



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Timothy Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**SUBJECT:** Agenda for Board Meeting of the Authority October 9, 2024

**Notice of Public Meeting**

**Roll Call**

**Approval of Previous Month's Minutes**

**CEO's Report to the Board**

**Economic Transformation**

**Community Development**

**Incentives**

**Authority Matters**

**Board Memoranda**

**Public Comment**

**Adjournment**

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

September 11, 2024

## MINUTES OF THE MEETING

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

Members of the Authority present in person: Chairman Terry O'Toole, Vice Chairman Charles Sarlo; Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; and Public Members Philip Alagia, Marcia Marley, and Jewell Antoine-Johnson, Second Alternate Public Member.

Members of the Authority present via conference call: Aaron Cruz; Manuel Paulino representing Acting Commissioner Justin Zimmerman; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; and Public Members Aisha Glover, Massiel Medina Ferrara, and Robert Shimko, First Alternate Public Member.

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

Members of the Authority absent: Public Members Fred Dumont and Virginia Bauer.

Chairman O'Toole called the meeting to order at 10:03 am.

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

## MINUTES OF AUTHORITY MEETING

The first item on the Agenda was the September 11<sup>th</sup> commemoration. Chairman O'Toole called on Barry Hirschman and Mathew Abraham who are both military veterans and members of the NJEDA Military Community Employee Networking Group to lead the meeting with a moment of silence in honor of those who lost their lives on 9/11/2001.

The next item of business was the approval of the July 17, 2024 meeting minutes. A motion was made to approve the minutes by Commissioner. Angelo, seconded by Ms. Marley, and approved by the thirteen (13) voting members present.

The next item of business was the approval of the July 17, 2024 Executive Session meeting minutes. A motion was made to approve the minutes by Ms. Antoine-Johnson, seconded by Ms. Marley, and approved by the twelve (12) voting members present.

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

**FOR INFORMATION ONLY:** The next item was the presentation of the Chief Executive Officer's Monthly Report to the Board, and welcoming John Schreiber, President & CEO of NJPAC who gave a brief presentation to the board.

Mr. Alagia joined the Board meeting at this time.

### **PUBLIC COMMENT**

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

Ralphie Roman, with EcoSpace in Newark, provided public comment about the NJEDA ART Grant Award timeline processes. Mr. Roman asked the Board to address the delays hindering them to expand to the NJPAC Center.

Rebecca Pauline Jampol, Co- Director with Project for Empty Space in Newark, provided public comment regarding clarification to NJEDA ART Grant Award timeline processes.

Joshua Suss, with Deltas Restaurant in New Brunswick, provided public comment regarding NJEDA Grant ART Award timeline processes.

**FOR INFORMATION ONLY:** The next item was a summary of the Policy and Audit Committee meeting from August 28, 2024 and September 3, 2024.

### **AUTHORITY MATTERS**

#### **ITEM: Annual Organizational Meeting Memo**

**REQUEST:** To approve: (1) Election of a Vice Chair and Treasurer; (2) Appointment of Assistant Secretaries; (3) Committee appointments; (4) Reaffirmation of the Authority's Records Custodian and Assistant Records Custodian and reaffirmation of the Authority's Ethics Liaison Officer; (5) Reaffirmation of the Authority's Administrative Practice Officer and affirm the Deputy Administrative Practice Officer; and (6) Adoption of the Calendar of Meetings through September 2025.

**MOTION TO APPROVE:** Ms. Antoine-Johnson     **SECOND:** Mr. Alagia **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

#### **ITEM: Audited Financial Statements for Year Ending 12/31/23**

**REQUEST:** To approve the audited financial statements for the year ending 12/31/23.

**MOTION TO APPROVE:** Ms. Marley     **SECOND:** Commissioner Angelo **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

### **ECONOMIC TRANSFORMATION**

#### **ITEM: Technology Business Tax Certificate Transfer Program: 2024 Program Approvals**

**REQUEST:** To approve applications under the Technology Business Tax Certificate Transfer Program.

**MOTION TO APPROVE:** Ms. Antoine-Johnson     **SECOND:** Ms. Muoio     **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

#### **ITEM: NJ Innovation Evergreen Fund: Sept. 2024 Qualified Investment Approval**

**REQUEST:** To approve a Qualified Investment under the NJ Innovation Evergreen Program.

**MOTION TO APPROVE:** Ms. Marley     **SECOND:** Mr. Alagia     **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

**ITEM: NJ Accelerate Program**

**REQUEST:** Approval is requested for Program updates to the NJ Accelerate Program and a new two-year pilot period. Staff also requests approval of delegated authority for the CEO to use funds from underutilized related Innovation Technology Products, such as the Edison Innovation Fund, to support NJ Accelerate and from the Economic Recovery Fund.

**MOTION TO APPROVE:** Ms. Antoine-Johnson      **SECOND:** Mr. Sarlo      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

**ITEM: MOU with NJ Green Bank for RGGI Funding**

**REQUEST:** To approve the execution of a MOU with NJGB transferring NJEDA RGGI funds to NJGB to help the NJEDA satisfy its obligations under the Act, Rules, and Plan.

**MOTION TO APPROVE:** Ms. Muoio      **SECOND:** Comm. Angelo      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

**ITEM: Offshore Wind Applied Research Administration Grant Challenge**

**REQUEST:** To approve: (1) the creation of the OSW Applied Research Fund Administration Grant Challenge; (2) Capitalization of the Offshore Wind Applied Research Fund Administration Grant Challenge; (3) Delegation of authority to the CEO to approve eligible applications for the Offshore Wind Applied Research Fund Administration Grant Challenge in accordance with the terms set forth in the memo and program specifications; (4) Delegation of authority to the CEO to accept additional funds 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; and (5) Applicant fee waiver for the Grant Challenge.

**MOTION TO APPROVE:** Ms. Antoine-Johnson      **SECOND:** Mr. Alagia      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

**FOR INFORMATION ONLY:** The next item was a summary of the Real Estates Committee meeting from August 28, 2024.

**COMMUNITY DEVELOPMENT/ECONOMIC SECURITY**

**ITEM: Atlantic City Revitalization Grant Award – CARING, Inc.**

**REQUEST:** To approve an award under the Atlantic City Revitalization Grant Program.

**MOTION TO APPROVE:** Ms. Marley      **SECOND:** Mr. Alagia      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 8**

**ITEM: Atlantic City Food Security Grants Pilot Program – Application Declinations**

**REQUEST:** To approve the declination of applications under the Atlantic City Food Security Grants Pilot Program.

**MOTION TO APPROVE:** Ms. Antoine-Johnson      **SECOND:** Ms. Marley      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 9**

**FOR INFORMATION ONLY:** The next item was a summary of the Incentives Committee meeting from August 28, 2024.

**INCENTIVES**

## MVP

### **ITEM: New Jersey Manufacturing Voucher Program Phase 3**

**REQUEST:** To approve: (1) The NJ Manufacturing Voucher Program Phase 3; (2) The utilization of funds from the FY2025 budget to capitalize the NJ MVP and funding is to be used by the Authority to cover administrative costs; (3) A modification to eligibility criteria; (4) Delegation of authority to the CEO to approve certain individual applications for the NJ MVP within the parameters set forth in the memo and the program specifications; and (5) Delegation to the CEO to accept funds from prior phases of NJ MVP, if any, as well as any available governmental funding source (Federal, State, or County/Municipal) to further fund the third phase of this pilot program; 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.

**MOTION TO APPROVE:** Ms. Muoio      **SECOND:** Ms. Antoine-Johnson      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 10**

## ASPIRE

### **ITEM: Aspire Program- Product #313949 Oasis at Greate Bay, LLC (“Applicant”), Triple C Housing, Inc., (“Co-Applicant”)**

**REQUEST:** To approve issuance of tax credits from the Aspire Program for a residential project located in Somers Point, New Jersey, Atlantic County up to 60% of the total project cost.

**MOTION TO APPROVE:** Mr. Sarlo      **SECOND:** Ms. Antoine-Johnson      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 11**

## DIGITAL MEDIA TAX CREDIT

### **ITEM: CNBC LLC**

**REQUEST:** To approve the maximum amount of tax credits \$13,920,681

**MOTION TO APPROVE:** Ms. Antoine-Johnson      **SECOND:** Ms. Muoio      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 12**

## HISTORIC PROPERTY REINVESTMENT PROGRAM

### **ITEM: Atlantic Lofts Urban Renewal Entity- Atlantic Lofts Rehabilitation Project- Historic Property Reinvestment Program - Recommendation of Award**

**REQUEST:** To approve a proposed Historic Property Reinvestment tax credit award to Atlantic Lofts Urban Renewal Entity for the Atlantic Lofts Rehabilitation Project in Atlantic City.

**MOTION TO APPROVE:** Commissioner Angelo      **SECOND:** Ms. Marley      **AYES: 13**


**RESOLUTION ATTACHED AND MARKED EXHIBIT: 13**

## BOARD MEMORANDA FYI ONLY

1. Economic Transformation Products - Delegated Authority Approvals, Declinations, & Other Actions, Q2 2024
2. Community Development Products: Delegated Authority Approvals, Q2 2024
3. Post-Closing Incentives Delegated Authority Memo, Q2 2024
4. Post-Closing Credit Delegated Authority Approvals, Q2 2024
5. Credit Underwriting Projects Approved Under Delegated Authority, July and August 2024
6. Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/Licenses, July and August 2024

There being no further business, on a motion by Ms. Antoine-Johnson, and seconded by Ms. Marley, the meeting was adjourned at 12:06pm.

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

  
Danielle Esser, Director  
Governance & Strategic Initiatives  
Assistant Secretary



## MEMORANDUM

**To:** Members of the Authority  
**From:** Tim Sullivan  
**Date:** October 9, 2024  
**Re:** October 2024 Board Meeting – CEO Report

As we near the end of Hispanic Heritage Month, I wanted to reaffirm the New Jersey Economic Development Authority's (NJEDA) commitment to serving the state's Hispanic community, which plays a critical role in our cultural and economic makeup. A few weeks ago, Alberto Garrido from our Small Business Services team joined representatives from the U.S. Small Business Administration, New Jersey Business Action Center, New Jersey Small Business Development Center, Latin American Economic Development Association, and Minorities Allied Lenders for a tour of Hispanic-owned businesses in Camden, where they visited with nearly 40 Hispanic small business owners. Throughout the month we also highlighted Hispanic-owned small businesses that we've supported through our Main Street program on social media. Through our various programs and initiatives, we are uplifting Hispanic small business owners and unlocking access to funding and resources needed to thrive.

Last month, I joined Governor Phil Murphy at a ribbon cutting ceremony for the state's Strategic Innovation Center (SIC) known as the Fintech Accelerator at Stevens Institute of Technology (NJ FAST). NJ FAST will serve as a hub for financial technology and insurance technology startups. We're proud to partner with Stevens Institute and Plug and Play on this endeavor, which will help empower startups and drive the creation of new technologies that in turn will create jobs and support long-term, sustainable economic growth.

I was honored to join the groundbreaking of the New Jersey Performing Arts Center's (NJPAC) major mixed-use development in Newark several weeks ago. Governor Murphy, First Lady Tammy Murphy, Congresswoman LaMonica McIver, and Mayor Ras Baraka were in attendance, showing the significance of the project and the whole-of-government approach it took to get us to this point. The project will bring new housing, shops, restaurants, and outdoor space to the city, as well as new job opportunities for the city's residents. NJPAC has been a cultural centerpiece for decades, offering world-class performances, arts education, and community engagement. The NJEDA is proud to support the project through our Aspire Program, which will allow NJPAC to expand its footprint in Newark and help uplift the surrounding community.

Last week, I attended the New Jersey Manufacturing Extension Program's (NJMEP) annual Made in NJ Manufacturing Day. The day is meant to drive awareness of manufacturing, the career opportunities that are available, and the advanced technologies that are moving the industry forward. The NJEDA is dedicated to bolstering this important industry through our Manufacturing Voucher Program (MVP). Since the program launched, the program has committed nearly \$50 million to over 325 manufacturers. Phase III of MVP, which the Board approved last month, is set to launch early next year.

Since we last met, we've opened applications for several programs. Applications for Phase II of the Child Care Facilities Improvement Program are now open, which will provide grants of up to \$20,000 to registered Family Child Care homes to purchase furniture, fixtures, and equipment. Phase II builds on the success of the first phase, which has awarded over \$80 million to 400 child care centers. The Main Street Acquisition Support Grant launched earlier this month. The pilot program will reimburse small business owners up to



\$50,000 for a portion of closing costs incurred after they purchased commercial property, helping boost small business owners' liquidity. Applications for Activation, Revitalization, and Transformation (A.R.T.) Phase II are open. The \$15 million program will support the creation of public space activation initiatives, such as place making projects, public art installations, and arts-based projects along commercial corridors in 31 municipalities.

Over the past 50 years, the NJEDA has taken bold steps to bolster our economy and strengthen communities across the state. With each and every program and initiative the NJEDA develops, we are supporting new industries, expanding small businesses, creating family-sustaining jobs, and building a brighter future for the next generation of New Jerseyans. I look forward to joining everyone tomorrow to celebrate our 50<sup>th</sup> anniversary milestone and reflect on the tremendous accomplishments the Authority has made over the past five decades.

A handwritten signature in black ink, appearing to read "Tim Sullivan", is written in a cursive style.

Tim Sullivan, CEO





## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**SUBJECT:** Garden State C-PACE Program

### **Request:**

The Members are asked to approve:

1. The creation of the Garden State Commercial Property Assessed Clean Energy Program (“Garden State C-PACE Program” or “Program”), as authorized by N.J.S.A. 34:1B-374 to 382 (the “Act”), a program that provides a new form of financing, by facilitating the lending of private dollars, for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements to eligible property owners in New Jersey, and approval of the Program Guidelines and Supplemental Guidelines;
2. Delegation of authority to the Chief Executive Officer to approve individual applications of municipalities for participation in the Garden State C-PACE Program in accordance with the Program Guidelines and Supplemental Guidelines;
3. Delegation of authority to the Chief Executive Officer to approve individual applications of Qualified Capital Providers and Qualified Technical Reviewers for participation in the Garden State C-PACE Program in accordance with the Program Guidelines and as set forth in this memo;
4. Delegation of authority to the Chief Executive Officer to approve individual project applications for the Garden State C-PACE Program;
5. Delegation of authority to the Chief Executive Officer to approve the establishment of any local C-PACE program pursuant to the Act;
6. Delegation of authority to the Chief Executive Officer to decline any person or entity seeking the designation of Qualified Capital Provider or Qualified Technical Reviewer as well as to decline any project application for non-discretionary reasons;
7. Delegation of authority to the Chief Executive Officer to accept final administrative decisions prepared by a Hearing Officer for appeals based on solely non-discretionary reasons; and
8. Delegation of authority to the Chief Executive Officer to approve amendments to the Program Guidelines and Supplemental Guidelines based solely on statutory changes.

### **Background:**

In August 2021, Governor Murphy signed P.L. 2021, c. 201 into law (N.J.S.A. 34:1B-374 -382) authorizing the establishment of the Garden State C-PACE Program in New Jersey and directing the New Jersey Economic Development Authority (“NJEDA” or “Authority”) to develop guidelines for the Garden

State C-PACE Program, which are to include the standard forms of documentation to be used for the administration of the Program , and to implement, administer, and oversee the Program. The Legislature found that investing in water conservation, stormwater management, renewable energy, energy efficiency, and flood and hurricane mitigation improvements to real property is a critical component in conserving natural resources and mitigating the effects of floods and hurricanes. The Legislature also found that the up-front costs of retrofitting properties with these types of improvements are often a barrier to investing in such improvements, and the additional cost of meeting and exceeding new code requirements in connection with new construction can be a deterrent to the investments.

Recent studies have demonstrated that the existing financing options for these projects have not made them sufficiently available to property owners and developers. To facilitate financing for these types of projects, C-PACE financing allows repayment to be made by way of a special assessment on the real property to which the improvement is made and is an innovative way for property owners to finance the aforementioned improvements which, in turn, save a significant sum in utility costs or insurance premiums. C-PACE financing also creates jobs, stimulates local economies, reduces greenhouse gas emissions, and improves the safety and quality of the building stock which collectively enable New Jersey municipalities to contribute toward their goals of community sustainability and ultimately provide a valuable service to the citizens of their communities.

Over the past decade, C-PACE programs in more than two dozen states around the country have proven an effective tool to attract private capital into the renewable energy, energy efficiency, and resiliency markets. To date, according to the non-profit entity PACENation, there have been 8,340 C-PACE projects which have drawn a collective investment of \$7.2 billion and have created more than 88,785 job-years.

At this time, the Garden State C-PACE Program does not utilize any public dollars but rather facilitates private capital from Qualified Capital Providers. The Authority is authorized to establish a loss reserve or guarantee for C-PACE Direct Financing, but at this time staff is not proposing any such program.

### **Program Details:**

The Garden State C-PACE Program provides a new form of financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey. The Program works by enabling eligible commercial, industrial, agricultural, and certain multi-family residential real property owners in Participating Municipalities to access financing to undertake these kinds of improvements on their properties and repay the financing through the payment of a special assessment to the Participating Municipality, similar to the owner's real property tax, sewer, or water bill. The Participating Municipality then remits the payment to the capital provider. C-PACE financing is subject to various limits, which will be explained later in this memo.

The Act states that, similar to delinquent property tax bills, if any payment of a C-PACE assessment is not made when that payment shall have become due, or later, consistent with any grace period provided or extended by a Participating Municipality for the payment of property tax bills, interest shall be imposed at the same rate as may be imposed upon unpaid property taxes in the Participating Municipality

Projects financed through the Program are secured by a special assessment lien on the improved real property, which is repaid in installments over time. Like other special assessments, a C-PACE Assessment is a non-accelerating, senior lien secured by the property. The repayment obligation transfers automatically to the next owner if the property is sold and, in the event of default, only the payments in arrears are due, i.e., the underlying loan cannot be accelerated. Because the payment is secured by a senior lien, C-PACE projects are seen as less risky than typical loans, which generally makes capital providers more willing to lend at lower interest rates than would otherwise be the case. Moreover, due to the security arrangements for the loan, capital providers are willing to extend loans that are longer in duration, typically tying the loan term to the expected life of the C-PACE project and its associated improvements. The longer

loan terms result in lower periodic debt service payments, making it easier for energy efficiency, water conservation and renewable energy-related C-PACE projects to be cashflow- positive from the outset.

The primary goals of the Program are to:

1. Serve as a catalyst for deployment of private financing at favorable interest rates into building decarbonization, renewable energy generation and storage, water conservation, and resiliency projects in the State;
2. Serve a public purpose through reducing energy costs, stimulating the economy, potentially improving property valuation, reducing greenhouse gas emissions, and creating jobs; and
3. Incentivize eligible property owners to undertake eligible projects in efforts to help achieve 100% clean energy in the State by 2035 and install zero-carbon-emission space heating and cooling systems in 20,000 commercial properties by 2030, as adopted through Executive Orders 315 and 316, respectively.

#### *Eligibility – Program Stakeholders:*

There are multiple parties involved in the Garden State C-PACE Program. Each party has unique eligibility criteria.

#### Municipality

Any municipality in the state of New Jersey is eligible to become a Participating Municipality, which is required for Eligible Projects to be undertaken in that municipality. To become a Participating Municipality, a municipality must adopt an Opt-In Ordinance authorizing its participation in the Program and enter into a Garden State Program Agreement with the Authority.

#### Eligible Property

To be considered an Eligible Property, a parcel must be located within a Participating Municipality and be:

1. One of the following:
  - Industrial, agricultural, or commercial property;
  - Residential property containing five or more dwelling units;
  - Common areas of condominiums and other planned real estate developments as defined in N.J.S.A. 45:22A-23; or
  - Property owned by a tax-exempt or nonprofit entity, but not limited to schools, hospitals, institutions of higher education, or religious institutions;
2. Must not be subject to any bankruptcy proceedings;
3. Must not be the subject of any mortgage loans with any default; and
4. All tax payments, charges, or assessments for the Property must be current

#### Eligible Owner

To be considered an Eligible Owner, an owner(s) must be the legal or beneficial owner of an Eligible Property who consents to a C-PACE Assessment being imposed on the Eligible Property and meets the following requirements:

- Must not be subject to any bankruptcy proceedings; and
- Have written consent from all mortgage lien holders on the Eligible Property of the proposed C-PACE Assessment.

#### Qualified Capital Provider

A Capital Provider seeking to become a Qualified Capital Provider must be one of the following and also must submit a completed application to the Authority. While by statute a public entity may also be a qualified capital provider, the proposed Program Guidelines do not include public entities. Staff will continue its review to determine changes to the Program Guidelines and documents necessary to adapt them for public entities to be Qualified Capital Providers.

- An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 (17 C.F.R. 230.501 through 230.508) or Rule 144A (17 C.F.R. 230.144A) of the federal “Securities Act of 1933” (15 U.S.C. s.77a et seq.), as amended;
- The trustee or custodian of a trust or custody arrangement which provides that each beneficial owner of interests shall be an accredited investor or qualified institutional buyer;
- A special purpose securitization vehicle for the sale and transfer of securities, which is restricted to those persons described in subsections A.1 or A.2 of this definition; or
- A commercial lending institution chartered by a state or the federal government, including, without limitation, a savings and loan association, a credit union, or a commercial bank.

### Technical Evaluator

Technical Evaluators perform an evaluation of the proposed Eligible Improvements and the C- PACE Project to ensure that they satisfy Program eligibility requirements.

A person or entity performing a technical evaluation must be one of the following:

- Certified Energy Manager or Certified Energy Auditor;
- Professional Engineer with demonstrated relevant experience; or
- Contractor with relevant demonstrated experience

### Technical Reviewer

Qualified Technical Reviewers perform reviews of the Technical Evaluations to ensure the C-PACE Project is eligible.

A person or entity seeking the designation of Qualified Technical Reviewer must be an Independent Party from the Qualified Capital Provider, Eligible Owner, and the Technical Evaluator(s) and must meet the following minimum qualifications:

- Be or employ a licensed Professional Engineer; or
- Be or employ an accredited individual with the appropriate licensure, according to the Program Guidelines.

### *Eligibility – Project Criteria:*

#### Eligible Improvement Categories

Eligible C-PACE Projects include:

- Energy Efficiency Improvements
- Water Conservation Improvements
- Renewable Energy System Improvements
- Energy Storage
- Electric Vehicle Charging Infrastructure
- Stormwater Management Systems
- Flood Resistant Construction Improvements
- Hurricane Resistant Construction Improvements
- Microgrid

#### Project Costs

Project costs for Eligible Improvements that can be financed through a C-PACE Direct Financing are the cost described below. For a Microgrid, project costs are limited to the Eligible Owner’s pro rata share of the Microgrid.

- Direct Costs – Including, but not limited to, costs for the equipment, materials, and labor related to or ancillary to the purchasing, constructing, installing, modifying, or acquiring a C-PACE Project;

- Indirect Costs – Including, but not limited to, expenses and fees of engineers, architects, financial advisors, legal counsel, and other professionals, inspection fees and permits, and warranties and pre-paid maintenance contracts;
- Financing Costs of Capital Providers – Including, but not limited to, origination fees, prepaid interest, and payment reserves, closing costs, counsel fees, trustees or custodian fees, recording fees, credit enhancements, credit rating agency fees, underwriting and placement fees, appraisal fees, and environmental reports, and other financing charges; and
- Program Fees as described in the Program Guidelines.

*Direct Financing Terms/Rates:*

Garden State C-PACE financing is currently limited to private capital from private lenders pursuant to the Act, and the Act establishes the following parameters for the Direct Financing terms and rates as follows:

1. The principal amount, when combined with mortgage and other lien obligations on the Eligible Property, shall not exceed ninety (90) percent of the appraised value of the Eligible Property after including the anticipated value created by the C-PACE Project as of the date of stabilization of operations at the Eligible Property;
2. The amount shall be a specific amount, which may not exceed the Project Costs;
3. The maximum duration shall not exceed the Weighted Average Useful Life (“WAUL”) of the Eligible Improvements in the C-PACE Project or thirty (30) years, whichever is less; and
4. Except as otherwise expressly provided in the Guidelines, the terms of repayment shall be solely determined and negotiated between the Eligible Owner and the Qualified Capital provider.

*Supplemental Guidelines:*

Whereas the aforementioned terms apply to all C-PACE Projects, as required by the Act, Staff are proposing Supplemental Guidelines pertaining to the financing of new construction projects as well as gut rehabilitation, refinancing, and retroactive financing projects.

In a new construction, gut rehabilitation, refinancing, or retroactive financing project, it can be difficult to identify every component of a clean energy or resiliency improvement in a project’s budget. Accordingly, rather than require a detailed breakdown of the budget, the Supplemental Guidelines amend the definition of Direct Costs to include all costs of the Eligible Project but set forth the methodology to determine a lower percentage of Project Costs that can be financed (subject to the maximum 90% of the Eligible Property’s value after the C-PACE Project is in operations). This methodology uses the 2021 International Energy Conservation Code (IECC 2021), which the State adopts every three years as the State Energy Subcode and most recently adopted in September of 2022, as a baseline and requires projects to exceed the code. An Eligible Owner can utilize Direct Financing to finance a base of 20% to 30% of the project’s as-complete value depending on how much the project exceeds the baseline code. Eligible Owners can also include Bonus Technologies to increase the amount of Direct Financing available. Each Bonus Technology, which include electric vehicle infrastructure, energy storage, heat pumps, and renewable energy generation, adds an additional 2.5%, capped at 35%. It is important to account for these Bonus Technologies separately because the IECC does not provide guidance on renewable energy generation, energy storage, or electric vehicle charging infrastructure.

The Supplemental Guidelines also allow for Eligible Owners to refinance an existing C-PACE Direct Financing with a new one so that owners may modify the terms and amount of the assessment.

Eligible Owners are also able to access retroactive financing, allowing for projects that have either been completed or that have been started but not yet completed and have not been financed with a C-PACE Direct Financing to retroactively finance into a C-PACE Direct Financing so long as the project

application is submitted no more than three years following the date of completion of the improvement or project.

*Diversity, Equity, and Inclusion:*

The Act does not require or allow any preferences for distressed areas or financing bonuses. Additionally, as the financing is solely private capital from private lenders, the Act does not require the private lenders to make any reservations or establish preferences.

*Prevailing Wage*

As originally authorized, P.L. 2024, c.75 stated that financing through the Program was not considered “authority financial assistance” and therefore was not subject to prevailing wage requirements. However, on September 12, 2024, Governor Murphy signed into law P.L. 2024, c.75, amending P.L. 2021, c.201 and thus requiring that C-PACE Direct Financing comply with the Authority’s prevailing wage requirements.

This includes: (1) payment of prevailing wage, (2) reporting to the Authority, and (3) compliance with the NJ Public Works Contractor Registration Act (PWCRC). To ensure compliance, staff proposes requiring that the Eligible Owner participate in an Authority meeting regarding the prevailing wage obligations once the Authority determines the proposed project is eligible but prior to the Authority issuing the Determination Letter of approval.

For retroactive projects (those that were not financed with C-PACE Direct Financing originally), staff proposes that the prevailing wage requirements apply to the work performed prior to application for which the Eligible Owner is seeking the Authority’s approval for C-PACE Direct Financing.

*Application Process:*

The Garden State C-PACE Program involves multiple applications, each submitted by a different party at different points of the process.

To be a participating Municipality, a municipality must opt into the program by adopting an Opt-In Ordinance and requesting approval by the NJEDA of the municipality’s participation. Staff will utilize an intake form that will be reviewed for completion and eligibility for participation under the Program Guidelines. Municipality opt ins will be accepted on a rolling basis and any municipality is able to opt in at any time. Participating Municipalities will be listed on the program website.

Applications for designation as a Qualified Capital Provider and a Qualified Technical Reviewer will also be accepted on a rolling basis. Staff will review for completion and eligibility under the Program Guidelines. As included in the Program Guidelines, a capital provider seeking to become a Qualified Capital Provider will require an Authority debarment/disqualification legal review and substantial good standing check with the Department of Environmental Protection, the Department of the Treasury and the Department of Labor and Workforce Development. A technical reviewer seeking to become a Qualified Technical Reviewer and a property owner applying for approval of Direct Financing will also be subject to a debarment/disqualification legal review, which scrutiny will be based on the Authority’s relationship to each under the Act and the Program Guidelines. A tax clearance certificate is not required from any party because the financing is solely private capital from private lenders. Qualified Capital Providers and Qualified Technical Reviewers will also be listed on the program website. Additionally, the Authority may require, on an annual basis, that the Qualified Technical Reviewer submit information or documentation pertaining to the qualification process to demonstrate continued qualification and may revoke the Technical Reviewer’s qualification if it no longer meets the Program’s qualification requirements or is not in compliance with the Act or the Program Guidelines.

Project applications, which are submitted by Eligible Owners to NJEDA, will also be accepted on a rolling basis. Applications will include, among other items, an identification of the Qualified Capital Provider, a description of the project, an appraisal, technical documentation related to energy efficiency, and certifications from the Qualified Capital Provider and the Qualified Technical Reviewer. The Qualified Capital Provider will certify to the eligibility of the Direct Financing, Eligible Property, Eligible Owner, and C-PACE Project. The Qualified Technical Reviewer will separately certify to the eligibility of the C-PACE Project and the work of the Technical Evaluator. An Eligible Owner, which is the party submitting a project application to the Authority, will require an Authority debarment/disqualification legal review.

If Staff determines a project is eligible, the Authority will issue a Determination Letter authorizing the C-PACE financing to close with 24 months, allowing for one 6-month extension. Once a project is complete, a Project Completion Report is submitted by the Qualified Capital Provider to the Authority. The Qualified Capital Provider also provides annual reporting to the Authority, no later than March 31<sup>st</sup>, on the performance of any financing provided in the prior year.

### **Legal Documents**

The Garden State C-PACE Program documents include legal documents that are to be used uniformly by each Program participant. These documents include program participation documents and uniform assessment documents, which are the documents used for each transaction. The documents implement the Program Guidelines.

### **Delegated Authority:**

The Members are requested to approve various delegated authorities to the Chief Executive Officer in light of the different nature of the program, in which neither the Authority nor the State is providing financial assistance. The requested delegation to approve individual applications of “Qualified Capital Providers” and “Qualified Technical Reviewers,” is consistent with other delegations to certify or designate participants in EDA administered programs. Because C-PACE Projects will be funded entirely by private capital from the Qualified Capital Providers and the technical qualifications are confirmed through a two-part process by the technical evaluator and Qualified Technical Reviewer, staff is also requesting delegated authority to approve C-PACE Project applications. The delegated authority requested also includes the ability to decline an application based solely on nondiscretionary reasons.

As stated in the Program Guidelines, actions by the Board or under delegated authority may be appealed. Appeals must be filed within 20 calendar days. The CEO of the Authority, or a designee, will designate a Hearing Officer who will review the application, the appeal, and any other relevant documents or information. The Hearing Officer has sole discretion to determine if an in-person hearing is necessary. The Hearing Officer will recommend an administrative decision, by way of a written report containing his or her findings and recommendations, which shall be advisory in nature. If the report is presented to the Board, the CEO may also include a recommendation to the report. The applicant shall have five business days, from receipt of the report to file comments and exceptions to the report. The Board shall consider the report, the CEO’s recommendation, and any comments and exceptions and subsequently issue a final decision on the appeal. Appeals of the final decision can be appealed to the NJ Appellate Division. Delegated authority is requested to accept final administrative decisions prepared by a Hearing Officer for appeals based on solely non-discretionary reasons.

### **Fees:**

NJEDA will charge applicants fees that are commensurate with the expected cost of the Authority administering this program:

- Application Fee: non-refundable \$1,000 fee paid at the time of submission of the Garden State C-PACE project application.

- Closing Fee of 1% of C-PACE of the loan principal, not to exceed \$75,000, paid at the time of the closing of the C-PACE financing.
- Technical Reviewer Fee amounting to the actual cost to use a technical reviewer retained by the Authority if the Authority so chooses to retain one.

Additionally, as authorized by the Act, the Program Guidelines set forth fees the Participating Municipality may charge.

**Recommendation:**

The Members are requested to approve:

1. The creation of the Garden State Commercial Property Assessed Clean Energy Program (“Garden State C-PACE Program” or “Program”), as authorized by N.J.S.A. 34:1B-374 to 382 (the “Act”), a program that provides a new form of financing, by facilitating the lending of private dollars, for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements to eligible property owners in New Jersey, and approval of the Program Guidelines and Supplemental Guidelines;
2. Delegation of authority to the Chief Executive Officer to approve individual applications of municipalities for participation in the Garden State C-PACE Program in accordance with the Program Guidelines and Supplemental Guidelines;
3. Delegation of authority to the Chief Executive Officer to approve individual applications of Qualified Capital Providers and Qualified Technical Reviewers for participation in the Garden State C-PACE Program in accordance with the Program Guidelines and as set forth in this memo;
4. Delegation of authority to the Chief Executive Officer to approve individual project applications for the Garden State C-PACE Program;
5. Delegation of authority to the Chief Executive Officer to approve the establishment of any local C-PACE program pursuant to the Act;
6. Delegation of authority to the Chief Executive Officer to decline any person or entity seeking the designation of Qualified Capital Provider or Qualified Technical Reviewer as well as to decline any project application for non-discretionary reasons;
7. Delegation of authority to the Chief Executive Officer to accept final administrative decisions prepared by a Hearing Officer for appeals based on solely non-discretionary reasons; and
8. Delegation of authority to the Chief Executive Officer to approve amendments to the Program Guidelines and Supplemental Guidelines based solely on statutory changes.



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Tim Sullivan, CEO

Prepared by: Max Frank

Attachments:

- Appendix A – Garden State C-PACE Program Guidelines
- Appendix B – Garden State C-PACE Supplemental Guidelines





# Garden State C-PACE Program Guidelines

New Jersey Economic Development

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## ARTICLE I. OVERVIEW

### Section

#### 1.01 Introduction

N.J.S.A. 34:1B-374 to -382 (the “C-PACE Act”) established a C-PACE program in New Jersey. The Garden State Commercial Property Assessed Clean Energy (“C-PACE”) Program (“Garden State C- PACE Program” or the “Program”) provides a new form of financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey. The Program works by enabling eligible commercial, industrial, agricultural, and certain multi-family residential real property owners to access financing to undertake these kinds of improvements on their properties and repay the financing through the payment of an additional assessment to their municipality, similar to their real property tax, sewer, or water bill.

The C-PACE Act directs the New Jersey Economic Development Authority (“Authority”) to develop guidelines for the Garden State C-PACE Program, (as may be amended or modified from time to time, “Program Guidelines”) to include the standard forms of documentation (“Uniform Assessment Documents”) to be used by Program participants, and to implement and oversee the Program. Accordingly, the Appendices are an integral part of the Program Guidelines. The official version of the Program Guidelines and all Appendices may be found on the Authority’s Program website. Capitalized terms used in these Program Guidelines are found in Article XI unless otherwise defined herein.

#### Section 1.02 Authority Program Oversight

The Authority has the responsibility for developing the Program Guidelines and determining whether proposed projects are eligible in accordance with the C-PACE Act and the Program Guidelines. The Authority does not provide any financing to borrowers under this Program, nor does the Authority approve any financing provided by lenders. As part of its role of ensuring compliance with the Program Guidelines, the Authority, in its sole discretion, may decide to contract with one or more third parties to assist the Authority. The Authority may also enter into a memorandum of agreement with one or more State of New Jersey (“State”) government agencies or instrumentalities to perform any actions the Authority may take with regard to the Program.

#### Section 1.03 Interpretation

The C-PACE Act controls in the event of any inconsistency between the C-PACE Act and these Program Guidelines and any form of Uniform Assessment Document. In the event of any inconsistency between these Program Guidelines and any Uniform Assessment Document, the Program Guidelines shall control. Unless otherwise required by law, if the Program Guidelines are changed or updated by NJEDA after a C-PACE financing closes, the Program Guidelines in effect at the time the Assessment Agreement was signed shall control.

## **ARTICLE II. PROGRAM ELIGIBILITY REQUIREMENTS**

### **Section 2.01 Eligible Property**

“Property” means:

- A. One of the following:
  - 1. industrial, agricultural, or commercial property;
  - 2. residential property containing five or more dwelling units;
  - 3. common areas of condominiums and other planned real estate developments as defined in N.J.S.A. 45:22A-23; or
  - 4. property owned by a tax-exempt or nonprofit entity, including, but not limited to, schools, hospitals, institutions of higher education, or religious institutions;
- B. Within a Participating Municipality; and
- C. Upon which a C-PACE Assessment is intended to be imposed at the request of an Eligible Property Owner in connection with a C-PACE Project.

“Eligible Property” means a Property that meets the following requirements:

- A. Must not be subject to any bankruptcy proceedings;
- B. Must not be the subject of any mortgage loans with any default; and
- C. All tax payments, charges, or assessments for the Property must be current.

### **Section 2.02 Eligible Owner**

“Property Owner” means an owner of an Eligible Property who consents to a C-PACE Assessment being imposed on the Eligible Property.

“Beneficial Owner” means the owner of the building and improvements on an Eligible Property that ground leases the land underlying the building and improvement, with an initial ground lease for a term of at least 50 years.

“Eligible Owner” means a Property Owner or a Beneficial Owner that meets the following requirements as of the date when seeking the Authority’s determination that a proposed C-PACE Project is eligible:

- A. Must not be subject to any bankruptcy proceedings; and
- B. Has written consent from all mortgage lien holders on the Eligible Property for the proposed C-PACE Assessment.

### Section 2.03 C -PACE Projects

“C-PACE Project” means the acquisition, construction, installation, or modification of one or more of the following types of improvements (“Eligible Improvement Categories”), which shall be affixed to the Eligible Property.

“Eligible Improvement” means a single improvement within one of the Eligible Improvement Categories.

Unless the supplemental guidelines issued by the Authority provide otherwise, these Program Guidelines do not apply to: (1) refinancing of C-PACE Projects (whether financed previously by a Direct Financing or other financing), (2) new construction (that is, new improvements upon previously unimproved real property or on property on which all previous improvements have been demolished or otherwise removed), or (3) gut rehab (that is, a project that involve the removal and replacement of all interior (nonstructural) systems, equipment, components or features of a structure, whereby the existing structure will be reduced down to the basic structure or exterior shell (e.g., the foundation system; exterior walls, roofs; and interior structural components such as columns, beams, floors, and structural bearing walls), which can also include structural or nonstructural modifications to the exterior of the structure). “Retrofit Projects” shall mean all other C-PACE Projects. Eligible Improvement Categories are:

- A. Energy Efficiency Improvements: Improvements to reduce energy consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy, including, but not limited to:
  1. Air sealing;
  2. Installation of insulation;
  3. Installation of energy-efficient electrical, heating, cooling, or ventilation systems, including, but not limited to, air and ground source heat pump systems;
  4. Energy efficient water heating;
  5. Building modifications to increase the use of daylight;
  6. Energy efficient windows, doors, and glass;
  7. Installation of energy or water controls or energy recovery systems;
  8. Installation of efficient lighting equipment and/or controls; and
  9. Other improvements that the Authority, in consultation with the New Jersey Board of Public Utilities (“NJBPU”), determines reduce energy consumption.
  
- B. Water Conservation Improvements: Improvements that reduce water consumption, increase the efficiency of water use, or reduce water loss.
  
- C. Renewable Energy System Improvements: Improvements by which electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources:
  1. Green hydrogen produced from a renewable energy source, including, but not limited to, solar or wind energy;
  2. Solar energy;
  3. Geothermal energy;
  4. Biomass;

5. Wind energy; and
  6. Other fuels and energy sources that the Authority, in consultation with the NJBPU, determines are renewable energy fuels or sources.
- D. Energy Storage: Technology that can absorb energy, store it for a period, and thereafter dispatch the energy, including, but not limited to, battery electric storage, thermal storage, pumped hydropower, and such other forms of energy storage as may be determined by the Authority. Energy Storage shall store energy from a new or existing Renewable Energy System or Electric Vehicle Charging Infrastructure unless the Authority determines that the storing energy from a non-renewable energy system is necessary to provide a critical resilience need unique to a facility on the Eligible Property.
- E. Electric Vehicle Charging Infrastructure: Equipment designed to deliver electric energy to a battery electric vehicle or a plug-in hybrid vehicle.
- F. Stormwater Management Systems: Has the same meaning as in N.J.S.A. 40A:26B-3, which, as of the date of these Program Guidelines is: “any equipment, plant, structures, machinery, apparatus, management practices, design practices, planning activities, land, or any combination thereof, acquired, used, constructed, implemented, or operated to convey stormwater, control or reduce stormwater runoff and associated pollutants or flooding, induce or control the infiltration of groundwater recharge of stormwater, or eliminate illicit or illegal non- stormwater discharges into stormwater conveyances.”
- G. Flood Resistant Construction Improvements: Improvements that mitigate the likelihood of flood damage, including, but not limited to, the installation of break-away walls and building elevation alterations.
- H. Hurricane Resistant Construction Improvements: Improvements that enable components of structures to be in compliance with the standards for a “wind-borne debris region” adopted pursuant to the “State Uniform Construction Code Act,” N.J.S.A. 52:27D-119 et seq., or brought into compliance with a successor standard under that code.
- I. Microgrid: A group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the electric distribution system and that connects and disconnects from the electric distribution system to enable it to operate when both connected to, or independent of, the electric distribution system. The interconnected distributed energy resources that supply power to the Microgrid shall be new or existing Renewable Energy Systems unless the Authority determines that a Microgrid utilizing a non-renewable distributed energy resource is necessary to provide a critical resilience need unique to a facility on the Eligible Property.

#### **Section 2.04 Project Costs**

“Project Costs” means those costs associated with the C-PACE Project that can be financed using a C-PACE Assessment. For a Microgrid, Project Costs are limited to the Eligible Owner’s pro rata share of the Microgrid. Project Costs include:

- A. Direct Costs: Including, but not limited to, costs for the equipment, materials, and labor related to or ancillary to the purchasing, constructing, installing, modifying, or acquiring a C-PACE Project.
  
- B. Indirect Costs: Including, but not limited to, expenses and fees of engineers, architects, financial advisors, legal counsel, and other professionals, inspection fees and permits, and warranties and pre-paid maintenance contracts for the C-PACE Project.
  
- C. Financing Costs of Capital Provider: Including, but not limited to, origination fees, prepaid interest and payment reserves, closing costs, counsel fees, trustee or custodian fees, recording fees, credit enhancements, credit rating agency fees, underwriting and placement fees, appraisal fees, environmental reports, and other financing charges.

D. Program Fees: Program Fees as described in Article VI.

**Section 2.05 Direct Financing**

“Direct Financing” means Financing for a C-PACE Project pursuant to a financing agreement entered into between a Qualified Capital Provider and an Eligible Owner, or an individual or entity duly authorized by the Eligible Owner. The Direct Financing and its associated C-PACE Assessment must adhere to the following underwriting requirements:

- A. The principal amount, when combined with mortgage and other lien obligations on the Eligible Property, shall not exceed ninety (90) percent of the appraised value of the Eligible Property after including the anticipated value created by the C-PACE Project as of the date of stabilization of operations at the Eligible Property;
- B. The amount shall be a specific amount, which may not exceed the Project Costs;
- C. The maximum duration shall not exceed the Weighted Average Useful Life (“WAUL”) of the Eligible Improvements in the C-PACE Project or thirty (30) years, whichever is less. The WAUL is determined by the methods identified in Section 5.04; and
- D. Except as otherwise expressly provided in these Guidelines, the terms of repayment shall be solely determined and negotiated between the Eligible Owner and the Qualified Capital Provider. The schedule for the Eligible Owner’s repayment of the C-PACE Assessment (“Repayment Schedule”) shall be attached to the C-PACE Assessment Agreement.

**Section 2.06 Eligibility Criteria**

For a proposed project to be eligible under the C-PACE Program:

- A. The applicant proposing the project must satisfy the definition of Eligible Owner;
- B. The proposed property on which the proposed project will be located must satisfy the definition of Eligible Property;
- C. The proposed financing must satisfy the definition of Direct Financing; and
- D. Qualified Technical Reviewers have signed the Technical Review Certification Letter that the proposed project satisfies the definition of C-PACE Project and have verified the amount of Project Costs.



## ARTICLE III. QUALIFICATIONS AND RESPONSIBILITIES OF C-PACE PARTICIPANTS

### Section 3.01 Municipality

- A. To be qualified to participate in the Program, a municipality (as so qualified, a “Participating Municipality”) must adopt an Opt-In Ordinance authorizing its participation in the Garden State C-PACE Program and submit to the Authority a Participating Municipality Opt-In Notice. Once the Authority confirms that the Participating Municipality Opt-In Notice is acceptable, the Municipality shall enter into a Garden State Program Agreement with the Authority setting forth the obligations of each party under the Program. Forms of the Opt-In Ordinance and Garden State Program Agreement can be found in Appendix B and Appendix C , respectively, and the Participating Opt-In Notice can be found listed on the Program website ([www.njeda.com/c-pace/](http://www.njeda.com/c-pace/)). A list of Participating Municipalities is maintained on the Program website.
- B. The Participating Municipality Opt-In Notice shall require the following information in a format prescribed by the Authority:
1. The name of the municipality;
  2. The county in which the municipality is located;
  3. Contact information for the municipality, including, but not limited to, name, title, email, and phone number;
  4. Mailing address for the municipality;
  5. A copy of the approved municipality Opt-In Ordinance, which must be in the form attached as Appendix B ;
  6. A completed Garden State Program Agreement signed by the appropriate municipal officer, which must be in the form attached as Appendix C ; and
  7. If the designation as a Participating Municipality was previously revoked, explanation satisfactory to the Authority of the corrective measure(s) implemented that will prevent or ensure that the compliance failure does not happen again.
- C. Responsibilities of Municipalities under the Program. With respect to each C-PACE Project undertaken within its boundaries, the Participating Municipality shall:
1. Following the Authority’s determination that a C-PACE Project is eligible and simultaneous with the execution by the Eligible Owner and Qualified Capital Provider of the financing agreement:
    - a. Enter into a C-PACE Assessment Agreement with the Eligible Owner in which the Property Owner agrees to the imposition of a C-PACE Assessment on the Eligible Property benefited by a C-PACE Project and containing the related Repayment Schedule; and in which the Participating Municipality agrees to levy, bill, collect, remit, and, to the extent

- necessary, enforce the C-PACE Assessment (see Appendix D for the required form of this C-PACE Assessment Agreement);
- b. Enter into a C-PACE Assignment Agreement (“Assignment Agreement”) with the Qualified Capital Provider, or its designee, successor, or assign that is providing the Direct Financing for the C-PACE Project, in which the Participating Municipality assigns the C-PACE Assessment to the Qualified Capital Provider (see Appendix E for the required form of this Assignment Agreement).
2. File, or cause to file, the Notice of Assessment, together with the executed C-PACE Assessment Agreement and Assignment Agreement, with the county recording office in the county in which the Eligible Property is located (see Appendix F for the required form of this Notice of Assessment).
  3. Levy, bill, and collect the C-PACE Assessment and remit the C-PACE Assessment to the Qualified Capital Provider, as described in Section 4.03.
  4. As necessary, enforce the C-PACE Assessment, which is described in Section 4.06.
- D. Termination of Participation by the Municipality: A Participating Municipality may terminate its participation in the Program for any reason by providing ninety (90) days prior written notice to the Authority or in the case of a material change to the Program, by providing written notice to the Authority within sixty (60) days of the material change to the Program with such a termination being effective fifteen (15) days after the written notice; provided, however, that any termination shall not be effective with respect to any continuing obligations of the Participating Municipality relating to any C-PACE Assessments that have not been paid or otherwise discharged in full, and all such continuing obligations of the Participating Municipality relating to such C-PACE Assessments shall continue until all such C-PACE Assessments have been paid or otherwise discharged in full.

### **Section 3.02 Qualified Capital Providers**

A Capital Provider seeking to participate in the Program (“Qualified Capital Provider”) shall follow the process in Section 3.03 to be designated as a Qualified Capital Provider by the Authority. A list of Qualified Capital Providers is maintained on the Authority’s Garden State C-PACE website ([www.njeda.com/cpace](http://www.njeda.com/cpace)). The Authority’s designation of a Capital Provider as a Qualified Capital Provider does not constitute a finding by the Authority that a Qualified Capital Provider is appropriate for any particular C-PACE Project or an endorsement of any Qualified Capital Provider.

A. Capital Providers. “Capital Provider” means:

1. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 (17 C.F.R. 230.501 through 230.508) or Rule 144A (17 C.F.R. 230.144A) of the federal “Securities Act of 1933” (15 U.S.C. s.77a et seq.), as amended;
2. The trustee or custodian of a trust or custody arrangement which provides that each beneficial owner of interests shall be an accredited investor or qualified institutional buyer;
3. A special purpose securitization vehicle for the sale and transfer of securities, which is restricted to those persons described in subsections A.1 or A.2 of this definition; or

4. A commercial lending institution chartered by a state or the federal government, including, without limitation, a savings and loan association, a credit union, or a commercial bank.

Until the Authority issues supplemental Guidelines, a Capital Provider shall not include a public entity.

### **Section 3.03 Eligibility Criteria for Qualified Capital Providers**

- A. To be designated as a Qualified Capital Provider, a Capital Provider must meet the following eligibility requirements:
1. Demonstrate that it meets the definition of a Capital Provider above;
  2. Not be in default with any agreement with the Authority;
  3. Be in substantial good standing with the New Jersey Department of Labor and Workforce Development, the New Jersey Department of Environmental Protection, and the Department of the Treasury or, if a compliance issue exists, have entered into a corrective action plan or other agreement with the respective department, as applicable:
    - a. Substantial good standing shall be determined by each department and mean, at a minimum, that the Capital Provider:
      - i. As to the Department of Labor and Workforce Development and Department of Environmental Protection:
        1. Is in substantial compliance with all material statutes, rules, and other enforceable standards of the respective department that apply to the Capital Provider; and
        2. Has no material violations of those statutes, rules, or other enforceable standards that remain substantially unresolved through entry into a corrective action plan, or other agreement with the department, with respect thereto; and
      - ii. As to all other departments, has no unpaid liability in excess of any threshold dollar amount(s) that may be established by each respective department; and
    - b. If the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury promulgate or issue, their own more stringent rule or standard defining the term “substantial good standing,” the respective department shall use such rule or standard to determine whether an individual or entity is in substantial good standing.
  4. Demonstrate one of the following:
    - a. Be an approved capital provider to participate in three (3) or more C-PACE programs, other than the Garden State C-PACE Program;
    - b. Has closed financing to three (3) or more C-PACE financing transactions in another C- PACE program(s);
    - c. Has originated, maintained, and serviced more than \$2.5 million of loans in the areas of energy efficiency, renewable energy, or building improvements over a period of at least three (3) years;
    - d. Has three (3) years or more of experience with second mortgages or senior and subordinate liens.

5. If the applicant’s designation as a Qualified Capital Provider was previously revoked, explanation satisfactory to the Authority of the corrective measure(s) implemented to ensure that the compliance failure does not happen again; and
  6. Satisfy the Authority’s review pursuant to the Authority’s debarment and disqualification rules at N.J.A.C. 19:30–2.
- B. **Qualification Process.** A Capital Provider seeking to become a Qualified Capital Provider must submit a completed application to the Authority. Applications are accepted on a rolling basis and can be found on the Garden State C-PACE website. The application shall require the following information in a format prescribed by the Authority:
1. Name and address of the applicant;
  2. Contact information for the applicant, including, but not limited to, name, title, email, and phone number;
  3. Estimated amount of capital available to use for the Program;
  4. List of staff available to manage C-PACE Project transactions, including, but not limited to, names and years with the applicant;
  5. The principal regulator(s) of the Capital Provider (such as, the Federal Deposit Insurance Corporation, Federal Reserve Board, the Office of the Comptroller of the Currency, etc.). If not a regulated firm or financial institution, provide the names, titles, email addresses, and direct telephone numbers of three (3) professional references for the firm or, if recently formed, for the firm’s principal partners;
  6. A certification from the Capital Provider certifying that the Capital Provider is in good standing with their principal regulator.
  7. One of the following:
    - a. A list of at least three (3) C-PACE programs for which the applicant has been qualified to participate as a capital provider, including the name of the key contact at the program administrator for each program, and a certification by the Capital Provider that the Capital Provider is not or has not been disqualified, removed, or otherwise deemed ineligible or unable to continue participating in any C-PACE program; or
    - b. Evidence satisfactory to the Authority demonstrating A.4.b, A.4.c., or A.4.d above.
  8. Acknowledgement and consent by the applicant that the Authority will publicly disclose any information necessary for the reports required pursuant to N.J.S.A. 34:1B–376 and for the Authority to determine eligibility under the Program;
  9. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2 et seq.; and
  10. Any other necessary and relevant information as determined by the Authority to complete its review of an applicant.
- C. As part of its review, the Authority may contact representatives of any of the C-PACE programs in which the Applicant has previously participated in or is currently participating.
- D. The Authority shall notify the applicant of the Authority’s decision. If approved, the Qualified Capital Provider and the Authority shall enter into a Private Lender Capital Provider Participation Agreement, in the form set forth in Appendix G. The Capital Provider shall be designated a Qualified Capital Provider upon execution of the Private Lender Capital Provider

Participation Agreement, which shall require, among other things, that the Qualified Capital Provider:

1. Ensure that all Program documentation is prepared and procedures are followed and that the C-PACE Project and the Direct Financing are eligible in accordance with these Program Guidelines;
  2. Collect and remit the Closing Fee due to the Authority from the Eligible Owner; and
  3. Provide annual reporting to the Authority, no later than March 31, on the performance in the prior year of any Direct Financing that the Qualified Capital Provider is providing, which shall address whether payments on the C-PACE Assessment have been made on a timely basis and if there have been any defaults, together with such other information that the Authority may require to determine the performance of the Program and to provide the reports required pursuant to N.J.S.A. 34:1B-376.
- E. The Qualified Capital Provider shall be required to satisfy the Program's eligibility requirements for the duration of its participation in the Program. The Authority may require, from time to time, that the Qualified Capital Provider submit information or documentation pertaining to its ongoing eligibility as a Qualified Capital Provider and may revoke such qualification if it no longer meets the Program's requirements or it is not otherwise in compliance with the C-PACE Act, the Program Guidelines, the Private Lender Capital Provider Participation Agreement. including, but not limited to, an updated legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2.

## **ARTICLE IV. GARDEN STATE C-PACE PROJECT PROCESS OVERVIEW**

An individual or entity (“Project Applicant”) seeking to be an Eligible Owner for a C-PACE Project shall submit a completed application (“Project Application”) to the Authority for a determination by the Authority that the proposed project is eligible.

### **Section 4.01 Application Process**

#### **A. Application Preparation and Submission**

The Project Application shall include the following information in an application format prescribed by the Authority:

1. Name, address, and phone number of Project Applicant;
2. If the Project Applicant is an entity:
  - a. Type of entity, country and state of formation, date of formation, federal and state tax identification number, and website address; and
  - b. Name, title, email, and phone number of the primary point of contact;
3. If applicable, name, title, email, phone number, and address of consultant and/or attorney assisting with Project Application;
4. Address of the proposed Eligible Property, type of property and, if applicable, lease agreement. If the Project Applicant proposes a property in a municipality that is not a Participating Municipality, the Project Application shall not be complete until the municipality is designated by the Authority as a Participating Municipality as set forth in Section 3.01;
5. Certification from the Project Applicant that the Project Applicant has the requisite authority from all other persons or entities with an interest in the proposed Eligible Property, or their duly authorized representative, for the imposition of the C-PACE Assessment on the Eligible Property;
6. Narrative description of the proposed C-PACE Project and all costs, including, but not limited to, Project Costs;
7. Project Applicant’s selected Qualified Capital Provider to provide the Direct Financing and a written certification to the Authority, in the form attached as Appendix G, certifying that the Qualified Capital Provider is an Independent Party from the Qualified Technical Reviewers, the proposed property is an Eligible Property, the Project Applicant is an Eligible Owner, and the proposed financing is a Direct Financing. If the Project Applicant proposes an entity that is not a Qualified Capital Provider, the Project Application shall not be complete until the entity is designated by the Authority as a Qualified Capital Provider as set forth in Section 3.03;
8. Certification from the Project Applicant that the Project Applicant has sufficient sources to complete the proposed C-PACE Project;
9. All required Technical Evaluations and the name of the individual(s) or entity(ies) that completed the Technical Evaluation(s), type of Technical Evaluation(s) completed, the description of experience and credentials of the individual(s) who completed the Technical Evaluation(s), and the WAUL calculated by the Technical Evaluator(s);

10. All required Technical Review Certification Letters completed by a Qualified Technical Reviewer documenting the relevant Technical Reviews as described in Section 5.03 and Appendix H. If the Project Applicant proposes an individual or entity that is not a Qualified Technical Reviewer, the Project Application shall not be complete until the individual or entity is designated by the Authority as a Qualified Technical Reviewer as set forth in Section 5.03;
11. A current title report and appraisal report;
12. A Mortgage Holder Consent from each current mortgage lien holder on the applicable Eligible Property, which shall also include the mortgage lien holder's certification that the mortgage loan is not currently in default, as provided in Appendix A; if such consent is not yet obtained, the Authority's determination of Project eligibility shall be conditioned upon receipt of such consent(s) and the Direct Financing shall not close until the Authority's satisfactory review of such consent(s). The Mortgage Holder Consent shall require that each mortgage lien holder consent to the amount of the C-PACE Assessment and a maximum increase to the amount by 20%;
13. Acknowledgement and consent by the Project Applicant that the Authority will publicly disclose the C-PACE Project, the Direct Financing, and any information necessary for the reports required pursuant to N.J.S.A. 34:1B-376;
14. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;
15. A certification under penalty of perjury signed by the Eligible Owner if an individual or the individual with the authority to execute and bind the Eligible Owner if an entity that the signatory has reviewed the Project Application information and any associated documents submitted, that the representations contained therein are accurate, and that the Project Applicant is not in default regarding any of its obligations with respect to any Authority program; and
16. Any other necessary and relevant information as determined by the Authority for a specific Project Application, including, but not limited to, information needed to determine if a proposed project complies with the Program.

The Project Applicant shall be responsible for all costs incurred to prepare and submit the Project Application, including, but not limited to, the Technical Evaluation(s) and the Technical Review.

**B. Application Review**

The Authority will review the completed Project Application and associated documents to determine if eligibility requirements have been met based upon the version of these Program Guidelines (including all forms of documents included herein) in effect at the time that the Project Application is submitted. If necessary to determine the eligibility of a proposed C-PACE Project, the Authority may conduct or require the Project Applicant to submit additional technical analysis and verifications of any eligibility requirements.

**C. Determination Letter**

Once the Authority determines that the proposed C-PACE Project is eligible, the Authority will issue a Pre-Determination Letter to the Project Applicant with a copy to the selected Qualified Capital Provider. The Pre-Determination Letter shall state all conditions that the Eligible Owner or the Qualified Capital Provider must satisfy for the Authority to approve the

proposed C-PACE Project. The conditions shall include, but not be limited to, a meeting with the Authority regarding the prevailing wage obligations pursuant to Section 8.01. Once the conditions of approval are satisfied to the Authority's satisfaction, the Authority will issue a Determination Letter to the Project Applicant with a copy to the selected Qualified Capital Provider and the Participating Municipality, authorizing the Direct Financing provided it closes within 24 months from the date of the Determination Letter and further provided that the Eligible Owner maintains all eligibility requirements and the Qualified Capital Provider collects the Closing Fee due to the Authority. The Project Applicant shall sign and return the executed Determination Letter within the time requested by the Authority. The Authority may grant an extension of 6 months, in its sole discretion after which, absent extenuating circumstances, the Authority's determination of eligibility shall expire if the Project Applicant has not executed the Determination Letter. The Authority's determination of eligibility shall expire if the Direct Financing does not close within 24 months from the date of issuance of the Determination Letter, or 30 months if an extension has been granted, in the Authority's sole discretion.

#### **Section 4.02 Changes to C-PACE Projects**

The Project Applicant and the Qualified Capital Provider shall be responsible for ensuring that the C-PACE Project remains eligible to participate in the Garden State C-PACE Program pursuant to these Guidelines. If the C-PACE Project does not start construction within 60 days after the Authority's issuance of the Determination Letter, the Eligible Owner shall submit a certification within 60 days prior to commencement of construction signed by the Eligible Owner, the Qualified Capital Provider, and the Qualified Technical Reviewer stating that the C-PACE Project remains eligible as a C-PACE Project. No project change shall be allowed if the change results in an increase to the Direct Financing that exceeds 20% of the original amount; a new Project Application shall be required in that event. If the Authority finds that any project change resulted in the C-PACE Project no longer being eligible, the Authority shall notify the Eligible Owner, the Qualified Capital Provider and the Participating Municipality that the C-PACE Project no longer qualifies for a C-Pace Assessment.

#### **Section 4.03 Imposition, Assignment and Recording of C-PACE Assessment; Entry into Financing Agreement; Funding**

Following the Project Applicant's receipt of the Determination Letter:

- A. The Eligible Owner and the Participating Municipality shall enter into the C-PACE Assessment Agreement, under which the Eligible Owner agrees to the imposition of the C-PACE Assessment on the Eligible Property, the recording of the C-PACE Assessment in the county recording office, and the assignment by the Municipality of the C-PACE Assessment to the Qualified Capital Provider, and in which the Participating Municipality agrees to levy, bill, collect, and remit assessment payments to the Qualified Capital Provider and, if necessary, enforce the C-PACE Assessment;
- B. The Eligible Owner and the Qualified Capital Provider shall enter into the Direct Financing Agreement;
- C. The Participating Municipality and the Qualified Capital Provider shall enter into the C-PACE Assignment Agreement, under which the Participating Municipality assigns to the Qualified Capital Provider all of its right, title, and interest in and to the C-PACE Assessment and the C-



PACE Assessment Agreement, with the Participating Municipality retaining its obligation to levy, bill, collect, remit, and, if necessary, enforce the C-PACE Assessment;

- D. The Participating Municipality shall record, or cause to be recorded, the Notice of Assessment, together with the C-PACE Assessment Agreement and the Assignment Agreement, in the county recording office in the county in which the Eligible Property is located. At the request of the Qualified Capital Provider, recording may be effectuated by the Qualified Capital Provider. The documents must be submitted for filing no later than fifteen (15) business days following the execution of the documents. The C-PACE Assessment shall be a single, continuous first lien on the Eligible Property on and after the date of recording the C-PACE Assessment Agreement; and
- E. The Qualified Capital Provider shall provide to the Authority all fully executed and recorded documents referenced in this section within fifteen (15) days of receipt by the Qualified Capital Provider of the recorded documents.

#### **Section 4.04 Renewable Energy Certificates**

An Eligible Owner who installs a Renewable Energy System Improvement under the Garden State C-PACE Program or a Local C-PACE Program may also assign or transfer any Solar Renewable Energy Certificates, Transition Renewable Energy Certificates, or other renewable energy certificates or credits that accrue to the Property Owner from the operation of the system to the Authority, the municipality, the county improvement authority, other public entity, or the Private Entity, or the Qualified Capital Provider as applicable, which has financed the C-PACE Project. If any Solar Renewable Energy Certificates, Transition Renewable Energy Certificates, or other renewable energy certificates or credits are assigned or transferred to a municipality, county, county improvement authority, other public entity, or Private Entity, the municipality, county, county improvement authority, other public entity, or Private Entity, or Qualified Capital Provider is authorized to sell, grant, assign, convey, or otherwise dispose of its interest in the certificates or credits to repay the Direct Financing.

#### **Section 4.05 Reporting on C-PACE Project Milestones**

- A. C-PACE Portfolio Status Update Report: The Qualified Capital Provider shall provide the Authority with a C-PACE Portfolio Status Update Report at least once every year, submitted to the Authority in December of each year. The C-PACE Portfolio Status Update Report shall be a single report that includes information for each outstanding C-PACE Assessment. When the repayment of a Direct Financing is complete, the corresponding C-PACE Assessment may be removed from the C-PACE Portfolio Status Update Report. At a minimum, the C-PACE Portfolio Status Update Report shall include the following information:
  1. The number of outstanding C-PACE Assessments;
  2. If any assessments are no longer in good standing;
  3. If there have been any late payments;
  4. If there have been any delinquencies;
  5. The number of new C-PACE Assessments opened in the preceding year; and
  6. Anything else that the Authority requests that the Authority determines is needed for the reports required pursuant to N.J.S.A. 34:1B-376.

- B. Project Completion Certification. Upon completion of a C-PACE Project, the Qualified Capital Provider shall submit to the Authority a certification by the Eligible Owner that the Eligible Improvements have been installed and are in good working order. The Eligible Owner shall also certify that all prevailing wage requirements have been met. Upon the submission of the Project Completion Certificate, the Authority, or a representative third-party contracted by the Authority, may conduct site visits or inspections or request additional information or documentation, including, but not limited to, pictures or video, to ensure that the Eligible Improvements were installed as specified.

**Section 4.06 Participating Municipality’s Responsibility for Billing, Collection, Remittance and Enforcement of C-PACE Assessments**

- A. Payments of the C-PACE Assessment shall commence as set forth in the C-PACE Assessment Agreement. The Participating Municipality shall levy, bill and collect payments for the C-PACE Assessments in accordance with the Repayment Schedule attached to the C-PACE Assessment Agreement. The Repayment Schedule may be amended from time to time by agreement of the Qualified Capital Provider and the Eligible Owner and the filing of a Notice of Amendment of Assessment. Following its receipt of any such payments, the Participating Municipality shall remit such payment to the applicable Qualified Capital Provider within thirty (30) days following the receipt of the payment by the Participating Municipality.
- B. If any payment of a C-PACE Assessment is not made when that payment shall have become due, or later, consistent with any grace period provided or extended by a Participating Municipality for the payment of property tax bills as may be permitted or required by law, interest thereon shall be imposed at the same rate as may be imposed upon unpaid property taxes in the Participating Municipality. Notwithstanding any other provision of law, such statutory interest shall be in addition to any accrued interest and any amount fixed as a penalty for delinquency pursuant to the Direct Financing Agreement between the Eligible Owner and the Qualified Capital Provider.
- C. All such amounts shall be collected and enforced in the same manner as unpaid property taxes, including by accelerated tax sale if the Participating Municipality enforces collection of its unpaid property taxes through accelerated tax sales. The proceeds of the sale shall also pay the outstanding past unpaid amounts of the C-PACE Assessment. However, the remaining balance not delinquent on a C-PACE Assessment shall not be subject to acceleration or extinguishment in the event of a default in payment. Any statutory interest collected by the Participating Municipality on a delinquent C-PACE Assessment pursuant to this paragraph shall be retained by the Participating Municipality. Any accrued interest, or any amount fixed as a penalty for delinquency, pursuant to the Direct Financing Agreement between the Eligible Owner and the Qualified Capital Provider shall be remitted to the Qualified Capital Provider. If the Property Owner(s) is delinquent on a C-PACE Assessment as well as delinquent on taxes, charges, or other assessments, any payment shall be applied towards any and all such other delinquencies before being applied to any delinquent C-PACE Assessment.

- D. Notwithstanding any other provision of law, in the event that any lien on the Eligible Property shall be exposed to tax sale, pursuant to the “tax sale law,” N.J.S.A. 54:5-1 et seq., and is struck off and sold to the Participating Municipality, the C-PACE Assessment shall survive any subsequent action to foreclose the right of redemption and continue as a first lien upon the real estate described in the C-PACE Assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances, except subsequent taxes, charges, or other assessments, and provided that, notwithstanding the obligations of a Participating Municipality pursuant to N.J.S.A. 54:5-53.1, while the Participating Municipality holds the lien or owns the Eligible Property, the Participating Municipality shall not be responsible for or required to make any payment from its treasury or any other source in furtherance of or to satisfy the C-PACE Assessment. A Participating Municipality shall not bear any other responsibility in furtherance or satisfaction of a C-PACE Assessment, except that a Qualified Capital Provider may seek action to compel the Participating Municipality to enforce a lien through an action to foreclose.
- E. Eminent Domain or Condemnation. In the event of a taking of the Eligible Property by eminent domain or condemnation, the C-PACE Assessment may be accelerated or extinguished, at the election of the Qualified Capital Provider, provided the Qualified Capital Provider is compensated in accordance with the provisions of the “Eminent Domain Act of 1971,” N.J.S.A. 20:3-1 et seq., by the governmental entity utilizing eminent domain or condemnation for the balance due on the unpaid C-PACE Assessment and any interest, penalties, or other charges related thereto.

## ARTICLE V. TECHNICAL EVALUATION AND REVIEW

### Section 5.01 Technical Evaluation

The Garden State C-PACE Supplemental Guidelines set forth the technical evaluation and review requirements for projects that are not Retrofit Projects.

“Technical Evaluation” means an evaluation of the proposed Eligible Improvements and the C-PACE Project to ensure that they satisfy Program eligibility requirements. Technical Evaluations, for Retrofit Projects, must consist of, at a minimum, B or C below:

- A. The Technical Evaluation shall be performed by a professional or entity (“Technical Evaluator”) who/which meets one of the following:
  1. Certified Energy Manager or Certified Energy Auditor;
  2. Professional Engineer with demonstrated relevant experience; or
  3. Contractor with relevant demonstrated experience
  
- B. Whole Building Model Approach. This approach applies only to C-PACE Projects that include any Energy Efficiency Improvement. Using this approach, the technical evaluation will determine whether a proposed C-PACE Project meets or exceeds the applicable State energy subcode by calculating the delta between the energy performance of two models. One model representing meeting the State energy subcode and local building code and a second model representing the as-designed proposed C-PACE Project. All relevant input and output data must accompany the model. If the applicable State energy subcode minimum is not met or exceeded, the proposed C-PACE Project is not eligible for Direct Financing funded with a C-PACE Assessment.
  
- C. Prescriptive Approach. This approach requires an itemized list of each improvement that the Qualified Capital Provider proposes to fund. For a C-PACE Project that includes any Energy Efficiency Improvement, if the applicable State energy subcode minimum is not met or exceeded, the proposed C-PACE Project is not eligible for Direct Financing funded with a C-PACE Assessment. The measures may be proven eligible through one or more of the following:
  1. U.S. Department of Energy COMcheck form;
  2. Equipment data sheet; or
  3. Other forms of documentation that detail the specifications of the Improvement(s).
  
- D. In addition to the documentation evidencing the approach described in B or C above, all Technical Evaluations for C-PACE Projects must include, at a minimum:
  1. The scope of work for the proposed C-PACE Project;
  1. Documentation demonstrating that the proposed C-PACE Project meets the definition of a C-PACE Project, and the proposed improvements meet the definition of an Eligible Improvement;
  2. Direct Costs and Indirect Costs of the proposed C-PACE Project, as described in Section 2.04;
  3. Identification of the Effective Useful Life (EUL) of each Eligible Improvement;

4. The appropriate evaluation(s) as determined in the table below. If multiple Eligible Improvements are associated with a single C-PACE Project, the respective Technical Evaluation (ASHRAE Level 1, ASHRAE Level 2, Feasibility Study, etc.) must be completed;
5. For Water Conservation Measures, projected water savings in in kilogallons;
6. For Energy Efficiency Improvements, projected kilowatt-hours (electricity) or therms (natural gas); and
7. For Renewable Energy Improvements, projected generation in kilowatt-hours.

## Section 5.02 Required Technical Evaluations

Table 1: Required Technical Evaluations for Eligible Improvement Categories

Eligible Improvement Category	Required Technical Evaluations
Energy Efficiency ( <i>Prescriptive Approach</i> )	ASHRAE Level 1
Energy Efficiency ( <i>Whole Building Approach</i> )	ASHRAE Level 2
Renewable Energy/Energy Storage	Feasibility Study, which shall include the information listed in Section 5.02A below
EV Charging	Feasibility Study, which shall include the information listed in Section 5.02B below
Water Conservation	ASHRAE Level 1 or 2 energy audit (which can cover certain water conservation measures), as appropriate for the Eligible Improvement
Flood Resistant Construction, Hurricane Resistant Construction, and Stormwater Management Systems	The required information set forth in Section 5.02C below
Microgrid	A Feasibility Study, which shall include the information listed in Section 5.02A below

- A. A Feasibility Study for Renewable Energy, Energy Storage Improvements, and Microgrids, as outlined in the table above, shall include at a minimum:
1. Baseline electricity consumption and cost data, including the most recent 12 months of electricity utility bills;
  2. Identification and evaluation of Eligible Property suitability;
  3. Identification of metering specifications (locations, number of meters, etc.);
  4. Identification of the electricity and/or fuel rate structure;
  5. Assessment of the expected system performance;
  6. Comparison of the expected system performance against the baseline energy consumption of the Eligible Property;
  7. Analysis of building energy savings, including assumed electricity/fuel rate escalations; and
  8. Operational information for storage projects, including microgrids (as applicable):
    - Feasibility Study must describe the proposed system, including but not limited to total storage capacity and battery or storage type;
    - Feasibility Study must contain information about the proposed dispatch strategy for storage systems, including how the storage will be dispatched during times of peak electric grid load; and
    - Feasibility Study must estimate the annual number of full charge and discharge cycles for the energy storage system
- B. A Feasibility Study for EV Charging Improvements, as outlined in the table above, shall include at a minimum:
1. Number of EV chargers;
  2. Cutsheets;
  3. Documentation of the types and sizes of EV chargers; and
  4. One-line diagram
- C. Technical Evaluation for a C-PACE Project that includes Resiliency Improvements, as outlined in the table above, shall include at a minimum:
1. A narrative description of the Eligible Improvement(s) that contains:
    - Identification and confirmation of hazard(s) related to the Eligible Property;
    - Identification and quantification of site-specific vulnerability (risk) associated with the hazard;
    - Identification of customized resilience improvement that mitigate the risk or provide adaptation strategies;
    - Identification of any requirements from local or State laws or resilient related building codes and plans; and
    - Expected useful life for each measure
  2. Technical documentation to support any assumptions and calculations such as:
    - Engineering calculations and models;
    - Quote or affidavit from insurance provider demonstrating decrease in or avoidance of insurance costs; or

- Schematics demonstrating raising of building above 100-year floodplain, if applicable
3. Documentation supporting savings, which may be in the form of:
- Savings from reduced insurance premiums;
  - Savings from avoided incremental insurance expenses;
  - Savings calculated from avoidance of business interruption; or
  - Savings resulting from uninterrupted power.

### **Section 5.03 Technical Review Process**

- A. “Technical Review” means a review by one or more Qualified Technical Reviewers of the Technical Evaluation to ensure the C-PACE Project is eligible.
- B. “Qualified Technical Reviewer” means a person or entity that has been qualified by the Authority to perform a Technical Review. The Qualified Technical Reviewer must be an Independent Party from the Qualified Capital Provider, Eligible Owner, and the individual(s) that conducted the Technical Evaluation for the C-PACE Project. If more than one Qualified Technical Reviewer is engaged, all Qualified Technical Reviewers shall contribute to and sign one Technical Review.
- C. A list of Qualified Technical Reviewers is maintained on the Garden State C-PACE website. The Authority’s designation of an individual or entity as a Qualified Technical Reviewer does not constitute a finding by the Authority that the Qualified Technical Reviewer is appropriate for any particular C-PACE Project or an endorsement of any Qualified Technical Reviewer.
- D. To be designated as a Qualified Technical Reviewer, a person or entity must:
1. For Energy Efficiency Improvements, Renewable Energy, or Energy Storage Improvements (non-solar), be or employ a licensed Professional Engineer (PE) or accredited individual from the following list:
    - a. American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE)
      - i. Building Energy Assessment Professional (BEAP)
      - ii. Building Energy Modeling Professional (BEMP)
    - b. Association of Energy Engineers (AEE)
      - i. Certified Energy Manager (CEM)
      - ii. Certified Energy Auditor (CEA)
    - c. Building Performance Institute
      - i. Energy Auditor
    - d. Energy Management Association (EMA)
      - i. Energy Management Professional (EMP)
    - e. Investor Confidence Project
      - i. ICP Quality Assurance Assessor
  2. For either Renewable Energy Improvements or Energy Storage Improvements that are solar photovoltaics, be or employ an individual from the following list:
    - a. A Professional Engineer (PE)

- b. A professional with a North American Board of Certified Energy Practitioners (NABCEP) photovoltaic design specialist certification;
    - c. Licensed Electrical Engineer;
    - d. Building Energy Assessment Professional (BEAP);
    - e. Building Energy Modeling Professional (BEMP);
    - f. Certified Energy Manager (CEM);
    - g. Certified Energy Auditor (CEA); or
    - h. Energy Management Professional (EMP)
  3. For Resiliency Improvements, Water Conservation, Microgrid, or EV Charging Improvements on an existing building:
    - a. Professional Engineer (PE) with the requisite licensure and accreditations to evaluate the applicable Improvements; or
    - b. Appropriate code compliance person or entity
  4. Satisfy the Authority’s review pursuant to the Authority’s debarment and disqualification rules at N.J.A.C. 19:30-2.
- E. An individual or entity seeking to become a Qualified Technical Reviewer must submit a completed application to the Authority. Applications are accepted on a rolling basis and can be found on the Garden State C-PACE website. The Application shall require the following information in a format prescribed by the Authority:
  1. Name and address of the applicant;
  2. Contact information for the applicant, including, but not limited to, name, title, email, and phone number;
  3. Documentation confirming the licenses, certifications, and/or accreditations of all individual employees that will be directly involved in reviewing proposed C-PACE Projects;
  4. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2; and
  5. Any other necessary and relevant information as determined by the Authority for a specific application, including, but not limited to, information needed to determine if the entity or individual has the relevant minimum licenses or qualifications and relevant work experience in the Eligible Improvement Category.
- F. The Authority will review the application to determine if the eligibility requirements are satisfied and may request further clarification. The Authority shall notify the applicant of the Authority’s decision whether to designate the applicant as a Qualified Technical Reviewer.
- G. The Authority may require, on an annual basis, that the Qualified Technical Reviewer submit information or documentation pertaining to the qualification process and may revoke the Technical Reviewer’s qualification if it no longer meets the Program’s qualification requirements or is not in compliance with the C-PACE Act or the Program Guidelines, including, but not limited to, an updated legal questionnaire disclosing all relevant legal matters in accordance with the Authority’s debarment and disqualification rules at N.J.A.C. 19:30-2.
- H. Technical Review Required Information



The Technical Review must include, at a minimum, the following:

1. Verification that:
  - a. The appropriate Technical Evaluations were performed by one or more individuals who satisfy the requirements in Section 5.01A above;
  - b. The proposed C-PACE project is an eligible C-PACE Project, and the proposed improvements are Eligible Improvements;
  - c. The design and engineering of the proposed C-PACE Project are technically feasible and reasonably intended to result in any claimed benefits associated with the proposed C-PACE Project; and
  - d. The proposed C-PACE Project and its Eligible Improvement(s) will be permanently affixed to the Eligible Property.
2. Calculation or confirmation of:
  - a. Weighted Average Useful Life (WAUL) of all Eligible Improvements, as set forth in Section 5.04;
  - b. Direct and Indirect Costs of the proposed C-PACE Project as described in Section 2.04.

I. Technical Review Certification Letter

The Qualified Technical Reviewer(s) shall complete a letter certifying to the information required for a Technical Review in the form provided in Appendix H, which shall also include a certification by the Qualified Technical Reviewer(s) that the Technical Reviewer continues to be eligible as a Qualified Technical Reviewer.

- J. From time to time, the Authority may conduct reviews of any Technical Review performed by any Qualified Technical Reviewer, pursuant to this Article V, to evaluate compliance with the Program Guidelines, including, but not limited to, the technical standards. The Authority may require that the Qualified Technical Reviewer provide evidence or documentation supporting any of its Technical Reviews.

## **Section 5.04 Useful Life Calculation**

### Weighted Average Useful Life (WAUL)

The WAUL of a C-PACE Project is calculated on a weighted average basis from the WAUL of each Eligible Improvement that are of the same type with the same estimated useful life (EUL) using the following process:

The WAUL is calculated by:

1. For Eligible Improvements that are of the same type with the same EUL (Similar Eligible Improvements), calculate the ratio (percentage) of the costs of such Similar Eligible Improvements to the total cost of all the Eligible Improvements.
2. Multiply that percentage by the EUL of those Similar Eligible Improvements.
3. Sum the result of all the calculations under #2 for each group of Similar Eligible Improvements. The resulting sum is the WAUL.

Below is an example for a C-PACE Project that consists of the following Eligible Improvements:

	<b>Cost</b>	<b>% Of Total</b>	<b>EUL (years)</b>	<b>EUL (years)</b>
Insulation	50,000	19%	20	3.70
Windows	20,000	7%	30	2.22
HVAC	200,000	74%	20	14.81
<b>Total</b>	<b>270,000</b>	<b>100%</b>	<b>WAUL=</b>	<b>20.74</b>

**Step 1**

$$\text{Insulation: } \frac{\$50,000}{\$270,000} = 19\%$$

$$\text{Windows: } \frac{\$20,000}{\$270,000} = 7\%$$

$$\text{HVAC: } \frac{\$200,000}{\$270,000} = 74\%$$

**Step 2**

$$\text{Insulation: } 19\% \times 20 \text{ years} = 3.70 \text{ years}$$

$$\text{Windows: } 7\% \times 30 \text{ years} = 2.22 \text{ years}$$

$$\text{HVAC: } 74\% \times 20 \text{ years} = 14.81 \text{ years}$$

**Step 3**

$$3.70 + 2.22 + 14.81 = \underline{20.74 \text{ years WAUL}}$$

**ARTICLE VI. FEES**

Unless otherwise stated, all fees are one-time, non-refundable fees paid by the Eligible Owner to the Authority.

<b>Fee</b>	<b>Payable to</b>	<b>Amount</b>
<p><b>Initial Application Fee</b> The portion of the Application Fee due with a completed Garden State C-PACE application.</p>	the Authority	\$1,000
<p><b>Closing Fee</b> The portion of the Application Fee collected by the Qualified Capital Provider at the time of closing of the Direct Financing and remitted to the Authority within ten (10) calendar days.</p>	the Authority	1 percent (%) of Direct Financing principal amount, not to exceed \$75,000
<p><b>Technical Reviewer Fee</b> If the Eligible Owner elects to use a Technical Reviewer retained by the Authority for a Technical Review and the Authority agrees, the Eligible Owner shall pay the full amount of direct costs of the Technical Reviewer.</p>	the Authority	Direct costs of the Technical Reviewer
<p><b>Municipal Annual Fee</b> An annual municipal fee shall be paid by the Eligible Owner to the Participating Municipality and consist of the following components, as applicable, which shall be paid at the time that the Participating Municipality incurs administrative costs:</p>		
<p><b>1. Municipal Closing Fee</b> This portion of the annual municipal fee shall be paid at time of Direct Financing closing for the Participating Municipality's activities to prepare for the ongoing billing, collecting, and remitting of the C-PACE Assessment.</p>	Participating Municipality	Rate of Participating Municipality specified in its Program Agreement, not to exceed: -- in the case where the Participating Municipality records documents directly, \$750; --in the case where the Participating Municipality requires another party to record documents, \$500.

<p><b>2. Municipal Servicing Fee</b>                  This portion of the annual municipal fee shall be paid every year for the billing, collection, and remittance services of a Participating Municipality.</p>	<p>Participating Municipality</p>	<p>Rate of Participating Municipality specified in its Program Agreement, not to exceed \$500</p>
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## **ARTICLE VII. LOCAL C-PACE PROGRAM**

A municipality which, as of the Launch Date of the Program, is in the top third of municipalities in the State in terms of population (rounded up), according to the most recent American Community Survey published by the United States Census Bureau (“Authorized Municipality”), may establish a Local C-PACE Program subject to approval by the Authority. A county may also establish a Local C-PACE Program pursuant to a local C-PACE program ordinance to facilitate the financing of C-PACE projects in Participating Municipalities located in that county. The Authority shall publish a list of Authorized Municipalities and counties with approved Local C-PACE Programs on the Authority’s Program website. Qualified Capital Providers may not originate or finance C-PACE Projects in municipalities or counties in which they are contracted by the municipalities or counties to administer the Local C-PACE program.

### **Section 7.01 Establishing a Local C-PACE Program**

The process for establishing a Local C-PACE Program is as follows:

- A. For an Authorized Municipality that is not a Participating Municipality, the Authorized Municipality shall follow the process to be designated a Participating Municipality as set forth in Section 3.01.
- B. Submission of an application to establish a Local C-PACE Program to the Authority which application shall include, but not be limited, to:
  1. Proposed Local C-PACE Program ordinance that authorizes the creation of the Local C-PACE Program, with an opinion of counsel that the Local C-PACE Program ordinance is consistent with the requirements in N.J.S.A. 34:1B-378(b) and -379;
  2. An acknowledgement that the Authorized Municipality or, in the case of a Local C-PACE Program established by a county, any Participating Municipality located in that county, shall use the Uniform Assessment Documents prepared by the Authority, as they may be amended from time to time; and
  3. Draft Local C-PACE Program Guidelines, exclusive of the uniform assessment document, with an opinion of counsel that the Local C-PACE Program Guidelines are consistent with these Program Guidelines.
- C. After receipt of a completed application, the Authority will review the application to confirm that it is in compliance with these Program Guidelines and the C-PACE Act and either approve or decline the application within 60 days after its receipt. If the Authority does not act within 60 days after receipt, the application shall be deemed approved.
- D. Upon the Authority’s approval of the application, the Authorized Municipality or county, may adopt the draft Local C-PACE Program Ordinance and issue the draft Local C-PACE Program Guidelines. Neither Authorized Municipalities nor counties are authorized to approve C-PACE Projects without the Authority’s approval of its Local C-PACE Program.

- E. If the Authority declines the application, it shall provide a detailed explanation to the Authorized Municipality or county as to the reasons for the declination and the changes necessary to bring the draft Local C-PACE Program Ordinance and Local C-PACE Program into compliance with the requirements of the C-PACE Act. The Authorized Municipality or county may submit a revised application addressing the reasons and making the change indicated by the Authority. The Authorized Municipality or county shall not adopt the proposed Local C- PACE Program Ordinance if the Authority declines its application.

**Section 7.02 Role and Use of Local C-PACE Programs**

Any county that establishes a Local C-PACE Program shall do so only for the benefit of Participating Municipalities located within that county, but the Participating Municipalities shall remain responsible for the process of levying, billing, collecting, remitting, and enforcing the C-PACE Assessment. In a county or Authorized Municipality that has established a Local C-PACE Program, any C-PACE Projects in that Authorized Municipality or, in the case of a county, in any Participating Municipality located in that county, may be financed pursuant to the Garden State C-PACE Program or the Local C-PACE Program. In a Participating Municipality that has not established or is located in a county that has not established, a Local C-PACE Program, any C-PACE Projects in that Participating Municipality may be financed pursuant to the Garden State C-PACE Program only.

## **ARTICLE VIII. PREVAILING WAGE**

- A. The Eligible Owner shall comply with the Authority’s prevailing wage requirements at N.J.S.A. 34:1B-5.1 and N.J.A.C. 19:30-4 for any construction contract, as defined in N.J.A.C. 19:30-4.1, in relation to the C-PACE Project. In accordance with N.J.S.A. 34:1B–5.1, nothing in these Program Guidelines shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after the first payment or other provision of the Direct Financing is received.
  
- B. The Qualified Capital Provider shall require in its Direct Financing Agreement that the Eligible Owner comply with the Authority’s prevailing wage as set forth in A. above and shall include as an Event of Default the violation of the Eligible Owner of the prevailing wage requirement.

## ARTICLE IX. APPEALS

- A. For those declinations that require a decision by the Board of the Authority, the Board's action shall be effective 10 business days after the Governor's receipt of the minutes, provided neither an early approval nor veto has been issued. For those actions that do not require a Board decision, the Authority's action shall be effective on the date specified in the notice of the decision.
- B. An applicant may appeal the Authority's decision by submitting in writing to the Authority, within 20-calendar days from the effective date of either the Board's or the Authority's action, an explanation as to how the applicant has met the program criteria. Such appeals are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- C. Appeals that are timely submitted shall be handled by the Authority as follows:
  1. The Chief Executive Officer of the Authority shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board (unless otherwise determined by the Board). The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. The Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.
  2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report containing his or her finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. If the report is made to the Board, after reviewing the report, the Chief Executive Officer may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer, which shall include the recommendation of the Chief Executive Officer, if any, and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days from receipt of such report.
  3. The Board (or Authority officer if otherwise determined by the Board) shall consider the hearing officer's report, the recommendation of the Chief Executive Officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board (or Authority officer if otherwise determined by the Board) shall issue a final decision on the appeal. Appeals of the final decision can be appealed to the New Jersey Appellate Division.



## **ARTICLE IX. FAILURE TO COMPLY WITH PROGRAM REQUIREMENTS**

- A. If a Qualified Capital Provider or Qualified Technical Reviewer fails to comply with a requirement of the Garden State C-PACE Program, including, but not limited to, requirements in these Program Guidelines or, if applicable, the Capital Provider Participation Agreement, the Authority may revoke the designation as a Qualified Capital Provider or a Qualified Technical Reviewer, respectively, which shall be in addition to any remedy any other individual or entity may have.
- B. If, at any time, the Authority determines that a Qualified Capital Provider or a Qualified Technical Reviewer made a material misrepresentation on its application or any submission to the Authority, the Authority shall revoke the designation as a Qualified Capital Provider or a Qualified Technical Reviewer, respectively, and the Qualified Capital Provider or Qualified Technical Reviewer shall not be eligible to be designated as a Qualified Capital Provider or Qualified Technical Reviewer, respectively, for up to one year, which shall be in addition to any other remedies in the Capital Provider Participation Agreement, if applicable, any remedy any other individual or entity may have, and any criminal or civil penalties to which the Qualified Capital Provider or Qualified Technical Reviewer may be subject.
- C. If a Participating Municipality fails to comply with a requirement of the Garden State C-PACE Program, including, but not limited to, requirements in these Program Guidelines or in the corresponding Participation Agreement, the Authority may revoke the designation as a Participating Municipality, which shall be in addition to any remedy any other individual or entity may have.
- D. If, at any time, the Authority determines that an Eligible Owner, or the officer(s), owner(s), or member(s) of the Eligible Owner that signed the Project Application certification and/or made the statement (“Responsible Officer”), made a material misrepresentation on its application or any submission to the Authority, the Eligible Owner, and all entities that the Responsible Officer controls or in which the Responsible Officer is a majority owner, shall not be eligible for a C-PACE Project for up to one year, which shall be in addition to any remedy any other individual or entity may have, and any criminal or civil penalties to which the Eligible Owner or Responsible Officer may be subject.
- E. If, at any time, the Authority determines that an individual or entity who performed a Technical Evaluation made a material misrepresentation on a Technical Evaluation or any submission to the Authority, the individual or entity shall not be eligible to be perform a Technical Evaluation for a proposed C-PACE Project for up to one year, which shall be in addition to any remedy any other individual or entity may have, and any criminal or civil penalties to which the individual or entity may be subject.

**ARTICLE X. SEVERABILITY**

If any provision of these Program Guidelines is determined to be unlawful, void, or for any reason unenforceable, removal or invalidity of that provision shall be deemed severable from these Program Guidelines and shall not affect the validity and enforceability of any remaining provisions.

## ARTICLE XI. GLOSSARY

“Application Fee” shall have the meaning ascribed to it in Article VI.

“ASHRAE” means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

“Assessment Agreement” shall have the meaning ascribed to it in Section 3.01C.

“Assignment Agreement” shall have the meaning ascribed to it in Section 3.01C.

“Authority” means the New Jersey Economic Development Authority.

“Authorized Municipality” shall have the meaning ascribed to it in Article VII.

“Beneficial Owner” shall have the meaning ascribed to it in Section 3.02A.

“Capital Provider” shall have the meaning ascribed to it in Section 3.02A.

“Capital Provider Participation Agreement” shall have the meaning ascribed to it in Section 3.03E.

“Closing Fee” shall have the meaning ascribed to it in Article VI.

“C-PACE” means commercial property assessed clean energy.

“C-PACE Act” shall have the meaning ascribed in Section 1.01.

“C-PACE Assessment Agreement” shall have the meaning ascribed in Section 3.01C.

“C-PACE Assessment” shall mean a local improvement assessment in accordance with N.J.S.A. 40:56-1 et seq. imposed by a Participating Municipality on an Eligible Property at the request of and with the consent of the Property Owner, and determined based upon the existing use of such Eligible Property or the contemplated use of unimproved Eligible Property upon completion of new construction, as a means of securing and otherwise facilitating financing provided by a Capital Provider with respect to a C-PACE Project at the Eligible Property, payments in respect of which C-PACE Assessment are collected by the municipality and remitted to or on behalf of the Capital Provider, its designee, successor, assigns or beneficiaries.

“C-PACE Project” shall have the meaning ascribed to it in Section 2.03.

“C-PACE Portfolio Status Report” shall have the meaning ascribed to it in Section 4.04A.

“Determination Letter” shall have the meaning ascribed to it in Section 4.01C.

“Direct Costs” shall have the meaning ascribed to it in Section 2.04A.

“Direct Financing” shall have the meaning ascribed to it in Section 2.05.

“[Direct Financing Agreement](#)” shall mean [an](#) agreement entered into between a Qualified Capital Provider and [an](#) Eligible [Owner regarding the Direct Financing provided by the](#) Qualified [Capital Provider](#).

“Effective Useful Life” shall have the meaning ascribed to it in Section 5.02D.

“Electric Vehicle Charging Infrastructure” shall have the meaning ascribed to it in Section 2.03E.

“Eligible Improvements” shall have the meaning ascribed to it in Section 2.03.

“Eligible Improvement Category” shall have the meaning ascribed to it in Section 2.03.

“Eligible Owner” shall have the meaning ascribed to it in Section 2.02.

“Eligible Property” shall have the meaning ascribed to it in Section 2.01.

“Energy Efficiency Improvements” shall have the meaning ascribed to it in Section 2.03A.

“Energy Storage” shall have the meaning ascribed to it in Section 2.03D.

“Feasibility Study” shall have the meaning ascribed to it in Section 5.02A.

“Finance” or “Financing” means the investing of capital in accordance with these Program Guidelines and N.J.S.A. 34:1B-382, including, on the basis of supplemental program guidelines to be published by the Authority, the refinancing of an investment in an existing C-PACE Project.

“Financing Costs of Capital Providers” shall have the meaning ascribed to it in Section 2.04C.

“Flood Resistant Construction Improvements” shall have the meaning ascribed to it in Section 2.03G.

“Garden State C-PACE Program” or “Program” means the program established by the Authority pursuant to the C-PACE Act and subject to these Program Guidelines.

“Garden State Program Agreement” shall mean an agreement between the Authority and a Participating Municipality defining:

- The obligation of a municipality to participate in the Garden State C-PACE Program, including the requirement that the Participating Municipality levy, bill, collect, remit, and enforce a C-PACE Assessment; and
- The obligations, if any, that the Authority may undertake:
  - With respect to the remittance of C-PACE Assessments to Qualified Capital Providers if the remittance is authorized by regulations adopted by the Local Finance Board and requested by the Participating Municipality, and incorporated, at the Authority’s sole discretion, into the Authority’s program guidelines and processes; and
  - To review and qualify the participation of individual capital providers as or financings in the Garden State C-PACE Program.

“Hurricane Resistant Construction Improvements” shall have the meaning ascribed to in Section 2.03H.

“Independent Party” means that the party that is independent:

1. Has no overlap in its respective ownership or other beneficial interests with the parties from which it is independent;
2. Is not under common control, whether by virtue of ownership interest, contract arrangements, or otherwise with the parties from which it is independent; and
3. Has no employee participating in the Eligible Project, including, but not limited to, directly involved in the Technical Review of the Eligible Project, that has been employed by the parties from which it is independent during the preceding 12 months.

“Indirect Costs” shall have the meaning ascribed to it in Section 2.04B.

“Initial Application Fee” shall have the meaning ascribed to it in Article VI.

“Launch Date” means [INSERT DATE].

“Local C-PACE Program” means a program established by an Authorized Municipality or a county pursuant to N.J.S.A. 34:1B-379.

“Local C-PACE Program Application Fee” shall have the meaning ascribed to it in Article VI.

“Local C-PACE Program Guidelines” shall have the meaning ascribed to it in Article VII.

“Local C-PACE Program Ordinance” means an ordinance adopted by an Authorized Municipality or a county, and approved by the Authority pursuant to N.J.S.A. 34:1B-380, to establish a Local C-PACE Program within its jurisdiction pursuant to N.J.S.A. 34:1B-378(b) and N.J.S.A. 34:1B-379(a).

“Microgrid” means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the electric distribution system and that connects and disconnects from the electric distribution system to enable it to operate when both connected to, or independent of, the electric distribution system.

“Mortgage Holder Consent Form” is located at Appendix A.

“Municipal Closing Fee” shall have the meaning ascribed to it in Article VI.

“Municipal Servicing Fee” shall have the meaning ascribed to it in Article VI.

“NJBPU” means the New Jersey Board of Public Utilities.

“Notice of Assessment” means the document filed with the county recording officer in the county in which an Eligible Property is located, which notifies prospective holders of an interest in the Eligible Property that a C-PACE Assessment lien has been placed on the Eligible Property.

“Notice of Amendment of Assessment” means the document filed with the county recording officer in the county in which an Eligible Property is located, which notifies prospective holders of an interest in the Eligible Property that the previously recorded Notice of Assessment has been amended.

“Ongoing Measurement and Verification” shall have the meaning ascribed to it in Section 4.05C.

“Opt-In Ordinance” means an ordinance adopted by a municipality by which it authorizes its participation in the Garden State C-PACE Program and authorizes the municipality to enter into a Garden State Program Agreement with the Authority.

“Participating Municipality” means:

- a. a municipality that adopts an Opt-In Ordinance and executes a Garden State Program Agreement; or
- b. an Authorized Municipality that adopts an Opt-In Ordinance, executes a Garden State Program Agreement, and adopts a Local C-PACE Program Ordinance and Local C-PACE Program Guidelines approved by the Authority.

“Prescriptive Approach” shall have the meaning ascribed to it in Section 5.01C.

“Private entity” means a corporation, limited liability company, partnership, trust, or any other form of private organization, including but not limited to a “related competitive business segment of a public utility holding company,” or a “related competitive business segment of an electric public utility or gas public utility,” as those terms are defined in N.J.S.A. 48:3-51, so long as the organization is not subject to the jurisdiction of the Board of Public Utilities.

“Private Lender Capital Provider Participation Agreement” shall have the meaning ascribed to it in Section 3.03D.

“Program Fees” shall have the meaning ascribed to it in Section 2.04D.

“Program Guidelines” shall mean these guidelines, as they may be revised or amended from time to time, and which shall include all program-related documents prepared and published by the Authority as exhibits to the Program Guidelines.

“Project Applicant” shall have the meaning ascribed to it in Article IV.

“Project Application” shall have the meaning ascribed to it in Article IV.

“Project Completion Certification” shall have the meaning ascribed to it in Section 4.04B.

“Project Costs” shall have the meaning ascribed to it in Section 2.04.

“Property” shall have the meaning ascribed to it in Section 2.01.

“Property Owner” shall have the meaning ascribed to it in Section 2.02.

“Qualified Capital Provider” shall have the meaning ascribed to it in Section 3.02.

“Qualified Energy Auditor” means a qualified energy auditor as defined by American Society of Heating, Refrigerating and Air-Conditioning Engineers® (ASHRAE) Standard 211 (series).

“Qualified Technical Reviewer” shall have the meaning ascribed to it in Section 5.03.

“Renewable Energy System Improvements” shall have the meaning ascribed to it Section 2.03C.

“Repayment Schedule” shall have the meaning ascribed to it in Section 2.05.

“Resiliency Improvements” means Stormwater Management System, Flood Resistant Construction, and Hurricane Resistant Construction Improvements.

“Responsible Officer” shall have the meaning ascribed to it in Section IXD.

“Retrofit Project” shall have the meaning ascribed to it in Section 2.03.

“Stormwater Management Systems” shall have the meaning ascribed to it in Section 2.03F.

“Solar Renewable Energy Certificate” means the same as defined in N.J.S.A. 48:3-51.

“Technical Evaluation” shall have the meaning ascribed to it in Section 5.01.

“Technical Review” shall have the meaning ascribed to it in Section 5.0

“Technical Review Certification Letter” shall have the meaning ascribed to it in Section 5.03.

“Transition Renewable Energy Certificate” means a certificate issued by the Board of Public Utilities or its designee, under the solar energy transition incentive program, which is designed to transition between the Solar Renewable Energy Certificate program and a solar successor incentive program to be developed by the Board of Public Utilities pursuant to N.J.S.A. 48:3-87.8 et al.

“Uniform Assessment Documents” means an Assessment Agreement, Assignment Agreement, Notice of Assessment, Notice of Amendment of Assessment, a Mortgage Holder Consent, and any other uniform or model documents prepared by the Authority and used in the Garden State C-PACE Program and Local C-PACE Programs, except that the Authority shall not mandate a uniform financing agreement, which shall be supplied by the Qualified Capital Provider for Direct Financing.

“Whole Building Model Approach” shall have the meaning ascribed to it in Section 5.01B

“Water Conservation Improvements” shall have the meaning ascribed to it in Section 2.03B.

“Weighted Average Useful Life (WAUL)” shall have the meaning ascribed to it in Section 5.04.

## **ARTICLE XII. LIST OF APPENDICES**

Appendix A: Form of Mortgage Holder Consent

Appendix B: Model Opt-In Ordinance

Appendix C: Form of Garden State Program Agreement

Appendix D: Form of C-PACE Assessment Agreement

Appendix E: Form of C-PACE Assignment Agreement

Appendix F: Form of C-PACE Notice of Assessment

Appendix G: Form of Private Lender Capital Provider Participation Agreement

Appendix H: Qualified Capital Provider/Technical Reviewer Certification Letter

Appendix I: Form of C-PACE Notice of Amendment of Assessment

Appendix J: Form of Eligible Owner Applicant Undertaking



**APPENDIX A – FORM OF MORTGAGE HOLDER CONSENT**

***Separate Document***

**APPENDIX B – MODEL OPT-IN ORDINANCE**

***Separate Document***

**APPENDIX C – FORM OF GARDEN STATE PROGRAM AGREEMENT**

***Separate Document***

**APPENDIX D – FORM OF C-PACE ASSESSMENT AGREEMENT**

***Separate Document***

**APPENDIX E – FORM OF C-PACE ASSIGNMENT AGREEMENT**

***Separate Document***

**APPENDIX F – FORM OF C-PACE NOTICE OF ASSESSMENT**

***Separate Document***

**APPENDIX G – FORM OF PRIVATE LENDER CAPITAL PROVIDER  
PARTICIPATION AGREEMENT**

***Separate Document***

**APPENDIX H – QUALIFIED CAPITAL PROVIDER/TECHNICAL  
REVIEWER CERTIFICATION LETTER**

***Separate Document***



**APPENDIX I – FORM OF C-PACE NOTICE OF AMENDMENT OF  
ASSESSMENT**

***Separate Document***

**APPENDIX J – FORM OF ELIGIBLE OWNER APPLICANT UNDERTAKING**

***Separate Document***

Garden State C-PACE Supplemental Guidelines

**ARTICLE I Overview**

These Guidelines (the “Supplemental Guidelines”) supplement the Garden State C-PACE Program Guidelines (the “Program Guidelines”) and apply to New Construction Projects, Gut Rehabilitation Projects, Refinancing Projects, and Retroactive Financing Projects. Unless otherwise defined herein, capitalized terms shall have their meanings as set forth in the Program Guidelines.

Except as otherwise specified in these Supplemental Guidelines, all provisions of the Program Guidelines apply to New Construction Projects, Refinancing Projects, and Retroactive Financing Projects.

**ARTICLE II NEW CONSTRUCTION PROJECTS**

**Section 2.01 Scope**

“New Construction Projects” means a C-PACE Project comprising of new improvements on a previously unimproved property or on property on which all previous improvements have been demolished or otherwise removed.

**Section 2.02 Projects with Energy Efficiency Improvements**

The following modifications to the Program Guidelines apply to New Construction Projects that include any Energy Efficiency Improvement:

- A. “C-PACE Project” shall mean the acquisition and all construction, installation, or modification of the Eligible Property. “Direct Costs” shall mean any and all direct costs of the acquisition, construction, installation, or modification of the Eligible Property, including Ancillary Costs incurred as a result of the C-PACE Project Costs. “Indirect Costs” shall mean any and all indirect costs related to the Direct Costs.
- B. The required technical evaluation shall be the Whole Building Model Approach. Using such approach, the technical evaluation will determine the degree to which a proposed C-PACE Project exceeds the State Energy Subcode by calculating the delta between the model representing meeting the State Energy Subcode and the second model representing the as-designed proposed C-PACE Project.
- C. The maximum percentage in the underwriting requirements in Section 2.05(A) of the Program Guidelines, which is a percentage of the appraised value of the Eligible Property after including the anticipated value created by the C-PACE Project as of the date of stabilization of operations at the Eligible Property amount of the C-PACE Assessment, shall be determined as follows:
  1. The percentage amount of Direct Financing applicable to Project Costs excluding any Water Conservation Improvement or Resiliency Improvement shall be the sum of the

- base percentage as set forth in Section 2.03 below and the possible bonus set forth in Section 2.04 below and as shown on Table 1, not to exceed 35 percent, and
2. If the C-PACE Project includes any Water Conservation Improvement or Resiliency Improvement, then:
    - a. The Whole Building Model approach must exclude any Water Conservation Improvement or Resiliency Improvement.
    - b. The Project Costs for all Water Conservation Improvements and Resiliency Improvements must be accounted for separate from all other Project Costs.
    - c. The total Project Costs attributable to such improvement shall be added to the eligible Project Costs described in 1 of the section above.
    - d. The resulting sum from c. above shall not exceed 90 percent.
  3. If the proposed C-PACE Project consists solely of one or a combination of Renewable Energy System Improvements, Energy Storage, or Electric Vehicle Charging Infrastructure but not Energy Efficiency Improvements and the degree to which the proposed C-PACE Project exceeds the State Energy Subcode cannot be determined, then the Project Costs shall be considered as a Retrofit Project for purposes of the Program Guidelines and these Supplemental Guidelines.

### **Section 2.03 Base Percentage for Projects with Energy Efficiency Improvements**

- A. The percentage set forth in this Section and Table 1 of these Supplemental Guidelines are valid only for the 2021 International Energy Conservation Code (IECC 2021) with amendments as the residential code and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.01-2019 (ASHRAE 90.1-2019) without amendments as the commercial code (collectively, the “State Energy Subcodes”), and the prior State energy subcodes, which were the 2018 IECC as the residential code and ASHRAE 90.1-2016 as the commercial code (collectively, the “Prior State Energy Subcodes”).
- B. For projects proceeding with building permits subject to the State Energy Subcodes:
  1. A New Construction Project that demonstrates modelled energy performance that exceeds but is less than a 2.5% improvement over the applicable State Energy Subcode minimum shall have a base maximum percentage of 20 percent.
  2. A New Construction Project that demonstrates at least a 2.5% improvement but less than a 5% improvement over the applicable State Energy Subcode minimum shall have a base maximum percentage of 25 percent.
  3. A New Construction Project that demonstrates a greater than 5% improvement over the applicable State Energy Subcode minimum shall have a base maximum percentage of 30 percent.
- C. For projects proceeding with building permits subject to the Prior State Energy Subcodes:
  4. A New Construction Project that demonstrates energy performance that exceeds but is less than a 7.5% improvement over the applicable State Energy Subcode

minimum shall have a base maximum percentage of 20 percent.

5. A New Construction Project that demonstrates a greater than 7.5% improvement over the applicable State Energy Code shall have a base maximum percentage of 30 percent.

**Section 2.04 Bonus Percentage for Projects with Energy Efficiency Improvements**

A New Construction Project that contains any of the technologies (“Bonus Technologies”) listed below shall add an additional bonus percentage of 2.5 percent for each Bonus Technology included, subject to the maximum percentage set forth in Section 2.03 above.

<b>Bonus Technologies</b>
Electric Vehicle Charging Infrastructure
Energy Storage systems behind the meter
High-efficiency heat pumps (air, ground, or water source & facility-wide)
Heat pump water heaters (facility-wide)
*Hydrogen systems
*Solar energy system, sized sufficiently for the project (photovoltaic and/or thermal)
*Geothermal energy systems
*Wind energy system
*Biomass system
*Other fuels and energy sources that the Authority, in consultation with NJ Board of Public Utilities (“NJBPU”), determines are renewable energy fuels or sources

\*Improvements by which electrical, mechanical, or thermal energy is produced from a method that uses the noted energy fuel source.

<b>IECC/ASHRAE Code Year</b>	<b>Minimum Energy Performance Above Code</b>	<b>Maximum Base Underwriting Percentage</b>	<b>Additional Underwriting Percentage with Bonus Technologies</b>	<b>Maximum Underwriting Percentage</b>
2021	Exceeds code but less than 2.5%	20%	+2.5% per bonus technology	35%
2021	2.5% but less than 5%	25%	+2.5% per bonus technology	35%
2021	Greater than 5%	30%	+2.5% per bonus technology	35%
2018 or Prior	Exceeds code but less than 7.5%	20%	+2.5% per bonus technology	35%
2018 or Prior	Greater than 7.5%	30%	+2.5% per bonus technology	35%

### **ARTICLE III GUT REHABILITATION PROJECTS**

- A. “Gut Rehabilitation Projects” or “Gut Rehab Project” shall mean a project that involve the removal and replacement of all interior (nonstructural) systems, equipment, components or features of a structure, whereby the existing structure will be reduced down to the basic structure or exterior shell (e.g., the foundation system; exterior walls, roofs; and interior structural components such as columns, beams, floors, and structural bearing walls). A Gut Rehab Project may also include structural or nonstructural modifications to the exterior of the structure.
- B. If a Gut Rehab Project consists solely of Eligible Improvements, then the Eligible Owner shall choose for the Gut Rehab Project to be reviewed and approved in the same way as a New Construction Project or as a Retrofit Project and shall make that choice as part of the Project Application. If a Gut Rehab Project contains improvements that are not Eligible Improvements or costs that are not Project Costs, then the Gut Rehab Project shall be reviewed and approved in the same way as a New Construction Project.

### **ARTICLE IV REFINANCING PROJECTS**

- A. “Refinancing Projects” means C-PACE Projects for which the outstanding Direct Financing and the associated C-PACE Assessment is refinanced with a new Direct Financing. Refinancing of Eligible Improvements not financed with Direct Financing or Eligible Improvements that have been subsequently modified or altered shall be subject to the Retroactive Financing Project provisions in Article V.
- B. Eligible Owners shall apply to the Authority prior to a Refinancing Project for determination by the Authority that the Refinancing Project is eligible. An Eligible Owner proposing a Refinancing Project to refinance a C-PACE Project approved under the Program shall not be required to submit in the Project Application information pertaining to the technical evaluation and technical review of the C-PACE Project. If the proposed Refinancing Project would refinance a C-PACE Project approved under a Local C-PACE Program, the Eligible Owner shall submit evidence of the Local C-PACE Program approval of the C-PACE Project. For all Refinancing Projects, the Project Application shall require a certification from the Qualified Capital Provider that the C-PACE Project continues to meet all requirements under the Program Guidelines and these Supplemental Guidelines.
- C. Refinancing Projects shall be reviewed and approved subject to the Program Guidelines except that:
  - 1. The municipality in which the C-PACE Project is located must still be a Participating Municipality at the time of the Project Application and Authority approval of the Refinancing Project;
  - 2. The Weighted Average Useful Life calculated as set forth in Section 5.04 of the Program Guidelines shall be reduced by the number of years since the commencement of the Direct Financing of the existing C-PACE Project. Accordingly,

the example in Section 5.04 of the Program Guidelines has the following additional step, assuming the illustrative Refinancing Project occurs two years after the commencement of the existing Direct Financing:

**Step 4**

20.74 years WAUL for the new C-PACE Project – 2 years = 18.74 WAUL

3. The Eligible Owner shall not have to demonstrate that the C-PACE Project satisfies the technical criteria in Article V of the Program Guidelines.
- D. If the Direct Financing for the Refinancing Project is provided by the existing Qualified Capital Provider, the Qualified Capital Provider shall amend the existing Assessment Agreement and Assessment Assignment Agreement, as necessary, and provide a Notice of Amended Assessment. If the refinancing is with a new Qualified Capital Provider, the Qualified Capital Provider shall replace or cause to replace the existing agreements and assessment with a new Assessment Agreement, Assessment Assignment Agreement, and Notice of Assessment. To the extent that the existing recorded documents are amended or the Direct Financing is paid in full with a new Refinancing Project, the Qualified Capital Provider shall cancel or cause to cancel the existing recorded documents. All newly generated documents that are required to be recorded in the County Recording Office pursuant to the Program Guidelines shall be recorded accordingly. The Qualified Capital Provider shall provide to the Authority a copy of the fully executed and recorded documents, all new documents referenced in this section, including any documents recorded to cancel existing documents, or all amended documents referenced in this section within fifteen (15) days of receipt by the Qualified Capital Provider of the recorded documents.

**ARTICLE V     RETROACTIVE FINANCING PROJECTS**

- A. “Retroactive Financing Projects” means a previously completed improvement or project for which the Eligible Owner is seeking Direct Financing, including, but not limited to, for the purpose of refinancing prior financing that was not Direct Financing.
- B. Except as stated in E below, Retroactive Financing Projects that consisted of a New Construction Project shall comply with the requirements for a New Construction Project.
- C. Except as stated in E below, Retroactive Financing Projects that consisted of a Gut Rehab Project shall comply with the requirements for a Gut Rehab Project.
- D. Except as stated in E below, Retroactive Financing Projects that consisted of a Retrofit Project shall comply with all the requirements for a Retrofit Project.
- E. Retroactive Financing Projects are subject to the additional requirements:
  1. The proposed Retroactive Financing Project must be located within a Participating Municipality at the time of the Project Application and Authority approval for the proposed Retroactive Financing Project.

2. Construction of the improvements included in the proposed Retroactive Financing Project must not be completed or must have been completed within the three-year (36 month) period immediately preceding the date of submission of the Project Application for the proposed Retroactive Financing Project.
3. The Weighted Average Useful Life shall be calculated as set forth in Article 4.C2 above.
4. The Authority's prevailing wage requirements at N.J.S.A. 34:1B-5.1 and N.J.A.C. 19:30-4 shall apply to work performed at the proposed Retroactive Financing Project that comprise the C-PACE Project for which the Eligible Owner is seeking Direct Financing.

## **ARTICLE VI Glossary**

"Bonus Technologies" shall have the meaning ascribed it in Section 2.04 of these Supplemental Guidelines.

"C-PACE Project," for New Construction Projects that include any Energy Efficiency Improvement, shall have the meaning ascribed it in Section 2.01A of these Supplemental Guidelines.

"Direct Costs," for New Construction Projects that include any Energy Efficiency Improvement, shall have the meaning ascribed it in Section 2.02A of these Supplemental Guidelines.

"Gut Rehabilitation Projects" or "Gut Rehab Project" shall have the meaning ascribed it in Paragraph A of Article III of these Supplemental Guidelines.

"Indirect Costs," for New Construction Projects that include any Energy Efficiency Improvement, shall have the meaning ascribed it in Section 2.02A of these Supplemental Guidelines.

"New Construction Projects" shall have the meaning ascribed it in Section 2.01 of these Supplemental Guidelines.

"Prior State Energy Subcodes" shall have the meaning ascribed it in Section 2.03 of these Supplemental Guidelines.

"Refinancing Projects" shall have the meaning ascribed it in Paragraph A in Article IV of these Supplemental Guidelines.

"Retroactive Financing Projects" shall have the meaning ascribed it in Paragraph A in Article V of these Supplemental Guidelines.

"State Energy Subcode" shall have the meaning ascribed it in Section 2.03A of these Supplemental Guidelines.

"Supplemental Guidelines" shall have the meaning ascribed it in Article I of these Supplemental Guidelines.





## MEMORANDUM

**TO:** Members of the Authority  
**FROM:** Tim Sullivan  
Chief Executive Officer  
**DATE:** October 9, 2024  
**SUBJECT:** **Modifications to the NJ Cool Program**

### Request:

The Members are asked to approve:

1. Modifications to the NJ Cool Pilot Program, as specified in this memo and attached Proposed Program Specifications. The modifications requested pertain to program building eligibility and clarify refrigerant definitions and ineligible expenses.
2. Delegation of authority to the Chief Executive Officer to:
  - a) After assessing the application demand and program uptake within the original pilot municipalities, optionally expand the eligible geography of the NJ Cool Program to include, in addition to Newark, Edison, and Atlantic City, all Overburdened Communities (OBCs) and formally designated Adjacent Communities according to the New Jersey Environmental Justice Law. The possible expansion to OBCs and Adjacent Communities will only be allowed once the initial one-year program funding set-aside for the initial pilot communities of Newark, Edison, and Atlantic City has expired on April 22, 2025.

### Background:

On November 16, 2023, the Board approved the creation of the NJ Cool Program (“NJ Cool” or the “Program”) and the utilization of \$15,000,000 from New Jersey Economic Development Authority’s allocation of 2023-2025 RGGI funds based upon staff’s recommendation in November 16, 2023, memo to the Board (the “Board Memo”). The NJ Cool program provides grants to retrofit projects in existing commercial buildings that result in a reduction of operating greenhouse gas emissions. The pilot program currently supports projects located in the municipalities of the City of Newark (Newark), the Township of Edison (Edison), and the City of Atlantic City (Atlantic City).

NJ Cool applications were launched on April 22, 2024.

This memo proposes modifications to the NJ Cool program in order to expand the program eligibility requirements to include additional types of buildings and expansion of eligible geography, as well as clarifying program definitions. Staff recommends the requested

modifications in this memo based on lessons learned during the Program's implementation as well as market feedback from stakeholders and industry experts.

### **Program Details:**

#### *Eligibility:*

In order to expand the program to reach more buildings within New Jersey, this memo requests modifications to the eligibility requirements for building types.

On November 16, 2023, the Board approved NJ Cool with the following building type eligibility:

The pilot is open to existing commercial spaces within the three designated pilot communities of Newark, Edison, and Atlantic City (see below on the factors used to select these three municipalities). NJEDA will utilize municipal boundaries for these communities in determining that an Applicant's property address fits the project location criteria.

For the purposes of the pilot, commercial spaces are defined per a select list of Occupancy classes as defined by Chapter 3 of the current version of New Jersey Building Code. This includes Mercantile Group M (i.e., retail stores), Assembly Group A-2 (i.e., restaurants, bars, nightclubs, etc.), and Business Group B (i.e., banks, barber/beauty shops, professional services offices, etc.). Uses listed in New Jersey Building Code under Business Group B that will be excluded from pilot eligibility are airport traffic control towers, buildings used for civic administration, educational purposes above the 12<sup>th</sup> grade, and post offices. These three Occupancy classes were selected for the pilot to provide a variety of commercial building uses to inform program design and operation. In addition, they are highly public facing spaces that can help inform community members about building decarbonization efforts and benefits. Other Occupancy classes were excluded from the initial pilot eligibility given that buildings with these other spaces typically have more complicated energy demands, potentially larger retrofit project costs, and complex building ownership structures. These additional Occupancy classes may be considered for inclusion in future program iterations. Using building occupancy class to designate project eligibility allows for mixed-use buildings to be included in the pilot as occupancy class can be applied by code to only a portion of a building rather than the entire structure. For example, improvements can be made under the program to eligible ground floor retail spaces in a mixed-use building while excluding upgrades specific to residential apartments that may be located on the higher floors of a building. Please note, improvements (such as façade replacement, rooftop solar panel installations, or central HVAC equipment replacement) that may also result in emissions/energy reduction benefits to other building occupancy

uses within a building in addition to the primary targeted Group M, A-2, or B occupied spaces are eligible for grant reimbursement. If the Applicant is a tenant, the minimum 75% switching requirement explained above for space heating load or existing refrigerants will only apply to the portions of the building within the tenant's lease or the building systems affecting the tenant's space within the overall building.

See the Board Memo.

Staff recommends the following revised building type eligibility requirements for NJ Cool:

The pilot is open to existing spaces within Newark, Edison, Atlantic City, and, after year one of the Program, OBCs and Adjacent Communities, whose occupancy or property class fit within the scope of the Program's funding source, as further limited below. NJEDA will utilize municipal boundaries and OBCs for these communities in determining that an Applicant's property address fits the project location criteria.

For the purposes of the pilot, eligible buildings are defined as buildings within the occupancy classes M, A-2, or B as well as buildings within a select list of Property classes, as defined by N.J.A.C. 18:12-2.2. The Property classes that are eligible for this pilot program are Class 4A, 4B, 15A, 15B, 15C, 15D, 15E, and 15F.

If the Applicant is a tenant or owner of a portion of an eligible property, the minimum 75% switching requirement explained above for space heating load or existing refrigerants will only apply to the portions of the building within the tenant's lease or the owner's fee or the building systems affecting the tenant or owner's space within the overall building.

This change will expand the types of buildings that are eligible to receive funding from the NJ Cool program by defining eligibility using property classes, which are more encompassing than the previously used occupancy classes. This approach will also simplify eligibility for prospective applicants, as one building may include different spaces inside each with different occupancy classes.

The selected property classes are broadly as follows:

- Class 4A: Commercial Property
- Class 4B: Industrial Property
- Class 15A: Public School Property
- Class 15B: Other School Property
- Class 15C: Public Property
- Class 15D: Church and Charitable Property
- Class 15E: Cemeteries and Graveyards
- Class 15F: Other Tax Exempt Property

*Refrigerant Definition:*

In order to offer applicants additional clarity, this memo requests modifications to the definition of refrigerants eligible for replacement under the program.

On November 16, 2023, the Board approved NJ Cool with the following project scope eligibility:

Projects must include switching 75% or more of building space heating loads from existing fossil fuel-based combustion systems to non-combustion heating systems with low to zero direct operating emissions and/or replacing 75% or more of existing high global warming potential (GWP) refrigerants used for cooling within the building with lower GWP alternatives.

See the Board Memo.

Staff recommends the following revised refrigerant definition for NJ Cool:

Projects must include switching 75% or more of building space heating loads from existing fossil fuel-based combustion systems to non-combustion heating systems with low to zero direct operating emissions and/or replacing 75% or more of existing high global warming potential (GWP) refrigerants (defined as refrigerants with a GWP greater than or equal to 700 (100-year GWP value)) used for cooling within the building with lower GWP alternatives (defined as refrigerants with a GWP lower than the existing high GWP refrigerant being replaced).

This change will offer clarity on the refrigerants eligible to receive funding from NJ Cool.

*Eligible Expenses:*

In order to offer applicants additional clarity, this memo requests modifications to ineligible expenses.

On November 16, 2023, the Board approved NJ Cool with the following project costs listed that are ineligible for NJ Cool grant funding:

**Ineligible Project Costs:**

- Soft costs: including but not limited to energy audits, design professional services, 3<sup>rd</sup> party construction management costs, permitting fees, commissioning costs, inspection fees
- Interior finish improvements and upgrades not related to operating energy/emissions reductions (ex: flooring, artwork)
- Other building system upgrades that are not related to energy/emissions reductions (ex: fire sprinklers, security cameras), even if required for overall building code compliance
- Furniture: non-permanent items (ex: desks, chairs, cabinets)
- Prior energy efficiency/emissions reductions improvements begun or completed before time of application approval

- New construction, including enlargements or additions to existing buildings that increase overall building square footage
- Facility or site acquisition
- Fines incurred because of code or zoning violations during construction project(s) associated with this grant

See the Board Memo.

Staff recommends the following revised ineligible project costs be added to the Board Memo's list:

- New fossil fuel-based systems, including but not limited to, new fossil fuel-based heating systems or new back-up power generation equipment.

This change will offer clarity on ineligible expenses to NJ Cool and ensure consistency with the intent of the program to reduce operating emissions.

*Treatment of Current and Pending Applicants:*

Staff will review completed Program applications that are submitted prior to the publication of a revised Notice of Funding Availability ("NOFA") reflecting the revisions recommended in this memorandum under the program rules initially approved on November 16, 2023. All applications submitted after the publication of that NOFA shall be reviewed under the revised Program rules.

**Delegated Authority:**

On November 16, 2023, the Board approved NJ Cool with the following delegated authority:

- a) Approve individual applications for the NJ Cool Program in accordance with the terms set forth in this memo and the attached program specifications.
- b) Increase funding from \$15,000,000 to up to \$30,000,000 based on available RGGI funding if application demand exceeds the initial \$15,000,000 funding allocation.

See the Board Memo.

Staff requests that delegated authority under NJ Cool be expanded as follows:

- c) After assessing the application demand and program uptake within the original pilot municipalities, optionally expand the eligible geography of the NJ Cool Program to include Newark, Edison, and Atlantic City as well as all OBCs and formally designated Adjacent Communities according to the New Jersey Environmental Justice Law. The possible expansion to OBCs and Adjacent Communities will only be allowed once the initial one-year program funding set-aside for the initial pilot communities of Newark, Edison, and Atlantic City has expired on April 22, 2025. This potential program expansion will allow for NJ Cool program funding to be used beyond the initial pilot communities of Newark, Edison, and Atlantic City if there is low application demand for the program, even after broadening program eligibility by switching from

building occupancy class to building property class as outlined in this memo. The initial NJ Cool pilot program budget was \$15,000,000 for grant awards, of which \$5,000,000 was set aside for projects within each of the three pilot municipalities. Per the original board memo, one year after application is open to the public, initial set asides will expire and all remaining program funding will be open to eligible building projects within the three pilot communities on a first come, first served basis. If the pilot is expanded to all OBCs and Adjacent communities under delegated authority, funding would be available on a first come, first served basis to all eligible building projects within the expanded program geography.

**Recommendation:**

The Members are requested to approve the modifications to the NJ Cool Pilot Program, as specified in this memo and attached Proposed Product Specifications sheet.



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Tim Sullivan, CEO

Prepared by: **Sean Sonnemann**

Attachments: Appendix A – Proposed Product Specifications: NJ Cool Program

Appendix A – Proposed Product  
Specifications: NJ Cool Program

<b>Proposed Product Specifications: NJ Cool Program October 9, 2024</b>	
<b>Building Eligibility</b>	For the purposes of the pilot, eligible buildings are defined per a select list of Property classes as defined by Section 18:12-2.2 of the current version of New Jersey Administrative Code. The Property classes that are eligible for this pilot program are Class 4A, 4B, 15A, 15B, 15C, 15D, 15E, and 15F.
<b>Refrigerant Definition</b>	Projects must include switching 75% or more of building space heating loads from existing fossil fuel-based combustion systems to non-combustion heating systems with low to zero direct operating emissions and/or replacing 75% or more of existing high global warming potential (GWP) refrigerants (defined as refrigerants with a GWP greater than or equal to 700 (100-year GWP value)) used for cooling within the building with lower GWP alternatives (defined as refrigerants with a GWP lower than the existing high GWP refrigerant being replaced)
<b>Ineligible Project Costs</b>	In addition to all other ineligible project costs noted in Board Memo, applicants are not allowed to use the NJ Cool Program Pilot funding for: new fossil fuel-based systems, including but not limited to, new fossil fuel-based heating systems or new back-up power generation equipment.
<b>Treatment of Current and Pending Applicants:</b>	Staff will review completed Program applications that are submitted prior to the publication of a revised Notice of Funding Availability (“NOFA”) reflecting the revisions recommended in this memorandum under the program rules initially approved on November 16, 2023. All applications submitted after the publication of that NOFA shall be reviewed under the revised Program rules.
<b>Delegation of Authority</b>	<p>Authority is delegated to the Chief Executive Officer to do the following:</p> <p>After assessing the application demand and program uptake within the original pilot municipalities, optionally expand the eligible communities of the NJ Cool Program to include, in addition to Newark, Edison, and Atlantic City,</p>

	<p>all Overburdened Communities (OBCs) and formally designated Adjacent Communities according to the New Jersey Environmental Justice Law. This possible expansion will only be allowed once the initial one-year program funding set-aside for the initial pilot communities of Newark, Edison, and Atlantic City has expired on April 22, 2025.</p>
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## **MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, CEO  
**DATE:** October 9, 2024  
**SUBJECT:** MOU with Rutgers University and Stockton University for Offshore Testbed Development

### **Summary**

The Members are asked to approve 1) a Memorandum of Understanding (MOU) between NJEDA, Rutgers, the State University (Rutgers), and Stockton University (Stockton) to support the development and operations of an offshore testbed associated with the Rutgers and Stockton Marine Field Stations (Field Stations); 2) Utilization of \$2.66 million allocated via the \$10 million MOU between the NJ Board of Public Utilities and NJEDA dated October 27, 2022 for the Wind Institute for Innovation and Training; and 3) delegated authority to the CEO to extend the MOU or to amend the MOU to reduce or expand the scope of work related to development and operations of an offshore testbed.

### **Background:**

In June 2023, NJEDA released a Request for Expressions of Interest (RFEI) to identify specific partners, sites, and financial commitments to develop a Wind Innovation Center (WIC) to be comprised of offices, labs, and testing facilities. The development of the WIC is directly connected to NJEDA's Wind Institute for Innovation and Training's (Wind Institute) objective to champion offshore wind research and innovation that unlocks market potential. The RFEI identified key research focus areas for the to-be-established WIC including climate-smart modeling for high performance wind farms; technological solutions for environmental impact assessments; OSW transmission and grid integration; Power-to-X and energy storage solutions; and OSW component design. NJEDA staff is currently negotiating with RFEI respondents for the formation of the WIC to be known as the Wind Innovation and Renewable Energy Center (WIRE). Relatedly, the RFEI process identified potential ocean-based testing sites that could be leveraged by the WIC, including LEO-15, an existing, but currently non-operational, research lease off the coast of New Jersey managed by Rutgers that could be transformed into an ocean-based testing site for new technologies (Testbed).

In an effort to activate the LEO-15 platform into an offshore Testbed to advance offshore wind research, development and innovation, NJEDA will provide up to \$2.66 million to Rutgers and Stockton University to support Field Station equipment and vessel upgrades as well as Rutgers' and Stockton's expenses required for operations and maintenance of the Testbed. The Testbed will facilitate expansion of Rutgers and Stockton's academic and research activities, including education, and research in marine sciences and coastal management. Rutgers and Stockton will also provide WIRE-affiliated companies and researchers with access to onshore Field Station assets including wet labs, dry labs, meeting space, tank systems, and tooling at no-cost through in-kind contributions. WIRE-affiliated companies and researchers would be responsible for standard costs for vessel use and associated offshore expenses. Activating the Testbed will establish New Jersey as a national leader in OSW research and development ("R&D") and help commercialize technologies and develop innovative solutions that advance the state's OSW industry. The Testbed will serve as a significant and unique asset for innovation and technology development activities and will be linked to WIRE once developed, for utilization by start-ups and researchers in the state and region.

### **Description of Services**

Under this MOU, Rutgers University will do the following:

- Participate in check-in meetings with NJEDA to report on the status of the Testbed project and related activities on an as-needed cadence at NJEDA's reasonable discretion.
- Within ninety (90) days of the MOU Effective Date, submit a plan describing in detail all capital expenses and operational tasks required to support activation of the Testbed and the responsibilities described in the MOU.
- Collaborate with Stockton, OSW stakeholders, including WIRE leadership (once established), and other subject matter experts to design Testbed infrastructure starting with an ocean-based platform that has sensor systems installed to collect oceanographic, atmospheric, and other data that can be transmitted over various communication protocols, such as Wi-Fi, Bluetooth, or Cellular Networks. The sensor platform will leverage equipment such as a uninterruptible power supply buoy and may leverage autonomous underwater vehicles ("AUVs") capable of collecting high-resolution data throughout the water column.
- Where possible and practical, integrate the Testbed into supporting Rutgers' mission for providing education and research resources to students, faculty, and researchers through access to the Testbed to conduct research in offshore wind and other relevant areas such as marine science and coastal management.
- Upgrade up to three (3) of its research vessels, including upgrades to winches, hydraulics, electronics, A-frame, and safety equipment, to enable such vessels to safely transport equipment and people from onshore Field Stations to the Testbed and support survey operations.
- Install, calibrate, and maintain buoy hardware, mooring and sensor communication systems at LEO-15.
- Once WIRE is established, the entity selected to operate WIRE will develop an agreement between WIRE and Rutgers and potentially Stockton. This agreement will provide reasonable access to Rutgers' onshore Field Station assets which may include wet labs, dry labs, meeting space, tank systems, Rutgers owned dorm facilities, and tooling for WIRE-affiliated companies and researchers utilizing the Testbed. To support such access, Rutgers will make an in-kind

contribution of up to \$10,000 per company per year not to exceed \$367,000 in the aggregate for the duration of the MOU term. The agreement will state that Rutgers may charge WIRE-affiliated companies and researchers at Rutgers' established rates for offshore equipment and services, such as access to vessels, U.S. Coast Guard licensed vessel operators, and crew required to perform research operations at-sea.

- Oversee operations for the Testbed and integrate and manage data from the Testbed through the Rutgers University Center for Ocean Observing Leadership's ("RUCOOL") existing data infrastructure.
- Deploy and maintain buoy hardware and mooring systems at the Testbed and ensure they are operational and reasonably accessible by WIRE's users.
- As the Testbed operator, hire staff or contractors as needed such as a Testbed manager and instrument technician, and retain specialized third-party services, where needed, to oversee Testbed maintenance and operations needed to connect the field station resources and staff for Testbed use, including but not limited to mooring maintenance, buoy data connectivity, Field Station integration, coordinating and scheduling research vessel services for WIRE users and researchers, data management and reporting, calibration of core sensor systems, and data quality assurance and quality checks.

Under this MOU, Stockton will do the following:

- Participate in check-in meetings with NJEDA to report on the status of the Testbed project and related activities on an as-needed cadence at NJEDA's discretion.
- Within ninety (90) days of the MOU Effective Date, submit a plan and project timeline that will describe in detail all capital and operational tasks and expenses required to support the responsibilities described in the MOU.
- Collaborate with Rutgers, OSW industry stakeholders, including WIRE leadership (once established), and other subject matter experts to provide input into the design and operations of Testbed infrastructure starting with an ocean-based platform that has sensor systems installed to collect oceanographic, atmospheric, and other data that can be transmitted over various communication protocols, such as Wi-Fi, Bluetooth, or Cellular Networks. The sensor platform will leverage equipment such as a uninterruptible power supply buoy and may leverage AUVs capable of collecting high-resolution data throughout the water column.
- Once WIRE is established, the entity selected to operate WIRE will develop an agreement between WIRE, Stockton, and potentially Rutgers. The agreement will provide WIRE-affiliated companies and researchers with access to Stockton's onshore Field Station assets including wet labs, dry labs, meeting space, tank systems, and tooling at no-cost to WIRE-affiliated companies and researchers through in-kind contribution from Stockton for the duration of the MOU. The agreement will state that Stockton may charge WIRE-affiliated companies and researchers at Stockton's established rates for offshore equipment and services, such as access to vessels, U.S. Coast Guard licensed vessel operators, and crew required to perform research operations at-sea.
- Perform upgrades to one (1) research vessel, including updates to winch, davit, sonar mount, electrical, and engine, to enable the vessel to safely transport equipment and people from onshore field stations to the Testbed and support in survey operations.

## **Reporting**

Both Rutgers and Stockton will provide NJEDA with an annual budget that includes an accounting of all NJEDA funds used or committed as of the annual budget date for expenses in the categories listed as Exhibit A of the MOU. Both Rutgers and Stockton will provide NJEDA with an annual progress report containing key metrics that describe the utilization of the Field Stations, equipment, and Testbed, which may include the number of WIRE users served, number of research projects completed, number of students, faculty or other stakeholders that have benefitted from the activation of the Testbed, and progress updates for all of the responsibilities outlined in the MOU. Additional details on the specific responsibilities can be found in the Attachment A – Memorandum of Understanding between NJEDA and Rutgers and Stockton.

## **Funding**

NJEDA's will provide a total maximum funding amount of no more than two million five hundred twenty-six thousand two hundred ninety-three dollars (\$2,526,293) to Rutgers and no more than one hundred forty-two thousand dollars (\$142,000) to Stockton. Rutgers and Stockton shall submit requests for reimbursement to NJEDA no more frequently than twice per year. Requests for reimbursement for expenses incurred in January through June of a calendar year shall be submitted to NJEDA no later than August 30th of that year, and requests for reimbursement for expenses incurred in July through December of a calendar year shall be submitted to NJEDA no later than February 28th of the following year. No requests for reimbursement are required if there are no expenditures to report. Each request for reimbursement submitted to NJEDA by Rutgers and Stockton shall include an itemization of actual expenditures incurred, a description of each expenditure, and appropriate receipts, invoices, supporting documentation, and any other information deemed necessary by NJEDA. All invoices and supporting documentation are subject to the reasonable approval of NJEDA.

Rutgers and Stockton will be notified by NJEDA of any issues with reimbursement requests and/or supporting documentation and will be given a reasonable opportunity to submit an amended request for reimbursement with reasonable additional information/documentation. NJEDA will not reimburse Rutgers and Stockton for services performed outside of the scope of the MOU. NJEDA will provide reimbursements within forty-five (45) calendar days of receiving a request for reimbursement (or an amended request for reimbursement in cases where the original reimbursement request is insufficient).

## **Delegated Authority**

The members are requested to approve delegated authority to modify or extend the MOU as needed. Modifications may include expanding or reducing the universities' responsibilities in Section 4 and 5 of the MOU relating to the development and operations of the offshore testbed. Any changes to the MOU must be approved by all parties before implementation.

**Recommendation:**

The Members are asked to approve 1) a MOU between NJEDA, Rutgers, and Stockton related to Testbed activation, operations and maintenance associated with the Rutgers and Stockton Field Stations, 2) the utilization of \$2,668,293 from the October 2022 MOU between NJBPU and NJEDA for the Wind Institute; and 3) delegated authority to the CEO to extend the MOU or amend the MOU to reduce or expand the scope of work related to development and operations of an offshore testbed.



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Tim Sullivan, CEO

Prepared by: Lloyd Lomelino

Attachments: Appendix A – Memorandum of Understanding NJEDA / Rutgers University / Stockton University

**APPENDIX A**  
**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY,**  
**RUTGERS, THE STATE UNIVERSITY**  
**AND**  
**STOCKTON UNIVERSITY**

This **MEMORANDUM OF UNDERSTANDING** ("MOU"), made on this \_\_\_\_ day of \_\_\_\_\_, 2024, and effective as of the date of the last signature of the parties hereto (the "Effective Date"), is between NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("NJEDA"), RUTGERS, THE STATE UNIVERSITY ("Rutgers") and STOCKTON UNIVERSITY ("Stockton") (each a "Party", and collectively "the Parties").

**WHEREAS**, NJEDA is an independent State authority established pursuant to N.J.S.A. 34:1B-1, et seq., in but not of the Department of Treasury, which serves as the State's principal agency for driving economic growth; and

**WHEREAS**, Rutgers and Stockton are four-year public institutions of higher education and instrumentalities of the State of New Jersey; and

**WHEREAS**, Governor Murphy signed Executive Order No. 79 (2019) which established the Wind Council, a cross-governmental effort to develop the Wind Institute to serve as a center for education, research, innovation and workforce training related to the development of offshore wind ("OSW") in New Jersey, the Northeast and the Mid-Atlantic region, now referred to as the Wind Institute for Innovation and Training ("Wind Institute"), which is currently part of NJEDA; and

**WHEREAS**, NJEDA and New Jersey Board of Public Utilities ("BPU") entered into a grant agreement on October 27, 2022, which enabled BPU to transfer \$10 million to NJEDA to advance the priorities of the Wind Institute, including championing offshore wind research and innovation; and

**WHEREAS**, in order to further the State’s efforts to establish New Jersey as a center for OSW research and innovation, NJEDA seeks to support the activation of an offshore testbed that promotes a diverse research portfolio and activities, including: (1) user research, testing, and product development that advances OSW innovation and commercialization; and (2) opportunities for students, faculty and researchers to have access to marine science data and equipment that furthers the development of NJ-based expertise in offshore wind, marine science, coastal management, and other related disciplines that advance the OSW industry in New Jersey; and

**WHEREAS**, NJEDA is seeking to develop a Wind Innovation and Renewable Energy Center (“WIRE”), a research and innovation hub for innovation and technology development that supports the advancement of the offshore wind and renewable energy sectors in New Jersey, and if developed, WIRE-affiliated companies and researchers would benefit from access to an offshore testbed to pilot and test new technologies, a unique resource in the region;

**WHEREAS**, Rutgers School of Environmental and Biological Sciences, in coordination with the New Jersey Agricultural Experiment Station, oversees a Marine Field Station located in Little Egg Harbor Township, New Jersey and Stockton’s School of Natural Sciences and Mathematics oversees a Marine Field Station located in Port Republic, New Jersey (each a “Field Station” and collectively “Field Stations”); and

**WHEREAS**, NJEDA has determined a portion of the \$10 million in BPU funds allocated to NJEDA for the Wind Institute be utilized for capital improvements and operational expenses for the Field Stations to support the activation of LEO-15, an offshore ocean test site off the coast of New Jersey managed by Rutgers (“Testbed”); and

**WHEREAS**, Rutgers will oversee operations for the Testbed, with support from Stockton; and

**WHEREAS**, Rutgers and Stockton bring the knowledge, capabilities, and facilities required to support and activate the Testbed; and

**WHEREAS**, NJEDA will provide funding to Rutgers and Stockton as described in Section 6 of this MOU to pay for marine services including maintenance and operation of the Testbed, and to upgrade facilities and equipment at the Field Stations and on vessels to enable them to safely conduct field research, and test and validate technologies; and

**WHEREAS**, Rutgers and Stockton will provide WIRE’s users and researchers in the region with access to the Testbed via research vessels, for offshore testing, calibration, and validation of technologies and innovations that advance the OSW industry; and

**WHEREAS**, Rutgers and Stockton will continue to utilize their Marine Field Stations to support education, workforce development, and research in marine sciences and coastal management, and will utilize the activation of the Testbed as part of these endeavors; and

**WHEREAS**, N.J.S.A. 52:14-2 authorizes government entities to call upon any department, office, division or agency of the State to assist with its mission. This MOU shall be administered consistent with N.J.S.A. 52:14-1, et seq.; and

**WHEREAS**, the Parties have determined that they can assist each other with the implementation of the Testbed by providing the support and services outlined below, and that it is mutually beneficial to enter into this MOU.

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

1. Incorporation. The recitals set forth above are hereby incorporated into and made part of this MOU.
2. Purpose of MOU. The Parties are entering into this MOU to document the mutual understanding and intention of the Parties in carrying out their respective obligations under this MOU.
3. Responsibilities of NJEDA.
  - a. Schedule check-in meetings with Rutgers and Stockton to track the progress of the responsibilities outlined in Sections 4 and 5 of this MOU;
  - b. Review requests for reimbursement submitted by Rutgers and Stockton and disburse funding to the Parties as set forth in Section 6 below.
4. Responsibilities of Rutgers
  - a. Participate in check-in meetings with NJEDA to report on the status of the Testbed project and related activities on an as-needed cadence at NJEDA's reasonable discretion;
  - b. Within ninety (90) days of the Effective Date, submit a plan and project timeline to NJEDA in a template approved by NJEDA describing in detail all expenses as outlined in the budget in Exhibit A that are required to support activation of the Testbed and the responsibilities described in this Section 4;
  - c. Collaborate with Stockton, OSW stakeholders, including WIRE leadership (once established), and other subject matter experts to design Testbed infrastructure starting with an ocean-based platform that has sensor systems installed to collect oceanographic, atmospheric, and other data that can be transmitted over various communication protocols, such as Wi-Fi, Bluetooth, or Cellular Networks. The sensor platform will leverage equipment such as a uninterruptible power supply buoy and may leverage autonomous underwater vehicles ("AUVs") capable of collecting high-resolution data throughout the water column;
  - d. Where possible and practical, integrate the Testbed into supporting Rutgers' mission for providing education and research resources to students, faculty and researchers through access to the Testbed to conduct research in offshore wind and other relevant areas such as marine science and coastal management;
  - e. Upgrade up to three (3) of its research vessels, including upgrades to winches, hydraulics, electronics, A-frame, and safety equipment, to enable such vessels to safely transport equipment and people from onshore Field Stations to the Testbed and support survey operations;
  - f. Install, calibrate, and maintain buoy hardware, mooring and sensor communication systems at LEO-15;
  - g. Once WIRE is established, the entity selected to operate WIRE will develop an agreement between WIRE and Rutgers and potentially Stockton. This agreement will provide reasonable access to Rutgers' onshore Field Station assets which may include wet labs, dry labs, meeting space, tank systems, Rutgers owned dorm



facilities, and tooling for WIRE-affiliated companies and researchers utilizing the Testbed. To support such access, Rutgers will make an in-kind contribution of up to \$10,000 per company per year not to exceed \$367,000 in the aggregate for the duration of the Term. The agreement will state that Rutgers may charge WIRE-affiliated companies and researchers at Rutgers' established rates for offshore equipment and services, such as access to vessels, U.S. Coast Guard licensed vessel operators, and crew required to perform research operations at-sea;

- h. Oversee operations for the Testbed, and integrate and manage data from the Testbed through the Rutgers University Center for Ocean Observing Leadership's ("RUCOOL") existing data infrastructure;
  - i. Deploy and maintain buoy hardware and mooring systems at the Testbed and ensure they are operational and reasonably accessible by WIRE's users;
  - j. As the Testbed operator, hire staff as needed such as a Testbed manager and instrument technician, and retain specialized third-party services, where needed, to oversee Testbed maintenance and operations needed to connect the field station resources and staff for Testbed use, including but not limited to mooring maintenance, buoy data connectivity, Field Station integration, coordinating and scheduling research vessel services for WIRE users and researchers, data management and reporting, calibration of core sensor systems, and data quality assurance and quality checks;
  - k. Provide NJEDA with an annual budget that includes an accounting of all NJEDA funds used or committed as of the annual budget date for operational expenses in the categories listed in the Rutgers Budget attached as Exhibit A hereto;
  - l. Provide NJEDA with an annual progress report in a template reasonably approved by NJEDA that describes the utilization of the Field Stations, equipment, and Testbed, which may include the number of WIRE users served, number of research projects completed, number of students, faculty or other stakeholders that have benefitted from the activation of the Testbed, and progress updates for all of the responsibilities outlined in this Section 4.
5. Responsibilities of Stockton.
- a. Participate in check-in meetings with NJEDA to report on the status of the Testbed project and related activities on an as-needed cadence at NJEDA's discretion;
  - b. Within ninety (90) days of the Effective Date, submit a plan and project timeline that will describe in detail all capital and operational tasks and expenses required to support the responsibilities described in this Section 5;
  - c. Collaborate with Rutgers, OSW industry stakeholders, including WIRE leadership (once established), and other subject matter experts to provide input into the design and operations of Testbed infrastructure starting with an ocean-based platform that has sensor systems installed to collect oceanographic, atmospheric, and other data that can be transmitted over various communication protocols, such as Wi-Fi, Bluetooth, or Cellular Networks. The sensor platform will leverage equipment such as a uninterruptible power supply buoy and may leverage AUVs capable of collecting high-resolution data throughout the water column;
  - d. Once WIRE is established, the entity selected to operate WIRE will develop an agreement between WIRE, Stockton and potentially Rutgers. The agreement will provide WIRE-affiliated companies and researchers with access to

Stockton's onshore Field Station assets including wet labs, dry labs, meeting space, tank systems, and tooling at no-cost to WIRE-affiliated companies and researchers through in-kind contribution from Stockton for the duration of the Term. The agreement will state that Stockton may charge WIRE-affiliated companies and researchers at Stockton's established rates for offshore equipment and services, such as access to vessels, U.S. Coast Guard licensed vessel operators, and crew required to perform research operations at-sea;

- e. Perform upgrades to one of its research vessels, including updates to winch, davit, sonar mount, electrical, and engine, to enable the vessel to safely transport equipment and people from onshore field stations to the Testbed and support in survey operations;
- f. Provide NJEDA with an annual budget that includes an accounting of all NJEDA funds used or committed as of the annual budget date for expenses in the categories listed in the Stockton University Budget attached as Exhibit A hereto;
- g. Provide NJEDA with an annual progress report containing key metrics that describe the utilization of the Field Stations, equipment, and Testbed, including the number of WIRE users served, number of research projects completed, number of students, faculty or other stakeholders that have benefitted from the activation of the Testbed, and progress updates for all of the responsibilities outlined in this Section 5.

#### 6. Funding.

- a. NJEDA shall provide a total maximum funding amount of no more than two million five hundred twenty six thousand and two hundred ninety three dollars (\$2,526,293) to Rutgers and no more than one hundred forty two thousand dollars (\$142,000) to Stockton under this MOU, as detailed in Exhibit A of this MOU. The funding shall be provided to each Party on a cost-reimbursement basis, as described in Subsection B below. Each budget item in Exhibit A may be modified by the written mutual consent of the Parties.
- b. Over the Term, Rutgers and Stockton shall submit requests for reimbursement to NJEDA no more frequently than twice per year. Requests for reimbursement for expenses incurred in January through June of a calendar year shall be submitted to NJEDA no later than August 30th of that year, and requests for reimbursement for expenses incurred in July through December of a calendar year shall be submitted to NJEDA no later than February 28th of the following year. No requests for reimbursement are required if there are no expenditures to report. Each request for reimbursement submitted to NJEDA by Rutgers and Stockton shall include an itemization of actual expenditures incurred, a description of each expenditure, and appropriate receipts, invoices, supporting documentation, and any other information deemed necessary by NJEDA. All invoices and supporting documentation are subject to the reasonable approval of NJEDA.
- c. Rutgers and Stockton will be notified by NJEDA of any issues with reimbursement requests and/or supporting documentation and will be given a reasonable opportunity to submit an amended request for reimbursement with reasonable additional information/documentation. NJEDA will not reimburse Rutgers and Stockton for services performed outside of the scope of this MOU.

d. NJEDA will provide reimbursements within forty-five (45) calendar days of receiving a request for reimbursement (or an amended request for reimbursement in cases where the original reimbursement request is insufficient).

7. Designation of Contacts. The Parties have designated the following contacts who will be responsible for day-to-day communications between the Parties related to this MOU. The Parties will notify each other of any designated contact change in writing within ten (10) business days of such change:

For NJEDA:  
 Jen Becker  
 EVP, Clean Energy & Workforce  
 Innovation Partnerships  
 Jen.becker@njeda.gov

For Rutgers:  
 Name: Joshua T. Kohut  
 Title: Professor  
 Email: kohut@marine.rutgers.edu

For Stockton:  
 Name: Amanda Norvell  
 Title: Dean of the School of Natural Sciences and Mathematics  
 Email: Amanda.norvell@stockton.edu

8. Term and Extension. This MOU shall terminate five (5) years from the Effective Date (“Term”). The Parties may extend the Term for two (2) years by mutual consent (“Extended Term”), provided that such consent is in writing, and signed by the authorized representatives of each Party.

9. Termination. This MOU may be terminated by any Party upon sixty (60) days prior written notice to the other Parties. Upon termination, Rutgers and Stockton will each submit a final accounting and progress report to NJEDA in accordance with Sections 4(k), 4(l), 5(f), and 5(g) and will provide NJEDA with any remaining reimbursement requests in accordance with Section 6 above.

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

NJEDA	Rutgers	Stockton
Tim Sullivan, CEO 36 West State Street P.O. Box 990 Trenton, NJ 08625	Chrissa Papaioannou, Assoc Director Research and Sponsored Programs 33 Knightsbridge Rd, 2 <sup>nd</sup> Flr East	Joseph Cronin Executive Director of Office of Research and Sponsored Programs Stockton University

	Piscataway, NJ 08854-3925	101 Vera King Farris Drive Galloway, NJ 08205
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12. Assignment. This MOU may not be assigned by a Party without the prior written consent of the other Parties.
13. Third-Party Beneficiaries. This MOU is intended for the sole benefit of the Parties and shall not be construed to create any third-party beneficiary.
14. Dispute Resolution. In the event a dispute arises between the Parties concerning this MOU, the CEO of NJEDA, the President of Rutgers, and the President of Stockton, or their appointed representatives, shall meet to resolve such dispute.
16. Applicable Law. The Parties shall retain all the powers, obligations and immunities provided by law. Each Party shall be responsible for adhering to all applicable laws, regulations, and its own Standard Operating Procedures in the performance its obligations under this MOU.
17. Publicity and Public Announcements. The Parties will establish mutually agreed-upon language and communications materials that will be utilized in the publicity of and public announcements for activities covered under this MOU. This shall not include Rutgers and Stockton internal documents, annual reports and databases which are available to the public and which identify the existence of this Agreement and the activities covered under this MOU.
18. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
19. Electronic Signatures. The Parties agree that the execution of this MOU by electronic signature and/or by exchanging PDF signatures will have the same legal force and effect as the exchange of original signatures.
20. Entire Agreement. This MOU reflects the entire understanding of the Parties, and it supersedes any prior understandings of the Parties. It may not be amended, modified, or supplemented except by mutual consent of the Parties in writing and signed by the authorized representatives of each Party.
21. Miscellaneous.
  - a. Rutgers and Stockton will maintain accurate records of all expenses incurred using NJEDA Funds and any documentation substantiating such expenses. Rutgers and Stockton will retain such information for a period of three (3) years following the expiration or termination of the MOU. Throughout the term of the MOU and for three (3) years after its termination or expiration, NJEDA will have the right to audit Rutgers and Stockton expense records and documentation related to this MOU with reasonable notice during normal business hours. NJEDA reserves the right to

require the return of any NJEDA Funds not spent in accordance with the terms of the MOU.

- b. The Parties acknowledge that the successful completion of each Party's duties hereunder will require cooperation between the Parties. The Parties agree to work cooperatively to achieve the goals of this MOU.
- c. The Parties agree to strictly control the use and retention of any personal and confidential information, which shall be clearly identified as "Confidential" at the time of disclosure by the other Party so that only personnel who have a need to know have access to such information. No further dissemination or use of such information is authorized without written permission of the Party from which such information originated, unless required by law.

**IN WITNESS WHEREOF**, the Parties have caused this MOU to be executed by their duly authorized representatives.

For NJEDA	For Rutgers	For Stockton
Name: Tim Sullivan	Name: Chrissa Papaioannou, P.E., CRA	Name: Joseph Cronin
Title: CEO	Title: Associate Director, RSP	Title: Executive Director, ORSP
Signature:	Signature:	Signature:
Date:	Date:	Date:

**EXHIBIT A**  
**Estimated Budget**

**Stockton University Budget**

<b>Item</b>	<b>Detail</b>	<b>Total</b>
Vessel Upgrades	Upgrade winch, davit, sonar mount, electrical and engine on one (1) research vessel	\$142,000
<b>Total</b>		<b>\$142,000</b>

**Rutgers Budget**

<b>Item</b>	<b>Detail</b>	<b>Total</b>
Vessel Upgrades	Upgrade winches and hydraulics, electronics, frame, and safety equipment on three (3) research vessels	\$300,000
Buoy and mooring to existing LEO-15 anchor	Buoy hardware and mooring system	\$376,076
Mooring maintenance	Servicing and calibration of buoy mooring	\$458,333
Buoy data connectivity	Utilizing Iridium CERTUS	\$45,200
Testbed Manager (over 5 years)	Salary and fringe benefits for staff position or contractor expenses for management of testbed operations including field station integration, booking and capacity management, data management and reporting.	\$651,362
Instrument Technician (over 5 years)	Salary and fringe benefits for staff position or contractor expenses for testbed operations and maintenance including calibration of core sensor system and data QA/QC.	\$465,659
Facilities & Administrative Costs (over 5 years)		\$229,663
<b>Total</b>		<b>\$2,526,293</b>



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**SUBJECT:** New Jersey Green Bank – Amended Bylaws

**REQUEST**

The Members of the Board are asked to approve amendments to the New Jersey Green Bank bylaws.

**BACKGROUND**

On April 10, 2024, Members approved a resolution authorizing the creation of the New Jersey Green Bank (“NJGB”) as a subsidiary of the Authority pursuant to N.J.S.A. 34:1B-159 (“Subsidiary Act”). As part of that resolution, Members approved the initial bylaws of the NJGB. The Board of the NJGB subsequently approved the bylaws at its first stated meeting on May 20, 2024.

Because the NJGB is a subsidiary of the Authority and therefore cannot exceed the authority or governance structure given to it by the Authority, the Authority must maintain a level of control over the NJGB’s internal governance. As a means to accomplish this, the Authority’s Board must approve all amendments to the NJGB’s bylaws.

The NJGB has commenced operations and found it necessary to revise and/or clarify several provisions in the bylaws. The proposed amendments to the bylaws presented in this memorandum were approved by the NJGB Board on September 5, 2024, but cannot go into effect until after the Authority’s Board approves same.

**PROPOSED AMENDMENTS**

- Number of Directors. The NJGB bylaws currently allow for five (5) directors, three (3) of which must be Authority employees and two (2) must be public members. The NJGB would like to increase the board composition to better accommodate committee activities. The amendments would increase the number to seven (7) directors, four (4) of which must be Authority employees and three (3) must be public members. Additionally, the amendments clarify that both the Authority-affiliated directors and public directors shall serve for three (3) year terms.
- Executive Director. The bylaws currently identify a Chief Executive Officer (CEO) to have day-to-day supervisory and management responsibility over NJGB activities. To avoid confusion with the NJGB’s parent organization which also employs a CEO, the

NJGB Board wishes to amend the bylaws to replace CEO with Executive Director.

- Authority Board Approval. The bylaws do not expressly state that Authority approval is needed to amend the bylaws. Consistent with the Authority requirement to approve any such amendments as discussed above, the amendments include express language stating same.

A copy of the NJGB resolution approving the above amendments is attached as Exhibit A.

**RECOMMENDATION**

The Members of the Board are asked to approve the above amendments to the New Jersey Green Bank bylaws.



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Tim Sullivan, CEO

Prepared by: John Kuehne



Exhibit A  
NJGB Resolution

## **GREEN BANK RESOLUTION**

### **Resolution Approving Amendments to the By-Laws of the New Jersey Green Bank**

**WHEREAS**, the New Jersey Economic Development Authority (“NJEDA”) adopted a Resolution (the “Authorizing Resolution”) on April 10, 2024 authorizing the creation of the New Jersey Green Bank (“Corporation”) as a subsidiary of the NJEDA pursuant to Section 16 of P.L. 1997, c. 150 (C.34:1B-159) and the filing of an Agreement and Certificate of Incorporation (“Certificate of Incorporation”) with the New Jersey Secretary of State (the “Authorizing Resolution”); and

**WHEREAS**, the Certificate of Incorporation has been duly filed with the New Jersey Secretary of State; and

**WHEREAS**, the Certificate of Incorporation provides that the affairs of the Corporation be regulated and determined in its By-laws (the “By-laws”) which shall be approved by the Board of the Corporation; and

**WHEREAS**, the Board of the Corporation approved the By-Laws at its meeting on May 28, 2024; and

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

**WHEREAS**, Article II, Section 1 of the By-laws provides that the Board shall consist of five (5) Directors, of which three (3) Directors shall be employees of the NJEDA (“NJEDA-Affiliated Directors”) and two (2) Directors who shall be public members (“Public Directors”); and

**WHEREAS**, the By-laws did not specify the term of office of the Public Directors; and

**WHEREAS**, Article V, Section 1(a) of the By-laws provides that the NJGB shall employ a Chief Executive Officer (“CEO”) qualified by training and experience for the duties of the office who will have general supervisory and management responsibility over all the activities of the NJGB, subject to applicable laws, including the rules and regulations of the NJGB; and

**WHEREAS**, the Authorizing Resolution requires any changes made to the By-laws be submitted to the NJEDA Board for approval; and

**WHEREAS**, in order to make the amendment provision of the By-laws contained in Article XVIII of the By-laws consistent with the requirement for NJEDA Board approval of amendments, it is necessary to amend the By-laws to provide for such approval of any amendments to the By-laws; and

**WHEREAS**, the NJGB now wishes to amend the By-laws to provide for the following: 1) the expansion of the Board from five (5) to seven (7) Directors, to consist of four (4) NJEDA-Affiliated Directors and three (3) Public Directors; (2) specifying the term of office of the Public Directors; (3) changing the title from Chief Executive Officer to Executive Director; and (4) providing that any amendments to the By-laws must also be approved by the NJEDA Board.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

Section 1. Article III, Section 1 of the By-laws is hereby removed in its entirety and replaced by the following:

“Directors. The Board of the NJGB shall consist of seven (7) Directors, of which four (4) Directors shall be employees of the NJEDA (“NJEDA-Affiliated Directors”) and three (3) Directors shall be public members (“Public Directors”). The NJEDA-Affiliated Directors shall be approved by the Board of the NJEDA, and the Public Directors shall be recommended by the Chairperson of the Board and approved by the Board. The initial NJEDA-Affiliated Directors shall serve staggered terms, with one NJEDA-Affiliated Director serving one (1) year; one NJEDA-Affiliated Director serving two (2) years; and two (2) NJEDA-Affiliated Director serving three (3) years. Upon expiration of these initial terms, subsequent NJEDA-Affiliated Directors shall each serve a term of three (3) years. The Public Directors shall be knowledgeable and experienced in the field of green energy investments, project finance, clean energy or environmental infrastructure, investment banking, commercial lending, tax-exempt or tax-advantaged financing or municipal banking, or climate policy. All Public Directors shall serve a term of three (3) years. If any of the NJEDA-Affiliated Directors leaves their employment at the NJEDA, that office shall be filled by an NJEDA employee approved by the NJEDA Board. Each Director shall hold the office for the term of the Director’s appointment and until the Director’s successor shall have been appointed and qualified. A Director shall be eligible for reappointment for three (3) consecutive terms. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. “

Section 2. Article V, Section 1, paragraph 1(a) of the By-laws is hereby deleted in its entirety and replaced by the following:

“Section 1. Executive Director.

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

Section 3. Article V of the By-laws is amended by adding the following:

“Section 3. Wherever in these By-laws, the term “CEO” is used, it is hereby amended to be “Executive Director.”

Section 4. Article XVIII of the By-laws laws is hereby deleted in its entirety and replaced by the following:

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

Section 5. 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 Corporation meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such ten (10) day period, the Governor shall approve same, in which case such action shall become effective upon such approval, as provided by the Certificate of Incorporation; provided that the amendments to the By-laws will not take effect until approval by the NJEDA Board.

**DATED: September 5, 2024**

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**SUBJECT:** Minor modifications to two State-funded food security initiatives

**Summary**

The Members are asked to approve:

1. Extension of the application deadline for the Food Retail Innovation Delivery Grant (FRIDG) program for an additional six months from October 18, 2024, to April 18, 2025;
2. Delegation to the Chief Executive Officer to approve a second six-month extension from April 18, 2025, to October 18, 2025, to the FRIDG program if needed;
3. Delegation to the Chief Executive Officer to reallocate any unspent dollars from the FRIDG program remaining at the conclusion of the program extension(s) to other NJEDA food security initiatives;
4. Extension of the grant term for City of Salem’s Food Security Planning Grant award by nine months from August 10, 2024, to May 10, 2025

**Background**

In January 2021, Governor Phil Murphy signed the New Jersey Economic Recovery Act of 2020, P.L. 2020, c.156 (ERA) into law. Included in the ERA is the Food Desert Relief Act (FDRA), which allocated to the New Jersey Economic Development Authority (NJEDA or Authority) a total of \$240 million over six years to address the food security needs of communities across New Jersey and directed NJEDA to collaborate with the New Jersey Departments of Community Affairs and Agriculture to designate up to 50 Food Desert Communities (FDCs) across the state.

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

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

As the Authority worked to begin implementation of the FDRA, the Authority received funds from an appropriation of \$3,500,000 for “Food and Agriculture Innovation” in the Fiscal Year (FY) 2022 Appropriations Act. This appropriation was deposited into the Economic Recovery Fund (ERF).

The Economic Recovery Act also allocated \$5,000,000 to award competitive grants for zoning and economic planning services in government-restricted municipalities or economic redevelopment plans for distressed assets in other municipalities. In April 2022, the Board approved the creation of the Food Security

Planning Grant (FSPG) program, capitalized using up to \$1,500,000 from the ERA. The FSPG Program competitively awarded grants ranging from \$75,000 to \$125,000 to municipal governments, county governments, and/or redevelopment agencies to improve food access and food security by leveraging distressed assets in New Jersey's FDCs.

In December 2022, the Board approved the creation of the Food Retail Innovation in Delivery Grant (FRIDG) utilizing up to \$2,600,000 of the Food and Agriculture Innovation funds, of which \$100,000 would be used for EDA's administrative costs. The FRIDG pilot program provides grant funding of up to \$250,000 to New Jersey food retailers to purchase self-contained, temperature-controlled lockers that must be placed within an Authority-designated FDC that can be used for grocery delivery to expand food delivery opportunities and improve food access for FDC residents.

As of October 2023, \$1,000,000 of the Food and Agriculture Innovation appropriation remains available for awards under the FRIDG program.<sup>1</sup>

To maximize the uptake and impact of already allocated dollars, staff propose the following minor adjustments to ongoing State-funded food security initiatives:

1. Extend the FRIDG program for six months from October 18, 2024, to April 18, 2025.
2. Delegated authority to the CEO to approve a second six-month extension from April 18, 2025, to October 18, 2025, to the FRIDG program if needed.
3. Delegated authority to the CEO to reallocate any unspent dollars from the FRIDG program remaining at the conclusion of the program extension(s) to other NJEDA food security initiatives.
4. Extension of the grant term for City of Salem's Food Security Planning Grant award by nine months from August 10, 2024, to May 10, 2025.

### **FRIDG Program Extension**

Refrigerated lockers represent an innovative solution to give FDC residents the ability to order online and have groceries delivered to a convenient central location without having to travel long distances to reach food retailers, as many FDC residents are currently forced to do. Under the FRIDG program, the NJEDA can increase the availability of nutritious food in FDCs, FDC residents can avail themselves of a new and innovative solution to the last mile of grocery delivery, and food retailers can receive assistance in adopting new business models that can help sustain their business.

Applications for the FRIDG program opened on April 25, 2023. Under the original December 2022 memorandum approved by the Board, applications will be accepted for 18 months from the opening date or until the funding pool (currently \$1,000,000) is exhausted, whichever is sooner. The end date to accept applications is currently October 18, 2024.

On November 15, 2023, NJEDA approved a FRIDG grant to Brookdale ShopRite LLC in the amount of \$250,000. With this approval, a FRIDG locker will be placed in the Newark South FDC (#3 ranked Composite Food Desert Factor Score; population 42,713), with all delivery fees to be waived by the retailer. This approval not only addresses food access challenges but also makes grocery delivery via online ordering more convenient and accessible to Newark residents, many of whom utilize Supplemental Nutrition Association Program (SNAP) benefits to feed their families. The Newark South FRIDG locker is set to open soon at the Shani Baraka Women's Resource Center, a key "proof of concept" milestone which is anticipated to spur interest from other food retailers.

Since the approval of the FRIDG program, staff have undertaken targeted outreach in several ways. Staff have engaged members of the New Jersey Food Council, including but not limited to independent supermarkets, independent supermarket operators, cooperative retailers, chain supermarkets, mass

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<sup>1</sup> This amount includes the \$250,000 approved to be disbursed to Brookdale ShopRite for approved FRIDG grant.

merchandisers and warehouse clubs. In addition, staff have shared program information with nonprofits interested in hosting a FRIDG locker. Although nonprofits are not eligible for a FRIDG grant themselves, they may drive adoption by connecting with nearby retailers who could potentially apply for the grant program. Staff have also engaged local government representatives and shared the benefits of our FRIDG program in lieu of a supermarket or until a supermarket is developed.

To allow more time for outreach to relevant stakeholders, staff proposes extending the FRIDG application deadline for an additional six months from the opening of the application to April 18, 2025, with delegation to the CEO to approve a second six-month extension if needed.

Extending the application deadline will allow NJEDA to continue its robust outreach — including by leveraging the inaugural FRIDG locker in Newark as a model for this program’s successful implementation — both to food retailers and to elected officials representing communities where new supermarket development would otherwise take a long time. The Newark FRIDG locker will provide a test case for how these lockers make it more convenient for households to access food, especially in communities where a full-service grocery store does not exist — an innovative approach to both fighting food insecurity and creating real economic opportunities for retailers.

No changes will be made to the applicant eligibility, eligible use of funds, application process, or post-approval process as previously approved by the Board on December 20, 2022. If no new applications are started during the first six-month extension period, the second six-month extension will not be used under delegated authority and the application acceptance window for this program will close. In that case, staff is requesting Board approval for delegated authority to reallocate remaining FRIDG funds to other NJEDA food security initiatives.

### **City of Salem Food Security Planning Grant Term Extension**

In April 2022, the Board approved the creation of the Food Security Planning Grant Program, a \$1,500,000 pilot program to competitively award grants ranging from \$75,000 to \$125,000 to municipal governments, county governments, and/or redevelopment agencies to improve food access and food security by leveraging distressed assets in New Jersey’s Food Desert Communities.

The Board also approved delegation of authority to the Chief Executive Officer to approve individual applications to the Food Security Planning Grant program. In May 2023, NJEDA awarded nine grants to seven county and municipal governments, including a \$125,000 grant to the City of Salem to conduct a feasibility study to bring food from local producers to Salem residents to boost the local supply chain for the region. Notably, the Salem city FDC ranks ninth highest by Composite Food Desert Factor Score, indicating especially acute need. The grant term began on August 11, 2023, and ended on August 10, 2024.

In August 2024, the City of Salem requested a nine-month extension to the grant term due to challenges encountered in procuring assistance to execute the feasibility study. After failing to receive a response to two requests for proposal, and an unsuccessful initial attempt at directly engaging a partner, the city eventually received a proposal from a firm equipped to complete the feasibility study. However, an additional nine months is required to conduct the study. The city disclosed these obstacles both in their mid-program report to the Authority and in subsequent communications, noting the City’s unique challenges as an overburdened, under-resourced rural community.

Therefore, to allow the grantee and its vendor adequate time to successfully execute their project, staff propose providing a nine-month FSPG grant term extension, from August 10, 2024, to May 10, 2025, to the City of Salem. All other FSPG grantees are on track to meet the original terms of the grant, including the submission of final reports. This extension would apply only to the City of Salem and involves no changes in funding source or amount. All other provisions of the Grant Agreement between NJEDA and the City of Salem also remain unchanged.

## **Funding Source**

### *FRIDG*

Per the Appropriations Act for Fiscal Year 2022, the Authority received \$3,500,000 in funding for Food and Agriculture Innovation, of which the Board approved using \$2,600,000 for the Food Retailer Innovation in Delivery Grant (FRIDG) in December 2022. These funds were deposited into the Economic Recovery Fund (ERF).

ERF authorizes a grant as listed under N.J.S.A § 34:1B-7.13(a)(7) and N.J.S.A § 34:1B-7.13(a)(12) for:

“programs and initiatives, which will support and invest in small and medium-size businesses and other entities engaged in economic, community, and workforce development that have the greatest potential for creating jobs and stimulating economic growth through such elements including, but not limited to...a fund to assist businesses, either directly or through a not-for-profit or for-profit entity with expansion or transition to a new business model in such areas including, but not limited to, manufacturing retooling to improve quality, to reduce production costs and to train employees to apply the latest technology.”

and

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

The Food Desert Relief Act (FDRA), part of the Economic Recovery Act, delineated food access and food security an economic and community development imperative, and specifically designated food retailers as a vehicle to achieve those community development aims, making them a critical community development entity to achieve the goals of food access.

Moreover, Governor Murphy’s economic plan, “The State of Innovation: Building a Stronger and Fairer Economy in New Jersey,” identifies several economic development priorities, including “investing in communities to build world-class cities, towns, and infrastructure statewide.” Funding for food delivery lockers is encompassed by this priority, as it seeks to improve the quality of life in food desert communities by increasing food access and food security, a basic need that has not been fully met for all New Jerseyans.

### *Food Security Planning Grants*

The Economic Recovery Act also allocated \$5,000,000 to award competitive grants for zoning and economic planning services in government-restricted municipalities or economic redevelopment plans for distressed assets in other municipalities, under Section 127.d of P.L. 2020, c.156. In April 2022, the Board approved the creation of the Food Security Planning Grant (FSPG) program, capitalized using up to \$1,500,000 from the ERA. The City of Salem’s grant is one of nine grants made under this program.

## **Request for Delegation**

Delegation to the Authority’s Chief Executive Officer is requested of the Board of the Authority for the following items:



1. To approve a second six-month extension from April 18, 2025, to October 18, 2025, to the FRIDG program if needed. Delegated authority will allow NJEDA to seamlessly adjust to market and industry demand for the FRIDG program.
2. To reallocate any unspent dollars from the FRIDG program remaining at the conclusion of the program extension(s) to other NJEDA food security initiatives. Should funding remain past the FRIDG application deadline extension, this will enable NJEDA to more efficiently reallocate “Food & Agriculture Innovation” monies to support other active or planned food security programs (including a possible expansion to the Atlantic City Food Security Grants Pilot Program). As future programs are brought to the Board, staff will specifically request approval to add them to this delegation.

### **Recommendation**

The Members are asked to approve:

1. Extension of the application deadline for the Food Retail Innovation Delivery Grant (FRIDG) program for an additional six months from October 18, 2024, to April 18, 2025;
2. Delegation to the Chief Executive Officer to approve a second six-month extension from April 18, 2025, to October 18, 2025, to the FRIDG program if needed;
3. Delegation to the Chief Executive Officer to reallocate any unspent dollars from the FRIDG program remaining at the conclusion of the program extension(s) to other NJEDA food security initiatives;
4. Extension of the grant term for City of Salem’s Food Security Planning Grant award by nine months from August 10, 2024, to May 10, 2025.
- 5.



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Tim Sullivan, CEO

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



## **MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** October 12, 2024

**SUBJECT:** Award of Atlantic City Activation, Revitalization and Transformation (A.R.T) Real Estate Grant and program update

### **Summary**

The Members are asked to approve:

- The award of \$3,500,000 to Silk Road AC LLC, under the A.R.T Real Estate grant program for Atlantic City.
- Reallocation of A.R.T Real Estate funds for Atlantic City (current remaining balance of \$682,687, plus any future funds available due to withdraws) to “Atlantic City Revitalization Grant” appropriated for in the Fiscal Year 2024 Appropriations Act (P.L. 2023, c.74) from American Rescue Plan (“ARP”) Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) and delegated authority to the Chief Executive Officer to amend any Memoranda of Understanding with the Department of Community Affairs as necessary to effectuate the reallocation.

### **Background**

The Activation, Revitalization, and Transformation Program (“ART”) is a pilot grant program that was approved at NJEDA’s October 12, 2022, board meeting. This grant was created to deploy \$10 million in American Rescue Plan funding (\$5 million allocated to CRDA for use in Atlantic City and \$5 million allocated to NJEDA, which NJEDA directed to Newark) to address the impacts of COVID-19 in New Jersey communities through the new construction or the rehabilitation of vacant, underutilized, blighted and/or historic structures and the development of permanent place-based infrastructure associated with traditional downtowns, social-zones, outdoor dining, and place-based public spaces. The ART Program is originally funded through the American Rescue Plan (Pub.L.117-2) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and was recommended for appropriation in Governor Murphy’s Fiscal Year 2023 Budget in Brief and completed the Joint Budget Oversight Committee process in November of 2021.

To mitigate the economic impact of the COVID-19 pandemic, and to support the development and recovery of New Jersey’s commercial corridors, the ART Program will invest in the infrastructure, capacity building, and resources necessary to help eligible New Jersey municipalities recover from the pandemic and thrive for years to come. While the pandemic impacted millions of American households and businesses, some of its most severe impacts fell on low income and underserved communities, where pre-existing disparities amplified the impact of the pandemic and where the most work remains to reach a full recovery. Utilizing funding provided from SLFRF, the ART program aims to provide financial support to municipalities that were disproportionately impacted

by the COVID-19 pandemic, specifically urban areas that experienced revenue losses and economic harms due to decreased commuter foot-traffic. By providing funding to support catalytic real estate development and placemaking initiatives that increase foot- traffic, the ART program funding will help mitigate the harms caused in municipalities that were disproportionality impacted by the COVID-19 pandemic by increasing local spend and promoting economic stability in vital commercial corridors.

Administered by the New Jersey Economic Development Authority (NJEDA), the ART tool created two separate competitive grants, one provided up to \$7 million to support real estate development in the form of grants for real estate rehabilitation, new construction, and development costs associated to each project, and then the other provided up to \$3 million in grant funding that can support public space place-based infrastructure per project. The goal of this overall program and two grants was for entities to proactively address the negative economic impacts of the pandemic by investing in projects that create the environment necessary to attract and retain residents and talent, enable business creation and attractions, enhance downtown vitality, and help local governments avoid budget crises.

### **Atlantic City ART Real Estate Program Update**

The ART Program for the Atlantic City real estate grant product received an initial appropriation of \$3.5MM from the American Rescue Plan (“ARP”) originally allocated to the Casino Reinvestment development Authority (“CRDA”) which was transferred for NJEDA’s use and was supplemented with \$6.3MM from the FY24 budget appropriation identified as “Atlantic City Initiatives”. The highest scored real estate grant applicants for Atlantic City were approved at the February 7, 2024, board meeting, resulting in five awards. All applicants are listed in attached Exhibit A, and all were above the minimum required score of 65 points needed to be eligible for a grant award. However, due to funding available only the five highest scoring entities could receive an award at that time. Since the February 7, 2024, board meeting took place several awardees have lost site control which has resulted in additional funds that can now be utilized. Those entities that withdrew or lost their site control were:

- Mud Girls Studios – award of \$604,609
- 2702 Arctic Ave- award of \$2,785,319
- 1519 Boardwalk QOZB, LLC- award of \$1,975,000

As a result of these additional funds staff was able to recommend Jemal Tate’s LLC to be fully funded since they were the next highest scored applicant from Atlantic City. At the July 17, 2024, board meeting Jemal’s Tate LLC was approved for \$1,182,241. The next highest scored applicant is Silk Road AC LLC. They are now able to receive a full award of \$3.5 million due to the additional available funds. After this award there will be a balance of funding of \$682,687 remaining. Staff did reach out to the next and last applicant which was 171 Developers LLC to see if their project was still viable and if they were able to move forward. However, the applicant stated they never secured the site and are no longer able to proceed forward. Since all the applicants in the application queue have been addressed in order of scoring there is no remaining applicants left to utilize this funding. Staff is recommending the current remaining balance of funds (\$682,687), plus any other future funds that become available from withdraws to be reallocated to the Atlantic City Revitalization Grant. To effectuate that reallocation, staff is also requesting delegated authority to the Chief Executive Officer to amend the Memoranda of Understanding with the Department of Community Affairs for the two programs.

## **Project Description**

This memo requests approval to award Silk Road AC LLC an ART real estate grant for Atlantic City. The Silk Road Development Group consists of Dr. Daud Panah and Dr. Abdullah Panah who are the owners of the applicant entity and awardee Silk Road AC LLC. The proposed revitalization project is in the heart of Atlantic City's historic Ducktown Neighborhood. The project will encompass multiple city lots just a half mile from NJ Transit's Atlantic City Train Station, and the Atlantic City Bus Terminal. Revitalization efforts in Ducktown have been underway for over 20 years.

The proposed project will consist of 2305, 2307, 2311, and 2313 Arctic Avenue in Atlantic City. The grantee proposes to construct a five-story, forty-four room boutique hotel which will consist of sixty-six beds and will also include a courtyard that will be situated between the hotel and Arctic Avenue. The applicant currently has site control of a restaurant located at 2305 Arctic, and a parking lot situated at 2311 Arctic Avenue. They did provide deeds for these locations and notice of settlements for 2307 and 2313 Arctic Avenue which were also necessary for the overall project. The overall project will consist of the rehabilitation and new construction to tie all these sites together for a comprehensive redevelopment area on Arctic Avenue. Later planned components in the overall revitalization project that are not included in this request of this grant include the construction of an art gallery and artist work/live studios, additional residential apartments, boutique retail shops, and several tourist attractions. This project will also help support the Stockton Noyes Art Garage that is located within the same neighborhood.

## **Recommendation**

The Members are asked to approve:

- The award of \$3,500,000 to Silk Road AC LLC, under the A.R.T Real Estate grant program for Atlantic City.
- Reallocation of A.R.T Real Estate funds for Atlantic City (current remaining balance of \$682,687, plus any future funds available due to withdraws) to "Atlantic City Revitalization Grant" appropriated for in the Fiscal Year 2024 Appropriations Act (P.L. 2023, c.74) from American Rescue Plan ("ARP") Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") and delegated authority to the Chief Executive Officer to amend any Memoranda of Understanding with the Department of Community Affairs as necessary to effectuate the reallocation.



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Tim Sullivan, CEO

Prepared By: Matt Boyle

Attachment:

Exhibit A: A.R.T Real Estate Scores - Criteria by Average

## Exhibit A

### A.R.T Real Estate Scores - Criteria by Average

	<b>Criteria #1</b>	<b>#2</b>	<b>#3</b>	<b><u>Total score</u></b>
155 S TENNESSEE QOZB, LLC *	19.0	4.0	63.0	86.0
MudGirls Studios *	19.0	4.0	61.0	84.0
2702 Arctic Ave Associates LLC *	19.0	3.7	61.3	84.0
1519 Boardwalk QOZB LLC *	19.0	4.0	59.0	82.0
MAP 3 PARTNERS LLC *	19.0	3.3	54.0	76.3
Jemal's Tate LLC	19.0	3.7	51.3	74.0
Silk Road AC LLC	19.0	4.0	48.3	71.3
171 Developers LLC	19.0	3.0	48.7	70.7

*\*Approved at the February 7, 2024, board meeting*

All applicants scored above the 65 minimum threshold for the program.

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

As created under the Garden State Film and Digital Media Jobs Act, P.L. 2018, c. 56 (the Act), 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 film 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 P.L.2021, c.160, 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:** Broadside Productions, Inc.

PROD-00315871

**APPLICANT BACKGROUND:**

“A Complete Unknown” by Broadside Productions Inc is set in the influential folk scene in the 1960s and follows the arrival of a young hitchhiker to a New Jersey hospital to visit his bedridden hero, legendary folk singer Woody Guthrie. What follows is the story of Bob Dylan’s rise through the New York folk community as his music becomes a worldwide cultural sensation and affects his relationships to the lives of its most esteemed players like Pete Seeger and Joan Baez, culminating with Dylan’s triumphant electric performance at the Newport Folk Festival in 1965.

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 program.

**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, 2039 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	\$103,227,648.00
B. Total Post-Production Expenses	\$8,747,455.00
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$83,380,977.00
Percentage Calculation = C/(A-B)	88%
<b>Criterion Met</b>	<b>YES</b>

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 any wages and salaries of individuals employed in the production of a film that are not subject to tax under the “New Jersey Gross income Tax Act.,” N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; 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 \$750,000 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, except for other expenses above certain thresholds as set forth in P.L. 2021, c. 367. 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 <b>single</b> privilege period after July 1, 2018.	\$74,536,606.00
<b>Criterion Met</b>	<b>YES</b>

## AWARD CALCULATION

Total Estimated Qualified Film Production Expenses	\$80,900,606.00
Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	\$24,700,457.00

<b>Base Award Criteria</b>	<b>Calculation</b>	<b>Result</b>
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	$\$24,700,457 \times 30\% =$	\$7,410,137.10
35% of Estimated Qualified Film Production Expenses	$(\$80,900,606 - \$24,700,457) \times 35\% =$	\$19,670,052.20
<b>Bonus Criteria Met</b>		
Submission of satisfactory Diversity Plan 2% of Qualified Film Production Expenses for hiring employees of diverse backgrounds	$\$80,900,606 \times 2\% =$	\$1,618,012.12
Submission of satisfactory Diversity Plan 2% of Qualified Film Production Expenses for hiring onscreen performers of diverse backgrounds	$\$0 \times 2\% =$	\$0.00
<b>Total Award</b>		<b>\$28,698,201</b>

<b>APPLICATION RECEIVED DATE:</b>	06/03/2024
<b>DATE APPLICATION DEEMED COMPLETE:</b>	06/12/2024
<b>PRINCIPAL PHOTOGRAPHY COMMENCEMENT:</b>	03/23/2024
<b>PRINCIPAL NJ PHOTOGRAPHY LOCATION:</b>	Jersey City, NJ
<b>ESTIMATED DATE OF PROJECT COMPLETION:</b>	08/02/2024
<b>APPLICANT'S FISCAL YEAR END:</b>	12/31/2024
<b>TAX CREDIT VINTAGE YEAR(S):</b>	2024
<b>TAX FILING TYPE:</b>	NJ Corporate Business Tax
<b>ANTICIPATED CERTIFICATION DATE:</b>	01/31/2025

In general, the final documentation shall be submitted to the Authority no later than four (4) 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 (3) 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 approve the proposed award to the applicant under the New Jersey Film and Digital Media Tax Credit Program. The recommended tax credit is contingent upon receipt by the Authority of evidence that the applicant has met certain criteria to substantiate the recommended award and is subject to final approval by the Authority and the Division of Taxation. Staff may issue the Authority's final approval if the criteria met by the company is consistent with that shown herein. If the criteria met by the company differs from that shown herein, Staff may lower the tax credit amount to reflect what corresponds to the actual criteria that have been met.

Prepared by:  
Kremena Mironova  
Team Lead – Product Operations





## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**SUBJECT:** Proposed Amendments to the Authority Prevailing Wage Rules

**Request:**

The Members are requested to approve the attached proposed amendments to the Authority's existing Prevailing Wage Rules, N.J.A.C. 19:30-4.1 et seq., and authorize staff to (a) submit for publication in the New Jersey Register and (b) submit as final adopted rules for publication in the New Jersey Register if no substantive comments are received, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law.

**Summary:**

The New Jersey Economic Development Authority ("NJEDA" or "Authority") is proposing amendments to its Prevailing Wage Rules at N.J.A.C. 19:30-4.1 through 4.5, as well as a new rule at N.J.A.C. 19:30-4.1A. These amendments do not make any portion of the NJEDA Prevailing Wage rules any less stringent than the current rules.

The Prevailing Wage Rule were first adopted in 1979, and have been amended over the years to comply with changes in prevailing wage and related laws. The last amendments were made over a decade ago. These proposed amendments update the rules to be consistent with the relevant statutory changes that have occurred during the past decade, including but not limited to the New Jersey Economic Recovery Act of 2020 ("ERA"), P.L. 2020, c. 156, as amended by P.L., c.160, the Public Works Contractor Registration Act, N.J.S.A. 34:11-56.58, et seq, and the Prevailing Wage Act, N.J.S.A. 34:11-56.25, et seq.

These proposed amendments include, but are not limited to:

- New rule, N.J.A.C. 19:30-4.1A, which provides clarity that these rules are promulgated by the Authority to implement the provisions of the Authority's enabling statute, N.J.S.A. 34:1B-5.1, and indicates that compliance may be required with other statutes, rules, and regulations, including the ERA;
- Adding the following as defined terms: "building services," "building services contract," "construction work," "continuity of ownership," "custom fabrication," "maintenance work," and "public work";
- Clarifying the definition of "contractor" to include parties who enter into building services contracts, as is existing Authority policy;

- Amending N.J.A.C. 19:30-4.2 (Payments of prevailing wages in projects receiving assistance) for consistency with the ERA pertaining to the prevailing wage exception for construction work performed by a landlord;
- Clarifying that the prevailing wage requirements for construction contracts do not apply for contracts for an amount less than \$2,000, in accordance with the Prevailing Wage Act;
- Clarifying when prevailing wage requirements apply to contracts for building services work, in accordance with various applicable statutes, rules, and regulations;
- Clarifying the documentation required to demonstrate compliance with the prevailing wage requirements, in accordance with current Authority policy;
- Specifying that contractors and subcontractors subject to prevailing wage requirements must register with the Department of Labor and Workforce Development in accordance with the Public Works Contractor Registration Act;
- Clarifying the sanctions for violations of the Authority’s Prevailing Wage Rules, as applicable and appropriate:
  - Referral to the Department of Labor and Workforce Development (“DOLWD”), as applicable;
  - Irrespective of any sanctions or penalties imposed by the Department of Labor and Workforce Development the Authority may (1) withdraw, suspend, terminate, recapture, and/or require repayment of any financial assistance; (2) forfeit all or some of the tax credits awarded; and (3) impose any other remedy available to the Authority;
  - The Authority may also refer a violation to any other applicable government entity for relevant action.

**Compliance with Executive Order 63/Stakeholder Engagement:**

Draft rule amendments were posted on the Authority’s website for EO63 informal public comment and Authority staff conducted a listening session. A media advisory was also released. The Authority reviewed and considered the three comments received.

**Recommendation:**

The Members are requested to approve the attached proposed amendments to the existing Prevailing Wage Rules, N.J.A.C. 19:30-4.1 et seq., and a new rule, N.J.A.C. 19:30-4.1A, and authorize staff to (a) submit for publication in the New Jersey Register and (b) submit as final adopted rules for publication in the New Jersey Register if no substantive comments are received, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law.




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Tim Sullivan, CEO

Prepared by: Maurice Griffin and Lorena Garcia

Attachment: Exhibit A – Proposed Amendments to the Authority Prevailing Wage Rules

## **OTHER AGENCIES**

### **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

#### **Authority Assistance Programs**

Administrative Rules; Prevailing Wage Rules

Proposed Amendment: N.J.A.C. 19:30-4.1 through 4.5

Proposed New Rule: N.J.A.C. 19:30-4.1A.

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

Authority: N.J.S.A. 34:1B-5.1

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

Proposal Number: PRN 2024-000.

Submit written comments by XXXXXXXXXXX, 2024, to:

Alyson Jones, Director of Legislative and Regulatory Affairs  
New Jersey Economic Development Authority  
PO Box 990  
Trenton, NJ 08625-0990  
[Alyson.jones@njeda.gov](mailto:Alyson.jones@njeda.gov)

The agency proposal follows:

#### **Summary**

The New Jersey Economic Development Authority (“NJEDA” or “Authority”) is proposing amendments to its Prevailing Wage rules at N.J.A.C. 19:30-4.1 through 4.5, as well as a new rule at N.J.A.C. 19:30-4.1A. The draft amendments to the existing prevailing wage rules at N.J.A.C. 19:30-4.1 through 4.5 are proposed to update the rules to be consistent with the relevant statutory changes that have occurred over the past decade, including but not limited to the New Jersey Economic Recovery Act of 2020 (“ERA”), P.L. 2020, c. 156, as amended by P.L. c.160, the Public Works Contractor Registration Act, N.J.S.A. 34:11-56.58, et seq., and the Prevailing Wage Act, N.J.S.A. 34:11-56.25, et seq.

New rule, N.J.A.C. 19:30-4.1A, is added to provide clarity that these rules are to act as a floor consistent with the Authority’s enabling statute, N.J.S.A. 34:1B-5.1, and compliance may also be required with other statutes, rules, and regulations, including as the ERA.

N.J.A.C. 19:30-4.1 (Definitions) is proposed for amendment to define or clarify the following notable terms: “building services,” “building services contract,” “continuity of ownership,” “custom fabrication,” “maintenance work,” and “public work.”

## Exhibit A – Proposed Amendments to the Authority Prevailing Wage Rules

N.J.A.C. 19:30-4.2 (Payments of prevailing wages in projects receiving assistance) is proposed for amendment to be aligned with the numerous statutory updates that have occurred since these rules were last updated as well as current Authority policies and practice. Subsection (a) is proposed for amendment consistent with recent updates to the Authority’s enabling statute at N.J.S.A. 34:1B-5.1 concerning construction work performed by a landlord. Subsection (b) is proposed for amendment to provide clarification as to the application of subsection (a). New subsections (c), (d), and (e) are proposed consistent with statutory updates and clarify when prevailing wage applies.

N.J.A.C. 19:30-4.3(a) (Assurances required) is proposed for amendment to codify the Authority’s prevailing wage documentation and completion certificate requirements for recipients of Authority financial assistance. New subsection (b) is proposed to codify the Authority’s prevailing wage documentation requirements for building services.

N.J.A.C. 19:30-4.4 (Contract provisions required) is proposed for amendment to change the title of the section, clarify the documentation requirements for contractors and subcontractors that are a party to a construction contract or building services contract with a recipient of Authority financial assistance.

N.J.A.C. 19:30-4.5 (Violation) is proposed for amendment to codify and clarify the sanctions for violations of the Authority’s Prevailing Wage Rules to be consistent with current Authority practice. New subsection (a) stipulates that any violation shall be referred to the Department of Labor and Workforce Development, as appropriate. New subsection (b) prescribes the sanctions that the Authority may initiate for violations of these Prevailing Wage Rules, in accordance with current Authority policies and practice. New subsection (c) states that the Authority may refer a violation to any other applicable government entity for relevant action.

### **Social Impact**

The Authority anticipates that the proposed amendments to its Prevailing Wage Rules will have a positive social impact by updating these rules to be current with the relevant statutory changes that have occurred during the past decade as well as to be aligned with current Authority policies and practices.

### **Economic Impact**

The Authority anticipates that the proposed amendments to its Prevailing Wage Rules will help strengthen the State’s economy by helping to ensure that workers hired to perform construction work and building services in connection Authority financial assistance projects are paid the correct prevailing wage as required by law.

### **Federal Standards Statement**

Recipients of Authority financial assistance may be required to comply with the federal Davis-Bacon Act, 40 U.S.C. 3141, et seq, however, no further analysis is required as New Jersey state prevailing wage requirements exceed any federal requirements.

### **Jobs Impact**

The NJEDA anticipates that the proposed amendments to its Prevailing Wage Rules will not have a direct impact on the generation or loss of jobs. Accordingly, no further analysis is required.

### **Agriculture Industry Impact**

An agricultural industry analysis is not required because the proposed amendments are not related to any specific industry. Accordingly, no further analysis is required.

### **Regulatory Flexibility Analysis**

The proposed rule amendments will not impose new reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These proposed rule amendments are proposed to bring the Authority's Prevailing Wage rules up to date with the relevant statutory changes that have occurred during the past decade, as well as Authority policies and practices as to prevailing wage in connection with Authority financial assistance projects.

### **Housing Affordability Impact Analysis**

The proposed amendments will not have an impact on the average costs associated with housing or on the affordability of housing. Accordingly, no further analysis is required.

### **Smart Growth Development Impact Analysis**

The proposed amendments will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. Accordingly, no further analysis is required.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

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

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

#### CHAPTER 30. ADMINISTRATIVE RULES

#### SUBCHAPTER 4. PAYMENT OF PREVAILING WAGES IN AUTHORITY PROJECTS

#### **19:30-4.1A Applicability and scope**

**The rules in this subchapter are promulgated by the Authority to implement the provisions of N.J.S.A. 34:1B-5.1 and set forth the Authority's prevailing wage requirements. Other statutes, rules, and regulations, including but not limited to the Davis Bacon Act, 40 U.S.C. 3141 et seq., the Public Works Contractor Registration Act, N.J.S.A.**

**34:11-56.48 et seq., the New Jersey Economic Recovery Act of 2020, P.L. 2020, c. 156, as amended by P.L. 2021, c. 160, and the Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq., may include applicable requirements.**

19:30-4.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Authority financial assistance” means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded **in whole or in part**, authorized, administered or provided by the Authority to any entity and is provided before, during or after completion of a project, including but not limited to, all Authority financial assistance received by the entity [pursuant to the Business Employment Incentive Program Act, P.L. 1999, c. 26 (N.J.S.A. 34:1B-124 et seq.),] that enables the entity to engage in a construction contract **and/or building services contract**.

“**Building services**” means any cleaning or routine building maintenance work, including, but not limited to, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined by N.J.S.A. 34:11-56.26.

“**Building services contract**” means any contract, subcontract or agreement, whether written or oral, for building services.

“Construction contract” means any contract, subcontract or agreement, whether written or oral, for construction **work**,[, reconstruction, demolition, alteration, repair work, maintenance work or construction related to installation of equipment, undertaken in connection with Authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L. 2002, c. 43 or undertaken to fulfill any condition of receiving Authority financial assistance and paid for in whole or in part with funds received through Authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of Authority financial assistance unless specifically exempted by N.J.A.C. 19:30-4.2.]

“Construction project” or “project” means a project that has received final approval from the Authority.

“**Construction work**” means construction, reconstruction, demolition, alteration, duct cleaning, repair work, or skilled maintenance work including painting and decorating, millwork fabrication, remediation, removal of hazardous substances, custom fabrication, excavation, grading, pile driving, concrete form, or other types of foundation work undertaken in connection with Authority financial assistance or any of its projects, those

**projects which the Authority undertakes pursuant to N.J.S.A. 52:27BBB-1 et seq., or those projects undertaken by any individual or entity to fulfill any condition of receiving Authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of Authority financial assistance unless specifically exempted by N.J.A.C. 19:30-4.2 or other statute, rule, or regulation to the contrary. When determining if an activity is construction work, the Authority shall consider the following factors: (1) physical changes to a property, including but not limited to, construction, reconstruction, demolition, alteration, excavation, grading, and pile driving; (2) equipment installation activity, including but not limited to, the complexity and effort required beyond plug-in for end use; (3) property maintenance or repairs, including but not limited to, activity beyond minor touch-ups or fixes such as painting or decorating; (4) environmental work, including but not limited to, removal of hazardous substances and the use of machinery for site testing; (5) whether the activity is undertaken to qualify the applicant, property, or project for Authority financial assistance; and (6) any other factors as the Authority may deem appropriate.**

**“Continuity of ownership”, as used in N.J.S.A. 34:1B-5.1(b) and for the purpose of the requirements in this subchapter, means continuity of the property interest and possession of the real property on which the project is located that is continuous and extends back to the point in time when the applicant first acquired that interest.**

**“Contractor” means any party who enters into a construction contract or building services contract with the developer/project owner/applicant, or any party, including any subcontractor, to whom funds will be disbursed for payment of construction work[, including any subcontractor of the contractor] or building services.**

**"Custom fabrication" shall have the same meaning as N.J.S.A. 34:11-56.26.**

**“Maintenance work” shall have the same meaning as N.J.S.A. 34:11-56.26.**

**“Prevailing wage rate” means the prevailing wage rate established by the Commissioner of New Jersey Department of Labor and Workforce Development from time to time in accordance with the provisions of N.J.S.A. 34:11-56.25 et seq. for the locality in which the project is located.**

**"Public work" shall have the same meaning as N.J.S.A. 34:11-56.26.**

#### 19:30-4.2 Payments of prevailing wages in projects receiving assistance

(a) Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract, [including contracts for millwork fabrication undertaken in connection with Authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or undertaken to fulfill any condition of receiving Authority financial assistance, including the performance of any contract to construct, renovate, or otherwise prepare a facility for operations which are

necessary for the receipt of Authority financial assistance,] unless the work performed under the contract is:

1. Performed on a facility owned by a landlord of the entity receiving the **Authority financial** assistance;
2. The landlord is a party to **the** [a] construction contract(s); and
3. (i) **For applications for Authority financial assistance approved prior to January 7, 2021, [L]less than 55 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility.**

**(ii) For applications for Authority financial assistance approved on or after January 7, 2021, less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility, as required under N.J.S.A. 34:1B-5.1.**

(b) [In accordance with P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1), nothing in this subchapter shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after an entity has executed with the Authority a commitment letter regarding Authority financial assistance and the first payment or other provision of the assistance is received.] **The exception in (a) above shall be determined in relation to each specific construction contract. For example, if a recipient of Authority financial assistance is a tenant that leases and occupies less than the percentage threshold identified in (a) above of a facility and the landlord that owns the facility is a party to the construction contract for fit-out for the recipient of Authority financial assistance, payment of prevailing wage and compliance documentation are not required for that contract. In this example, if the recipient of Authority financial assistance then executes a construction contract which the landlord is not a party to, payment of prevailing wage shall apply to the recipients of the Authority financial assistance construction contract.**

(c) **Prevailing wage requirements for construction contracts shall not apply if the contract is in an amount less than \$2,000, the prevailing wage contract threshold amount as defined in the Prevailing Wage Act, N.J.S.A. 34:11-56.26(11)(b).**

(d) **Except as otherwise may be required by other statutes, rules, regulations, including but not limited to the New Jersey Economic Recovery Act of 2020, P.L. 2020, c. 156, as amended by P.L. 2021, c. 160, in accordance with N.J.S.A. 34:1B-5.1, nothing in this subchapter shall be construed as requiring the payment of prevailing wage for (1) contracts by or between a grantee receiving Authority financial assistance and another entity if the contract is a subgrant or if the contract is not primarily for construction work or (2) construction commencing more than two years after an entity has executed with the Authority a commitment letter, approval letter, or has received notification of approval from the Authority where a commitment letter or approval letter is not required regarding Authority financial assistance and the first payment, first tax credit certificate, or other provision of the assistance is received.**



**(e) Not less than the prevailing wage rate shall be paid to workers employed to perform building services if required by the statute, rules, conditions of the Authority financial assistance, N.J.S.A. 34:11-56.25 et seq, or N.J.S.A. 34:11-56.58 et seq.**

19:30-4.3 Assurances required

(a) Recipients of Authority financial assistance [for construction contracts] shall [deliver an NJEDA affirmative action completion certificate to the Authority (or designated agent for the Authority),] **provide all documentation requested by the Authority and a completion certificate, in a form prescribed by the Authority, upon completion of each [the] construction contract, executed by the recipient or the landlord, as required by the Authority, signed by an authorized representative of the recipient, [representing and confirming]certifying** that:

1. [It has complied and has caused its landlord, if applicable, contractors and subcontractors to comply with the requirements of N.J.A.C. 19:30-4.2; or] **Any and all contractors and subcontractors subject to any prevailing wage requirement are registered with the Department of Labor and Workforce Development in accordance with N.J.S.A. 34:11-56.48, et seq; and**
2. [It has not entered into any construction contracts subject to the provisions of N.J.A.C. 19:30-4.2(a) and its landlord has not entered in any contracts pursuant to N.J.A.C. 19:30-4.2(a).] **The recipient has complied and has caused its landlord, if applicable, contractors and subcontractors to comply with the requirements of N.J.A.C. 19:30-4.2 and any statute, rule or condition of Authority financial assistance that requires payment of prevailing wage.**

**(b) To the extent that payment of prevailing wage is required for performance of building services, recipients of Authority financial assistance shall provide all documentation requested by the Authority. Upon execution, and as required by the Authority on an ongoing basis, of each contract and/or subcontract for building services by the recipient or the landlord, if applicable, the recipient shall submit documentation, as required by the Authority, evidencing and confirming that the contract complies with the requirements of N.J.A.C. 19:30-4.2 and any statute, rule, or condition of Authority financial assistance for the payment of prevailing wage.**

19:30-4.4 [Contract provisions required] **Documentation required**

(a) All construction contracts in the amount of \$2,000 or more, **in accordance with the prevailing wage contract threshold amount as defined in the Prevailing Wage Act, N.J.S.A. 34:11-56.26(11)(b), and all building services contracts** shall require that:

1. [Prime c]Contractors **that are party to such a contract with the recipient of Authority financial assistance or the recipient’s landlord subject to N.J.A.C. 19:30-4.2(a)** maintain and submit certified payroll records **of the contractor and every subcontractor** to the Authority **on a form satisfactory to the Commissioner of the Department of Labor and Workforce Development (see Appendix to N.J.A.C. 12:60-5.1); [or] and**

2. Contractors and subcontractors:

i. Permit the Authority, or its designated agent, complete access to payroll records and other records for purposes of determining compliance with the provisions of this subchapter; and

ii. Keep accurate records showing the name, craft or trade, and actual hourly rate of wages paid to each worker employed in connection with the performance of the contract and to preserve such records for two years from the date of payment.

**(b) All construction contracts and building services contracts of all tiers shall include mandatory language in a form satisfactory to the Authority setting forth the requirements of this subchapter. Every contractor and subcontractor shall sign an addendum to such a contract in a form satisfactory to the Authority.**

#### 19:30-4.5 Violation

A violation of the provisions of this subchapter **with regard to construction work or building services, as applicable, at a public work undertaken by the Authority** shall be deemed a violation of N.J.S.A. 34:11-56.25 et seq., **N.J.S.A. 34:11-56.58 et seq**, N.J.A.C. 12:60-[5.1]**8.1 et seq., and/or N.J.A.C. 12:64-4.1 et seq**[, and the Internal Process Management unit in the EDA shall refer the determination of violation proceeding to the Authority unit that administers the Authority financial assistance to determine if the commitment to, or offer of, Authority financial assistance should be withdrawn, terminated and/or repaid].

**(a) The Authority shall refer any such violation to the Department of Labor and Workforce Development, as applicable.**

**(b) In the event of any violation of the provisions of this subchapter, the Authority, irrespective of any sanctions or penalties imposed by the Department of Labor and Workforce Development under subsection (a) above, may**

- 1. Withdraw, suspend, terminate, recapture, and/or require repayment of any Authority financial assistance;**
- 2. Forfeit all or some of the tax credits awarded; and**
- 3. Impose any other remedy available to the Authority at law or in its respective agreement with the recipient of Authority financial assistance.**

**(c) The Authority may refer a violation to any other applicable government entity for relevant action.**

19:30-4.6 (Reserved)



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**RE:** Memorandum of Understanding with Fort Monmouth Economic Revitalization Authority

**Request:**

The Members are asked to approve the execution of a new and updated Memorandum of Understanding (“MOU”) between the New Jersey Economic Development Authority (“Authority” or “NJEDA”) and the Fort Monmouth Economic Revitalization Authority (“FMERA”). This MOU represents the mutual understanding and intention as it relates to roles and responsibilities of the respective organizations and outlines FMERA’s financial obligation to reimburse NJEDA for salary and fringe benefit expenses associated with staff dedicated to FMERA. This MOU will also be presented for approval by FMERA at its Board of Director’s meeting on October 16, 2024.

**Background:**

FMERA is a public body corporate and politic established by statute in, but not of, the Department of the Treasury as an independent authority and instrumentality of the State of New Jersey. N.J.S.A. 52:27I-21. FMERA was created in August of 2010 by the Fort Monmouth Economic Revitalization Authority Act (“the Act”), N.J.S.A. 52:27I-1 to -41, to oversee, administer, and implement the plan as provided in this act, in a manner that will promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare; to conserve the natural resources of the State; to provide housing, including housing to address identified needs related to homelessness; and to advance the general prosperity and economic welfare of the people in the host municipalities, the county, and the entire State by cooperating and acting in conjunction with other organizations, public and private, to promote and advance the economic use of the facilities located at Fort Monmouth following the federal government’s decision to close the US Army base. N.J.S.A. 52:27I-24. FMERA manages the revitalization of the 1,126 acres of real estate at Fort Monmouth (located

in the boroughs of Oceanport, Tinton Falls and Eatontown, Monmouth County) following the base closure in September 2011 that displaced more than 5,500 jobs. FMERA has a multitude of tools available for reuse and redevelopment of the site including undertaking redevelopment projects; adopting development and design guidelines; adopting land use regulations regarding the provision of utilities, streets, roads or other infrastructure required for the implementation of the revitalization plan.

The Act recognized NJEDA's substantial and significant experience with partnering with local communities and leveraging public-private partnerships, managing large scale redevelopment projects, and staff with a wide range of experience in redevelopment projects, real estate, finance, and job creation. N.J.S.A. 52:27I-19. Thus, the Act established in NJEDA an office staffed by NJEDA employees responsible for carrying out the policies set forth by FMERA, in a collaborative manner with the host municipalities and the county, administered by a director approved by the FMERA Board. N.J.S.A. 52:27I-23(a). The Act authorized FMERA and NJEDA to enter into any agreements necessary to provide for the establishment, operation, and financial support of the office with the costs to be paid for by FMERA. N.J.S.A. 52:27I-23(c), (d). FMERA took ownership of the base properties in 2014 and 2016 thereby enabling it to advance its mission through property sales. The proceeds of the sales are the main source of revenue for FMERA's operations. The complex processes and time associated with activities such as Requests for Offers to Purchase, contract negotiations, municipal and county approvals, and environmental clean-up has had an ongoing impact on the timing of sales and closings. FMERA has been actively engaged in selling properties over the past eight years, however, the timing and closing of these sales has often taken longer than anticipated and created the demand for the prior two Authority loans to provide necessary liquidity and support to FMERA.

### **New and Updated MOU**

The new and updated MOU amends and restates the original MOU executed between the NJEDA and Fort Monmouth Economic Revitalization Authority ("FMERA"), on October 1, 2010. The original MOU was executed prior to base closure and contemplated roles and responsibilities largely focused on planning activity for the redevelopment. Since that time, roles and responsibilities have evolved, shifting from planning to economic development.

This new and updated MOU outlines the obligations of the respective organizations. FMERA staff will continue to perform the day to day functions necessary to carry out the mission and NJEDA will provide support services as and when needed to supplement the staff capacity at FMERA. The only monetary obligation of the MOU is a reimbursement by FMERA to NJEDA for salary and fringe benefit expenses. These expenses will be accrued without interest and deferred until December 31, 2027. The unpaid balance may be paid earlier if there are sale proceeds sufficient to pay the outstanding balance. The flexibility provided by the deferral results in operating liquidity for FMERA enabling it to focus on its mission and advance the activities critical to the redevelopment of Fort Monmouth.

**Recommendation**

Staff recommends that the Board Members approve the execution of a new and updated Memorandum of Understanding between the NJEDA and FMERA confirming the mutual understanding and intention between the parties with respect to their roles and responsibilities and FMERA's financial obligation to reimburse the NJEDA for salary and fringe benefit expenses.



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Tim Sullivan, CEO

Prepared by: Lori Matheus  
Attachment

**AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING BETWEEN  
FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY  
AND NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

This amended and restated Memorandum of Understanding (“MOU 2”), effective on \_\_\_\_\_, 2024 (“Effective Date”), amends the Memorandum of Understanding dated October 1, 2010 (“Original MOU”), between the New Jersey Economic Development Authority (“NJEDA”) and the Fort Monmouth Economic Revitalization Authority (“FMERA”) (each a “Party” and collectively “the Parties”) under which NJEDA provides office personnel and support services to FMERA in connection with revitalization and reuse of the former military base known as Fort Monmouth (“Fort Monmouth”).

**WHEREAS**, Fort Monmouth, a federally owned and operated military installation located in Monmouth County in the municipalities of Eatontown, Oceanport, and Tinton Falls, was closed on September 15, 2011, by recommendation of the Federal Base Realignment and Closure Commission; and

**WHEREAS**, Fort Monmouth Economic Revitalization Planning Authority (“FMERPA”) was created pursuant to P.L. 2006, c.16 (codified at N.J.S.A. 52:27I-1 et seq.) to create a comprehensive conversion and revitalization plan (“the Plan”) for the revitalization and reuse of Fort Monmouth; and

**WHEREAS**, FMERA was created pursuant to the Fort Monmouth Economic Revitalization Authority Act (N.J.S.A. 52:27I-18 to -41) (“the Act”) to be the successor of FMERPA and oversee, administer, and implement the Plan; and

**WHEREAS**, NJEDA is an independent State authority established pursuant to N.J.S.A. 34:1B-1, et seq., in but not of the Department of Treasury, which serves as the State’s principal agency for driving economic growth; and

**WHEREAS**, N.J.S.A. 52:14-2 authorizes government entities to call upon any department, office, division or agency of the State to assist with its mission. This MOU 2 shall be administered consistent with N.J.S.A. 52:14-1, et seq.; and

**WHEREAS**, pursuant to N.J.S.A. 52:27I-23, an office was created within NJEDA to be staffed and supervised by NJEDA employees (“Fort Monmouth Office Personnel”) in order to provide administrative, procurement, budgetary, clerical, and similar services required to carry out FMERA’s mission and policies in a collaborative manner with the host municipalities and the county; and

**WHEREAS**, in addition to the Fort Monmouth Office Personnel, NJEDA also provides a variety of support services for FMERA; and

**WHEREAS**, the status of the Fort Monmouth property and each Party’s roles and responsibilities have evolved over the term of the Original MOU and consequently the Parties wish to update the Original MOU; and

**WHEREAS**, the Parties have agreed to defer FMERA's payment for NJEDA's services until the end of 2027, or until there are property sale proceeds sufficient to pay the outstanding balance, whichever occurs first; and

**WHEREAS**, FMERA owns an office building at 502 Brewer Avenue, Oceanport, New Jersey totaling approximately 10,650 square feet, which serves as its headquarters and FMERA allows NJEDA to occupy a portion of the building under the Use and Occupancy Memorandum of Understanding dated May 24, 2022; and

**WHEREAS**, this MOU 2 has been submitted to and approved by the Board of Directors of FMERA and NJEDA.

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

1. Incorporation. The recitals set forth above are hereby incorporated into and made part of this MOU 2.
2. Purpose of MOU 2. The Parties are entering into this MOU 2 to document the mutual understanding and intention of the Parties in carrying out their respective obligations under this MOU 2.
3. NJEDA's Role and Responsibilities. NJEDA will provide the following support for FMERA:
  - a. **Fort Monmouth Office Personnel**. Fort Monmouth Office Personnel will be dedicated exclusively to matters related to Fort Monmouth and will perform all support services necessary, consistent with N.J.S.A. 52:27I-23, to carry out the mission of the Act.
  - b. **NJEDA Support Services**. NJEDA will make non-dedicated NJEDA staff available to provide administrative and support services for Fort Monmouth Office Personnel, including but not limited to:
    - i. *Payroll and Benefits Services*. Administer payroll and benefits for Fort Monmouth Office Personnel in accordance with those customarily provided by NJEDA which may include, but are not limited to, health insurance, dental insurance, pension and retirement savings plans, and life insurance;
    - ii. *Human Resources Support Services*. Provide recruiting and staffing, orientation, benefits administration, employee relations, staff development and talent management, training, compensation guidance, performance management, organizational development, recognition programs, and human resources policies for Fort Monmouth Office Personnel;
    - iii. *EEO/AA Support*. Provide services for alleged and substantiated Equal Employment Oversight and Affirmative Action (EEO/AA) discriminatory matters through NJEDA's EEO/AA office and will maintain confidentiality of



the same. The parties recognize that EEO/AA matters are separate from human resources or personnel matters and therefore human resources staff is not responsible for performing any EEO/AA related actions. Alleged EEO/AA matters should be brought to the attention of NJEDA's EEO/AA Officer and/or alternate designee, or the NJEDA's chief legal and administrative officer;

- iv. *Compliance Services.* Provide compliance guidance on matters such as prevailing wage, affirmative action, and procurement related compliance requirements;
- v. *Information Technology ("IT") Services.* Provide ongoing IT support such as coordinating Fort Monmouth Office systems with NJEDA systems, support related to software, hardware and electronic office equipment, and assistance with procuring and managing contracts for outsourced IT support;
- vi. *Corporate Support Services.* Provide corporate support such as serving as a liaison with the State Ethics Commission, assisting with Open Public Records Act (N.J.S.A. 47:1A-1 et seq) and information requests, providing guidance on ethics matters, providing guidance on media outreach, providing advice concerning procurement matters, providing hearing officers, providing assistance, management and administrative services for regulatory matters, and providing legislative support.
- vii. *Furnishings and Equipment.* NJEDA will provide office space, office equipment and office furniture needed to provide support services for FMERA matters at NJEDA business locations.
- viii. *Engineering Support.* Provide engineering guidance related to any construction, demolition, utility or other civil engineering project to be undertaken by FMERA; and
- ix. *District Support.* Provide assistance with implementing financing mechanisms for special improvement (N.J.S.A. 52:27I-39), infrastructure (N.J.S.A. 52:27I-41) and transportation districts (N.J.S.A. 52:27I-40) as provided in the Act; and
- x. *Miscellaneous Support.* Provide other services needed by FMERA in order to carry out its mission under the Act.

**c. Executive Director of the Fort Monmouth Office.**

- i. *FMERA Approval.* NJEDA agrees that it will not hire an Executive Director of the Fort Monmouth Office without the review and approval of a subcommittee of FMERA appointed and convened at the direction of the FMERA chairperson in accordance with N.J.S.A. 52:27I-23.6.a.
- ii. *NJEDA Supervision.* NJEDA will supervise the work, performance and terms of employment, including termination, of the Executive Director of the Fort

Monmouth Office. FMERA, through its chairperson, will from time to time give direction to the Executive Director of the Fort Monmouth Office regarding the priority of matters. FMERA's direction to the Executive Director will be communicated to NJEDA's Chief Executive Officer.

4. Fees, Payment and Cost of FMERA Facilities.

a. **Service Fees.**

- i. *Fort Monmouth Office Personnel Costs.* FMERA will reimburse NJEDA for the full cost of providing Fort Monmouth Office Personnel salary and fringe benefits. On or before January 15<sup>th</sup> of each year, NJEDA will present an invoice containing the actual costs for salary and fringe benefits for the Fort Monmouth Office Personnel for the prior calendar year. FMERA will reimburse NJEDA for Fort Monmouth Office Personnel costs in accordance with subsection 4.a.iii. below.
- ii. *Excluded services.* All costs and expenses for services that fall outside of this MOU 2 shall be borne exclusively by FMERA.
- iii. *Payments.* By or before December 31, 2027, or when there are property sale proceeds sufficient to pay the outstanding balance, whichever occurs first, FMERA will reimburse NJEDA for the total accrued Fort Monmouth Office Personnel Costs described in Section 4.a.i above. No interest will accrue on the unpaid Fort Monmouth Office Personnel costs, and the balance due may be prepaid at any time.

5. Environmental Liability. It is expressly understood that MOU 2 will not obligate NJEDA to incur any liability for any known or unknown environmental conditions that exist or existed at or on Fort Monmouth property.

6. Right of Entry and License. FMERA agrees to make good faith efforts to assist NJEDA, its employees, officers, agents, consultants and contractors in gaining access to portions of the Fort Monmouth property in order to carry out MOU 2 as and when the need arises.

7. Other NJEDA/FMERA Responsibilities and Agreements. This MOU 2 is not intended to address NJEDA's role as a redeveloper pursuant to N.J.S.A. 52:27I-33. Moreover, the Parties Use and Occupancy Memorandum of Understanding dated May 24, 2022, governing the terms of NJEDA's use of office space at FMERA's office building located at 502 Brewer Avenue, Oceanport, New Jersey ("Office Space MOU") is not related to the services performed under this MOU 2.

8. Designation of Contacts. The Parties have designated the following contacts, who will be responsible for day-to-day communications between the Parties related to MOU 2. The Parties will notify each other of any designated contact change in writing within ten (10) business days of such change:

NJEDA	FMERA
Lori Matheus, Senior VP 36 West State Street P.O. Box 990 Trenton, NJ 08625 Lori.Matheus@njeda.gov	Regina McGrade, Administrative Manager 502 Brewer Avenue P.O. Box 267 Oceanport, NJ 07757 Regina.McGrade@njeda.gov

9. Term and Extension. This MOU 2 shall remain in effect for five (5) years from the Effective Date. The Parties may extend the MOU 2 for an additional five (5) years by mutual consent, provided that such consent is in writing, and signed by the authorized representatives of each Party.
10. Termination. This MOU 2 may be terminated by either Party upon forty-five (45) days prior written notice to the other Party.
11. Duties Upon Termination. Upon termination of this MOU 2, FMERA shall be responsible for payment of all outstanding Fort Monmouth Office Personnel Costs (described in Section 4.a.i. above) incurred by NJEDA in connection with this MOU.
12. Notices. All legal notices (not including day-to-day business communications) from one Party to the other regarding this MOU 2 shall be sent to the designated contacts provided below. The Parties will notify each other in writing of any change in these contacts within ten (10) business days:

NJEDA	FMERA
Tim Sullivan, CEO 36 West State Street P.O. Box 990 Trenton, NJ 08625	Kara Kopach, Executive Director 502 Brewer Avenue P.O. Box 267 Oceanport, NJ 07757

13. Assignment. This MOU 2 may not be assigned by a Party without the prior written consent of the other Party.
14. Third-Party Beneficiaries. This MOU 2 is intended for the sole benefit of the Parties and shall not be construed to create any third-party beneficiary.
15. Dispute Resolution. In the event a dispute arises between the Parties concerning this MOU 2, the CEO of NJEDA and the Executive Director of FMERA, or their appointed representatives, shall meet to resolve such dispute.
16. Applicable Law. The Parties shall retain all the powers, obligations and immunities provided by law. Each Party shall be responsible for adhering to all applicable laws, regulations, and its own Standard Operating Procedures in the performance its obligations under this MOU 2.

17. Publicity and Public Announcements. Each Party agrees to obtain permission of the other Party before using the name of the other Party in any public announcement or other publicity related to this MOU 2.
18. Counterparts. This MOU 2 may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
19. Electronic Signatures. The Parties agree that the execution of this MOU 2 by electronic signature and/or by exchanging PDF signatures will have the same legal force and effect as the exchange of original signatures.
20. Miscellaneous.
  - a. The Parties acknowledge that the successful completion of each Party's duties hereunder will require cooperation between the Parties. The Parties agree to work cooperatively to achieve the goals of this MOU 2.
  - b. The Parties agree to strictly control the use and retention of any personal and confidential information provided by the other Party so that only personnel who have a need to know have access to such information. No further dissemination or use of such information is authorized without written permission of the Party from which such information originated, unless required by law.
21. Entire Agreement. This MOU 2 reflects the entire understanding of the Parties, and it supersedes any prior understandings of the Parties. It may not be amended, modified, or supplemented except by mutual consent of the Parties in writing and signed by the authorized representatives of each Party.

**IN WITNESS WHEREOF**, the Parties have caused this MOU 2 to be executed by their duly authorized representatives.

<b>For NJEDA</b>	<b>For FMERA</b>
Name:	Name:
Title:	Title:
Signature:	Signature:
Date:	Date:



## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 9, 2024

**RE:** Delegations of Authority – Legal Reviews and Pilot Grant Programs

### **Summary**

The Members are asked to approve an update to delegations of authority for legal reviews and a new delegation of authority to extend compliance periods for pilot grant program agreements open exclusively for municipal, county, and State entities. Consistent with the Delegation Policy approved on March 9, 2022, all delegations are to the Chief Executive Officer unless specified otherwise.

### **Background**

As the Members are aware, the Authority procured the services of a Board Governance consultant to improve overall Board functionality and governance, and to make recommendations to improve board practices, efficiency, and functionality. Funston Advisory Services, LLC (Funston) completed a thorough review of the Authority’s board governance processes and practices and, in its final written report dated October 9, 2020, provided recommendations related to delegations of authority. Among other recommendations, Funston suggested that the Authority review the current thresholds for approval by the Board to determine whether more authority can be prudently delegated to staff. Such changes to delegations of authority were intended to: improve the Authority’s operating efficiency and responsiveness in program administration; and permit the Board to focus more time and attention on creation of new programs, program oversight and performance evaluation, and strategic planning, rather than reviewing routine individual transactions that do not involve setting policy or warrant consideration by the Board.

An extensive review of existing delegated authority ensued and over the past several years staff has recommended and the Board has approved increasing thresholds and updating and adding delegations of authority. Staff is requesting two further delegations of authority surrounding (1) legal reviews and (2) pilot grant program agreements.

### **Legal Affairs - Request for Delegated Authority Related to Legal Reviews**

Applicants applying for the NJEDA’s financial assistance programs are subject to the Authority’s Disqualification/Debarment Regulations (the “Regulations”), which are set forth in N.J.A.C. 19:30-2.1, et seq., as well as Executive Order 34 (Byrne 1976) (“EO34”). These laws are intended to protect the NJEDA by ensuring that applicants for financial assistance (and their affiliates, as defined in the Regulations) demonstrate and maintain the highest standards of responsibility and moral integrity. To comply with those laws, the Authority requires applicants to complete a Legal Questionnaire answering certain background questions pertaining to litigation and misconduct that can lead to debarment, disqualification, or suspension under the Regulations and EO34. NJEDA staff verifies the applicants’ disclosures and performs due diligence to confirm those disclosures were accurate and complete. If the applicant discloses information that could be

grounds for disqualification or suspension, or if due diligence reveals such information, then Board action may be required to disqualify or suspend the applicant or to determine that there are mitigating factors rendering disqualification inappropriate under the circumstances. The Board has delegated authority to staff to clear applicants under a variety of circumstances.

In June 2022, the Board clarified and expanded those delegations related to legal reviews. Some of these updates and expansions included permitting staff to determine not to debar or disqualify if: applicants are subject to certain agreements with regulatory agencies and in good standing thereunder; applicants have been found guilty of certain levels and types of offenses; or applicants have been penalized for minor civil violations of law or regulation, in an amount not exceeding \$100,000. The Board also confirmed the relevant timeframes used for the Authority's legal reviews at this time. In December 2022, the Board further expanded the delegations of authority around legal reviews, in connection with the Cannabis Grant Program only. Staff is seeking further delegated authority related to legal reviews.

Staff is now proposing to expand the delegations of authority related to the legal reviews. More specifically, the Board is asked to delegate authority to staff to determine not to debar or disqualify an applicant or vendor, if the applicant/vendor is subject to a civil judgment or finding of violations (with or without penalties applied) by a New Jersey State agency/department, or a judgment or finding of violations arising out of an action filed by a New Jersey State agency/department, when the State agency or relevant department has confirmed that: (1) the applicant/vendor is in substantial good standing, as determined by the State agency; (2) the entity has entered into an agreement with the respective State agency that addresses the action to the satisfaction of the State agency/department, which may include a practical corrective action plan; or (3) despite any such judgment/finding and related penalties, the State agency or relevant department does not object to the Authority proceeding with the application/contract. While any one of the above would allow staff to determine not to debar or disqualify an applicant or vendor, the presence of any one of them does not constitute on its own the necessary basis for debarment, disqualification, or suspension.

This request for delegated authority arises out of staff's experience in handling legal reviews where, particularly in Authority programs that are handled in coordination with another State agency, there may be actions filed against the applicant by the State agency for enforcement, for example, but the agency has expressed a willingness to move forward with a particular application. For instance, the Department of Environmental Protection (DEP) brought an enforcement action against one of the applicants for the Hazardous Discharge Site Remediation Fund program to enforce an Administrative Consent Order (ACO), which required removal of an underground storage tank in violation of various State laws. The Court issued a civil penalty and ordered compliance with the ACO, including the site remediation. The HDSRF program is a program jointly administered by NJEDA and DEP. The application for the HDSRF is for remediation of the property at issue and DEP has expressed support for the approval of the application to get the site remediated. By requiring confirmation of approval with the State agency or department who brought the action or found the violations, staff will ensure that such legal matters are considered for relevance and concern prior to legal clearance.

### **Counsel – Request for Delegated Authority Related to Pilot Grant Program Agreements**

Members are also requested to grant to the CEO delegated authority to approve extensions of time, not to exceed 12 months, for pilot grant programs open exclusively to municipal, county, and State governmental entities in order to provide extra time for the entity to meet the program's obligations. This delegated authority request is for extensions of time only – the grant amount and obligations under the grant agreement will remain unchanged and in full effect.

Several of the Authority's pilot grant programs are aimed at improving conditions in Distressed and Overburden Communities, as well as food deserts. Municipal and county participants in these programs are often under-resourced and face significant challenges in the timely implementation of the programs' requirements. As a result, the Authority occasionally receives outreach from municipal or county participants requesting additional time to meet the requirements of the specific program. For instance, City of Salem received a Food Insecurity Planning Grant to conduct a feasibility study. The City has issued

multiple unsuccessful Requests for Proposals to undertake the necessary work under the agreement, yielding no proposals. It has requested a nine (9) month extension to comply with the terms of the grant. Currently, an extension to the City of Salem, although permissible under the program, would require Board approval. Delegating authority for an extension would improve efficiency in the administration of the program.

The requested delegation of authority would be to the CEO to permit an extension up to 12 months for pilot program agreements for programs open exclusively for municipal, county, and State governmental entities, provided the extension is permissible under the program's Board-approved parameters. The CEO shall consider the recipient's efforts to diligently pursue the requirements of the program when agreeing to an extension under this delegation. The delegation would allow the CEO to extend program reporting and implementation deadlines in a timely and efficient manner.

### **Recommendation**

The Members are asked to approve an update to delegations of authority for legal reviews and a new delegation of authority to extend compliance periods for pilot grant program agreements for programs open exclusively for municipal, county, and State governmental entities. Consistent with the Delegation Policy approved on March 9, 2022, all delegations are to the Chief Executive Officer unless specified otherwise.



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Tim Sullivan, CEO

Prepared by:  
Monica Kostrzewa, Managing Director, Legal Affairs  
John Kuehne, Managing Director, Counsel/Governance



**MEMORANDUM**

**TO:** Members of the Authority

**FR:** Tim Sullivan  
Chief Executive Officer

**DA:** October 9, 2024

**RE:** Recommendation for Contract Extension  
M4010 – Business and Information Technology Consulting and Advisory Services

**Summary**

The members of the Board are asked to approve the extension of the Business and Information Technology Consulting and Advisory Services Contract, currently awarded to McKinsey & Company, Inc. Washington, D.C. (McKinsey) and the Boston Consulting Group, Inc. (BCG) for a total of \$3,958,820 for support across four workstreams: Human Resources (HR), Accounting and Financial Reporting (A&FR), Strategic Planning and Information Technology (IT). Split across two vendors, McKinsey will support three workstreams for a total of \$2,408,820 across six months, and BCG will support one workstream for a total of \$1,550,000 across four months. Specifically, McKinsey will continue providing strategic consulting services for the Authority’s Strategic Planning initiative as well as its HR and A&FR departments, and BCG will continue providing consulting services for the Authority’s IT department.

**Background – McKinsey and Company**

This past February, the New Jersey Economic Development Authority (NJEDA) Board approved entering into a contract with McKinsey & Company for six (6) months of HR, A&FR, and Strategic Planning consulting services valued at \$3,352,302. Procured under the New Jersey Division of Purchase and Property’s (DPP) State Contract M4010, McKinsey was hired by the Authority to assist with the following: increasing capabilities and streamlining service within the Authority’s HR function, advance reporting and support process improvement within A&FR, and create an Authority-wide strategic plan that focuses on NJEDA programs and products as well as future organizational priorities.

Over the past six (6) months, McKinsey has designed and begun implementation of a series of initiatives that will help the Authority’s HR department become a more efficient, effective, and strategic function best positioned for sustained impact and future state aspirations. McKinsey began with the co-creation of six transformation pillars, each specifically designed with tailored HR initiatives, clear ownership, and defined performance milestones to ensure a comprehensive and systematic approach to transforming the HR function. Through these pillars, McKinsey has implemented several critical initiatives that have significantly enhanced the Authority’s recruitment, talent development and compensation functions, as well as HR’s trust and brand across all business units.

Specifically, McKinsey established a new recruitment partnership model, fostering a more collaborative relationship between HR and business units, resulting in a more seamless talent acquisition process. Additionally, McKinsey revamped the NJEDA’s job description and grading



process by creating a purpose-built job description template and a career progression matrix that equips managers with a clearer framework for employee growth and development. McKinsey also designed a future-oriented organizational structure, optimizing internal operations to ensure the HR function is aligned with current and future workforce demands. This effort has not only streamlined HR processes but also increased trust and credibility within the department, especially by building stronger partnerships with internal stakeholders and the Executive Committee (ExCo). Moreover, McKinsey introduced workforce planning and analysis tools, which have enhanced HR's ability to manage headcount and budgeting more effectively. Lastly, McKinsey played a crucial role in the design of a draft compensation policy and the redesign of the Authority's promotion process, transitioning it to a seasonal model, which has brought clarity and structure to career progression. Through these comprehensive initiatives, McKinsey has not only helped transform the NJEDA's HR function but has also laid a solid foundation for sustainable growth and excellence in managing our most valuable resource – our people.

In A&FR, McKinsey supported the creation of a draft five-year financial plan, including detailed financial modeling, which provided a clear roadmap for the Authority's long-term financial stability and growth. Additionally, they facilitated the implementation of key process improvements across various financial operations, such as streamlining disbursement procedures, optimizing the month-end close process to enhance efficiency and accuracy, and designing a future organizational structure for the A&FR team. These efforts not only improved the overall efficiency and reliability of financial reporting but also equipped the department with the tools and strategies needed to adapt to evolving financial requirements and challenges.

Within Strategic Planning, McKinsey developed comprehensive drafts of Book 1 and Book 2 of the NJEDA's Strategic Plan, ensuring a well-rounded and forward-looking approach to the Authority's future direction. Book 1 provides a thorough review of Authority programs and activities, offering insights into past performance, current initiatives, and areas of improvement, while Book 2 lays out the Operational Priorities and Strategy for 2024-2027, establishing a clear roadmap for the organization's goals and objectives over the next four years. Together, these two books encompass a total of approximately 12 detailed chapters, covering every aspect of the Authority's strategic vision, from program evaluations to actionable steps for achieving long-term success. This strategic plan serves as a foundational document that not only guides the NJEDA's future initiatives but also aligns all stakeholders on a unified path toward growth and operational excellence.

Despite the significant progress made in the last six months, it has become evident that additional support is needed to implement high priority initiatives and solidify change within the HR and A&FR functions. To maintain momentum, staff proposes extending the NJEDA's current contract with McKinsey & Company to focus on rolling out the HR initiatives designed during phase I of work, streamline recruitment efficiency, support the launch of a revamped onboarding process, design and implement a future-state operating model for HR including succession planning for key roles, streamline workstreams, and further build out reporting and budgeting capacities within the department. Within the A&FR department, McKinsey will continue to support budget process improvement, specifically ensuring timely monthly close.

### **Background – Boston Consulting Group**

This past April, the New Jersey Economic Development Authority (NJEDA) Board approved entering into a contract with BCG for two months of Information Technology (IT) consulting services valued at \$900,000. Procured under the New Jersey Division of Purchase and Property's (DPP) State Contract M4010, BCG was hired by the Authority to assist with the following: support the launch of new IT processes and cadences, support roadmap implementation under the

NJEDA's IT Strategic Plan, and design and pilot a data and analytics function for IT strategic performance management.

During that time, BCG has supported the creation and implementation of a functional roadmap for the Authority's Information Technology and Systems (ITS) that aligns with business needs and continued demand for services. During this time, staff has worked closely with the BCG team to accomplish the three critical objectives, highlighted below, designed to enhance transparency on IT offerings, streamline service requests, and create feedback loops for service utilization.

First, BCG conducted a refreshed diagnostic and evaluated the current ITS roadmap, thoroughly assessing its strengths and identifying key areas for improvement. This process established "North Star" pillars that will serve as strategic guides for future ITS initiatives, ensuring they are aligned with the broader business objectives of the NJEDA. These pillars will help drive the organization toward a more effective and efficient IT landscape that better meets the needs of Authority and the stakeholders it serves.

Second, BCG delivered a comprehensive implementation roadmap that includes 17 initiative charters, each outlining objectives, milestones, dependencies, and key owners. This roadmap also featured 9 high-priority deep dives into specific initiatives, offering detailed next steps, best practices, and examples to guide execution. An implementation timeline was developed, factoring in the impact, effort, and resource requirements necessary to deliver these initiatives.

Lastly, BCG provided GenAI and product strategy training sessions to upskill the Authority's seniormost leadership in relevant use cases. This effort also led to the creation of the Product Lifecycle Working Group, which is focused on planning future product strategy. These training sessions and collaborative efforts are essential to positioning ITS to respond proactively to emerging technologies and evolving business needs.

Despite the significant progress made in the last eight weeks, it has become evident that resource constraints within ITS are hindering the timely implementation of several high-priority "quick win" initiatives. To maintain the momentum and continue improving the IT posture, staff proposes extending the NJEDA's current contract with BCG to focus on executing these high-value activities, such as establishing product lifecycle metrics, standardizing reporting within the CRM system, and fostering closer collaboration between IT and business teams. These efforts are anticipated to yield tangible benefits, including faster decision-making through enhanced data reporting and management, more efficient IT products and tools to improve business operations, and standardized documentation for easier onboarding and knowledge sharing. Additionally, by addressing technical debt and modernizing infrastructure, we can ensure IT scalability and better support NJEDA's growth.

### **Proposed Scope of Work for Extended Service from McKinsey & Company**

After completing their initial six (6) months of support, Authority staff requested a proposal from McKinsey & Company for an additional six (6) months of consulting services to further support for the HR, A&FR, and Strategic Planning workstreams. This request is authorized by DPP's Method of Operation for State Contract M4010, which allows for additional requirements to be added either through an amendment to the original task order or an additional task order. In response, McKinsey provided a proposed scope of work for contract extension focusing on three primary pillars; implementing high-priority initiatives and process improvements within the Authority's HR department, ensuring timely monthly closings for A&FR, and finalizing the Authority's Strategic Plan. Combined, all three pillars will help advance the work laid out in phase one of McKinsey's contract, providing necessary implementation support for the Authority's HR and A&FR departments, and bringing the Strategic Planning process to a close.

Within the proposed HR tranche of work, McKinsey will continue to improve ways of working with the business across talent attraction, management, and development by implementing the high-priority initiatives designed in Phase I, further streamlining recruitment efficiency, and supporting the launch of a new orientation and onboarding process. In designing and launching a future-state operating model for the HR function, McKinsey will support succession planning for HR leadership and the creation of new role descriptions to bring in new expertise to facilitate the improved HR function design. McKinsey will also continue streamlining workstreams to reflect best practices and improve the department's trust and brand within the NJEDA by facilitating regular touchpoints with the CEO, Executive Committee, and Senior Leadership Team. Furthermore, McKinsey will further build strategic workforce planning capabilities within the HR department by advancing HR's current reporting and analytics function and launch a headcount budgeting process. Finally, McKinsey will create tools and materials to modernize the HR function by designing self-service platforms to reduce demands, further build-out the current ticket system, and diagnose the effectiveness of current recruitment tools and platforms. McKinsey will also facilitate the finalization and implementation of revamped compensation and promotion policies, both of which will launch this fall.

Within the proposed A&FR scope of work, McKinsey will facilitate up to three (3) months of working sessions with A&FR staff to continue streamlining the monthly close-out process. Within the proposed Strategic Planning scope of work, McKinsey will finalize the draft of the Strategic Plan, which will then be left to NJEDA staff for implementation.

Combined, these three efforts are projected to require an additional six (6) months of support from McKinsey & Company and will cost \$2,408,820. Since this proposed scope of work provides the Authority with an extensive support model, specifically for HR, that is more implementation focused over diagnostic, the price for service has increased. After a review by the Authority's Chief Strategy and Infrastructure Officer, Chief of Staff, and Procurement department, the scope of work submitted by McKinsey & Company was deemed most advantageous to the NJEDA, price and other factors considered.

### **Proposed Scope of Work for Extended Service from Boston Consulting Group**

After completing their initial two (2) months of support, Authority staff requested a proposal from BCG for an additional ten (10) weeks over four (4) months of consulting services to further support the ITS strategic plan and performance management workstream. This request is authorized by DPP's Method of Operation for State Contract M4010, which allows for additional requirements to be added either through an amendment to the original task order or an additional task order. In response, BCG provided a proposed scope of work for contract extension focusing on two primary pillars; implementing select components from the ITS roadmap and serving as a primary advisor on increasing staff capacity and supporting the design of a future organizational state in the IT department. Combined, both pillars will help advance the work laid out in phase one of BCG's contract, providing necessary implementation support for the ITS roadmap, as well as the department's hiring practices and future organizational design.

Specifically, across the first proposed tranche of work, BCG will help implement select "quick win" initiatives, ensuring that 3-4 critical projects are completed within the next two (2) months. These initiatives will be driven by upskilling Authority staff through a build-operate-transfer approach combined with targeted coaching. Additionally, BCG will support the further development and implementation of product lifecycle metrics and provide strategic guidance on product planning and decision-making. Specific deliverables will include publishing an IT service catalog, implementing the Product Lifecycle Working Group, standardizing CRM reporting,

operationalizing product lifecycle metrics, and establishing opportunities for increased communication between IT and business units.

Secondly, BCG will provide advisory support to review and refine IT roles, job descriptions, and the overall hiring approach. This will involve updating job descriptions to better align with the necessary skills for the ITS team and the prevailing talent pool in New Jersey. BCG will also help revise the IT hiring strategy to attract qualified talent and expand the candidate pool, which is essential for addressing the current resourcing challenges. By focusing on these areas, BCG aims to enable the NJEDA ITS team to more effectively support business needs and achieve its long-term goals.

Combined, both efforts are projected to require an additional ten (10) weeks of support from BCG and will cost \$1,550,000. Since this proposed scope of work provides the Authority with an additional two (2) weeks of consulting services and consists of a more extensive support model that is implementation focused over diagnostic, the price for service has increased. After a review by the Authority's Chief Operations Officer, Chief of Staff, and Procurement department, the scope of work submitted by BCG was deemed most advantageous to the NJEDA, price and other factors considered.

**Recommendation**

Staff recommends that the Board approve the extension of a contract for Business and Information Technology Consulting and Advisory Services, currently awarded to McKinsey & Company and BCG for up to six (6) months of additional support totaling \$3,958,820.



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Tim Sullivan, CEO

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



## **MEMORANDUM**

To: Members of the Authority

From: Tim Sullivan

Date: October 9, 2024

Subject: Citigroup Global Markets, Inc., Citigroup Technology, Inc., Citicorp North America, Inc., and Citibank, N.A.

### **Summary:**

The board (“Board”) of the Economic Development Authority (“Authority” or “NJEDA”) has been asked not to disqualify grantees Citigroup Global Markets, Inc., Citigroup Technology, Inc., Citicorp North America, Inc., and Citibank, N.A. (“Citi” or “Applicants”) from receiving financial assistance from the Authority.

### **Purpose:**

Citi applied to the Authority’s Business Employment Incentive Program (“BEIP”) and was approved for award in 2004. A modification application was submitted in 2022 following corporate changes that were made following a merger on March 1, 2019 whereby Citigroup Management Corp. merged into Citigroup Technology Inc. As such, it was requested that Citigroup Management Corp. be removed from the BEIP agreement. A name correction from Citibank, N.A. Inc. to Citibank, N.A. was also requested in the modification at issue. All applicants are subject to the Authority’s Disqualification/Debarment Regulations, which are set forth in N.J.A.C. 19:30-2.1, et seq. These laws are intended to protect the NJEDA from fraud, waste and abuse by allowing it to avoid doing business with non-responsible businesses and to ensure that applicants for financial assistance demonstrate and maintain the highest standards of responsibility and moral integrity. Applicants for most Authority programs must complete a legal questionnaire answering certain background questions pertaining to litigation and misconduct that can lead to debarment, disqualification, or suspension under the regulations and EO34.

The existence of any of these causes for debarment, disqualification, or suspension does not necessarily require disqualification. In each instance, the decision to disqualify is within the discretion of the Authority (unless otherwise required by law) and must be made in the best interests of the Authority. The regulations require the Authority to consider “all mitigating factors” in determining the seriousness of the offense or inadequacy of performance, in deciding whether disqualification is warranted. The Board has the legal authority to make that decision. The legal issues which could be grounds for possible disqualification, as well as all mitigating factors, are summarized in this memorandum. For reasons detailed below, staff recommends the Board not disqualify Citi from receiving financial assistance.

## **Background:**

Citigroup Inc. is the ultimate parent company of the Applicants and their affiliates and is one of the largest banking institutions in the United States. It is a multinational investment bank and financial services corporation, that is incorporated in Delaware and has its headquarters in New York City. Citi applied to the BEIP on June 22, 2004 and submitted a modification application on March 22, 2022. On its most recent Legal Questionnaire, Citi answered “Yes” to questions 3 and 11. Question 3 relates to antitrust violations and question 11 is about pending legal proceedings. Citi made various disclosures, including a 2015 guilty plea with the United States Department of Justice and pending civil litigation involving antitrust, securities, racketeering, and wage and hour claims.

## **Grounds for Possible Disqualification:**

The Authority’s Disqualification/Debarment regulations (N.J.A.C. 19:30-2.2) lists various causes for disqualifying someone from receiving financial assistance. Those causes include various types of criminal convictions and civil judgments, as well as two “catch all” provisions. Specifically, N.J.A.C. 19:30-2.2(a)(3) permits disqualification for “[v]iolation of the Federal or State antitrust statutes”. Also, N.J.A.C. 19:30-2.2(a)(8) permits disqualification to any person for “[v]iolation of any law which may bear upon a lack of responsibility or moral integrity”. Such cause shall be established upon the rendering of a final judgment or conviction including a guilty plea or a plea of nolo contendere by a court of competent jurisdiction or by an administrative agency empowered to render such judgment. N.J.A.C. 19:30-2.3(a)(3). The Authority may also decline to give financial assistance to any person for “[a]ny other cause of such serious and compelling nature as may be determined by the Authority to warrant disqualification for assistance...” N.J.A.C. 19:30-2.2(a)(9). Such cause shall be established by evidence which the Authority determines to be clear and convincing in nature. N.J.A.C. 19:30-2.3(a)(4).

The relevant litigation and regulatory matters relating to Citi are listed below. Under the delegated authority provided by the Board in June 2022, the relevant time frames established as a lookback period are (1) ten years for criminal and environmental regulatory matters and (2) five years for civil and other regulatory matters. While Citi has litigation and regulatory matters occurring outside the lookback periods, the focus of this review and memorandum is on those matters that are either pending or have been concluded within the relevant lookback periods.

### **N.J.A.C. 19:30-2.4 Disqualification of Affiliates**

Pursuant to N.J.A.C. 19:30-2.4(e) “[a] disqualification...may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances.” Under N.J.A.C. 19:30-2.1(a), “affiliate” is defined as “persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.”

In addition to the Applicant parties listed above, Citigroup Financial Products Inc., Citicorp LLC, and Citicorp Banking Corp. were subject to review, as well, as they are affiliates under the definition.

## *I. United States Department of Justice May 2015 Guilty Plea*

On May 20, 2015, Citicorp LLC (“Citicorp”), along with several other large banks, settled with the U.S. Department of Justice (“DOJ”) to resolve the DOJ’s investigation into the business. Citicorp, which is the direct parent of Citibank, N.A. (one of the grantees) and therefore an affiliate of grantees, agreed to plead guilty to a one-count Information, charging that Citicorp and its co-conspirators “entered into and engaged in a combination and conspiracy to fix, stabilize, maintain, increase or decrease the price of, and rig bids and offers for, the euro/U.S. dollar currency pair exchanged in the foreign currency exchange (“FX”) spot market, which began at least as early as December 2007 and continued until at least January 2013, by agreeing to eliminate competition in the purchase and sale of the EUR/USD currency pair in the United States and elsewhere, in violation of the Sherman Antitrust Act, 15 U.S.C. 1.”

The co-conspirators, a group comprised of financial services firms acting as dealers in the FX Spot Market, communicated nearly daily in an exclusive electronic chat room, sometimes in code, through their EUR/USD traders. The purpose of the conspiracy was to “eliminate competition in the purchase and sale of the EUR/USD currency pair by... (i) coordinating the trading of the EUR/USD currency pair in connection with European Central Bank and World Markets/Reuters benchmark currency “fixes” which occurred at 2:15 PM (CET) and 4:00 (GMT) each trading day; and (ii) refraining from certain trading behavior, by withholding bids and offers, when one conspirator held an open risk position, so that the price of the currency traded would not move in a direction adverse to the conspirator with an open risk position.” This conspiracy directly affected interstate and U.S. import trade and commerce and affected trade and commerce in other countries where the conspirators purchased and sold these currencies.

In addition to the guilty plea, Citicorp agreed to pay a criminal fine of \$925 million and serve a three-year probation term beginning on January 5, 2017.

Citicorp also reached agreements with the U.S. Department of Treasury Office of the Comptroller of the Currency (“OCC”) and the U.S. Commodity Futures Trading Commission (“CFTC”) to settle investigations related to this matter on November 12, 2014. The OCC assessed a \$350 million civil penalty and required that Citi correct deficiencies and enhance oversight of their FX trading activity. The CFTC assessed a \$310 million civil penalty and required Citi to improve internal controls and procedures regarding the supervision of FX traders. As civil penalties, these two matters are outside of our five-year review period.

## *II. Civil Regulatory Matters*

There were eleven (11) relevant civil regulatory matters that resulted in penalties identified within our relevant five-year period. We note that civil regulatory matters such as the below are common for large multinational financial institutions and the matters noted below can be cleared by staff under delegated authority by the Board. Consent orders, or other similar agreements were reached between the parties resolving the matters and no convictions resulted from same.

### a. U.S. Securities and Exchange Commission

1. In the Matter of Citigroup Global Markets, Inc.; No. 3-21165; September 27, 2022

2. In the Matter of Citigroup Global Markets Inc.; No. 3-21583, August 29, 2023
  3. In the Matter of Citigroup Global Markets Inc. and Citi International Financial Services, LLC now known as Insigneo International Financial Services, LLC; No. 3-21753, September 28, 2023
- b. U.S. Commodity Futures Trading Commission
1. In the Matter of Citibank, N.A., Citigroup Energy Inc., and Citigroup Global Markets, Inc.; No. 20-66; September 28, 2020
  2. In the Matter of Citibank, N.A. and Citigroup Global Markets Limited; No. 21-15; September 27, 2021
  3. In the Matter of Citibank, N.A., Citigroup Energy Inc., and Citigroup Global Markets Inc.; No. 22-46, September 27, 2022
- c. U.S. Consumer Financial Protection Bureau
1. In the Matter of Citibank, N.A.; No. 2023-CFPB-0013; November 8, 2023
- d. U.S. Department of the Treasury Office of the Comptroller of the Currency
1. In the Matter of Citibank, N.A.; No. AA-EC-2019-67; October 11, 2019
  2. In the Matter of Citibank, National Association; No. AA-EC-2019-91; January 17, 2020
  3. In the Matter of Citibank, N.A.; No. AA-EC-2019-8; March 19, 2019
  4. In the Matter of Citibank, National Association; No. AA-EC-2020-65; October 7, 2020

These regulatory matters can be cleared under the delegated authority of the Board in June 2022. This permits staff to determine not to debar or disqualify a company that is subject to a corporate integrity agreement, a deferred prosecution agreement, consent order, or other similar agreement and is in good standing thereunder. For these consent orders, Citi's counsel has confirmed that the fines have been paid, that Citi is in compliance with the orders, and it is currently in good standing with the respective agencies.

### *III. Civil Litigation*

During the legal review, numerous relevant cases involving various claims, including wage and hour, antitrust, racketeering, securities and the False Claims Act, were found. These relevant cases have been reviewed and found to not be disqualifying causes under Authority regulations, as they are pending, have been dismissed or settled with no admission of liability. There were no final judgments found that would establish cause for disqualification.

#### **Mitigating Factors:**

In deciding whether disqualification is warranted, the Authority must consider "all mitigating factors" in determining the seriousness of the offense or inadequacy of performance. N.J.A.C. 19:30-2.3(a)(2).

Upon written request for mitigating factors, the Applicant's counsel provided the below statement:



Among its businesses, Citi, along with other banks, acts as a dealer in FX spot market, where its traders buy and sell currency pairs. On May 20, 2015, Citi entered a guilty plea to violating the Sherman Antitrust Act, relating to the conduct of a Citi trader who traded the euro-U.S. dollar (“EUR/USD”) currency pair in the FX Spot Market. As described in guilty plea, from December 2007 through January 2013, a Citi FX spot trader, along with FX spot traders at other banks, coordinated their EUR/USD trading around the European Central Bank and World Markets/Reuters benchmark currency “fixes,” and refrained from certain trading behavior, specifically by withholding making bids and offers in the market when one conspirator held a position, so that the price of the currency traded would not move in a direction adverse to the conspirator with that position.

Citi has fully accepted responsibility for the misconduct that is the basis of the guilty plea. As part of the guilty plea, Citi agreed to pay a penalty of \$925 million and a three-year term of probation with various reporting requirements and other conditions, beginning January 5, 2017. In addition to this significant penalty, Citi paid more than \$1.7 billion in penalties and settlements to other authorities and to private civil litigants in connection with the conduct at issue. Not only did Citi accept responsibility, it also made every effort to cooperate with the investigations conducted by the Department of Justice and other authorities. In recognition of Citi’s cooperation, on December 1, 2016, the Department of Justice submitted a motion pursuant to the United States Sentencing Guidelines explaining Citi’s extraordinary cooperation and substantial assistance. In addition, Citi engaged in significant remediation efforts, both before and after the guilty plea, including the implementation of a comprehensive compliance program designed to prevent and detect the type of conduct that formed the basis of the guilty plea. On January 5, 2020, Citi’s probation ended after Citi fully complied with applicable requirements and conditions.

While the misconduct that formed the basis of the guilty plea was certainly serious, it ended over eleven years ago and was also limited in important ways. The conduct to which Citi pleaded guilty involved one Citi employee (of more than 240,000 at the time), based in London, who acted in clear contravention of Citi’s pre-existing policies and engaged in efforts to circumvent Citi’s Compliance function. This employee was not a member of Citi’s Board of Directors or senior management, and was, in fact, a number of levels below senior management in Citi’s corporate hierarchy. Moreover, senior management was neither aware of, nor directed, the misconduct by this employee. Citi has repeatedly recognized the seriousness of the conduct of that employee, and when the nature of the wrongdoing became known, terminated that individual’s employment.

Despite the seriousness of the matter, Citi cooperated with agency and authority investigations, accepted responsibility, and paid its agreed upon penalties and settlements. In addition to terminating the London-based employee responsible, Citi took steps to address and correct the conduct by implementing a compliance program that was designed to detect this type of conduct. Senior management was neither aware of or involved in the criminal conduct that occurred

between approximately December 2007 and January 2013. Citi's probation period has since ended without further incident.

It should be noted that on July 9, 2015, JP Morgan Chase & Co. was also considered by the Board for disqualification for its role in this conspiracy and its guilty plea. The Board voted to not disqualify JP Morgan Chase & Co. at that time.

**Recommendation:**

Following review of the relevant matters and mitigating factors, the Members of the Board are asked to not disqualify Citi and its affiliates from receiving financial assistance from the Authority.



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Tim Sullivan, CEO

Prepared by: Jackie Ignatowitz



**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** October 9, 2024

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

The following projects were approved under Delegated Authority in September 2024:

**Direct Loan Program:**

- 1) FARMPLAST, LLC (PROD-00316802) is located in Parsippany-Troy Hills Township, Morris County. The Company was established in 2007 as one of the world's largest manufacturers of reusable industrial strength resin containers, and is the number one supplier of authentic milk crates in the U.S. The Company uses injection molders in the production of milk crates, bread trays, and other products to transport food, beverages, pharmaceuticals, and other goods. The NJEDA approved a \$1,920,390 loan to refinance recent vendor equipment purchases and to purchase various new injection molding machines. Currently, the Company has 25 employees and plans to create 10 new jobs within the next two years.

**Small Business Fund Program:**

- 1) PBP EDDYS CORP, PBP IRVS CORP (PROD-00316698 & PROD-00316699) are located in Bayonne City, Hudson County. PBP Eddy's Corp. DBA Eddy's Wine and Liquor, and PBP Irv's Corp. DBA Irv's Wines & Liquors were formed in N.J. in 2015 and 2014, respectively, as retail stores that sell beer, wine, liquor, and lottery tickets to their local communities. The NJEDA approved a \$131,807 loan to purchase refrigeration equipment, including coolers, wine displays, and freezers at one retail location. Also, the NJEDA approved a loan, not to exceed \$132,138 to purchase additional equipment at a second retail location. The Company currently has 1 employee.

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

Tim Sullivan, CEO