



MEMORANDUM

TO: Members of the Authority
FROM: Timothy Sullivan
Chief Executive Officer
DATE: December 19, 2024
SUBJECT: Agenda for Board Meeting of the Authority December 19, 2024

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

CEO's Report to the Board

Economic Security

Real Estate

Economic Transformation

Venture

Incentives

Authority Matters

Board Memoranda

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 18, 2024

Stockton University, Atlantic City, NJ

MINUTES OF THE MEETING

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

Members of the Authority present in person: Chairman Terry O’Toole, Aaron Creuz, Executive Representative; Elizabeth Muoio, State Treasurer; Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Public Members Virginia Bauer, 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: Manuel Paulino representing Acting Commissioner Justin Zimmerman of the Department of Banking and Insurance; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; Public Members Charles Sarlo, Vice Chair; Philip Alagia, Fred Dumont, and Aisha Glover.

Members of the Authority absent: Marcia Marley, Public Member.

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.

MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the October 9, 2024 meeting minutes. A motion was made to approve the minutes by Mr. Dumont, seconded by Ms. Bauer, and approved by the fourteen (14) voting members present.

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.

FOR INFORMATION ONLY: Brian Jackson, Vice President for Community Engagement at Stockton University, addressed the Board at this time.

PUBLIC COMMENT

The next item of business was the public comment portion. Chairman O' Toole asked Ms. Esser to share the NJEDA's public comment policy and process for the Board Meeting.

FOR INFORMATION ONLY: The next item was a summary of the Policy Committee meeting from November 4, 2024.

COMMUNITY DEVELOPMENT

ITEM: Small Business Liquor License Grant (SBLLG)

REQUEST: To approve: (1) The creation of the Small Business License Grant product, a pilot product under the Main Street Recovery Fund that will offer a grant of 50% up to \$100,000 to reimburse eligible NJ small businesses that purchased a NJ inactive plenary retail consumption liquor license; (2) Utilization of funding from the Main Street Recovery Fund; and (3) Delegation of authority to the CEO to approve eligible applications for the Small Business Liquor License Grant.

**MOTION TO APPROVE: Ms. Bauer SECOND: Ms. Antoine – Johnson AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

FOR INFORMATION ONLY: The next item was a summary of the Real Estate Committee meetings from October 31, 2024.

REAL ESTATE

ITEM: Local Property Acquisition Grant Program Application Funding Awards

REQUEST: To approve grant awards for the Local Property Acquisition Grant Program.

**MOTION TO APPROVE: Comm. Angelo SECOND: Ms. Bauer AYES: 11
RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

Mr. Sarlo recused because Greater Bergen Community Action, Inc. is a client.

Ms. Ferrara recused given her involvement as an employee for the City of Trenton.

Mr. Antoine – Johnson recused because she is on the Board of the Camden Repertory Theater Community Development Group.

FOR INFORMATION ONLY: The next item was a summary of the Incentives Committee meetings from October 30, 2024.

INCENTIVES

ASPIRE

ITEM: Product #314785 West Deptford Apartments LLC (“Applicant”) and Soldier On Veterans Village IX, LLC. (“Co-Applicant”)

REQUEST: To approve the issuance of tax credits from the Aspire program for a residential project located in West Deptford, Gloucester County, New Jersey up to 60% of the total project cost.

MOTION TO APPROVE: Mr. Dumont SECOND: Mr. Shimko AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

ITEM: Product #308525 Hoffman Housing Urban Renewal Associates LLC

REQUEST: To approve the issuance of tax credits from the Aspire program for a residential project located in New Brunswick, Middlesex County, up to 60% of the total project cost.

MOTION TO APPROVE: Ms. Bauer SECOND: Comm. Angelo AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

Phil Alagia left the meeting at this time.

FOR INFORMATION ONLY: Mayor of Atlantic City, the Honorable Marty Small, addressed the Board at this time.

FILM & DIGITAL MEDIA TAX CREDIT PROGRAM

ITEM: Delegations of Authority – Film and Digital Media Tax Credit Program – Reallocation of Legacy Film Allocation to Digital Media

REQUEST: To approve delegation of authority to the CEO to reallocate funds from the available film tax credit allocation to the digital media tax credit allocation category as needed.

MOTION TO APPROVE: Ms. Ferrara SECOND: Ms. Bauer AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

FILM TAX CREDIT PROGRAM

ITEM: Genus AE LLC PROD-00314773
MAX AMOUNT OF TAX CREDITS: \$10,896,173
DIGITAL MEDIA TAX CREDIT PROGRAM

MOTION TO APPROVE: Ms. Bauer SECOND: Mr. Shimko AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

ITEM: CNBC LLC PROD-00302663
MAX AMOUNT OF TAX CREDITS: \$12,329,545

MOTION TO APPROVE: Comm. Angelo SECOND: Ms. Bauer AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

DELEGATION - ERA

ITEM: New Delegated Authority for Administrative Changes to E.R.A. Tax Credit Products

REQUEST: To approve delegated authority to the CEO to approve administrative changes to approved Economic Recovery Act tax credit products (Emerge, Aspire, Film and Digital Media, Historic Property Reinvestment, Brownfield Redevelopment, Food Desert Relief Supermarket and NJ Innovation Evergreen Fund).

MOTION TO APPROVE: Ms. Bauer SECOND: Treasurer Muoio AYES: 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

ECONOMIC TRANSFORMATION

Mr. Creuz left the meeting at this time.

ITEM: HAX LLC Agreement Amendment

REQUEST: To approve two amendments to the HAX LLC agreement executed, November 3, 2021, to: (1) Update the time period for distributions from the “Initial Operations Period” to equate to the current “Total Program Operations Period” and maintain the subsequent 2.5 year Reporting Period, which adds 2.5 more years to the current SIC agreement timeline; (2) Update the definition of a “Participant Company” to apply to both “new” and “alumni” companies in receipt of SOSV investment after January 1, 2018, to relocate to New Jersey.

MOTION TO APPROVE: Ms. Bauer SECOND: Ms. Antoine – Johnson AYES: 12

RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

Mr. Creuz returned to the meeting at this time.

AUTHORITY MATTERS

ITEM: ART Program Phase 1 – Adjustment of Awards for Newark Real Estate

REQUEST: To approve: (1) Supplemental grant award funding to allow for an additional award to an applicant under the Activation Revitalization Transformation (ART) Program – Newark Real Estate; (2) Delegation of Authority to the CEO to utilize funding from the FY23 Appropriations Act, if additional funding is needed to support this award; and (3) Other administrative authority and approvals to support this award.

MOTION TO APPROVE: Ms. Antoine – Johnson SECOND: Ms. Bauer AYES: 12

RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

Ms. Glover recused because Audible has provided a grant to EqualSpace LLC.

ITEM: ART Program Phase 1 - Hearing Officer’s Recommendation - Weequahic Park Association

REQUEST: To adopt the Hearing Officer’s recommendation to uphold the Board’s declination of Weequahic Park Association’s application to the Activation, Revitalization, and Transformation Program and deny the Applicant’s appeal.

MOTION TO APPROVE: Comm. Angelo SECOND: Ms. Bauer AYES: 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

ITEM: Asset Activation Planning Grant - Hearing Officer's Recommendation on Appeal - Land Dimensions Corp.

THIS ITEM HAS BEEN WITHDRAWN FROM CONSIDERATION

ITEM: Doehler USA, Inc – Early Lease Termination, NJ Bioscience Center

REQUEST: To approve the four (4) month early lease termination of the Doehler lease.

MOTION TO APPROVE: Ms. Bauer **SECOND:** Treasurer Muoio **AYES:** 13

RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

BOARD MEMORANDA FYI ONLY

- Post-Closing Delegated Authority - Bond Modification Approvals, Q3 2024
- Post-Closing Delegated Authority – Incentives, Q3, 2024
- Community Development Products - Delegated Authority Approvals, Q3 2024
- Credit Underwriting Projects Approved Under Delegated Authority, October 2024
- Economic Transformation Products - Delegated Authority Approvals, Declinations, & Other Actions, Q3 2024
- HDSRF Delegated Authority Approvals, Q3 2024
- PUST Delegated Authority Approvals, Q3 2024
- Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/ Licenses, Q3 2024

There being no further business, on a motion by Ms. Bauer, and seconded by State Treasurer Muoio, the meeting was adjourned at 1:33pm.

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, Director
Governance & Strategic Initiatives
Assistant Secretary

MEMORANDUM

To: Members of the Authority
From: Tim Sullivan
Date: December 19, 2024
Re: December 2024 Board Meeting – CEO Report

This year, the [New Jersey Economic Development Authority](#) (NJEDA) celebrated its 50th anniversary. For 50 years, the NJEDA has been at the forefront of supporting businesses and creating jobs. Under Governor Murphy’s leadership, the Authority has grown tremendously. The NJEDA has invested in new industries and launched more than 80 new programs since Governor Murphy took office. The transformation of the NJEDA over the last 50 years is helping spur the transformation of our economy for the next generation.

This past year alone, the NJEDA has continued to advance Governor Murphy’s mission to create a stronger and fairer New Jersey economy by making investments in communities, small businesses, and strategic sectors that will create new, good-paying jobs. From new programs to long-standing ones, the NJEDA continued to pave the way for inclusive, equitable, and long-term economic growth.

In 2024, we strengthened New Jersey’s innovation economy by supporting new Strategic Innovation Centers, like HAX and NJ FAST. And as artificial intelligence (AI) rapidly develops, the NJEDA is clinching this moment to become a leader in the industry. Through the Princeton AI Hub and our planned Next New Jersey program, the Authority is ensuring that new AI technologies will be developed right here in the Garden State. And our Innovation Fellows Program and Evergreen Fund continued to support young companies and entrepreneurs.

Since it launched in 2021, the Main Street Recovery Program has assisted over 4,000 small businesses. Our Main Street Programs are supporting small businesses across the state, many of them minority- and woman-owned. The suite of program, from the Small Business Improvement Grant to the E-Commerce Support Program and the newly-approved Liquor License Grant Program, is unlocking much-needed funding and resources to help ensure owners can keep their doors open, expand operations, and keep employees on the payroll.

We’ve been dedicated to investing in our economic security programs to ensure families and communities have the resources to live safe and healthy lives. The NJEDA, along with First Lady Tammy Murphy and the Maternal and Infant Health Innovation Authority, is making strides in the development of the Innovation Center, which will expanding access to quality maternal health care services for the Trenton community. We’re also ensuring children have access to safe child care services through our Child Care Facilities Improvement Grant Program. Since it launched, the NJEDA has awarded funding to 457 child care centers, totaling more than \$87 million. The NJEDA is also expanding access to healthy foods through innovative programs like the Atlantic City Food Security Grant Program and the Food Desert Relief Tax Credit Auction.

The NJEDA continued to invest in strategic sectors like film, clean energy, and manufacturing. New Jersey is continuing to attract film and television productions through our Film and Digital Media Tax Credit Program and our Aspire Program is supporting large studio projects. On the clean energy front, we launched the New Jersey Green Bank and approved the C-PACE Program. Under the Clean Energy Loans program, we closed on two loans totaling \$10.5 million. These programs and initiatives will help us reach Governor Murphy's goal of transitioning to 100 percent clean energy. Due to the overwhelming response of the Manufacturing Voucher Program, we launched Phase II earlier this year, which was oversubscribed within hours. To date, NJ MVP Phase II has made 157 awards to New Jersey manufacturers, totaling over \$22M in support.

We also supported community revitalization this year through programs like the Activation, Revitalization, and Transformation (A.R.T.) Program, which awarded over \$25 million to projects in Atlantic City and Newark. The Emerging Developers Grant Program, which supports small-scale real estate development projects, has awarded over \$3 million. The Aspire Program has awarded over \$1 billion in funding to 11 real estate development projects this year alone. To date, the program has provided more than \$2 billion in total awards, supporting high-impact real estate development that drives economic growth and revitalization in New Jersey.

I am excited to go into the new year with Mary Maples as our Deputy Chief Executive Officer. Since joining us last year, she has had a significant impact on our organization and helped advance a number of important programs and initiatives. Her partnership in this new role will ensure the Authority is well-positioned to execute our long-term and short-term goals and fulfill Governor Murphy's economic agenda.

2024 was a truly incredible year for the NJEDA. I appreciate the entire Board and staff for their continued commitment to supporting New Jersey families. As we launch new programs, approve new products, and award more grants, we're working to fulfill Governor Murphy's vision for a stronger, fairer New Jersey for future generations.

Happy Holidays!



Tim Sullivan, CEO



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: Food Equity and Economic Development in New Jersey (FEED NJ) Pilot Program

Summary

The Members are asked to approve:

1. Creation of the Food Equity and Economic Development in New Jersey (FEED NJ) Pilot Program which will make grants available for projects to strengthen food access and food security focused on New Jersey's most acute Food Desert Communities (FDCs)
2. Utilization of up to \$30 million in proceeds from the NJEDA Food Desert Relief Tax Credit Auction to initially fund the Program
3. Delegation to the Chief Executive Officer to accept up to \$5,000,000 in additional funds to be deposited into the Economic Recovery Fund for the Program including but not limited to unused or unspent funds from previously approved NJEDA food security programs and/or additional proceeds from the 2024 Food Desert Relief Tax Credit Auction
4. Charging no fees in the FEED NJ Pilot Program, due to the nature of the program and the mission of the prospective applicant pool

Background

In January 2021, Governor Phil Murphy signed the Food Desert Relief Act (FDRA), which allocated to NJEDA a total of \$240 million in tax credits over six years and directed NJEDA to collaborate with the New Jersey Departments of Community Affairs and Agriculture to designate up to 50 Food Desert Communities (FDCs) across the state.

Alongside these other Departments, NJEDA undertook rigorous, data-driven analysis and community engagement to shape a definition of FDCs that is broader and more comprehensive than the definition used by the United States Department of Agriculture, taking into account more than 24 variables related to the food retail environment, demographics, economic factors, health factors, and community factors. The process resulted in the designation of 50 areas of the state as FDCs, a list approved by the Board in February 2022.

These communities are home to more than 1.5 million residents and are in every county in New Jersey.¹ The underlying data analysis allowed the FDCs to be ranked by a Composite Food Desert Factor Score, indicating the acuity or severity of their food desert status.²

¹ <https://njdca.maps.arcgis.com/apps/webappviewer/index.html?id=cd59d206f39c40a691d6ba38598134fb>

² https://www.njeda.gov/wp-content/uploads/2022/02/Community-Development-Memo_Food-Desert-Communities-Designation_February-2022.pdf

Just as there is no one cause for a community's food insecurity, there is no one solution either. To address these multifaceted challenges, NJEDA offers a range of programs taking different approaches to expanding food access. This includes the following:

- Food Security Planning Grant Program, which awarded grants to municipal and county governments to leverage distressed assets in FDCs and propose a plan focusing on improved food access
- Atlantic City Food Security Grants Pilot Program, which awarded grants to improve food access in Atlantic City, New Jersey's second most acute FDC, and is detailed further below
- Food Desert Relief Supermarket Tax Credit Program, which offers a Financing Gap Tax Credit for the development of new or rehabilitated supermarkets in FDCs, and an Initial Operating Costs Tax Credit to support the first three years of operations for these supermarkets
- Food Retail Innovation in Delivery Grant (FRIDG), which awards grants to food retailers to purchase self-contained, temperature-controlled lockers for grocery delivery to FDCs

NJEDA recognizes a need to meet the unique context and circumstances of FDCs across the state. To that end, staff proposes creating the Food Equity and Economic Development in NJ (FEED NJ) Pilot Program focused on the state's most acute FDCs. The FEED NJ Pilot Program aims to catalyze innovative, sustainable, and scalable food security and food access initiatives with high potential to maximize community-level impact.

Food Desert Relief Tax Credit Auctions

The FDRA allows the NJEDA to sell a portion of the \$240 million in tax credits allocated by the FDRA (\$40 million annually) through tax credit auctions. Eligible bidders can purchase available credits for a minimum of 85 percent of face value to offset New Jersey Corporation Business Tax or Insurance Premiums Tax liabilities. The CEO established the amount of tax credits to be auctioned in 2023 and 2024, up to the amount approved by the Board, based on an assessment of economic and market conditions.

In April 2023, the Board approved the sale of up to \$50 million in available tax credits in calendar year 2023. In accordance with the delegated authority in the Board approval, the CEO determined to offer \$15 million of tax credits for auction. Four eligible bids were approved in December 2023 for a total of \$15 million in tax credits approved and \$13.075 million in proceeds.

In February 2024, the Board approved the sale of up to \$35 million in available tax credits in calendar year 2024. In accordance with the delegated authority in the Board approval, the CEO determined to offer \$20 million of tax credits for auction. Six eligible bids were received and are expected to be approved before the end of 2024, bringing in an anticipated minimum of \$17 million in proceeds.

In accordance with the FDRA, proceeds from the auction must be used to fund programs to alleviate food deserts and support food security initiatives in FDCs.

Atlantic City Food Security Grants Pilot Program

In October 2023, the Board approved the creation of the Atlantic City Food Security Grants Pilot Program, a \$5,250,000 program to make grants of \$50,000 to \$500,000 available for projects that strengthen food access and food security in Atlantic City, the state's second highest ranked FDC.

This program was funded by \$4 million of American Rescue Plan (ARP) Coronavirus State Fiscal Recovery Funds (SFRF) appropriated for Atlantic City Initiatives and \$1.25 million from a FY22 appropriation of State funds for Food and Agriculture Innovation.

Applications for the Atlantic City Food Security Grants Pilot Program opened on April 2, 2024, and were accepted until May 14, 2024. Twenty applications were submitted during this time. The \$5.25 million of program funding was sufficient to approve and fully fund the 11 highest-scoring applications, totaling \$5.12 million in grant awards. A wide range of projects were approved,

including the construction of a new food pantry and co-op market, the creation of a Farm Share Community Supported Agriculture (CSA) program with online ordering, and the expansion of free meal delivery services for seniors.³ Initial grant disbursements will soon be underway, and projects will be completed by September 30, 2026.

FEED NJ Pilot Program

In light of the successful Atlantic City Food Security Grants Pilot Program, staff now proposes the establishment of the FEED NJ Pilot Program, focused on 14 of the state’s top 15 most acute FDCs. The number two-ranked Atlantic City/Ventnor FDC is excluded from the FEED NJ Pilot Program since it was the sole focus of the Atlantic City Food Security Grants Pilot Program.

New Jersey’s top 15 FDCs, ranked in order, are shown in white, below (with #2 Atlantic City/Ventnor FDC and the #16–50 FDCs in gray):

Table 1: New Jersey Food Desert Communities⁴

Rank	Food Desert Name	County	Composite Food Desert Factor Score	Food Desert Population
1	North, Central and South Camden/Woodlynne*	Camden	86.2	44,702
2	<i>Atlantic City*/Ventnor</i>	<i>Atlantic</i>	<i>78.8</i>	<i>41,382</i>
3	Newark South	Essex	74.2	42,713
4	Newark West	Essex	72.7	49,065
5	Camden East/Pennsauken	Camden	72.1	49,689
6	Trenton West	Mercer	71.8	27,151
7	Newark North and Central	Essex	70.6	50,855
8	Newark East	Essex	69.7	40,427
9	Salem City*	Salem	69.6	5,296
10	Passaic City	Passaic	68.4	39,336
11	Trenton East	Mercer	68.1	57,113
12	Bridgeton/Fairfield Twp/Lawrence Twp*	Cumberland	65.3	29,167
13	Paterson South	Passaic	64.5	35,825
14	New Brunswick City	Middlesex	64.1	49,408
15	Paterson North	Passaic	63.9	46,602
16	Irvington Township	Essex	61.2	31,393
17	Asbury Park City	Monmouth	60.8	14,547
18	Jersey City South	Hudson	60.5	68,636
19	East Orange City	Essex	59.9	65,254
20	Penns Grove*/Carneys Point*	Salem	59.9	13,474
21	Elizabeth City	Union	58.5	69,264

³ A full list of grantees is available on pages 166 and 167 of the September 2024 full Board agenda: <https://www.njeda.gov/september-11-2024-eda-board-book/>

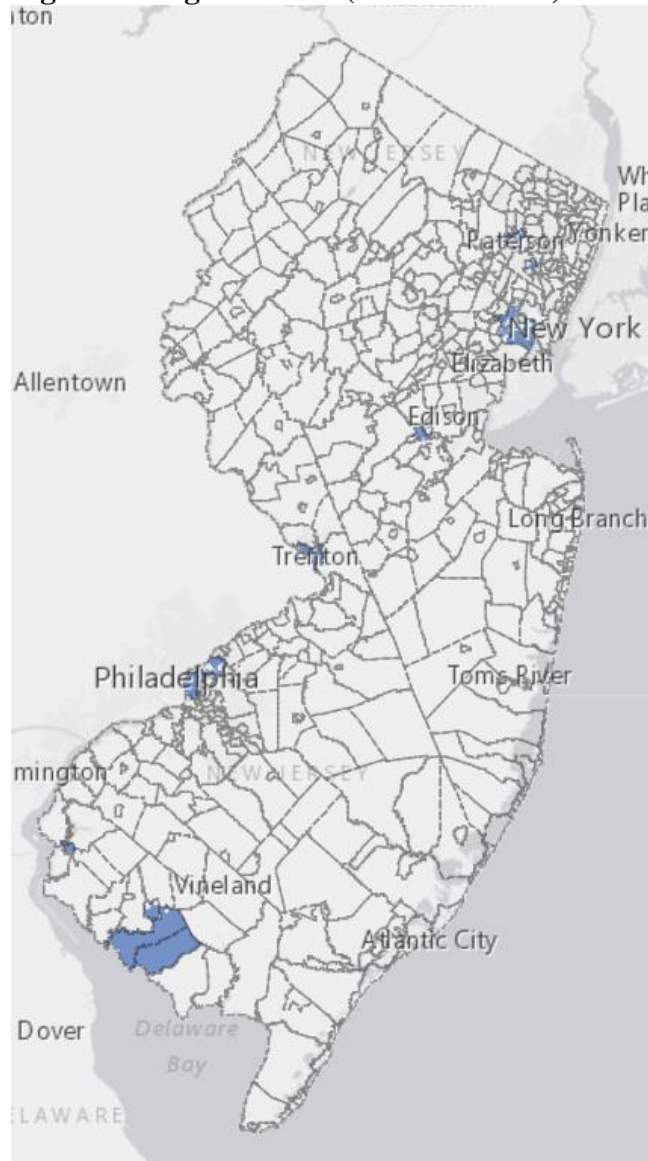
⁴ https://www.njeda.gov/wp-content/uploads/2022/02/Community-Development-Memo_Food-Desert-Communities-Designation_February-2022.pdf

22	Orange/West Orange/Montclair	Essex	57.8	50,522
23	Jersey City Central	Hudson	57.6	58,929
24	Perth Amboy City	Middlesex	57.0	30,997
25	Lindenwold/Clementon*	Camden	56.8	19,469
26	Plainfield City	Union	56.4	37,829
27	Pleasantville/Absecon	Atlantic	56.0	9,874
28	Red Bank Borough	Monmouth	55.6	1,508
29	Lakewood North	Ocean	52.1	49,364
30	Jersey City North	Hudson	51.5	62,363
31	Woodbine Borough*	Cape May	51.2	2,128
32	Long Branch City	Monmouth	51.2	27,013
33	Millville/Commercial Twp*	Cumberland	49.9	25,634
34	Prospect Park/Haledon/Hawthorne	Passaic	49.4	11,846
35	Keansburg Borough*	Monmouth	49.1	9,755
36	Paulsboro Borough	Gloucester	48.8	2,282
37	Lakewood South	Ocean	48.5	49,831
38	North Bergen/West New York/Guttenberg	Hudson	48.4	48,711
39	Fairview Borough	Bergen	48.3	1,135
40	Egg Harbor City*	Atlantic	47.1	4,396
41	Burlington City	Burlington	46.1	6,101
42	Linden/Roselle	Union	45.7	36,659
43	Vineland City	Cumberland	45.2	13,273
44	Phillipsburg Town	Warren	44.4	13,823
45	Bayonne City	Hudson	42.7	28,718
46	Dover Town	Morris	42.5	10,478
47	Bound Brook Borough	Somerset	42.4	1,823
48	Union City	Hudson	34.9	23,926
49	High Bridge Borough	Hunterdon	26.5	1,221
50	Montague Township*	Sussex	25.1	3,792

*Asterisks indicate that the entirety of that municipality is included in the food desert community. Otherwise the FDC covers only a portion of the municipality.

NOTE: The full interactive map of Food Desert Communities is available on EDA's website at <https://njca.maps.arcgis.com/apps/webappviewer/index.html?id=cd59d206f39c40a691d6ba38598134fb>

Figure 1: Eligible FDCs (shaded in blue)



Source:

<https://njeda.maps.arcgis.com/apps/webappviewer/index.html?id=334118d138354b0d95763260aa8c55eb>

The 14 eligible FDCS (i.e. the top 15 FDCs, excluding Atlantic City/Ventnor), are spread across eight counties, comprise portions of 11 municipalities, and are home to 567,349 residents. All have composite food desert factor scores of 63.9 and above, indicating significant need. Notably, four cities — Camden, Newark, Trenton, and Paterson — are represented more than once, encompassing 10 of the top 15 FDCs.

This memo proposes funding projects that can have an impact on residents of the state’s most acute FDCs, improving their ability to access food, while simultaneously benefitting employment by helping applicants expand or increase their activities.

Food Equity and Economic Development in New Jersey (FEED NJ) Pilot Program

Geographic Eligibility: This program focuses on 14 of New Jersey’s top 15 FDCs, excluding Atlantic City/Ventnor. As noted in Table 1 above, the boundaries of an FDC generally do not include an entire municipality because FDCs are designated at the block-group level. The boundaries of eligible FDCs can be seen in the [interactive map](#) available on EDA’s website. To

target resources to the most acute FDCs in New Jersey, FEED NJ will only support projects that propose to primarily serve residents of one or more of the 14 eligible FDCs. Applicants may also elect to serve additional NJEDA-designated FDCs, provided the primary focus remains on at least one of the 14 eligible FDCs.

Applicant Eligibility: Applicants must meet the following basic eligibility criteria to proceed to further scoring and evaluation:

- Applicant is a for-profit or nonprofit entity that has been in existence for at least two years at the time of application
- Applicant is in good standing with the NJ Department of Labor and Workforce Development and the NJ Department of Environmental Protection
- Applicant is registered to do business in New Jersey and in substantial good standing with the NJ Division of Taxation, as evidenced by a current Tax Clearance Certificate
- For projects involving construction, applicant must provide evidence of site control or a path to site control at the time of application

Applicants are limited to one application per EIN. Municipalities and other government agencies are not eligible to apply for this grant opportunity. Applicants are subject to the Authority's Disqualification/Debarment Rules.

Applicants may propose collaborating with other entities. If any other entity will incur expenses as part of the proposed project, those expenses and that entity's role must be described in the application. NJEDA will disburse grant funds only to the applicant entity directly and will not permit a joint venture. Joint ventures are not eligible to apply for this grant opportunity.

Eligible Uses: Grant funds will be awarded only to applicants that indicate that they will use the grant funds for projects to improve food access and/or food security that primarily serve residents in one or more of the 14 eligible FDCs.⁵ Proposed projects may be new initiatives, an expansion of existing services, or both. The proposed project must primarily serve residents of one or more of the 14 eligible FDCs.

Acquisition of land or buildings, ground-up construction, fines incurred because of code or zoning violations, and major renovations (e.g. construction of an additional floor or an addition to the building footprint) are not eligible costs. All other costs that are incurred after the date of grant agreement execution are eligible, subject to the Authority's approval of the project budget and supporting documentation. For example, costs can include minor renovation, equipment, installation, salaries and fringe, and rent.

As required by law, construction, including use of trades in construction related to installation of equipment, will be subject to state affirmative action requirements for contractors, and such work with a cost of \$2,000 or more will be subject to New Jersey prevailing wage requirements. Additionally, grantees must utilize contractors registered as a New Jersey Public Works Contractor with the Department of Labor and Workforce Development for work subject to prevailing wage.

Award Size: Applicants may request a grant amount from a minimum of \$50,000 to a maximum of \$500,000. Grant funds may cover up to 100 percent of the proposed project costs. If grant funds from EDA are not requested to cover 100 percent of the proposed project costs, additional funding sources (both potential and secured) must be described in the budget narrative submitted with the application.

⁵ NJEDA will use the definition of "food security" offered by the New Jersey Office of the Food Security Advocate: "Food security exists when all people, at all times, have physical, social, and economic access to sufficient, safe, and nutritious food which meets their dietary needs and food preferences for an active and healthy life."

Fees: As allowed by EDA's recently revised fee rules, no application fee will be charged due to the nature of this program, which is designed to serve the most acute FDCs across the state. Because the program is aimed at reducing food insecurity in areas of high need, and because applicants are likely to include nonprofit organizations with a mission of addressing hunger and poverty, staff propose charging no application fee nor any other fees in this program.

Grant Term: Selected applicants will enter into a grant agreement with NJEDA. Applicants can propose to complete their projects within either 12 or 24 months, subject to one 6-month extension, at NJEDA staff's sole discretion, if NJEDA determines the grantee is diligently pursuing the use and the delay was unforeseeable and not in the grantee's control.

Application

A competitive application process will be established for this program. Applicants must provide to NJEDA information about their organization and their proposed project, including but not limited to:

- A description of the applicant's mission and capacity to undertake the proposed project, including current and past experience:
 - Serving residents of the selected FDC(s)
 - Providing programming or services related to food access and food security
 - Successfully executing projects similar in scale and budget
 - Serving the target population or other populations with similar attributes
 - As applicable, serving recipients of federal and state nutrition benefits and/or working on multi-stakeholder projects
- Identification of specific eligible FDC(s) the proposed project will primarily serve, as well as any additional FDCs
- Compelling, detailed description of the proposed project, including its expected impact on food access and/or food security for residents of the selected FDC(s)
 - Overall project goals
 - Connection between project and existing food access needs and challenges in selected FDC(s)
 - Demonstration that the project's primary focus and impact will be for residents of the selected FDC(s)
 - Description of the role of each proposed collaborator, including the scope of their contribution and a justification for their participation
- A work plan, which must include at minimum:
 - Specific Measurable Achievable Relevant Time-bound (SMART) objectives
 - Description of each project activity, including estimates of resources needed and allocated
 - A project timeline, including milestones and the length of time needed to implement each activity within the grant period
 - Identification of appropriate staff responsible for each project activity
 - If collaborating or partnering with other entities to achieve the goals and objectives proposed in the application: name, scope of work and justification for any planned collaborators
- A justification of the proposed project's viability and long-term sustainability, including details about ongoing/previous planning, existing applicant capabilities, potential risks/contingencies, and how the proposed project will continue to achieve the desired outcomes during and after the end of the grant term.

- For projects involving construction, evidence of site control or a path to site control must be provided at the time of application
- If applicable, evidence of commitment from project collaborators and/or key stakeholders must also be submitted
- A description of ongoing and planned community engagement efforts, including details about efforts to seek and respond to feedback from stakeholders, as well as to consider and mitigate past obstacles to community food security
 - At least one letter of support from an entity that serves at least one of the selected eligible FDC(s) is required. If an applicant proposes serving multiple FDCs, multiple letters may be submitted to demonstrate engagement with entities serving those communities.
- A line-item budget and budget narrative, which must include at minimum:
 - The requested level of funding broken down by line item and clearly explained
 - For projects involving construction, a contingency set-aside of at least 10% of total construction costs
 - Description, evidence, and status of outside funds, if the total project cost exceeds the requested grant amount
 - Amount, description, and rationale for funding allocated to any planned collaborator entities

Application and Review Process

Applications will be accepted during a six-week application period. Applications will first be evaluated for completeness and eligibility. Applicants that fail to provide required information will be provided an opportunity to cure those deficiencies before a final completeness and eligibility review. Following this review, applications that are incomplete, including those that do not provide responses to all required questions or fail to provide all required documentation, will be rejected. Applications that do not meet the applicant eligibility criteria will be declined and will not proceed to scoring.

All complete and eligible applications will proceed to scoring. Scoring will be conducted by a committee of NJEDA staff. Staff will use the below scoring criteria to determine if the application meets the requirements of the program. See Appendix B for a full scoring rubric.

A minimum score of 70 points, including a minimum of 8 points in the Strength of Budget and Budget Narrative criterion, will be required out of a maximum total score of 100 to be considered for an award. Only applications scoring at or above both of these two minimum scores will be considered for an award.

Board Approval

Following successful eligibility, scoring, and disqualification reviews, applications will be presented to the Board for funding approval. Staff will request funding be allocated to the highest scoring applicants, proceeding in decreasing order of score to other applicants that meet the minimum score requirement, until insufficient funds remain to fully fund the next eligible application.

If funds remain, NJEDA staff will notify the next highest scoring applicant that meets the minimum score requirement and specify the amount of funds remaining. The applicant will have 10 business days from the date of being notified to either accept the partial funding and provide proof of additional funding to cover the remaining project costs or to revise their scope of work and budget to match the partial funding. If the applicant declines the partial funding, staff will notify the next highest scoring applicant that meets the minimum score requirement.

Scoring Criteria

Criterion #1: Organizational Capacity (up to 20 points) – Factors considered include:

- Applicant's ability to successfully complete the proposed project in a timely manner
- Applicant's experience providing programs or services related to food access and/or food security, including but not limited to food distribution, nutrition education, local agriculture, and/or food retail (such programming may be different than the food security or food access activities proposed for the grant)
- Applicant's experience successfully executing projects similar in scale and budget
- Applicant's experience serving the target population in the selected FDC(s) or other populations with similar attributes
- Among food retail projects, applicant's experience serving recipients of federal and state nutrition benefits, including SNAP and WIC
- As applicable for the proposed project, applicant's experience working effectively on collaborative, multi-stakeholder projects

Criterion #2: Project Impact (up to 20 points) – Factors considered include:

- Potential impact of proposed project on food access and/or food security for residents of selected FDC(s)
- Clarity, specificity, cogency, and thoughtfulness of overall project description and goals
- Breadth of potential impact, as shown by estimated number of people to be served
- Depth of potential impact, as shown by the level or frequency of services to be provided, and/or by the project's potential impact on populations within selected FDC(s)
- Applicant's understanding of food access needs and challenges in selected FDC(s) — and how proposed project directly relates to these needs and challenges
- Potential impact of the proposed project on advancing the applicant's overall mission or primary line of business

Criterion #3: Work Plan Quality (up to 15 points) – Factors considered include:

- Comprehensiveness, clarity, and detail of work plan, including objectives, timeline/milestones, scope of work, estimates of resources needed and allocated, planned collaborators
- Feasibility and reasonableness of work plan as proposed, including timeline and milestones
- Evidence of thorough planning of activities to expand food access and/or food security for residents of selected FDC(s)
- Alignment between work plan and project description/goals

Criterion #4: Project Viability and Sustainability (up to 15 points) – Factors considered include:

- Potential for project to remain viable and sustainable upon conclusion of NJEDA grant term
- Alignment of proposed project and funding request with applicant's existing financial and administrative capabilities
- Evidence of ongoing or previous project planning (e.g. feasibility studies)
- Evidence of site control, a path to site control, or site use authorization
- Evidence applicant has considered potential risks to project success and contingencies for addressing these risks
- If applicable, evidence of commitment from project collaborators
- If applicable, evidence of engagement with key stakeholders needed for project success (e.g. suppliers)

Criterion #5: Community Engagement (up to 15 points) – Factors considered include:

- Applicant’s depth of experience/track record of serving residents of selected FDC(s)
- Applicant’s track record of seeking and responding to feedback from stakeholders, such as community members, customers, or advocates
- Proposed project-specific outreach and engagement activities
- Evidence of community support, as demonstrated through Letters of Support from one or more entities serving the selected FDC(s)
- Applicant’s ability to consider and mitigate obstacles that have created past challenges to community food access/food security in the selected FDC(s)

Criterion #6: Strength of Budget and Budget Narrative (up to 15 points, 8 point minimum required to be eligible to be awarded funding) – Factors considered include:

- Comprehensiveness, clarity, and detail of budget and budget narrative
- Strength of justification for proposed costs in budget narrative, as demonstrated through connection to food access and/or food security for residents of selected FDC(s)
- Reasonableness of proposed expenses and requested level of funding
- Alignment between budget, budget narrative, and work plan (i.e. proposed costs, planned outcomes, and project goals)
- If applicable, evidence and status of outside project funding, as demonstrated through the budget narrative
- If collaborating or partnering with other entities, strength of rationale for partnership and reasonableness of associated costs

In the event of a tie in scoring, the recommendation for award will be made based on point 1 below. If point 1 is equal, then recommendation for award will be made based on point 2.

1. Preference to applicant with a higher “Project Impact” criterion score
2. Preference to applicant that has secured additional outside funding for total project costs, as demonstrated through the budget narrative

Closing Requirements

Following approval by the Board and execution of their award letter, approved applicants must meet certain requirements of closing before a grant agreement will be executed. If applicant fails to meet closing requirements within 90 business days of receiving the grant agreement, NJEDA staff will return to the Board to seek approval for the next highest scoring eligible applicant that meet the minimum score requirement. For projects involving construction, applicants must provide evidence of site control for the duration of the grant term. For all other projects, applicants must provide evidence of site control for the duration of the grant term if applicable and at the discretion of the Authority. Applicants that identified outside funding sources in their project budget must provide evidence of commitment/availability of such funding.

Post-Closing Compliance and Disbursement Schedule

Grantees will be required to provide progress and expenditure reports to NJEDA quarterly, starting at grant execution and extending through the end of the grant term of either 12 or 24 months. At the end of the grant term, these quarterly reports will be replaced by final progress and expenditure reports. These reports must provide updates on grantees’ progress against their proposed project timeline, data on the project’s outcomes and impact (e.g. number of people served), and project costs since the last report.

Funds will be disbursed according to the following schedule:

- 30 percent of the grant will be disbursed upon execution of a grant agreement between NJEDA and the selected applicant;
- Once the applicant’s quarterly expenditure reports demonstrate that the initial disbursement has been spent on eligible costs, further expenditures on eligible costs will be reimbursed on a quarterly basis, up to a maximum of 50 percent of the grant amount, upon the Authority’s review and approval of the applicant’s quarterly expenditure reports; and
- Up to 20 percent of the grant amount will be disbursed upon the Authority’s review and approval of the applicant’s final progress and expenditure reports.

Approval of these reports will be contingent on Applicant demonstrating that expenditures were made for eligible costs. Disbursements will be made only up to the value of actual eligible costs or the approved grant amount, whichever is lower.

Months After Grant Agreement	12-Month Grant Term		24-Month Grant Term	
	Reports Due	Disbursement	Reports Due	Disbursement
0	N/A	30% of grant	N/A	30% of grant
3	Quarterly progress & expenditure reports	Total eligible expenditures minus initial disbursement amount, up to a maximum of 50% of the grant	Quarterly progress & expenditure reports	Total eligible expenditures minus the initial disbursement amount, up to a maximum of 50% of the grant
6				
9				
12	Final progress & expenditure reports	Up to 20% of grant		
15	N/A	N/A		
18				
21				
24				

Budget modifications will be allowed for all grantees, subject to limitations to be set in the grant agreement. For example, a grantee whose project involves construction may request a budget modification to reallocate the reserved contingency funds for another relevant purpose, if construction is completed without the need for those funds.

Among other standard defaults, NJEDA may recapture any grant funds used for an ineligible purpose and may recapture any grant funds for a purpose outside of any approved scope of work. Failure to submit required reports may be an event of default.

Funding Source

The FEED NJ Program will be initially funded by proceeds from NJEDA’s 2023 and 2024 Food Desert Relief Tax Credit Auctions. The FDRA allowed the NJEDA to sell a portion of the \$240 million in tax credits allocated by the FDRA (\$40 million annually) through tax credit auctions. Eligible bidders could purchase available credits for a minimum of 85 percent of face value for New Jersey Corporate Business Tax or Insurance Premiums Tax liabilities. In accordance with the FDRA, proceeds from the auction must be used to fund programs to alleviate food deserts and support food security initiatives in FDCs through grants, loans, and/or technical assistance.

In April 2023, the Board approved the sale of up to \$50 million in available tax credits in calendar year 2023. In accordance with the delegated authority in the Board approval, the Chief Executive Officer determined to offer \$15 million of tax credits for auction.

The 2023 Food Desert Relief Tax Credit Auction was open from September 18, 2023, to October 18, 2023. Four eligible bids were approved in December 2023 for a total of \$15 million in tax credits approved and \$13.075 million in proceeds.

In February 2024, the Board approved the sale of up to \$35 million in available tax credits in calendar year 2024. In accordance with the delegated authority in the Board approval, the Chief Executive Officer determined to offer \$20 million of tax credits for auction.

The 2024 Food Desert Relief Tax Credit Auction was open from August 28, 2024, to September 27, 2024. Six bids were received totaling \$25.75 million in tax credit requests. Staff anticipate receiving a minimum of \$17 million in proceeds. Together with the proceeds of the 2023 auction, an estimated \$30 million in total proceeds will be available to initially fund the FEED NJ Program. Should one or more bidders withdraw or fail to submit payment, the amount of funding dedicated to the FEED NJ Program will be reduced accordingly.

The auction proceeds will be deposited in the Economic Recovery Fund (ERF). ERF authorizes a grant as listed under N.J.S.A § 34:1B-7.13(a)(12) for:

“a fund to provide grants or competition prizes, either directly or through a not-for-profit entity, that is consistent with economic development priorities as defined by the authority's board, where funds have been specifically allocated to the economic recovery fund for this purpose, including but not limited to an appropriation or transfer from another government entity.”

Furthermore, should additional funds become available, including but not limited to unused or unspent funds from previously approved NJEDA food security programs and/or additional proceeds from the 2024 Food Desert Relief Tax Credit Auction, staff are requesting delegation to the Chief Executive Officer to accept up to \$5,000,000 in additional funds to be deposited into ERF for the FEED NJ Program.

Governor Murphy's economic plan, “The State of Innovation: Building a Stronger and Fairer Economy in New Jersey” identifies several economic development priorities, including “investing in communities to build world-class cities, towns, and infrastructure statewide.” The FEED NJ Program is guided by this priority, as it seeks to improve the quality of life in New Jersey's Food Desert Communities by increasing food access and food security for residents.

Request for Delegation

Delegation to the Authority's Chief Executive Officer is requested of the Board of the Authority for the following item:

1. To accept up to \$5,000,000 in additional funds to be deposited into the Economic Recovery Fund for the Program from unused or unspent funds from previously approved NJEDA food security programs and/or additional proceeds from the 2024 Food Desert Relief Tax Credit Auction. Previously approved NJEDA food security programs include the Food Retail Innovation in Delivery Grant (approved by the Board in December 2022 and extended in October 2024) and the Atlantic City Food Security Grant Pilot Program (approved by the Board in October 2023).

Recommendation

The Members are asked to approve:

1. Creation of the Food Equity and Economic Development in New Jersey (FEED NJ) Pilot Program which will make grants available for projects to strengthen food access and food security focused on New Jersey's most acute Food Desert Communities (FDCs)
2. Utilization of up to \$30 million in proceeds from the NJEDA Food Desert Relief Tax Credit Auction to initially fund the Program
3. Delegation to the Chief Executive Officer to accept up to \$5,000,000 in additional funds to be deposited into the Economic Recovery Fund for the Program including but not limited to unused or unspent funds from previously approved NJEDA food security programs and/or additional proceeds from the 2024 Food Desert Relief Tax Credit Auction
4. Charging no fees in the FEED NJ Pilot Program, due to the nature of the program and the mission of the prospective applicant pool



Tim Sullivan, CEO

Prepared by: Tara Colton, Chief Economic Security Officer
Rucha Gadre, Director, Food Security
Riley Edwards, Senior Advisor, Economic Security
Brian Todd, Senior Advisor, Food Desert Relief
Ty Blitstein, Project Officer, Food Security

Attachments: Appendix A—Examples of Potential Projects
Appendix B—Scoring Detail
Appendix C—Product Specifications

Appendix A: Examples of Potential Projects

Projects must increase access to food for residents of the selected FDC(s), which may be accomplished in a number of ways. The below is a non-exhaustive list of potential projects to inspire creativity among potential applicants. Applicants may propose projects not captured by this list of examples. All applications will be scored using the criteria in this memo.

- Establishing, enhancing and/or operating a mobile market, food pantry, or food co-op
- Purchasing equipment, such as cold storage equipment or other kitchen appliances, for small retailers, community-based organizations, food banks, health care providers and/or emergency food providers
- Technical assistance and/or equipment to increase opportunities for residents to utilize nutrition benefits (e.g. Supplemental Nutrition Assistance Program, Special Supplemental Nutrition Program for Women, Infants, and Children, Senior Farmers Market Nutrition Program, etc.), such as at farmers markets, small or mid-sized food retailers, or through digital literacy training, case management, and/or assistance with online grocery ordering; this may also include the cost of purchasing and installing a refrigerated delivery locker, excluding any such costs covered via the NJEDA FRIDG program
- Increasing access to locally grown produce, including but not limited to expanding operation of a farmers' market, establishing a Community Supported Agriculture program, establishing or strengthening relationships between farmers and retailers, or establishing or expanding produce delivery
- Expanding services that provide food at no cost to residents in need, such as meal delivery to homebound residents, including increased operating costs associated with that expansion
- Accelerating existing planning and implementation efforts, such as the next steps of an NJEDA Food Security Planning Grant, to broaden food access opportunities

Appendix B: Scoring Detail

Criterion #1: Organizational Capacity (up to 20 points)

Factors considered include:

- Applicant's ability to successfully complete the proposed project in a timely manner
- Applicant's experience providing programs or services related to food access and/or food security, including but not limited to food distribution, nutrition education, local agriculture, and/or food retail (such programming may be different than the food security or food access activities proposed for the grant)
- Applicant's experience successfully executing projects similar in scale and budget
- Applicant's experience serving the target population in the selected FDC(s) or other populations with similar attributes
- Among food retail projects, applicant's experience serving recipients of federal and state nutrition benefits, including SNAP and WIC
- As applicable for the proposed project, applicant's experience working effectively on collaborative, multi-stakeholder projects

Criterion #1 will be measured using the scale below:

- 1–10 points: Applicant demonstrates minimal capacity and experience related to the proposed project
- 11–15 points: Applicant demonstrates moderate capacity and experience related to the proposed project
- 16–20 points: Applicant demonstrates superior capacity and experience related to the proposed project

Criterion #2: Project Impact (up to 20 points)

Factors considered include:

- Potential impact of proposed project on food access and/or food security for residents of selected FDC(s)
- Clarity, specificity, cogency, and thoughtfulness of overall project description and goals
- Breadth of potential impact, as shown by estimated number of people to be served
- Depth of potential impact, as shown by the level or frequency of services to be provided, and/or by the project's potential impact on populations within selected FDC(s)
- Applicant's understanding of food access needs and challenges in selected FDC(s) — and how proposed project directly relates to these needs and challenges
- Potential impact of the proposed project on advancing the applicant's overall mission or primary line of business

Criterion #2 will be measured using the scale below:

- 1–10 points: Application demonstrates minimal level of potential project impact
- 11–15 points: Application demonstrates moderate level of potential project impact
- 16–20 points: Application demonstrates superior level of potential project impact

Criterion #3: Work Plan Quality (up to 15 points)

Factors considered include:

- Comprehensiveness, clarity, and detail of work plan, including objectives, timeline/milestones, scope of work, estimates of resources needed and allocated, planned collaborators

- Feasibility and reasonableness of work plan as proposed, including timeline and milestones
- Evidence of thorough planning of activities to expand food access and/or food security for residents of selected FDC(s)
- Alignment between work plan and project description/goals

Criterion #3 will be measured using the scale below:

- 1–7 points: Work plan includes minimal detail on project activities, objectives, timeline and/or staffing
- 8–11 points: Work plan includes moderate detail on project activities, objectives, timeline and/or staffing
- 12–15 points: Work plan includes superior detail on project activities, objectives, timeline and/or staffing

Criterion #4: Project Viability and Sustainability (up to 15 points)

Factors considered include:

- Potential for project to remain viable and sustainable upon conclusion of NJEDA grant term
- Alignment of proposed project and funding request with applicant’s existing financial and administrative capabilities
- Evidence of ongoing or previous project planning (e.g. feasibility studies)
- Evidence of site control, a path to site control, or site use authorization
- Evidence applicant has considered potential risks to project success and contingencies for addressing these risks
- If applicable, evidence of commitment from project collaborators
- If applicable, evidence of engagement with key stakeholders needed for project success (e.g. suppliers)

Criterion #4 will be measured using the scale below:

- 1–7 points: Application demonstrates minimal level of project viability and sustainability
- 8–11 points: Application demonstrates moderate level of project viability and sustainability
- 12–15 points: Application demonstrates superior level of project viability and sustainability

Criterion #5: Community Engagement (up to 15 points)

Factors considered include:

- Applicant’s depth of experience/track record of serving residents of selected FDC(s)
- Applicant’s track record of seeking and responding to feedback from stakeholders, such as community members, customers, or advocates
- Proposed project-specific outreach and engagement activities
- Evidence of community support, as demonstrated through Letters of Support from one or more entities serving the selected FDC(s)
- Applicant’s ability to consider and mitigate obstacles that have created past challenges to community food access/food security in the selected FDC(s)

Criterion #5 will be measured using the scale below:

- 1–7 points: Application demonstrates minimal level of community engagement
- 8–11 points: Application demonstrates moderate level of community engagement
- 12–15 points: Application demonstrates superior level of community engagement

Criterion #6: Strength of Budget and Budget Narrative (up to 15 points, 8 point minimum required)

Factors considered include:

- Comprehensiveness, clarity, and detail of budget and budget narrative
- Strength of justification for proposed costs in budget narrative, as demonstrated through connection to food access and/or food security for residents of selected FDC(s)
- Reasonableness of proposed expenses and requested level of funding
- Alignment between budget, budget narrative, and work plan (i.e. proposed costs, planned outcomes, and project goals)
- If applicable, evidence and status of outside project funding, as demonstrated through the budget narrative
- If collaborating or partnering with other entities, strength of rationale for partnership and reasonableness of associated costs

Criterion #6 will be measured using the scale below:

- 1–7 points: Budget and budget narrative show minimal level of detail, connection to project goals, clarity of justification/explanation, and reasonableness
- 8–11 points: Budget and budget narrative show moderate level of detail, connection to project goals, clarity of justification/explanation, and reasonableness
- 12–15 points: Budget and budget narrative show superior level of detail, connection to project goals, clarity of justification/explanation, and reasonableness

Appendix C: Program Specifications

Food Equity and Economic Development in New Jersey (FEED NJ) Pilot Program Proposed Program Specifications December 19, 2024	
Funding Source	<p>FEED NJ will initially be funded by \$30 million in proceeds from NJEDA’s 2023 and 2024 Food Desert Relief Tax Credit Auctions. Should any unused or unspent funds from previously approved NJEDA food security programs or additional proceeds from the 2024 Food Desert Relief Tax Credit Auction become available, staff are requesting delegation to the Chief Executive Officer to accept and deposit up to \$5,000,000 of these funds into ERF for FEED NJ.</p>
Program Purpose	<p>FEED NJ will make grants available for projects to strengthen food access and food security focused on New Jersey’s most acute Food Desert Communities (FDCs). In doing this, the program aims to catalyze innovative, sustainable, and scalable food security and food access initiatives with high potential to maximize community-level impact, while accounting for the unique context and circumstances of each FDC.</p>
Eligible Applicants	<p>Applicants must meet the following basic eligibility criteria to proceed to further scoring and evaluation:</p> <ul style="list-style-type: none"> • Applicant is a for-profit or nonprofit entity that has been in existence for at least two years at the time of application • Applicant is in good standing with the NJ Department of Labor and Workforce Development and the NJ Department of Environmental Protection • Applicant is registered to do business in New Jersey and in substantial good standing with the NJ Division of Taxation, as evidenced by a current Tax Clearance Certificate • For projects involving construction, applicant must provide evidence of site control or a path to site control at the time of application <p>Applicants are limited to one application per EIN. Municipalities and other government agencies are not eligible to apply for this grant opportunity.</p> <p>Applicants may propose collaborating with other entities. If any other entity will incur expenses as part of the proposed project, those expenses and that entity’s role must be described in the application. NJEDA will disburse grant funds only to the applicant entity directly and will not permit a joint venture. Joint ventures are not eligible to apply for this grant opportunity.</p>
Geographic Eligibility	<p>This program focuses on 14 of New Jersey’s top 15 FDCs, excluding Atlantic City/Ventnor. These FDCs are:</p> <ul style="list-style-type: none"> • North, Central and South Camden/Woodlynne • Newark South • Newark West • Camden East/Pennsauken • Trenton West • Newark North and Central • Newark East • Salem city • Passaic city

	<ul style="list-style-type: none"> • Trenton East • Bridgeton/Fairfield Twp/Lawrence Twp • Paterson South • New Brunswick city • Paterson North <p>The boundaries of eligible FDCs can be seen in the interactive map available on EDA’s website. To target resources to the most acute FDCs in New Jersey, FEED NJ will only support projects that propose to primarily serve residents of one or more of the 14 eligible FDCs. Applicants may also elect to serve additional NJEDA-designated FDCs, provided the primary focus remains on at least one of the 14 eligible FDCs.</p>
Eligible Uses	<p>Grant funds will be awarded only to applicants that indicate that they will use the grant funds for projects to improve food access and/or food security that primarily serve residents in one or more of the 14 eligible FDCs. Proposed projects may be new initiatives, an expansion of existing services, or both. The proposed project must primarily serve residents of one or more of the 14 eligible FDCs.</p> <p>Acquisition of land or buildings, ground-up construction, fines incurred because of code or zoning violations, and major renovations (e.g. construction of an additional floor or an addition to the building footprint) are not eligible costs. All other costs that are incurred after the date of grant agreement execution are eligible, subject to the Authority’s approval of the project budget and supporting documentation. For example, costs can include minor renovation, equipment, installation, salaries and fringe, and rent.</p> <p>As required by law, construction, including use of trades in construction related to installation of equipment, will be subject to state affirmative action requirements for contractors, and such work with a cost of \$2,000 or more will be subject to New Jersey prevailing wage requirements. Additionally, grantees must utilize contractors registered as a New Jersey Public Works Contractor with the Department of Labor and Workforce Development for work subject to prevailing wage.</p>
Application and Review Process	<p>A competitive application process will be established for this program. Applications will be accepted during a six-week application period. Applications will first be evaluated for completeness and eligibility. Applicants that fail to provide required information will be provided an opportunity to cure those deficiencies before a final completeness and eligibility review. Following this review, applications that are incomplete, including those that do not provide responses to all required questions or fail to provide all required documentation, will be rejected. Applications that do not meet the applicant eligibility criteria will be declined and will not proceed to scoring.</p> <p>All complete and eligible applications will proceed to scoring. Scoring will be conducted by a committee of NJEDA staff. Staff will use the below scoring criteria to determine if the application meets the requirements of the program. See Appendix B of the Board Memo for a full scoring rubric.</p> <ul style="list-style-type: none"> • Organizational Capacity (20 points)

	<ul style="list-style-type: none"> • Project Impact (20 points) • Work Plan Quality (15 points) • Project Viability and Sustainability (15 points) • Community Engagement (15 points) • Strength of Budget and Budget Narrative (15 points, 8 point minimum required) <p>A minimum score of 70 points, including a minimum of 8 points in the Strength of Budget and Budget Narrative criterion, will be required out of a maximum total score of 100. Only applications scoring at or above both of these two minimum scores will be considered for an award.</p> <p>In the event of a tie in scoring, the recommendation for award will be made based on point 1 below. If point 1 is equal, then recommendation for award will be made based on point 2.</p> <ol style="list-style-type: none"> 1. Preference to applicant with a higher “Project Impact” criterion score 2. Preference to applicant that has secured additional outside funding for total project costs, as demonstrated through the budget narrative
Board Approval	<p>Following scoring, applications will be presented to the Board for funding approval. Staff will request funding be allocated to the highest scoring applicants, proceeding in decreasing order of score to other applicants that meet the minimum score requirement, until insufficient funds remain to fully fund the next eligible application.</p> <p>If funds remain, NJEDA staff will notify the next highest scoring applicant that meets the minimum score requirement and specify the amount of funds remaining. The applicant will have 10 business days from the date of being notified to either accept the partial funding and provide proof of additional funding to cover the remaining project costs or to revise their scope of work and budget to match the partial funding. If the applicant declines the partial funding, staff will notify the next highest scoring applicant that meets the minimum score requirement.</p>
Grant Amounts	<p>Applicants may request a grant amount from a minimum of \$50,000 to a maximum of \$500,000. Grant funds may cover up to 100 percent of the proposed project costs. If grant funds from EDA are not requested to cover 100 percent of the proposed project costs, additional funding sources (both potential and secured) must be described in the budget narrative submitted with the application.</p>
Grant Term	<p>Selected applicants will enter into a grant agreement with NJEDA. Applicants can propose to complete their projects within either 12 or 24 months, subject to one 6-month extension, at NJEDA staff’s sole discretion, if NJEDA determines the grantee is diligently pursuing the use and the delay was unforeseeable and not in the grantee’s control.</p>
Fees	<p>As allowed by EDA’s recently revised fee rules, no application fee will be charged due to the nature of this program, which is designed to serve the most acute FDCs across the state. Because the program is aimed at reducing food insecurity in areas of high need, and because applicants are likely to include nonprofit organizations with a mission of addressing hunger and poverty, staff propose charging no application fee nor any other fees in this program.</p>

<p>Closing Requirements</p>	<p>Following approval by the Board and execution of their award letter, approved applicants must meet certain requirements of closing before a grant agreement will be executed. If applicant fails to meet closing requirements within 90 business days of receiving the grant agreement, NJEDA staff will return to the Board to seek approval for the next highest scoring eligible applicant that meet the minimum score requirement. For projects involving construction, applicants must provide evidence of site control for the duration of the grant term. For all other projects, applicants must provide evidence of site control for the duration of the grant term if applicable and at the discretion of the Authority. Applicants that identified outside funding sources in their project budget must provide evidence of commitment/availability of such funding.</p>
<p>Post-Closing Compliance</p>	<p>Grantees will be required to provide progress and expenditure reports to NJEDA quarterly, starting at grant execution and extending through the end of the grant term of either 12 or 24 months. At the end of the grant term, these quarterly reports will be replaced by final progress and expenditure reports. These reports must provide updates on grantees' progress against their proposed project timeline, data on the project's outcomes and impact (e.g. number of people served), and project costs since the last report.</p>
<p>Funding Disbursement</p>	<p>Funds will be disbursed according to the following schedule:</p> <ul style="list-style-type: none"> • 30 percent of the grant will be disbursed upon execution of a grant agreement between NJEDA and the selected applicant; • Once the applicant's quarterly expenditure reports demonstrate that the initial disbursement has been spent on eligible costs, further expenditures on eligible costs will be reimbursed on a quarterly basis, up to a maximum of 50 percent of the grant amount, upon the Authority's review and approval of the applicant's quarterly expenditure reports; and • Up to 20 percent of the grant amount will be disbursed upon the Authority's review and approval of the applicant's final progress and expenditure reports. <p>Approval of these reports will be contingent on Applicant demonstrating that expenditures were made for eligible costs. Disbursements will be made only up to the value of actual eligible costs or the approved grant amount, whichever is lower.</p>
<p>Recapture Provision</p>	<p>Among other standard defaults, NJEDA may recapture any grant funds used for an ineligible purpose and may recapture any grant funds for a purpose outside of any approved scope of work. Failure to submit required reports may be an event of default.</p>

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of Food Equity and
Economic Development in NJ (FEED NJ) Program

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: December 19, 2024

RE: Approval of Purchase and Sales Agreement between the Authority and Trenton Board of Education for Block 3901, Lot 48, Block 3902, Lot 1, Block 3903 Lot 1, Trenton, Mercer County (Battle Monument Site) to construct the Maternal and Infant Health Innovation Authority.

Request

The Members are requested to:

1. Approve entering a Purchase and Sale Agreement with the Trenton Board of Education (BOE) in the amount of \$1 for the purchase of the Battle Monument Site.
2. The use of up to \$2,573,685 of the \$3MM of Strategic Innovations Centers (SIC) funds for repayment of the equitable lien on the property held by the Schools Development Authority (SDA).
3. The use of SIC funds for the payment of necessary, standard and typical costs associated with the purchase of property of this size and cost including but not limited to title work, title insurance, property insurance, recording fees, legal and other professional fees.

Background

Released by the First Lady in January 2021, the Nurture NJ strategic plan features nine action areas, and dozens of recommendations, including to “establish a Center in the state capital [Trenton] that focuses on innovation and research in maternal and infant health through partnerships with the state’s academic, funder, business, and faith communities” and charged the Authority with a central role in implementing this recommendation, with support from the Departments of Health, Human Services, and Office of the Secretary of Higher Education. Trenton has amongst the highest maternal and infant health disparities in the state, making it the natural choice to host the Maternal Infant Health Innovation Authority (“MIHIA”). Only 47 percent of women in Trenton receive prenatal care in their first trimester and the city has the largest Medicaid population in the state. The MIHIA will work to achieve the Nurture NJ goal of making New Jersey the safest and most equitable place in the nation to give birth and raise a baby.

In April 2021, the EDA issued a Request for Information about its plans to establish the Maternal Infant Health Innovation Center (“Center”) and received more than 50 responses. Many respondents emphasized that the Center should prioritize offering prenatal and postpartum services

Board Memo Seeking Approval of PSA for MIHIA

December 18, 2024

and community-based education and health programs. Respondents also recommended that the Center engage in workforce development through trainings and certifications to develop a diverse, high-quality perinatal workforce (e.g., midwives, doulas, community health workers).

Site Selection

In March 2022, the Board approved the Authority to work with real estate advisory firm Jones Lang LaSalle (“JLL”) to conduct site analysis and planning to inform the eventual location and footprint of the Center. JLL, working with EDA, evaluated more than 50 possible sites and identified 28 possible properties for the Center (see Exhibit D - Sites Identified for MIHIC for the detailed list of sites). Priority was given to properties that were centrally located, had easy access to public transportation, located near the targeted population and large enough for the construction of a 60,000 sq ft facility.

Following that analysis, EDA began reviewing the available parcels of land in that area and quickly identified the Battle Monument Site located at the Southwest corner of Pennington and Warren Street in Trenton, as the most attractive location for the Center as it best met the priorities set forth by the First Lady’s Office. The Authority further validated this conclusion through community listening sessions conducted by the Watson Institute at Kean University in which community members voiced their support for the Center to be in this neighborhood.

As a result, in early 2023, the Authority began to engage with the BOE and communicated an interest in purchasing the land as the property was not listed for sale. Throughout 2023, the Authority conducted initial environmental analysis to understand the geotechnical status of the parcel to assist in planning for future construction. In addition, the Authority worked with the BOE and the SDA to understand the nature of an equitable lien that exists on the property. Previously, the BOE and SDA engaged in activities to assess, develop, and maintain the Battle Monument Site for a potential future educational purpose that resulted in SDA spending \$2,573,685 towards that effort. The BOE and SDA recognize this expenditure as an equitable lien against the site. To purchase and develop the site the Authority will be required to reimburse the SDA for these costs and to satisfy the lien. To ensure that the funds paid by the Authority remain available to the BOE for the future acquisition and/or construction of a school, the SDA will maintain these funds for this express purpose.

The full form of Purchase and Sales Agreement is attached for reference as Exhibit A. 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.

Funding

The \$2,573,685 purchase price will be paid using a portion of the \$3 million the Members allocated at the May 2024 meeting from the 2023-24 State fiscal year Appropriations Act which appropriated \$50MM to the Economic Recovery Fund for the Strategic Innovation Centers (SIC) and the Maternal and Infant Health Innovation Center. See Exhibit B, Memorandum dated May 8, 2024, to Members of the Authority from Tim Sullivan, Chief Executive Officer.

Due Diligence

In addition to using a portion of the \$2.9MM allocated to the Authority in 2022-23 by the New Jersey State Legislature to secure JLL to identify appropriate property for MIHIA the Authority contracted with the John S. Watson Institute for Urban Policy and Research at Kean University to facilitate community engagement, quantify the need, gain support, and identify partners. Furthermore, these funds were used for site investigation including environmental studies, appraisals, surveys, title work and preliminary architectural and engineering efforts. As a result, the following conditions have been identified:

1. **Appraised Value** - The appraised value of the property is \$927,000. The purchase price of \$2,572,658 exceeds the value by \$1,645,685 or 277%. The justification for paying above the appraised value is the limited land available of the appropriate size and scale to construct the new facility. JLL and the Authority staff were unable to identify other parcels of land that met the requirements provided by MIHIA and the First Lady. Additionally, the sales proceeds will not be going to BOE but to the SDA for costs expended to study the property for development and maintain the site.
2. **Historic Fill** – The environmental studies of the property identified historic fill on the site. This is typical of properties in older urban communities. The Authority will follow the guidelines of the NJDEP and cap the property to ensure the health and safety of clients and employees of MIHIA. See Exhibit C – Memo to Juan Burgos from Tom Smith, dated November 6, 2024.
3. **Ground Water Contamination** – The environmental investigation of the property identified ground water contamination which exceeds the NJDEP limits. Like historic fill, ground water contamination is present in many older communities around the Northeast. When constructed the MIHIA facility will be connected to municipal water alleviating any concern of ground water consumption. Additionally, the Authority will follow NJDEP guidelines and monitor the ground water until such time as natural attenuation has reduced the level of contamination to a point at which they are acceptable to NJDEP.
4. **Responsibility** – The Authority’s purchase of the site alleviates BOE’s responsibility for environmental harms prior to their ownership of the site. The Authority will be responsible for the ongoing monitoring of the property, regardless of future ownership, until the ground water contamination levels reach standards acceptable to NJDEP. Cost of monitoring wells have been included in the project’s development budget. Monitoring of the wells will be a cost borne by the tenant.

Project Development Budget

Currently, the Members are only being requested to approve the purchase of the Battle Monument Site. Authority staff will return at a future date seeking the approval of Members for the costs associated with the site’s development. However, please note, that the New Jersey Legislature has allocated \$65MM in American Rescue Plan funds for the development of the project.

Recommendation

Based on the information provided in this memo and the attached exhibits it is recommended that the Members of the Authority:

1. Approve the Authority entering a Purchase and Sale Agreement with the Trenton Board of Education in the amount of \$1 for the purchase of the Battle Monument Site.
2. The use of up to \$2,573,685 of the \$3MM of SIC funds for repayment of the equitable lien on the property held by the School Development Authority.



Tim Sullivan, CEO

Attachments: Exhibit A – Purchase and Sales Agreement
Exhibit B – Memo Dated May 8, 2024, to Authority Members
Exhibit C – Memo Dated November 6, 2024, to Juan Burgos
Exhibit D – Sites Identified for MIHIC

Prepared by: Brian Keenan, Senior Project Officer

Exhibit A

**PURCHASE AND SALE AGREEMENT
FOR REAL PROPERTY
AMONG**

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (“AUTHORITY”)
TRENTON PUBLIC SCHOOL DISTRICT BOARD OF EDUCATION (“SELLER”)**

AND

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY (“SDA”)

**TAX BLOCK 3901, LOT 48
TAX BLOCK 3902, LOT 1
TAX BLOCK 3903, LOT 1**

TRENTON, NEW JERSEY (“PROPERTY”)

PURCHASE AND SALE AGREEMENT FOR REAL PROPERTY

This **PURCHASE AND SALE AGREEMENT FOR REAL PROPERTY** (this “**Agreement**”) is made this ___ day of _____, 2024 (the “**Effective Date**”) by and among **THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**, organized pursuant to N.J.S.A.34:1B-1 et seq. (herein referred to as the “**Authority**”), having its address at 36 West State Street, P.O. Box 990, Trenton, New Jersey 08625-0990, **TRENTON PUBLIC SCHOOL DISTRICT BOARD OF EDUCATION**, organized pursuant to N.J.S.A. 18A:10-1 *et seq.* (herein referred to as the “**Seller**”), having its address at Central Services Building, 108 North Clinton Avenue, Trenton, NJ 08609 and the **NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**, organized pursuant to N.J.S.A. 52:18A-235 *et seq.* (herein referred to as the “**SDA**”), having its address at 32 East Front Street, P.O. Box 991, Trenton, New Jersey 08625 with respect to Sections 1.0, 4.2, 4.3, 4.4, 5.0, 6.2, 7.3, 17, 22, 24, 32, 33.0, 34.1, 34.2, 34.6 through 34.9 and 35.0 only.

1.0 Background. The parties entered into a Memorandum of Understanding dated July 12, 2024 (“**MOU**”), which MOU is independent of and shall survive the execution of this Agreement if there are terms of the MOU that are unrelated to the terms of this Agreement. The Seller is the owner of certain real property located at Ringold Street, Pennington Avenue, N. Warren Street and Titus Avenue in the City of Trenton, County of Mercer, State of New Jersey, commonly known as 323 N. Warren Street, Trenton, New Jersey 08618 and also being known as City of Trenton Tax Block 3901, Lot 48 (containing approximately 0.598 acres), Tax Block 3902, Lot 1 (containing approximately 0.303 acres) and Tax Block 3903, Lot 1 (containing approximately 1.713 acres) (collectively, the “**Property**”). The Property is shown on **Exhibit 1** annexed hereto and made a part hereof.

2.0 Agreement to Sell. The Seller agrees to sell the Property as-is to the Authority and the Authority agrees to purchase the Property as-is from the Seller upon the terms and conditions set forth below.

3.0 Property to be Conveyed. The Property consists of those three (3) certain lots, tracts or parcels of land together with any buildings and improvements thereon contained and the privileges contained and appurtenances thereto appertaining, including, but not limited to, all right, title and interest of the Seller in and to any water rights, mineral rights, air rights, rights of surface support, adjoining strips and gores, and easements and rights-of-way incidental thereto and more particularly shown and described on **Exhibit 1**. The final legal descriptions of the Property set forth in the Survey (as defined in Section 6.1 below), if different than **Exhibit 1** attached to this Agreement, shall be certified to the Seller and substituted as the legal description of the Property. If such Survey is not certified to the Seller, Seller shall deliver the Deed (as defined below) for the Property using the legal description pursuant to which the Property was conveyed to it, and specify that the Property being conveyed is “also described as” set forth in the legal description of the Property set forth in the Survey, and shall quitclaim such legal description to the Authority.

4.0 Purchase Price; Earnest Money.

4.1 **Purchase Price.** The purchase price to be paid by the Authority to the Seller is ONE DOLLAR AND NO/100 CENTS (\$1.00) (the “**Purchase Price**”).

4.2 In addition, in consideration of the Seller selling the Property to the Authority, the Authority shall pay directly to the SDA TWO MILLION FIVE HUNDRED SEVENTY-THREE THOUSAND SIX HUNDRED EIGHTY-FIVE DOLLARS AND NO/100 CENTS (\$2,573,685.00) (the “**SDA Lien Amount**”).

4.3 The SDA agrees to accept the SDA Lien Amount as satisfaction in full of that certain equitable lien owed by the Seller to the SDA which arose from the SDA’s past assessment, development and maintenance of the Property (the “**SDA Lien**”).

4.4 Earnest Money. One Thousand Dollars and Zero Cents (\$1,000.00) (the “**Earnest Money**”) in immediately available federal funds, evidencing the Authority’s good faith to perform the Authority’s obligations under this Agreement, shall be deposited by the Authority with the Title Company (as hereinafter defined) (in its capacity as escrow agent, the “**Escrow Agent**”) within ten (10) business days following the Effective Date. The Earnest Money shall be held by the Escrow Agent in an interest bearing account with interest to accrue for the benefit of the Authority unless Seller shall be the party entitled to the Earnest Money pursuant to this Agreement, in which case the Seller’s federal tax identification number shall replace the Authority’s. In the event that the Authority fails to timely deposit the Earnest Money with the Escrow Agent, this Agreement shall be of no force and effect. At Closing, the entire amount of the Earnest Money shall be applied first to the Purchase Price and then to the SDA Lien Amount. Otherwise, the Earnest Money shall be delivered to the party entitled to receive the Earnest Money in accordance with the provisions of this Agreement.

5.0 Payment of the Purchase Price. The Authority agrees to pay the SDA Lien Amount (after application of the Earnest Money) to the SDA in accordance with Section 4.2 on the Closing Date (as hereinafter defined).

6.0 Title.

6.1 Title Report; Survey. The Authority agrees to obtain, at the Authority’s cost and expense, a title report (the “**Title Report**”) for the Property from Stewart Title Guaranty Company (the “**Title Company**”), and a survey or surveys (collectively, the “**Survey**”) of the Property by a licensed New Jersey surveyor. In preparing the Survey, the Authority’s surveyor shall have a right of entry on the Property as described in Article 10 hereof. The Authority shall have the right to request that the Title Company provide, at the Authority’s sole cost and expense, any endorsements the Authority shall request with respect to such Title Report, provided that the Seller shall execute and deliver any documents as may be reasonably requested by the Title Company in connection with the issuance of any endorsements. The Authority shall furnish a copy of any Title Report and Survey obtained by the Authority in anticipation of the acquisition of the Property to the Seller and the SDA promptly after the Authority receives same, but in no event later than forty-five (45) days following the Effective Date.

6.2 Title Defects. If anything in the Title Report or Survey is not acceptable to the Authority in the Authority’s sole discretion, then the Authority shall give written notice thereof to the Seller, specifying in detail such title defect(s), before 5 p.m. on the date which shall be forty-five (45) days following the Effective Date (the date on which such notice is given, the “**Title Defect Delivery Date**”). The Seller shall cure, satisfy and/or discharge such title defect(s) by the

earlier of (a) thirty (30) days from the Title Defect Delivery Date or (b) the Closing Date (the “**Title Defect Cure Date**”). The Authority shall pay and satisfy the SDA Lien at Closing as set forth in Section 4.2 of this Agreement. The Seller shall be obligated to remove other title defect(s) or encumbrances relating to monetary liens, whether for loans, taxes, judgments or otherwise (herein referred to as “**Monetary Liens**”) without any further notification by the Authority and the Seller shall be obligated to obtain a termination of the Notice of Federal Interest set forth in LP Book 232, Page 88 (“**Federal Interest**”). If the Seller fails to cure, satisfy, or discharge the Monetary Liens, the Federal Interest and title defects identified in writing by the Authority to Seller by the Title Defect Cure Date, then the Authority shall have the right (i) to terminate this Agreement on written notice to the Seller whereupon the Earnest Money shall be refunded to the Authority, and neither party shall have any further rights or liabilities hereunder except for those provisions which, by their terms, survive termination of this Agreement or (ii) to waive such title defects which Seller has elected not to cure, satisfy, or discharge and proceed with the purchase and take the Property subject to such exceptions. If the Seller decides to cure, satisfy and/or discharge the Monetary Liens, the Federal Interest and any title defect(s) identified in writing by the Authority, the Authority in its sole discretion may grant Seller a reasonable adjournment of the Closing Date to do so but in no event shall the Authority be required to grant an adjournment for a period greater than ten (10) days. Without limiting the foregoing, the Seller may use any portion of the Purchase Price to discharge Monetary Liens at Closing. The Authority shall have the right to continue any and all title searches to the Closing Date to confirm that Seller is conveying title free from title defects. At Closing title shall be good, marketable and insurable by the Title Company at regular rates and as described herein.

6.3 Subsequent Matters Affecting Title. If, for any reason whatsoever, the title insurance policy which would otherwise be delivered to the Authority at Closing or any updated Survey reflects, as exceptions, any items other than title defects previously waived by the Authority pursuant to Section 6.2 hereof, which would adversely or materially affect the Property, such items shall, if and only if Authority shall give written notice thereof to Seller no later than the Closing Date, be deemed title defects, and, if the Authority shall so give notice to Seller, then: (a) the Closing shall be adjourned to a date as may be mutually agreed to between the Authority and Seller; and (b) the rights and obligations of the Authority and Seller with regard to such title defects shall be as set forth in Section 6.2 hereof.

7.0 Closing of Title.

7.1 It is agreed by the parties hereto that the closing of title (the “**Closing**”) shall occur on the Closing Date at the offices of the Title Company or pursuant to escrow arrangements of documents and monies reasonably satisfactory to Authority and Seller at 10:00 a.m., on or before the tenth (10th) day after the expiration of the Due Diligence Period, as hereinafter defined, and the satisfaction of the conditions precedent to Closing more fully set forth in Article 16 below (the “**Closing Date**”) in accordance with the terms of this Agreement. Upon completion of the deliveries pursuant to this Agreement and satisfaction of the other conditions to Closing herein set forth and performance by each party of its obligations required to be performed prior to or at the Closing, the Title Company shall make such deliveries and disbursements according to the terms of this Agreement.

7.2 On the Closing Date, the Seller shall deliver to the Authority the following:

- a) A bargain and sale deed with covenants against grantor's acts to convey title to the Property (the "**Deed**") subject only to such matters as resolved in Section 6.2 hereof;
- b) A bill of sale and assignment in form reasonably acceptable to the Authority;
- c) An Affidavit of Title of Seller in form reasonably acceptable to the Authority and its Title Company;
- d) An Internal Revenue Code Section 1445 Affidavit;
- e) Closing Statement;
- f) Any assignments of Service Contracts (as defined below) pursuant to Section 12.1(f), as applicable;
- g) Documents of authority of Seller authorizing the transactions contemplated by this Agreement; and
- h) Any other necessary affidavits, indemnities or documents reasonably required by the Authority, its attorney, or the Title Company in order to issue an owners' title policy in accordance with Section 6.2.
- i) At Closing, the Seller shall deliver the Property vacant of all tenants or occupants with or without legal rights using the Property including, but not limited to, anyone who is or has used the Property or any portion thereof for parking.

7.3 On the Closing Date, the SDA shall deliver to the Seller and the Authority the following:

- a) A satisfaction and release evidencing the satisfaction in full and discharge of the SDA Lien.
- b) The letter required to be delivered by the SDA pursuant to Section 22 hereof.

7.4 The Seller will pay for all recording fees and realty transfer taxes incidental to conveying title to the Authority. It is expressly understood and agreed, however, that each party shall be solely responsible for its own attorneys' fees.

8.0 Adjustments at Closing. The following adjustments, if any, are to be made at the Closing as of the end of the Closing Date: (i) real estate taxes on the basis of the fiscal year for which assessed; (ii) water charges; (iii) sewer rents; (iv) gas; (v) electric; (vi) fuel (at the Seller's cost therefore); and (vii) any other items which shall be appropriate for adjustment. If the Closing Date shall occur before a tax rate is fixed, the apportionment of real estate taxes shall be made

upon the basis of the tax rate for the immediately preceding year applied to the latest assessed valuation of the Property.

9.0 Due Diligence Period.

9.1 The Authority shall have a period of ninety (90) days from the Effective Date (the “**Due Diligence Period**”) to conduct a review of all applicable laws, statutes, ordinances and regulations, the status of title to the Property, the physical and environmental condition of the Property as further described in Article 13 hereof and any other facts or matters relating to the Property which the Authority or the New Jersey Department of Environmental Protection (“**NJDEP**”) shall deem appropriate. The due diligence review shall be performed at the Authority’s sole cost and expense.

9.2 In the event the Authority shall determine in its sole and absolute discretion that it is not satisfied with the condition of the Property as a result of its due diligence review, the Authority shall have the right to terminate this Agreement by written notice to the Seller given prior to 5:00 p.m. ET on the last day of the Due Diligence Period, in which event Escrow Agent shall refund the entire amount of the Earnest Money to the Authority, and neither party shall have any further rights nor liabilities hereunder thereafter (except for provisions that expressly survive termination of this Agreement). In the event that the Authority does not terminate this Agreement prior to 5:00 p.m. ET of the last day of the Due Diligence Period as herein above provided, time being of the essence, the Authority shall be deemed to have waived its right to terminate this Agreement pursuant to this Article 9. Nothing contained in this Article 9 shall prevent the parties hereto from setting a Closing Date prior to the expiration of the Due Diligence Period.

10.0 Right of Entry. The Authority, its employees, officers, agents, consultants and contractors, may enter upon the Property during reasonable business hours during the term of this Agreement for the purpose of making due diligence inquiries and investigations, including but not limited to soil, topographic, engineering, appraisal, environmental Phase I and Phase II. geotechnical, traffic, architectural, building interior and exterior inspections, utility and surveying studies and tests (collectively the “**Work**”) at the Authority’s sole cost in connection with this Agreement. The Authority shall notify Seller, via email, at least 24 hours prior to each and every entry upon the Property to perform any aspect of the Work. The Authority shall not be liable for any pre-existing condition discovered while performing an inspection. The Authority agrees that it:

- a) shall not create any condition during its investigations which violates any city, state or other statute or regulation or which is dangerous;
- b) shall return the Property to the condition which existed before commencement of the Work provided that any change in the condition was the result of the Authority’s entrance onto the Property;
- c) shall promptly pay and discharge any debts or liabilities to its consultants, contractors or agents which may become a lien on the Property; and
- d) shall maintain in force and effect, either directly or through its consultants and contractors, insurance for liability and property damage.

11.0 Assessment. Special assessments for public improvements, whether confirmed or unconfirmed, which have been completed as of the Closing Date, are to be paid in full by the Seller. Any assessment which has been completed and is payable in installments is to be paid by the Seller.

12.0 Representations and Warranties of the Seller.

12.1 For the purpose of inducing the Authority to enter into this Agreement and to consummate the transactions contemplated hereby pursuant to the terms and conditions hereof, the Seller represents and warrants to the Authority as follows:

- a) The Seller is the owner in fee simple of the Property herein agreed to be conveyed to the Authority and, if an individual, is over eighteen years of age.
- b) Each party executing and delivering this Agreement and all documents to be executed and delivered in regard to the consummation of the transaction contemplated hereby on behalf of the Seller has due and proper authority to execute and deliver same. The Seller has the full right, power and authority to sell and convey the Property to the Authority as provided herein and to carry out its obligations hereunder without the joinder or consent of any other person or entity or governmental body or agency or the order of any court, and the Seller has due and proper authority to execute and deliver all documents related to the consummation of the transactions.
- c) The Property is now and has been held in peaceable and undisturbed possession by the Seller since said Property was acquired by Seller and the title has never been disputed, questioned or rejected to the Seller's knowledge or belief, nor does the Seller know any facts by reason of which said possession or title may be disputed or questioned, or by reason of which any claim to any part of the Property or any interest therein adverse to that of the Seller which might be set up or made.
- d) No contract for the sale of the Property nor lease of the Property has been made and no option to purchase or other occupancy agreement for the same has been given to anyone other than the Authority. The Seller will not sell, mortgage, lease, encumber or otherwise dispose of the Property or any part thereof prior to the Closing Date, except to the Authority.
- e) The Seller will not permit anyone to occupy the Property subsequent to the date of this Agreement including, but not limited to, anyone who is or has used the Property or any portion thereof for parking. In addition, from the Effective Date until Closing, Seller shall take all steps, including, but not limited to, legal actions to remove any occupants and/or vehicles from the Property and prevent unauthorized parking on the Property by utilizing fencing, posting "No Parking" signs, and/or otherwise securing the Property.

- f) Within five (5) days of the Effective Date, the Seller will provide the Authority copies of all maintenance or service contracts or other contracts relating to the maintenance and operation of the Property (“**Service Contracts**”), if any. A list of the Service Contracts is attached hereto as **Exhibit 2**. The Seller represents that all payments under such Service Contracts are current. At least five (5) days prior to the Closing Date, the Authority shall notify the Seller in writing which Service Contracts, if any, the Authority elects to have assigned to the Authority. Effective as of the Closing Date, the Seller shall assign to the Authority any Service Contract that the Authority elects to have assigned to the Authority. The Seller shall, at the Seller’s sole cost and expense, terminate all Service Contracts not assigned to the Authority effective as of the Closing Date.
- g) No labor has been performed or material furnished for the Property (i) for which the Seller has not heretofore fully paid, (ii) for which a Notice of Unpaid Balance and Right to File Lien Claim, construction lien, mechanic’s or materialman’s lien or liens, or any other lien, can be claimed by any person, party or entity, or (iii) which will not, by the Closing Date, be removed.
- h) The Seller warrants that no person has been employed, directly or indirectly to solicit or secure this Agreement in violation of N.J.S.A. 52:34-15 et seq.
- i) The Seller has no knowledge of any pending or threatened legal action of any kind or character whatsoever affecting the Property or Seller which will in any manner interfere with the transfer of possession or title upon consummation hereof, nor has the Seller knowledge that any such action is presently contemplated.
- j) The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not conflict with any applicable law, ordinance, regulation, statute, rule, restriction or any judgment, order or decree of any court having jurisdiction over the Seller or the Property.
- k) The Seller has no actual knowledge of, and has received no notice of, any outstanding violation of, and the Property is currently in compliance with, any governmental law, rule, statute, ordinance, or regulation affecting the Property, including, without limitation, any applicable laws, rules, regulations, ordinances, permits, orders and directives relating to environmental protection. In the event the Seller receives a notice or notices of any violation(s) subsequent to the Effective Date, it will immediately provide the Authority with a copy of same and will expeditiously correct same prior to the Closing Date.
- l) The Seller has received no notice of any pending or threatened condemnation of the Property.

- m) There are no insolvency proceedings pending or to Seller's knowledge, threatened against it.
- n) The amount due on the liens and encumbrances affecting the Property do not now and will not on the Closing Date exceed the Purchase Price.
- o) No lien has been attached to any revenues or any real or personal property owned by the Seller and located in the State of New Jersey, including, but not limited to the Property, as a result of monies being expended out of the New Jersey Spill Compensation Fund to pay for "**Cleanup and Removal Costs**" as such term is defined in N.J.S.A. 58:10-23.11b(d) arising from an intentional or unintentional action or omission of the Seller or of any previous owner or operator of said real property.
- p) The execution, delivery and performance of this Agreement will not conflict with or result in a breach of any material terms and conditions of, or constitute a default or require consent under the terms of any material agreement to which Seller is a party or by which Seller may be bound, or to which the Property is subject. No consent, approval or authorization of any third party is now required for the execution, delivery and performance of this Agreement, except those that have been obtained or made, and are in full force and effect.
- q) The Property currently constitutes three (3) tax parcels. There are no pending appeals of real estate tax assessments. All real estate assessments have been paid. The Property is not subject to any abatement, reduction, deferral or "rollback" taxes.
- r) The current zoning classification of the Property is Canal Banks Redevelopment Area - Public Facility with respect to the portion of the Property being known as City of Trenton Tax Block 3902, Lot 1 and Canal Banks Redevelopment Area - R, Residential District with respect to the portions of the Property being known as City of Trenton Tax Block 3901, Lot 48 and City of Trenton Tax Block 3903, Lot 1.

12.2 The representations and warranties set forth in this Agreement shall be true and correct on and as of the Closing Date with the same force and effort as if made at that time. Only the representations set forth in Section 12.1 (b), (d), (g), (h), (i), (j), (k), (l), (n), (o), and (p) shall be continuing and survive the Closing.

13.0 Environmental Provisions.

13.1 a) Seller represents the following to the best of Seller's knowledge, information and belief that during Seller's ownership of the Property (i) the Property is in compliance with all applicable local, federal and state statutes or regulations, ordinances, permits, orders, and directives regarding pollutants, contaminants, hazardous waste, materials and/or substances (hereinafter collectively referred to as "**contamination**") and/or solid waste; (ii) there is no

pending or contemplated proceeding or administrative action arising out of the environmental condition of the Property, and (iii) the Property has never been remediated.

- b) Seller(s) further represent(s) that during Seller's ownership of the Property:
 - (i) it has not discharged any hazardous substances or waste on the Property;
 - (ii) it has no knowledge of any discharge of hazardous substances or waste on the Property;
 - (iii) it did not deposit or cause to be deposited solid waste on the Property; and
 - (iv) it has no knowledge of the presence of solid waste on or buried in the Property.

- c) The Authority, as part of its due diligence review as described in Article 9 hereof, is performing, and will continue to perform during the Due Diligence Period, environmental inspections, investigations and/or studies in order to assess the environmental condition of the Property. The Authority shall furnish a copy of any report generated from its environmental due diligence to Seller promptly after the Authority receives same. The Authority's environmental due diligence shall be subject in all respects to Article 9 hereof (including, but not limited to, the Authority's right to terminate contained in Section 9.2).

13.2 The Purchase Price set forth in this Agreement assumes that during Seller's ownership of the Property Seller added no contamination and/or solid waste in, on or under the Property above actionable levels in excess of current applicable standards as set forth by NJDEP.

13.3 The Seller shall not be relieved of, nor is the Authority assuming, any of any legal obligations pursuant to federal or state statutes or regulations or under common law that occurred during Seller's ownership of the Property resulting from the presence of contamination or solid waste on the Property as of the Closing Date or the date of vacation of the Property by all occupants, whichever is later. The Authority does not accept any liability or responsibility of the Seller that occurred during Seller's ownership of the Property or any occupant thereof, including any liability to third parties, as a result of the presence of contamination and/or solid waste on the Property. Notwithstanding, as to any third party or governmental authority, the Seller remains liable for the cleanup and removal costs of any discharge which occurred or began prior to ownership by the Seller. Between the Seller and the Authority, the Authority shall cleanup and remove any discharge which occurred or began prior to ownership by the Seller at the Authority's sole cost and risk.

13.4 The Authority shall be responsible only for the actual costs of conducting a preliminary environmental screening and assessment of the Property, which activity shall be limited to inspection to confirm the presence of contamination on the Property as distinguished from determining the source and extent of contamination. The failure of this screening to detect contamination or the presence of solid waste shall not be a bar to any future recovery action by the Authority against the Seller or any other person or entity in the event that contamination and/or solid waste are subsequently discovered.

13.5 The Seller shall provide the Authority copies of all correspondence, reports and document relating to any environmental investigations and/or remediation in a timely manner and

shall afford the Authority the opportunity to participate in all meetings and conferences with NJDEP.

13.6 This Agreement will not in any way affect the jurisdiction of the NJDEP over the Property.

13.7 The Seller represents that the Seller has complied with all requirements for underground storage tanks pursuant to the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., and the regulations implementing the provisions thereof, and with all federal requirements governing underground storage tanks, including, without limitation, 40 U.S.C. Section 6991 et seq. and 40 CFR Part 280 (hereinafter “**Underground Tank Requirements**”). The Seller shall indemnify the Authority from any and all losses, costs and damages including reasonable attorney’s fees for the Seller’s failure to comply with the Underground Tank Requirements. On the Closing Date, the Seller shall deliver to the Authority copies of all registration forms, other filings and correspondence related to underground storage tanks. Notwithstanding the foregoing, the Seller represents that there are no underground storage tanks at, under or on the Property.

13.8 The provisions of this Article 13 shall survive the transfer of title to the Property. The Authority does not waive any rights that it might have to pursue administrative remedies or to bring suit under federal or state statutes or regulations or under common law and hereby reserves the right to do so in the event any contamination or solid waste is discovered which preexisted the closing of title.

13.9 During the Seller’s ownership of the Property, there has been no complaint, order, directive, claim, citation or notice by any governmental authority or any other person or entity with respect to any of the following in connection with the Property: (a) air emissions, (b) spills, releases or discharges to soils or any improvements located thereon, surface water, groundwater, sewer, or septic systems or waste treatment, storage or disposal systems, (c) solid or liquid waste disposal, (d) the generation, use, processing, storage, transportation or disposal of Hazardous Substances, or (e) other environmental, health or safety matters affecting Seller, the Property, or any business thereon conducted. Seller shall be solely responsible and liable for and shall fully protect, indemnify, defend, and hold harmless the Authority, its officers, directors, agents, employees, representatives, from and against any and all causes of action, claims, charges, costs, damages, enforcement actions, directives, fines, injuries, judgments, liabilities, losses, penalties, and all costs and expenses incidental thereto, including, without limitation, reasonable attorneys’ fees, expert and consultant fees and laboratory costs, arising at law or in equity, of every kind or nature whatsoever, whether direct or indirect, known or unknown, which the Authority, may hereafter incur, become responsible for or pay out as a result of any violation of an Environmental Law and/or the presence of any Hazardous Substance that existed at the Property during Seller’s ownership of the Property and prior to Closing, whether known or unknown, which may be discovered by the Authority or any third parties after the Closing, except to the extent caused by the negligence or intentional misconduct of the Authority. This indemnity shall survive Closing. As used herein, “**Hazardous Substances**” or “**Hazardous Wastes**” means all substances which are defined as such by or subject to regulation under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11(b) et seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 6901 et seq., the Resource Conservation and Recovery

Act, 42 U.S.C. 6901 et seq., the Toxic Substance Control Act, 15 U.S.C. 2601 et seq., N.J.S.A. 13:1K-8, et seq., N.J.S.A. 13:1E-1, et seq., N.J.A.C. 7:26B-1.3 or any other federal, state or local law, rule or regulation now in force or hereafter enacted relating to materials having adverse effects on human health or the environment, including, without limitation, asbestos, polychlorinated biphenyls (PCBs), petroleum products and lead-based paints but excluding from the foregoing definition minor amounts of such substances used in the ordinary course of maintenance and operations at the Property. All such laws, rules and regulations relating to human health or the environment collectively are referred to herein as “**Environmental Laws.**”

14.0 Risk of Loss. The risk of loss to the Property until the Closing shall be on the Seller. In the event that the Property shall be destroyed or damaged by reason of fire, storm, accident or other casualty, the Authority shall have the option on written notice to the Seller to either: (i) terminate this Agreement on written notice to the Seller, whereupon the Earnest Money shall be refunded to the Authority, and neither party shall have any further rights nor liabilities hereunder thereafter (except for provisions that expressly survive termination of this Agreement); or, (ii) direct the Seller to assign to the Authority at Closing the Seller’s right to any casualty insurance proceeds resulting from such casualty (or if such insurance proceeds are not assignable, the Seller shall at Closing grant to the Authority a credit against the Purchase Price in the amount of any such insurance proceeds), in all instances with Seller providing to the Authority a credit against the Purchase Price for the amount of any applicable deductible. If the Authority elects to have insurance proceeds assigned to the Authority, the Seller shall not be required to repair or replace the damaged Property nor shall the Purchase Price be abated (except that if insurance proceeds have already been paid to the Seller by the Closing Date, the Authority shall be credited with the amount so paid against the Purchase Price). If the Seller does not have insurance to cover any such destruction or damage or is unable to collect the insurance proceeds, then the Authority shall have the option on written notice to the Seller to either (a) terminate this Agreement whereupon the Earnest Money shall be refunded to the Authority, and neither party shall have any further rights or obligations except as otherwise set forth in this Agreement or (b) abate the Purchase Price in an amount necessary to repair or replace any such destruction or damage. The Authority shall have the right to independently insure its interest in the Property, at the Authority’s sole cost and expense.

15.0 Condemnation. In the event that the entire Property or a substantial part thereof shall have been taken by eminent domain by the federal, state or local government or shall be in the process of being so taken by the federal, state or local government, on the Closing Date, the Authority shall have the option to terminate this Agreement on written notice to the Seller, whereupon the Earnest Money shall be refunded to the Authority, and neither party shall have any further rights or liabilities hereunder thereafter (except for provisions that expressly survive termination of this Agreement). In the event any such taking shall not include a substantial part of the Property or in the event that the Authority shall not terminate this Agreement pursuant to the preceding sentence, the Authority shall accept the Property in the condition in which it is left following such taking, with an abatement of the Purchase Price measured by the proceeds of any condemnation award allowed. In the event the award has not been made or collected by the Seller on the Closing Date, the Seller shall assign to the Authority at Closing all rights, title and interest of the Seller in the collection of such award and the Authority shall accept the Property without abatement of the Purchase Price. As employed herein, the term “a substantial part of the Property”

shall be deemed to mean a part of the Property consisting of ten (10) % or more of the total area of the Property.

16.0 Condition Precedent to Closing. The Authority and the Seller acknowledge that the Closing is contingent upon the review and inspection to be conducted by the Authority of any and all matters relating to the condition of the Property as more fully set forth in Article 9 of this Agreement.

17.0 Discharge of Liens. At, on or before the Closing Date, the Seller shall cause to be properly released, satisfied and discharged all tenancies, mortgages, judgments, mechanic's and materialman's liens and other encumbrances and shall furnish proper evidence of having done so. At, on or before the Closing Date, the Authority shall pay the SDA Lien Amount to the SDA in full satisfaction of the SDA Lien.

18.0 Possession. The Seller will vacate the entire Property prior to the Closing Date and will give possession of the entire Property to the Authority at the Closing free and clear of all tenancies or occupancy rights, trailers, vehicles, furnishings and all other equipment and personalty of any description or kind. At Closing, the Seller will deliver to the Authority: (i) all keys or security codes to the Property, if applicable, and (ii) all original Service Contracts assigned to the Authority.

19.0 Personal Property and Fixtures.

19.1 This sale includes all articles of property that are attached to the Property that have become so much a part of the Property that their separation from it would lessen the value or damage the Property. Such articles are known as "fixtures". For the purpose of clarity, the following articles are specifically INCLUDED in this sale if present at the Property: None

19.2 The following articles are specifically EXCLUDED: None.

20.0 Default and Damages.

20.1 Default by the Authority. If the Authority defaults in its obligation to purchase the Property from Seller pursuant to this Agreement, the Authority agrees that Seller, as its sole and exclusive remedy under this Agreement shall have the right to obtain and retain, and to unilaterally instruct the Escrow Agent to deliver to Seller, the Earnest Money as liquidated damages to recompense Seller for time spent, labor and services performed, and the loss of its bargain. The Authority and Seller agree that it would be impracticable or extremely difficult to affix damages if the Authority so defaults and that the Earnest Money, together with the interest thereon, represents a reasonable estimate of Seller's damages. Seller agrees to accept the Earnest Money as Seller's total damages and relief hereunder if the Authority defaults in an obligation hereunder. If the Authority does so default, this Agreement shall be terminated and the Authority shall have no further right, title, or interest in or to the Property.

20.2 Default by the Seller. If Seller defaults in its obligation to sell and convey the Property to the Authority pursuant to this Agreement then the Authority shall have the right in Section 28 hereof or the right to terminate this Agreement, in which event the Authority shall be entitled to the prompt return of the Earnest Money, after which neither party shall have any further

rights or liabilities hereunder except for those provisions which, by their terms, survive termination of this Agreement.

20.3 No Indirect Damages. Under no circumstances shall Seller or the Authority have any right to any indirect, consequential or Property damages, “overhead” or similar charges, or any damages relating to lost profits or lost opportunities with respect to any such default by the other party hereto, it being understood that Seller and the Authority hereby waive their right to collect all other damages and all of their rights and remedies on account of a default hereunder by the other party hereto, and agree that the remedies described in this Article 20 shall be their sole and exclusive remedies in the event of any such default.

21.0 Earnest Money Provisions.

21.1 Investment and Use of Funds. The Escrow Agent shall invest the Earnest Money in a government insured interest-bearing account satisfactory to the Authority and Seller, shall not commingle the Earnest Money with any funds of the Escrow Agent or others, and shall promptly provide the Authority and Seller with confirmation of the investments made. If the Closing under this Agreement occurs, the Escrow Agent shall apply the Earnest Money first to the Purchase Price and then to the SDA Purchase Price at Closing and deliver it to Seller and SDA, as applicable. Except as otherwise expressly provided in this Agreement, upon not less than five (5) business days’ prior written notice to the Escrow Agent and the other party, Escrow Agent shall deliver the Earnest Money to the party requesting the same; provided, however, that if the other party shall, within said five (5) business day period, deliver to the requesting party and the Escrow Agent a written notice that it disputes the claim to the Earnest Money, Escrow Agent shall retain the Earnest Money until it receives written instructions executed by both Seller and the Authority as to the disposition and disbursement of the Earnest Money, or until ordered by final court order, decree or judgment, which is not subject to appeal, to deliver the Earnest Money to a particular party, in which event the Earnest Money shall be delivered in accordance with such notice, instruction, order, decree or judgment. Seller and the Authority mutually agree that in the event of any controversy regarding the Earnest Money, unless mutual written instructions are received by the Escrow Agent directing the Earnest Money’s disposition, the Escrow Agent shall not take any action, but instead shall await the disposition of any proceeding relating to the Earnest Money or, at the Escrow Agent’s option, the Escrow Agent may interplead all parties and Earnest Money the Earnest Money with a court of competent jurisdiction in which event the Escrow Agent may recover all of its court costs and reasonable attorneys’ fees. Seller shall be solely obligated to pay such costs and fees of the Escrow Agent, as well as the reasonable attorneys’ fees. The prevailing party in accordance with the other provisions of this Agreement shall be paid reasonable attorney’s fees by the non-prevailing party. The parties acknowledge that the Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that the Escrow Agent shall not be deemed to be the agent of either of the parties, and that the Escrow Agent shall not be liable to either of the parties for any action or omission on its part taken or made in good faith, and not in disregard of this Agreement, but shall be liable for its negligent acts and for any loss, cost or expense incurred by Seller or the Authority resulting from the Escrow Agent’s mistake of law respecting the Escrow Agent’s scope or nature of its duties. Seller shall indemnify and hold the Escrow Agent harmless from and against all costs, claims and expenses, including reasonable attorneys’ fees, incurred in connection with the performance of the Escrow Agent’s duties

hereunder, except with respect to actions or omissions taken or made by the Escrow Agent in bad faith, in disregard of this Agreement or involving negligence on the part of the Escrow Agent.

22.0 Purpose of the SDA Lien Amount. The SDA shall hold the SDA Lien Amount in a dedicated account for the advancement of a school facilities project by the Seller, including, but not limited to, the acquisition, development and/or construction of a school facilities project that is supported by the most current and approved long-range facilities plan prepared by the Seller, and that is approved by the New Jersey Department of Education (the “DOE”). The SDA Lien Amount shall be used solely for the purposes set forth in the MOU as set forth in this Section 22. At Closing, the SDA shall provide the Seller with a letter confirming receipt of the SDA Lien Amount and acknowledging the purpose for which the SDA Lien Amount is being held consistent with the MOU as set forth in this Section 22, and such letter shall have the effect of legally binding the SDA to hold the SDA Lien Amount for the purposes set forth in the MOU as set forth in this Section 22. The parties hereto shall meet regularly, as mutually agreed upon, to seek to identify one school facilities project to be funded by the SDA Lien Amount, which satisfies the requirements of the most current and approved Seller long-range facilities plan that is approved by the DOE, provided, that, the parties acknowledge and agree that, subject to any requisite DOE approval, Seller shall maintain full decision-making authority over which proposed school facilities project shall be funded by the SDA Lien Amount. This covenant shall survive Closing.

23.0 Center Lead Institution of Higher Education. The Authority shall partner with the Seller and the lead Institution of Higher Education within the Maternal and Infant Health Innovation Center to be located on the Property to establish career lattice pathways and comprehensive training opportunities for public school students in Trenton, New Jersey. This covenant shall survive Closing.

24.0 Confidential Information. Each party hereto agrees to strictly control the use and retention of any personal and/or confidential information provided by any other party so that only personnel who have a need to know have access to such information. No further dissemination or use of such information is authorized without the written permission of the party from which such information originated, unless required by law. This covenant shall survive Closing.

25.0 Time of Essence. Except as may be otherwise specifically provided in this Agreement, time is of the essence of this Agreement and each and every provision hereof.

26.0 Assignment. No party may assign this Agreement without the prior written consent of the other parties.

27.0 Specific Performance. Intentionally omitted.

28.0 Binding Agreement. This Agreement shall bind not only the Seller and the Authority but also their heirs, executors, administrators, successors and assigns.

29.0 Entire Agreement. It is understood and agreed that all understandings and agreements between the parties are merged in this Agreement which alone fully and completely expresses their

agreement. This Agreement may not be changed, altered or canceled orally, but only in writing signed by the parties.

30.0 Joinder. The Seller agrees to join in and/or execute any applications, petitions, agreements or other documents requested by the Authority prior to the Closing regarding or affecting the Property for the purpose of facilitating the Authority's procurement of permits and approvals including but not limited to governmental permits and certificates of occupancy. The Authority shall bear all costs and expenses associated therewith.

31.0 Brokerage Commissions. Each party hereto represents to the other that no finders or brokers have been involved with the introduction of the Authority and the Seller and/or the purchase and sale of the Property. This representation shall survive Closing or any termination of this Agreement.

32.0 Limitation of Authority Liability. The Seller hereby agrees that nothing in this Agreement shall make the Authority or the SDA or their employees or agents liable to pay any damages or costs for which it and/or they have no liability under the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. The Seller agrees to be bound by the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

33.0 Designation of Contacts; Notices.

33.1 The parties have designated the following contacts, who will be responsible for day-to-day communications between the parties related to this Agreement (but not, for the avoidance of doubt, for notices, requests, consents, approvals or other communications under this Agreement):

Designated Contacts
of Seller:

For Real Estate Matters:
Dwayne Mosley
Facilities Administrator
dcmosley@trenton.k12.nj.us

For Maternal/Infant Health Matters:
Joanne Sung
Assistant Superintendent for
Teaching and Learning
jsung@trenton.k12.nj.us

Designated Contacts
of the Authority:

For Real Estate Matters:
Juan Burgos
VP, Real Estate Development
Juan.Burgos@njeda.gov

Nat Bottigheimer
Director, Real Estate Special Projects
Nat.Bottigheimer@njeda.gov

For Maternal/Infant Health Matters:
Tara Colton
Chief Economic Security Officer
Tara.Colton@njeda.gov

Designated Contact
of the SDA:

Gregory Voronov
Managing Director
Planning and Program Operations
GVoronov@njsda.gov

33.2 All notices, requests, consents, approvals or other communications under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or delivered by a nationally recognized overnight courier service which obtains delivery receipts (e.g., UPS) addressed

If to the Seller, at:

Trenton Public School District Board of Education
108 North Clinton Avenue
Trenton, NJ 08608
Attn: James Earle, Chief School Administrator

If to the Authority at:

New Jersey Economic Development Authority
36 West State Street
Post Office Box 990
Trenton, NJ 08625-0990
Attn: Tim Sullivan, Chief Executive Officer

with a copy to:

New Jersey Office of Attorney General
Division of Law
25 Market Street
Trenton, NJ 08611
Attn: Meredith Friedman, DAG

If to the SDA at:

New Jersey Schools Development Authority
32 East Front Street
P.O. Box 991
Trenton, New Jersey 08625
Attn: Janice Venables, Vice President Corporate
Governance

33.3 Any party may, by notice given as aforesaid, change its designated contact or its address for all subsequent notices. Each party shall notify each other party of any designated contact or address change in writing within ten (10) business days of such change. A party's attorney may deliver any notice on behalf of that party.

33.4 All notices hereunder shall be effective upon the earlier of either three (3) days after mailing (if mailed) or one (1) business day after delivery to the nationally recognized independent overnight courier.

34.0 Miscellaneous.

34.1 New Jersey Law; Disputes. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. In the event a dispute arises between the parties concerning this Agreement, the CEO of the Authority, the CSA of the Seller and the CEO of SDA or their appointed representatives shall meet at least one (1) time to attempt to resolve such dispute. Venue for any unresolved dispute shall be in the Superior Court of New Jersey, Mercer County.

34.2 Powers and Immunities; Policies and Procedures. The parties shall retain all the powers, obligations and immunities provided by the laws of New Jersey. Each party shall be responsible for adhering to all applicable state and federal laws, regulations, and its own policies and procedures in the performance its obligations under this Agreement.

34.3 Construction. The Seller and the Authority waive any statutory or common law presumption which would serve to have this document construed in favor and against either party as the drafter.

34.4 Effectiveness of the Agreement. The submission of this Agreement for examination does not constitute an offer or option to purchase the Property and this Agreement shall become effective as an Agreement only upon execution and delivery thereof by both the Seller and the Authority.

34.5 Further Assurances. Each of the parties hereby agrees to execute, acknowledge, and deliver such other documents or instruments as the other may reasonably require from time to time to carry out the purposes of this Agreement.

34.6 Good Faith. The parties shall act with reasonable diligence and in good faith to carry out the purposes of this Agreement.

34.7 Cooperation. The parties shall work cooperatively with one another to carry out the purposes of this Agreement.

34.8 Effective Date. The Effective Date of this Agreement shall be the date on which it is signed by all parties, or, if not signed simultaneously, the date on which it is signed by the last of the parties, which date shall be inserted at the top of the first page hereof. Any subsequent execution by the Escrow Agent shall not delay the Effective Date.

34.9 Headings. The article and section headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

34.10 No Third Party Beneficiaries. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third-party beneficiary, decree, or otherwise.

34.11 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity or enforceability of any one provision shall not affect the validity of enforceability of any other provision hereof.

35.0 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The parties agree that the execution of this Agreement by electronic signature and/or by exchanging PDF signatures shall be legally binding

36.0 Consensual Condemnation In Lieu of Closing. Intentionally omitted.

37.0 Flood Risk Disclosure. Seller shall complete the required information as to flood risk disclosure set on Exhibit 4.

[Signatures Follow]

IN WITNESS WHEREOF the parties have caused this Agreement to be executed as set forth below intending to be legally bound to the terms of this Agreement:

WITNESS:

**NEW JERSEY ECONOMIC
DEVELOPMENT AUTHORITY**

Name:
Title:

Name: Tim Sullivan
Title: Chief Executive Officer

WITNESS:

**TRENTON PUBLIC SCHOOL
DISTRICT BOARD OF EDUCATION**

Name:
Title:

Name: James Earle
Title: Chief School Administrator

WITNESS:

**NEW JERSEY SCHOOLS
DEVELOPMENT AUTHORITY**

Name:
Title:

Name: Manuel M. Da Silva
Title: Chief Executive Officer

Attachments:

Exhibit 1: Plan of Property and Legal Descriptions

Exhibit 2: Service Contracts

Exhibit 3: Flood Risk Disclosure

[Signature Page to Purchase and Sale Agreement for Real Property]

JOINDER OF ESCROW AGENT

Escrow Agent has executed this Agreement in order to confirm that Escrow Agent shall hold the Earnest Money in escrow, and shall disburse the Earnest Money pursuant to the provisions of Article 21 hereof.

ESCROW AGENT

Stewart Title Guaranty Company

Date: _____, 2024

By: _____
Name: _____
Title: _____



JOHN H. ALLGAIR, PE, PP, LS (1993-2001)
DAVID J. SAMUEL, PE, PP, CME
JOHN J. STEFANI, PE, LS, PP, CME
JAY B. CORNELL, PE, PP, CME
MICHAEL J. McCLELLAND, PE, PP, CME
GREGORY R. VALES, PE, PP, CME

TIM W. GILLEN, PE, PP, CME (1991-2019)
BRUCE M. KOCH, PE, PP, CME
LOUIS J. PLOSKONKA, PE, CME
TREVOR J. TAYLOR, PE, PP, CME
BEHRAM TURAN, PE, LSRP
LAURA J. NEUMANN, PE, PP
DOUGLAS ROHMEYER, PE, CFM, CME
ROBERT J. RUSSO, PE, PP, CME
JOHN J. HESS, PE, PP, CME

February 26, 2024
File No. P-NJ-00521-02
Blocks 3901-3903
City of Trenton
Mercer County
N/F City of Trenton BOE

DESCRIPTION OF PROPERTIES
Lot 48, Block 3901, Lot 1, Block 3902, & Lot 1, Block 3903
Lands N/F City of Trenton, Board of Education
Pennington & Titus Avenues, & North Warren Street, City of Trenton,
Mercer County, New Jersey

All that certain tracts or parcel of lands located along the southeasterly corner of Pennington and North Warren Street in the City of Trenton, New Jersey, bounded and described as follows:

Beginning at a point, said point being the intersection of the southwesterly Right-of-Way line of Pennington Avenue, (Variable Width Right-of-Way as per Tax Map), with the westerly Right-of-Way line of North Warren Street (62.5-Foot Wide Right-of-Way as per Tax Map), said point of beginning having New Jersey State Plane Coordinate, NAD 1983, U.S. Survey Foot, values of N. 507,367.3151 and E. 418,127.5475, and from said beginning point running, thence:

- 1) Along said the westerly Right-of-Way line of North Warren Street, South 07° 26' 29" West, a distance of 194.23 feet to the former southerly Right-of-Way line of Ringold Street (Vacated), thence
- 2) Along said former southerly Right-of-Way line of Ringold Street, North 82° 08' 09" West, a distance of 251.84 feet to the former westerly Right-of-Way line of Ringold Street, thence
- 3) Along said former westerly Right-of-Way line of Ringold Street, North 07° 37' 19" East, a distance of 91.41 feet to the southerly line with Lot 48, Block 3901, thence
- 4) Along said southerly line of Lot 48, Block 3901, North 82° 22' 49" West, a distance of 271.12 feet to the easterly line of Lot 3, Block 3901, thence
- 5) Along said easterly line of Lot 3, Block 3901, and continuing along the easterly lines of Lots 4 through 8, Block 3901, North 14° 42' 47" East, a distance of 126.88 feet to the southerly line of Lot 42.04, Block 3901, thence
- 6) Along said southerly line of Lot 42.04, South 67° 46' 03" East, a distance of 127.00 feet to the westerly right-of-way line of Titus Avenue, thence
- 7) Along said westerly right-of-way line of Titus Avenue, South 22° 13' 57" West, a distance of 38.19 feet to the southerly right-of-way line of Titus Avenue, thence
- 8) Along said southerly right-of-way line of Titus Avenue, South 71° 32' 20" East, a distance of 40.09 feet to the aforementioned easterly right-of-way line of Titus Avenue, thence
- 9) Along said easterly right-of-way line of Titus Avenue, North 22° 13' 57" East, a distance of 292.09 feet to the aforementioned southwesterly Right-of-Way line of Pennington Avenue, thence
- 10) Along said southwesterly Right-of-Way line of Pennington Avenue, South 42° 58' 58" East, a distance of 362.80 feet to the point and place of beginning.

Said description of Lot 48, Block 3901, Lot 1, Block 3902 & Lot 1, Block 3903, City of Trenton, containing 113,872.00 Square Feet or 2.614 Acres, more or less.



February 26, 2024
File No. P-NJ-00521-02
Blocks 3901-3903
City of Trenton
Mercer County
N/F City of Trenton BOE

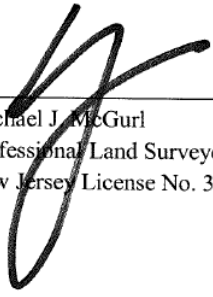
Subject to the following easements: a 30-Foot wide Utility Easement as per Deed Book 4305, Page 233, as depicted on the survey.

Subject to public utilities, if any, within the bed of the former Ringold Street.

Together with a Permanent Construction Easement on portions of Pennington Avenue and North Warren Street, as per Deed Book 4303, Page 294, as depicted on the survey.

Said described lands being known as Lot 48, Block 3901, Lot 1, Block 3902 & Lot 1, Block 3903, as shown on the official Tax Map of the City of Trenton.

The above description was written pursuant to a survey of property designated Lot 48, Block 3901, Lot 1, Block 3902 & Lot 1, Block 3903, on the municipal Tax Map of the City of Trenton, County of Mercer, State of New Jersey. Maps entitled "Boundary & Topographic Survey of Lot 1, Block 3902, prepared for New Jersey Economic Development Authority, situate in City of Trenton, Mercer County, New Jersey", Sheet 1 of 1 and "Boundary & Topographic Survey of Lot 48, Block 3901 & Lot 1, Block 3903, prepared for New Jersey Economic Development Authority, situate in City of Trenton, Mercer County, New Jersey", Sheet 1 of 1. Said surveys having been prepared by Michael J. McGurl, Professional Land Surveyor, of CME Associates, 3141 Bordentown Avenue, Parlin, New Jersey, dated November 17, 2023 and January 29, 2024, and is marked by CME Associates as File No. P-NJ-00521-01 and 02, Drawings Nos. 01-T.



Michael J. McGurl
Professional Land Surveyor
New Jersey License No. 38338

S:\LEGALS\New Jersey\NJ-521 NJEDA Combined Description.doc

Exhibit 2
Right of Entry

Exhibit 3

List of Service Contracts

Exhibit 4

Flood Risk Disclosure

FLOOD RISK

Flood risks in New Jersey are growing due to the effects of climate change. Coastal and inland areas may experience significant flooding now and in the near future, including in places that were not previously known to flood. For example, by 2050, it is likely that sea-level rise will meet or exceed 2.1 feet above 2000 levels, placing over 40,000 New Jersey properties at risk of permanent coastal flooding. In addition, precipitation intensity in New Jersey is increasing at levels significantly above historic trends, placing inland properties at greater risk of flash flooding. These and other coastal and inland flood risks are expected to increase within the life of a typical mortgage originated in or after 2020.

To learn more about these impacts, including the flood risk to your property, visit flooddisclosure.nj.gov. To learn more about how to prepare for a flood emergency, visit nj.gov/njoem/plan-prepare/floods.

Yes No Unknown

- | | | | | |
|--------------------------|--------------------------|--------------------------|------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | | 108. | Is any or all of the property located wholly or partially in the Special Flood Hazard Area ("100-year floodplain") |
| | | | | according to FEMA's current flood insurance rate maps for your area? |
| <input type="checkbox"/> | <input type="checkbox"/> | | 109. | Is any or all of the property located wholly or partially in a Moderate Risk Flood Hazard Area ("500-year floodplain") according to FEMA's current flood insurance rate maps for your area? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 110. | Is the property subject to any requirement under federal law to obtain and maintain flood insurance on the property? |
| | | | | Properties in the special flood hazard area, also known as high risk flood zones, on FEMA's flood insurance rate maps with mortgages from federally regulated or insured lenders are required to obtain and maintain flood insurance. Even when not required, FEMA encourages property owners in high risk, moderate risk, and low risk flood zones to purchase flood insurance that covers the structure and the personal property within the structure. Also note that properties in coastal and riverine areas may be subject to increased risk of flooding over time due to projected sea level rise and increased extreme storms caused by climate change which may not be reflected in current flood insurance rate maps. |
-

111. Have you ever received assistance, or are you aware of any previous owners receiving assistance, from FEMA, the U.S. Small Business Administration, or any other federal disaster flood assistance for flood damage to the property?

For properties that have received federal disaster assistance, the requirement to obtain flood insurance passes down to all future owners. Failure to obtain and maintain flood insurance can result in an individual being ineligible for future assistance.

112. Is there flood insurance on the property?
A standard homeowner's insurance policy typically does not cover flood damage. You are encouraged to examine your policy to determine whether you are covered.

113. Is there a FEMA elevation certificate available for the property?
If so, the elevation certificate must be shared with the buyer. An elevation certificate is a FEMA form, completed by a licensed surveyor or engineer. The form provides critical information about the flood risk of the property and is used by flood insurance providers under the National Flood Insurance Program to help determine the appropriate flood insurance rating for the property. A buyer may be able to use the elevation certificate from a previous owner for their flood insurance policy.

114. Have you ever filed a claim for flood damage to the property with any insurance provider, including the National Flood Insurance Program?
If the claim was approved, what was the amount received?

115. Has the property experienced any flood damage, water seepage, or pooled water due to a natural flood event, such as heavy rainfall, coastal storm surge, tidal inundation, or river overflow?

If so, how many times?

116. Explain any "yes" answers that you give in this section:



Exhibit B
MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 8, 2024

RE: Memorandum of Understanding between EDA, Trenton Board of Education, and New Jersey Schools Development Authority for EDA's Purchase of Block 3901, Lot 48, Block 3902, Lot 1, Block 3903 Lot 1, Trenton, Mercer County (the "Battle Monument Site") to construct the Maternal and Infant Health Innovation Center

Request

The Members are requested to:

1. Approve entering into a three-year Memorandum of Understanding ("MOU") with the Trenton Board of Education ("BOE") and New Jersey Schools Development Authority ("SDA") whereby
 - a. the Authority will explore a potential purchase from the BOE, as-is, of the Battle Monument Site in Trenton for approximately \$2.6M by transmitting those funds to the SDA to satisfy a lien held by SDA on the parcel,
 - b. SDA will hold those funds for the future use by the BOE when working with SDA to acquire and construct a new school project in the City of Trenton,
 - c. the Authority will partner with the BOE and the lead Institution of Higher Education within the MIHIC to establish career lattice pathways and comprehensive training opportunities for public school students in Trenton, and
 - d. the Authority, SDA, and BOE agree to meet regularly to review available parcels in the City of Trenton where a new school could be located in the future;
2. Allocate up to \$3 million of the \$50 million from the 2023-24 State fiscal year Appropriations Act appropriated to the Economic Recovery Fund ("ERF") for the Strategic Innovation Center and the Maternal and Infant Health Innovation Center to be used for the acquisition of the Battle Monument Site and the construction of the Maternal and Infant Health Innovation Center; and

3. Approve a clarification to the “Targeted Industries” Definition as applied to the ERF to specify that outpatient health care services done in conjunction with and as part of a Strategic Innovation Center are permitted.

Background

Released by the First Lady in January 2021, the Nurture NJ strategic plan features nine action areas, and dozens of recommendations, including to “establish a Center in the state capital [Trenton] that focuses on innovation and research in maternal and infant health through partnerships with the state’s academic, funder, business, and faith communities” and charged the Authority with a central role in implementing this recommendation, with support from the Departments of Health, Human Services, and Office of the Secretary of Higher Education. Trenton has amongst the highest maternal and infant health disparities in the state, making it the natural choice to host the MIHIC. Only 47 percent of women in Trenton receive prenatal care in their first trimester and the city has the largest Medicaid population in the state. The MIHIC will work to achieve the Nurture NJ goal of making New Jersey the safest and most equitable place in the nation to give birth and raise a baby.

In April 2021, the EDA issued a Request for Information (“RFI”) about its plans to establish the Center and received more than 50 responses. Many respondents emphasized that the Center should prioritize offering prenatal and postpartum services and community-based education and health programs. Respondents also recommended that the Center engage in workforce development through trainings and certifications to develop a diverse, high-quality perinatal workforce (e.g., midwives, doulas, community health workers).

In March 2022, the Board approved the Authority to work with real estate advisory firm Jones Lang LaSalle (“JLL”) to conduct site analysis and planning to inform the eventual location and footprint of the Center. This work, in tandem with community engagement efforts, identified the specific area within the City of Trenton that is most conducive to the long-term success of the MIHIC. Following that analysis, EDA began reviewing the available parcels of land in that area and quickly identified the Battle Monument Site located at the Southwest corner of Pennington and Warren Street in Trenton, as the most attractive location for the MIHIC due to its proximity to existing community resources and neighborhoods. The Authority further validated that conclusion through community listening sessions conducted by the Watson Institute at Kean University in which community members voiced their support for the Center to be located in this neighborhood.

As a result, in early 2023, the Authority began to engage with the BOE and communicated an interest in purchasing the land. Throughout 2023, the Authority conducted initial environmental analysis to understand the geotechnical status of the parcel to assist in planning for future construction. In addition, the Authority worked with the BOE and the SDA to understand the nature of an equitable lien that exists on the property. Previously, the BOE and SDA engaged in activities to assess, develop, and maintain the Battle Monument Site for a potential future educational purpose that resulted in SDA spending \$2,573,685 towards that effort. The BOE and SDA recognize this expenditure as an equitable lien against the Battle Monument site, which must be reimbursed to the SDA as part of any disposition of the property. The Authority’s purchase price for the property is based on the need to satisfy this lien. To ensure that the funds paid by the Authority remain available to the BOE for the future acquisition and/or construction of a school, the SDA will maintain these funds for this express purpose.

The full form of MOU is attached for reference as Exhibit A. 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.

Upon approval by the Board and full execution of the MOU, staff will return to the Board for approval of the Purchase and Sale Agreement and final payment terms.

Funding

The 2023-24 State fiscal year Appropriations Act dedicated \$50 million in ERF to “Strategic Innovation Centers and Maternal and Infant Health Innovation Center,” P.L. 2023, c. 74 (A5669) at p. 208, l. 20. Staff seeks the Members’ approval to allocated up to \$9 million of that \$50 million to the acquisition of the Battle Monument Site and construction of the Maternal and Infant Health Innovation Center at that location.

“Targeted Industry” Definition

Among other things, the ERF statute (at N.J.S.A. 34:1B-7.13 Use of moneys in fund), provides that the Authority may use the moneys in the fund to establish an economic growth account for programs and initiatives, which will support and invest in small and medium-size businesses and other entities engaged in economic, community, and workforce development that have the greatest potential for creating jobs and stimulating economic growth through such elements including, but not limited to, a fund to provide grants, financing, or equity in innovation centers, research centers, incubators, and accelerators, and other similar innovation-oriented entities, which are focused on the targeted industries as defined by the Authority’s Board.

As defined throughout the Economic Recovery Act, P.L. 2020, c. 156, and in particular for the Emerge program, “Targeted industry” means “any industry identified from time to time by the Authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.”

As part of the approval to establish the Emerge program, the Board previously approved definitions for each of the listed industries within the definition of “targeted industry,” including “life sciences industry.” Specifically (*emphasis added*):

“Life sciences industry” includes, but is not limited to, the research, development, commercialization, manufacturing, and implementation of innovative treatments, diagnostic tools, healthcare related software, medical devices, services, and equipment that supports the study, protection and improvement of plant, animal and human life. Examples of life science industry practices include specialization in biomedicine, biochemistry, pharmaceuticals, biophysics, neuroscience, cell biology, biotechnology, medical devices, nutraceuticals, health-technology, botany and advanced agricultural development, cosmeceuticals, and life systems technologies. This industry also includes firms that manufacture either finished or interim advanced technologies or components.

Exclusions from this industry include direct provision of health care services in hospitals, outpatient facilities, dentist offices, nursing homes, or within a home setting.

On July 14, 2021, the Board approved the use of the Emerge program list and definitions of targeted industries for purposes of ERF.

After a review of the definitions and in light of the legislative appropriation for the MIHIC through ERF, staff proposes revising the definition of “life sciences industry” to be for purposes of ERF (*emphasis added*):

“Life sciences industry” includes, but is not limited to, the research, development, commercialization, manufacturing, and implementation of innovative treatments, diagnostic tools, healthcare related software, medical devices, services, and equipment that supports the study, protection and improvement of plant, animal and human life. Examples of life science industry practices include specialization in biomedicine, biochemistry, pharmaceuticals, biophysics, neuroscience, cell biology, biotechnology, medical devices, nutraceuticals, health-technology, botany and advanced agricultural development, cosmeceuticals, and life systems technologies. This industry also includes firms that manufacture either finished or interim advanced technologies or components. Exclusions from this industry include direct provision of health care services in hospitals, outpatient facilities, dentist offices, nursing homes, or within a home setting, ***unless provided in conjunction with and as part of a Strategic Innovation Center.***

Recommendation

The Members are requested to:

1. Approve entering into a three-year Memorandum of Understanding (“MOU”) with the Trenton Board of Education (“BOE”) and New Jersey Schools Development Authority (“SDA”) whereby
 - a. the Authority will explore a potential purchase from the BOE, as-is, of the Battle Monument Site in Trenton for approximately \$2.6M by transmitting those funds to the SDA to satisfy a lien held by SDA on the parcel,
 - b. SDA will hold those funds for the future use by the BOE when working with SDA to acquire and construct a new school project in the City of Trenton,
 - c. the Authority will partner with the BOE and the lead Institution of Higher Education within the MIHIC to establish career lattice pathways and comprehensive training opportunities for public school students in Trenton, and
 - d. the Authority, SDA, and BOE agree to meet regularly to review available parcels in the City of Trenton where a new school could be located in the future;
2. Allocate up to \$3 million of the \$50 million from the 2023-24 State fiscal year Appropriations Act appropriated to the Economic Recovery Fund (“ERF”) for the Strategic Innovation Center and the Maternal and Infant Health Innovation Center to be used for the acquisition of the Battle Monument Site and the construction of the Maternal and Infant Health Innovation Center; and

3. Approve a clarification to the “Targeted Industries” Definition as applied to the ERF to specify that outpatient health care services done in conjunction with and as part of a Strategic Innovation Center are permitted uses.

A handwritten signature in blue ink, appearing to read 'T. Sullivan', positioned above a horizontal line.

Tim Sullivan, CEO

Prepared by: Mary Maples, Tara Colton, Jorge Santos

Attachments

Attachment A – Draft Memorandum of Understanding



Exhibit C

MEMORANDUM

TO: Juan Burgos, Steve Martorana
FROM: Tom Smith
RE: Maternal Infant Health Center Environmental Update
DATE: November 6, 2024

Background

The Pennington Avenue Site to be redeveloped as the Maternal Infant Health Center includes Block 3901, Lot 48 and Block 3903, Lot 1 (the Titus Avenue lots) and Block 3902, Lot 1 (the Ringold Street lot). Investigations of the Site were performed by others from 1996 through 2021. EDA's consultant updated the soil and groundwater investigations for both parcels through August 2024 to meet current LSRP oversight and NJDEP Site Remediation Program requirements.

EDA Environmental Investigations

An EDA funded Phase I Environmental Assessment/Preliminary Assessment Report (ESA/PAR) was completed in December 2023 for the Titus Avenue lots, and Phase II soil and groundwater sampling was conducted in May 2024. A previously identified suspected underground storage tank (UST) turned out to be a discarded water heater, which was removed to close-out that Area of Concern (AOC). Contaminants detected on the Site are consistent with historic fill and urban background conditions. No further investigation of soil and groundwater is required on the Titus Avenue lots. A deed notice is required to address historic fill contamination exceeding the current Residential Soil Remediation Standards (SRS).

An EDA funded ESA/PAR was completed in May 2023 for the Ringold Street lot. A soil and groundwater Remedial Investigation Report and Remedial Action Workplan (RIR/RAW) have been completed. No further investigation is required for soils. Additional groundwater contaminant delineation and contaminant monitoring over time are required for monitored natural attenuation (MNA). Eight monitoring wells were installed in July 2024 to assess contamination associated with the former gas station and dry cleaner. Groundwater results from August 2024 indicate that contamination will not impact redevelopment of the Site, and active groundwater remediation is not anticipated. The NJDEP accepted MNA as the remedy for groundwater in 2009. An NJDEP groundwater Permit submittal will be required to extend the original 2009 MNA period that was estimated to be completed by 2017. Future groundwater monitoring will consist of biennial sampling of 3-4 wells for volatile organic compounds. Some current monitoring wells may require relocation based on conflict with the new building location.

Required Remediation

A single deed notice will document the institutional and engineering controls for the Site. **Capping of Historic Fill contamination on the Ringold Street lot is proposed.** The LSRP will review the Site redevelopment plans to confirm that the new building, pavement, and any vegetated areas provide the required capping elements. A Remedial Action Report and the deed notice will be prepared after the new construction is complete.

Groundwater monitoring for MNA will continue for a minimum of one year, with each set of quarterly results used to refine the new time to compliance estimate for a groundwater permit application. The time to compliance estimate will also support a cost estimate for the Biennial Certification reporting required until groundwater compliance is achieved.

Remedial Action Permit applications for soil and groundwater will be submitted post-construction. If the EDA submits the permit applications, then the EDA will be responsible for those permit requirements ever if the property is transferred to another party. If the property is subsequently deeded to another party, they can become a co-permittee and they can take over responsibility for the permit requirements going forward, but should they fail to maintain compliance the EDA will always be jointly responsible. The permit applications can alternatively be submitted by the long-term owner if the property is transferred post-construction, which would relieve the EDA of responsibility for the Permit requirements.

Cost Estimate

Soil

Deed Notice, Remedial Action Report, Remedial Action Permit	\$ 60,000
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Groundwater

Natural Attenuation monitoring, additional delineation (2 wells), GW Permit	\$175,000
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Prepared by: Tom Smith

Exhibit D – Sites Identified for MIHIC

Summary Methodology for Site Assessment

PLEASE NOTE: The Final Report will have a more detailed description of the Site Assessment.

To identify prospective properties for the MIHIC, JLL identified an area beyond the exact borders of the Key Node, which expanded into other areas with similar socio-economic, healthcare, and transit factors. The following map provides the proposed delineation for the site search overlaid on the aforementioned Key Node:



The site boundaries include Prospect Street to the west, N Olden Avenue to the north, Hamilton Avenue to the east, and Route 29 to the south.

Within these site search boundaries, JLL has investigated:

- Publicly- and privately-owned
- Vacant land parcel and buildings for redevelopment/rehabilitation
- Opportunities for one comprehensive MIHIC facility and opportunities for a “hub & spoke” model, with multiple facilities

We have also investigated site criteria, including potential developable acres, zoning, and estimated purchase price.

The following bullet points summarize the sources and methodology for the Site Assessment, which JLL undertook to identify potential sites across the Key Node for the MIHIC:

- JLL’s 2018 Report, titled “City of Trenton Downtown Redevelopment Sites”
- Suggestions from the Kean University / Watson Institute team and the NJEDA team.
- JLL Research, using online database tools (i.e. CoStar and LoopNet) and JLL’s proprietary databases

Summary of Potential Sites

The following table provides a summary of key information about each of the potential and preliminary twenty-eight (28) sites identified through JLL's first tranche/investigation:

#	Address / Site	Acres	Zoning	Owner	Source
1	166-170 Hanover Street	2.11	Business (BA); Mixed-Use (MU)	NEW JERSEY BUILDING AUTHORITY	JLL Trenton Catalogue (2018)
2	102-118 West Hanover Street	0.75	Business (BA)	STATE OF NEW JERSEY	JLL Trenton Catalogue (2018)
3	Willow/Hanover/Bank/Barnes Block	0.23	Business (BA)	50 WEST STATE ST LLC	JLL Trenton Catalogue (2018)
4	28-30 Barnes Street	1.2	Business (BA)	NJEDA	JLL Trenton Catalogue (2018)
5	45 West Hanover Street	0.98	Business (BA)	50 WEST STATE STREET LLC/AM PROP H	JLL Trenton Catalogue (2018)
6	43-51 West State Street	0.49	Business (BA)	ROBERT & RICHARD ASSOC C/O TREASURY	JLL Trenton Catalogue (2018)
7	Parking Lot North of Assumpink Creek	2.55	Business (BA)	STATE OF NEW JERSEY	JLL Trenton Catalogue (2018)
8	Parking Lot South of Assumpink Creek	1.65	Business (BA)	STATE OF NEW JERSEY	JLL Trenton Catalogue (2018)
9	John Fitch Plaza	21.36	Business (BA)	STATE OF NJ - DEPT OF THE TREAS	JLL Trenton Catalogue (2018)
10	Justice Complex Parking Lot	±10.2	Business (BA)	TRENTON PARKING UTILITY	JLL Trenton Catalogue (2018)
11	150-160 South Broad Street	1.4	Business (BA)	150-170 S BROAD TRENTON URBAN RENEW	JLL Trenton Catalogue (2018)
12	Roebing Lofts	6.91	Industrial (IA)	MERCER COUNTY IMPROVEMENT AUTHORITY	NJEDA Suggestion
13	30 Wallenberg Avenue	1.078	Business (BB)	STATION PLAZA ASSOC C/O A BELL	JLL Trenton Catalogue (2018) / NJEDA Suggestion
14	54 - 66 South Clinton Avenue	0.44	Business (BA)	WOODROSE TRANSIT, LLC	JLL Trenton Catalogue (2018)
15	421 East State Street	2.0	Business (BA)	NEW JERSEY BUILDING AUTHORITY	JLL Trenton Catalogue (2018)
16	319 East State Street	1.75	Business (BA)	CITY OF TRENTON	JLL Trenton Catalogue (2018)
17	120 East Front Street	0.85	Mixed-Use (MU)	PARKING AUTHORITY/CITY OF TRENTON	JLL Trenton Catalogue (2018)
18	2-8 N Broad St	0.21	Pedestrian Mall (PM)	HARMAN ONE LAB	JLL Research
19	140 E Hanover St / 127 Academy Street	0.45	Mixed-Use (MU)	TRENTON FALLS LLC	JLL Research
20	720 Brunswick Avenue	0.24	Mixed-Use (MU)	CAPITAL HEALTH SYSTEMS, INC; HELENE FULD MEDICAL CENTER	NJEDA Suggestion
21	Pennington Ave and Prospect Street	±.34	Mixed-Use (MU)	CITY OF TRENTON AND LITIN SU	NJEDA Suggestion
22	446 Bellevue Avenue	9.22	Mixed-Use (MU)	NJNY LIEN LLC	NJEDA Suggestion
23	240 West State Street	0.82	Business (BA)	HOLIDAY TRENTON INC	JLL Trenton Catalogue (2018) / NJEDA Suggestion
24	283-289 N Willow St	0.41	Mixed-Use (MU)	283 NORTH WILLOW LLC	JLL Research
25	Warren and Pennington	1.71	Mixed-Use (MU)	CITY OF TRENTON BOARD OF EDUCATION	NJEDA Suggestion
26	28-30 Passaic Street	0.23	Business (BB)	MASON WALTER I & MASON GEORGE H	JLL Research
27	221 W Hanover Street	.47	Mixed-Use (MU)	Circle Six LLC	NJEDA suggestion
28	845-853 Prospect Street	1.27	Mixed-Use (MU)	Kaplan Group Construction LLC	NJEDA suggestion

Attachments

Resolution of the New Jersey Economic Development Authority Regarding Approval of Purchase and Sales Agreement between the Authority and Trenton Board of Education for Block 3901, Lot 48, Block 3902, Lot 1, Block 3903 Lot 1, Trenton, Mercer County (Battle Monument Site) to construct the Maternal and Infant Health Innovation Authority

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

RE: \$42,612,500 Grant Agreement between the Authority and Rutgers, The State University of New Jersey for Activities Related to the Development of the UH/RBHS Academic Health Center Campus in Newark

Request

The Members are requested to approve entering into a Grant Agreement (“Agreement”) with Rutgers, The State University of New Jersey (“RU”) whereby the Authority will grant RU up to \$42,612,500 in Grant Funds for specific Grant Activities in furtherance of the University Hospital (“UH”)/Rutgers Biomedical and Health Sciences (“UH/RBHS”) Academic Health Center Campus in Newark.

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. This Grant Agreement is furtherance of this work.

The Grant Funds may be used for the further planning, remediation, demolition and construction of the Administrative Complex at UH/RBHS Academic Health Center Campus, specifically architectural and engineering design, environmental remediation, demolition and construction ("Use of Funds").

Given the Authority's history of engaging in development activities throughout the State and in consideration of the alignment of goals between UH and RU Parties, the Authority desires to enter into a Grant Agreement with RU to commit up to \$42,612,500 of the FY23 Funds to enable the Grant Activities to occur. The Grant Agreement attached as Exhibit A to this memo is in substantially final form. The final document may be subject to revision, although the material 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.

Prior Predevelopment Agreement

At the Authority's April 2024 Board Meeting, Members approved a Predevelopment Agreement ("Agreement") with RU and UH whereby the Authority would collaborate and commit up to a total of \$7 million in funding for specific Predevelopment Activities in furtherance of the UH/RBHS Academic Health Center Campus, the subject of this document (see Exhibit B). The Predevelopment Activities approved under the \$7 million Predevelopment Agreement are preliminary activities directly related to the activities approved under this Grant Agreement. Additionally, the sources of funds for the Predevelopment Agreement are the same 50,000,000 of Coronavirus State Fiscal Recovery Funding from FY 2023 that is the source of this Grant Agreement. Because the two awards are to the same project for the same uses with the same spending requirements it is recommended that any unused funds or unexpended funds awarded under the Predevelopment Agreement be granted to RU for the furtherance of UH/RBHS Academic Health Center Campus.

Summary of MOU

- Grant amount not to exceed \$42,612,500
- Grant funds are to be spent on the planning, remediation, demolition and construction of the Administrative Complex at UH/RBHS
- RU agrees to comply with all the terms and conditions of NJEDA's agreement with New Jersey Department of Community affairs MOU for Coronavirus State Fiscal Recovery Fund dated July 12, 2023
- RU's Administrative Fee for work related to the MOU will not exceed 4% of the total Grant amount not to exceed \$1,704,500.
- All Grant Funds must be expensed prior to December 31, 2026
- At a minimum RU agrees to report monthly to EDA on the project status and provide evidence of all costs, expenses and contracts billed to the Grant and Administrative Fee

Recommendation

The Members are requested to approve entering into a Grant Agreement with R U whereby the Authority will grant up to \$42,612,500 in funding for specific Grant Activities in furtherance of the UH/Rutgers Biomedical and Health Sciences Academic Health Center Campus in Newark.

Additionally, the members are asked to approve the granting of any remaining unused, uncommitted or un-expensed funds, as determined and defined by the Authority, from the Predevelopment Agreement with RU UH, approved by the Members at the Authority's April 2024 Board Meeting, to RU in an amount not to exceed the original grant amount of \$7,000,000.



Tim Sullivan, CEO

Prepared by: Brian Keenan, Senior Project Officer

UNIVERSITY HOSPITAL STUDY AND PLAN GRANT AGREEMENT

This University Hospital Study and Plan Grant Agreement (hereinafter the “Agreement”) dated as of the Effective Date set forth below between **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 (“Grantee”) and the **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY** (the “Authority” or “Grantor”), a body corporate and politic organized and existing under the authority of N.J.S.A. 34:1B-1 et seq., having its offices at 36 West State Street, PO Box 990, Trenton, New Jersey 08625-0990 (collectively the “Parties”).

WITNESSETH:

WHEREAS, the Authority has received, as a Subrecipient, a payment from the Coronavirus State Fiscal Recovery Fund or Coronavirus Local Fiscal Recovery Fund, (collectively, the “*CSFRF*”), which was established pursuant to Sections 602 and 603, respectively, of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (“*ARP*”), each with which the Authority must comply; *and*

WHEREAS, in using such funds, the Authority must comply with the terms of *ARP*, regulations issued by the U.S. Department of the Treasury governing the expenditure of monies distributed from the *CSFRF* (including, without limitation, the Interim Final Rule (86 Fed. Reg. 26,786 (May 17, 2021), as amended by the U.S. Department of Treasury (effective November 20, 2023) and Final Rule (87 Fed. Reg. 4,338 (Jan. 27, 2022)), the U.S. Department of the Treasury’s Compliance Supplement (April 2022), the Award Terms and Conditions applicable to the *CSFRF*, and such other guidance as the U.S. Department of the Treasury has issued or may issue governing the expenditure of monies distributed from the *CSFRF* (collectively, the “*Regulatory Requirements*”); *and*

WHEREAS, pursuant to the *Regulatory Requirements*, the Authority must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200; *and*

WHEREAS, pursuant to N.J.S.A. 52:14-1 et seq. the Authority has entered into a Memorandum of Understanding dated July 12, 2023 (“*MOU*”) (attached hereto as Exhibit H) with the New Jersey Department of Community Affairs for the University Hospital Study and Plan Program (*MOU* Number 2023-18) (the “*University Hospital Study and Plan Program* or “*Program*”), which is a grant program that will utilize up to \$50,000,000 in funding provided through the *ARP CSFRF* to study and plan for new health care facilities at the Eligible Project Locations to meet community health care needs in the City of Newark, and to fund site development and capital construction; *and*

WHEREAS, the Program will provide Grant Awards that may cover up to \$42,612,500 of Project (hereafter defined) costs to support Project specific hard and soft costs; *and*

WHEREAS, pursuant to a Lease Agreement dated March 17, 1989, as amended by a Lease Amendment dated as of August 4, 1992, the State of New Jersey ground leased approximately sixty-three (63) acres located in Newark generally known as the University of Medicine and Dentistry of New Jersey ("UMDNJ") Newark Campus to UMDNJ; and

WHEREAS, the New Jersey Medical and Health Sciences Education Restructuring Act was enacted on August 22, 2012, under which UMDNJ, except for, *inter alia*, University Hospital in Newark and the School of Osteopathic Medicine in Stratford, was integrated into Grantee; and

WHEREAS, in conjunction with the New Jersey Medical and Health Sciences Education Restructuring Act, Grantee, University Hospital, and the State of New Jersey entered into a Second Amendment to the 1989 Lease Agreement, dated July 1, 2013, where Grantee and University Hospital succeeded to the rights and obligations of UMDNJ under the ground lease, which term currently expires on June 30, 2089; and

WHEREAS, Grantee and University Hospital are ground-lease tenants at the Eligible Project Locations and the Authority, Grantee and University Hospital have agreed that Grantee will undertake this Project. Therefore, Grantee should also be a Subrecipient, in addition to the Authority, of the Grant Funds dedicated to the development of Eligible Project Locations pursuant to the Program.

WHEREAS, the Parties desire to set forth the terms and conditions upon which Grantee will accept and Authority will advance Grant funds to Grantee for the purposes of funding the Project in conformance with the requirements and certifications set forth under this Agreement and in compliance with all applicable laws; *and*

WHEREAS, the Authority intends to use monies received from the CSFRF to fund the Grantee for the Project; *and*

WHEREAS, the Project would benefit the mission and goals of the Program, to meet community health care needs in the City of Newark, the Parties and the State of New Jersey; *and*

WHEREAS, the Parties agree to undertake and carry out, in cooperation with each other, the various tasks and obligations hereinafter set forth.

NOW THEREFORE, in consideration of the mutual promises and covenants made herein, it is agreed as follows:

1. The recitals appearing above are specifically incorporated herein by reference.
2. **Definitions.** Unless otherwise defined in this Agreement, capitalized terms used in this Agreement shall have the meanings ascribed thereto in this Section, unless the context clearly indicates otherwise.
 - a. “**Affirmative Action, Contractor Registration, and Prevailing Wage Requirements**” shall have the meaning specified in N.J.A.C. 19:30–4.1 *et seq.*, N.J.S.A. 34:11-56.48 *et*

seq.) and 40 U.S.C. 3141 et seq. concerning prevailing wage requirements. Regulations, forms, and guidance documents related to this subsection are available at www.njeda.com/affirmativeaction.

- b. **“Applicant”** shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“An applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.”).
- c. **“ARP”** shall mean the American Rescue Plan Act of 2021, Pub. L. No. 117-2, as amended.
- d. **“Approval Summary”** means those Use of Funds approved in **Exhibit F**.
- e. **“Certification Regarding Lobbying”** means the certification attached hereto as **Exhibit D** and made a part hereof.
- f. **“Construction Appendix”** means the mandatory language that must be included in any contract between Grantee and their respective Contractor(s) in relation to the Project, and attached hereto as **Exhibit I**.
- g. **“Construction Work”** shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[T]he construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.”).
- h. **“Contractor”** means the Public Works Contractor or Contractors registered with the New Jersey Department of Labor and Workforce Development (“LWD”) or the developer entity that is hired by Grantee to complete the construction of the Project (defined hereinafter).
- i. **“DOB Affidavit”** means the affidavit regarding duplication of benefits attached hereto as **Exhibit B** and made a part hereof and referenced to **Exhibit C Subrogation and Assignment Agreement**.
- j. **“Eligible Project Locations”** means all projects must be located at the Campus, as that term is defined in the Second Amendment to Lease Agreement dated July 1, 2013, entered into between Grantee, University Hospital, and the State of New Jersey.
- k. **“Effective Date”** means the date of the last signature below representing the last date of execution of this Agreement by the respective Parties.
- l. **“Event of Default”** means one or more of the events outlined in Section 11 of this Agreement, the occurrence of which may void this Agreement.

- m. **“Federally Assisted Construction Contract”** shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: (“[A]ny agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the government of the United States of America for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.”).
- n. **“Financial Reporting Requirements”** means the required monthly and quarterly reporting due to DCA by the Grantor on the last day of each month and the Grantee’s responsibility to provide Grantor with said information on the 25th day of each month and on a quarterly basis.
- o. **“Grant Award”** means the aggregate amount of all monies paid, or to be paid, by Grantor to Grantee pursuant to Section 3 of this Agreement, provided however in no event shall the Grant Award exceed \$42,612,500.
- p. **“Grant Term”** means from the Effective Date, which may be extended for a period of one year upon Authority approval, to Project Completion or sixty (60) days following the expenditure of all Grant Award funds, whichever occurs earlier.
- q. **“Grant”** means a grant funding given pursuant to the Authority’s University Hospital Study and Plan Program Grant Program.
- r. **“Pre-construction Meeting”** means the mandatory meeting prior to commencement of construction in which Grantee and their respective Contractor(s) must participate in an Authority scheduled Pre-construction Meeting with the Authority staff to re-affirm Prevailing Wage, Contractor Registration, and Affirmative Action Requirements under this Grant Award alongside other monitoring requirements.
- s. **“Project”** means the studying and planning for a 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 in cooperation with Grantor and University Hospital.
- t. **“Project Completion”** means when the Project has been fully completed, satisfactorily completed Project Closeout, as determined at the sole discretion of the Authority, and that the Authority has reviewed and approved all required compliance activities.
- u. **“Project Status Report”** means the form, attached hereto as **Exhibit E**, that shall be delivered to the Grantor monthly until Project Completion and provides an update

regarding: 1) Project Costs; 2) prospective Project timelines; 3) any additional financial support for the Project following approval; and 4) a summary of milestones achieved and overall progress towards Project Completion.

- v. **“State”** means the State of New Jersey.
- w. **“Subrogation and Assignment Agreement”** means the agreement regarding **Exhibit C** Duplication of Benefits, attached hereto and made a part hereof as **Exhibit B**.
- x. **“Tax Clearance Certificate”** means a current New Jersey Business Tax Clearance Certificate not more than 180 days old.
- y. **“Uniform Compliance Requirements”** mean the requirements set forth in **Exhibit A** “UNIFORM COMPLIANCE REQUIREMENTS” attached hereto and made a part hereof.
- z. **“Use of Funds”** means the moneys used for the development of the Project, including those set forth in **Exhibit F**. Funds may be used for the planning, remediation, demolition and construction of the Project.

3. Grant Award Amount and Administrative Fee. The Grant Award is \$42,612,500 (the “Grant Award”). The Grant Award shall not increase after approval and execution of this Grant Agreement due to contingencies.

Grantee shall use the Grant Award solely for the Project in accordance with the Use of Funds and the requirements of the MOU between Grantor and the New Jersey Department of Community Affairs (“NJDCA”) in Exhibit H. The Grant Award may be up to \$42,612,500 of all Project costs.

. Grantee is entitled to a Administrative Fee of no greater than 4% of the total Grant award of \$42,612,500 or \$1,704,500. The Administrative Fee will be paid to Grantee, in the full amount, at the time same time Grant Funds are disbursed. Grantee is obligated to provide Grantor with a monthly report accounting for funds expenses with documentation of support expenditures. If Administrative Fee is used for payment of staff time, Grantee shall provide a monthly time sheet to include:

Employee Name

Title

Hourly Salary (including Benefits)

Hours Spent on UH/RBHS

Example: Hourly Salary x Hours = Reimbursement Amount

4. **Grant Award Disbursement.** The Grant will be advanced to the Grantee as follows:

Under the Program the Authority will remit payment to the Grantee upon the disbursement of the Grant Award funds by the New Jersey Department of Community Affairs to the Authority and upon satisfaction of all Conditions Precedents provided in Section 5 of this Agreement.

The Authority may perform random site visits and attend Project meetings and Grantee will coordinate logistics with same. Grantee is required to comply with all applicable requirements of Exhibit H, MOU between Grantor and NJDCA during the term of this Agreement. Notwithstanding anything in this Agreement to the contrary, in the event Grantor determines, in its sole discretion, that there is a significant deviation between actual and reported performance, including, but not limited to, a significant deviation from the Project contemplated by the Parties, Grantor shall have the right to recapture all or a portion of the Grant Award. Grantor may also declare an Event of Default pursuant to Section 11 of this Agreement and avail itself of the remedies provided under Section 12.

Grantee specifically understands and agrees that they shall provide Grantor with all contracts executed for the Project by the 25th day in the month executed and evidence of payment for all Project related costs by the 25th day in the month of execution, as well as the Project's information required in **EXHIBIT J: Financial Reporting Requirements.** Grantee shall be responsible for assuring compliance of any third parties contracted to work on the Project with all terms and conditions of this Agreement and the Exhibits attached hereto, as applicable, the Program and further assumes the sole and absolute responsibility for any payments due to said third parties pursuant to applicable laws.

The Grant Award shall not be used for any invoices provided by the Grantee to the Authority after the Grant Term ends. The Authority, at its sole discretion, may disallow the Grant Award to be used for work performed if it does not comply with the requirements of this Program, the MOU between Grantor and the NJDCA in Exhibit H or this Agreement.

Grantee shall be responsible for assuring compliance of any third parties contracted to work on the Project with all terms and conditions of this Agreement and the Exhibits attached hereto, as applicable, the Program and further assumes the sole and absolute responsibility for any payments due to said third parties pursuant to applicable laws.

5. **Conditions Precedent.** Prior to the Authority making the Grant Award to the Grantee the following conditions must be satisfied.

Receipt by the Authority of the following which shall be in form and content satisfactory to the Authority:

- Executed **Certification Regarding Lobbying** attached as **Exhibit D**, which is made a part hereof.

- Executed Agreement and Exhibits attached hereto;
- Documentation evidencing “Insurance Requirements” as set forth in Section 8 of this Agreement;
- Certified **Uniform Compliance Requirements** attached as **Exhibit A**, which is made a part hereof;
- Evidence that Grantee’s Board of Governors has approved this Agreement;

6. **Covenants of Grantee.** Grantee covenants and agrees that:

- (A) Grantee shall comply with the Use of Funds for the Project.
- (B) Grantee shall submit copies of all contracts related to the Project and evidence of payments made using the Grant Award to the Grantor as required by applicable laws and regulations. Grantee shall comply with applicable statutes and regulations prohibiting discrimination, including Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and U.S. Treasury’s implementing regulations at 31 C.F.R. Part 22. Pursuant to Grantor’s MOU with NJDCA, the Grantee shall ensure the language prohibiting discrimination specified in “Exhibit E Schedule of Assurances”, B.1. be included in every contract or agreement subject to Title VI and its regulations.
- (C) Grantee shall be responsible for complying with all applicable reporting and compliance obligations placed upon Grantor pursuant to Section 3 of Grantor’s MOU with NJDCA (Exhibit H) and the following exhibits to such MOU: Exhibit C "Financial Reporting Requirements" and Exhibit D "Program Performance Reporting". Ongoing federal reporting requirements will be administered by Grantor with DCA and delegated to Grantee. With reference to Section 2.3 of Exhibit H, the parties agree that the Grant Award has already been obligated as required by federal regulations and guidance.
- (D) Grantee shall and shall cause its Contractors to submit a Project Status Report every month beginning 30 (thirty) business days from the Effective Date of Contractor’s contract with Grantee;
- (E) Grantee shall be responsible for obtaining, evidencing, and maintaining mandatory insurance requirements for the entire Grant Term in accordance with the insurance requirements under Section 8 of this Agreement.
- (F) Grantee shall comply with the Prevailing Wage Requirements, Contractor Registration, and Affirmative Action Requirements, including, but not limited to, submitting all required payroll and workforce reports and the inclusion of any required contract addenda and, if applicable, the requirements set forth in New Jersey Executive Order 215 of 1989 regarding the requirement for environmental assessments.

- (G) Grantee shall comply with all applicable federal, State, or local laws, statutes, ordinances, regulations, guidelines, standards, administrative or court orders or decrees, now or hereinafter in effect with regard to all aspects of this Project, Agreement and Exhibits attached hereto, as provided in Section 15 Adherence to State and Federal Laws and Regulations.
- (H) Grantee acknowledges and shall comply with U.S. Treasury's expenditure deadline of December 31, 2026 for the Grant Award funds, unless the same deadline is extended by U.S. Treasury.
- (I) Grantee shall not have a material deviation from the Project as described in **Exhibit E** without prior written consent of the Authority.
- (J) Grantee shall comply with the Uniform Compliance Requirements as described in **Exhibit A**.
- (K) Grantee has executed the Certification Regarding Lobbying attached as **Exhibit D**, which is made a part hereof.
- (L) Grantee shall comply with the Subrogation and Assignment Agreement as described in **Exhibit C**.
- (M) Grantee shall, during the Grant Term and as applicable thereafter, comply with the terms of this Agreement and satisfactorily act in accordance with the MOU provided in Exhibit H.

7. Representations and Warranties of Grantee.

- (A) Grantee has power to fully and directly enter into this Agreement at the signing of hereof, and for all times during the Grant Term and Project, and has the legal authority to and has authorized the taking of all action necessary to carry out and give effect to the transactions contemplated by this Agreement and Grantee's signatory to this Agreement is duly authorized and has legal capacity to execute and deliver this Agreement.
- (B) To the best of Grantee's knowledge, and upon due inquiry, there is no action or proceeding pending or threatened against Grantee before any court or administrative agency that might adversely affect the ability of Grantee to perform its obligations under this Agreement and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the performance of Grantee's obligations under this Agreement have been obtained and will be obtained whenever required hereunder or by law.
- (C) Grantee represents and warrants that, to its knowledge, it: (1) is not in violation of any statute governing the New Jersey Department of Labor and Workforce Development ("LWD") or the New Jersey Department of Environmental Protection ("DEP"), (2) is not in violation of any rule or regulation issued by the LWD or DEP, and (3) does not have any unpaid fines, penalties, or other payment obligations to the LWD or DEP that are not subject to a payment plan approved by LWD or DEP.

- (D) Neither the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by, or conflicts with or results in a breach of the terms, conditions, or provisions of any corporate restrictions or any evidence of indebtedness, Agreement, or instrument of whatever nature to which Grantee is bound, or constitutes a default under any of the foregoing.
- (E) All tax returns and reports of Grantee required by law to be filed have been duly filed and all taxes, assessments, fees and other governmental charges upon Grantee or upon any of its respective properties, assets, income or franchises which are due and payable pursuant to any assessment received by Grantee have been paid other than those which are presently payable without penalty or interest. Nothing in this subparagraph is intended to preclude Grantee from exercising its lawful right to contest any tax, assessment, fee or other governmental charge.
- (F) All statements, representations and warranties made by Grantee in relation to this Project and in this Agreement to the Authority, and in any materials furnished in support of this Project or Agreement were true when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of this Agreement and at all times relevant thereafter, it being understood by Grantee that all such statements, representations and warranties have been relied upon by the Authority as an inducement to disburse the Grant Award and shall continue to be relied upon by the Authority in administering the Agreement. Grantee further understands and agrees that, if, during the term of this Agreement and at all times relevant thereafter, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Authority in writing of such fact.
- (G) The principal office of Grantee is located at 33 Knightsbridge Road, Piscataway, New Jersey 08854. All of Grantee's books and records relating to the Project shall be located at 33 Knightsbridge Road, Piscataway, New Jersey 08854 or can be electronically accessed at this location. Grantee shall notify the Authority in writing of any change in the location of such books and records prior to any such relocation for a period of five years from the date of this Agreement.
- (H) Grantee represents that it has at all times relevant to this Agreement been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it has not relied upon any statement, representation, warranty, agreement or information provided by the Authority; that it acknowledges that it is informed by its advisors of its respective rights, duties, and obligations with respect to the transaction which is the subject of this Agreement under all applicable laws, and that it has no set-offs, defenses or counterclaims against the Authority with respect to the transaction which is the subject of this Agreement.

- (I) If compliance is required with N.J.S.A. 52:32-60.1, et seq., which prevents the Authority from certain dealings with businesses in activities related to Belarus or Russia, the Grantee or Vendor agrees that by signing this Agreement that the Grantee or Vendor may be required to certify whether or not it is appearing on the list of “Specially Designated Nationals and Blocked Persons” promulgated by the Office of Foreign Assets Control (OFAC), <https://sanctionssearch.ofac.treas.gov>, without a license or exemption related to Belarus or Russia, and that if this statement is willfully false, Grantee or Vendor shall be subject to penalty. Additionally, Grantee or Vendor agrees that it will affirmatively disclose whether it appears on the OFAC list for any reason, and whether or not it has a license or exemption from OFAC.
- (J) If compliance is required with N.J.S.A. 52:13D-19, the Grantee represents and warrants that it has not violated N.J.S.A. 52:13D-19, which forbids any “New Jersey State officer or employee” from entering into a contractual agreement with the State of New Jersey to execute any contract or agreement with a value of \$25 or more, made, entered into, awarded or granted by any New Jersey State agency. The term “New Jersey State officer or employee” includes that employee or officer’s partners, any other person undertaking or executing said agreement for the use or benefit of the employee or officer or on his or her account, and any corporation which that employee or officer controls or in which they own or control more than 1 percent of the stock. The Grantee acknowledges that pursuant to the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12, et seq, State employees are prohibited from representing a party other than the State before any State agency; and representation includes a prohibition against making personal appearances before any State agency on behalf of a party other than the State, writing letters, sending emails, or making phone calls to any State agency on behalf of a third party, and includes a ban on signing any documents or applications submitted to any State agency on behalf of a party other than the State including, but not limited to, this agreement.
- (K) If compliance is required with N.J.S.A. 24:6I-49(b)(2), Grantee represents and warrants that it:
- a. (a) has neither applied for nor received from the New Jersey Cannabis Regulatory Commission either a license to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service or that employs a certified personal use cannabis handler to perform work for or on behalf of a cannabis establishment, distributor, or delivery service; and (b) is not a property owner, developer, or operator of a project to be used, in whole or in part, by or to benefit a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or to employ a certified personal use cannabis handler to perform work for or on behalf of a cannabis establishment, distributor, or delivery service pursuant to N.J.S.A. 24:6I-49(b)(2)(b).

Grantee acknowledges an on-going obligation to report to the Authority any change to the

statements made in this section

b. The Grantee acknowledges that the issuance of a license to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or the issuance of a certification to perform work for or on behalf of a cannabis establishment, distributor, or delivery service to a person or entity that has been awarded a State or local economic incentive shall invalidate the right of the Grantee to benefit from the economic incentive as of the date of issuance of the license or certification; and that the issuance of a license to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or issuance of a certification to perform work for or on behalf of a cannabis establishment, distributor, or delivery service at a location that is the subject of a State or local economic incentive shall invalidate the right of the Grantee property owner, developer, or operator to benefit from the economic incentive as of the date of issuance of the license or certification.

(L) If, during the duration of this Agreement Grantee becomes aware of any facts, occurrences, information, statements, or events that render any of the foregoing representations or warranties herein untrue or materially misleading or incomplete, Grantee has an affirmative obligation under this Agreement to immediately notify the Authority in writing of such facts, occurrences, information, statements, or events.

The representations and warranties made in this Section shall survive termination of this Agreement.

8. Insurance Requirements. All parties shall secure and maintain in force, at their own expense, for the term of the Grant, insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VI or better rating by A.M. Best & Company.

All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the New Jersey Economic Development Authority at the address shown below. If the insurer cannot provide 30 days' written notice, then it will become the obligation of the party to provide the same to the Authority within forty-eight (48) hours of receipt of notification from their insurance company.

All required parties shall provide the Authority with current certificates of insurance for all coverages and applicable renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. No work is permitted to begin until evidence of the required insurance is provided. The certificates of insurance shall indicate the grant agreement number or purchase order number and title of the Contract in the Description of Operations box and shall list the New Jersey Economic Development Authority in the Certificate Holder box. The certificates and any notice of cancellation shall be mailed to the Authority at: New Jersey Economic Development Authority, PO Box 990, 36 West State Street, Trenton, NJ 08625-0990.

Grantee and any Contractor hereby waives all rights of subrogation against New Jersey Economic Development Authority for recovery of damages to the extent those damages are covered by any insurance policies the Grantee/Contractor is required to maintain as set forth herein. Grantee/Contractor agrees to obtain, at its own cost, any endorsement necessary to provide such a waiver under the applicable insurance coverage.

Grantee shall maintain the following insurance coverages for the duration of the Grant Term.

1. The insurance to be provided by the Grantee shall be as follows:

A. Grantee shall maintain Commercial General Liability (CGL) insurance, with a limit of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate limit for products/completed operations and \$2,000,000 general aggregate limit. Insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising out of, occasioned by, or resulting from: products, completed operations, personal injury and advertising injury, premises, operations, and liability assumed under an insured contract. Any deductible, or self-insured retention, applicable to the aforementioned insurance shall be written using ISO endorsement CG 03 00 (or a substitute form providing equivalent coverage) which otherwise requires the Grantee to be responsible for the deductible or retention. New Jersey Economic Development Authority shall be included as additional insureds under the Commercial General Liability policy using forms CG2010, CG2037, CG2001 and CG2404, (or substitute forms providing equivalent coverage). This insurance shall apply as primary insurance with respect to any other Commercial General Liability insurance or self-insurance programs afforded to New Jersey Economic Development Authority. 30-day notice of cancellation or non-renewal will be provided to the Additional Insured.

B. *Worker's Compensation applicable* to the laws of the State of New Jersey and shall include an endorsement to extend coverage to any State, which may be interpreted to have legal jurisdiction and Employer's Liability Insurance with limits of no less than \$500,000/\$500,000/\$500,000.

Grantee shall maintain Umbrella/Excess Liability providing limits in addition to, and following form over: Employers' Liability, Commercial General Liability, and Automobile Liability. Limits of no less than \$5,000,000 each occurrence and in the aggregate. All endorsements (additional insured, primary non-contributory and Waiver of Subrogation) will follow the underlying policy form or be endorsed accordingly.

Commercial Property Insurance if Grant funds are used for new construction commercial property insurance in an amount equal to 100 percent of the full replacement cost of the existing building and providing for protection against the perils insured under the ISO special causes of loss form CP 10 30 00 (or a substitute providing equivalent terms and conditions), including flood and earthquake, with a deductible amount of not more than \$250,000. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form. Such policy required by this subparagraph shall name New Jersey Economic Development

Authority as Loss Payee as their interests may appear. 30-day notice of cancellation or non-renewal will be provided to Loss Payee.

Builder's Risk Insurance if grant funds are to be used for new construction, then for the benefit of the Grantee during the term of construction which will protect against all risk of direct physical loss or damage, including flood and earthquake, resulting from any external cause; except as excluded under the standard all risk policy form. The limits of liability will be equal to 100 percent of the replacement value for the Project with a deductible of not more than \$5,000, including items of labor and materials connected therewith whether in or adjacent to the structure(s) insured, or while in transit and while temporarily located away from the Project and materials in place or to be used as part of the permanent construction. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form. Such policy required by this subparagraph shall name New Jersey Economic Development Authority as Loss Payee as their interests may appear. 30-day notice of cancellation or non-renewal will be provided to Loss Payee.

2. The insurance to be provided by any Contractor(s) performing work related to this grant shall be as follows:

Grantee will include all construction project managers, Contractors, and/or subcontractors as insureds under its General Liability, Umbrella/Excess and Employer's Liability policies or will furnish separate certificates and endorsements for each Contractor and/or subcontractor reflecting New Jersey Economic Development Authority as an additional insured on primary and non-contributory basis for ongoing completed operations and including waiver of subrogation as specified above. All coverage for Contractors and/or subcontractors will be subject to the requirements outlined above.

Additionally, Contractors and subcontractors are required to maintain the following:

- A. Comprehensive Automobile Liability Insurance covering all owned, hired and non-owned automobiles. Minimum policy limit of \$1,000,000 Combined Single Limit each occurrence. The Authority shall be included as additional insured. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Additional Insured
- B. Pollution Liability (required if the Contractor's work involves demolition, remediation and/or site work). Pollution Liability with limits of not less than \$5,000,000 each occurrence and aggregate. Coverage may be provided on a claims-made basis as long as the retroactive date is prior to commencement of work at the site (must be indicated on certificate of insurance) and continuous coverage is maintained, or an extended discovery period exercised for a period of five (5) years beginning from the time the policy is terminated. New Jersey Economic Development Authority shall be included as additional insured. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Additional Insured.

- C. Professional Liability/Errors & Omissions Liability (required if the Contractor's work involves the preparing, approving of maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawing and specification of the project, as well as any supervisory, inspection architectural or engineering activities). Professional Liability/Errors & Omissions Liability sufficient to protect from any liability arising out of professional obligations performed pursuant to this grant with limits of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for all operations conducted. Coverage may be provided on a claims-made basis as long as the retroactive date is prior to commencement of work at the site (must be indicated on certificate of insurance) and continuous coverage is maintained, or an extended discovery period exercised for a period of five (5) years beginning from the time the policy is terminated. Coverage may be provided on a combined form with Pollution Liability with a combined policy aggregate of no less than \$5,000,000.

9. **Publicity.** The Parties agree to grant to each other the right to use the other Party's name and logos in public communications announcing or reporting this Agreement and listing its name and logos on the Parties' respective websites in relation to its participation in the Program; provided however, that the Parties agree that they will work together and coordinate the planning and execution of Project milestone publicity events, including groundbreaking, ribbon cutting, and topping off events. The Parties further agree to also grant such name and logo rights set forth in this section to the State.

10. **Records, Access and Maintenance.** Grantee shall establish and maintain all documents and other records and shall cause its Contractors similarly to establish and maintain all document and other records, related to the Grant Award and the Agreement until the latest of the following dates:

- A. five (5) years after the date of final payment (as required by N.J.A.C. 17:44-2.2);
- B. five (5) years after contract completion, which is the end of the Compliance Term (as required by N.J.A.C. 17:44-2.3);
- C. three (3) years after from the anticipated date of submission of the final expenditure report, which is anticipated to occur on or about December 31, 2026 (as required by 2 C.F.R. § 200.334.

If the Grant Award is used to acquire real property or equipment, records related to the real property or equipment must be retained for three (3) years after final disposition (as required by 2 C.F.R. § 200.334(c).

Documents and other records required by the Grantor with respect to any questioned costs, litigation or dispute between the Grantor and the Grantee arising out of this Agreement shall be maintained for the time needed to fully resolve any such issue.

If for any reason the Grantor shall require a review of the documents and other records related to the Program, the Grantee shall, at its own cost and expense, provide all such records to the Grantor. Grantee shall maintain and organize its documents and other records related to this Agreement in such form so that, in case of a review of its documents and other records or for audit purposes, it is able to verify and document the use of the Grant Award for the Project.

Grantee agrees to cooperate and be subject to review and audit by the Grantor, the Office of the State Comptroller, and any other agency or department of the State of New Jersey or the federal government in relation to this Agreement, Exhibits and Project. The provisions of this Section shall survive termination of this Agreement.

11. Default. Any one or more of the following shall constitute an event of default ("Event of Default") if, during the Grant Term, the default is not cured within thirty (30) business days after written notice of the default. However, if the cure of such default reasonably requires more than thirty (30) business days after written notice as determined by the Authority, and Grantee demonstrates it has promptly initiated steps reasonably sufficient to cure the default and is proceeding with due diligence, in good faith and with continuity to cure the default, then the Authority may, in its sole discretion, extend the time necessary to cure such default by a reasonable period. Notwithstanding the foregoing, if such default is not cured within said thirty (30) business days period (as may be extended), the Authority may terminate this Agreement and avail itself of any other remedy as provided in Section 12 of this Agreement.

(i) The occurrence of an Event of Default under any other agreement entered into by the Authority and the Grantee.

(ii) If Grantee has breached or failed to perform any covenant or promise as provided under Section 6 under this Agreement, or engaged in conduct that effectively frustrates the purpose of the Agreement.

(iii) If any representation or warranty made by Grantee herein, or, in any report, certificate, financial statement or other instrument furnished in connection with the subject matter of this Agreement is false or misleading in any material respect.

(iv) The failure of Grantee to cooperate and timely submit the documents, other records, materials, and information required to be submitted by this Agreement or requested by the Authority, the State or U.S. Treasury, including for the satisfaction of monitoring and reporting compliance obligations of the Authority to the State.

(v) If Grantee has not fulfilled the Prevailing Wage Requirements, Contractor Registration, and Affirmative Action Requirements during the Grant Term and at all times relevant.

(vi) If the Grantee has ceased to execute on the deliverables for the Project in the time periods provided in this Agreement.

(vii) If the Grantee sells, assigns, or otherwise transfers its rights and obligations under this Agreement to another entity without the prior written consent of the Grantor.

(viii) If Grantee uses the Grant funds for any other purposes other than those approved for the Project.

(ix) The Authority has made a determination of debarment as to Grantee pursuant to its debarment/disqualification regulations set forth in N.J.A.C. 19:30-2.1 et seq.

(x) If Grantee fails to comply with Financial Reporting and Performance Reporting Requirements as described in Section 6.

12. Remedies Upon Default. Upon the existence of any Event or Events of Default pursuant to Section 11, the Grantor may, in its sole and absolute discretion, do any of the following, alone or in combination, after having first given Grantee notice and opportunity to cure the default in accordance with Section 11 hereof:

(i) Require the Grantee to repay a portion or all of the Grant Award previously paid to Grantee under this Agreement;

(ii) Consider the Event of Default as a disqualification under the Program or other Authority programs in the future;

(iii) Terminate this Agreement; and

(iv) Take any and all actions at law or in equity necessary to enforce performance and observance of any obligation, warranty, agreement or covenant of Grantee under this Agreement.

The Grantor's rights under this Section shall survive termination of the Agreement.

13. Intentionally Omitted.

14. Assignment. Grantee may not sell, assign or otherwise transfer its interests in this Agreement to another without the prior written consent of Grantor, which consent shall be at Grantor's sole discretion. Unless otherwise indicated by the Grantor in writing, any obligations hereunder shall remain the obligations of the Grantee.

15. Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations pursuant to this Agreement, either express or implied, shall be construed as a waiver by the Grantor of any of its rights hereunder. In the event that any provision of this Agreement should be breached by Grantee and the breach may thereafter be waived by Grantor, such waiver shall be limited to the particular breach waived by Grantor and

shall not be deemed to waive any other breach. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any right and power may be exercised from time to time and as often as may be deemed expedient.

15. Adherence to State and Federal Laws and Regulations. Grantee agrees to comply with all applicable federal, state and local laws, regulations, and Executive Orders relevant to the Project, Project Site, and this Agreement including, but not limited to, the ARP Act and U.S. Treasury regulations, policies, guidelines and requirements, as they relate to the acceptance and use of federal CSFRF Funds.

16. Licenses and Permits. Grantee shall and shall cause its Contractors to obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform its obligations under this Agreement. At the Authority's request, Grantee shall supply the Authority with evidence of all such licenses, permits, and authorizations for the Grantee and any third parties contracted by Grantee to work on the Project. All costs associated with any such licenses, permits and authorizations must be considered by the Grantee in its application.

17. Applicability of Disqualification Regulations to Entities. The Authority's disqualification/debarment regulations, which are set forth in N.J.A.C. 19:30-2.1 through 2.7, shall apply to all entities with which Grantee contracts for services in the performance of its obligations under this Agreement. This means that the Grant Award may not be used to pay any Contractor(s) that are debarred or disqualified by the Authority or the State.

18. Open Public Records Act. Grantee acknowledges that any information collected by the Authority in the course of Grantee's participation in this Project is subject to the "New Jersey Open Public Records Act" (N.J.S.A. 47:1A-1 et seq.), as amended, as well as all applicable regulations and policies and applicable case law, including the New Jersey right-to-know laws.

19. Audits and Inspections. At any time during normal business hours upon written notice and as often as the Authority may reasonably deem necessary, the Grantee shall make available to the Authority, for examination, and to appropriate State and federal agencies or officials, all of its records with respect to matters related to this Agreement and shall permit the Authority to audit, examine and make excerpts or transcripts from such records. The Grantee shall maintain records to adequately verify all information required under this Agreement as required by Section 10. The provisions of this Section shall survive termination of this Agreement.

20. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from events or circumstances beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, epidemic, pandemic, quarantine, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes, or blockades in effect on or after the date of this Agreement (f) national or regional emergency; and (g) strikes, labor stoppages or

slowdowns, or other industrial disturbances, including inability or delay in obtaining supplies of adequate or suitable materials;

The Impacted Party shall give notice within 15 (fifteen) business days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

21. Miscellaneous.

(i) Governing Law. This Agreement shall be governed by the laws of the State of New Jersey.

(ii) Forum and Venue. All actions related to the matters which are the subject of this Agreement shall be forumed and venued in a court of competent jurisdiction in the County of Mercer and State of New Jersey.

(iii) Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the Parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Agreement.

(iv) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid pursuant to applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement, unless Grantor shall in its sole and absolute discretion deem the invalidated provision essential to the accomplishment of the public purposes served by this Agreement, in which case Grantor has the right to terminate this Agreement and all benefits provided to Grantee hereunder upon the giving of sixty (60) days prior notice as set forth in the following Section hereof.

(v) Notices. All notices, consents, demands, requests and other communications which may be or are required to be given pursuant to any term of this Agreement shall be in writing and shall be deemed duly given when personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as each party to this Agreement may hereafter designate in a written notice to the other party transmitted in accordance with this provision.

Grantor: New Jersey Economic Development Authority
36 West State Street
PO Box 990
Trenton, NJ 08625
Attention: Mary K. E. Maples

Telephone: (609) 858-6098
Email: mary.maples@njeda.gov

Grantee: Rutgers, The State University
33 Knightsbridge Road, 3rd Floor East
Piscataway, New Jersey 08854
Attention: Tony Calcado
Telephone #: 848-445-1234
E-Mail Address: antonio.calcado@rutgers.edu

With a copy to:

Rutgers, The State University
Office of the Senior Vice President and General Counsel
335 George Street, Suite 2160
New Brunswick, New Jersey 08901
Attention: George Loeser
Telephone #: (848) 932-1839
E-Mail Address: gloeser@ogc.rutgers.edu

(vi) Amendments or Modifications. This Agreement may only be amended in writing executed by both Parties. Such Amendments or Modifications shall become effective only upon execution of same by both Parties.

(vii) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

(viii) Contractual Liability Act. The rights and remedies of the Parties under this Agreement shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., the provisions of which are hereby incorporated herein by reference.

(ix) Tort Claims Act. The rights and remedies of the Parties under this Agreement shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the provisions of which are hereby incorporated herein by reference.

(x) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may be delivered by telecopier, e-mail, PDF or other facsimile transmission all with the same force and effect as if the same were a fully executed and delivered original manual counterpart.

(xi) Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Parties hereto.

(xii) No Third-Party Beneficiaries. This Agreement has been entered into solely by and among the Parties that have executed this Agreement. Except as otherwise expressly provided in this Agreement, this Agreement will not be deemed to create any rights in third parties or create any obligations of any party hereto to any such third parties.

(xiii) Cross Default. It is specifically understood and agreed that this Agreement is cross-defaulted with any existing assistance and any future assistance provided by the Authority and/or the State to the Grantee.

(xiv) Electronic Signature. Electronic signature of this Agreement shall be deemed to be valid execution and delivery as though an original ink. The parties explicitly consent to the electronic delivery of the terms of the transaction evidenced by this Agreement and affirm that their electronic signatures indicate a present intent to be bound by the electronic signatures and the terms of the Agreement. The electronic signature can be done either by ADOBE Acrobat or any other similar signature software that can be used for electronic signatures or by printing, manually signing, and scanning.

(xv) Notwithstanding any translation of this Agreement that the Authority may have provided as a courtesy, this English version is the sole official and binding version of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective signatories duly authorized as of the date and year last written below (“Effective Date”).

**NEW JERSEY ECONOMIC DEVELOPMENT
AUTHORITY**

By: _____

Date: _____

**GRANTEE: RUTGERS, THE STATE
UNIVERSITY OF NEW JERSEY**

By: _____

Name: _____

Title: ^Authorized Officer ^Authorized Member
^Owner

Date: _____

THE UNIVERSITY HOSPITAL STUDY AND PLAN PROGRAM EXHIBITS INDEX

EXHIBIT A: UNIFORM COMPLIANCE REQUIREMENTS

EXHIBIT B: DOB AFFIDAVIT

EXHIBIT C: SUBROGATION AND ASSIGNMENT AGREEMENT

EXHIBIT D: CERTIFICATION REGARDING LOBBYING

EXHIBIT E: PROJECT STATUS REPORT

PROJECT SCHEDULE AND MILESTONES (TO BE DRAFTED BY RU AND APPROVED BY GRANTOR).

EXHIBIT F: USE OF FUNDS

EXHIBIT G: PREDEVELOPMENT AGREEMENT EXECUTED BY GRANTEE, GRANTOR AND UNIVERSITY HOSPITAL

EXHIBIT H: MOU BETWEEN NJDCA AND GRANTOR

EXHIBIT I: CONSTRUCTION APPENDIX

EXHIBIT J: FINANCIAL REPORTING REQUIREMENTS

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of \$42 Million Planning
Grant to Rutgers, The State University of New Jersey

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: December 19, 2024

EXHIBIT



MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: December 19, 2024

RE: Atlantic City Revitalization Grant Award – Showboat Properties LLC

The Members are asked to approve:

1) A grant award of \$4,223,505.03 to Showboat Properties LLC under the Atlantic City Revitalization Grant Program. The awardee is utilizing the remaining balance of funding under this program.

Program Background

The Atlantic City Revitalization Grant Program was approved by the Board at the December 2023 meeting. This grant supports up to 50% of the project costs related to a capital project located in Atlantic City. The goal of this Program is to proactively address the negative economic impacts of the pandemic by investing in projects that demonstrate an ability to cultivate the environment and neighborhoods necessary to attract and retain a local workforce, enable business creation and tourism, enhance downtown vitality through small business support efforts, support clean and safe initiatives, address food insecurity issues, and buttress social impact supports for the community at large. Administered by the New Jersey Economic Development Authority (“Authority”), this Program will support real estate development, specifically capital projects (each, a “Project”), in the form of grants to support rehabilitation or new construction, as well as other development costs associated with a maximum award of \$10 million in grant funding to one Project. This will meet the requirement of “Investing in Communities” by providing funding to activate underutilized properties for community focused investments and to activate projects that will catalyze new business sectors in NJ, support communities, and improve the business community within Atlantic City. This grant will improve investment in communities by working to activate underutilized, distressed, or vacant land for projects to promote equitable economic growth and community wealth building in Atlantic City.

Project Ownership

The applicant and awardee, Showboat Properties LLC, is the development entity and will be responsible for overseeing the project. Showboat Properties LLC is 100% owned by Bart Blatstein. Showboat Renaissance LLC, a real estate holding company, owns the property and is also owned 100% by Bart Blatstein.

Bart Blatstein made his first major redevelopment project in Atlantic City in January of 2016 with the acquisition of the formerly closed Showboat Casino. Since purchasing the 1.6 million square foot project that spans approximately 25 acres, he has successfully completed a multitude of development projects at the resort. The property reopened in June of 2016 as the largest non-casino hotel in the state of New Jersey and began repositioning the resort as Atlantic City's first year-round, family friendly destination.

In July of 2023, construction was completed on the \$100 million Island Waterpark project, the world's largest Beach-Front Indoor Waterpark. The 20,000 Square foot super-structure includes 12 waterslides, a lazy river, various food and beverage outlets and multiple pools. The development is the largest non-casino development in Atlantic City in the last 40 years. Since its opening, the Island Waterpark has generated over 300,000 unique visitors into its doors. In May of 2021, the next phase of renovations was completed on the Lucky Snake Arcade. The \$ 5 million project involved the conversion of the former casino floor at the Showboat into the largest Arcade on the East Coast, spanning over 85,000 Square Feet and including over 600 Games. Since opening the Lucky Snake, the family-friendly venue has generated over 800,000 unique visitors into its doors. In May of 2022, following the success of the Lucky Snake Arcade, construction wrapped up on the \$5 million Raceway at the Lucky Snake. This project involved the construction of a 40,000 square foot, state-of-the-art go-kart track adjacent to the Lucky Snake Arcade. This next phase of renovations is needed to continue the improvement of the property. This next set of renovations will add additional family attractions. These features are to attract more local and community events, as well as attract guests year-round. The applicant has met the previous experience requirement needs for this program.

Project Description

The grant will support the expansion of the Showboat Family Entertainment Center located at 801 Boardwalk. The Showboat, located on the iconic Atlantic City Boardwalk, is home to Atlantic City's year-round family-friendly resort destination. The resort's primary attraction is the Lucky Snake Arcade and Raceway, which spans approximately 140,000 square feet and currently includes the following attractions:

- 80,000 Square Foot Arcade that includes approximately 500 arcade machines
- 40,000 Square Foot Indoor Electric Go Kart Track
- 20,000 Square Foot Miniature Golf Course and Roller Rink

Since May of 2021 these features have attracted approximately 450,000 unique family visitors to its doors. This project will incorporate another significant expansion in order to grow Atlantic City's family friendly entertainment options and community space offerings, and offer a true non-casino, world-class resort that is available to the Atlantic City community.

The project's scope includes another expansion of the Lucky Snake Arcade by an additional 18,000 square feet. The applicant will be purchasing and installing additional unique arcade games and adding additional arcade attractions. This allows visitors to have new experiences each time they visit so their experience is enhanced. The applicant will be redeveloping and expanding the food and beverage outlets attached to the arcade as well. Currently there are only a few offerings so there needs to be more that then can service the birthday parties when food and beverage options are needed. This expansion is meant to offer more family-friendly options that are reasonably

priced and offer quicker grab-and-go food items. This project will also include the construction related to the open-air entryway along the Showboat's facade. Right now, the facade to the boardwalk entry is the original one and it's difficult to tell what is going on inside the property since the existing box office is still there. The box office will be taken down and two vacant restaurants so they can blend better with the existing space. This new entryway will help open the entryway, so it lets in more sunlight and helps welcome and attract people in from the boardwalk. The expansion also includes the installation of a ten-lane bowling alley and a kids play area. This will enhance the birthday party and private party offerings of this family center. Currently, with the exception of Dave and Busters, no other place offers a family friendly setting with games and entertainment services in Atlantic City. It will be nice to have this feature for families to extend their summer stays to celebrate a loved one's birthday with the entire family. Since the new arcade and video games require upgraded technology for installation and this space was not meant for this type of use, they will have to purchase new upgraded hardware for internet/telecommunications as well as security features to tie into the expansion project.

This expansion project will address the COVID impact of downtown vitality as this project will take an existing property and enhance it to offer more family friendly offerings for the community. The addition of 65,600 square feet of improved and now useable space to this property will offer new attractions, plus provide the ability to serve more people throughout the year. These enhancements will also continue to improve the property and show how it truly serves families. This in turn shows families that they can return for more visits or extend their stay to help grow and support the Atlantic City economy. These attractions will also help attract more guests, with more offerings and this will allow those guests to stay longer at the property and visit more frequently as there will be more to do at the property. This will also allow families from Atlantic County to have a new place for their kid's birthday parties or to spend quality time with them. The applicant will also offer community opportunities to utilize these amenities. The Showboat Family Entertainment Center will act as Atlantic City's "Town Center" offering attractions, educational experiences, sporting opportunities for active lifestyles, and team building offerings. To date, the existing family entertainment center at the Showboat has already hosted charitable events with the following groups based in Atlantic City: Boys and Girls Club of Atlantic City, Atlantic City Peace Walk, Habitat for Humanity, Veterans 101, Atlantic City Police Department, Sirens Athletics, Miss New Jersey, L.E.A.D. – Law Enforcement Against Drugs, and Gilda's Cancer Support Network Community of New Jersey. The Showboat Family Entertainment Center Expansion Project will provide Atlantic City residents with a broader menu of family-friendly entertainment options in a market that is otherwise dominated by adult-only casinos. The center is primarily targeting audiences such as families and active adults, and is seeking to host cultural/corporate/educational events and celebrations. The Showboat Family Entertainment Center will act as Atlantic City's "Town Center" offering dozens of attractions, educational experiences, sporting opportunities for active lifestyles, and team building offerings. A list of some of these offerings will be: Science, Technology, Engineering Arts and Mathematic (STEAM) Programs for Atlantic City residents and students, After-School Programs curated for Atlantic City School District, Atlantic City School District educational field trips, Summer Camp Opportunities, Atlantic City Resident Bowling League, Atlantic City Resident Pinball and Video Game Club, Cultural and Religious Gatherings, Events, and Celebrations, Corporate events/ retreats/holiday parties and team building activities, Philanthropic and Charitable Events for Atlantic City Institutions including not limited to Atlantic City Police Department & Atlantic City Fire

Department Events and Fundraisers Metropolitan Business and Civic Association Events Boys and Girls Club of Atlantic City Events / Programs Covenant House of Atlantic City Events and Fundraisers.

The total costs of the project are estimated to be \$8,447,010.06. Applicants are eligible for a grant award of up to 50% of their project costs under this program. The recommendation is to award a grant of \$4,223,505.03 to support this project to be completed prior to 12/31/26. The applicant has demonstrated it has the remaining funds to move forward with this project and will be able to enter into a grant agreement after this approval.

Project Uses

The Applicant proposes the following uses for the Project:

<i>Uses</i>	<i>Total Project Costs</i>	<i>Grant Award</i>
Total Hard Costs	\$8,182,683.32	
Total Soft Costs	\$267,000	
TOTAL USES	\$8,447,010.06	\$4,223,505.03

Project Sources

<i>Sources of Financing</i>	<i>Amount</i>
Applicant to utilize their funds for remaining costs	\$4,223,505.03
Total	\$4,223,505.03

Recommendation

Authority staff has reviewed the application and finds that it satisfies the eligibility requirements. It is recommended that the Members approve and authorize the Authority to enter into a grant agreement.

Total Estimated Eligible Project Costs: \$8,447,010.06 and cannot be increased after approval in order to increase their grant award.

Recommended Award: The recommendation is to award \$4,223,505.03 to support this project.



Tim Sullivan, CEO

Prepared by: Christina Fuentes

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of Atlantic City
Revitalization Grant Award – Showboat Properties LLC

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: Atlantic City Revitalization Grant Program – Update and Reopening of Program

Summary

The Members are asked to approve:

1. Updating the Atlantic City Revitalization Grant Pilot Program and to reopen the application to utilize the remaining balance of \$2,949,413.29 from “Atlantic City Initiatives” in the Fiscal Year 2024 Appropriations Act (P.L. 2023, c.74) from American Rescue Plan (“ARP”) Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) to provide grants that support up to 50% of the costs for capital projects located within Atlantic City.
2. Accept \$1 million in additional “Atlantic City Initiatives” funding (American Rescue Plan State Fiscal Recovery Funds appropriation) which will also be deposited in Economic Recovery Funds and used for the Atlantic City Revitalization Grant Program.
3. Delegation to the Chief Executive Officer (“CEO”) of the New Jersey Economic Development Authority (“Authority”) to approve individual applications in accordance with the terms set forth in this memo and the attached program specifications.
4. Delegation to the Chief Executive Officer (“CEO”) of the New Jersey Economic Development Authority (“Authority”) to update the Memorandum of Understanding (“MOU”) with the New Jersey Department of Community Affairs (“DCA”) to use the remaining funds from the initial Program approval and the additional Atlantic City Initiative funds for the Atlantic City Revitalization Grant Program (“the Program”), and agree to continue to comply with federal requirements for the use of those funds.

Background

The Atlantic City Revitalization Grant program was created on December 14, 2023, where the Board approved the \$19.65 million pilot program which made grants available to support the long-term growth and opportunity for Atlantic City by supporting eligible projects that reinvigorate the local economy and revitalize local neighborhoods (“Phase One”). This program sought to further the priorities set forth in Governor Murphy’s economic plan, “The State of Innovation: Building a Stronger and Fairer Economy in New Jersey,” identified several economic development priorities, including “investing in communities to build world-class cities, towns, and infrastructure statewide.” This grant supports more capital projects throughout Atlantic City and will be focused on ensuring that communities are directly supported by ensuring the project addresses the negative impact of COVID-19 and contributes to Atlantic City’s revitalization. The capital projects must directly support Atlantic City neighborhoods and communities and include either public infrastructure improvements that support the completion of the project, capital construction projects that renovate or restore a vacant or partially vacant (at time of application and up to approval) building, or new construction projects that aim to increase the downtown vitality, public space utilization, foot traffic, and overall economic prosperity in Atlantic City.

The source of funds for this Program was the \$30 million “Atlantic City Initiatives” appropriation in the Fiscal Year 2024 Appropriations Act (P.L. 2023, c.74) from American Rescue Plan (“ARP”) Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

To date, ten applications were received for Phase One. Six applications were approved, four were withdrawn, and one application was withdrawn after approval (Authentic City Partners). This withdrawal after approval has created additional funds to allow the sixth award, Showboat Properties, LLC, to be fully awarded their 50% of the project costs in addition to leaving a remaining amount to utilize. The balance of \$2,266,726.29 remaining from Phase One combined with the small balance of \$682,687 from the Activation, Revitalization, Transformation – Atlantic City Real Estate product leaves a total of \$2,949,413.29 left over to be utilized. Staff is now requesting to update the program with changes and to reopen the application window to effectively use this remaining balance.

An additional \$1 million has now been appropriated as part of the Fiscal Year 2025 SLFRF process for the “Atlantic City Initiatives.” Staff proposes using these additional funds for this Program. This will bring the total amount of \$3,949,413.29 to be used toward grant awards.

Program Updates

This relaunch of the Atlantic City Revitalization Program (“Program”) will continue to facilitate Atlantic City’s effective utilization of allocated funds for community-driven capital projects. The goal of this Program is to proactively address the negative economic impacts of the pandemic by investing in projects that demonstrate an ability to cultivate the environment and neighborhoods necessary to attract and retain a local workforce, enable business creation and tourism, enhance downtown vitality through small business support efforts, support clean and safe initiatives, address food insecurity issues, and buttress social impact supports for the community at large. Administered by the Authority, this Program will support real estate development, specifically capital projects (each, a “Project”) in the form of Grants, to support rehabilitation or new construction, as well as other development costs associated with an award between \$250,000 and a maximum award of \$2.5 million in grant funding to one Project. This will then meet the requirement of “Investing in Communities” by providing funding to activate underutilized properties for community focused investments and to activate projects that will catalyze new business sectors in NJ, support communities, and improve the business community within Atlantic City. This grant will improve

investment in communities by working to activate underutilized, distressed, or vacant land for projects in order to promote equitable economic growth and community wealth building in Atlantic City.

Eligible Applicants

For-profit or non-profit entities responsible for overseeing a real estate development project and coordinating the activities related to the project, including, but not limited to, project design, project financing, and permitting and local approvals, are eligible to apply (each, an “Applicant” or “Developer Entity”). A real estate holding company or other special purpose entity that exists solely to own property or a real estate project is not eligible. Any city, State, or county entity and any colleges or universities are not eligible to apply for any support from the Program.

Additional requirements:

Applicant must be in substantial good standing with the New Jersey Department of Labor and Workforce Development, New Jersey Department of Environmental Protection, and NJEDA prior to approval.

A current tax clearance certificate prior to approval to demonstrate the applicant is in substantial good standing with the New Jersey Division of Taxation, unless the applicant is not required to register with the Division of Taxation.

Applicants (per EIN) cannot have more than 100 full time jobs at time of application as per their last WR30 filed or any other documentation necessary to determine eligibility.

Eligible Projects and Restrictions

- Commercial project must address a community need listed in the “Local impact considerations” described below (100% residential is not eligible but mixed-used construction is eligible; must have at least 20% of the total square footage of the building dedicated to a commercial use.
- No new construction projects and no sole acquisitions project are eligible. Renovation or restoration of a vacant or partially vacant building in need of repair is eligible (if the project consists of vacant space or partially vacant it would have to be at time of application and up to approval). Project must be located within Atlantic City. New construction was allowed in the previous version of this grant but due to the limited time left to expend Federal funds, it’s now not eligible.
- Projects may include public infrastructure improvements that are necessary to complement or complete the Project.
- All Project costs (soft and hard construction costs – no operating costs) can be included and may include predevelopment project costs associated to the Project.
- The developer fee cannot exceed 8% of total Project costs.
- All Projects must be fully completed by the end of calendar year 2026 (as per US Treasury deadlines). Grants will be subject to federal Duplication of Benefits requirements.
- A cost reasonableness analysis will be completed prior to any Project being approved.
- Contingencies of total Project costs cannot exceed 10% on hard Project costs and 5% on soft Project costs. The Grant amount shall not increase after approval due to contingencies.
- Any awardee that closed on their grant agreement for a Real Estate Grant under the NJEDA Activation Revitalization Transformation (ART) Program established by the Authority is not eligible to apply for this Program.
- Any previous entity awarded a grant under this program is not eligible.
- Projects that have started construction are not eligible. The project including construction, demolition, or remediation, cannot start until approval is issued.

Project Eligibility Considerations (necessary for federal guidelines)

Since the Program is funded through federal resources that were meant to mitigate the negative impacts of COVID-19, applicants must demonstrate how the Project will benefit the community. All Projects will need to address and demonstrate how they meet the following requirements at time of application:

- **COVID Impact:** Applicants must certify that the Project is responsive to the negative public health and/or economic impacts of the COVID-19 pandemic and complies with all the ARP program requirements.
- **Capacity:** The applicant must certify they have experience implementing at least three similar scope and size projects (similar budget size and scope) and provide documentation except if the applicant is selecting to support a “Small Business Efforts” or “Food Insecurity Efforts” box as their local impact consideration at time of application, in which case the experience requirement is waived.
- **Long-term impacts:** Applicants must certify how the project will have a positive long-term impact in the community it will be located in and the overall benefit to Atlantic City. Applicant must agree to a 5-year deed restriction which will be filed by NJEDA, so that the project use cannot change after the later of their last disbursement or project closeout.
- **Financial Viability:** Applicant must certify the project will be financially viable and self-sustaining after construction. The applicant will certify they are able to operate and maintain site control for the necessary time period. Also, that the applicant will meet US Treasury project completion timeline requirements.
- **Project completion:** Applicant must certify they are aware and agree that the construction project can be completed prior to 12/31/26 (as per US Treasury) or they may be held liable for the recapture of the grant funds they drawdown or have received.
- **Local impact considerations:** All Projects must address at least one of the following community initiatives to be eligible to apply (applicant will check all that apply):
 - Small Business Support Efforts: Businesses that are engaged in the following are not eligible for funding: the conduct or purveyance of "adult" (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi-nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sale; sales by transient merchants, Christmas tree sales or other outdoor storage; cannabis related businesses; casinos; or any activity constituting a nuisance.
 - Clean and Safe Efforts
 - Food Insecurity Efforts
 - Downtown Vitality Efforts (all projects must be located from Sunset Avenue, Fairmount Avenue, Baltic Avenue to the boardwalk throughout Atlantic City).
 - Job and Office Space Creation
- **U.S. Treasury reporting:** Applicants must certify that they have the ability to provide the U.S. Department of the Treasury with relevant reporting for all Project expenditures exceeding \$1 million if necessary; specifically, all applications shall provide a narrative on how the Project will address the impacts of COVID-19 in Atlantic City, and why this capital expenditure is the most appropriate to address the economic harms caused by COVID.

Rolling Applications

Applications will be accepted on a rolling basis. Applications that are complete will proceed to an approval on a “first in, first out basis” using the date and time that the Authority receives a completed application. To be eligible, the applicant must demonstrate proof that the remaining amount of construction funding needed is secured prior to approval. Secured means the applicant has provided an executed grant agreement, committed, and executed loan agreements, or bank/financial institution statement to verify funds are available. This is to ensure that Federal timing requirements can be met.

Application Process

The Program will be reopened to the public and applicants will be able to apply online. The Program will operate on a rolling grant application basis, where Grants are awarded on a “first-come, first-served” basis as completed applications are submitted. The application window will remain open until all funds are awarded/exhausted.

As part of a Program application, the Authority will request information about the Project and how the community will benefit from the Project, which may include, but is not limited to:

- 1) Evidence of ownership or site control resulting in ownership is required at time of application. Applicant (on its own or through a wholly owned special purpose entity) must provide a deed, closing documents (HUD-1 or proof site was purchased), executed purchase and sale agreement, any/all of which must be fully signed by both seller and purchaser/applicant prior to the applicant’s application date (if haven’t closed then agreement must demonstrate applicant can close within 60 days of application date and will have to provide a deed prior to executing their grant agreement);
- 2) Project description and overview – description of overall Project, related costs, and the proposed future use, describing the property/building(s) current and future state (i.e., vacant or partially vacant, abandoned, code violations, recent uses, any local, state, or federal historic designation/eligibility, brownfield site, location within designated redevelopment area, etc.); current or planned development/redevelopment efforts in the area proximate to the Project location;
- 3) Local Impact Considerations – applicant must select which category the Project falls into from the following (have to check at least one):
 - Small Business Efforts
 - Clean and Safe Efforts
 - Food Insecurity Efforts
 - Downtown Vitality Efforts
 - Job and Office Space Creation

Applicants will also have to describe how they are addressing the need for this Project in the community and benefits of the Project to Atlantic City as a whole, anticipated economic and local impact to the community, development objectives, projected jobs creation, anticipated local impacts including possible projected increase in pedestrian traffic and public access;

- 4) COVID-19 impact - applicants must explain how the Project is addressing a negative impact to Atlantic City as a result of COVID-19;
- 5) Project location must be located within Atlantic City;
- 6) Narrative (and documents as may be applicable) describing the viability/feasibility of the proposed project including current zoning status, local supports, identification of possible complexities or challenges with proceeding, and must provide preliminary Project budget and funding plan, which shall include an Authority source and uses template;
- 7) Project development timeline/implementation schedule indicating readiness to proceed on the project and for the future supplemental use and must demonstrate that project will be completed prior to 12/31/26;

- 8) Applicant's formation and organizational documentation and/or authorizing documentation;
- 9) Narrative and documentation of previous project experience and capacity to undertake and complete the Project by providing a description and providing documentation of three similar projects (in scope and budget size) to the proposed Project; and
- 10) Detailed project budget provided by a NJ certified and registered contractor including all Project costs from pre-development and construction to close out and Certificate of Occupancy. All contracts of work, equipment installation must include NJ Prevailing Wage Rates.
- 11) Applicants must demonstrate proof they have fully secured their other 50% of funding prior to approval.

Applicants will need to provide as much detail as possible regarding the Project steps involved, Project budget, community impact, and projected timeline for the Project from start to finish to show how the Grant will be used.

The Authority will perform a review of applications as they are received and advise applicants of any deficiencies. At the sole discretion of the Authority, staff may ask for cures and clarifications of the information included in the application, including but not limited to narrative responses, supporting documentation, and attachments.

Grant Awards and Agreement Terms

The awards will be based on the total requested project costs, amount of funding, and demonstrated readiness to proceed. All eligible applications that are complete and viable will proceed to an approval. Grants will be awarded until funds are fully exhausted. The Authority will award only one grant per applicant (one per EIN). If an applicant requests a grant for a Project which is eligible for the Program, but sufficient funding is not available to fund the full grant request, the Authority will inform the applicant of the amount of grant funds available. If the applicant wishes, nevertheless, to proceed for approval, the applicant will be required to demonstrate that they have the financial resources to fund the difference to fill the gap to ensure the submitted Project proposal is undertaken as described.

Grants will cover up to 50% of all Project costs with a minimum award request of \$250,000 and the maximum award request of \$2.5 million and will be provided pursuant to a grant agreement to be entered into between the Authority and the applicant. Documentation to verify the remaining amount of Project funding will be required at time of application now in order to receive an approval and then execute the grant agreement.

The grant agreement will ensure that the funding shall be subject to compliance with New Jersey prevailing wage law and other labor standards requirements, as well as other State requirements which may be applicable depending on Project details and funding amounts, including, possibly, New Jersey Executive Order 215 of 1989 regarding the requirement for environmental assessments.

To ensure the grant is used properly and the community receives the benefit, the grant agreement will also include a provision that the Authority will ensure the end project use is maintained for at least 5 years after the project is completed. Since the applicant owns the property, NJEDA will file a 5-year deed restriction on the property utilizing the NJEDA's required deed restriction language. The deed restriction will be released by the Authority after 5 years from final Project closeout. Awardees are also not able to sell all or a part of the Project or change the use for up to 5 years after project closeout or the Authority may require repayment of all of the Grant that has been disbursed. If the project is not completed the awardee will have to repay the amount of funds disbursed to them.

Fees

A \$1,000 application fee will be charged to all applicants at the time of application for the Program.

Disbursements

The Authority will disburse Grants after the execution of the grant agreement, and amounts will be based on applicant requested drawdowns calculated upon expected contract costs with documentation of uses (such as AIA documents, contract payments for services providing during construction, and paid or unpaid invoices related to the Project). The Authority will allow for progressive drawdowns on the grant funds to support progressive project costs (a \$50,000 minimum on all requests unless it's the final request) and such requests do not need to be pro-rata reimbursements based on actual costs incurred. Staff will perform random site visits and will hold the final disbursement of 10% of the total award until the Project closeout is completed. Staff may also request any other support or documentation as needed for drawdowns.

Prior to the last disbursement of 10% of the Grant, the awardee must submit a Project *close out request*, which will include, but not be limited to, all necessary information to evidence completion of the project and, when applicable, a Temporary Certificate of Occupancy or any other support to demonstrate project completion of the project. Once received, staff will perform a site visit to confirm and document the completed Project (including through photographs).

Diversity & Inclusion

Since all of Atlantic City consists of Opportunity Zone eligible census tract, this Program will further reinforce the State's commitment to ensure investments are being made into Opportunity Zone eligible tracts. This was an initiative that was a focus of Governor Murphy's Strong and Fairer Economic Plan. This program will focus specifically on opportunities to attract private investments which will support the diverse communities and neighborhoods of a Government Restricted Municipality as established by the Economic Recovery Act of 2020. This program will also provide a much-needed resource to diverse business owners and attract developers that have struggled with accessing traditional capital in a distressed city. Since resources can be limited in distressed municipalities, there is a need to provide additional grant support to ensure the local community has the necessary resources to not only attract projects, but to ensure projects can be completed, and have long term success.

Recommendation

The Members are asked to approve:

1. Updating the pilot Atlantic City Revitalization Grant Program and reopen the application to utilize the remaining balance of \$2,949,413.29 from "Atlantic City Initiatives" in the Fiscal Year 2024 Appropriations Act (P.L. 2023, c.74) from American Rescue Plan ("ARP") Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") to provide grants that support up to 50% of the costs for capital projects located within Atlantic City.
2. Accept \$1 million in additional "Atlantic City Initiatives" funding (American Rescue Plan State Fiscal Recovery Funds appropriation) which will also be deposited in Economic Recovery Funds and used for the Atlantic City Revitalization Grant Program.

3. Delegation to the Chief Executive Officer (“CEO”) of the New Jersey Economic Development Authority (“Authority”) to approve individual applications in accordance with the terms set forth in this memo and the attached program specifications.

4. Delegation to the Chief Executive Officer (“CEO”) of the New Jersey Economic Development Authority (“Authority”) to update the Memorandum of Understanding (“MOU”) with the New Jersey Department of Community Affairs (“DCA”) to use the remaining funds from the initial Program approval and the additional Atlantic City Initiative funds for the Atlantic City Revitalization Grant Program (“the Program”), and agree to continue to comply with federal requirements for the use of those funds.



Tim Sullivan, CEO

Prepared by: Christina Fuentes

Attachments

Exhibit A – AC Revitalization Grant Program Memo and Product Specifications

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
December 2024**

Funding Source	\$2,949,413.29 of the original \$19.65 million from the “Atlantic City Initiatives” (FY 2024 Budget Appropriations Act) will be rolled over and \$1,000,000.00 of funding will be added. The grant program will utilize \$3,949,413.29 million for awards.
Program Purpose and Objective	<p>Reopen the Atlantic City Revitalization Grant Program (“Program”) which is a grant-funded program that will utilize \$3,949,413.29 to support capital projects that address the impacts of COVID-19 and contribute to Atlantic City’s revitalization. These capital projects must be located in and directly support Atlantic City neighborhoods and communities and include, but not limited to public infrastructure improvements that support the completion of the project, capital construction projects that renovate or restore a vacant (at time of application and up to approval) building that aim to increase the downtown vitality, public space utilization, foot traffic, and overall economic prosperity in Atlantic City.</p> <p>While the pandemic impacted millions of American households and businesses, the most severe impacts disproportionately fell on low income and underserved communities, where pre-existing disparities accelerated the impact of the pandemic, further delaying a full economic recovery. Allocating funding to stimulate real estate projects that bolster economic development initiatives will result in stronger communities and revitalized neighborhoods. This allocation is among a myriad of strategies to mitigate the harms caused in municipalities disproportionately affected by the COVID-19 pandemic and support economic development ventures that advance stability and economic vitality throughout the region.</p> <p>The goal of this program is to proactively address the negative economic impacts of the pandemic by investing in projects that demonstrate an ability to cultivate the environment and neighborhoods necessary to attract and retain local talent, enable business creation and tourism, enhance downtown vitality through</p>

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
December 2024**

	<p>small business support efforts, support towards a clean and safe initiatives, address food insecurity issues, and buttress social impact supports for the community at large.</p>
<p>Eligible Applicants</p>	<p>For-profit or non-profit entities responsible for overseeing a real estate development project and coordinating the activities related to the project, including, but not limited to, project design, project financing, and permitting and local approvals, are eligible to apply (each, an “Applicant” or “Developer Entity”). A real estate holding company or other special purpose entity that exists solely to own property or a real estate project is not eligible. Any city, State, or county entity and any colleges or universities are not eligible to apply for any support from the Program.</p> <p>Additional requirements:</p> <ul style="list-style-type: none"> • Must be in substantial good standing with the New Jersey Department of Labor and Workforce Development and the New Jersey Department of Environmental Protection prior to approval. • A current tax clearance certificate prior to approval to demonstrate the applicant is in substantial good standing with the New Jersey Division of Taxation, unless the applicant is not required to register with the Division of Taxation. • Applying entities (per EIN) cannot have more than 100 full time jobs at time of application as per their last WR30 filed or any other documentation necessary to determine eligibility.
<p>Eligible Projects and Restrictions</p>	<p>Eligible projects include:</p> <ul style="list-style-type: none"> • Commercial project must address a community need listed in the “Local impact considerations” described below (100% residential is not eligible but mixed-used construction is eligible; must have at least 20% of the total square footage of the building dedicated to a commercial use. • No new construction projects and no sole acquisitions project are eligible. Renovation or restoration of a vacant or partially vacant building in need of repair is eligible (if the project consists of vacant space or partially vacant it would have to be at time of application and up to approval). Project must be located within Atlantic City. New construction was allowed in the previous version of this grant but due to the limited time left to expend Federal funds, its now not eligible.

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
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	<ul style="list-style-type: none"> • Addresses a “Local impact consideration” as identified below and within Atlantic City. • Projects may include public infrastructure improvements that are necessary to complement or complete the Project. • All Project costs (soft and hard construction costs – no operating costs) can be included and may include predevelopment projects costs associated to the Project. • The developer fee cannot exceed 8% of total Project costs. • All Projects must be fully completed by the end of calendar year 2026 (as per US Treasury deadlines). Grants will be subject to federal Duplication of Benefits requirements. • A cost reasonableness analysis will be completed prior to any Project being approved. • Contingencies of total Project costs cannot exceed 10% on hard Project costs and 5% on soft Project costs. The Grant amount shall not increase after approval due to contingencies. • Any awardee that closed on their grant agreement for a Real Estate Grant under the NJEDA Activation Revitalization Transformation (ART) Program established by the Authority is not eligible to apply for this Program. • Projects that have started construction are not eligible. Construction, including demolition and remediation, cannot start until approval.
<p>Eligible Project Locations</p>	<p>All projects must be located in the City of Atlantic City.</p>
<p>Project Eligibility Considerations (necessary for federal guidelines)</p>	<p>Since the Program is funded through federal resources that were meant to mitigate the negative impacts of COVID-19, applicants must demonstrate how the Project will benefit the community. All Projects will need to address and demonstrate how they meet the following requirements at time of application:</p> <ul style="list-style-type: none"> • COVID Impact: Applicants must certify that the Project is responsive to the negative public health and/or economic impacts of the COVID-19 pandemic and complies with all the ARP program requirements. • Capacity: The applicant must certify they have experience implementing at least three similar scope and size projects (similar budget size and scope) and provide documentation except if the applicant is

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
December 2024**

**Project Eligibility
Considerations (necessary
for federal guidelines)
continued**

selecting to support a “Small Business Efforts” or “Food Insecurity Efforts” box as their local impact consideration at time of application, in which case the experience requirement is waived.

- Long-term impacts: Applicants must certify how the project will have a positive long-term impact in the community it will be located in and the overall benefit to Atlantic City. The applicant, they must agree to a 5- year deed restriction so that the project use or ownership cannot change after the later of their last disbursement or project closeout.
- Financial Viability: Applicant must certify the project will be financially viable and self-sustaining after construction. The applicant will certify they are able to operate and maintain site control for the necessary time period. Also, that the applicant will meet US Treasury project completion timeline requirements.
- Project completion: Applicant must certify they are aware and agree that the construction project can be completed by 12/31/26 (as per US Treasury) or they may be held liable for the recapture of the grant funds they drawdown or have received.
- Local impact considerations: All Projects must address at least one of the following community initiatives to be eligible to apply (applicant will check all that apply):
 - Small Business Support Efforts: Businesses that are engaged in the following are not eligible for funding: the conduct or purveyance of "adult" (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi- nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sale; sales by transient merchants, Christmas tree sales or other outdoor storage; cannabis related businesses; casinos; or any activity constituting a nuisance.
 - Clean and Safe Efforts
 - Food Insecurity Efforts
 - Downtown Vitality Efforts (all projects must be located from
 - Sunset Avenue, Fairmount Avenue, Baltic Avenue to the boardwalk throughout Atlantic City).
 - Job and Office Space Creation

U.S. Treasury reporting: Applicants must certify that they have the

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
December 2024**

	<p>ability to provide the U.S. Department of the Treasury with relevant reporting for all Project expenditures exceeding \$1 million if necessary; specifically, all applications shall provide a narrative on how the Project will address the impacts of COVID-19 in Atlantic City, and why this capital expenditure is the most appropriate to address the economic harms caused by COVID.</p>
Rolling Applications	<p>Applications will be accepted on a rolling basis. Applications that are complete will proceed to an approval on a “first in, first out basis” using the date and time that the Authority receives a completed application.</p>
Application Process and Approval	<p>The Program will be open to the public and applicants will be able to apply online. The Program will operate on a rolling grant application basis, where Grants are awarded on a “first-come, first-served” basis as completed applications are submitted. The application window will remain open until all funds are awarded/exhausted. The Program will be available for three years from the date applications are made available to the public, or until the total funding pool is exhausted (whichever is sooner).</p> <p>As part of a Program application, the Authority will request information about the Project and how the community will benefit from the Project, which may include, but is not limited to:</p> <ol style="list-style-type: none"> 1) Evidence of ownership or site control resulting in ownership is required at time of application. Applicant (on its own or through a wholly owned special purpose entity) must provide a deed, closing documents (HUD-1 or proof site was purchased), executed purchase and sale agreement, any/all of which must be fully signed by both seller and purchaser/applicant prior to the applicant’s application date (if haven't closed then agreement must demonstrate applicant can close within 60 days of application date and will have to provide a deed prior to executing their grant agreement); 2) Project description and overview – description of overall Project, related costs, and the proposed future use, describing the property/building(s) current and future state (i.e., vacant or partially vacant, abandoned, code violations, recent uses, any local, state, or federal historic designation/eligibility, brownfield site, location within designated redevelopment area, etc.); current or planned development/redevelopment efforts in the area proximate to the Project location;

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
December 2024**

Application Process and Approval (Continued)

3) Local Impact Considerations – applicant must select which category the Project falls into from the following (have to check at least one):

- Small Business Efforts
- Clean and Safe Efforts
- Food Insecurity Efforts
- Downtown Vitality Efforts
- Job and Office Space Creation

Applicants will also have to describe how they are addressing the need for this Project in the community and benefits of the Project to Atlantic City as a whole, anticipated economic and local impact to the community, development objectives, projected jobs creation, anticipated local impacts including possible projected increase in pedestrian traffic and public access;

4) COVID-19 impact - applicants must explain how the Project is addressing a negative impact to Atlantic City as a result of COVID-19;

5) Project location must be located within Atlantic City;

6) Narrative (and documents as may be applicable) describing the viability/feasibility of the proposed project including current zoning status, local supports, identification of possible complexities or challenges with proceeding, and must provide preliminary Project budget and funding plan, which shall include an Authority source and uses template;

7) Project development timeline/implementation schedule indicating readiness to proceed on the project and for the future supplemental use and must demonstrate that project will be completed prior to 12/31/26;

8) Applicant’s formation and organizational documentation and/or authorizing documentation;

9) Narrative and documentation of previous project experience and capacity to undertake and complete the Project by providing a description and providing documentation of three similar projects (in scope and budget size) to the proposed Project; and

10) Detailed project budget provided by a NJ certified and registered contractor including all Project costs from pre-development and construction to close out and Certificate of Occupancy. All contracts of work, equipment installation must include NJ Prevailing Wage Rates.

11) Applicants must demonstrate proof they have fully secured their other 50% of funding prior to approval.

**Atlantic City Revitalization Grant Program
Proposed Program Specifications
December 2024**

Application Process and Approval (continued)

Applicants will need to provide as much detail as possible regarding the Project steps involved, Project budget, community impact, and projected timeline for the Project from start to finish to show how the Grant will be used.

The Authority will perform a review of applications as they are received. At the sole discretion of the Authority, staff may ask for clarification of the information included in the application, including but not limited to narrative responses, supporting documentation, and attachments.

Approvals and declinations will be under delegated authority.

Grant Awards and Agreement Terms

The awards will be based on the total requested project costs, amount of funding, and demonstrated readiness to proceed. All eligible applications that are complete and viable will proceed to an approval. Grants will be awarded until funds are fully exhausted. The Authority will award only one grant per applicant (one per EIN). If an applicant requests a grant for a Project which is eligible for the Program, but sufficient funding is not available to fund the full grant request, the Authority will inform the applicant of the amount of grant funds available. If the applicant wishes, nevertheless, to proceed for approval, the applicant will be required to demonstrate that they have the financial resources to fund the difference to fill the gap to ensure the submitted Project proposal is undertaken as described.

Grant will cover up to 50% of all Project costs with a minimum award request of \$250,000 and the maximum award request of \$2.5 million and will be provided pursuant to a grant agreement to be entered into between the Authority and the applicant. Documentation to verify the remaining amount of Project funding will be required in order to execute the grant agreement if such documentation was not provided at time of application.

**Atlantic City Revitalization Grant Program
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	<p>The grant agreement will ensure that the funding shall be subject to compliance with New Jersey prevailing wage law and other labor standards requirements, as well as other State requirements which may be applicable depending on Project details and funding amounts, including, possibly, New Jersey Executive Order 215 of 1989 regarding the requirement for environmental assessments.</p> <p>To ensure the grant is used properly and the community receives the benefit, the grant agreement will also include a provision that the Authority will ensure the end project use is maintained for at least 5 years after the project is completed. NJEDA will file a 5-year deed restriction on the property utilizing the NJEDA’s required restriction language. The deed restriction will be released by the Authority after 5 years from final Project closeout. Awardees are also not able to sell all or a part of the Project or change use, for up to 5 years after project closeout or the Authority may require repayment of all of the Grant that has been disbursed. If the project is not completed, the awardee will have to repay the amount of funds disbursed to them.</p>
Fees & Administrative Expenses	<p>A \$1,000 application fee will be charged to all applicants at the time of application for the Program.</p>
Disbursements	<p>The Authority will disburse Grants after the execution of the grant agreement, and amounts will be based on applicant requested drawdowns calculated upon expected costs or expended costs after approval with documentation of uses (such as AIA documents, contract payments for services providing during construction, and paid invoices related to the Project). The Authority will allow for progressive drawdowns on the grant funds to support progressive project costs (\$50,000 minimum on all requests unless it’s the final request) and such requests do not need to be pro-rata reimbursements based on actual costs incurred. Staff will perform random site visits and will hold the final disbursement of 10% of the total award until the Project closeout is completed. Staff may also request any other support or documentation as needed for drawdowns.</p> <p>Prior to the last disbursement of 10% of the Grant, the awarded must submit a Project close out request, which will include, but not be</p>

**Atlantic City Revitalization Grant Program
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December 2024**

	<p>limited to, all necessary information to evidence completion of the project and, when applicable, a Temporary Certificate of Occupancy. Once received, staff will perform a site visit to confirm and document the completed Project (including through photographs).</p>
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Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of Atlantic City
Revitalization Grant Program – Update and Reopening
of Program

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority
FROM: Tim Sullivan, Chief Executive Officer
DATE: December 19, 2024
Subject: **Strategic Innovation Center Investment in Atlantic County NJ Aerospace LLC**

Summary:

Members of the Board are requested to approve:

- An investment of up to \$8.6 million to form a new Strategic Innovation Center, Atlantic County NJ Aerospace LLC (“Aerospace SIC”), a newly formed limited liability company to be managed by the Atlantic County Improvement Authority (“ACIA” or the “Managing Member”), a body corporate and politic of Atlantic County in the State of New Jersey, to plan, develop, construct, and manage an approximately 40,000 square foot aerospace center and innovation hub at the National Aerospace Research Technology Park (“NARTP”) located on land owned by the Federal Aviation Administration (“FAA”), adjacent to the Atlantic City International Airport and FAA William J. Hughes Technical Center in Egg Harbor Township.
- Authorization to the CEO to execute all documents required, including the Operating Agreement (Appendix A) and Construction Management Agreement (Appendix B) attached hereto in the appendix to this memo in substantially final form.
- The Members are also asked to approve a 4.5% administrative fee to NJEDA for administrative costs plus associated Authority legal costs as allowed through the Economic Recovery Fund (“ERF”) statute.

Background:

Strategic Innovation Centers:

In July 2021, the Board of the New Jersey Economic Development Authority (“NJEDA”) approved policies for utilizing the Economic Recovery Fund (created by P.L. 1992, c. 16) to undertake development of or to invest in strategic innovation centers to accelerate economic recovery and drive the long-term growth of the State’s innovation economy. Strategic Innovation Centers are defined as facilities that either, directly support research and development (R&D), innovation, or entrepreneurship, or are aimed at solving specific problems in new and innovative ways through a combination of services such as mentorship, networking opportunities, hands-on training, business support services, education opportunities, and/or access to testing, fabrication, or manufacturing facilities and equipment.

The policy approval included the use of fifty-five million (\$55,000,000) appropriated to the NJEDA’s ERF for the purpose of developing Strategic Innovation Centers in accordance with the policies. The 2023, 2024 and 2025 State appropriations acts allocated an additional seventy million (\$70,000,000), seventy-five million (\$75,000,000), and fifty million (\$50,000,000) respectively, bringing the total amount to two-hundred fifty million (\$250,000,000) available for Strategic Innovation Center (SIC) investments. NJEDA’s policy anticipates capturing a 4.5% administrative fee at approval of each project, in accordance with Board approved program policy. Additionally, the ERF statute authorizes the use of ERF funding for the costs of a project,

including legal expenses (including special counsel retained by the Attorney General's Office). Inclusive of the commitments itemized below and associated administrative fee, there remains available \$184,685,000 of unallocated SIC funds before approval of the Aerospace SIC.

To date, the Members have approved the following use of SIC funding:

- Investment in HAX, LLC (approved October 13, 2021): \$25,000,000
- Investment in Helix (DevCo) (approved December 8, 2021): \$10,000,000
- Allocation to Maternal and Infant Health Innovation Center (approved May 8, 2024): \$3,000,000
- Investment in NJ FAST powered by Plug and Play (approved July 17, 2024): \$17,100,000.

The approved policies for Strategic Innovation Center projects consider how NJEDA staff will:

1. Address opportunities for the Authority to take a lead role in developing Strategic Innovation Centers such as building and/or overseeing the operations of the Strategic Innovation Center or collaborating with another party through an early investment that serves as a catalyst for the project.
2. Consider unsolicited proposals or investment opportunities for Strategic Innovation Center projects in the State. In all cases, funding is limited to twenty-five million (\$25,000,000) for any single project with a requirement for matching private capital, and the project must align with the ERF targeted industries¹ or demonstrate that it will meaningfully support increasing diversity and inclusion within the State's entrepreneurial economy. Additionally, all Strategic Innovation Center projects using ERF funds under these policies must be approved by the Board.

Following evaluation (Confidential Appendix F), EDA staff has determined the project, herein, the Aerospace SIC, meets the outlined policy requirements for a SIC investment given that it directly supports R&D, innovation and entrepreneurship for start-up companies at the intersection of the Aerospace and Aviation industries.

Background on Atlantic County NJ Aerospace LLC

ACIA, in partnership with NARTP and the Atlantic County Economic Alliance ("ACEA") submitted a proposal for a \$8 million Strategic Innovation Center investment with a total building cost of \$18.5 million into the Aerospace SIC project, an approximately 40,000 sq. ft., two-story aerospace and aviation innovation facility containing office and studios dedicated to research and development, innovation, and commercialization of emerging aerospace and aviation technologies. The project is located on a 58-acre site leased from, and adjacent to, the FAA's William J. Hughes Technical Center ("WJHTC") and within a Federal Opportunity Zone. The Aerospace SIC Property is subject to NARTP's development plan that contemplates the construction of seven multi-story buildings with more than 400,000 square feet of aerospace and aviation research and development space.

The Aerospace SIC will be the second of the seven buildings contemplated in NARTP's development plan. Building one, a 66,000 sq. ft. facility, was completed in 2019 and is fully occupied by tenants such as General Dynamics Information Technology, Thunderbolt Solutions, Woolpert, and NASA, among others. The additional space provided by the Aerospace SIC is needed to capture emerging sectors within aviation such as Unmanned Air Systems, Advanced Air Mobility, airfield automation, and smart airport technologies. The Aerospace SIC is intended to address the need for research-related facilities and infrastructure by providing lab space for companies doing classified government work.

The Aerospace SIC's proximity to the FAA's WJHTC, the Atlantic City International Airport, and a designated

¹ "Targeted industry" means any industry identified from time to time by the Authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

Smart Airport Test Bed Facility allow tenants to have high-speed, real-time direct access to live data feeds from the FAA, including En Route flight data, surface movement data, approach surveillance radar data, weather data, access to FAA subject matter experts, and a space to host technology demonstrations that bring aviation stakeholders together in a location near their primary regulators.

After review of the SIC proposal, Staff's recommendation is to provide financial support in the form of an equity investment into the Aerospace SIC pursuant to the Strategic Innovation Center policy, as the project aligns with the objectives of the Strategic Innovation Centers initiative (Confidential Appendix F).

Community Engagement and Economic Development

The project will bring to the fore, corporate tenants, FAA mentors, academic institutions, and other experts to help support intelligence for aviation technology and business development, in addition to the physical space for commercialization of emerging aerospace and aviation technologies. As the Strategic Innovation Center's Program Operator, NARTP shall provide staffing on a full-time and freelance basis, as needed. To support successful operation of the Aerospace SIC, NARTP will hire at least one full-time "program manager" level representative who will manage the leadership team for the Project. It is anticipated several full-time staff members will be hired. All full-time employees shall devote at least 40 hours per week to the Aerospace SIC for the term of the Agreement.

Atlantic County's economy is significantly dependent on tourism and gaming. The financial distress of several casinos in Atlantic City prior to the Covid-19 pandemic demonstrated the impact of the homogeneity on the county's economy as a result of the dependence on those industries. The COVID-19 emergency exacerbated the problem, causing an already-untenable employment rate to climb. The anticipated impact through the Aerospace SIC is expected to lead to the continued development of the aviation industry in Atlantic County to build resiliency through industry diversification.

As the Aerospace SIC's program operator, NARTP shall coordinate, in concert with NJEDA, to monitor impact on diversity, equity & inclusion throughout the project, collecting and raising visibility on demographics within the tenant and co-working members, as drawn out in operating agreement (Appendix A).

Founding Governmental Partners

The Aerospace SIC has earned the support of several New Jersey body corporate and politics that join ACIA as Founding Governmental Sponsors, including NARTP, the Atlantic County Economic Alliance ("ACEA"), and the USEDA.

The **ACEA** is a private sector directed, nonprofit economic development corporation that was established for business attraction, retention, and marketing efforts in Atlantic County. ACEA is led by Executive Director, Lauren Moore.

The **Atlantic County Improvement Authority (ACIA)** serves as Atlantic County's multi-purpose financing, development and project management agency whose primary purpose is to plan, finance and construct public improvements such as schools, municipal buildings, transportation facilities, housing developments, infrastructure redevelopment, roadway construction and beautification, and convention facilities. ACIA is led by Executive Director, Timothy D. Edmunds, P.E.

The mission of the **NARTP** is to provide leadership in the advancement of aerospace sciences by creating an ecosystem of industry, academic, and governmental partnerships to foster innovation, collaboration and sustainable economic growth. NARTP is led by President, Howard Kyle.

The **U.S. Economic Development Administration's (USEDA)** investment policy is designed to establish a foundation for sustainable job growth and the building of durable regional economies throughout the United States.

In addition to project funding, the governmental entities will be available to provide mentorship and development opportunities to the companies that will lease space in the Aerospace SIC and engage with innovation hub's academic and university partners. All in all, governmental partners have pledged \$11.1 million in forms of grants and government bonds for the Aerospace SIC, as drawn out in the project funding sources and uses table below and detailed in the confidential appendix F, project eligibility and evaluation checklist.

Financial Analysis of EDA's Investment in the Project

The Aerospace SIC business model provides robust services and networking benefits that position the project toward the evolution of aviation sciences by creating an ecosystem of industrial, academic, and governmental partnerships that foster innovation and collaboration and promote sustained economic growth and job creation throughout New Jersey. The value proposition of the proximity to the FAA's WJHTC, the Atlantic City International Airport, and a designated Smart Airport Test Bed Facility allow access to necessary data and direct support, mentorship, networking opportunities, and access to testing facilities and labs with access to FAA subject matter experts, and spaces to host technology demonstrations that bring aviation stakeholders together in a location near their primary regulators. Overall, the project is a 40,000 sq. ft. of state-of-the-art facility focusing on the aerospace industry, with 1,000 sq. ft. co-working and studio spaces.

It is estimated that construction efforts will create/support 61 direct construction jobs, 53 jobs for building materials and supplies, and induce 54 indirect jobs for a total of 168 jobs created/supported throughout the construction period. Following construction, this facility will foster the creation of 62 high-paid technology jobs in the "professional, scientific, and technical services" industry, with an additional 23 jobs created to support the operations of the innovation hub facility for a total of 85 jobs created in New Jersey.

Core to assessing financial viability of the project during phase I construction and phase II operations, NJEDA staff reviewed operating pro forma financial models drawing out upper, base, lower and "break" assumptions. During construction, the costs are expected to be funded through \$11.1 million in equity raised and up to \$8.6 million SIC investment. The phase II operations financial analysis is summarized in the confidential SIC checklist (Confidential Appendix F).

Completion of the project is slated for Q2 of 2026, with occupancy reaching 80% within a year and a half of completion. These projections are based on insights from occupancy metrics collected at the first building constructed at NARTP in 2019. ACIA expects operating income to fully fund operating expenses once the Aerospace SIC project is open. Beginning in year one of operation, operating income is expected to fully fund operating expenses.

Structure

As outlined in the Operating Agreement, the proposed ownership for the Aerospace SIC is a limited liability company with two members: the Authority and ACIA, a body corporate and politic of Atlantic County in the State of New Jersey. ACIA will contribute the land for the Aerospace SIC project construction through a master ground lease agreement (confidential Appendix E) between ACIA and the Aerospace SIC. The land, owned by FAA, was originally leased to NARTP in August 2015 and subsequently, the lease was transferred from NARTP to ACIA in June of 2023. For the purpose of the current project, the land will be leased to Aerospace SIC for fifty (50) years at no cost. Aerospace SIC will capture SIC funds and the collective ACIA investment in the Aerospace SIC project. The structure of the Atlantic County NJ Aerospace LLC is detailed in the operating agreement (Appendix A) and summarized below.

Members/Ownership

The initial members of the Aerospace SIC will be ACIA and the Authority. As detailed below in the *Project Sources and Uses* table, the Authority will make capital contributions via milestone payments of up to \$8.6 million in the Aerospace SIC, and ACIA will contribute up to \$11.1 million plus contribute the ground lease for the project. Percentage ownership of the members will be in proportion to their respective capital contributions, with ACIA owning 58.12% and the Authority owning 41.88%. The JV will make yearly distributions of excess cash to the members pro-rata in accordance with their ownership interests. The Authority also has the right, but not the

obligation, to make additional capital contributions to the JV of up to \$600 thousand for fit out expenses to be represented in adjustments to the proportion of the Authority’s ownership interest. If this amount is funded by the NJEDA, as opposed to ACIA, the ownership interest may change by as much as 3%, moving to 45% and 55%, respectively.

Management

ACIA will serve as the managing member of the JV and shall have the customary authority to bind the Aerospace SIC in any transaction in the ordinary course of business. The Authority will have the right to approve specified “major decisions” such as the admission of additional members, insurance of debt, sale or transfer of the Aerospace SIC project, and mergers, consolidation and liquidations. In addition, a representative of the Authority will participate in the approval of the annual capital and operating budget for the JV. The Authority will also receive periodic reporting from the JV, including quarterly financial statements and annual audited financial statements.

Transfers of Units/Exit

Both ACIA and the Authority commit to maintain their respective equity interests in the JV (subject to the right to transfer to affiliates) until the later of either three (3) years after attainment of the Certificate of Occupancy (“CO”) of the innovation hub or achievement of “stabilization,” which is defined as reaching 80% occupancy of the Aerospace SIC. Completion of the project is slated for Q2 of 2026, with occupancy reaching 80% within a year and a half of completion. At such time, the Authority will have the option to notify ACIA of a proposed exit, and subject to mutual consent of both parties, NJEDA will have the right to exit their ownership interest. NJEDA’s disbursement for its ownership interest shall be based on an income approach valuation of the Aerospace SIC at the time of the proposed exit. ACIA shall cause the Aerospace SIC to refinance the project for the NJEDA’s disbursement. Notwithstanding, at no later than nine (9) years following the attainment of the innovation hub’s CO, NJEDA will automatically exit their ownership interest. In either exit, NJEDA’s disbursement for its ownership interest shall be based on an income approach valuation of the Aerospace SIC at the time of the proposed exit. ACIA shall cause the Aerospace SIC to refinance the project for the NJEDA’s disbursement. the NJEDA shall receive the greater of either NJEDA’s initial investment or its pro rata share based on the valuation.

Project Sources and Uses

ACIA proposes the following sources and uses of funding for the Project:

TOTAL CAPITAL COMMITMENT ¹		
Name of Member	Initial Contribution	Membership Interests ¹
Atlantic County Improvement Authority	\$5 million (through the Atlantic County Economic Alliance (“ACEA”) via NJDCA grant) \$2.5 million (through Managing Member via Atlantic County Government bonds) \$3 million (via USED A grant) \$600,000 (through contribution by ACEA towards “fit out” expenses) ² Subject to the provisions of Section 3.09 of the Operating Agreement	58.12%
New Jersey Economic Development Authority	\$8 million	41.88%
Total Equity Capitalization	\$19.1 million	100%

PROJECT COSTS			
Hard Costs	Cost Factor	Total	Unit / SF
Total Land Costs		0	0.00
Construction- core/shell/site w/ 5% contingency		\$16,145,823	\$403.65
Construction – fit out	40.00	\$1,600,000	\$40.00
Pre-construction Management (ACIA)		\$36,531	\$9.1
Construction Management (ACIA)	1.5%	\$242,187	\$6.05
3 rd Party Testing		\$43,000	\$1.08
Total Construction Costs		\$18,067,541	\$451.69
Soft Costs			
Architect & Engineering		\$476,000	\$11.90
Real Estate Commission		\$264,825	\$6.62
Total Soft Costs		\$740,825	\$18.52
Total Costs		\$18,808,366	\$470.21
Pre-Paid Project Costs			
Construction- site work		\$1,112,528	\$27.81
Pre-construction Management (ACIA)	1.5%	\$36,531	\$9.1
Architect & Engineering		\$476,000	\$11.90
Total Pre-Paid Cost		\$1,625,059	\$40.63
TOTAL ADJUSTED PROJECT COST (FUNDING NEEDED)		\$17,183,307	\$429.58

NJEDA Strategic Innovation Center Investment Funding

NJEDA will invest up to eight million six hundred thousand dollars (\$8,600,000) as presented for approval at

to fund the construction of the innovation hub based on a predetermined investment schedule, funded through milestones, including a \$152,000 disbursement upon construction mobilization. NJEDA's investment of up to \$8,600,000 will be disbursed to the Aerospace SIC according to completion of 17 milestones listed in operating agreement, Appendix A, to be achieved by the 17th month following commencement of the construction period, as captured in the operating agreement (Appendix A). ACIA will contribute up to eleven million one hundred thousand dollars (\$11,100,000) in funding and the long-term ground lease with the FAA, to construct the innovation hub. Ownership of the innovation hub will be proportionate to each party's capital contribution. EDA will contribute up to an \$8 million investment with a reserve of an additional \$600 thousand for potential tenant space fit-out if State funding is not available to ACEA towards this expense, at such desired time. In such case any of the NJEDA's reserve is used ownership interests will be adjusted accordingly to reflect the investment by NJEDA as opposed to ACEA.

All distributable income from operations, income and gain from any disposition, and each item of income, deduction or credit of the Aerospace SIC will be allocated in proportion to each party's pro rata equity ownership interest. The parties will receive annual distributions of free cash flow in excess of the \$100,000 reserve. Notwithstanding, NJEDA will not share in any operating losses. NJEDA will be entitled to an annual distribution from the available cash based on its proportionate ownership interest.

United States Federal Grants

\$3 million through ACIA via a USED A grant

New Jersey State Grants

\$5 million through ACEA via a NJDCA grant

\$600 thousand through ACEA contingent to fund availability via grant funds awarded by the State of New Jersey

New Jersey County Government Bonds

\$2.5 million through ACIA via an Atlantic County Government bonds

Other Agreements

The Aerospace SIC will enter into various agreements including: (1) a Construction Management Agreement with ACIA (Confidential Appendix B) whereby EDA will execute as a third-party beneficiary; (2) Property Management agreement (Confidential Appendix C) with ACIA; and (3) Aerospace Center Programming Agreements with NARTP, who will develop, operate, and manage the innovation hub's Innovation Program (confidential appendix D). The Innovation Program will include academic cooperation agreements with Rowan University, Rutgers University School of Engineering, Stockton University, Embry-Riddle Aeronautical University and the National Institute of Aerospace, all of which will serve as the project's academic partners and will require academic partners to provide various support services such as, entering into research projects with tenants, recruiting student interns and academic partners who may be able to serve tenants needs, working with tenants to identify research, development and grant funded opportunities, and participating with tenants on product developments and technology patents. At this stage of project, the Aerospace SIC is "shovel ready" and ready to proceed to construction pending NJEDA's funding. NJEDA's financial investment in the Aerospace SIC is limited to disbursements funded as project milestones are met during the seventeen-month period following construction mobilization.

Recommendation:

Members of the Board are requested to approve:

- An investment of up to \$8.6 million from the Strategic Innovation Centers into the Aerospace SIC newly formed by ACIA to plan, develop, construct, and manage an approximately 40,000 square foot innovation hub on the National Aerospace Research Technology Park, adjacent to the Atlantic City International Airport and FAA William J. Hughes Technical Center. The Program will utilize funds appropriated to the Economic Relief Fund to undertake development of or invest in Strategic Innovation Centers following the policy approved by the Board on July 15, 2021.
- The Members are also asked to approve a 4.5% administrative fee to NJEDA for administrative costs plus associated Authority legal costs as allowed through the Economic Recovery Fund (“ERF”) statute.
- Authorization to the CEO to execute the Operating Agreement and Construction Management Agreement in the appendix to this memo in substantially final form.



Tim Sullivan, CEO

Prepared by:

Ram Akella – EVP, Innovation Impact

Tim Rollender – Senior Advisor, Strategic Innovation Initiatives

Wilson A. Pichardo – Senior Advisor, Infrastructure

Attachment:

Appendix A – Operating Agreement

Appendix B – Construction Management Agreement

Appendix C – **CONFIDENTIAL** Property Management Agreement

Appendix D – **CONFIDENTIAL** Aerospace Center Programming Agreement

Appendix E – **CONFIDENTIAL** Master Ground Lease

Appendix F – **CONFIDENTIAL** Strategic Innovation Center Documentation, Eligibility and Evaluation Checklist (to be provided)

**OPERATING AGREEMENT
OF
ATLANTIC COUNTY NJ AEROSPACE LLC**

This Operating Agreement (this “**Agreement**”) of ATLANTIC COUNTY NJ AEROSPACE LLC, a New Jersey limited liability company (the “**Company**”), dated as of _____, 2024 is made and entered into by and among Atlantic County Improvement Authority, a body corporate and politic of Atlantic County in the State of New Jersey (“**ACIA**” or the initial “**Managing Member**”), having an address at 600 Aviation Research Boulevard, Building 3, Egg Harbor Township, New Jersey 08234 and New Jersey Economic Development Authority, a body corporate and politic of the State of New Jersey (“**NJEDA**”), having an address at 36 West State Street, Trenton, New Jersey 08625. The Managing Member and NJEDA are collectively referred to as the “**Members**” or referred to singularly a “**Member**”

RECITALS

WHEREAS, the National Aerospace Research Technology Park (the “**Park**”) is a specialized office and research complex located on approximately 58 acres of land owned by the Federal Aviation Administration (“**FAA**”), adjacent to the Atlantic City International Airport and the FAA William J. Hughes Technical Center, in Egg Harbor Township, New Jersey. The Park’s ultimate buildout will include seven separate buildings designed to accommodate the needs of aviation and aerospace industries that would benefit from having a location in close proximity to the FAA’s facilities; and

WHEREAS, to accomplish development of the Park, the FAA has entered into (i) a 50-year ground lease with Stockton Aviation Research and Technology Park of New Jersey, Inc. (“**Stockton**”), dated August 17, 2015 and identified as DTFAEN-15L-00195 (as amended, restated or supplemented, the “**FAA Ground Lease**”), which was assigned by Stockton to the NATIONAL AEROSPACE RESEARCH AND TECHNOLOGY PARK, INC., a not for profit corporation of New Jersey (“**NARTP**”) with offices located at 600 Aviation Research Boulevard, Building 3, Egg Harbor Township, New Jersey 08234, pursuant to Supplemental Agreement No. 4, dated on or about June 19, 2023, which such FAA Ground Lease provides, among other things, certain right to develop the Park, and (ii) a Memorandum of Agreement, identified as DTFACT-15-A-80003 (the “**MOA**”). The FAA Ground Lease, as assigned by Stockton to NARTP, and the MOA (as the same may be amended, restated or supplemented, referred to together herein as the “**FAA Lease**”) are incorporated into this agreement by reference as is if set forth verbatim; and

WHEREAS, pursuant to an Assignment dated April 11, 2022, between NARTP and ACIA (the “**NARTP Assignment**”), NARTP assigned its development rights under the FAA Lease as to a portion of the Park designated as the site of Park Building # 2 to the ACIA (“**Building 2 Site**”). The NARTP Assignment generally provides for financing, funding, design, development, construction, ownership, leasing, operation and management of the Building 2 Site (any or all such activities in connection with the Building 2 Site are referred to herein as the “**Project**”). The NARTP Assignment is subject to the NARTP’s continued performance of various duties under the FAA Lease regarding overall development and oversight of the Park; and

WHEREAS, ACIA intends to assign ACIA’s rights with respect to the Project as set forth in the NARTP Assignment and the FAA Lease to the Company; and

WHEREAS, the Company has been formed to plan, develop, construct and manage an approximate 40,000 square foot building, to be known as the Atlantic County New Jersey Aerospace Center (the “**Building**”), to be used, in part, for co-working and studio spaces for aerospace innovation on the aforesaid Building 2 Site owned by the FAA located at 600 Aviation Research Boulevard, Building 2, Egg Harbor Township, New Jersey 08234 (the “**Property**”); and

WHEREAS, the Members are entering in this Agreement to set forth their relative rights and obligations as Members of the Company; and

WHEREAS, the Members further intend this Agreement to define and establish their relative rights and obligations, one to the other, arising out of their relationship involving the construction and operation of the Building.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and intending to be legally bound, the parties hereto hereby agree as follows:

ARTICLE I THE COMPANY

Section 1.01 Formation of the Company. The Company was formed pursuant to and in accordance with the provisions of the New Jersey Revised Uniform Limited Liability Company Act, N.J.S.A. 42:2C-1 *et. seq.*, as the same may be amended from time to time (hereinafter the “**Act**”) by the filing of a certificate of formation with the Department of the Treasury, Division of Revenue and Enterprise Services (“**DORES**”) on June 14, 2024, and amended on June 26, 2024 (collectively, the “**Certificate of Formation**”). A copy of the Certificate of Formation and the amendment is attached hereto as **Exhibit A**. The rights, powers, duties, obligations, and liabilities of the Members shall be determined pursuant to the Act and this Agreement. To the extent that the rights, powers, duties, obligations, and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the Act in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control. The acts of such Members are hereby authorized and ratified. Subject to the provisions of this Agreement, the Managing Member is hereby designated as an Authorized Person, within the meaning of the Act, to execute, deliver and file any amendments and/or restatements thereof and any other certificates necessary for the Company to qualify to do business in New Jersey. Subject to the provisions of this Agreement, the execution by the Managing Member or its successor of any of the foregoing certificates (and any amendments and/or restatements thereof) shall be sufficient.

Section 1.02 Name of the Company. The name of the Company is ATLANTIC COUNTY NJ AEROSPACE LLC, and the business of the Company shall be conducted under that name or such other name as the Managing Member (subject to NJEDA’s rights set forth in this Agreement) may from time to time deem appropriate.

Section 1.03 Purpose of the Company. The Company shall engage in any lawful activity for which limited liability companies may be organized under the Act and to engage in any and all

necessary or incidental activities, for the protection and benefit of the Company, including, without limitation, to directly acquire, purchase, own, hold, manage, develop, operate, improve, rent, lease, fund, finance, encumber, sell, transfer, exchange, dispose of, invest in or otherwise deal with the Property, Building and any other Company Assets and any direct or indirect interest therein. Notwithstanding the foregoing, all of the foregoing purposes and powers below may be exercised, if at all, subject to the limitation, in each case, that if such action constitutes a Major Decision (as hereinafter defined), appropriate Approval (as hereinafter defined) first must be obtained.

Section 1.04 Powers of the Company. The Company shall have all the powers and rights necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the Act and this Agreement.

Section 1.05 Principal Place of Business. The principal place of business of the Company shall be at 600-2 Aviation Research Boulevard, Egg Harbor Township, New Jersey 08234. The Company may locate its principal place of business at any other place or places, within the State of New Jersey, as shall be designated, from time to time by the Managing Member (subject to NJEDA's rights set forth in this Agreement).

Section 1.06 Registered Office; Registered Agent.

(a) The registered office of the Company shall be the office of the initial registered agent named in the Certificate of Formation or such other office (which need not be a place of business of the Company) as the Managing Member may designate from time to time in the manner provided by the Act, this Agreement, and applicable law.

(b) The registered agent for service of process on the Company in the State of New Jersey shall be the initial registered agent named in the Certificate of Formation or such other person or persons as the Managing Member may designate from time to time in the manner provided by the Act, this Agreement, and applicable law.

(c) In the event of a change in the registered office or agent of the Company, the Managing Member shall promptly file a statement of change with DORES in the manner provided by the Act.

Section 1.07 Term of Company. The term of the Company shall be perpetual unless the Company is dissolved, wound up or terminated sooner pursuant to this Agreement or the Act.

Section 1.08 Exclusive Activities of the Company. Except as otherwise provided in this Agreement, the Company shall not engage in any other activity or business other than the purpose specified under Section 1.03, and no Member shall have any authority to hold itself out as the agent of any other Member or as a Member of the Company with respect to any other business or activity.

Section 1.09 Name and Address. The name, address, and initial Capital Contribution (as hereinafter defined) of each Member as of the date of this Agreement are set forth on **Exhibit B-1** hereto. Such schedule shall be amended from time to time by the Managing Member to reflect the Additional Capital Contributions (as hereinafter defined) of each Member, admission or withdrawal of a Member or the transfer or assignment of Interests (as hereinafter defined) in

accordance with the terms of this Agreement and other modifications to or changes in the information set forth therein. The Managing Member shall promptly distribute such amendments in writing to each of the Members.

Section 1.10 Assignment of FAA Lease. Upon execution of this Agreement, the Managing Member will assign its interest in the FAA Lease as to the Building 2 Site and the Project to the Company.

Section 1.11 Costs and Fees. The Managing Member shall be responsible for all costs and fees incurred and payable prior to the first payment of Capital Contributions, including, but not limited to, the costs of the formation of the Company and the Managing Member's legal fees incurred to draft this Agreement, and other related documents.

Section 1.12 IRS. The Company is organized and when approved shall be operated exclusively to carry out and conduct tax-exempt purposes enumerated under Section 501 of the Internal Revenue Code or corresponding provisions. Managing Member is authorized on behalf of the Company to obtain approval of the IRS exemption.

ARTICLE II MEMBERS

Section 2.01 Admission of New Members.

(a) New Members may be admitted from time to time in connection with a Transfer (as hereinafter defined) of Membership Interests (as hereinafter defined), subject to compliance with the provisions of this Agreement, including without limitation, Section 6.02(b), as well as compliance with the provisions of Section 2.01(b).

(b) In order for any person or entity not already a Member of the Company to be admitted as a Member in accordance with and subject to the requirements of this Agreement, such person or entity shall have executed and delivered to the Company a written joinder to this Agreement. Upon the amendment of **Exhibit B**, attached hereto, by the Members and the satisfaction of any other applicable conditions, such person or entity shall be admitted as a Member and deemed listed as such on the books and records of the Company.

Section 2.02 Compensation of Members. Except as provided in this Agreement or any other written agreement approved by the Members, no Member or affiliate thereof, if any, shall be entitled to any fees or compensation from the Company.

Section 2.03 Meetings and Votes Without a Meeting. Whenever the Members of the Company are required or permitted to take any action with a meeting and by vote, the Managing Member may at any time call for a meeting of the Members or for a vote without a meeting by written consent. Additionally, the Managing Member shall call for a meeting or for a vote without a meeting by written consent (which written consent shall require no notice) following receipt of written request therefor from NJEDA. NJEDA shall be permitted to request the Managing Member to call for a meeting or for a vote without a meeting by written consent no more than four (4) times per calendar year. Within seven (7) days after the date on which the Managing Member decides

(or is obligated) to call a meeting of the Members, the Managing Member shall notify all Members of record of the time and place of the Company meeting, if called, and the general nature of the business to be transacted. Any Member may participate in a meeting of the Members by means of telephone conference or other communications equipment by means of which all persons participating in the meeting can hear and speak to each other, and participation in a meeting by such means shall constitute presence in person at such meeting, or may execute a written proxy signed by the Member or by his duly authorized attorney in fact.

Section 2.04 Other Activities. Any Member may engage in or possess an interest in other business ventures of any nature or description, independently or with others, whether presently existing or hereafter created, including those in competition with the operations of the Company, and neither the Company nor any other Member shall have any rights in or to such independent ventures or the income or profits derived therefrom as a result of being a Member in the Company.

Section 2.05 No Personal Liability.

(a) Except as otherwise provided in the Act, by Applicable Law (as hereinafter defined) or expressly in this Agreement, no Member nor any officers, employees, commissioners, directors, members, representatives and agents thereof will be obligated personally for any debt, obligation or liability of the Company or of any other Member, whether arising in contract, tort or otherwise, solely by reason of being a Member, or otherwise solely by reason of such status.

(b) Except as otherwise expressly provided in the Act, the liability of the Members shall be limited to the amount of Capital Contributions made by the Members pursuant to this Agreement and the other obligations of the Members as set forth herein.

(c) Nothing in this Agreement shall require any Member to take any action or fail to take any action, in either case, for the benefit of any creditor of the Company.

(d) A Member that rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the Act. A Member that receives a Distribution made by the Company in violation of this Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution.

(e) Except as expressly provided in this Agreement, no Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to sign, act for or bind the Company solely by virtue of being a Member, all of such powers being vested in the Managing Member (subject to the terms of this Agreement). Any Member that executes any document or instrument or otherwise takes any action to bind the Company in violation of this Section 2.05 shall be solely responsible for any losses that the Company, or such other Member, as the case may be, may at any time become subject to or liable for by reason of the actions specified above.

(f) The provisions of this Section 2.05 shall survive the termination of this Agreement.

Section 2.06 No Interest in Company Property. No real or personal property of the Company shall be deemed to be owned by any Member individually, but shall be owned by, and title shall be vested solely in, the Company. The Members shall use the Company's credit and assets solely for the benefit of the Company. No asset of the Company shall be transferred or encumbered for or in payment of any individual obligation of any Member.

Section 2.07 Indemnification of Members.

(a) The Managing Member agrees to defend, indemnify, and hold harmless NJEDA, the State of New Jersey, and each of their respective officers, directors, members, commissioners, employees and representatives (collectively, the "**NJEDA Indemnitees**") from and against any and all claims, damages, losses, judgments, expenses (including without limitation, reasonable attorneys' fees and costs) and liabilities (collectively, "**Claims**"), incurred in connection with or resulting from any claim, action or demand arising out of or in any way relating to (i) injuries to persons natural or otherwise, and including without limitation, death and other damages, and (ii) material misrepresentation, gross negligence, malfeasance, fraud, theft, misappropriation, willful misconduct, if and to the extent the same results from any act, omission, negligence, fault or default of the Managing Member or any third party, including, without limitation, the Company's contractors or subcontractors, or their agents, employees, servants, independent contractors or subcontractors, and from any Claims against or incurred by the NJEDA Indemnitees by reason of claims against the Managing Member or any third party, including, without limitation, the Company's contractors or subcontractors or their respective employees, agents, servants, independent contractors or subcontractors, for any matter whatsoever in connection with the development, construction, management and operation of the Project, including, but not limited to, claims for compensation, injury or death, and agrees to reimburse the NJEDA Indemnitees for reasonable attorneys' fees and costs incurred by any of the NJEDA Indemnitees in connection with the above.

(b) To the extent of the Company Assets, the Company agrees to defend, indemnify, and hold harmless the Members and their respective officers, employees, commissioners, members, representatives and agents (each, an "**Indemnified Party**," and, collectively, the "**Indemnified Parties**") to the fullest extent permitted by the Act, from and against any and all Claims incurred in connection with or resulting from any claim, action or demand arising out of or in any way relating to the Company or any of its assets or properties, including amounts paid in settlement or compromise (if recommended by the Company's counsel) of any such claim, action, or demand and all fees, costs, and expenses (including reasonable attorneys' fees and costs) in connection therewith. Notwithstanding the foregoing, indemnification shall not be available or paid to any Indemnified Party with respect to any matter as to which such Indemnified Party shall have committed an act or omission (where such Indemnified Party had a contractual duty to act) involving willful misconduct, fraud, or gross negligence. The indemnification provided pursuant to this Section 2.07 shall be in addition to any other rights to which an Indemnified Party may be entitled under any agreement or vote of the Members, as a matter of law or equity, or otherwise, and shall continue as to an Indemnified Party who is a Member but who has ceased to serve in that capacity, and shall inure to the benefit of the heirs, successors, assigns, and administrators of the Indemnified Parties.

(c) The Company shall indemnify, defend and hold harmless each Member from and against all third-party claims, demands, liabilities and expenses (including attorneys' fees and any amounts expended in the settlement of any such third-party claim, demand, liability or expense) to the maximum extent permitted under the Act.

(d) Nothing in this Agreement shall be deemed to waive or limit any requirements or defenses that may be available to either NJEDA or the Managing Member against any third party claimant under the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. (as may be amended, restated or supplemented, the "**Tort Claims Act**").

Section 2.08 Insurance. The Managing Member and the Company will procure and maintain standard commercial general liability, commercial auto liability, workers compensation, umbrella/excess liability (if applicable), professional liability (if applicable) and other insurances as required. The Managing Member shall cause the Company to procure and maintain in full force and effect during the term of this Agreement the insurance coverage (naming the NJEDA as an additional insured) as described on **Exhibit C** attached hereto and made a part hereof.

Section 2.09 Casualty. If any part of the Property is damaged or destroyed by casualty of any nature before the Exit, then the Members agree to cause the Company to use insurance proceeds to restore the Property promptly to the condition in which it was before such damage or destruction occurred.

Section 2.10 Application of Insurance Proceeds. If the insurance proceeds are insufficient in the Members' mutual and reasonable judgment to pay the anticipated cost of restoring and repairing the damaged Property in full, then the Members shall either: (i) provide such additional sums as may be required to pay the anticipated costs of the restoration and repair of the damaged Property in full; or (ii) pay the sums necessary for NJEDA to Exit the Project, to the extent that such funds are available from insurance proceeds.

Section 2.11 Certain Duties and Obligations of the Members.

(a) The Members shall take all action which may be reasonably necessary or appropriate (i) for the formation and continuation of the Company as a limited liability company under the Act and (ii) for the development, maintenance, preservation and operation of the business of the Company and Company Assets in accordance with the provisions of this Agreement.

(b) No Member shall take any action so as to cause the Company to be classified for Federal income tax purposes as an association taxable as a corporation and not as a partnership.

(c) The provisions of this Agreement, to the extent that they restrict or reduce the duties and/or liabilities of a Member otherwise existing at law or in equity (including under the Act), shall replace the other duties and liabilities of such Member (as the case may be).

ARTICLE III
CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 3.01 Capital Commitments.

(a) The Members have made total capital commitments (“**Total Capital Commitments**”) to the Company as set forth on **Exhibit B-2**. NJEDA hereby agrees to make the NJEDA Capital Contributions in accordance with schedule attached hereto as **Exhibit D**. As of the date hereof, the Members have made initial Capital Contributions towards their Total Capital Commitments as set forth on **Exhibit B-1**, which also establishes initial percentages of Membership Interests.

(b) The Membership Interests (“**Interest**” or “**Membership Interests**”) of the Members shall be stated as a percentage of the total Membership Interests. The relative percentage interests of the Members shall be based on the total Capital Contributions made by the Members.

(c) The Managing Member shall update **Exhibit B-1** to reflect Additional Capital Contributions made by the Members including, without limitation, contributions to be funded as part of the Total Capital Commitments of the Members set forth on **Exhibit B-2**.

(d) Capital Contributions shall be credited to the contributing Member’s Capital Account (as defined in Section 3.05) at the time of such contribution to the Company. For purposes of this Agreement, “**Capital Contributions**” shall collectively mean the actual amount of capital contributions made by the Members to the Company, which shall include the capital contributions made by the Members as of the date hereof, the balance of the Total Capital Commitments (to the extent made by the Members), and any Additional Capital Contributions (as defined in Section 3.02).

(e) If the Managing Member is not materially complying with the conditions of this Agreement to make Capital Contributions towards its Total Capital Commitment as specified on **Exhibit B-2**, NJEDA may, at its sole option and either alone or in combination after conclusion of the process set forth in ARTICLE X, (i) withhold any additional payment of the NJEDA’s Total Capital Commitment not yet made to the Company; and/or (ii) exercise any contractual right NJEDA possesses as to the Managing Member or any other remedy at law or equity to which NJEDA may be entitled.

Section 3.02 Additional Capital Contributions.

(a) No Member is required to make any capital contributions beyond the Total Capital Commitments set forth on **Exhibit B-2**. Notwithstanding the foregoing, in the event that the Managing Member determines that additional Capital Contributions (“**Additional Capital Contributions**”) are needed, and the Managing Member is willing to make Additional Capital Contributions, the Managing Member may make (or cause to be made) such Additional Capital Contributions to the Company. In connection with any Additional Capital Contributions made pursuant to this Section 3.02(a), the Managing Member shall provide reasonably detailed information regarding the nature of the need for the same, and

any other information pertaining to such Additional Capital Contributions that NJEDA may reasonably request. For the avoidance of doubt, except in accordance with Section 3.09 hereof, NJEDA is not required to make any Additional Capital Contributions in excess of its Total Capital Commitment set forth on **Exhibit B-2**.

(b) Notwithstanding Section 3.02(a) above, if, at any time after the date hereof, the Managing Member determines that funds are required to pay Cost Overruns, then, subject to the prior approval of NJEDA, the Managing Member shall fund such Cost Overruns and such amount shall be added to the Managing Member's Capital Account as an Additional Capital Contribution. For purpose of clarity, the Managing Member shall first use Cost Savings (to the extent permitted or not otherwise restricted hereunder or under the terms of any Financing) to fund items that may otherwise be deemed a Cost Overrun prior to funding Additional Capital Contributions under this Section 3.02.

(c) If Additional Capital Contributions are made by the Managing Member pursuant to this Section 3.02, such Additional Capital Contributions shall be deemed as "equity" and the Managing Member shall adjust the Membership Interests of the Members according to Section 3.01(c).

Section 3.03 Priority, Withdrawal and Return of Capital to Members. No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution. Except as otherwise provided in this Agreement: (a) no Member may withdraw any portion of the capital of the Company; (b) no Member shall be entitled to demand the return of its Capital Contribution; (c) under circumstances requiring a return of any Capital Contributions, no Member shall have the right to receive property other than cash; and (d) no interest shall be paid on any Capital Contribution to the Company.

Section 3.04 Title to Company Property. All Company Assets (as hereinafter defined) shall be owned by the Company as an entity and, insofar as permitted by applicable law, no Member shall have any ownership interest in the Company Assets in its individual name or right, and each Member's Membership Interests in the Company shall be personal property for all purposes.

Section 3.05 Maintenance of Capital Accounts. The Company shall establish and maintain for each Member a separate capital account (a "**Capital Account**"). Said Capital Account shall be kept in accordance with the provisions of Section 1.704-1(b)(2)(iv) of the Regulations. Without limiting the foregoing, each Member's Capital Account shall be (a) increased by the net agreed value of each Capital Contribution made by such Member, allocations to such Member of the Net Profits and any other allocations to such Member of income and gain pursuant to Section 4.02, and (b) decreased by the net agreed value of each Distribution made to such Member by the Company, allocations to such Member of Net Losses and other allocations of loss and deduction to such Member pursuant to Section 4.02.

Section 3.06 No Obligation to Restore Negative Balances in Capital Accounts. No Member shall have an obligation, at any time during the term of the Company or upon its liquidation, to pay to the Company or any other Member or third party an amount equal to the

negative balance in such Member's Capital Account. A negative Capital Account shall not be considered a loan from or an asset of the Company.

Section 3.07 Transfers. Upon a permitted sale or other Transfer of an Interest (or portion thereof), the Capital Account (or portion thereof) of the Member transferring its Interest shall become the Capital Account of the person to whom such Interest (or portion thereof) is sold or transferred in accordance with Section 1.704-1(b)(2)(iv) of the Regulations.

Section 3.08 Modifications. The manner in which Capital Accounts are to be maintained pursuant to this Agreement is intended to comply with the requirements of Section 704(b) of the Code. If the Managing Member (with an opinion of tax counsel) determines in writing that the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

Section 3.09 NJEDA Additional Capital Contribution. Notwithstanding anything contained herein to the contrary, provided ACIA has used its best efforts (As satisfied to NJEDA) and that (i) the \$600,000.00 for tenant fit out-expenses is unavailable from ACEA due to a lack of budgetary funds; and (ii) all other funds for tenant fit-out expenses have been exhausted; and (iii) all other potential sources of funding have been fully exhausted, if the Managing Member requests in writing (“**Tenant Fit-Out Notice**”) an Additional Capital Contribution from NJEDA, NJEDA agrees to fund the \$600,000.00 for tenant fit out-expenses within sixty (60) days of the date of Managing Member's Tenant Fit-Out Notice. The Tenant Fit-Out Notice must be provided by the Managing Member no later than two (2) years after the date of the Certificate of Occupancy is issued for the Building. In the event that NJEDA funds the \$600,000.00 for tenant fit out-expenses, then the Membership Interests shall be adjusted to capture the total Capital Contributions made by the Members.

ARTICLE IV DEFINITIONS; ALLOCATIONS

Section 4.01 Definitions. Capitalized terms used in this ARTICLE IV have the meanings set forth below for all purposes of this Agreement.

“**Additional Capital Contribution**” has the meaning given in Section 3.02.

“**Adjusted Capital Account Deficit**” means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year (as defined herein) or as of any other relevant determination date, after giving effect to the following adjustments:

(a) credit to such Capital Account of any amounts which such Member is obligated to restore (pursuant to the terms of this Agreement or otherwise) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Section 1.704-1(b)(2)(ii)(c), Regulations Section 1.704-2(g)(1), and Regulations Section 1.704-2(i)(5) after taking into account any net decrease in a Member's share of Partnership Minimum

Gain or Partner Nonrecourse Debt Minimum Gain that has occurred as of the relevant determination date; and

(b) debit to such Capital Account of the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Anti-Corruption Applicable Laws” means any applicable United States, federal or local law, regulation or rule related to combating corruption or bribery, including the United States Foreign Corrupt Practices Act of 1977, as amended.

“Anti-Money Laundering Applicable Laws” means any applicable United States, federal or local law, regulation or rule related to combating money laundering, suspicious transactions, trade embargos, economic sanctions or terrorist financing, including the US Bank Secrecy Act of 1986, the USA Patriot Act of 2001 (in each case to the extent applicable to the Members, the Company, or to this Agreement), the SDN List or any similar list maintained by OFAC.

“Applicable Laws” means any law, regulation, or rule applicable to the Property, to this Agreement, to the Company or to any Member thereof, including without limitation, the Anti-Corruption Applicable Laws and the Anti-Money Laundering Applicable Laws; provided, however, that Applicable Laws shall consist solely of (i) Applicable Laws of the United States (federal and local) and (ii) Applicable Laws of the State of New Jersey.

“Approve,” “Approved” or “Approval” shall refer to a proposed decision, action, report, budget, election, or any other matter that has been proposed by the Managing Member and has received the written approval of NJEDA with respect to Major Decisions and any other action that requires the NJEDA’s consent pursuant to the terms of this Agreement.

“Available Cash” means, for any period, all Company receipts during such period derived from the conduct of the Company’s business (including the rents under the Space Leases, as such term is hereinafter defined) or from excess proceeds of any Financing obtained by the Company (excluding Capital Contributions, but including any reduction in Reserves), reduced by (A) all expenses approved by the Company annually in the Operating Budget, including, by means of example, (i) all cash expenditures (including, but not limited to, Innovation Program Fees; Construction Management Fees; taxes or PILOT assessments; Property Management Fees and expenses; payment of utility bills and assessments; satisfaction of any contractual payments incurred related to design, construction, marketing, leasing and maintenance of the Property; payment of insurance expenses related to the Project or Property; payment of all professional fees, including legal and accounting, incurred by the Company; any fees, costs and expenses related to the operation of the Strategic Innovation Center; any tenant fit-out expenses and landlord concessions; debt service; and any other fees, expenses and costs incurred with the mutual consent of the Members) made by the Company during such period (but not including expenditures made from Capital Contributions during such fiscal period) and (ii) the Reserve Amount; and (iii) any additions to Reserves.

“Bankruptcy Event” means, with respect to any Member, (i) the voluntary or involuntary commencement of a case by or against such Member under Title 11 of the United States Code (as may be amended, the **“Bankruptcy Code”**) or any other bankruptcy, insolvency, reorganization, debt arrangement, dissolution or similar provision of state law now or hereafter in effect; (ii) the consent by such Member to any such case or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) for such Member; (iii) such Member makes an assignment for the benefit of creditors or agrees to a similar procedure under state law; (iv) such Member shall fail to, or admit in writing its inability to, pay its debts generally as they become due; (v) the imposition of a judicial or statutory lien on all or a substantial part of such Member’s assets; (vi) the entry of an order for relief under the Bankruptcy Code against such Member; and/or (vii) such Member or its board of directors, members, partners or managers shall vote to implement, or otherwise consent to, any of the foregoing. Notwithstanding the preceding sentence, the involuntary commencement of a bankruptcy case under the Bankruptcy Code shall not be deemed a **“Bankruptcy Event”** if such case was not directly or indirectly solicited by or on behalf of such Member and such case is dismissed within sixty (60) Business Days after the filing of the involuntary petition for relief.

“Book Basis” means, with respect to any asset of the Company, the asset’s adjusted basis for federal income tax purposes, except as follows:

(i) The initial Book Basis of any asset contributed by a Member to the Company shall be the gross Fair Market Value of such asset; except the initial Book Basis for the Property contributed by the Managing Member shall be One Million Five Hundred Thousand (\$1,500,000.00) Dollars.

(ii) The Book Basis of the Company Assets shall be adjusted to equal their respective gross fair market values if the Managing Member determines to restate Capital Accounts in accordance with the Regulations.

(iii) Immediately prior to the Distribution by the Company of any Company Asset to a Member, the Book Basis of such Company Asset shall be adjusted to equal the gross Fair Market Value of such asset on the date of Distribution as determined by the Managing Member.

(iv) The Book Basis of Company Assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv) of the Regulations; provided, however, that Book Basis shall not be adjusted pursuant to this subparagraph (iv) to the extent that an adjustment pursuant to subparagraph (ii) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

(v) If the Book Basis of an asset has been determined or adjusted pursuant to subparagraph (i), (ii) or (iv), such Book Basis shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Profits and Net Losses.

“Business Day” means any day other than Saturday, Sunday or any legal holiday in the State of New Jersey.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provision or provisions of any succeeding law).

“Company Assets” means all right, title and interest of the Company in and to all or any portion of the assets of the Company and any business property (real or personal) or estate acquired in exchange therefor or in connection therewith, including the Property.

“Company Minimum Gain” has the meaning set forth in Section 1.704-2(b)(2) of the Regulations for “partnership minimum gain”.

“Company Nonrecourse Deductions” has the meaning given the term “nonrecourse deductions” in Regulation Section 1.704-2(b)(1) and Regulation Section 1.704-2(b)(2). The amount of Company Nonrecourse Deductions for a Fiscal Year is determined in accordance with Regulation Section 1.704-2(c).

“Cost Overruns” means, without duplication, (i) the amount by which the actual costs and expenses incurred by the Company or any subsidiary in connection with the construction of the Project prior to Substantial Completion (as hereinafter defined) exceed, in the aggregate, the projected costs and expenses set forth on the Construction Budget (after giving effect to the application of all contingencies, reallocations and Cost Savings permitted hereunder), and (ii) the amount by which the actual cost to complete the work contemplated by any line item of the Construction Budget exceeds the amount budgeted therefor (after giving effect to the application of all contingencies, reallocations and Cost Savings permitted hereunder).

“Cost Savings” means, for each line item in a Construction Budget, the amount by which the sum of all costs paid (or deemed paid) for any such line item with respect to which, as applicable, all work has been completed, all materials have been purchased, and/or for which all work or materials have been contracted and all costs therefor have been paid, is less than the amount provided for such line item in the Construction Budget. Notwithstanding anything to the contrary contained herein, all costs with respect to any line item in a Construction Budget shall be deemed paid upon all work and/or materials set forth in such line item being fully bought out (and Cost Savings, if any, shall accrue with respect to such line item upon such event), provided that in no event shall changes be made to the materials contemplated to be purchased by such Construction Budget unless the substitute materials are of substantially the same or better utility as the original materials.

“Depreciation” means, with respect to the Company Assets for each Fiscal Year or other period, the amount of depreciation, amortization, or other cost recovery deduction allowable with respect to such asset for such Fiscal Year or other period, except that: (a) if the Book Basis of any asset differs from its adjusted basis for Federal income tax purposes at the beginning of any such Fiscal Year or other period, Depreciation with respect to such asset for such Fiscal Year or other period shall be an amount which bears the same ratio to such beginning Book Basis as the Federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or period bears to such beginning adjusted tax basis; and (b) if an asset has a zero adjusted basis for

Federal income tax purposes, Depreciation shall be determined on a Book Basis under any reasonable method selected by the Members which is in accord with Federal income tax accounting principles applicable to assets of similar character having a positive adjusted basis for Federal income tax purposes.

“**Dispute**” means any dispute or other controversy that arises under this Agreement.

“**Distribution**” means any cash, securities, property or other assets distributed to a Member by the Company with respect to its Interest.

“**Extraordinary Cash Flow**” means the cash proceeds realized by the Company as a result of a Liquidating Sale, decreased by the sum of the following: (i) all principal, interest, prepayment premiums and other sums paid to a lender in connection with the repayment and discharge of any debt of the Company, and (ii) any expenses, costs or liabilities incurred by the Company in effecting or consummating such Liquidating Sale (including, without limitation, attorneys’ fees, court costs, brokerage fees, commissions, realty transfer taxes and other taxes), all of which expenses, costs and liabilities shall be paid from the gross amount of such cash proceeds to the extent thereof.

“**Fair Market Value**” of any asset as of any date means the purchase price that a willing buyer having all relevant knowledge would pay a willing seller for such asset in an arm’s length transaction, as determined jointly by the Members.

“**Financing**” means any material loan or other financing arrangement with respect to the Property or other material Company Assets.

“**GAAP**” means generally accepted accounting principles in effect from time to time in the United States of America, consistently applied.

“**IRS**” means the Internal Revenue Service or any division thereof or any succeeding or successor agency.

“**Liquidating Sale**” means the sale of all or substantially all of the Property, either in one transaction or in a series of related transactions.

“**Liquidation**” means (a) when used with reference to the Company, the earlier of (i) the date upon which the Company is terminated under Code Section 708(b)(1)(A), (ii) the date upon which the Company ceases to be a going concern, or (iii) the date upon which the Company dissolves in accordance with ARTICLE IX, and (b) when used with reference to a Member, the earlier of (i) the date upon which there is a liquidation of such Member, or (ii) the date upon which there is a liquidation of such Member’s Interest for purposes of Code Section 761(d).

“**Liquidator**” means (i) the Managing Member or (ii) such other Member who is appointed by unanimous consent of the Members or in accordance with Applicable Law to take all actions related to the winding up of the Company’s business and the distribution of the Company Assets.

“**Member Nonrecourse Debt**” means a partner nonrecourse debt within the meaning of Section 1.704-2(b)(4) of the Regulations.

“Member Nonrecourse Debt Minimum Gain” means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if the Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

“Member Nonrecourse Deductions” means the items of loss, deduction, and expenditure attributable to Member Nonrecourse Debt within the meaning of Section 1.704-2(i)(2) of the Regulations.

“Net Cash Flow” means, for any period, the excess of (a) gross cash receipts of the Company during such period (other than Net Financing Proceeds and Extraordinary Cash Flow) minus (b) the aggregate of the following for the same period (i) all taxes, operating costs and expenses of the Company; (ii) all regularly scheduled payments of debt service, including interest and principal and any applicable fees under any debt of the Company; (iii) all sums paid or incurred for repair or replacement of any portion of the Property or other capital expenditures; (iv) reserves in amounts required by any lender of any Financing or as otherwise reasonably Approved by the Members; and (v) long-term capital expenditure reserve for the Property in the amount of \$100,000.00 unless both Members of the Company agree to change the same (**“Reserve Amount”**) that has to be maintained at that level starting when the Project is placed in service and if any part or the whole of the Reserved Amount is expended, then the Company shall immediately fund to reestablish the Reserved Amount unless both Members of the Company agree otherwise in writing.

“Net Financing Proceeds” means the cash proceeds realized by the Company as a result of a financing or refinancing of the Property, decreased by the sum of the following: (i) any amounts applied in repayment of any debt or required to be set aside or reserved by any lender of any Financing of the Company, (ii) the amount set aside in reserves as required by any lender of any Financing or as otherwise reasonably Approved by the Members; and (iv) all expenses, costs and liabilities incurred by the Company in effecting or obtaining any such proceeds (including, without limitation, attorneys’ fees, due diligence costs, title insurance and survey costs and, recording fees), all of which expenses, costs and liabilities shall be paid from the gross amount of such cash proceeds to the extent thereof.

“Net Losses” means, for each Fiscal Year or other period, an amount equal to the excess of (a) the Company’s items of loss and deduction for such year or other period over (b) the Company’s items of income and gain for such year or other period, determined in accordance with Code Section 703(a) (including all items of income, gain, loss and deduction required to be stated separately under Code Section 703(a)(1)), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax, and not otherwise taken into account in computing Net Losses, will be considered an item of income.

(ii) Gain or loss resulting from any disposition of any Company Asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such asset, notwithstanding that the adjusted tax basis of such asset may differ from its Book Basis.

(iii) Any increase or decrease to Capital Accounts as a result of any adjustment to the Book Basis of Company Assets pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations shall constitute an item of income or loss, respectively.

(iv) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures under Section 1.704-1(b)(2)(iv)(i) of the Regulations, and not otherwise taken into account in computing Net Losses, will be considered an item of deduction.

(v) In lieu of Depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account the Depreciation for the Fiscal Year or other period as determined hereunder.

(vi) To the extent an adjustment to the adjusted tax basis of any of the Company Assets pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations to be taken into account in determining Capital Accounts as a result of a Distribution other than in Liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Losses.

(vii) Notwithstanding any other provision of this definition, any items of income, gain, loss or deduction which are specially allocated pursuant to Section 4.03 shall not be taken into account in computing Net Losses.

“Net Profits” means, for each Fiscal Year or other period, an amount equal to the excess of (a) the Company's items of income and gain for such year or other period over (b) the Company's items of deduction and loss for such year or other period, determined in accordance with Code Section 703(a) (including all items of income, gain, loss and deduction required to be stated separately under Code Section 703(a)(1)), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax, and not otherwise taken into account in computing Net Losses, will be considered an item of income.

(ii) Gain or loss resulting from any disposition of any Company Asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such asset, notwithstanding that the adjusted tax basis of such asset may differ from its Book Basis.

(iii) Any increase or decrease to Capital Accounts as a result of any adjustment to the Book Basis of Company Assets pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations shall constitute an item of income or loss, respectively.

(iv) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures under Section 1.704-1(b)(2)(iv)(i) of the Regulations, and not otherwise taken into account in computing Net Losses, will be considered an item of deduction.

(v) In lieu of Depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account the Depreciation for the Fiscal Year or other period as determined hereunder.

(vi) To the extent an adjustment to the adjusted tax basis of any of the Company Assets pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations to be taken into account in determining Capital Accounts as a result of a Distribution other than in Liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Losses.

(vii) Notwithstanding any other provision of this definition, any items of income, gain, loss or deduction which are specially allocated pursuant to Section 4.03 shall not be taken into account in computing Net Losses.

The amounts of items of Company income, gain, loss or deduction available to be specially allocated pursuant to Section 4.03 shall be determined by applying rules comparable to those set forth in subparagraphs (i)-(vi) above.

"Nonrecourse Deductions" shall have the meaning set forth in Regulations Section 1.704-2(c).

"Nonrecourse Liability" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

"Regulations" means the final and temporary Treasury regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Reserves" as means the long-term capital expenditure reserve for the Property, the Reserve Amount and other amounts set aside or otherwise allocated or designated for any valid purpose relating to the Company (including any such funds or other amounts (i) deposited or escrowed with any Financing lender, (ii) set aside for condominium association, homeowner, retail unit owner or similar warranty claims and/or latent defects (including reasonably anticipated customary defense costs and expenses), and (iii) required to pay legal expenses or overhead expenses of the Company), as provided in a Construction Budget or Operating Budget or as required pursuant to the terms of any Financing documents.

"Substantial Completion" means the issuance of any certificate of occupancy, temporary certificate of occupancy or local equivalent of either of the foregoing that indicates that all improvements constructed in connection with the Project have been substantially completed and can be used and occupied for its intended purpose.

Section 4.02 Allocation of Net Profits and Net Losses. Except as provided in Section 4.03, items of Net Profits and Net Losses in each Fiscal Year shall be allocated among the Members in a manner such that the Capital Account of each Member, immediately after giving effect to such allocation, is, as nearly as possible, equal (proportionately) to the amount of the

distribution that would be made to such Member if: (a) the Company were Liquidated; (b) the affairs of the Company were wound up and each Company asset was sold for cash equal to its Book Basis (except that any Company asset actually sold during the current year shall be treated as sold for the actual proceeds of the sale); (c) all Company liabilities were satisfied; and (d) the net Company Assets were distributed to the Members in accordance with Section 5.01 immediately after giving effect to such allocation. To the extent that any loss or deduction otherwise allocable to a Member causes such Member to have an Adjusted Capital Account Deficit as of the end of the Fiscal Year to which such loss or deduction relates, such loss or deduction shall instead be allocated to the other Member(s) in proportion to positive Capital Account balances until their Capital Accounts are all reduced to zero, then the remainder shall be allocated by Membership Interests. Notwithstanding anything in this Section 4.02 to the contrary, except for allocation of Net Losses for tax and book purposes, NJEDA shall have no liability or obligation to pay for any Net Losses pursuant to this Agreement. In accordance with Section 3.06, no Member shall have an obligation, at any time during the term of the Company or upon its liquidation, to pay to the Company or any other Member or third party an amount equal to the negative balance in such Member's Capital Account. A negative Capital Account shall not be considered a loan from or an asset of the Company. Therefore, for avoidance of any doubt, no Member shall have any obligation or liability to make any Capital Contributions to account for any negative Capital Account balance.

Section 4.03 Special Allocations. Prior to making any allocations pursuant to Section 4.02, items of Company income and loss shall be allocated in the following order and priority:

(a) **Decrease in Member Minimum Gain.** If there is a net decrease in Member Minimum Gain during any Fiscal Year, there shall be allocated to each Member (before any other allocation provided by this ARTICLE IV is made) items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Minimum Gain, determined in accordance with Regulation Sections 1.704-2(g)(1) and (2). The items to be so allocated shall be determined in accordance with Regulation Section 1.704-2(f). This Section is intended to comply with the minimum gain chargeback requirement in Regulation Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) **Decrease in Member Nonrecourse Debt Minimum Gain.** If there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Fiscal Year, there shall be allocated to each Member (before any other allocation provided by this ARTICLE IV is made, other than an allocation made pursuant to clause (a) above) items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt (as defined in the Regulations), determined in accordance with Regulations Section 1.704-2(i). The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(i). This Section is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(c) **Adjusted Capital Account Deficit.** In the event in any Fiscal Year any Member has an Adjusted Capital Account Deficit resulting from an unexpected adjustment, allocation, or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or

(6), items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for such Fiscal Year) shall be specially allocated to such Member in an amount and manner sufficient to eliminate as quickly as possible such Member's Adjusted Capital Account Deficit without creating or increasing an Adjusted Capital Account Deficit of any other Member. If more than one of the Members has an Adjusted Capital Account Deficit resulting from such unexpected adjustment, allocation, or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Company income and gain shall be allocated to the Members having Adjusted Capital Account Deficits in proportion to their respective Adjusted Capital Account Deficits. This Section is intended to constitute a "qualified income offset" under Regulations Section 1.704-1(b)(2)(ii)(d).

(d) **Deficit Capital Account.** In the event any Member has a deficit Capital Account at the end of any Company Fiscal Year which is in excess of the sum of: (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement; and (ii) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company gross income and gain in an amount and manner sufficient to eliminate such excess as quickly as possible.

(e) **Adjustment to Adjusted Tax Basis.** To the extent that an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b), or Code Section 743(b) is required, pursuant to Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Regulation Section.

(f) **Nonrecourse Deductions.** Nonrecourse Deductions for any Fiscal Year or other period shall be allocated to the Members in the same ratio as Net Profits for such Fiscal Year or other period is allocated among the Members.

(g) **Member Nonrecourse Deductions.** Member Nonrecourse Deductions for any Fiscal Year or other period shall be allocated to the Members who bear the economic risk of loss with respect to the loan to which such item of deduction is attributable. This Section is intended to comply with the provisions of Regulation Section 1.704-2(i) and shall be interpreted in accordance therewith. To the extent that any Company expenditure is disallowed as a deduction for purposes of computing the Company's taxable income under Code Section 704 and instead is treated as a distribution to the payee pursuant to Code Section 731(a), then there shall be a special allocation of Company items of income to the payee (or an affiliate thereof, if any) in an amount equal to the amount of the payments received so treated as a distribution pursuant to Section 731(a).

Section 4.04 Allocations to Assigned Interests. In the event of a Transfer of any Membership Interests during any Fiscal Year made in compliance with the provisions of

ARTICLE VIII, items of income, gain, loss, and deduction of the Company attributable to such Interests for such Fiscal Year shall be determined using the interim closing of the books method.

ARTICLE V DISTRIBUTIONS

Section 5.01 Distributions.

(a) The Managing Member shall distribute Available Cash to the Members at the times and in the aggregate amounts determined by the Managing Member, without priority, in accordance with their respective Membership Interests. At such times as the Managing Member makes Distributions, it shall provide the Members with a statement setting forth in reasonable detail the manner in which the Distributions were calculated and determined. Notwithstanding any provisions to the contrary in this Agreement, the Company shall not make a Distribution if such Distribution would violate the Act or any provision of Applicable Law.

(b) (i) NJEDA and ACIA are both body corporate and politic duly organized or formed and validly existing and in good standing under the State of New Jersey, and therefore should not be subject to any state, local or foreign tax law. If any amounts are withheld or required to be withheld pursuant to the Code or any provision of any state, local, or foreign tax law with respect to any payment, Distribution or allocation to the Company or any Member and treated by the Code (whether or not withheld pursuant to the Code) or any such tax law as amounts payable by or in respect of any Member or any person owning an interest, directly or indirectly, in such Member shall be treated as amounts distributed to the Member with respect to which such amount was withheld pursuant to this Section 5.01(b) and Section 9.03 for all purposes under this Agreement. The Managing Member is authorized to withhold from Distributions, or with respect to allocations, to the Members and to pay over to any federal, state, local, or foreign government any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, local, or foreign law and shall allocate any such amounts to the Member with respect to which such amount was withheld.

(ii) With respect to any withholding tax or other similar tax liability or obligation to which the Company may be subject as a result of any act or the status of any Member or to which the Company becomes subject with respect to any Interest, the Company shall have the right, after consultation with such Member (it being understood that, for the avoidance of doubt, in no event shall such Member have any approval right with respect thereto), to withhold such amounts and remit them to the applicable tax authority from any amounts otherwise withheld (or treated as a withholding payment) pursuant to this Section 5.01 and such amounts shall be treated as having been distributed or otherwise paid, as applicable, to the Member in respect of whom such withholding was made, as determined by the Managing Member in good faith. In the event that aggregate Distributions under this Section 5.01 with respect to a Member for any period are insufficient to cover the amount of taxes required to be withheld or paid by the Company with respect

to such Member for such period pursuant to this Section 5.01, any excess withholding amount shall constitute a loan by the Company to such Member at an interest rate of ten percent (10%) per annum, which loan shall be repaid by the Member within fifteen (15) Business Days after notice from the Company that such payment must be made. All future Distributions under Section 5.01(a) to such Member shall be used to repay all such loans to the extent outstanding until fully repaid.

(iii) Each Member shall timely furnish the Managing Member with such information, representations, certificates and forms, including a duly executed IRS Form W-9, as the Managing Member reasonably may deem necessary or appropriate for the Company for the purposes of (i) assisting the Company in determining the extent of, and in fulfilling, its withholding, reporting or other tax obligations, and (ii) reducing or eliminating any withholding or other tax that might otherwise be borne by the Company. Each Member represents and warrants that any information and forms furnished by such Member pursuant to this Section 5.01(b) shall be true, accurate and complete and agrees to promptly update such information or forms if longer true, accurate and complete. Any taxes payable by the Company as a result of a Member's breach of this Section 5.01(b) shall be treated as withholding taxes subject to the provisions of this Section 5.6, and if the Managing Member fails to comply with this Section 5.01(b), to the fullest extent permitted by law, the Managing Member shall indemnify, protect, defend and hold harmless the Company and NJEDA for any claims, liabilities, costs or expenses (including interest and penalties) arising out of such failure or failures, including any withholding tax imposed on any payment made or received by the Company.

(c) No Member shall be entitled to interest on its Capital Contribution or to a return of its Capital Contribution, except as specifically set forth in this Agreement. To the extent that Distributions for the current tax year have been insufficient, and provided that the Company has Available Cash, the Company shall, before April 15, June 15, September 15, and January 15 of each year (or such other dates by which installment tax contributions may be due), make a Distribution in cash in the amount necessary to allow the Members to pay the estimated or actual federal, state and local income taxes due on each such date attributable to the income of the Company to be allocated to the Members.

Section 5.03 Limitations on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any Distribution to Members if such Distribution would violate N.J.S.A. 42:2C-35 of the Act or other applicable law.

Section 5.04 Survival. The provisions of ARTICLE V shall survive termination of this Agreement.

ARTICLE VI MANAGEMENT

Section 6.01 Control and Management. The day-to-day business and affairs of the Company shall be managed by the Managing Member in accordance with the Act. The Managing

Member shall manage the business and affairs of the Company in accordance with this ARTICLE VI and the Act. Except as otherwise provided in this Agreement, including, without limitation, as provided in Section 6.02, the Managing Member shall have sole and exclusive control over the Company, and the Managing Member shall have the power and authority to take such action from time to time as the Managing Member may deem to be necessary, appropriate, or convenient in connection with the management and conduct of the business and affairs of the Company. The Managing Member receives no compensation for serving as the Managing Member.

Section 6.02 Restrictions on Authority of Managing Member. Notwithstanding anything in this Agreement to the contrary, for as long as the NJEDA is a Member of the Company, the Managing Member shall not have authority to do or take any of the following actions (the “**Major Decisions**”) without the prior written consent of NJEDA, which may be granted or withheld in its sole discretion:

- (a) amend this Agreement;
- (b) admit new or additional Members;
- (c) agree to any merger, consolidation, liquidation, dissolution, or sale of substantially all assets;
- (d) create or authorize the creation or issuance of any new class or series of Membership Interests or any other security convertible into or exercisable for any equity;
- (e) cause the Company to become obligated for any indebtedness, including as a guarantor;
- (f) redeem or repurchase any Membership Interests;
- (g) cause the Company to cease to construct, manage, and/or operate the Project;
- (h) sell, transfer (directly or indirectly), exchange, master lease or otherwise dispose or convey any Company Assets relating to the Project other than in the normal course of business;
- (i) cause the Company to acquire (directly or indirectly) any real property other than the Property;
- (j) cause the Company to make a call for Additional Capital Contributions that must be funded by NJEDA, except as set forth on **Exhibit D**;
- (k) cause the Company to expend or borrow any money or otherwise incur any other indebtedness (whether on a secured or unsecured basis), except for trade payables incurred in the ordinary course of business in accordance with an applicable Construction Budget or Operating Budget (except in the case of emergencies) or a Financing that has been Approved by the Members;

(l) adopt or materially modify plans and specifications for development of the Project, or materially increase the scope of the Project, other than as may be set forth in an applicable Construction Budget;

(m) cause the Company to enter into any contract with any affiliate of the Managing Member, except for contracts with commercially reasonable terms that are no less favorable to the Company than what would reasonably be expected from an unaffiliated third party.

(n) cause the Company to undertake a Bankruptcy Event, Liquidation or Liquidating Sale;

(o) approve or disapprove of a creditors' plan, the filing of an involuntary petition of bankruptcy or the dismissal or discharge of a claim of bankruptcy in connection with bankruptcy proceedings involving any Member contracting with the Company;

(p) cause the Company to perform any act that would subject any Member to personal liability;

(q) cause the Company to hire employees or any third-party property manager or construction manager;

(r) cause the Company to make any tax election;

(s) subject to Section 6.09(a), modify the Construction Budget;

(t) adopt or modify an Operating Budget;

(u) terminate, amend or modify the FAA Lease;

(v) change the principal place of business of the Company or

(w) change of the Reserve Amount.

Section 6.03 Officers. The Managing Member may appoint individuals as officers of the Company (the “**Officers**”) as the Managing Member deems necessary or desirable to carry on the business of the Company and may delegate to such Officers such power and authority as the Managing Member deems advisable. An Officer is not required to be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until such Officer’s successor is designated by the Managing Member or until such Officer’s earlier death, resignation, or removal. Any Officer may resign at any time upon written notice to the Managing Member. Any Officer may be removed by the Managing Member at any time, with or without cause. A vacancy in any office occurring because of death, resignation, removal or otherwise may, but need not, be filled by the Managing Member. Notwithstanding anything to the contrary contained in this Section 6.03, the Managing Member shall obtain the prior written consent of NJEDA prior to appointing the executive director of the Company. NJEDA shall have the right to veto the Managing Member’s selection for such office.

Section 6.04 Construction Management Fee.

(a) The Managing Member shall serve as the construction manager (the “**Construction Manager**”) for the construction of the Building pursuant to a construction management agreement to be attached hereto as **Exhibit E** and made a part hereof (the “**Construction Management Agreement**”). The Construction Manager oversees the planning, development and construction of the Project as a key component of the master plan development for the Park. The Construction Manager shall charge to the Company a construction management fee not to exceed 1.5% (0.015) of the actual aggregate hard and soft costs approved by the Company in the Construction Budget as the costs to design and construct the Building (the “**Construction Management Fee**”). If the Managing Member engages another party to perform any such services, that party shall be paid from the Construction Management Fee. The Construction Management Fee made to the Managing Member in its capacity as Construction Manager pursuant to this Section 6.04 shall be allocated and paid to the Managing Member as “Guaranteed Payments” (as such term is described in Code Section 707(c)) and shall be paid to the Managing Member prior to making any Distributions pursuant to ARTICLE V.

(b) The Construction Manager shall procure the contractors and other professionals required to construct the Project. The Managing Member agrees that all contractors shall be subject to NJEDA’s prevailing wage and affirmative action requirements, including, but not limited to, payroll reporting and contractor registration under the Public Works Contractor Registration Act. Once on-site construction has commenced, Substantial Completion of the Building must occur no later than twenty-four (24) months after the commencement of core and shell construction (the “**Construction Period**”). Construction deadlines shall be subject to extension as a result of events of Force Majeure (as hereinafter defined). In addition, the Company shall obtain the prior written consent of NJEDA to extend the Construction Period, provided that the Construction Manager has made meaningful progress and is diligently pursuing the achievement of the applicable milestone(s).

(c) The Construction Manager shall prepare and submit detailed, written quarterly progress reports to NJEDA until Final Completion of the Project. The reports shall include both the activities of the Company and the Construction Manager as they relate to the Project.

(i) These reports will include, but not be limited to the following: (a) Progress report towards NJEDA Investment Milestones and anticipated dates the remaining Milestones will be achieved; and (b) Work plan for the upcoming 6 months, including milestones, activities, and dates in the format of objectives and key results (“**OKRs**”); and (c) List of contractors, subcontractors and material suppliers under contract for the Project where the value of such contract exceeds \$100,000; and (d) Potential risks and issues that require action; and (e) Capital requirements for the upcoming 6 months, including any need for Member loans or contributions.

Section 6.05 Property Management.

(a) The Managing Member shall serve as the property manager (the “**Property Manager**”) for the Building. In its role as Property Manager, the Managing Member shall manage and oversee the operation of the Building and arrange for all required repairs and maintenance. The Company will enter into a property management agreement with the Property Manager, pursuant to the Property Management Agreement to be attached hereto as **Exhibit F** and made a part hereof (the “**Property Management Agreement**”). The Property Management Agreement shall provide that the Managing Member, in its capacity as Property Manager, shall indemnify, defend and hold harmless the Company and NJEDA regarding the management, operation, repairs and maintenance of the Project and Building; shall require the Managing Member to acquire and maintain all insurance, naming the Company and NJEDA as additional insureds; and shall cause the Managing Member to manage and maintain all aspects of the Project and Building which are not delegated to NARTP as Program Manager and tenants pursuant to leases, in good condition, repair and working order, ordinary wear and tear excepted. NJEDA. ACIA shall agree to a property management fee equal to the amount approved annually in the Operating Budget for the Company (the “**Property Management Fee**”). The Property Management Fee shall be reduced by any fees paid to a professional property manager as referenced in Section 6.05(b) below. The Property Management Fee made to the Managing Member pursuant to this Section 6.05 shall be allocated and paid to the Managing Member as “Guaranteed Payments” (as such term is described in Code Section 707(c)) and shall be paid to the Managing Member prior to making any distributions pursuant to ARTICLE V.

(b) Subject to Section 6.02, the Managing Member shall be permitted to engage a professional property manager, through the execution of a property management agreement, to assist in the performance of the duties and responsibilities of the Property Manager.

Section 6.06 Devotion of Time and Duties of Managing Member. The Managing Member shall devote such care, time, and attention to the affairs of the Company as may be reasonably necessary for the proper performance of its duties hereunder. In addition to, and without limiting, the customary duties and obligations of a managing member of a limited liability company, the Managing Member shall:

(a) To the extent Company funds are available, pay all debts and satisfy all obligations and liabilities of the Company (other than those being contested in good faith);

(b) Use all reasonable efforts to cause the Company at all times to perform and comply with the provisions of any loan commitment, agreement, mortgage, lease, or other contract, instrument or agreement to which the Company is a party; and

(c) Deliver to the Members all reports required pursuant to this Agreement.

Section 6.07 Removal, Replacement and Resignation of Managing Member.

(a) The Managing Member may be removed at any time by NJEDA for a “**Material Managing Member Default**” defined as (i) fraud, theft or misappropriation of funds by the Managing Member, in connection with, or relating to, the Company or any

Company Asset or (ii) the Managing Member undertaking a Major Decision without obtaining prior Approval as required in this Agreement, provided that same shall not constitute a Material Managing Member Default under clause (i) above if the Managing Member, within thirty (30) days after receiving written notice or acquiring knowledge of such fraud, theft or misappropriation of funds, and subject to compliance with all relevant Applicable Laws, (x) terminates each employee that committed such act or causes each such employee to no longer have any involvement or responsibility with regard to the Company and Managing Member, or any Company Asset, (y) cures such fraud, theft or misappropriation of funds (subject to the reasonable satisfaction of NJEDA) and (z) fully compensates the Company for the actual damages caused by such event.

(b) The Managing Member may resign at any time by delivering a written resignation to the Company and NJEDA, which resignation shall be effective not earlier than thirty (30) days after receipt. Within thirty (30) days following the Managing Member's removal or resignation, a successor managing member shall be appointed by the NJEDA. The removal of the Managing Member shall not affect the Managing Member's rights as a Member and shall not constitute a withdrawal by such Member from the Company. Upon the removal of the Managing Member from performing the day-to-day business of the Company pursuant to this Section, no additional Property Management Fees, Construction Management Fee or any other fees shall be payable to the Managing Member and any prepaid amounts shall be immediately repaid to the Company (to the extent that performance has not otherwise occurred).

Section 6.08 Agreements with NARTP; Innovation Program Manager.

(a) The NARTP, through agreement with the Managing Member, shall make a reasonable and good faith effort to staff the Innovation Program and manage its governance as outlined in **Exhibit G** (Staffing, Management and Governance) attached hereto and made a part hereof.

(b) The Company shall dedicate a minimum of 1,000 square feet of the Building to an Innovation Program (the "**Innovation Program**"). The Company shall enter into an agreement with NARTP (the "**Innovation Programming Agreement**") pursuant to which NARTP (the "**Program Manager**") will operate the Innovation Program. A copy of the Innovation Programming Agreement shall be attached hereto and made a part hereof as **Exhibit H**. The Programming Agreement shall require the Program Manager

(i) to indemnify the Company, the Managing Member and the Members, and to obtain insurance relevant to the Innovation Program operations naming the Company, the Managing Member and the Members as additional insureds.

(ii) to seek tenants for the Project that will perform: (1) research and development related to aviation, aviation security and safety; (2) research, development, and testing of Air Traffic Control Systems; and (3) research and development directly related to airports and airport operations as well as any aviation STEM related activities. The Company will enter into leases (each, a

“Space Lease” and collectively, the “Space Leases”) with such tenants for their space at the Project. The Building will support the operations of the Innovation Program at all times with a minimum of one full time equivalent employee. Space Leases must commence within three (3) months after the end of the Construction Period.

(iii) To enter into Cooperation Agreements with for itself and for the benefit of ACIA and the Project, with academic institutions, including without limitation, those academic institutions set forth below, to provide various support services such as, entering into research projects with tenants, identifying student interns and academic partners who may be able to serve tenant needs, working with tenants to identify research, development and grant funded opportunities, and participating with tenants on product developments and technology patents: Rowan University, Rutgers University School of Engineering, Stockton University, Embry-Riddle Aeronautical University, and the National Institute of Aerospace. The Cooperation Agreements shall be reasonably acceptable to NJEDA.

(c) Community Engagement Commitments. In all activities listed below, ACIA or the Company, as applicable, shall coordinate with NJEDA prior to the activity and provide:

(i) An update on community engagement, completed and planned activities; and

(ii) A demographic profile of each tenant, including (A) geographic origin of the company and (B) whether any company is a State-certified minority- or women owned business enterprise.

(d) Diversity, Equity & Inclusion

(i) The Company is to collect and share tenant and co-working space occupant demographic data on an annual basis based on request of a voluntary disclosure from such entities; and

(ii) The Company shall demonstrate that all interested tenants and co-working space occupants are provided equitable access and opportunities consistent with the Company’s policies; and

(iii) The Company shall coordinate with NJEDA’s marketing and outreach team to promote equitable access and opportunities to prospective tenant and co-working space occupants consistent with the Company’s policies.

Section 6.09 Budgets.

(a) The initial Construction Budget for the Project as Approved pursuant to the terms of this Agreement, is attached hereto and made a part hereof as **Exhibit I** (the “Construction Budget”). NJEDA shall have the right to Approve any modifications to the Construction Budget (which approval shall be shall not be unreasonably withheld,

conditioned or delayed), unless the Managing Member agrees in writing to fund the aggregate costs and expenses set forth in the resulting Construction Budget that exceed the Construction Budget, in which case NJEDA's approval shall not be required. Any such funding by the Managing Member shall be deemed Additional Capital Contributions.

(b) If the NJEDA and the Managing Member are unable to agree on the Construction Budget or any changes thereto, the matter shall be resolved exclusively and finally in accordance with ARTICLE X hereof and thereafter be attached hereto as **Exhibit I**.

(c) On or prior to Substantial Completion of the Project, the Managing Member shall prepare (or cause to be prepared) (i) an initial proposed operating budget for the Property for the balance of the then-current Fiscal Year, including tenant costs, which upon Approval in writing by NJEDA, will become the Operating Budget to be attached hereto and made a part hereof as **Exhibit J** (the "**Operating Budget**"). The Operating Budget shall include a line item identifying the Reserve Amount and any other Reserves. If NJEDA and Managing Member are unable to agree on an Operating Budget, the matter shall be resolved exclusively and finally in accordance with ARTICLE X hereof and thereafter be attached hereto as **Exhibits J**.

(d) Not later than thirty (30) days after receipt by NJEDA of any proposed Operating Budget, NJEDA may deliver a notice (an "**Objection Notice**") to the Managing Member stating that NJEDA objects to one or more line items contained in such proposed Operating Budget which NJEDA has a right to Approve under Section 6.02, and setting forth the nature of such objections. Should NJEDA fail to deliver an Objection Notice to any such proposed Operating Budget within such thirty (30)-day period, such proposed Operating Budget shall become the Operating Budget, as applicable, for the Property for the applicable Fiscal Year. Any line items which are not objected to pursuant to a valid Objection Notice delivered to the Managing Member shall, upon the Managing Member's receipt of such Objection Notice, become part of the Operating Budget for the Property for the applicable Fiscal Year. Within ten (10) Business Days following receipt of any Objection Notice, the Managing Member may modify the applicable line items of the proposed Operating Budget, taking into account NJEDA's objections, and shall resubmit such line items to NJEDA for NJEDA's written Approval, not to be unreasonably withheld, conditioned or delayed, and NJEDA may deliver further Objection Notices (if any) within five (5) Business Days thereafter (failing which, the line items resubmitted to NJEDA shall be deemed approved by NJEDA). If NJEDA delivers further Objection Notices with respect to any resubmitted line items, the re-submission and review process described in the preceding sentence shall continue until all line items of the Operating Budget in question have been Approved (or deemed approved), subject to Section 6.09(f) below.

(e) If NJEDA and the Managing Member have not agreed on any Operating Budget within ninety (90) days after NJEDA receives the original proposal for such Operating Budget, the matter shall be resolved exclusively and finally in accordance with ARTICLE X hereof.

(f) Notwithstanding anything to the contrary herein, from and after the occurrence of a Material Managing Member Default, NJEDA may adopt a new or revised (as applicable) Construction Budget or Operating Budget for the Property in its sole discretion and upon written notice to the Managing Member such Construction Budget or Operating Budget (as applicable) shall be deemed to control.

Section 6.10 Company Expenses. Each of the Members shall be responsible for its own formation and organizational expenses with respect to the entities constituting each of the Members. Each of the Members shall be responsible for its own costs and expenses incurred in connection with the negotiation and execution of this Agreement .

Section 6.11 Reserves. The Managing Member shall set aside a portion of the proceeds from the rents received from Space Leases at the Property as Reserves as set forth in the Operating Budget. These Reserves are intended to cover any reserves needed for warranty purposes, contingencies, including without limitation, unforeseen costs.

ARTICLE VII ACCOUNTING; REPORTING; TAX MATTERS

Section 7.01 Company Accounting Practices. The Managing Member shall maintain or cause to be maintained at all times true and correct books, records, reports, and accounts in which shall be entered fully and accurately all transactions of the Company. The books and records of the Company shall be kept by the Managing Member in accordance with generally accepted accounting principles, consistently applied, unless otherwise required under the Code or unless otherwise directed by the Members holding at least a majority of the total Membership Interests. The accountants for the Company shall be selected by the Managing Member and Approved by NJEDA, Approval not to be unreasonably withheld. The accounting period of the Company shall be a Fiscal Year.

Section 7.02 Access to Records by NJEDA.

(a) For as long as NJEDA is a Member of the Company, NJEDA and its duly authorized representatives or agents shall have the right, upon reasonable request to the Managing Member, to inspect and copy, during normal business hours, any and all Company records and documents relating to the Project.

(b) The Managing Member shall furnish the following (which shall (x) be prepared in accordance with GAAP, where applicable, and (y) be in such form, and shall contain such detail, as is reasonably required by NJEDA in good faith) to each Member:

(i) Quarterly written updates no later than thirty (30) days after the last day of each calendar quarter, including (A) bank statements and financial statements of the Company, (B) the status of the Company Assets, (C) information regarding all Construction Budget and (if applicable) Operating Budget line items and variances, (D) rent roll and leasing reports showing all Space Leases in place and prospective leasing activity, and (E) the written updates/reports required pursuant to Section 6.08 (c) and (d)



MEMORANDUM

TO: Members of the Authority
FROM: Tim Sullivan, Chief Executive Officer
DATE: Thursday, December 19, 2024
SUBJECT: Request for Program Updates to the New Jersey Innovation Fellows and Approval for AI-dedicated Cohort Funding

SUMMARY

The Members are requested to approve:

1. The utilization of a \$2M appropriation from the FY 2025 Appropriations Act (“Appropriations Act”) to create an artificial intelligence (“AI”) dedicated cohort within the NJIF Program. The NJIF Program is an existing NJEDA program, established under section 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373), to support eligible teams of first-time entrepreneurs with mentorship, training, and income-replacement capital over a two-year period.
2. Utilization by the Authority of \$100,000 (5%) of the \$2M appropriation and \$50,000 from previously collected EDA program fees to cover administrative and mentorship Program expenses that are required to operate this AI-dedicated cohort.

BACKGROUND

The New Jersey Innovation Fund (NJIF) Program is strategically positioned within New Jersey’s innovation ecosystem as a platform that supports entrepreneurial teams in launching and growing innovative businesses across the state. Established with an original \$10 million appropriation, the program is governed by Sections 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373) and administered by the New Jersey Economic Development Authority (NJEDA). Its primary goal is to provide income replacement grants to first-time entrepreneurs, facilitating economic growth and job creation in eligible municipalities. The program was approved by the NJEDA Board on November 16, 2022.

Entrepreneurial teams compete for access to up to \$400,000 in funding, with \$200,000 as a base award and up to an additional \$200,000 in additional bonuses. In addition to financial support, the program offers a 24-month mentorship program designed to help teams scale and succeed.

The global AI market is projected to contribute in excess of \$500B by the end of 2024 according to various media sources, driven by the rapid advancements in AI technologies, including machine learning, natural language processing, and computer vision. This global trend is mirrored by New Jersey's strategic focus on expanding its AI ecosystem, aimed at fostering innovation and inclusive economic development. In alignment with this vision, an additional \$2M in funding was allocated through the FY25 Appropriations Act to support the development of AI-focused startups in the state. This funding will extend the NJIF program to five application periods, increasing the total number of potential awards. The initiative seeks to stimulate sustainable economic growth and position New Jersey as a hub for innovation.

Value of the AI Cohort

1. Facilitating entry into the New Jersey Innovation Ecosystem: The Program offers a structured pathway for nascent AI entrepreneurs to develop their ideas, transform these ideas into viable businesses, and integrate the businesses into the broader innovation ecosystem.
2. Drive AI Utilization and Innovation Across Industries: The Program encourages the development of AI technologies that have applications across various industries, positioning New Jersey as a hub for AI innovation.
3. Further Collaboration with Academic Partners: As legislatively required by P.L.2024, ch.22, in consultation with Princeton University, NJIF will leverage the university's research capabilities, technical expertise, and industry connections to facilitate the mandated mentorship program. The collaboration reflects the Program's commitment to not only provide resources, but also ensure that these resources are accessible.

PROPOSED PROGRAM DESIGN AND STRUCTURE

The application period for the NJIF AI cohort will be preceded by a 14-day Q&A period, followed by a 30-day application period. The application period will be indicated by the opening of the application window, available on the NJEDA website. Applications deemed by staff to be complete will be reviewed through a competitive process prioritizing proposed AI innovations positioned to deliver clear, actionable outcomes. The Program will accept applications from teams of eligible first-time entrepreneurs meeting all previously approved NJIF requirements in addition to the eligibility criteria detailed below.

All original Program eligibility specifications, approved by the Board on November 16, 2022, remain the same, except for the additions noted in this memo.

ELIGIBILITY

Application submission must clearly demonstrate how the proposed business venture utilizes AI technologies to either create a novel product or solution, or that would result in potential measurable efficiency within one or more of New Jersey's targeted industries.

To be eligible for the NJIF AI-dedicated cohort, the proposed business must focus on using one or more of the following six AI technologies:

1. Learning and Adaptation: A proposed AI solution focused on machine learning, deep learning, or reinforcement learning that continuously learns from data to optimize processes over time. This could either improve operational efficiency by reducing downtime or waste (e.g., predictive maintenance in manufacturing) or create a novel product or service by adapting business operations in real-time to meet changing needs.
2. Autonomous Decision-Making: A proposed AI solution focused on autonomous systems capable of making decisions without human intervention. This could either increase efficiency by automating time-consuming tasks (e.g., autonomous vehicles in logistics or automated inventory management) or create new opportunities by introducing entirely autonomous operations that transform current business models.
3. Data-Driven Insights: A proposed AI solution focused on AI-driven analytics that extracts actionable insights from large datasets. This could either improve efficiency by optimizing processes like supply chain management or create a novel product or service by uncovering hidden trends or forecasting new market opportunities (e.g., dynamic pricing models, predictive analytics for customer behavior)
4. Natural Language Processing (NLP): A proposed AI solution focused on natural language understanding and generation, enabling machines to interact with humans through speech or text. This could either improve efficiency by automating customer service or internal communications through AI chatbots or create a novel product or service by developing new AI-powered customer interaction platforms or content creation tools.
5. Perception and Interaction: A proposed AI solution focused on computer vision or speech recognition that enables machines to perceive and interact with the physical or digital world. This could either increase operational efficiency by automating quality control or improving service delivery (e.g., defect detection in manufacturing, AI-powered virtual assistants), or create new opportunities in industries like healthcare or retail by enabling innovative customer interactions.
6. Generative AI: A proposed AI solution focused on creating new products, designs, or content using generative algorithms. This could either improve efficiency by enabling faster innovation cycles or create novel products or services, such as AI-driven product design, generative models for drug discovery, or AI-generated media content, which disrupt traditional market offerings.

A proposed AI solution that solely support or supplement business operations without directly contributing to improved efficiency or the creation of novel products/services within one or more of the targeted industries will not qualify. AI solutions that do not utilize the AI technologies listed directly above in a manner that would result in potential measurable efficiency, gains or aid the creation of novel products or services, will not qualify and will be deemed ineligible. Applicant submissions must demonstrate how their proposed AI solution seeks to provide either of the following innovation outcomes:

1. Improved Efficiency: The proposed AI solution is primarily focused on optimizing processes, reducing waste, or enhancing operational performance within one or more targeted industries. This could involve automating tasks, improving resource allocation, increasing productivity, or reducing costs.
2. Novel Product or Service: The proposed AI solution is primarily focused on enabling the development of a completely novel product, service, or offering. This could involve AI-

driven innovations, such as creating a novel type of AI-powered product, designing a unique service model, or introducing a breakthrough technology that solves an industry-specific problem.

APPLICATION PROCESS

The submission process for the NJIF program is designed to ensure a transparent and equitable evaluation of applications, with clear expectations for eligibility and completeness. The following changes are applicable to all future program cohorts, including the newly introduced AI cohort:

Teams interested in applying must follow these steps:

1. **Online Application:** Complete the official application form, providing detailed information about team composition, including roles, expertise, and confirmation of all eligibility criteria. Applicants must provide any and all required documentation, such as proof of eligibility, team member qualifications, or other materials specified in the application guidelines. Additionally, applicants must submit the following key documents to provide a comprehensive overview of their proposed business:
 - a. **Well Written Business Plan:** The Applicant must submit a well written business plan with a clear description of the proposed business and a well-defined strategy for innovation within the market, including anticipated challenges and solutions. (Maximum 3,000 words)
 - b. **Pitch Deck:** A high-level overview of the business, key strategies, financials, and team (limited to 15 slides)
 - c. **Organizational Chart and Resumes:** Applications must include an organizational chart and individual resumes of the entrepreneur leadership team detailing education, professional and volunteer experiences, and any relevant skills, training, or certificates, with clear visualization of the business structure and key team roles.
 - d. **Personal Address Documentation:** All applicants must provide documentation proving their personal address. This may include documents like utility bills, lease agreements, or government-issued identification showing their residence.
 - e. **NJ Gross Income Tax Requirement:** All applicants must submit documentation that demonstrates that they are subject to New Jersey's gross income tax withholding within the last 60 days of application. To fulfill this requirement, applicants must submit documentation demonstrating that they have paid New Jersey gross income taxes at the time of application or within 60 days of application.
2. **Submission Deadline:** All applications must be submitted through the designated online portal by the specified deadline. Late applications and failure to submit the application fee with an application will not be considered nor eligible for the cure period.
3. **Review and Evaluation:** Once submitted, applications will be reviewed to ensure application have all required supporting documentation. This includes proof of eligibility, team member qualifications and any other specified materials in the previously approved

program guidelines. Applications will be notified of their application status following staff review of all applications.

4. **Competitive Scoring:** An evaluation committee will review each eligible application, after receiving qualitative input from both the Authority and other New Jersey state departments, agencies, councils, offices, and boards or from other identified subject matter experts (“SMEs”).

Applicants will be notified in writing of any deficiencies identified within their application, in the cases where but not limited to, eligibility, supporting documentation, and attachments are unclear or insufficient. Applications will have five (5) business days from notification to cure any deficiencies identified in their submission. Applicants that fail to cure their deficiencies during the cure period will be declined.

COMPETITIVE SCORING

In accordance with the previously approved program structure, the grant awards \$200,000 as a base award and up to \$200,000 in potential bonus awards. Bonus awards include \$50,000 for any one entrepreneur residing in an Opportunity Zone within the State. An additional \$50,000 bonus is awarded for each applicant with a diversity self-certification or education bonus up to \$150,000. Approved teams may qualify for a potential award of up to \$400,000.

To align with the original board approved NJIF Program scoring rubric, and focus on AI utilization and innovation, applications to the NJIF AI-dedicated cohort will be evaluated using A) the original NJIF Program Board-approved scoring rubric and B) an additional AI Innovation Scoring Rubric.

The top four to five (4 – 5) applications with the highest total scores will be recommended to the Authority’s Board for the Program award and entry into the mentorship program. Four awards will be provided via the AI cohort with a fifth award available dependent upon the availability of funding remaining following award to the top four applications

A. Board Approved NJIF Rubric

1. Business Plan Score (0-5 points)
2. Operations Score (0-4 points)
3. Management Score (4-20 points)

B. AI Innovation Scoring Rubric

1. AI Innovation and Technological Advancement Score (1-3 points)
2. Feasibility and Implementation (1-3)
3. Code of Conduct (1-3 points)

The AI Innovation Scoring Rubric evaluates applicants on AI innovation and technological advancement, feasibility and implementation, and code of conduct, prioritizing AI solutions focused on driving actionable outcomes within their respective targeted industry. The maximum achievable score from the AI Innovation Scoring Rubric is nine (9) points. Applications must score above a 1 point in any area of the AI Innovation Scoring Rubric to be considered.

The total maximum score of the combined rubrics (A + B) is 38 points.

MENTORSHIP PROGRAM

The NJIF legislation requires all members of the entrepreneur teams to participate in a mentorship program. The NJIF AI-dedicated cohort mentorship program will be facilitated through Princeton University who will provide a robust 24-month mentorship program to the selected cohort companies.

Princeton University's reputation within the academic and research fields encompass artificial intelligence results from a widely recognized strong academic focus on computer science, machine learning research, and teaching dating back to 1938. Princeton University has launched a myriad of AI initiatives in areas such as: large language models (Princeton Language and Intelligence), precision health (Princeton Precision Health), community outreach and workforce development (AI4ALL), policy (Center for Information Technology Policy; School of Public and International Affairs), and engineering (School of Engineering and Applied Science).

Key Program resources to be provided by Princeton University:

- Mentorship: Mentors offering a wide range of expertise in machine learning, data science, robotics, and AI ethics.
- Workshops and Seminars: Workshops covering essential topics in AI technology and the commercialization of technologies; Providing strategies for commercializing AI innovations, including market analysis, product positioning, and go-to-market planning.
- Networking and Collaboration Facilitation: Collaboration opportunities between the AI-dedicated cohort participants will be actively facilitated, leveraging Princeton University's academic and industry partnerships and networks.

As specified in the Appropriations Act, Princeton University has been identified as the designated provider of mentorship for the NJIF AI cohort, leveraging its unique expertise and resources in AI research and innovation to guide and support the cohort. To facilitate the timely and effective engagement of the Princeton University mentorship program, a procurement waiver will be executed by NJEDA management in accordance with the Authority's procurement guidelines, given the specific nature of the AI mentorship procurement and Princeton University's unique capacity and expertise in the academic and research areas that encompass AI technology.

A procurement waiver has been prepared and will follow the appropriate approval process to ensure alignment with the Authority's goals and regulatory standards.

RECOMMENDATION

The Members are requested to approve:

1. The utilization of a \$2M appropriation from the FY 2025 state legislative budget to create an AI-dedicated cohort within the NJIF Program. The NJIF Program is an existing NJEDA program to support eligible teams of first-time entrepreneurs with mentorship, training, and income-replacement capital over a two-year period.

2. Utilization by the Authority of \$100,000 (5%) of the \$2M appropriation and \$50,000 from previously collected EDA program fees to cover administrative and mentorship Program expenses that are required to operate this AI-dedicated cohort.



Tim Sullivan, CEO

Prepared by:

Michelle Martinez– Product Officer, Venture Programs

Attachments:

APPENDIX A – NJIF AI-dedicated Cohort Scoring Rubric

APPENDIX B – Original NJIF Board Approved Competitive Scoring Rubric (approved 11/16/2022)

APPENDIX C – NJIF Program Specifications (Updated)

APPENDIX A – NJIF AI Innovation Scoring Rubric

December 19, 2024

The AI Innovation Scoring Rubric evaluates applicants on three (3) primary criteria, AI innovation and technological advancement, feasibility and implementation and code of conduct.

The maximum achievable score from the AI Innovation scoring rubric is nine (9) points. Applications must score a minimum of four (4) or greater to be considered.

The total maximum score across both the original Board-approved rubric and the AI Innovation scoring rubric is 38 points.

AI Innovation Scoring: 3 – 9 points

Criteria			Points
1.	AI Innovation and Technological Advancement	Evaluates how the proposed AI solution aims to create a novel product or improve processes in the market, assessing effectiveness.	1-3 points
2.	Feasibility and Implementation	Evaluates a proposed AI solutions practical path from concept to execution	1-3 points
3.	Code of Conduct	Evaluates the applicant’s commitment to transparency, fairness, and compliance with industry standards.	1-3 points

- To what extent does the proposed AI solution utilize one or more AI technologies to significantly improve industry operations or create new opportunities?

Technologies include Learning and Adaptation, Autonomous Decision-Making, Data-Driven Insights, Natural Language Processing (NLP), Perception and Interaction, Generative AI.

Evaluation Scale

- Score 1:** Basic application of AI technology, with minimal innovation or benefit over existing methods or products.
- Score 2:** The proposed AI solution shows strong potential for application, demonstrates potential to improve industry operations or creates new market opportunities, though not necessarily transformative.
- Score 3:** the AI is central to the business model, offering a transformative solution that improves industry operations or creates new market opportunities.

- How ready is the AI solution for implementation, and can how scalable is it to serve larger markets using the specified AI technology?

Evaluation Scale:

- **Score 1:** The solution is feasible but requires additional work or adjustments to scale to larger markets.
- **Score 2:** The solution is feasible with a with a general plan proposed to address challenges
- **Score 3:** The solution is highly feasible, with a clear plan and for implementation and plans for expansion.

3. How thoroughly does the proposed business address ethical considerations through its code of conduct in relation to AI utilization?

Evaluation Scale:

- **Score 1:** The proposed business mentions ethical considerations but lacks sufficient depth or specificity in addressing key issues like bias, fairness, or transparency in their proposed AI development process.
- **Score 2:** The proposed business demonstrates a solid understanding of ethics, with clear plans to address issues such as bias, fairness, and transparency in the development and deployment of AI solutions.
- **Score 3:** The proposed business integrates ethical practices throughout, with actionable plans to mitigate issues like bias, fairness, transparency, and privacy

APPENDIX B – Original NJIF Board Approved Competitive Scoring Rubric

(Approved November 16, 2022)

Business Plan Scoring: 0 - 5points // These five (5) questions, each worth one point, will evaluate the clarity of the applicant plan’s identified problem. This analysis will also include the plan’s clarity in identifying and analyzing its total addressable market (TAM), report on the competitive landscape, go-to-market plan, and a clearly articulated value proposition. A hypothetical score is filled-in below.

Criteria	Score
Does the applicant have a clearly identified problem?	0 or 1
Is the identified problem and TAM "significant?"	0 or 1
Does the applicant present a detailed report on the competitive landscape?	0 or 1
Does the applicant present a detailed "go-to-market" plan?	0 or 1
Does the applicant have a clearly articulated value proposition?	0 or 1

Operations Scoring: 0 - 4points // These four (4) questions, each worth one point, evaluates clear articulation of finance & accounting management plans, subject matter competencies amongst the applicant’s managing entrepreneurs, Diversity, Equity and Inclusion considerations, and clearly delineated roles and responsibilities amongst the managing entrepreneurs; and clear articulation of needed resources

Criteria	Score
Does the applicant have a clearly articulated finance & accounting management plan?	0 or 1
Does the applicant have industry and subject-matter competencies amongst its managing entrepreneurs, and does it have clearly delineated roles and responsibilities amongst the managing entrepreneurs?	0 or 1
Diversity & Inclusion: Please submit a thesis/plan/policy that will support the company's buildout and development with consideration for diversity, equity, & inclusion.	<p>Scorer's Question: Did the applicant attach a diversity & inclusion thesis/plan that will support and guide the company's buildout and development plans? Y/N</p> <p>Question: If "Y" above, 1pt if “N”, 0pt</p>
Does the applicant clearly state other needed resources (e.g. financial, human capital, operating environment, etc) beyond award in order to effectuate their plan?	0 or 1

Management Scoring: 4 - 20 points // These four (4) questions evaluate years of management's general professional experience; years of relevant industry expertise; expertise and competency in sales, operations, product development and finance.

Criteria	Score
How many years of professional experience does the entrepreneurial team have on average?	Range 1pts - 5pts $<3 \text{ yrs} = 1\text{pt}$ $3\text{yrs} \leq x \leq 7\text{yrs} = 2.5\text{pts}$ $>7\text{yrs} = 5\text{pts}$
How many years of expertise does the entrepreneurial team have, on average, in the addressable industry?	Range 1pts - 5pts $<3\text{yr} = 1\text{pt}$ $3\text{yrs} \leq x \leq 3\text{yrs} = 2.5\text{pts}$ $>\text{yrs} = 5\text{pts}$
Does the entrepreneurial leadership have expertise and competency in sales, operations, product development and finance?	Range 1pts - 5pts $<3 \text{ yrs} = 1\text{pt}$ $3\text{yrs} \leq x \leq 7\text{yrs} = 2.5\text{pts}$ $>7\text{yrs} = 5\text{pts}$
How long have the entrepreneurs been working together?	Y/N; Range 1 - 5 $<1 \text{ yr} = 1\text{pt}$ $1\text{yr} \leq x \leq 3\text{yrs} = 2.5\text{pts}$ $>3\text{yrs} = 5\text{pts}$

Appendix C
NEW JERSEY INNOVATION FELLOWS (NJIF)
PROGRAM SPECIFICATIONS
Updated 12/19/24

Program Description	The New Jersey Innovation Fellows Grant Program (“NJIF”) is a \$10mm “income replacement” program that was authorized through passage of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373)). Whereas the FY 2025 Appropriations Act to establishes an artificial intelligence (AI) cohort within the existing NJIF Program with a \$2M appropriation.
Program Purpose	Provide income-replacement funding to teams of entrepreneurs, through the disbursement of fellowship grants in the amount of \$200,000 or up to \$400,000 facilitating economic growth and job creation in eligible municipalities .
Program Expiration	Funds will be committed within an estimated 24 months from approval of first applications or until such a time as the funds are depleted.
Funding Source	Funding for NJ Innovation Fellows comes from legislative appropriation pursuant to P.L. 2021 c.160. The funding for the NJIF AI cohort derives from the FY25 Appropriations Act.
“Applicant”	The “Applicant” is the team of entrepreneurs applying for the fellowship.
Award Amount	<p>The base award shall be \$200,000 USD per team as a base award.</p> <ul style="list-style-type: none"> • A team may receive an additional \$50,000 bonus if one of the identified Entrepreneurs resides in an Opportunity Zone at the time of application. • A team of Entrepreneurs that includes at least one member who is a graduate of a New Jersey college or university, or is a diverse entrepreneur, and meets the eligibility requirements, may receive \$50,000 legislated bonuses for each certifying entrepreneur leader for up to three bonus awards totaling \$150,000 <p>“New Jersey college or University” includes 2- or 4- year colleges. Diverse Entrepreneur” refers to the definition established in section 2 of P.L.1997, c.349 (C.54:10A-5.29)</p>

Applicant Eligibility Requirements (Leadership Team)	
Team Composition	The leadership team must consist of at least three (3) individual full-time entrepreneurs.
First Time Entrepreneurs	At least half of the entrepreneur leadership must certify as “first-time entrepreneurs.” A first-time entrepreneur must certify they have never been listed as a founder, co-founder, or owner of a business entity which operated in a targeted industry in the state of New Jersey and has received third-party funding. Third-party funding includes professional Angel investment, institutional Venture (VC), or Private Equity (PE) capital
Majority Equity Ownership	The entrepreneur leadership team must have majority equity interest (>50%) in the proposed business venture.

Personal Address Documentation	The leadership team must provide documentation proving personal address (e.g., utility bills, lease agreements, or government-issued ID showing residency).
Workforce Background	<p>All entrepreneurs on the leadership team must commit to working full-time on the business for a period of two years following the receipt of the fellowship grant. This commitment includes that:</p> <ul style="list-style-type: none"> • Entrepreneurs must leave the workforce to dedicate themselves fully to the approved business. • Entrepreneurs cannot be employed outside of the business or enrolled in classes for more than 20 hours per week during the two-year commitment period. <p>In all cases to be eligible, entrepreneurs must provide proof of gross income taxes at the time of application or within 60 days. This means applicants need to demonstrate that they are currently earning an income and paying taxes, showing they are actively employed or self-employed.</p> <p>Examples of eligible entrepreneurs include:</p> <ul style="list-style-type: none"> • Professionals who are leaving a full-time or part-time paid position within 60 days before applying. • Recent graduates who have held a full-time or part-time paid position within 60 days before applying and are committing to the business on a full-time basis. <p>By submitting an application, entrepreneurs are agreeing to fully dedicate their time to the business and leave any outside employment or major academic commitments during the two-year commitment period.</p>
Full Time Commitment	<p>Entrepreneur leadership must commit to working at the business on a full-time basis for two years following receipt of the fellowship grant. “Full-Time basis” is 35 hours/week; Entrepreneur leadership must not engage in part-time or outside work for more than 20 hours per week.</p> <p>Entrepreneurs must sign a legally binding agreement (with ‘clawback’ risks) agreeing to commit to idea/venture on a Full-Time basis. EDA may claw-back disbursed grant funding of an amount up to the total previously disbursed as a consequence of non-compliance.</p>
NJ Income Tax Compliance	<p>All entrepreneur leaders must demonstrate that they are subject to New Jersey’s gross income tax withholding within the last 60 days of application, which means they must have either been employed or engaged in a business activity within the state that is subject to NJ tax withholding by the New Jersey Division of Taxation.</p> <p>To fulfill this requirement, applicants must submit documentation demonstrating that they have paid New Jersey gross income taxes at the time of application or within 60 days of application.</p> <ul style="list-style-type: none"> • Pay Stubs: Applicants can provide a recent pay stub that shows New Jersey gross income taxes paid, which will demonstrate they are subject

	<p>to the state’s tax withholding system at the time of application or within 60 days of application</p> <ul style="list-style-type: none"> • NJ-1040ES along with Proof of Payment: Applicants can submit the NJ-1040ES form, which is used for estimated income tax payments in New Jersey. Along with this form, applicants must provide proof of the income tax payments made to the state at the time of application or within 60 days of application <p>If any member of the original awarded team of entrepreneurs ceases to be a New Jersey taxpayer during the time in which fellowship grants are disbursed and the next following two years, the fellowship may be rescinded, and any amount paid may be recouped by the authority.</p>
Mentorship Program Commitment	All Entrepreneur leadership team must commit to participate in a mentorship program for the program’s 24-month duration

Eligibility for Applicant Proposed Startup (Business)

Business Plan Submission	The Applicant must submit a well written business plan with a clear description of the proposed business and a well-defined strategy for innovation within the market, including anticipated challenges and solutions. (Maximum 3,000 words)
Pitch Deck	A high-level overview of the business, key strategies, financials, and team (limited to 15 slides)
Organizational Chart & Resumes	Applications must include an organizational chart and individual resumes of the entrepreneur leadership team detailing education, professional and volunteer experiences, and any relevant skills, training, or certificates, with clear visualization of the business structure and key team roles
Targeted Industries	<p>Targeted Industries means any industry <i>identified from time to time by the authority</i> that shall initially include:</p> <ul style="list-style-type: none"> • Advanced Transportation and Logistics • Advanced Manufacturing • Aviation • Autonomous Vehicle and Zero-emissions research or development • Clean Energy • Clean Tech • Life Sciences • Hemp Processing • Information and High Technology • Finance and Insurance • Professional Services • Film and Digital Media • Non-retail food and beverage business (including food innovation)
Eligible Municipality	<p>Proposed business venture must be located in an “Eligible municipality,” which means any of:</p> <ul style="list-style-type: none"> • A city of the first class • A municipality with a private research university • A municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.)

	<ul style="list-style-type: none"> • A municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) • A municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress • A SDA municipality • A municipality in which a major rail station is located
Business Registration and Certification	The venture must be registered with the State within 30 days of award notice in order to close on grant award, as evidenced by a valid business registration and a current tax clearance certificate of the newly formed business
Income Replacement & Use of Funds	Grant funds may only be used as income-replacement. Funds must be used specifically for payroll and related expenses for the leadership team. The applicant must provide proof of an established payroll management system. i.e., Bank payroll agreement & accounts, Payroll software subscription, Payroll service provider agreement.
Funding Disbursement	The full award will be disbursed quarterly to grantees, over two years immediately following award. Minimum disbursement requirements: <ul style="list-style-type: none"> • Certified organizational chart demonstrating at least three entrepreneurs are managing the business • Quarterly management prepared financial statements • Annual accountant prepared financial statements • Verification of gross income tax withholding (for example, NJ WR-30) • Proof of regular mentor-program engagement • Certification that at-least three entrepreneurs are managing the business • Mentorship attendance record, evidenced by signed program instructor/advisor form(s) • Current Business' address

AI Cohort Eligibility	
AI Technologies	<p>Must focus on one or more of the following six AI technologies:</p> <ul style="list-style-type: none"> • Learning and Adaptation (e.g., machine learning, deep learning, predictive maintenance) • Autonomous Decision-Making (e.g., autonomous vehicles, automated inventory) • Data-Driven Insights (e.g., AI-driven analytics, predictive analytics) • Natural Language Processing (e.g., chatbots, customer interaction) • Perception and Interaction (e.g., computer vision, speech recognition) • Generative AI (e.g., AI-driven product design, AI-generated content).
Innovation Outcomes	<p>The proposed AI solution must lead to one or both of the following outcomes:</p> <ul style="list-style-type: none"> • Improved Efficiency: Optimizing processes, reducing waste, improving performance (e.g., automating tasks, enhancing productivity). • Novel Product or Service: Enabling the creation of entirely new products or services (e.g., AI-driven innovation, breakthrough technology).

Code of Conduct	Applicants must submit a Code of Conduct for their proposed business, describing their proposed solutions commitment to bias, fairness, or transparency within its targeted industry.
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Other	
Reapplication	Awarded applicants are ineligible from future NJIF grant considerations and award. Ineligible or denied applications may reapply for consideration and/or award in later application rounds. Awardees deemed non-compliant are ineligible for future consideration for approval.
Declination Appeals	Denied applicants will have 10 business days from date of receipt of declination letter to appeal.
Administration & Management Fees	There will be a 5% fee assessed on the full appropriated amount for NJEDA's administration and fund the mentorship requirement. Additionally, EDA will charge a \$250 application fee.

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of Request for Program
Updates to the New Jersey Innovation Fellows and
Approval for AI-dedicated Cohort Funding

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: New Jersey State Small Business Credit Initiative (“SSBCI”) Life Science and Healthcare Fund Manager Approvals

SUMMARY

Following from the Notice of Investment Opportunity process and in-depth evaluation conducted by staff, according to the criteria established, approval is recommended for the investment commitments to enable the fund managers in amounts listed below to make investments into a portfolio of early- and growth-stage healthcare and life sciences companies in New Jersey conforming to the material Program terms specified in **Appendix B**, with final terms approved by the Chief Executive Officer. **Appendix C** contains additional information on the recommended fund managers for the SSBCI life science and healthcare approvals.

- Investment commitments of up to \$22.5M to investment vehicles managed by:
 - (i) Eckuity LLC for an amount of up to \$12.5M,
 - (ii) Activate Management LLC for an amount of up to \$7.5M; and,
 - (iii) RV3 Management LLC for an amount of up to \$2.5M.
- Delegate to the Chief Executive Officer the authority to determine the fund structure (held in a side-car vehicle) and to finalize fees and expenses with each fund manager based on the parameters contained in this memorandum.

Note that funding for the investments will be provided by SSBCI for which NJEDA, on behalf of the State of New Jersey, Department of Treasury, was approved for a total of \$255M for both direct and fund programs.

Background

SSBCI is a federal program administered by the U.S. Department of the Treasury to support private financing to small to mid-sized businesses within eligible jurisdictions. The program was first established in 2010, with a second round funded by the American Rescue Plan Act (ARP) in the spring of 2021. With \$10 billion available overall, this second round of funding was allocated non-

competitively to states, territories, and tribal governments. New Jersey was approved for a total of \$255M.

SSBCI is designed to increase the lending and investment of private capital into small- to mid-sized businesses. At the program level, each dollar of SSBCI capital must be matched by at least a dollar of private capital. The allocation of funding across programs is designed to allow the portfolio to reach a leverage ratio (private capital to SSBCI funds) of 10:1 over a ten-year period. Therefore, programs must be designed so that SSBCI funds increase new lending and investment, unlocking capital for small- to mid-sized businesses that would otherwise not have access to it.

Since 1995, the Authority has committed more than \$78M to 22 fund managers through the venture program. This total encompasses three fund commitments amounting to \$7.8 million that were previously approved by the Board under SSBCI 1.0, as well as two SSBCI 2.0 board approved commitments totaling \$20 million to Signet Healthcare Partners LLC and Tech Council Ventures. The aggregate commitments have resulted in direct-investments into 114 NJ-based, early-stage companies, yielding over 6,500 jobs in New Jersey, and a private leverage multiple of more than 64.7x. The Authority aims to deepen the success of its early to mid-stage investment strategy and support one of NJ's primary industries.

U.S. Treasury requires that state-level SSBCI applicants be a state department or agency that can obligate the State. The Governor has designated NJ Department of Treasury as the lead applicant, with NJEDA acting as a contracted entity to implement the program. New Jersey utilized a similar structure for the SSBCI 1.0 program established in 2010. The Board of the Authority approved an MOU between the NJEDA and NJ Department of Treasury regarding the arrangement for the second round of SSBCI. These programs have been developed in alignment with the Governor's economic plan, The State of Innovation: Building a Stronger and Fairer Economy in New Jersey, which identifies clean energy and life sciences as among the state's targeted industries, sets a goal of building the most diverse innovation ecosystem in the country, and emphasizes the importance of easier access to capital for small- to mid-sized businesses. This set of programs also builds on existing strengths and experiences within NJEDA.

New Jersey's SSBCI allocation is represented by the following approved programs:

- Blended Capital Investment \$50M
- Recovery Loan Loss Reserve \$25M
- Clean Energy Business Financing \$80M
- Life Science / Healthcare Fund \$60M
- SEDI Seed Fund \$20M
- Angel Match Program \$20M

SSBCI capital is expected to lead to meaningful job creation. There is a large talent pool located in the state. New Jersey has the highest concentration of scientists and engineers per square mile in the U.S. Additionally, New Jersey is ranked third in the nation for employed biochemists and biophysicists. Hence, New Jersey is a fertile landscape for life sciences investments with both human capital and life sciences companies supporting continued growth in this industry. New Jersey has an extensive history in life sciences as evidenced by an estimated 4,500 life sciences

businesses in the state. The SSBCI Life Science/ Healthcare Investment \$60M Fund is expected to cause 10:1 private capital match of \$600M.

Program Details

The NJEDA SSBCI Life Science/Healthcare Fund began an outreach campaign to allocate \$60M of SSBCI funding to venture capital managers in 2023, through an initial Notice of Investment Opportunity (“NIO”). This initial NIO, combined with a second NIO published in 2024 sought to deploy additional funds of the life science fund program allocation (\$40M is remaining before this 2024 allocation) to selected, qualified fund managers. The primary focus of this market outreach was to identify qualified fund managers who were aligned with both EDA program’s goals and SSBCI guidelines. Respondents were invited to submit expressions of interest through the NIO postings. Fund managers were evaluated by staff on their competency, capacity, and skill in managing early- to mid-stage investment strategies into growing healthcare and life sciences companies in New Jersey. As of November 20, 2024, up to a total of \$20M had been committed to two approved fund managers. The second SSBCI Life Science/Healthcare Fund NIO attracted seven fund manager responses.

Seven fund managers applied to this round of the life sciences/healthcare NIO. We recommended the candidates that scored above the average score of 31. The top three scoring managers are recommended in this memo for acceptance into the SSBCI life sciences/healthcare program. Of the other four applicants, two candidates scored below the average and two applicants withdrew their application.

Key Program terms are included in **Appendix B**. A central element of the evaluation and selection process is the ability of the fund manager to raise sufficient private capital to match the targeted dollar amount of funding and identify a pipeline of investible opportunities meeting the strategy objective put forward by the NJEDA and approved by U.S. Treasury. In addition, the fund managers must have the capacity to handle the US Treasury and NJEDA’s compliance requirements. Finally, private financing does not include financing provided by tax-credit supported vehicles, such as funds capitalized by the sale of state tax credits.

Selected fund manager(s) must demonstrate how their investment strategy will “cause and result in” private financing, based on the funds’ age, size, or experience. The fund manager(s) to be selected must raise a private capital match of at least 1:1 at the fund level, such that a single allocation of \$20M, yields a \$40M (or greater) investments in NJ companies. A Special Purpose Vehicle (“SPV”) shall be created by each life sciences fund manager to manage program capital in investments in eligible New Jersey-based businesses, providing a clear separation of assets and liabilities between the manager’s main fund and the SSBCI funds (held in the SPV). The SPV structure ensures that both public and private funds are invested on a “pari-pasu” basis. “Pari-pasu” signifies that the SSBCI capital and private capital match are treated equally in terms of investment terms, risk and rights.

A minimum of 90% of the fund manager’s SSBCI qualified investments must be in companies with a New Jersey location. As a result, NJEDA requested that each manager request the amount of funds they expected to invest in NJ companies through the SSBCI program. The candidates were awarded the requested funds unless the request provided too much exposure to the fund.

Additionally, eligible transactions must meet certain federal requirements which include that the business must also be raising a capital round that meets the “early- to mid-stage” designation (typically rounds “Seed” to “Series C”), with an average target SSBCI investment amount of \$5M or less. No investments may be made in capital rounds with total amount of greater than \$20M. Multiple investment transactions into a specific company, such as follow-on investments, are permissible, if capital into any one company will not surpass \$20M. Each selected fund manager will have flexibility to offer varying terms to portfolio companies, tailored to meet these companies’ specific needs and growth stages, choosing equity investments (i.e., common stock providing ownership stakes and voting rights; preferred stock, offering additional protections, such as dividends payments and liquidation preferences; convertible preferred stock, convertible into common stock under certain conditions providing flexibility for future financing rounds); or follow-on investments: (i.e., additional rounds of equity financing to support scaling).

Selected fund managers will be required to invest in NJ companies. SSBCI funds will help grow an increasing number of NJ-based life-science investors. In particular, each approved Fund Manager will be required to establish a permanent or satellite office in the State. A portfolio company shall be deemed to have a location in New Jersey if:

- (i) at least 50% of non-retail employees working or living in New Jersey, or
- (ii) 50% of payroll is paid to employees, living or working in NJ, or
- (iii) A business which has its headquarters in New Jersey. For the purposes of this SSBCI program, if companies are headquartered in NJ, they are considered a New Jersey company, as specified in the Frequently Asked Questions (2023) posted alongside the Notice of Investment Opportunity.

Use of Capital

Under the SSBCI guidelines, each fund manager must identify services to portfolio companies, with fees consistent with industry standards. The updated guidance allows jurisdictions to pay venture capital fund managers their standard management fees and carried interest rate charges that are applicable to their primary fund vehicles, which may draw from different SSBCI allocations (e.g., from the allocation for the Authority’s own administrative expenses). Thus, the actual management fees payable to the SSBCI fund managers may exceed the initial 1.71 percent fee in alignment with the structures of the managers’ respective primary fund vehicles, with a limit of no more than 2.5% of committed capital. Annual operating and audit expenses in aggregate will not exceed \$50,000 annually, (comparable to side car or multi-asset fund vehicles previously established by the NJEDA based on market research). The organizational expenses and annual operating and audit expenses will be paid from the \$60 million appropriation. These services may include, for example, financial management, operational guidance, IT consulting, and connecting portfolio companies to potential customers, investors, board members, and officers. These services vary depending on the portfolio company’s stage in the venture capital ecosystem. Each fund manager is required to identify the services to be provided to portfolio companies and annually certify that these services were provided.

SSBCI guidelines grant jurisdictions the authority to allocate part of their program income and allowable administrative expenses to cover fees related to expenses that are related to the management and oversight of the fund. The SSBCI guidelines cap administrative expenses at 5% for the first tranche and 3% for the second and third tranches of allocated funds.

SSBCI funds are disbursed to jurisdictions in three tranches. The first disbursement totals \$79 million. The second and third tranches will be disbursed when the NJ Treasury certifies that it has expended, transferred, or obligated at least 80% of the prior disbursement of allocated funds. The second tranche must be drawn down at the three-year anniversary of the signing of the allocation agreement, and the final tranche must be drawn down at the six-year anniversary of the signing of the allocation agreement. The allocation agreement between US Treasury and NJ Treasury was signed March 15, 2023. US Treasury has informed EDA staff that the expected deadline to disburse the funds is 10 years. SSBCI administrative costs are limited to 5% of SSBCI funds in the first tranche and 3% of SSBCI funds in the second and third tranches.

Another requirement for the distribution of the second tranche is that the life sciences/healthcare fund must invest in two deals within the first year after signing the closing documents with the first fund manager. NJEDA signed the closing contracts with Signet Healthcare Partners LLC February 23, 2024. While there are three portfolio companies that could close before Feb. 23, 2025, the deals are not yet complete. If two deals aren't closed by Feb 23, 2025, the life science/healthcare fund will not receive the second or third tranches of funding.

Further, each selected fund manager(s) must obtain written certifications from the investees affirming that the investment proceeds will be used for business purposes, and align with specific SSBCI program compliance requirements, partially noted, herein, and will be sufficiently documented with the selected managers. A business purpose includes, but is not limited to, start-up costs; working capital; franchise fees; and acquisition of equipment under \$2,000, inventory, or services used in the production, manufacturing, or delivery of a business's goods or services, or in the purchase, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. Investment proceeds may also be used to purchase any tangible or intangible asset, except goodwill. However, expenditures for equipment acquisition and installation of \$2,000 or more and, construction are not eligible uses.

Reporting

Fund managers will be required to report, on a regular basis, efforts to expand their pipeline of deal flow in New Jersey. These efforts may include, for example, hosting office hours or attending ecosystem events like NJEDA's NJ Founders & Funders. Fund managers will report jobs information and will be compelled to request demographic information of portfolio companies. The selected managers must be able to record, with a written, detailed report, each investment transaction that received SSBCI funds, in part or in whole.

The Program capital will be committed to the qualified fund manager(s) that scored above the average score of 31. The top three scores are Eckuity LLC scoring 42 out of 52 and Activate Management LLC and RV3 LLC both scoring 34 out of 52. In accordance with SSBCI requirements, the fund manager(s) selected must raise a private capital match of at least 1:1 at the

fund level. Assuming deployment of \$22.5M from this round of SSBCI allocation recommendations, the match requirement will yield a \$45M (or greater) total capital pool.

The evaluation criteria, as outlined in the Notice of Investment Opportunity, included 13 distinct metrics, each equally weighted. These criteria were designed to assess the fund managers' experience, resources, investment strategy, ability to support New Jersey's entrepreneurial ecosystem, and other critical factors. Submissions that scored below the 31 average score were not considered further.

Submissions were evaluated by a cross-organizational evaluation committee composed of NJEDA staff and management, to evaluate, score, and rank submissions. Scores are averaged to determine an overall score for each submission. Below are the evaluation criteria for the Life Science/Healthcare Fund manager(s). The maximum number of points available is 52 points. The scores of the three recommended SSBCI fund manager earned are listed in the table below. Each criterion is equally weighted. Specific questions to be answered that pertain to each criterion are in **Appendix A**.

After thorough evaluation by staff, the submissions were scored and ranked based on the criteria. The following are the key outcomes:

- Top Scoring Fund Managers: The highest-scoring fund managers have demonstrated exceptional experience, resource depth, and consistency in strategy. They have a strong track record of investing in life sciences and healthcare companies. The average respondent score was 31, each of the recommended managers received scores greater than this figure.
- Strategic Fit: Selected fund managers showed a clear alignment with NJEDA's objectives and demonstrated the ability to support New Jersey's entrepreneurial ecosystem effectively.
- Diversity and Inclusion: Top fund managers had well-articulated diversity, equity, and inclusion policies, with demonstrated success in implementing these policies.

The highest-scoring managers have been subject to NJEDA and SSBCI review and have completed all NJEDA legal debarment questionnaires and other compliance documentation. Selected fund managers will be expected to sign the Program's side letter investment agreement prior to closing.

The details of the three recommended fund managers are in Appendix C. Please see board recommendation below.

RECOMMENDATION:

Following from the Notice of Investment Opportunity process and in-depth evaluation conducted by staff, according to the criteria established, approval is recommended of the investment commitments to enable the fund managers and amounts listed below to make investments into a portfolio of early- and growth-stage healthcare and life sciences companies in New Jersey. The investments will conform to the material Program terms specified in **Appendix B**, with final terms approved by the Chief Executive Officer.

- Investment commitments of up to: \$22.5M to investment vehicles managed by:
 - (i) Eckuity LLC for an amount of up to \$12.5M,
 - (ii) Activate Management LLC for an amount of up to \$7.5M; and,
 - (iii) RV3 Management LLC for an amount of up to \$2.5M.
- Delegate to the Chief Executive Officer the authority to finalize fees and expenses with each fund manager based on the parameters contained in this memorandum.

Note that funding for the investments will be provided by SSBCI for which NJEDA, on behalf of the State of New Jersey, Department of Treasury, was approved for a total of \$255M for both direct and fund programs.



Tim Sullivan, CEO

Prepared by:

Lexie Demirali – Senior Product Officer, Venture Programs
Michelle Martinez – Product Officer, Venture Programs

Attachments:

Appendix A – Scoring Rubric

Appendix B – Program Terms

Appendix C – Confidential Recommended Fund Managers

Appendix A – Scoring Rubric

1. FUND MANAGER QUALIFICATIONS & ELIGIBILITY

On Thursday, February 9, 2023, the NJEDA issued a notice of investment opportunity (NIO) to receive interest from venture capital manager(s) that have demonstrated competency, capacity, and skill in managing start-up and early-stage investment strategies into growing healthcare and life sciences sector companies in New Jersey. Respondent submissions include narrative responses and applicable exhibits (see Appendix B) to the program Due Diligence Questionnaire (Appendix A) as indicated in the NIO. Only electronic submissions email sent to SSBCILifeSciFund@njeda.com were accepted. Furthermore, respondents were instructed to adhere to the following eligibility guidelines:

- a) Include a cover page with preparer’s contact information.
- b) Include a table of contents listing all required evaluation criteria in Section 7 of the NIO.
- c) Applicable exhibits and narrative responses addressing each of the evaluation criteria in Appendix A.
- d) Must submit all requested information denoted with a “must” or “shall”
- e) Complete an NJEDA legal debarment questionnaire and other NJEDA and State compliance documentation.

To be eligible for evaluation and potential selection, respondents’ submissions must demonstrate familiarity with the compliance and reporting standards mandated by SSBCI and must demonstrate an ability to leverage the allocated public funds for additional private capital to achieve at least a public/private ratio of 1:1 at the fund level. Responses were scored against the NJEDA scoring matrix. The matrix measures, among multiple factors, the respondents’ experience, capacity, and skills, and will rank the respondents against those criteria.

The respondent(s) with the highest-scoring submission(s) shall also be expected to draft investment agreements to reflect NJEDA’s investment. Those agreements shall include provisions required by State law and policy, including, but not limited to:

- The fund manager(s) shall indemnify NJEDA (except for investment losses) and provide insurance as NJEDA may request
- NJEDA shall not indemnify the fund manager(s)
- No transfers or assignments without NJEDA consent
- All fund assets must be transferred to NJEDA upon dissolution
- Standard New Jersey State Conflict of Interest provision

- The fund manager(s) shall be subject to applicable political contribution disclosure requirements, which may include N.J.S.A. 19:44A-20.27 (L. 2005, c. 271)
- Records must be retained the greater of five (5) years after the end of the Fund or the period required by federal law, and NJEDA and the New Jersey Office of the State Comptroller shall have the right to audit all records held by the fund manager(s) related to the Fund
- All agreements are subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liabilities Act, N.J.S.A. 59:13-1 et seq.

2. EVALUATION PROCESS/SCORING CRITERIA

Submissions were evaluated by a cross-organizational Evaluation Committee composed of NJEDA staff and management, to evaluate, score, and rank submissions. Scores will be averaged to determine an overall score for each submission.

Below are the evaluation criteria for the Life Science and Healthcare Fund manager(s). Any submission that does not meet the minimum score of 10 in total were not scored and ranked. *Achieving a score of 10 or above did not guarantee selection.* Each criterion was equally weighted. Specific questions to be answered that pertain to each criterion are in Appendix A.

1. Experience of Leadership

Considers senior leadership's length of experience as fund manager and investor as detailed in their submission.

- 0 = No experience as fund manager and investor
- 1 = Minimal (2-4 years) experience as fund manager and investor
- 2 = Some experience (4-8 years) as fund manager and investor
- 3 = Exceptional experience (8-10 years) as fund manager and investor
- 4 = Unique experience (10+ years) as fund manager and investor

2. Depth of Resource

Considers number of investment professionals, support/back-office staff, professional network, and ability to effectuate strategy and ensure SSBCI compliance as detailed in their submission.

- 0 = No depth of resources
- 1 = Internal resources are insufficient for the scope of work, including SSBCI compliance
- 2 = Internal resources are undersized relative to the scope of work, including SSBCI compliance
- 3 = Internal resources are right sized for the scope of work, including SSBCI compliance

4 = Internal resources are more than sufficient to achieve the scope of work in addition to current activities, including SSBCI compliance

3. Consistency of Strategy

Considers whether respondent's targeted strategy is consistent with prior investment experience as detailed in their submission.

0 = Not a consistent investment strategy

1 = Minimal consistency to manager's past investment strategy

2 = Some consistency to manager's past investment strategy

3 = Exceptional consistency to manager's past investment strategy

4 = Total consistency to manager's past investment strategy

4. NJEDA Partnering

Considers respondent's ability to serve as a strategic partner to the NJEDA, including the Life Science/ Healthcare entrepreneurial ecosystem as detailed in their submission.

0 = No ability to support NJ's entrepreneurial ecosystem

1 = Minimal ability to support NJ's entrepreneurial ecosystem, provides less than 12 hours annually to engage in NJ's ecosystem events

2 = Some ability to support NJ's entrepreneurial ecosystem, provides more than 12 hours annually to engage in NJ's ecosystem events

3 = Exceptional ability to support NJ's entrepreneurial ecosystem provides executive talent to entrepreneurs as well as over 12 hours annually engage in NJ's ecosystem events

4 = Unique ability to support NJ's entrepreneurial ecosystem provides at least 8 events annually for entrepreneurs and/or investors.

5. Sourcing/Pipeline Development

Considers respondent's ability to source and track relevant and unique deal flow to effectuate strategy as detailed in their submission.

0 = No ability to source and track relevant deal flow

1 = Minimal ability to source and track relevant deal flow

2 = Some ability to source and track relevant deal flow

3 = Exceptional ability to source and track relevant deal flow

4 = Unique ability to source and track relevant deal flow

6. Focus industry & Stage

Considers respondent's ability to focus on identifying investment opportunities into "early-stage" (Pre-seed through Series B) companies in Life Science/ Healthcare businesses as defined elsewhere in this document, as detailed in their submission.

- 0 = No ability to identify NJ Life Science/ Healthcare investments
- 1 = Minimal ability to identify NJ Life Science/ Healthcare investments
- 2 = Some ability to identify NJ Life Science/ Healthcare investments
- 3 = Exceptional ability to identify NJ Life Science/ Healthcare investments
- 4 = Unique ability to identify NJ Life Science/ Healthcare investments

7. Performance History

Considers respondent's past investment returns (realized & unrealized) on attributed investments as compared to industry and applicant peers (benchmark source: Pitchbook) as detailed in their submission.

- 0 = No past investment returns
- 1 = Low (third quartile or lower vs. peers) past investment returns
- 2 = Moderate (second quartile vs. peers) past investment returns
- 3 = High (top quartile vs. peers) past investment returns
- 4 = Exceptional (top 10% vs. peers) past investment returns

8. New Jersey Investment History

Considers respondent's investment amount (on attributed investments) into New Jersey companies to date on an absolute basis and relative to industry and applicant peers as detailed in their submission.

- 0 = No history of investing in NJ companies
- 1 = Minimal history (less than 10% of investment) of investing in NJ companies
- 2 = Some history of investing (10% -25% of investment) in NJ companies
- 3 = High investment (25% -50% of activity) history in NJ companies
- 4 = Exceptional investment (50% or more of activity) history in NJ companies

9. Incentive and Alignment

Considers whether respondent's carry is comparable to peers, properly aligned with objectives, and equitably spread among team, as detailed in their submission. Also considers alignment of respondent's commitment as a general partner (GP) with limited partners' commitment(s).

- 0 = Has above market carry % (over 25%), GP's commitment <1%
- 1 = Has high market carry % (over 20%), GP's commitment <1%
- 2 = Has high carry % (over 20%), GP's commitment >3%
- 3 = Has carry % comparable to peers (20%), GP's commitment >3%
- 4 = Has carry % comparable to peers (20%), GP's commitment >5%

10. Management fees, other fees and expenses

Considers whether fees and expenses are sufficient to effectuate strategy and comparable to industry as detailed in their submission.

- 0 = Management fee >2.5% over the life of the fund
- 1 = Management fee 2.25-2.5% over the life of the fund
- 2 = Management fee 1.75% - 2.25% over the life of the fund
- 3 = Management fee 1.25% - 1.75% over the life of the fund
- 4 = Management fee <1.25% over the life of the fund

11. Governance

Considers whether key person clause is strong and effective

- 0 = No key person clause
- 1 = Single individual key person clause
- 2 = Multiple individual key person clause requiring limited partner vote to activate
- 3 = Multiple individual key person clause with automatic effect
- 4 = Multi-tiered key person clause

12. Fundraising status & capability

Considers respondent's ability to match or raise an additional private capital to meet the SSBCI 1:1, fund-level matching requirement, as detailed in their submission.

- 0 = No ability or experience to meet required private matching
- 1 = Minimal ability or experience to meet required private matching; i.e. indicates ability to match less than the SSBCI 1:1 requirement
- 2 = Some ability or experience to meet required private matching; i.e. can match the SSBCI 1:1 requirement
- 3 = Exceptional ability and experience to meet required private matching; i.e. can meet 125% of the 1:1 match
- 4 = Unique ability and experience to meet required private matching; i.e. can meet 200% of the required SSBCI match

13. Diversity

Considers respondent's clearly articulated diversity, equity, and inclusion (DE&I) policy, specifying the collection of relevant diversity metrics internally, as well as from portfolio companies. Also considers respondent's clearly articulated Code of Conduct (CofC) addressing harassment and discrimination internally

- 0 = No defined DE&I and CofC policy for investment company or for portfolio companies
- 1 = Defined DE&I and CofC policy for investment company or for portfolio companies

2 = Defined DE&I and CofC policy for investment company and for portfolio companies

3 = Defined DE&I and CofC policy for investment company and for portfolio companies with a demonstration of success towards either policy through metrics

4 = Defined DE&I and CofC policy for investment company and for portfolio companies with a demonstration of success towards both policies through metrics

Appendix B – Program Terms

Use of Funds	<ul style="list-style-type: none">• The fund manager(s) shall be responsible for complying with SSBCI rules and requirements as issued by the U.S. Treasury.• The Fund’s ability to invest is conditional upon the Fund first meeting or exceeding the 1:1 private financing ratio.• In addition to regular reporting provided for in the Fund agreements (which may include Limited Partnership Agreement (LPA) and NJEDA side letter agreement), the selected fund manager(s) shall provide transaction details and federally-required certifications to NJEDA before each investment.• The selected manager(s) shall be responsible to comply with the required guidelines for an investment to be made with funds co-mingled with the SSBCI allocation.• The selected manager(s) must ascertain that their intended investment will be the first SSBCI investment into the prospective firm (including verification documentation).• The prospective business must also be raising a capital round that meets the “early-stage” designation (typically rounds “pre-seed” to “Series A”).• No investments may be made in capital rounds with total round size of \$20M or more. Multiple investment transactions into a specific company, such as follow-on investments, are permissible, provided that funds into any one company will not surpass \$20M• Investment proceeds may also be used to purchase any tangible or intangible asset, except goodwill.• Equipment acquisition and installation of \$2,000 or more and construction are not eligible uses.• A minimum of 90% of the investments must be in companies with a New Jersey location. A NJ business is: 1. One which at least 50% of non-retail employees working or living in
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	<p>New Jersey, or 50% of payroll is paid to employees, living or working in NJ; or, 2. A business which has its headquarters in New Jersey.</p>
<p>Minimum Requirements</p>	<ul style="list-style-type: none"> • The selected fund manager(s) must convene in-person office hours or engagements in New Jersey on a regular basis. • If the interested fund manager(s) does/do not currently have an office in the State, the manager(s) may operate at a remote or satellite in-State office, co-working facility or establish a permanent facility. The office location must be provided to the Authority before closing and evidence must be presented to verify the active and in person sourcing efforts in New Jersey. • The selected fund manager(s) shall enter into one or more agreements with the Authority regarding the investment, which agreements will be governed by New Jersey law and shall include the minimum 1:1 private capital matching requirement. • The selected fund manager(s) shall provide to the Authority annual Certified Public Accountant prepared financial statements for the life of the investment. • The fund manager(s) shall submit quarterly and annual reports as described below. • The Authority shall have a position on the Fund’s advisory board.
<p>Certifications</p>	<ul style="list-style-type: none"> • The selected fund manager(s) shall supply certifications to the Authority relative to award and receipt of funds, and such certifications shall be supplied to the U.S. Treasury by NJEDA. Preliminary form documents will be provided by NJEDA as soon as possible after signing of the allocation agreement. • The selected fund manager(s) must also certify that no principal of the selected fund manager(s) has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. § 20911, formerly 42 U.S.C. § 16911)).

• The selected manager(s) must obtain a written certification from the investee affirming that the investee is not:

- A business engaged in speculative activities that profit from fluctuations in price, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business or through the normal course of trade;
- A business that earns more than half of its annual net revenue from lending activities, unless the business is (1) a CDFI that is not a depository institution or a bank holding company, or (2) a Tribal enterprise lender that is not a depository institution or a bank holding company;
- A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;
- A business engaged in activities that are prohibited by federal law or, if permitted by federal law, applicable law in the jurisdiction where the business is located or conducted (this includes businesses that make, sell, service, or distribute products or services used in connection with illegal activity, unless such use can be shown to be completely outside of the business's intended market); this category of businesses includes direct and indirect marijuana businesses, as defined in SBA Standard Operating Procedure 50 10 6;
- A business deriving more than one-third of gross annual revenue from legal gambling activities;

• The Authority will require a certification from the selected manager(s) on the use of funds and prohibited use of funds before funding any and all capital calls. The selected manager(s) must specify that the intended use of called capital is compliant with use of funds

	<p>and reporting requirements. In the event of non-compliance, NJEDA may not fulfill capital call funding for the transaction.</p> <ul style="list-style-type: none"> • In the contractual agreement between a jurisdiction and a venture capital fund, the fund must be required to identify the services to be provided to portfolio companies and annually certify that these services were provided. The agreement between the fund and the portfolio companies must include disclosure of these services offered by the fund manager. Consistent with industry standards on payments of fees to cover these services to portfolio companies, the fund will reimburse the jurisdiction for payments of such services by SSBCI funds before returns are paid to the general or limited partners as will be recorded in the distribution of funds section of the LPA. • The selected manager(s) must obtain written certifications from the investees affirming that the investment proceeds will be used for business purposes. A business purpose includes, but is not limited to, start-up costs; working capital; franchise fees; and acquisition of equipment under \$2,000, inventory, or services used in the production, manufacturing, or delivery of a business's goods or services, or in the purchase, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. • The selected fund manager(s) shall collect certifications from the portfolio companies relative to company name, jobs, and receipt of benefits. Preliminary form documents will be provided by NJEDA as soon as possible after signing of the allocation agreement.
Reporting	<ul style="list-style-type: none"> • In addition to industry-standard reporting provided for in the Fund agreements (which may include Limited Partnership Agreement (LPA) and NJEDA side letter agreement), the selected fund manager(s) shall provide transaction details and federally-required certifications to NJEDA before each investment.

	<ul style="list-style-type: none"> • The selected fund manager(s) shall provide, when requested by the Authority, any information on the Fund’s portfolio companies and jobs created, as such information will be requested by the federal government. • The selected fund manager(s) shall provide quarterly financial statements and Fund updates in written form within 15 days of the end of each calendar quarter after the award documents are executed. The updates must include detail on companies invested into, including but not limited to industry, business specifics, location, jobs, additional funding, and highlights of portfolio business advancements. The quarterly report must also include updates on activities to support the ecosystem of SEDI entrepreneurs and businesses in New Jersey, including events and marketing. • In addition to the report items listed above, the report shall also include the total amount of SSBCI funds deployed to eligible small businesses on a quarterly and cumulative basis, the aggregate amount of SSBCI funds deployed for very small businesses (VSBs) and businesses owned by socially and economically disadvantaged individuals (SEDI-owned businesses), the amount of program income generated, and the amount of SSBCI funds deployed for administrative costs. • The Fund Manager(s) shall also submit quarterly reporting with transaction detail to NJEDA. • The fund manager(s) shall submit SSBCI annual reports and certifications by March 15 of each year, the details of which will be captured in the LPA, LLC agreement or side letter.
Non-Compliance	If the selected Fund Manager fails to provide the deliverables required in the investment contract with NJEDA, they will be granted a 90-day grace period in which to cure the shortfall(s), after which point management

	<p>fees will be withheld until deficiencies are corrected as outlined in the award agreement.</p> <p>Fees and carry shall be withheld if the fund manager is not in compliance with the obligations in the agreement with EDA, including, but not limited to, compliance with SSBCI law, regulations, and policy.</p> <p>The fund manager shall indemnify and hold harmless NJEDA, including, but not limited to, any re-payment of the Investment that the U.S. Treasury requires except as arising from the Investor's gross negligence or willful misconduct.</p>
<p>Notice Requirements</p>	<p>All terms incorporate any detailed requirement in the Notice of Investment Opportunity. Any other requirement in the Notice is also included.</p>



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: 2024 State Small Business Credit Initiative (SSBCI) Socially & Economically Disadvantaged Individuals (SEDI) Manager Approvals

SUMMARY

Approval is requested of the Members to:

- Commit an aggregate investment amount of up to \$15 million to investment vehicles managed by five fund managers to make investments into a portfolio of New Jersey businesses led by socially and economically disadvantaged individuals (“SEDI”) and conforming to the material terms specified in the Program terms included as **Appendix B**, with final terms approved by the Chief Executive Officer. The recommended fund managers and commitment amounts are:
 - (i) Serac Ventures, LLC (“Serac”), for an amount of up to \$1 million;
 - (ii) Impressionism Capital, GP I, LLC DBA Symphonic Capital (“Symphonic”) for an amount up to \$1 million;
 - (iii) Sana Capital Management LLC, (“Sana”) for an amount up to \$3 million;
 - (iv) Vamos Ventures GP II, LLC (“Vamos”) for an amount up to \$5 million and
 - (v) Harlem Capital Partners Management Company, LLC (“Harlem Capital”) for an amount up to \$5 million

Funding for the investments will be provided by SSBCI funding for which NJEDA, on behalf of the State of New Jersey, Department of Treasury, was approved for a total of \$255 million for both direct and fund programs.

- Delegate to the Chief Executive Officer the Authority to determine the fund structure (investment commingled with other funds or held in a side-car vehicle) and to finalize fees and expenses with each fund manager based on the parameters contained in this memorandum.

Background

SSBCI is a federal program administered by the U.S. Department of the Treasury to support private financing to small businesses within eligible jurisdictions. The program was first established in 2010, with a second round funded by the American Rescue Plan Act (ARP) in the spring of 2021. With \$10 billion available overall, funding was allocated non-competitively to states, territories, and Tribal governments. New Jersey is eligible for a total of \$255 million. This includes sub-allocations specifically for very small businesses (\$15,689,280) and businesses owned by socially and economically disadvantaged individuals, or SEDI businesses (\$27,521,719). Incentive funds are available for jurisdictions that demonstrate strong support for SEDI businesses.

SSBCI is designed to cause and result in the lending and investment of private capital into small businesses. At the program level, each dollar of SSBCI capital must be matched by at least another dollar of private capital. Public funding, including NJ state funding, does not count toward that match. The allocation of funding across programs is designed to allow the EDA SSBCI portfolio to reach a leverage ratio (private capital to SSBCI funds) of 10:1 over a ten-year period. Therefore, programs must be designed so that SSBCI funds cause and result in new lending and investment, unlocking capital for small businesses and start-ups that would otherwise not have access to it.

U.S. Treasury requires that state-level SSBCI applicants be a state department or agency that can obligate the State, therefore the Governor has designated New Jersey Department of Treasury as the lead applicant, with NJEDA acting as a contracted entity to implement the program. New Jersey utilized a similar structure for the SSBCI 1.0 program established in 2010. The Board of the Authority approved an MOU between the NJEDA and NJ Treasury regarding the arrangement for SSBCI 2.0. These programs have been developed in alignment with the Governor's economic plan, *The State of Innovation: Building a Stronger and Fairer Economy in New Jersey*, which identifies clean energy and life sciences as among the state's targeted industries, sets a goal of building the most diverse innovation ecosystem in the country, and emphasizes the importance of easier access to capital for small businesses.

Socially and Economically Disadvantaged Individuals (SEDI)

The federal SSBCI program supports the expansion of businesses owned by socially- and economically- disadvantaged individuals by mandating a portion of the State's allocation be directed to SEDI businesses. From New Jersey's total allocation of \$255,197,631, New Jersey must expend at least \$27,521,719 to benefit SEDI businesses. Over time, U.S. Treasury may reduce New Jersey's total SSBCI allocation if the State is not on track to meet this minimum threshold. The SSBCI program also includes a SEDI incentive. New Jersey is eligible for incentive funds of up to \$14,678,250 based on the share of the \$255 million allocation that is deployed to support SEDI businesses, with the maximum incentive reached if New Jersey expends 31.01% of the \$255 million allocation to benefit SEDI business. The NJEDA defined and articulated a strategy to do outreach to and deploy funds into SEDI businesses as part of the NJEDA's SSBCI application.

The December 2022 edition of the U.S. Treasury Capital Program Policy Guidelines provides a definition of which small businesses qualify as a SEDI business. The basis for eligibility can be

geographic, demographic, or socioeconomic. A small business may qualify as a SEDI business if it meets at least one of the four criteria below:

- Business enterprises that certify that they are owned and controlled* by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances, due to their: (1) membership of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society; (2) gender; (3) veteran status; (4) limited English proficiency; (5) physical handicap; (6) long-term residence in an environment isolated from the mainstream of American society; (7) membership of a federally or state-recognized Indian Tribe; (8) long-term residence in a rural community; (9) residence in a U.S. territory; (10) residence in a community undergoing economic transitions (including communities impacted by the shift towards a net-zero economy or deindustrialization); or (11) membership of another “underserved community” as defined in Executive Order 13985.
- Business enterprises that certify that they are owned and controlled* by individuals whose residences are in Community Development Finance Institution (“CDFI”) Investment Areas.
- Business enterprises that certify that they will operate a location in a CDFI Investment Area.
- Business enterprises located in a CDFI Investment Area.

*The term “owned and controlled” means, if privately owned, 51 percent is owned by such individuals; if publicly owned, 51 percent of the stock is owned by such individuals; and in the case of a mutual institution, a majority of the board of directors, account holders, and the community which the institution services is predominantly comprised of such individuals.

Program Update:

In its May 2023 meeting the Board of the Authority approved a total of six proposed SSBCI programs, including the initial approvals and allocations to proposed SSBCI SEDI managers. The two managers approved on that date were Gener8tor Management, LLC (“Gener8tor”), for an amount of up to \$5 million, and Include Venture Partners, LLC (“Include Ventures”), for an amount of up to \$15 million.

In an email dated July 30, 2024, Include Ventures informed the Authority of its decision to scale back the fund target for its planned New Jersey Direct Investment Vehicle (“NJ DIV”) from \$30 million to \$10 million, “of which NJEDA would provide \$5 million as opposed to the original \$15 million” citing “many factors including changes in the market and fundraising environment.” Subsequently on October 21, 2024, approved manager Gener8tor, wrote to inform the Authority that it had “not been able to secure the necessary commitments to make [the] proposed [SEDI Seed] fund a success,” and reiterated their understanding that “NJEDA will be reallocating the \$5M previously committed to Gener8tor to other fund(s) and/or a new RFP.” The aforementioned program commitment reductions and withdrawals resulted in \$15 million of unallocated SSBCI SEDI funds.

On September 3, 2024, with a subsequent amendment on October 28, 2024, the Authority issued a Notice of Investment Opportunity (“NIO” or “Notice”) to gather submissions from venture capital managers that have demonstrated competency, capacity, and skill in managing early-stage investment strategies to receive a Program allocation commitment.

The NJEDA received submissions from a total of nine respondents with total capital ask of \$27 million. Responses were evaluated by a cross-functional evaluation team of staff and scored according to the rubric in **Appendix A**, as provided from the Notice. A key element of the diligence process, among the eligibility criteria is the ability of the venture capital fund manager to raise and readily deploy sufficient 1:1 private capital to match the targeted dollar amount of funding allocable, and the opportunity set, or pipeline, of investible opportunities meeting the strategy objective as put forward by the NJEDA and approved by US Treasury. Notably, each fund manager must operate at a permanent or satellite in-State office or at a co-working facility in New Jersey with a regular presence held by a senior or mid-level investment professional. Fund managers will be required to report, on a regular basis, efforts to expand their pipeline of deal flow in New Jersey.

Staff also considered inherent portfolio risks in arriving at the recommended managers and allocations. These included inherent portfolio construction risks, capital risks, execution risks, and NJ-SEDI pipeline development risks. Particularly, staff assessed managers’ fund-raising target to their total capital raised at evaluation time. Staff then considered managers’ SEDI-capital ask, as a percentage, to their total capital raised at evaluation time. While these analyses weighed heavily on recommendations, staff also considered managers’ current pipeline of early-stage, NJ companies owned by SEDI entrepreneurs.

The top scoring, responding fund managers were VamosVentures GP II, LLC and Harlem Capital Partners Management Company, LLC, each with total average scores of 31 out of 52 possible points. Serac Ventures, LLC, 125 Ventures Management, LLC, Sana Capital Management LLC, Latimer Ventures GP, and Impressionism Capital DBA Symphonic Capital topped off the top-seven, respondent average scores with 29.33, 29.00, 25.33, 24.33, and 23.00 respectively. Respondents 125 Ventures and Latimer Ventures are not recommended for investment due to their relatively high lower raised capital in relation to their fund targets. The selected respondent manager summaries and description of strategy appear in **Appendix C** with terms included in **Appendix B**. with Program in **Appendix C**.

Notably, each fund manager must operate at a permanent or satellite office or at a co-working facility in New Jersey with a regular presence held by a senior or mid-level investment professional. Fund managers are required to report, on a regular basis, efforts to expand their pipeline of deal flow in New Jersey. This may include such example efforts as hosting office hours or attending ecosystem events like NJEDA’s NJ Founders & Funders. Fund managers will regularly report jobs information and will be compelled to request demographic information of portfolio companies.

The requested \$15 million amount will be disseminated to the five recommended managers to make “Seed” to “Series A” investments into early-stage, New Jersey companies owned by SEDI entrepreneurs. In accordance with SSBCI requirements, the fund managers must raise a private capital match of at least 1:1 at the fund level, which would yield a \$30 million (or greater) total

funding pool earmarked for SEDI-owned businesses in New Jersey. Managers will consider prospective portfolio companies to be a New Jersey business if:

- (i) at least 50% of the company's non-retail employees work or live in New Jersey, or
- (ii) 50% of the company's payroll is paid to employees living or working in New Jersey

SSBCI capital may be held in a fund with other investors' funds, with each investor's investment accounted for separately if managers are raising a NJ-only fund. Otherwise, managers will hold SSBCI capital in a separate fund and accounted for separately (i.e. sidecar or fund-of-one). The selected managers must be able to record, with a written, detailed report, each investment transaction that received SSBCI funds, in part or in whole. All the investments must be in companies with a New Jersey location.

The selected managers shall be responsible to comply with the SSBCI law, regulations, and guidelines for an investment to be made with funds co-mingled with the SSBCI allocation. These include, but not limited to, all SSBCI guidelines, regulations, and law mentioned in the May 10, 2023, memorandum to the Members of the Authority from the Chief Executive Officer.

Among other requirement, the selected managers must ascertain that their intended investment will be the first SSBCI investment into the prospective firm (including verification documentation). The prospective business must also be raising a capital round that meets the "early-stage" designation (typically rounds "pre-seed" to "Series A"), with a target round of \$5 million or less. No investments may be made in capital rounds with total round size of \$20M or more. Multiple investment transactions into a specific company, such as follow-on investments, are permissible, provided that funds into any one company will not surpass \$20 million.

Venture capital funds offer a variety of services to their portfolio companies (i.e., the potential SSBCI investees). These services can include, for example, financial management, operational guidance, IT consulting, and connecting portfolio companies to potential customers, investors, board members, and officers. These services vary depending on the portfolio company's stage in the venture capital ecosystem. As these services to portfolio companies are a type of equity support, SSBCI funds, out of the federal contribution, may be used to pay for such support but are included in the maximum cap of fees equal to an annual average of 1.71 percent of the federal contribution to a venture capital fund over the life of the jurisdiction's venture capital program.

However, as approved by the Authority's Board during its June 2024 meeting, the Authority received clarification from U.S. Treasury that amended the Authority's SEDI management fee policy.¹ The updated guidance allows jurisdictions to pay venture capital fund managers their standard management fees and carried interest rate charges that are applicable to their primary

¹ Pursuant to SSBCI FAQs (03/02/2022) and Response, "In addition to the 1.71 percent allowance for services to portfolio companies, can a jurisdiction also use administrative cost funds for its equity/venture capital programs? "As described in Section XI of the Capital Program Policy Guidelines, administrative costs for the main capital allocation are capped at 5 percent of SSBCI funds for the first tranche and 3 percent for each of the second and third tranches. The 1.71 percent allowance applies to the federal contribution, not the administrative cost funds. Jurisdictions may use their administrative cost funds for equity/venture capital programs, including venture capital fund operating expenses, subject to the Uniform Cost Principles in 2 C.F.R. Part 200 Subpart E."

fund vehicles, which may draw from different SSBCI allocations (e.g., from the allocation for the Authority’s own administrative expenses). Thus, the actual management fees payable to the SSBCI fund managers may exceed the initial 1.71 percent fee in alignment with the structures of the managers’ respective primary fund vehicles, with a limit of no more than 2.5% of committed capital. The June 2024 Board meeting also increased the limit for managers’ annual operating expenses not to exceed \$50,000 (up from \$25,000 annually). The organizational expenses and annual operating and audit expenses will be paid from the administrative expense allocated to NJEDA from the SSBCI Program, program income generated from the SSBCI Program, or other Authority capital.

The selected manager(s) must obtain written certifications from the investees affirming that the investment proceeds will be used for business purposes, and align with specific SSBCI program compliance requirements, partially noted, herein, and will be sufficiently documented with the selected managers. A business purpose includes, but is not limited to, start-up costs; working capital; franchise fees; and acquisition of equipment under \$2,000, inventory, or services used in the production, manufacturing, or delivery of a business’s goods or services, or in the purchase, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. Investment proceeds may also be used to purchase any tangible or intangible asset, except goodwill. Equipment acquisition and installation of \$2,000 or more and construction are not eligible uses.

RECOMMENDATION:

Following from the Notice of Investment Opportunity process and the evaluation conducted by Authority staff, according to the criteria established, approval is requested of the Members to:

- Commit an aggregate investment amount of up to \$15 million to investment vehicles managed by five fund managers to make investments into a portfolio of New Jersey businesses led by Socially and Economically Disadvantaged Individuals (SEDI) and conforming to the material terms specified in the Program terms included as **Appendix B**, with final terms approved by the Chief Executive Officer. The recommended fund managers and commitment amounts are:
 - (i) Serac Ventures, LLC (“Serac”), for an amount of up to \$1 million;
 - (ii) Impressionism Capital, GP I, LLC DBA Symphonic Capital (“Symphonic”) for an amount up to \$1 million;
 - (iii) Sana Capital Management LLC, (“Sana”) for an amount up to \$3 million;
 - (iv) Vamos Ventures GP II, LLC (“Vamos”) for an amount up to \$5 million and
 - (v) Harlem Capital Partners Management Company, LLC (“Harlem Capital”) for an amount up to \$5 million

Funding for the investments will be provided by SSBCI funding for which NJEDA, on behalf of the State of New Jersey, Department of Treasury, was approved for a total of \$255 million for both direct and fund programs.

- Delegate to the Chief Executive Officer the Authority to determine the fund structure (investment commingled with other funds or held in a side-car vehicle) and to finalize fees and expenses with each fund manager based on the parameters contained in this memorandum.



Tim Sullivan, CEO

Prepared by:

Emmanuel Esochaghi – Diversity Entrepreneurship and Finance Officer, Venture Programs

Attachments:

Appendix A – Scoring Rubric

Appendix B – Program Terms

Appendix C – Manager Evaluations & Recommendations

Appendix A – Eligibility & Scoring Rubric

Submissions will be evaluated by a cross-organizational Evaluation Committee composed of NJEDA staff and management, to evaluate, score, and rank submissions. Scores will be averaged to determine an overall score for each submission.

Below are the evaluation criteria for the SEDI Seed Fund manager(s). Any submission that does not meet the minimum score of 10 in total will not be scored and ranked. Achieving a score of 10 or greater does not guarantee selection. Each criterion is equally-weighted. Specific questions to be answered that pertain to each criterion are in Appendix A.

1. **Experience of Leadership:** Considers senior leadership’s length of experience as fund manager and investor as detailed in their submission.
 - 0 = No experience as fund manager and investor
 - 1 = Minimal (2-4 years) experience as fund manager and investor
 - 2 = Some experience (4-8 years) as fund manager and investor
 - 3 = Exceptional experience (8-10 years) as fund manager and investor
 - 4 = Unique experience (10+ years) as fund manager and investor
2. **Depth of Resource:** Considers number of investment professionals, support/back-office staff, professional network, and ability to effectuate strategy and ensure SSBCI compliance as detailed in their submission.
 - 0 = No depth of resources
 - 1 = Internal resources are insufficient for the scope of work, including SSBCI compliance
 - 2 = Internal resources are undersized relative to the scope of work, including SSBCI compliance
 - 3 = Internal resources are right-sized for the scope of work, including SSBCI compliance
 - 4 = Internal resources are more than sufficient to achieve the scope of work in addition to current activities, including SSBCI compliance
3. **Consistency of Strategy:** Considers whether respondent’s targeted investment strategy is consistent with prior investment experience as detailed in their submission.
 - 0 = Not a consistent investment strategy
 - 1 = Minimal consistency to manager’s past investment strategy
 - 2 = Some consistency to manager’s past investment strategy
 - 3 = Exceptional consistency to manager’s past investment strategy
 - 4 = Total consistency to manager’s past investment strategy
4. **NJEDA Partnering:** Considers respondent’s ability to serve as a strategic partner to

the NJEDA, including the SEDI entrepreneurial ecosystem as detailed in their submission.

- 0 = No ability to support NJ's entrepreneurial ecosystem
- 1 = Minimal ability to support NJ's entrepreneurial ecosystem, provides less than 12 hours annually to engage in NJ's ecosystem events
- 2 = Some ability to support NJ's entrepreneurial ecosystem, provides more than 12 hours annually to engage in NJ's ecosystem events
- 3 = Exceptional ability to support NJ's entrepreneurial ecosystem provides executive talent to entrepreneurs as well as over 12 hours annually engage in NJ's ecosystem events
- 4 = Unique ability to support NJ's entrepreneurial ecosystem provides at least eight (8) events annually for entrepreneurs and/or investors.

5. **Sourcing/Pipeline Development:** Considers respondent's ability to source and track relevant and unique deal flow to effectuate strategy as detailed in their submission.

- 0 = No ability to source and track relevant deal flow
- 1 = Minimal ability to source and track relevant deal flow
- 2 = Some ability to source and track relevant deal flow
- 3 = Exceptional ability to source and track relevant deal flow
- 4 = Unique ability to source and track relevant deal flow

6. **Focus industry & Stage:** Considers respondent's ability to focus on identifying investment opportunities into "early- to mid-stage" (Series Pre-Seed through Series B) companies in SEDI businesses (defined under "Summary" in this document), as detailed in their submission.

- 0 = No ability to identify NJ SEDI investments
- 1 = Minimal ability to identify NJ SEDI investments
- 2 = Some ability to identify NJ SEDI investments
- 3 = Exceptional ability to identify NJ SEDI investments
- 4 = Unique ability to identify NJ SEDI investments

7. **Performance History:** Considers respondent's past investment returns (realized & unrealized) on attributed investments as compared to industry and applicant peers (benchmark source: Pitchbook) as detailed in their submission.

- 0 = No past investment returns
- 1 = Low (third quartile or lower vs. peers) past investment returns
- 2 = Moderate (second quartile vs. peers) past investment returns
- 3 = High (top quartile vs. peers) past investment returns
- 4 = Exceptional (top 10% vs. peers) past investment returns

8. **New Jersey Investment History:** Considers respondent's investment amount (on attributed investments) into New Jersey companies to date on an absolute basis and relative to industry and applicant peers as detailed in their submission.

- 0 = No history of investing in NJ companies
 - 1 = Minimal history (less than 10% of investment) of investing in NJ companies
 - 2 = Some history of investing (10% -25% of investment) in NJ companies
 - 3 = High investment (25% -50% of activity) history in NJ companies
 - 4 = Exceptional investment (50% or more of activity) history in NJ companies
9. **Incentive and Alignment:** Considers whether respondent's carry is comparable to peers, properly aligned with objectives, and equitably spread among team, as detailed in their submission. Also considers alignment of respondent's commitment as a general partner (GP) with limited partners' commitment(s).
- 0 = Has above market carry % (over 25%), GP's commitment <1%
 - 1 = Has high market carry % (over 20%), GP's commitment <1%
 - 2 = Has high carry % (over 20%), GP's commitment >3%
 - 3 = Has carry % comparable to peers (20%), GP's commitment >3%
 - 4 = Has carry % comparable to peers (20%), GP's commitment >5%
10. **Management fees, other fees and Expenses:** Considers whether fees and expenses are sufficient to effectuate strategy and comparable to industry as detailed in their submission.
- 0 = Management fee >2.5% over the life of the fund
 - 1 = Management fee 2.25-2.5% over the life of the fund
 - 2 = Management fee 1.75% - 2.25% over the life of the fund
 - 3 = Management fee 1.25% - 1.75% over the life of the fund
 - 4 = Management fee <1.25% over the life of the fund
11. **Governance:** Considers whether key person clause is strong and effective
- 0 = No key person clause
 - 1 = Single individual key person clause
 - 2 = Multiple individual key person clause requiring limited partner vote to activate
 - 3 = Multiple individual key person clause with automatic effect
 - 4 = multi-tiered key person clause
12. **Fundraising status & capability:** Considers respondent's ability to match or raise an additional private capital to meet the SSBCI 1:1, fund-level matching requirement, as detailed in their submission.
- 0 = No ability or experience to meet required private matching
 - 1 = Minimal ability or experience to meet required private matching; i.e. indicates ability to match less than the SSBCI 1:1 requirement
 - 2 = Some ability or experience to meet required private matching; i.e. can match the SSBCI 1:1 requirement
 - 3 = Exceptional ability and experience to meet required private matching; i.e. can meet 125% of the 1:1 match requirement
 - 4 = Unique ability and experience to meet required private matching; i.e. can

meet 200% of the 1:1 match requirement

13. **Diversity:** Considers respondent's clearly articulated diversity, equity, and inclusion (DE&I) policy, specifying the collection of relevant diversity metrics internally, as well as from portfolio companies. Also considers respondent's clearly articulated Code of Conduct (CofC) addressing harassment and discrimination internally

- 0 = No defined DE&I and CofC policy for investment company or for portfolio companies
- 1 = Defined DE&I and CofC policy for investment company or for portfolio companies
- 2 = Defined DE&I and CofC policy for investment company and for portfolio companies
- 3 = Defined DE&I and CofC policy for investment company and for portfolio companies with a demonstration of success towards either policy through metrics
- 4 = Defined DE&I and CofC policy for investment company and for portfolio companies with a demonstration of success towards both policies through metrics

Appendix B – Program Terms

<p>Use of Funds</p>	<ul style="list-style-type: none"> • The fund manager(s) shall be responsible for complying with SSBCI rules and requirements as issued by the U.S. Treasury. • The Fund’s ability to invest is conditional upon the Fund first meeting or exceeding the 1:1 private financing ratio. • In addition to regular reporting provided for in the Fund agreements (which may include Limited Partnership Agreement (LPA) and NJEDA side letter agreement), the selected fund manager(s) shall provide transaction details and federally-required certifications to NJEDA before each investment. • The selected manager(s) shall be responsible to comply with the required guidelines for an investment to be made with funds co-mingled with the SSBCI allocation. • The selected manager(s) must ascertain that their intended investment will be the first SSBCI investment into the prospective firm (including verification documentation). • The prospective business must also be raising a capital round that meets the “early-stage” designation (typically rounds “pre-seed” to “Series A”). • No investments may be made in capital rounds with total round size of \$20 million or more. Multiple investment transactions into a specific company, such as follow-on investments, are permissible, provided that funds into any one company will not surpass \$20 million • Investment proceeds may also be used to purchase any tangible or intangible asset, except goodwill. • Equipment acquisition and installation of \$2,000 or more and construction are not eligible uses. • A minimum of 90% of the investments must be in companies with a New Jersey location. A NJ business is: 1. One which at least 50%
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	<p>of non-retail employees working or living in New Jersey, or 50% of payroll is paid to employees, living or working in NJ; or, 2. A business which has its headquarters in New Jersey.</p>
<p>Minimum Requirements</p>	<ul style="list-style-type: none"> • The selected fund manager(s) must convene in-person office hours or engagements in New Jersey on a regular basis. • If the interested fund manager(s) does/do not currently have an office in the State, the manager(s) may operate at a remote or satellite in-State office, co-working facility or establish a permanent facility. The office location must be provided to the Authority before closing and evidence must be presented to verify the active and in person sourcing efforts in New Jersey. • The selected fund manager(s) shall enter into one or more agreements with the Authority regarding the investment, which agreements will be governed by New Jersey law and shall include the minimum 1:1 private capital matching requirement. • The selected fund manager(s) shall provide to the Authority annual Certified Public Accountant prepared financial statements for the life of the investment. • The fund manager(s) shall submit quarterly and annual reports as described below. • The Authority shall have a position on the Fund’s advisory board.
<p>Certifications</p>	<ul style="list-style-type: none"> • The selected fund manager(s) shall supply certifications to the Authority relative to award and receipt of funds, and such certifications shall be supplied to the U.S. Treasury by NJEDA. Preliminary form documents will be provided by NJEDA as soon as possible after signing of the allocation agreement. • The selected fund manager(s) must also certify that no principal of the selected fund manager(s) has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. § 20911, formerly 42 U.S.C. § 16911)).

	<ul style="list-style-type: none">• The selected manager(s) must obtain a written certification from the investee affirming that the investee is not:<ul style="list-style-type: none">○ A business engaged in speculative activities that profit from fluctuations in price, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business or through the normal course of trade;○ A business that earns more than half of its annual net revenue from lending activities, unless the business is (1) a CDFI that is not a depository institution or a bank holding company, or (2) a Tribal enterprise lender that is not a depository institution or a bank holding company;○ A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;○ A business engaged in activities that are prohibited by federal law or, if permitted by federal law, applicable law in the jurisdiction where the business is located or conducted (this includes businesses that make, sell, service, or distribute products or services used in connection with illegal activity, unless such use can be shown to be completely outside of the business's intended market); this category of businesses includes direct and indirect marijuana businesses, as defined in SBA Standard Operating Procedure 50 10 6;○ A business deriving more than one-third of gross annual revenue from legal gambling activities;• The Authority will require a certification from the selected manager(s) on the use of funds and prohibited use of funds before funding any and all capital calls. The selected manager(s) must specify that the intended use of called capital is compliant with use of funds
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	<p>and reporting requirements. In the event of non-compliance, NJEDA may not fulfill capital call funding for the transaction.</p> <ul style="list-style-type: none"> • In the contractual agreement between a jurisdiction and a venture capital fund, the fund must be required to identify the services to be provided to portfolio companies and annually certify that these services were provided. The agreement between the fund and the portfolio companies must include disclosure of these services offered by the fund manager. Consistent with industry standards on payments of fees to cover these services to portfolio companies, the fund will reimburse the jurisdiction for payments of such services by SSBCI funds before returns are paid to the general or limited partners as will be recorded in the distribution of funds section of the LPA. • The selected manager(s) must obtain written certifications from the investees affirming that the investment proceeds will be used for business purposes. A business purpose includes, but is not limited to, start-up costs; working capital; franchise fees; and acquisition of equipment under \$2,000, inventory, or services used in the production, manufacturing, or delivery of a business's goods or services, or in the purchase, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. • The selected fund manager(s) shall collect certifications from the portfolio companies relative to company name, jobs, and receipt of benefits. Preliminary form documents will be provided by NJEDA as soon as possible after signing of the allocation agreement.
Reporting	<ul style="list-style-type: none"> • In addition to industry-standard reporting provided for in the Fund agreements (which may include Limited Partnership Agreement (LPA) and NJEDA side letter agreement), the selected fund manager(s) shall provide transaction details and federally-required certifications to NJEDA before each investment.

	<ul style="list-style-type: none"> • The selected fund manager(s) shall provide, when requested by the Authority, any information on the Fund’s portfolio companies and jobs created, as such information will be requested by the federal government. • The selected fund manager(s) shall provide quarterly financial statements and Fund updates in written form within 15 days of the end of each calendar quarter after the award documents are executed. The updates must include detail on companies invested into, including but not limited to industry, business specifics, location, jobs, additional funding, and highlights of portfolio business advancements. The quarterly report must also include updates on activities to support the ecosystem of SEDI entrepreneurs and businesses in New Jersey, including events and marketing. • In addition to the report items listed above, the report shall also include the total amount of SSBCI funds deployed to eligible small businesses on a quarterly and cumulative basis, the aggregate amount of SSBCI funds deployed for very small businesses (VSBs) and businesses owned by socially and economically disadvantaged individuals (SEDI-owned businesses), the amount of program income generated, and the amount of SSBCI funds deployed for administrative costs. • The Fund Manager(s) shall also submit quarterly reporting with transaction detail to NJEDA. • The fund manager(s) shall submit SSBCI annual reports and certifications by March 15 of each year, the details of which will be captured in the LPA, LLC agreement or side letter.
Non-Compliance	If the selected Fund Manager fails to provide the deliverables required in the investment contract with NJEDA, they will be granted a 90-day grace period in which to cure the shortfall(s), after which point management

	<p>fees will be withheld until deficiencies are corrected as outlined in the award agreement.</p> <p>Fees and carry shall be withheld if the fund manager is not in compliance with the obligations in the agreement with EDA, including, but not limited to, compliance with SSBCI law, regulations, and policy.</p> <p>The fund manager shall indemnify and hold harmless NJEDA, including, but not limited to, any re-payment of the Investment that the U.S. Treasury requires except as arising from the Investor's gross negligence or willful misconduct.</p>
<p>Notice Requirements</p>	<p>All terms incorporate any detailed requirement in the Notice of Investment Opportunity. Any other requirement in the Notice is also included</p>



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: New Jersey Innovation Evergreen Fund: December 2024 Follow-on Investment Approval

SUMMARY

The Members are asked to approve a follow-on investment under the New Jersey Innovation Evergreen Program (“Program”) for an application submitted by the previously approved Qualified Venture Firm (“QVF”) EMERGING Fund Management LLC (“EMERGING Fund”) to invest up to \$500,000 into 1Huddle, Inc. (“1Huddle”), with additional associated fees as described in this memorandum. The application follows a \$500,000 initial Program Qualified Investment executed alongside EMERGING Fund into 1Huddle, which was approved by the Board on October 12th, 2023, and a first follow-on investment of an additional \$500,000 approved by Authority Staff under delegated authority on April 24th, 2024. The Board granted delegated authority to the Authority’s CEO to approve Program follow-on investments on April 13th 2022, with certain exceptions which require Board approval. These exceptions include requests for more than one follow-on investment in a 12-month period per Qualified Venture Firm (“QVF”) to invest in a given Qualified Business. Because this proposed follow-on investment meets that exception, the Members are asked to approve it.

Additionally, upon approval of this investment, Staff will continue to reserve Program capital for subsequent follow-on investments into the Qualified Business and for additional management fees, as authorized in Program regulations and described out in this memorandum. No additional administrative expenses will be required for the proposed investment.

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 (“NIEF”, or “Evergreen Fund”) and the New Jersey Innovation Evergreen 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. As of November 27th, 2024, \$32.5 million of unallocated capital remains available for program investments and expenses. The Program had previously reserved capital for future follow-on investments into 1Huddle, and the proposed investment will not decrease unallocated capital available for new investments, other than incremental management fees of \$90,000. As the Evergreen Fund's investments mature and experience exit events (e.g. a sale or initial public offering), the proceeds from profitable investments will flow back to the Program, providing an ongoing stream of funds to support the State's innovation ecosystem.

Follow-on Investment Review Process

Under the Program the Authority maintains the right, but not the obligation, to make additional follow-on investments from the Evergreen Fund into Qualified Businesses that previously received a program Qualified Investment. The Evergreen Fund reserves Program capital for follow-on investments into Qualified Businesses in proportion with reserves set aside by the Qualified Venture Firm, up to program limits as described in the memorandum. The Board of the Authority previously granted the Authority's Chief Executive Officer delegated Authority to approved Program follow-on investments (with certain exceptions) as, explained in this memorandum.

To access Program co-investment capital, Qualified Venture Firms may apply for Qualified Investments on a rolling basis. NJEDA Staff recommendations are presented for approval upon completion of eligibility review of the Qualified Business and Qualified Venture Firm associated with the transaction. Such Qualified Investments in New Jersey-based businesses must receive a co-investment from the Qualified Venture Firm that matches or exceeds the Qualified Investment amount.

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. Additionally, Staff may approve one subsequent follow-on investment into a given Qualified Business alongside a given QVF per 12-month period. Any additional follow-on investments within a 12-month period requires approval from the Board of the Authority after determining the investment is in the best interest of the State.

Each request for initial Qualified Investment may not exceed a Program 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. Similarly, QVFs may access an additional \$5 million, or up to \$6.25 million for businesses that meet the requirements described above, per 12-month period for additional follow-on investments into a given Qualified Business.

The recommendation presented to Members for consideration this month represents the Program's second follow-on investment and was submitted by the previously approved Qualified Venture Firm, EMERGING Fund, to invest up to \$500,000 of additional Program capital into the New Jersey-based innovative, high-growth company, 1Huddle. The Program follow-on investment would match a \$500,000 equity investment executed by the Qualified Venture Firm into 1Huddle, Inc. on June 17th, 2024. Based upon the projections provided by the QVF, and following approval

by the Members, Staff will reserve an additional \$1.5 million for subsequent follow-on investments into 1Huddle, Inc., matching the ratio of reserves set aside by the Qualified Venture Firm, along with an additional \$90,000 for management fees to execute and manage the Qualified Investment. Reserves are adjusted up or down at least annually based upon guidance from the QVF.

Please refer to **Appendix A** for a summary of EMERGING Fund and an overview of the firm's continued eligibility as a Qualified Venture Firm. Please refer to **Appendix B** for a summary of 1Huddle's eligibility as a Qualified Business, and of the proposed follow-on investments' benefit to the State. Finally, please refer to **Appendix C** for an overview of the proposed Qualified Investment transaction terms and related reserves for subsequent follow-investments, and transaction management fees.

FOLLOW-ON INVESTMENT REQUIREMENTS

The Program authorizes subsequent follow-on investments alongside Qualified Venture Firms into Qualified Businesses after the initial Qualified Investment. The Authority shall have the right, but not the obligation, to make a follow-on investment from the Evergreen Fund into the Qualified Business. Follow-on investments will be made on a pro rata basis with the Qualified Venture Firm's investment at the same ratio which the Evergreen Fund matched the initial Qualified Investment.

The screening process for follow-on investments requires NJEDA Staff to verify that firms and businesses continue to meet Program requirements and that the transaction conforms to Program eligibility and concentration limits. Staff will also screen for any clear signs of financial, reputational, or legal risks. As previously approved by the Board of the Authority, follow-on investments may be approved under delegation to the Authority's Chief Executive Officer (with certain exceptions) to best match operational needs and intensity with the expectations of the private market transaction. Staff will seek Board approval for follow-on investments for certain exception cases, such as if QVFs have been previously decertified, if the Qualified Venture Firm or Qualified Business is not in compliance with Program requirements, if a QVF requests more than one follow-on investment into a given Qualified Business in a 12-month period, or if the capital raise is not structured as a priced equity round of financing. In this case, EMERGING Fund is requesting a second Program follow-on investment into 1Huddle in a 12-month period.

The NJEDA Staff underwriting process is completed by the NJEDA Venture Products Department in parallel with the NJEDA Product Operations Department to ensure an objective eligibility review of the Qualified Investment, Qualified Venture Firm, and proposed Qualified Business. The eligibility review contains various statutory requirements that ensure the financial merit of the proposed investment, such as requiring certain experience and assets under management by the Qualified Venture Firm, as well as requiring an investment by the Qualified Venture Firm's main fund that is at least equal to the amount of the Qualified Investment. The latter ensures that the Qualified Venture Firms share aligned interests with the NJEDA through incentive based carried interest compensation to identify strong investment opportunities. Qualified Venture Firms will evaluate the quality of investment opportunities through their normal course of business.

QVF and Investment Requirements at Time of follow-on Qualified Investment

QVFs must demonstrate continued compliance with Program initial certification requirements described in this memorandum through the time of approval for a Qualified Investment. The firms are not re-evaluated based on the Program's weighted scoring criteria at the time of application for Qualified Investment. Continued eligibility requirements for Qualified Venture Firms required at the time of application for follow-on Qualified Investments include, but are not limited to, those described below, which are further defined in the Program regulations.

- 1) Number of Investors Employed by the Firm: QVFs must continue to employ at least two full-time investors with the authority 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: QVFs must continue to maintain at least \$10,000,000 in assets under management at the time of application.
- 3) Limit on Size of Follow-on Investments: QVFs may access up to \$5,000,000 of Program capital for follow-on investments into a given Qualified Business in a 12-month period. If the proposed Qualified Business is a New Jersey university spin-off, utilizes intellectual property developed at a NJ university that is core to its business model, or is certified by the State as a "minority business" or a "women's business" pursuant to P.L. 1986, c. 195 (N.J.S.A. 52:27H-21.17 et seq.), the businesses may qualify for up to \$6,250,000 of Program capital for follow-on investments in a 12-month period.
- 4) Concentration Limits on Qualified Venture Firms: To mitigate concentration risk, Qualified Venture Firms may only receive aggregate Program capital across investments up to 15 percent of the firm's total assets under management, to be tested at the time of initial and follow-on investment application. If the Program is unable to fulfill a firm's entire request for investment due to investment size and concentration risk policies or an availability of funds, a QVF may amend the amount requested through its investment application.

Qualified Business Requirements at Time of Follow-on Qualified Investment

Proposed Qualified Businesses must also meet Program eligibility requirements prior to Qualified Venture Firms receiving approval for a follow-on investment into the business. Eligibility is reviewed by NJEDA Staff from the Venture Programs Department in parallel with the Product Operations Department to ensure objectivity of review. Qualified Business eligibility requirements at the time of application for a follow-on investment include, but are not limited to, those described below.

- 1) New Jersey Principal Business Operations: Qualified Businesses must maintain principal business operations in New Jersey, defined as any of the following: (i) at least 50 percent of its full-time employees reside in New Jersey, (ii) at least 50 percent of the business's payroll (defined as wages) for full-time employees is paid to individuals living in the State, (iii) at least 50 percent of its full-time employees filling a position in the State, or (iv) at least 50 percent of the business's payroll (defined as wages) for full-time employees is paid to individuals filling a position in the State.
- 2) New Jersey Place of Business: Qualified Businesses must maintain a place of business in New Jersey, such as an office, manufacturing facility, or co-working space.

3) Concentration Limits on Qualified Businesses: The Program will limit aggregate investments into any Qualified Business to 10 percent of the Program's uninvested and invested capital.

RECOMMENDATION:

Based on the evaluation conducted by Authority staff, according to the criteria established by the legislation, and clarified through Program regulations and the April 2022 Program Board memorandum, approval for an amount up to a \$500,000 follow-on investment by the previously approved Qualified Venture Firm, EMERGING Fund, into the innovative, high-growth, New Jersey-based company 1Huddle, is recommended, conditioned on the execution of Program closing agreements, along with expected associated management fees of up to an additional \$90,000. Following approval, Staff will reserve an additional \$1.5 million for subsequent follow-on investments into 1Huddle, Inc., matching the ratio of reserves set aside by the Qualified Venture Firm, along with the expected management fees and direct administrative expenses required to execute and manage the Qualified Investment.



Tim Sullivan, CEO

Prepared by:
Alexander Pachman – Manager, Venture Programs

Attachment:
Appendix A – Summary of Qualified Venture Firm and Eligibility
Appendix B – Summary of Qualified Business and Eligibility
Appendix C – Confidential Summary of Transaction Details

Appendix A – Summary of Qualified Venture Firm and Eligibility

EMERGING FUND MANAGEMENT LLC

NJEDA Staff finds the Qualified Investment applicant, EMERGING Fund, which was previously approved as a Qualified Venture Firm by the Members on September 12th, 2023, meets all Program Qualified Investment eligibility requirements for a follow-on investment. As described in this memorandum, the firm continues to maintain at least two full-time investors with the authority to direct investment capital with at least five years of professional money management experience (each). Additionally, Staff finds that the firm continues to exceed the Program minimum assets under management of at least \$10,000,000 in assets under management, which is measured as the sum of the 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. Finally, the proposed follow-on Qualified Investment size of \$500,000 falls within the 15 percent concertation limit of the firm’s total assets under management.

Firm Overview

EMERGING Fund is one of the first growth equity funds to focus on the intersection between technology and the restaurant space (“ResTech”) and restaurant and entertainment concepts. Emerging Fund provides capital, strategic support, and industry expertise to innovative companies within the sector. The Chicago-based firm aims to transform the restaurant sector by investing in ventures that reimagine the guest experience, enhance operational efficiency of the industry, and promote sustainability. The firm’s team brings deep sector-specific operating and investing expertise. Emerging Fund is currently raising its first fund with a \$100M fund size target. The fund has received commitments of \$61.9M as of September 30th, 2024.

Strategy

EMERGING Fund invests in revenue-generating ResTech and restaurant social entertainment concepts companies in early-stage through Series C rounds. The firm writes \$500,000 to \$5 million initial investment checks, with follow-on rounds up to approximately \$10 million per investment. Portfolio investments are envisioned to be evenly split across the ResTech and restaurant and entertainment concept verticals. The firm primarily invests in ResTech businesses with at least \$100,000 in annually recurring revenue and restaurant and restaurant and entertainment concepts with one to ten open units. EMERGING Fund maintains 11 current investments, including its investment into Newark, New Jersey-based IHuddle, Inc.

The EMERGING Fund is part of the EMERGING umbrella organization, which has provided insights and expertise to restaurant groups and restaurant and entertainment concept businesses since its inception in 2016. The firm leverages its deal sourcing network and due diligence expertise across its general partners and venture partners, who bring deep experience in the ResTech and restaurant and entertainment concept verticals. The firm adds operational value to its portfolio companies through mentorship and leveraging sales channels to make customer introductions.

Investment and Management Team

EMERGING Fund is led by an experienced management team, which includes General Partners, Mathew Focht, John Davie, Matt Mena, and Chief Investment Officer, David Bagley. The firm's Managing and General Partners are joined by a large team of seasoned investment and operating professionals who identify investments and add value to portfolio companies.

Mr. Focht is a founder and General Partner of the EMERGING Fund. Throughout his career, he has served hundreds of restaurants, entertainment owners and developers of lifestyle and mixed-use centers. Mr. Focht founded several companies in the ResTech and restaurant and entertainment concept spaces, including EMERGING, Consolidated Concepts, Acutely, and Tipzyy. Collectively these companies have worked with over 65,000 restaurants in their respective areas. Previously, Mr. Focht also served as a Principal of Sierra Advisors and Vice President of RKF Retail Property Advisors, providing comprehensive leasing, marketing, and consulting services to owners and developers of malls, lifestyle centers, and mixed-use projects. Prior to RKF, he also held roles at Pyramid Companies and Steiner & Associates where he was responsible for restaurant leasing and developing the firm's superior-regional malls and mixed-use lifestyle projects.

Mr. Bagley has over 30 years of experience in corporate finance, operations management, profit improvement consulting, and financial advisory services specializing in franchise and restaurant & hospitality industries, including serving as Chief Investment Officer of the Emerging Fund since 2022. He has managed and advised a variety of multi-unit companies throughout his career, including Popeyes, Santa Fe Cattle Company, The Clubhouse, Restaurants America, Bar Louie, Granite City Food & Brewery, Sonic Drive-In, Lee's Famous Recipe Chicken, and Giordano's. He has served as CFO, COO, and CEO in both public and private board level appointments.

Mr. Davie is a part-time General Partner of the EMERGING Fund and a Founder and CEO of the Buyers Edge Platform family of companies. Buyers Edge Platform (BEP) is a unified cloud platform that provides data, insights, and technology into the food service industry. BEP has serviced over 100,000 restaurant clients with over \$20 billion of purchase volume and has provided democratizing connectivity between operators, distributors, and manufacturers to improve outcomes through its data systems and over 700 employees.

Mr. Menna is a part-time General Partner of the EMERGING Fund and a Principal at Sterling Bay and Managing Principal of Four Corners Tavern Group, which operates or invests in over 20 restaurants, bars, and hospitality ventures. Sterling Bay has a track record of over \$1.2B assets sold over the past 12 years. Sterling Bay buildings are home to restaurateurs such as the Tao Group, Hogsalt Hospitality, and Boka Restaurant Group. Sterling Bay's hospitality portfolio also features partnerships with boutique hotel operators, including Ace Hotel and Joie de Vivre. Mr. Menna also oversees the philanthropic arm of Four Corners, donating to over 50 charitable entities each year. Prior to joining Sterling Bay in 2012, he spent 17 years at William Blair, where he managed assets valued at \$600 million for high-net worth clients.

New Jersey Investment History

The firm has invested in one New Jersey-based businesses through funds raised in the past five years: 1Huddle, Inc. (2023), Newark.

Appendix B – Summary of Qualified Business and Eligibility

1Huddle

Business Overview

1Huddle is a Newark-based enterprises software-as-a-service platform that enables companies to convert static training materials into dynamic quick-burst mobile games to educate, elevate, and energize company employees. 1Huddle offers a mobile application-first approach to preparing the modern worker, a mobile library of over 3,000 quick-burst employee skill games, an on-demand game marketplace that covers 16 unique workforce skill areas ranging from soft skills to diversity, equity, and inclusion specific programming. The company's mobile platform is proven to reduce onboarding time by 45% and increase knowledge retention 11x longer than traditional video-based e-learning solutions. 1Huddle aims to change the way organizations think about their workforce training – from a one-time boring onboarding experience to a continuous motivational tool.

Customers may receive personalized training and upskilling content for their employees, converting any existing employee training, skill development, or communication into a quick-burst mobile game. Currently, 1Huddle maintains customers across 14 industry verticals including restaurants, retail, hospitality and entertainment, government, non-profits, healthcare, and franchising. Customers include ubiquitous brands such as the TAO Group, YUM Brands, Nike, Fossil, Loews Hotels, and the U.S. Air Force. The company's partnership with EMERGING Fund is expected to increase 1Huddle's access to customers in the restaurant and hospitality spaces by leveraging the firm's deep networks within those sectors.

1Huddle has raised capital from top-tier venture capital firms since its formation in 2015, including receiving investments from Newark Venture Partners, which has received investments as a Limited Partner from the NJEDA and is a Qualified Venture Firm under the Evergreen Fund. Other existing venture capital investors include Tribeca Venture Partners, NRD Capital, 500 Startups, and Humbition.

Team

1Huddle maintains 10 full-time employees, 9 of which work in New Jersey. The company anticipates utilizing capital for future expenses, in part, to expand its New Jersey-based sales, customer success, and product design teams. The company's corporate headquarters are located 550 Broad St. in Newark, New Jersey.

1Huddle is led by its Chief Executive Officer and Founder, Sam Caucci. Mr. Caucci has successfully grown 1Huddle from its inception in 2015 into a high-growth and innovative New Jersey-based technology company serving a diverse array of enterprise customers across 14 industry verticals. Mr. Caucci brings a strong sales background to 1Huddle which has infused the company with a strong sales culture. Prior to founding 1Huddle, Mr. Caucci held roles as a sales consultant and sales trainer in the fitness and sports markets. Mr. Caucci serves as a Board member for the City of Newark's Workforce Development Board.

Eligibility

NJEDA Staff finds the proposed Qualified Business, 1Huddle, meets all Program follow-on eligibility requirements. As described in Table 1 below, the Newark-based high-growth, innovative business maintains a place of business and its principal business operations in New Jersey. Finally, the proposed follow-on Qualified Investment size of \$500,000 would bring aggregate Program capital invested into the Qualified Business to \$1.5 million, which falls within the concentration limit of aggregate investments into any Qualified Business of 10 percent of the Program’s uninvested and invested capital.

Table 1: 1Huddle, Inc. Eligibility Review

Criteria	Criteria Explanation	Eligibility
NJ Principal Business Operations	Qualified Businesses must maintain principal business operations in New Jersey, defined as any of the following: (i) at least 50 percent of its full-time employees reside in New Jersey, (ii) at least 50 percent of the business’s payroll (defined as wages) for full-time employees is paid to individuals living in the State, (iii) at least 50 percent of its full-time employees filling a position in the State, or (iv) at least 50 percent of the business’s payroll (defined as wages) for full-time employees is paid to individuals filling a position in the State.	9 out of 1Huddle’s 10 full-time employees fill a position in New Jersey.
NJ Place of Business	Qualified Businesses must maintain a place of business in New Jersey, such as an office, manufacturing facility, or co-working space.	1Huddle’s corporate headquarters are located at 550 Broad St. in Newark, New Jersey.
Concentration Limits on Businesses	The Program will limit aggregate investments into any Qualified Business to 10 percent of the Program’s uninvested and invested capital.	The proposed \$500,000 follow-on Qualified Investment would bring aggregate Program capital invested into the business to \$1.5 million, which represents just 3.3% of the Program’s uninvested and invested capital.

Note: Table 1 depicts the Program’s primary Qualified Business follow-on eligibility requirements, however the Program maintains additional technical requirements, such as the requirement to register to do business in the State.

Positive Impact on State

Authority Staff assesses that the proposed follow-on Qualified Investment into 1Huddle is in the best interest of the State. 1Huddle represents a promising NJ-based technology startup backed by leading venture capital firms and is an important stakeholder within the State’s innovation

ecosystem. For example, the firm operates out of a corporate headquarter office at 550 Broad Street in Newark, NJ, which serves as the primary working location for 9 current FT employees. Approximately 90% of the company's full-time staff primarily works out of the office, contributing to the vitality of the State's startup ecosystem, especially to Newark's startup ecosystem. Since the Program's initial investment into the business, 1Huddle has made strides in developing its technology offering, including the integration of generative Artificial Intelligence tools. For example, 81% of all training games created on the platform in 2024 have been created through 1Huddle's generative AI game creator tool. Additional investments into the business will enable 1Huddle to continue to strengthen its AI-powered technology platform and will support an innovative business contributing to the State's economic goal of leading in AI.

Additionally, 1Huddle plans to primarily utilize the proposed \$500,000 investment to add to its full-time NJ workforce. The company plans to hire 5 additional NJ-based employees in early 2025 in sales, customer success, and product design roles. Additional NJ hires are expected throughout 2025 assuming the company continues to hit its growth milestones. 1Huddle has a strong track record of hiring local employees and fostering New Jersey talent. The company's entry-level hiring, internship programs, and mentorship initiatives support the development of the next generation of New Jersey tech innovators and leaders.

Finally, 1Huddle has proven itself a responsible corporate citizen to the State and has received positive press for its community improvement efforts. For example, 1Huddle established a partnership with the New Jersey Reentry Corp. which empowers returning citizens with technology to enhance their employability through the company's AI-powered Skill Wallet feature, which empowers NJRC clients with a tool to stack training credentials into a single digital resume.



MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: December 19, 2024

RE: Aspire Program- Product #00310684
Parkside Camden Urban Renewal LLC (“Applicant”) and Cinnaire Solutions Corporation, (“Co-Applicant”)

Request

Issuance of tax credits from the Aspire program (“the Program”) for a residential project located in Camden, New Jersey, Camden County up to 60% of the total project cost (“eligible costs”), not to exceed \$17,724,266.

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.” Aspire Program Rules (“Rules”) incorporating a variety of programmatic changes resulting from recently enacted Legislation and responding to formerly submitted public comment were specially adopted by the Authority Board on November 16th, 2023 and took effect on December 5th, 2023 upon submission to the Office of Administrative Law. This application is being considered based upon those Rules.

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 Project, Parkside Place I & II, will include a 67,842 square foot community development initiative in the Parkside neighborhood of Camden, NJ. The Project will replace blighted properties and vacant lots with a 37,078 square foot fully affordable residential space, a 26,283 square foot commercial space that will include a Federally Qualified Health Center (FDQC), and an additional 4,481 square foot retail and office space to attract new economic development to the Parkside neighborhood.

Federally Qualified Health Centers are community outpatient clinics whose primary focus is to provide quality services to an under-resourced area or population, regardless of the patient's ability to pay. These services include preventative healthcare, dental healthcare, mental health and substance abuse services, hospital & special care, and transportation services necessary for patient care. The space for the FQHC will be leased by the operator, Osborn Family Health Center (OFHC). Osborn Family Health Center is a medical group practice located in Camden, NJ that specializes in Nursing (Nurse Practitioner) and Pediatric Nursing (Nurse Practitioner).

Project Ownership

The Applicant, Parkside Camden Urban Renewal, LLC is a single purpose entity formed to undertake this Project. Ownership of the Applicant includes the Lead Development Entity, Parkside Business and Community In Partnership, Inc. (24.5%), Cornerstone Community Partners, Inc. (24.5%), and the Co-Applicant, Cinnaire Solutions Corporation (51%).

Parkside Development LLC, owned by the Co-Applicant, Cinnaire Solutions Corporation (50%), the Lead Development Entity, Parkside Business and Community In Partnership, Inc. (25%), and Cornerstone Community Partners (25%), is the current owner of the subject properties. At financial closing, ownership will be transferred to the Applicant, Parkside Camden Urban Renewal LLC. The Applicant will be designated as the Declarant/Developer (the "Declarant") under the terms of the Master Deed for the Haddon Avenue Condominium Association. The Applicant will retain ownership of the residential component of the Project, and ownership of the commercial component will transfer to the Affiliate, Parkside Commercial LLC. Parkside Commercial LLC is an Affiliate of the Applicant as evidenced by the developer with an opinion of counsel and will wholly own and operate the development associated with the commercial portion of the Project.

As a convention to the Low-Income Housing Tax Credits used to finance the affordable component of the Project, following construction the Applicant will be owned by a managing member, Parkside Managing Member, LLC (0.01%) and a Low-Income Housing Tax Credit investor member (99.99%), currently anticipated to be Meridian Investments, Inc.

Lead Development Entity:

Parkside Business & Community in Partnership (PBCIP) is a Camden-based 501(c)3 Community Development Corporation focused on rebuilding the Parkside neighborhood and improving the quality of life for Camden residents by supporting education, mixed-income housing, and commercial development. One of the organization's main areas of focus is affordable housing. PBCIP acquires and rehabilitates homes for resale to low to moderate income families. PBCIP also provides employment opportunities to residents, housing counseling services and a homeownership assistance program that offers home repair grants for existing residential property owners.

Co-Applicant

Cinnaire Solutions Corporation is a Lansing, MI-based, mission-driven real estate development nonprofit organization founded in 1993. In partnership with community-based organizations and emerging developers, Cinnaire specializes in community-driven, affordable and market rate

development that include multifamily housing, commercial and mixed-use facilities, and integrated supportive service projects. A relevant project in the Cinnaire Solutions portfolio includes the Allen Place project, a mixed-use development comprised of mixed-income residential space and 10,000 square feet of commercial in Lansing, MI. The development also includes the East Lansing Food Co-op (ELFCO), an Ingham County Health Clinic, and a full-service pharmacy.

Cinnnaire Solutions Corporation is an affiliate of Cinnaire Corporation, a Community Development Financial Institution (CDFI) with over 25 years of experience of Low-Income Housing Tax Credit equity syndication.

The Applicant and Co-Applicant have entered into a participation agreement that specifies the Co-Applicant's participation in the Redevelopment Project and evidences a commitment to providing the services described below. The commitment encompasses the duration of the Aspire Eligibility Period.

Per Aspire Rules, in the application the Co-Applicant must also demonstrate the following:

The Co-Applicant has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 at P.L. 2007, c. 101 (N.J.S.A. 54:50–39).

The Co-Applicant has provided staff with a valid Tax Clearance Certificate as of this recommendation.

The Co-Applicant's organizational purpose encompasses the proposed participation.

The Co-Applicant will actively participate in the Project by providing and operating services such as coordinating supportive social services for residents that include access to workforce training, resume and job creation, personal care, meals, and nutritional counseling. Additionally, the Co-Applicant will coordinate supportive medical services for residents that include medical and day center transportation, health education, and Medicare and Medicaid covered services in coordination with the NJ Department of Community Affairs.

The Co-Applicant has the financial and operational capability to provide the proposed contribution or services.

Authority staff has reviewed financial statements provided by Cinnaire Solutions Corporation substantially evidencing the ability to provide the proposed services.

The Co-Applicant's receipt and sale of the tax credits is necessary to finance the Redevelopment Project.

The Co-Applicant serves both a resident services function and as the entity that will provide the financing with regard to the Aspire tax credits. The tax credit certificates will be allocated to the non-profit which will sell the credits annually to a tax credit investor and provide those sales

proceeds back into the partnership. This allows the project to obtain the Aspire credit sales proceeds without tax consequences and to pay annual debt service on an Aspire bridge loan, putting critically important capital into the project.

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.

Construction Timeline:

Construction is expected to commence in February of 2025 and the project will take 15 months to construct.

Project Details

The Project will be comprised of two sites:

1. Parkside Place I: 24 units of residential development and 26,283 square feet of commercial space that will include a Federally Qualified Health Center (FDQC). The building will be 4 stories (approximately 50') tall and replace blighted buildings and vacant lots with fully affordable housing and commercial space. Parkside Place I is located at 1484-1500 Haddon Avenue and 1487-1493 Princess Avenue. Existing buildings will be demolished. Proposed buildings will be constructed on the Haddon Avenue parcels, with 30 resident and commercial parking spaces tucked behind the building on the lots along Princess Avenue.
2. Parkside Place II: six units of affordable housing above the 4,481 square foot ground floor retail and office space. The building will be three stories (approximately 40') tall and is located at 1410-1416 Haddon Avenue. Eight resident parking stalls will be located behind the building.

The residential component of the Project includes 30 affordable units, making the development 100% affordable. Unit mix includes 6 studio and one-bedroom units; 18 two-bedroom units; and 6 three-bedroom units. Four of the residential units will be designated for residents receiving Medicare as part of the NJ Department of Community Affairs's Healthy Homes Initiative.

The Project will also include a 26,283 square foot state-of-the-art Federally Qualified Health Center (FQHC) that will be designed with LEED energy standards and WELL Health Certifications. The operator for the FQHC will be the Osborn Family Health Center (OFHC). OFHC was established in 1974 in the Parkside neighborhood of Camden on Haddon Avenue. Upon occupancy, the Osborn Family Health Center will be entering its 50th year of service to the underserved populations of Camden and the surrounding communities. The new health center will provide OB/GYN, family practice, pediatrics, dental and behavioral health services. OFHC also works in partnership with Virtua Our Lady of Lourdes Medical Center and utilizes their hospital providers to serve patients under a contractual relationship.

The remaining 4,481 square feet of commercial space will include a retail and office space.

Project Uses and Sources

The Applicant proposes the following uses for the Project:

	Total Development Costs	Project Costs
Acquisition	\$418,751	\$0
Hard construction costs	\$21,870,424	\$21,534,635
Professional services	\$2,603,221	\$2,308,221
Financing and other soft costs	\$7,853,204	\$2,511,787
Developer Fee	\$3,185,800	\$3,185,800
Total	\$35,931,400	\$29,540,443

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), land acquisition, as well as various reserves to fund interest and operating expenses during lease-up.

The Applicant proposes the following Sources for the Project:

Sources	Type	Amount
PNC Source Loan	Construction Loan	\$6,221,150
HMFA First Mortgage	Tax Exempt Permanent Loan	\$919,039
DCA Funding	Soft Loan	\$4,182,593
State Appropriation	Grant	\$2,000,000
Robert Wood Johnson Foundation	Grant	\$296,152
Neighborhood Revitalization Tax Credit	Grant	\$426,508
Health Resources & Services Administration	Grant	\$661,535
New Market Tax Credit Proceeds	Tax Credit Equity	\$2,618,850
Aspire Proceeds	Tax Credit Equity	\$10,399,997
LIHTC Proceeds	Tax Credit Equity	\$6,628,746
Deferred Developer Fee	Equity	\$1,530,807
Cash	Equity	\$46,023
	Total	\$35,931,400

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 \$7,186,280. Total equity of \$14,208,621 consists of LIHTC proceeds in the amount of \$6,628,746, New Market Tax Credit equity in the amount of \$2,618,850, Deferred Developer Fee of \$1,530,807, Developer cash in the amount of \$46,023, and a combined \$3,384,195 in state and non-profit grants, which satisfies this program requirement.

Statutory Aspire Award Cap

This project is located in a qualified incentive tract municipality 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 \$29,540,443. As such, the Project is eligible for an Aspire tax credit not to exceed \$17,724,266 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 shortfall in the project development economics pertaining to the return on the investment for the developer and their ability to attract the required investment for this Project.

Because the Project is receiving Low-Income Housing Tax Credits, NJHMFA's deferred fee model was used to measure the appropriate and reasonable rate of return. The total developer fee is \$3,185,800 with \$1,530,807 deferred. This conforms to the Agency's policy.

Aspire Tax Credit Sale Price:

For projects that represent the new construction of residential units 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 the tax credits will be sold as they become available, with the proceeds retained as income on the project proforma. 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. However, in the new Legislation, 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. 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

Affordability Controls:

For any project that includes newly constructed residential units (that is, not a project consisting solely of rehabilitated or renovated existing units, with no change to the composition of units or creation of new units), at least 20 percent of the residential units must be reserved for occupancy by low- and moderate-income households with affordability controls as provided in the Rules. The Applicant has indicated an intent to comply with all such aspects of the Rules including requirements concerning the bedroom distributions, affordability averages, affirmative marketing, and the long-term deed restriction of residential units.

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 unless the Applicant submits a redevelopment agreement that meets the statutory standards of a community benefits agreement or a resolution that renders a community benefits agreement unnecessary. The Applicant has provided a letter of support from the chief executive of the municipality acknowledging this requirement and affirming that the municipality shall proceed to negotiate a community benefits agreement in good faith with the Applicant and will execute the community benefits agreement within the time required.

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 \$1,024,466,345 in unallocated tax credit resources available to Aspire projects located in the southern-most counties in the State for the fiscal year.

Recommendation

Authority staff has reviewed the application for Parkside Camden Urban Renewal LLC and finds that it satisfies the eligibility requirements of the new Legislation and Rules. It is recommended that the

Members approve and authorize the Authority to issue an approval letter and subsequently enter into 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 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 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 \$17,724,266 in Aspire tax credits based upon the financing gap illustrated by the Project's actual capital stack at time of commitment.



Tim Sullivan, CEO



To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: December 19, 2024

RE: Aspire Program- Product #00315249
Netflix, Inc. (“Applicant”)

Request

Issuance of tax credits from the Aspire program (“the Program”) for a single-phased Transformative Film project located in Fort Monmouth, New Jersey, Monmouth County up to 50% of the total project cost (“eligible costs”), not to exceed \$387,092,615.26.

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.” Aspire Program Rules (“Rules”) incorporating a variety of programmatic changes resulting from Legislation and responding to formerly submitted public comment were specially adopted by the Authority Board on November 16th, 2023, and took effect on December 5, 2023, upon submission to the Office of Administrative Law. This application is being considered based upon those Rules.

This application is considered an owner-occupied commercial project. The legislation in 2023 eliminated the phrase "for purchase or lease" from the definition of commercial project broadening eligibility to owner-occupied projects. Thus, this project is eligible.

For a Transformative Project, the Program provides tax credits for ten years for each phase (the “Eligibility Periods”). The amount of tax credits a real estate development project or “Redevelopment Project,” receives is generally a percentage of the eligible costs and is subject to a statutory cap determined by project location and other aspects of each project.

Project Description

The Project, known as Netflix Studio Fort Monmouth, will be a transformative film studio campus of over 1.1 million square feet, including 953,000 SF of new construction and 182,000 SF of rehab and adaptive reuse. The Project is located on a 292-acre parcel at Fort Monmouth, a former army reserve base installation of the Department of the Army in Monmouth County, within the Boroughs of Eatontown and Oceanport, New Jersey.

The Project will include the new construction of 12 soundstages, 4 mill buildings (that will be used as workshops for the creation of production sets, production support spaces, production office buildings and storage areas), a vendor village, a visitor center, solar array opportunity, ancillary surface parking, vendor support warehouses and other associated facilities customary to film production. The Project will also renovate, improve, and reuse several buildings, including McAfee Building (Building 600), FMERA office (Building 502), and Vail Hall. The Project shall also include the development of additional production support space for the film studio campus such as basecamps, backlots, and parking.

Project Ownership

Netflix, Inc. has executed a Purchase Sale Agreement and Redevelopment Agreement (PSARA) dated January 13th, 2023, with Fort Monmouth Economic Revitalization Authority (FMERA) for the acquisition of the Project site.

Netflix, Inc. is a publicly traded company and therefore does not have an ownership structure.

Lead Development Entity:

The Applicant, Netflix, Inc. will also serve as the lead development entity. Netflix has an in-house project management and development team in the Design & Construction (D&C) group, and this group will manage the architectural, engineering and specialty consultants throughout the life of the Project. Additionally, Netflix has engaged a Real Estate Development Team (REDT) as an external consultant, to assist with managing the project. The team consists of Trammell Crow Company, a development professional services company, and Turner & Townsend and CBRE, cost and project management specialists.

Netflix, Inc.'s past development experience includes the acquisition and revitalization of their Albuquerque Studios (ABQ Studios), a film studio located in Albuquerque, New Mexico, south of the international airport. The original studio was expanded in 2024 from a traditional layout into a studio facility. The 330-acre space was transformed into a lot that is comprised of 12 state-of-the-art soundstages, five mills, multiple production support offices and various support facilities positioned around a central, traditional paving field used for base camps, staging and parking.

Legal Review and Sister Agency Check:

A Legal Review (debarment/disqualification review) was completed on the Applicant by the Authority and the entity was cleared. The entity was also found to be in substantial good standing with the Departments of Labor and Workforce Development, Environmental Protection, and the Treasury.

Architect:

Design for the Project has been undertaken by Mancini Duffy, a full-service design firm specializing in architecture, planning, and interior design. The firm is headquartered in New York City with regional offices in Millburn and Red Bank, New Jersey, and was founded in 1915 by Thomas Bruce Boyd.

Mancini Duffy has a wide range of completed projects including 1) One Newark Center, Newark New Jersey; 2) Peloton Headquarters, New York, New York; 3) 4 Gateway Center Renovation

Study, Newark, New Jersey ; 4) LaGuardia's New CTI Terminal B, Queens, New York; 5) Spotify's New Boston Office Relocation, Boston, Massachusetts; 5) Lufthansa Executive Lounge at Newark Liberty International Airport, Newark, New Jersey; 6) Mars Wrigley Headquarters, Newark, New Jersey; and 7) Rutgers University, Golden Dome Gym, Newark, New Jersey.

Construction Timeline

Construction is expected to commence in April 2026, and the project will take approximately 3 years to construct.

Project Details

As noted previously, the Project, known as Netflix Studio Fort Monmouth, will encompass the new construction of a film production studio campus and rehabilitation and adaptive reuse located on a 292-acre vacant site at Fort Monmouth. The Project shall include the following main components:

- Soundstages – The construction of 12 soundstages that will range in size from 15,000-40,000 sq. ft. each with a maximum interior clear height of 50 feet and a maximum exterior height of 70 feet. The soundstages shall have, in the aggregate, a minimum buildout of 180,000 sq. ft. and a maximum buildout of 780,000 sq. ft., will include associated improvements, and will use customary and incidental structures to the principal film use.
- Mills – The construction of 4 mill buildings. These single-story light industrial facilities will have approximately 30-foot clear heights, with clean mills dedicated to set decorations and storage and dirty mills for set construction activities. Each mill will feature production amenities and mechanical spaces.
- Production Office – The construction of a 150,000 sq. ft. production office that will be a 4-story building which will house a screening room, grab-and-go area, conference space, and offices on the ground floor, with three additional levels of office space above.
- Adaptive Reuse: Vail Hall is approximately 36,500 sq. ft. and will be repurposed for office space, featuring a welcome center, shipping/receiving, and security on the first floor, with office space and conference rooms on other levels. The McAfee Building will be transformed into a 91,000 sq. ft. production office with dedicated production support functions on the first floor, such as dressing rooms, hair & makeup, and costumes. The existing +/- 10,000 sq. ft. FMERA Office building will be reused as multipurpose space, including a conference center, cast holdings, and catering spaces. Six existing buildings in totaling 44,259 sq. ft., are also slated to be renovated and reused for facility maintenance.
- Warehouses – New warehouses will accommodate the Vendor Village, consisting of two warehouses with a combined sq. ft. of 92,700. These auxiliary structures are leased by third-party production service providers to support day-to-day film & television production activities, a visitor center, and solar array opportunity.
- Publicly accessible space – While Netflix Studios Fort Monmouth will be a private, secure, and controlled space consistent with the needs of an active studio production facility, the Project will support public access to utilize and honor this historic area as a key component of its redevelopment plan. Greely Field and Cowan Park will remain open and accessible to the public. The Project also proposes the extension of the existing master trail for walking/biking along the Avenue of Memories and will maintain the existing master trail along the northern property edge that crosses through the site's natural resource areas, including coastal waterway access points. The main entry point to the studio lot, referred

to as “N Park,” will be a main gathering and drop off location and will be public facing. The park will be about 2 acres and will allow for public-facing events. The sidewalks and public spaces along Avenue of Memories will be updated, maintaining the existing memorials and trees, ensuring a connection to the historic nature of the site.

The Applicant proposes to comply with NJEDA’s Green Building standards by integrating numerous green design elements to obtain LEED certification that include designing a Sustainable Production Campus that minimizes embodied & operational carbon and conserves water & wastewater. The Project will reduce construction & operational waste, develop an all-electric campus, include solar & storage on the property, and create a vehicle charging infrastructure.

Transformative Project

The Aspire statute provides for a category of redevelopment projects that may be either residential or commercial projects, which are referred to as "transformative projects." Such projects must meet certain significant criteria and can receive tax credit awards up to the lesser of \$400 million or 50 percent of eligible costs. Awards can go up to 60 percent of eligible costs for certain residential projects and 80 percent of eligible costs for projects located in a Government Restricted Municipality.

To be considered a transformative project, a project must include at least \$150 million in total project cost, demonstrate a project financing gap (as with all Aspire projects), and be at least 500,000 square feet except it may be 300,000 square feet in an enhanced area, 200,000 square feet in a government-restricted municipality, or at least 250,000 square feet for film production uses (square feet are exclusive of parking). Having eligible costs of \$1,085,589,022 and representing more than 250,000 in total square feet of film production uses exclusive of any parking component the Project satisfies these eligibility criteria.

Unlike other transformative commercial projects, transformative film projects are not required to demonstrate special economic importance due to the priority placed on advancing the film production industry in the State through the New Jersey Economic Recovery Act of 2020. Transformative film projects are not subject to geographic restrictions and may be located anywhere in the State.

A transformative project shall not include a Redevelopment Project at which more than 50 percent of the premises is occupied by one or more businesses engaged in final point of sale retail. This Project conforms to this requirement.

Lastly, all transformative projects must leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets, in attracting or retaining both employers and skilled workers generally or in targeted industries by providing employment or housing. The Project will leverage the State’s mass transit assets as the Project is within walking distance from a NJ Transit train station with service directly to New York City. The site is also a short drive to a ferry terminal in the Atlantic Highlands

with service to New York City. The Applicant is developing a State-owned (previously Federally owned), abandoned former military installation into a world-class studio complex. The film and television industry in New Jersey will continue to grow significantly due to this investment, leading to thousands of union jobs on-site and throughout the State.

As noted above, the Project satisfies the eligibility criteria to be a film transformative project.

Project Uses and Sources

The Applicant proposes the following uses for the Project:

	Total Development Costs	Project Costs
Acquisition	\$47,000,000	\$0
Hard construction costs	\$1,041,047,988	\$1,001,639,785
Professional services	\$116,952,012	\$83,949,237
Financing and other soft costs	\$0	\$0
Developer Fee (Non-Deferred Total)	\$0	\$0
Total	\$1,205,000,000	\$1,085,589,022

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 costs as well as various pre-development costs incurred prior to application such as site-work, and numerous softs costs.

The Applicant proposes the following Sources for the Project:

Sources	Type	Amount
Developer Cash	Equity	\$1,205,000,000
	Total	\$1,205,000,000

Developer Contributed Equity

Based on the equity requirement of 20% of total development costs for a Film Transformative project not in a government-restricted municipality, the required equity in this Project equates to \$241,000,000. The Project will be funded with developer equity in the amount of \$1,205,000,000, therefore, satisfying this program requirement.

Statutory Aspire Award Cap

This is a Transformative Film project not located in any relevant geographies that would increase the cap, therefore it is subject to an Aspire tax credit cap of the lesser of 50 percent of eligible costs or \$400 million. Total development costs of the project (“TDC”) are estimated to be \$1,205,000,000 with eligible costs per the Aspire Program Rules estimated to be \$1,085,589,022. As such the Project would be eligible for an Aspire tax credit not to exceed \$400 million, which is the lesser of \$400 million and 50 percent of the eligible costs. However, this is the maximum potential award and will subsequently be subject to caps related to the project financing gap and the relevant State fiscal impact analysis.

Financing Gap Analysis

NJEDA staff and the Authority's consultant, Jones Lang LaSalle ("JLL"), have 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. As this is the Authority's first owner-occupied project and the program's financing gap analysis is based on financing of a real estate development project (with costs and revenues from a developer/landlord's perspective), Staff analyzed a hypothetical financing model that assumed a typical developer arrangement with a commercial tenant to determine if there is a financing gap. For this project, JLL calculated a Hurdle Rate of 17.7% based on capital market pricing for similar level of risk.

The model included key assumptions provided by the Applicant, including a breakdown of total development costs, projected market rents, cap rate and terminal value, and operating expenses. The Applicant provided a pro forma that compared the returns with and without the Aspire award over a 16-year period. The Applicant assumed a 60-month timeframe to build and stabilize the Project. It also assumed a 10-year cash flow following stabilization with an exit through the sale of the Project in year 16. The Applicant's projected Equity IRR with and without the Aspire award are as follows:

IRR without Aspire tax credit	-4.93%
IRR with Aspire tax credit	0.56%

JLL adjusted the Applicant's Equity IRR as follows due to two key differences between JLL's and the Applicant's assumptions.

JLL Estimated IRR without Aspire tax credit	2.3%
JLL Estimated IRR with Aspire tax credit	13.1%

The first is a decrease from the salaries in Netflix's proforma that were 25-30% higher than what a developer of a comparable film studio would likely incur. The second is an exclusion of an increase in the Applicant's development budget since application of \$175 million, which was submitted after JLL's analysis. Even with these adjustments, JLL's report concluded that the Equity IRR with the Aspire tax credit award is below the Hurdle Rate and would not over-enrich the project. Accordingly, a real estate developer would not generally complete the Project without the benefit of the Aspire award.

In the end of the seventh year of the eligibility period, the Authority shall evaluate the Applicant's actual reasonable and appropriate rate of return on investment and compare that actual reasonable and appropriate rate of return on investment to the Hurdle Rate at time of Board approval. If the actual rate of return on investment exceeds the Hurdle Rate at the time of Board approval by more than 15 percent, the Authority shall require the developer to pay 20 percent of the amount in excess of the Hurdle Rate.

Fort Monmouth Economic Revitalization Authority

In July 2021, the Authority approved the application of FMERA for a \$21.7 million loan with a maturity date of October 1st, 2026, which is secured by the property Netflix is acquiring. In August 2019, the Authority approved another application of FMERA for a \$5 million loan with a maturity date of April 1st, 2025, also secured by the property.

A Purchase and Sale Agreement and Redevelopment Agreement is in place between the Applicant, Netflix, Inc. and FMERA for the \$47 million purchase of the Project site (comprising 292 acres of both Phase 1 and 2 properties) and the sale is expected to occur as late as 8/06/27. FMERA will use the proceeds of the sale to pay the remaining principal balances for both previously mentioned Authority loans.

Aspire Tax Credit Sale Price:

For projects that the new construction of commercial non-residential developments the consideration for the sale or assignment of the Aspire tax credits can be no less than 85 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 the proceeds from the sale of the tax credits will be retained by the Project as cash flow and the Sources previously reflected do not include any Aspire proceeds. The ultimate financing structure 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:

Pursuant to the Aspire statute 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. Exceptions to the requirement are capital investment for a residential project, a capital investment for a food delivery source, or certain health care or health services centers. The Project does not have any of the exempted uses and, therefore, the entire award and capital investment are subject to the net positive benefit analysis.

The Rules set the required net positive economic benefit (NPEB) to the State at 160 percent of the award of tax credits unless the project is: located in a government-restricted municipality; contains 50,000 or more square feet of space devoted to research or technology focused incubator and conferencing facilities for one or more institutions of higher education or non-profit organizations with a total project cost of not less than \$50 million; receives a Federal historic rehabilitation tax credit or a State tax credit under the "Historic Property Reinvestment Act," ; is located on land owned by the Federal government on or before December 31, 2005; or is undertaken by a major cultural institution, OR is undertaken by a developer in which the major cultural institution has an ownership interest, in which case it is 125 percent. N.J.A.C. 19:31V-1.6 (Financing gap and fiscal impact analysis). Since the Project is located on land owned by the Federal government on or before December 31, 2005, it meets the criteria to reduce this requirement and thus the award is subject to the 125 percent threshold. The Aspire statute directs the authority to discount the Aspire tax credit award issued over the 10-years from the perspective of net present value in the same

fashion as which it discounts the estimated ongoing benefits to the State over the same time period. N.J.S.A. 34:1B-333.

As a Transformative Film Studio Project, the NPEB was calculated based upon the policies outlined in both the Board Memo from January 2023 which changed the Authority's approach to measuring the NPEB for Transformative Commercial Projects to include specific policies for all Transformative Commercial Projects and also from the Board Memo from May 2024 which changed the Authority's approach to measuring the NPEB for Film Studio projects to include specific policies for all Film Studio projects. In calculating the NPEB Staff used: the IMPLAN regional input-output modeling tool; project specific employment densities with sufficient supporting materials which were reviewed and corroborated or adjusted by a third-party consultant to NJEDA for Transformative Commercial projects; projected production spend and expected full-time equivalent job densities for the project-specific Film Studio component of the Project which were validated using EDA retained experts; and inclusion of local tax benefits that generally serve to reduce State funding obligations.

Finally, the Applicant has evidenced that a PILOT agreement was entered into with the City of Eatontown, indicating an increase in local property taxes resulting from the Project that are also included in the ongoing benefits to the State net of any proceeds pledged as debt service for Redevelopment Area Bonds.

As described in the Board Memo from May 2024, a reduction was also applied to the calculated NPEB for the ten-year Aspire Eligibility Period of forty percent in anticipation that the activity at the Project will receive additional film tax credit incentives so as not to credit the Aspire award in the NPEB for economic activities for which the State provides a different award. Staff consulted with EDA's film consultant on the evaluation of Netflix's economic impact assumptions for construction and operation. Several key factors were evaluated regarding the Project and the anticipated annual film production spend of \$620 million: occupancy, average production wages and costs, management jobs, property tax payments, and facility sizes. It was concluded that the inputs Netflix proposed were reasonable and accurate overall.

This award will require that the Applicant certify to the production expenses at the Project annually beginning with the third year of the eligibility period, similar to the current occupancy requirement in N.J.A.C. 19:31V-1.10(c). If production expenses fall below sixty percent of the amount at Board approval, the Developer shall forfeit all credit for the tax period in which the change occurs and each subsequent tax period until the first tax period for which documentation demonstrating restoration of production expenses is approved by the Authority. If the Authority determines there are extenuating circumstances beyond the Developer's control (for example, a strike), the Authority may waive the 60 percent production expense requirement for the tax year.

The results of this analysis are detailed in the tables below:

Full-time equivalent Employment - Property Management at Stabilization	60
Full-time equivalent Employment – Office at Stabilization	45
Average Annual Film Production Spend in New Jersey	\$620,000,000
Average Full-time equivalent Employment – Film Production	2,313
Total One-time Benefit	\$54,001,633.16
Average Annual Ongoing Benefit	\$39,844,948.72
NPV of Benefits over 10 years after 40% reduction	\$324,905,098.11
NPV of Benefit as % of NPV of Aspire	125%
Net Present Value of Aspire Award	\$259,742,295.73
Aspire Award (using 2.5% inflation rate over the 10-year Eligibility Period)	\$387,092,615.26

Additionally, the rules, approval letter, and incentive award agreement provide a safeguard if the Applicant’s project cost projection is higher than the actual cost. Upon project completion, if the Applicant’s actual project cost, as included in the independent CPA certification, is lower than the project cost in this memorandum, the Authority shall re-evaluate the net positive economic benefit and may reduce the size of the tax credits accordingly.

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 (or municipalities) or county and the Applicant. The statute and rules allow as alternatives a redevelopment agreement that meets or exceeds the standards of the community benefits agreement or a governing body resolution stating and explaining the governing body’s reasons that the redevelopment project will provide economic and social benefits that render the community benefit agreement unnecessary. The Applicant has provided a letter of support from the chief executive of the municipalities 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 currently have a State proprietary interest and therefore is not subject to this requirement currently.

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 \$1,229,122,633 in unallocated tax credit resources available to Transformative Aspire projects for the fiscal year.

Recommendation

Authority staff has reviewed the application for Netflix, Inc. and finds that it satisfies the eligibility requirements of the New Legislation and Rules. It is recommended that the Members approve and authorize the Authority to issue an approval letter and subsequently enter into an incentive agreement. The tax credit award would be credited against the total available Transformative Project 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 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, redevelopment agreement, or resolution consistent with all of the requirements included in the Rules within six months after approval.

This Project will also have a condition that if production expenses fall below sixty percent of the amount at Board approval, the Applicant shall forfeit all credit for the tax period in which the change occurs and each subsequent tax period until the first tax period for which documentation demonstrating restoration of production expenses is approved by the Authority. If the Authority determines there are extenuating circumstances beyond the Developer's control (for example, a strike), the Authority may waive the 60 percent production expense requirement for the tax year.

The recommendation is approval of an award of up to 50% of the total project cost, not to exceed \$387,092,615.26 in Aspire tax credits based upon the financing gap illustrated by the Project's actual capital stack at time of commitment.



Tim Sullivan, CEO



MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: December 19, 2024

RE: Aspire Program - Product #311151
OAHS Brunswick TC LLC (“Applicant”), FFAH VI NJ Res Services, LLC (“Co-Applicant”)

Request

Issuance of tax credits from the Aspire program (“the Program”) for a residential project located in Trenton, New Jersey, Mercer County up to 51.09% of the total project cost (“eligible costs”), not to exceed \$22,769,231.

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.” Aspire Program Rules incorporating a variety of programmatic changes resulting from recently enacted Legislation and responding to formerly submitted public comment were specially adopted by the Authority Board on November 16th, 2023, and took effect on December 5, 2023, upon submission to the Office of Administrative Law. This application is being considered based upon those Rules.

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 Project, known as Brunswick Village, will entail the renovation of eight existing fully affordable apartment buildings encompassing one-hundred-ten units, including six units specifically designed to meet the Americans with Disabilities Act requirements, and one superintendent unit. The Project is located at 801-833 Brunswick Avenue in Trenton. The Project has a gross building(s) area of 83,867 square feet spread across eight three-story low-rise buildings. The development consists of one bedroom, two-bedroom, and three-bedroom unit apartments. Configured within eight, three-story buildings, the units were originally built in 1971.

Project Ownership

The Applicant entity OAHS Brunswick TC LLC is wholly owned by OAHS Brunswick TC MM LLC, an entity wholly owned by the Lead Development Entity, Orbach Affordable Housing Solutions LLC. As is the case with most LIHTC financed transactions an investor member will enter the partnership at financial closing as a 99.99% Limited Partner with OAHS Brunswick TC MM LLC reverting to a 0.01% General Partner continuing in the role of Managing Member.

The Project is currently owned by an affiliate of the Lead Development Entity. As evidenced by a Purchase and Sale Agreement between the Seller, OAHS Village LLC and the Applicant transfer to the Applicant is scheduled with a Closing Date of February 28, 2025.

Lead Development Entity

Orbach Affordable Housing Solutions LLC, (“OAHS”) is the Lead Development Entity, which is a full-service real estate organization that owns and manages a diverse portfolio of housing assets across the country. Under the leadership of Mr. Meyer Orbach, The Orbach Group, together with its affiliated companies, has purchased and managed more than 125 buildings. OAHS’s portfolio consists of approximately 5,500 multifamily units, retail units of all income ranges, and parking facilities across the country.

Co-Applicant

The Co-Applicant for the project is FFAH VI NJ RES SERVICES LLC (the “Provider”) and is a single purpose entity owned by Foundation for Affordable Housing VI, Inc. (d/b/a/ Embrace Foundation) (“Embrace”). The Provider will provide services to the residents of the housing development. Embrace has more than 25 years of experience in implementing, operating and supervising resident services programs and residential communities serving low-income individuals, families and seniors. We have received the Applicant’s opinion of counsel that the Provider is a disregarded entity for tax purposes and thus takes on the characteristics of its parent company and therefore is a nonprofit for taxation purposes. The Authority has received the IRS Determination Letter for Embrace confirming its status as a 501(c)3.

The Co-Applicant will be contributing services that directly affect and serve the residents of the Community. Pursuant to the Resident Services Agreement between the Co-Applicant and Applicant (the “Services Agreement”), such services shall include, but not be limited to the following:

- Educational classes to address specific needs of the community including, financial literacy, computer classes, job readiness trainings (such as resume writing workshops), and ESL GED qualification classes.
- Health and Wellness Programming, which shall include, exercise classes, self-care workshops, holistic health services and referrals, and overall wellness assessments.
- Social Programing and activities to promote community engagement which may include events like, holiday celebrations, potluck gatherings and community games.
- Retention of an on-site Resident Services Coordinator who will interface with on-site property management to schedule health and wellness services for residents, and recruit and partner with additional service delivery partners.

This Services Agreement serves as the participation agreement that specifies the Co-Applicant's participation in the Redevelopment Project and evidences a commitment to providing the support and assistance previously described. The term of the Services Agreement encompasses the duration of the Eligibility Period.

Per the Rules, in the application the Co-Applicant must also demonstrate the following:

The Co-Applicant has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 at P.L. 2007, c. 101 (N.J.S.A. 54:50–39).

The Co-Applicant has provided staff with a valid Tax Clearance Certificate as of this recommendation.

The Co-Applicant's organizational purpose encompasses the proposed participation.

FFAH VI NJ Res is a nonprofit corporation organized under the laws of the State of New Jersey for the purpose of promoting economic, civic, and social welfare by providing a comprehensive program of economic development.

The Co-applicant has the financial and operational capability to provide the proposed contribution or services.

Authority staff has reviewed financial statements provided by FFAH VI NJ Res substantially evidencing the ability to provide the proposed services.

The Co-applicant's receipt and sale of the tax credits is necessary to finance the Redevelopment or Development Project.

The tax credit certificates will be allocated to the Co-Applicant which will sell the credits annually to a tax credit investor and return those sales proceeds into the partnership Applicant. This allows the Project to obtain the Aspire credit sales proceeds without tax consequences and to pay annual debt service on an Aspire bridge loan, putting critically important capital into the project.

Architect

Frank J. Minervini, AIA, and Co-Principal and founder, Anthony Vandermark, AIA established Minervini Vandermark Architecture in 2000. Each having more than 20 years' experience in architecture, planning, and zoning, they have led the firm through the development and completion of a variety of commercial, residential, and educational projects. Today the firm is known as MVMK LLC, Minervini Vandermark Melia Kelly LLC and is a Hoboken, New Jersey based a firm with work ranging from residential and mixed-use projects to commercial renovations.

General Contractor

Sage Affordable Construction is the general contractor on the Project and is a subsidiary of OHAS Affordable Housing Solutions LLC and is led by Jaimie Birman.

Construction Timeline

Rehabilitation of units is expected to commence in March 2025, and is expected to take 9 months to complete.

As a single-phase residential project, the Aspire Program Rules require this Project to be completed within four-years of executing an incentive award agreement.

Project Details

The rehabilitation and preservation of Brunswick Village will consist of extensive renovations to one-hundred-ten existing, subsidized units, which includes one two-bedroom superintendent's unit, located at 801-833 Brunswick Avenue. The Project has a gross building(s) area of 83,867 square feet comprised of eight, three-story low-rise buildings. The development consists of one bedroom, two-bedroom, and three-bedroom unit apartments, a management office and on-site laundry facilities. Configured within eight, three-story buildings, the units were originally built in 1971. The scope of work includes complete renovation of the kitchens and bathrooms, new HVACs, replacement of all in-unit lighting, replacement of roofs along with gutters and

downspouts, new security cameras, new signage, and concrete repairs throughout the site. Six units will be made fully ADA Accessible. The Project has a Section 8 Housing Assistance Payment contract with HUD that covers seventy-two units. As part of the refinancing process, the Project will go through HUD’s Chapter 15 renewal process (“mark-up-to market”), with new contract rents that will allow for the leveraging of increased financing for the renovations. The Project will have various amenities and the parking area will provide one-hundred-nine parking spaces, four of which will be ADA accessible.

The subject neighborhood is located in the northeast portion of the City of Trenton, New Jersey. The neighborhood has the following boundaries: North – Spruce Street and Brunswick Avenue; South –U.S. Highway 1, North Olden Avenue, Siegel Avenue and New York Avenue; East – U.S. Highway 1 and Mulberry Street; and West – Princeton Avenue.

The Project will also comply with the NJHMFA Energy Star Homes Program requirements for NJ Zero Energy Ready Homes, and or EnergyStar Multifamily New Construction 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	\$20,077,097	\$16,680,000
Hard construction costs	\$17,238,550	\$17,238,550
Professional Services	\$2,020,882	\$2,020,882
Financing and other soft costs	\$8,032,513	\$4,088,755
Developer Fee	\$4,542,000	\$4,542,000
Total	\$51,911,042	\$44,570,187

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 land acquisition costs and various reserves to fund interest and operating expenses during lease-up. The minimum total project cost is \$5,000,000 for this residential project located in a Government Restricted Municipality.

The Applicant proposes the following Sources for the Project:

Sources	Type	Amount
HMFA First Mortgage	Mortgage	\$20,090,000
Aspire Proceeds	Equity	\$14,800,000
LIHTC Proceeds	LIHTC	\$14,869,812
Deferred Developer Fee	Equity	\$2,107,897
Additional Deferred Developer Fee	Equity	\$43,333
	Total	\$51,911,042

Developer Contributed Equity

Based on the equity requirement in the Rules of 10% of total development costs for a residential project in a government-restricted municipality (N.J.A.C. 19:31V-1.3), the required equity in this

Project equates to \$5,191,104. Equity consists of Deferred Developer fee of \$2,151,230 and \$14,869,812 in Low-Income Housing Tax Credits.

Statutory Aspire Award Cap

This project is located in a government-restricted municipality, and thus eligible for an Aspire tax credit equal to the lesser of 80 percent of the total project costs or \$120 million. The total project cost per the Program Rules is estimated to be \$44,570,187. To close the financing gap, the Applicant has requested an Aspire award not to exceed \$22,769,231.

Financing Gap Analysis

NJEDA staff has reviewed the application to determine if there is a shortfall in the Project development economics pertaining to the return on the investment for the developer and their ability to attract the required investment for this Project.

Because the Project is fully affordable and receiving Low-Income Housing Tax Credits, NJHMFA's deferred fee model was used to measure the appropriate and reasonable rate of return. The total developer fee is \$4,542,000 with \$2,151,230 deferred and not fully realized until the 8th year of operations. This conforms to the Agency's policy.

Aspire Tax Credit Sale Price:

For projects not consisting of newly constructed residential units the consideration for the sale or assignment of the Aspire tax credits can be no less than 85 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 of least 85 percent of the transferred credit amount before considering any further discounting to present value. Currently it is anticipated that a tax credit investor will make a series of equity contributions available as sources during the development of the Project and these sources are identified in the Uses table above as "Aspire Proceeds". 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. 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. 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

Affordability Controls

For any residential project, at least 20 percent of the residential units must be reserved for occupancy by low- and moderate-income households with affordability controls as required under the Program Rules. The Applicant has indicated an intent to comply with all such aspects of the Rules including requirements concerning the bedroom distributions, affordability averages, affirmative marketing, and the long-term deed restriction of residential units.

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. N.J.S.A. 34:1B-328 and N.J.A.C. 19:31V-1.8. However, the new law exempts any residential project that is located in a government-restricted municipality, and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy of low-and moderate-income households, from the requirement to enter into a community benefits agreement. As such this Project will not be subject to 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 1,160,320,810 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 OAHS Brunswick TC LLC and finds that it satisfies the eligibility requirements of the new Legislation and current programs Rules. It is recommended that the Members approve and authorize the Authority to issue an approval letter and execute an incentive award agreement.

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 current 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.

This Applicant is within a Government Restricted Municipality and is a 100 percent Affordable Housing development and is exempt from submitting an executed Community Benefits Agreement consistent with all of the requirements included in the Rules within six months after approval.

The recommendation is approval of an award of up to 51.09 % of the total project cost, not to exceed \$22,769,231 in Aspire tax credits based upon the financing gap illustrated by the Project's actual capital stack at time of commitment.



Tim Sullivan, CEO

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

As created under the Garden State Film and Digital Media Jobs Act, P.L. 2018, c. 56, and amended and expanded under P.L.2019, c.506, P.L.2020, c.156 and P.L.2021, c.367, P.L.2024, c.33, the New Jersey Film and Digital Media Tax Credit Program provides a credit against the corporation business tax and the gross income tax for certain expenses incurred for the production of certain films and digital media content in New Jersey. Under the Digital Media Tax Credit Program, applicants are eligible for a tax credit equal to 30% of qualified digital media content expenses, or 35% of qualified digital media content expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.

APPLICANT: NFL Productions LLC

PROD-00315016

APPLICANT BACKGROUND:

NFL Productions LLC, doing business as NFL Films, was originally founded in 1962 by Ed Sabol. Sabol, who was born in Atlantic City, originally founded the company as Blair Motion Pictures, but was rebranded as NFL Films in 1964 when the National Football League purchased the company. Ed Sabol continued to lead the NFL subsidiary until 1985 when his son Steve, succeeded him as President until his death in 2012. NFL Films has operated out of Mt. Laurel since 1979 and has over 200 full-time employees jobs working directly on digital media content. During the football season the company hires over 200 additional part-time workers each year.

New Jersey serves as the post-production hub for the full suite of NFL Films programming. The company films every NFL game each year and is responsible for editing and packaging the footage for major media outlets and streaming services. Boasting over 600 hours of new NFL programming annually across 35 productions, NFL Films delivers a diverse range of content and platforms. From award winning and iconic shows like "Hard Knocks" and "Inside the NFL" to documentaries, commercials, and television and web content such as "Good Morning Football" and the "YouTube Game Pass All Access,". NFL Films has been working since 2022 to archive the entirety of its footage currently on analog reels to digital formats.

ELIGIBILITY AND TAX CREDIT CALCULATION:

As part of eligibility for tax credits under the New Jersey Digital Media Tax Credit Program, an applicant must meet the statutory and regulatory definition of digital media content. Digital media content is any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound and video content. Digital media tax credit is calculated as a percentage of qualified digital media content production expense. "Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content.

This application is for produced data and information in digital form during the production process of various productions during NFL Film’s 2024 fiscal year (4/1/2023-3/31/2024).

Eligible expenses will be New Jersey wages/salaries/benefits for employees involved in film post-production activities as they relate to the creation of digital media content, including reformatting analog information to digital, real and personal property rent, utilities and direct overhead (projected to exceed 50% of total qualified spend).

As part of eligibility for tax credits under the New Jersey Digital Media Tax Credit Program, an applicant must meet two expense eligibility thresholds:

1. Total Digital Media Content Production Expenses: At least \$2,000,000 of the total digital media content production expenses incurred for services performed, and goods purchased through vendors authorized to do business in New Jersey.

For the purposes of this eligibility criteria, salaries to full-time employees working on digital media are included in this category for all applications submitted before July 10, 2024, as is applicable here, and they will be excluded for applications submitted on or after July 10, 2024.

Total Digital Media Content Production Expenses to be incurred in NJ during a single privilege period after July 1, 2018.	\$37,434,853.00
Criterion Met	Yes

2. Percentage of the qualified digital media content production expenses for wages: A minimum of 50% of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey; "Qualified digital media content production expenses" are expenses incurred in New Jersey after July 1, 2018 but before July 1, 2039 for services performed and goods purchased through vendors authorized to do business in New Jersey. "Qualified digital media content production expenses" shall include but shall not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due, and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another states; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payment made to a loan out company or to an independent contractor shall not be a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required. "Qualified digital media content production expenses" shall not include (1) expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content; (2) costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content. For applications submitted after July 10, 2024, "Qualified digital media content production expenses" shall also not include (3) costs incurred for the design, maintenance, and

hosting of websites; (4) other costs not directly related to the production of digital media content; or (5) any costs included in an application submitted to the Authority.

A. Total Qualified Digital Media Content Production Expenses to be incurred after July 1, 2018	\$37,434,853.00
B. Wages To Be Paid to Employees in New Jersey	\$29,033,131.00
C. Percentage of the qualified digital media content production expenses to be incurred for wages in New Jersey	77.56%
Criterion Met	Yes

AWARD CALCULATION

Base Award Criteria	Calculation	Result
35% of Qualified Digital Media Content Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.	\$0.00 x 35% =	\$0.00
30% of Qualified Digital Media Content Production Expenses	\$37,434,853 x 30% =	\$11,230,455.90
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 4% of Qualified Digital Media Content Production Expenses.	\$37,434,853 x 4% =	\$1,497,394.12
Total Award		\$12,727,850

APPLICATION RECEIVED DATE:	03/13/2024
DATE APPLICATION DEEMED COMPLETE:	04/29/2024
ESTIMATED DATE OF PROJECT COMMENCEMENT:	04/01/2023
ESTIMATED DATE OF PROJECT COMPLETION:	03/31/2024
APPLICANT'S FISCAL YEAR END:	03/31/2024
TAX CREDIT VINTAGE YEAR(S):	2025
TAX FILING TYPE:	Corporate Business Tax
ANTICIPATED CERTIFICATION DATE:	11/01/2024

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

APPROVAL REQUEST:

The Members of the Authority are asked to initially approve the proposed award to the applicant under the New Jersey Film and Digital Media Tax Credit Program. The recommended tax credit is contingent upon receipt by the Authority of evidence that the applicant has met certain criteria to substantiate the recommended award and is subject to final approval by the Authority and the Division of Taxation. Staff may issue the Authority's final approval if the criteria met by the company is consistent with that

shown herein. If the criteria met by the company differs from that shown herein, Staff may lower the tax credit amount to reflect what corresponds to the actual criteria that have been met.

Prepared by:
Madhavi Bhatia

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of FY2024 NFL
Productions, LLC

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 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

Request

Increase in the award amount from \$40,007,369 to \$45,300,000 pursuant to, P.L. 2024, c.71 which amended P.L. 2009, c.90 and P.L. 2022, c.75 by including the funding of a debt service reserve fund as an eligible project cost.

Extend PPA’s Conditions to Maintain Approval due date from November 30, 2024 to December 31, 2025, 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 October 29, 2024.

Extend the requirement for submission of a temporary certificate of occupancy from June 30, 2026 to June 30, 2028 pursuant to, P.L. 2024, c.71 which amended P.L. 2009, c.90 and P.L. 2022, c.75.

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 allowed was 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 \$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 2,500 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. In April 2024 the Members of the Authority approved a modification to allow for updates to the project scope and funding sources, and provided for conditions to maintain approval to be satisfied by November 30, 2024.

Due to rising construction and labor costs and supply chain issues resulting from COVID-19 pandemic , PPA redesigned the parking garage by reducing it from a 940-space facility (9 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 in January 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. 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 in December 2021.

Due to the pandemic, the original financing plan was never consummated. In order to secure a more attractive financing plan, PPA entered discussions with the City and the County of Passaic. The revised financing plan called 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 \$31.5 million) to pay costs of the Garage and the work related thereto, and another series of Gap Bonds, the proceeds of which (approximately \$15.9 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 PPA parking system revenues. All the bonds will be secured by full faith and credit guarantees of the City of Paterson.

Recent legislation was enacted (P.L. 2024, c.71) amending P.L.2009, c.90 and P.L. 2022, c.75 allowing the Authority to modify the terms of approval to include an increase in the award amount through the inclusion of the funding of a debt service reserve fund which was previously excluded as an eligible project cost, and extending the requirement for submission of a temporary certificate of occupancy from June 30, 2026 to June 30, 2028. In October 2024 the PPA filed a modification application with the Authority requesting an increase to the ERG Tax Credit award from \$40,007,369 to \$45,300,000 pursuant to P.L. 2024, c.71. which amended the defined term Project Cost to include: "*...costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third*

parties, which for purposes of this definition shall be deemed to be costs directly related to construction, the funding of a debt service reserve fund, and the cost of infrastructure improvements, including ancillary infrastructure projects, and an amount not to exceed 20 percent of the total project cost for costs not directly related to construction...”. This change in legislation allowed for an increased award amount as the funding of a debt service reserve fund was previously excluded as an eligible project cost.

The current timeline for the project calls for a construction period of 20 months. Commencement of construction is anticipated in March 2025 with completion, including the issuance of a Temporary Certificate of Occupancy, by November 2026. This is consistent with the Mixed-Use Parking requirement for a Temporary Certificate of Occupancy submission date by June 30, 2028 based upon P.L. 2024, c.71. Selection of contractor is expected to be completed by February 2025. The issuance of bond offering prospectus and sale of bonds are deliverables that are currently in process and expected to be completed by March 2025. 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 \$0.925 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 Jersey’s 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, First Modification in April 2022 and Second Modification in April 2024 were:

Uses	Original Approval		First Modification		Second Modification	
	Total Development Costs	Mixed Use Parking ERG Eligible Costs	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	\$ -	\$ 3,950,000	\$ 3,950,000
Hard Construction Costs	25,273,448	25,273,448	27,140,000	25,140,000	\$ 26,787,000	\$ 26,116,274
Professional Services	2,125,000	2,125,000	1,875,263	1,875,263	\$ 4,553,699	\$ 3,144,463
Other Soft and Financing Costs	3,296,713	2,404,112	5,842,832	4,739,908	\$ 40,227,933	\$ 4,794,939
Contingency	1,000,000	1,000,000	1,309,850	1,309,850	\$ 2,258,700	\$ 2,258,700
TOTAL USES	\$ 43,825,161	\$ 30,802,560	\$ 42,717,945	\$ 33,065,021	\$ 77,777,332	\$ 40,264,376

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	\$ 33,615,662	\$ 32,944,936
Professional Services	\$ 4,831,491	\$ 3,422,255
Other Soft and Financing Costs	\$ 38,632,995	\$ 10,130,645
Contingency	\$ 610,342	\$ 610,342
TOTAL USES	\$ 81,640,490	\$ 51,058,178

- 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 \$28.4 million in permanent financing interest and \$5.0 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 \$5.7 million.
- Hard construction costs increased primarily due to an increase in new building construction costs to \$30.1 million.

The change in the amount of project costs from the time of the original board approval in December 2018 and first and second Modifications in April 2022 and April 2024 reflect increased costs of construction materials and labor associated with the COVID-19 Pandemic as well as passage of time. The current project remains the same as the project approved in April 2024 and is a six-story, parking garage with 750 spaces. ERG eligible project costs exclude ineligible costs aggregating \$30.6 million, including \$28.4 million in permanent financing interest, and \$2.2 million in costs incurred prior to application. 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 \$51,058,178 which includes \$537,454 representing the de minimis costs for the retail portion. Eligible parking costs are estimated at \$50,520,724 under the Mixed-Use Parking ERG program. PPA is eligible for an award of up to \$50,735,706 in tax credits representing 100% of actual eligible Parking costs and 40% of eligible non-parking costs. The total maximum award allocation for this project is \$45,300,000.

Pursuant to the definition of “Project cost” at N.J.S.A. 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”*. In April 2024, the Chief Executive Officer of the Authority approved the inclusion of such costs which will assist in the reduction of traffic congestion in the City caused by excessive parking on the streets and support PPA’s 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:

<i>Sources of Financing</i>	<i>Amount</i>
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:

<i>Sources of Financing</i>	<i>Amount</i>
Gap Bonds (\$15,300,000 plus \$565,207 original issue premium)	\$ 15,865,207
ERG Bonds (\$30,750,000 plus \$722,933 original issue premium)	31,472,933
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	18,271,675
Sale of Tax Credits to Pay ERG Bond Interest	10,080,675
Total	\$ 81,640,490

The costs of the demolition of the existing garage are 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 \$57.3 million issued in two series: A) Gap Bonds of \$15.9 million and B) ERG Tax Credit Bonds of \$31.5 million. Maturities will be 30 years and 12 years, respectively with anticipated average coupons of 5.5% for both bond issues.

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 \$18.3 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 at 29.7%.

Original Gap Analysis at time of approval December 11, 2018

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 N/A	Equity IRR 2.63%

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 \$31.5 million in funds necessary to construct the new garage. With the benefit of the ERG, the Equity IRR is 2.63% 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 an amended approval letter to the Applicant.

An increase in the award amount from \$40,007,369 to \$45,300,000 pursuant to, P.L. 2024, c.71 which amended P.L. 2009, c.90 and P.L. 2022, c.75 by including the funding of a debt service reserve fund as an eligible project cost is recommended. 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 the maximum allocation amount of \$45,300,000. Total Estimated Eligible Project Costs: \$51,058,178.

An extension of PPA's Conditions to Maintain Approval due date from November 30, 2024 to December 31, 2025, 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 October 29, 2024 is recommended.

Extending the requirement for submission of a temporary certificate of occupancy from June 30, 2026 to June 30, 2028 pursuant to, P.L. 2024, c.71 which amended P.L. 2009, c.90 and P.L. 2022, c.75 is recommended.

Issuance of the Mixed-Use Parking ERG tax credits is contingent upon the Applicant meeting the following conditions by December 31, 2025:

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, 2028); 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.



Tim Sullivan, CEO

Prepared by: Heather M. O'Connell

Attachments

Resolution of the New Jersey Economic Development Authority Regarding Approval of Parking Authority of the City of Paterson (“PPA”) – Modification Mixed-Use Parking Economic Redevelopment and Growth Grant Program

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

RE: Approval of Grant Agreement between the New Jersey Economic Development Authority and Focus NJ

Summary

As part of the State of New Jersey Fiscal Year (FY) 2024 Appropriations Act, the New Jersey Economic Development Authority (NJEDA) received a \$100,000 line item for the Focus NJ, Inc. (Focus NJ) Center for Economic Research and Workforce Solutions. This funding aims to provide Focus NJ with the financing necessary to procure a third-party consultant who will conduct a study on the economic impact of the Coronavirus (COVID-19) Pandemic on the New Jersey economy, specifically focusing on economic migration, commuter flows and the impact on downtowns, interstate tax revenues, and the impact of remote work on employment and statewide Gross Domestic Product (GDP), among others. In order to transfer funding from the NJEDA to Focus NJ, the Board is asked to approve a Grant Agreement in substantially final form between the Authority and Focus NJ, which will consist of a one (1) year term from the date of its execution with the option to extend for an additional six (6) months. No additional funding is available beyond the initial \$100,000 allocation.

As reflected in the Grant Agreement, the Board is asked to approve the transfer of \$95,000 to Focus New Jersey to support the creation of an economic impact study analyzing the effects of the Coronavirus Pandemic on the New Jersey economy. Additionally, members are requested to approve a onetime administrative fee of 5% of this appropriation, representing a total fee of \$5,000, to be retained by the NJEDA to assist with the administration of this funding to Focus NJ.

About Focus New Jersey

Focus NJ is an independent 501(c)3 nonprofit, nonpartisan research organization dedicated to delivering comprehensive economic and workforce analysis to support policy development and decision-making in New Jersey. Through in-depth studies and strategic insights, Focus NJ aims to provide a clearer understanding of the state's economic and labor market trends, challenges, and opportunities. The organization conducts rigorous research on topics such as employment trends, workforce development, industry-specific economic performance, and broader economic sustainability. Examples of their work include sector-specific studies, such as the performance and outlook of New Jersey's technology and manufacturing industries, as well as workforce initiatives addressing skill gaps and future labor demands. By offering data-driven insights, Focus NJ equips policymakers, businesses, and community leaders with the tools needed to foster a thriving, resilient state economy.

Plans for Funding

As per the terms and conditions of the Grant Agreement, the NJEDA will make \$95,000 of funding available to Focus NJ to procure a third-party consultant who will conduct a study on the economic impact of the Coronavirus Pandemic on the New Jersey economy, specifically focusing on economic migration, commuter flows and the impact on downtowns, interstate tax revenues, and the impact of remote work on employment and statewide Gross Domestic Product (GDP), among others. In addition to these items, the study must address the economic impact of coronavirus on downtowns, small business, and diverse communities, provide a comprehensive overview of American Rescue Plan programs brought forward by the Murphy Administration in response to COVID-19, and present forward looking recommendations for policy makers on programs and initiatives that continue to mitigate the economic impact of COVID-19 and future pandemics.

Upon transfer of funds, Focus NJ will release an RFP for proposals from third-party consultants capable of conducting the economic impact report described above. After a consultant is selected, the third-party entity will work with Focus NJ to create a written deliverable in the form of a final report, comprehensive slide deck, or data set that is then analyzed by the team at Focus NJ. Due to the estimated cost of the study, Focus NJ will receive payment after execution of the Grant Agreement, taking \$17,800 at execution of the Grant Agreement for staffing, marketing of the final report, and day-to-day contract administration, with the remaining funding to be provided on a reimbursement basis. As required in the Grant Agreement, Focus NJ will provide the NJEDA with formal contracting status updates, in writing, twice a year, and will provide Authority staff with a draft of the study prior to finalization in order to ensure consistency with the agreed upon scope of work.

Reporting

Per the Grant Agreement, Focus NJ will provide Authority staff formal written updates, twice a year, on the status of the contracted study, and estimated deadline for completion. Additionally, Focus NJ staff agrees to have virtual quarterly check-in meetings throughout the duration of the contract, and will provide NJEDA with quarterly draw down reports as funding is spent, a final draft(s) of the study with a comment and consultation period, and final product of all work conducted by Focus NJ and the third-party consultant. This documentation will ensure a positive partnership between both parties as well as compliance with the Grant Agreement.

Recommendation

Staff recommends that the Board (1) approve entering into the attached Grant Agreement with Focus NJ providing \$95,000 for the creation of a study analyzing the impact of the Coronavirus Pandemic on the New Jersey economy and (2) approve withholding a \$5,000 administrative fee to the NJEDA for the day-to-day administration of this agreement, in accordance with the appropriation.



Tim Sullivan, CEO

Prepared by:
E. Corrado, Chief of Staff

Attachments:
Grant Agreement between the NJEDA and Focus NJ, Inc. d/b/a Focus NJ.



GRANT AGREEMENT
BETWEEN
FOCUS NJ, INC.
AND
THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

This Grant Agreement (“Agreement”), entered into on _____, 2024, is between **FOCUS NJ, INC.**, a 501(c)(3) organization duly organized and existing under the laws of the State of New Jersey, having its principal offices at 10 W. Lafayette St., Trenton, NJ 08608 and doing business as “**FOCUS NJ**” (“FOCUS NJ” or “Grantee”), and the **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY** (the “NJEDA” or “Authority”), a body corporate and politic organized and existing under the authority of N.J.S.A. 34:1B-1 et seq., having principal offices at 36 West State Street, P.O. Box 990, Trenton, New Jersey 08625-0990 (each a “Party” and collectively “the Parties”).

WHEREAS, Focus NJ is an independent 501(c)3 nonprofit, nonpartisan research organization dedicated to delivering comprehensive economic and workforce analysis to support policy development and decision-making in New Jersey. Through in-depth studies and strategic insights, Focus NJ aims to provide a clearer understanding of the state’s economic and labor market trends, challenges, and opportunities. The organization conducts rigorous research on topics such as employment trends, workforce development, industry-specific economic performance, and broader economic sustainability. Examples of their work include sector-specific studies, such as the performance and outlook of New Jersey’s technology or manufacturing industries, as well as workforce initiatives addressing skill gaps and future labor demands. By offering data-driven insights, Focus NJ equips policymakers, businesses, and community leaders with the tools needed to foster a thriving, resilient state economy; and

WHEREAS, NJEDA is an independent State authority established pursuant to N.J.S.A.34:1B-1, et seq., in but not of the Department of Treasury, which serves as the State’s principal agency for driving economic growth; and

WHEREAS, on June 30, 2023, Governor Murphy signed into law the New Jersey Fiscal Year 2024 Appropriations Act, P.L.2023, c.74 (hereinafter the “FY 2024 Budget”) which appropriated \$100,000 to NJEDA for Focus NJ - Center for Economic Research and Workforce Solutions; and

WHEREAS, based upon the above-referenced appropriation, after deducting the NJEDA administration fee, Grantee may receive a grant up to \$95,000.00 (“Grant”) to fund the creation of study analyzing the economic impact of the Coronavirus Pandemic on the New Jersey economy; and

WHEREAS, the Parties wish to set forth their understandings with respect to this budget appropriation, how it may be used and other terms and conditions; and

WHEREAS, this Agreement would benefit the mission and goals of the Parties as well as the State of New Jersey; and

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions:**

- a. **“Study”** shall mean a written document analyzing the economic impact of the Coronavirus Pandemic on the New Jersey economy, specifically focusing on economic migration, commuter flows and the impact on downtowns, interstate tax revenues, and the impact of remote work on employment and statewide Gross Domestic Product (GDP), among others. The study must address:
 - i. Economic impact of coronavirus on downtowns, small business, and diverse communities.
 - ii. A comprehensive overview of American Rescue Plan programs brought forward by the Murphy Administration in response to COVID-19.
 - iii. Forward looking recommendations for policy makers on programs and initiatives that continue to mitigate the economic impact of COVID-19 and future pandemics.
 - b. **“Effective Date”** shall mean the date when this Agreement has been signed by all Parties.
 - c. **“Eligible Expenses”** shall mean costs of contract management with a third-party consultant, marketing of the final product, staffing support, and web hosting and software/administrative fees expended in connection with the Study.
 - d. **“Grant Award”** shall mean the Grant funds available to Grantee pursuant to Section 4A below.
 - e. **“Term”** shall have the meaning set forth in Section 2 below and shall include any approved Term Extension.
2. **Term:** The term of this Agreement shall begin on the Effective Date and continue for one (1) year. Grantor, in its sole discretion, may approve a six (6) month extension of the Term (“Term Extension”), provided that the Grantee makes an extension request in writing within forty-five (45) days prior to the expiration of the Term.
 3. **Conditions Precedent:** Prior to the Authority making any Grant Payments, the Grantee must supply the following, which shall be in form and content satisfactory to the Authority:
 - a. Executed Agreement;
 - b. Current New Jersey Business Tax Clearance Certificate listing the Authority as the agency for which the document is being issued (not more than 180 days old);
 - c. Resolution of the governing body of Grantee authorizing Grantee to enter into this Agreement and to accept Grant payments for the Study.
 4. **Grant:**
 - a. **Grant Award:** The grant award available to Grantee is up to a maximum amount of \$95,000.00 (“Grant Award”).
 - b. **Grant Use:** Grantee shall spend the entire Grant Award on Eligible Expenses by the expiration of the Term plus any approved Term Extension. The Authority reserves the right to seek recapture and/or reimbursement from the Grantee of all or part of the Grant should Grantee fail to disburse the entirety of the Grant by the expiration of the Term plus any approved Term Extension. Specifically, the Grantee will utilize funds for the creation of a Study focusing on the economic impact of the coronavirus pandemic on the New Jersey economy. The study must address:
 - i. Economic impact of coronavirus on downtowns, small business, and diverse communities.
 - ii. A comprehensive overview of American Rescue Plan programs brought forward by the Murphy Administration in response to COVID-19.

- iii. Forward looking recommendations for policy makers on programs and initiatives that continue to mitigate the economic impact of COVID-19 and future pandemics.
 - c. **Grant Payment:** The Authority shall provide Focus NJ with one disbursement upon Board Approval of the agreement.
 - d. **Grant Revocation:** Notwithstanding anything to the contrary herein, Grantee understands and acknowledges that the Authority shall be under no obligation to make any Grant payment if Grantee is in default under Section 11 (“Events of Default”) below.
- 5. **Reporting Requirements:** Grantee shall submit a Status Report to the NJEDA within sixty (60) days after the completion of the second Quarter (March 31, 2025) and fourth Quarter of Calendar Year 2025 (September 30, 2025). This report will demonstrate that Focus NJ is complying with this Grant Agreement and is responsibly operating the contract.
- 6. **Contract Description:** Under this agreement, Focus NJ will procure a third-party consultant who will conduct a study on the economic impact of the Coronavirus Pandemic on the New Jersey economy, specifically focusing on economic migration, commuter flows and the impact on downtowns, interstate tax revenues, and the impact of remote work on employment and statewide Gross Domestic Product (GDP), among others.
- 7. **Representations and Warranties of Grantee:**
Grantee represents and warrants that:
 - a. It is duly qualified to do business in the State of New Jersey;
 - b. It is and will remain throughout the Term, a duly organized, validly existing 501(c)(3) non-profit corporation, in good standing under the laws of the State of New Jersey, and governed by a non-compensated Board of Advisors, whose officers are selected from its member institutions;
 - c. It has the corporate power and authority and legal right to execute and perform its obligations under this Agreement, and has taken all necessary corporate action to authorize its execution and performance of obligations under this Agreement;
 - d. To the best of the Grantee’s knowledge, and upon due inquiry, there is no action or proceeding pending or threatened against the Grantee before any court or administrative agency that might adversely affect the ability of the Grantee to perform its obligations under this Agreement and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the performance of the Grantee’s obligations under this Agreement have been obtained and will be obtained whenever required hereunder or by law.
 - e. Neither the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by, or conflicts with or results in a breach of, the terms, conditions, or provisions of any state statute or regulation or any evidence of indebtedness, agreement, or instrument of whatever nature to which the Grantee is bound, or constitutes a default under any of the foregoing.
 - f. All statements, representations and warranties made by Grantee in its application to NJEDA, and in any materials furnished in support of that application were true

when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of this Agreement, it being understood by Grantee that all such statements, representations and warranties have been relied upon by the Authority as an inducement to make the Grant Award and shall continue to be relied upon by Grantor in administering the Grant Award. Grantee further understands and agrees that, if, during the term of this Agreement, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Authority in writing of such fact.

- g. The principal office of Grantee is located at 10 W. Lafayette St., Trenton, NJ 08608. Grantee shall maintain all books and records relating to the Study at 10 W. Lafayette St., Trenton, NJ 08608. The Grantee shall notify the Authority in writing prior to any change in the location of such books and records.
- h. Grantee has, at all times relevant to this Agreement, been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it acknowledges that it is informed by its advisors of its respective rights, duties, and obligations with respect to the transaction which is the subject of this Agreement under all applicable laws, and that it has no set-offs, defenses or counterclaims against the Authority with respect to the transaction which is the subject of this Agreement.
- i. If during the Term, the Grantee becomes aware of any facts, occurrences, information, statements, or events that render any of the representations or warranties herein untrue or materially misleading or incomplete, Grantee shall immediately notify the Authority in writing of such facts, occurrences, information, statements, or events.
- j. Grantee (1) is not in violation of any statute administered by the New Jersey Department of Labor and Workforce Development (“LWD”) or the New Jersey Department of Environmental Protection (“DEP”); (2) is not in violation of any rule or regulation issued by the LWD or DEP; and (3) does not have any unpaid fines or penalties or otherwise have any outstanding payment due to the LWD or DEP that is not subject to a payment plan approved by LWD or DEP.
- k. Grantee has not violated N.J.S.A. 52:13D-19, which forbids any “New Jersey State officer or employee” from entering into a contractual agreement with the State of New Jersey to execute any contract or agreement with a value of \$25 or more, made, entered into, awarded or granted by any New Jersey State agency. The term “New Jersey State officer or employee” includes that employee or officer’s partners, any other person undertaking or executing said agreement for the use or benefit of the employee or officer or on his or her account, and any corporation which that employee or officer controls or in which they own or control more than one (1) percent of the stock.
- l. Grantee acknowledges that pursuant to The New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12, et seq., State employees are prohibited from representing a party other than the State before any State agency; and representation includes a prohibition against making personal appearances before any State agency on behalf of a party other than the State, writing letters, sending emails, or making phone calls to any State agency on behalf of a third party, and includes a ban on signing any documents or applications submitted to any State agency on behalf of a party other than the State including, but not limited to, this Agreement.

- m. Grantee has paid any application fee, approval fee, or any other fee required by the Authority to be considered and/or approved for the Study.
- n. In compliance with N.J.S.A. 24:6I-49(b)(2), Grantee: (i) has neither applied for nor received from the New Jersey Cannabis Regulatory Commission (“NJ CRC”) either a license to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service or that employs a certified personal use cannabis handler to perform work for or on behalf of a cannabis establishment, distributor, or delivery service; or (ii) is not a private property owner, developer, or operator of a project to be used, in whole or in part, by or to benefit a cannabis cultivator, cannabis manufacturer, cannabis wholesales, cannabis distributor, cannabis retainer or cannabis delivery service, or to employ a certified personal use cannabis handler to perform work on behalf of a cannabis establishment, distributor, or delivery services pursuant to N.J.S.A. 24:6I-49(b)(2)(b).

Grantee acknowledges an on-going obligation to immediately report to the Authority any change to this representation and warranty.

Grantee acknowledges that the issuance of a license to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or the issuance of a certification to perform work for or on behalf of a cannabis establishment, distributor, or delivery service to a person or entity that has been awarded a State or local economic incentive shall invalidate the right of the Grantee to benefit from the economic incentive as of the date of issuance of the license or certification; and that the issuance of a license to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or issuance of a certification to perform work for or on behalf of a cannabis establishment, distributor, or delivery service at a location that is the subject of a State or local economic incentive shall invalidate the right of the non-governmental Grantee property owner, developer, or operator to benefit from the economic incentive as of the date of issuance of the license or certification.

The representations and warranties made in this Section 7 shall survive the expiration or termination of this Agreement.

8. Obligations of Grantee:

- a. Grantee shall always, during the Term, comply with the terms of this Agreement and satisfactorily follow the Agreement requirements.
- b. Grantee, upon finalization of a draft report, must provide the Authority with the draft for review, including a 30-day window for comments and consultations.
- c. To the extent that Grantee is permitted to and utilizes the services of any third parties to work on the Study, any contract entered into with third parties shall contain a provision that the third parties shall hold Grantee and the Authority harmless and defend and indemnify Grantee and the Authority from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the third parties’ performance or nonperformance of their duties and obligations under their contracts with the Grantee in support of this Agreement.

- d. Grantee has disclosed and shall continue to disclose any potential conflict of interest that exists between itself and any contracted third party or subcontractors of third parties that are engaged by Grantee to work on the Study. Grantee has disclosed and shall disclose any potential conflict of interest that exists between itself and the Authority and has disclosed and shall disclose any potential conflict of interest that exists between the Authority and any contracted third party or subcontractors of third parties that are engaged to work on the Study. The existence of actual conflicts of interest shall be determined by the Authority in its sole discretion. This obligation to disclose potential conflicts of interest shall continue throughout the Grant Term. The Authority reserves the right in its sole discretion to require the conflicted individual or individuals to be immediately removed from the Study and to suspend or cancel future Grant Payments or recapture all or a portion of the Grant Payments made.
 - e. If compliance is required with N.J.S.A. 52:32-60.1, et seq., which prevents the Authority from certain dealings with businesses engaged in prohibited activities in Belarus or Russia and requires the New Jersey Department of the Treasury (“Treasury”) to create a list of persons engaged in such prohibited activities, the Grantee agrees that by signing this Agreement that the Grantee may be required to certify that it is not engaged in prohibited activities and would not be identified on Treasury’s list of entities engaged in prohibited activities in Russia or Belarus (<https://www.nj.gov/treasury/administration/pdf/RussiaBelarusEntityList.pdf>), and that if this statement is willfully false, Grantee shall be subject to penalty.
9. **Publicity:** Grantee grants the Authority and the State of New Jersey the right to use Grantee’s name and logo: (a) in public communications announcing or reporting this Agreement; and (b) on the Authority’s and State’s website(s) in relation to Grantee’s participation in the Study. Grantee may only use the State’s or Authority’s names and logos in public communications announcing or reporting this Agreement or Grantee’s participation in this Study and on its website upon prior written consent of the Authority.
10. **Records, Access and Maintenance:** Grantee shall establish and maintain during the Term, and for five (5) years after the date of final Grant payment, documents related to the Agreement and such records as are required by the Authority herein, and all relevant supporting documentation. Records required by the Authority with respect to any questioned costs, litigation or dispute between the Authority and the Grantee arising out of this Agreement shall be maintained for the time needed to fully resolve any such issue. If for any reason the Authority shall require a review of the records related to the Study, the Grantee shall, at its own cost and expense, provide all such records to the Authority. Grantee shall maintain and organize its records related to this Agreement in such form so that, in case of a review of its records or audit, it is able to verify and document the use of the Grant Amount for the Study. Grantee agrees that its books and records related to this Agreement shall be subject to review and audit by the Authority, the Office of the State Comptroller, and any other agency or department of the State of New Jersey in relation to this transaction. The provisions of this Section 10 shall survive the expiration or termination of this Agreement.
11. **Events of Default:** Any one or more of the following shall constitute an event of default (“Event of Default”) if during the Term the default is not cured within thirty (30) business days after written notice of the default. Notwithstanding the foregoing, if the cure of such default requires more than thirty (30) business days after written notice as determined by the

Authority, and Grantee demonstrates it has promptly initiated reasonable steps to cure the default within the initial cure period, and is proceeding with due diligence and in good faith to cure the default, then the Authority may, at its sole discretion, extend the time necessary to cure such default by a reasonable period as determined by the Authority for Grantee to cure such default. If such default is not cured within the initial or extended cure period, the Authority may terminate this Agreement and avail itself of the remedies in Section 12 of this Agreement.

- a. If Grantee has breached or failed to perform in any material respect any term or condition of this Agreement.
- b. If any representation or warranty made by Grantee in any report, certificate, financial statement or other instrument furnished in connection with the subject matter of this Agreement is false or misleading in any material respect.
- c. If Grantee fails to timely submit the reports, documents, materials, and information required to be submitted pursuant to this Agreement.
- d. If the Authority has made a determination of debarment as to Grantee pursuant to its debarment/disqualification regulations set forth in N.J.A.C. 19:30-2.1 to -2.7, as amended from time to time.
- e. If Grantee has ceased to operate its business without prior written notice to the Authority.
- f. If Grantee sells, assigns or otherwise transfers its rights and obligations under the Agreement, without the prior written consent of the Authority.
- g. A declaration of default or an event of default under any existing assistance and any future assistance provided by the Authority and/or the State to the Grantee and/or any of its affiliates, including, but not limited to, entities that have common principals. For purposes of this cross-default, a principal of an entity shall be any executive officer, director, or general partner of the entity; any person or other entity directly or indirectly controlling the entity; or a person or other entity directly or indirectly owning or controlling ten (10) percent or more of the entity's ownership interest.

12. **Remedies Upon Default:** Upon the occurrence of any Event(s) of Default, the Authority may, in its sole discretion, invoke any of the following remedies, alone or in combination with others, after having first given Grantee notice and opportunity to cure the default in accordance with Section 11 above:

- a. withhold any future Grant payment under this Agreement;
- b. require Grantee to repay a portion or all of the Grant Award previously paid to Grantee under this Agreement;
- c. consider the Event of Default as a disqualification under the Agreement and other Authority programs in the future;
- d. terminate this Agreement; and
- e. take any and all actions available under applicable law or in equity necessary to enforce performance and observance of any obligation, warranty, agreement, or covenant of Grantee under this Agreement.

The Authority's rights under this Section 12 shall survive expiration or termination of the Agreement.

13. **Taxes and Other Charges:** During the Term, Grantee shall pay as the same become due, all taxes, assessments and governmental charges which may be required by law or contract to be paid by Grantee. Grantee may in good faith contest such taxes and governmental charges and such taxes and charges may remain unpaid during the period of such contest.
14. **Audits and Inspections:** At any time during normal business hours upon written notice and as often as the Authority may reasonably deem necessary, the Grantee shall make available to the Authority, for examination, and to appropriate State agencies or officials, all of its records with respect to matters related to this Agreement and shall permit the Authority to audit, examine and make excerpts or transcripts from such records. The Grantee shall maintain records to adequately verify all information required under this Agreement. The provisions of this Section 14 shall survive the expiration or termination of this Agreement.
15. **Assignment:** Grantee may not sell, assign, or otherwise transfer its rights and obligations under this Agreement without the Authority's prior written consent.
16. **Forbearance Not a Waiver:** No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations pursuant to this Agreement, either express or implied, shall be construed as a waiver by the Authority of any of its rights hereunder. In the event that any provision of this Agreement should be breached by Grantee and the breach may thereafter be waived by the Authority, such waiver shall be limited to the particular breach waived by Authority and shall not be deemed to waive any other breach.
17. **Indemnification:** Grantee covenants and agrees to indemnify and hold harmless the Authority, the State of New Jersey and their respective members, agents, officers, employees and servants from all losses, claims, damages, liabilities, and costs whatsoever (including all costs, expenses and reasonable counsel fees incurred in investigating and defending such losses and claims, etc.), brought by any person or entity, and caused by, related to, arising or purportedly arising out of, or from: (i) the condition, use, possession, conduct, management, construction, and financing of the Study; (ii) the performance by Grantee of its obligations under this Agreement; (iii) any loss, damage or injury to, or death of, any person occurring at or about, or resulting from, the operations of the Grantee under this agreement; and, (iv) any damage or injury to property of Grantee or to the agents, servants, employees of Grantee, caused by the negligence, gross negligence or willful misconduct of any person, except for: losses, claims, damages, liabilities and costs to the extent they arise from the gross negligence or willful misconduct of the Authority and its respective members, agents, officers, employees and servants. The provisions of this Section 17 shall survive expiration or termination of this Agreement.
18. **Compliance with Laws:** Grantee shall comply with all applicable federal, state and local laws and regulations.
19. **Licenses and Permits:** Grantee shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform its obligations under this Agreement. At the Authority's request, Grantee shall supply the Authority with evidence of all such licenses, permits, and authorizations for the Grantee and any third parties contracted by Grantee to work on the Study. All costs associated with any such licenses, permits and authorizations must be considered by the Grantee in its application.

20. **Applicability of Disqualification Regulations to Entities:** The Authority’s disqualification/ debarment regulations, which are set forth in N.J.A.C. 19:30-2.1 through 2.7, shall be applicable to Grantee and any entities with which Grantee merges, consolidates or combines. In the event that the Authority makes a determination to disqualify any such entity from participation in this Agreement based upon such regulations, then, notwithstanding anything contained in the Agreement to the contrary, no Grant payment will be made to Grantee.
21. **Open Public Records Act:** Grantee acknowledges that any information collected in the course of Grantee’s participation in this Agreement will be available, upon request, for public inspection. The Authority, as an instrumentality of the State of New Jersey, is subject to the “New Jersey Open Public Records Act,” N.J.S.A. 47:1A-1, et seq., as amended and including all applicable regulations, policies and case law, including New Jersey right-to-know common law.
22. **Governing Law:** This Agreement shall be governed by the laws of the State of New Jersey, without giving effect to its conflict of law principles.
23. **Forum and Venue:** The forum for any actions related to this Agreement shall be in a court of competent jurisdiction in the State of New Jersey and the venue shall be the County of Mercer.
24. **Severability:** If any provision of this Agreement is held to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions hereof, but such provision shall be fully severable, and this Agreement shall be construed and enforced as if the illegal or invalid provision had never been included. Notwithstanding the foregoing, if the Authority deems the invalidated provision essential to the accomplishment of the public purposes served by this Agreement, then the Authority may terminate this Agreement and all benefits provided to Grantee hereunder upon thirty (30) calendar days prior written notice.
25. **Notices:** All legal notices required by this Agreement shall be in writing and by courier or by registered or certified United States mail, return receipt requested, to the other Party’s address set forth below. The Parties will notify each other in writing of any designated contact change within ten (10) business days of such change:

THE AUTHORITY	FOCUS NJ
Name: Tim Sullivan Title: Chief Executive Officer Address: NJEDA 36 West State Street P.O. Box 990 Trenton, NJ 08625-0990	Name: Kyle Sullender Title: Executive Director Address: Focus NJ, 10 W. Lafayette Street, Trenton, NJ 08608 Email: ksullender@focusnj.org Phone Number: 609-858-9513

26. **Designation of Contacts:** The Parties have designated the following contacts, who will be responsible for day-to-day business communications between the Parties related to this

Agreement. The Parties will notify each other in writing of any designated contact change within ten (10) business days of such change:

THE AUTHORITY	FOCUS NJ
<p>Name: Emma Corrado Title: Chief of Staff Address: NJEDA 36 West State Street P.O. Box 990 Trenton, NJ 08625-0990 Email: Emma.Corrado@njeda.gov Cell: (609) 477-3929</p>	<p>Name: Kyle Sullender Title: Executive Director Address: Focus NJ, 10 W. Lafayette Street, Trenton, NJ 08608 Email: ksullender@focusnj.org Phone Number: 609-858-9513</p>

27. **Headings:** Section headings contained in this Agreement are inserted for convenience only and shall not define, limit, or otherwise affect the meaning of any provisions of this Agreement.
28. **Contractual Liability Act:** The rights and remedies of the Grantee under this Agreement shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 to 14-4.
29. **Tort Claims Act:** The rights and remedies of the Grantee under this Agreement shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 to 12-3.
30. **Counterparts:** This Agreement may be executed and signatures exchanged by facsimile or other electronic means and in any number of counterparts, each of which shall constitute an original, and all of which, when taken together shall constitute one document.
31. **Successors and Assigns:** This Agreement shall be binding upon the successors and assigns of the Parties.
32. **Third-Party Beneficiaries:** This Agreement has been entered into solely for the benefit of the parties, and there are no third-party beneficiaries, except as otherwise expressly provided in this Agreement.
33. **Electronic Signatures:** Electronic signature of this Agreement shall be deemed to be valid execution as though it was an original document signed with ink. The parties explicitly consent to the electronic delivery of this Agreement and affirm that their electronic signatures indicate a present intent to be bound by the terms of the Agreement.
34. **Personal Liability of Individual Representatives:** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, trustee, officer, agent or employee of any corporate Party in his or her individual capacity, and neither the officers of any Party nor any official executing this Agreement shall be personally liable with respect to this Agreement or be subject to any personal liability or accountability under this Agreement by reason of the execution and delivery of this Agreement.

35. **Limitation on Liability:** NJEDA shall not be responsible for special, indirect, incidental, consequential, punitive or other similar damages that any other Party may incur or experience in connection with this Agreement, however caused and under whatever theory of liability, even if NJEDA has been advised of the possibility of such damages.
36. **Insurance:** Grantee and any contractors or subcontractors hired to assist Grantee shall provide Workers' Compensation Insurance coverage, including Employer's Liability insurance, for their respective employees involved in the performance of Grantee's obligations under this Agreement. Grantee shall at all times during the Term carry general liability insurance coverage with insurance companies licensed to do business in New Jersey in such a manner and against such loss, damage and liability to third parties as is customary with companies in the same or similar business, and shall name NJEDA as an additional insured party under such policy.
37. **Order of Precedence:** In the event of a conflict between the terms of this Agreement and the terms in any attachment or document referenced in this Agreement, the terms of this Agreement shall control.
38. **Independent Contractor:** Nothing contained in this Agreement is intended to create or establish an employer/employee relationship between the Parties. Each party is an independent contractor in the performance of its obligations under this Agreement, and as such, is not responsible for wages, insurance or any other costs and expenses associated with the other party's employees, contractors and agents.
39. **Inducement; Entire Agreement; Modification:** Grantee has not been induced to enter into this Agreement by any representation or warranty that is not contained in this Agreement. This Agreement, its attachments, and any documents referred to herein constitute the entire agreement of the Parties relating to the Study, and it supersedes and overrides any and all prior agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Agreement. This Agreement may only be modified or amended by a writing executed by both Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY	FOCUS NJ
Name: Tim Sullivan	Name: Kyle Sullender
Title: Chief Executive Officer	Title: Executive Director
Signature:	Signature:
Date:	Date:

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of Grant Agreement
between the New Jersey Economic Development
Authority and Focus NJ

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: December 19, 2024

EXHIBIT

MEMORANDUM

To: Members of the Authority
From: Tim Sullivan, Chief Executive Officer
Date: December 19, 2024
Subject: FY 2025 Fiscal Plan

Enclosed for your review and consideration is the proposed NJEDA FY2025 Fiscal Plan. This Plan reflects the assumptions and projections provided by senior management and staff, with whom the Finance team has worked closely. We believe this Plan positions the Authority to continue to deliver on its mission as the State's primary driver of economic development through the creation and operation of new and existing programs, to carry out its responsibilities under the terms of State and Federal appropriations and to do so in an efficient and fiscally responsible manner. This Fiscal Plan aligns with and supports the Authority's recently revitalized Strategic Plan.

As in past years, underlying these goals are several key imperatives for the Authority: 1) to continue to support New Jersey businesses, particularly in underserved communities; 2) to grow New Jersey's economy, with a focus on increasing broad-based equity and creating a pilot, learn, scale culture, supported by bank-like operations; 3) to advance a financially sustainable business platform, optimizing for a balance of State economic activity and fiscal stability of the Authority; and 4) to support our effectiveness through enhanced resources, infrastructure, and compliance. These objectives are embedded in the Fiscal Plan's revenue and expense projections.

Since the onset of the COVID-19 pandemic, the Authority has been awarded significant funding in State and Federal appropriations that has fundamentally altered its revenue and cost structures: Cash balances have increased substantially, generating significant interest income; Administrative fees have been earned on those appropriations; and the NJEDA's core staffing levels has nearly doubled since 2020. As will be discussed further, the 2025 Plan reflects the reality of an expected reduction in these appropriations, with corresponding impacts on those revenues and the necessity for spending reductions and cost controls.

General

The proposed 2025 Plan reflects our continuing efforts to operate our core loan, real estate, grant, and tax incentive programs, which generate most of the Authority's Operating Revenues. The Plan also includes the integration of the Infrastructure Division into the Real Estate Division, reflecting the growing collaboration of these individuals on an increasing variety of capital projects. Accordingly, the Infrastructure team is now considered core NJEDA staff for purposes of these schedules, and their costs are included in Operating Expenses.

Revenues

Our Plan reflects an expected reduction in overall revenues (\$9.97 million/10.4%), primarily driven by a decrease in projected State and federal appropriations. These appropriations generate Administrative Fees for the Authority, which, while not considered revenue for external financial reporting purposes, are included for internal planning purposes. A tighter State budget is expected to result in a continued decline in appropriations, consistent with the trend since State Fiscal Year 2023. In addition to a projected reduction in the Administrative Fees earned, the lower cash balances from appropriations, combined with expected lower interest rates, are expected to result in reduced non-operating Interest Income, which is a key driver of the Authority's Income Statement. Overall, non-Operating revenues, comprising the Administrative Fees generated from appropriations and Interest Income, are projected to decline by \$9.3 million/14.6%.

With respect to Administrative Fees from State appropriations: Our 2025 Plan reflects a strategic deferral of \$6 million that was originally budgeted in the 2024 Plan to 2025 and later years. The original 2024 Plan allocated roughly \$19 million of Administrative Fees to 2024 alone. Management believes a deferral (for internal reporting purposes only) is appropriate to more accurately match the level of effort and expense associated with operating the programs funded by the appropriations. This has no impact on the Authority's external financial reporting as such Fees are not considered Revenues under Generally Accepted Accounting Principles (GAAP).

Operating Revenues are projected to remain relatively flat overall, with reductions in financing fees and lease revenue partially offset by Program Service revenues. The accompanying schedule provides a breakdown of the anticipated revenue changes by line item. Note that, consistent with the integration of the Infrastructure team as noted above, the 2025 Fiscal Plan includes additional Wind Port Administrative Fees that are offset by operating expenses.

Note that there is potential for "upside" to this Revenue forecast as the Authority may be able to realize income distributions from strategic investments. However, since these are impractical to forecast, they have been excluded from our Plan. In addition, if interest rate cuts are delayed, the Authority's interest income could be higher than projected in the Plan. The Finance team will continue to monitor the Fiscal Plan during 2025 with regular quarterly updates to spending plans and communications with Divisional leads.

Expenses

Given the projected reduction in Revenues as noted above, the Plan reduces anticipated Operating Expenses by \$2.8 million/3.2%. This primarily reflects anticipated targeted declines in program expenses, including for temporary staff and consulting contracts. In addition, while overall Personnel Costs show a very modest increase, this would have been significantly higher if not for Management's initiative to restrain core head count growth. Management has set a target for core NJEDA staff of 395 by the end of 2025, compared with roughly 400 at the end of

NJ EDA 2025 Fiscal Plan

2024, including the integration of the Infrastructure team as described above. This compares to a net increase of 50 staff in the current 2024 Plan.

In addition to Personnel Costs, General and Administrative (G&A) expenses include support for professional development and training, necessary software and technology, and strategic initiatives aimed at improved business operations. They also include costs incurred for rent, utilities, building maintenance and facility management. Overall, G&A expenses, excluding Personnel costs, are expected to decline by roughly \$403K/3.8%. With a moderate offsetting increase in Personnel Costs (\$762K/1.3%) due to projected staff promotions and salary increases of 3% expected to be implemented mid-year, overall G&A expenses increase slightly by \$359K/.5%.

Program Costs represent expenditures that align with specific programs, projects, and initiatives, e.g., asset management costs, consulting, and marketing/outreach. Overall, Program Costs are projected to decrease from expected 2024 levels by \$3.1 million/18.2%. This is due to targeted reductions in temporary staff, marketing expenses and consulting costs. Management believes that these will not have a material impact on the Authority's ability to meet its programmatic objectives. As noted above, incremental Program and Administrative costs of the Wind Port are offset by incremental Administrative Fees for the 2025 Fiscal Plan; there is therefore no net impact on the Authority's bottom-line Net Earnings.

Consistent with prior years, the Plan also includes cash transactional items that may or may not be reimbursable; do not represent costs and expenses related specifically to current year production; or may not be within the scope of the Authority's general activities. These items are presented *below* the Net Earnings line for informational purposes. Included here are the reimbursable personnel expenses related to the administration of The Fort Monmouth Economic Revitalization Authority (FMERA), the Commission on Science, Innovation and Technology (CSIT), the Wind Institute for Innovation and Training, the Maternal and Infant Health Innovation Authority (MIHIA) and the NJEDA Office of Recovery. The 2024 Plan reflected the costs that were projected for the New Jersey Wind Port. As noted above, with the integration of the Infrastructure and Real Estate teams, these costs and related reimbursements are now included in the Authority's Operating Earnings. Also reflected here are long-term projects such as information technology infrastructure investments and anticipated capital projects.

The 2025 Wind Port operating budget will be paid from existing New Jersey Wind Port development funds not otherwise Board-approved for specific allocations and shall not be paid from the \$265 million debt avoidance funds.

Net Earnings

Overall, due to the reduction in Revenues, the Authority's Net Earnings are projected at \$2.8 million in 2025 vs. roughly \$10 million in 2024. This does not include the impact of NJEDA's equity in its new subsidiary, the New Jersey Green Bank. As most of the Green Bank's activities will begin in 2025, we only display the projection in that year. *Net income projections for Green*

NJ EDA 2025 Fiscal Plan

Bank are preliminary at this time and are therefore not included in the core Net Earnings in the attached Plan.

Approval Request

The compilation of the 2025 Fiscal Plan has been a collaborative effort among program and fiscal staff and reflects the Authority's key strategic imperatives. It also reflects the key external factors expected to impact NJEDA's financial position and Management's efforts to address those factors. These strategic decisions are intended to ensure sustainability of our operations and finances.

At its meeting on December 2, 2024, the Plan was reviewed by the Audit Committee which concurred it is fiscally responsible and supports the Authority's mission; accordingly, the Board's approval is requested.



Tim Sullivan, CEO

Prepared by:

Morris J. Friedmann
Chief Financial Officer

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
2025 FISCAL PLAN**

	2024			2025 vs. 2024 Projection		
	2024 Plan	2024 Projected Actual	Actual Over/Under Plan	2025 Plan	\$	%
	Operating Revenues					
Financing Fees	\$ 10,375,000	\$ 7,322,650	\$ (3,052,350)	\$ 7,029,352	\$ (293,298)	-4.0%
Lease Revenue	9,700,000	9,700,000	-	9,383,000	(317,000)	-3.3%
Interest from Notes	3,250,000	3,695,195	445,195	3,917,851	222,657	6.0%
Agency Fees	631,000	631,000	-	631,000	-	0.0%
Program Services	7,313,000	8,397,614	1,084,614	8,131,988	(265,627)	-3.2%
Venture Fund Income	682,000	837,000	155,000	723,034	(113,966)	-13.6%
Real Estate Development Fees	900,000	900,000	-	1,025,000	125,000	13.9%
Other	100,000	100,000	-	100,000	-	0.0%
Total Operating Revenue	\$ 32,951,000	\$ 31,583,459	\$ (1,367,541)	\$ 30,941,225	\$ (642,234)	-2.0%
Non-Operating Revenues						
Interest from Cash Investments	\$ 31,300,000	\$ 42,773,333	\$ 11,473,333	\$ 38,962,563	\$ (3,810,770)	-8.9%
State Appropriation Admin Fees	19,631,000	12,787,250	(6,843,750)	\$ 6,347,500	(6,439,750)	-50.4%
Federal Appropriation Admin Fees/Reimbursements	5,669,700	4,980,195	(689,505)	4,404,392	(575,803)	-11.6%
RGGI Admin Fees	2,800,000	3,500,000	700,000	5,000,000	1,500,000	42.9%
Total Non-Operating Revenues	\$ 59,400,700	\$ 64,040,778	\$ 4,640,078	\$ 54,714,455	\$ (9,326,323)	-14.6%
Total Revenue	\$ 92,351,700	\$ 95,624,237	\$ 3,272,537	\$ 85,655,679	\$ (9,968,558)	-10.4%
Administrative Expenses						
Personnel and Benefits	\$ 55,211,618	\$ 57,666,009	\$ 2,454,390	\$ 58,428,563	\$ 762,555	1.3%
General and Administrative (Non Personnel)	\$ 11,213,000	\$ 10,666,371	\$ (546,629)	\$ 10,263,273	(403,098)	-3.8%
Total Administrative Expenses	\$ 66,424,618	\$ 68,332,379	\$ 1,907,761	\$ 68,691,836	\$ 359,456	0.5%
Program Costs	\$ 15,217,000	\$ 17,273,175	\$ 2,056,175	\$ 14,131,552	\$ (3,141,623)	-18.2%
Total Expenses and Costs	\$ 81,641,618	\$ 85,605,554	\$ 3,963,936	\$ 82,823,387	\$ (2,782,166)	-3.2%
Net Earnings	\$ 10,710,082	\$ 10,018,683	\$ (691,399)	\$ 2,832,292	\$ (7,186,391)	-71.7%
Green Bank Net Income			\$ -	\$ 3,580,788	\$ 3,580,788	NA
Net Earnings with Green Bank	\$ 10,710,082	\$ 10,018,683	\$ (691,399)	\$ 6,413,080	\$ (3,605,603)	-36.0%

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
2025 FISCAL PLAN**

	2024				2025 vs. 2024 Projection	
	2024 Plan	2024 Projected Actual	Actual Over/Under Plan	2025 Plan	\$	%
Cash Transactional Items						
Administrative Expenses						
<i>FMERA Personnel costs</i>	\$ 1,336,000	\$ 2,172,641	\$ 836,641	\$ 1,446,255	\$ (726,386)	-33.4%
<i>Less: FMERA reimbursements</i>	(1,336,000)	(2,172,641)	(836,641)	(1,446,255)	726,386	-33.4%
Net FMERA	\$ -	\$ -	\$ -	\$ -	\$ -	NA
Other Reimbursed Personnel Costs	\$ 5,089,000	\$ 4,041,893	\$ (1,047,107)	\$ 4,329,936	\$ 288,043	7.1%
Less: Other Personnel Cost Reimbursements	\$ (5,089,000)	\$ (4,041,893)	\$ 1,047,107	\$ (4,329,936)	\$ (288,043)	7.1%
Net Other Reimbursed Personnel Costs	\$ -	\$ -	\$ -	\$ -	\$ -	NA
Other Non Reimbursed Staffing Costs	\$ -	\$ 468,961	\$ 468,961	\$ 344,266	\$ (124,696)	-26.6%
Total Administrative Expenses	\$ -	\$ 468,961	\$ 468,961	\$ 344,266	\$ (124,696)	-26.6%
Program Costs						
<i>IT Costs</i>						
<i>Development Projects (incl Staffing)</i>	\$ 6,350,000	\$ 6,003,510	\$ (346,490)	\$ 4,302,476	\$ (1,701,034)	-28.3%
<i>Real Estate Investments</i>						
<i>North Brunswick Capital Plan</i>	\$ -	\$ -	\$ -	\$ 7,145,000	\$ 7,145,000	NA
Total Program Costs	\$ 6,350,000	\$ 6,003,510	\$ (346,490)	\$ 11,447,476	\$ 5,443,966	90.7%
Total Other Cash Transactional Items	\$ 6,350,000	\$ 6,472,471	\$ 122,471	\$ 11,791,742	\$ 5,319,271	82.2%

Notes

2024 reflects the cost of dedicated Green Bank employee and cost for staff assigned to Maternal and Infant Health Authority, as well as Governor's Office staff. EDA is not reimbursed for the cost of these employees. In 2025, the costs for Green Bank personnel are included in the projected Net Income for Green Bank shown above.

Other Reimbursed Personnel Costs and Reimbursements for staff at the Wind Institute, the Commission on Science, Innovation and Technology (CSIT), the Film Commission and the Office of Recovery. EDA anticipates full reimbursement for these costs from dedicated State and Federal appropriations. (The 2024 Plan reflects the costs of Wind Port staff whose costs and reimbursements are now reflected under Operating Revenues and Operating Expenses; this is the primary reason for the 2024 variance noted above.)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
2025 Fiscal Plan
Revenue Detail

2024

	Actual Over/Under Plan				2025 vs. 2024 Projection		
	2024 Projected		\$	%	2025 Plan	\$	%
	2024 Plan	Actual					
Operating Revenues							
Financing Fees							
Angel Tax Credit Approval Fee	\$ 200,000	\$ 400,000	\$ 200,000	100.0%	\$ 205,000	\$ (195,000)	-48.8%
Application Fees - total	1,890,000	2,153,100	263,100	13.9%	2,262,515	109,415	5.1%
Aspire Tax Credit Approval Fees	920,000	2,535,000	1,615,000	175.5%	1,600,000	(935,000)	-36.9%
Aspire Tax Credit Issuance Fees	2,425,000	-	(2,425,000)	-100.0%	589,000	589,000	NA
Bond Closing Fees - State	150,000	206,750	56,750	37.8%	250,000	43,250	20.9%
Commitment Fees-Credit	5,000	50,872	45,872	917.4%	50,000	(872)	-1.7%
Congestion Pricing approval fees	625,000	10,000	(615,000)	-98.4%	-	(10,000)	-100.0%
Loan Closing Fees-Credit	5,000	31,400	26,400	528.0%	50,000	18,600	59.2%
C-PACE issuance fees	460,000	40,000	(420,000)	-91.3%	-	(40,000)	-100.0%
Direct Loan Max	-	-	-	NA	5,000	5,000	NA
Direct Loan Max - Commitment Fee	-	-	-	NA	54,250	54,250	NA
Direct Loan Max - Closing Fee	-	-	-	NA	54,250	54,250	NA
Cannabis Loan for Manufacturers and Cultivators	-	-	-	NA	6,000	6,000	NA
Cannabis Loan - Commitment Fee	-	-	-	NA	20,000	20,000	NA
Cannabis Loan - Closing Fee	-	-	-	NA	20,000	20,000	NA
Film Studio Partners	100,000	100,000	-	0.0%	51,250	(48,750)	-48.8%
Film Tax Credit Approval Fees	150,000	-	(150,000)	-100.0%	-	-	NA
Film Tax Credit & Digital Media approval fees	225,000	314,700	89,700	39.9%	322,568	7,868	2.5%
Film Tax Credit & Digital Media issuance fees	300,000	307,500	7,500	2.5%	212,995	(94,505)	-30.7%
Grow NJ Issuance Fee	340,000	295,866	(44,134)	-13.0%	80,250	(215,616)	-72.9%
Historic Property Reinvest Approval Fee	42,000	14,000	(28,000)	-66.7%	113,000	99,000	707.1%
Historic Property Reinvest Agreement Fee	-	125,000	125,000	NA	89,000	(36,000)	-28.8%
Historic Property Reinvest Transfer Fees	-	-	-	NA	25,000	25,000	NA
Historic Property Modification Transfer Fees	-	-	-	NA	5,000	5,000	NA
Main Street MBL closing fees	200,000	4,800	(195,200)	-97.6%	400	(4,400)	-91.7%
Small Business Improvement Grant approval fees	80,000	67,900	(12,100)	-15.1%	70,000	2,100	3.1%
Small Business Lease Grant approval fees	20,000	21,700	1,700	8.5%	20,000	(1,700)	-7.8%
Atlantic City Revitalization Grant	5,000	10,000	5,000	100.0%	4,000	(6,000)	-60.0%
GRM Planning Grants & other planning grants	5,000	-	(5,000)	-100.0%	-	-	NA
Emerging Developers Grant	5,000	80,000	75,000	1500.0%	-	(80,000)	-100.0%
Main Street Acquisition Grant	-	-	-	NA	-	-	NA
Modification Fees	300,000	10,980	(289,020)	-96.3%	11,000	20	0.2%
NJ Emerge Tax Credit Approval Fees	75,000	165,000	90,000	120.0%	153,750	(11,250)	-6.8%
NJ Emerge Tax Credit Issuance Fees	200,000	-	(200,000)	-100.0%	-	-	NA
NOL/Tech Tax Cert Trsf Approval Fees	500,000	230,082	(269,918)	-54.0%	512,500	282,418	122.7%
Offshore Wind Approval Fees	450,000	-	(450,000)	-100.0%	-	-	NA
Offshore Wind Issuance Fees	450,000	-	(450,000)	-100.0%	-	-	NA
SSBCI - CEL's commitment fees	39,000	39,000	-	0.0%	53,813	14,813	38.0%
SSBCI - CEL's closing fees	39,000	39,000	-	0.0%	53,813	14,813	38.0%
Urban Investment Fund	10,000	10,000	-	0.0%	-	(10,000)	-100.0%
Brownfield Approval Fees	30,000	30,000	-	0.0%	35,000	5,000	16.7%
Property Acquisition Funds	30,000	30,000	-	0.0%	50,000	20,000	66.7%
Other	100,000	-	(100,000)	-100.0%	-	-	NA
Total Financing Fees	\$ 10,375,000	\$ 7,322,650	\$ (3,052,350)	-29.4%	\$ 7,029,352	\$ (293,298)	-4.0%

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
2025 Fiscal Plan
Revenue Detail

2024

	Actual Over/Under Plan				2025 vs. 2024 Projection		
	2024 Plan	2024 Projected Actual			2025 Plan		
			\$	%		\$	%
Lease Revenue							
NJBC	\$ 7,517,000	\$ 7,517,000	\$ -	0.0%	\$ 7,358,000	\$ (159,000)	-2.1%
NJBC Step-Out Labs	1,173,000	1,173,000	-	0.0%	1,225,000	52,000	4.4%
NJBC Incubator	998,000	998,000	-	0.0%	788,000	(210,000)	-21.0%
Camden Amphitheater Office	12,000	12,000	-	0.0%	12,000	-	0.0%
Total Lease Revenue	\$ 9,700,000	\$ 9,700,000	\$ -	0.0%	\$ 9,383,000	\$ (317,000)	-3.3%
Agency Fees							
CSIT - Clean Tech Seed Program	\$ 180,000	\$ 180,000	\$ -	0.0%	\$ 180,000	\$ -	0.0%
Historic Trust Fund	1,000	1,000	-	0.0%	1,000	-	0.0%
NJ Local Development Financing Fun	450,000	450,000	-	0.0%	450,000	-	0.0%
Total Agency Fees	\$ 631,000	\$ 631,000	\$ -	0.0%	\$ 631,000	\$ -	0.0%
Program Services							
BEIP Service Fees	\$ 982,000	\$ 758,255	\$ (223,745)	-22.8%	\$ 566,616	\$ (191,639)	-25.3%
BRRAG Service/Transfer Fees	46,000	-	(46,000)	-100.0%	46,395	46,395	NA
ERGG Service/Transfer Fees	305,000	327,500	22,500	7.4%	327,500	-	0.0%
Evergreen Auction Proceeds	300,000	300,000	-	0.0%	450,000	150,000	50.0%
Film Tax Credit Transfer Fees	20,000	153,000	133,000	665.0%	175,000	22,000	14.4%
Grow Service/Transfer Fees	3,555,000	3,632,439	77,439	2.2%	3,250,192	(382,247)	-10.5%
HUB Annual Review/Tax Transfer Fees	105,000	135,000	30,000	28.6%	90,000	(45,000)	-33.3%
Windport Administrative Fees	2,000,000	3,091,420	1,091,420	54.6%	3,226,285	134,865	4.4%
Total Program Services	\$ 7,313,000	\$ 8,397,614	\$ 1,084,614	14.8%	\$ 8,131,988	\$ (265,627)	-3.2%
Venture Fund							
Distributions/Warrants	\$ 682,000	\$ 837,000	\$ 155,000	22.7%	\$ 723,034	\$ (113,966)	-13.6%
Real Estate Development and Management Fees							
Development Fees							
Camden Parking Projects - Various	\$ 25,000	\$ 25,000	\$ -	0.0%	\$ 25,000	\$ -	0.0%
Total Development Fees	\$ 25,000	\$ 25,000	\$ -	0.0%	\$ 25,000	\$ -	0.0%
Management Fees							
Aquarium parking revenue	\$ 875,000	\$ 875,000	\$ -	0.0%	\$ 1,000,000	\$ 125,000	14.3%
Total Management Fees	\$ 875,000	\$ 875,000	\$ -	0.0%	\$ 1,000,000	\$ 125,000	14.3%
Total Real Estate Development and Management Fees	\$ 900,000	\$ 900,000	\$ -	0.0%	\$ 1,025,000	\$ 125,000	13.9%
Interest from Notes	\$ 3,250,000	\$ 3,695,195	\$ 445,195	13.7%	\$ 3,917,851	\$ 222,657	6.0%
Other, Including Late Fees	\$ 100,000	\$ 100,000	\$ -	0.0%	\$ 100,000	\$ -	0.0%
Grand Total Operating Revenues	\$ 32,951,000	\$ 31,583,459	\$ (1,367,541)	-4.2%	\$ 30,941,225	\$ (642,234)	-2.0%

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
2025 Fiscal Plan
Administrative Expenses

	2024 Approved Plan	2024 Projected Actual	Actual Over/Under Plan	% Variance	2025 Fiscal Plan	Variance to 2024	
						\$	%
SALARY EXPENSE	\$ 39,814,983	\$ 42,548,656	\$ 2,733,673	6.9%	\$ 43,499,601	\$ 950,945	2.23%
FRINGE BENEFITS							
Social Security	\$ 2,900,000	\$ 3,099,112	\$ 199,112	6.9%	\$ 3,168,376	\$ 69,264	2.23%
Pension Costs	5,222,000	5,222,000	-	0.0%	5,222,000	\$ -	0.00%
Non-health related Ins.	615,000	603,830	(11,170)	-1.8%	596,305	\$ (7,525)	-1.25%
Health Insurance	7,400,000	7,265,598	(134,402)	-1.8%	7,175,055	\$ (90,543)	-1.25%
Less: Employee Contribution	(2,150,000)	(2,457,579)	(307,579)	14.3%	(2,599,913)	\$ (142,334)	5.79%
Prescription Ins.	970,000	952,382	(17,618)	-1.8%	940,514	\$ (11,868)	-1.25%
Dental Care Ins.	360,000	353,462	(6,538)	-1.8%	349,057	\$ (4,405)	-1.25%
Vision Care	80,000	78,547	(1,453)	-1.8%	77,568	\$ (979)	-1.25%
TOTAL FRINGE BENEFITS	\$ 15,397,000	\$ 15,117,352	\$ (279,648)	-1.8%	\$ 14,928,962	\$ (188,390)	-1.25%
TOTAL SALARY AND FRINGE	\$ 55,211,983	\$ 57,666,009	\$ 2,454,026	4.4%	\$ 58,428,563	\$ 762,555	1.32%
Total Salaried Employees	400	400	-	0.0%	395	-5	-1.25%
FRINGE BENEFITS	2024 Plan	2024 Projection					
Social Security	7.28%	7.28%					
Pension Costs	13.12%	13.12%					
Non-health related Ins.	1.54%	1.52%					
Health Insurance	18.59%	18.25%					
Less: Employee Contribution	-5.40%	-6.17%					
Prescription Ins.	2.44%	2.39%					
Dental Care Ins.	0.90%	0.89%					
Vision Care	0.20%	0.20%					
TOTAL FRINGE BENEFITS	38.67%	37.47%					

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

2025 Fiscal Plan

Administrative Expenses

	2024 Approved Plan	2024 Projected Actual	Over/Under Plan	% Variance	2025 Fiscal Plan	Variance to 2024 Projected Actual		
						\$	%	
PERSONNEL RELATED								
Part-time Employees	\$ 712,000	\$ 935,372	\$ 223,372	31.4%	\$ 598,718	\$ (336,654)	-36.0%	
Temporary Agencies	500,000	1,594,805	1,094,805	219.0%	797,402	(797,402)	-50.0%	
Publications & Subscriptions	14,000	8,681	(5,320)	-38.0%	14,322	5,642	65.0%	
Automobile	65,000	76,773	11,773	18.1%	5,000	(71,773)	-93.5%	
Local Travel & Meetings	130,000	208,218	78,218	60.2%	161,790	(46,428)	-22.3%	
Conference	100,000	129,235	29,235	29.2%	102,300	(26,935)	-20.8%	
Professional Training/Development	367,000	567,000	200,000	54.5%	467,000	(100,000)	-17.6%	
TOTAL PERSONNEL RELATED	\$ 1,888,000	\$ 3,520,084	\$ 1,632,084	86.4%	\$ 2,146,533	\$ (1,373,551)	-39.0%	
CONTRACT SERVICES								
Financial Audit & Actuarial Services	\$ 150,000	\$ 150,000	\$ -	0.0%	\$ 153,450	\$ 3,450	2.3%	
HR Consultation								
Strategic Initiatives/Business Operations <i>(Consulting costs moved to Program Expense; includes ADP and FSA Provider)</i>	2,639,000	184,323	(2,454,678)	-93.0%	445,391	261,069	141.6%	
GAU/OAL Assessments	55,000	67,816	12,816	23.3%	54,000	(13,816)	-20.4%	
TOTAL CONTRACT SERVICES	\$ 2,844,000	\$ 402,139	\$ (2,441,862)	-85.9%	\$ 652,841	\$ 250,703	62.3%	
INFORMATION SYSTEMS								
System Maintenance	\$ 565,000	\$ 568,148	\$ 3,148	0.6%	\$ 582,352	\$ 14,204	2.5%	
System Software	1,475,000	1,800,000	325,000	22.0%	1,890,000	90,000	5.0%	
System Hardware	475,000	475,000	-	0.0%	489,250	14,250	3.0%	
Online Subscriptions	100,000	100,000	-	0.0%	102,500	2,500	2.5%	
Communications	525,000	525,000	-	0.0%	538,125	13,125	2.5%	
External Services Providers	155,000	-	(155,000)	-100.0%	-	-	NA	
TOTAL INFORMATION SYSTEMS	\$ 3,295,000	\$ 3,468,148	\$ 173,148	5.3%	\$ 3,602,227	\$ 134,079	3.9%	
OFFICE OPERATIONS								
Utilities	\$ 285,000	\$ 285,000	\$ -	0.0%	\$ 354,000	\$ 69,000	24.2%	
Postage & Delivery	29,000	29,000	-	0.0%	30,000	1,000	3.4%	
Rent	828,000	812,000	(16,000)	-1.9%	1,013,000	201,000	24.8%	
Insurance-liability & property	465,000	465,000	-	0.0%	610,440	145,440	31.3%	
Equipment Maintenance	25,000	25,000	-	0.0%	25,000	-	0.0%	
Furniture/Equipment lease/purchase	100,000	75,000	(25,000)	-25.0%	118,000	43,000	57.3%	
Stationary & Supplies	54,000	54,000	-	0.0%	55,242	1,242	2.3%	
TOTAL OFFICE OPERATIONS	\$ 1,786,000	\$ 1,745,000	\$ (41,000)	-2.3%	\$ 2,205,682	\$ 460,682	26.4%	
BUILDING MANAGEMENT								
Facility Management	\$ 208,000	\$ 208,000	\$ -	0.0%	\$ 221,000	\$ 13,000	6.3%	
Buiding Security Guard	139,000	139,000	-	0.0%	131,000	(8,000)	-5.8%	
Janitorial	171,000	171,000	-	0.0%	182,000	11,000	6.4%	
Taxes/PILOT	77,000	77,000	-	0.0%	79,000	2,000	2.6%	
Grounds	60,000	60,000	-	0.0%	60,000	-	0.0%	
Parking Lot	310,000	310,000	-	0.0%	414,000	104,000	33.5%	
Mechanical Maintenance	295,000	295,000	-	0.0%	295,000	-	0.0%	
TOTAL BUILDING MANAGEMENT	\$ 1,260,000	\$ 1,260,000	\$ -	0.0%	\$ 1,382,000	\$ 122,000	9.7%	
GENERAL	\$ 140,000	\$ 271,000	\$ 131,000	93.6%	\$ 273,990	\$ 2,990	1.1%	
TOTAL GEN'L & ADMIN. EXPENSE	\$ 11,213,000	\$ 10,666,371	\$ (546,629)	-4.9%	\$ 10,263,273	\$ (403,098)	-3.8%	
TOTAL ADMINISTRATIVE (Excl FM/OR)	\$ 66,424,983	\$ 68,332,379	\$ 1,907,397	2.9%	\$ 68,691,836	\$ 359,456	0.5%	

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

2025 Fiscal Plan

Program Cost Detail

	2024 Plan	2024 Projected Actual	Actual Over/Under Plan	% Variance	2025 Plan	2025 Plan vs. 2024 Projected Variance	
						\$	%
Asset Management	\$ 4,979,000	\$ 4,979,000	\$ -	0.0%	\$ 5,375,000	\$ 396,000	8.0%
Outreach	\$ 1,680,000	\$ 2,255,000	\$ 575,000	34.2%	\$ 1,752,500	\$ (502,500)	-22.3%
Consultation/Legal	\$ 5,353,000	\$ 6,499,184	\$ 1,146,184	21.4%	\$ 4,138,755	\$ (2,360,429)	-36.3%
Services	\$ 692,000	\$ 693,000	\$ 1,000	0.1%	\$ 1,138,291	\$ 445,291	64.3%
Insurance	\$ 308,000	\$ 308,000	\$ -	0.0%	\$ 321,000	\$ 13,000	4.2%
Other Program-Specific Costs*	\$ 2,205,000	\$ 2,538,991	\$ 333,991	15.1%	\$ 1,406,006	\$ (1,132,985)	-44.6%
Total Program Costs	\$ 15,217,000	\$ 17,273,175	\$ 2,056,175	13.5%	\$ 14,131,552	\$ (3,141,623)	-18.2%

*Program-Specific Costs include: program related travel & meeting expense; program-specific staff training; temporary agencies to accommodate the timing of certain program initiatives; and other small business support.

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of the NJEDA 2025
Fiscal Plan

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: Proposed Amendments to Authority’s Disqualification and Debarment Rules and Proposed New Suspension Rules

Request:

The Members are requested to approve the attached proposed amendments to the New Jersey Economic Development Authority’s (“NJEDA” or “Authority”) existing Disqualification and Debarment rules, which, among other things, incorporates provisions related to suspension from Executive Order 34 (Byrne 1976), and authorize staff to (a) submit for publication in the New Jersey Register and (b) submit as final adopted rules for publication in the New Jersey Register if no substantive comments are received, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law.

Background:

The Authority’s existing Disqualification and Debarment Rules, which are set forth in N.J.A.C. 19:30-2, et seq., were promulgated in accordance with Executive Order 34 (Byrne 1976) (“EO34”) and Executive Order 189 (Kean 1988) (“EO189”). These laws are intended to protect NJEDA by ensuring that applicants for financial assistance and vendors seeking to contract with NJEDA demonstrate and maintain the highest standards of responsibility and moral integrity. The rules were last updated in 2010. The proposed draft amendments update the rules consistent with current Authority policies and procedures. Further, the Executive Orders require that the Authority also include rule provisions related to suspension. The draft rule provisions related to suspension are proposed to codify the Authority’s current suspension procedure in accordance with the Executive Orders.

Summary:

The Authority has strengthened its legal review procedure for applicants and is proposing these rule amendments to conform with current policies and procedures. The proposed amendments to the Authority’s Disqualification and Debarment Rules provide an updated framework for potential

disqualification and debarment, and codify the process for suspension of applicants for Authority financial assistance and vendors seeking to contract with the Authority.

Proposed Disqualification And Debarment Rules Amendments:

The Authority has strengthened its due diligence and legal review procedure and, in doing so, identified other potentially relevant conduct that may lead to disqualification and debarment. The proposed amendments include codifying that fraud and intentional misrepresentation of material information or intentional failure to disclose material information are potential grounds for debarment or disqualification, among other things.

Other proposed amendments related to disqualification and debarment include, but are not limited to:

- Defining or clarifying the following terms: “affiliates,” “Authority contracting,” “Authority financial assistance,” “debarment,” “disqualification,” “person” and “suspension.”
- Clarifying language related to the conditions required to establish a cause of action for debarment or disqualification consistent with current Authority policies and procedures.
- Clarify the process for disqualification and debarment consistent with current Authority policies and procedures. Specifically, this codifies that the decision to proceed with disqualification or debarment shall be made by the members of the Authority Board in an open public meeting and provides information on the required notice to the party as well as the hearing procedure.

Proposed New Suspension Provisions:

The proposed new suspension provisions codify the Authority’s current policies and procedures related to suspension. New N.J.A.C. 19:30-2.5 is proposed to codify the conditions the Authority must meet to suspend an applicant for Authority financial assistance or an Authority contractor consistent with the aforementioned Executive Orders.

Other proposed amendments related to suspension include, but are not limited to:

- New N.J.A.C. 19:30-2.6, which codifies the procedural steps the Authority shall take when suspending an applicant or contractor.
- Clarifying which provisions relate to suspension, in addition to disqualification and debarment.
- New N.J.A.C. 19:30-2.9, which codifies language from EO34 and states that the exclusion of a person by virtue of debarment, disqualification, or suspension shall extend to all agreements, contracts, and subcontracts within the Authority’s control or jurisdiction, and that an exception from total exclusion may be made when essential to the public interest and upon filing of a finding thereof with the Attorney General.

Compliance with Executive Order 63/Stakeholder Engagement:

Draft rule amendments were posted on the Authority's website for EO63 informal public comment. A media advisory was also released. No comments were received.

Recommendation:

The Members are requested to approve the attached proposed amendments to the existing Disqualification and Debarment rules and the proposed new rules related to suspension and authorize staff to (a) submit for publication in the New Jersey Register and (b) submit as final adopted rules for publication in the New Jersey Register if no substantive comments are received, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law



Tim Sullivan, CEO

Prepared by: Monica R. Kostrzewa

Exhibit A – Proposed Disqualification, Debarment Amendments and Proposed New Suspension Rules

GRO DRAFT

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Authority Assistance Programs

Administrative Rules; Disqualification, Debarment and Conflict of Interest Rules

Proposed Amendment: N.J.A.C. 19:30-2.1 through 2.7

Proposed New Rule: N.J.A.C. 19:30-2.8 through 2.10

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

Authority: Executive Order 34 (Byrne); Executive Order 189 (Kean)

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

Proposal Number: PRN 2024-000.

Submit written comments by XXXXXXXXXXXX, 2024, to:

Alyson Jones, Director of Legislative and 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 (“NJEDA” or “Authority”) is proposing amendments to its existing debarment and disqualification rules at N.J.A.C. 19:30-2 et seq, and proposing new rules relating to the suspension of applicants for Authority financial assistance and Authority contractors. The draft new rules related to suspension are proposed to codify the Authority’s current suspension procedure in accordance with Executive Order 34 (Byrne) and Executive Order 189 (Kean). The draft amendments to the existing debarment and disqualification rules are proposed to update the rules consistent with current Authority policies and procedures, which follow the aforementioned Executive Orders. These debarment and disqualification rules were last updated in 2010.

N.J.A.C. 19:30-2.1, “Definitions”, is proposed for amendment to define or clarify the following notable definitions: “affiliates”; “Authority”; “Authority contracting”; “Authority financial assistance”; “Board” or “Authority Board”; “debarment”; “disqualification”; “person” and “suspension”.

N.J.A.C. 19:30-2.2 is proposed for amendment to clarify the causes and conduct which may lead to disqualification or debarment of applicants for Authority financial assistance and Authority contractors for consistency with current Authority practices and procedures. Notably, this rule amendment proposes to codify that intentional misrepresentation of material information or intentional failure to disclose material information, offenses related to fraud, and violations of the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, et seq are potential grounds for debarment or disqualification. Additionally, several grammatical, syntax, and citation corrections are proposed.

N.J.A.C. 19:30-2.3 is proposed for amendment to add clarifying language regarding the conditions required to establish a cause of action for debarment or disqualification consistent with current Authority policies and procedures. Notably, this rule amendment proposes to codify that the existence of cause warranting debarment or disqualification may be established upon the concession of the existence of such cause in a settlement agreement, consent decree, deferred prosecution agreement, or other similar agreement. The rule amendment proposes to additionally clarify that a disqualification or debarment remain in effect during the pendency of any appeal, absence any such reversal or other relevant court order. Additionally, several grammatical and syntax corrections are proposed.

N.J.A.C. 19:30-2.4 is proposed for amendment to clarify the procedural steps the Authority shall take when proposing to debar or disqualify an applicant for Authority financial assistance or Authority contractor consistent with current Authority policies and procedures. This amendment is proposed to codify that the decision to proceed with disqualification or debarment shall be made in accordance with the Open Public Meetings Act, the requirements of the written notice provided to an applicant or contractor informing of the decision to disqualify or debar, and clarifies the hearing procedure following the Authority's decision to either debar or disqualify. Additionally, sections (f) and (g) are proposed to be moved to N.J.A.C. 19:30-2.7 and several grammatical and syntax corrections are proposed.

New N.J.A.C. 19:30-2.5 is proposed to codify the conditions the Authority must meet to suspend an applicant for Authority financial assistance or an Authority contractor consistent with the aforementioned Executive Orders. Notably, these amendments codify that suspension shall only be imposed upon approval of the Authority's Board and the Attorney General, as well as the evidentiary burden of proof required to demonstrate cause that suspension is warranted.

New N.J.A.C. 19:30-2.6 is proposed to codify the procedural steps the Authority shall take when suspending an applicant for Authority financial assistance or an Authority contractor consistent with the aforementioned Executive Orders, including that any decision to suspend shall be made in accordance with the Open Public Meetings Act and with approval of the Attorney General, the requirements for the written notice provided to an applicant or contractor informing of the decision to suspend, and that a suspension shall not continue beyond 18 months unless civil or criminal action regarding the alleged violation has been initiated or debarment/disqualification action has been initiated.

The current N.J.A.C. 19:30-2.7 is proposed for deletion. The new proposed N.J.A.C. 19:30-2.7 ("Affiliates") incorporates the language currently at N.J.A.C. 19:30-2.4(f) and (g)

regarding affiliates. Additionally, new language is proposed to clarify that this section also applies to suspension in addition to debarment and disqualification, consistent with the aforementioned Executive Orders, as well as corrections for grammar and syntax.

New N.J.A.C. 19:30-2.8 is proposed with the language currently at N.J.A.C. 19:30-2.5 with clarification that this section also applies to disqualification and suspension, in addition to debarment, consistent with the aforementioned Executive Orders. Several grammatical and syntax corrections are also proposed.

New N.J.A.C. 19:30-2.9 is proposed to codify language from Executive Order 34 (Byrne), which states that the exclusion of a person by virtue of debarment, disqualification, or suspension shall extend to all agreements, contracts, and subcontracts within the Authority's control or jurisdiction, and that an exception from total exclusion may be made when essential to the public interest and upon filing of a finding thereof with the Attorney General.

New N.J.A.C. 19:30-2.10 is proposed with the language currently at N.J.A.C. 19:30-2.6 with clarification that this section also applies to suspension in addition to debarment and disqualification to be consistent with the aforementioned Executive Orders. Amendments for grammar and syntax corrections are also proposed.

Social Impact

Executive Order 34 (Byrne) and Executive Order 189 (Kean) provides that the Authority shall adopt rules and regulations governing the causes, conditions and procedures applicable to determinations of debarment, disqualification and suspension by the Authority. The Authority anticipates that the proposed new rules and amendments to its existing debarment, disqualification, and suspension will have a positive social impact by updating these rules consistent with Executive Order 34 (Byrne) and Executive Order 189 (Kean) and to be aligned with current Authority policies and procedures pertaining to debarment, disqualification, and suspension.

Economic Impact

The Authority anticipates that the proposed new rules and amendments to its Debarment, Disqualification, and Suspension rules will have a positive economic impact by providing clarity to applicants for Authority financial assistance and Authority contractors as to the grounds for debarment, disqualification, and suspension from participation in Authority projects consistent with existing law and current Authority policies and procedures.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal requirements or standards. Accordingly, no further analysis is required.

Jobs Impact

The Authority anticipates that the proposed new and amended Debarment, Disqualification, and Suspension rules will not have a direct impact on the generation or loss of jobs.

Agriculture Industry Impact

An agricultural industry analysis is not required because the proposed new rules and amendments are not related to any specific industry. Accordingly, no further analysis is required.

Regulatory Flexibility Analysis

The proposed new rules and amendments will not impose new reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The proposed amendments will not have an impact on the average costs associated with housing or on the affordability of housing. Accordingly, no further analysis is required.

Smart Growth Development Impact Analysis

The proposed new rules and amendments will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. Accordingly, no further analysis is required.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed new rules and 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 proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 30. ADMINISTRATIVE RULES

SUBCHAPTER 2. DISQUALIFICATION, [/] DEBARMENT **AND** [CONFLICT OF INTEREST] **SUSPENSION**

19:30-2.1 Definitions

[(a)] For the purposes of this subchapter, the following words and terms shall have the following meanings.

"Affiliates" means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another. **When determining whether a person is an "Affiliate," the Authority may consider ownership, day-to-day control,**

voting rights, influence, membership in the board of directors, and responsibility over decisions.

“Authority” means the New Jersey Economic Development Authority established by N.J.S.A. 34:1B–4.

"Authority [project] contracting" means any arrangement giving rise to an obligation **to supply any thing to or to perform any service for the Authority, other than by virtue of employment with the Authority, including, but not limited to, performing construction work in connection with the construction of a project undertaken by the Authority or [financed with, and] paid for in whole or in part with Authority [assistance] funds, including but not limited to the service of architects, engineers, and professional planners.**

“Authority financial assistance” means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded in whole or in part, authorized, administered, or provided by the Authority to any person.

“Board” or “Authority Board” means the members of the Authority as set forth in N.J.S.A. 34:1B-4(b).

"Debarment" means an exclusion **for a reasonable period of time commensurate with the seriousness of the offense** from **Authority** contracting [with the Authority and exclusion from Authority project contracting] on the basis of a lack of responsibility evidenced by an offense or inadequacy of performance [for a reasonable period of time commensurate with the seriousness of the offense].

"Disqualification" means an exclusion **for a reasonable period of time commensurate with the seriousness of the offense** (1) from receiving Authority financial assistance, [or] (2) from being a tenant **of the Authority** [in an Authority-financed project or Authority-owned project], (3) **from supplying any thing to or performing any service for a private person or being a tenant of a private person in connection with Authority financial assistance and the Authority retains the right to approve or disapprove the nature or quality of the goods, service, or lease or the persons who may supply the goods, perform the service, or enter into the lease, or** (4) from otherwise receiving a benefit from a program administered by the Authority.

"Ethics Liaison Officer" means the Ethics Liaison Officer of the New Jersey Economic Development Authority.

“Person” means any natural person, company, firm, association, corporation, non-profit organization, or other entity.

“Suspension” means an exclusion for a temporary period of time, pending the completion of an investigation or legal proceedings, from any action excluded by debarment or disqualification.

19:30-2.2 Causes for disqualification/debarment [of persons]

(a) The Authority **Board** may [decline to give financial assistance, or approval as a tenant in any Authority-financed project or Authority-owned project, to] **disqualify or debar** any person [, or may debar a person from Authority project contracting] for any of the following causes:

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance or such contract or subcontract;
2. Violation of the Federal Organized Crime Control Act of 1970, **Pub. L. 91-452; the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, et seq;** or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty, **including but not limited to fraud;**
3. Violation of the Federal or State antitrust statutes, or of the Federal Anti-Kickback Act[; (], 18 U.S.C. 874[)];
4. Violation of any law governing the conduct of elections of the Federal Government, State of New Jersey, or of its political subdivisions;
5. Violation of the "Law Against Discrimination," [(P.L. 1945, c.169,) N.J.S.A. 10:5-1 et seq., [as supplemented by P.L. 1975, c.127),] or of the act banning discrimination in public works employment, [(N.J.S.A. 10:2-1 et seq.)], or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein [(c.114, L.1942), N.J.S.A. 10:1-10 et seq.);
6. Violation of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, or child labor;
7. Violation of any law governing the conduct of occupations or professions of regulated industries;
8. Violation of any law which may bear upon a lack of responsibility or moral integrity;
9. Any other cause of such serious and compelling nature as may be determined by the Authority to warrant disqualification [for assistance] or debarment, [from contracting with the Authority or from Authority project contracting] **including but not limited to, intentional misrepresentation of material information or intentional failure to disclose material information, including such conduct as may be prescribed by the laws or contracts enumerated in this section even if such conduct has not been or may not be prosecuted as violations of such laws or contracts;**
10. Debarment by any department, agency, or instrumentality of the State or Federal government;

11. Violation of any of the following prohibitions on vendor activities representing a conflict of interest, or failure to report a solicitation as set forth in (a)11ii below:

i. No person shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Authority officer or employee or special Authority officer or employee, as defined by N.J.S.A. 52:13D-13b and -13e, with which such person transacts or offers or proposes to transact business, or to any member of the immediate family as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

ii. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Authority officer or employee or special Authority officer or employee from any person shall be reported in writing by the person to the Attorney General and the Ethics Liaison Officer.

iii. No person may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such person to, any Authority officer or employee or special Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Authority, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this subsection shall be reported in writing to the Authority Ethics Liaison Officer and the State Ethics Commission, which may grant a waiver of this restriction upon application of the Authority officer or employee or special Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

iv. No person shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee or special Authority officer or employee in [his or her] **the individual's** official capacity in any manner which might tend to impair the objectivity or independence of judgment of the officer or employee.

v. No person shall cause or influence, or attempt to cause or influence, any Authority officer or employee or special Authority officer or employee to use, or attempt to use, [his or her] **the individual's** official position to secure unwarranted privileges or advantages for the person or any other person.

(b) The provisions in (a)11 above shall not be construed to prohibit an Authority officer or employee or special Authority officer or employee from receiving gifts from or contracting with persons under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the State Ethics Commission may promulgate, **including but not limited to the Uniform Code of Ethics as promulgated in accordance with the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq.**

19:30-2.3 Conditions affecting [the] disqualification/debarment [of a person(s)]

(a) The following conditions shall apply concerning disqualification/debarment:

1. The existence of any of the causes set forth in N.J.A.C. 19:30-2.2(a) shall not necessarily require that a person be disqualified/debarred. In each instance, the decision to disqualify/debar shall be made within the **sole** discretion of the Authority unless otherwise required by law, and shall be rendered in the best interests of the Authority **and the State**.
2. All mitigating factors shall be considered in determining the seriousness of the offense or inadequacy of performance, and in deciding whether disqualification/debarment is warranted.
3. The existence of a cause set forth in N.J.A.C. 19:30-2.2(a)1 through 8 shall be established upon the rendering of a final judgment, [or] conviction, **or decision** including a guilty plea or a plea of nolo contendere by a court of competent jurisdiction or by an administrative agency empowered to render such judgment, **conviction, or decision or upon the concession of the existence of such cause in a settlement agreement, consent decree, deferred prosecution agreement, or other similar agreement**. In the event an appeal taken from such judgment, [or] conviction, **or decision** results in reversal thereof, the disqualification/debarment shall be removed upon the request of the disqualified/debarred person unless other cause for disqualification/debarment exists. **Absent any such reversal or other relevant court order, the disqualification/debarment remains in effect during the pendency of any appeal.**
4. The existence of a cause set forth in N.J.A.C. 19:30-2.2(a)9 and 11 shall be established by evidence which the Authority determines to be clear and convincing in nature.
5. Debarment for the cause set forth in N.J.A.C. 19:30-2.2(a)10 shall be proper, provided that one of the causes set forth in N.J.A.C. 19:30-2.2(a)1 through 8 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

19:30-2.4 Procedures; period of disqualification/debarment

(a) [When the Authority seeks to disqualify/debar a person or his affiliates,] **The decision to proceed with a disqualification/debarment of a person(s) or their affiliate(s) shall be made by the Authority Board in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 to 21.**

(b) **Once the Authority has made a decision to proceed with disqualification/debarment**, the person(s) or [persons] **their affiliate(s)** shall be furnished with a written notice [stating that]:

1. [Disqualification/debarment is being considered] **Stating that the Authority has made the decision to proceed with disqualification/debarment of the person(s) or their affiliate(s);**
2. [The] **Setting forth the** reasons for the [proposed] disqualification/debarment; [and]
3. [An] **Indicating that the person(s) or their affiliate(s) will be accorded an** opportunity for a hearing [will be afforded to such person or persons] if the hearing is requested in writing and

the request is received by the Authority within seven days from the date of personal delivery or the date of receipt of the mailing of such disqualification/debarment notice; **and**

4. Stating that if the person(s) or their affiliate(s) does not request such hearing, the disqualification/debarment shall go into effect immediately upon the expiration of the time specified in paragraph 3. above.

(c) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, [(] N.J.S.A. 5[4]2:14B-1 et seq.[.)] Where any Federal or State department, agency or instrumentality has already imposed debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing, provided the Authority furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in [his] **the party's** behalf to explain why the proposed similar debarment should not be imposed in whole or in part. **For such hearing, the Chief Executive Officer may designate an employee of the Authority to serve as a hearing officer and to make a recommendation on the merits to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary. The Chief Executive Officer of the Authority may also include a recommendation to the Board with the written report of the hearing officer.**

(d) Disqualification/debarment shall be **for** a reasonable, definitely stated period of time which as a general rule shall not exceed five years. Disqualification/debarment for an additional period shall be permitted provided that notice thereof is furnished, and the party is afforded an opportunity to present information in [his] **the party's** behalf to explain why the additional period of disqualification/debarment should not be imposed.

(e) Except as otherwise provided by law, a disqualification/debarment may be removed or the period thereof may be reduced in the discretion of the Authority, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction, [or] judgment, **or decision**, actual change of ownership, management or control, or the elimination of the cause or causes for which the disqualification/debarment was imposed.

[(f) A disqualification/debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances.]

[(g) The offense or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.]

19:30-2.5 Conditions for suspension

(a) The Authority may suspend a person for any of the causes in N.J.A.C. 19:30-2.2. Suspension shall be imposed only upon approval of the Authority Board and the approval of the Attorney General, except as otherwise provided by law.

(b) The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the Authority Board and of the Attorney General and shall be rendered in the best interests of the Authority and the State.

(c) Suspension shall not be based upon unsupported accusation, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists.

(d) In assessing whether adequate evidence that cause exists or whether evidence adequate to create a reasonable suspicion that cause exists, consideration shall be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, and to inferences which may properly be drawn from the existence or absence of affirmative facts.

(e) Reasonable suspicion of the existence of a cause described in N.J.A.C. 19:30-2.2(a)1 through 8 may be established by the rendering of a final judgment, conviction, or decision by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur.

(f) A suspension invoked by any department, agency, or instrumentality of the State, any other State, or Federal government for any of the causes described in N.J.A.C. 19:30-2.2 may be the basis for the imposition of a concurrent suspension by the Authority, which may impose such suspension without the approval of the Attorney General.

(g) Reasonable suspicion of the existence of a cause may be established by findings or allegations in a grand jury indictment, or other credible evidence available in a final judgment, conviction, or decision by a court or administrative agency of competent jurisdiction, in a grand jury indictment, other decision, or in a settlement agreement, consent decree, deferred prosecution agreement, or other similar agreement whether or not the person is a defendant in the legal proceeding, or other credible evidence available to the Authority.

19:30-2.6 Procedures; period of suspension and scope of suspension

(a) The decision by the Authority Board to suspend a person(s) or their affiliate(s) shall be made in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 to 21. The Authority shall transmit its decision to the Attorney General for the Attorney General to determine whether to approve the suspension.

(b) The Authority may suspend a person or their affiliate(s), provided that within 10 days after the effective date of the suspension, the Authority provides such party with a written notice:

- 1. Stating that a suspension has been imposed and its effective date;**
- 2. Setting forth the reasons for the suspension unless the Attorney General determines that such reasons may not be properly disclosed;**
- 3. Stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings that is the basis for suspension as may ensue; and**
- 4. Indicating that, if within 60 days of the date of such notice, legal proceedings are not commenced in which such person is a defendant or the suspension is not removed, the person and their affiliate(s) will be given a statement of the reasons for the continued suspension and an opportunity for a hearing if they so request, or, if the Attorney General determines that such reasons may not be properly disclosed, a statement declining to give such reasons and setting forth the Authority's position regarding the continuation of the suspension. Such hearing shall be an informal hearing conducted by the Authority and not subject to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The Chief Executive Officer may designate an employee of the Authority to serve as a hearing officer and make a recommendation to the Authority Board. The Authority, or the hearing officer, may conduct the hearing based solely on written submissions or require an in-person hearing. Where a suspension by any department, agency, or instrumentality of the State or Federal government has been the basis for suspension by the Authority, the Authority shall note the fact as a reason for suspension.**

(c) A suspension shall not continue beyond 18 months from its effective date unless civil or criminal action regarding the alleged violation has been initiated, or unless debarment/disqualification action has been commenced. Whenever prosecution of the civil or criminal action or debarment/disqualification action has been initiated, the suspension may continue until the legal proceedings are completed.

[19:30-2.7 Chief Executive Officer to implement regulation

The Chief Executive Officer is authorized to take all necessary action to implement and administer the provisions of this subchapter.]

19:30-2.7. Affiliates

- (a) A disqualification, debarment, or suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances.**
- (b) The offense, failure, or inadequacy of performance of a natural person may be imputed to another person with whom the natural person is affiliated, where such conduct by the natural person was accomplished within the course of the natural person's official duty or**

was effectuated by the natural person with the knowledge or approval of such other person.

19:30-2.[5]8 Notice to Attorney General and Treasurer

Insofar as practicable, prior notice of any proposed **disqualification**, debarment, **or suspension** shall be given to the Attorney General and the State Treasurer. The Authority shall [supply to] **promptly notify** the State Treasurer [a list] of all persons having been **disqualified**, debarred, **or suspended** in accordance with the procedures prescribed herein.

19:30-2.9 The extent of debarment, disqualification, or suspension

The exclusion of a person by virtue of debarment, disqualification, or suspension shall extend to all agreements, contracts, and subcontracts within the control or jurisdiction of the Authority. When it is determined by the Authority to be essential to the public interest and upon filing of a finding thereof with the Attorney General, an exception from total exclusion may be made with respect to a particular agreement, contract, or subcontract.

19:30-2.[6]10 Authority discretion

Nothing contained in this subchapter is intended to limit the discretion of the Authority [or the members] in determining eligibility for financial assistance or eligibility of tenants, or in refraining from contracting with any person. The purpose of this subchapter is to provide notice of certain offenses or failures which may result in disqualification, [for assistance or] debarment, **or suspension**. Project applicants, tenants, and contractors must meet any other applicable standards and policies.

MEMORANDUM

TO: Members of the Authority

FROM: Terry O'Toole
Chairman

DATE: December 19, 2024

RE: Designation of new Ethics Liaison Officer

Request

The Members' approval is requested for the designation of Alyson Jones, Esq., as the Authority's Ethics Liaison Officer effective January 1, 2025.

Background

At the Authority's September 2024 Annual Board Meeting, the Board reapproved the appointment of Fred Cole as the Authority's Ethics Liaison Officer.

Due to staffing needs and general re-organization within NJEDA, the Authority is now seeking to designate Alyson Jones, Managing Director, Legislative and Regulatory Affairs, as the Authority's Ethics Liaison Officer.

As one part of that reorganization, Ms. Jones will supervise the Ethics/Compliance Team. Ms. Jones has prior ethics experience having served as a Court Executive for the New Jersey Judiciary for over a decade, relied upon to provide ethics and conflicts advice to both senior level judiciary staff and judges.

Recommendation

The Members' approval is requested for the designation of Alyson Jones, Esq., as the Authority's Ethics Liaison Officer effective January 1, 2025.



Terry O'Toole
Chairman

Attachments

Resolution of the New Jersey Economic Development
Authority Regarding Approval of the Designation of
New Ethics Liaison Officer

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: December 19, 2024

EXHIBIT



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: December 19, 2024

SUBJECT: NJERA Report
For Informational Purposes Only

Background:

The New Jersey Economic Recovery Act of 2020 (P.L.2020, c.156) requires the New Jersey Economic Development Authority (“Authority”) on a biennial basis to engage a State college or university to prepare a report on the implementation and economic analysis of the Brownfield Redevelopment Incentive program, the Aspire program and the Emerge program, and submit the report to the Authority, the Governor, and to the Legislature. This is the second completed biennial report.

NJERA Program Report:

In May 2024, the Authority entered into a memorandum of understanding (“MOU”) with New Jersey Institute of Technology (“NJIT”) to prepare this second biennial report. NJIT reviewed the relevant statutes, rules, program documentation, and other resources, as well as performed interviews as part of the report preparation process. The report was provided to the Authority and reviewed by the Audit Committee on December 2, 2024.

The final report from NJIT is attached as Appendix A. The Authority is pleased with the outcome which reflects the tremendous efforts of the organization in successfully implementing the Aspire, Emerge, and Brownfields Redevelopment Incentive Programs.

A handwritten signature in blue ink, appearing to read "T. Sullivan", is positioned above a horizontal line.

Tim Sullivan, CEO

Prepared by: Maciek Bury

Attachment:

Appendix A – Appendix A- Program Evaluation: New Jersey Economic Recovery Act of 2020



Program Evaluation:

New Jersey Economic Recovery Act of 2020 Brownfields Redevelopment Incentive Program, Aspire Program, and Emerge Program

Prepared for the New Jersey Economic Development Authority

December 2024:
(Data as of July 31, 2024)

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Executive Summary

The New Jersey Economic Recovery Act of 2020 (NJERA), P.L. 2020, c. 156 (as amended) describes a variety of economic development policies and makes appropriations to fund their implementation by the New Jersey Economic Development Authority (NJEDA). As a recognized best practice, it also specifies a series of written reports that must be produced that evaluate the implementation and performance of the tax credit awards granted. The reports are to be submitted to the NJEDA, the Governor, and to the Legislature. As specified, this report has sections for the Brownfields Redevelopment Incentive program, the Aspire program and the Emerge program and includes descriptions of approved projects and analyses of the impacts on the State economy of approved projects under these programs.

The NJERA specifies that the NJEDA must engage a State college or university established pursuant to Chapter 64 of Title 18A of the New Jersey Statutes to prepare reports after two years, and after each subsequent two-year interval, for three programs; the Brownfields Redevelopment Incentive program, the Aspire program, and the Emerge program. This report is responsive to the reporting requirement and is prepared under an MOU (attached as Appendix A) with the New Jersey Institute of Technology (NJIT). As specified, this report has sections for the three programs and focuses on the implementation of each program. This is the second report for these programs. The initial report is attached as Appendix B.

While the initial report focused on the process implementation of the programs, this report contains information on the progress of the programs in their implementation, the progress of Aspire and Emerge programs in evaluating and approving projects under the Act, on the economic impacts of approved programs, and the experience of program participants with these programs. Unlike Aspire and Emerge which are successor programs to prior NJEDA initiatives, the Brownfields program is an entirely new initiative with one approved project. Significant changes to the program were approved by the State Legislature and signed into law on September 4, 2024. NJEDA is currently developing rules for the program in keeping with the new legislation. Four applicants for Brownfields are considering withdrawing their applications to reapply under the new rules when published. The report on Brownfields focuses on the progress made by the program in solving challenges to full implementation and the expected results of legislative and rule changes.

The implementation teams at the New Jersey Economic Development Authority demonstrate a sophisticated understanding of the objectives and usefulness of these three programs. The NJEDA staff has created intuitive and user-friendly interfaces that allows potential applicants and stakeholders to easily navigate through the program websites which provides comprehensive details about each program's objectives, eligibility criteria, available incentives, and application procedures, including fees. The websites also have many tools to support potential applicants through the process with FAQs, Mapping Tools, and early, regular, and transparent communications. The NJEDA Board Memo provides a comprehensive overview of each program. All these program implementations benefit from documented Program Policies

and Procedures maintained by NJEDA. The implementation teams work as a valuable resource to applicants for these programs, helping them to navigate the application process.

Our process in preparing this report included initial meetings with the NJEDA program managers for the three programs, interviews with successful program applicants and analytical review of each successful project using the IMPLAN model of economic analysis.

Recommendations

Brownfields Redevelopment Incentive Program (Brownfields)

1. **Strengthen Partnerships:** The Brownfields program should continue fostering partnerships with the Department of Environmental Protection (DEP) and other relevant stakeholders to ensure effective implementation and address challenges that may arise during the program's lifespan.
2. The Brownfields team has done significant work over the last 2 years to gather feedback from potential applicants on the original program. Based on that feedback, revisions to the program were passed by the legislators in June and signed by Governor Murphy on September 4th, 2024. The team is developing rules to implement the new legislation and should continue to monitor the success of the program using the new rules.
3. **Targeted Outreach:** Continue to expand outreach efforts to engage community organizations and smaller developers, addressing their specific needs and concerns. Continue to develop partnerships with industry associations, municipalities, and community organizations to conduct informational sessions, workshops, and webinars that provide education and training on the program, especially on the new features of the program. Continue to provide support to broaden the applicant pool.
4. **Stakeholder Engagement:** Maintain open lines of communication with stakeholders to ensure a shared understanding of program goals. Actively engage stakeholders and solicit their input to balance program objectives with return on investment, fostering support and participation in the program.

Aspire Program

1. **Streamlined Communication:** Continue to prioritize clear and transparent communication strategies to effectively convey the Aspire Program's goals and expectations to a broader range of stakeholders. Simplify program guidelines even further to ensure a comprehensive understanding of the program's eligibility criteria, compliance requirements, and scoring criteria.
2. **User-Friendly Experience:** Continue to prioritize a user-centric website design that offers easy navigation, comprehensive information, and regular updates. Provide clear instructions and transparent scoring criteria to applicants, ensuring a seamless and efficient application process. Finalize the process for obtaining the credits once construction is complete. Ensure that all forms and requirements are available to the award recipient at application time to minimize surprises at credit issuance.

Program Evaluation: New Jersey Economic Recovery Act of 2020 as of October 2024

3. **Diverse Applicant Pool:** Continue to engage emerging developers involved in multiple sectors including low-income housing, food delivery, healthcare, and film production. Continue to collaborate with local economic development organizations and adopt targeted marketing strategies to attract a diverse range of projects and applicants.
4. **Stakeholder Collaboration:** Continue to maintain proactive stakeholder engagement mechanisms, including regular communication, collaborative partnerships, and educational workshops. This will facilitate effective two-way communication, gather feedback, and inform program enhancements for greater effectiveness and impact.

Emerge Program

1. **Seamless User Experience:** Continue prioritizing a user-centric website design that offers easy access to program information and resources. Continue to regularly update the website to provide comprehensive information and facilitate a seamless user experience.
2. **Streamlined Application Process:** Strive for a more streamlined application process by providing clear instructions and timely updates to applicants. Implement the Portals System to better support the application process. Enhancing efficiency and transparency will benefit both companies and NJEDA staff navigating the application stages.
3. **Broadened Outreach:** Expand outreach efforts to connect with potential New Jersey companies worldwide, focusing on relocation influencers such as lawyers, accountants, and Choose NJ. Strengthen the partnership with Choose NJ to broaden the program's reach and engage companies considering a move or expansion in New Jersey.
4. **Residency Requirements:** Consider engaging with the legislature to modify residency requirements in alignment with the program's objectives. This will accommodate the evolving nature of work, particularly in a post-pandemic hybrid work environment, and attract more companies to participate in the program.
5. **Ongoing Evaluation:** Regularly monitor and evaluate the program's implementation and outcomes, especially considering the increasing prevalence of hybrid work. Identify areas for improvement, gauge stakeholder satisfaction, and use feedback to inform program enhancements for greater effectiveness and impact.
6. **Legislative Measures:** Consider revising provisions that inhibit startup companies from applying, especially the long 10-year tail on prevailing wages for building services. This requirement makes small companies hesitant to access the EmERGE program.

By implementing these recommendations, the Brownfields Redevelopment Incentive Program, Aspire Program, and EmERGE Program can maximize their potential to promote economic development in New Jersey, revitalize targeted areas, and attract a diverse range of applicants.

Policy Review

The New Jersey Economic Recovery Act of 2020 (NJERA), P.L. 2020, c. 156 (as amended) describes a variety of economic development policies and makes appropriation to fund their implementation by the New Jersey Economic Development Authority. As a recognized best practice, it also specifies a series of written reports that must be produced that evaluate the implementation and performance of the tax credit awards granted. The reports are to be submitted to the NJEDA, the Governor, and to the Legislature.

The NJERA specifies that the NJEDA must engage a State college or university established pursuant to Chapter 64 of Title 18A of the New Jersey Statutes to prepare reports after two years for three programs; the Brownfields Redevelopment Incentive program, the Aspire program, and the Emerge program. This report is responsive to the reporting requirement and is prepared under an MOU (attached as Appendix A) with the New Jersey Institute of Technology (NJIT). As specified, this report has sections for the three programs and focuses on the implementation of each program.

This is the second biennial report required under the NJERA. It includes sections describing the progress of implementing these programs and on the economic impacts of these programs on the New Jersey economy.

Brownfields Redevelopment Incentive Program

A 'Brownfield Site' refers to any site in New Jersey that is currently vacant or underutilized and is suspected or known to have been contaminated or contains contaminated building material. Many of these brownfield sites remain undeveloped due to the high costs associated with remediation. The objective of the program is to incentivize developers to remove contaminants and remediate these sites, enabling their productive use. The New Jersey Economic Development Authority is authorized to issue tax credits to developers, compensating them for a portion of the remediation costs, thus bridging the financing gap and ensuring a reasonable and appropriate return on investment for developers.

The NJEDA is responsible for determining the appropriate tax credits for eligible developers and sites. Developers seeking tax credits must submit an application to the NJEDA in consultation with the Department of Environmental Protection (DEP) under the provisions of the "Administrative Procedure Act" P.L. 1968. The application must demonstrate the following:

1. No substantial work has commenced, except for preliminary assessments and investigations, and other limited circumstances, prior to the application, and the developer intends to initiate remediation immediately upon approval of the tax credit.
2. The proposed redevelopment project is situated on a brownfield site.
3. A project financing gap exists, indicating that commercial development is not economically feasible without tax credits. Under the new legislation, this is not required

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for projects in Government-Restricted Municipalities (GRM) and for projects with remediation costs less than \$5 million.

4. The developer has obtained support from the governing body of the municipality for the redevelopment project.
5. Each worker involved in the remediation process must receive at least the prevailing wage determined by the Commissioner of Labor and Workforce Development.

Based upon two years of experience in developing this program, major changes were enacted by the New Jersey State Legislature and signed into law on September 4, 2024. NJEDA is in the process of creating new rules to implement the changed program and is not accepting applications until this process is complete. Expected completion is 2025. The major changes are as follows:

Eligibility Changes:

- Program now includes developers who currently own the site to participate. Previously, the current owner was excluded.
- All real property in New Jersey that is currently vacant or underutilized and on which there has been, or there is suspected to have, a discharge of a contaminant or on which there is contaminated building material may be included. Previously only commercial/industrial property was eligible.
- A limited exception has been added for projects that started before application, if the remediation was ordered by a government official with jurisdiction of the site or certified by a LSRP to correct or prevent the spread of a health, safety or other hazard.

Award Amount Increases:

- From the lesser of 60% of remediation costs to a maximum of \$8 million to the lesser of 80% of remediation costs, maximum of \$12 million, in a qualified incentive tract or government-restricted municipality.
- From the lesser of 50% of remediation costs or \$4 million to the lesser of 60% or \$8 million in other municipalities and jurisdiction.
- New award category was created for “improvement and capping of landfills” which provides for 100% of remediation costs, up to \$8 million or \$12 million depending on location for solar projects on closed sanitary landfills.

Process Changes:

- Applications will be processed on a rolling basis, unless the program is oversubscribed

There are additional requirements for developer applicants, including that the site has not received previous reimbursements under the legacy Brownfield Contaminated Site Reimbursement Program (pursuant to sections 34 through 39 at P.L. 1997, c. 278 (N.J.S.A. 58:10B-26 through 31) for the same redevelopment project and maintaining a good standing with New Jersey tax authorities. Under the new rules, the NJEDA conducts a comprehensive review of all applicants through a rolling application process. If the program is oversubscribed, a competitive application process will be instituted. Other factors considered during the

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evaluation include economic development, reduction of environmental and public health stressors, among others.

Developers are required to pay a non-refundable fee to the NJEDA to cover the direct costs associated with the analysis of their application. Once a tax credit is approved, the developer must enter into a redevelopment agreement with the NJEDA, submit progress reports every six months, and comply with New Jersey green building standards and affirmative action requirements. Under the new rules, the NJEDA is prohibited from entering into a redevelopment agreement unless the developer demonstrates to the DEP that no hazardous substances were discharged by the developer or any related entities at the proposed brownfield site. Tax credits are issued only after satisfactory evidence of complete remediation, including costs, is submitted to the NJEDA. Once issued, developers can apply the tax credits against their tax liabilities or sell/assign them.

A recent change in the statute governing this program allow NJEDA to approve projects on a rolling basis, evaluating the value and feasibility of each project, as long as they do not exceed appropriated funds. This allows projects to be approved more expeditiously than the competitive process.

Aspire Program

The New Jersey Aspire Program was established to support residential and commercial real estate development throughout the state by providing tax credit incentives for eligible project costs. The project would need to demonstrate a financial need and would otherwise not be economically sustainable on its own. Aspire is a successor program to the Economic Redevelopment and Growth (ERG) program which expired in 2019 and is designed to further strengthen this work. The program's broad mandate is narrowed down by specifying target sectors, regions, and eligibility criteria.

The program identifies specific regions such as the Atlantic City International Airport aviation district, as well as more general regions like distressed municipalities, food desert communities, government-restricted municipalities, transit hubs, Port districts, Municipal Revitalization Index communities, and South Jersey marine terminal facilities (as defined in the NJERA). It also highlights specific uses such as collaborative workspaces, food delivery sources, healthcare or health services centers, incubator facilities, low-income housing, moderate-income housing, quality childcare facilities, tourism destination projects, projects that meet special Brownfield criteria, and workforce housing (as defined in the NJERA). Additionally, the program encompasses general uses like commercial projects (including large-scale retail, industrial space, and film/television studios/infrastructure) and residential projects, as defined under the law. This list is not exhaustive but represents the range of Aspire projects envisioned under the NJERA.

In November of 2023, significant changes in the regulations governing this program were approved by the Board. Per the NJEDA website (<https://www.njeda.gov/new-aspire-rules->

[aimed-to-strengthen-affordable-housing-expand-eligibility-approved-by-njeda-board/](#)), these changes include:

Increased Project Awards:

In response to spiking inflation, supply chain disruptions and rising interest rates, the new legislation increased caps per project according to the following schedule:

- 80 percent of eligible costs up to \$120 million for Atlantic City, Trenton, and Paterson
- 60 percent of eligible costs up to \$90 million for projects in a qualified incentive tract, municipality with a Municipal Revitalization Index score over 50, or an enhanced area
- 50 percent of eligible costs up to \$60 million for all other eligible projects
- Transformative project caps are subject to the above percentages with a dollar cap of \$400 million.
- New legislation increased the sum of all tax credits under any program so that the sum can exceed 90% for fully affordable projects receiving LIHTC.

Transformative Projects:

Transformative projects must demonstrate special economic importance to New Jersey and leverage the state's mass transit assets, higher education assets, and other economic development assets to attract or retain employers and skilled workers or in targeted industries by providing employment or housing. Under recent legislation, transformative projects must meet the following criteria:

- Minimum project costs increased from \$100 million to \$150 million
- Minimum commercial project size remains 500,000 square feet or
- 300,000 square feet in an enhanced area
- 200,000 square feet in Atlantic City, Paterson, or Trenton
- 250,000 square feet for film production studios
- Minimum residential project size of 700 newly constructed units
- Minimum mixed-use project of 50,000 square feet of commercial space plus
- 200 residential units in Atlantic City, Paterson, or Trenton
- 300 residential units in an enhanced area
- 400 residential units in other eligible locations
- Recent legislation removed the limitation on the number of transformative projects that may be located within a municipality.

Affordability Controls

For a project that includes newly constructed residential units, at least 20 percent of the units must be reserved for low- and moderate-income households and must meet Uniform Housing Affordability Controls, also known as UHAC requirements. These income-restricted units will include a minimum number of three-bedroom units and a maximum number of studios and one-bedrooms ensuring more options for families. They also include more units for very low-income and low-income households with the remainder for moderate-income.

Recent legislation requires residential projects to comply with UHAC, including requirements concerning the bedroom distributions, affordability averages, affirmative marketing, and the long-term deed restriction of residential units. Rehabilitation projects or projects that

receive Federal Historic Rehabilitation tax credits or are exempt.

In line with Governor Murphy and the NJEDA's commitment to fiscal responsibility and transparency, the Aspire program rules include provisions, such as a gap financing review and excess revenue sharing requirements, to ensure tax credits are awarded responsibly.

Periodic reports must include description of each redevelopment project receiving a tax credit plus a detailed analysis of the consideration given in each project in addition to other relevant metrics. The NJEDA "shall prepare a written response to the report, which the authority shall submit to the Governor and to the Legislature."

Emerge Program

The Emerge Program, administered by the NJEDA, aims to promote economic development, job creation, and job retention within New Jersey by granting per-job tax credits to eligible businesses. This program is a successor to the Grow NJ program which expired in 2019. The program focuses on specific areas known as eligible incentive areas., which include government restricted municipalities, enhanced areas, characterized by transit hubs, high poverty rates, or high SNAP utilization, distressed municipalities, employment & investment corridors, and other eligible areas. Targeted industries for the program encompass advanced transportation, logistics, manufacturing, clean energy, life sciences, hemp processing, IT, finance and insurance, professional services, film and digital media, non-retail food and beverage, and other innovative sectors that disrupt existing technologies or business models. There have been no significant changes to the law or regulations governing this program with the exception that the deadline for applications has been extended to March 1, 2029.

To be eligible for a tax credit incentive award before March 1, 2029, a business must satisfy the following criteria as demonstrated by the CEO to the NJEDA:

1. The business will make a capital investment at a qualified business facility, as specified by the law.
2. The business must demonstrate that the award of the tax credit is a "material factor" in the decision to create or retain at least the minimum number of full-time jobs.
3. The business will create or retain new full-time jobs, as outlined in the law.
4. The business facility is located within a qualified incentive area.
5. The award of tax credits significantly influenced the business's decision to create or retain full-time jobs.
6. The tax credits, capital investment, and job creation/retention will result in a "net positive benefit" to the State, equivalent to 200-400 percent of the requested tax credit amount. Lower percentage thresholds may apply to awards in distressed municipalities, and the business may be required to repay some or all of the tax benefits if it fails to meet its commitments.
7. The business must meet minimum environmental and sustainability standards and comply with affirmative action requirements set by the NJEDA.
8. All workers employed at the qualified business facility must receive at least 70% of the County median salary.

Employers choosing to apply for the program must meet specific job creation or retention targets to qualify for tax credits. Typically, a minimum of 35 new good-paying jobs is required for most businesses, with lower limits for targeted industries and small businesses. Regarding job retention, higher limits apply, with employers required to retain at least 500 full-time jobs in a Qualified Incentive Tract, Government-Restricted Municipality or Enhanced Area and 1000 full-time jobs in all other locations. Employers must ensure that at least 80 percent of incented employees' work time is spent in New Jersey and 80 percent of the withholdings of new or retained full-time jobs are subject to the 'New Jersey Gross Income Tax Act'. Employers must comply with the Department of Labor, Department of Environmental Protection, and Department of the Treasury. Businesses must also support their tax credit applications by submitting an economic analysis of alternative locations, demonstrating that the tax credits played a significant role in their decision to create or retain jobs. Application fees are also mandated to cover the NJEDA's direct costs for analyzing submissions.

Once approved by the NJEDA board, eligible businesses must enter into a project agreement. The agreement should provide a detailed description of the project, including the number of created and retained jobs, a phased plan outlining expected capital investments and job projections throughout the tax credit eligibility period, and a requirement that the eligible business maintains its project location in New Jersey for the commitment period. Annual reports are required to demonstrate goal attainment and ongoing compliance.

For projects with total upfront projects costs of \$10 million or more, eligible businesses must establish a community benefits agreement with the NJEDA and the relevant county or municipality, unless the project is being built in an area with an existing redevelopment agreement and the Municipality agrees another agreement is not needed. This agreement should undergo at least one public hearing and establish a community advisory committee responsible for overseeing implementation and producing annual reports. In certain cases, the community benefits agreement requirement can be waived if the business provides a certified copy of the project agreement from the local municipality.

Within six months of executing a project agreement, eligible businesses must obtain site approval and committed financing for the qualified business facility. If site control was obtained prior to NJEDA Board approval, the business may risk losing Emerge tax credits, unless the site control document contained contingency language dependent on the receipt of emerge tax credits. Upon completing the capital investment and employment requirements, the business must submit satisfactory certifications to the NJEDA within three years, with two (2) six-month extensions available.

The total tax credit per full-time job, per year for an eligible business range from \$500 - \$8,000. Tax credit ranges are dependent on the eligible incentive area where the project is located and any applicable bonuses. Emerge offers bonuses based on job creation tiers, location, facility, and policy-based objectives. In addition, retained full-time jobs are incented at 50% of what a new full-time job is. An FTE must be paid no less than \$15.00 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L. 1966, c. 113 (N.J.S.A. 34:11-56a4),

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whichever is higher, to be eligible for the incentive. The NJEDA determines the necessary tax credit amount to incentivize project siting in New Jersey, and tax credits in any tax period may be forfeited if the eligible business reduces the total number of full-time employees in its statewide workforce, with exceptions specified by the law.

Annual reports must be submitted throughout the commitment period, detailing the new full-time jobs created. Eligible businesses can apply for a tax credit transfer certificate, allowing them to sell the tax credits to another New Jersey taxpayer. Regarding the program's implementation, future reports should include a description of each eligible business receiving tax credits, a thorough analysis of the consideration given in each project, an assessment of how incentives influenced businesses' decisions to locate in the state, the return on investment for awarded incentives, the business's impact on the state economy, and other relevant metrics. The NJEDA is required to prepare a written response to the report, which must be submitted to the Governor and the Legislature.

Implementation

The three programs under consideration, Brownfields Redevelopment Incentive (Brownfields) Program, Aspire Program, and Emerge Program are authorized under the New Jersey Economic Recovery Act of 2020 (NJERA), P.L. 2020, c. 156 (as amended). All of these programs benefit from documented Policies and Procedures maintained by the NJEDA.

Brownfields Redevelopment Incentive Program

The implementation of the Brownfields Program shows promise. One project has been approved and a second is in process. Four applicants have indicated that they plan to withdraw their applications and reapply under the new legislation when the new application is ready. This section focuses on the current status of the program's implementation, including website design, technical complexities, and pre-launch tasks.

1. Website Design and User Experience – The Brownfields Program website design is commendable, featuring an intuitive and user-friendly interface. The website's ease of navigation allows users to access information about the program's eligibility criteria, incentives, and application procedures. The availability of comprehensive information on the website promotes transparency and encourages potential participants to explore and engage with the program.
2. NJEDA Board Memo – The NJEDA Board Memo provides a comprehensive overview of the Brownfields Program. It outlines the program's goals, the role of the NJEDA, and collaboration with the Department of Environmental Protection (DEP) to address brownfields sites' remediation and redevelopment. The memo serves as a valuable resource for stakeholders and interested parties seeking an in-depth understanding of the program's structure and purpose.
3. Strengthen Partnership with DEP –The program launched on June 21, 2023. A required key aspect of the program's implementation is its joint operation with the DEP, which necessitates a Memorandum of Understanding (MOU) between the two agencies. The establishment of this MOU was a time-consuming project and required significant effort from both parties. The MOU has been in place since June 2023, and the agencies are developing plans to work together to advance redevelopment of brownfield sites.
4. Mitigating Challenges and Ensuring Successful Implementation – a) The NJEDA and DEP have developed open lines of communication with regular quarterly meetings to discuss the status of the program, staffing updates and application pipeline. b) the program team continues to communicate timelines and expectations and maintain open and regular communication with stakeholders, providing updates on the program's progress and anticipated future application cycles, as this will enable interested parties to prepare and plan accordingly for the competitive application process.

Aspire Program

There have been more than 30 applications submitted to the Aspire program. Six applications were approved under the old rules, eight applications were approved under the old rules new caps, and 5 applications were approved under the new rules that took effect on November 4th, 2023. One application was approved after July 31, 2024, and will be evaluated in the next biennial report. The remaining applications are pending. NJEDA Aspire program staff work closely with applicants to support their applications and ensure that all program requirements are completed before sending applications to the Board for approval.

Approved projects include fully affordable and mixed market/affordable residential projects, as well as mixed use residential/retail projects, a film and TV studio project and a Life Sciences complex. Three of the projects are considered “transformative” with a maximum Aspire award of \$400,000,000.

Participants in the Aspire program report that the projects would not have been financially feasible without the funding acquired through Aspire tax credits. They highlighted several challenges with using the program. These include:

- The small pool of potential purchasers for these credits, reducing the realized profit from their sale
- The uncertainty around the requirement that operations conform to prevailing wage requirements regarding building services for the 10-year duration of the credits, long after the developer is involved in the project

During our interviews with successful applicants we learned that they struggled with the need to acquire bridge financing over a long term due to the structure of the credits issued over a 10-year period. The cost of bridge financing lessened the financial benefits of the tax credits.

Applicants also suggested that there should not need to be a Community Benefits Agreement for projects that are primarily or significantly affordable housing, as the community benefit of such projects is obvious and the cost of creating a CBA is not insignificant. To address this concern, Aspire rules allow that a Resolution adopted by the governing body of the municipality in which the redevelopment project is located, may be sufficient if it is determined by the governing body that the redevelopment project will provide economic and social benefits to the community, rendering a separate community benefit agreement unnecessary.

Emerge Program

The Emerge program has three approved projects, in the financial services and biotechnology industries. One additional approved project was withdrawn by the applicant company. One project is pending approval. During the existence of the program, 54 companies moved to New Jersey without being provided with incentives.

A challenge for the program has been to adapt to the increasing prevalence of hybrid or fully remote work in the current workplace. The program requires that employers ensure that at least 80 percent of incented employees’ work time is spent in New Jersey and 80 percent of the

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withholdings of new or retained full-time jobs are subject to the 'New Jersey Gross Income Tax Act'. If an employee meets the 80% rule but does not primarily spend their work time at the Qualified Business Facility (QBF), they could be eligible, but the base award gets reduced to \$500 (other eligible area) and they would only receive bonuses that are not subject to the QBF.

It was noted by program applicants that the application is extensive, and the fees are high. While the program is open to applicants who create 35, or in some areas only 25, new jobs, the application process is a high hurdle for a small business. For smaller companies, the burdens of the Emerge program often exceed the benefits.

- Green Building Plan can cost \$20,000 to create
- Community Benefit Agreement requires negotiation with municipality. One applicant stated that some municipalities make the process difficult by trying to extract more value from the company by holding up projects.

The program team reports that their technical assistance to applicants includes making them aware of programs that can mitigate the costs of complying with environmental requirements. For example, small businesses could take advantage of New Jersey Board of Public Utilities (BPU)'s Pay for Performance which offers rebates up to 70% to use VOC free paints, change to LED lights and other basic requirements which are very cost effective.

A concern was also raised by all the participants about the prevailing wage requirement for building services over the life of the credits. Typically, the Emerge participant is a tenant and, especially for a smaller company, may have limited influence over wage practices of landlords and third-party building service providers.

Project Descriptions

Descriptions of approved projects are a required component of the report under NJERA. All project descriptions are taken from the publicly available approval memoranda submitted to the NJEDA Board.

Brownfields Redevelopment Incentive Program

Ninety Nine Main Avenue Redevelopment 99 Main Avenue, Elmwood Park Borough, NJ 07407

The proposed Project, known as Ninety Nine Main Avenue Redevelopment, is located on a brownfield site at 99 Main Avenue, Elmwood Park, New Jersey, Bergen County. The site was used for manufacturing from 1955 to 2011. In 1955 the site was developed by an electronics manufacturer. In 1965 Stor Dynamics began operating at the site. Atlas Conveyer Company, which appears to have been a partner company of Stor Dynamics operated at the site until 1989. In 1990, Stor Dynamics declared bankruptcy. The site had been owned by Cynthia Bloom (died in 2003) and Milton Bloom (died in 1976). The site is currently owned by the estate of Cynthia Bloom.

In 1998, the New Jersey Department of Environmental Protection (NJDEP) filed a first priority lien against Stor Dynamics. In 2018, NJDEP amended the lien against Stor Dynamics Corp, the Estate of Milton Bloom, and the Estate of Cynthia Bloom in the amount of \$2,158,309. In 2019, the Borough of Elmwood Park held a tax sale and Pasquale Maisano purchased the tax sale certificate for \$275,000. In 2023, Pasquale Maisano assigned all of his rights to Ninety Nine Main Avenue, LLC. In 2023, Ninety Nine Main Avenue, LLC entered into an agreement with NJDEP to remediate the site and DEP agreed to accept \$150,000, as full restitution of the lien, and a warrant of satisfaction was issued in July 2023.

Several areas of concern (AOCs) have been identified which include historic operations, possible underground storage tanks, drums, historic fill, and groundwater contamination. The Project includes additional investigation and remediation to a restricted use (which will likely entail an engineering control such as capping, and an institutional control with a deed notice). Once remediation is complete, the developer plans to use the site for a construction business, which will include an office building and laydown yard for equipment.

Aspire Program

The Aspire program has fifteen projects with approvals completed prior to July 31, 2024. An additional approved project has withdrawn from the program due to business reasons unrelated to the Aspire program.

260 Washington St Urban Renewal LLC (“Applicant”)

The proposed Project named “The Metropolitan” will be a 23-story high-rise predominantly residential, mixed-use building located in the Central Business District of downtown Newark. The Project will have a gross building area of 230,698 square feet. The building will consist of 207 residential units, 67 of which will be affordable. The market affordability level is fifty (50%) percent of the Area Median Income (AMI). There will be a ground-floor retail component of approximately 4,000 square feet.

On May 10th, 2023, the NJEDA Board approved this Applicant for an Aspire award of \$49,836,119 for the same Project with a total project cost of \$110,746,933, including hard construction costs of \$91,287,680 and other soft and financing costs of \$17,397,825. Following the prior approval, the Applicant has indicated that there are three key factors that have now made the Project not economically viable absent additional Aspire proceeds. These include: 1) Inflated construction costs with the current hard construction costs estimates increasing by \$11,863,140; 2) Inflated borrowing costs have led to higher-than-expected interest rates on borrowing which resulted in a reduction of available permanent funding sources of \$3,605,000; and 3) Syndication pricing of the Low-Income Housing Tax Credits fell below the Applicants’ initial projections resulting in a reduction of \$850,000 for the equity derived from these tax credits.

For all these reasons on April 16th, 2024, the Applicant withdrew the previously approved award in pursuit of a new approval for the Project based upon the increased project budget and the increases to the available Aspire award.

The Applicant, 260 Washington St Urban Renewal LLC, was subsequently approved for a new Aspire award for the same redevelopment project on June 12, 2024.

720 8th Street Union City LP (“Applicant”) and Life Management, Inc. (“Coapplicant”)

The project is new construction and is known as “Union City Senior”. The subject property will be constructed on a 0.678-acre municipal parking lot located at 720 8th Street, continuing up to 10th Street in Union City, New Jersey. Union City Senior will be a 6-story building apartment complex consisting of a total of 101 units for seniors ages 55 years of age or older.

The Parking Authority of the City of Union City (“the Parking Authority”) currently owns the property. On September 19, 2017, an agreement was executed authorizing the Parking Authority to enter into an agreement with the City of Union City (“Union City”) for the sale of the property to facilitate the construction of affordable housing. Following a Request for Proposals by Union City for the construction of affordable housing units on the property, on March 19, 2018 a Development Agreement was executed between Union City and RPM Development LLC where Union City agreed to acquire the property from the Parking Authority and convey ownership to RPM Development LLC.

The Co-applicant is Life Management, Inc. (LMI), which is a 501(c)3 and will act as the nonprofit for the project financing. Authority staff is in receipt of an IRS 501(c)3 Determination Letter for LMI evidencing that it is a non-profit for taxation purposes under the provisions of Section 501(c)3 of the Internal Revenue Code.

LMI will be contributing services related to the project that directly affect and serve residents of the Redevelopment Project. LMI will work in conjunction with the Applicant's Social Services Coordinator to develop a social services plan. LMI will utilize its experience and skills to support the senior, developmentally disabled, and formerly homeless residents. LMI's services will enable additional staffing support and provide additional linkages to relevant resources. Programs and services will be delivered by social workers, social service professionals, and other paraprofessionals, who have experience in providing these services, as well as mentoring, event planning, project development and implementation. The organization obtains contracts, grants and donations that enable them to offer services to the elderly and low-income families living in the community free of charge.

81-93 Orange Street Urban Renewal LLC ("Applicant")

The Project will be a mixed-use, new construction development located at 81-93 Orange Street, Newark New Jersey, Essex County; the current site of a commercial surface parking lot. The parking lot is situated across the street from Broad Street Station in Downtown Newark. The Project will have a gross building area of 400,000 square feet within a 14-story high rise complex with 350 residential units, including one-, two-, and three-bedroom apartment units. It will also include 8,500 square feet of retail space, and commercial parking garage. 81-93 Orange Street received both Preliminary and Final Site Plan Approval from the City of Newark on December 20, 2021.

930 McCarter Urban Renewal LLC ("Applicant") and Elizabeth Development Company of New Jersey ("Co-Applicant")

The proposed Project known as 930 McCarter Highway entails the new construction of a mixed-income, residential development located on a 1.1-acre vacant site at 930 McCarter Highway in Newark, Essex County. The Project site is in the Downtown Neighborhood within the River Redevelopment Plan Area, and less than a 10-minute walk north of Penn Station. The Project will include 333 residential units representing 451,063 square feet with an additional 3,124 square feet of commercial/retail within a 25-story high-rise building consisting of studios, one, and two-bedroom apartment units. The residential unit mix includes 265 market rate units and 68 affordable units, making the development 20% affordable. The Project will also include various amenities and four stories of structured parking including 240 parking spaces for resident use.

DOR Woodbridge Urban Renewal LLC ("Applicant") Hackensack Meridian Ambulatory Care, Inc. ("Co-Applicant")

The Project, known as Metropark at Woodbridge, will be a multi-phase, transit oriented, mixed-use, new construction development located at the current site of the Metropark New Jersey

Transit Station, on an existing 12.4-acre, surface parking lot. The Project location is situated near Routes 1 and 9, the New Jersey Turnpike, the Garden State Parkway, and is roughly 20 minutes from Newark Airport.

The Project will entail 581,801 gross square feet of new development; entailing a 325,301 square foot residential component consisting of 235 units and 11,976 square feet of retail space, with 20% of the units reserved as affordable, as well as a 244,524 square foot corporate office and medical office component. As such the Project will be predominantly residential, with roughly 56% of the square footage being residential, and 44% of the square footage being commercial.

The Project is expected to be completed in two phases with the corporate office and medical office component comprising the first phase and the residential component comprising the second phase.

Forest Hill House Preservation Urban Renewal LLC, (“Applicant”), and AHI Forest Hill House, NP, LLC, (“Co-applicant”)

The Project located in the Forest Hill neighborhood of Newark is known as “Forest Hill House” and consists of the acquisition and rehabilitation of an existing 55 and over apartment building that is 100 percent affordable. The 10-story building has 85,145 square feet of gross leasable area and includes 100-units. The Project includes twenty-five onsite parking spaces, a community space, and laundry facilities for residents.

NJ Innovation Associates Urban Renewal LLC (“Applicant”)

This Project represents the first phase of the New Jersey Health + Life Science Exchange (“HELIX”) which is being developed in downtown New Brunswick. Known as H-1, the Project entails the construction and development of a 12-story, 573,400 square foot building consisting of three major components: the New Jersey Innovation HUB providing space for innovation and startups, new research laboratories for Rutgers University’s translational research effort, and a new medical education facility for the Rutgers Robert Wood Johnson Medical School. The project will also include an outdoor “Paseo” that will serve as a public space connecting the Rutgers campus, the Robert Wood Johnson University Hospital District, the New Brunswick Train Station and the Government and Arts District in downtown New Brunswick. HELIX is expected to include additional phases not encompassed in the Project, entailing additional laboratory and office space as well as a residential component.

The City of New Brunswick has approved a redevelopment plan for HELIX to be developed on a 3.6-acre site, which includes land situated on the southeast side of Albany Street, bounded by Kirkpatrick Street, Paterson Street, and Spring Street, with the parcels included in the plan consisting of Block 17.01, Lots 1.02 and 1.03, Block 17.02, Lot 1.04, and Block 18, Lots 1, 2, 3, 8, 9 and 10. H-1 is being developed on a 1.2-acre parcel now known as Block 17.01, Lot 1.03; with these parcels consisting of Block 17, Lot 1.01; Block 18, Lots 1, 2, 3, 4.01, 8, 9, 10, 11.02, and 19.01, and it will ultimately be owned by NJ Innovation Associates Urban Renewal, LLC.

(“NJIA”) a special purpose entity of which New Brunswick Development Corporation (“Devco”) is the sole member. NJIA has been designated as the Redeveloper of the Project by the City’s redevelopment entity, the New Brunswick Housing Authority, and the Project is subject to an executed Redevelopment Agreement. H-1 received final site plan approval from the City of New Brunswick Planning Board as of July 2022.

Northgate Preservation Urban Renewal LLC (“Applicant”) and Hearthstone HVPG Northgate, LLC (“Co-applicant”)

The Project, known as “Northgate I Apartments”, is a 21-story high-rise building with 321 units that is currently 100% occupied. It sits on a 2.09-acre site that is situated at 433 North 7th Street in Camden, New Jersey. The project was built in the 1960’s, and there is a significant need for updating and improvement on account of both the building’s age and deferred maintenance on account of previous owners.

Camden 7 Realty LLC currently owns the property. On September 20, 2022, the Amended and Reinstated Option Agreement was executed between the current owner, Camden 7 Realty LLC and Northgate Preservation Urban Renewal LLC, the purchaser and Applicant. The Applicant is proposing significant upgrades to each unit, the building and the grounds that will allow for the needed rehabilitation of the building while also preserving the long-term affordability of this asset.

OAHs Manahan Village, LLC (“Applicant”) and Morristown Family Aspire LLC (“Co-applicant”)

This Project involves the substantial rehabilitation and long-term preservation of 200 existing units of affordable housing in Morristown. It is currently 100% occupied. Known as “Manahan Village,” this complex consists of 26 low-rise garden style apartment buildings spread across four parcels totaling 8.35 acres. It is located at 33 Clyde Potts Drive, 6-10 Flagler Street, 14 Flagler Street, and 9-21 Flagler Street in Morristown, New Jersey. The project was built in the 1940’s and, as a result, there is a significant need for updating and improvement.

Once rehabilitated, the unit mix of the property will remain the same: 27 one-bedroom units, measuring 497 square feet each; 75 two-bedroom units, measuring 701 square feet each; 74 three-bedroom units, measuring at 905 square feet each; 19 four-bedroom units, measuring at 1,153 square feet each; and 5 five-bedroom units, measuring at 1,258 square feet each.

Observer Highway Urban Renewal LLC (“Applicant”)

The Project, Hoboken Connect Residential, will be a 27-story mixed-use, new construction development located in Hoboken at the current site of a New Jersey Transit parking lot. The Project is a component of the larger three-part, mixed-use redevelopment of a largely underutilized site consisting of land and existing structures situated along the Hudson waterfront in the City of Hoboken known as Hoboken Yard. The Project will include 386

residential units representing 357,735 residential square feet, with an additional 1,221 square feet of retail space located on the ground floor.

Sayreville Seaport Associates Urban Renewal L.P. (“Applicant”)

Situated near the Chevalier Avenue exit off the Garden State Parkway in Sayreville, south of the Driscoll Bridge and having more than 2 miles of water frontage along the Raritan River; the Project is located on a 311-acre site of a former industrial inorganic chemical manufacturing facility. The 418-acre “Redevelopment Area” consists of three (3) distinct parcels: Parcel A, B and C; with the 311-acre Parcel C being the location of the Project. Parcel A is set aside for waterfront access, open space, and wetlands preservation with 37 acres deeded to the State of New Jersey Green Acres Program and the County of Middlesex open space fund, and title to 15 acres of tidal wetlands held by the Sayreville Economic and Redevelopment Agency (SERA). Parcel B currently has no access to public roadways and is designated as a future development site.

Sayreville Seaport Associates Urban Renewal, L.P. has proposed a mixed-use village on Parcel C to be completed in five phases over 10 years. The Project will integrate housing, retail, restaurant, service, and entertainment spaces at street level, with rental apartments and office space on upper levels of multi-story buildings around a traditional downtown grid.

The Project entails 2,057,924 total square feet, comprising 1,276,875 square feet of residential uses and 781,049 square feet of commercial space. As such the Project is a predominantly residential project, with 62% of the square footage consisting of residential uses and 38% of the project square footage consisting of commercial uses. The residential uses will entail a total of 1,135 units consisting of studios, 1, 2, and 3 bedrooms, with 20% of these units reserved as affordable.

A Project Labor Agreement with the Middlesex County Building and Construction Trades Council and its member unions was executed in 2008 and remains in full force and effect with respect to the Project.

A Master Financial Agreement and a Master Special Assessment Agreement with 50-year terms were executed between the Borough of Sayreville and Sayreville Seaport Associates Urban Renewal L.P. on June 10, 2021, enabling the issuance of Redevelopment Area Bonds (RAB Bonds) for the financing of certain public improvements related to the Project.

SWPN 479 Clinton Avenue LLC (“Applicant”)

The Project, also known as the South Ward Wellness Center (“Wellness Center”), will be a 46,413 square foot, new construction health services center that will include a 11,500 square foot Federally Qualified Health Center (“FQHC”) in the South Ward of Newark, NJ. The Wellness Center will consist of several health service components including a pharmacy, administrative offices and conference rooms, a group therapy community, maternal health, medical health, and physical health spaces.

The space for the FQHC will be leased by the operator, Saint James Health, Inc., a nonprofit organization that provides primary and preventative community health services through the East, West, and South wards of Newark, NJ. Federally Qualified Health Centers are community outpatient clinics whose primary focus is to provide quality services to an under-resourced area or population, regardless of the patient's ability to pay. These services include preventative healthcare, dental healthcare, mental health and substance abuse services, hospital & special care, and transportation services necessary for patient care. As a FQHC, Saint James Health, Inc. would qualify for funding under Section 330 of the Public Health Service Act (PHS) and also qualify for enhanced reimbursement from Medicare & Medicaid, as well as other benefits.

South Ward Alliance, the sole-owner of the Applicant and a community focused nonprofit organization, will be the tenant for the remainder of the space at the Wellness Center and will provide numerous health care and health services where individuals may seek various treatments, including group therapy, maternal health, and physical health, provided by or under the direction of medical professionals.

Terrell Redevelopment Partners Urban Renewal, LP, (“Applicant”) and Chapel Street Aspire, LLC, (“Co-Applicant”)

The Project, currently a vacant parking lot located at 91-97 Chapel Street, Newark, New Jersey, is known as “Terrell Homes Phase 1”, and is a five-story, 69-unit residential building. The Project consists of one and two-bedroom units totaling 79,935 total square footage, and is reserved for seniors aged fifty-five (55) years and over and will include 28 parking spaces on-site. The 100 percent affordable building includes the following Area Median Income (AMI) range for residents: Thirty-three (33) units are reserved for households with incomes of 60% AMI or less, twenty-six (26) units are reserved for households with incomes of 50% AMI or less, and nine (9) units are reserved for households with incomes of 35% AMI or less. One (1) unit is reserved for the onsite Superintendent.

Togus Urban Renewal LLC (“Applicant”)

The Project known as 1888 Studios entails new construction of a 58-acre film studio campus located on a 74-acre vacant brownfield site at the intersection of West 1st Street and Avenue A and bordered by the Newark Bay to the west and south and Bayonne Bridge to the east in the City of Bayonne, Hudson County.

The Project site, originally known as the Chevron site, is presently known as the Texaco Redevelopment Area, former site of Texaco Refining and Marketing, Inc., and Pirelli Cable Company of which 58 acres is buildable, and 16 acres of open water is not buildable. The Project encompasses 1,567,385 gross square feet to include 17 buildings consisting of 1,124,342 rentable square feet representing 945,062 of production and production support spaces, 179,280 square feet of class-A office, and a 2,190-parking space facility.

The Project will include 23 purpose built sound stages ranging from 18,000 to more than 60,000 square feet, and will have industry optimized office, flex spaces, mill, car and truck parking for crew and production vehicles. Additionally, the studio will be equipped with large scale

technological film making processes such as LED volume capture, AR (augmented reality), and VR (virtual reality) in state of the art “Smart” Stages.

Significant elements of the studios will include stages/flex/mill, crow’s nest, office, bungalow, lighting and grip, common area, structured covered parking and surface parking.

The property is situated on a Brownfield site pursuant to the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq.

A Financial Agreement with a 30-year term was executed between Togus Urban Renewal LLC and the City of Bayonne on May 30, 2023, enabling the issuance of Redevelopment Area Bonds (RAB Bonds) for the financing of certain public improvements related to the Project for an amount of \$57,000,000.

Washington Township LIHTC, LLC (“Applicant”) and Premier Housing Services Inc. (“Co-Applicant”)

The proposed Project entails the new construction of a 55 and over 100 percent affordable residential development located on a vacant site at 4500 Black Horse Pike in Washington Township, Gloucester County. The Project site is located within proximity of Route 42 and the Atlantic City Expressway. The Project will have a gross building area of 64,243 square feet within a single 3-story low rise building containing 64 residential units, consisting of one, and two-bedroom apartment units. The Project will also include various amenities, and 99 parking spaces for tenants.

Emerge Program

EpiBone, Inc. EmERGE Tax Credit Program Application

This applicant company is seeking the small business designation under the EmERGE program, EpiBone has provided a growth plan that outlines that the company will have 23 new full-time employees at project completion certification, 29 new full-time employees at the end of year one (1) and grow to ninety (90) full-time employees within their eligibility period.

EpiBone, Inc. is a privately held clinical-stage regenerative Life Science company focused on skeletal reconstruction. The company is at the intersection of biology and engineering and harnesses the power of cells to create living solutions that can become a seamless part of a patient’s body. Their mission is to replace surgery and long recovery for a bone replacement by tapping into patients own cells for better integration, and without the possible complications of immune rejection. The company uses cell biology and engineering technologies to enable bio-manufacturing of live, anatomically correct tissue replacement to grow to fit and integrate.

EpiBone is looking to expand their operations from their current location at the Downstate Biotechnology Incubator space in Brooklyn. This space is too small for their projected growth requirements. The business is in clinical trials with patients in their EB CMF Phase I/IIa and will require its own clean room, a bigger facility, and a larger support staff.

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The applicant would create 90 new jobs with a total payroll of \$10.6M by 2027. If EpiBone decides to relocate to NJ and establish R&D, HQ, and clean room space the initial employment for the first year would be 29 new full-time employees and will grow each year to approximately 90 employees by 2027, surpassing the required 25% minimum job growth required by the Small Business Feature of the Emerge program.

Fiserv Solutions, LLC Emerge Tax Credit Program Application

Fiserv Solutions, LLC is a Wisconsin limited liability company. It is a wholly owned subsidiary of Fiserv, Inc. and is the operating entity under which the majority of the Fiserv, Inc. U.S. employees are employed. Fiserv, Inc., a publicly traded company (Nasdaq: FISV), together with its subsidiaries, provides leading global payments and financial services technology solutions worldwide. The company was incorporated in 1984 and is headquartered in Brookfield, Wisconsin.

On January 16, 2019, Fiserv, Inc., announced that it had entered into a definitive merger agreement to acquire First Data, a global commerce-enabling technology and solutions for merchants, financial institutions, and card issuers.

Fiserv, Inc., serves over 12,000 clients around the globe, including banks, credit unions, other financial institutions, corporate clients and merchants. With over 44,000 employees worldwide, the company had an estimated revenue of \$14.9 billion as of December 31, 2020.

As part of its real estate strategy, and subject to receipt of an Emerge award, Fiserv Solutions would maintain 1,119 New Jersey jobs, with approximately 1,063 of those jobs being at-risk of being located outside the State in the absence of an Emerge Program award for the proposed New Jersey hub location (the project site). Of the 1,063 at-risk retained jobs, only 839 are eligible for Emerge incentives as 224 jobs were previously included in an incentive award across three projects under the Grow NJ Program to First Data (a Fiserv Solutions, LLC related entity). In addition, this project would create approximately 1,927 new jobs at the New Jersey hub.

Genmab US, Inc. Emerge Tax Credit Program Application

Genmab, a biotechnology company specializing in the creation and development of differentiated antibody therapeutics for the treatment of cancer, has in-house and partnered pre-clinical, early and late-stage clinical development programs. The company currently has two commercialized cancer medicines in the United States. Originally founded in 1999 in Copenhagen, Denmark, Genmab has made many achievements including creating multiple marketed products, inventing four proprietary technologies, growing multiple proprietary clinical programs, operating a large preclinical pipeline, and becoming a leader in antibody and R&D expertise.

Genmab's parent company, Genmab AS, GMAB (NASDAQ), and related entities, have more than 1,600 employees worldwide, including in Japan, Denmark, and the Netherlands. Genmab is a U.S. entity and has its United States headquarters in Plainsboro, NJ.

Genmab US, Inc., is planning to open a new location to support the commercialization of Epcoritamab, a bispecific antibody therapy for a rare form of blood cancer, which the FDA approved in May 2023. The facility and its employees will also support research and clinical development of other new indications and new antibody therapies in various tumors from proof of concept through development and full regulatory submissions.

Genmab is considering entering into a 12-year lease on three floors in a building adjacent to its existing headquarters facility in Plainsboro, NJ. This lease includes an option to extend the lease for a total of 22 years. Total estimated eligible capital investment includes \$32.6 million to renovate and fit out the 135,476 square feet. This project will create 300 new full-time jobs with an average salary of \$188,217. These new jobs include clinical development, commercialization, and research & development positions, as well as IT, HR and support staff and an office of the Chief Operating Officer.

Economic Impacts

Input - Output models, such as IMPLAN are widely used to estimate the economy-wide effects of an initial change in economic activity. The change in economic activity could be a new real estate investment (Aspire) or creation of jobs (Emerge) or redevelopment (Brownfields) in one project and economic sector that drives macroeconomic multiplier effects throughout a region, which is New Jersey in our analysis. The model estimates linear first-order effects which are designed to capture the impacts of different industries that are identified by NAICS (North American Industry Classification System) codes on related economic sectors. As with any model, the results are driven by the data, and we utilized the publicly available data provided.

The following economic analysis utilizes the IMPLAN model to evaluate economic impacts of inputs to the New Jersey economy by project. The model estimates three types of effects: direct effects, indirect effects and induced effects. Direct effects are those caused specifically by the construction activity, (such as income taxes for the construction workers or construction jobs created), and by the ongoing activity of the project being analyzed. Indirect effects are the business-to-business purchases in the supply chain taking place in the region that stem from the initial industry input purchases. As the specified industry spends their money in the region with their suppliers, this spending is shown through the indirect effects. Induced effects are the values stemming from household spending of Labor Income, after removal of taxes, savings, and commuter income. The induced effects are generated by the jobs created by the spending of the employees within the business' supply chain for restaurants, stores, and public services (i.e. police & fire department or schools). For this report, we have analyzed impacts on State and Local Taxes, Jobs Created and Increases to Total Size of the New Jersey Economy due to the project activity.

Brownfields Redevelopment Incentive Program

This program is very new. The one approved project was only approved on May 8, 2024. Though the project is small, the total impact on New Jersey Output (GDP) is \$1,341,022.72.

Applicant	Total Construction Costs	State and Local Taxes (Direct)	State and Local Taxes (Indirect)	State and Local Taxes (Induced)	State and Local Taxes
Ninety Nine Main Avenue Redevelopment	\$ 700,323.00	\$15,440.66	\$23,313.11	\$26,594.96	\$65,348.73

Applicant	Total Construction Costs	Direct Jobs	Indirect Jobs	Induced Jobs	Total Jobs
Ninety Nine Main Avenue Redevelopment	\$ 700,323.00	4.46	1.07	1.80	7.33

Applicant	Total Construction Costs	Direct Output (GDP)	Indirect Output (GDP)	Induced Output (GDP)	Total Output (GDP)
Ninety Nine Main Avenue Redevelopment	\$ 700,323.00	\$700,323.00	\$283,547.26	\$357,152.46	\$1,341,022.72

Aspire Program

The fifteen approved projects in the Aspire program total \$3.9 billion of construction. Projects have been approved in 10 municipalities, all except one of which have been designated as distressed or enhanced interest areas. The exception is a small, 100% affordable, senior housing project. Aspire funded projects include new and renovated market rate and affordable housing, a life sciences center, a health services center, film and studio production studios and more than 575,000 square feet of new retail space.

This analysis utilizes the Implan model to evaluate economic impacts of inputs to the New Jersey economy. All the Aspire projects have impacts due to construction activity. Implan reports results in three categories: direct effects, indirect effects and induced effects. Aspire participants report that without the financing provided by the tax credits, their projects would have been financially infeasible.

Table A: Tax Impacts of Construction for Aspire Approved Projects (as of 7/31/2024)

Applicant	Total Construction Costs	State and Local Taxes (Direct)	State and Local Taxes (Indirect)	State and Local Taxes (Induced)	State and Local Taxes
260 South Washington Street (Newark)	\$ 123,884,575	\$ 4,288,892	\$ 2,011,914	\$ 5,554,276	\$ 11,855,081
720 8th Street (Union City)	\$ 46,889,152	\$ 1,623,305	\$ 761,490	\$ 2,102,241	\$ 4,487,037
81-93 Orange Street (Newark)	\$ 150,207,832	\$ 5,200,204	\$ 2,439,409	\$6,734,459.72	\$ 14,374,073
930 McCarter Urban Renewal (Newark)	\$ 170,193,254	\$ 26,861,625	\$ 2,863,869	\$9,362,394.63	\$ 39,087,889
DOR Woodbridge Urban Renewal	\$ 229,702,882	\$ 6,909,204	\$ 4,537,425	\$ 9,862,315	\$ 21,308,944
Forest Hill House Preservation (Newark)	\$ 33,604,316	\$ 1,127,907	\$ 1,553,301	\$ 992,488	\$ 3,673,697
NJ Innovation Associates (New Brunswick)	\$ 695,009,390	\$ 17,139,817	\$ 13,722,745	\$ 28,666,945	\$ 59,529,507
Northgate Preservation (Camden)	\$ 103,540,790	\$ 3,475,280	\$ 4,785,994	\$ 3,058,030	\$ 11,319,303
OAHS Manahan Village (Morristown)	\$ 70,059,240	\$ 2,351,493	\$ 3,238,367	\$ 2,069,168	\$ 7,659,028
Observer Highway (Hoboken)	\$ 259,198,565	\$ 8,973,470	\$ 4,209,443	\$ 11,620,981	\$ 24,803,894
Sayreville Seaport Associates (Sayreville)	\$ 918,280,108	\$ 27,773,784	\$ 17,891,340	\$ 39,399,018	\$ 85,064,142
SWPN 479 Clinton Avenue	\$ 36,323,801	\$910,185.23	\$795,716.92	\$1,449,073.45	\$3,154,975.61
Terrell Redevelopment Partners (Newark)	\$ 28,354,513	\$ 981,635	\$ 460,484	\$ 1,271,254	\$ 2,713,373
Togus Urban Renewal (Bayonne)	\$ 1,091,205,192	\$ 24,058,793	\$ 36,325,220	\$ 41,438,817	\$ 101,822,829
Washington Township LUHTC	\$ 25,289,142	\$ 875,512	\$ 410,701	\$ 1,133,820	\$ 2,420,033
	\$ 3,981,742,752	\$ 132,551,106	\$ 96,007,419	\$ 164,715,280	\$ 393,273,806

These revenues are not considered to be recurring. The cumulative effects of this activity total \$393,273,806.

Most of the Aspire projects are affordable housing or have a significant affordable housing component. For those projects, the economic effects are primarily those from construction. Several of the projects have commercial, educational and/or medical components. For these activities, there are significant ongoing economic effects due to the jobs created.

Program Evaluation: New Jersey Economic Recovery Act of 2020 as of October 2024

Construction jobs created through these projects are non-recurring and considered only during the construction period. The total number of jobs created due to the Aspire approved projects is 45,219.

Table B: Employment Effects of Construction for Aspire Approved Projects (as of 7/31/2024)

Applicant	Total Construction Costs	Direct Jobs	Indirect Jobs	Induced Jobs	Total Jobs
260 South Washington Street (Newark)	\$ 123,884,575	1079	105	375	1,559
720 8th Street (Union City)	\$ 46,889,152	408	40	142	590
81-93 Orange Street (Newark)	\$ 150,207,832	1304	128	455	1,887
930 McCarter Urban Renewal (Newark)	\$ 170,193,254	1482	145	516	2,142
DOR Woodbridge Urban Renewal	\$ 229,702,882	1858	225	664	2747
Forest Hill House Preservation (Newark)	\$ 33,604,316	152	71	67	290
NJ Innovation Associates (New Brunswick)	\$ 695,009,390	5125	673	1935	7,733
Northgate Preservation (Camden)	\$ 103,540,790	469	219	206	894
OAHS Manahan Village (Morristown)	\$ 70,059,240	317	148	140	605
Observer Highway (Hoboken)	\$ 259,198,565	2,257	220	785	3,263
Sayreville Seaport Associates (Sayreville)	\$ 918,280,108	7,463	894	2,662	11,018
SWPN 479 Clinton Avenue	\$ 36,323,801	261	40	98	399
Terrell Redevelopment Partners (Newark)	\$ 28,354,513	247	24	86	357
Togus Urban Renewal (Bayonne)	\$ 1,091,205,192	6,947	1,670	2,798	11,414
Washington Township LUHTC	\$ 25,289,142	220	22	77	318
	\$ 3,981,742,752	29,591	4,623	11,005	45,219

For all Industries, Output equals the total value of production. In IMPLAN, this represents an Industry's annual production in a given year in Producer Prices. The Output of an Industry can be measured in two different ways. The total value of production of an Industry can be captured by the industry's total receipts (sales) or by the industry's total costs of production (expenditures).

The contribution of Aspire projects to Output (GDP) is \$ 7,636,479,013 annually as shown in table C.

Program Evaluation: New Jersey Economic Recovery Act of 2020 as of October 2024

Table C: Output Effects of Construction for Aspire Approved Projects (as of 7/31/2024)

Applicant	Total Construction Costs	Direct Output (GDP)	Indirect Output (GDP)	Induced Output (GDP)	Total Output (GDP)
260 South Washington Street (Newark)	\$ 123,884,575	\$ 123,884,575	23,673,562	74,613,485	222,171,622
720 8th Street (Union City)	\$ 46,889,152	\$ 46,889,152	8,960,222	28,240,393	84,089,766
81-93 Orange Street (Newark)	\$ 150,207,832	\$ 150,207,832	28,703,771	90,467,153	269,378,755
930 McCarter Urban Renewal (Newark)	\$ 170,193,254	\$ 170,193,254	325,202,859	102,503,970	597,900,083
DOR Woodbridge Urban Renewal	\$ 229,702,882	\$ 226,198,961	\$ 57,850,363	\$ 132,395,309	\$ 416,444,633
Forest Hill House Preservation (Newark)	\$ 33,604,316	\$ 33,604,316	16,411,164	13,327,628	63,343,108
NJ Innovation Associates (New Brunswick)	\$ 695,009,390	\$ 695,009,390	184,418,336	384,915,190	1,264,342,916
Northgate Preservation (Camden)	\$ 103,540,790	\$ 103,540,790	50,565,673	41,064,757	195,171,220
OAHS Manahan Village (Morristown)	\$ 70,059,240	\$ 70,059,240	34,214,464	27,785,819	132,059,523
Observer Highway (Hoboken)	\$ 259,198,565	\$ 259,198,565	49,531,213	156,110,077	464,839,855
Sayreville Seaport Associates (Sayreville)	\$ 918,280,108	\$ 918,280,108	226,944,175	529,236,941	1,674,461,225
SWPN 479 Clinton Avenue	\$ 36,323,801	\$ 36,323,801	10,777,494	19,463,279	66,564,574
Terrell Redevelopment Partners (Newark)	\$ 28,354,513	\$ 28,354,513	5,418,369	17,077,352	50,850,234
Togus Urban Renewal (Bayonne)	\$ 1,091,205,192	\$ 1,091,205,192	441,807,905	556,495,525	2,089,508,622
Washington Township LUHTC	\$ 25,289,142	\$ 25,289,142	4,832,596	15,231,141	45,352,879
	\$ 3,981,742,752	\$ 3,978,238,831	\$ 1,469,312,165	\$ 2,188,928,017	\$ 7,636,479,013

Several of the Aspire projects are non-residential or have significant commercial components. The impact of these recurring operations is presented in the tables below. All monetary figures are shown as the net present value of ten years' operations. Where information on the types of non-residential activity, and the number of jobs created, are available we have used that data in the Implan analysis. Where that information is not available, we have estimated employment figures using the square footage of the project's nonresidential components (e.g. retail, restaurant, office).

The incremental tax receipts from these commercial operations over 10 years is \$991,244,613 in 2024 dollars.

Table D: Tax Impacts of Non-Residential Operations (10 Years)

Applicant	State and Local Taxes (Direct)	State and Local Taxes (Indirect)	State and Local Taxes (Induced)	State and Local Taxes
NJ Innovation Associates (New Brunswick)	\$150,525,604.00	\$95,819,466.76	\$95,819,466.76	\$411,034,841.22
Sayreville Seaport Associates (Sayreville)	\$ 283,975,679	\$ 55,114,492	\$ 140,795,203	\$ 479,885,375
Togus Urban Renewal (Bayonne)	41,711,654.14	28,256,641.06	30,356,101.59	100,324,396.79
Total	\$ 476,212,938	\$ 179,190,600	\$ 266,970,772	\$ 991,244,613

A total of 19,271 new jobs are being created through the projects' operations.

Table E: Employment Impacts of Non-Residential Operations
(Total new jobs created)

Applicant	Direct Jobs	Indirect Jobs	Induced Jobs	Total Jobs
NJ Innovation Associates (New Brunswick)	1,834	1,009	1,268	4,111
Sayreville Seaport Associates (Sayreville)	5,207	577	1,089	6,873
Togus Urban Renewal (Bayonne)	3,765.00	2,400.01	2,122.68	8,288
Total	\$ 10,806	\$ 3,986	\$ 4,479	\$ 19,271

The value of the Aspire projects' commercial operations to the economy of New Jersey is \$16,639,829,474, in 2024 dollars.

Table F: Output (GDP) Effects of Non-Residential Operations (10 years)

Applicant	Direct Output	Indirect Output	Induced Output	Total Output
NJ Innovation Associates (New Brunswick)	\$3,992,357,908.80	\$2,039,920,985.83	\$2,209,046,453.34	\$ 8,241,325,348
Sayreville Seaport Associates (Sayreville)	3,278,355,124	1,112,786,158	1,892,559,682	6,283,700,964
Togus Urban Renewal (Bayonne)	\$ 1,124,619,421	\$ 582,836,043	\$ 407,347,697	\$ 2,114,803,162
Total	\$ 8,395,332,454	\$ 3,735,543,188	\$ 4,508,953,833	\$ 16,639,829,474

Emerge Program

The EmERGE program analysis is driven by new, well-paying jobs created. Four projects have been approved in the EmERGE program including one which withdrew due to business considerations external to the EmERGE program. This analysis utilizes the Implan model to evaluate economic impacts of inputs to the New Jersey economy. Implan reports results in three categories: direct effects, indirect effects and induced effects. Direct effects are an input of the number of jobs created through the tax credit incentive. Indirect effects are the business-to-business purchases in the supply chain taking place in the region that stem from the initial industry input purchases. As the specified industry spends their money in the region with their suppliers, this spending is shown through the indirect effects. Induced effects are the values stemming from household spending of Labor Income, after removal of taxes, savings, and commuter income. The induced effects are generated by the spending of the employees within the business' supply chain. For this report, we have analyzed impacts on State and Local Taxes, Jobs Created and Increases to Total Size of the New Jersey Economy due to the activity.

6,543 jobs have been created through the EmERGE Program with an average annual income of \$114,530 per job.

Program Evaluation: New Jersey Economic Recovery Act of 2020 as of October 2024

Table E: Employment Impacts of Emerge Programs

Applicant	Projected Emerge Award	Direct Jobs	Indirect Jobs	Induced Jobs	Total Jobs	Labor Income	Income/Job
FISERV	\$ 109,229,575	2,766	1,040	1,754	5,560	\$ 642,300,253.50	\$ 115,528.90
EpiBone, Inc. (NAICS: 541714)	\$ 2,502,300	90	62	75	227	\$ 24,711,699.63	\$ 108,881.30
Genmab	\$ 8,400,000	300	207	250	757	\$ 82,372,332.11	\$ 108,884.66
		3,156	1,309	2,078	6,543	\$ 749,384,285	\$ 114,530

The tax impacts of the jobs created by the Emerge program as estimated by the Implan model include income taxes on Labor Income as well as sales tax, license fees, property taxes on the business property and on the households supported by the jobs in the analysis. State and local taxes from the Emerge projects total \$77,538,242 annually.

Table F: Tax Impacts of Emerge Programs

Applicant	Projected Emerge Award	Direct State and Local Taxes	Indirect State and Local Taxes	Induced State and Local Taxes	Total Annual Tax Impact
FISERV	\$ 109,229,575	\$ 29,096,410	\$ 10,288,166	\$ 26,059,776	\$ 65,444,351
EpiBone, Inc. (NAICS: 541714)	\$ 2,502,300	\$ 1,007,288	\$ 671,258	\$ 1,112,352	\$ 2,790,898
Genmab	\$ 8,400,000	\$ 3,357,625	\$ 2,237,528	\$ 3,707,840	\$ 9,302,993
		\$ 33,461,323	\$ 13,196,952	\$ 30,879,968	\$ 77,538,242

For all Industries, Output equals the total value of production. In IMPLAN, this represents an Industry's annual production in a given year in Producer Prices. The Output of an Industry can be measured in two different ways. The total value of production of an Industry can be captured by the industry's total receipts (sales) or by the industry's total costs of production (expenditures).

The contribution of Emerge projects to Output (GDP) is \$1,511,299,885 annually as shown in table G.

Table G: Output Impacts of Emerge Programs

Applicant	Projected Emerge Award	Direct Output (GDP)	Indirect Output (GDP)	Induced Output (GDP)	Total Output (GDP)
FISERV	\$ 109,229,575	\$ 674,243,180	\$ 241,115,312	\$ 349,474,760	\$ 1,264,833,252
EpiBone, Inc. (NAICS: 541714)	\$ 2,502,300	\$ 27,561,595	\$ 14,389,373	\$ 14,925,942	\$ 56,876,911
Genmab	\$ 8,400,000	\$ 91,871,984	\$ 47,964,577	\$ 49,753,141	\$ 189,589,702
		\$ 793,676,759	\$ 303,469,262	\$ 414,153,844	\$1,511,299,865

Conclusions and “Best Practices”

The three programs; Brownfields, Aspire, and Emerge, as authorized by the New Jersey Economic Recovery Act of 2020, hold significant potential to promote economic development in New Jersey. This section consolidates the conclusions drawn from previous analysis and presents “best practices” to maximize program effectiveness.

Support Event for Emerging Developers Considering Tax Credit Incentive Programs

NJEDA recognizes the potential of small and emerging developers to successfully undertake projects supported by our programs. However, these developers often lack connections to industry professionals specializing in tax credits that more seasoned developers have. To address this gap, NJEDA has collaborated with several organizations to encourage more applications from smaller and BIPOC developers. The goal is to empower these communities by providing resources, networking opportunities, and advocacy to promote equitable access to industry opportunities.

As a result of this collaboration, during this reporting period, NJEDA began planning an event to be held on September 17, 2024, coinciding with the 2024 Governor’s Conference on Housing & Economic Development. The event aimed to achieve two key objectives: 1) to offer an overview of available NJEDA ERA tax credits for developers with limited experience in tax credit financing, and 2) to facilitate networking opportunities with seasoned professionals in the field.

At the event, attendees would have the opportunity to engage in brief, one-on-one discussions with tax credit professionals—including tax credit brokers, incentive consultants, financial institutions, legal experts, and nonprofit partners—to learn how these professionals can support their initiatives and exchange contact information for future collaboration.

<https://njeda.zohobackstage.com/EmergingDevelopersFindingtheRightResources#/>.

This is one example of NJEDA’s continued actions to empower emerging real estate developers by connecting them with the resources needed to navigate NJEDA’s tax credit programs effectively.

Brownfields Redevelopment Incentive Program

The implementation of the Brownfields program, as authorized by the New Jersey Economic Recovery Act, amended September 4, 2024, shows great promise in driving economic development, promoting investment in brownfield remediation, and revitalizing targeted brownfields. The program team is in the process of developing new rules and a new application process to implement the amended legislation. These changes promise to drive more brownfield redevelopment when implemented. The program is expected to relaunch in 2025.

Implementation – The program’s implementation demonstrates a strong foundation, with a well-designed and informative website that includes valuable tools such as the Eligibility Self-

Assessment Tool, Application Checklist, Mapping Assistant Tool, and a comprehensive FAQ section.

- 1) Application Process – The prospective evaluation of the program highlights its user-friendly approach, comprehensive guidance through various tools and resources, and the potential to adapt to future needs. The website’s features and resources contribute to facilitating the application process and assisting potential applicants. As the program progresses and receives applicants, their feedback and experience will provide valuable insights for further refinement.
- 2) Target Population and Outreach – Identifying the target population as real estate developers and emphasizing partnerships with municipalities is crucial for successful program implementation. Continuing to engage community organizations and addressing challenges faced by smaller developers, such as prevailing wage requirements and financing gap modeling, will broaden the applicant pool. Ongoing education and training, partnerships and networking, and simplified processes and support further enhance outreach efforts.
- 3) Understanding of Objectives and Usefulness – The NJEDA implementation team exhibited a sophisticated understanding of the program’s objectives and usefulness, primarily supporting economic development by encouraging brownfield site remediation through tax credits. The work of the Brownfields project team has led to changes in legislation defining this project that will, when implemented with supporting rules, expand the effectiveness of this program.
- 4) Best Practices – Best practices include a) continuing to develop user-friendly program materials, guidelines, and resources to effectively communicate the program objectives, eligibility criteria, and benefits, b) continuing targeted outreach to different stakeholder groups and leveraging partnerships with industry associations, municipalities, and community organizations through informational sessions, workshops, and webinars, to support a diverse pool of potential applicants by addressing their specific needs and concerns, c) continuing to foster collaboration with key stakeholders to ensure a shared understanding of program goals, to gather feedback for program refinement, and to support and enhance program effectiveness, d) continuing to regularly evaluate the program’s implementation and gather feedback from applicants and awardees for ongoing refinement and continuous program improvement.

Aspire Program

The implementation of the Aspire Program, as authorized by the New Jersey Economic Recovery Act, has shown promise in driving economic development, revitalizing targeted regions, and promoting investment in place-based opportunities. Through a comprehensive analysis of the program's implementation, application process, target population and outreach, understanding of objectives and usefulness, and best practices, several key conclusions can be drawn.

Additionally, best practices can be identified to enhance the program's effectiveness and maximize its impact.

- 1) Implementation - The Aspire Program has demonstrated commendable progress in its implementation, with a robust website design and user experience that facilitates easy access to program information and resources. The NJEDA Board Memo provides a comprehensive overview of the program's structure and purpose, aiding stakeholders in understanding its goals. The program has expanded past its original focus on affordable housing to include high value projects in film and TV production, biomedical sciences and retail stores.
- 2) Application Process - The Aspire Program's application process has been supported by a range of resources, including an informative video overview, a sample application, and a robust FAQ section. This program has benefited from lessons learned from the predecessor ERG program. However, there should be continued refinements to ensure clear communication of the program's eligibility criteria, compliance requirements, and scoring criteria to a wider range of potential applicants.
- 3) Target Population and Outreach – The Aspire Program has successfully engaged large developers with experience in low-income housing development, as well as developers of large projects in retail, biomedical sciences and film and TV production. There is a need to expand the pool of potential applicants to include more emerging developers and projects. To achieve this, the NJEDA should continue to explore outreach strategies targeting emerging developers engaged in other sectors, such as food delivery. Considerations should be made to address the Net Benefit Test threshold and other guidelines to encourage a wider variety of projects and attract a more diverse applicant pool.
- 4) Understanding of Objectives and Usefulness - The NJEDA implementation team demonstrates a sophisticated understanding of the Aspire Program's objectives. However, challenges exist in effectively communicating these goals and expectations to other stakeholders. To address this, the NJEDA should continue to prioritize clear and transparent communication strategies, simplify program guidelines, and engage in regular dialogue and collaboration with stakeholders to ensure alignment and foster a broader understanding of the program's objectives. Training and extra support may be required by emerging developers to engage with the Aspire program.
- 5) Best Practices - a) The NJEDA should continue prioritizing a user-centric website design, ensuring easy navigation, comprehensive information, and regular updates to facilitate a seamless user experience, b) the NJEDA should continue to refine the application process, providing clear instructions, transparent scoring criteria, and timely updates to applicants throughout the process, c) the NJEDA should expand its ongoing efforts toward proactive stakeholder engagement mechanisms, including regular communication, collaborative partnerships, and educational workshops, to ensure effective two-way communication and to gather feedback to inform program

enhancements, d) to broaden the pool of potential applicants, the NJEDA should expand outreach and training efforts to engage emerging developers and diverse projects, leveraging partnerships with local economic development organizations and adopting targeted marketing strategies, e) continuing to regularly monitor and evaluate the program's implementation and outcomes to identify areas for improvement, gauge stakeholder satisfaction, and inform program enhancements for greater effectiveness and impact.

Emerge Program

The implementation of the EmERGE Program has shown promising results in driving capital investment and creating and retaining high-paying jobs in specific regions and target industries through the issuance of multi-year per-job tax credits. A comprehensive analysis of the program's implementation, application process, target population and outreach, and understanding of objectives and usefulness leads to several key conclusions. Moreover, best practices can be identified to enhance the program's effectiveness and maximize its impact.

1. **Implementation** - The EmERGE Program has made commendable progress in its implementation, featuring a well-designed website that offers a user-friendly experience with easy access to program information and resources. The excellent multi-step application process efficiently manages the time of both companies and NJEDA staff as they navigate through the application stages. The comprehensive NJEDA Board Memo provides stakeholders with a clear overview of the program's structure and purpose, facilitating their understanding of its goals.
2. **Application Process** - The EmERGE Program's application process is highly effective in attracting potential applicant companies and guiding them through their submissions. The website offers valuable resources such as an informative video overview, an indication of interest form, a concise pre-application, an annotated sample application, and a robust FAQ section. Additionally, useful tools and appendices support applicants in their understanding and application preparation. Drawing from lessons learned from the predecessor program, the EmERGE Program places a strong emphasis on the creation of new, well-paying jobs rather than job retention.
3. **Target Population and Outreach** - The EmERGE Program has successfully developed strategies to engage large New Jersey employers, startups, early-stage companies, and external companies considering a move or expansion in New Jersey. However, the greatest outreach challenge lies in connecting with the multitude of potential New Jersey companies that could emerge from anywhere in the world. The program's partnership with Choose NJ is a crucial aspect of their outreach strategy, facilitating engagement with relocation influencers and expanding their reach.
4. **Understanding of Objectives and Usefulness** - The NJEDA implementation team demonstrates a sophisticated understanding of the EmERGE Program's objectives. However, effectively communicating these goals and expectations to potential applicants

presents challenges. To address this, the NJEDA should continue to prioritize engagement with relocation influencers and employ clear and transparent communication strategies. Additionally, given the evolving nature of work, particularly in a post-pandemic hybrid work environment, there may be a need to engage with the legislature to modify residency requirements and align them with the program's objectives.

5. Possible legislative action: Smaller companies and start-up businesses would be more likely to use the Emerge program if there was a waiver of the 10-year prevailing wage requirement for building services, which is a factor unlikely to be under the control of the applicant company.
6. Best Practices - a) The NJEDA should continue prioritizing a user-centric website design, ensuring easy navigation, comprehensive information, and regular updates to provide a seamless user experience. b) continuing to strive for a more streamlined application process with clear instructions, transparent scoring criteria, and timely updates to applicants will enhance efficiency and transparency. c) fostering and expanding proactive stakeholder engagement mechanisms, including regular communication, collaborative partnerships, and educational workshops, will facilitate effective two-way communication and gather feedback for program enhancements. d) expanding outreach efforts to engage a wide range of relocation influencers, such as lawyers, accountants, and Choose NJ, will broaden the pool of potential applicants. e) continuing to regularly monitor and evaluate the program's implementation and outcomes, particularly in the context of the increasing prevalence of hybrid work, will identify areas for improvement, gauge stakeholder satisfaction, and inform program enhancements for greater effectiveness and impact.

The Emerge team acts as a resource to companies interested in remaining in or relocating to New Jersey by connecting them to resources and supportive programs whether or not they are good candidates for the Emerge program. The results of this outreach have been very positive for the employment outlook. Over the past four years the team has:

- Spoken with approximately 170 prospective applicants
- Of those applicants, 54 companies have chosen to remain or relocate to New Jersey without utilizing the Emerge program.
- 35 companies have completed pre-applications for the Emerge program
- Nine companies have completed full applications
- Four companies have received Board approval for their Emerge programs, one of which has withdrawn from the program for reasons unrelated to the Emerge program.

The use of the program team to magnify the impact of the program in this way is a very strong practice.

APPENDIX A: NJIT/NJEDA MOU

**MEMORANDUM OF UNDERSTANDING
BETWEEN
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
AND
NEW JERSEY INSTITUTE OF TECHNOLOGY**

This **MEMORANDUM OF UNDERSTANDING** ("MOU"), made effective as of the date of the last signature of the parties hereto (the "Effective Date"), is between NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA" or "Authority") and NEW JERSEY INSTITUTE OF TECHNOLOGY ("NJIT") (each a "Party", and collectively "the Parties").

WHEREAS, NJEDA is an independent State authority established pursuant to N.J.S.A. 34:1B-1, et seq., in but not of the Department of Treasury, which serves as the State's principal agency for driving economic growth; and

WHEREAS, NJIT was created pursuant to N.J.S.A. 18A:64E-12 et seq., as a body corporate and politic of the State of New Jersey; and

WHEREAS, the New Jersey Economic Recovery Act of 2020 ("ERA"), P.L. 2020, c. 156, as amended by P.L. 2021, c.160, requires NJEDA to engage a State or public college or university ("Public Institutions of Higher Education" or "PIHE") to prepare a report on the implementation of the Brownfield Redevelopment Incentive Program (N.J.S.A. 34:1B-286), the New Jersey Aspire Program (N.J.S.A. 34:1B-334(a)), and the Emerge Program (N.J.S.A. 34:1B-347), and submit the report to the Authority, the Governor, and pursuant to N.J.S.A. 52:14-19.1, to the Legislature ("ERA Implementing Reports"); and

WHEREAS, on February 13, 2024, NJEDA requested that PIHEs respond to its Scope of Work outlining the reports required pursuant to the ERA; and

WHEREAS, on March 15, 2024, NJIT submitted a Proposed Plan and Scope of Work for ERA Implementation Reports; and

WHEREAS, NJEDA has determined that NJIT has considerable expertise in the areas of entrepreneurship, economic development, and metrics and is the appropriate PIHE to assist NJEDA with evaluation of its programs to meet the ERA statutory obligations; and

WHEREAS, N.J.S.A. 52:14-2 authorizes government entities to call upon any department, office, division or agency of the State to assist with its mission. This MOU shall be administered consistent with N.J.S.A. 52:14-1, et seq.; and

WHEREAS, the Parties have determined that they can assist each other with the implementation of the Program by providing the support outlined below, and that it is mutually beneficial to enter into this MOU.

NOW THEREFORE, the Parties hereby agree as follows:

1. Incorporation. The recitals set forth above are hereby incorporated into and made part of this MOU.
2. Purpose of MOU. The Parties are entering into this MOU to document the mutual understanding and intention of the Parties in carrying out their respective obligations under this MOU.

3. Responsibilities of NJEDA.
 - a. Provide access to relevant staff, information and documents as reasonably requested by NJIT.
 - b. Participate in regular meetings and communications with NJIT to discuss progress and findings, at a frequency to be mutually agreed upon by the Parties.
 - c. Review draft report prepared by NJIT for compliance with applicable statutes.
 - d. Provide NJIT with any necessary guidance to ensure that the report is compliant with applicable law.
 - e. Review NJIT's final report prior to NJIT's formal submission of the final report to NJEDA, the Governor and the Legislature.

4. Responsibilities of NJIT.
 - a. Perform a careful review of the relevant laws and regulations.
 - b. Evaluate the implementation of each of the three (3) ERA programs and may include interviews with program applicants.
 - c. Prepare one report with sections specific to the three programs: the Brownfield Redevelopment Incentive Program, the New Jersey Aspire Program, and the Emerge program, which includes all content required by N.J.S.A. 34:1B-286, N.J.S.A. 34:1B-334(a) and N.J.S.A. 34:1B-347, respectively.
 - d. Deliver a draft report to NJEDA no later than September 27, 2024, which incorporates each of the components listed above. The due date for the draft report may be extended if both Parties agree.
 - e. Deliver a final report to NJEDA no later than October 25, 2024, which includes an executive summary and addresses any deficiencies or concerns raised by NJEDA after reviewing the draft report. The due date for the final report may be extended if both Parties agree.
 - f. Upon written confirmation from NJEDA that the report is ready to share, formally submit the final report to NJEDA, the Governor and the Legislature, as required by the ERA.
 - g. Provide all deliverables electronically in a format compatible with the Microsoft Office Suite of software and/or Adobe software applications.
 - h. Assign the responsibility for the preparing the reports to Michael Ehrlich of NJIT, with support from NJIT staff and/or a third-party consultant hired by NJIT.
 - i. Participate in regular meetings and communications with NJEDA to discuss progress and findings, at a frequency to be mutually agreed upon by the Parties.
 - j. Provide NJEDA with access upon request to all data, information, and analyses obtained and generated during the course of the program review. If NJIT determines it is the most practical way to store and analyze the data collected, NJIT shall create and maintain a database that includes the data collected in sortable fields. A copy of any database created by NJIT is to be provided to NJEDA in an electronic format compatible with the Microsoft Office Suite of software.

5. Funding. NJEDA will pay NJIT a flat fee of FIFTY-EIGHT THOUSAND THREE HUNDRED SIXTY DOLLARS (\$58,360.00) for NJIT's performance of the work required under this MOU. The total MOU price shall not exceed the aforementioned amount unless

an increase is approved in writing by NJEDA. NJIT's performance of the work is predicated on the NJEDA fulfilling all of its obligations described in Section 3 above. NJIT shall invoice NJEDA as follows: \$29,180 immediately following the Effective Date and \$29,180 upon NJIT's submission of the Final Report to NJEDA, the Governor and the Legislature.

6. Intellectual Property. All reports, surveys, and other information produced or generated by NJIT pursuant to this MOU, and any portion thereof ("Work Product") shall be deemed a "work made for hire" and as such, shall become the sole property of NJEDA. To the extent that any such Work Product may not, by operation of the law, be deemed a "work made for hire", then NJIT hereby assigns to NJEDA all right, title, and interest in and to such Work Product, and NJEDA shall have the right to obtain and hold in its own name any associated copyrights, registrations, and any other proprietary rights that may be available.

The Work Product may be used in its entirety or in part by NJEDA at the sole discretion of NJEDA without additional compensation to or approval from NJIT. Use of the Work Product by NJEDA shall also include sharing and distributing it with other New Jersey State offices and personnel. Whenever the Work Product is used, credit shall be given to NJIT by NJEDA as to the author/source of the information. Notwithstanding NJEDA's ownership of the Work Product, NJIT may use any of the Work Product for NJIT teaching and research program purposes, and may include such Work Product in journal articles and public presentations at academic conferences, after notifying NJEDA of its intent to use such information (NJEDA written approval not required). Copyrights to such NJIT journal articles and public presentations shall remain with the authors, except for any Work Product cited, which shall remain the property of NJEDA.

7. Confidential Information. The Parties agree to strictly control the use and retention of any personal and confidential information provided by the other Party that is marked, identified or reasonably understood to be confidential and/or proprietary in nature ("Confidential Information") so that only personnel who have a need to know have access to such Confidential Information. No further dissemination or use of such Confidential Information is authorized without written permission of the Party from which such information originated. This Section shall survive termination of this MOU for a period of five (5) years thereafter. Confidential Information covered under this Section shall not include information that: (a) is or hereafter becomes known and available to the general public through no act or omission of the receiving Party; (b) is subsequently disclosed without restriction to the receiving Party by a third party who had the right to make such disclosure; (c) is required to be disclosed by any applicable judgment, order or decree of any court, governmental body, agency having jurisdiction or by any applicable law, rule or regulation (e.g., the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.), provided that in connection with any such disclosure, the receiving Party will use its best efforts to give the disclosing Party reasonable prior notice of the same; and (d) was known by the receiving Party prior to disclosure or independently developed by the receiving Party without knowledge of, reliance upon, or use of the disclosing Party's Confidential Information. This MOU shall not be considered confidential.
8. Designation of Contacts. The Parties have designated the following contacts, who will be responsible for day-to-day communications between the Parties related to this MOU. The

Program Evaluation: New Jersey Economic Recovery Act of 2020 as of October 2024

Parties will notify each other of any designated contact change in writing within ten (10) business days of such change:

NJEDA:

New Jersey Economic Development Authority
Attn: Maciek Bury, Director Business Operations
36 West State Street, P.O. Box 990
Trenton, NJ 08625
(609) 858-6064
Maciek.Bury@njeda.gov

NJIT:

New Jersey Institute of Technology
Attn: Michael Ehrlich, PhD, Associate Professor of Finance, MT School of Management
2014 Central Avenue Building
University Heights
Newark, NJ 07102
(973) 596-5305
michael.a.ehrlich@njit.edu

9. Term and Extension. This MOU will commence upon the Effective Date and shall remain in effect until December 31, 2024. The Parties may extend the term for an additional thirty (30) days by mutual consent (not to be unreasonably withheld), provided that such consent is in writing, and signed by the authorized representatives of each Party.
10. Termination. This MOU may be terminated by either Party upon sixty (60) days prior written notice to the other Party.
11. Duties Upon Termination. If NJEDA or NJIT terminate this MOU prior to the expiration date and NJIT has not completely fulfilled all of its obligations hereunder, NJEDA will determine the pro-rata amount to be paid to NJIT for the work that was performed. If NJEDA paid NJIT more than the pro-rata amount, then NJIT will refund NJEDA the difference between the payment it received from NJEDA and the pro-rata amount. Upon termination or expiration of the MOU, NJIT will provide NJEDA with all of the Work Product. NJIT will also provide digital copies of any database or other tool that was created in order to store and/or assess the data compiled hereunder.
12. 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	NJIT
Tim Sullivan, CEO 36 West State Street P.O. Box 990	Eric Hetherington, PhD, Associate Vice Provost, Sponsored Research 323 Dr. Martin Luther King Jr. Blvd.

Trenton, NJ 08625	University Heights Newark, NJ 07102
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13. Assignment. This MOU may not be assigned by a Party without the prior written consent of the other Party.
14. Third-Party Beneficiaries. This MOU is intended for the sole benefit of the Parties and shall not be construed to create any third-party beneficiary.
15. Dispute Resolution. In the event a dispute arises between the Parties concerning this MOU, the CEO of NJEDA and the President of NJIT, or their appointed representatives, shall meet to resolve such dispute.
16. Applicable Law. The Parties shall retain all the powers, obligations and immunities provided by law. Each Party shall be responsible for adhering to all applicable laws, regulations, and its own Standard Operating Procedures in the performance its obligations under this MOU.
17. Publicity and Public Announcements. Each Party agrees to obtain permission of the other Party before using the name of the other Party in any public announcement or other publicity.
18. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
19. Electronic Signatures. The Parties agree that the execution of this MOU by electronic signature and/or by exchanging PDF signatures will have the same legal force and effect as the exchange of original signatures.
20. Entire Agreement. This MOU reflects the entire understanding of the Parties, and it supersedes any prior understandings of the Parties. It may not be amended, modified, or supplemented except by mutual consent of the Parties in writing and signed by the authorized representatives of each Party.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives.

For New Jersey Economic Development Authority	For New Jersey Institute of Technology
Name: Tim Sullivan	Name: Atam P. Dhawan, PhD
Title: Chief Executive Officer	Title: Senior Vice Provost for Research
Signature:	Signature:
Date:	Date:

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APPENDIX B: NJERA Program Evaluation, June 2023

Program Evaluation:

New Jersey Economic Recovery Act of 2020
Brownfields Redevelopment Incentive
Program, Aspire Program, and Emerge
Program

Prepared for the New Jersey Economic Development
Authority

July 2023

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Executive Summary

The New Jersey Economic Recovery Act of 2020 (NJERA), P.L. 2020, c. 156 (as amended) describes a variety of economic development policies and makes appropriation to fund their implementation by the New Jersey Economic Development Authority (NJEDA). As a recognized best practice, it also specifies a series of written reports that must be produced that evaluate the implementation and performance of the tax credit awards granted. This report is responsive to the reporting requirement and is prepared under an MOU with the New Jersey Institute of Technology (NJIT). As specified, this report has sections for the Brownfields Redevelopment Incentive program, the Aspire program, and the Emerge program and focuses on the implementation of each program.

As this is the first report required under the NJERA and the programs are newly created, there is limited data for analytical review and therefore the focus is on the implementation process and toward suggestions to prepare for future successful administration of the three programs. We conduct a policy review, an implementation review, an application process evaluation, and assessments of target populations and objectives of each program, ending with conclusions and “best practices”.

The implementation teams at the New Jersey Economic Development Authority demonstrate a sophisticated understanding of the objectives and usefulness of these three programs. The NJEDA staff has created intuitive and user-friendly interfaces that allows potential applicants and stakeholders to easily navigate through the program websites which provides comprehensive details about each program’s objectives, eligibility criteria, available incentives, and application procedures, including fees. The websites also have many tools to support potential applicants through the process with FAQs, Mapping Tools, and early, regular, and transparent communications. The NJEDA Board Memo provides a comprehensive overview of each program. All these program implementations benefit from the Uniform Policies and Procedures that was recently implemented by the NJEDA.

Each of these programs is off to a very good start, but successful administration will require ongoing care and the following section on recommendations addresses a series of suggestions that will help the programs to maximize their potential to promote economic development in New Jersey, revitalize targeted areas, and attract a diverse range of applicants. Each implementation team will need to engage a broad range of stakeholders and listen carefully so that they can conduct continuous improvements in their processes. Broadening outreach to encourage emerging developers and businesses to apply will require new partnerships and education efforts. At the program kickoff, the early focus is on getting the programs launched but the NJEDA implementation teams also want to broaden participation and enhance the pool of potential applicants in the future.

We look forward to the next series of NJERA reporting on these programs where a more quantitative analysis of program outcomes should be possible.

Recommendations

Brownfields Redevelopment Incentive Program

1. **Strengthen Partnerships:** The Brownfields program should continue fostering partnerships with the Department of Environmental Protection (DEP) and other relevant stakeholders to ensure effective implementation and address challenges that may arise during the program's lifespan.
2. **Continuous Refinement:** Regularly evaluate the program's implementation and gather feedback from applicants and awardees to identify areas for improvement and refine the program's processes and guidelines. This feedback will be instrumental in enhancing the program's effectiveness and maximizing its impact.
3. **Targeted Outreach:** Expand outreach efforts to engage community organizations and smaller developers, addressing their specific needs and concerns. Develop partnerships with industry associations, municipalities, and community organizations to conduct informational sessions, workshops, and webinars that provide education and training on the program. Simplify processes and provide support to broaden the applicant pool.
4. **Stakeholder Engagement:** Maintain open lines of communication with stakeholders to ensure a shared understanding of program goals. Actively engage stakeholders and solicit their input to balance program objectives with return on investment, fostering support and participation in the program.

Aspire Program

1. **Streamlined Communication:** Prioritize clear and transparent communication strategies to effectively convey the Aspire Program's goals and expectations to a broader range of stakeholders. Simplify program guidelines to ensure a comprehensive understanding of the program's eligibility criteria, compliance requirements, and scoring criteria.
2. **User-Friendly Experience:** Continuously prioritize a user-centric website design that offers easy navigation, comprehensive information, and regular updates. Provide clear instructions and transparent scoring criteria to applicants, ensuring a seamless and efficient application process.
3. **Diverse Applicant Pool:** Expand outreach efforts to engage emerging developers involved in sectors beyond low-income housing, such as food delivery, healthcare, or film production. Collaborate with local economic development organizations and adopt targeted marketing strategies to attract a more diverse range of projects and applicants.
4. **Stakeholder Collaboration:** Establish proactive stakeholder engagement mechanisms, including regular communication, collaborative partnerships, and

educational workshops. This will facilitate effective two-way communication, gather feedback, and inform program enhancements for greater effectiveness and impact.

Emerge Program

1. **Seamless User Experience:** Continue prioritizing a user-centric website design that offers easy access to program information and resources. Regularly update the website to provide comprehensive information and facilitate a seamless user experience.
2. **Streamlined Application Process:** Strive for a more streamlined application process by providing clear instructions, transparent scoring criteria, and timely updates to applicants. Enhancing efficiency and transparency will benefit both companies and NJEDA staff navigating the application stages.
3. **Broadened Outreach:** Expand outreach efforts to connect with potential New Jersey companies worldwide, focusing on relocation influencers such as lawyers, accountants, and Choose NJ. Strengthen the partnership with Choose NJ to broaden the program's reach and engage companies considering a move or expansion in New Jersey.
4. **Residency Requirements:** Consider engaging with the legislature to modify residency requirements in alignment with the program's objectives. This will accommodate the evolving nature of work, particularly in a post-pandemic hybrid work environment, and attract more companies to participate in the program.
5. **Ongoing Evaluation:** Regularly monitor and evaluate the program's implementation and outcomes, especially considering the increasing prevalence of hybrid work. Identify areas for improvement, gauge stakeholder satisfaction, and use feedback to inform program enhancements for greater effectiveness and impact.

By implementing these recommendations, the Brownfields Redevelopment Incentive Program, Aspire Program, and EmERGE Program can maximize their potential to promote economic development in New Jersey, revitalize targeted areas, and attract a diverse range of applicants.

Policy Review

The New Jersey Economic Recovery Act of 2020 (NJERA), P.L. 2020, c. 156 (as amended) describes a variety of economic development policies and makes appropriation to fund their implementation by the New Jersey Economic Development Authority (NJEDA). As a recognized best practice, it also specifies a series of written reports that must be produced that evaluate the implementation and performance of the tax credit awards granted. The reports are to be submitted to the NJEDA, the Governor, and to the Legislature.

The NJERA specifies that the NJEDA must engage a State college or university established pursuant to Chapter 64 of Title 18A of the New Jersey Statutes to prepare reports after two years for three programs; the Brownfields Redevelopment Incentive program, the Aspire program, and the Emerge program. This report is responsive to the reporting requirement and is prepared under an MOU (attached as Appendix A) with the New Jersey Institute of Technology (NJIT). As specified, this report has sections for the three programs and focuses on the implementation of each program.

As this is the first report required under the NJERA and the programs are newly created, there is limited data for analytical review and therefore the focus is on the implementation process and to suggestions to prepare for future successful administration of the three programs. We begin a policy review of each program below.

Brownfields Redevelopment Incentive Program

A 'Brownfield Site' refers to any former or existing commercial or industrial site in New Jersey that is currently vacant or underutilized and is suspected or known to have been contaminated or contains contaminated building material. Many of these brownfield sites remain undeveloped due to the high costs associated with remediation. The objective of the program is to incentivize developers to remove contaminants and remediate these sites, enabling their productive use. The New Jersey Economic Development Authority (NJEDA) is authorized to issue tax credits to developers, compensating them for a portion of the remediation costs, thus bridging the financing gap and ensuring a reasonable and appropriate return on investment for developers.

The NJEDA is responsible for determining the appropriate tax credits for eligible developers and sites. Developers seeking tax credits must submit an application to the NJEDA in consultation with the Department of Environmental Protection (DEP) under the provisions of the "Administrative Procedure Act" P.L. 1968. The application must demonstrate the following:

1. No substantial work has commenced, except for preliminary assessments and investigations and other limited circumstances, prior to the application, and the developer intends to initiate remediation immediately upon approval of the tax credit.
2. The proposed redevelopment project is situated on a brownfield site.

Program Evaluation: New Jersey Economic Recovery Act of 2020 as of October 2024

3. A project financing gap exists, indicating that commercial development is not economically feasible without tax credits.
4. The developer has obtained support from the governing body of the municipality for the redevelopment project.
5. Each worker involved in the remediation process must receive at least the prevailing wage determined by the Commissioner of Labor and Workforce Development.

There are additional requirements for developer applicants, including that the site has not received previous reimbursements under the legacy Brownfield Contaminated Site Reimbursement Program (pursuant to sections 34 through 39 at P.L. 1997, c. 278 (N.J.S.A. 58:10B-26 through 31) for the same redevelopment project and maintaining a good standing with New Jersey tax authorities. The NJEDA conducts a comprehensive review of all applicants through a competitive application process. Other factors considered during the evaluation include job creation, economic development, reduction of environmental and public health stressors, among others.

Developers are required to pay a non-refundable fee to the NJEDA to cover the direct costs associated with the analysis of their application. Once a tax credit is approved, the developer must enter into a redevelopment agreement with the NJEDA, submit progress reports every six months, and comply with New Jersey green building standards and affirmative action requirements. The NJEDA is prohibited from entering into a redevelopment agreement unless the developer demonstrates to the DEP that no hazardous substances were discharged by the developer or any related entities at the proposed brownfield site. This prohibition also extends to any person or entity who owns real property on which there has been a discharge prior to the person's acquisition of that property and who knew or should have known that a hazardous substance had been discharged at the real property, unless they entered into a Pre-Purchase Administrative Consent Order with DEP prior to acquiring the property. This does not apply to government entities who acquired the property for the purposes of redevelopment, and certain other situations (such as tax foreclosure). Tax credits are issued only after satisfactory evidence of complete remediation, including costs, is submitted to the NJEDA, with the tax credit amount not exceeding 50% of the actual reasonable costs or \$4,000,000, whichever is lower, except for sites located in a Government Restricted Municipality or Qualified Incentive Tract, which can receive a tax credit of 60% of the actual reasonable costs or \$8,000,000. Once issued, developers can apply the tax credits against their tax liabilities or sell/assign them.

Regarding the implementation report, future reports must include a description of each redevelopment project that received a tax credit, along with a detailed analysis of the considerations involved in each project and other relevant metrics. The NJEDA is required to prepare a written response to the report, which will be submitted to the Governor and the Legislature.

Aspire Program

The New Jersey Aspire Program was established to incentivize real estate development projects by providing awards to developers to reimburse certain project financing gap costs. The program's broad mandate is narrowed down by specifying target sectors, regions, and eligibility criteria.

The program identifies specific regions such as the Atlantic City International Airport aviation district, as well as more general regions like distressed municipalities, food desert communities, government-restricted municipalities, transit hubs, Port districts, Municipal Revitalization Index communities, and South Jersey marine terminal facilities (as defined in the NJERA). It also highlights specific uses such as collaborative workspaces, food delivery sources, health care or health services centers, incubator facilities, low-income housing, moderate-income housing, quality childcare facilities, tourism destination projects, and workforce housing (as defined in the NJERA). Additionally, the program encompasses general uses like commercial projects (including large-scale retail, industrial space, and film/television studios/infrastructure) and residential projects, as defined under the law. This list is not exhaustive but represents the range of Aspire projects envisioned under the NJERA.

Prior to March 1, 2027, developers are eligible to receive a redevelopment incentive award if they demonstrate to the NJEDA the following:

1. The redevelopment project is economically infeasible without an incentive award.
2. The project will generate a below-market return according to the NJEDA.
3. The redevelopment project falls within an incentive area.
4. No significant construction work has been done, except for demolition and site remediation, prior to the application.
5. The project meets minimum environmental and sustainability standards.
6. The project complies with affirmative action standards.
7. Workers employed in the project will receive at least the prevailing wage.
8. The project will be completed, and a certificate of occupancy will be issued within 4 years.
9. The developer is in good standing and current on their payments (within 24 months).
10. The developer has an equity participation of at least 20%.

For residential projects, the total cost must exceed \$17,500,000 in municipalities with a population of 200,000 or more and exceed \$10,000,000 in municipalities with a population of less than 200,000. The minimum limit is \$5,000,000 if the project is located within a qualified incentive area or a government-restricted municipality. Alternative requirements apply for newly constructed units under the Fair Housing Act.

Developers must include a letter demonstrating support from the governing body of the municipality as part of their application for any proposed project. The NJEDA reviews the application and determines whether any commercial project, with limited exclusions for

fresh food delivery businesses and certain health care facilities, will yield a positive net benefit to the State based on an IMPLAN analysis of taxes received versus benefits provided, with the specific amount determined by the NJEDA and relevant law. These requirements outline the complex set of criteria that an Aspire project must meet.

After a successful application, the NJEDA must confirm that the award is less than the project financing gap. Subsequently, following the execution of an incentive award agreement, the NJEDA must confirm the actual project financing gap which is assessed at the end of the third year of the eligibility period. Throughout the eligibility period, the developer must submit annual reports. In limited circumstances, projects with a significant labor force in place require a labor harmony agreement. For large redevelopments exceeding \$10,000,000, the developer must enter into a community benefits agreement with the municipality's governing body, subject to at least one public hearing. A community advisory committee must be established to oversee the agreement's terms and produce an annual report. Before receiving the first disbursement of tax credits, the developer must provide satisfactory evidence of project completion, project costs, and a certificate of occupancy. The developer's total tax credit cannot exceed 60% of the total project costs depending on the type and location of the project. If the developer is unable to utilize the tax credits directly, they may apply for a tax credit transfer certificate and sell them to another NJ taxpayer. There is a separate category of "transformative projects", which are those costing \$100,000,000+ and over 500,000 square feet and that are of special economic importance, where the tax credit can be up to \$350MM and the award can be issued at the completion of distinct phases.

With respect to this report on implementation, future reports must include description of each redevelopment project receiving a tax credit plus a detailed analysis of the consideration given in each project in addition to other relevant metrics. The NJEDA "shall prepare a written response to the report, which the authority shall submit to the Governor and ... to the Legislature."

Emerge Program

The EmERGE Program, administered by the NJEDA, aims to promote economic development, job creation, and job retention within New Jersey by granting per-job tax credits to eligible businesses. The program focuses on specific areas known as "Employment and Investment Corridors," which include designated regions under the State Planning Act, port districts, Base Realignment areas, qualified incubator sites, and tourism or transit projects, among others. The program also identifies "enhanced areas" characterized by transit hubs, high poverty rates, or high SNAP utilization. Targeted industries for the program encompass advanced transportation, logistics, manufacturing, clean energy, life sciences, hemp processing, IT, finance and insurance, professional services, film and digital media, non-retail food and beverage, and other innovative sectors that disrupt existing technologies or business models.

To be eligible for a tax credit incentive award before March 1, 2027, a business must satisfy the following criteria as demonstrated by the CEO to the NJEDA:

1. The business will make a capital investment at a qualified business facility, as specified by the law.
2. The business will create or retain new full-time jobs, as outlined in the law.
3. The business facility is located within a qualified incentive area.
4. The award of tax credits significantly influenced the business's decision to create or retain full-time jobs.
5. The tax credits, capital investment, and job creation/retention will result in a "net positive benefit" to the State, equivalent to at least 400 percent of the requested tax credit amount. Lower percentage thresholds may apply to awards in distressed municipalities, and the business may be required to repay some or all of the tax benefits if it fails to meet its commitments.
6. The business must meet minimum environmental and sustainability standards and comply with affirmative action requirements set by the NJEDA.
7. All workers employed at the qualified business facility must receive at least the prevailing wage determined by the Department of Labor.

Employers choosing to apply for the program must meet specific job creation or retention targets to qualify for tax credits. Typically, a minimum of 35 new good-paying jobs is required for most businesses, with lower limits for target industries and small businesses. Regarding job retention, higher limits apply, with employers required to retain at least 500 full-time jobs in general. In all cases, at least 80% of wages must be subject to New Jersey Gross Income Tax, and employers must comply with the Department of Labor, Department of Environmental Protection, and Department of the Treasury. Businesses must also support their tax credit applications by submitting an economic analysis of alternative locations, demonstrating that the tax credits played a significant role in their decision to create or retain jobs. Application fees are also mandated to cover the NJEDA's direct costs for analyzing submissions.

Once approved by the NJEDA board, eligible businesses must enter into a project agreement. The agreement should provide a detailed description of the project, including the number of created and retained jobs, a phased plan outlining expected capital investments and job projections throughout the tax credit eligibility period, and a requirement that the eligible business maintains its project location in New Jersey for the commitment period. Annual reports are required to demonstrate goal attainment and ongoing compliance.

For projects with total costs exceeding \$10 million, eligible businesses must establish a community benefits agreement with the NJEDA and the relevant county or municipality. This agreement should undergo at least one public hearing and establish a community advisory committee responsible for overseeing implementation and producing annual reports. In certain cases, the community benefits agreement requirement can be waived if the business provides a certified copy of the project agreement from the local municipality.

Within six months of executing a project agreement, eligible businesses must obtain site approval and committed financing for the qualified business facility. If site approval is obtained prior to the letter of intent, the business may risk losing approval for tax credits, unless the NJEDA was notified beforehand and determined that the tax credits remained a significant factor in the decision to create and retain full-time jobs. Upon completing the capital investment and employment requirements, the business must submit satisfactory certifications to the NJEDA within three years, with possible agreed-upon extensions.

The total tax credit per full-time job for an eligible business varies according to conditions specified in the law. Higher rates apply to government-restricted municipalities and mega projects, with \$4,000 per year of per-job tax credits, while projects in other eligible areas may receive \$500 per year of per-job tax credits. Tax credit bonuses are available for areas with a Municipal Revitalization Score above 50, businesses with higher capital investment levels, large employers creating 251+ new full-time jobs, qualifying industry-specific training programs, small businesses, high-wage jobs, businesses located within qualified incentive tracts, and targeted industries. The law also emphasizes diversity on the eligible businesses' governing board. However, bonuses are not applicable for wages below \$15 per hour or 120 percent of the minimum wage, and the total tax credit per job is capped based on the project type. The NJEDA determines the necessary tax credit amount to incentivize project siting in New Jersey, and tax credits in any tax period may be forfeited if the eligible business reduces the total number of full-time employees in its statewide workforce, with exceptions specified by the law.

Annual reports must be submitted throughout the commitment period, detailing the new full-time jobs created. Eligible businesses can apply for a tax credit transfer certificate, allowing them to sell the tax credits to another New Jersey taxpayer. Regarding the program's implementation, future reports should include a description of each eligible business receiving tax credits, a thorough analysis of the consideration given in each project, an assessment of how incentives influenced businesses' decisions to locate in the state, the return on investment for awarded incentives, the business's impact on the state economy, and other relevant metrics. The NJEDA is required to prepare a written response to the report, which must be submitted to the Governor and the Legislature.

Implementation

The three programs under consideration, Brownfields Redevelopment Incentive (Brownfields) Program, Aspire Program, and Emerge Program are newly authorized under the New Jersey Economic Recovery Act of 2020 (NJERA), P.L. 2020, c. 156 (as amended) and the first challenge faced by the NJEDA staff is to translate the law into rules that they may implement subject to final approval by the Office of the Attorney General and the Office of Administrative Law. All of these programs benefit from the Uniform Policies and Procedures that was recently implemented by the NJEDA.

Implementation: Brownfields

The implementation of the Brownfields Program shows promise, although certain challenges and delays have been encountered. This section focuses on the current status of the program's implementation, including website design, technical complexities, and pre-launch tasks.

1. Website Design and User Experience – The Brownfields Program website design is commendable, featuring an intuitive and user-friendly interface. The website's ease of navigation allows users to access information about the program's eligibility criteria, incentives, and application procedures. The availability of comprehensive information on the website promotes transparency and encourages potential participants to explore and engage with the program.
2. NJEDA Board Memo – The NJEDA Board Memo provides a comprehensive overview of the Brownfields Program. It outlines the program's goals, the role of the NJEDA, and collaboration with the Department of Environmental Protection (DEP) to address brownfields sites' remediation and redevelopment. The memo serves as a valuable resource for stakeholders and interested parties seeking an in-depth understanding of the program's structure and purpose.
3. Pre-Launch Tasks –The program launched on June 21, 2023. A required key aspect of the program's implementation is its joint operation with the DEP, which necessitates a Memorandum of Understanding (MOU) between the two agencies. The establishment of this MOU was a time-consuming project and required significant effort from both parties.

Another complexity of the Brownfields Program is the requirement, as mandated by the law, that this be a competitive program. This aspect adds an additional layer of complications to the program's implementation. It requires the collection and scoring of applications on a regular basis to determine the projects that will be awarded incentives and support. The website has a well-developed section describing clear and transparent scoring criteria for evaluating applications. The application on the website is now final and will not hinder the program launch.

4. Mitigating Challenges and Ensuring Successful Implementation – a) The NJEDA and DEP should prioritize the implementation of the MOU, which will establish the framework for collaboration, application evaluation, and the selection process, b) resources should be allocated to promote the recently finalized application page on the program website, c) the program team continues to communicate timelines and expectations and maintain open and regular communication with stakeholders, providing updates on the program's progress and anticipated future application

cycles, as this will enable interested parties to prepare and plan accordingly for the competitive application process.

Implementation: Aspire

The implementation of the Aspire Program, authorized by the New Jersey Economic Recovery Act, P.L. 2020, has made significant progress, although certain challenges and tasks need to be addressed. This section provides an analysis of the program's implementation, focusing on website design and user experience, the NJEDA Board Memo, technical issues and tasks, and mitigating challenges.

1. Website Design and User Experience – The Aspire program website design is commendable, featuring an intuitive and user-friendly interface. The website's ease of navigation allows users to access information about program's eligibility criteria, award size, fiscal and resident protections, application procedures, and fees. The availability of comprehensive information on the website promotes transparency and encourages potential participants to explore and engage with the program.
2. NJEDA Board Memo - The NJEDA Board Memo provides a comprehensive overview of the Aspire Program. It outlines the program's goals of providing incentive tax credits to support place-based economic development, based on applicants meeting various eligibility requirements. The memo serves as a valuable resource for stakeholders and interested parties seeking an in-depth understanding of the program's structure and purpose.
3. Technical Issues and Tasks – While the Aspire program has already launched with 22 applications and one board approval to date, certain technical issues require attention to ensure the program's continued success. As the Aspire program is a successor to an earlier program with similar goals and objectives (Economic Recovery and Growth Program or ERG), the NJEDA implementation team was able to leverage their past experience to accelerate the implementation process. Drawing lessons learned and by identifying areas for improvement based on earlier program implementation, the NJEDA team was able to enhance the efficiency and effectiveness of the Aspire program and gain rapid traction with new applications. Unfortunately, current economic conditions present a challenge, where a surplus of commercial space has reduced incentives for commercial projects to participate in the Aspire program. There is an opportunity to evaluate the program's attractiveness to different project types and explore strategies to encourage broader participation and support for place-based economic development, as contemplated in the law. While the law identifies many place-based economic development opportunities, in regions such as “distressed municipalities”, “food desert communities”, “government restricted municipalities”, “transit hubs”, “Port district”, “Municipal Revitalization Index” communities, and South Jersey “marine terminal facilities”; and in specific uses such as “collaborative workspaces”, “food delivery sources”,

“health care or health services centers”, “incubator facilities”, “low-income housing”, “moderate income housing”, “quality childcare facilities”, “tourism destination project”, and “workforce housing”, (as defined in NJERA), it seems that the current application pool is dominated by only one category, “low-income housing”, which is also supported by federal incentives. Analyzing and addressing this discrepancy between program goals and outcomes is crucial to ensure that the program aligns with its intended objectives and supports a diverse range of eligible projects.

4. Mitigating Challenges - To assure the successful execution of the Aspire program, the NJEDA implementation staff should closely evaluate the alignment of project requirements with the program objectives specified in the law. To encourage broader project participation, the NJEDA staff should conduct targeted communication and outreach efforts with diverse stakeholders, including a wide range of developers and community organizations. This should include clear and transparent communication about the program objectives, eligibility criteria, and the benefits it offers. Providing informational resources, webinars, and workshops can also help to a more diverse pool of potential applicants to understand the program better and to navigate the application process successfully. The NJEDA has developed a robust Excel worksheet tool to track each application through the process and to capture relevant data for reporting purposes. This tool is used to effectively monitor the progress of applications to help identify any delays or issues, and to generate comprehensive reports for future program evaluation of outcomes. Engaging with stakeholders, including developer applicants, municipalities, and community organizations will foster collaboration and establish regular channels for feedback and input from stakeholders that can help identify challenges and provide insights to improve program effectiveness.

Implementation: Emerge

This section analyzes the implementation of the Emerge Program, focusing on website design and user experience, the NJEDA Board Memo, technical complexities and program risks, and the mitigating challenges encountered during the implementation process. The program provides per job tax credits in priority sectors and targeted communities for companies that invest private capital into New Jersey and create new good-paying jobs (or retain large numbers of good paying jobs).

- 1) Website Design and User Experience - The NJEDA implementation staff has created an intuitive and user-friendly interface that allows potential applicants and stakeholders to easily navigate through the Emerge program website which provides comprehensive details about the program's objectives, eligibility criteria, available incentives, and application procedures, including fees. It includes clear guidelines, a mapping tool, FAQs, and other resources to assist potential applicants in understanding and engaging with the program. The NJEDA implementation team has established a remarkably sophisticated pathway from “expression of interest” to

“pre-application” to “sample application” and “full application walk-through”, designed to enhance user experience and ensure a streamlined process. The availability of comprehensive information on the website promotes transparency and encourages potential participants to explore and engage with the program.

- 2) NJEDA Board Memo - The NJEDA Board Memo provides a comprehensive overview of the Emerge Program. It outlines the program’s goals of providing per-job incentive tax credits to support job creation (and retention for large employers), based on applicants meeting various eligibility requirements. The memo serves as a valuable resource for stakeholders and interested parties seeking an in-depth understanding of the program’s structure and purpose.
- 3) Technical Complexities and Program Risks – In many ways, this is the least technical of the programs being evaluated as the metric for success is good paying jobs, which are relatively easy to measure and verify. This program is a successor program and the NJEDA implementation team has benefited from lessons learned from the earlier program. The main risk for this program is that New Jersey competes with many other states and the awards are based on an assessment of the tax credits being a material factor in the companies’ decision to attract new jobs and retain large numbers of existing jobs in New Jersey. This creates the risk that there is asymmetric information between the companies and NJEDA staff and the companies can “game the system” to extract tax credits when they never had a real intention to leave New Jersey. To help offset this risk, there is special scrutiny given to and higher thresholds for job retention relative to job creation in the Emerge program. There is also careful analysis of the benefits offered by the non-New Jersey location with the with the maximum tax credit inducement set at the differential benefit from the other location. Previously incentivized jobs are ineligible for this program.

The Emerge program has already launched with five applications and three awardees to date. This is a notably high yield and efficient process for converting applicants to awardees. The key to this efficient process is the design of the application pathway. In discussion with the NJEDA implementation team, they explained that they spoke to about 200 prospective applicants based on their “expression of interest” form, which then produced 26 relatively light weight pre-applications, which then became five applications. Of those five, one application was withdrawn, and the company stayed in New Jersey anyway, and three were awarded per-job tax credits.

- 4) Mitigating Challenges - To assure the successful execution of the Emerge program, the NJEDA implementation staff closely aligned the project requirements with the program objectives specified in the law. One of the great challenges currently facing the Emerge implementation team is the changing work environment that was spurred by the pandemic. When the NJERA law was written at the start of 2020, remote work was a relatively rare occurrence and the requirement of a local, New Jersey-based, workforce was reasonable. There is likely to be a need to update the

law to reflect the hybrid work model that is becoming more prevalent, though the law did include some bonuses which are not tied to the facility. This will require Emerge program changes that will need to be implemented and communicated to potential applicants.

The NJEDA staff conduct targeted communication and outreach efforts with diverse stakeholders, including Choose NJ and community organizations. This includes clear and transparent communication about the program objectives, eligibility criteria, and the benefits it offers, via a concise document, “Emerge Program – At a Glance” that can be found on their website. Providing informational resources, webinars, and workshops to small business potential applicants could help prospective applicants understand the program better and to navigate the application process successfully. The NJEDA implementation team has developed a robust Excel worksheet tool to track each application through the process and to capture relevant data for reporting purposes. This tool is used to effectively monitor the progress of applications to help identify any delays or issues, and to generate comprehensive reports for future program evaluation of outcomes.

Application Process Evaluation

Any evaluation of the application process should be based on assessing its effectiveness and efficiency, but these three programs are in their early stage, with limited experience of actual applicants. So, most of the following analysis is based on discussions with the NJEDA program teams, preliminary data, and prospective analysis. As agreed under the MOU, we did not interview or engage with any applicants or awardees for these program evaluations.

Process Evaluation: Brownfields

The evaluation of the Brownfields Program process focuses on assessing its potential effectiveness and efficiency based on available information and the program’s website features. Although the program launched on June 21, 2023, it has not received applicants at the time of this analysis. We note several notable elements of the website that provide insights into the program’s structure and functionality.

- 1) Eligibility Self Assessment Tool - The recently added Eligibility Self Assessment Tool is a valuable feature that allows potential applicants to evaluate their eligibility for the program. The tool helps streamline the application process by guiding applicants to determine whether their projects meet the necessary criteria before moving forward. It enables the efficient use of resources by helping applicants understand their eligibility status before investing significant resources into their application.

- 2) Application Checklist - The presence of an Application Checklist on the website is a positive aspect that will guide applicants in preparing their submissions. This feature provides a comprehensive list of required documents and information, ensuring that applicants are well-informed and prepared for the application process. The checklist promotes transparency and will help the applicants submit complete and accurate applications.
- 3) Mapping Assistant Tool - The Mapping Assistant Tool will assist in identifying brownfield sites and their specific characteristics, such as proximity to sensitive areas or existing infrastructure. This will help to facilitate informed decision making and enhance the overall efficiency of the program.
- 4) FAQ Section - The presence of a well-developed FAQ section on the website is a commendable aspect as it allows applicants to address common questions and concerns, without requiring NJEDA staff engagement. It serves as a valuable resource for clarifying doubts and provides essential information to help applicants navigate the program's requirements and procedures effectively.
- 5) Standardized Forms – The NJEDA team was able to share draft versions of some standardized forms for Detailed Description of Redevelopment Work and a Resume for Key Team Members. This is a good strategy for structuring information sharing that will be required for successful applicants. There is an outline of seven specific tasks including site preparation, site investigation, remedial activities, construction phase beyond remediation, site restoration, community engagement, and contingency plans. We note that the focus is on remediation as the future construction phase is likely to be completed after this program due to constraints required by the law.
- 6) Process Evaluation – Given that the program has not yet received applicants, this evaluation is prospective and focuses on the potential effectiveness of the program, a) the program's inclusion of interactive tools indicates a user friendly approach, b) the Application Checklist, well-developed FAQ section, and other website resources offer comprehensive guidance to potential applicants and will help ensure that applicants have the necessary information to submit complete and accurate applications, c) the website's structure allows for the incorporation of new queries into the FAQ section as they arise and demonstrates an adaptable approach to addressing emerging questions and concerns, ensuring that the program stays responsive to the needs of potential applicants, and d) structured information sharing will support transparency and efficiency of application processing.

Process Evaluation: Aspire

The application process for the Aspire program has been thoughtfully designed to provide potential applicants with comprehensive resources and support throughout their decision-making and application journey. This section evaluates the Aspire program application

process, highlighting the various resources available on the program’s website to assist potential applicants.

- 1) Two Minute Video Overview – The inclusion of a concise two-minute video overview provides a valuable introduction to the Aspire program. This video provides a clear and concise summary of the program’s objectives, eligibility criteria, and benefits, allowing potential applicants to quickly grasp the key aspects of the program.
- 2) Sample Application - The availability of a comprehensive Sample Application, spanning 63 pages, is an invaluable resource for potential applicants as it provides a practical example of the application structure and provides guidance on the type of information and supporting documentation required. The Sample Application serves as a helpful reference, aiding applicants in understanding the level of detail and documentation necessary for a complete and competitive submission.
- 3) Early Engagement Opportunities - The Aspire website provides an early opportunity for potential applicants to engage with the NJEDA implementation team to express interest or request an application. This commendable outreach allows applicants to seek clarification on program details, discuss project feasibility, and gain insight into the application process. Such engagement fosters a supportive environment and ensures that potential applicants can make informed decisions before investing significant time and resources into the application. The actual application process is an iterative engagement with the NJEDA implementation team, based on updates to their comprehensive Excel application worksheet.
- 4) Robust FAQ Section - The presence of a well-developed FAQ section on the program website is a valuable asset to potential applicants. This section addresses common questions and concerns and provides an opportunity for adaptability to future needs. By addressing FAQs, the section streamlines the application process, reduces ambiguity for applicants, and provides operating leverage for the NJEDA staff.
- 5) Net Benefit Appendix - The inclusion of an appendix specifically dedicated to the Net Benefit Test required for commercial projects is likely to be helpful to developers who are unfamiliar with IMPLAN software, which is used for this analysis. This resource ensures that potential commercial applicants can better understand the requirements and expectations related to this often-challenging evaluation component.
- 6) While the Aspire program’s application process demonstrates a commendable focus on transparency, clarity, and providing comprehensive resources to potential applicants, there is always room for improvement. Two suggestions include an Application Checklist, which could easily be exported from their Excel application worksheet, and an Eligibility Self-Assessment Tool that would allow potential applicants to conduct, “what if” analysis of their potential project.

Process Evaluation: Emerge

The application process for the Emerge program has been meticulously designed to offer comprehensive resources and support to potential applicants throughout their decision-making and application journey. The NJEDA implementation team has done an impressive job of establishing an efficient and effective workflow that benefits both applicants and NJEDA staff. This section assesses the Emerge program's application process, highlighting the various elements that contribute to its exceptional efficiency.

1. **Concise Video Overview:** A concise six-minute video overview is included to provide a valuable introduction to the Emerge program. This video presents a clear and concise summary of the program's objectives, eligibility criteria, and benefits, enabling potential applicants to quickly grasp the key aspects of the program.
2. **Early Engagement Opportunities:** The Emerge website offers an early opportunity for potential applicants to engage with the NJEDA implementation team by expressing interest and learning more about the program through an online form submission. This commendable outreach allows applicants to seek clarification on program details, discuss project feasibility, and gain insights into the application process. Such engagement fosters a supportive environment and ensures that potential applicants can make informed decisions before investing significant time and resources into the application.
3. **Multi-Step Application Process:** The application process involves iterative engagement with the NJEDA implementation team. After initial contact with the Emerge team, there is a simple Pre-Application that is expected to take only 30 minutes to complete. Potential applicants can also review a 91-page Sample Application, supported by a 95-page annotated Full Application Walk-Through document. As a result of this extremely well-designed process, the NJEDA staff are able to approve a large percentage of submitted applications and relatively few companies pay the non-refundable fees without receiving their expected benefits.
4. **Additional Tools:** Additional tools, such as an Award Size Calculator, help potential applicants estimate their expected per-job annual payments, enabling them to evaluate their own cost/benefit tradeoff. The website also provides lists of incentive locations and targeted industries, which is useful given the somewhat complicated bonus structure for per-job tax credit payments.
5. **Robust FAQ Section:** The presence of a well-developed FAQ section on the program website is an invaluable asset for potential applicants. This section addresses common questions and concerns, providing clarity and reducing ambiguity for applicants. It also offers adaptability to future needs as new questions arise and provides operational leverage for the NJEDA staff.

6. **Net Benefit and Material Factor Appendices:** The inclusion of appendices dedicated to the Net Benefit Test required for commercial projects and the NJEDA determination of whether the tax credit is a Material Factor in the company's job location decision is likely to be helpful for developers who are unfamiliar with these requirements. These resources ensure that potential commercial applicants can better understand the expectations and evaluation components associated with these often-challenging aspects.
7. **Emphasis on Efficient Workflow:** The Emerge program's application process demonstrates a commendable focus on an efficient workflow for both potential applicants and NJEDA implementation staff. The program website promotes transparency, clarity, and provides comprehensive resources to potential applicants throughout the application process. The NJEDA staff has developed a sophisticated Excel spreadsheet for internal monitoring and control of applications, enhancing efficiency and streamlining the process.

Target Population and Outreach

The success of these three programs depends on effectively targeting potential applicants and implementing robust outreach strategies. This section will focus on identifying the target populations, highlighting potential challenges, and discussing efforts made to promote the programs. In our interviews with the NJEDA program implementation teams, their early focus is on getting the programs launched but they also want to broaden participation and enhance the pool of potential applicants in the future.

Target Population Awareness and Outreach: Brownfields

The success of the Brownfields Program will depend on attracting a strong pool of potential applicants through effective outreach and through engaging community organizations. Broadening participation to include smaller and more diverse developers is an important challenge that can be addressed through education and training, partnerships and networking, and through simplified processes and support.

- 1) **Target Population of Potential Applicants** – The primary target for the Brownfields Program comprises real estate developers interested in brownfield site redevelopment. These developers are essential as they possess the expertise and resources required to undertake complex remediation and redevelopment projects. Additionally, partnering with municipalities is a crucial aspect of the program as they must provide a letter of support.
- 2) **Outreach Strategies and Challenges** – There is a limited pool of experienced developers who understand and have experience with the complex process of how to utilize tax credit incentives for economic development. Notable real estate development firms such as JLL, CBRE, Cushman, Colliers, among others, may be

among the potential users of the program due to their expertise and familiarity with accessing tax credit incentives. However, efforts should be made to attract a broader range of emerging developers to maximize program participation and effectiveness.

- 3) Engaging Community Organizations – The NJEDA team has recognized the importance of community organizations in promoting the program. By developing a list of over four dozen community organizations, they have taken a proactive step towards raising awareness and increasing program visibility. Collaborating with these organizations can help disseminate information and engage a diverse range of potential applicants.
- 4) Challenges for Smaller Developers – One challenge for smaller developers is the requirement to pay the prevailing wage. This can create a financial burden and impact the feasibility of their participation in the program. Addressing this challenge through potential adjustments or providing additional support may help attract smaller developers and promote inclusivity within the applicant pool. Another challenge is the extensive documentation required from applicants as outlined in the Application Checklist. Preparation of a model of the financing gap that requires tax credit incentives is a difficult hurdle for developers due to limited resources and expertise. Offering technical assistance, simplified guidelines, or templates to facilitate the application process can help to mitigate these challenges and encourage broader participation.
- 5) Broadening the Applicant Pool – To broaden the applicant pool and overcome the aforementioned challenges the following strategies may be considered, a) conduct education and training to help potential applicants, especially smaller developers navigate the complexities of tax credit incentives, prevailing wage requirements, financing gap modeling, and documentation through workshops, webinars, and resource materials to enhance their understanding and increase their confidence in program participation, b) foster partnerships between experienced developers and smaller developers to encourage knowledge sharing and mentorship, through networking events and forums that facilitate connections and promote collaboration, and c) evaluate program processes to identify areas where simplification and streamlining can be implemented, through clear guidelines, templates, and technical support to alleviate the burden on potential applicants, especially smaller developers.

Target Population Awareness and Outreach: Aspire

The Aspire Program's target population primarily consists of large developers focused on low-income housing development, particularly those with prior experience in utilizing tax credit incentives such as JLL, CBRE, Cushman, Colliers, and others. However, there is a need to expand the pool of potential applicants and engage with a more diverse range of emerging developers interested in a broader spectrum of projects, including areas cited in

the law such as food delivery or film production. This section addresses the importance of increasing awareness and outreach efforts to attract a wider applicant base, discusses potential strategies to engage emerging developers, and acknowledges the challenges posed by forthcoming legislative changes.

- 1) Expanding the Pool of Potential Applicants - To ensure the success and inclusivity of the Aspire Program, it is crucial to expand the pool of potential applicants beyond the traditional large developers. This expansion will allow for a more diverse range of projects and foster innovation and economic growth in various sectors. Efforts should be made to engage emerging developers, especially those who may not have prior experience with tax credit incentives but have the potential to contribute to the program's objectives.
- 2) Engaging with Emerging Developers - Implementing targeted awareness campaigns can help reach a broader audience of emerging developers. These campaigns should focus on promoting the benefits and opportunities offered by the Aspire Program, highlighting its potential for project funding, technical assistance, and economic development. The campaigns can utilize various channels such as social media, industry-specific forums, and partnerships with local business organizations to effectively reach emerging developers. Recognizing that emerging developers may require additional support and resources, the NJEDA implementation team should consider establishing programs or funds specifically tailored to assist these developers. These initiatives can provide financial assistance, mentorship, and technical training to empower emerging developers and enhance their capacity to participate in the Aspire Program successfully. Hosting networking events and workshops that bring together emerging developers, industry experts, and experienced developers can facilitate knowledge sharing, encourage collaboration, and inspire emerging developers to explore opportunities within the Aspire Program. These events can provide a platform for emerging developers to connect with potential partners, learn from experienced professionals, and gain valuable insights into successful project development and funding.
- 3) Evaluating the Net Benefit Test Threshold - Considering the challenges posed by the Net Benefit Test threshold, it is crucial to assess whether the current threshold is hindering the participation of emerging developers or limiting the range of eligible projects. An evaluation of the threshold's impact on project diversity and the ability of emerging developers to meet the criteria should be conducted. This assessment can help identify whether adjustments to the threshold are necessary to attract a broader range of projects and foster greater inclusivity within the Aspire Program.
- 4) Challenges of Legislative Changes - The implementation team faces challenges driven by forthcoming legislative changes. As legislative rules evolve, the team must remain agile and adapt the program's guidelines and processes accordingly. The NJEDA should closely monitor legislative updates and proactively engage with lawmakers to ensure that the Aspire Program remains aligned with the evolving

policy landscape while continuing to meet its objectives. By implementing targeted awareness campaigns, engaging with emerging developers, evaluating the Net Benefit Test threshold, and navigating legislative changes, the Aspire Program can successfully expand its applicant pool, attract a diverse range of projects, and drive economic growth in various sectors. These efforts will contribute to the program's effectiveness and foster inclusive and sustainable development throughout New Jersey.

- 5) Evaluations and Adjustments - Regular evaluation of the outreach efforts is crucial to assess their effectiveness in expanding the pool of potential applicants. The NJEDA should gather feedback from both traditional large developers and the targeted emerging developers to understand their experiences, challenges, and suggestions. This feedback can inform adjustments and refinements to the outreach strategies, ensuring that the program remains responsive to the needs of all stakeholders and supports collaborations between large and emerging developers. Continuous monitoring and evaluation will allow the implementation team to identify areas for improvement and make necessary adjustments to enhance outreach and engagement with the target population.

Target Population Awareness and Outreach: Emerge

The target population of the Emerge program includes both current employers in New Jersey who aim to create and retain good-paying jobs, as well as potential employers representing new companies (startups) and businesses considering a move to New Jersey. The NJEDA implementation team faces a significant challenge in reaching out to the large number of potential applicants, encompassing all existing and prospective New Jersey companies. This section explores some of their outreach strategies.

1. Existing Large Employers: The program offers potential benefits to existing large New Jersey employers by incentivizing them to retain New Jersey employees and create new jobs within the state. Drawing from insights gained from the predecessor program, the NJEDA implementation team has established rules that focus on job creation with lower qualifying thresholds. Leveraging data from the New Jersey Department of Labor, it becomes relatively straightforward to identify major employers in the state, enabling targeted promotion of the program to their relevant HR departments.
2. Startups: The Emerge program sets a special lower threshold of only 25 new jobs to qualify for per-job tax credits, specifically designed to accommodate young and growing companies in target industries. Since brand new startups typically do not create a significant number of jobs initially, the NJEDA implementation team engages in outreach activities aimed at funders, such as venture capital firms and banks, to identify potential applicants among early-stage companies. They also

collaborate with business incubators across New Jersey to ensure they are aware of the Emerge program and its benefits.

3. **Potential Employers:** The challenge of reaching out to potential employers in New Jersey is considerable due to the vast number of candidates, including companies from around the world. The Emerge implementation team employs a multi-pronged strategy to identify these potential applicants. They collaborate with a) real estate firms that are likely to assist companies in selecting sites for potential moves to New Jersey, b) attorneys and accountants who may aid in establishing newly formed New Jersey subsidiaries, and c) Choose NJ—an independent, nonpartisan, non-profit organization dedicated to fostering New Jersey's economic development through capital investments and job growth. Choose NJ helps promote the Emerge program as a valuable benefit to their clients and encourages them to engage with the Emerge website to explore the available benefits.

Understanding of Objectives

The implementation teams at the New Jersey Economic Development Authority demonstrate a sophisticated understanding of the objectives and usefulness of these three programs. However, effectively communicating these goals and expectations to other stakeholders can present challenges. This section will highlight the programs' objectives and usefulness while addressing the difficulties they may encounter in conveying this information to relevant parties.

Understanding of Objectives and Usefulness: Brownfields

The primary objective of the Brownfields program is to support economic development by encouraging developers to remove contaminants and remediate brownfield sites for productive utilization. By addressing environmental concerns and transforming underutilized properties, the program aims to create sustainable growth, job creation, and community revitalization.

- 1) **Tax Credits and the Financing Gap** – The program utilizes tax credits as an incentive mechanism to bridge the financing gap associated with brownfield site remediation. By offering tax credits for a portion of the remediation costs, the program facilitates project financing and enables developers to achieve a reasonable and appropriate return on investment. This approach incentivizes the private sector involvement in brownfield redevelopment while minimizing financial burdens and risks.
- 2) **Challenges in Communicating Program Goals and Expectations** – Despite the NJEDA implementation teams' comprehensive understanding of the program's objectives and usefulness, effectively communicating these goals and expectations to other stakeholders can be challenging. Factors contributing to this challenge include a) the technical complexity of tax credits, financing gaps, and brownfield remediation

that must be shared in a clear and concise manner to ensure stakeholders comprehend the program goals and potential benefits, b) engaging and educating diverse stakeholders, including real estate developers, municipalities, community organizations, and potential applicants to foster essential support and participation, to clarify expectations and address any concerns or misconceptions, and c) striking a balance between the program's objectives of environmental remediation and economic development while ensuring that applicants can maintain financial viability and earn a fair return on investment.

- 3) Strategies to Enhance Communication – The NJEDA implementation team is developing clear and accessible program materials, guidelines, and resources that explain the program's objectives, eligibility criteria, and benefits. These include user-friendly application instructions, tools, and FAQ's on a comprehensive website. They are planning on organizing informational sessions, workshops, and webinars tailored to the needs and interests of specific audiences. Engaging with industry associations and community organizations will also help to amplify program messaging. Fostering collaboration with key stakeholders, including municipalities, community organizations, and real estate developers will help ensure a shared understanding of program goals and foster support. Partnerships can also help to overcome roadblocks and refine program implementation. One ongoing challenge will be in creating cohorts for evaluation under competitive standards, as specified under the law.

Understanding of Objectives and Usefulness: Aspire

The NJEDA implementation team demonstrates a sophisticated understanding of the objectives and usefulness of the Aspire Program. The program aims to support economic development by incentivizing developers to invest in place-based opportunities within targeted regions and uses. The issuance of tax credits for a portion of the development costs is a key mechanism to encourage participation and stimulate growth. However, while the implementation team has a firm grasp of the program's goals, challenges exist in effectively communicating these objectives and expectations to other stakeholders. It is important to note that while the program's focus is primarily on low-income housing development, the law contemplates a much broader range of opportunities.

- 1) Comprehensive Understanding of Objectives - The NJEDA implementation team has a thorough understanding of the Aspire Program's objectives, which include revitalizing targeted regions and industries, creating employment opportunities, and promoting economic growth. They recognize the importance of incentivizing developers to invest in communities that have the potential for significant positive impact. By providing tax credits for a portion of the qualified development costs, the program encourages developers to undertake projects that contribute to the overall well-being and economic vitality of New Jersey.

- 2) Focus on Low-Income Housing - The Aspire Program places a significant emphasis on low-income housing development. This focus aligns with the broader goal of addressing housing affordability challenges and promoting inclusive growth within targeted regions, while leveraging federal incentives available for affordable housing development. But the law contemplates a much wider range of use cases and specific regions for place-based development. There is a challenge and opportunity to broaden the Aspire focus to other place-based developments.
- 3) Challenges in Communicating Goals and Expectations - One notable challenge faced by the NJEDA implementation team is effectively communicating the goals and expectations of the Aspire Program to developments other than low-income housing. The complexity of the program, including its eligibility criteria and compliance requirements, can make it challenging to convey the program's benefits in a clear and concise manner. The team should invest in proactive and transparent communication strategies to ensure that a wider range of stakeholders, including developers, community organizations, and local government entities, have a comprehensive understanding of the program's goals and how they align with broader economic development efforts.
- 4) Bridging the Gap with Emerging Developers - a) Where possible, the team should endeavor to simplify the program guidelines, eligibility criteria, and compliance requirements, making them more accessible and easier to understand for emerging developers working on a wide range of projects, b) regular engagement sessions should be conducted to provide emerging developers with the opportunity to ask questions, seek clarification, and provide feedback via public forums, webinars, or one-on-one consultations, depending on the needs and preferences of the potential applicants, c) collaborating with local government entities, community organizations, and industry associations can also help disseminate information about the Aspire Program more broadly, d) regular and transparent communication is crucial in managing developer expectations and ensuring alignment with program objectives and will enable developers to plan and prepare accordingly, fostering a more productive and collaborative relationship between the NJEDA and the development community.

Understanding of Objectives and Usefulness: Emerge

The NJEDA implementation team exhibits a sophisticated understanding of the objectives and significance of the Emerge Program. The program's primary goal is to promote economic development by providing incentives for employers to make capital investments, create new jobs, and retain high-paying positions in New Jersey. The issuance of per-job tax credits over several years serves as the key mechanism to drive participation and stimulate economic growth. However, despite the implementation team's strong comprehension of the program's objectives, challenges remain in effectively communicating these goals and expectations to potential applicants. It is worth noting that while the program primarily focuses on job creation, there may be potential conflicts of interest arising from information

asymmetries with companies seeking job retention payments, who may attempt to gain benefits even without genuine intentions of leaving New Jersey. To mitigate against this potential conflict of interest, significant safeguards are built into the program, including rigorous and exhaustive review and utilization of a Material Factor Risk Rating model.

1. **Comprehensive Understanding of Objectives** - The NJEDA implementation team possesses a comprehensive understanding of the Emerge Program's objectives, which encompass revitalizing targeted regions and industries, fostering the creation and retention of well-paying jobs, and promoting overall economic growth. They recognize the significance of incentivizing employers to invest in communities and industries that have the potential to make a substantial positive impact on New Jersey's economic development. By offering multi-year per-job tax credits to eligible employers, the program encourages companies to contribute to the overall welfare and economic vibrancy of the state.
2. **Challenges in Communicating Goals and Expectations** - One notable challenge faced by the NJEDA implementation team is effectively communicating the goals and expectations of the Emerge Program to companies seeking to increase and retain their New Jersey workforce. The program's complexity, including its eligibility criteria and compliance requirements, can make it difficult to convey its benefits in a clear and concise manner to smaller and emerging potential applicants.
3. **Foreign Company Outreach** - Additionally, reaching out to companies considering a move to New Jersey from anywhere in the world presents a significant outreach challenge. However, the Emerge team has developed a valuable website and employs a sound strategy for engaging foreign companies through relocation influencers, such as attorneys, accountants, and organizations like Choose NJ. The implementation team's excellent multi-step application process serves to efficiently manage the time of both the companies and NJEDA staff involved.

Conclusions and “Best Practices”

The three programs; Brownfields, Aspire, and Emerge, as authorized by the New Jersey Economic Recovery Act of 2020, hold significant potential to promote economic development in New Jersey. This section consolidates the conclusions drawn from the previous sections and presents “best practices” to maximize program effectiveness.

Conclusions and “Best Practices”: Brownfields

The implementation of the Brownfields program, as authorized by the New Jersey Economic Recovery Act, shows great promise in driving economic development, promoting investment in brownfield remediation, and revitalizing targeted brownfields.

- 1) Implementation – The program’s implementation demonstrates a strong foundation, with a well-designed and informative website that includes valuable tools such as the Eligibility Self Assessment Tool, Application Checklist, Mapping Assistant Tool, and a comprehensive FAQ section. The partnership with the DEP and the requirement for competition may present challenges during the life of the program.
- 2) Application Process – The prospective evaluation of the program highlights its user-friendly approach, comprehensive guidance through various tools and resources, and the potential to adapt to future needs. The website’s features and resources contribute to facilitating the application process and assisting potential applicants. As the program progresses and receives applicants, their feedback and experience will provide valuable insights for further refinement.
- 3) Target Population and Outreach – Identifying the target population as real estate developers and emphasizing partnerships with municipalities is crucial for successful program implementation. Engaging community organizations and addressing challenges faced by smaller developers, such as prevailing wage requirements and financing gap modeling, are essential to broaden the applicant pool. Education and training, partnerships and networking, and simplified processes and support can further enhance outreach efforts.
- 4) Understanding of Objectives and Usefulness – The NJEDA implementation team exhibited a sophisticated understanding of the program’s objectives and usefulness, primarily supporting economic development by encouraging brownfield site remediation through tax credits. However, effectively communicating these goals and expectations to other stakeholders remains a challenge. Engaging stakeholders, and balancing objectives with return on investment are critical to fostering support and participation.
- 5) Best Practices – Best practices include a) development of user-friendly program materials, guidelines, and resources to effectively communicate the program objectives, eligibility criteria, and benefits, b) tailoring targeted outreach to different stakeholder groups and leveraging partnerships with industry associations, municipalities, and community organizations through informational sessions, workshops, and webinars, to support a diverse pool of potential applicants by addressing their specific needs and concerns, c) fostering collaboration with key stakeholders to ensure a shared understanding of program goals, to gather feedback for program refinement, and to support and enhance program effectiveness, d) regularly evaluate the program’s implementation and gather feedback from applicants and awardees for ongoing refinement and continuous program improvement.

Conclusions and “Best Practices”: Aspire

The implementation of the Aspire Program, as authorized by the New Jersey Economic Recovery Act, has shown promise in driving economic development, revitalizing targeted regions, and promoting investment in place-based opportunities. Through a comprehensive analysis of the program's implementation, application process, target population and outreach, understanding of objectives and usefulness, and best practices, several key conclusions can be drawn. Additionally, best practices can be identified to enhance the program's effectiveness and maximize its impact.

- 1) Implementation - The Aspire Program has demonstrated commendable progress in its implementation, with a robust website design and user experience that facilitates easy access to program information and resources. The NJEDA Board Memo provides a comprehensive overview of the program's structure and purpose, aiding stakeholders in understanding its goals. However, it is essential to address potential opportunities with emerging developers and for projects contemplated by the law other than low-income housing.
- 2) Application Process - The Aspire Program's application process has been supported by a range of resources, including an informative video overview, a sample application, and a robust FAQ section. This program has benefited from lessons learned from the predecessor ERG program. However, there is a need to ensure clear communication of the program's eligibility criteria, compliance requirements, and scoring criteria to a wider range of potential applicants.
- 3) Target Population and Outreach - While the Aspire Program has successfully engaged large developers with experience in low-income housing development, there is a need to expand the pool of potential applicants to include a more diverse range of emerging developers and projects. To achieve this, the NJEDA should explore outreach strategies targeting emerging developers engaged in other sectors, such as food delivery or film production. Considerations should be made to address the Net Benefit Test threshold and other guidelines to encourage a wider variety of projects and attract a more diverse applicant pool.
- 4) Understanding of Objectives and Usefulness - The NJEDA implementation team demonstrates a sophisticated understanding of the Aspire Program's objectives, which primarily focus on low-income housing development. However, challenges exist in effectively communicating these goals and expectations to other stakeholders. To address this, the NJEDA should prioritize clear and transparent communication strategies, simplify program guidelines, and engage in regular dialogue and collaboration with stakeholders to ensure alignment and foster a broader understanding of the program's objectives. Training and extra support may be required by emerging developers to engage with the Aspire program.
- 5) Best Practices - a) The NJEDA should continue prioritizing a user-centric website design, ensuring easy navigation, comprehensive information, and regular updates to facilitate a seamless user experience, b) the NJEDA should strive for a more

streamlined application process, providing clear instructions, transparent scoring criteria, and timely updates to applicants throughout the process, c) the NJEDA should establish proactive stakeholder engagement mechanisms, including regular communication, collaborative partnerships, and educational workshops, to ensure effective two-way communication and to gather feedback to inform program enhancements, d) to broaden the pool of potential applicants, the NJEDA should expand outreach and training efforts to engage emerging developers and diverse projects, leveraging partnerships with local economic development organizations and adopting targeted marketing strategies, e) regular monitoring and evaluation of the program's implementation and outcomes will help identify areas for improvement, gauge stakeholder satisfaction, and inform program enhancements for greater effectiveness and impact.

Conclusions and “Best Practices”: Emerge

The implementation of the Emerge Program has shown promising results in driving capital investment and creating and retaining high-paying jobs in specific regions and target industries through the issuance of multi-year per-job tax credits. A comprehensive analysis of the program's implementation, application process, target population and outreach, and understanding of objectives and usefulness leads to several key conclusions. Moreover, best practices can be identified to enhance the program's effectiveness and maximize its impact.

1. **Implementation** - The Emerge Program has made commendable progress in its implementation, featuring a well-designed website that offers a user-friendly experience with easy access to program information and resources. The excellent multi-step application process efficiently manages the time of both companies and NJEDA staff as they navigate through the application stages. The comprehensive NJEDA Board Memo provides stakeholders with a clear overview of the program's structure and purpose, facilitating their understanding of its goals.
2. **Application Process** - The Emerge Program's application process is highly effective in attracting potential applicant companies and guiding them through their submissions. The website offers valuable resources such as an informative video overview, an indication of interest form, a concise pre-application, an annotated sample application, and a robust FAQ section. Additionally, useful tools and appendices support applicants in their understanding and application preparation. Drawing from lessons learned from the predecessor program, the Emerge Program places a strong emphasis on the creation of new, well-paying jobs rather than job retention.
3. **Target Population and Outreach** - The Emerge Program has successfully developed strategies to engage large New Jersey employers, startups, early-stage companies, and external companies considering a move or expansion in New Jersey. However, the greatest outreach challenge lies in connecting with the multitude of potential

New Jersey companies that could emerge from anywhere in the world. The program's partnership with Choose NJ is a crucial aspect of their outreach strategy, facilitating engagement with relocation influencers and expanding their reach.

4. Understanding of Objectives and Usefulness - The NJEDA implementation team demonstrates a sophisticated understanding of the Emerge Program's objectives, primarily focusing on stimulating low-income housing development. However, effectively communicating these goals and expectations to potential applicants presents challenges. To address this, the NJEDA should prioritize engagement with relocation influencers and employ clear and transparent communication strategies. Additionally, given the evolving nature of work, particularly in a post-pandemic hybrid work environment, there may be a need to engage with the legislature to modify residency requirements and align them with the program's objectives.
5. Best Practices - a) The NJEDA should continue prioritizing a user-centric website design, ensuring easy navigation, comprehensive information, and regular updates to provide a seamless user experience. b) Striving for a more streamlined application process with clear instructions, transparent scoring criteria, and timely updates to applicants will enhance efficiency and transparency. c) Establishing proactive stakeholder engagement mechanisms, including regular communication, collaborative partnerships, and educational workshops, will facilitate effective two-way communication and gather feedback for program enhancements. d) Expanding outreach efforts to engage a wide range of relocation influencers, such as lawyers, accountants, and Choose NJ, will broaden the pool of potential applicants. e) Regular monitoring and evaluation of the program's implementation and outcomes, particularly in the context of the increasing prevalence of hybrid work, will identify areas for improvement, gauge stakeholder satisfaction, and inform program enhancements for greater effectiveness and impact.

Appendix – NJEDA/NJIT MOU

**MEMORANDUM OF UNDERSTANDING
BETWEEN
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
AND
NEW JERSEY INSTITUTE OF TECHNOLOGY**

This MEMORANDUM OF UNDERSTANDING ("MOU") effective as of the date of the last signatory hereto (the "Effective Date") is between NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA") and NEW JERSEY INSTITUTE OF TECHNOLOGY ("NJIT"), (collectively the "Parties").

WHEREAS, the New Jersey Economic Recovery Act of 2020 ("ERA"), P.L.2020, c.156, as amended by P.L. 2021, c.160, requires the NJEDA to engage a State college or university established pursuant to Chapter 64 of Title 18A of the New Jersey Statutes to prepare a report on the implementation of the Brownfield Redevelopment Incentive program (N.J.S.A. 34:1B-286), the Aspire program (N.J.S.A. 34:1B-334), and the Emerge program (N.J.S.A. 34:1B-347), and submit the report to the Authority, the Governor, and pursuant to Section 2 of P.L. 1991, c.164 (N.J.S.A. 52:14-19.1) to the Legislature; and

WHEREAS, NJEDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of the New Jersey Department of the Treasury, that serves as the State's principal agency for driving economic growth and is committed to making New Jersey a national model for inclusive and sustainable economic development by focusing on key strategies to help build strong and dynamic communities, create good jobs for New Jersey residents, and provide pathways to a stronger and fairer economy; and

WHEREAS, NJEDA manages a number of economic development programs, including the programs set forth in this MOU; and

WHEREAS, NJEDA seeks to undertake a systematic process of formally evaluating the impacts of certain ERA programs and to be better equipped to evaluate relevant elements of the same programs by establishing performance metrics; and

WHEREAS, NJEDA requested responses from Chapter 64 of Title 18A State colleges and universities to its Scope of Work outlining the report required pursuant to the ERA; and

WHEREAS, NJIT was created pursuant to N.J.S.A. 18A:64E-12 et seq., as a body corporate and politic of the State of New Jersey; and

WHEREAS, NJIT submitted a Proposed Plan and Scope of Work for ERA Implementation Reports pertaining to the Brownfield Redevelopment Incentive program, the Aspire program, and the Emerge program dated January 24, 2023; and

WHEREAS, NJEDA has determined that NJIT has considerable expertise in the areas of entrepreneurship, economic development, and metrics and is the appropriate body to assist NJEDA with evaluation of its programs to meet the ERA statutory obligations; and

WHEREAS, N.J.S.A 52:14-1 et seq., authorizes state agencies to enter agreement to provide assistance to each other.

NOW, THEREFORE, the Parties, agree to the following:

- j. NJIT will prepare a report on the implementation of three programs - the Brownfield Redevelopment Incentive program, the Aspire program, and the Emerge program - and submit to the NJEDA and others, as required under the ERA. NJIT will produce one report

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with sections specific to the three programs, including detail on the implementation of each program.

- k. As this is the first report required under the ERA and the programs being newly created, there may be limited data for analytical review, therefore, the focus will assess the implementation process to satisfy the requirement of the ERA and to prepare for future successful administration of the three programs.
- l. NJIT will perform a careful review of the relevant and associated laws and regulations. The policy review of each of the ERA programs will evaluate the implementation process and include interviews with program participants who have been approved/declined as part of the process.
- m. NJEDA will provide access to relevant staff and approved documents as reasonable and requested by NJIT
- n. Work will be performed by Michael Ehrlich of NJIT with support from NJIT staff and/or a graduate-level student.
- o. The Parties will have regular meetings and communications to discuss progress and findings, at a frequency to be mutually agreed upon by the Parties.
- p. NJIT shall provide all deliverables electronically in a format compatible with the Microsoft Office Suite of software and/or Adobe software applications. NJIT shall provide NJEDA with access upon request to all data, information, and analyses generated during the course of the program review. If applicable, NJIT shall create and maintain a database that includes the data collected in sortable fields. A copy of the database is to be provided to the Authority in an electronic format compatible with the Microsoft Office Suite of software. The deliverables shall include:
 - i. Draft Program Review Report incorporating each of the components listed above for NJEDA's review no later than May 12, 2023; and
 - ii. Final Program Review Report that includes an executive summary and addresses any deficiencies or concerns raised by the Authority regarding the draft Program Review Report no later than May 26, 2023.
 - iii. Report due dates may be extended if mutually agreed upon.
- q. All reports, surveys, and other information produced or generated by NJIT pursuant to this MOU shall become the sole property of NJEDA and may be used in its entirety or in part by the NJEDA at the sole discretion of NJEDA without additional compensation to or approval from NJIT. Use by NJEDA shall also include sharing and distributing such work product with other New Jersey State offices and personnel. Whenever such information is used, credit shall be given by the NJEDA as to the author/source of the information. Notwithstanding, NJIT may use any of the material it produces or develops under this MOU

for teaching and research programs, and inclusion in journal articles and public presentations at academic conferences, after notification to NJEDA. Except for uses expressly permitted by this MOU, copyrights to such articles and presentations shall remain with the authors.

- r. In connection with performing the work, NJIT and its employees may receive, review and become aware of proprietary, personnel, commercial, marketing and financial information of NJEDA, its employees, members, applicants, borrowers or business associates that is marked, identified or reasonably understood to be confidential and/or proprietary in nature (“Confidential Information”). NJIT agrees that the use and handling of Confidential Information by NJIT and its employees will be done in a responsible manner and solely for furtherance of the work required under this MOU. Other than to its employees who have a need to know Confidential Information in connection with performance of the work required under this MOU, NJIT agrees not to disclose any Confidential Information without the prior written consent of NJEDA, which consent NJEDA is not obligated to grant. NJIT will be responsible to assure that its employees do not disclose any Confidential Information without the prior written consent of NJEDA. NJIT will inform each employee that receives any Confidential Information of the requirements of this section of the MOU and shall require each such employee to comply with such requirements. Confidential Information covered under this clause shall not include information that: (a) is or hereafter becomes known and available to the general public through no act or omission of NJIT; (b) is subsequently disclosed without restriction to NJIT by a third party who had the right to make such disclosure; (c) is required to be disclosed by any applicable judgment, order or decree of any court, governmental body, agency having jurisdiction or by any applicable law, rule or regulation (e.g., the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.), provided that in connection with any such disclosure, NJIT will use its best efforts to give NJEDA reasonable prior notice of the same; and (d) was known by NJIT prior to disclosure or independently developed by NJIT without knowledge of, reliance upon, or use of the NJEDA’s Confidential Information.

GENERAL PROVISIONS

- s. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. There are no third-party beneficiaries.
- t. This MOU will commence upon the Effective Date. It shall remain in effect until the mutually agreed completion of work but not later than August 31, 2023, or when terminated by either Party upon 60 days prior written notice to the other. This MOU may be extended for up to 30 days by a writing mutually executed by the Parties.
- u. The NJEDA will pay NJIT a flat fee of FORTY THOUSAND DOLLARS (\$40,000) for its performance of the work required under this MOU. The total MOU Price shall not exceed the aforementioned amount unless an increase is approved in writing by NJEDA. NJIT’s

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performance of the work is predicated on the NJEDA fulfilling all of its obligations related to the work (e.g., providing necessary information and cooperation). NJIT shall invoice the NJEDA as follows: \$20,000 immediately following the Effective Date and \$20,000 upon NJIT's submission of the final report to the NJEDA. The NJEDA shall pay all invoices within thirty (30) days.

- v. The Parties are both entities of the State of New Jersey and are each subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the availability of appropriations. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other party.
- w. This MOU shall not establish an employer/employee relationship, joint venture, or partnership agreement either expressly or by implication between NJIT and NJEDA. Each Party shall continue to be autonomous and shall be governed independently by their respective governing boards and administrations, except insofar as this MOU specifically states to the contrary. Neither Party hereto, nor their respective employees, shall be construed to be the agent, employees or representative of the other.
- x. The Parties agree that neither shall discriminate on the basis of race, color, sex, creed, age, national origin, ancestry, marital status, familial status, religion, sexual orientation, or disability in connection with its performance under this MOU.
- y. All notices, demands or communications to any party to this MOU shall be sent to the addresses set forth below or as may be otherwise modified in writing:

NJEDA:

New Jersey Economic Development Authority
Susan Mania, VP Operations, smania@njeda.com
36 West State Street PO Box 990
Trenton, NJ 08625

NJIT:

New Jersey Institute of Technology
Michael Ehrlich, michael.a.ehrlich@njit.edu &
Eric Hetherington, Executive Director, Sponsored Research Programs Administration,
erich@njit.edu
University Heights
Newark, NJ 07102

IN WITNESS HEREOF, the Parties have executed this MOU on the dates below. The Parties agree to accept electronic signatures.

For New Jersey Institute of Technology:

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Name/Title: _____

Signature: _____ Date: _____

For New Jersey Economic Development Authority:

Name/Title: Tim Sullivan, Chief Executive Officer

Signature: _____ Date: _____

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: December 19, 2024

SUBJECT: Post Closing Credit Delegated Authority Approvals for 3rd Quarter 2024
For Informational Purposes Only

The following post-closing actions were approved under delegated authority during the third quarter of 2024:

Name	EDA Credit Exposure	Action
Bestwork Industries for the Blind, Inc.	\$519,100 SLPPL	Extend loan maturity for 12 months to match senior lender, TD Bank
Dermatology Assoc. of South Jersey	\$47,907 CVSBLO	Consent to additional debt and subordinate EDA’s lien position to Fulton Bank as permitted by the program.
Opal and Olive, LLC	\$47,112 CVSB2LO	Extend payment moratorium for 6 months to provide cash flow relief as permitted by the program.
Fort Monmouth Economic Revitalization Authority (FMERA)	\$4,213,289 DIRLO	Temporary 6-month maturity extension to allow time to secure necessary approvals and draft loan documentation for a long term extension supporting the redevelopment of Fort Monmouth.
Perinatal Health Equity Foundation, Inc.	\$94,597 CVSB2LO	Extend the payment moratorium for 6 months to provide cash flow relief as permitted by the program.
225 Liberty Street LLC (TC Fabrication)	\$870,888 SLPPL	Short-term maturity extension for 90 days to align with corresponding extension from Ocean First Bank.
Shrewsbury River, Inc. (McLoone’s Rum Runner)	\$3,796,146 SBLLO	Subordinate EDA’s lien to the new Manasquan Bank loan refinancing existing Citizens Bank debt.



Tim Sullivan, CEO

Prepared by: Nicole Torres and Mansi Naik