



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: March 9, 2022

SUBJECT: Agenda for Board Meeting of the Authority March 9, 2022

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

CEO's Report to the Board

Authority Matters

Incentives

Economic Growth

Loans/Grants/Guarantees

Bond Project

Executive Session

Public Comment

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

February 9, 2022

MINUTES OF THE MEETING

The Meeting was held by teleconference call.

Members of the Authority present via conference call: Chairman Kevin Quinn, Noreen Giblin representing the Governor's Office; Commissioner Marlene Caride of the Department of Banking and Insurance; State Treasurer Elizabeth Muoio of the Department of Treasurer; Commissioner Asaro-Angelo of the Department of Labor and Workforce Development; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; Public Members: Charles Sarlo, Vice Chairman; Phil Alagia, Virginia Bauer, Fred Dumont, Aisha Glover, Marcia Marley, Robert Shimko, First Alternate Public Member, and Rosemari Hicks, Second Alternate Public Member.

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

Member of the Authority absent: Massiel Medina Ferrara, Public Member.

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

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

MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the December 8, 2021 meeting minutes. A motion was made to approve the minutes by Mr. Dumont, seconded by Commissioner Caride, and was approved by 12 voting members present.

Ms. Glover abstained because she was not present during the meeting.

The next item of business was the approval of the December 8, 2021 executive session meeting minutes. A motion was made to approve the minutes by Commissioner Caride, seconded by Ms. Bauer, and was approved by 11 voting members present.

Ms. Glover abstained because she was not present during executive session.

Ms. Dragon abstained because she was not present during executive session.

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

Mr. Alagia joined the call at this time.

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

MINUTES OF AUTHORITY MEETING

COMMUNITY DEVELOPMENT

ITEM: Proposed Food Desert Communities under the Food Desert Relief Act

REQUEST: To approve the list, map, and methodology designating 50 New Jersey Food Desert Communities, as required by the Food Desert Relief Act. This list will be used in full or in part to determine communities eligible for tax credits, grants, loans, and/or technical assistance under the Food Desert Relief Act and may be used in full or in part to determine eligibility for other future NJEDA food security programs.

MOTION TO APPROVE: Mr. Dumont **SECOND:** Commissioner Caride **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

ITEM: Sustain & Serve NJ – Program Enhancements

REQUEST: To approve: (1) Enhancements to the Sustain & Serve NJ Program for Phase 3 and any subsequent program phases; (2) Delegation to Authority staff to enter into a Memorandum of Understanding with the New Jersey Department of Community Affairs (DCA) to accept and use \$10 million in American Rescue Plan (ARP) Coronavirus State Fiscal Recovery Funds (CSFRF) for the purposes of funding eligible grant requests under the Sustain & Serve NJ Program; (3) Delegation to Authority staff to approve individual applications to the Sustain & Serve NJ Program, and delegated authority to decline and issue final administrative decisions; (4) Delegation to Authority staff to set and extend the deadline for spending, if necessary, contingent upon the timeframe complying with applicable federal and Treasury requirements for the use of those funds; (5) Delegation to Authority staff to accept up to \$50,000,000 in additional funds to expand the funding pool for this program from any available governmental funding and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program; (6) Delegation to Authority staff to accept unencumbered gifts or unrestricted governmental funds for the purposes of expanding the funding pool of the Sustain & Serve NJ program.

MOTION TO APPROVE: Mr. Shimko **SECOND:** State Treasurer Muoio **AYES: 13**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 2

Ms. Glover abstained because her employer, Audible, has invested in a Sustain and Serve recipient.

ECONOMIC GROWTH

ITEM: Commuter and Transit Bus Private Carrier Pandemic Relief and Jobs Program

REQUEST: To approve a \$25,625,000 non-recurring pandemic relief program targeted at commuter and transit bus private carriers operating in New Jersey, funded by an allocation in the State 2022 fiscal year budget from the Coronavirus State Fiscal Recovery Fund, and delegated authority to staff to accept SFRF funds, execute the standard form of SFRF MOU with DCA, approve applicants and award amounts, decline applicants, and make final administrative decision on appeals.

MOTION TO APPROVE: Mr. Alagia **SECOND:** Ms. Bauer **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

AUTHORITY MATTERS

ITEM: New Jersey Department of the Treasury for NJEDA Participation in State Small Business Credit Initiative (SSBCI)

REQUEST: To approve a Memorandum of Understanding with the New Jersey Department of the Treasury regarding the Authority's participation in the U.S. Treasury's State Small Business Credit Initiative (SSBCI) as the contracted entity to implement the programs proposed in the state's application and to approve program concepts.

MOTION TO APPROVE: Ms. Glover **SECOND:** Mr. Dumont **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

ITEM: Initial Funding to support establishment of the Salem County Office of Economic Development

REQUEST: To approve a Memorandum of Understanding between the Authority and Salem County that will enable NJEDA to provide funding to support the implementation of the Salem County Economic Development Vision and Action Plan.

MOTION TO APPROVE: Ms. Giblin **SECOND:** Commissioner Caride **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

PROCUREMENT

ITEM: 2021-RFP-129 Marketing Consulting

REQUEST: To approve to enter into a contract to provide marketing consulting services to the New Jersey Economic Development Authority.

MOTION TO APPROVE: Ms. Bauer **SECOND:** Ms. Marley **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

INCENTIVES

ITEM: Proposed New Rules for the Historic Property Reinvestment Program (N.J.A.C. 19:31-26)

REQUEST: To approve (1) Special adopted new rules and concurrent proposed new rules for the new Historic Property Reinvestment Program and to authorize staff to (a) submit the special adopted new rules and concurrent proposed program rules for promulgation in the New Jersey Register and (b) submit the proposed program rules as final adopted rules for promulgation in the New Jersey Register if no formal comments are received; subject to approval by the Office of the Attorney General and the Office of Administrative Law; (2) Delegation to Authority staff to establish a date/s for the availability of the application and the date/s by when applications must be submitted on an annual basis; and

(3) The creation of the Historic Property Reinvestment Program, a tax credit program as initially authorized by the New Jersey Economic Recovery Act of 2020.

MOTION TO APPROVE: Ms. Dragon **SECOND:** Ms. Giblin **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

FILM & DIGITAL MEDIA TAX CREDIT

ITEM: Film and Digital Media Tax Credit Program –Certification of Unused or Unredeemed Credits in SFY2021 and Increase to SFY2022

REQUEST: To approve (1) The certification of unused or unredeemed legacy film tax credits for SFY2021 which will increase the legacy film tax credits available for SFY2022; (2) The certification of unused or unredeemed studio partner film tax credits for SFY2021 which will increase the studio partner film tax credits available for SFY2022; (3) The certification of unused or unredeemed film-lease partner film tax credits for SFY2021 which will increase the film-lease film tax credits available for SFY2022 and; (4) The certification of unused or unredeemed digital media tax credits for SFY2021 which will increase the digital tax credits available for SFY2022.

MOTION TO APPROVE: Mr. Alagia **SECOND:** Ms. Bauer **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

Lucky 8 TV LLC

PROD-00276661

MAX AMOUNT OF TAX CREDITS: \$2,183,265.66

MOTION TO APPROVE: Mr. Alagia **SECOND:** Commissioner Caride **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

Universal Television, LLC

PROD-00258584

MAX AMOUNT OF TAX CREDITS: \$2,131,215.28

MOTION TO APPROVE: Commissioner Caride **SECOND:** Ms. Bauer **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

The Furies Film, LLC

PROD-00288263

MAX AMOUNT OF TAX CREDITS: \$526,666.00

MOTION TO APPROVE: Ms. Giblin **SECOND:** Commissioner Angelo **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

AT Productions, Inc.

PROD-00297277

MAX AMOUNT OF TAX CREDITS: \$4,662,325.40

MOTION TO APPROVE: Mr. Alagia **SECOND:** Ms. Bauer **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 12

The Bros Movie, LLC

PROD-00300365

MAX AMOUNT OF TAX CREDITS: \$8,078,536.16

MOTION TO APPROVE: Mr. Shimko **SECOND:** Mr. Sarlo **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 13

Wonderlanded Production Services, LLC

PROD-00257901

MAX AMOUNT OF TAX CREDITS: \$24,108,546.75

MOTION TO APPROVE: Commissioner Caride **SECOND:** Ms. Bauer **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 14

LOANS, GRANTS, GUARANTEES

ITEM: Main Street Lenders Grant Product

REQUEST: To approve: (1) The creation of the Main Street Lenders Grant - a pilot product under the Main Street Recovery Finance Program that will offer lending grants to be used by eligible micro business lenders to create new or supplement existing micro business loan products; and technical assistance grants equal to 50% of the lending grant request, for eligible micro business lenders to provide technical assistance to better prepare micro businesses to qualify for these loan products; (2) Main Street Recovery Fund utilization to fund the Main Street Lender Grant pilot program, with delegation to NJEDA staff to increase funding in the event that demand exceeds available funding; (3) The utilization of 3% in addition to the funding allocated to this product to be used by the Authority to support administrative costs that are needed to administer the Main Street Lenders Grant; and (4) Delegation to Authority staff to approve individual applications to the Main Street Lenders Grant Program.

MOTION TO APPROVE: Ms. Marley **SECOND:** Ms. Hicks **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 15

NJ ACCELERATE

APPLICANT: Arke Aeronautics

PROD. #00300733

LOCATION: Mount Laurel Township, Burlington County

PROCEEDS FOR: working capital

FINANCING: \$49,970.00

MOTION TO APPROVE: Ms. Marley **SECOND:** Ms. Bauer **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 16

APPLICANT: EnvoyatHome, Inc

PROD. #00301187

LOCATION: Gibbsborough Borough, Camden County

PROCEEDS FOR: working capital

FINANCING: \$50,000.00

MOTION TO APPROVE: Ms. Bauer **SECOND:** Ms. Dragon **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 17

Petroleum Underground Storage Tank (PUST)

ITEM: Summary of NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program project approved by the Department of Environmental Protection.

MOTION TO APPROVE: Ms. Dragon **SECOND:** Ms. Bauer **AYES: 14**
RESOLUTION ATTACHED AND MARKED EXHIBIT: 18

Commercial:

PROJECT: Ira Tauman

PROD. # 00257921

LOCATION: Maplewood Township, Essex County

PROCEEDS FOR: Remediation

FINANCING: \$304,534.52

Residential:

PROJECT: Mary Sargent

PROD. # 00297443

LOCATION: Monroe Township, Gloucester County

PROCEEDS FOR: upgrade, closure and remediation

FINANCING: \$102,172.25

BOARD MEMORANDA - FYI ONLY:

Credit Underwriting Projects Approved Under Delegated Authority, December 2021
Economic Growth Products – Delegated Authority Approvals for Q4 2021
Post-Closing Bond Modifications, 4th Quarter 2021
Post-Closing Incentives Modifications, 4th Quarter 2021
Post-Closing Credit Delegated Authority Approvals, 4th Quarter 2021
Real Estate Division Delegated Authority for Leases and Right of Entry (ROE), 4th Quarter, 2021

PUBLIC COMMENT

Mr. Niger Ali, Sr., Concierge Transport Services, Camden, NJ inquired about obtaining cannabis licenses. Mr. Sullivan advised that the EDA is not involved in cannabis licensing.

There being no further business, on a motion by Mr. Quinn, and seconded by Commissioner Caride, the meeting was adjourned at 11:40 am.

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.

Christine Baker

Digitally signed by Christine Baker
Date: 2022.02.09 15:47:15 -05'00'

Christine Baker
Chief Legal and Strategic Affairs Officer
Assistant Secretary



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

RE: **Adoption of Amended and Restated By-Laws and Board Policy on Delegation of Authority**

Summary

The Members are asked to approve:

1. Amended and restated By-laws of the New Jersey Economic Development Authority; and
2. A Policy on Delegation of Authority.

Background

The Authority procured the services of a Board Governance consultant to improve overall Board functionality and governance and provide suggested recommended changes to the Authority's by-laws, to improve board practices, efficiency, and functionality. In November 2019, the Board approved the award of the Board Governance Consulting Services contract to Funston Advisory Services, LLC (Funston). Funston completed a thorough review of the Authority's Board Governance processes and practices. Among other things, the Funston team solicited input from staff and Board Members and obtained corporate documents from other NJ authorities and out-of-state economic development agencies to use as reference documents in the review of NJEDA's by-laws and board governance practices and policies. The Attorney General's Office was also consulted. Funston produced a final written report dated October 9, 2020, which described its findings in detail and made recommendations for improvements.

Among Funston's recommendations were amendments and updates to the Authority's by-laws; and changes to the manner in which the Board delegates authority to staff. Staff recommends that the Members implement those recommendations by approving amended and restated by-laws and by adopting a delegation policy.

NJEDA's By-Laws

The NJEDA's by-laws govern administration and function of the Authority's Board and committees, within the parameters of applicable law. The by-laws establish committees of the Board and describe their level roles and responsibilities. The NJEDA by-laws were last updated in 2012.

Funston recommended changes to the by-laws to better reflect the Authority's structure and to conform with best practices. The material changes are summarized below.

Article III - Meetings

1. Section 1:
Language was added regarding the activities that occur at the annual meeting, including the election of the Vice Chairperson and Treasurer, designation of officers, and adoption of a notice of meetings.
2. Section 4:
A new section was added to permit emergency meetings consistent with the Open Public Meetings Act.
3. Section 5:
Language was added to clarify how a quorum is determined and to permit meetings be adjourned when no quorum exists.
4. Section 7:
Language was added to explicitly permit meetings be convened and members participate via video and/or web conference, in addition to conference calls.

Article IV – Officers

5. Section 4:
Language was added to permit electronic signatures when consistent with law and NJEDA policy.
6. Section 6:
The role of the Board Secretary and transmittal of minutes were clarified.
7. Section 8:
The role and responsibilities of the Board Treasurer were clarified.

Article V – Staff

8. Section 1:
The section regarding the Chief Executive Officer (CEO) was substantially revised to make it clear that the CEO is responsible for the administration and management of the Authority. References to a Chief Operating Officer (COO) were deleted as this position no longer exists (and based on Funston's recommendation that the Board should have a single direct operating report for clarity of responsibilities and accountability). Language regarding contracting for professional services and purchase or renewal of insurance has been deleted from the by-laws and will be reflected in updates to delegations of authority.
9. Section 2:
This section, now called "Other Staff", has been revised to clarify the CEO's authority to hire, promote, manage, and terminate employees based on their roles and responsibilities

as it relates to their job performance and in accordance with NJEDA's employment policies.

Article VIII – Audit Committee

10. Section 1.

Language was added consistent with the requirements of applicable Executive Orders.

11. Section 3.

Language detailing the Audit Committee's duties was deleted. Consistent with Funston's recommendations, duties are spelled out in the Audit Committee Charter.

Article XIII – Committees

12. Section 1.

Language was added to clarify the membership of ad hoc committees and to provide that the committee chairperson determines the meeting frequency and place for the committee.

Article XIV – Force and Effect of By-Laws

13. Section 1.

This new section was added to make clear that the by-laws are subject to the provisions of New Jersey law, and if the by-laws in any way contradict any applicable law, that applicable law supersedes the by-laws.

Delegations of Authority

Funston's final report also made findings and recommendations related to delegations of authority. Funston noted that the by-laws contained significant delegation of authority to the CEO regarding the management of the authority with respect to internal operations and policy, legislation, governance, and strategic initiatives. Funston noted that the leading practice is to list all delegated authorities in one document, which provides clear articulation of responsibilities and accountabilities and facilitates Board and staff revisions to delegation levels and conditions. Funston provided several specific recommendations for changes to the Authority's policies and processes surrounding delegations of authority:

1. The Board should consolidate and clarify the authorities delegated to the CEO.
2. Any delegations from the Board, with the exception of delegations to specific assurance/reassurance functions (e.g., internal audit, compliance, etc.), should be to the CEO, who in turn should retain the authority for further delegation, as appropriate and allowed by the Board.
3. The Board should continue to set policy, consistent with established New Jersey law and precedent, but may delegate programmatic transactional approval/rejection decisions to the CEO, subject to any conditions the Board may desire and are necessary to ensure policy oversight, such as dollar thresholds and/or meeting defined criteria or minimum scoring thresholds. The Board may change, revoke, or add delegations at any point, and should review the efficacy of the delegation terms and conditions at least biennially.

4. The Board should, with input from the CEO and relevant committees, review the current thresholds for approval by the Board to determine whether more authority can be prudently delegated to staff.

Staff have reviewed these recommendations and, in consultation with the Attorney General's Office, propose that the Members adopt a new Delegation of Authority Policy which will apply to all current and future Delegations of Authority, unless otherwise noted. The Delegation of Authority policy provides that all delegations are made to the CEO, who may sub-delegate. This will provide for a streamlined approach to Delegations of Authority.

The proposed Delegation of Authority Policy acknowledges that, pursuant to the by-laws, the CEO is responsible for the supervision over and the direction of the affairs of the Authority and has such powers and duties as assigned by the Board in the by-laws and in separate delegations of authority. The proposed Policy provides that the Board will delegate authority to the CEO and permits the CEO to delegate to his or her subordinates any portion or all of that authority, unless the Board has specifically required the CEO to act personally. The Policy also requires the CEO (or his or her delegate) to maintain a list of delegations, which shall be updated regularly and be accessible to all Board Members and staff. (Staff anticipate providing that list to the Members at the next Board meeting along with recommendations for updates.)

Over the years, the Members have approved many delegations of authority to specific staff members. Frequently, staff need to seek Board approval to update those delegations, for example, when titles change or when additional staff resources are needed. The new Delegation of Authority Policy would obviate the need to do so in the future because, as recommended by Funston, it states that delegations should, in most instances, give authority to the CEO, who in turn should retain the authority for further delegation, as necessary and appropriate under the circumstances.

Recommendation

The Members are asked to approve:

1. Amended and restated By-laws of the New Jersey Economic Development Authority; and
2. Policy on Delegation of Authority.



Tim Sullivan, CEO

Attachments:

1. Amended and Restated By-Laws of the New Jersey Economic Development Authority
2. Policy on Delegation of Authority

Prepared by:

Christine Baker, Chief Legal and Strategic Affairs Officer



DELEGATION POLICY

I. Purpose

This Delegation Policy sets forth the Board's policy on authority delegated by the Board, consistent with the Bylaws of the New Jersey Economic Development Authority ("EDA").

II. Board Delegations

As authorized by its Bylaws and consistent with applicable law and standards of care, the Board may delegate certain responsibilities to Board committees, advisors or consultants. The Board may also delegate responsibilities and authority to the Chief Executive Officer ("CEO") to exercise any such powers held by the Board, unless such delegation to others is prohibited by law. In general, the Board will delegate authority to the CEO, and the CEO will be authorized to delegate to his or her subordinates any portion or all of that authority, unless the Board has specifically required the CEO to act personally.

Any delegation shall be consistent with the following "Standards for Delegation." The Board shall:

- Select delegates with reasonable care;
- Clearly define the delegated authority;
- Monitor the performance of delegates;
- Take corrective action where appropriate; and
- Periodically review delegated authority to ensure that such delegation remains prudent.

All delegations should specify:

- The specific authority, responsibility or action being delegated;
- To whom authority is being delegated;
- Duration of delegation (unless the term is unlimited);
- If sub-delegation is not permitted; and
- Whether and when the delegate is required to report back.

A delegate is authorized to take final action with respect to any authority delegated to such person, unless the delegation specifically requires review and ratification prior to final action. If the delegation states that the action is subject to review and ratification or reversal by the Board, then action is not final until the Board votes and either the Governor's 10-business-day veto period expires or the Governor approves the relevant portion of the minutes from the Board meeting (in accordance with N.J.S.A. 34:1B-4(i)).

III. CEO Authority

A. General

Consistent with the Bylaws, the CEO shall be responsible for the supervision over and the direction of the affairs of the EDA and will have such powers and duties as assigned by the Board in the Bylaws and in separate delegations of authority. When the Board has delegated authority to the CEO, the CEO is authorized to delegate to his or her subordinates any portion or all of that authority, unless the Board has specifically required the CEO to act personally. Any such sub-delegation shall be consistent with the above "Standards for Delegation." Sub-delegations for program initial decisions and appeals shall be to different program staff.

This new policy supersedes all prior delegations of authority. Any delegations approved by the Board prior to the date this policy is adopted shall be deemed modified to conform to this policy. This means that all prior delegations to a specific staff person shall become delegations to the CEO, who is authorized to delegate to his or her subordinates any portion or all of that authority, unless the Board has specifically required the CEO to act personally.

B. Specific Delegations

The CEO, or his or delegate, shall maintain a list of specific delegations, which shall be updated regularly and be accessible to all Board Members and staff. Specific delegations in effect as of the date this Policy is approved are listed in the delegation grid attached hereto. The CEO, or his or her delegate, shall update that grid when the Board approves any additional delegations.

IV. Committee Authority

The Board may appoint a committee of two or more of its members and delegate duties to the committee, which may include bringing recommendations back to the Board. Specific delegations to committees of the Board shall be consistent with the Standards for Delegation as set forth above.

V. Review of Delegations

The Board will review the delegations of authority at least once every two years, or more often as necessary.

AMENDED AND RESTATED BY-LAWS
OF THE
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

ARTICLE I

GENERAL PROVISIONS

Section 1. Scope and Provisions of By-laws. These by-laws are adopted pursuant to Section 5.a- of the New Jersey Economic Development Authority Act (P.L. 1974, Chapter 80, approved August 7, 1974), as amended ~~and~~, supplemented and codified at N.J.S.A. 34:1B-1 et seq. (hereinafter referred to as the “Act”). ~~They~~ Subject to applicable law, they are intended to govern the affairs and the conduct of business of the Authority with respect to the performance of its functions, powers and duties under the Act, as well as the performance of any other functions, powers, or duties ~~which~~ that have been or hereafter are transferred to it pursuant to the Executive Reorganization Act (P.L. 1969, Chapter 203-) or other law.

Section 2. Name of the Authority. The name of the Authority shall be the “New Jersey Economic Development Authority” (hereinafter referred to as the “Authority” or the “NJEDA”).

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

Section 4. Seal. The Seal of Authority shall be in the form of a circle enclosing the seal of the State of New Jersey, and shall bear the name of the Authority and the year of its creation (1974).

Section 5. Capitalized Words and Phrases. Words and phrases used in these by-laws that are capitalized but not defined shall have the meaning ascribed to them in the Act. The members of the Authority may be referred to herein as the “Board.”

Section 6. Effect. These by-laws amend and restate the existing by-laws of the Authority in their entirety as of the date approved by the Board.

ARTICLE II

MEMBERS AND DESIGNEES

Section 1. Members. The Authority shall consist of the Commissioner of Labor and

Workforce Development, the Commissioner of Banking and Insurance, the Commissioner of Environmental Protection, an officer or employee of the Executive Branch of State government appointed by the Governor, and the State Treasurer, who shall be members ex-officio, and eight public members and three alternate members appointed by the Governor for terms of three years. Pursuant to P.L. 2002, Chapter 43-, sections 36 and 69, (N.J.S.A. 52:27BBB-36 and N.J.S.A. 34:1B-4), one public member of the ~~ED~~ANJEDA subsidiary, the State Economic Recovery Board for Camden, will be appointed by its Board to serve as a non-voting, ex-officio Member of the ~~Authority~~ Board. Two public members and one alternate member shall be appointed by the Governor upon the recommendation of the Senate President and two public members and one alternate member shall be appointed by the Governor upon the recommendation of the Speaker of the Assembly. Each member shall hold the office for the term of ~~his~~the member's appointment and until ~~his~~the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. ~~In the event that a public member is unable to attend all or any part of a meeting of the Authority, the Chairperson may authorize an alternate member, in the order of appointment, to exercise all of the powers, duties and responsibilities of such member.~~

Section 2. Removal of Members. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon ~~his~~the member's duties shall take and subscribe an oath to perform the duties of ~~his~~the member's office faithfully, impartially and justly to the best of ~~his~~the member's ability. A record of such oaths shall be filed in the office of the Secretary of State.

Section 3. Designees. Each ex-officio member of the Authority may designate an officer or employee of the member's department to represent the member at meetings of the Authority, and each such designee may lawfully vote and otherwise act on behalf of the member. Any such designation shall be in writing delivered to the Authority and shall continue in effect until revoked or amended by writing delivered to the Authority.

Section 4. Alternates. In the event that a public member is unable to attend all or any part of a meeting of the Authority, the Chairperson may authorize an alternate member, in the order of appointment, to exercise all of the powers, duties and responsibilities of such member.

ARTICLE III

MEETINGS

Section 1. Annual Meetings. The annual meeting of the ~~Authority~~Board shall be held at the principal office of the Authority on the first Tuesday of September of each year, at 10:00 a.m. or such earlier or later date in September of each calendar year as the Chairperson may designate in accordance with the notice provisions hereinafter provided ~~for the purpose of electing the Vice-Chairperson and the Treasurer of the Authority and for the transaction of such other business as may properly come before the meeting.~~ The annual meeting shall be conducted for the purposes

of:

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

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

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

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

Section 5. Quorum. At any meeting of the AuthorityBoard, seven members of the Authority present shall constitute a quorum for all purposes, inclusive of voting ex-officio members but exclusive of non-voting members. If a quorum is not present at any meeting of the Board, a majority of the members present may adjourn the meeting to another time and/or place. Notice of any such adjourned meeting shall be given in accordance with the requirements of the Open Public Meetings Act. No vacancy in the membership of the Authority shall impair the right of the members to exercise all the powers and perform all the duties of the Authority.

Section ~~56~~. Voting. At every meeting of the AuthorityBoard, each voting member shall be entitled to one vote. All elections shall be had, action may be taken and motions and resolutions adopted by the affirmative vote of at least seven members. Except when the vote is unanimous, the ~~voting on all questions, resolutions and motions shall be by roll call and the~~ yeas and nays shall be entered into the Minutesminutes.

Section 7. Conference Calls. Any or all members may participate in a meeting of the Board, or a committee of the Board, by means of a conference telephone, video or web conference or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a

meeting provided that members attending by telephone, video or web conference are able to participate, if so desired, during the discussion of the matter they vote upon.

Section 68. Certificate of Resolutions. Each member of the Authority is authorized to certify, when required, the records, proceedings, documents, or resolutions of the Authority, and to affix the seal of the Authority to all contracts, documents and instruments to be executed by the Authority.

ARTICLE IV

OFFICERS

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

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

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

Section 4. The Chairperson. The Chairperson shall be appointed by the Governor from the public members. Any such appointment shall be in writing and shall ~~be delivered to the Authority and shall~~ continue in effect until revoked or amended in writing by the Governor ~~to the Authority.~~ The Chairperson shall preside at all meetings of the AuthorityBoard and rule on all questions of order, subject to appeal by the members.-

~~The Chairperson shall submit such recommendations considered proper concerning the business, duties, and affairs of the Authority.~~ In connection with the issuance of bonds by the Authority, the Chairperson may execute on behalf of the Authority documents, indentures, bonds and other instruments by ~~manual original signature (or faesimile signatures~~ other signature where permitted by law and NJEDA policy) and shall have such other powers and shall perform such other duties as the AuthorityBoard may prescribe from time to time by resolution.

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

Section 6. The Secretary. The Chief Executive Officer of the Authority shall serve as Secretary of the Authority. The Secretary shall act as clerk of all meetings of the ~~Authority, record or cause to be recorded at~~ Board, shall keep the proceedings official minutes of the actions taken at Board meetings and shall transmit the minutes of the Board to the Governor on behalf of the Authority, and shall cause such records minutes to be kept in such a manner as to ensure their permanence. The Secretary shall attend to ensure that the giving of Authority provides notices of the Authority as and when required, shall have charge of such books, documents and papers as the Authority may determine, and shall have the custody of the Authority's seal and the power to affix and attest the same. The Secretary shall in general perform all the duties incident to the office of Secretary, subject to the control of the ~~Authority Board~~ and shall have such other powers to do and perform such other duties as the ~~Authority Board~~ may prescribe from time to time by resolution. ~~The Secretary shall deliver and certify forthwith a true copy of the minutes of every meeting of the Authority to the Governor.~~ The Secretary shall also keep a record, containing the names, ~~alphabetically arranged,~~ of all persons who are members of the Authority or duly appointed designees of members, showing their places of business and dates of membership or dates of designation.

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

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

Section 9. Removal of Officers. Any officer or agent of the Authority other than the Chairperson may be removed by the ~~Authority wherever~~ Board whenever in its judgment the best interest of the Authority will be served thereby. The removal of a member as an officer or agent of the Authority ~~from an office thereof~~ shall in no way constitute such member's removal as a member of the Authority.

ARTICLE V

STAFF

Section 1. Chief Executive Officer. The Authority shall employ ~~a Chief Executive Officer (CEO)~~ an executive director qualified by training and experience for the duties of the

office. ~~The CEO, subject to the rules and regulations of the Authority, The executive director shall give serve as Chief Executive Officer (CEO) of the Authority and shall have general supervisory and management responsibility over all the activities of the Authority, subject to applicable laws, including the rules and regulations of the Authority. The CEO shall have the following powers and duties in responsibility for the general and active management of the Authority and shall ensure that all orders and resolutions of the Authority are carried out. Subject to the limitations of the Act, these by-laws, and other applicable law, the Board may from time to time delegate authority to the CEO to perform such functions or duties as the Board deems necessary, appropriate, or convenient, including, without limitation, any such delegation in a delegation policy adopted by the Board from time to time by resolution. The CEO may enter into and execute contracts and other documents in the name of the Authority which are authorized, generally or specifically, by the Board.~~

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

- a. supervise and manage the internal operations and organization of the staff of the Authority;
- b. serve as lead on matters related to policy, legislation, governance, compliance and strategic initiatives;
- c. represent the ~~EDA~~NJEDA at business meetings, legislative sessions, committee meetings and other appropriate functions; interface with the Executive and Legislative branches of government; and maintain strong relations with state and local government officials, ~~state and other State~~ agencies ~~and~~ departments, authorities and other instrumentalities;
- d. represent the Authority and enhance EDA's~~NJEDA's~~ interests with respect to legislative, regulatory, litigation and ~~litigious~~other legal matters;
- e. assign functions and duties ~~of~~to any member of the staff and modify such assignments as needed;
- f. appoint, promote, remove, suspend, discipline, and supervise employees of the Authority, ~~in consultation with the Chief Operating Officer and Senior Vice President subject to the approval of the Chairperson of the Authority;~~
- g. oversee the procedures for procurement of all goods, supplies, material ~~and materials~~, equipment and professional, technical and other services needed for the efficient and effective operation of the Authority;
- h. execute on behalf of the Authority documents, indentures, bonds and other instruments by ~~manual~~original or facsimile signature (or electronic signature where permitted by law and NJEDA policy) in connection with the issuance of bonds by the Authority or with the granting of any loan or guarantee;
- i. ~~provide appropriate staff members with grants of operating authority in accordance with Resolutions adopted by the Members of the Authority.~~

~~Section 2. President and Chief Operating Officer. The Authority shall employ a President and Chief Operating Officer (COO), qualified by training and experience, who shall~~

~~assist the CEO in all aspects of the CEO's responsibilities as CEO and Secretary of the Authority. The COO shall have the following powers and duties in addition to any other duties assigned by these bylaws, by resolution of the Authority or by delegation from the CEO.~~

- ~~In the absence or disability of the CEO, the COO shall exercise all functions and undertake all responsibilities of the CEO and Secretary;~~
- ~~a. ~~in~~ connection with the issuance of bonds by the Authority, or with the granting of any loan or guarantee, the COO may execute on behalf of the Authority documents, indentures, bonds and other instruments by manual or facsimile signature;~~
 - ~~j.i. prepare and submit a proposed annual budget~~fiscal plan~~ for the Authority for ~~each ensuing year for adoption by members of the Authority Board~~;~~
 - ~~k.j. oversees~~oversee~~ operations to ensure ~~production~~ efficiency, quality, service and the cost-effective management of resources;~~
 - ~~l.k. ~~responsible for the review of~~ all projects involving real estate investment, credit and incentives;~~
 - ~~m.l. ~~lead in the identification of~~ identify new ~~business~~ opportunities to improve New Jersey's ~~Jersey's~~ economy and generate revenue ~~for to~~ support the operations of the Authority;~~
 - ~~n.m. ~~Oversee~~oversee the ~~Authority's~~Authority's real estate holdings and development activities, including owned real estate ~~properties and the activities involved in redeveloping the former Fort Monmouth properties.~~; and~~

~~Section 3. Professional Services. Upon recommendation of the CEO, the members of the Authority may contract for professional services required for the efficient and effective operation of the Authority. Professional services as used in this section may include, but are not limited to, the services of counsel, bond counsel, engineering and appraisal services, financial and credit reporting services, and architectural services.~~

~~n. Section 4. ~~Personnel~~ oversee legal representation of the Authority.~~

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

- a. Create, determine and prescribe the duties of new and existing positions and qualifications for appointments made thereto;
- b. Make appointments of staff to such positions;
- c. Make promotions and demotions within the staff;
- d. Terminate appointments to the staff;

- e. Grant or authorize the granting of vacations, sick leave, other leaves of absence and take all other necessary actions affecting personnel;
- f. Approve, administer and maintain salaries, salary ranges and adjustments thereto, merit increases and employee benefit programs in accordance with the Authority's policies and programs;
- g. Prepare, approve, and enact additions, deletions, and modifications to the Employee Handbook and to other personnel policies and procedures; and
- h. Approve mobility and other staff assignments to other State entities.

In addition to the powers set forth elsewhere in this Article, the CEO may delegate to any staff member as the CEO may designate, any of the powers and duties listed above in addition to any other duties assigned by these by-laws, by resolution of the Authority or by delegation from the Board, unless the by-laws, resolution or delegation prohibit further delegation.

ARTICLE VI

WAIVER OF NOTICE

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

ARTICLE VII

FISCAL YEAR

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

ARTICLE VIII

AUDIT COMMITTEE

Section 1. Members. The Chairperson of the Audit Committee shall be appointed by the Chairperson of the Authority. The Audit Committee shall consist of the Chairperson, the State Treasurer, and from one to four members of the Board appointed by the Chairperson of the Authority for a minimum total of three members and not more than six members. At least one member shall have accounting or related financial expertise. All members shall be independent of the Authority and have knowledge of the Authority's governmental functions: and sufficient time to accomplish the responsibilities of the Audit Committee. The Audit Committee shall have a direct relationship with the external, independent auditor.

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

Section 3. Duties. The Committee shall monitor the financial operations of the Authority; and perform the duties required by Executive Orders. The duties of the Committee shall be further defined by the Audit Committee's Charter ~~and shall include, but not be limited to, review of:~~

- ~~(a) — draft quarterly and annual financial statements to include comparison of actual expenses to budget;~~
- ~~(b) — annual operating budget;~~
- ~~(c) — audit scope, prior to the commencement of the annual audit. Post audit annual audited financial statements, to include comparison of actual expenses to budget, internal control functions, results of the annual audit to include management letters from auditors and managements response, the effectiveness of electronic data processing procedures, controls and related security programs;~~
- ~~(d) — major changes in financial policies and procedures;~~
- ~~(e) — major financial commitments being contemplated by the financial management of the Authority and recommend policies with respect to risk assessment and risk management;~~
- ~~(f) — quarterly review of subsidiary operations;~~
- ~~(g) — oversee the competitive selection process for the retention of independent external auditors, to include non audit engagements, as conducted by the Evaluation Committee and make a recommendation to the Board of Directors. Provide the Evaluation Committee with selection criteria. Within six months of making the recommendation to the Board, issue a report to the State Treasurer setting forth the steps taken in the selection process. Monitor the auditor's performance and, if necessary, recommend replacement; and~~
- ~~(h) — Review the Authority's compliance with legal, regulatory and ethical requirements to include adequacy of compliance with the Authority's Code of Ethics.~~

The Committee shall perform such other duties as may be prescribed from time to time by the Board by resolution.

ARTICLE IX

DIRECTOR'S~~DIRECTORS'~~ LOAN REVIEW COMMITTEE

Section 1. Members. The Chairperson of the Directors' Loan Review Committee shall be appointed by the Chairperson of the Authority. The Directors' Loan Review Committee shall consist of the Commissioner of Labor and Workforce Development, the Commissioner of the Department of Banking and Insurance and from one to four members of the Board appointed by the Chairperson of the Authority for a minimum total of three members and not more than six members. At least one member shall be a member of the Audit Committee and at least two

members shall have financial expertise. All members shall be independent of the Authority and have knowledge of the Authority's governmental functions.

Section 2. Meetings. The times, places and agenda for the ~~Director's~~Directors' Loan Review Committee shall be set forth by the at the Authority's Annual Meeting and at other times deemed necessary by the CEO of the Authority in consultation with the Chair of the committee.

Section 3. Duties. The duties of the Directors' Loan Review Committee shall include, but not be limited to:

- a. ~~review of~~reviewing all non-real estate development Authority exposure requests, including but not limited to, direct loan and loan guarantee requests, prior to submission to the members of the Authority for their consideration-; and
- b. such other duties as may be prescribed from time to time by the Chairperson of the Authority.

ARTICLE X

REAL ESTATE COMMITTEE

Section 1. Members. The Chairperson of the Real Estate Committee shall be appointed by the Chairperson of the Authority. The Real Estate Committee shall consist of the Commissioner of Environmental Protection, the State Treasurer and from one to four members of the Board appointed by the Chairperson of the Authority for a minimum total of three members and not more than six members. At least one member shall be a member of ~~the~~the Audit Committee and at least one member shall have real estate development, construction, and/or related expertise. All members shall be independent of the Authority and have knowledge of the Authority's governmental functions.

Section 2. Meetings. The times, places and agenda for the Real Estate Committee shall be set forth by the CEO of the Authority, in consultation with the Chair of the committee.

Section 3. Duties. The duties of the Real Estate Committee shall include, but not be limited to:

- a. ~~review of~~reviewing significant real estate development initiatives being contemplated by the management of the Authority, including but not limited to, direct exposure requests, prior to submission to the members of the Authority for their consideration-; and
- b. such other duties as may be prescribed from time to time by the Chairperson of the Authority.

ARTICLE XI

POLICY COMMITTEE

Section 1. Members. The Chairperson of the Policy Committee shall be appointed by the Chairperson of the Authority. The Policy Committee shall consist of the Chairperson of the Authority, the Chairperson of the Audit Committee, Chairperson of the Incentives Committee, Chairperson of the Real Estate Committee, the Chairperson of the ~~Director's~~Directors' Loan Review Committee and up to one additional member of the Board appointed by the Chairperson of the Authority for a total of no more than six members. At least one member shall have governmental/public sector expertise. All members shall be independent of the Authority and have knowledge of the Authority's governmental functions.

Section 2. Meetings. The times, places and agenda for the Policy Committee shall be set forth by the CEO of the Authority in consultation with the Chair of the committee.

Section 3. Duties. The duties of the Policy Committee shall include, but not be limited to:

- a. ~~review~~reviewing policy matters related to the Authority's operations and programs, including reviewing the ~~Business Plan~~strategic or business plan developed by the management of the Authority and underlying policy decisions of significant initiatives being contemplated by management, prior to submission to the members of the Authority for their consideration; and
- b. such other duties as may be prescribed from time to time by the Chairperson of the Authority.

ARTICLE XII

INCENTIVES COMMITTEE

Section 1. Members. The Chairperson of the Incentives Committee ~~will~~shall be appointed by the Chairperson of the Authority. The Incentives Committee shall consist of the State Treasurer, the Commissioner of the Department of Labor and Workforce Development, an officer or employee of the Executive Branch of State Government as appointed by the Governor and from one to three of the Board appointed by the Chairperson of the Authority for a minimum total of four members and not more than six members. All members will be independent of the Authority and have knowledge of the Authority's governmental functions.

Section 2. Meetings. The times, places and the agenda for the Incentives Committee will be set forth by the CEO of the Authority, in consultation with the Chair of the committee.

Section 3. Duties. The duties of the Incentives Committee shall include, but not be limited to:

- a. Review of all significant non-direct exposure incentive requests, including but not limited to tax credits, prior to submission to the members of the Authority for their consideration.
- b. Review of all formula or scoring mechanism changes to legislatively mandated incentive programs.
- c. Such other duties that may be prescribed from time to time by the Chairperson of the Authority.

ARTICLE XIII

COMMITTEES

~~Section 1. Establishment of Ad Hoc Committees.~~ The ~~chairperson~~Chairperson may, in his/her the Chairperson's discretion, appoint and abolish temporary or ad hoc committees, other than those standing committees provided herein, as is necessary or convenient to address the affairs of the Authority. The Chairperson of the Authority shall appoint the chairperson of these committees, determine the membership of these committees (to be at least three (3) members but no more than (6) members on each committee), and set forth the duties of such committees, including an obligation to provide reports of the committee's activities to the full Board from time to time. The committee chairperson shall determine the meeting frequency and place for that committee.

ARTICLE XIV

FORCE AND EFFECT OF BYLAWS

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

ARTICLE XV

AMENDMENTS

Section 1. Amendments to By-Laws. The by-laws may be altered, amended, or repealed at any meeting of the ~~Authority~~Board by the affirmative vote of at least seven members; provided that notice of the proposed action and a copy of such alteration or amendment or a copy of the provisions to be repealed are inserted in the notice of such meeting, given at least seven days in advance of the meeting at which the motion on adoption on such resolution is to be made.

ARTICLE ~~XV~~XVI

SUSPENSION OF BY-LAWS

Section 1. Suspension of By-Laws. Any and all provisions of these by-laws may be suspended by unanimous consent of the members present at any duly constituted meeting of the ~~Authority~~Board.

CERTIFICATION

The foregoing is a true copy of the by-laws duly adopted by the New Jersey Economic Development Authority at a meeting of the Authority held on March 9, 2022.

TIM SULLIVAN
Secretary and Chief Executive Officer
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

[SEAL]

ATTEST:

Assistant Secretary
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Last Amended:



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

RE: Memorandum of Understanding (MOU) with Kean University to support Trenton Community Engagement and Planning for Maternal and Infant Health Innovation Center

Request

The Members are requested to approve a Memorandum of Understanding (MOU) (Attachment A) between the Authority and Kean University's John S. Watson Institute for Urban Policy and Research ("Watson Institute") using \$250,000 of the \$2.9 million appropriated to the Authority in the fiscal year 2022 State appropriation act for the first phase of planning activities related to establishing a new Trenton-based Maternal and Infant Health Innovation Center ("Center"). The Watson Institute will conduct outreach to and engage with impacted communities and organizational stakeholders in Trenton to inform recommendations for the Center's scope of service offerings, partnerships, and opportunities to leverage existing community assets in the city.

Background

As part of New Jersey First Lady Tammy Murphy's Nurture NJ initiative, which aims to make New Jersey the safest place to deliver a baby in America, the New Jersey Economic Development Authority (EDA) is proposing to develop a first-of-its-kind Maternal and Infant Health Innovation Center ("Center") in Trenton. To advance this project, the Authority is coordinating closely with state interagency partners including the Office of the First Lady, the Department of Health (DOH), the Department of Human Services (DHS), the Office of the Secretary of Higher Education (OSHE), as well as the City of Trenton and local community stakeholders. This first-of-its-kind Center will serve as an advance workforce development, policy, and research goals focused on eliminating racial disparities in maternal and infant health outcomes that will benefit the City of Trenton, the State, and the entire country.

Nurture NJ is particularly focused on ending the unacceptable racial disparities for maternal and infant mortality in New Jersey. New Jersey is ranked 47th in the nation for maternal deaths and has one of the widest racial disparities for both maternal and infant mortality. Black women in New Jersey experience pregnancy-related deaths at seven times the rate of white women; a Black

infant in New Jersey is three times less likely to live past the first year compared with a white infant—some of the widest racial disparities in maternal and infant mortality in the country.

Nurture NJ is a comprehensive, whole-of-government effort by the Murphy Administration, led by the Office of the First Lady and comprised of more than 20 agency partners. Launched in 2019 by Governor Phil Murphy and First Lady Tammy Murphy, Nurture NJ is a statewide awareness campaign committed to both reducing maternal and infant mortality and morbidity and also ensuring equitable care among women and children of all races and ethnicities. The initiative is focused on improving collaboration and programming between all departments, agencies, and stakeholders to achieve the goal of making New Jersey the safest and most equitable place in the nation to give birth and raise a baby.

Nurture NJ is guided by a strategic plan published in January 2021 which included nearly 100 recommendations and strategies across nine domains to tackle this generational challenge, including Recommendation 3.3, to establish a Center in the State capital that focuses on innovation and research in maternal and infant health through partnerships with the state’s academic, funder, business, and faith communities. The Center is intended to be a research hub and incubator of new innovations to drive improved maternal and infant health outcomes, a central hub for New Jersey’s stakeholders dedicated to improving the health of New Jersey’s babies and mothers, and a resource for equitable delivery of health care services.¹

Trenton Maternal and Infant Health Innovation Center

The Center is one way the Authority is advancing Governor Murphy’s commitment to growing the innovation economy in New Jersey. Governor Murphy’s Economic Development Strategic Plan, “The State of Innovation: Building a Stronger and Fairer Economy in New Jersey” includes, as one of its key goals, making New Jersey the state of innovation through investment in its people, ecosystem, physical spaces, and both private and public research and venture capital financing.² The Center offers a path toward achieving these goals with a focus on both catalyzing new innovations and burgeoning industries to improve maternal and infant health across the state and scaling those approaches to have potential national and international impact, while also addressing the immediate needs of and investing in the people of Trenton’s health and wellbeing.

The State’s aspiration is for the Center to catalyze innovation and serve as a vital anchor for Nurture NJ, as the state works to achieve the goal of making New Jersey the safest and most equitable place in the nation to give birth and raise a baby. Given the Center’s potential to impact a high need community as well as influence the Statewide (and national) policy framework, Trenton is a natural choice to host the Center. For example, from 2016 - 2018, Mercer County (which includes Trenton) had the fourth highest number of Black infant deaths (34 out of 383 statewide) and second highest Black infant mortality rate (13.1 per 1,000 births) among all 21 NJ counties³.

¹ Nurture New Jersey Strategic Plan (2021), page 48, download as PDF at <https://nurturenj.nj.gov/wp-content/uploads/2021/01/20210120-Nurture-NJ-Strategic-Plan.pdf>

² The State of Innovation: Building a Stronger and Fairer Economy in New Jersey (2018), download as PDF at <https://www.njeda.com/economicplan/>

³ Nurture New Jersey Strategic Plan (2021), page 28

In April 2021, the NJEDA issued a Request for Information (RFI) about its plans to establish the Center and received more than 50 responses. Respondents suggested an array of potential uses for the Center’s core components, which may include, but not be limited to:

1. Innovation and co-working space for researchers and entrepreneurs focused on developing technology, therapeutics, and other solutions to address maternal and infant health challenges.
2. An academic and workforce training center focused on expanding the perinatal workforce in New Jersey and beyond, including Midwives and community-based Doulas, Community Health Workers, as well as continuing education for the existing perinatal workforce. This training hub will be a key component of developing, attracting, and retaining perinatal health talent for New Jersey
3. Comprehensive clinical services with continuity of care to serve women before conception, during pregnancy, and after birth, including reproductive health and gynecological services, pre- and post-natal obstetric care, and newborn care and pediatric services.
4. A data collaborative to collect and analyze maternal and infant health data across the state, with particular attention to racial disparities in outcomes. This data collaborative will amplify data trends and convene key stakeholders to discuss trends in maternal and infant health outcomes.
5. A policy and research non-profit or governmental organization focused on long-term stewardship of this vital policy arena and establishing New Jersey as the national leader in combating the scourge of maternal and infant health racial disparities.

Proposed Community Engagement Scope of Work

In addition to suggested service offerings for the Center, nearly all RFI responses emphasized the strong need for community engagement in the development of the Center. In order to ensure the success of the Center and its benefit to the Trenton community, staff propose undertaking a community engagement process to begin to build trust and support from Trenton residents, as well as understanding the needed services that will improve maternal and infant health outcomes for Trenton’s new and expectant parents and children. Accordingly, staff propose using up to \$250,000 from the \$2.9 million appropriated in the Fiscal Year 2022 for planning activities related to the creation of the Center to launch a first phase of a Trenton-based planning process focused on community engagement and deepening the Authority’s understanding of the existing landscape of maternal and infant health services available to Trenton residents.

Staff propose working with the John S. Watson Institute for Urban Policy and Research at Kean University (“Watson Institute”) as the lead entity, along with Stockton University, to deepen the project’s engagement with the Trenton community. with a particular focus on what services are most needed, where the Center could be best located to serve the communities most in need, and better understand the current landscape of service offerings for expectant parents and young

children in Trenton. This MOU represents an initial step in a multi-part planning effort as part of the creation of the Center. Staff anticipates undertaking planning activities related to other aspects of the Center in the near future.

The Watson Institute, based at Kean University, is dedicated to deepening the analysis around critical public policy challenges and broadening the range of policy ideas, perspectives, and options available. The Watson Institute hosts a number of research centers, including the Center for the Positive Development of Urban Children, New Jersey Urban Mayors' Association, and Center for Economic and Workforce Development, Social Entrepreneurship, and Innovation, in addition to research focused on health advancement.

The Watson Institute was actively engaged in Nurture NJ's strategic planning process and was a respondent to the Authority's RFI. While based at Kean University, the Watson Institute was founded and maintains offices and staff in the city of Trenton.

As laid out in the MOU (Attachment A), the Watson Institute would undertake the following planning activities related to the Center:

- Conduct an environmental scan of collaborations, programs and services related to maternal and infant health in Trenton, which will include focus groups, interview, and public forums to assess needs and gaps in care leading to infant mortality. The environmental scan will consider such issues as preconception to post-partum education and support, cultural sensitivity, diagnostic innovations and workforce training, site location, infrastructure needs (design of enter and built environment to support center philosophy and goals), transportation concerns, social service and housing issues, mental health component, higher education partners and involvement. The goal of the environmental scan will be to identify service gaps, limitations on current service offerings, and trusted allies within the community.
- Based on the findings of the environmental scan, conduct community outreach, including focus groups, interviews, surveys, and events with targeted groups of Trenton civic organizations, institutions, nonprofit organization, faith-based organizations, public housing communities, among others to assess community-buy in, suggestions on Center location, and suggestions on Center design and service offerings.
- Analyze all data and produce an interim report of findings focused on location and design submitted to the EDA by August 31, 2022, and a final report by December 31, 2022.

Recommendation

The Members are requested to approve a Memorandum of Understanding (MOU) (Attachment A) between the Authority and Kean University's John S. Watson Institute for Urban Policy and Research ("Watson Institute") using \$250,000 of the \$2.9 million appropriated to the Authority in the fiscal year 2022 State appropriation act for the first phase of planning activities related to establishing a new Trenton-based Maternal and Infant Health Innovation Center ("Center"). The Watson Institute will conduct outreach to and engage with impacted communities and

organizational stakeholders in Trenton to inform recommendations for the Center's scope of service offerings, partnerships, and opportunities to leverage existing community assets in the city.



Tim Sullivan, CEO

Prepared by: Tara Colton, Emily Apple

Attachments:

Attachment A – Proposed Memorandum of Understanding for Trenton Community Engagement and Planning for Maternal and Infant Health Innovation Center

Attachment A:

Memorandum of Understanding

Between

New Jersey Economic Development Authority

And

Kean University (John S. Watson Institute for Urban Policy and Research)

This **Memorandum of Understanding (“MOU”)** made this 14th day of March, 2022 between the New Jersey Economic Development Authority (“EDA”) and Kean University a public urban research institution of the State of New Jersey (“Kean”) provides a general framework for cooperation between the EDA and Kean (collectively, the “Parties”) as it pertains to an environmental scan and community engagement process to be conducted by the John S. Watson Institute for Urban Policy and Research at Kean (“Watson Institute”) which will provide data and an analysis to inform the site selection and development of a Trenton-based Center for Maternal and Infant Health (“Center”).

WHEREAS, in 2019, Governor Phil Murphy and First Lady Tammy Snyder Murphy launched Nurture NJ, a statewide awareness campaign committed to both reducing maternal and infant mortality and morbidity and ensuring equitable care among women and children of all races and ethnicities. New Jersey is ranked 47th in the nation for maternal deaths and has one of the widest racial disparities for both maternal and infant mortality.

WHEREAS, in January 2021, the Nurture NJ Strategic Plan was released with 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” led by EDA in partnership with the Departments of Health, Human Services, and Office of the Secretary of Higher Education.

WHEREAS, in April 2021, the EDA issued a Request for Information (“RFI”) about its plans to establish the Center and received more than 50 responses. Respondents overwhelmingly emphasized that planning for the Center needed to be community-driven, with ample opportunity for Trenton community members and stakeholders to offer their perspectives on the Center’s offerings, partnerships, and opportunities to leverage existing community assets in the city.

WHEREAS, this first-of-its-kind Center will serve as an advance workforce development, policy, and research goals focused on eliminating racial disparities in maternal and infant health outcomes that will benefit the City of Trenton, the State, and the entire country.

WHEREAS, the community engagement process and environmental scan of the Trenton community are critical steps to the creation and development of the Trenton-based Center, with

particular attention to racial equity and cultural competency throughout the community engagement process.

WHEREAS, creating a supportive community infrastructure for power-building and consistent engagement in decision-making should be a key feature of the Center. Multisector stakeholders and community members must work together to create the most informed equitable healthcare system based on what is occurring in real time on the ground. Beginning this project with input that comes from a deeply rooted community combined with data of existing services/programs leads to community buy-in and an effective strategy for positive change that will help to guide the workforce development, research, innovation, and other economic development activity based at the Center.

WHEREAS, the New Jersey Fiscal Year 2022 state budget appropriates \$2,900,000 to the EDA for planning activities related to the creation of the Center.

WHEREAS, while based at Kean University, the Watson Institute was founded and maintains offices and staff in the city of Trenton and has an established track record of engagement with and understanding of the Trenton community.

WHEREAS, the Watson Institute guides the policy and programmatic agenda of the New Jersey Urban Mayors Association (“NJUMA”). The City of Trenton is a member city of the NJUMA and the Watson Institute has supported the capital city for over 30 years with stakeholder convening, public policy analysis and programmatic/capacity assessments of its non-profit sector.

WHEREAS, the Watson Institute was actively engaged in Nurture NJ’s strategic planning process and was a respondent to EDA’s RFI.

NOW, THEREFORE, the parties acknowledge the following understanding:

1. The Watson Institute will conduct an environmental scan of collaborations, programs and services related to maternal and infant health in Trenton. The environmental scan will include the following activities:
 - a. Review of Nurture NJ research and original scan and service assessments.
 - b. Review of information submitted in RFI (provided by the EDA).
 - c. Access non-traditional and traditional stakeholders (neighborhood level engagement).
 - d. Create interview protocol, develop questions, recruit community members to conduct focus groups to assess needs and gaps in care leading to infant mortality. Examples of scan data collection and analysis include: preconception to post-partum education and support, cultural sensitivity, diagnostic innovations and workforce training, site location, infrastructure needs (design of enter and built environment to support center philosophy and goals), transportation concerns, social service and housing issues, mental health component, higher education partners and involvement. The scan will serve to identify service gaps, limitations on current offerings, trusted allies, and the importance of creating a new lexicon

or shared language in the understanding of research either/or/and innovation. Environmental scan approaches include focus groups, interviews and public forums.

2. Based on the findings from the environmental scan, the Watson Institute will develop a community engagement methodology to build community trust and conduct initial community engagement that allows for community involvement and ownership of Center goals. The community engagement shall include, at minimum:
 - a. 4 focus groups, 30 interviews and 5 events of specifically targeted groupings of civic organizations, Institutions, small non-traditional nonprofits, faith-based organizations, public housing centers, etc. in order to assess community buy-in, suggestions on Center location and suggestions on Center design (attention to reasoning behind suggested location, i.e. service needs and gaps).
 - b. Surveys will be used to collect demographic data from the focus groups and interviews.
3. The Watson Institute will work with Stockton University to gather and analyze data through the community engagement process which will inform the development of an integrative, place-based, community-designed Center that will support equitable maternal and infant health outcomes.
4. The Parties will have regular meetings to discuss progress and findings, at a frequency to be mutually agreed upon by the Parties.
5. The Watson Institute will produce an interim report of findings focused on location and design submitted to EDA by August 31, 2022 and a final report submitted to the EDA by December 31, 2022.
6. The EDA will provide funding in the amount of \$250,000 to support the environmental scan and community engagement activities as described above delivered in three (3) installments:
 - a. \$125,000 upon execution of this MOU
 - b. \$62,500 upon delivery of interim report by August 31, 2022
 - c. \$62,500 upon delivery of final report by December 31, 2022
7. EDA staff reserve the right to seek additional funding from the Board if they determine additional funding is warranted to help further the activities described above.
8. Kean retains the right to use any and all data, technical information, and other materials created in furtherance of this MOU, subject to EDA's right to review and approval of an advance copy of any proposed presentation or publication. Such review and approval shall not be unreasonably withheld or delayed. For the purposes of this section, a presentation or publication includes but is not limited to internal presentations or reports, presentations and meetings of academic or professional associations, publications in academic or professional journals, and any other forms of dissemination to academic, professional, or public audiences. Kean will also acknowledge in any such presentation or publication that the work was conducted under an MOU with the EDA.

9. EDA shall own the data, technical information and other materials created in furtherance of this MOU and Kean shall have a perpetual, royalty-free license to use all such data, technical information and other materials, subject to the preceding paragraph.

GENERAL PROVISIONS

10. 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 of this MOU.
11. This MOU shall become effective upon execution by the Parties. It shall remain in effect until the earlier of December 31, 2022 or when terminated by either Party upon 60 days prior written notice to the other.
12. Both Parties agree to coordinate with regard to any publicity surrounding this MOU. Neither party shall use the other party's materials and logos without its prior review and approval.
13. 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.
14. This MOU shall not establish an employer/employee relationship, joint venture, or partnership agreement either expressly or by implication between Kean and the EDA. 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.
15. 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.
16. All correspondence and notices to Kean regarding this MOU shall be addressed to:

Kean University
Barbara George Johnson
Vice President External Affairs and
J. S. Watson Institute for Urban Policy and Research
10 W. Lafayette Street, Trenton NJ 08608
(o) 908-737-4276
(c) 609-273-2681
bgeorgej@kean.edu

All correspondence and notices to the EDA regarding this MOU shall be addressed to:

Tara Colton
Executive Vice President, Economic Security
New Jersey Economic Development Authority
One Gateway Center, Suite 1410, Newark, NJ 07102
609-802-2510
TColton@njeda.com

IN WITNESS HEREOF, the Parties have executed this MOU as of the date first written above. The Parties agree to accept electronic signatures.

For Kean University:

Name: Barbara George Johnson

Signature: _____

Title: Vice President External Affairs and J.S. Watson Institute for Urban Policy and Research

For New Jersey Economic Development Authority:

Name: Tim Sullivan

Signature: _____

Title: Chief Executive Officer

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

RE: Third Amendment to Real Estate Advisory Consulting Services Contract
Between Jones Lang LaSalle Americas, Inc. and the Authority

Summary

I request the Members approve execution of the Third Amendment to the Real Estate Advisory Consulting Services Contract (“Third Amendment”), between the Authority and Jones Lang LaSalle Americas, Inc. (“JLL”) to increase the contract amount by \$300,000 for a new contract total of \$1,129,750. JLL’s contract will end on May 16, 2022, but under the contract terms JLL will continue to provide services on a month-to-month basis until a new vendor is selected through a request for proposal that will be issued later this year. The existing contract balance and requested additional funds will be used to commence the initial planning for the Maternal and Infant Health Innovation Center and to provide the necessary services for programs under the Economic Recovery Act.

Background

Original Contract

In January 2017, the Authority issued a Request for Qualifications/Proposals to provide real estate advisory consulting services to the Authority's Credit and Real Estate Underwriting department and to assist the Authority's staff in analyzing project investments to be made by the Authority.

On March 16, 2017, the Members approved the JLL contract and on May 17, 2017 the Authority and JLL entered into a \$500,000 three (3) year contract with two (2), one (1) year extension options which could be exercised solely at the Authority’s discretion. Currently, Internal Process Management is in the process of preparing the request for proposal and estimates the qualified vendor(s) will be presented to the Members on or about November 2022.

Contract Amendments

The contract has been amended as follows:

- On June 12, 2018, the Members approved the first amendment to the JLL contract, which increased the contract amount by \$250,000 for a new contract total of \$750,000. Under the contract’s task order request (TOR) process, the first amendment assisted the Authority to evaluate real estate projects and investments in connection with a range of development-related activities. This amendment was necessary due to the number of assignments and additional task order requests requiring JLL’s services, including a development and financial feasibility assessment of current projects and the potential assessment of development and location options for future real estate projects.

- On June 2, 2021, under delegated authority, the Authority executed the second amendment to the JLL contract which added \$79,750 to the contract balance and increased the total contract to \$829,750. The second amendment was necessary to provide additional services required to complete an incubator market study analysis for the Hudson River Waterfront Life Sciences Incubator.

Use of Funds to Date

The following chart summarizes the use funds to date:

	Amended Contract Balance	\$829,750
+	Approved TORs	<u>(\$728,525)</u>
=	Subtotal	\$101,225
+	TORs Pending Approval	<u>(\$26,000)</u>
=	Updated Contract Balance	\$75,225

Proposed Use of Additional Funds

The remaining contract balance and the proposed additional \$300,000 will be as follows:

- To commence the initial planning for the Maternal and Infant Health Innovation Center. The Authority is proposing to develop a Maternal and Infant Health Center that will both serve the Trenton community as well as advance workforce development, policy, and research goals focused on eliminating racial disparities in maternal and infant health outcomes that will benefit the entire state and country. The Center advances Governor Murphy’s commitment to growing the innovation economy in New Jersey, which includes making New Jersey the state of innovation through investment in its people, ecosystem, physical spaces, and both private and public research and venture capital financing. Staff estimates that the initial planning work will be completed within 90 to 120 days of issuing a notice to proceed authorizing the work under the TOR. The preliminary work to be included in the TOR will facilitate the project’s proposed project schedule of receiving a certificate occupancy or approval on or before December 31, 2025.
- To revise the hurdle rate model to better accommodate historic properties to support the administration of the Historic Property Reinvestment program within the Economic Recovery Act (ERA).
- To create a hurdle rate model to support assessment of subject properties being evaluated in the brownfields program within the ERA, specifically related to evaluating returns associated to the improved value of the land versus returns associated with subsequent vertical development following remediation.
- To support the review of and required analysis related to the Aspire program under ERA.

Recommendation

In summary, I request that Members approve entering into the Third Amendment to Real Estate Advisory Consulting Services Contract with JLL to increase the contract amount by \$300,000 which will result in a revised contract amount of \$1,129,750.



Tim Sullivan, CEO

Prepared by: Juan Burgos



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

RE: NJ Wind Institute Fellowship Program and University Initiatives to Advance Offshore Wind MOUs

Request

The Members are requested to approve four (4) Memorandums of Understanding (MOU) with similar terms between NJEDA and 1) Rutgers University, 2) Rowan University, 3) Montclair State University, and 4) New Jersey Institute of Technology that will position these institutions to advance academic research and investment in offshore wind learning through participation in the NJ Wind Institute Fellowship Program (Fellowship Program) and University Initiatives to Advance Offshore Wind (University Initiatives). Collectively, the MOUs will enable NJEDA to provide up to \$1,080,000 in funding to the four schools. The MOUs utilize funding from the Offshore Wind Initiatives MOU signed between NJEDA and the NJ Board of Public Utilities dated July 14, 2021.

The full texts of the MOUs are attached as Exhibits A – D of this memorandum.

Background

Governor Murphy's economic development plan, "The State of Innovation: Building a Stronger and Fairer New Jersey Economy" identifies offshore wind as one of the State's strategic sectors for accelerating growth in New Jersey's economy and meeting the State's clean energy goals. In August 2019, the Governor demonstrated the State's commitment to offshore wind by issuing Executive Order No. 79 to establish the WIND Council, a cross-governmental effort that would develop a plan for the creation of the Wind Institute.

In April 2020, the WIND Council issued the WIND Council Report, which outlined the strategic priorities for the Wind Institute once it is established by an act of the Legislature. The WIND Council's recommended objectives of the to be established Wind Institute will be to 1) act as a centralized hub for offshore wind workforce development and 2) champion research and innovation that unlocks the market potential of offshore wind in NJ. To date, NJEDA has worked

to support the goals outlined by the WIND Council in anticipation of the establishment of the Wind Institute.

To meet the WIND Council's second objective for the Wind Institute, the report underscored the need for increased investments and partnerships with leading public research institutions in the State. According to the WIND Council Report, there are more than 100 faculty across universities in the state that are conducting research on topics related to offshore wind. NJ also produces hundreds of highly educated civil engineers, electrical and electronic engineers, and mechanical engineers with undergraduate and master's degrees, all areas of study that will add direct value to the offshore wind industry.

The Fellowship Program and the University Initiatives will strengthen linkages to offshore wind research by formally engaging NJ's top public research universities and expanding the number of individuals with expertise in offshore wind in the state. NJEDA is piloting this program with New Jersey's four, public research universities classified by the Carnegie Commission on Higher Education as R1 (Very High Research Activity) or R2 (High Research Activity): Rutgers University, Rowan University, Montclair State University and New Jersey Institute of Technology.

The Fellowship Program will support twenty-four undergraduate and graduate research fellows across the four schools engaged in academic research focused on offshore wind. The University Initiatives will provide funding to aide these institutions in building long-term institutional expertise in offshore wind and supporting a diversity of students and faculty engaged in offshore wind related research and learning.

Wind Institute Fellowship Program

The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student and faculty advisor expertise in offshore wind. Participating students (Fellows) will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows will come together as a cohort to participate in industry trainings, guest lectures, site visits and other activities to support their knowledge of the offshore wind industry and their exposure to industry stakeholders.

Each school will be responsible for recruiting a diverse set of students and managing their own application and selection process. Fellows may be upper class undergraduate (juniors and seniors), graduate, masters, or Ph.D. students in any discipline/degree program so long as the research conducted for the Fellowship Program is focused on offshore wind. NJEDA will provide funding to each school to disburse as stipends for a capped number of students as described below. Undergraduate Fellows will receive a \$15,000 stipend; Graduate Fellows will receive a \$30,000 stipend. Each Fellow will be provided an additional stipend of up to \$1,000 for travel and research expenses related to their fellowship. The number of allocated Fellows at each school is proportional to student enrollment.

Research is expected to be completed over approximately forty weeks in an academic year beginning no later than the Fall 2022 semester and ending no later than the Summer 2023 semester. NJEDA will organize cohort meetings from September 2022 to April 2023 as well as an April 2023 symposium where Fellows will present their research findings to an audience of government, academic and industry stakeholders.

In support of the Fellowship Program, each of the four universities will:

- Develop and submit a Fellowship marketing and selection process plan that will guide efforts to advertise the program widely and support engagement of a diverse group of students and faculty advisors.
- Create an application process with established selection criteria
- Facilitate connections between Fellows and faculty advisors and relevant resources at the school
- Submit the names of the selected students and a one-to-two-page concept paper detailing each student's proposed project to NJEDA by June 1, 2022
- Begin the Fellowship Program no later than the Fall 2022 semester and conclude the program no later than the Summer 2023 semester
- Disburse and track program expenditures including payments to fellows, research expense stipends, travel costs, and other program-related expenses. A record of the use of funds throughout the Fellowship Program must be submitted to NJEDA no later than June 15, 2023.

In support of the Fellowship Program, NJEDA will:

- Provide communication materials and support the schools in marketing the Fellowship Program
- Coordinate five to eight cohort meetings for Fellows to participate in industry trainings, guest lectures, site visits, and presentations
- Recruit and involve key industry stakeholders throughout the program to maximize the Fellows' exposure to the industry
- Organize the NJ Wind Institute Fellowship Symposium to take place in April 2023
- Upon receiving the names of the selected students and their project descriptions, provide schools with funding for student stipends as follows:
 - Rutgers University will receive up to \$282,000 to support 6 undergraduate and 6 graduate Fellows
 - Rowan University will receive up to \$94,000 to recruit up to two undergraduate and two graduate Fellows
 - Montclair State University will receive up to \$94,000 to recruit up to two undergraduate and two graduate Fellows
 - New Jersey Institute of Technology will receive up to \$94,000 to recruit up to two undergraduate and two graduate Fellows

University Initiatives to Advance Offshore Wind

University Initiatives seek to build long-term, industry valued expertise in offshore wind at New Jersey's research universities. NJEDA will provide up to \$125,000 to each of the four schools to support course development and offerings, combined research and teaching positions, and/or other efforts that will increase the knowledge and engagement in offshore wind by a diversity of students and/or faculty.

Each of the four universities will submit proposals that articulate the specific activities to be conducted, the required budget, initiative timeline, and explanation on how the proposed activities will support the long-term development of industry-valued expertise at the university.

Potential initiatives can include but are not limited to:

- Funding to support curriculum development for offshore wind specific courses or certificates
- Support for guest lecturers/faculty in offshore wind to teach new courses
- Development of a pre- and post-doctoral student position with teaching responsibilities focused on offshore wind
- Development of interdisciplinary efforts in offshore wind
- Support for faculty/staff research that deepens offshore wind expertise

NJEDA will review the proposals and reserves the right to approve, request modifications, or decline the proposed initiatives. After approval, NJEDA will disburse up to \$125,000 to each school. Schools must track and report on their use of funding by June 15, 2023.

MOU Terms

The four MOUs will provide a total of up to \$1,080,000 between the four universities for the Fellowship Program and the University Initiatives. The MOUs for the different universities follow the same terms with the following exceptions:

- Rutgers University will be provided up to \$407,000; the MOU allows for participation by all Chancellor led units including the New Brunswick, Newark and Camden campuses
- Rowan University will be provided up to \$219,000
- Montclair State University will be provided up to \$219,000
- New Jersey Institute of Technology will be provided up to \$219,000

Further details regarding the administration of the Fellowship Program and the University Initiatives are outlined in the attached MOU documents.

Recommendation

It is the recommendation of Authority staff that the Members approve four Memorandums of Understanding (MOU) between NJEDA and 1) Rutgers University, 2) Rowan University, 3) Montclair State University, and 4) New Jersey Institute of Technology to support the implementation of the Wind Institute Fellowship Program and University Initiatives to Advance

Offshore Wind for a total of up to \$1,080,000 utilizing funds from the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA and NJBPU that was executed on July 14, 2021.



Tim Sullivan, CEO

Prepared by: Favio German and Jen Becker

Attachments

Exhibit A – Memorandum of Understanding Between New Jersey Economic Development Authority and Rutgers University

Exhibit B - Memorandum of Understanding Between New Jersey Economic Development Authority and Rowan University

Exhibit C - Memorandum of Understanding Between New Jersey Economic Development Authority and Montclair State University

Exhibit D - Memorandum of Understanding Between New Jersey Economic Development Authority and New Jersey Institute of Technology

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of this day of _____, 2022 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and Rutgers, The State University of New Jersey, including all chancellor units ("Rutgers"), (collectively the "Parties").

WHEREAS, the EDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of 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, the EDA has launched the Office of Economic Transformation to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

WHEREAS, offshore wind was identified as one of those growth-oriented sectors resulting in the creation of the Governor's WIND Council; and

WHEREAS, the Governor's WIND Council recommended the creation of the Wind Institute to coordinate and advance offshore wind workforce, education, research and innovation efforts; and

WHEREAS, to support New Jersey's position as an offshore wind hub on the East Coast, the State continues to invest in research that will support the development of offshore wind and of thought leaders at New Jersey universities; and

WHEREAS, the EDA has a role in supporting the development of the offshore wind industry in the State of New Jersey; and

WHEREAS, the EDA is undertaking actions in support of the offshore wind industry pending the Legislature's establishment of to be created Wind Institute; and

WHEREAS, the creation of a NJ Wind Institute Fellowship Program ("Fellowship Program") will support a

diversity of students from multiple New Jersey institutions of higher education engaging in offshore wind focused research thereby generating a pipeline of students with offshore wind industry interest and knowledge in accordance with the WIND Council's recommendations to develop a strategy to recruit New Jersey students into offshore wind jobs and support next generation research at New Jersey academic institutions; and

WHEREAS, the creation of a University Initiatives to Advance Offshore Wind (University Initiatives) will build long-term, industry valued expertise in offshore wind at New Jersey institutions of higher education and support a diversity of students and faculty to engage in offshore wind research and learning in accordance with WIND Council recommendations to support next generation research at New Jersey academic institutions, explore future opportunities to help coordinate the development of wind-relevant degree programs at New Jersey institutions, and create novel partnerships to support pathways to employment in the offshore wind industry.

WHEREAS, partnering with New Jersey institutions of higher education to advance curriculum development, course offerings, and university expertise in offshore wind is needed to position New Jersey as a thought leader in offshore wind; and

WHEREAS, Rutgers is a New Jersey public institution of higher education with the capability to support and guide student research, faculty research, knowledge building and course development in offshore wind in a multitude of disciplines.

NOW, THEREFORE, the Parties to this MOU hereby agree to the following to implement the Fellowship Program and University initiatives that further curriculum development and research in offshore wind

1. The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student and faculty advisor expertise in offshore wind. Participating students ("Fellows") will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows may be upper class undergraduate (juniors and seniors), graduate, masters, or Ph.D. students in any discipline/degree program so long as the research conducted for the Fellowship Program is focused on offshore wind. Research is expected to be completed over approximately 40 weeks in an academic year. Fellows must be ready to present on research findings by early April 2023 even if their research

will continue past that date per the agreed upon schedule with their home institution. Fellows from all participating institutions will come together as a cohort on a monthly basis from September to April to participate in industry trainings, guest lecturers, site visits and other similar activities to support their knowledge of the offshore wind industry and their exposure to industry stakeholders.

a. Rutgers will undertake the following activities for the Fellowship Program:

- i. Develop a Fellowship Program marketing and selection process plan and submit to EDA for approval within twenty (20) days of the executed date of this MOU. The plan must include:
 - Description of planned efforts to advertise the Fellowship Program widely and strategies to encourage and recruit a diverse population of students to apply; diversity of students includes gender, race, ethnicity, income, and declared major/degree
 - Plans for a webinar or in-person meeting to introduce the Fellowship Program to interested students and answer questions
 - Process to identify faculty advisors
 - Process to allow for and approve student travel and research expense stipends
 - Process, including planned timing and frequency, to disburse student stipends
 - Description of application process
 - Description of selection process and criteria that facilitates a diverse set of students participating in the Fellowship Program
- ii. Implement the marketing and selection plan such that the following can be submitted to EDA by June 1, 2022:
 - Names of selected students and their faculty advisors
 - a 1-2 page concept paper detailing project proposal including project goals, objectives and proposed approach to complete the project within the fellowship timeframe
 - Signed commitment form from the student to actively participate for the duration of the Fellowship Program

- iii. Connect each individual Wind Institute Fellow at Rutgers with a faculty advisor and other supports available at Rutgers, actively communicate to participating students the timing for cohort meetings, and support students in their development of their final presentations and posters
 - iv. Begin the Wind Institute Fellowship no later than the Fall 2022 semester and end no later than the end of Summer 2023 semester; the exact start and end dates are at the discretion of Rutgers as long as Fellows can participate in the first cohort meeting in September 2022 and the final presentation symposium in early April 2023. Per the guidance of Rutgers, students can finalize their research after the final symposium, but must be prepared to present at the symposium. Fellows should be engaged in research at Rutgers for approximately 40 weeks at Rutgers's discretion.
 - v. Disburse the student as described in section 1.b.vi per Rutgers's internal policies and procedures
 - vi. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the Fellowship Program and ensure that funds only go to the implementation of the Fellowship Program. Any funds not utilized for this Program must be returned to EDA.
- b. EDA will undertake the following activities for the Fellowship Program:
- i. Provide communication material such as a program description to support Rutgers's marketing of the Fellowship Program
 - ii. Coordinate between five to eight meetings that bring Fellows participating in the Fellowship Program together as a cohort for industry trainings, guest lecturers, site visits, and presentations of students' work
 - iii. Coordinate a group of industry experts to participate in cohort meetings as guest lecturers and site visit hosts
 - iv. Organize a NJ Wind Institute Fellowship Symposium to showcase students' research through presentations and posters and for students to receive and feedback from industry stakeholders
 - v. Upon i) receipt and approval of an outreach and selection process plan by Rutgers, and ii) the names and application materials for the selected students to participate in the Fellowship Program, EDA shall provide Rutgers with the

following funding support for up to 6 undergraduate students and 6 graduate students for a total of 12 students:

- \$15,000 per undergraduate student selected as a Fellow; the full amount of this stipend shall be disbursed to the student per Rutgers's internal policies and procedures for student research fellowships
- \$30,000 per graduate student (master's or ph.d level) selected as a Fellow; the full amount of this stipend shall be disbursed to the student per Rutgers's internal policies and procedures for student research fellowships
- Up to \$1,000 per student for travel, materials, equipment, or other research expenses related to the Fellowship Program.

The total funding cap for the Fellowship Program provided to Rutgers shall not exceed \$282,000. If after completing its application process, Rutgers prefers to alter the ratio of undergraduate and graduate students, Rutgers must notify EDA of this change and EDA must approve prior to notifying students of their selection. This ratio change will be considered by EDA so long as the resulting stipend per student does not exceed the total funding cap.

- vi. Publicize the names of the students and advisors, as well as final presentation materials shared by students on the EDA or Wind Institute website.
2. University Initiatives to Advance Offshore Wind (University Initiatives) are initiatives that meet the following goals: build long-term, industry-valued expertise in offshore wind at New Jersey institutions of higher education through course development and offerings, combined research and teaching positions/projects, or other efforts, and/or that support a diversity of students and/or faculty engaged in offshore wind research and learning.
 - a. Rutgers will undertake the following activities to support University Initiatives:
 - i. Within 45 days of the executed date of this MOU, Rutgers may submit a proposal to EDA to use funding up to \$125,000 for one or more initiatives in support of the goals outlined above. Initiatives must be focused on offshore wind and may include but are not limited to:
 - Funding to support curriculum development for offshore wind

specific courses or certificates

- Support for guest lecturers/faculty with expertise in offshore wind to teach a course/courses in offshore wind
- Develop a pre- or post-doctoral student position with teaching responsibilities focused on offshore wind
- Development of interdisciplinary efforts in offshore wind
- Support for faculty/staff research that deepens offshore wind expertise at the Rutgers

Proposals must include the specific activities to be conducted, required budget, initiative timeline, and explanation on how the proposed activities will support the long-term development of industry-valued expertise at Rutgers. The funding is intended as seed funding to accelerate the development of offshore wind offerings and thought leadership at Rutgers.

- ii. Upon approval by EDA, implement initiative(s) per the proposal.
 - iii. If applicable, disburse the funding per Rutgers's internal policies and procedures
 - iv. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the University Initiatives and ensure that funds only go to the implementation of the approved University Initiatives. Any funds not utilized for University Initiatives must be returned to EDA.
- b. EDA will undertake the following activities to support University Initiatives
- i. Upon Rutgers's request, meet with Rutgers to discuss preliminary concepts for use of University Initiatives funding
 - ii. Review the University Initiatives submission and respond within 30 days of submission receipt whether EDA will proceed, request modifications or decline proposed initiatives to ensure that they reasonably align with the goals in Section 2
 - iii. Provide up to \$125,000 to Rutgers to support the implementation of any approved University Initiatives
 - iv. Publicize information about selected University Initiatives on the EDA or Wind Institute website.

3. Nothing in this MOU should imply that EDA will gain Intellectual Property rights for any research

conducted by Rutgers, its faculty, staff, or students. All Intellectual Property rights shall comply with Rutgers's internal policies and procedures governing Intellectual Property.

4. The MOU shall not take effect unless executed by the authorized representatives of EDA and Rutgers. This MOU becomes effective immediately upon execution and shall remain in effect for twenty-four (24) months. This MOU may subsequently be extended if additional funding is secured and upon mutual written consent of the Parties.
5. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to furthering the growth of knowledge and expertise in offshore wind by students, faculty and staff at New Jersey public institutes of higher education. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. This MOU may also be terminated by EDA staff or Rutgers upon 60 days prior written notice to the other.
6. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other. The Parties, both entities of the State of New Jersey, are each subject to the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). 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.
7. This MOU shall not be assignable, except for the NJEDA's ability to partner and/or assign their responsibilities to the NJ Wind Institute upon its establishment, but shall bind and inure to the benefit of the Parties hereto and their respective successors.
8. All notices, demands or communications to any party to this MOU shall be send to the addresses set forth below or as may be otherwise modified in writing:

EDA: 36 West State Street

POBox990

Trenton, NJ 08625

Rutgers: _____

IN WITNESS HEREOF, EDA and Rutgers have executed this MOU on the dates below:

For Rutgers:

Name: _____

Title: _____

Signature: _____

Date: _____

For EDA:

Name: _____

Title: _____

Signature: _____

Date: _____

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of this day of _____, 2022 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and Rowan University ("Rowan"), (collectively the "Parties").

WHEREAS, the EDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of 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, the EDA has launched the Office of Economic Transformation to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

WHEREAS, offshore wind was identified as one of those growth-oriented sectors resulting in the creation of the Governor's WIND Council; and

WHEREAS, the Governor's WIND Council recommended the creation of the Wind Institute to coordinate and advance offshore wind workforce, education, research and innovation efforts; and

WHEREAS, to support New Jersey's position as an offshore wind hub on the East Coast, the State continues to invest in research that will support the development of offshore wind and of thought leaders at New Jersey universities; and

WHEREAS, the EDA has a role in supporting the development of the offshore wind industry in the State of New Jersey; and

WHEREAS, the EDA is undertaking actions in support of the offshore wind industry pending the Legislature's establishment of to be created Wind Institute; and

WHEREAS, the creation of a NJ Wind Institute Fellowship Program ("Fellowship Program") will support a diversity of students from multiple New Jersey institutions of higher education engaging in offshore wind

focused research thereby generating a pipeline of students with offshore wind industry interest and knowledge in accordance with the WIND Council's recommendations to develop a strategy to recruit New Jersey students into offshore wind jobs and support next generation research at New Jersey academic institutions; and

WHEREAS, the creation of a University Initiatives to Advance Offshore Wind (University Initiatives) will build long-term, industry valued expertise in offshore wind at New Jersey institutions of higher education and support a diversity of students and faculty to engage in offshore wind research and learning in accordance with WIND Council recommendations to support next generation research at New Jersey academic institutions, explore future opportunities to help coordinate the development of wind-relevant degree programs at New Jersey institutions, and create novel partnerships to support pathways to employment in the offshore wind industry.

WHEREAS, partnering with New Jersey institutions of higher education to advance curriculum development, course offerings, and university expertise in offshore wind is needed to position New Jersey as a thought leader in offshore wind; and

WHEREAS, Rowan is a New Jersey public institution of higher education with the capability to support and guide student research, faculty research, knowledge building and course development in offshore wind in a multitude of disciplines.

NOW, THEREFORE, the Parties to this MOU hereby agree to the following to implement the Fellowship Program and University initiatives that further curriculum development and research in offshore wind

1. The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student and faculty advisor expertise in offshore wind. Participating students ("Fellows") will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows may be upper class undergraduate (juniors and seniors), graduate, masters, or Ph.D. students in any discipline/degree program so long as the research conducted for the Fellowship Program is focused on offshore wind. Research is expected to be completed over approximately 40 weeks in an academic year. Fellows must be ready to present on research findings by early April 2023 even if their research will continue past that date per the agreed upon schedule with their home institution. Fellows

from all participating institutions will come together as a cohort on a monthly basis from September to April to participate in industry trainings, guest lecturers, site visits and other similar activities to support their knowledge of the offshore wind industry and their exposure to industry stakeholders.

a. Rowan will undertake the following activities for the Fellowship Program:

i. Develop a Fellowship Program marketing and selection process plan and submit to EDA for approval within twenty (20) days of the executed date of this MOU. The plan must include:

- Description of planned efforts to advertise the Fellowship Program widely and strategies to encourage and recruit a diverse population of students to apply; diversity of students includes gender, race, ethnicity, income, and declared major/degree
- Plans for a webinar or in-person meeting to introduce the Fellowship Program to interested students and answer questions
- Process to identify faculty advisors
- Process to allow for and approve student travel and research expense stipends
- Process, including planned timing and frequency, to disburse student stipends
- Description of application process
- Description of selection process and criteria that facilitates a diverse set of students participating in the Fellowship Program

ii. Implement the marketing and selection plan such that the following can be submitted to EDA by June 1, 2022:

- Names of selected students and their faculty advisors
- a 1-2 page concept paper detailing project proposal including project goals, objectives and proposed approach to complete the project within the fellowship timeframe
- Signed commitment form from the student to actively participate for the duration of the Fellowship Program

iii. Connect each individual Wind Institute Fellow at Rowan with a faculty advisor

and other supports available at Rowan, actively communicate to participating students the timing for cohort meetings, and support students in their development of their final presentations and posters

- iv. Begin the Wind Institute Fellowship no later than the Fall 2022 semester and end no later than the end of Summer 2023 semester; the exact start and end dates are at the discretion of Rowan as long as Fellows can participate in the first cohort meeting in September 2022 and the final presentation symposium in early April 2023. Per the guidance of Rowan, students can finalize their research after the final symposium, but must be prepared to present at the symposium. Fellows should be engaged in research at Rowan for approximately 40 weeks at Rowan's discretion.
 - v. Disburse the student as described in section 1.b.vi per Rowan's internal policies and procedures
 - vi. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the Fellowship Program and ensure that funds only go to the implementation of the Fellowship Program. Any funds not utilized for this Program must be returned to EDA.
- b. EDA will undertake the following activities for the Fellowship Program:
- i. Provide communication material such as a program description to support Rowan's marketing of the Fellowship Program
 - ii. Coordinate between five to eight meetings that bring Fellows participating in the Fellowship Program together as a cohort for industry trainings, guest lecturers, site visits, and presentations of students' work
 - iii. Coordinate a group of industry experts to participate in cohort meetings as guest lecturers and site visit hosts
 - iv. Organize a NJ Wind Institute Fellowship Symposium to showcase students' research through presentations and posters and for students to receive and feedback from industry stakeholders
 - v. Upon i) receipt and approval of an outreach and selection process plan by Rowan, and ii) the names and application materials for the selected students to participate in the Fellowship Program, EDA shall provide Rowan with the following funding support for up to 2 undergraduate students and 2 graduate

students for a total of 4 students:

- \$15,000 per undergraduate student selected as a Fellow; the full amount of this stipend shall be disbursed to the student per Rowan's internal policies and procedures for student research fellowships
- \$30,000 per graduate student (master's or ph.d level) selected as a Fellow; the full amount of this stipend shall be disbursed to the student per Rowan's internal policies and procedures for student research fellowships
- Up to \$1,000 per student for travel, materials, equipment, or other research expenses related to the Fellowship Program.

The total funding cap for the Fellowship Program provided to Rowan shall not exceed \$94,000. If after completing its application process, Rowan prefers to alter the ratio of undergraduate and graduate students, Rowan must notify EDA of this change and EDA must approve prior to notifying students of their selection. This ratio change will be considered by EDA so long as the resulting stipend per student does not exceed the total funding cap.

- vi. Publicize the names of the students and advisors, as well as final presentation materials shared by students on the EDA or Wind Institute website.
2. University Initiatives to Advance Offshore Wind (University Initiatives) are initiatives that meet the following goals: build long-term, industry-valued expertise in offshore wind at New Jersey institutions of higher education through course development and offerings, combined research and teaching positions/projects, or other efforts, and/or that support a diversity of students and/or faculty engaged in offshore wind research and learning.
 - a. Rowan will undertake the following activities to support University Initiatives:
 - i. Within 45 days of the executed date of this MOU, Rowan may submit a proposal to EDA to use funding up to \$125,000 for one or more initiatives in support of the goals outlined above. Initiatives must be focused on offshore wind and may include but are not limited to:
 - Funding to support curriculum development for offshore wind specific courses or certificates
 - Support for guest lecturers/faculty with expertise in offshore wind to

teach a course/courses in offshore wind

- Develop a pre- or post-doctoral student position with teaching responsibilities focused on offshore wind
- Development of interdisciplinary efforts in offshore wind
- Support for faculty/staff research that deepens offshore wind expertise at the Rowan

Proposals must include the specific activities to be conducted, required budget, initiative timeline, and explanation on how the proposed activities will support the long-term development of industry-valued expertise at Rowan. The funding is intended as seed funding to accelerate the development of offshore wind offerings and thought leadership at Rowan.

- ii. Upon approval by EDA, implement initiative(s) per the proposal.
- iii. If applicable, disburse the funding per Rowan's internal policies and procedures
- iv. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the University Initiatives and ensure that funds only go to the implementation of the approved University Initiatives. Any funds not utilized for University Initiatives must be returned to EDA.

b. EDA will undertake the following activities to support University Initiatives

- i. Upon Rowan's request, meet with Rowan to discuss preliminary concepts for use of University Initiatives funding
- ii. Review the University Initiatives submission and respond within 30 days of submission receipt whether EDA will proceed, request modifications or decline proposed initiatives to ensure that they reasonably align with the goals in Section 2
- iii. Provide up to \$125,000 to Rowan to support the implementation of any approved University Initiatives
- iv. Publicize information about selected University Initiatives on the EDA or Wind Institute website.

3. Nothing in this MOU should imply that EDA will gain Intellectual Property rights for any research conducted by Rowan, its faculty, staff, or students. All Intellectual Property rights shall comply with Rowan's internal policies and procedures governing Intellectual Property.

4. The MOU shall not take effect unless executed by the authorized representatives of EDA and

Rowan. This MOU becomes effective immediately upon execution and shall remain in effect for twenty-four (24) months. This MOU may subsequently be extended if additional funding is secured and upon mutual written consent of the Parties.

5. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to furthering the growth of knowledge and expertise in offshore wind by students, faculty and staff at New Jersey public institutes of higher education. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. This MOU may also be terminated by EDA staff or Rowan upon 60 days prior written notice to the other.
6. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other. The Parties, both entities of the State of New Jersey, are each subject to the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). 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.
7. This MOU shall not be assignable, except for the NJEDA's ability to partner and/or assign their responsibilities to the NJ Wind Institute upon its establishment, but shall bind and inure to the benefit of the Parties hereto and their respective successors.
8. All notices, demands or communications to any party to this MOU shall be send to the addresses set forth below or as may be otherwise modified in writing:

EDA: 36 West State Street
POBox990
Trenton, NJ 08625

Rowan: _____

IN WITNESS HEREOF, EDA and Rowan have executed this MOU on the dates below:

For f:

Name: _____

Title: _____

Signature: _____

Date: _____

For EDA:

Name: _____

Title: _____

Signature: _____

Date: _____

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of this day of _____, 2022 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and Montclair State University ("MSU"), (collectively the "Parties").

WHEREAS, the EDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of 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, the EDA has launched the Office of Economic Transformation to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

WHEREAS, offshore wind was identified as one of those growth-oriented sectors resulting in the creation of the Governor's WIND Council; and

WHEREAS, the Governor's WIND Council recommended the creation of the Wind Institute to coordinate and advance offshore wind workforce, education, research and innovation efforts; and

WHEREAS, to support New Jersey's position as an offshore wind hub on the East Coast, the State continues to invest in research that will support the development of offshore wind and of thought leaders at New Jersey universities; and

WHEREAS, the EDA has a role in supporting the development of the offshore wind industry in the State of New Jersey; and

WHEREAS, the EDA is undertaking actions in support of the offshore wind industry pending the Legislature's establishment of to be created Wind Institute; and

WHEREAS, the creation of a NJ Wind Institute Fellowship Program ("Fellowship Program") will support a diversity of students from multiple New Jersey institutions of higher education engaging in offshore wind

focused research thereby generating a pipeline of students with offshore wind industry interest and knowledge in accordance with the WIND Council's recommendations to develop a strategy to recruit New Jersey students into offshore wind jobs and support next generation research at New Jersey academic institutions; and

WHEREAS, the creation of a University Initiatives to Advance Offshore Wind (University Initiatives) will build long-term, industry valued expertise in offshore wind at New Jersey institutions of higher education and support a diversity of students and faculty to engage in offshore wind research and learning in accordance with WIND Council recommendations to support next generation research at New Jersey academic institutions, explore future opportunities to help coordinate the development of wind-relevant degree programs at New Jersey institutions, and create novel partnerships to support pathways to employment in the offshore wind industry.

WHEREAS, partnering with New Jersey institutions of higher education to advance curriculum development, course offerings, and university expertise in offshore wind is needed to position New Jersey as a thought leader in offshore wind; and

WHEREAS, MSU is a New Jersey public institution of higher education with the capability to support and guide student research, faculty research, knowledge building and course development in offshore wind in a multitude of disciplines.

NOW, THEREFORE, the Parties to this MOU hereby agree to the following to implement the Fellowship Program and University initiatives that further curriculum development and research in offshore wind

1. The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student and faculty mentor expertise in offshore wind. Participating students ("Fellows") will conduct independent research under the tutelage of a faculty mentor at their home institution. Fellows may be upper class undergraduate (juniors and seniors), graduate, masters, or Ph.D. students in any discipline/degree program so long as the research conducted for the Fellowship Program is focused on offshore wind. Research is expected to be completed over approximately 40 weeks in an academic year. Fellows must be ready to present on research findings by early April 2023 even if their research will continue past that date per the agreed upon schedule with their home institution. Fellows

from all participating institutions will come together as a cohort on a monthly basis from September to April to participate in industry trainings, guest lecturers, site visits and other similar activities to support their knowledge of the offshore wind industry and their exposure to industry stakeholders.

a. MSU will undertake the following activities for the Fellowship Program:

i. Develop a Fellowship Program marketing and selection process plan and submit to EDA for approval within twenty (20) days of the executed date of this MOU. The plan must include:

- Description of planned efforts to advertise the Fellowship Program widely and strategies to encourage and recruit a diverse population of students to apply; diversity of students includes gender, race, ethnicity, income, and declared major/degree
- Plans for a webinar or in-person meeting to introduce the Fellowship Program to interested students and answer questions
- Process to identify faculty mentors
- Process to allow for and approve student travel and research expense stipends
- Process, including planned timing and frequency, to disburse student stipends
- Description of application process
- Description of selection process and criteria that facilitates a diverse set of students participating in the Fellowship Program

ii. Implement the marketing and selection plan such that the following can be submitted to EDA by June 1, 2022:

- Names of selected students and their faculty mentors
- a 1-2 page concept paper detailing project proposal including project goals, objectives and proposed approach to complete the project within the fellowship timeframe
- Signed commitment form from the student to actively participate for the duration of the Fellowship Program

iii. Connect each individual Wind Institute Fellow at MSU with a faculty mentor

and other supports available at MSU, actively communicate to participating students the timing for cohort meetings, and support students in their development of their final presentations and posters

- iv. Begin the Wind Institute Fellowship no later than the Fall 2022 semester and end no later than the end of Summer 2023 semester; the exact start and end dates are at the discretion of MSU as long as Fellows can participate in the first cohort meeting in September 2022 and the final presentation symposium in early April 2023. Per the guidance of MSU, students can finalize their research after the final symposium, but must be prepared to present at the symposium. Fellows should be engaged in research at MSU for approximately 40 weeks at MSU's discretion.
 - v. Disburse the student as described in section 1.b.vi per MSU's internal policies and procedures
 - vi. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the Fellowship Program and ensure that funds only go to the implementation of the Fellowship Program. Any funds not utilized for this Program must be returned to EDA.
- b. EDA will undertake the following activities for the Fellowship Program:
- i. Provide communication material such as a program description to support MSU's marketing of the Fellowship Program
 - ii. Coordinate between five to eight meetings that bring Fellows participating in the Fellowship Program together as a cohort for industry trainings, guest lecturers, site visits, and presentations of students' work
 - iii. Coordinate a group of industry experts to participate in cohort meetings as guest lecturers and site visit hosts
 - iv. Organize a NJ Wind Institute Fellowship Symposium to showcase students' research through presentations and posters and for students to receive and feedback from industry stakeholders
 - v. Upon i) receipt and approval of an outreach and selection process plan by MSU, and ii) the names and application materials for the selected students to participate in the Fellowship Program, EDA shall provide MSU with the following funding support for up to 2 undergraduate students and 2 graduate

students for a total of 4 students:

- \$15,000 per undergraduate student selected as a Fellow; the full amount of this stipend shall be disbursed to the student per MSU's internal policies and procedures for student research fellowships
- \$30,000 per graduate student (master's or ph.d level) selected as a Fellow; the full amount of this stipend shall be disbursed to the student per MSU's internal policies and procedures for student research fellowships
- Up to \$1,000 per student for travel, materials, equipment, or other research expenses related to the Fellowship Program.

The total funding cap for the Fellowship Program provided to MSU shall not exceed \$94,000. If after completing its application process, MSU prefers to alter the ratio of undergraduate and graduate students, MSU must notify EDA of this change and EDA must approve prior to notifying students of their selection. This ratio change will be considered by EDA so long as the resulting stipend per student does not exceed the total funding cap.

- vi. Publicize the names of the students and mentors, as well as final presentation materials shared by students on the EDA or Wind Institute website.
2. University Initiatives to Advance Offshore Wind (University Initiatives) are initiatives that meet the following goals: build long-term, industry-valued expertise in offshore wind at New Jersey institutions of higher education through course development and offerings, combined research and teaching positions/projects, or other efforts, and/or that support a diversity of students and/or faculty engaged in offshore wind research and learning.
 - a. MSU will undertake the following activities to support University Initiatives:
 - i. Within 45 days of the executed date of this MOU, MSU may submit a proposal to EDA to use funding up to \$125,000 for one or more initiatives in support of the goals outlined above. Initiatives must be focused on offshore wind and may include but are not limited to:
 - Funding to support curriculum development for offshore wind specific courses or certificates
 - Support for guest lecturers/faculty with expertise in offshore wind to teach a course/courses in offshore wind

- Develop a pre- or post-doctoral student position with teaching responsibilities focused on offshore wind
- Development of interdisciplinary efforts in offshore wind
- Support for faculty/staff research that deepens offshore wind expertise at the MSU

Proposals must include the specific activities to be conducted, required budget, initiative timeline, and explanation on how the proposed activities will support the long-term development of industry-valued expertise at MSU. The funding is intended as seed funding to accelerate the development of offshore wind offerings and thought leadership at MSU.

- ii. Upon approval by EDA, implement initiative(s) per the proposal.
- iii. If applicable, disburse the funding per MSU's internal policies and procedures
- iv. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the University Initiatives and ensure that funds only go to the implementation of the approved University Initiatives. Any funds not utilized for University Initiatives must be returned to EDA.

b. EDA will undertake the following activities to support University Initiatives

- i. Upon MSU's request, meet with MSU to discuss preliminary concepts for use of University Initiatives funding
- ii. Review the University Initiatives submission and respond within 30 days of submission receipt whether EDA will proceed, request modifications or decline proposed initiatives to ensure that they reasonably align with the goals in Section 2
- iii. Provide up to \$125,000 to MSU to support the implementation of any approved University Initiatives
- iv. Publicize information about selected University Initiatives on the EDA or Wind Institute website.

- 3. Nothing in this MOU should imply that EDA will gain Intellectual Property rights for any research conducted by MSU, its faculty, staff, or students. All Intellectual Property rights shall comply with MSU's internal policies and procedures governing Intellectual Property.
- 4. The MOU shall not take effect unless executed by the authorized representatives of EDA and MSU. This MOU becomes effective immediately upon execution and shall remain in effect for

twenty-four (24) months. This MOU may subsequently be extended if additional funding is secured and upon mutual written consent of the Parties.

5. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to furthering the growth of knowledge and expertise in offshore wind by students, faculty and staff at New Jersey public institutes of higher education. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. This MOU may also be terminated by EDA staff or MSU upon 60 days prior written notice to the other.
6. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other. The Parties, both entities of the State of New Jersey, are each subject to the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). 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.
7. This MOU shall not be assignable, except for the NJEDA's ability to partner and/or assign their responsibilities to the NJ Wind Institute upon its establishment, but shall bind and inure to the benefit of the Parties hereto and their respective successors.
8. All notices, demands or communications to any party to this MOU shall be send to the addresses set forth below or as may be otherwise modified in writing:

EDA: 36 West State Street
POBox990
Trenton, NJ 08625

MSU: _____

IN WITNESS HEREOF, EDA and MSU have executed this MOU on the dates below:

For MSU:

Name: _____

Title: _____

Signature: _____

Date: _____

For EDA:

Name: _____

Title: _____

Signature: _____

Date: _____

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of this day of _____, 2022 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and New Jersey Institute of Technology ("NJIT"), (collectively the "Parties").

WHEREAS, the EDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of 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, the EDA has launched the Office of Economic Transformation to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

WHEREAS, offshore wind was identified as one of those growth-oriented sectors resulting in the creation of the Governor's WIND Council; and

WHEREAS, the Governor's WIND Council recommended the creation of the Wind Institute to coordinate and advance offshore wind workforce, education, research and innovation efforts; and

WHEREAS, to support New Jersey's position as an offshore wind hub on the East Coast, the State continues to invest in research that will support the development of offshore wind and of thought leaders at New Jersey universities; and

WHEREAS, the EDA has a role in supporting the development of the offshore wind industry in the State of New Jersey; and

WHEREAS, the EDA is undertaking actions in support of the offshore wind industry pending the Legislature's establishment of to be created Wind Institute; and

WHEREAS, the creation of a NJ Wind Institute Fellowship Program ("Fellowship Program") will support a diversity of students from multiple New Jersey institutions of higher education engaging in offshore wind

focused research thereby generating a pipeline of students with offshore wind industry interest and knowledge in accordance with the WIND Council's recommendations to develop a strategy to recruit New Jersey students into offshore wind jobs and support next generation research at New Jersey academic institutions; and

WHEREAS, the creation of a University Initiatives to Advance Offshore Wind (University Initiatives) will build long-term, industry valued expertise in offshore wind at New Jersey institutions of higher education and support a diversity of students and faculty to engage in offshore wind research and learning in accordance with WIND Council recommendations to support next generation research at New Jersey academic institutions, explore future opportunities to help coordinate the development of wind-relevant degree programs at New Jersey institutions, and create novel partnerships to support pathways to employment in the offshore wind industry.

WHEREAS, partnering with New Jersey institutions of higher education to advance curriculum development, course offerings, and university expertise in offshore wind is needed to position New Jersey as a thought leader in offshore wind; and

WHEREAS, NJIT is a New Jersey public institution of higher education with the capability to support and guide student research, faculty research, knowledge building and course development in offshore wind in a multitude of disciplines.

NOW, THEREFORE, the Parties to this MOU hereby agree to the following to implement the Fellowship Program and University initiatives that further curriculum development and research in offshore wind

1. The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student and faculty advisor expertise in offshore wind. Participating students ("Fellows") will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows may be upper class undergraduate (juniors and seniors), graduate, masters, or Ph.D. students in any discipline/degree program so long as the research conducted for the Fellowship Program is focused on offshore wind. Research is expected to be completed over approximately 40 weeks in an academic year. Fellows must be ready to present on research findings by early April 2023 even if their research will continue past that date per the agreed upon schedule with their home institution. Fellows

from all participating institutions will come together as a cohort on a monthly basis from September to April to participate in industry trainings, guest lecturers, site visits and other similar activities to support their knowledge of the offshore wind industry and their exposure to industry stakeholders.

a. NJIT will undertake the following activities for the Fellowship Program:

i. Develop a Fellowship Program marketing and selection process plan and submit to EDA for approval within twenty (20) days of the executed date of this MOU. The plan must include:

- Description of planned efforts to advertise the Fellowship Program widely and strategies to encourage and recruit a diverse population of students to apply; diversity of students includes gender, race, ethnicity, income, and declared major/degree
- Plans for a webinar or in-person meeting to introduce the Fellowship Program to interested students and answer questions
- Process to identify faculty advisors
- Process to allow for and approve student travel and research expense stipends
- Process, including planned timing and frequency, to disburse student stipends
- Description of application process
- Description of selection process and criteria that facilitates a diverse set of students participating in the Fellowship Program

ii. Implement the marketing and selection plan such that the following can be submitted to EDA by June 1, 2022:

- Names of selected students and their faculty advisors
- a 1-2 page concept paper detailing project proposal including project goals, objectives and proposed approach to complete the project within the fellowship timeframe
- Signed commitment form from the student to actively participate for the duration of the Fellowship Program

iii. Connect each individual Wind Institute Fellow at NJIT with a faculty advisor and

other supports available at NJIT, actively communicate to participating students the timing for cohort meetings, and support students in their development of their final presentations and posters

- iv. Begin the Wind Institute Fellowship no later than the Fall 2022 semester and end no later than the end of Summer 2023 semester; the exact start and end dates are at the discretion of NJIT as long as Fellows can participate in the first cohort meeting in September 2022 and the final presentation symposium in early April 2023. Per the guidance of NJIT, students can finalize their research after the final symposium, but must be prepared to present at the symposium. Fellows should be engaged in research at NJIT for approximately 40 weeks at NJIT's discretion.
 - v. Disburse the student as described in section 1.b.vi per NJIT's internal policies and procedures
 - vi. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the Fellowship Program and ensure that funds only go to the implementation of the Fellowship Program. Any funds not utilized for this Program must be returned to EDA.
- b. EDA will undertake the following activities for the Fellowship Program:
- i. Provide communication material such as a program description to support NJIT's marketing of the Fellowship Program
 - ii. Coordinate between five to eight meetings that bring Fellows participating in the Fellowship Program together as a cohort for industry trainings, guest lecturers, site visits, and presentations of students' work
 - iii. Coordinate a group of industry experts to participate in cohort meetings as guest lecturers and site visit hosts
 - iv. Organize a NJ Wind Institute Fellowship Symposium to showcase students' research through presentations and posters and for students to receive and feedback from industry stakeholders
 - v. Upon i) receipt and approval of an outreach and selection process plan by NJIT, and ii) the names and application materials for the selected students to participate in the Fellowship Program, EDA shall provide NJIT with the following funding support for up to 2 undergraduate students and 2 graduate students

for a total of 4 students:

- \$15,000 per undergraduate student selected as a Fellow; the full amount of this stipend shall be disbursed to the student per NJIT's internal policies and procedures for student research fellowships
- \$30,000 per graduate student (master's or ph.d level) selected as a Fellow; the full amount of this stipend shall be disbursed to the student per NJIT's internal policies and procedures for student research fellowships
- Up to \$1,000 per student for travel, materials, equipment, or other research expenses related to the Fellowship Program.

The total funding cap for the Fellowship Program provided to NJIT shall not exceed \$94,000. If after completing its application process, NJIT prefers to alter the ratio of undergraduate and graduate students, NJIT must notify EDA of this change and EDA must approve prior to notifying students of their selection. This ratio change will be considered by EDA so long as the resulting stipend per student does not exceed the total funding cap.

- vi. Publicize the names of the students and advisors, as well as final presentation materials shared by students on the EDA or Wind Institute website.
2. University Initiatives to Advance Offshore Wind (University Initiatives) are initiatives that meet the following goals: build long-term, industry-valued expertise in offshore wind at New Jersey institutions of higher education through course development and offerings, combined research and teaching positions/projects, or other efforts, and/or that support a diversity of students and/or faculty engaged in offshore wind research and learning.
 - a. NJIT will undertake the following activities to support University Initiatives:
 - i. Within 45 days of the executed date of this MOU, NJIT may submit a proposal to EDA to use funding up to \$125,000 for one or more initiatives in support of the goals outlined above. Initiatives must be focused on offshore wind and may include but are not limited to:
 - Funding to support curriculum development for offshore wind specific courses or certificates
 - Support for guest lecturers/faculty with expertise in offshore wind to teach a course/courses in offshore wind

- Develop a pre- or post-doctoral student position with teaching responsibilities focused on offshore wind
- Development of interdisciplinary efforts in offshore wind
- Support for faculty/staff research that deepens offshore wind expertise at the NJIT

Proposals must include the specific activities to be conducted, required budget, initiative timeline, and explanation on how the proposed activities will support the long-term development of industry-valued expertise at NJIT. The funding is intended as seed funding to accelerate the development of offshore wind offerings and thought leadership at NJIT.

- ii. Upon approval by EDA, implement initiative(s) per the proposal.
 - iii. If applicable, disburse the funding per NJIT's internal policies and procedures
 - iv. Track and report use of funding to EDA by June 15, 2023 that outlines the use of funds for the University Initiatives and ensure that funds only go to the implementation of the approved University Initiatives. Any funds not utilized for University Initiatives must be returned to EDA.
- b. EDA will undertake the following activities to support University Initiatives
- i. Upon NJIT's request, meet with NJIT to discuss preliminary concepts for use of University Initiatives funding
 - ii. Review the University Initiatives submission and respond within 30 days of submission receipt whether EDA will proceed, request modifications or decline proposed initiatives to ensure that they reasonably align with the goals in Section 2
 - iii. Provide up to \$125,000 to NJIT to support the implementation of any approved University Initiatives
 - iv. Publicize information about selected University Initiatives on the EDA or Wind Institute website.
3. Nothing in this MOU should imply that EDA will gain Intellectual Property rights for any research conducted by NJIT, its faculty, staff, or students. All Intellectual Property rights shall comply with NJIT's internal policies and procedures governing Intellectual Property.
4. The MOU shall not take effect unless executed by the authorized representatives of EDA and NJIT. This MOU becomes effective immediately upon execution and shall remain in effect for twenty-

four (24) months. This MOU may subsequently be extended if additional funding is secured and upon mutual written consent of the Parties.

5. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to furthering the growth of knowledge and expertise in offshore wind by students, faculty and staff at New Jersey public institutes of higher education. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. This MOU may also be terminated by EDA staff or NJIT upon 60 days prior written notice to the other.
6. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other. The Parties, both entities of the State of New Jersey, are each subject to the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). 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.
7. This MOU shall not be assignable, except for the NJEDA's ability to partner and/or assign their responsibilities to the NJ Wind Institute upon its establishment but shall bind and inure to the benefit of the Parties hereto and their respective successors.
8. All notices, demands or communications to any party to this MOU shall be send to the addresses set forth below or as may be otherwise modified in writing:

EDA: 36 West State Street
POBox990
Trenton, NJ 08625

NJIT: _____

IN WITNESS HEREOF, EDA and NJIT have executed this MOU on the dates below:

For NJIT:

Name: _____

Title: _____

Signature: _____

Date: _____

For EDA:

Name: _____

Title: _____

Signature: _____

Date: _____



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

RE: Memorandum of Understanding Between the Capital City Redevelopment Corporation (CCRC) and the New Jersey Economic Development Authority

Summary

The Members of the Authority are asked to approve a new Memorandum of Understanding (“MOU”) between the New Jersey Economic Development Authority (“Authority” or “NJEDA”) and the CCRC as an inter-department governmental agreement confirming the mutual understanding and intention between the agencies with respect to the provision of the Authority’s support services to the CCRC. This MOU was approved by the Members of the CCRC at its Board meeting on February 23, 2022.

Background

In the last state fiscal year, state budget appropriations have been provided to support the operations of the CCRC beyond its initial appropriation, however, the Corporation currently has no dedicated full-time staff.

The original MOU between the CCRC and the Authority was executed in 2014 and has been renewed by mutual consent annually. As the original term of the MOU has expired, we are now requesting the CCRC Board to approve an updated version of the MOU with substantially similar terms.

The EDA was established in 1974 as a self-supporting independent agency to encourage economic growth and job creation in the State. Its core focus has been the growth of small and mid-sized businesses and the economic revitalization of distressed areas. It seeks to fulfill its mission through financial assistance, real estate development support, incentive grants and other innovative funding structures, and through entrepreneurial training and mentoring and has staff that specialize in these areas to support the needs of the CCRC in fulfilling its core goals and vision.

In recognition of the Authority’s capacity and interest in the revitalization of Trenton, and the synergy created by Governor Murphy’s Executive Order 40 that established the New Jersey State Capital Partnership to support the revitalization and economic development for the City of Trenton, as well as the Authority’s prior and existing programs that support business development in the City, the Authority will continue to provide key support services as outlined in the attached MOU.

In particular, the Authority will provide staff and administrative services in support of CCRC including but not limited to corporate governance, public information, and Board support; legal services through the Attorney General's office; and policy and development assistance.

The Authority will work with CCRC and the City of Trenton to support specific project development. In these efforts, the Authority will partner with additional state and county agencies and other stakeholders in support of the overall revitalization of the Capital District. Future transactional real estate activity may result in fee for service work, as agreed to by the parties, and consistent with how the Authority's Real Estate Division customarily charges for its assistance.

Staff and administrative services in support of the CCRC will be primarily provided by Danielle Esser, Director of Governance and Strategic Initiatives, Muneerah Sanders, Board Liaison, NJEDA, and members of the Governance team.

The MOU shall remain in effect for one year and may be extended for one year upon mutual consent indefinitely and will become effective upon EDA executing the MOU following their March 2022 Board Meeting.

Recommendation

In summary, I am asking the Board Members' consent to execute a Memorandum of Understanding between the Authority and CCRC confirming the mutual understanding and intention between the agencies with respect to the provision of the Authority's support services to CCRC.



Tim Sullivan, CEO

Prepared by: Danielle Esser

Attachment:

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CAPITAL CITY REDEVELOPMENT CORPORATION
AND THE NEW JERSEY ECONOMIC DEVELOPMENT
AUTHORITY**

This Memorandum of Understanding (MOU), made as of _____ will confirm the mutual understanding and intention between the Capital City Redevelopment Corporation ("CCRC") and the New Jersey Economic Development Authority ("NJEDA", and collectively, CCRC and NJEDA are referred to as the "Parties") as to the following:

WHEREAS, CCRC was created pursuant to N.J.S.A. 52:9Q-9 et seq. (the "CCRC Act") to plan, coordinate, and promote the public and private development within a capital district defined in the CCRC Act, consisting of those portions of the city of Trenton that serve as the commercial center of the community and in which public buildings and historic sites are located; and

WHEREAS, NJEDA was created pursuant to N.J.S.A. 34:1B-1 et seq. to issue tax exempt and taxable bonds, make direct loans and guarantees, operate a real estate development program, among other things, for the purpose of promoting employment and increasing tax rates in the State of New Jersey (the "State"); and

WHEREAS, in support of the purposes of CCRC and in an effort to assist CCRC, NJEDA will provide office staff and support services required to carry out the policies set forth by CCRC; and

WHEREAS, NJEDA staff has expertise in financial analysis, loan review, loan closing, real estate project development, marketing services and other related activities necessary to CCRC carrying out its mission; and

WHEREAS, NJEDA staff has provided loan review, closing, and post-closing services from time to time to CCRC; and

WHEREAS, it is in the best interest of the Parties to enter into this MOU regarding the provision of NJEDA staff and administrative services in support of CCRC; and

WHEREAS, it is CCRC's intent to continue its existing MOU with the State Department of the Treasury ("Treasury") under which Treasury provides accounting and financial reporting support to CCRC including, but not limited to procurement of an independent auditor and necessary insurance; and

WHEREAS, the Parties enter into this MOU as an inter-department governmental agreement pursuant to N.J.S.A. 52:14-1 et seq.

NOW, THEREFORE, NJEDA and CCRC, in order to effectively and efficiently carry out their respective statutory mandates, agree to the following:

1. NJEDA will make available on an as-needed basis NJEDA staff who will utilize a portion of their time as follows:
 - a. Carrying out the policies and directions of CCRC with respect to activities for which CCRC has statutory authority, including, but not limited to, undertaking activities as a municipal redevelopment entity or redeveloper, and
 - b. Providing administrative and support services to meet the needs of CCRC, including but not limited to, corporate governance and public information support services such as CCRC Board meeting support, liaison with Governor's Office and Authority's Unit, records custodian and assistance with Open Public Records Act information requests, guidance on ethics matters and liaison with State Ethics Commission, media outreach and management, and legislative support.
2. As part of the services provided by NJEDA in paragraph 1 above, in addition to any Deputy Attorney General assigned to CCRC, NJEDA will provide legal services to CCRC from NJEDA-assigned Deputy Attorneys General.
3. NJEDA agrees to provide written reports as needed, and upon request, to the CCRC Board detailing any staff services provided for in paragraph 1 above. Both Parties anticipate that the CCRC Board will meet on a bi-monthly basis unless more frequent meetings become necessary.
4. It is the intent of the Parties that CCRC will not compensate NJEDA for the costs incurred on behalf of CCRC for the services provided for in paragraph 1.b. above. Any compensation for NJEDA for the costs incurred on behalf of CCRC for the services provided for in paragraph 1.a will be mutually agreed upon in writing before beginning the activity. When NJEDA assists CCRC in undertaking real estate and/or project related work, it is understood and agreed that NJEDA shall be reimbursed for costs incurred including but not limited to title searches, insurance, marketing, appraisals, environmental studies, other required consultants or professionals, and legal costs as well as for NJEDA's administrative fees for managing the project related work and compliance with project related obligations.
5. NJEDA will cooperate with Treasury's accounting and financial reporting support for CCRC, including, but not limited to, completing all necessary audits of CCRC.
6. Staff services set forth in paragraph 1 will be conducted from NJEDA's main or satellite offices or as otherwise allowed by NJEDA policy for NJEDA personnel.

7. NJEDA will make available conference room(s) at NJEDA's main or satellite offices for regular and special meetings of the CCRC Board and will provide conference room space at NJEDA's main or satellite offices so that CCRC Board members may transact the business of CCRC.
8. NJEDA will identify a NJEDA staff who will be the primary contact staff for the public and the CCRC Board regarding CCRC matters.
9. The CCRC Board, as constituted by statute, will continue to function as the exclusive entity empowered to make discretionary decisions for CCRC, including the selection of independent auditors, except as delegated from time to time.
10. All expenses related to the Capital City Redevelopment Loan and Grant Fund and all other assets carried on the CCRC balance sheet will be paid for by CCRC and will be reflected in CCRC's financial statements.
11. This MOU shall not take effect unless approved by the Boards of the NJEDA and CCRC and executed by the authorized representatives of NJEDA and CCRC. This MOU becomes effective immediately upon execution by all parties and shall remain in effect for one (1) year, unless terminated sooner pursuant to Section 12 below. This MOU may subsequently be extended for one year at a time upon mutual written consent of the Parties.
12. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to the provision of NJEDA support services to CCRC. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. This MOU may also be terminated by the Board of either Party upon 60 days prior written notice to the other. There are no third-party beneficiaries of this MOU.
13. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other.
14. 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: _____

CCRC: _____

15. This MOU may be signed in counterparts, which, when taken as a whole, shall constitute one and the same document.

IN WITNESS HEREOF, NJEDA and CCRC have executed this MOU on the dates below:

For the New Jersey Economic Development Authority:

Name: _____
Signature: _____
Title: _____
Date: _____

For the Capital City Redevelopment Corporation:

Name: _____
Signature: _____
Title: _____
Date: _____



MEMORANDUM

TO: Members of the Authority
FROM: Tim Sullivan
Chief Executive Officer
DATE: March 9, 2022
RE: NJEDA Henri Ida Grant Program Additional Funding for Temporary Staff

Summary

The Members are asked for approval to increase the funding for Purchase Order #EDA1897 to 22nd Century Technologies Inc. for up to an additional \$150,000.00 of Economic Recovery Funds (ERF) for temporary employees hired to administer the Henri/Ida grant program.

Background

On September 8, 2021, the Members approved the use of Economic Recovery Fund, IKEA Donation Funding or NJEDA General Operating Funds for the Creation of the Henri/Ida Business Assistance Grant Program. The creation of the initial pilot Ida Business Assistance Grant Program (“Henri/Ida Grant Program”) made up to \$10.5 million in grant funding available for rent or mortgage reimbursement to support New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have suffered physical damage to their commercial location as a result of Hurricane Henri and/or Ida.

Processing applications, including those that may be deemed to be fraudulent, necessitated an increase in workforce. In September the NJEDA issued Purchase Order #EDA 1897 in the amount of \$249,000.00 to 22nd Century Technologies Inc. To date the NJEDA has approved 989 applications totaling \$3,485,908.00 in funding for the program. There are approximately 85 applications still in review for approval and over 150 appeals for review. Completing the review and processing of the remaining applications and appeals requires an extension of the temporary staff workforce.

Recommendation

Approve the increase of funding for Purchase Order #EDA1897 to 22nd Century Technologies Inc. for up to an additional \$150,000.00 in Economic Recovery Funds for temporary employees hired to administer the Henri/Ida grant program.

A handwritten signature in blue ink, appearing to read "T. Sullivan", is positioned above a horizontal line.

Tim Sullivan, CEO



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: September 8, 2021

RE: Use of Economic Recovery Fund, IKEA Donation Funding or NJEDA General Operating Funds for the Creation of the Henri/Ida Business Assistance Grant Program

Summary

The Members are asked to approve:

1. The creation of an initial pilot Henri/Ida Business Assistance Grant Program (“Henri/Henri/Ida Grant Program”) to make up to \$10.5 million in grant funding available for rent or mortgage reimbursement to support New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have suffered physical damage to their commercial location as a result of the remnants of Hurricane Henri and Ida;
2. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to contribute up to an additional \$5 million of Economic Recovery Fund or NJEDA general operating funds and to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund the Henri/Ida Grant Program and enter into any related MOUs up to \$100 million;
3. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program; and
4. Delegation to Authority staff (Chief Operations and Compliance Officer, Senior Vice President, Director – Recovery Front-End Operations, Director of Portfolio Relations) to approve individual applications to the Henri/Ida Grant Program in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the Authority to decline applications and, in the event of

appeals from those declinations, issue final administrative decisions, which must be approved by the Chief Legal and Strategic Affairs Officer, a Senior Vice President, Vice President, Managing Director, Director or Program Manager.

Background

On August 22, 2021 and lasting into the early mornings of August 23, 2021, remnants of Hurricane Henri impacted the State of New Jersey with heavy rainfall totaling nearly 10 inches. The storm prompted evacuations, road closures and water rescues throughout the State. The damage was severe in many counties across New Jersey impacting homeowners and businesses alike.

Then, on September 1, 2021, in response to Tropical Storm Ida, Governor Murphy declared a statewide State of Emergency that was effective immediately and issued Executive Order No. 259. The Executive Order recognizes that Tropical Storm Ida “constitutes an imminent hazard that threatens and presently endangers the health, safety, and resources of the residents of the State” and that “this situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of the State, and this situation may spread to other parts of the State”. Executive Order 259 remains in effect as long as the Governor declares the State of Emergency continues to exist.

Over a very short time period on September 1st and 2nd, the storm impacted the State with severe tornadic conditions and sustained rainfall of approximately 10 inches in some towns that led to life-threatening flooding conditions, the tragic loss of at least 27 New Jersey residents and the loss of power. The historic flooding caused severe damage and devastation to private property, automobiles, structures, public facilities and transportation networks in parts of Bergen, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Passaic, Somerset, Sussex and Union. The New Jersey Business Action Center received numerous calls from businesses impacted by the storm. The Authority issued alerts for businesses and residents to take photos and document any property damages and to retain receipts for services for insurance purposes and for any federal or state relief programs that may become available. As of September 6, President Biden approved a declaration of major disaster for Bergen, Gloucester, Hunterdon, Middlesex, Passaic and Somerset counties for areas affected by the remnants of Hurricane Ida during September 1-3.

Tropical Storm Ida caused devastation to New Jersey’s downtowns and business districts throughout the State, just as many were just beginning to rebound from the severe economic hardship of COVID-19. In response to this barrage of challenges, the purpose of the Henri/Ida Grant Program is to provide short-term, immediate rent/mortgage reimbursement to New Jersey SMEs that suffered physical damage as a result of Tropical Storm Ida on September 1-3, 2021.

Program Details

The pilot Henri/Ida Grant Program is tailored as an initial support measure to SMEs impacted by the remnants of Hurricane Henri and/or Hurricane Ida. The Henri/Ida Grant Program will provide grants from \$1,000 up to \$5,000 to New Jersey-based SMEs that have up to 50 full-time equivalent employees (“FTE”) as reported on their last WR-30 form (Q2 2021) with the NJ Department of Labor and Workforce Development (“DOL”) and have a physical commercial location in the State that suffered physical damage as a result of the remnants of Hurricane Henri and/or Hurricane Ida.

As the Authority continues to monitor the economic impact needs of the SMEs from Tropical Storm Ida, the Authority may bring to the Board additional programs with varying parameters depending on available funding.

To fund this program, staff requests authority from the Members to utilize Economic Recovery Fund (“ERF”), IKEA Donation Funding or NJEDA general operating budget funds of up to \$10,500,000, with delegated authority to increase to \$15.5 million, to fund the Henri/Ida Business Assistance Grant Program. As enacted recently, P.L. 2020, c. 8, expanded EDA’s general powers and specific ERF authority to make grants for projects, including, but not limited to, grants for working capital and payroll purposes, during a period of an emergency declaration and for the duration of the economic disruption due to the emergency. One-third of the initial request and one-third of the subsequent request (if necessary) will be reserved for entities in a census tract that was eligible to be selected as a New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract), but can be released back into the general program pool at the CEO’s discretion if demand from these SMEs has been met. Furthermore, \$500,000 will be set aside for Henri impacted SMEs, but can be released back into the general program pool at the CEO’s discretion if demand from these SMEs has been met.

If federal funds are made available, staff is requesting delegated authority for the Chief Executive Officer to accept up to \$100 million (inclusive of any unrestricted federal, state, local, or private funds) consistent with standard federal disaster requirements, which may include repayment requirements if the federal funds are not used in accordance with the federal requirements, and to execute any Memorandum of Understanding with the New Jersey executive department responsible for the distribution and monitoring of such federal funding, such as has been done with the Coronavirus Relief Fund and the Coronavirus State Fiscal Recovery Fund.

Eligibility

In order to be eligible for this program, the SME must have been in operation on August 1, 2021. Applicants must be a SME with no more than 50 FTEs. Applicants must be able to submit evidence of an August rent/mortgage payment of at least \$1,000 as well as have a need that is greater than \$1,000.

The SME must have a physical commercial location in the State of New Jersey (e.g., an office, a physical point of sales, a warehouse, manufacturing facility, etc.). The SME must have sustained physical damage to their commercial location as a result of the remnants of Hurricane Henri on August 22-23, 2021 and/or Hurricane Ida on September 1-3, 2021. Eligible SMEs must be able to demonstrate evidence of physical damage. Physical damage includes, but is not limited to, flooding, interior or exterior damage to the building structure, roof damage, and siding damage, all of which are directly related to the remnants of Hurricane Henri and/or the remnants of Hurricane Ida. Loss of power alone **will not** be considered physical damage. Home-based businesses and Landlords are **not** eligible for this Henri/Ida Grant Program.

At the time of application, the SME must be registered to do business in the State of New Jersey, which can be evidenced by a valid Business Registration Certificate from the Division of Taxation. If the SME is not recognized by the Division of Taxation, then the SME must provide proof of registration with the State prior to August 1, 2021 and a valid Business Registration Certificate (BRC). The SME will have 7 calendar days from initial notification from the Authority to satisfy that requirement. No grant agreement will be executed without a current registration status from the Division of Taxation or a valid BRC.

The SME must satisfy Taxation's requirement to ensure that the SME does not have tax debts due to the State. This may be accomplished through a certification from the applicant that it does not owe any taxes and will be subject to repayment to the Authority if the certification is not correct.

Entities can submit only one application per EIN. Accordingly, businesses with multiple locations but only one EIN will be limited to one application.

Additional eligibility requirements will apply to ensure that federal funds, if available, can be used for this program or to reimburse the Authority for use of its funds for this program. This may include, but is not limited to:

- applicants must acknowledge and agree to the requirement that grant proceeds can only be used for August reimbursement of rent/mortgage payments,
- a restriction on duplication of benefits that could exclude potential applicants that have already received emergency Ida assistance, and
- a requirement that the applicant demonstrate that it has had physical damage as a result of the remnants of Hurricane Henri and/or Hurricane Ida.

Prohibited businesses include, but are not limited to: gambling or gaming activities; the conduct or purveyance of "adult" activities, services, products or materials; any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sales; sales by transient merchants, Christmas tree sales or other outdoor storage; any activity constituting a nuisance; or any illegal purposes. These prohibitions are consistent with other Authority programs.

Award Size and Determination

The minimum award size under the Henri/Ida Grant Program is \$1,000 with a maximum award of \$5,000, capped at the lesser of applicant's unmet need or rent/mortgage payment. The unmet need will be determined based on the applicant's estimated damages and revenue loss based on shuttered business operations, both of which must be certified by the applicant. If the grant amount as set forth above is greater than the need, the amount of the award will be capped at the amount of the need.

Grant funding can only be used to pay for August rent/mortgage only and shall be disbursed based as a reimbursement. Thus, no other direct use of funds is allowed, including, but not limited to, capital expenses, such as remediation or construction.

Applicants must be able to document both physical damage, such as through photos and/or repair invoices, and evidence of an obligation to pay rent/mortgage and of actual rent/mortgage payment. Rent/mortgage payment can be evidenced through a copy of their payment.

The Authority will rely upon estimated damages as provided by the applicant and will base any determination of need (prior to or after approval) on the reasonableness of that estimate, which will be capped at \$5,000. Based upon the Authority's prior experience with Superstorm Sandy, delayed payouts to applicants from insurance companies – which would reduce an applicant's need after the Authority's disbursement - may also occur, however the process and timeline is unknown at this time.

FTE Determination

To determine the number of FTEs for the purpose of calculating eligibility, the Authority will utilize the New Jersey WR-30 filings with the NJ Department of Labor (DOL). The most recently filed WR-30 filing will be reviewed (Q2 2021). Implied FTE calculations will be rounded to the nearest FTE (e.g., 2.49 FTE would be counted as 2 FTE for the program, whereas 2.50 FTE would be counted as 3 FTE). The calculation of FTEs is based on weeks worked and wages as reported on the WR-30 filing.

Eligibility Verification Process

Consistent with the COVID Grant Programs, staff is recommending that in addition to the eligibility parameters already stated above, the applicant must satisfy Taxation's requirement to ensure that the SME does not have tax debts due to the State and must certify that it does not owe any taxes, subject to repayment if the certification is not correct. The applicant will complete a simplified debarment legal questionnaire, and disqualification issues will be reviewed under existing delegated authority, including the delegated authority approved by the Board on October 14, 2020. To be eligible for the grant funding, the applicant must also be in good standing with the New Jersey Department of Labor and Workforce Development (LWD), the New Jersey Department of Human Services (DHS) (if the applicant is regulated by DHS), the Department of Children and Families (DCF) (if the applicant is regulated by DCF), and the New Jersey Division of Alcoholic Beverage Control (ABC) (if the applicant is regulated by the ABC) at the time of application, as determined in the sole discretion of LWD, DHS, DCF and ABC.

As part of the grant application, the SME's chief executive officer or equivalent officer must self-certify that the SME:

- Was in operation on August 1, 2021; and
- Has sustained physical damage to their commercial location as a result of the remnants of Hurricane Henri and/or Hurricane Ida on September 1-3, 2021.

To comply with duplication of benefits provisions within the Stafford Act, all applicants will be required to fill out an affidavit identifying all funding sources related to the remnants of Hurricane Henri and/or Hurricane Ida, including but not limited to prior grants, insurance, Small Business Administration loans and grants. Staff will use this information to ensure that the Small Business Emergency Assistance Grant (funded with federal assistance) is not used for the same purpose, i.e., creating a duplication of benefit. In addition to a certification from the applicant that their business was impacted by the remnants of Hurricane Henri and/or Hurricane Ida, whether the business was able to remain open and to what capacity, and estimated revenue decline. Efforts will be made to ensure that potential grant applicants whose primary language is not English will have resources or information available to help them understand and potentially access the grant funding.

Similar to the application process developed for the COVID grant programs, the Authority will use automation and interactivity such that businesses are immediately alerted if they enter information that may indicate ineligibility or trigger a manual review, giving them the opportunity to confirm that their responses are correct or choose not to proceed if they are ineligible. Recognizing the urgency to launch the Program as soon as approved by the Board, the Authority

will publicize the application opening date through issuance of a Notice of Funding Availability and via information on its website, its social media channels, and outreach to the media and stakeholders.

The NJEDA may create a pre-registration process to expedite the approval process. In expectation that this funding will be oversubscribed, NJEDA staff and outside services hired for application review will process the applications on a first-come, first-served basis.

Consistent with the approach taken in the COVID grant programs, the Members should be aware that in order to handle the volume of applications expected during this period, the Authority will be automating a number of the processing steps based on business rules as outlined in this memo. These streamlined processes were highly effective and allowed the Authority to review, approve and disburse a significant amount of funding to a large number of businesses as quickly as possible to meet the urgent need. Consistent with COVID grant programs, delegated authority is sought for staff (Chief Operations and Compliance Officer, Senior Vice President, Director – Recovery Front-End Operations, Director of Portfolio Relations) to approve individual applications in accordance with the terms set forth in the attached program specifications. Because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested for approval also includes the delegated authority to decline applications.

Businesses whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 3 days but no longer than 10 days). The Chief Operations and Compliance Officer will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will prepare a Final Administrative Decision, which must be approved by the Chief Legal and Strategic Affairs Officer, a Senior Vice President, Vice President, Managing Director or Director.

Staff is also requesting delegated authority for the Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer to accept governmental (Federal, State or county) funding and/or unrestricted gifts or grants that would be used to fund the Henri/Ida Grant Program. Should governmental requirements required by law restrict the ability for the Authority to utilize any of the parameters described herein, staff will revisit the program requirements with the Members for modification and alignment with governmental requirements. If governmental requirements are in addition to these parameters, staff is seeking delegated authority to add these requirements. Additionally, staff is requesting delegated authority to use previously received or new unrestricted private unrestricted gifts.

Due to anticipated financial hardships being faced by SMEs, the Authority will collect no fees from the applicant for this program.

The attached product specifications further describe the program details and minimum eligibility requirements the applicant must meet to be considered for an Henri/Ida Grant.

Recommendation

Approval is requested for:

1. The creation of an initial pilot Ida Business Assistance Grant Program (“Henri/Ida Grant Program”) to make up to \$10.5 million in grant funding available for rent or mortgage reimbursement to support New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have suffered physical damage to their commercial location as a result of Hurricane Henri and/or Ida;
2. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to contribute up to an additional \$5 million of Economic Recovery Fund or NJEDA general operating funds and to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund the Henri/Ida Grant Program and enter into any related MOUs up to \$100 million;
3. Delegation to Authority staff (Chief Executive Officer, Chief Operations and Compliance Officer, Chief Legal and Strategic Affairs Officer) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program; and
4. Delegation to Authority staff (Chief Operations and Compliance Officer, Senior Vice President, Director – Recovery Front-End Operations, Director of Portfolio Relations) to approve individual applications to the Henri/Ida Grant Program in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the Authority to decline applications and, in the event of appeals from those declinations, issue final administrative decisions, which must be approved by the Chief Legal and Strategic Affairs Officer, a Senior Vice President, Vice President, Managing Director, Director or Program Manager.



Tim Sullivan
Chief Executive Officer

Prepared by: Patience Purdy

Attachments:

Exhibit A – Ida Business Assistance Grant Program Specifications



MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: March 09, 2021

RE: Recommendation for Grant Award and Declinations – New Jersey Arts and Innovation Festival Challenge Grant

The Members are requested to approve New Jersey Arts and Innovation Festival Challenge Grant award of \$2,000,000 to New Jersey Performing Arts Center (NJ PAC) for the purpose of hosting the New Jersey Arts and Innovation Festival, an arts and innovation festival in New Jersey featuring artists, technologists, creatives, entrepreneurs, researchers, and thought leaders that will showcase our state as a premier destination for top tier talent and firms in the arts and innovation fields to live, work and play.

Background

Using funding from Governor Murphy's FY2022 Appropriations Act the New Jersey Arts and Innovation Festival Challenge Grant will support an event planning entity's work to produce an arts and technology festival that will showcase the cutting edge of arts, technology, education, policy, research, and social impact that will be located in New Jersey. The festival will be a regional draw that will position New Jersey as a premier location for diverse creatives, entrepreneurs, and researchers to live, work, and play.

Purpose

The New Jersey Arts and Innovation Festival Challenge Grant will act as "kickstarter" capital for the creation and production of a New Jersey focused arts and innovation festival to be held over at least two days in a New Jersey municipality or municipalities. The core purpose of the festival will be to showcase the state of New Jersey as a premier destination for top tier talent and firms in the arts and innovation fields and as a destination for arts and innovation tourism. Funds may be used for operational costs related to the management, production, and promotion of the festival as well as business analysis, civic engagement, engineering, architectural, environmental, scientific and media planning, research, and analysis related to the launch of a New Jersey centered arts and innovation festival.

The challenge grant will provide a single award of up to \$2,000,000 to a business or nonprofit with experience organizing large-scale events. The selected entity will use this funding, plus additional funds they raise independently of the EDA, to produce a festival to be held over two or more days with expectation of holding the festival held in the Summer or Fall of 2022.

Project Timeline & Criteria

The Authority used a scoring process to award the New Jersey Arts and Innovation Festival Challenge Grant. Applicants were accepted from December 23, 2021 until January 21, 2022. Applications were accepted on a rolling basis. Upon close, applications were reviewed for completeness and then scored by an evaluation committee based on scoring criteria made publicly available in board memo and detailed in the application instructions, which were posted to the Authority's website.

The NJEDA received twelve (12) applications by the stated deadline. Of those applications, eight applications met the minimum criteria for review.

They are:

1. DW Cultural Solutions
2. Greater Atlantic City Chamber of Commerce
3. MMFB
4. M Plus Communications
5. NJ PAC
6. Premier Vibes
7. Rowan University
8. Tri City Festival/ ZAZA fest

An evaluation committee ("the Committee") comprised of staff from: Economic Transformation, Community Development, Diversity/Equity/Inclusion-Strategic Affairs and Office of Strategic and Program Initiatives scored the applications.

Applications were reviewed and scored after the deadline.

As part of its review and evaluation of the applications, the Committee considered a set of pre-established evaluation criteria, which included six (6) factors.

The factors, and the maximum points associated with each, are listed here:

- 1) Past Experience (maximum 55 points). An application that does not include this section will be automatically disqualified and considered ineligible regardless of other materials provided.
 - a. Number of events since 1/1/2014 with attendance of 5,000 or more (4 points per event; maximum 20).
 - b. Number of events since 1/1/2014 with attendance of 1,000 or more that took place in New Jersey (2 points per event; maximum 10)
 - c. Elements of event(s). Element must be featured in at least one event the applicant organized. (5 points per element; maximum 25)
 - i. Live music
 - ii. Keynote speaker(s)
 - iii. Tech demonstrations
 - iv. Trade show(s)
 - v. Panel discussions

- 2) Vision Statement (up to 4 points each; maximum 20 points). An application that does not include this section will be automatically disqualified and considered ineligible regardless of other materials provided.
 - a. Demonstrates effective plan to promote New Jersey as a destination for artists and creative businesses.
 - b. Demonstrates effective plan to promote New Jersey as a destination for innovation economy businesses and investors.
 - c. Demonstrates effective plan to attract tourists from throughout New Jersey and neighboring states.
 - d. Includes outreach plan that will generate local and national publicity.
 - e. Aligns with New Jersey's vision for stronger, fairer economic growth.
- 3) Fundraising Plan (10 points)- plan to raise all funds necessary to cover any budget items in excess of \$2,000,000.
- 4) Plan to coordinate with host municipality or municipalities to provide free or subsidized tickets to residents of host municipality or municipalities (5 points).
- 5) COVID-19 safety plan in compliance with all relevant executive orders, laws, and other guidelines applicable at the time of application (5 points).
- 6) Diversity and inclusion plan that sets forth strategies the applicant will implement related to hiring of minority persons and women across all staff, presenters, and performers (5 points).

Application Recommended for Grant Award

Based on the scores assigned by the Committee, it was determined that eight (8) applications achieved or exceeded the requisite overall evaluation criteria of 50 points on a scale of 0-100.

The highest scoring application was New Jersey Performing Arts Center with a score of (97) out of 100

- 1) Led by the New Jersey Performing Arts Center, in strategic partnership with TechUnited, (producers of the Propelify Tech Festival) and Absolutely Live (producers the Saratoga, Newport and Monterrey Jazz Festivals); the proposed festival will be a three city (Newark, Asbury Park and Atlantic City) festival spread over multiple days during a three week span.

The technology component will comprise of three days of discussions and presentations spread over three days. Talks and activations will revolve around the impact of emerging tech markets like wellness, digital health, cryptocurrency, electrified transportation, climate tech, e-gaming and sports betting, and the revolution of connectivity and interconnectivity (including the metaverse, 5G, the VR/AR).

The arts component will revolve around multiple disciplines with focuses on film, comedy and music. The music and comedy component will leverage large, medium and small acts designed for multiple venues in Atlantic City, Newark and Asbury Park. The arts component will also look to highlight emerging performers in social media. Film component will leverage the work done by both the Newark International and Montclair Film festivals by hosting venues in Newark and Atlantic City. Both venues will look to highlight diverse filmmakers and films on sustainability questions.

The festival will also look towards creating a long term sustainable tourism presence that showcases the best of the state as a tourism draw while making significant contributions to the community and state economy.

- 2) The scoring committee recommends for award New Jersey Performing Arts Center as the highest scoring application

Applications recommended for declination by the board

The applications listed in Appendix A, scoring matrix, are recommended for declination based on their score.

Attached as Appendix B, the following applications are recommended for declination due to program criteria.



Tim Sullivan, CEO

Prepared by: John Costello

Attachments:

- Scoring Matrix-Appendix A
- Declination Summary-Appendix B

Appendix A-Score Sheet

	Cumulative Score-Question 1	Cumulative Score-Questions 2-6						Overall Score (rounded)
Applicant	Staff Review	MB	VP	DI	MA	CG	total	
DW Cultural Solutions	45	31.0	34	40.0	28	35.0	34	79
Greater Atlantic City Chamber	45	27.0	19	29.0	24	25.5	25	70
MMFB	51	28.0	19	20.0	22	26.0	23	74
M Plus Communications	24	28.0	20	29.0	27	28.5	27	51
NJ PAC	55	42.0	44	44.0	40	40.5	42	97
Premier Vibes	45	30.0	33	32.0	39	37.0	34	79
Rowan University	50	29.0	39	39.0	32	31.0	34	84
Tri City Arts	40	27.0	18	17.0	22	30.5	23	63

Appendix B-Request for Declination

The following four (4) applications are requested for declination for the following reasons:

- 1) Bergen PAC-
 - a. did not provide a valid tax clearance
- 2) B Pritchett Music
 - a. did not provide valid tax clearance
 - b. did not provide proof of one event with greater than 5,000 in attendance on or after January 1, 2014
- 3) Camden Community Partnership
 - a. did not provide a Memorandum of Understanding. Applicant identified strategic partner in application and failed to produce a Memorandum of Understanding or other documentation memorializing the partnership.
- 4) Voice Concepts
 - a. did not provide proof of one event with greater than 5,000 in attendance on or after January 1, 2014

The following seven (7) applications are recommended for declination as not having achieved the highest score:

- 1) DW Cultural Solutions
- 2) Greater Atlantic City Chamber
- 3) MMFB
- 4) M Plus Communications
- 5) Premier Vibes
- 6) Rowan University
- 7) Tri City Arts



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

RE: New Jersey Asset Activation Planning Grant Program

SUMMARY

The Members are asked to approve:

1. The creation of the New Jersey Asset Activation Planning Grant Program - a rolling grant program, to award grants of up to \$50,000 to public, private, or non-profit entities, for early-stage planning and analysis that will demonstrate viability of projects that activate distressed or under-utilized public assets. Grant awards will be based on proposals that achieve a minimum score based on the evaluation criteria set forth in the product specifications.
2. NJEDA Economic Recovery Fund authorization of up to \$400,000 to capitalize the New Jersey Asset Activation Planning Grant Program, with \$200,000 for an initial pilot program round, and delegated authority to the EDA Chief Executive Officer for discretion to extend another \$200,000 to make additional awards should the application volume, received prior to the initial deadline, exceed the original funding amount.
3. Delegation to Authority staff (as listed below or to the Chief Executive Officer if the delegated authority policy has been approved) to decline applications that do not meet eligibility requirements and to issue final administrative decisions for appeals of declinations based solely on non-discretionary reasons.

BACKGROUND

New Jersey is the birthplace of many innovations of the American Industrial Revolution, which developed the State into one of the first modern industrial areas in the world. The accompanying transit networks, ports, and other urban amenities that early industry established became assets for growing the state and the economy.

Adoption of zoning regulations, as well as federal policies that promoted automobile utilization and expanded mortgage access for white Americans, drastically altered the way cities grew. In the late 20th Century, new development mostly came in the form of car-dependent, residential focused, suburbs. This

shift in development priorities coincided with a waning manufacturing sector that left many urban and industrial areas vacant or underutilized, and often maintained by public entities.

At the turn of the millennium, a new direction for New Jersey's growth was laid out in The State Development and Redevelopment Plan ("the State Plan") of 2001. The State Plan recognized how the pattern of suburban sprawl had begun to constrain resources and infrastructure and sought to change those patterns by emphasizing redevelopment of urban and distressed areas, building more affordable housing, and preserving farmland and open space.

Following the 2008 recession the real estate market shifted more dramatically in this direction with corporations seeking urban locations close to infrastructure, and many workers followed this trend toward greater amenities and employment options. As suburban retail and office spaces became outmoded, urban housing and commercial space costs greatly increased, further straining the residents of those areas that previously saw disinvestment and neglect.

In response to the Covid-19 pandemic many workers were required to change how and where they worked, while others lost their jobs entirely. As employment approaches pre-pandemic levels, remote-work appears to be a policy gaining favor with many employers that could remain in use even after the health crisis subsides and has the potential to alter New Jersey's economic geography once again.

This history of shifting economic and development paradigms have left an array of underutilized properties and infrastructure throughout state in urban, suburban, and rural communities alike. Former assets are now liabilities that no longer meet the needs of modern New Jerseyans and will require innovative development to activate their potential and contribute to the State's economy in an equitable way.

The priorities of Governor Murphy's Economic Plan have guided the New Jersey Economic Development Authority ("Authority", "EDA") efforts since 2018, and have led to a renewed focus on assisting communities to create vibrant and inclusive cities and neighborhoods that both build a stronger and fairer New Jersey and assists in attracting top tier talent and firms to locate business operations in New Jersey.

To meet the priorities of the Governor's Economic Plan, and develop of the State's vision, EDA will create and administer the New Jersey Asset Activation Planning Grant Program. This pilot grant program will fund pre-development planning for projects that will activate distressed and under-utilized public assets, benefiting their communities and the regional economy.

OVERVIEW

The New Jersey Asset Activation Planning Grant Program will provide grants of up to \$50,000 directly to grantees for pre-development planning that will demonstrate viability of projects. Proposed plans may include, but are not limited to:

- Conceptual design
- Feasibility studies
- Economic analysis
- Market analyses

Proposal plans must demonstrate to what extent the utilization of a public asset will be improved by the proposed project and how development of an asset will benefit the regional economy and the community.

Projects should target deficient, under-utilized, or vacant land, buildings, or infrastructure owned by a county, municipality, district, public authority, public agency, or other political subdivision or public body.

Plans should demonstrate a strong connection to the State's development objectives through project elements, such as:

- Creating or catalyzing a new business sector, or target industry
 - As defined by the NJEDA 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
- Driving economic growth and equity
- Creating an innovative use for distressed public assets, unutilized or underutilized public property or unutilized public lands
- Expanding access to public transportation or public services
- Attracting employers and a diverse, talented workforce
- Expanding entrepreneurial opportunities and support local businesses
- Improving land use efficiency and sustainability

Program Authorization and Funding

Through the Economic Recovery Fund ("ERF") statutes (N.J.S.A § 34:1B-7.13(a)(5) and (13)), NJEDA is respectively granted the authority to provide "financial assistance to assist municipalities, municipal entities, counties, county entities, regional entities, State instrumentalities, and not-for-profit local economic and community development entities to execute programs and initiatives to stimulate community and economic development," as well as to create "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."

This program will meet two major economic development priorities adopted by the Authority's Board in December 2021 and laid out in the Governor Murphy's Economic Plan of, "Investing in Communities" and "Making Government work Better," by providing funding to activate underutilized or unutilized public properties for community focused investments and to activate assets that will catalyze new business sectors in NJ communities. This grant will improve investment in communities by working to activate underutilized, distressed, or vacant public lands and other assets in order to promote equitable economic growth and community wealth building. The grant will also provide funding to make government work better by helping to fund research and analysis on fallow public lands and assets.

The Board is requested to authorize the use of \$200,000 from ERF for the purposes of funding NJ Asset Activation Planning Grant program.

Authority is also requested to allow the Chief Executive Officer to draw down additional funding of up to \$200,000 from ERF for the purposes of making additional awards should the application volume, received prior to the initial deadline, exceed the original funding amount.

Eligible Applicants

Qualified applicants are defined as a New Jersey:

- Municipality,
- County,
- Municipal, county, regional or state redevelopment agency,
- Municipal, county, regional or state independent authority,
- Non-profit entity
- Private, for-profit entity that meet additional criteria detailed below and holds a valid New Jersey tax clearance certificate.

An Applicant in a lead role is the entity that is the sole recipient of grant funds and responsible for all terms of the grant agreement. The lead role applicant will serve as the primary point of contact with the Authority, submit any requests for fund disbursement, and provide reports to the Authority.

An applicant may only submit one application each in a lead role but can be included as a partner in additional applications where they play a non-lead role. Any named strategic partner or partners included in the proposal cannot be changed without the prior written consent of the Authority.

Applicants may add strategic partners whose experience, knowledge, skills, and ability may provide an advantage in the production of analyses and reports.

The strategic partnership must be recognized by a signed memorandum of understanding or a written agreement between the partner and the applicant and included in the completed application.

Private and nonprofit entities proposing projects in relation to public properties must provide a letter of approval from the chief executive of the public entities that hold ownership of the subject property. Assets owned by The State are not eligible for project applications, however assets owned by Independent State Authorities are eligible when accompanied by a letter of approval.

A proposal on behalf of a county or independent authority does not preclude a municipality within that county; or municipality or county within boundary of independent authority; or independent authority whose boundaries overlap a municipality or county from submitting their own proposal.

An award of grant funding does not imply approval of planning, analysis, use, sale, or divestment of any assets or property.

Rolling Evaluations

Applications for the New Jersey Asset Activation Planning Grant will be accepted on a rolling basis.

EDA anticipates notifying each applicant within five business days of receipt if the application has been deemed complete. Applicants whose applications have been deemed incomplete will be given five business days to cure any deficiencies. If at the end of the five-day period, the applications are still incomplete, they will be notified the application will not be advancing and a new application would need to be submitted for further consideration.

Applications will be evaluated and scored on a first in, first out basis using the date and time that the Authority receives a completed application. Applications that meet the minimum score requirement of 65 will be recommended to the Board for award approval in that order.

Applications will be accepted during a 90-day window publicized in the Notice of Funding Available. Delegated authority is requested to allow the Chief Executive Officer to draw down additional funding of up to \$200,000 from ERF for the purposes of making additional awards should the application volume, received prior to the initial deadline, exceed the original funding amount.

Applications must include plans for specific deliverables that can be fully completed (with copies provided to EDA appropriate for public consumption) six calendar months after the execution of funding agreement between EDA and the recipient. Upon written request by the grantee an extension of up to two months may be authorized for the plan's final delivery, at the sole discretion of the Authority.

A non-refundable fee of \$ 1,000 shall accompany every application for Authority assistance.

Scoring

Applications will be reviewed and scored by staff of the Authority formed as a scoring committee.

The scoring committee may utilize the advice of subject matter experts from both the Authority and other New Jersey state departments, agencies, councils, offices, and boards to advise scoring decisions.

Grants will be scored on a scale of 0-100 points, with 100 points being the highest score possible. Grants award recommendations will be limited to applications that meet or exceed the Minimum Score Requirement of 65 points.

Applications will be evaluated and scored on each of the criteria below.

Criteria #1 - Asset Impact (Up to 40 points) – Proposals must demonstrate how projects will improve the utilization of a public asset and contribute to the community and regional economy.

Example of these may include, but are not limited to:

- Projects that look to innovative uses of underutilized, distressed, or vacant public land, improvements or structures that will provide possibilities for local equitable economic growth
- Projects that develop publicly owned parking lots into ratable businesses, or mixed-use neighborhoods infill.
- Projects that activate use of public rights-of-way for multi-modal trail connections.
- Designs for innovative and transformative new buildings on unused public lands.
- Development of vacant, under-utilized, or distressed public land, improvements or structures for a targeted industry research, development, workforce training or manufacturing hub.

Scoring measure:

- 0 - 10 points: Demonstrates minimal impact
- 11 - 20 points: Demonstrates marginal impacts
- 21 - 30 points: Demonstrates significant impacts
- 31 - 40 points: Demonstrates superior impacts

Criteria #2 – Identification of Project Purpose and Merits (Up to 20 points) – Proposals should identify community benefits of the project, and challenges that have precluded prior development of the asset.

Considerations may include, but are not limited to:

- Ability to address locality-specific needs and challenges.
- Emphasis on long term viability and adaptability of a given concept.
- Ability to consider and mitigate any past difficulties that created challenges for a given asset/grouping of assets.
- Ability to identify and balance local needs with those of the region and state as a whole.

Scoring measure:

- 0 - 5 points: Little or no demonstration of features
- 5 - 10 points: Features are present but show deficiencies.
- 11 - 15 points: Features are well demonstrated.
- 16 - 20 points: Significantly exceeds requirements.

Criteria #3 - Previous Experience (Up to 20 points) – Preference will go to entities who are able to display a strong record of early-stage project planning and analysis that lead to development. Applications should demonstrate a commitment to engage in development projects by a record of past project involvement. Applications may bolster these criteria through strategic partnerships and detailing those partners' records. Preference will go to applicants who can demonstrate a track record of:

- Partnership and engagement with public entities for development and redevelopment.
- Adherence to state and local development plans.
- Dedication to principles of environmental sustainability.
- Previous investments in business sector or innovation projects.

Scoring measure:

- 0 - 5 points: Little or no demonstration of features
- 5 - 10 points: Features are present but show deficiencies.
- 11 - 15 points: Features are well demonstrated.
- 16 - 20 points: Significantly exceeds requirements.

Criteria #4 - Community Engagement (0 to 10 points) - Preference will go to applicants that are able to display efforts to engage local residents and businesses in planning efforts. Local interest may be shown in the form of both past and present support, whether formal (municipal resolutions) or informal (community discussion and engagement).

Scoring measure:

- 1-5 points: Feature is present but shows deficiencies
- 5-7 points: Meets requirements
- 7-10 points: Significantly exceeds requirements

Criteria #5 - Municipal Revitalization Index Score (0 to 10 points) – The Municipal Revitalization Index (MRI) serves as the State’s official measure and ranking of municipal distress. The MRI ranks New Jersey’s municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality. Most recent MRI scores will be applied based on time of application submission and physical location of proposed project’s municipal host community.

Scoring measure:

- 2 point: MRI Distress Score 30 – 34.9
- 4 points: MRI Distress Score 35 – 39.9
- 6 Points: MRI Distress Score 40 – 49.9
- 8 Points: MRI Distress Score 50 – 69.9
- 10 Points: MRI Distress Score 70 or higher

Grant Disbursement

Grant disbursements by the Authority will only be made to the lead role entity. The lead role entity shall be responsible for assuring the compliance of any strategic partners and/or subcontractors with all terms and conditions of this application - and assumes the sole and absolute responsibility for any payments due to any municipal, county, or strategic partners.

All Applicants who are successfully awarded a grant will follow a uniform disbursement schedule. The lead entity will receive 50% of the grant amount upon execution of grant agreement, and 25% upon completion and submission of a mid-way progress report, and 25% upon completion and submission of a final plan and final progress report. At a minimum, the progress reports must include:

- Summary of funds expended to date, and
- Narrative detailing milestones achieved and overall progress toward completion of final plan.

A monthly call with the Designated Authority Project Manager and the Grantee’s assigned Account Manager or Back-Up Account Manager will be held monthly for the first three months of the grant term, up until the halfway point of the grant term. During and following that time, additional calls may be held on an as needed basis until the grant term has ended.

Delegated Authority

Delegation to Authority staff (Chief Community Development Officer, Executive Vice President-Special Projects, Managing Director-Community Development, Chief Economist) to decline applications that do not meet eligibility requirements solely due to non-discretionary reasons. If the Board has approved the delegated authority policy, the delegation will be to the Chief Executive Officer.

Delegation to Authority staff (Chief Legal & Strategic Affairs Officer, any Vice President, Director of Legal Affairs, Director of Business Operations) to issue final administrative decisions for appeals of declinations based solely on non-discretionary reasons. If the Board has approved the delegated authority policy, the delegation will be to the Chief Executive Officer.

Delegated to Authority staff (Chief Executive Officer) to draw down additional funding of up to \$200,000 from ERF for the purposes of making additional awards should the application volume, received prior to the initial program deadline, exceed the original funding amount.

Appeals

Entities whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 3 days but no longer than 10 days). Chief Legal & Strategic Affairs Officer or designee will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will prepare a recommended decision, which must be approved, and a Final Administration Decision issued by the Board or, if under delegated authority, by Chief Legal & Strategic Affairs Officer, any Vice President, Director of Legal Affairs, Director of Business Operations

RECOMENTATIONS

We recommend approval for the creation of the New Jersey Asset Activation Planning Grant Program - a pilot rolling grant program which will advance the priorities of the Governor's Economic Plan, and develop of the State's vision, through funding of pre-development planning for projects that will activate distressed and under-utilized public assets, benefiting their communities and the regional economy.

We also recommend approval Economic Recovery Fund authorization of up to \$400,000 to capitalize the New Jersey Asset Activation Planning Grant Program, with \$200,000 for an initial pilot program round, and delegated authority to the EDA Chief Executive Officer for discretion to extend another \$200,000 to make additional awards should the application volume, received prior to the initial deadline, exceed the original funding amount.

Finally, we recommend approval of delegation to Authority staff (as listed above or to the Chief Executive Officer if the delegated authority policy has been approved) to decline applications that do not meet eligibility requirements and to issue final administrative decisions for appeals of declinations based solely on non-discretionary reasons.



Tim Sullivan, CEO

Exhibit A
New Jersey Asset Activation Planning Grant
Proposed Specifications
March 2022

Funding Source	NJEDA Economic Recovery Fund. \$200,000 for initial pilot program. Authority for additional \$200,000 contingency.
Program Purpose	The New Jersey Asset Activation Planning Grant Program will award grants of up to \$50,000 to public, private, or non-profit entities, for early-stage planning and analysis that will demonstrate viability of projects that activate distressed or under-utilized public assets that benefit their communities and the regional economy
Eligible Applicants	<p>Qualified applicants are defined as a New Jersey:</p> <ul style="list-style-type: none"> • Municipality, • County, • Municipal, county, regional or state redevelopment agency, • Municipal, county, regional or state independent authority, • Non-profit entity • Private, for-profit entity that meet additional criteria detailed below and holds a valid New Jersey tax clearance certificate. <p>An Applicant in a lead role is the entity that is the sole recipient of grant funds and responsible for all terms of the grant agreement. The lead role applicant will serve as the primary point of contact with the Authority, submit any requests for fund disbursement, and provide reports to the Authority.</p> <p>An applicant may only submit one application each in a lead role but can be included as a partner in additional applications where they play a non-lead role. Any named strategic partner or partners included in the proposal cannot be changed without the prior written consent of the Authority.</p> <p>Applicants may add strategic partners whose experience, knowledge, skills, and ability may provide an advantage in the production of analyses and reports.</p>

	<p>The strategic partnership must be recognized by a signed memorandum of understanding or a written agreement between the partner and the applicant and included in the completed application.</p> <p>Private and nonprofit entities proposing projects in relation to public properties must provide a letter of approval from the chief executive of the public entities that hold ownership of the subject property. Assets owned by The State are not eligible for project applications, however assets owned by Independent State Authorities are eligible when accompanied by a letter of approval.</p> <p>A proposal on behalf of a county or independent authority does not preclude a municipality within that county; or municipality or county within boundary of independent authority; or independent authority whose boundaries overlap a municipality or county from submitting their own proposal.</p>
<p>Eligible Uses</p>	<p>The New Jersey Asset Activation Planning Grant Program will provide grants of up to \$50,000 directly to grantees for pre-development planning that will demonstrate viability of projects.</p> <p>Proposed plans may include, but are not limited to:</p> <ul style="list-style-type: none"> • Conceptual design • Feasibility studies • Economic analysis • Market analyses <p>Proposal plans must demonstrate to what extent the utilization of a public asset will be improved by the proposed project and how development of an asset will benefit the regional economy and the community.</p> <p>Projects should target deficient, under-utilized, or vacant land, buildings, or infrastructure owned by a county, municipality, district, public authority, public agency, or other political subdivision or public body.</p> <p>Plans should demonstrate a strong connection to the State’s development objectives through project elements, such as:</p> <ul style="list-style-type: none"> • Creating or catalyzing a new business sector, or target industry <ul style="list-style-type: none"> ○ As defined by the NJEDA 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 • Driving economic growth and equity • Creating an innovative use for distressed public assets, unutilized or underutilized public property or unutilized public lands • Expanding access to public transportation or public services • Attracting employers and a diverse, talented workforce • Expanding entrepreneurial opportunities and support local businesses • Improving land use efficiency and sustainability

<p>Application Process and Board Approval/ Delegated Authority</p>	<p>Applications for the New Jersey Asset Activation Planning Grant will be accepted on a rolling basis.</p> <p>EDA anticipates notifying each applicant within five business days of receipt if the application has been deemed complete. Applicants whose applications have been deemed incomplete will be given five business days to cure any deficiencies. If at the end of the five-day period, the applications are still incomplete, they will be notified the application will not be advancing and a new application would need to be submitted for further consideration.</p> <p>Applications will be evaluated and scored on a first in, first out basis using the date and time that the Authority receives a completed application. Applications that meet the minimum score requirement of 65 will be recommended to the Board for award approval in that order.</p> <p>Applications will be accepted during a 90-day window publicized in the Notice of Funding Availably. Delegated authority is requested to allow the Chief Executive Officer to draw down additional funding of up to \$200,000 from ERF for the purposes of making additional awards should the application volume, received prior to the initial deadline, exceed the original funding amount.</p> <p>Applications must include plans for specific deliverables that can be fully completed (with copies provided to EDA appropriate for public consumption) six calendar months after the execution of funding agreement between EDA and the recipient. Upon written request by the grantee an extension of up to two months may be authorized for the plan’s final delivery, at the sole discretion of the Authority.</p>
<p>Scoring</p>	<p>Applications will be reviewed and scored by staff of the Authority formed as a scoring committee.</p> <p>The scoring committee may utilize the advice of subject matter experts from both the Authority and other New Jersey state departments, agencies, councils, offices, and boards to advise scoring decisions.</p> <p>Grants will be scored on a scale of 0-100 points, with 100 points being the highest score possible. Grants award recommendations will be limited to applications that meet or exceed the Minimum Score Requirement of 65 points.</p> <p>Applications will be evaluated and scored on each of the criteria below.</p> <p><u>Criteria #1 - Asset Impact</u> (Up to 40 points) – Proposals must demonstrate how projects will improve the utilization of a public asset and contribute to the community and regional economy.</p> <p>Example of these may include, but are not limited to:</p> <ul style="list-style-type: none"> • Projects that look to innovative uses of underutilized, distressed or vacant public land, improvements or structures that will provide possibilities for local equitable economic growth • Projects that develop publicly owned parking lots into ratable businesses, or mixed-use neighborhoods infill. • Projects that activate use of public rights-of-way for multi-modal trail connections.

- Designs for innovative and transformative new buildings on unused public lands.
- Development of vacant, under-utilized, or distressed public land, improvements or structures for a targeted industry research, development, workforce training or manufacturing hub.

Scoring measure:

0 - 10 points: Demonstrates minimal impact

11 - 20 points: Demonstrates marginal impacts

21 - 30 points: Demonstrates significant impacts

31 - 40 points: Demonstrates superior impacts

Criteria #2 – Identification of Project Purpose and Merits (Up to 20 points) – Proposals should identify community benefits of the project, and challenges that have precluded prior development of the asset. Considerations may include, but are not limited to:

- Ability to address locality-specific needs and challenges.
- Emphasis on long term viability and adaptability of a given concept.
- Ability to consider and mitigate any past difficulties that created challenges for a given asset/grouping of assets.
- Ability to identify and balance local needs with those of the region and state as a whole.

Scoring measure:

0 - 5 points: Little or no demonstration of features

5 - 10 points: Features are present but show deficiencies.

11 - 15 points: Features are well demonstrated.

16 - 20 points: Significantly exceeds requirements.

Criteria #3 - Previous Experience (Up to 20 points) – Preference will go to entities who are able to display a strong record of early-stage project planning and analysis that lead to development. Applications should demonstrate a commitment to engage in development projects by a record of past project involvement. Applications may bolster these criteria through strategic partnerships and detailing those partners’ records.

Preference will go to applicants who can demonstrate a track record of:

- Partnership and engagement with public entities for development and redevelopment.
- Adherence to state and local development plans.
- Dedication to principles of environmental sustainability.
- Previous investments in business sector or innovation projects.

Scoring measure:

0 - 5 points: Little or no demonstration of features

5 - 10 points: Features are present but show deficiencies.

11 - 15 points: Features are well demonstrated.

16 - 20 points: Significantly exceeds requirements.

Criteria #4 - Community Engagement (0 to 10 points) - Preference will go to applicants that are able to display efforts to engage local residents and businesses in planning efforts. Local interest may be shown in the form of both past and present support, whether formal (municipal resolutions) or informal (community discussion and engagement).

Scoring measure:

	<p>1-5 points: Feature is present but shows deficiencies 5-7 points: Meets requirements 7-10 points: Significantly exceeds requirements</p> <p><u>Criteria #5 - Municipal Revitalization Index Score (0 to 10 points)</u> – The Municipal Revitalization Index (MRI) serves as the State’s official measure and ranking of municipal distress. The MRI ranks New Jersey’s municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality. Most recent MRI scores will be applied based on time of application submission and physical location of proposed project’s municipal host community.</p> <p>Scoring measure: 2 point: MRI Distress Score 30 – 34.9 4 points: MRI Distress Score 35 – 39.9 6 Points: MRI Distress Score 40 – 49.9 8 Points: MRI Distress Score 50 – 69.9 10 Points: MRI Distress Score 70 or higher</p>
Grant Amounts	Grant awards will be up to \$50,000
Funding Disbursement	<p>Grant disbursements by the Authority will only be made to the lead role entity. The lead role entity shall be responsible for assuring the compliance of any strategic partners and/or subcontractors with all terms and conditions of this application - and assumes the sole and absolute responsibility for any payments due to any municipal, county, or strategic partners.</p> <p>All Applicants who are successfully awarded a grant will follow a uniform disbursement schedule. The lead entity will receive 50% of the grant amount upon execution of grant agreement, and 25% upon completion and submission of a mid-way progress report, and 25% upon completion and submission of a final plan and final progress report. At a minimum, the progress reports must include:</p> <ul style="list-style-type: none"> • Summary of funds expended to date, and • Narrative detailing milestones achieved and overall progress toward completion of final plan.
Reporting requirements	<p>A monthly call with the Designated Authority Project Manager and the Grantee’s assigned Account Manager or Back-Up Account Manager will be held monthly for the first three months of the grant term, up until the halfway point of the grant term.</p> <p>During and following that time, additional calls may be held on an as needed basis until the grant term has ended.</p> <p>At the end of the grant term, the awarded grantee must provide a copy of the final report to the Authority for review and public dissemination.</p>
Fees	A non-refundable fee of \$ 1,000 shall accompany every application for Authority assistance.



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

SUBJECT: **Wallach Beth Capital, LLC**
Grow New Jersey Assistance Program (“Grow NJ”) –
COVID-Related Termination
P #44030 (PROD-00184588)

Request:

Approve Wallach Beth Capital, Inc.’s (“Wallach Beth”) request to terminate its Grow NJ Incentive Agreement pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 (ERA), P.L.2020, c. 156.

Background:

Wallach Beth is a registered broker dealer that provides trading strategies and execution services to institutional clients, specializing in EFT, portfolio and equity derivatives trading, and provides related services such as research, strategy consulting and electronic trading solutions. On February 14, 2017, the Members approved a \$4,812,500 10-year Grow NJ award to incent the creation of 55 new Grow-eligible jobs with an estimated capital investment of \$465,240 at an existing 11,631 square foot non-industrial facility as its Qualified Business Facility (“QBF”), located at 185 Hudson Street (Harborside 5) in Jersey City.

In January 2018, Wallach Beth certified project completion with 46 new Grow-eligible jobs. As a result, the Grow NJ award was decreased at project certification to \$3,712,500 due to the reduction from estimated in new jobs and the Grow Incentive Agreement was amended.

Wallach Beth maintained the required jobs through its 2020 report and was issued Annual Tax Credit Certificates for the tax years 2017-2020 in the amounts of \$371,250, \$354,750, \$354,750, and \$371,250, respectively for a total of \$1,452,000. The tax year 2021 annual compliance report is currently under final review with the EDA. However, a preliminary review for timeliness and job numbers indicates that they may be eligible to receive a credit for that year.

On October 13, 2021, Wallach Beth submitted a Grow NJ COVID-19 Relief Request Form requesting to enact Section IV – Termination of Incentive Agreement pursuant to N.J.S.A. 34:1B-247(g) (P.L. 2020, c. 156 effective January 7, 2021) due to COVID-related impacts.

COVID Relief

On January 7, 2021, the ERA amended the Grow NJ statute to afford Grow NJ businesses several relief measures in recognition of the negative effects that the COVID-19 pandemic and Health Emergency restrictions may have on the businesses. To qualify for the relief, a Grow NJ business must demonstrate COVID-related impacts to the business that are the basis for the request for relief. Requests may be based on negative financial impacts to a business, as well as other changes including a decrease in workforce, a conversion of workforce to remote, real estate decisioning, and changes to business model that no longer enable the company to participate in the Grow NJ program. These measures are intended to provide flexibility to Grow NJ businesses and to ensure that they are not penalized due to the safety measures needed to respond to the COVID-19 Health Emergency.

Specifically, Section 108(g) of P.L. 2020, c. 156 amended the Grow NJ law to allow businesses to terminate Grow NJ Incentive Agreements “provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business.” A termination under this provision results in the forfeiture of all tax credits for the tax period in which the termination occurs and all subsequent tax periods. Any requested but uncertified or unissued tax credits would also be forfeited as a result of the termination. Tax credits issued for previous years may be retained by the business without recapture while the business is relieved of all ongoing reporting obligations. To guard against misrepresentation by businesses, termination letters executed under the COVID-Related Relief provisions will include a provision allowing EDA to seek recapture of any tax credits issued should it be determined that the Grow NJ business decisioning was made without consideration of the impact of the COVID-19 Health Emergency on the business.

Wallach Beth Capital’s COVID-19 Impacts and Decisioning

As a result of the COVID-19 pandemic and in response to Governor Murphy’s Executive Order 107 on March 21, 2020 mandating that all non-essential businesses in New Jersey implement work-from-home arrangements, Wallach Beth required employees to work from home and has continued to do so.

Wallach Beth has requested a COVID-related termination as it foresees not being able to meet the requirement for each Grow-eligible employee to work 60% of the time at the QBF. In a competitive market, where other companies in the same field can offer more remote flexibility, Wallach Beth foresees the need to offer greater flexibility to retain qualified and competent employees. Prior to the onset of the COVID-19 Pandemic, Wallach Beth employed 43 Grow-eligible full-time positions at the QBF, where Wallach Beth now currently has 39 Grow-eligible full-time positions at the QBF.

Staff has determined that Wallach Beth has met the requirements for a COVID-related termination. Pursuant to the Board Memo dated February 10, 2021, all COVID-related terminations must be presented to the Members for approval.

Recommendation:

Approve Wallach Beth Capital, Inc.'s request to terminate its Grow NJ Incentive Agreement pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 (ERA), P.L.2020, c. 156.



Tim Sullivan, CEO

Prepared: Marc Tomasini



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

SUBJECT: **Interpool, Inc. (“Interpool”)**
Grow New Jersey Assistance Program (“Grow NJ”) –
COVID-Related Termination
P #39455 (PROD-00184286)

Request:

Approve Interpool’s request to terminate its Grow NJ Incentive Agreement pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 (ERA), P.L.2020, c. 156, contingent upon the receipt of its outstanding recapture obligation.

Background:

Interpool, d/b/a TRAC Intermodal is an intermodal chassis solutions company providing marine and domestic chassis throughout the US, Canada, and Mexico. On May 16, 2014, the Members approved a \$9,800,000 10-year Grow NJ award to incent the creation of 90 new jobs and the retention of 310 employees with an estimated capital investment of \$7,136,919 to relocate to an existing 68,646 square foot non-industrial facility as its Qualified Business Facility (“QBF”), which is a Qualified Incentive Priority Area, located at 750 College Road East in Plainsboro.

In February 2016, Interpool certified project completion with 65 new jobs and the retention of 310 employees. As a result, the Grow NJ award was decreased at project certification to \$8,800,000 due to the reduction from estimated in new jobs and the Grow Incentive Agreement was amended.

Interpool maintained the required jobs through its 2018 report and was issued Annual Tax Credit Certificates for the tax years 2015-2018 in the amounts of \$880,000, \$848,000, \$776,000, and \$648,000, respectively, for a total of \$3,152,000.

Interpool submitted its Grow NJ annual compliance reporting for tax year 2019 and 2020, pursuant to the extension of the NJEDA 120-day reporting requirement for 2019 annual reports issued on April 2, 2020 in accordance with Executive Order 107 (Murphy 2020) on the regular operations of employers due to the COVID-19 Pandemic. Interpool reported 291 Grow-eligible employees therefore did not meet its job threshold in 2019. In 2020, the EDA waived its

requirement that Grow-eligible employees work at least 80% of their work time at the QBF. However, even with use of the waiver, Interpool only reported 273 Grow-eligible jobs, therefore did not meet the required job threshold for 2020.

Forfeiting two consecutive tax periods is an Event of Recapture under Section 12(c) of the NJ Grow agreement and subject's Interpool to the partial recapture of previously issued tax credits. Interpool indicates that its decline in staff in 2020 was in part due to a COVID-related decline in business, which resulted in the need to hire temporary workers. Staff has concluded that these impacts did not negate Interpool's obligation to maintain employment at required levels. Therefore, a recapture is appropriate. However, this recapture does not result in ineligibility for COVID-related termination relief once the recapture payment has been satisfied.

Staff recommends that approval to terminate the Grow NJ Incentive Agreement due to COVID-related impacts be contingent upon EDA's receipt of the required recapture, which will be calculated as the aggregate amount of the tax credits allowed under the Letters of Compliance that have been issued to date divided by the number of years in the Commitment Period to remedy the Event of Recapture.

On October 5, 2021 Interpool formally requested to terminate its Grow NJ Incentive Agreement due to COVID-related impacts. Staff then paused the termination process for resolution of the relief request by the Board.

COVID Relief

On January 7, 2021, the ERA amended the Grow NJ statute to afford Grow NJ businesses several relief measures in recognition of the negative effects that the COVID-19 pandemic and Health Emergency restrictions may have on the businesses. To qualify for the relief, a Grow NJ business must demonstrate COVID-related impacts to the business that are the basis for the request for relief. Requests may be based on negative financial impacts to a business, as well as other changes including a decrease in workforce, a conversion of workforce to remote, real estate decisioning, and changes to business model that no longer enable the company to participate in the Grow NJ program. These measures are intended to provide flexibility to Grow NJ businesses and to ensure that they are not penalized due to the safety measures needed to respond to the COVID-19 Health Emergency.

Specifically, Section 108(g) of P.L. 2020, c. 156 amended the Grow NJ law to allow businesses to terminate Grow NJ Incentive Agreements "provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business." A termination under this provision results in the forfeiture of all tax credits for the tax period in which the termination occurs and all subsequent tax periods. Any requested but uncertified or unissued tax credits would also be forfeited as a result of the termination. Tax credits issued for previous years may be retained by the business without recapture while the business is relieved of all ongoing reporting obligations. To guard against misrepresentation by businesses, termination letters executed under the COVID-Related Relief provisions will include a provision allowing EDA to seek recapture of any tax credits issued should it be determined that the Grow NJ business decisioning was made without consideration of the impact of the COVID-19 Health Emergency on the business.

Interpool's COVID-19 Impacts and Decisioning

Prior to the onset of the COVID-19 Pandemic, Interpool employed 291 Grow-eligible full-time positions at the QBF. In response to the COVID-19 pandemic and Governor Murphy's Executive Order 107 on March 21, 2020 mandating that all non-essential businesses in New Jersey implement work-from-home arrangements, Interpool required employees to work from home. From Mid-March 2020 to July 12, 2021, there was minimal staff physically working at the QBF, which consisted of those responsible for essential functions of the company, building maintenance, and skeleton IT staff.

Beginning in July 2021, Interpool implemented a Return-to-Work strategy, with a max of 50% capacity at the QBF, followed by 75% in November 2021, and finally 100% beginning January 2022. However, on July 2, 2021, the Grow law was amended to require employees to work at the QBF 60% of the time to qualify for the program. In response, Interpool updated its plan and began implementing a new hybrid working approach, where employees are only required to work at the QBF three of the five-day work week.

Even with the hybrid working approach, Interpool still anticipates that they will experience challenges attracting and retaining employees amongst competition within the local talent pool based on the 60% in-office requirement. In addition, Interpool has been forced to rely on temporary help and consultants, which do not count towards the Grow NJ new and retained full-time jobs the program requires. As of Q4 2021, Interpool has 280 Grow-eligible full-time positions at the QBF.

Interpool has requested a COVID-related termination as it foresees a change in its business model along with a decline in eligible jobs due to COVID-19 and the Public Health Emergency requirements. Interpool cites a disruption of business operations, a decreased demand for its services, office reconfiguration due to new safety protocols, availability of talent, and concerns around meeting the 60% in-office requirement as factors that have led to the decision to terminate.

Staff has determined that Interpool has met the requirements for a COVID-related termination. Pursuant to the Board Memo dated February 10, 2021, all COVID-related terminations must be presented to the Members for approval.

Recommendation:

Approve Interpool, Inc.'s request to terminate its Grow NJ Incentive Agreement pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 (ERA), P.L.2020, c. 156, contingent upon the receipt of its outstanding recapture obligation.



Tim Sullivan, CEO

Prepared: Marc Tomasini



MEMORANDUM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: March 9, 2022

SUBJECT: **Laboratory Corporation of America Holdings (“LabCorp”) – Modification
Grow New Jersey Assistance Program (“Grow NJ”) – P44555 PROD-00174510
\$39,984,780 Grow NJ**

Request:

Consent to the following changes to the Grow NJ approval:

Decrease in estimated capital investment from \$150,372,005 to \$104,990,498 (a 30% decrease).

Increase the square footage at 10 Johnson Drive from 57,502 square feet to 60,430 square feet, and at 69 1st Avenue from 284,118 square feet to 294,336 square feet. This represents a total change of 13,146 square feet, (a 4% change).

The overall 10-year tax credit will not be reduced from the as approved amount of \$39,984,780 as a result of this change.

Board action is required because the proposed change to the capital investment amount exceeds the 25% delegation threshold for staff to approve such a change.

Background:

Laboratory Corporation of America Holdings, doing business as, LabCorp, operates one of the largest clinical laboratory networks in the world, offering a broad range of routine and esoteric/genomic assays.

On November 14, 2017, the Members approved a \$39,984,780 10-year Grow NJ award to incent the creation of 175 new Grow eligible jobs and retention of 1,201 Grow eligible jobs at a non-industrial premise to consist of approximately 341,620 sf comprised of multiple buildings in Raritan Borough, NJ. The total estimated capital investment for the QBF at approval was \$150,372,005. LabCorp had requested an additional year for certification through November 2021 at approval.

LabCorp’s original project included: 1) the renovation of the existing warehouse at 10 Johnson Drive, 2) demolition of an existing building at 20 Johnson Drive to allow for a new parking lot and to accommodate the expansion for an additional 109,000 sf of lab space, as well as, 3) full renovations of the laboratory at its adjoining 69 1st Ave facility.

An extension of the project completion deadline to June 4, 2022 was approved (the second six-months after the end of the Emergency) pursuant to COVID relief provisions in the GROW law. When the COVID-19 emergency struck, construction and renovation at the QBF decreased and LabCorp applied to the Authority for a COVID-19 Extension. LabCorp could not relocate employees to other parts of the facility for capital investment to continue, as the lab needed to be available for the increased volume of work. To mitigate the construction delay, the Company sought and subsequently received approval from the State as an essential business, permitting it to continue construction operations during the pandemic. LabCorp expanded its testing capabilities to aide in the State's response to the public health emergency, resulting in additional delays to complete the project, which included repurposing existing and newly acquired equipment in order to maximize testing capabilities related to COVID.

LabCorp is now requesting a modification to decrease the scope and capital investment of its approved project as it will not be able to complete the interior renovations to the laboratory building within the required timeframe. LabCorp has substantially completed the project as described above but will be unable to complete the laboratory renovations by its June certification deadline. There will be no change to the anticipated number of jobs at the site.

The current LabCorp space at 69 1st Avenue is comprised of contiguous buildings that house its laboratory functions. LabCorp has chosen to complete renovations space-by-space within the facility. LabCorp has determined that it can receive Certificates of Occupancy for the work currently being undertaken by March 2022 and will begin work on the next series of spaces after certifying Grow project completion. The company has represented that they will continue to complete the project, paying PW/AA and using Green building standards.

LabCorp has asked the Members to consent to a reduction in the amount of the eligible capital expenditures required for the GROW award to approximately \$105 million. This represents a decrease of 30% in capital expenditures from the original approved GROW award. Staff has determined that the Grow NJ project remains essentially the same, albeit with a smaller capital investment. EDA will continue monitoring PW/AA for the remainder of the project.

The total capital spend at the QBF in Raritan Borough through December 31, 2021 was approximately \$100 million. As of the same date, a total of 1,311 employees were working at the Raritan site, 1,205 of which are deemed eligible Grow jobs, 1,201 of those are Retained jobs and 4 of those are New employees.

The Company submitted a revised Cost Benefit Analysis comparing the project, as approved, to the modified project. At approval in 2017, the project was \$90.2 million more expensive than the alternate site on a 15-year NPV basis. The updated Cost Benefit Analysis comparing the proposed project to the approved project demonstrates that the proposed project is \$50 million less expensive than the project originally approved on a 15-year NPV basis.

To ensure that the proposed modified project maintained its program eligibility and continued to support the approved award, staff revisited the analysis run at approval. The Grant Calculator determined the modified award to be \$69.8 million. The net economic benefit analysis at approval used the new model and was calculated to be \$67.8 million over 30 years. The net economic benefit for the modified project is \$63.7 million over 30 years. As a result of the proposed changes, the overall 10-year tax credit will not be reduced. While the decrease in the amount of capital investment at the QBF is significant, at just over 30%, staff recommends the changes to the project, as the net economic benefit and jobs committed to the State remain significant and the project remains essentially the same, albeit smaller. Staff performed the over \$4 million test for a Grow NJ application which exceeds a total of \$40 million over the term of the award, per the Grow Calculator model. This test determined that in fact, LabCorp would not have obtained a lesser award than it was originally awarded or as a result of the Modification application.

Board action is required because the proposed changes to the amount of capital investment at the QBF exceeds the 25% delegation threshold for staff to approve such changes. Note there was a minor increase in square footage of just over 13,000 square feet, comprised of 10,000 square feet added to enclose the building mechanicals at 69 1st Avenue and approximately 3,000 square feet at the 10 Johnson Drive location which is primarily a warehouse.

<u>Summary of Project Changes:</u>	<u>Original</u>	<u>Proposed Modification</u>
Qualified Business Location	69 1 st Ave, 10 Johnson Dr., 20 Johnson Dr., Raritan Borough, NJ	69 1 st Ave, 10 Johnson Dr., 20 Johnson Dr., Raritan Borough, NJ (Note: 20 Johnson Dr. is now a parking lot)
Total Project Square Footage	341,620 sq. ft.	354,766 sq. ft.
Minimum Capital Investment	\$13,664,800	\$14,190,640
Estimated Eligible Capital Investment	\$150,372,005	\$104,990,498
New Jobs	175	175
Retained Jobs	1,201	1,201
Gross Benefits to the State (prior to award)	\$107,801,719 over 30 years	\$103,679,812 over 30 years
Net Benefit to the State (Net of Award)	\$67,816,939 over 30 years	\$63,695,032 over 30 years
Award Amount (Grant Calculator)	\$39,984,780 *	\$39,984,780 *
Total Per Job Award amount	New Jobs: \$5,156 Retained Jobs: \$2,578	New Jobs: \$5,156 Retained Jobs: \$2,578

* Note: the calculated award, per the Modification application and the Grow NJ calculator is \$69,795,000, and the requested amount in the original application was \$40,000,000. Since that award does not work out to an even dollar amount per employee, by extrapolating, we reach an award amount of \$39,984,780, or the same amount as was originally approved by the Authority in November 2017.

Recommendation

Consent to the following changes to the Grow NJ approval:

Decrease in estimated capital investment from \$150,372,005 to \$104,990,498 (a 30% decrease).

Increase the square footage at 10 Johnson Drive from 57,502 square feet to 60,430 square feet, and at 69 1st Avenue from 284,118 square feet to 294,336 square feet. This represents a total change of 13,146 square feet, (a 4% change).

Staff has reviewed the modified project and has determined that it meets the requirements to maintain its program eligibility and continues to support the approved award. The overall 10-year tax credit will not be reduced from the as approved amount of \$39,984,780 as a result of this change.

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

Tim Sullivan, CEO

Prepared by: Mark Chierici



To: Members of the Board
From: Timothy Sullivan, CEO
Date: March 9, 2022
Subject: Hearing Officer's Recommendation on the Appeal of Ritz Hotel Services Grow New Jersey Grant Declination

Pursuant to N.J.S.A. 34:1B-244, et seq., the provision of a grant from the Grow New Jersey Program must be a "material factor" in a company's decision to remain in New Jersey.

I reviewed the attached Hearing Officer's report, along with the appeal of Ritz Hotel Services, and concur with the recommendation that the Grow New Jersey grant declination be upheld as the applicant failed to demonstrate the grant to be a material factor in its decision to remain in New Jersey.

A handwritten signature in blue ink, appearing to read "Tim Sullivan", is positioned above a horizontal line.

Tim Sullivan, CEO



MEMORANDUM

To: Timothy Sullivan, CEO
From: Marcus Saldutti, Hearing Officer
Date: March 9, 2022
Subject: Ritz Hotel Services, Inc. Grow New Jersey Appeal

Request

Consent of the Members to the Hearing Officer's recommendation upholding the NJEDA Board's declination of Ritz Hotel Services, Inc. ("Ritz" or "Company") Grow New Jersey application and rejecting the Company's appeal of the declination.

Background

Pursuant to enabling legislation, the New Jersey Economic Development Authority ("Authority" or "EDA") administers the Grow New Jersey tax incentive program, see N.J.S.A.24:1B-24 ("Grow" or "Program"). As requested, I served in the role of Hearing Officer to independently review this appeal.

Previous Action and Appeal

On June 27, 2019, Ritz submitted a Grow New Jersey application in connection with its evaluation of sites to operate its commercial laundry business. Ritz's application represented an option to renovate and expand at its current facility in Paterson, NJ, or lease 30,339 sq. ft. of space in Suffern, NY.

During its regular meeting on January 15, 2021, the EDA Board declined the Grow NJ application of Ritz. EDA staff could not recommend that the Company demonstrated the Grow Award would be a material factor to remain in New Jersey, as required by N.J.S.A. 34:1B-244.a(4). In determining the company failed to demonstrate material factor the EDA concluded the following: 1) NJ is the more costly option due solely to a payroll differential and 2) the company failed to provide an updated Letter of Intent (LOI). By letter dated February 3, 2021, the Company was notified of the Board's declination and of its ability to appeal that decision.

On February 22, 2021, Ritz timely submitted its appeal of the Board's declination by letter from its attorneys, Murphy Schiller & Wilkes LLP. In its appeal, Ritz challenges: (i) the "point-in-time" ("PIT") methodology EDA used to compare labor costs in the Cost Benefit Analysis ("CBA") as New Jersey's minimum wage law was soon to take effect and (ii) EDA's further declination rationale based on the lack of an updated Letter of Intent ("LOI") for the alternate property in Suffern, NY.

In sum, Ritz asserts that EDA's use of PIT in comparing labor costs in the CBA is arbitrary, capricious, and unreasonable in that PIT methodology is inconsistent with a "full economic analysis" required by the Program statute and regulations. Furthermore, Ritz asserts EDA is estopped from declining the application due to the Authority's own inaction and rejection of the LOI.¹ The appeal fails on both points for the reasons discussed below.

Record Assembled

06/20/2019 Cushman Wakefield/Pyramid Brokerage Company Lease Proposal

06/26/2019 Material Factor Statement of Mark Segal of Ritz Hotel Services

06/27/2019 Ritz Hotel Services Grow New Jersey Application

08/29/2019 Email reply from Ritz to Mark Cherici of EDA answering project questions

01/15/2021 EDA Board Memo declining Ritz application

02/03/2021 Declination letter from EDA to Ritz Hotel Services

02/22/2021 Ritz Appeal Memo and Exhibits from Murphy, Schiller, and Wilkes, LLP

09/10/2021 EDA memo to Hearing Officer in response to Ritz Appeal

10/15/2021 Ritz Rebuttal letter to Hearing Officer in reply to EDA response memo

Confidential Cost Benefit Analysis Worksheet

Minimum Wage Comparison Chart prepared by WRE Consulting

08/20/2020 *RS Old Mill Rd. LLC v Suffern Partners, LLC*, Index No: 031809/2020, Decision and Order, Supreme Court, State of New York, County of Rockland (order denying defendant's motion to cancel *lis pendens*, among other relief)

10/23/2020 *Suffern Partners, LLC v. Old Republic National Title Insurance Company*, Complaint, US District Court, SDNY

04/13/2021 *RS Old Mill Rd. LLC v. Suffern Partners, LLC*, Index No: 031809/2020, Decision and Order, Supreme Court, State of New York, County of Rockland (order denying defendant's motion to cancel *lis pendens* and denying defendant's motion to post an undertaking [surety bond])

08/29/2021 *In re Suffern Partners, LLC, Adversary Proceeding Complaint*, US Bankruptcy Court, SDNY

¹ In Ritz's 10/15/2021 Rebuttal to EDA's response to the appeal, Ritz raised an EZ Pass cost differential issue, which it did not include in its appeal; therefore, the issue is not addressed in this recommendation.

Hearing Officer's Analysis

“Material Factor”

Pursuant to the Grow New Jersey Assistance Act, N.J.S.A 34:1B-242, the grant must be a “material factor” in a company’s decision to retain, relocate, or expand operations in NJ. To that end the applicant is required to provide documentation demonstrating material factor including, but not limited to, the following:

- A. A full economic analysis of all locations under consideration including such components as, but not limited to, the cost effectiveness of remaining in this State versus relocation under alternative plans out of State (e.g. real estate listings, tax or other state/local financial incentives offered to the Applicant and CBAs, which may include cost per square foot, real estate taxes, tax incentives, training incentives, labor costs, etc.) A blank template form CBA is provided by the Authority and prepared by the Applicant. The CBA includes one-time upfront costs (such as building acquisition cost, building construction, building renovation, purchase of furniture, fixtures and equipment, company moving costs, etc.) and ongoing costs (such as annual rental costs, annual real estate costs, utilities, building maintenance, annual payroll) for both the in-State and out-of-State alternative. The Applicant must also provide a copy of all documentation to support the costs included in the CBA, including copies of construction or renovations budgets prepared by a third party; equipment purchases quotes; moving company’s quote, etc.;
- B. All lease agreements, ownership documents or substantially similar documentation for the business’ in-State location(s);
- C. All lease agreements, ownership documents, or substantially similar documentation for the potential out-of-state location alternatives, to the extent such alternatives exist;
- D. A specific statement on the role the grant will play in the company’s decision-making process to remain/expand in New Jersey; and
- E. An executed CEO certification that states that the CEO reviewed the application and that the information submitted, and representations contained therein are accurate, and that, but for the Grow New Jersey award, the creation and/or retention of jobs would not occur.

In determining that Ritz failed to demonstrate the grant to be a material factor in its relocation decision, staff concluded: 1) the PIT payroll differential to be the only line item in the CBA making NJ the more costly option compared to the alternate site in Suffern, NY on both a 10-year and 15-year net present value basis and 2) Ritz’s refusal to provide an updated LOI for the alternate site further supporting the determination that the grant would not be a material factor in Ritz’s location decision.

“Point-in-Time”

On the first point, Ritz must demonstrate that the Authority’s employment of PIT is arbitrary, capricious, or unreasonable. "An administrative agency's final quasi-judicial decision will be sustained unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record." *In re Herrmann*, 192 N.J. 19, 27-28 (2007). The party challenging the administrative action bears the burden of making that showing. *Lavezzi v. State*, 219 N.J. 163, 171 (2014).

Ritz asserts that the EDA erroneously rejected its annual payroll projection in the CBA, which was based on actual and projected data, and which took into account the increase in New Jersey’s minimum wage to \$15.00 per hour in 2024. Ritz contends the rejection of this payroll analysis was based on the EDA’s adoption of a “point in time” methodology for annual payroll, which [EDA] asserted was the “typical” or “conventional” method. Under this methodology, the EDA only considered “[c]urrent wages for retained employees and projected employees at one location compared to the same wages at the alternate site. This same amount is used across the time horizon utilized in the CBA.”

It is important to note that the phrase, “full economic analysis,” is not defined in the statute or regulations. According to John Rosenfeld, EDA’s current director of Audit and Compliance and who was in charge of the Grow New Jersey Program at EDA from inception until approximately May of 2017, EDA consistently employed PIT costs in its analyses - even to costs such as leases with step-ups built in - regardless of where the property was located. This consistency in employing PIT, challenged here by Ritz which cites only isolated, anecdotal occurrences otherwise, was further corroborated during this appeal review by Mark Chierici, EDA Incentives Resolution Officer, who drafted the Board declination memo.

In explaining the PIT utilization, Mr. Rosenfeld articulated that EDA presumes, over time, data variances will tend to cancel out. For example, utilities, water, and various other costs, etc. cannot be reliably projected 10 or 15 years into the future. To account for this EDA weighs these variables to be balanced out and not vary substantially in proportion over time.

In essence, the present “point in time” cost differentials are presumed more or less static into the future. This is also the case with the cost of labor. Ritz is correct that its payroll costs in NY will be less, at least for an indeterminate duration - and if EDA were to depart from its past practice. Ritz is certainly aware that labor costs are not static – even in the face of legally mandated increases in wages as in the present instance. In 2016 Ritz left its own location in Brooklyn to seek paying less for labor in New Jersey after New York increased its minimum wage, which undermines the argument that a PIT wage comparison is arbitrary, capricious or unreasonable in the context of awarding tax credits for up to ten years.

In addition, the law is well established that executive agencies, such as EDA, have broad discretion and are afforded deference in the administration of the legislative policy objectives for which they have been tasked. "This deference comes from the understanding that a state agency brings experience and specialized knowledge to its task of administering and regulating a

legislative enactment within its field of expertise." *In re Election Law Enf't Comm'n Advisory Op. No. 01-2008*, 201 N.J. 254, 262 (2010).

As such, EDA's consistent employment of PIT in the statutorily required "full economic analysis" cannot be determined to be "...in direct violation of its own rules and regulations" as asserted by Ritz in its appeal. In other words, a "full economic analysis" is not in any way fatal to, or otherwise limiting of, "point-in-time" cost comparisons for the purpose of the diligent award of tax incentives. In the end, Ritz fails to persuade that EDA was inconsistent in employing PIT comparisons or that the PIT method is arbitrary, capricious, or unreasonable or that it is otherwise prohibited by the statute.

"Letter of Intent" and "Estoppel"

Ritz also contends the EDA erroneously rejected the LOI provided with its application in June of 2019 because it was not executed by both parties and that it had no end date. The record is clear and undisputed that, during its review, the EDA requested an updated LOI multiple times from Ritz. During this process, on January 28, 2020, Ritz declared that "the NJEDA should continue to process and evaluate this application based on the information it already has."

As part of the application the statute requires companies to submit to EDA "[a]...full economic analysis of all locations under consideration by the business, all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and **all lease agreements, ownership documents, or substantially similar documentation for potential out-of-State location alternatives, to the extent they exist.**" See N.J.S.A. 34:1B-244(d) [emphasis added].

When presented with an applicant that has identified and targeted an alternate out of state location, EDA has an affirmative duty to examine the veracity of that application and the viability of that location. A viable alternative is at the heart of the grant being a "material factor" in the decision to remain in New Jersey as compared to a less costly alternative.

Furthermore, the Program's statute specifically states, in pertinent part, the following: "Based on this information [page 2, A through E, *supra*], and **any other information deemed relevant** [emphasis added] by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are at risk of leaving the state..." N.J.S.A. 34-1B-244d.

In October of 2020 an EDA staffer conducted an internet search which revealed undisclosed litigation connected to the property. The property owner, Suffern Partners, LLC quoted in the article stated "the lawsuit has clouded the title, and has left the entity unable to lease, refinance, or sell the property or get new title insurance."

In addition, this hearing officer searched Rockland County property records in connection with this appeal. The search revealed that the property owner (Suffern Partners, LLC) has been recently involved in a number of lawsuits, including several NY State and four federal court cases (3 Bankruptcy), challenging title to the property or otherwise connected to its disposition.

The search also revealed several *lis pendens* (at least 4) filed against the property, some of which were active before and during the pendency of this application.

When queried on this Ritz replied that it was unaware of the litigation until several months after application and that it would not have affected its ability to lease the property.

Clearly, it is axiomatic that the EDA has a duty to exercise diligence in the administration of its programs. Part of that diligence is the exercise of its authority to request relevant supplementary material at any time during the application review process, including obtaining an updated LOI.

EDA is not bound by documents or conditions static to the time of application. Things change; documents and plans may grow stale, but unaltered is EDA's ongoing obligation to ensure companies qualify for tax incentives: (i) at the time of application, (ii) through approval, and (iii) post approval. The statute clearly contemplates this as the law requires the EDA Board to make factual determinations by separate vote that jobs are at risk, which occurs at Board approval - at which time companies must still be qualified to receive the incentive. See N.J.S.A. 34:1B-244.d. As we see here this can occur long after application and, under such circumstances, it becomes essential to obtain a refresh of the necessary proofs.

Ritz relatedly claims that EDA is estopped from denying the application due to EDA's own inaction. Ritz asserts that EDA's delay in processing the Ritz application has barred its authority to deny the application in this case.

The delays brought about by Ritz's refusal to provide an updated LOI, which the EDA requested at least twice, and the significant challenges presented by the Covid -19 pandemic cannot go unrecognized. In the end, the argument that EDA is estopped from conducting the necessary and legally mandated due diligence in the administration of tax credits is without merit and not worthy of further consideration.

Conclusion

Upon examination of the assembled record, applicable statutes and regulations, and based upon the above analysis, I conclude the Authority demonstrated sufficient bases, in terms of both the sufficiency of its analyses and in its review process, for its decision to deny the Ritz Hotel Services, Inc. application for a tax incentive under the Program.

Recommendation

As a result of careful consideration of this appeal, I recommend the Board uphold the determination denying the application of Ritz Hotel Services, Inc. for a Grow New Jersey grant.

Marcus Saldutti Digitally signed by Marcus Saldutti
Date: 2022.03.01 16:32:08 -05'00'

Marcus Saldutti
Hearing Officer



MEMORANDUM

To: Members of the Authority

From: Timothy Sullivan, CEO

Date: March 9, 2022

Subject: 2021 Technology Business Tax Credit Certificate Transfer Program – Appeal –
RespireRx Pharmaceuticals, Inc

Pursuant to the Program’s enabling legislation, the New Jersey Economic Development Authority (“Authority” or “EDA”) administers the annual Technology Business Tax Credit Certificate Transfer Program (“Program”), which is commonly referred to as the “Net Operating Loss” or “NOL” Program. Upon a determination that an application for this Program meets all established criteria for the award of financial assistance, the Authority shall approve the Application.

Pursuant to N.J.A.C. 19:31-12.3, Program applicants shall be required to (1) “meet the definition of a technology or biotechnology business”; (2) “has unused amounts of research and development tax credits and/or unused net operating loss carryover”; and (3) “meet the definition of new or expanding” to be deemed eligible for the Program.

I reviewed the attached Hearing Officer’s report, along with the appeal of RespireRx Pharmaceuticals, Inc (“the Company”), and I concur with the recommendation that the declination of its application be upheld as the Company does not meet the definition of “New or Expanding” as is defined in the Program’s statute and regulations.

A handwritten signature in blue ink, appearing to read "T. Sullivan", is written above a horizontal line.

Tim Sullivan, CEO



MEMORANDUM

To: Timothy Sullivan, CEO

From: Nicholas Falci, Hearing Officer

Date: March 9, 2022

Subject: Hearing Officer's Recommendation, RespireRx Pharmaceuticals, Inc – 2021
Technology Business Tax Certificate Transfer Program Declination.

Request:

Consent of the members to the Hearing Officer's recommendation, upholding the New Jersey Economic Development Authority Board's determination denying RespireRx Pharmaceuticals, Inc's 2021 Technology Business Tax Certificate Transfer Program application.

Background:

Pursuant to the enabling legislation, the New Jersey Economic Development Authority ("Authority" or "EDA") administers the Technology Business Tax Certificate Transfer Program. As requested by the CEO, I am fulfilling the role of Hearing Officer to independently review this appeal and have completed that review with legal guidance from the Attorney General's Office.

Previous Action:

On June 23, 2021, RespireRx Pharmaceuticals, Inc ("the Company" or "Applicant") applied for the 2021 Technology Business Tax Certificate Transfer Program, commonly referred to as the "Net Operating Loss" or "NOL" Program ("Program"). The Company requested a post-allocation Net Operating Loss of \$2,934,178. The Company submitted a certification with its application stating that it employed 12 full-time employees, with 11 of those employees based in New Jersey. On July 27, 2021, EDA staff sent Marc Radin of the Company an email requesting (1) resumes, offer letters and payroll registers for 8 of the employees; (2) clarity as to why every employee listed on the certification (including the new hires) opted out of healthcare; and (3) copies of various tax forms for Q2. Moreover, EDA staff advised the Company that if the requested information was not received in a timely fashion, the EDA may not be able to proceed further with an approval.

On July 30, 2021, Mr. Radin replied to EDA staff's email. He stated that he provided the EDA with the resumes and/or CVs or bios of the employees as well as the payroll information that was requested. Mr. Radin advised EDA staff that the Company does not have offer letters for these employees because they "have been known to us for an extended period of time." He further stipulated that offers were extended and accepted via means of either video, telephone or in-person conversations and that each employee executed a W-4, I-9 and healthcare waiver letter. Mr. Radin explained that none of the employees are interns and all of Company's employees have topic specific expertise as well as on-call responsibilities with the Company and are *available* to work at least 35 hours a week. He elaborated that the Company decides when and how to specifically engage with its employees on specific matters based on its needs at any given time.

Thereafter, on August 24, 2021, EDA staff contacted Mr. Radin to request additional information, specifically (1) confirmation as to whether 4 of the employees listed on the certification are related to each other, considering that they were hired only several weeks before the Program deadline; and (2) the full job titles for 6 employees listed on the certification, as well as confirmation that these employees work at least 35 hours a week.

On August 30, 2021, Mr. Radin replied to EDA staff's email. He disclosed that as to the 4 employees who appeared to be related to each other, 3 of them were hired on June 1, 2021, while the 4th employee has been with the Company since 2013 despite only receiving a salary since June 2021. He explained that the Company does not maintain weekly time records for their employees as they each hold exempt positions but are nonetheless paid based on a 35-hour work week "as this is customary and usual for employees in their position in the pharmaceutical industry." Thus, he contends that it is difficult for the Company to provide specific information regarding how many hours its employees work a week. However, he reiterated that it is generally accepted custom and practice in the Company's industry that employees are available to work on-call as required during critical times. He also provided the requested job titles.

On October 27, 2021, EDA staff sent the Company correspondence notifying them that the EDA Board declined their application on October 13, 2021 after finding that the Company is not a "new or expanding" technology or biotechnology company as defined under the Program's rules. EDA staff's letter explained that the Authority was unable to sufficiently verify that 4 of the employees listed on the Company's employee certification met the definition of "full-time employee", as defined in the Program rules, because the Company failed to submit the supplemental due diligence materials requested. Thus, the Company's application was denied because it was unable to show that it employed at least 10 full-time employees in New Jersey to be considered as "new or expanding" under the Program's rules.

The Company was notified of their right to file a timely appeal to this decision, and did so through a letter from its Controller, Marc Radin CPA on November 15, 2021. A discussion and analysis of the arguments presented on appeal can be found further herein.

Record Assembled:

For purposes of this appeal, a record was assembled over the preceding months consisting of the following submissions:

February 2, 2022 – Email from Kamran Hashmi to the Hearing Officer explaining EDA custom and practice as to alternative standards of service and when the request for additional documentation and/or information from Program applicants is triggered.

January 4, 2022 – Memorandum from Pearl Amin, Kamran Hashmi and Clark Smith to the Hearing Officer informing of the recommendation to uphold the declination.

November 15, 2021 – Appeal of the Company’s 2021 Technology Business Tax Certificate Transfer Program declination.

October 27, 2021 – EDA’s initial letter to the Company notifying them of the denial of their 2021 Technology Business Tax Certificate Transfer Program application.

August 30, 2021 – Email from Marc Radin to Pearl Amin in response to EDA staff’s additional information request.

August 24, 2021 – Email from Pearl Amin to Marc Radin requesting additional information about the Company and their application.

July 30, 2021 – Email from Marc Radin to William Swartz in response to EDA staff’s additional information request.

July 27, 2021 – Email from William Swartz to Marc Radin requesting additional information about the Company and their application.

June 23, 2021 – The Company’s 2021 Technology Business Tax Certificate Transfer Program application.

June 22, 2021 – Exhibit E, Employees Log, Technology Business Tax Technology Transfer Program.

Hearing Officer’s Discussion and Analysis:

On Appeal, the Company argues that the Authority erred in denying its Program application because it failed to accept an alternative standard of service based on the generally accepted custom and practice of the Applicant’s industry as to what constitutes a “full-time employee”. The Company elaborates that it is the generally accepted custom and practice for a development stage biopharmaceutical company going through research and development and planning clinical trials to obligate their employees to make themselves available at least 35 hours a week. The Company further contends that accordingly, it is their belief that it is inappropriate for their employees to

sign a certification that they *actually* work at least 35 hours a week, as had been requested by EDA staff, in contrast to being *available to* work at least 35 hours a week.

Following review and analysis of the assembled record, the applicable statutes and regulations, and the custom and practice of the Authority, the Company's appeal should be denied for the reasons discussed below. In essence, the Company failed to (1) articulate an acceptable alternative standard of service to demonstrate that it employs the requisite number of full-time employees required under the Program's statute and rules; and (2) provide the documentation and information requested by EDA staff to verify that the Company employed the requisite number of full-time employees as defined by the Program's enabling statute and rules, as had been requested by EDA. The Program's regulations, N.J.A.C. 19:31-12.3, sets forth that a business is eligible to apply for the Program if the EDA finds that the business (1) "meets the definition of a technology or biotechnology business"; (2) "has unused amounts of research and development tax credits and/or unused net operating loss carryover"; and (3) "meets the definition of new or expanding." The Program's enabling statute, N.J.S.A. 34:1B-7.42b, defines "new or expanding" as

a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits ... and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this state if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

The statute defines "full-time employee" as

a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act."

I. The Company's Failure to Articulate an Acceptable Alternative Standard of Service to Demonstrate that it Employs the Requisite Number of Full-Time Employees

The Company's appeal should be denied because it failed to articulate an acceptable alternative standard of service based on custom and practice to demonstrate that it employs the requisite number of full-time employees, as is required under the Program's rules. The EDA, in its response to the Company's appeal, sets forth that an alternative standard of service would generally mean "a standard similar to working at least 35 hours." In its appeal letter, the Company focuses its discussion on how the federal Fair Labor Standards Act ("FLSA") does not provide a definition of full-time employment, instead leaving it up to the individual employer to determine. The Company argues that accordingly, the EDA's determination as to what constitutes "full-time employment" should be based on what is an acceptable practice to the individual employer, in this case meaning the Company. Therefore, the Company seeks for the EDA to accept their definition of "full-time employment", meaning that the employee makes themselves *available* to work at least 35 hours a week. Moreover, the Company references how other government entities, including but not limited to the Internal Revenue Service, each have different definitions of "full-time employment", and that each of these definitions are different from the one contained in the Program's enabling statute.

The Company's arguments are not convincing. Foremost, the Company's arguments fail to consider that the definition of "full-time employment" contained in the Program's enabling statute is controlling here. The Legislature could have adopted one of the other definitions of "full-time employment" the Company discusses, or could have followed the FLSA by failing to define "full-time employment". However, it instead elected to craft the definition contained in the Program's enabling statute, which is the definition applicable here. Accordingly, Program applicants have the burden of proving that they employed the requisite number of "full-time employees", as defined in the Program's enabling statute, to be eligible to participate in the Program.

Notwithstanding the above, the Company fails to articulate how its definition of "full-time employment", or those employed by the other government agencies referenced, is aligned with the custom and practice of the Company's industry as to whether the employees in question are considered "full-time employees". In fact, the record is devoid of the Company offering any evidence of an alternative standard of service based on the custom and practice of its industry. The Company's generic statements about how it requires its employees to be *available* to work at least 35 hours a week are insufficient, *per se*, to demonstrate an alternative standard of service that satisfies Program requirements. Pertinently, being *available* to work and *actually* working are clearly not equivalent in light of common sense and plain meaning, nor has the Company provided an argument as to why this alternate standard of service could or should be seen as equivalent other than that it is industry standard to be "available". Rather, it appears that the Company's discussion is focused on how it disagrees with the definition of "full-time employment" contained in the Program's enabling statute. As the Company has failed to present an alternative standard of service which could be considered as generally accepted custom and practice in the Company's industry, it is accordingly unable to show that it employed the requisite number of "full-time employees" required under the Program rules.

II. The Company's Failure to Provide Documentation and Information Requested by EDA Staff

The Company's appeal should additionally be rejected because it fails to provide the additional documentation that EDA staff requested to verify that the Company employed the requisite number of full-time employees. Kamran Hashmi, the EDA's Managing Director of Product Operations, explained that it is the EDA's custom and practice to request additional documents and information from applicants when EDA staff deems additional verification is needed to determine whether an Applicant meets the Program's eligibility guidelines.

By way of background, the Company submitted with its Program application an employee log which indicated the following: (1) that the Company employed 12 full-time employees, with 8 hired on June 1, 2021 (less than 3 months prior to the June 30, 2021 deadline); (2) several employees who appeared to have personal relationships with each other; and (3) 4 employees holding the title of "Physicians Panel". Moreover, EDA staff's additional investigation revealed that 4 of the employees listed on the certification have other full-time jobs. These findings caused EDA staff to request additional documentation and information as due diligence to ensure the Company was meeting program requirements. This additional documentation and information sought included (1) resumes, offer letters, and payroll registers for certain employees; (2) an explanation as to why all employees opted out of healthcare; (3) federal and state tax documents; and (4) confirmation and clarity as to whether several of the employees listed work at least 35 hours a week and/or are related to each other, including requesting signed certifications from several of the employees certifying that they work at least 35 hours a week. Ultimately, the Company's application was rejected because the EDA was unable to sufficiently verify whether the Company employed the requisite number of "full-time employees" because of its refusal to provide the signed employee certifications requested by EDA staff.

Although the Company, in its appeal letter, expresses its belief that it is inappropriate for its employees to sign these requested certifications, this additional due diligence requested is consistent with the EDA's custom and practice. Furthermore, the Company was on notice, beginning when EDA staff first requested this additional documentation/information, that failure to do so would put the Company's application at risk of being denied. Ultimately, the Company had several opportunities to provide actual proof that supports the existence of an accepted custom or practice EDA could meaningfully consider as a potential alternative standard of service. However, they have chosen not to do so.

In sum, for the reasons stated previously herein, the Company has failed to meet its burden of showing that it employed the requisite number of full-time employees required under the Program rules, meaning that it cannot be considered to be a "new or expanding" company as defined under the Program requirements. Accordingly, the Company's appeal should be denied, and the EDA Board's decision denying the Company's application should be upheld.

Conclusion:

In considering the assembled record, applicable statutes and regulations, and based upon the above analysis, I have concluded that the New Jersey Economic Development Authority Board has

demonstrated a sufficient basis for their decision to deny RespireRx Pharmaceuticals, Inc's 2021 Technology Business Tax Certificate Transfer Program application.

Recommendation:

As a result of careful consideration of the above appeal, I am recommending that the Board uphold the New Jersey Economic Development Authority Board's decision denying the application of RespireRx Pharmaceuticals, Inc to participate in the 2021 Technology Business Tax Certificate Transfer Program.



Nicholas Falci
Hearing Officer



November 15, 2021

To whom it may concern,

This is our appeal of the New Jersey EDA's denial of our application to participate in the Technology Business Tax Certificate Transfer Program (to sell our New Jersey Net Operating Losses). The declination essentially culminates in the following determination that your office reflected in its October 27, 2021 declination letter:

"Because the applicant failed to provide the additional requested information to establish these 4 employees were Full Time Employees as defined by the Program, the Applicant has only shown that it employs 8 full time employees"

The crux of our denial rests with the definition of full-time employee and whether our employees meet that definition. There is a big "OR" in the definition that we do not believe is being adequately considered.

"Or" is a very innocuous word. OR... is it? It is defined in the Merriam Webster dictionary as 'used to indicate an alternative, usually only before the last term of a series.' It can be what you can have for lunch (chicken *or* tuna?); it can hold the fate of a defendant (guilty *or* not guilty). In our case, 'OR' holds a portion of the economic fate of our Company in its hands. And to some degree the fairmindedness of a NJ commerce program that does great things.

It is our hope that you will enlarge the scope of your consideration to include the concept of "or" that is baked into the definition of a full-time employee, and in doing so – *if our appeal opens your collective mind to the broader interpretations of that definition*. If you do that, I believe that we, as a qualifying New Jersey business, fighting the fight as we are, will have earned the benefit of that doubt, and that you find it appropriate to find in our favor with respect to this appeal. We strenuously believe that it is entirely appropriate to scrutinize the definitions of full-time employment.

I earnestly believe that our company, RespireRx Pharmaceuticals, with reference to the employees identified in the declination letter, meets the alternate (the "or") definition of a full-time employee. Our application was denied primarily based upon our belief in the inappropriateness of having our employees sign certifications that they actually work at least 35 hours per week rather than being available to work 35 hours per week, on call (I do not see a definition of work, although there is a broad definition of full-time). We believe that being available and being on call, is a component of their work. As we have indicated on several occasions, our physicians panel works varying hours, which is the nature of a development stage biopharmaceutical company going through research and development and planning clinical trials. They are obligated to make themselves available at least 35 hours per week (the fact that we do not use offer letters should not be an issue – this is not mandatory in New Jersey, and furthermore our job descriptions have been made available as part of our application, contrary to what the declination letter cites).

Let me provide some context here:

In NJ, there are over 10 different definitions of gross income; it depends what department is asking – NJ Department of Labor has one definition; NJ Division of Taxation, another; NJ Division of Consumer Affairs, yet a third.

In NJ, there are more than 5 different definitions of an hour (or a day); it depends on who is measuring – NJ Board of Accountancy has one measure, NJ Department of Corrections another; NJ DOL yet another. And that doesn't consider countless definitions of over 1,700 unions that call home to New Jersey.

Yet, we are being penalized through denial, for not staying true to a definition of a full-time employee that the State of New Jersey and your office cites is fluid.

The definition of a "Full-Time Employee" as cited in the declination letter is "as a person employed by a new or expanding emerging technology or biotechnology company on a permanent or indefinite basis for consideration for at least 35 hours a week". ***That is, however, not entirely accurate.*** In the application itself, mention is made of the following:

the employee must be offered healthcare (ALL OF OUR EMPLOYEES HAVE BEEN OFFERED) as described above and:

1. be working physically in New Jersey (at least 80% of the time) for consideration for at least 35 hours a week ***OR*** render any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to New Jersey gross income tax withholding.

We certainly meet the requirement of having wages subject to NJ gross income tax.

It is the **OR**, and the flexibility of the idea brought forth after that, which is the crux of our rejection and our appeal.

There is a very realistic possibility that our company will bear fruit and generate a need for 100 or more jobs; the same having previously occurred at Dov Pharmaceuticals, the former company of our Executive Chairman and Chief Scientific Officer. Those jobs, would grow from organic growth, would be highly sought after in both the technical and unskilled workforce; both unemployed and those who have or intend to opt out of the workforce.

We are aware that you want to believe us about the job growth potential, and we do know that it doesn't matter what the possibilities are as that is not part of the process here. (*But rest assured, that we will create a very decent number of jobs.*)

Our argument is simple; you are allowing an alternate definition of the standard of full-time employee, but you have declined our application based on a definition that is outdated at best, not the *standard in our industry*, and lastly, is not even the full standard in New Jersey, according to New Jersey.

Allow me to explain that last part...

It must be noted that the Fair Labor Standards Act (FLSA) does not define full-time employment or part-time employment, for that matter. Rather, full-time employment is determined by the employer, i.e., self-determination by employer based on the employer's belief that an employee is engaged in the performance of job duties that are accepted by the employer to be considered full time employment.

On the other hand, the IRS regulations provide that a full-time employee is, for a calendar month, an employee employed on average at least 30 hours of service per week, or 130 hours of service per month. Meaning, the IRS does not look into general "standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to NJ gross income tax withholding taxing" - - the IRS took a non-subjective strictly hours worked approach to define "full-time employment."

Now, the referenced NJ statute is a remedial statute, which looks to provide broad coverage. NJ knew what the federal language was with respect to the definition of "full-time employment" as provided in the FLSA and the IRS regulations and drafted this legislation knowing how the federal government defines full time employment.

New Jersey took a hybrid approach, however, based on hours or standard of service accepted as practice of full-time employment, meaning they provided a 35 hours per week OR a subjective interpretation, specifically "or render any other standard of service generally accepted by custom or practice as full-time employment..." The phrase "render any other standard of service generally accepted by custom or practice as full-time employment" follows the word "OR" and is not defined by New Jersey. If New Jersey wanted only a specific hour limit, it would have left it at 35 hours per week and not had the "OR" additional clause. Yet, NJ did not define "full time employment" based on the number of hours. Clearly, the latter clause could mean that it could be less than 35 hours. How many hours less? 5? 10? 20? NJ did not define that either.

Rather it offers the second option, which is where we are asking you to focus your attention - "or render any other standard of service generally accepted by custom or practice as full-time employment..." To us, this is what the Employer determines to be acceptable practice of full-time employment, as the FLSA so allows. If an employer accepts one's employment as full-time employment based upon the employee's services rendered to the employer, then NJ should grant to the employer such discretion as the federal government does in the FLSA.

If New Jersey did not want a broad reading of the new provision, *they would have defined this more narrowly*. Would it not be appropriate, where the alternative definition exists, to use the availability of that definition to find favorably on OUR behalf and to achieve the goal of the program especially a program as forward-thinking in its principles)? Or put another way, doesn't the mission of the Technology Business Tax Certificate Transfer Program make the case that in the absence of a definitive definition of a full-time employee that you err on our side?

And speaking of our side, the difference between OUR and OR, is....



U

We ask that that you recognize that the definition of full-time employment has sufficient room for flexibility and should be driven here by custom and practice, and facts and circumstances; not definitions crafted for other programs that don't speak to the issues here.

Just because you did not grant our application in the first instance, does not mean that you should not.

We earnestly request that you to find favorably with respect to OUR appeal and, in the process, make our success story yours as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Radin", written in a cursive style.

Marc Radin CPA
Controller



MEMORANDUM

To: Marcus Saldutti, Hearing Officer

Date: January 4, 2022

Subject: 2021 Technology Business Tax Certificate Transfer Program
RespireRx Pharmaceuticals Inc. Declination Appeal
Staff Response to November 15, 2021 Appeal

BOARD MEMO:

On October 13, 2021, the New Jersey Economic Development Authority's Board declined the application by RespireRx Pharmaceuticals Inc. ("applicant" or "company") to the annual Technology Business Tax Certificate Transfer (NOL) Program. The applicant did not meet the program eligibility requirement § 19:31-12.3 (a) 3. Meets the definition of new or expanding.

The definition of a "New or expanding" technology or biotechnology company is defined as a company that "On June 30 of the year in which the company files such an application, has ... at least 10 full-time employees working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for more than five years;"

Furthermore, the definition of "New or expanding" includes further defined terms "Full-time employee" and "Full-time employee working in this State."

The definitions are "Full-time employee means a person employed by a new or expanding emerging technology or biotechnology company on a permanent or indefinite basis for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act..." and "Full-time employee working in this State means a full-time employee whose primary office is in New Jersey and who spends at least 80 percent of his or her time in New Jersey, or who spends any other period of time generally accepted by custom or practice as full-time employment in New Jersey, as determined by the Authority."

Since the applicant was incorporated in 1987, the company is required to employ at least 10 "Full-Time employees working in this state."

As part of the company's application, an employee log was provided stating the company had 12 full time employees, of which 11 filled a position in New Jersey. In Staff's analysis, the log had employees with a personal relationship to each other, employees hired within 3 months of the program's June 30 deadline, as well as 4 employees whose job title were listed as "physician panel" dictating Staff conduct further due diligence to determine if all employees were meeting program requirements. Common policy is to request supplemental documentation like job position offer letters, job descriptions,

employee resumes, signed certifications from employers and employees in addition to conversations and correspondence with the employees and employers.

The applicant was informed the employees in question would require further verification to meet the aforementioned defined terms and additional documentation was requested by Staff. RespireRx related via email communication that certain individuals “were available 35 hours a week”. The supplemental documents requested (listed below) was not provided by the company or employees.

- Offer letters and job descriptions for employees hired on 6/1/21
- Signed certification from each employee hired on 6/1/21 stating they work “at least 35 hours a week”

Since the applicant failed to provide the additional requested information and would only confirm employees “were available” and not “working at least”, Staff could not confirm the applicant met the definition of “New or expanding.” Furthermore, public information available to Staff relate the employees in question also work at other companies in addition to the work they perform for the applicant.

REGULATIONS NOT MET:

§ 19:31-12.3 Eligibility

(a) A business shall be eligible to apply to the program if the Authority finds that the business:

3. Meets the definition of new or expanding.

"New or expanding" means a technology or biotechnology company that:

1. On June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L. 1997, c. 334 (N.J.S.A. 34:1B-7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America;
2. On June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for less than three years, has at least five full-time employees working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for more than five years; and
3. On the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in paragraph 2 above.

In calculating the number of employees under this definition, employees of all affiliates and subsidiaries as shown on its consolidated financial statements, employees of any company that owns or controls at least 50 percent of the applicant, as well as the employees of any consolidated group of affiliated corporations as filed for Federal income tax purposes shall be included.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company on a permanent or indefinite basis for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is a partner of a new or expanding emerging

technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is employed under a formal written agreement with an institution of higher education whereby the institution's students are employed by the technology or biotechnology company on a permanent basis within a single position and in compliance with all other requirements of this definition. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a group health plan as defined under section 14 of P.L. 1997, c. 146 (N.J.S.A. 17B:27-54), a health benefits plan as defined under section 1 of P.L. 1992, c. 162 (N.J.S.A. 17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology business; or any person who works as an intern, as a temporary employee, or in a temporary position.

"Full-time employee working in this State" means a full-time employee whose primary office is in New Jersey and who spends at least 80 percent of his or her time in New Jersey, or who spends any other period of time generally accepted by custom or practice as full-time employment in New Jersey, as determined by the Authority.

APPEAL SUMMARY/ANALYSIS:

Staff recommends that the Hearing Officer reject RespireRx Pharmaceuticals Inc.'s appeal.

The applicant's appeal has not presented evidence that the company meets eligibility requirement § 19:31-12.3 (a) 3. Meets the definition of new or expanding.

Staff evaluates Program applications according to guidelines established in the Program's rules as stated in the New Jersey Administrative Code. Terms specific to other legislation or government entities does not factor into evaluation unless expressly stated in these Program rules.

In regard to the specific eligibility requirement and associated definitions not met by the applicant, the standard is working for the company at least 35 hours a week. If not met, Staff may also consider an additional standard "generally accepted by custom or practice" which would mean a standard similar to working at least 35 hours.

The company relates the employees in question are "available" to the company, an undefined commitment of time. The commitment of time to the employer by the employee is the basis for the defined term.

The applicant has not presented an alternative standard that could be considered as "generally accepted by custom or practice" and which is met by their employees in question. They only state there is an alternative to the "at least 35 hours a week", and they disagree with NJEDA's interpretation of the requirement.

Finally, no additional documentation was provided in the appeal to justify meeting the requirement. Additional documentation provided to the NJEDA to determine eligibility is common policy. Moreover, the company and none of the employees will certify to meeting the requirement in question.

For these reasons, Staff concludes the company continues to lack supporting evidence that the aforementioned requirements have been met by the company and recommends upholding the declination.

Prepared by:

Pearl Amin, Venture Associate - Product Operations

Kamran Hashmi, Managing Director - Product Operations

Clark Smith, Director - Innovation Programs



MEMORANDM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: March 9, 2022

Subject: Universal Television LLC “The Enemy Within Season 1” PROD-00185323 New Jersey Film Tax Credit Program - Modification

Request:

The Members are requested to approve an award increase of Universal Television LLC’s, New Jersey Film Tax Credit application from \$14,369,717 to \$17,083,038.

Background

On November 14, 2019, the Authority approved a \$14,369,717 award for Universal Television LLC’s project The Enemy Within Season 1. The award was approved under the New Jersey Film Tax Credit Program. The original approval is attached as Attachment A. Shortly after approval, the Applicant provided clarifying information regarding certain project costs that would have been eligible under the program if provided prior to EDA Board approval. The costs were initially shown as a one-line item labeled Amortization Costs totaling \$8,479,130 in the application. During the underwriting process, EDA staff did not have enough information to deem the costs as eligible under the program. As such, the entire amount was deducted from the total qualified film production expenses. Post approval, however, the applicant provided a detailed breakdown of Amortization Costs. This new information clearly illustrated that the expenses represent eligible costs to be incurred in film production such as salaries, materials, and rental expenses. If the clarifying information was provided during the underwriting process, EDA staff would have included it into the approval, which would have been consistent with prior treatment of this type of cost.

These additional eligible costs will increase the qualified film production expenses from \$44,905,367 to \$53,384,497 and the total award from \$14,369,717 to \$17,083,038. An updated project summary showing the combined original and additional costs and award calculation is attached as Attachment B.

Recommendation

It is recommended that the Members approve the award increase from \$14,369,717 to \$17,083,038.

A handwritten signature in blue ink, appearing to read "T. Sullivan", is written above a horizontal line.

Tim Sullivan, CEO

Prepared by: Steven Novak

Attachments:

- Attachment A – Original Project Summary Universal Television LLC The Enemy Within Season 1
- Attachment B – Project Summary combined original and additional costs.

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

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

APPLICANT: Universal Television LLC

PROD-00185323

APPLICANT BACKGROUND:

Universal Television LLC is the production company responsible for “The Enemy Within Season 1”. Jennifer Carpenter stars in this fast-paced, spy-hunting thriller based on a brilliant former CIA operative now known as the most notorious traitor in American history.

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

ELIGIBILITY AND GRANT CALCULATION:

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

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

A. Total Film Production Expenses after July 1, 2018	\$64,402,655
B. Total Post Production Expenses	\$ 2,920,612
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$10,046,352
Percentage Calculation = C/(A-B)	16.34%
Criterion Met	No

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

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

Total Qualified Film Production Expenses incurred in NJ in two privilege periods, of which at least \$1 million is incurred in a single privilege period after July 1, 2018.	\$44,905,367
Criterion Met	Yes

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Qualified Film Production Expenses	\$44,905,367 x 30% =	\$13,471,610
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA, NJ Taxation and Office of Diversity and Inclusion. 2% of Qualified Film Production Expenses	\$44,905,367 x 2% =	\$898,107
5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.	\$0 x 5% =	\$0
Total Award		\$14,369,717

APPLICATION RECEIVED DATE: 12/20/2018 (Application #6)
DATE APPLICATION DEEMED COMPLETE: 1/14/2019
PRINCIPAL PHOTOGRAPHY COMMENCEMENT: 9/17/2018
PRINCIPAL NJ PHOTOGRAPHY LOCATION: East Rutherford
ESTIMATED DATE OF PROJECT COMPLETION: 3/4/2019
APPLICANT’S FISCAL YEAR END: 12/31/2019
TAX CREDIT VINTAGE YEAR(S): 2019
TAX FILING TYPE: Corporate Business Tax
ANTICIPATED CERTIFICATION DATE: 1/30/2020

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

The Garden State Film and Digital Media Jobs Act provides a total of \$75 million tax credits originally available for State Fiscal Year 2019. After today's approvals, \$26.9 million remains in the program for State Fiscal Year 2019. However, there are 13 additional applications in the pipeline totaling \$37.4 million and therefore being over-scribed for State Fiscal Year 2020.

APPROVAL REQUEST:

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

APPROVAL OFFICER: S. Novak

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

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

APPLICANT: Universal Television LLC

PROD-00185323

APPLICANT BACKGROUND:

Universal Television LLC is the production company responsible for “The Enemy Within Season 1”. Jennifer Carpenter stars in this fast-paced, spy-hunting thriller based on a brilliant former CIA operative now known as the most notorious traitor in American history.

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

ELIGIBILITY AND GRANT CALCULATION:

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

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

A. Total Film Production Expenses after July 1, 2018	\$64,402,655
B. Total Post Production Expenses	\$ 2,920,612
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$13,196,340
Percentage Calculation = C/(A-B)	21.46%
Criterion Met	No

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

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

Total Qualified Film Production Expenses incurred in NJ in two privilege periods, of which at least \$1 million is incurred in a single privilege period after July 1, 2018.	\$53,384,497
Criterion Met	Yes

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Qualified Film Production Expenses	\$53,384,497 x 30% =	\$16,015,349
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA, NJ Taxation and Office of Diversity and Inclusion. 2% of Qualified Film Production Expenses	\$53,384,497 x 2% =	\$1,067,689
5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.	\$0 x 5% =	\$0
Total Award		\$17,083,038

APPLICATION RECEIVED DATE: 12/20/2018 (Application #6)
DATE APPLICATION DEEMED COMPLETE: 1/14/2019
PRINCIPAL PHOTOGRAPHY COMMENCEMENT: 9/17/2018
PRINCIPAL NJ PHOTOGRAPHY LOCATION: East Rutherford
ESTIMATED DATE OF PROJECT COMPLETION: 3/4/2019
APPLICANT’S FISCAL YEAR END: 12/31/2019
TAX CREDIT VINTAGE YEAR(S): 2019
TAX FILING TYPE: Corporate Business Tax
ANTICIPATED CERTIFICATION DATE: 1/30/2020

In general, the final documentation required 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.

APPROVAL OFFICER: S. Novak

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

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

As amended by law on 7/2/2021, the eligible tax credit for qualified film production expenses increased from 30% to 35% for applications received after Jan 7, 2021. Additionally, for applications received after July 2, 2021, the program amendment also eliminates the targeted county bonus and specifies a tax credit of 30% for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New, York.

APPLICANT: Apple Slice Productions, LLC

PROD-00288726

APPLICANT BACKGROUND:

Apple Slice Productions, LLC is the production company responsible for “Jules”. Jules is a story of a small-town community. When an elderly man in a small town receives an unexpected visitor, his life and the lives of two women in his community are upended completely. What follows is a moving, funny, quiet story about isolation and the value of human connections.

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

ELIGIBILITY AND TAX CREDIT CALCULATION:

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

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

A. Total Film Production Expenses	\$16,433,214
B. Total Post-Production Expenses	\$1,313,963
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$14,591,770
Percentage Calculation = C/(A-B)	97%
Criterion Met	Yes

2. **Qualified Film Production Expenses:** During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not be limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a “qualified film production expenses” unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). “Qualified film production expenses” shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018.	\$14,591,770
Criterion Met	Yes

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	$\$4,334,355 \times 30\% =$	\$1,300,306.50
35% of Estimated Qualified Film Production Expenses incurred outside of 30-mile radius of Columbus Circle, NYC	$(\$14,591,770 - \$4,334,355) \times 35\% =$	\$3,590,095.25
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses.	$\$0 \times 2\% =$	\$0.00
Total Award		\$4,890,401.75

APPLICATION RECEIVED DATE:	7/8/2021
DATE APPLICATION DEEMED COMPLETE:	9/14/2021
PRINCIPAL PHOTOGRAPHY COMMENCEMENT:	8/30/2021
PRINCIPAL NJ PHOTOGRAPHY LOCATION:	Morristown, NJ
ESTIMATED DATE OF PROJECT COMPLETION:	10/15/2021
APPLICANT’S FISCAL YEAR END:	12/31/2021
TAX CREDIT VINTAGE YEAR(S):	2022
TAX FILING TYPE:	Corporate Business Tax
ANTICIPATED CERTIFICATION DATE:	6/1/2022

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

The Garden State Film and Digital Media Jobs Act originally provided a total of \$100 million in tax credits for State Fiscal Year 2022. On January 12, 2022, with approval of expansion of Film and Digital Media Tax Credit that allowed roll over of unused tax credit from prior years added additional 123,405,825.57 to fiscal year 2022. As a result, available tax credit for State Fiscal Year 2022 to \$223,405,825.57 After today's approvals, \$71.64 million remains in the program for State Fiscal Year 2022. There are 23 additional applications in the pipeline totaling \$52.72 million.

APPROVAL REQUEST:

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

APPROVAL OFFICER: M. Bhatia

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

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

As amended by law on 7/2/2021, the eligible tax credit for qualified film production expenses increased from 30% to 35% for applications received after Jan 7, 2021. Additionally, for applications received after July 2, 2021, the program amendment also eliminates the targeted county bonus and specifies a tax credit of 30% for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New, York.

APPLICANT: Diga LLC

PROD-00300421

APPLICANT BACKGROUND:

Diga LLC is the production company responsible for “America’s Next Big Deal”, a first of its kind live shoppable competition show. Each week four entrepreneurs/small business owners take the stage and live sell their products to America for a chance to win a “Big Deal” with a major retailer. The entrepreneur who sells the most during each episode faces our retail panel for a life changing deal. Our retail titans represent Lowes, Macys and QVC.HSN.

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

ELIGIBILITY AND TAX CREDIT CALCULATION:

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

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

A. Total Film Production Expenses	\$13,355,110.84
B. Total Post-Production Expenses	\$794,800.00
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$9,518,954.38
Percentage Calculation = C/(A-B)	76%

Criterion Met	Yes
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2. **Qualified Film Production Expenses:** During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a “qualified film production expenses” unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). “Qualified film production expenses” shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018.	\$10,030,659.38
Criterion Met	Yes

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	\$ 4,296,814.00 x 30% =	\$1,289,044.20
35% of Estimated Qualified Film Production Expenses incurred outside of 30-mile radius of Columbus Circle, NYC	(\$10,030,659.38 - \$4,296,814.00) x 35% =	\$2,006,845.88
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses.	\$10,030,659.38 x 2% =	\$200,613.19
Total Award		\$3,496,503.27

APPLICATION RECEIVED DATE:	10/29/2021
DATE APPLICATION DEEMED COMPLETE:	12/8/2021
PRINCIPAL PHOTOGRAPHY COMMENCEMENT:	09/27/2021
PRINCIPAL NJ PHOTOGRAPHY LOCATION:	Newark, NJ
ESTIMATED DATE OF PROJECT COMPLETION:	12/23/2021
APPLICANT’S FISCAL YEAR END:	12/31/2021
TAX CREDIT VINTAGE YEAR(S):	2022
TAX FILING TYPE:	Corporate Business Tax

ANTICIPATED CERTIFICATION DATE:

2/28/2022

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

The Garden State Film and Digital Media Jobs Act originally provided a total of \$100 million in tax credits for State Fiscal Year 2022. On January 12, 2022, with approval of expansion of Film and Digital Media Tax Credit that allowed roll over of unused tax credit from prior years added additional 123,405,825.57 to fiscal year 2022. As a result, available tax credit for State Fiscal Year 2022 to \$223,405,825.57 After today's approvals, \$71.64 million remains in the program for State Fiscal Year 2022. There are 23 additional applications in the pipeline totaling \$52.72 million.

APPROVAL REQUEST:

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

APPROVAL OFFICER: Dan Madden

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

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

As amended by law on 7/2/2021, the eligible tax credit for qualified film production expenses increased from 30% to 35% for applications received after Jan 7, 2021. Additionally, for applications received after July 2, 2021, the program amendment also eliminates the targeted county bonus and specifies a tax credit of 30% for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New, York.

APPLICANT: Eye On The Ball Enterprises Inc.

PROD-00300467

APPLICANT BACKGROUND:

Eye on the Ball Enterprises Inc. is the production company responsible for “Severance”. The story is set at fictional Lumen Industries, a company that’s looking to take work-life balance to a new level with a “severance procedure” that separates work and out-of-work memories.

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

ELIGIBILITY AND TAX CREDIT CALCULATION:

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

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

A. Total Film Production Expenses	\$112,882,854.00
B. Total Post-Production Expenses	\$7,622,251.00
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$5,144,350.00
Percentage Calculation = C/(A-B)	5%
Criterion Met	No

2. **Qualified Film Production Expenses:** During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a “qualified film production expenses” unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). “Qualified film production expenses” shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018.	\$5,144,350.00
Criterion Met	Yes

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	$\$2,287,147 \times 30\% =$	\$686,144.10
35% of Estimated Qualified Film Production Expenses incurred outside of 30-mile radius of Columbus Circle, NYC	$(\$5,144,350 - \$2,287,147) \times 35\% =$	\$1,000,021.05
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses.	$\$0 \times 2\% =$	\$0.00
Total Award		\$1,686,165.15

APPLICATION RECEIVED DATE:	11/5/2021
DATE APPLICATION DEEMED COMPLETE:	12/07/2021
PRINCIPAL PHOTOGRAPHY COMMENCEMENT:	11/04/2020
PRINCIPAL NJ PHOTOGRAPHY LOCATION:	Holmdel, NJ
ESTIMATED DATE OF PROJECT COMPLETION:	09/16//2021
APPLICANT’S FISCAL YEAR END:	12/31/2021
TAX CREDIT VINTAGE YEAR(S):	2022
TAX FILING TYPE:	Corporate Business Tax
ANTICIPATED CERTIFICATION DATE:	02/28/2022

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

The Garden State Film and Digital Media Jobs Act originally provided a total of \$100 million in tax credits for State Fiscal Year 2022. On January 12, 2022, with approval of expansion of Film and Digital Media Tax Credit that allowed roll over of unused tax credit from prior years added additional 123,405,825.57 to fiscal year 2022. As a result, available tax credit for State Fiscal Year 2022 to \$223,405,825.57 After today's approvals, \$71.64 million remains in the program for State Fiscal Year 2022. There are 23 additional applications in the pipeline totaling \$52.72 million.

APPROVAL REQUEST:

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

APPROVAL OFFICER: D. Lieberman

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

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

As amended by law on 7/2/2021, the eligible tax credit for qualified film production expenses increased from 30% to 35% for applications received after Jan 7, 2021. Additionally, for applications received after July 2, 2021, the program amendment also eliminates the targeted county bonus and specifies a tax credit of 30% for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New, York.

APPLICANT: Bound the Movie LLC

PROD-00300387

APPLICANT BACKGROUND:

Bound the Movie LLC is the Production Company responsible for the movie “Bound”. In order to escape her drug dealing abusive stepfather, a young introvert flees to NYC. After successfully reinventing herself, she realizes she must confront her dark past to truly be free.

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

ELIGIBILITY AND TAX CREDIT CALCULATION:

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

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

A. Total Film Production Expenses	\$637,061.20
B. Total Post-Production Expenses	\$32,500.00
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$513,340.00
Percentage Calculation = C/(A-B)	85%
Criterion Met	Yes

2. Qualified Film Production Expenses: During a single privilege period, the film must have more than

\$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a “qualified film production expenses” unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). “Qualified film production expenses” shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018.	\$513,340.00
Criterion Met	No

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	\$ 128,870.00 x 30% =	\$38,661.00
35% of Estimated Qualified Film Production Expenses incurred outside of 30-mile radius of Columbus Circle, NYC	(\$513,340.00 - \$128,870.00) x 35% =	\$134,564.50
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses.	\$513,340.00 x 2% =	\$10,266.80
Total Award		\$183,492.30

APPLICATION RECEIVED DATE:	10/20/2021
DATE APPLICATION DEEMED COMPLETE:	1/3/2022
PRINCIPAL PHOTOGRAPHY COMMENCEMENT:	10/25/2021
PRINCIPAL NJ PHOTOGRAPHY LOCATION:	Andover, NJ
ESTIMATED DATE OF PROJECT COMPLETION:	11/15/2021
APPLICANT’S FISCAL YEAR END:	12/31/2021
TAX CREDIT VINTAGE YEAR(S):	2022
TAX FILING TYPE:	NJ Gross Income Tax
ANTICIPATED CERTIFICATION DATE:	12/31/2021

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

The Garden State Film and Digital Media Jobs Act originally provided a total of \$100 million in tax credits for State Fiscal Year 2022. On January 12, 2022, with approval of expansion of Film and Digital Media Tax Credit that allowed roll over of unused tax credit from prior years added additional 123,405,825.57 to fiscal year 2022. As a result, available tax credit for State Fiscal Year 2022 to \$223,405,825.57 After today's approvals, \$71.64 million remains in the program for State Fiscal Year 2022. There are 23 additional applications in the pipeline totaling \$52.72 million.

APPROVAL REQUEST:

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

APPROVAL OFFICER: Dan Madden

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

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

APPLICANT: 3 Days Rising, LLC

PROD-00187927

APPLICANT BACKGROUND:

3 Days Rising LLC is the production company responsible for “3 Days Rising”, a reimagining of Edgar Allan Poe’s The Fall of the House of Usher, the film depicts a man struggling with his grip on reality. Living isolated inside a decaying mansion, he suffers from "acuteness of the senses", and his daily rituals appear to be those of a man descending into madness.

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

ELIGIBILITY AND TAX CREDIT CALCULATION:

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

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

A. Total Film Production Expenses	\$500,887
B. Total Post-Production Expenses	\$20,000
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$480,887
Percentage Calculation = C/(A-B)	100%
Criterion Met	Yes

2. Qualified Film Production Expenses: During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible

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

Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018.	\$466,090
Criterion Met	No

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Qualified Film Production Expenses	\$483,590 x 30% =	\$145,077.00
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA, NJ Taxation and Office of Diversity and Inclusion. 2% of Qualified Film Production Expenses.	\$483,590 x 2% =	\$9,671.80
5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.	\$0 x 5% =	\$0
Total Award		\$154,748.80

APPLICATION RECEIVED DATE:	9/16/2019
DATE APPLICATION DEEMED COMPLETE:	1/11/2022
PRINCIPAL PHOTOGRAPHY COMMENCEMENT:	10/27/2019
PRINCIPAL NJ PHOTOGRAPHY LOCATION:	West Orange
ESTIMATED DATE OF PROJECT COMPLETION:	11/23/2019
APPLICANT’S FISCAL YEAR END:	12/31/2020
TAX CREDIT VINTAGE YEAR(S):	2022
TAX FILING TYPE:	Corporate Business Tax
ANTICIPATED CERTIFICATION DATE:	9/30/2022

In general, the final documentation shall be submitted to the Authority no later than four years after

the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 and three years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to the N.J.S.A. 54A:1-1 et seq.

The Garden State Film and Digital Media Jobs Act originally provided a total of \$100 million in tax credits for State Fiscal Year 2022. On January 12, 2022, with approval of expansion of Film and Digital Media Tax Credit that allowed roll over of unused tax credit from prior years added additional 123,405,825.57 to fiscal year 2022. As a result, available tax credit for State Fiscal Year 2022 to \$223,405,825.57 After today's approvals, \$71.64 million remains in the program for State Fiscal Year 2022. There are 23 additional applications in the pipeline totaling \$52.72 million.

APPROVAL REQUEST:

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

APPROVAL OFFICER: M Bhatia

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

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

As amended by law on 7/2/2021, the eligible tax credit for qualified film production expenses increased from 30% to 35% for applications received after Jan 7, 2021. Additionally, for applications received after July 2, 2021, the program amendment also eliminates the targeted county bonus and specifies a tax credit of 30% for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New, York.

APPLICANT: Smarty James, LLC

PROD-00300392

APPLICANT BACKGROUND:

Sparkle – A Unicorn Tale is a family film, suitable for all audiences. When fifteen-year-old Annabelle is sent to live in an orphanage, she runs away with two other kids in hopes of rescuing the animals on her family’s farm before they are taken away by a greedy neighbor. What follows is an adventure of a lifetime filled with magic and hope for the future.

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

ELIGIBILITY AND TAX CREDIT CALCULATION:

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

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

A. Total Film Production Expenses	\$301,825
B. Total Post-Production Expenses	\$33,250
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$191,225
Percentage Calculation = C/(A-B)	71.20%

Criterion Met	Yes
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2. **Qualified Film Production Expenses:** During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a “qualified film production expenses” unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). “Qualified film production expenses” shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

Qualified Film Production Expenses incurred in NJ during a single privilege period after July 1, 2018.	\$224,475
Criterion Met	No

AWARD CALCULATION

Base Award Criteria	Calculation	Result
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	\$0 x 30% =	\$0.00
35% of Estimated Qualified Film Production Expenses incurred outside of 30-mile radius of Columbus Circle, NYC	\$224,475.00 x 35% =	\$78,566.25
Bonus Criteria Met		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses.	\$0 x 2% =	\$0.00
Total Award		\$78,566.25

APPLICATION RECEIVED DATE:	10/22/2021
DATE APPLICATION DEEMED COMPLETE:	01/07/2022
PRINCIPAL PHOTOGRAPHY COMMENCEMENT:	09/20/2021
PRINCIPAL NJ PHOTOGRAPHY LOCATION:	Bridgeton City, NJ
ESTIMATED DATE OF PROJECT COMPLETION:	10/08/2021
APPLICANT’S FISCAL YEAR END:	12/31/2021
TAX CREDIT VINTAGE YEAR(S):	2022
TAX FILING TYPE:	Corporate Business Tax

ANTICIPATED CERTIFICATION DATE:

02/28/2022

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

The Garden State Film and Digital Media Jobs Act originally provided a total of \$100 million in tax credits for State Fiscal Year 2022. On January 12, 2022, with approval of expansion of Film and Digital Media Tax Credit that allowed roll over of unused tax credit from prior years added additional 123,405,825.57 to fiscal year 2022. As a result, available tax credit for State Fiscal Year 2022 to \$223,405,825.57 After today's approvals, \$71.64 million remains in the program for State Fiscal Year 2022. There are 23 additional applications in the pipeline totaling \$52.72 million.

APPROVAL REQUEST:

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

APPROVAL OFFICER: K. Mironova



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 9, 2022

SUBJECT: Main Street Recovery Finance Program - Micro Business Loan – Product Revision

Summary

The Members are asked to approve a revision to the Main Street Recovery Finance Program - Micro Business Loan to allow for eligibility for businesses that have been in operation for at least 6 months prior to date of the business' loan application, rather than 6 months prior to the date the loan application was made available to the public.

Background

At the November 10, 2021 meeting, the Members approved the creation of the Main Street Micro Business Loan, a pilot product funded through the Main Street Recovery Finance Program, to provide support to New Jersey micro businesses. The Main Street Micro Business Loan offers financing of up to \$50,000 to for-profit and non-profit businesses, including home-based businesses, registered to do business in New Jersey (except for non-profit businesses that are not required to register), with a business location (including a home office) in New Jersey.

Product Revision

The product, as approved by the Members in November 2021, includes an eligibility requirement that all entities must be in existence, as evidenced by date of formation/incorporation, and in operation for at least six months prior to the date that the application will be made available to the public. The current requirement means that all applicants will be evaluated based on the same date based on when the application was made available to the public.

The intent of the requirement was to ensure that a business had been legally formed and was in at least a brief period of operation before it could qualify for this loan. However, because this product is expected to be an ongoing product offering, this requirement will inadvertently disqualify businesses that are formed less than 6 months before, or after the application is

launched, from ever being eligible to apply for the product. By revising this requirement to be six months prior to the date of the business' application, rather than the it will ensure that the program requirement withstands the duration of the program, and allow businesses that are formed and in operation shortly before, or after the application is launched, to be able to eventually apply for the product.

This is the only product revision requested, and all other product details will remain as approved from the November 10, 2021 Board meeting.

Recommendation

Approval is requested for a revision to the Main Street Recovery Finance Program – Micro Business Loan to allow for eligibility for businesses that have been in operation for at least 6 months prior to date of the business' loan application, rather than 6 months prior to the date the loan application was made available to the public.



Tim Sullivan, CEO

Attachments:

Exhibit A – Main Street Micro Business Loan – Product Specifications – updated

Main Street Micro Business Loan - Proposed Product Specifications	
Funding Source	<p>Up to \$20,000,000 - Main Street Recovery Fund under Economic Recovery Act</p> <p>40% or \$8 million of total funding amount will be reserved for businesses located in an eligible NJ Opportunity Zone census tract.</p>
Program Purpose	To provide low-cost financing to micro businesses in New Jersey.
Eligible Applicants	<p>The following entities are eligible for financing under the Main Street Micro Business Loan:</p> <ul style="list-style-type: none"> • For-profit business, non-profit, and home-based businesses with a business location in New Jersey and that have been in operation for at least six months prior to the date of application • No real estate or holding companies are eligible for this product. <p>All entities must meet the following requirements to be eligible under the Micro Business Loan:</p> <ul style="list-style-type: none"> • Must have annual gross revenues of \$1,500,000 or less according to the most recent federal tax return that the applicant was required to file. • At time of application and three months prior to application entity cannot have more than 10 full-time employees in total. All employees must work in New Jersey as evidenced by WR-30 filings. There is no minimum employee number and sole proprietors are eligible. • One loan per business entity (verified by the business's employer identification number, or EIN) • Applicants and recipients of the original Micro Business Loan are eligible for this loan if they meet all eligibility requirements.

Main Street Micro Business Loan - Proposed Product Specifications

<p>Eligible Applicants (continued)</p>	<ul style="list-style-type: none"> • A business entity with multiple locations (that is, all locations operate under only one EIN) will be limited to one application under this new product (under the sole business entity). • Entity must provide a current Tax Clearance Certification prior to receiving EDA approval. • Applicant must be in substantial good standing with the Department of Labor and Department of Environmental Protection, with all decisions of substantial good standing at the discretion of the Commissioner of the Department of Labor. • Applicant must submit a completed legal debarment questionnaire and not be subject to disqualification based on that questionnaire. <p>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; or any activity constituting a nuisance.</p>
<p>Eligible Uses</p>	<ul style="list-style-type: none"> • Future operating expenses, which may be held as working capital to fund such future operating expenses • Future inventory expenses • Future purchases of equipment as long as installation and construction costs do not exceed \$1,999.99 • Home-based businesses cannot use loan, proceeds for any residential costs (i.e. home mortgage/lease payments) <p>The following uses are not eligible uses:</p> <ul style="list-style-type: none"> • Refinancing of existing debt

Main Street Micro Business Loan - Proposed Product Specifications

<p>Eligible Uses (continued)</p>	<ul style="list-style-type: none"> • Personal, non-business obligations or costs incurred by related entities • Construction • Equipment requiring installation or construction costs in excess of \$1,999 • Rolling stock - no cars, trucks, or vans can be purchased
<p>Application Process and Board Approval/ Delegated Authority</p>	<ul style="list-style-type: none"> • Applications will be reviewed on a rolling basis (first-come, first- served as applications are completed) until all funds are committed or program expires (3 years). • Delegation to Authority staff (Chief Community Development Officer, Managing Director - Underwriting and Community Development, Director of Small Business Services, Senior Vice President of Finance and Development, or Vice President of Business Operations) to approve individual applications to the Main Street Micro Business Loan in accordance with the terms set forth in the attached program specifications. • The delegated authority requested for approval also includes the delegated authority to decline for any decisions based solely on non-discretionary reasons. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval by a Chief Legal & Strategic Affairs Officer, any Vice President, or the Director Legal Affairs. • Entities whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 10 business days). The Director of Legal Affairs will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will recommend a final administrative decision. For final appeal decisions on non-discretionary reasons, delegated authority is issued to the following staff: Chief Legal & Strategic Affairs Officer, any Vice President, and Director of Legal Affairs.

Main Street Micro Business Loan - Proposed Product Specifications

<p>Underwriting/ Approval Criteria</p>	<ul style="list-style-type: none"> • For for-profit businesses, the financial information that is provided will only be utilized to verify annual revenue to determine an applicant's eligibility criteria and ownership - it will not be used to determine the applicant's ability to repay this loan. However, all owners will need to provide a guarantee. • If otherwise eligible, staff will have a specialty hard credit report pulled specific for small businesses from CoreLogic Credco. At least one of the guarantors (owners) must have a credit score of 600 and above in at least one of the three data sources provided in the credit report: Equifax (Beacon 5.0), Experian (FICO II), and TransUnion (FICO Classic 04). • Non-profits will be required to meet a minimum Debt Service Coverage Ratio (DSCR) of 1.00x based on most recent tax return or financial statements.
<p>Loan Amounts</p>	<p>Up to \$50,000</p>
<p>Rates & Terms</p>	<ul style="list-style-type: none"> • Standard 10-year term • The interest rate will be 2 percent for this program, set at approval. • No payments or interest will accrue during the first year after closing. Payments of principal and interest will begin at the beginning of year 2. • No payment term amendments are allowed prior to end of 5th year - all other modifications unrelated to the payment terms may be permitted throughout the term of the loan. If after the 5th year any payment terms are modified, the business will no longer be eligible for forgiveness. • At the end of year 5 the applicant may be eligible for the balance to be forgiven if the applicant (1) has made their loan payments as identified in their loan agreement with no

Main Street Micro Business Loan - Proposed Product Specifications

<p>Rates & Terms (continued)</p>	<p>delinquency of more than 90 days, (2) has no current default, and (3) is still be open and operating. The applicant will be required to submit a certification form to EDA certifying that they are open and operating, that they have used the loan for approved purposes only, and that they are not in default. This form will be included in the loan agreement and must be returned by the applicant 60 days prior to the end of the 5th year so a decision can be made by EDA. If the applicant does not submit the form by that date, they may still qualify for loan forgiveness, however loan payments will continue to be required until their certification form is supplied to and verified by EDA, which will reduce the balance EDA will forgive. Staff will verify the business is open and operating, which may be through an Internet search. If verified, EDA will forgive the remaining balance at the end of year 5 or later if the certification form is not received by the due date as described above. If an applicant is not eligible for forgiveness or does not request forgiveness and submit the required documentation, they are required to continue making their payments as defined in their loan agreement.</p>
<p>Lien/Collateral/Security</p>	<ul style="list-style-type: none"> • No collateral is required • Guarantee is required of all owners except for non-profits • Risk Rating: expected to be substandard. If the risk rating is found to support an override to a lower risk rating, then staff will do so to reflect the appropriate rating.
<p>Fees</p>	<p>Staff is requesting a partial waiver of EDA's standard application and closing fees because of the drastic negative impact of the pandemic on most micro businesses:</p> <ul style="list-style-type: none"> • Application fee of \$100 (non-refundable) at time of application

Main Street Micro Business Loan - Proposed Product Specifications

<p>Fees (continued)</p>	<ul style="list-style-type: none"> • Closing fee: \$400 <p>EDA will use up to 3% of the \$20 million funding for administration to process applications and to cover other operating fees since fees to applicants are reduced.</p> <p>EDA will use an additional amount up to \$250,000 to hire temporary employees for processing if deemed necessary.</p>
<p>Disbursement</p>	<p>Approved loan amount to be fully disbursed upon closing.</p>

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

NJ Accelerate Loan

APPLICANT: ABF Creative Inc.

PROD-00301572

PROJECT USER(S): Same as applicant

PROJECT LOCATION: 1 Washington Pl. 7th Floor Newark City Essex County

APPLICANT BACKGROUND:

ABF Creative is a data-driven multicultural podcast network and production company that bridges the gap between culture and media. The Company targets underserved multicultural listeners with a vertically integrated podcast network where ABF Creative fully owns the IP and distribution of an entire slate of original podcasts. The Company specializes in both general interest (news, business, sports, entertainment, lifestyle) as well as children's content.

OTHER NJEDA SERVICES:

APPROVAL REQUEST:

Approval is requested for a \$262,500 Accelerate loan as proposed.

FINANCING SUMMARY:

LENDER: NJEDA

AMOUNT OF LOAN: \$262,500

TERMS OF LOAN: 10-Year Term. The proposed loan will have a fixed interest rate of 3% with no payments for the first 84 months. Interest during this period will accrue and capitalize. Beginning month 85 principal plus interest payments will begin for the remaining three-year term to fully amortize the loan.

PROJECT COSTS:

TOTAL COSTS: \$262,500.00

JOBS:

NJ Full Time Jobs at Application	Expected New Full Time Eligible Jobs at Project Site	Full Time Maintained Jobs at Project Site	Estimated Construction Jobs
1	3	1	0

DEVELOPMENT OFFICER: Monica Valenzuela

UNDERWRITER OFFICER: Madhavi Bhatia

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
CONFIDENTIAL MEMORANDUM OF ANALYSIS**

NJ Accelerate Loan
Funding Source: ERF

ABF Creative Inc.
1 Washington Pl., 7th Floor
Newark, NJ 07102
PROD-00301572

March 9, 2022

REQUEST

Approval is requested for a NJ Accelerate loan of \$262,500 to support ABF Creative Inc. (“the Company”).

NJ ACCELERATE

On February 11th, 2020, the NJEDA Board approved the pilot program NJ Accelerate. The total program budget is \$2.5 million. Through NJ Accelerate, the NJEDA seeks to provide early-stage businesses access to best-in-class Accelerator programs, enabling the tools and support to grow their businesses in the Garden State. The program provides up to \$250,000 of direct loan funding and up to 6 months of free rent to Approved Accelerator Graduates located in New Jersey. Graduates certified as woman or minority owned can receive an additional 5% bonus to the direct loan amount as well as 1 additional month of rent. Approved Accelerators may also receive sponsorship of up to \$100,000 to produce events in NJ to encourage their on-the-ground engagement in the State. Also, a sponsorship bonus of 5% is available for Approved Accelerators demonstrating meaningful written policies and practices for attracting and promoting companies owned by women and minority persons. The goal of the NJ Accelerate program is to attract more accelerator activities in New Jersey and to encourage greater participation by New Jersey’s entrepreneurs in accelerator programs that provide specialized expertise, mentorship and technical assistance, thereby, increasing the success of those companies.

To date the Authority has approved 4 Accelerator programs, under delegated authority, to participate in the program. These are - Morgan Stanley Multicultural Innovation Lab, Cleantech Open Northeast, VentureWell, and University City Science Center - Launch Lane. Participating accelerators can be from outside of New Jersey with the goal of attracting graduate companies from top accelerator programs to the state.

NJ ACCELERATE LOAN

As per the NJ Accelerate program guidelines approved by the Board on February 11, 2020 and updated on July 14, 2020, the proposed loan will be for a 10-year term and will have a fixed interest rate of 3% with no payments for the first 84-months. Interest is to be accrued and capitalized during this period. Beginning with month 85, principal plus interest payments will begin for the remaining 36-month term to fully amortize the disbursed loan along with capitalized interest. The Authority, at

its option, may convert its loan into equity during any future qualified rounds of equity investments. The price per share for equity conversion will be the prevailing price offered to all investors. Additionally, the NJEDA will receive a warrant in effect for a 10-year period. The warrant amount will equal to 50% of the loan amount.

ACCELERATOR PROGRAM

Morgan Stanley Multicultural Innovation Lab (MSMIL) is an accelerator based in New York, New York for technology and technology-enabled startups in the post-seed to Series B funding rounds. The program, now in its sixth year and with 59 total participating companies to date, targets startups with a multicultural or woman founder, co-founder, CTO or other C-suite member that is developing innovative solutions across sectors. Through the Lab, Morgan Stanley makes investments in these early stage, high-growth companies and supports each founder's growth and development through its global ecosystem of internal and external partners. In addition to thorough business training provided to companies, MSMIL provides a platform of events and post-graduation engagement. MSMIL is led by two program champions and co-heads, Carla Harris, Vice Chairman, Managing Director, Senior Client Advisor, Co-Head Multicultural Client Strategy, and Alice Vilma, Managing Direct, Co-Head Multicultural Client Strategy, themselves, highly visible and respected authorities of Diversity & Inclusion practices. MSMIL was approved on November 13, 2020 as an Approved Accelerator for NJ Accelerate program. Of note, MSMIL was the 1st approved NJ Accelerator partner. ABF Creative Inc. was part of the "Winter 2021" and graduated from MSMIL accelerator program on July 30, 2021.

DESCRIPTION OF BUSINESS/PRODUCT

Newark, NJ based ABF Creative (<https://www.abfc.co>) is a data-driven multicultural podcast network and production company that bridges the gap between culture and media. The Company targets underserved multicultural listeners with a vertically integrated podcast network where ABF Creative fully owns the proprietary technology and distribution of an entire slate of original podcasts. The Company specializes in both general interest (news, business, sports, entertainment, lifestyle) as well as children's content.

ABF Creative has developed a proprietary production framework that enables the Company to build a scalable podcast with less resources than a typical narrative podcast production company. The ABF Creative management team possesses a deep understanding of the Company's target audience. This enables ABF Creative to deliver podcasts that engage multicultural listeners and provide its partners with effective vehicles for their brand messaging.

An example of ABF Creative's work, the company won a Webby Award¹ for its series "African Folktales" in 2021. The Company produced a live podcast in partnership with The GRAMMY Museum. The podcast series titled "Leaders Create Leaders" interviewed influencers around the topic of financial wellness. The series received well over 250k targeted impressions.

¹ <https://www.webbyawards.com/>

MATCH FUNDING

ABF Creative received \$250,000 in a Convertible Promissory Note from Strategic Investments I, Inc. on behalf of Morgan Stanley Multicultural Innovation Lab (MSMIL). Strategic Investments I Inc. is a wholly owned business subsidiary of Morgan Stanley. It makes and holds all their early stage venture activity, including investments made through the MSMIL program. The Promissory Note is unsecured, carries 3% interest (that accrues but is not paid) and has a maturity date of 8/14/23. ABF Creative is a minority owned business. The Company has submitted a MBE certificate issued by NJ Department of Treasury. As such, under the NJ Accelerate program guideline, the Company will receive a 5% bonus.

OTHER FUNDING

ABF Creative received \$100,000 in a Promissory Note from Newark Venture Partners Fund, L.P. (NVP) in December 2019. The Promissory Note carries 6% interest (that accrues but is not paid) and had a maturity date of 12/23/21. Newark Venture Partners and ABF Creative are in the process of extending the maturity date. Of note, NJEDA is an LP investor in Newark Venture Partners' Fund I and II.

TEAM

ABF Creative's management team is led by its Founders – Anthony Frasier and Wanda Reynolds. In addition, the team includes a CTO, an Executive Producer, a Sound Engineer and a part-time CFO and Digital Manager. The team has extensive experience in audio content production. The Company is in the process of forming its Board. MSMIL has rights to appoint an observer to ABF Creative's Board.

Anthony Frasier, Co-Founder & CEO (73.91% ownership)

Anthony Frasier is a co-founder and CEO of ABF Creative. While cultivating the landscape of his own company, Mr. Frasier is also the Entrepreneur in Residence at Newark Venture Partners, a Board Member for the New York Tech Alliance, and served as a producer at NPR, building audio campaigns for brands. His work has been featured on Fast Company, BET, CNN Black In America, CNN Money, and USA Today.

Wanda Reynolds, Co-Founder & COO (13.04% ownership)

Wanda Reynolds is a co-founder, COO and Executive Producer at ABF Creative. Ms. Reynolds specializes in growing strategic partnerships inclusive of brands like Ben & Jerry, Wondery, Vox Media, Audible, etc. She also serves as a creative lead for most of the podcasts on the ABF's network. Prior to forming ABF Creative, Ms Reynolds was a middle school educator for over 17 years. Her classroom experience guides Ms Reynolds' role of curating children's content for ABF Creative. Ms. Reynolds received her MBA from Rutgers University. At present, Ms. Reynolds works a contractor with ABF Creative.

Mike Bisceglia, Executive Producer

At ABF Creative, Mr. Bisceglia has produced shows like the Webby award-winning African Folktales with Miss Jo Jo, Real Sports Heroes and The Invisible Vote. Prior to joining ABF Creative, Mr. Bisceglia served as an executive producer for CBS Radio for 9 years. He currently works as a contractor with ABF Creative.

FINANCIAL ANALYSIS

ABF Creative generated \$20,000 in revenue in the year 2020 and \$252,000 in revenue for the year 2021 – more than 12x increase as compared to revenue in 2020. During 2021, the Company produced 10 podcasts across various genres (Sports, Entrepreneurship, Social Justice, etc.) that had more than 5 million streams. ABF Creative has three sources of revenue – 1. Podcast Subscriptions (Revenue from podcasts based on proprietary technology and content developed or co-developed by the Company), 2. Production Fee (Revenue from podcasts produced by the Company on behalf of streaming platforms, brands, or networks), and, Podcast Advertisement (Revenue from profit shares, and licenses).

Projections	Projected 2022	Projected 2023	Projected 2024
Podcast Subscription Revenue	15,154,000	35,068,000	67,548,000
Podcast Advertisement	1,684,000	3,392,000	7,392,000
Total Revenue	\$16,838,000	\$38,460,000	\$74,940,000

COGS	\$8,504,000	\$21,935,000	\$33,782,000
Gross Profit	\$8,334,000	\$16,525,000	\$41,158,000
Gross Profit Margin	49.50%	42.97%	54.92%

EBIT	\$6,900,000	\$14,309,000	\$37,080,000
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The target market for ABF Creative includes brands and media companies who find it challenging to reach multicultural audiences with their audio marketing efforts. The Company serves its partners through the ideation stage of a podcast, production, all the way to distribution. Podcasting is an increasingly popular pastime in the U.S. and there were an estimated 120 million podcast listeners in the country in 2021. Forecasts suggest that the number of podcast listeners will surpass 160 million in 2023 after increases of around 20 million each year.² The Company is confident that with its Original content, it will meet family content demands of underserved communities.

On December 31, 2021, ABF Creative reported \$301,000 in Total Assets – comprised of \$232,000 in Cash and \$70,000 in Accounts Receivables. As noted earlier, the Company received \$350,000 in Promissory Notes from MSMIL (\$250,000) and NVP (\$100,000). In addition, ABF Creative received \$47,900 through an Economic Injury Disaster Loan (EIDL). EIDL has 30-year term with 1% interest rate.

USE OF FUNDS

ABF Creative plans to use the funds from the NJ Accelerate loan for working capital needs such as – podcast production, expanding marketing & distribution related activities, and further technology refinement.

² <https://www.statista.com/topics/3170/podcasting/>

COLLATERAL

The loan is unsecured as per the Board approved NJ Accelerate program guidelines.

WARRANT ANALYSIS

Warrants issued at the time of the commitment will entitle the Authority the right to buy a specific amount of securities at a specific price. The price established is at the current market price and the term of the warrants is for a period of 10 years. If there is no current market price, the price is set at one penny. In the event of a sale of the Company and the strike price of the warrant is less than the stock sale price, the Authority will generate a gain on the net difference. In the event the Company is not sold; the warrant will remain unused and expire with no value to the Authority.

The matching funds for this loan are structured as a Convertible Security Purchase Agreement without a price. Therefore, the NJEDA will receive a warrant for \$131,250 worth of shares with the strike price of one penny.

RISK RATING

The loan will be rated at Technology – Fully Reserved as per the Board approved NJ Accelerate program guidelines.

NJ ACCELERATE LOAN PROGRAM ALIGNMENT

NJ Accelerate Loan Program Guideline	ABF Creative Inc.
The Company must have graduated from an Approved Accelerator program within six months prior to the application.	Multicultural Innovation Lab (MIL) became an Approved Accelerator under the NJ Accelerate program on November 13, 2020. ABF graduated from MIL on July 30, 2021. The Company submitted an application for NJ Accelerate loan on January 20, 2022 - within six months of graduation from MIL.
The Company must submit a letter from Approved Accelerator confirming successful accelerator program graduation.	ABF has submitted a letter from MIL confirming successful graduation from its accelerator program.
The Company must be registered to do business in NJ.	ABF has submitted a NJ Tax Clearance Certificate.
The Company must have received funding from an approved accelerator.	ABF received \$250,000 in the form of a Promissory Note from Strategic Investments I, Inc. Strategic Investments I, Inc. is a wholly owned subsidiary of Morgan Stanley.
The Company operates in one of the 8 NJ targeted Innovation Economy sectors.	ABF operates in the Technology sector.
The Company must have a minimum of 2 founders/employees devoting 100% of their professional time to the Company at Note closing date, with an average of 80% of that time in the State.	Anthony Frasier and Wanda Reynolds are two founders of ABF Creative. Both devote 100% of their professional time to ABF Creative – with an average of 80% of that time in New Jersey.
More than 50% of the Company employees work in NJ or pay taxes in NJ.	ABF has five full-time and one part-time employees. Three of the full-time employees (60%) and one part-time employee work in NJ. One full-time employee is on a W2 while the rest are on 1099s.

The Company must submit NJWR30 or a letter from NJ Registered PEO as a verification for NJ employees.	ABF has submitted NJWR30 for Q4 2021
The Company must submit an executive summary.	ABF has submitted an executive summary.

RECOMMENDATION

Approval is recommended for a loan of \$262,500 as proposed.

 Madhavi Bhatia
 Program Manager

 Monica Valenzuela
 Product Officer - NJ Accelerate

 Clark Smith
 Director – Innovation Programs

CONFIDENTIAL

MEMORANDUM

TO: Members of the Authority
FROM: Tim Sullivan, Chief Executive Officer
DATE: March 9, 2022
SUBJECT: NJDEP Hazardous Discharge Site Remediation Fund Program

The following municipal project has been approved by the Department of Environmental Protection to perform remedial action activities. The scope of work is described on the attached product summary:

HDSRF Municipal Grant:

Product 301705	National Park Borough (Robert Harthorne Sanitary Landfill)	\$2,986,335.86
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Total HDSRF Funding –March 2022	\$2,986,335.86
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Tim Sullivan, CEO

Prepared by: Kathy Junghans

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Hazardous Discharge Site Remediation

APPLICANT: National Park Borough

PROD-00301705

PROJECT USER(S): Same as applicant

PROJECT LOCATION: Robert Hawthorne Sanitary Landfill National Park Borough Gloucester County

APPLICANT BACKGROUND:

Between August 2007 and July 2021, Borough of National Park, identified as Block 111, Lots 1, 2 & 3 received an initial grant in the amount of \$266,537 under P17808 and supplemental grants in the amount of \$104,946 under P32343, \$63,931 under P40734, \$286,257 under P44798, \$264,516 under P45450, \$900,000 under P45638, \$447,293 under Product 188154, \$831,083 under Product 218899, \$672,484.75 under Product 258778 and \$2,325,059.15 under Product 300433 for preliminary assessment (PA), site investigation (SI) remedial investigation (RI) and remedial action (RA) at the project site which is a former landfill and has potential environmental areas of concern (AOCs). The Borough of National Park currently owns the project site and has satisfied proof of site control. It is the Borough's intent upon completion of the environmental investigation activities to redevelop the project site for renewable energy.

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

According to the HDSRF legislation, a grant can be awarded to a municipality, county or redevelopment entity authorized to exercise redevelopment powers up to 75% of the costs of remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the redevelopment plan and is conveyed by a development easement, deed restriction for development or conservation easement for recreation and conservation purposes.

OTHER NJEDA SERVICES:

\$266,537, P17808; \$104,946, P32342; \$63,931, P40734; \$286,257, P44798; \$264,516, P45450; \$900,00, P45638; \$447,293, Product 188154; \$831,083, Product 218899; \$672,484.75, Product 258778, \$2,325,059.15, Product 300433

APPROVAL REQUEST:

Borough of National Park is requesting aggregate supplemental grant funding to perform RA in the amount of \$2,986,335.86 at the Robert Hawthorne Sanitary Landfill project site. Total grant funding including this approval is \$9,148,442.76.

FINANCING SUMMARY:

GRANTOR: Hazardous Discharge Site Remediation Fund

AMOUNT OF GRANT: \$2,986,335.86

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

Remedial Action	\$2,986,335.86
EDA Administrative Cost	\$500.00

TOTAL COSTS: \$2,986,835.86

DATE: 2/28/2022

MEMORANDUM

TO: Members of the Authority
FROM: Tim Sullivan, Chief Executive Officer
DATE: March 9, 2022
SUBJECT: NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program

The following residential and supplemental commercial projects have been approved by the Department of Environmental Protection to perform tank removal and site remediation activities. The scope of work is described on the attached project summary:

PUST Grants:

Residential

Product 301466	Joseph Martin	\$216,826.72
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Commercial

Product 301468	George's Friendly Service	\$132,123.00
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Product 288662	Warren Isaacs	\$ 83,901.79
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Total UST Funding – March 2022	\$432,851.51
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Tim Sullivan

Prepared by: Kathy Junghans

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Underground Storage Tank - Residential

APPLICANT: Joseph Martin

PROD-00301466

PROJECT USER(S): Same as applicant

PROJECT LOCATION: 70 N Spring Garden Avenue Nutley Township Essex County

APPLICANT BACKGROUND:

Joseph Martin is a homeowner seeking to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank will be decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible. Financial statements provided by the applicant demonstrate that the applicant's financial condition conforms to the financial hardship test for a conditional hardship grant.

OTHER NJEDA SERVICES:

None

APPROVAL REQUEST:

The applicant is requesting grant funding in the amount of \$216,826.72 to perform the approved scope of work at the project site. The NJDEP has determined that project location poses an Immediate Environmental Concern (IEC).

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$216,826.72

TERMS OF GRANT: No Interest; No Repayment

PROJECT COSTS:

UST Project: Upgrade, Closure, Remediation	\$216,826.72	EDA Administrative Cost	\$250.00
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TOTAL COSTS: \$217,076.72

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Underground Storage Tank - Commercial

APPLICANT: George's Friendly Service

PROD-00301468

PROJECT USER(S): Same as applicant

PROJECT LOCATION: 406 New Milford Avenue Dumont Borough Bergen County

APPLICANT BACKGROUND:

Between August 1998 and October 2017, George's Friendly Service, owned by Steve Finck and William Finck received an initial grant in the amount of \$100,000 under P10255, and supplemental grants in the amount of \$77,577 under P10255s, \$256,001 under P33693, \$52,306 under P38650 and \$94,312 under 44286 to perform groundwater remediation for the closure of the former underground storage tanks (USTs) at the project site. The tanks were decommissioned in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible to perform additional remedial activities.

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

OTHER NJEDA SERVICES:

\$100,000, P10255; \$77,577, P10255s; \$256,001, P33693; \$52,306, P38650; \$94,312, P44286

APPROVAL REQUEST:

The applicant is requesting aggregate supplemental grant funding in the amount of \$132,123 to perform the approved scope of work at the project site. The project site is located in a metropolitan planning area and is eligible up to \$1,000,000 in grant funding. Total grant funding including this approval is \$721,319.00.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$132,123.00

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

PROJECT COSTS:

UST Project: Remediation	\$132,123.00	EDA Administrative Cost	\$500.00
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TOTAL COSTS: \$132,623

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Underground Storage Tank - Commercial

APPLICANT: Warren Isaacs

PROD-00288662

PROJECT USER(S): Same as applicant

PROJECT LOCATION: 914 St. Georges Ave W Linden City Union County

APPLICANT BACKGROUND:

Between October 2011 and December 2014, Warren Isaacs, the former owner of Midas of Linden, received a grant in the amount of \$105,934 under P34014 and a supplemental grant in the amount of \$214,609 under P39402 to close and remediate a regulated underground storage tank. The tank was decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the supplemental project costs are technically eligible to perform additional remedial activities.

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

OTHER NJEDA SERVICES:

\$105,937, P34014; \$214,609, P39402

APPROVAL REQUEST:

The applicant is requesting aggregate supplemental grant funding in the amount of \$83,901.79 to perform the approved scope of work at the project site. Because the aggregate supplemental funding including this request is \$298,510.79 it exceeds the maximum aggregate staff delegation approval of \$100,000 and therefore requires EDA's board approval. Total grant funding including this approval is \$404,447.79. The project site is located in a metropolitan planning area and is eligible for up to \$1 million in grant funding.

FINANCING SUMMARY:

GRANTOR: Petroleum UST Remediation, Upgrade & Closure Fund

AMOUNT OF GRANT: \$83,901.79

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

PROJECT COSTS:

UST Project: Remediation	\$83,901.79
EDA Administrative Cost	\$500.00

TOTAL COSTS: \$84,401.79

DATE: 2/16/2022



MEMORANDM

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: March 9, 2022

Subject: Linden Renewable Energy, LLC PROD-00228622 Third Amended and Restated Bond Resolution

Summary

The Members are requested to approve a Third Amended and Restated Bond Resolution (see Attachment A) for Linden Renewable Energy, LLC (“Linden” or the “Applicant”). The resolution will increase the total costs of the project from \$281,200,000 to \$320,000,000 and the maximum amount of financial assistance requested of the Authority from \$214,000,000 to \$240,000,000 (see Attachment B). The resolution will also renew the Authority’s volume cap allocation for the issuance of bonds and grant the Applicant a new eight-month period with an additional 30-day extension to close on the approved project.

Background

On April 14, 2021, the Authority approved a final bond resolution for Linden authorizing the issuance of tax-exempt bonds not to exceed \$195,000,000. The bond proceeds will be used primarily to develop an organic waste anaerobic digester facility and to a lesser degree fund a debt service reserve fund, pay interest on the bonds during the construction, and pay the cost of issuance. The original approval is attached as Attachment C.

On July 14, 2021, the Authority approved a Volume Cap Renewal Resolution (see Attachment D) for Linden. The Applicant and its Bond Counsel communicated to EDA staff that the Bond closing was taking longer than anticipated due to delays in engineering, procurement, and drafting of the construction contract and operation and maintenance agreement. The resolution renewed the Authority’s volume cap allocation for the issuance of bonds and granted the Applicant a new 60-day period with an additional 30-day extension to close on the approved project.

On September 22, 2021, the Authority approved an Amended and Restated Bond Resolution (see Attachment E) which increased the total costs of the Project to \$281,200,000 and the maximum amount of financial assistance requested from the Authority to \$214,000,000. The Applicant stated commodity price increases and a delay in the start of construction as the reason for the increased project costs and additional funding need. The primary increases in project costs were centered in construction costs and equipment. Soft costs such as finance and legal fees also increased, however, to a lesser degree.

On December 8, 2021, the Authority approved a Second Amended and Restated Bond Resolution (see Attachment F) for Linden. The resolution renewed the Authority's volume cap allocation for the issuance of bonds and granted the Applicant a new 60-day period with an additional 30-day extension to close on the approved project.

On February 8, 2022, the Applicant filed an additional amendment to the original application which increased the total costs of the Project to \$320,000,000 and the maximum amount of financial assistance requested from the Authority to \$240,000,000 to address project delays and increased costs to develop the Project.

Linden has experienced numerous delays developing the Project, including, most recently, the need to obtain an access easement over a private road that is owned by several commercial businesses. To explain, the primary road providing access to the site is approximately one mile long. At the end of the road is a 21-acre parcel which is the site of the Applicant's project. The road is owned by numerous commercial businesses all of which have historically used the road for their various establishments. This financing requires certain access endorsements from the title company that can only be secured by having individual access easements with each landowner. The process of negotiating the easements has taken longer than anticipated but expected to be completed in late February to early March 2022.

Linden's Project produces a renewable natural gas (RNG) product that will be sold to a Canadian based gas supply utility under a long-term agreement. The utility is under a regulatory mandate to secure a certain percentage of their total natural gas supply as RNG. Linden has executed a final term sheet with the utility and expects shortly to execute the final agreement. Once the final agreement has been executed, the utility files for regulatory approval. Regulatory approval is expected to be completed within the next 6-8 weeks.

Linden has been actively engaged in this project for the past four years and has incurred approximately \$14 million in project costs to date. The Applicant expects all outstanding items to be completed in time to close the Bonds by the end of May 2022. EDA staff in its recognition of the Applicant working through this large and complex project during these uncertain economic times recommends that the EDA provide continued support in the form of an increased volume cap allocation as requested and longer than standard runway to close on the bonds.

Recommendation

It is recommended that the Members approve the Third Amended and Restated Bond Resolution for Linden Renewable Energy, LLC which will increase the total costs of the project to \$320,000,000, the maximum amount of financial assistance requested from the Authority to \$240,000,000, and provide a new eight-month period with an additional 30-day extension to close on the approved project.



Tim Sullivan, CEO

Attachments:

- Attachment A – Linden Renewable Energy - Third Amended and Restated Bond Resolution
- Attachment B – Linden Renewable Energy, LLC Project Summary PROD-00228622 March 9, 2022
- Attachment C – Linden Renewable Energy, LLC Project Summary PROD-00228622 April 14, 2021
- Attachment D – Linden Renewable Energy, LLC Volume Cap Renewal Resolution Adopted: July 14, 2021
- Attachment E – Linden Renewable Energy, LLC Amended and Restated Bond Resolution Adopted: September 22, 2021
- Attachment F – Linden Renewable Energy, LLC Second Amended and Restated Bond Resolution Adopted: December 8, 2021

Attachment B

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Stand-Alone Bond

APPLICANT: Linden Renewable Energy, LLC

PROD-00228622

PROJECT USER(S): Same as applicant

PROJECT LOCATION: 4900 Tremley Point Road Linden City Union

APPLICANT BACKGROUND:

Linden Renewable Energy, LLC, established in 2019, will be an organic waste anaerobic digester (AD) facility which will use food waste and other processed organic material to produce Renewable Natural Gas (RNG) and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment.

Linden Renewable Energy, LLC is a wholly owned subsidiary of RNG Energy Solutions, LLC. RNG Energy Solutions, LLC (RNG) develops, finances, owns and manages the operations of state-of-the-art anaerobic digester projects that produce renewable natural gas. As the successor company to AgEnergy USA, RNG brings three decades of conventional and alternative energy development experience in the agricultural, urban and industrial environments. Most notably, AgEnergy USA completed the development of the Heartland Renewable Energy project, which is the largest codigestion anaerobic digester project in the world.

Anaerobic digestion is a sequence of processes by which microorganisms break down biodegradable material in the absence of oxygen. The process is used to manage waste or to produce fuels.

RNG is concluding negotiations with Starwood Energy Group Global, L.L.C. regarding providing equity to Linden Renewable Energy, LLC to pay a portion of the costs of the facility. As a result of its investment, Starwood would acquire a significant ownership position in Linden Renewable Energy, LLC.

This project qualifies as an Exempt Public Facility- solid waste disposal facilities, under Section 142(a)(6) of the IRS Code and therefore is exempt from the \$20 million capital expenditure limitation under Section 144 of the Code.

OTHER NJEDA SERVICES:

None

APPROVAL REQUEST:

Authority assistance will enable the Applicant to construct and equip an organic waste anaerobic digester (AD) facility, fund a debt service reserve fund and pay interest on the bonds during the construction. Proceeds of the bonds will also pay the cost of issuance.

This project is being presented for final approval.

FINANCING SUMMARY:

BOND PURCHASER: Citigroup Global Markets Inc. (Limited Public Offering)

AMOUNT OF BOND: Not to exceed \$240,000,000 Tax-Exempt.

TERMS OF BOND: Not to exceed 30 years; Fixed interest not to exceed 10.00%.

ENHANCEMENT: N/A

PRODUCT COSTS:

Construction of New Building or Addition	\$160,800,000.00	Debt Service Reserve Fund	\$27,000,000.00
Engineering & Architectural Fees	\$1,700,000.00	Interest During Construction	\$26,400,000.00
Finance Fees	\$6,100,000.00		
Legal Fees	\$3,000,000.00		
New Equipment	\$95,000,000.00		

TOTAL COSTS: \$320,000,000.00

JOBS:

NJ Full Time Jobs at Application	Expected New Full Time Eligible Jobs at Project Site	Full Time Maintained Jobs at Project Site	Estimated Construction Jobs
0	23	0	450

PUBLIC HEARING: 3/9/2022

BOND COUNSEL: McCarter & English, LLP

DEVELOPMENT OFFICER: Kathleen Durand

UNDERWRITER OFFICER: Steven Novak

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**Stand-Alone Bond****APPLICANT:** Linden Renewable Energy, LLC

PROD-00228622

PROJECT USER(S): Same as applicant**PROJECT LOCATION:** 4900 Tremley Point Road Linden City Union**APPLICANT BACKGROUND:**

Linden Renewable Energy, LLC, established in 2019, will be an organic waste anaerobic digester (AD) facility which will use food waste and other processed organic material to produce Renewable Natural Gas (RNG) and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment.

Linden Renewable Energy, LLC is a wholly owned subsidiary of RNG Energy Solutions, LLC. RNG Energy Solutions, LLC (RNG) develops, finances, owns and manages the operations of state-of-the-art anaerobic digester projects that produce renewable natural gas. As the successor company to AgEnergy USA, RNG brings three decades of conventional and alternative energy development experience in the agricultural, urban and industrial environments. Most notably, AgEnergy USA completed the development of the Heartland Renewable Energy project, which is the largest codigestion anaerobic digester project in the world.

Anaerobic digestion is a sequence of processes by which microorganisms break down biodegradable material in the absence of oxygen. The process is used to manage waste or to produce fuels.

RNG is concluding negotiations with Starwood Energy Group Global, L.L.C. regarding providing equity to Linden Renewable Energy, LLC to pay a portion of the costs of the facility. As a result of its investment, Starwood would acquire a significant ownership position in Linden Renewable Energy, LLC.

This project qualifies as an Exempt Public Facility- solid waste disposal facilities, under Section 142(a)(6) of the IRS Code and therefore is exempt from the \$20 million capital expenditure limitation under Section 144 of the Code.

OTHER NJEDA SERVICES:

None

APPROVAL REQUEST:

Authority assistance will enable the Applicant to construct and equip an organic waste anaerobic digester (AD) facility, fund a debt service reserve fund and pay interest on the bonds during the construction. Proceeds of the bonds will also pay the cost of issuance.

This project is being presented for final approval.

FINANCING SUMMARY:

BOND PURCHASER: Citigroup Global Markets Inc. (Limited Public Offering)
AMOUNT OF BOND: Not to exceed \$195,000,000 Tax-Exempt.
TERMS OF BOND: Not to exceed 30 years; Fixed interest not to exceed 10.00%.
ENHANCEMENT: N/A

ESTIMATED PRODUCT COSTS:

Construction of New Building or Addition	\$133,423,200.00	Debt Service Reserve Fund	\$11,595,824.00
Engineering & Architectural Fees	\$1,700,000.00	Interest During Construction	\$13,995,375.00
Finance Fees	\$4,165,275.00		
Legal Fees	\$1,700,000.00		
New Equipment	\$75,000,000.00		

JOBS:

NJ Full Time Jobs at Application	Expected New Full Time Eligible Jobs at Project Site	Full Time Maintained Jobs at Project Site	Estimated Construction Jobs
0	23	0	450

PUBLIC HEARING: 4/14/2021

BOND COUNSEL: McCarter & English, LLP

DEVELOPMENT OFFICER: Monika Athwal

UNDERWRITER OFFICER: Steven Novak

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION GRANTING DESIGNATION OF A PORTION OF THE AUTHORITY'S VOLUME CAP ALLOCATION FOR THE ISSUANCE AND SALE OF PROJECT REVENUE BONDS WITH RESPECT TO A PROJECT FOR LINDEN RENEWABLE ENERGY, LLC, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$195,000,000, AND AUTHORIZING OTHER NECESSARY AND INCIDENTAL ACTION

WHEREAS, the New Jersey Economic Development Authority (the "Authority") has been established under the New Jersey Economic Development Authority Act, constituting Chapter 80 of the Pamphlet Laws of 1974 of the State of New Jersey (the "State"), approved August 7, 1974, as amended and supplemented (the "Act"), for the public purpose of creating and preserving employment opportunities within the State and of promoting the economic and general welfare of its inhabitants by making available financial assistance in order to induce manufacturing, industrial, commercial and other employment promoting enterprises to locate, remain or expand within the State; and

WHEREAS, Linden Renewable Energy, LLC, a limited liability company organized under the laws of the State of New Hampshire (the "Applicant"), has submitted an application (the "Application") to the Authority for the financing of a project consisting of (i) constructing, owning and operating an organic waste anaerobic digester facility that will use food waste and other processed organic material to produce renewable natural gas and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment to be located on approximately 21 acres of an industrial zoned parcel (Lot 8, Block 587) located at 4900 Tremley Point Road in the City of Linden, Union County, New Jersey (the "Project"); (ii) funding a debt service reserve fund as security for the payment of the principal of and interest on the Series 2021 Bonds (as defined below), if necessary; (iii) paying interest on the Series 2021

Bonds during the construction of the Project (if desired by the Borrower); and (iv) paying costs of issuance of the Series 2021 Bonds, all as anticipated by the Application; and

WHEREAS, on April 14, 2021, the Authority approved a Resolution (the “Bond Resolution”) authorizing the issuance of its Industrial Development Revenue Bonds (Linden Renewable Energy, LLC Project), Series 2021 (the “Series 2021 Bonds”) in an aggregate principal amount not exceeding \$195,000,000; and

WHEREAS, pursuant to Section 12 of the Bond Resolution, the Authority granted an allocation of \$195,000,000 of its portion of the State volume limitation pursuant to the Internal Revenue Code of 1986, as amended, which included the carryforward election by the Authority of unused volume limitation from prior calendar years, for the issuance of the Series 2021 Bonds; and

WHEREAS, the Series 2021 Bonds will not be issued within the time period set forth under Section 12 of the Bond Resolution; and

WHEREAS, the Applicant has assured the Authority that it is diligently proceeding to closing with respect to the Series 2021 Bonds.

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (not less than seven members thereof affirmatively concurring) AS FOLLOWS:

Section 1. With respect to the allocation by the Authority of its portion of the State volume limitation, which includes the carryforward election by the Authority of unused volume limitation from prior calendar years, there is designated to the Project \$195,000,000, which equals the maximum principal amount of the Series 2021 Bonds to be issued to finance the Project as authorized pursuant to the Bond Resolution.

The allocation of the State volume limitation made pursuant to this Resolution for, or in respect of, the Series 2021 Bonds and the Project, shall cease to be effective if the Indenture, the Loan Agreement and the other necessary documents authorized in the Bond Resolution are not executed and delivered by the respective parties thereto with respect to the Project on or before the sixtieth (60th) day following the date of this meeting, or such allocation shall expire, unless the closing deadline is extended by the Chief Executive Officer of the Authority as hereinafter provided. The Chief Executive Officer may, in his discretion, extend the foregoing deadline up to an additional 30 days, provided a written request for such extension has been filed with, and received by, the Authority no less than five days prior to the expiration of the initial 60-day period.

Section 2. Any member of the Authority or any Authorized Officer (as defined in the Bond Resolution) is hereby authorized and directed to execute such further documents and do such further things as may be necessary or proper to carry out the intent and purpose of this Resolution.

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

Adopted: July 14, 2021

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
AMENDED AND RESTATED BOND RESOLUTION

AUTHORIZING THE FINANCING OF A RENEWABLE ENERGY FACILITY LOCATED IN THE CITY OF LINDEN, NEW JERSEY FOR LINDEN RENEWABLE ENERGY, LLC; AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS OF THE AUTHORITY IN A PRINCIPAL AMOUNT NOT EXCEEDING \$214,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A LOAN AGREEMENT, AND AN INDENTURE OF TRUST; AUTHORIZING THE SALE OF THE BONDS TO CITIGROUP GLOBAL MARKETS INC.; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH BONDS; AND AUTHORIZING OTHER NECESSARY AND INCIDENTAL ACTION

WHEREAS, the New Jersey Economic Development Authority (the “Authority”) is a public body corporate and politic constituting an instrumentality of the State of New Jersey (the “State”) established and created under the New Jersey Economic Development Authority Act, constituting Chapter 80 of the Pamphlet Laws of 1974 of the State, approved August 7, 1974, as amended and supplemented (the “Act”); and

WHEREAS, the Act declares it to be in the public interest and to be the policy of the State to foster and promote the economy of the State, increase opportunities for gainful employment and improve living conditions, assist in the economic development or redevelopment of political subdivisions within the State and otherwise contribute to the prosperity, health and general welfare of the State and its inhabitants by inducing manufacturing, industrial, commercial, recreational, retail and service enterprises and other employment promoting enterprises by making available financial assistance to locate, remain or expand within the State; and

WHEREAS, the Authority was created to further and implement such policies and the Act provides that the Authority is authorized to receive applications for financial assistance in accordance with the purposes and objectives of the Act and shall have the power to extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project, which credits or loans may be secured by loan and security agreements, mortgages, leases, and any other instruments, upon such terms and conditions as the Authority shall deem reasonable; and

WHEREAS, the Authority has previously received an application for financial assistance dated October 20, 2020 (the “Original Application”) from Linden Renewable Energy, LLC (the “Borrower”) for the purpose of obtaining financing from the Authority for a project consisting of (i) constructing, owning and operating an organic waste anaerobic digester facility that will use food waste and other processed organic material to produce renewable natural gas and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment to be located on approximately 21 acres of an industrial zoned parcel (Lot 8, Block 587) located at 4900 Tremley Point Road in the City of Linden, Union County, New Jersey (the “Project”); (ii) funding a debt service reserve fund as security for the payment of the principal of and interest on the Series 2021 Bonds (as defined below), if necessary; (iii) paying interest on the Series 2021 Bonds during the construction of the Project (if desired by the Borrower); and (iv) paying costs of issuance of the Series 2021 Bonds, all as anticipated by the Application; and

WHEREAS, the Authority has determined by resolution adopted January 15, 2021 (the “Preliminary Resolution”) that the Project is eligible for financing under the Act and will serve the public purposes of the Authority herein set forth; and

WHEREAS, a public hearing with respect to the Borrower and the Project was conducted by the Authority on April 14, 2021 at 10:00 a.m. at its offices at 36 West State Street, Trenton, New Jersey after public notice of such hearing was published in the form attached hereto as Exhibit A on April 6, 2021 in the following newspapers: The Star Ledger and The Trenton Times; and

WHEREAS, the Preliminary Resolution constituted “official intent” of the Authority within the meaning of Treasury Regulation §§1.103-8(a)(5) and 1.150-2; and

WHEREAS, by resolution adopted April 14, 2021 (the “Prior Resolution”), the Authority, pursuant to the Act, made certain findings and determinations with respect to the Borrower, the Original Application, the Series 2021 Bonds and the Project; and

WHEREAS, on August 17, 2021, the Borrower filed an amendment to the Original Application (the “Amendment” and together with the Original Application, the “Application”) with the Authority which, among other things, (i) changed the description of the ownership structure of the Borrower, including Starwood Energy acquiring a significant majority of the ownership interests in the Borrower through the creation of a holding company, and the creation by the Borrower of a wholly-owned subsidiary named Linden Renewable Urban Renewal, LLC to be formed under New Jersey law in order to effectuate certain property tax treatment and (ii) increased the total costs of the Project to \$281,200,000 and the maximum amount of financial assistance requested from the Authority to \$214,000,000; and

WHEREAS, in connection with filing of the Amendment, the Authority now desires to amend and restate the Prior Resolution in its entirety through the adoption of this Amended and Restated Resolution.

WHEREAS, the Act provides that the Authority shall have the power to borrow money and issue its bonds and to provide for the rights of the holders of its bonds; and

WHEREAS, as an inducement to the Borrower to undertake the financing of the Project in furtherance of the purposes of the Act and to assist in financing the costs of the Project and costs of issuance of the Series 2021 Bonds, the Authority proposes to provide such financing by the issuance of its Industrial Development Revenue Bonds (Linden Renewable Energy, LLC Project), Series 2021 in the principal amount not to exceed \$214,000,000 (the “Series 2021 Bonds”); and

WHEREAS, the Series 2021 Bonds shall be issued pursuant to this Amended and Restated Resolution and pursuant to an indenture trust expected to be dated on or around October 1, 2021 (or such other date as shall be approved by an officer of the Authority) by and between the Authority and the Trustee to be appointed as hereinafter provided (the “Indenture”) and the Authority has determined to enter into such Indenture; and

WHEREAS, the Authority has determined to enter into a Bond Purchase Agreement (the “Purchase Agreement”) providing for the sale of the Series 2021 Bonds to Citigroup Global Markets Inc. (the “Underwriter”); and

WHEREAS, the Authority has determined to enter into a loan agreement (the “Loan Agreement”) with the Borrower in order to provide for the loan of the proceeds from the Series 2021 Bonds to the Borrower to finance the Project; and

WHEREAS, the Borrower will execute and deliver to the Authority its promissory note payable to the Authority (the “Note”) to evidence the loan; and

WHEREAS, pursuant to the Indenture, the Authority will assign (with certain reservations) its rights and benefits under the Loan Agreement and the Note to the Trustee as security for the Series 2021 Bonds; and

WHEREAS, as further security of the payment obligations of the Borrower under the Loan Agreement, the Borrower shall grant to the Trustee: (i) a lien on its interest in the land and buildings constituting the Project; (ii) a security interest in the personal property, equipment and fixtures included in the Project; and (iii) a security interest in the ownership interests of the Borrower; and

WHEREAS, pursuant to “Executive Order No. 26 NJEDA Policy and Procedures” adopted by the Authority on February 14, 1995 (the “Policy and Procedures”), the Authority must make a public finding by resolution that a negotiated sale of bonds is warranted and must file a copy of such resolution with the State Treasurer; and

WHEREAS, the Borrower has sought alternative methods of sale of the Series 2021 Bonds and has concluded that a negotiated sale to the Underwriter is most cost-effective for the Borrower; and

WHEREAS, the Authority desires to authorize the financing of the Project through (i) the issuance, execution and delivery of the Series 2021 Bonds pursuant to the terms of the Act and the Indenture, (ii) the execution and delivery of the Indenture, the Loan Agreement, the Purchase Agreement, the Official Statement (as hereinafter defined), and such other documents and certificates that may be required to accomplish the foregoing and (iii) other necessary action.

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (not less than seven members thereof affirmatively concurring) AS FOLLOWS:

Section 1. Approval of Project. In accordance with the purposes and objectives of the Act, the Authority hereby ratifies and confirms its findings and determinations made by the Preliminary Resolution, on the basis of all information reasonably available to it that (a) the Project will tend to maintain or provide gainful employment for the inhabitants of the State, aid and assist in the economic development or redevelopment of the City of Linden, County of Union, State of New Jersey, maintain or increase the tax base of said City and County and maintain or diversify and expand industry within the State; (b) financial assistance from the Authority, as requested in the aforesaid application, will tend to maintain or provide gainful employment for the inhabitants of the State, shall serve a public purpose by contributing to the prosperity, health and general welfare of the inhabitants of the State and will tend to aid and assist in the economic growth, development or redevelopment of the City of Linden, County of Union, State of New Jersey.

Based on the foregoing findings and determinations and with the understanding that the availability of such financial assistance will be a substantial inducement to the Borrower to construct the Project, the Project as described in the preambles of this Amended and Restated Resolution, in the application filed by the Borrower with the Authority and Exhibit A attached hereto is hereby approved and determined to be eligible for financing by the Authority.

Section 2. Authorization of Execution and Delivery of the Purchase Agreement. The Chairman, Vice Chairman, Chief Executive Officer, Chief Operating Officer, Managing Director, Post Closing Financial Services, Managing Director, Underwriting, or any other officer who shall have the power to execute contracts pursuant to the By-laws of the Authority or any resolution adopted thereunder (each an “Authorized Officer”) is hereby authorized to execute and deliver on behalf of the Authority the Purchase Agreement (a copy of which has been filed

with the records of the Authority), with such changes, insertions and variations therein as are necessary or desirable and as such Authorized Officers shall approve, such approval to be evidenced by their execution thereof. The Purchase Agreement shall provide for the underwriting of the Series 2021 Bonds by the Underwriter. Such Purchase Agreement shall set forth all terms and conditions under which the Series 2021 Bonds are being purchased, including that the Series 2021 Bonds shall bear interest at a fixed rate and not in excess of an average interest rate of ten percent (10.0%) per annum.

Section 3. Approval of the Loan Agreement and the Indenture. The form of the Loan Agreement and the form of the Indenture (copies of which have been filed with the records of the Authority) are hereby approved, and any Authorized Officer is hereby authorized and directed to execute or accept and deliver, and (where appropriate) any Authorized Officer, the Secretary or any Assistant Secretary is hereby authorized and directed to affix the corporate seal of the Authority to, and attest, the Loan Agreement and the Indenture, in substantially such forms and upon the terms and conditions therein set forth, with such changes, insertions and variations therein as are necessary or desirable and as such Authorized Officers shall approve, such approval to be evidenced by their execution thereof.

The Loan Agreement shall provide for the loan of the proceeds of the Series 2021 Bonds to the Borrower to finance the costs of the Project and costs of issuance of the Series 2021 Bonds and for the Borrower to execute and deliver such documents described therein to evidence and secure the loan payments due under the Loan Agreement, and contain certain covenants of the Borrower for the benefit of the Authority and the bondholders. The Borrower is hereby authorized to proceed with the Project in accordance with the terms of the Loan Agreement.

The Indenture shall provide for, among other things, the disbursement of the proceeds of the Series 2021 Bonds to the Borrower to pay a portion of the costs of the Project and the costs of issuance of the Series 2021 Bonds, and shall assign to the Trustee all of the Authority's rights and benefits under the Loan Agreement, the Collateral (as defined in the Indenture) and other documents executed in connection therewith except for certain reserved rights described therein.

Section 4. Issuance of Series 2021 Bonds. The issuance of the Series 2021 Bonds in a principal amount not to exceed \$214,000,000 is hereby authorized; provided however, that the Series 2021 Bonds shall bear interest at a fixed rate and not in excess of an average interest rate of ten percent (10.0%) per annum and shall have a maximum maturity no later than 2051, subject to earlier redemption. Facsimile signatures of the Chairman, Vice Chairman, Chief Executive Officer, Chief Operating Officer, Managing Director, Post Closing Financial Services, Managing Director, Underwriting and the Secretary or any Assistant Secretary of the Authority are hereby authorized and directed to be printed on the face of the Series 2021 Bonds and the corporate seal (or the facsimile thereof) of the Authority is hereby authorized to be imprinted thereon; and any Authorized Officer is authorized and directed to deliver the Series 2021 Bonds to the Trustee, to be appointed and designated as hereinafter provided, for authentication under the Indenture herein authorized and, when they have been authenticated, to deliver them or cause them to be delivered pursuant to the Purchase Agreement to the Underwriter against receipt of the purchase price or the unpaid balance as the case may be plus any accrued interest due and to deposit the amount so received with the Trustee as provided in the Loan Agreement and the Indenture.

The Series 2021 Bonds shall be special, limited obligations of the Authority payable only out of the payments made by the Borrower under the Loan Agreement and certain other Collateral to the extent pledged under the Indenture. The Series 2021 Bonds shall not be in any

way debts or liabilities of the State or of any political subdivision thereof and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, legal, moral or otherwise, nor shall the Series 2021 Bonds be payable out of any funds, revenues or properties of the Authority other than those pledged therefor.

Section 5. Terms of Series 2021 Bonds. The Series 2021 Bonds shall be dated their date of issuance or such other date as is approved by the Authorized Officer executing the Indenture, shall be issued as registered bonds without coupons, all as more fully described in the Indenture, and shall mature on the dates and in the amounts and shall bear interest at the rates per annum all as set forth in the Indenture payable at such time or times as are approved by the Authorized Officer executing the Indenture. The terms and provisions for redemption of the Series 2021 Bonds, the registration and exchangeability privileges, and the priorities in revenues, shall be as set forth in the Indenture. In accordance with the provisions of the Indenture, the Trustee shall establish such funds as are provided in the Indenture.

Section 6. Approval and Appointment of Trustee, Bond Registrar and Paying Agent. UMB Bank, National Association is hereby approved and appointed to act as the Trustee, the Bond Registrar and the Paying Agent for the Series 2021 Bonds to act in accordance with the provisions of the Indenture.

Section 7. Approval and Designation of Underwriters. Citigroup Global Markets Inc. is hereby designated as the Underwriter in connection with the underwriting of the Series 2021 Bonds.

Section 8. Preliminary and Final Official Statement. The form of the Preliminary Official Statement describing the Series 2021 Bonds (the "Preliminary Official Statement"), a copy of which has been filed with the records of the Authority, is hereby approved. The

distribution by the Underwriter of the Preliminary Official Statement is hereby authorized and the Authorized Officers of the Authority are hereby authorized and directed to execute and deliver a final Official Statement (the "Official Statement") in substantially the form of the Preliminary Official Statement, with such changes, insertions and alterations as counsel to the Authority may advise and any such Authorized Officer shall approve, such approval to be evidenced by his or her execution thereof. Any Authorized Officer of the Authority is hereby authorized to "deem final" the Preliminary Official Statement in accordance with Rule 15(c)2-12 of the Securities and Exchange Commission.

Section 9. Execution and Delivery of Other Documents. Any Authorized Officer of the Authority is hereby authorized to execute, deliver, attest and affix the seal of the Authority to such other documents as the executing officers determine to be reasonable and appropriate to facilitate or complete the financing for the Project as authorized by this Amended and Restated Resolution. Copies of any such documents, together with the other documents referred to in this Amended and Restated Resolution and relating to the transactions authorized hereby, in final form as executed and delivered by the parties thereto, shall be filed in the official records of the Authority.

Section 10. Binding Effect of Covenants and Agreements. All covenants, obligations and agreements of the Authority set forth in this Amended and Restated Resolution and in the documents authorized hereby shall be deemed to be the covenants, obligations and agreements of the Authority to the full extent authorized or permitted by law, and all such covenants, obligations and agreements shall be binding upon the Authority and its successors from time to time and upon any board or body to which any powers or duties affecting the same shall be transferred by, or in accordance with, law. Except as otherwise provided in this Amended and

Restated Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Authority or the members thereof by the provisions of this Amended and Restated Resolution or the documents authorized hereby shall be exercised or performed by such members, officers or other representatives of the Authority as may be required or permitted by law to exercise or perform the same. No covenant, obligation or agreement herein contained or contained in any document authorized hereby shall be deemed to be a covenant, obligation or agreement of any member, officer, agent or employee of the Authority in his or her individual capacity and neither the members of the Authority nor any officer executing the Series 2021 Bonds, the Loan Agreement or the other documents authorized by this Amended and Restated Resolution shall be liable personally thereunder or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

Section 11. Findings. The Authority finds that a sale to the Underwriter is warranted based upon, among other things, the stand-alone credit of the Borrower and the Borrower having explored and dismissed alternative methods of sale.

Section 12. Designation of a Portion of the Authority's Volume Cap Allocation to the Project. With respect to the allocation by the Authority of its portion of the State volume limitation, which includes the carryforward election by the Authority of unused volume limitation from prior calendar years, there is designated to the Project \$214,000,000, which equals the maximum principal amount of the Series 2021 Bonds to be issued to finance the Project as authorized herein. The allocation of State volume limitation made pursuant to this Amended and Restated Resolution for, or in respect of, the Series 2021 Bonds and the Project, shall cease to be effective if the Indenture and the Loan Agreement are not executed and delivered by the respective parties thereto within sixty (60) days of the date hereof, unless the

written request for an extension of such allocation is filed with the Authority no less than five (5) days prior to the expiration of the initial sixty (60) day period and is approved by an Authorized Officer; provided, however, that any such extension shall not exceed an additional thirty (30) days. In the event of expiration of such allocation of volume limitation, the Applicant may request a new resolution of allocation of volume limitation from the Authority.

Section 13. Incidental and Further Action. Any member of the Authority or any Authorized Officer is hereby authorized and directed to execute, deliver and approve such further documents relating to the Series 2021 Bonds and to take such further action and to do such further things as he or she may deem necessary, appropriate or proper to effectuate the intent and purpose of this Amended and Restated Resolution or any document herein authorized.

Section 14. Repeal of Inconsistent Resolutions. All prior resolutions of the Authority or portions thereof which are inconsistent with this Amended and Restated Resolution are hereby repealed.

Section 15. Effective Date. This Amended and Restated 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 Amended and Restated 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 in the Act.

Section 16. Filing with State Treasurer. A certified copy of this Amended and Restated Resolution shall be filed with the State Treasurer in accordance with the Policy and Procedures.

Adopted: September 22, 2021

Exhibit A

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

NOTICE OF PUBLIC HEARING

The New Jersey Economic Development Authority (the “Authority”) with its offices at 36 West State Street, Trenton, New Jersey, will hold a public hearing via telephone conference call on April 14, 2021 at 10:00 a.m., in compliance with Internal Revenue Service Revenue Procedure 2020-21 as modified by Revenue Procedure 2020-49, for the purpose of providing a reasonable opportunity for interested persons to express their views, both orally and in writing, with respect to proposed issuance by the Authority of one or more series of its bonds (the “Bonds”), from time to time, as part of a plan of financing with respect to the following applications for economic development bond financing for the facilities described below:

Description of
Project:

The Bonds will be issued to finance the costs of (i) constructing, owning and operating an organic waste anaerobic digester facility that will use food waste and other processed organic material to produce renewable natural gas and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment to be located on approximately 21 acres of an industrial zoned parcel; (ii) funding a debt service reserve fund, if necessary; (iii) paying interest on the Bonds during the construction of the Project, if necessary; and (iv) paying costs of issuance of the Bonds, if necessary (collectively, the “Project”).

Owner or Principal
User of Project:

Linden Renewable Energy, LLC

Location of Project:

All of the buildings and structures that are part of the Project will be located at 4900 Tremley Point Road, Linden, NJ 07036 (Lot 8, Block 587), which is an approximately 21.5 acres of an industrial zoned parcel located at the eastern tip of Tremley Point approximately 1.5 miles east of Interstate-95 and is bounded on the east by the Arthur Kill, on the north by Tremley Point Road and Citgo, on the west by Linden Marine and on the south by Kinder Morgan.

Maximum
Aggregate Face
Amount of Bonds
Requested:

\$195,000,000

At the hearing, members of the public may appear in person or by attorney by calling in on the Authority’s telephone conference line at 877-692-8955, Conference ID: 4204420, to provide information and make statements concerning the foregoing application. ECONOMIC DEVELOPMENT FINANCINGS OF THE NEW JERSEY ECONOMIC DEVELOPMENT

AUTHORITY WILL BE SPECIAL, LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM THE LOAN OR LEASE PAYMENTS MADE BY THE BORROWER TO THE AUTHORITY AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND INDENTURE FOR THE BONDS AND ARE NOT OBLIGATIONS OF THE STATE OF NEW JERSEY, NOR OF ANY COUNTY OR MUNICIPALITY THEREOF.

This notice is published in accordance with the public notice requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
SECOND AMENDED AND RESTATED BOND RESOLUTION

AUTHORIZING THE FINANCING OF A RENEWABLE ENERGY FACILITY LOCATED IN THE CITY OF LINDEN, NEW JERSEY FOR LINDEN RENEWABLE ENERGY, LLC; AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS OF THE AUTHORITY IN A PRINCIPAL AMOUNT NOT EXCEEDING \$214,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A LOAN AGREEMENT, AND AN INDENTURE OF TRUST; AUTHORIZING THE SALE OF THE BONDS TO CITIGROUP GLOBAL MARKETS INC.; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH BONDS; AND AUTHORIZING OTHER NECESSARY AND INCIDENTAL ACTION

WHEREAS, the New Jersey Economic Development Authority (the “Authority”) is a public body corporate and politic constituting an instrumentality of the State of New Jersey (the “State”) established and created under the New Jersey Economic Development Authority Act, constituting Chapter 80 of the Pamphlet Laws of 1974 of the State, approved August 7, 1974, as amended and supplemented (the “Act”); and

WHEREAS, the Act declares it to be in the public interest and to be the policy of the State to foster and promote the economy of the State, increase opportunities for gainful employment and improve living conditions, assist in the economic development or redevelopment of political subdivisions within the State and otherwise contribute to the prosperity, health and general welfare of the State and its inhabitants by inducing manufacturing, industrial, commercial, recreational, retail and service enterprises and other employment promoting enterprises by making available financial assistance to locate, remain or expand within the State; and

WHEREAS, the Authority was created to further and implement such policies and the Act provides that the Authority is authorized to receive applications for financial assistance in

accordance with the purposes and objectives of the Act and shall have the power to extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project, which credits or loans may be secured by loan and security agreements, mortgages, leases, and any other instruments, upon such terms and conditions as the Authority shall deem reasonable; and

WHEREAS, the Authority has previously received an application for financial assistance dated October 20, 2020 (the “Original Application”) from Linden Renewable Energy, LLC (the “Borrower”) for the purpose of obtaining financing from the Authority for a project consisting of (i) constructing, owning and operating an organic waste anaerobic digester facility that will use food waste and other processed organic material to produce renewable natural gas and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment to be located on approximately 21 acres of an industrial zoned parcel (Lot 8, Block 587) located at 4900 Tremley Point Road in the City of Linden, Union County, New Jersey (the “Project”); (ii) funding a debt service reserve fund as security for the payment of the principal of and interest on the Series 2022 Bonds (as defined below), if necessary; (iii) paying interest on the Series 2022 Bonds during the construction of the Project (if desired by the Borrower); and (iv) paying costs of issuance of the Series 2022 Bonds, all as anticipated by the Application; and

WHEREAS, the Authority has determined by resolution adopted January 15, 2021 (the “Preliminary Resolution”) that the Project is eligible for financing under the Act and will serve the public purposes of the Authority herein set forth; and

WHEREAS, a public hearing with respect to the Borrower and the Project was conducted by the Authority on April 14, 2021 at 10:00 a.m. at its offices at 36 West State Street, Trenton,

New Jersey after public notice of such hearing was published in the form attached hereto as Exhibit A on April 6, 2021 in the following newspapers: The Star Ledger and The Trenton Times; and

WHEREAS, the Preliminary Resolution constituted “official intent” of the Authority within the meaning of Treasury Regulation §§1.103-8(a)(5) and 1.150-2; and

WHEREAS, by resolution adopted April 14, 2021 (the “April Resolution”), the Authority, pursuant to the Act, made certain findings and determinations with respect to the Borrower, the Original Application, the Series 2022 Bonds and the Project; and

WHEREAS, on August 17, 2021, the Borrower filed an amendment to the Original Application (the “Amendment” and together with the Original Application, the “Application”) with the Authority which, among other things, (i) changed the description of the ownership structure of the Borrower, including Starwood Energy acquiring a significant majority of the ownership interests in the Borrower through the creation of a holding company, and the creation by the Borrower of a wholly-owned subsidiary named Linden Renewable Urban Renewal, LLC to be formed under New Jersey law in order to effectuate certain property tax treatment and (ii) increased the total costs of the Project to \$281,200,000 and the maximum amount of financial assistance requested from the Authority to \$214,000,000; and

WHEREAS, by resolution adopted September 22, 2021 (the “September Resolution” and, together with the April Resolution, the “Prior Resolution”), the Authority, pursuant to the Act, made certain findings and determinations with respect to the Borrower, the Application, the Series 2022 Bonds and the Project; and

WHEREAS, the Borrower has experienced numerous delays developing the Project, including, most recently, the need to obtain an access easement over a private road that is owned

by several private owners, which delays will collectively delay the issuance of the Series 2022 Bonds until the first quarter of 2022; and

WHEREAS, in consideration of such delays to the development of the Project, at the request of the Borrower, the Authority now desires to amend and restate the Prior Resolution in its entirety through the adoption of this Second Amended and Restated Resolution.

WHEREAS, the Act provides that the Authority shall have the power to borrow money and issue its bonds and to provide for the rights of the holders of its bonds; and

WHEREAS, as an inducement to the Borrower to undertake the financing of the Project in furtherance of the purposes of the Act and to assist in financing the costs of the Project and costs of issuance of the Series 2022 Bonds, the Authority proposes to provide such financing by the issuance of its Industrial Development Revenue Bonds (Linden Renewable Energy, LLC Project), Series 2022 in the principal amount not to exceed \$214,000,000 (the “Series 2022 Bonds”); and

WHEREAS, the Series 2022 Bonds shall be issued pursuant to this Second Amended and Restated Resolution and pursuant to an indenture trust expected to be dated on or around February 1, 2022 (or such other date as shall be approved by an officer of the Authority) by and between the Authority and the Trustee to be appointed as hereinafter provided (the “Indenture”) and the Authority has determined to enter into such Indenture; and

WHEREAS, the Authority has determined to enter into a Bond Purchase Agreement (the “Purchase Agreement”) providing for the sale of the Series 2022 Bonds to Citigroup Global Markets Inc. (the “Underwriter”); and

WHEREAS, the Authority has determined to enter into a loan agreement (the “Loan Agreement”) with the Borrower in order to provide for the loan of the proceeds from the Series 2022 Bonds to the Borrower to finance the Project; and

WHEREAS, the Borrower will execute and deliver to the Authority its promissory note payable to the Authority (the “Note”) to evidence the loan; and

WHEREAS, pursuant to the Indenture, the Authority will assign (with certain reservations) its rights and benefits under the Loan Agreement and the Note to the Trustee as security for the Series 2022 Bonds; and

WHEREAS, as further security of the payment obligations of the Borrower under the Loan Agreement, the Borrower shall grant to the Trustee: (i) a lien on its interest in the land and buildings constituting the Project; (ii) a security interest in the personal property, equipment and fixtures included in the Project; and (iii) a security interest in the ownership interests of the Borrower; and

WHEREAS, pursuant to “Executive Order No. 26 NJEDA Policy and Procedures” adopted by the Authority on February 14, 1995 (the “Policy and Procedures”), the Authority must make a public finding by resolution that a negotiated sale of bonds is warranted and must file a copy of such resolution with the State Treasurer; and

WHEREAS, the Borrower has sought alternative methods of sale of the Series 2022 Bonds and has concluded that a negotiated sale to the Underwriter is most cost-effective for the Borrower; and

WHEREAS, the Authority desires to authorize the financing of the Project through (i) the issuance, execution and delivery of the Series 2022 Bonds pursuant to the terms of the Act and the Indenture, (ii) the execution and delivery of the Indenture, the Loan Agreement, the Purchase Agreement, the Official Statement (as hereinafter defined), and such other documents and certificates that may be required to accomplish the foregoing and (iii) other necessary action.

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (not less than seven members thereof affirmatively concurring) AS FOLLOWS:

Section 1. Approval of Project. In accordance with the purposes and objectives of the Act, the Authority hereby ratifies and confirms its findings and determinations made by the Preliminary Resolution, on the basis of all information reasonably available to it that (a) the Project will tend to maintain or provide gainful employment for the inhabitants of the State, aid and assist in the economic development or redevelopment of the City of Linden, County of Union, State of New Jersey, maintain or increase the tax base of said City and County and maintain or diversify and expand industry within the State; (b) financial assistance from the Authority, as requested in the aforesaid application, will tend to maintain or provide gainful employment for the inhabitants of the State, shall serve a public purpose by contributing to the prosperity, health and general welfare of the inhabitants of the State and will tend to aid and assist in the economic growth, development or redevelopment of the City of Linden, County of Union, State of New Jersey.

Based on the foregoing findings and determinations and with the understanding that the availability of such financial assistance will be a substantial inducement to the Borrower to construct the Project, the Project as described in the preambles of this Second Amended and Restated Resolution, in the application filed by the Borrower with the Authority and Exhibit A attached hereto is hereby approved and determined to be eligible for financing by the Authority.

Section 2. Authorization of Execution and Delivery of the Purchase Agreement. The Chairman, Vice Chairman, Chief Executive Officer, Chief Operating Officer, Managing Director, Post Closing Financial Services, Managing Director, Underwriting, or any other officer who shall have the power to execute contracts pursuant to the By-laws of the Authority or any resolution

adopted thereunder (each an “Authorized Officer”) is hereby authorized to execute and deliver on behalf of the Authority the Purchase Agreement (a copy of which has been filed with the records of the Authority), with such changes, insertions and variations therein as are necessary or desirable and as such Authorized Officers shall approve, such approval to be evidenced by their execution thereof. The Purchase Agreement shall provide for the underwriting of the Series 2022 Bonds by the Underwriter. Such Purchase Agreement shall set forth all terms and conditions under which the Series 2022 Bonds are being purchased, including that the Series 2022 Bonds shall bear interest at a fixed rate and not in excess of an average interest rate of ten percent (10.0%) per annum.

Section 3. Approval of the Loan Agreement and the Indenture. The form of the Loan Agreement and the form of the Indenture (copies of which have been filed with the records of the Authority) are hereby approved, and any Authorized Officer is hereby authorized and directed to execute or accept and deliver, and (where appropriate) any Authorized Officer, the Secretary or any Assistant Secretary is hereby authorized and directed to affix the corporate seal of the Authority to, and attest, the Loan Agreement and the Indenture, in substantially such forms and upon the terms and conditions therein set forth, with such changes, insertions and variations therein as are necessary or desirable and as such Authorized Officers shall approve, such approval to be evidenced by their execution thereof.

The Loan Agreement shall provide for the loan of the proceeds of the Series 2022 Bonds to the Borrower to finance the costs of the Project and costs of issuance of the Series 2022 Bonds and for the Borrower to execute and deliver such documents described therein to evidence and secure the loan payments due under the Loan Agreement, and contain certain covenants of the Borrower for the benefit of the Authority and the bondholders. The Borrower is hereby authorized to proceed with the Project in accordance with the terms of the Loan Agreement.

The Indenture shall provide for, among other things, the disbursement of the proceeds of the Series 2022 Bonds to the Borrower to pay a portion of the costs of the Project and the costs of issuance of the Series 2022 Bonds, and shall assign to the Trustee all of the Authority's rights and benefits under the Loan Agreement, the Collateral (as defined in the Indenture) and other documents executed in connection therewith except for certain reserved rights described therein.

Section 4. Issuance of Series 2022 Bonds. The issuance of the Series 2022 Bonds in a principal amount not to exceed \$214,000,000 is hereby authorized; provided however, that the Series 2022 Bonds shall bear interest at a fixed rate and not in excess of an average interest rate of ten percent (10.0%) per annum and shall have a maximum maturity no later than 2051, subject to earlier redemption. Facsimile signatures of the Chairman, Vice Chairman, Chief Executive Officer, Chief Operating Officer, Managing Director, Post Closing Financial Services, Managing Director, Underwriting and the Secretary or any Assistant Secretary of the Authority are hereby authorized and directed to be printed on the face of the Series 2022 Bonds and the corporate seal (or the facsimile thereof) of the Authority is hereby authorized to be imprinted thereon; and any Authorized Officer is authorized and directed to deliver the Series 2022 Bonds to the Trustee, to be appointed and designated as hereinafter provided, for authentication under the Indenture herein authorized and, when they have been authenticated, to deliver them or cause them to be delivered pursuant to the Purchase Agreement to the Underwriter against receipt of the purchase price or the unpaid balance as the case may be plus any accrued interest due and to deposit the amount so received with the Trustee as provided in the Loan Agreement and the Indenture.

The Series 2022 Bonds shall be special, limited obligations of the Authority payable only out of the payments made by the Borrower under the Loan Agreement and certain other Collateral to the extent pledged under the Indenture. The Series 2022 Bonds shall not be in any way debts

or liabilities of the State or of any political subdivision thereof and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, legal, moral or otherwise, nor shall the Series 2022 Bonds be payable out of any funds, revenues or properties of the Authority other than those pledged therefor.

Section 5. Terms of Series 2022 Bonds. The Series 2022 Bonds shall be dated their date of issuance or such other date as is approved by the Authorized Officer executing the Indenture, shall be issued as registered bonds without coupons, all as more fully described in the Indenture, and shall mature on the dates and in the amounts and shall bear interest at the rates per annum all as set forth in the Indenture payable at such time or times as are approved by the Authorized Officer executing the Indenture. The terms and provisions for redemption of the Series 2022 Bonds, the registration and exchangeability privileges, and the priorities in revenues, shall be as set forth in the Indenture. In accordance with the provisions of the Indenture, the Trustee shall establish such funds as are provided in the Indenture.

Section 6. Approval and Appointment of Trustee, Bond Registrar and Paying Agent. UMB Bank, National Association is hereby approved and appointed to act as the Trustee, the Bond Registrar and the Paying Agent for the Series 2022 Bonds to act in accordance with the provisions of the Indenture.

Section 7. Approval and Designation of Underwriters. Citigroup Global Markets Inc. is hereby designated as the Underwriter in connection with the underwriting of the Series 2022 Bonds.

Section 8. Preliminary and Final Official Statement. The form of the Preliminary Official Statement describing the Series 2022 Bonds (the “Preliminary Official Statement”), a copy of which has been filed with the records of the Authority, is hereby approved. The distribution by

the Underwriter of the Preliminary Official Statement is hereby authorized and the Authorized Officers of the Authority are hereby authorized and directed to execute and deliver a final Official Statement (the "Official Statement") in substantially the form of the Preliminary Official Statement, with such changes, insertions and alterations as counsel to the Authority may advise and any such Authorized Officer shall approve, such approval to be evidenced by his or her execution thereof. Any Authorized Officer of the Authority is hereby authorized to "deem final" the Preliminary Official Statement in accordance with Rule 15(c)2-12 of the Securities and Exchange Commission.

Section 9. Execution and Delivery of Other Documents. Any Authorized Officer of the Authority is hereby authorized to execute, deliver, attest and affix the seal of the Authority to such other documents as the executing officers determine to be reasonable and appropriate to facilitate or complete the financing for the Project as authorized by this Second Amended and Restated Resolution. Copies of any such documents, together with the other documents referred to in this Second Amended and Restated Resolution and relating to the transactions authorized hereby, in final form as executed and delivered by the parties thereto, shall be filed in the official records of the Authority.

Section 10. Binding Effect of Covenants and Agreements. All covenants, obligations and agreements of the Authority set forth in this Second Amended and Restated Resolution and in the documents authorized hereby shall be deemed to be the covenants, obligations and agreements of the Authority to the full extent authorized or permitted by law, and all such covenants, obligations and agreements shall be binding upon the Authority and its successors from time to time and upon any board or body to which any powers or duties affecting the same shall be transferred by, or in accordance with, law. Except as otherwise provided in this Second Amended and Restated

Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Authority or the members thereof by the provisions of this Second Amended and Restated Resolution or the documents authorized hereby shall be exercised or performed by such members, officers or other representatives of the Authority as may be required or permitted by law to exercise or perform the same. No covenant, obligation or agreement herein contained or contained in any document authorized hereby shall be deemed to be a covenant, obligation or agreement of any member, officer, agent or employee of the Authority in his or her individual capacity and neither the members of the Authority nor any officer executing the Series 2022 Bonds, the Loan Agreement or the other documents authorized by this Second Amended and Restated Resolution shall be liable personally thereunder or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

Section 11. Findings. The Authority finds that a sale to the Underwriter is warranted based upon, among other things, the stand-alone credit of the Borrower and the Borrower having explored and dismissed alternative methods of sale.

Section 12. Designation of a Portion of the Authority's Volume Cap Allocation to the Project. With respect to the allocation by the Authority of its portion of the State volume limitation, which includes the carryforward election by the Authority of unused volume limitation from prior calendar years, there is designated to the Project \$214,000,000, which equals the maximum principal amount of the Series 2022 Bonds to be issued to finance the Project as authorized herein. The allocation of State volume limitation made pursuant to this Second Amended and Restated Resolution for, or in respect of, the Series 2022 Bonds and the Project, shall cease to be effective if the Indenture and the Loan Agreement are not executed and delivered by the respective parties thereto within sixty (60) days of the date hereof, unless the written request

for an extension of such allocation is filed with the Authority no less than five (5) days prior to the expiration of the initial sixty (60) day period and is approved by an Authorized Officer; provided, however, that any such extension shall not exceed an additional thirty (30) days. In the event of expiration of such allocation of volume limitation, the Applicant may request a new resolution of allocation of volume limitation from the Authority.

Section 13. Incidental and Further Action. Any member of the Authority or any Authorized Officer is hereby authorized and directed to execute, deliver and approve such further documents relating to the Series 2022 Bonds and to take such further action and to do such further things as he or she may deem necessary, appropriate or proper to effectuate the intent and purpose of this Second Amended and Restated Resolution or any document herein authorized.

Section 14. Repeal of Inconsistent Resolutions. All prior resolutions of the Authority or portions thereof which are inconsistent with this Second Amended and Restated Resolution are hereby repealed.

Section 15. Effective Date. This Second Amended and Restated 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 Second Amended and Restated 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 in the Act.

Section 16. Filing with State Treasurer. A certified copy of this Second Amended and Restated Resolution shall be filed with the State Treasurer in accordance with the Policy and Procedures.

Adopted: December 8, 2021

Exhibit A

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

NOTICE OF PUBLIC HEARING

The New Jersey Economic Development Authority (the “Authority”) with its offices at 36 West State Street, Trenton, New Jersey, will hold a public hearing via telephone conference call on April 14, 2021 at 10:00 a.m., in compliance with Internal Revenue Service Revenue Procedure 2020-21 as modified by Revenue Procedure 2020-49, for the purpose of providing a reasonable opportunity for interested persons to express their views, both orally and in writing, with respect to proposed issuance by the Authority of one or more series of its bonds (the “Bonds”), from time to time, as part of a plan of financing with respect to the following applications for economic development bond financing for the facilities described below:

Description of
Project:

The Bonds will be issued to finance the costs of (i) constructing, owning and operating an organic waste anaerobic digester facility that will use food waste and other processed organic material to produce renewable natural gas and commercial grade digested solids, similar to peat moss/finished compost, for use as a soil amendment to be located on approximately 21 acres of an industrial zoned parcel; (ii) funding a debt service reserve fund, if necessary; (iii) paying interest on the Bonds during the construction of the Project, if necessary; and (iv) paying costs of issuance of the Bonds, if necessary (collectively, the “Project”).

Owner or Principal
User of Project:

Linden Renewable Energy, LLC

Location of Project:

All of the buildings and structures that are part of the Project will be located at 4900 Tremley Point Road, Linden, NJ 07036 (Lot 8, Block 587), which is an approximately 21.5 acres of an industrial zoned parcel located at the eastern tip of Tremley Point approximately 1.5 miles east of Interstate-95 and is bounded on the east by the Arthur Kill, on the north by Tremley Point Road and Citgo, on the west by Linden Marine and on the south by Kinder Morgan.

Maximum
Aggregate Face
Amount of Bonds
Requested:

\$195,000,000

At the hearing, members of the public may appear in person or by attorney by calling in on the Authority’s telephone conference line at 877-692-8955, Conference ID: 4204420, to provide information and make statements concerning the foregoing application. ECONOMIC DEVELOPMENT FINANCINGS OF THE NEW JERSEY ECONOMIC DEVELOPMENT

AUTHORITY WILL BE SPECIAL, LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM THE LOAN OR LEASE PAYMENTS MADE BY THE BORROWER TO THE AUTHORITY AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND INDENTURE FOR THE BONDS AND ARE NOT OBLIGATIONS OF THE STATE OF NEW JERSEY, NOR OF ANY COUNTY OR MUNICIPALITY THEREOF.

This notice is published in accordance with the public notice requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.