. The Applicant has provided a letter of support from the chief executive of the municipality acknowledging this requirement.

Labor Harmony Agreement:
NJEDA shall not enter into an incentive award agreement for a Redevelopment Project that includes at least one retail establishment which will have more than 10 full-time employees, at least one distribution center that will have more than 20 full-time employees, or at least one hospitality establishment which will have more than 10 full-time employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment, distribution center, or hospitality establishment enters into a labor harmony agreement with a labor organization or cooperating labor organizations that represent retail or distribution center employees in the State. However, a labor harmony agreement shall be required only if the State has a proprietary interest in the Redevelopment Project and shall remain in effect for as long as the State acts as a market participant in the Redevelopment Project. This project does not have a State proprietary interest and therefore is not subject to this requirement.

Prevailing Wage Obligations:
For any project awarded Aspire tax credits all workers employed to perform construction work or building services work at the Redevelopment Project shall be paid prevailing wages, which continue through the end of the Eligibility Period. The Applicant has acknowledged this requirement and that in any year where this is found not to be the case, the Applicant shall forfeit the tax credit for that year.

Substantial Good Standing/Subcontractor and Contractor Requirements:
For the duration of the Eligibility Period, the developer must be in substantial good standing (or have entered into an agreement) with the Department of Labor and Workforce Development, Environmental Protection, and the Treasury for any project awarded Aspire tax credits and that each contractor and subcontractor performing work at the Redevelopment Project: is registered as required by the Public Works Contractor Registration Act, has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State, and possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

Availability of Emerge/Aspire Resources
At the time of this recommendation, there are $1,548,977,377 in unallocated tax credit resources available to Aspire projects located in the northern-most counties in the State for the fiscal year.

Recommendation

Authority staff has reviewed the application for Fulton Street Newark, LLC and finds that it satisfies the eligibility requirements of the Former Act and Former Rules. It is recommended that the Members approve and authorize the Authority to execute an incentive award agreement. The tax credit award would be credited against the total available North Jersey award authority.

Issuance of the Aspire tax credits are contingent upon the Applicant submitting documentation evidencing project financing and planning approvals with respect to the Project within the time required in the Former Rules (one year after approval), which includes:

1. Financing commitments for all funding sources for the Project consistent with the information provided by the Applicant to the Authority for the Aspire tax credit;
2. Evidence of site control and site plan approval for the Project; and
3. Copies of all required State and federal government permits for the Project and copies of all local planning and zoning board approvals that are required for the Project.

Additionally, Applicant must submit an executed Community Benefits Agreement consistent with all of the requirements included in the Former Rules within six months after approval.

The recommendation is approval of an award of up to 60% of the total project cost, not to exceed $90,000,000 in Aspire tax credits based upon the financing gap illustrated by the Project's actual capital stack at time of commitment

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Tim Sullivan, CEO

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: April 10, 2024

RE: **Parking Authority of the City of Paterson ("PPA")** - Modification
Mixed-Use Parking Economic Redevelopment and Growth Grant Program
("Mixed-Use Parking ERG")
P45229 / Prod-00184674

Changes made in the Economic Redevelopment and Growth Grant program and amending and supplementing P.L.2009, c.90 (C.75:1-4) allow the Authority to modify the terms of approval to reflect the changes in the law, to include an increase in the award amount and a provision to extend all required deadlines by 30 months from December 31, 2023 to June 30, 2026.

Request

Modify the scope of work of the proposed parking garage and the size of the project. The Project will be a six-story, 255,750 square foot, 750 space garage along with 2,750 square feet of retail space at street level. The project costs are estimated at $77,777,332 with eligible project costs of $40,264,376. The ERG tax credit award approved by the Members of the Authority on December 11, 2018 is being adjusted to a tax credit award not to exceed $40,007,369 from $30,534,450. The increase in the award amount is allowed by changes made in the Economic Redevelopment and Growth Grant program and amending and supplementing P.L.2009, c.90 (C.75:1-4).

Extend PPA's Conditions to Maintain Approval due date from December 31, 2022 to November 30, 2024 which includes submitting financing commitments for all Project funding sources consistent with the information provided by the Applicant to the Authority for the Mixed-Use Parking ERG in their modification application dated December 15, 2022.

Background:

On December 11, 2018, the Members of the Authority approved the application of the PPA for a project located at 169 Ward Street, City of Paterson, Passaic County for the issuance of tax credits pursuant to the RES ERG program set forth in the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161 ("Act"). On July 13, 2015, legislation was enacted as P.L. 2015, c. 69 allowing municipal redevelopers to apply for tax credits under the Mixed-Use Parking ERG program for mixed use parking projects. The maximum ERG tax credit shall equal up to 100% of the total eligible project costs allocable to the parking component of the project and up to 40% of the total eligible project costs allocable to the office space / retail component of the project. The total costs of the Project were estimated to be $43,825,161 and of this amount $30,802,560 were eligible costs under the Mixed-Use Parking ERG program. PPA was eligible for a tax credit award of 100% of actual eligible Parking costs of $30,355,710 and 40% of eligible non-parking costs of $446,850, as such the recommended tax credit award was not to exceed $30,534,450.

The Project site is located at 169 Ward Street in the City of Paterson, Passaic County. The site is approximately 1.94 acres and sits adjacent to the Paterson Train Station in downtown Paterson. The approved project consisted of the demolition of the current parking garage and construction of a nine-story, 940 space parking structure with 2,750 square feet of street level retail space.

The Authority's approval letter issued on February 26, 2019 provided for conditions to maintain approval to have been satisfied by December 11, 2019. Four, six-month extension requests were approved through December 11, 2021 now the PPA seeks a modification of the now expired approval and has presented updates to the project scope and funding sources.

Due to rising construction and labor costs resulting from COVID-19 pandemic induced supply chain issues, PPA redesigned the parking garage by reducing it from a 940-space facility (8 stories) to a parking facility structure that would be between 750 spaces (6 stories) and 865 spaces (7 stories). Revised bid documents prepared by PPA's Construction Manager and Architect asked prospective bidders to provide bids on the revised designs. The purpose of this approach was to maximize the number of parking spaces in the garage while at the same time keeping the garage within the cost parameters that would maximize the value of the ERG tax credits that are monetized into proceeds for the project. The project included 2,750 square feet of street level retail space.

The PPA filed a modification application with the Authority on January 5, 2022 while it continued to move forward with the necessary documentation for bond financing. Construction was expected to begin in the second quarter of 2022. In September of 2021 PPA received $2 million in funding from the City of Paterson. These funds for demolition were designed to partially compensate the PPA for its $2 million reduction in ERG tax credits being sought under this modification as well as their withdrawal of the previously approved ERG tax credit allocation of $5,895,001 (PROD 187728) pertaining to PPA's Van Houton Street Garage which was approved by the Members of the Authority on November 14, 2019. The PPA notified the Authority of their intention to reduce the Project ERG tax credit by $2 million and their withdrawal of all the ERG tax credits awarded to the Van Houton Street Garage project on 12/10/21.

Due to the pandemic, the original financing plan was never consummated. In order to secure a more attractive financing plan, PPA has entered discussions with the City and the County of Passaic. The revised financing plan calls for a bond structure involving the issuance of bonds by PPA via the public markets or private placement. The bonds issued to finance the Ward Street Garage will consist of not less than two series; one to monetize the ERG tax credits, the proceeds of which will be deposited into a Project construction fund (approximately $26.3 million) to pay costs of the Garage and the work related thereto, and another series of Gap Bonds, the proceeds of which (approximately $15.4 million) will also be deposited into the Project construction fund to pay the balance of the construction costs that cannot be funded with the proceeds of the Tax Credit Bonds. It is also noted that there will be another separate series of taxable and tax-exempt bonds that will be issued to refund all the outstanding PPA bonds aggregating approximately $15.8 million. It is necessary to refund these bonds in order to discharge the lien of the PPA's exiting bond resolution and in order to revise and/or eliminate onerous financial covenants. The ERG Tax Credit Bonds will be secured by the annual sale of the ERG tax credits purchased by a tax credit investor. In order to mitigate the risk of fluctuating annual tax credit pricing, the PPA has retained a tax credit consultant who is confident that under current market/economic conditions, the PPA can secure favorable pricing for the ten-year tax credit period. The Gap Bonds will be secured by Authority parking system revenues. All the bonds will be secured by full faith and credit guarantees of the City of Paterson.

The current timeline for the project calls for a construction period of 20 months. Commencement of construction is anticipated in August 2024 with completion, including the issuance of a Temporary Certificate of Occupancy, by April 2026. This is consistent with the Mixed-Use Parking requirement for a Temporary Certificate of Occupancy submission date by June 30, 2026 based upon the legislative amendment signed by the Governor in July 2022. Selection of contractor is expected to be completed by August 2024. The issuance of bond offering prospectus and sale of bonds are deliverables that are currently in process and expected to be completed by April 2024. The Authority's approval letter for the ERG tax credits for this project is required to be delivered prior to the sale of bonds to investors as well as the party(s) which will purchase the tax credits annually at an estimated $0.905 cents per $1.00 which will mirror the required annual payments on the ERG bonds.

Project Ownership

The Parking Authority of the City of Paterson is a public body politic and corporate, created in 1948 by the City of Paterson and existing under the State of New Jerseys Parking Authority Law 40:11A. The PPA is governed by a Board consisting of seven commissioners. The PPA was created for acquiring, constructing, maintaining, and operating parking facilities. In addition, the PPA helps alleviate traffic congestion caused by excessive parking on the streets and improves the movement of traffic within the City. The PPA owns and or operates 20 parking facilities, a total of approximately 5,000 parking spaces are provided in these facilities. The PPA also has approximately 1,310 meters within the City streets and in designated parking lots throughout the City.

The Laws under which the PPA operates encourages expansion of parking facilities to meet the increasing demand for parking. The PPA recognizes that need and continues to aggressively pursue expansion by building additional parking facilities, creating leasable retail space within the facilities, upgrading its current facilities, broadening the range of transportation related services, and proposing reasonable adjustments to its rate schedules in order to further enhance its revenue potential. The PPA contributes significant revenues to the City of Paterson while successfully meeting its mandate to provide safe, attractive, conveniently located and competitively priced Public Parking Facilities.

Project Uses

The Applicant's project uses as per the original approval on December 11, 2018 and first Modification on April 13, 2022 were:

	Original Approval		First Modification	
Uses	**Total Development Costs**	**Mixed Use Parking ERG Eligible Costs**	**Total Development Costs**	**Mixed Use Parking ERG Eligible Costs**
Acquisition	$ 12,130,000	$ -	$ 6,550,000	$ -
Hard Construction Costs	25,273,448	25,273,448	27,140,000	25,140,000
Professional Services	2,125,000	2,125,000	1,875,263	1,875,263
Other Soft and Financing Costs	3,296,713	2,404,112	5,842,832	4,739,908
Contingency	1,000,000	1,000,000	1,309,850	1,309,850
TOTAL USES	**$ 43,825,161**	**$ 30,802,560**	**$ 42,717,945**	**$ 33,065,021**

The Applicant proposes to modify the uses for the project as follows:

Uses	Total Development Costs	Mixed Use Parking ERG Eligible Costs
Acquisition	$ 3,950,000	$ 3,950,000
Hard Construction Costs	$ 26,787,000	$ 26,116,274
Professional Services	$ 4,553,699	$ 3,144,463
Other Soft and Financing Costs	$ 40,227,933	$ 4,794,939
Contingency	$ 2,258,700	$ 2,258,700
TOTAL USES	**$ 77,777,332**	**$ 40,264,376**

- Acquisition costs decreased as originally two land parcels were included in the cost; the current project requires only one land parcel.
- Other soft and financing costs increased primarily as a result of the inclusion of $30.4 million in permanent financing interest and $4.8 million in capitalized interest paid to 3rd parties that was not included in the original approval, and an increase in debt service reserve funds to $4.8 million.

The change in the amount of project costs from the time of the original board approval in December 2018 and first Modification in April 2022 reflect increased costs of construction materials and labor associated with the COVID-19 Pandemic as well as passage of over four years of time. The revised project is currently a six-story, parking garage with 750 spaces. ERG eligible project costs exclude ineligible costs aggregating $35.4 million, including $30.4 million in permanent financing interest, $670,726 in costs incurred prior to application, and $4.8 million pertaining to escrows and reserves. For a Mixed-Use Parking project, the ERG tax credit shall equal up to 100% of the total eligible project costs allocable to the parking component and up to 40% of the total eligible project costs allocable to the office space / retail component. The total eligible costs of the Project are estimated to be $40,264,376 which includes $428,344 representing the de minimis costs for the retail portion. Eligible parking costs are estimated at $39,836,032 under the Mixed-Use Parking ERG program. PPA is eligible for an award of up to $40,007,369 in tax credits representing 100% of actual eligible Parking costs and 40% of eligible non-parking costs.

As required under Section 3 of P.L.2009, c.90 (C.52:27D-489c), *"In the case of a mixed use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020, project costs may include, in the discretion of the chief executive officer of the authority consistent with applicable law, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding"*. The Chief Executive Officer of the Authority has approved the inclusion of such costs because the law authorizes him to make that decision, and Paterson will benefit from the amended project because it will assist in the reduction of traffic congestion in the City caused by excessive parking on the streets and support PPA's mandate to mandate to provide safe, attractive, conveniently located and competitively priced public parking facilities.

The Applicant's sources for the project as per the original approval on December 11, 2018 were:

Sources of Financing	***Amount***
Gap Bonds	$ 13,788,507
ERG Bonds	17,906,654
Equity (via contribution of land)	12,130,000
Total	**$ 43,825,161**

The Applicant proposes to modify the sources for the project to:

Sources of Financing	***Amount***
Gap Bonds ($15,420,000 less $122,319 original issue discount)	$ 15,297,681
ERG Bonds ($26,285,000 less $192,143 original issue discount)	26,092,857
Equity (via contribution of land)	3,950,000
Equity (city of Paterson – State Grant)	2,000,000
Parking System Revenue Applied to Pay Gap Bonds Interest	21,406,325
Sale of Tax Credits to Pay ERG Bond Interest	9,030,469
Total	**$ 77,777,332**

The costs of the demolition of the existing garage are now being funded from grant funds from the City of Paterson to the City of Paterson Parking Authority. Bonds issued by PPA are anticipated to have a par amount aggregating $41.9 million issued in two series; A) Gap Bonds of $15.4 million and B) ERG Tax Credit Bonds of $26.3 million. Maturities will be 30 years and 10 years, respectively with anticipated average coupons of 6.9% and 6.25%, respectively.

Simultaneously with the bond issues for the Ward Street Garage, two series of refunding bonds will be issued by PPA; A) $2.9 million Taxable and B) $13.0 million Tax-Exempt with proceeds to retire all existing bonds owed by PPA. The refunding bonds will have maturities of approximately 12 years (10/1/35) at anticipated average coupons of 8.05% and 6.25%, respectively. The refunding bonds will also have a guarantee from the City of Paterson as supported by resolutions received from City Counsel. Local Finance Board has provided a resolution from a meeting held 2/9/22 for the issuance of up to $48 million in bonds. Findings include costs, financing proposal and terms & conditions all being reasonable. PPA has selected an experienced bond underwriter, Raymond James, and tax credit purchaser, The Hartford Financial Services Group, Inc.

Mixed Use Parking ERG projects are required to have a minimum of 20% equity in the Project. The Applicant is contributing the value of the land at the project site (which is owned) with an appraised value of $3.95 million as of January 21, 2022 and will be applying future revenue totaling $21.4 million from the project to cover debt service. The City of Paterson has also contributed $2.0 million in equity to the project. The land, grant, and revenue equity satisfy the 20% equity requirement.

<u>Original Gap Analysis at time of approval December 11, 2018</u>

Based on the Applicant's original Application staff analyzed the pro forma and projections of the project and compared the returns with and without the Mixed-Use Parking ERG over 12 years (two years to build and 10 years of cash flow).

Without ERG	**With ERG**
Equity IRR 8.69%	Equity IRR 13.16%

The Authority received a revised pro forma for the modified project in order to evaluate if there is a shortfall in the project development economics pertaining to the return on the investment for the applicant and their ability to attract the required investment for this project. Staff analyzed this revised pro-forma and compared the internal rate of return with and without the Mixed-Use Parking ERG over 12 years (two years to build and 10 years of cash flow).

Revised Gap Analysis

Without ERG	**With ERG**
Equity IRR (5.69%)	Equity IRR 5.39%

As indicated in the chart above, the project would not otherwise be completed without the benefit of the ERG. Without the ERG, the ERG bonds could not be issued which would result in a shortfall of approximately $26.1 million in funds necessary to construct the new garage. With the benefit of the ERG, the Equity IRR is 5.39% which is significantly below the Hurdle Rate Model provided by EDA's contracted consultant Jones Lang LaSalle which indicates a maximum IRR of 14.79% for a parking project located in the City of Paterson.

Recommendation

Authority staff has reviewed the modification application for Parking Authority of the City of Paterson and found that it is consistent with eligibility requirements of the Act. It is recommended that the Members approve and authorize the Authority to issue a revised approval letter to the Applicant.

Issuance of the Mixed-Use Parking ERG tax credits is contingent upon the Applicant meeting the following conditions by November 30, 2024:

1. Financing commitments for all funding sources for the Project consistent with the information provided by the Applicant to the Authority for the Mixed-Use Parking ERG.
2. Evidence of site control and site plan approval for the Project.
3. Copies of all required State and federal government permits for the Project and copies of all local planning and zoning board approvals that are required for the Project.

Tax Credits shall be issued upon:

1. Completion of construction and issuance of a Certificate of Occupancy (no later than June 30, 2026; and
2. Submission of a detailed list of all eligible costs, which costs shall be certified by a CPA and satisfactory to the NJEDA.

It is recommended that the Members authorize the CEO of the EDA to execute any assignment agreements necessary to effectuate this transaction.

Total Estimated Eligible Project Costs: $40,264,376.

Eligible Actual Credits and Recommended Award: The recommendation is to award 100% of actual eligible parking costs and 40% of the total actual eligible project costs allocable to retail uses, not to exceed $40,007,369.

Tim Sullivan, CEO

Prepared by: Heather M. O'Connell

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Film and Digital Media Studio Infrastructure Program Grant Awards and Declination

Summary:

The Members are asked to approve:

1) Grant awards in the total amount of $9,500,000 to the following applicants for Film and Digital Media Studio Infrastructure Program projects:
    - Grant award of $4,700,000 to Borough of Carteret
    - Grant award of $1,433,000 to Jersey City Redevelopment Agency
    - Grant award of $2,161,400 to City of Jersey City
    - Grant award of $1,029,500 to Egg Harbor City
    - Grant award of $ 176,100 to Township of East Brunswick

2) Declination of award to the following applicant for Film and Digital Media Studio Infrastructure Program project:
    - Borough of Eatontown

Background:

On December 21, 2022, the NJEDA Board approved the Film and Digital Media Studio Infrastructure Program ("Program"). The Program was created as a pilot program to provide grant funding to municipalities, municipal entities, counties, county entities, and/or State instrumentalities for infrastructure improvements and sitework in support of the development of a film or digital media studio production facility. The Program was established to stimulate economic growth and enhance the State's long-term economic competitiveness by supporting and encouraging strategic economic development investments in the designated Film & Digital Media industry target sector.

The Program was capitalized with $10,000,000 in funds from the Fiscal Year 2023 Appropriations Act to be used to provide $9,500,000 of funding to eligible applicants for approved projects and $500,000 to be used by the Authority for program administrative costs. The use of the funds, and this Program, are being administered in accordance with the Economic Recovery Fund statute (N.J.S.A. 34:1B-7.13 subsection a.(5)) as financial assistance to assist municipalities, municipal entities, counties, county entities, and/or State instrumentalities for the Program and eligible uses indicated.

Eligible uses of Program funding are limited to infrastructure improvements and sitework in support of the development of a film or digital media studio production facility. Following Board approval of projects for funding, the Authority will enter into a grant agreement with each successful applicant detailing the project to be funded, eligible project costs, the amount of grant funding, the disbursement process, and all financial programmatic requirements. Funding disbursement requests must be evidenced by documentation supporting that the expenses were incurred, work has been performed in accordance with prevailing wage and labor standards compliance requirements, and work was done consistent with project approval and eligible uses of Program funding.

The grant agreement will include timelines for project initiation and completion. If an approved project has not been completed and the supported studio production facility has been terminated (for example, applicable redevelopment agreement is terminated, site plan approvals are denied or expire), the Applicant will no longer be eligible for any remaining unused grant funds.

Application Review Process

The program began accepting applications on May 18, 2023. The application deadline was originally set for August 16, 2023, but was extended until October 19, 2023. Applications were initially reviewed for completeness and threshold eligibility. As part of the initial eligibility review, the Authority requested clarifying information from some applicants.

Of the 8 applications that were received by the deadline, 1 application was deemed ineligible/declined as indicated below and 1 applicant withdrew their application. 6 applications were moved to the scoring committee for review. Following scoring, 1 other applicant withdrew their application.

A scoring committee of Authority staff composed of subject-matter experts in real estate development was established to review and evaluate all eligible applications against the following five criteria with a total of 100 points possible and award recommendations limited to applications that met or exceeded the minimum score requirement of 65 points.

- Applicant readiness to proceed *(up to 35 pts)*
- Project merits (community and regional economic impact and benefits of the proposed project as catalyst for and connection to local development) *(up to 35 pts)*
- Project Feasibility *(up to 15 pts)*
- Applicant (and contractor/consultant) experience & capacity *(up to 10 pts)*
- Small, Women, Minority, Veteran Owned Business Enterprise participation *(up to 5 pts)*

Scoring Committee Results

The scoring committee determined that the applications listed below met the minimum required score of 65. Following scoring completion, applications were initially separated into two application pools to determine funding for: (1) applications in support of a Film or Digital Media Studio production facility in excess of 250,000 square feet, and (2) applications in support of a Film or Digital Media Studio production facility less than 250,000 square feet.

The highest ranked application from each group was recommended for award approval as shown below. Then all remaining applications were merged into a single group and recommended for award approval starting with the highest scored application until all Program funding is awarded.

Project Descriptions and Funding Amounts:

Highest scored application in support of a Film or Digital Media Studio production facility in excess of 250,000 square feet:

1. The Borough of Carteret requested $4,700,000 to construct public access to a brownfields redevelopment site along with utility infrastructure to support the development of a 1.2 million square foot film studio called "Carteret Stages" which is anticipated to consist of numerous 20,000 square foot sound stages, post-production facilities, offices, etc. Waterfront Boulevard and Lighthouse Way will permit access through the site located at 300 Roosevelt Avenue to the parking lot and parking structure of where Carteret Stages will be constructed.
   Totaled average committee score of 92.33

Highest scored application in support of a Film or Digital Media Studio production facility less than 250,000 square feet:

2. The Jersey City Redevelopment Authority has requested $1,433,000 to undertake a number of public infrastructure improvements in the Liberty Harbor Redevelopment Area of Jersey City that will be in support of a proposed new approximately 124,000 square foot film studio which will have three sound stages for Criterion Group/Cinelease Studios. The infrastructure work that JCRA will undertake includes reducing curb cuts into the property site along Burma Road and Morris Pesin Drive; constructing a minimum of 5' unobstructed public right of way sidewalks, including ADA compliant pedestrian safety islands, striping, and other pedestrian safety improvements; additional crosswalks and traffic control signage to better regulate both vehicle and pedestrian traffic; installation of security and public access lighting to enhance overall safety surrounding the Property; public accessible bicycle parking racks; and other streetscape improvements.
   Totaled average committee score of 93.00

All remaining eligible applications from highest to lowest score:

3. The City of Jersey City requested $4,750,000 to undertake infrastructure improvements to support a planned renovation at 50 Dey Street for the creation of approximately 280,000 square feet of studio production facilities by Mana Art Center LLC/215 Cole St. ML LLC. After the Authority requested clarifying information, Jersey City provided project work and budget details that totaled $2,161,400 of eligible infrastructure improvements and sitework. The work to be undertaken will consist of electrical power utility capacity improvements, upgrading storm drainage system on Dey St. and road improvement access on St. Pauls Ave.
   Totaled average committee score of 79.67

4. Egg Harbor City requested $1,779,000 to undertake infrastructure improvements and sitework on and adjacent to an 80-acre city owned, brownfields site located at 1000 Hamburg Road that will be developed by Atlantic Picture Motion Studios, LLC into approximately 185,000 square feet of new motion picture/media sound stages and entertainment production support space. After the Authority requested clarifying

information, it was determined that a portion of the proposed work for landfill remediation would not be eligible for funding due to the ownership of the work/property. The remaining planned infrastructure work to be undertaken by the City includes road widening, curb cuts, sidewalks, street lighting, and street drainage improvements. The amount of Program grant funding for Egg Harbor City is $1,029,500. *Totaled average committee score of 76.67*

5. The Township of East Brunswick requested $405,000 to run a sewer line/service and to also improve the existing networking infrastructure to and for the approximately 75,000 square foot Community Arts Center building located at 721 Cranbury Road. The Township is in the process of making building upgrades to include a Black Box Theater/Film Studio and the relocation of East Brunswick Television (EBTV) Production Studio to the Community Arts Center. The Black Box Theater and EBTV Studio are intended to support the Film and Digital Media Industry so that the theater/studio can be used for film creation, film screenings and studio/film editing and production in general. As the last applicant eligible for funding, the amount of Program grant funds available is $176,100 and the Township of East Brunswick has agreed to undertake the proposed project and provide the balance of funds as needed.
   Totaled average committee score of 73.67

Declination:

The following application for Film and Digital Media Studio Infrastructure Program projects is not recommended for an award as they were deemed ineligible based on the below:

- The Borough of Eatontown requested $893,055 to undertake paving of two municipal owned downtown parking lots and sidewalk repair/improvements located approximately .2 miles from the gate entrance to the edge of the proposed Netflix studio property at Route 35 and Avenue of Memories. Neither the application nor the letter of support demonstrated how the work and improvements would be undertaken in support of the studio production facility.

Recommendations:

The Members are asked to approve:

1. Grant awards in the total amount of $9,500,000 to the following applicants for Film and Digital Media Studio Infrastructure Program projects:
   - Grant award of $4,700,000 to Borough of Carteret
   - Grant award of $1,433,000 to Jersey City Redevelopment Agency
   - Grant award of $2,161,400 to City of Jersey City
   - Grant award of $1,029,500 to Egg Harbor City
   - Grant award of $ 176,100 to Township of East Brunswick

2. Declination of award to the following applicant for Film and Digital Media Studio Infrastructure Program project:
    - Borough of Eatontown

____
Tim Sullivan, CEO

MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Proposed Rule Amendments: Professional Services Contracts
(N.J.A.C. 19:30-8.1 through 8.3)

Request
The Members are asked to: (1) approve the attached proposed amendments to EDA's Professional Services Contracts rules at N.J.A.C. 19:30-8.1 through 8.3 to permit professional service firms, as defined by N.J.A.C. 19:30-8.2, to submit to the Authority a current Professional Services Qualification Statement ("PSQS"), and supporting documentation, which is approved by another New Jersey State agency, authority, or bi/multi-state entity; and (2) authorize staff to (a) submit the proposed rule amendments to the Office of Administrative Law for publication in the New Jersey Register, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law; and (b) submit the proposed rules to the Office of Administrative Law as final adopted rules for publication in the New Jersey Register if no substantive formal comments are received, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law.

Background
1. *Existing Regulations*

In June 2001, the Members approved amendments to the Authority's policies and procedures for the procurement of professional services contracts to comply with N.J.S.A. 52:34-9.1. The statute requires that contracts for certain technical, professional services be awarded based upon qualifications at fair and reasonable compensation. Authority staff developed and implemented an Authority specific PSQS to be completed and submitted by firms responding to procurements for professional services contracts in accordance with N.J.A.C. 19:30-8.1.

The PSQS sets forth the criteria for EDA to take into consideration to determine the most highly qualified firm. The criteria includes, but may not be limited to, the following:

- the experience and qualifications of the firm and designated project team in providing similar services;
- the experience of the firm and designated project team on projects of similar size and complexity the experience of the firm and designated project team on projects of similar size and complexity;
- the experience and capability of the firm and designated project team with respect to any special technologies, techniques, or expertise the project may require;

- the past performance of the firm;
- any other criteria specified in the Authority's public advertisement of the project.

Although EDA's current PSQS form is similar to the form used by other state agencies and authorities, the Authority's current NJEDA regulation does not permit the acceptance of approved PSQS forms from State agencies, authorities, or interstate entities A professional service firm responding to a procurement solicitation is currently required to complete the EDA PSQS form which contains the same information, in similar format, required by other State agencies or authorities.

2. *Proposed Rule Amendments*

The proposed rule amendments will permit the Authority to accept a professional service firm responding to an Authority procurement to submit an approved PSQS form from another New Jersey State agency, authority, or bi/multi-state entity. This amendment will alleviate the redundancy firms encounter when submitting a response to an Authority procurement for services that require a PSQS and create a more business friendly procurement process. N.J.A.C. 19:30-8.3(d)2.

Compliance with Executive Order 63

In accordance with the Executive Order 63 , the Authority posted the rule proposal to http://www.njeda.com/economicrecoveryactx its website where members of the public were able to submit written feedback.

Recommendation

The Members are asked to: (1) approve the attached proposed amendments to EDA's Professional Services Contracts rules at N.J.A.C. 19:30-8.1 through 8.3 to permit professional service firms, as defined by N.J.A.C. 19:30-8.2, to submit to the Authority a current Professional Services Qualification Statement ("PSQS"), and supporting documentation, which is approved by another New Jersey State agency, authority, or bi/multi-state entity; and (2) authorize staff to (a) submit the proposed rule amendments to the Office of Administrative Law for publication in the New Jersey Register, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law; and (b) submit the proposed rules to the Office of Administrative Law as final adopted rules for publication in the New Jersey Register if no substantive formal comments are received, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law.

Tim Sullivan, CEO

Prepared by**:** Cathleen Hamilton

Attachments: Proposed Rule Amendments: Professional Services Contracts (N.J.A.C. 19:30-8.1 through 8.3)

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Administrative Rules; Professional Services Contracts

Proposed Amendments: N.J.A.C. 19:30-8.1 through 8.3

Authorized By: New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Authority: N.J.S.A. 34:1B-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024- .

Submit written comments by__________, 2024:

Alyson R. Jones, Esq., Director of Legislative & Regulatory Affairs
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
alyson.jones@njeda.gov

The agency proposal follows:

Summary

The New Jersey Economic Development Authority ("EDA" or "Authority") is proposing amendments its Professional Services Contracts rules at N.J.A.C. 19:30-8.1 through 8.3 to allow firms interested in being qualified to provide professional architectural, professional engineering and related design services, or professional land surveying services exceeding the threshold prescribed in N.J.S.A. 52:34-7 to provide the Authority a current statement of qualifications and supporting data approved by another State agency.

N.J.A.C. 19:30-8.1 (Applicability) is amended to provide that this rule applies to contracts for professional architectural, professional engineering and related design services, and professional land surveying services exceeding the threshold prescribed in N.J.S.A. 52:34-7. This rule amendment also clarifies that the Authority is permitted to use alternative procurement processes when the Governor has declared a state of emergency.

N.J.A.C. 19:30-8.2 (Definitions) is amended to add “related design services” to the definition of “professional architectural, engineering, and land surveying services.” Moreover, this rule amendment adds a definition of “Agency” or “State Agency.”

N.J.A.C. 19:30-8.3 (Criteria for the selection of the most highly qualified professional firms) is amended to adda new section (d), which provides that professional firms interested providing professional architectural, professional engineering and related design services, or professional land surveying services to the Authority shall provide either (1) a current statement of qualifications and supporting data; or (2) a copy of prequalification documents submitted to and approved by a State Agency. Moreover, this rule additionally provides that any documentation provided under this section expires two years from the date of receipt by the Authority.

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Authority’s enabling statute authorizes it to “enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable.” N.J.S.A. 34:1B-5(e). The Authority is further empowered to “employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required.” N.J.S.A. 34:1B-5(s). The Authority anticipates that the proposed professional services contracts rule amendments will have a positive social impact by allowing the Authority to appropriately, responsibly, and transparently award contracts to providers of professional services, particularly architects, professional engineers and related design service providers, and professional land surveyors.

Economic Impact

The Authority anticipates that the proposed amendments to the professional services contracts rules will help strengthen the State’s economy by streamlining the Authority’s process in the awarding of professional services contracts. This supports the Authority’s mission to implement programs and initiatives that improve quality of life, enhance economic vitality, and strengthen New Jersey’s long-term economic competitiveness.

Federal Standards Statement

A Federal standards analysis is not required because the proposed professional services contracts rule amendments are not subject to any Federal laws, requirements, or standards.

Jobs Impact

The proposed professional services contracts rule amendments are not expected to have a direct impact on the creation or loss of jobs. Accordingly, no further analysis is required.

Agriculture Industry Impact

The proposed professional services contracts rule amendments will not have any impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Analysis

The proposed amendments are not expected to impose any reporting, recordkeeping, or compliance requirements on small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16, et seq.

Housing Affordability Impact Analysis

The proposed amendments are not likely to have a direct effect on the average costs associated with housing, nor will it affect the affordability of housing in the State, as the rules apply to professional service contracts with the Authority.

Smart Growth Development Impact Analysis

The proposed professional service contract requirement amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments and new rule would evoke a change in housing production in Planning Areas 1 or 2, or in designated centers, under the State Development and Redevelopment Plan, as the rules apply to professional service contracts with the Authority.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed professional service contracts requirement amendments will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 8. PROFESSIONAL SERVICES CONTRACTS

19:30-8.1. Applicability

The provisions of this subchapter shall apply only to contracts for **professional** architectural**, professional** engineering **and related design services**, and **professional** land surveying services that involve development and construction of projects which are in excess of **[**$25,000**] the amount prescribed pursuant to N.J.S.A. 52:34-7** and subject to the procurement provisions of N.J.S.A. 52:34-9.1 et seq. Nothing in this subchapter shall preclude the Authority from using procurement processes other than those prescribed herein if those processes have been approved by the Federal government or other State statute**,** or if an emergency has been declared by the [Chief Executive Officer of the New Jersey Economic Development Authority] **Governor**.

19:30-8.2 Definitions

"Agency" or "State agency" means those entities as defined in N.J.S.A. 52:34-9.2 and shall also include any Bi- or Multi-State entity to which New Jersey is a party, and which is

authorized by law to contract for professional architectural, engineering or land surveying services.

"Compensation" means the basis of payment by an agency for professional architectural, **professional** engineering **and related design services,** or **professional** land surveying services.

"Professional architectural, **professional** engineering **and related design services,** [and] **or professional** land surveying services" means those services, including planning, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering or professional land surveying as defined by the laws of this State or those performed by an architect, professional engineer **and related design services,** or professional land surveyor in connection with [his, or her] **their** other professional employment practice.

"Professional firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to provide professional architectural, **professional** engineering **and related design services**, or **professional** land surveying services in this State.

19:30-8.3 Criteria for the selection of the most highly qualified professional firms

(a) Prior to the solicitation of proposals or expressions of interest pertaining to the procurement of professional architectural, **professional** engineering **and related design services,** or **professional** land surveying services for the development and construction of projects, the Authority shall publicly advertise its needs for such services**, when in excess of the amount prescribed pursuant to N.J.S.A. 52:34-7 and subject to the procurement provisions of N.J.S.A. 52:34-9.1 et seq**. The advertisement shall conform to the requirements of N.J.S.A. 52:34-12(a) and (b), or be publicly advertised through electronic means. The advertisement shall either include a statement of the criteria by which the Authority shall evaluate the technical qualifications of professional firms and determine the order of preference to be used in designating the firms most highly qualified to perform the services or identify such criteria by reference to the provisions of this chapter.

(b) In selecting the most highly qualified professional firms with which to contract for **professional** architectural, **professional** engineering **and related design services,** or **professional** land surveying services, the Authority, where applicable, shall consider the following criteria:

1. The experience and qualifications of the firm and designated project team in providing similar services;

2. The experience of the firm and designated project team on projects of similar size and complexity;

3. The experience and capability of the firm and designated project team with respect to any special technologies, techniques, or expertise the project may require;

4. The past performance of the firm; and

5. Any other criteria specified in the Authority's public advertisement of the project.

(c) In selecting and ranking the most highly qualified professional firms, the Authority shall establish weights for the criteria applicable to each project. The Authority may disqualify any firm determined to be unacceptably deficient in one or more of the applicable criteria, regardless of the firm's ranking or score on the remainder of the criteria.

(d) All professional firms interested in being considered qualified to provide professional architectural, professional engineering and related design services, or professional land surveying services shall:

1. file or shall have filed with the Authority a current statement of qualifications and supporting data; or

2. provide a copy of the prequalification documents submitted to and approved by a State agency.

3. For the purposes of this subsection, documentation submitted to the Authority shall expire two years from the date it was received by the Authority.

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: April 10, 2024

SUBJECT: Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/ Licenses January and February 2024- ***For Informational Purposes Only***

The following approvals were made pursuant to Delegated Authority for Leases and ROE/ Licenses January and February 2024

LEASES

TENANT	LOCATION	TYPE	TERM	S.F.
Sonder Research X	Bioscience Center Incubator	Amendment	5 months	5445sfsf
Innovative Molecules	Bioscience Center Incubator	Amendment	1 year 14 days	931sf
Zena Therapeutics	Bioscience Center Incubator	NJ Ignite Subsidy Letter		931sf
Linus Biotechnology	Bioscience Center Incubator	Amendment/Extension	15.5 months	4,033sf
Delve Therapeautics	Bioscience Center Incubator	Extension	1 year	900sf

LEASES
PROCUREMENT

The following approvals were made pursuant to Delegated Authority for Procurement. Including the issuance of Task Orders, in March 2024:

DATE EXECUTED	ENTITY	PROJECT	TYPE	TERM	CONSIDERATION
2/1/2024	Jones Lang LaSalle	Economic Impact & Feasibility Study for NJT	Procurement (Including Task Orders)		$196,150

RIGHT OF ENTRY/LICENSE AGREEMENTS

The following approvals were made pursuant to Delegated Authority for Rights-of Entry/License Agreements, in March, 2024:

DATE EXECUTED	**ENTITY**	**PROJECT**	**TYPE**	**TERM**	**CONSIDERATION**
2/27/2024	New Jersey Transit	Property Assemblage – Linden	Right of Entry or Site License Agreement	1 year	
2/27/2024	New Jersey Transit	Property Assemblage – Trenton	Right of Entry or Site License Agreement	1 year	

Tim Sullivan, CEO

Prepared by: Cyndi Costello