



## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Timothy Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** Agenda for Board Meeting of the Authority February 8, 2023

### **Notice of Public Meeting**

### **Roll Call**

### **Approval of Previous Month's Minutes**

### **CEO's Report to the Board**

### **Wind Institute**

### **Clean Energy**

### **Loans/Grants/Guarantees**

### **Incentives**

### **Bond Project**

### **Authority Matters**

### **Board Memoranda**

### **Public Comment**

### **Adjournment**

# **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**December 21, 2022**

## **MINUTES OF THE MEETING**

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

Members of the Authority present in person: Chairman Kevin Quinn; Noreen Giblin, Executive Representative; Public Members: Robert Shimko, First Alternate Public Member; and Rosemari Hicks, Second Alternate Public Member

Members of the Authority present via conference call: State Treasurer Elizabeth Muoio of the Department of Treasury; Commissioner Marlene Caride of the Department of Banking and Insurance; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Public Members: Virginia Bauer, Fred Dumont; Aisha Glover; Marcia Marley; and Philip Alagia.

Also present: Timothy Sullivan, Chief Executive Officer of the Authority; Deputy Attorneys General Matthew Reagan, Elizabeth Kern and Meredith Friedman; Jamera Sirmans, Governor's Authorities Unit; and staff.

Members of the Authority absent: Public Members: Charles Sarlo, Vice Chairman, and Massiel Medina Ferrara.

Mr. Quinn 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 next item of business was the approval of the November 16, 2022 meeting minutes. A motion was made to approve the minutes by Mr. Dumont, and seconded by Commissioner Caride, and was approved by thirteen (13) 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.

## **COMMUNITY DEVELOPMENT**

### **ITEM: Use of Startup Business and Nonprofit Assistance Program for Creation of the Cannabis Grant Program**

**REQUEST:** To approve: (1) the creation of the Cannabis Grant Program – a pilot program that will make grant funding available to eligible private entities for early-stage expenses related directly to cannabis business start-ups in New Jersey; (2) utilization of funding from the State General Fund from the supplemental SFY2021 appropriation signed into law as P.L. 2021, Chapter 115, to fund the Program; (3) delegation of authority to the CEO to approve individual applications for the Program in accordance with the terms set forth in the product specifications; (4) delegation of authority to the CEO to accept additional funding for this program from any governmental entity (Federal, State, or County) and to impose additional requirements as may be required by law; and (5) delegated authority tied to administration of the program.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

### **ITEM: Small Business E-commerce Support Program**

**REQUEST:** To approve: (1) the Creation of the Small Business E-commerce Support Program – a pilot product under the Main Street Recovery Finance Program that will offer e-commerce/digital marketing consulting services to be provided to eligible New Jersey restaurants, retail stores and personal care businesses; (2) entering into contracts with firms to provide E-commerce/Digital Marketing Services to New Jersey restaurants, retail stores and personal care businesses for a two (2) year term, with two (2) one (1) year extension options to be exercised at the sole discretion of the Authority at the same pricing, terms and conditions; (3) utilization of funding from the from the Main Street Recovery Finance Program to fund the Small Business E-commerce Support Program, with delegation of authority to the CEO to increase funding; and (4) delegation of authority to the CEO to approve individual requests for a Small Business E-commerce Support Program.

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Hicks                      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

### **ITEM: Recommendation for Additional Funding for the Small Business Improvement Grant (SBIG)**

**REQUEST:** To approve: (1) utilization of additional funding from the Main Street Recovery Finance Program for the Small Business Improvement Grant program; (2) utilization of additional funds of Main Street Recovery Finance Program funding to cover costs to maintain the existing temporary staff to process applications for another year if needed; (3) utilization of funding from the Main Street Recovery Finance Program for an administrative fee to administer the supplemental funding; and (4) delegation of authority to the CEO to increase funding for the programs using funding from the Main Street Recovery Finance Program.

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Bauer                      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

Mr. Shimko abstained as a relative may apply for the program.

### **ITEM: Food Retail Innovation in Delivery Grant (FRIDG)**

**REQUEST:** To approve: (1) the creation of the Food Retail Innovation in Delivery Grant (FRIDG), a pilot program that will provide grant funding to New Jersey food retailers to purchase self-contained, temperature-controlled lockers that must be placed within an Authority-designated Food Desert Community (FDC) that will be used for food storage and grocery delivery within Authority-designated Food Desert Communities (FDCs) to expand food delivery opportunities and improve food access for FDC residents; (2) the utilization of funds from the Fiscal Year 2022

Appropriations Act for the purpose of ‘Food and Agriculture Innovation’ to capitalize the FRIDG program and cover administrative costs that are needed to administer that program; and (3) delegation of authority to the CEO to approve individual applications for FRIDG in accordance with the terms set forth in the memo and the program specifications.

**MOTION TO APPROVE:** Mr. Shimko                      **SECOND:** Ms. Bauer                      **AYES: 12**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

Ms. Hicks voted No.

### **REAL ESTATE**

#### **ITEM: Construction Inflation Fund Pilot Program**

**REQUEST:** To approve: (1) authorizing the CEO to enter into an MOU with the NJ Department of Community Affairs to accept funds from the American Rescue Plan (ARP) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) for the Construction Inflation Fund and associated administration costs, and will agree to comply with federal requirements for the use of those funds; and (2) the creation of the Construction Inflation Fund, a pilot program which will provide grant funding to eligible small businesses for real estate development projects that have experienced increased construction costs and project funding gaps resulting from the COVID-19 pandemic.

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Hicks                      **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

#### **ITEM: Film & Digital Media Studio Infrastructure Program**

**REQUEST:** To approve: (1) the creation of the Film & Digital Media Studio Infrastructure Program as a pilot program which will provide grant funding to municipalities, municipal entities, counties, county entities and/or State instrumentalities for infrastructure improvements and sitework in support of the development of a film or digital media studio production facility; and (2) the utilization of funds from the Fiscal Year 2023 Appropriations Act to capitalize the Program including funding to be used by the Authority to cover administrative costs for the administration of the Program.

**MOTION TO APPROVE:** Commissioner Angelo                      **SECOND:** Ms. Bauer                      **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

### **INCENTIVES**

#### **Venture**

#### **ITEM: New Jersey Evergreen Innovation Fund: 2022 Program Auction Bid Approvals**

**REQUEST:** To approve the award of tax credits to purchasers under the New Jersey Innovation Evergreen Program based on the results of an auction, subject to the execution by the purchasers of a tax credit purchaser contract.

**MOTION TO APPROVE:** Ms. Bauer                      **SECOND:** Mr. Alagia                      **AYES: 13**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

Matthew Reagan, Deputy Attorney General, Section Chief, Economic Development Unit, recused and stepped away from this action item as a family member is involved with the Evergreen Innovation Fund.

### **FILM TAX CREDIT APPROVALS**

**Stalwart Productions LLC**

PROD-00305712

**MAX AMOUNT OF TAX CREDITS: \$20,165,136**

**AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 8**

**Shelter S1 Productions, LLC**

PROD-00305762

**MAX AMOUNT OF TAX CREDITS: \$17,967,771**

**MOTION TO APPROVE: Ms. Bauer**

**SECOND:** Ms. Giblin

**AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 9**

## FILM & DIGITAL MEDIA TAX CREDIT

**ITEM: Lions Gate Films, Inc. – Studio Partner Designation**

**REQUEST:** To approve the designation of Lions Gate Films, Inc. as a studio partner under the Garden State Film and Digital Media Jobs Act, P.L.2021, c.367 and subject to final adoption of rules related to the studio partner.

**MOTION TO APPROVE:** Mr. Shimko

**SECOND:** Ms. Bauer

**AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 10**

## BOND PROJECT

**ITEM: Defeasance and Redemption of Certain Outstanding NJEDA/School Facilities Construction Bonds– Steven Novak, Sr. Bond & Incentives Underwriter and David Lawyer, Managing Director – Underwriting**

**REQUEST:** To approve a resolution authorizing an Authorized Officer of the Authority to enter into one or more Escrow Deposit Agreements for the purpose of defeasing and redeeming all or a portion of certain of the Authority's Outstanding School Facilities Construction Bonds and to approve the use of professionals and authorize Authority staff to take all necessary actions as required.

**MOTION TO APPROVE:** Ms. Giblin

**SECOND:** Ms. Marley

**AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 11**

## NJ WIND PORT

**ITEM: New Jersey Wind Port – Request for funds for an electrical substation and distribution system**

**REQUEST:** To approve the Authority issuing a Notice To Proceed to its construction manager for the construction of an electrical substation and duct bank at the New Jersey Wind Port.

**MOTION TO APPROVE: Ms. Hicks**

**SECOND:** Ms. Bauer

**AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 12**

**ITEM: New Jersey Wind Port – Design and engineering services contract increase**

**REQUEST:** To approve an increase in funding to the Authority's existing contract for design and engineering services related to the New Jersey Wind Port.

**MOTION TO APPROVE: Ms. Hicks**

**SECOND:** Ms. Bauer

**AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 13**

Mr. Dumont left the meeting at this time.

**ITEM: NJEDA State Lease Revenue Bonds (Offshore Wind Port Project), 2023 Series A**

**(Federally Taxable) (Green Bonds)**

**REQUEST:** To approve: (1) the adoption of the Authorizing Resolution authorizing the issuance of the 2023 Series Bonds; (2) entering into the Trust Indenture and the First Supplemental Trust Indenture; (3) entering into the Lease and the Sublease; and (3) authorizing an Authorized Officer of the Authority to take all necessary actions incidental to the issuance of the 2023 Series Bonds; subject to final review and approval of all terms and documentation by Bond Counsel and the Attorney General's Office.

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Marley                      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 14**

**ITEM: Ground Lease Rent Reserve Trustee**

**REQUEST:** To approve a firm selected by the State for the 2023 Series Bonds, as the Rent Reserve Trustee, under the terms of the Ground Lease; delegated authority to the CEO to enter into the account control agreement for the Reserve Account; delegated authority to the CEO to transfer funds to the Trustee for initial rent payment after the bonds close.

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Bauer                      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 15**

**AUTHORITY MATTERS**

**ITEM: 2023 Draft Fiscal Plan**

**REQUEST:** To approve the Authority's FY 2023 Fiscal Plan.

**MOTION TO APPROVE:** Ms. Hicks                      **SECOND:** Ms. Giblin                      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 16**

**ITEM: Purchase Order to 22nd Century Technologies Inc. for Temporary Staff, COVID Emergency Grant Programs**

**REQUEST:** To approve the issuance of a Purchase Order for the use of funds from the Coronavirus State Fiscal Recovery Fund, enacted in the American Rescue Plan Act of 2021, for temporary staff to continue review and post approval compliance for the NJEDA Phase 4 Small Business Emergency Grant Program.

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Hicks                      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 17**

**BOARD MEMORANDA**

**FYI ONLY:**

- Brownfield Impact Fund Delegated Authority Reporting
- Credit Underwriting Projects Approved Under Delegated Authority – November 2022
- Economic Transformation Products – Delegated Authority Approvals Q3 2022

**PUBLIC COMMENT**

Mr. Mike Reagan, Senior Vice President, CGI Technologies and Solutions, thanked the NJEDA for allowing CGI the opportunity to participate in the New Jersey Innovation Evergreen Investment Fund Tax Credit Auction Program and for approving their application for its investment.

Ms. Melanie Willoughby, Executive Director, New Jersey Business Action Center, applauded the NJEDA efforts for bringing the Cannabis Grant Program forward and looks forward for working with NJEDA on this program.

Mr. Bill O'Dea, Executive Director, Elizabeth Development Company, spoke in favor of the Cannabis Grant program, pointed out that this grant will help to create a national model for social equity and social justice.

Mr. Will Pena, Owner, Jersey Leaf, LLC, and a social equity minority applicant, thanked NJEDA for bringing the Cannabis Grant Program forward, since this program will give him an opportunity to work in the Cannabis industry.

### **EXECUTIVE SESSION**

The next item was to adjourn the public portion of the meeting and move into executive session to discuss two (2) New Jersey Wind Port and two (2) Real Estate items, which are real estate matters involving public funds, where disclosure could adversely impact the public interest. The minutes of which shall become public when the need for confidentiality no longer exists. On a motion by Ms. Dragon, seconded by Ms. Bauer, the the motion to approve entering Executive Session was approved by the 12 members present.

Ms. Bauer left the meeting at this time.

The Board returned to Public Session.

### **PUBLIC SESSION**

#### **NJ WIND PORT**

##### **ITEM: New Jersey Wind Port Tenant Leasing – Fair Markets Rents**

**REQUEST:** To approve the Fair Market Rents (FMRs) for three parcels of property at the New Jersey Wind Port (NJWP).

**MOTION TO APPROVE:** Ms. Giblin                      **SECOND:** Ms. Hicks                      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 18**

##### **ITEM: New Jersey Wind Port – Request to approve the Authority entering into a Letter of Intent (LOI) with a New Jersey Wind Port Tenant**

**REQUEST:** To approve the Authority entering into a binding Letter of Intent with a New Jersey Wind Port tenant.

**MOTION TO APPROVE:** Ms. Hicks                      **SECOND:** Commissioner Angelo                      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 19**

#### **REAL ESTATE**

##### **ITEM: Sale of Property, North Brunswick, NJ**

**REQUEST:** To approve the sale of an EDA-owned property located in North Brunswick, NJ, and approval of execution of all documents necessary to effectuate the property's sale.

**MOTION TO APPROVE:** Mr. Shimko                      **SECOND:** Ms. Giblin                      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 20**

**ITEM: Settlement Agreement with NJ Bioscience Center Tenant**

**REQUEST:** To approve a settlement agreement with a NJ Bioscience Center tenant.

**MOTION TO APPROVE:** Ms. Hicks

**SECOND:** Ms. Dragon

**AYES: 11**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 21**

There being no further business, on a motion by Mr. Quinn, and seconded by Ms. Giblin, the meeting was adjourned at 12:06 pm.

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



**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**January 18, 2023**

**MINUTES OF THE SPECIAL MEETING**

*The Meeting was held by teleconference call.*

Members of the Authority present via conference call: Chairman Kevin Quinn; Noreen Giblin, Executive Representative; State Treasurer Elizabeth Muoio of the Department of Treasury; Commissioner Marlene Caride of the Department of Banking and Insurance; Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; Public Members: Charles Sarlo, Vice Chairman, Virginia Bauer, Fred Dumont; Marcia Marley; and Robert Shimko, First Alternate Public Member.

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

Members of the Authority absent: Public Members: Phil Alagia, Aisha Glover and Massiel Medina Ferrara.

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

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

**MINUTES OF AUTHORITY MEETING**

**NJ WIND PORT**

**ITEM:** New Jersey Wind Port – Request to amend the Authority's Ground Lease with PSEG Nuclear LLC

**REQUEST:** To approve the amendment to the Authority's Ground Lease with PSEG Nuclear LLC.

**MOTION TO APPROVE:** Ms. Bauer                      **SECOND:** Commissioner Angelo                      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

**PUBLIC COMMENT**

There was no public comment.

There being no further business, on a motion by Mr. Quinn, and seconded by Mr. Dumont, the meeting was adjourned at 10:09 am.

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



Danielle Esser, Director  
Governance & Strategic Initiatives  
Assistant Secretary



## MEMORANDUM

**To:** Members of the Authority

**From:** Tim Sullivan

**Date:** February 8, 2023

**Re:** February 2023 Board Meeting – CEO Report

In the short time since the New Year, the New Jersey Economic Development Authority (NJEDA) has already hit some major milestones and had some great accomplishments – in film production and offshore wind to maternal and infant health and small businesses. Our work these past few weeks has contributed to greater innovation and investment, job creation, and building a stronger and fairer New Jersey economy.

I recently had the honor of traveling with Governor Murphy to California, where we continued to showcase New Jersey as a leader in innovation, venture capital, and film. The trip coincided with the major announcement from Governor Murphy, NJEDA, and the New Jersey Motion Picture and Television Commission that film production in the state once again smashed record numbers. In 2022, film and television spending in New Jersey exceeded \$650 million, creating over 8,500 jobs. These numbers include 65 projects supported by tax credits approved by the NJEDA's Board. This serves as further proof that conversations, like the ones recently had in California, with film studios and industry leaders are critical to advancing our state's legacy as a formidable leader in film and television production.

Additionally, several notable in-person events have already taken place this year. It was great to be in Mount Laurel last month when Governor Murphy announced the signing of a Letter of Intent (LOI) between the NJEDA and Atlantic Shores Offshore Wind, through which the company will lease 35 acres of land at the New Jersey Wind Port. The project, planned by Atlantic Shores, is expected to create over 200 new jobs at the Port and produce enough clean energy to power over 700,000 homes. As we continue to attract offshore wind developers to New Jersey, we'll not only address the climate crisis, but also invest in our state's green economy and create high-quality, good-paying jobs for generations to come.

Our work to make New Jersey the safest state to give birth continued last month. I had the honor of joining First Lady Tammy Murphy and members of the Commission on Science, Innovation and Technology (CSIT) at the NJ Bioscience Center to announce nearly \$1.3 million in grants to 17 startups to accelerate the development of technologies, products, and services that support maternal and child wellbeing. The grants were awarded through CSIT's Maternal and Infant Health Research & Development Grant program, which launched last June.

Furthermore, it was great to attend several ribbon cuttings for companies opening their doors in the Garden State. I joined Secretary of State Tahesha Way, President and CEO of Choose New Jersey Wesley Mathews and members of the New Jersey-Israel Commission to welcome Bluevine's headquarters to Jersey City. The global financial technology company specializing in small business financing relocated its United States headquarters from Redwood, California to New Jersey. About 125 staff members are based in the company's Jersey City office and they expect to recruit approximately 200 new positions. I also joined members of the New Jersey-Israel Commission, Agudath Israel, and the Lakewood Chamber of Commerce in Lakewood for the grand opening of the Culinary Depot, which is family-owned business that sells commercial kitchen and



restaurant supplies. Originally from New York, Culinary Depot relocated to New Jersey due to our state's strategic location and first-class pool of talent. A further testament to New Jersey's competitive advantage as the best state to live, work, and raise a family, while in Lakewood I also had the honor of visiting a few Jewish-owned businesses including NJEDA-supported LTC Consulting, as well as GenWorx, and Astor Chocolate.

On the investment front, we recently issued Notices of Investment Opportunities (NIOs) seeking experienced investment managers to manage and deploy a combined \$150 million of capital through four unique funds. Using federal and state monies, the NJEDA will create the Socially & Economically Disadvantaged Individuals (SEDI) Seed Fund, the Black and Latino Seed Fund, the Blended Capital Fund, and the Life Science/Healthcare Fund. Injecting capital into several high-wage, high growth sectors will help strengthen New Jersey's business environment and create opportunities for small business owners and entrepreneurs.

NJEDA staff also hosted an information session for venture capitalists, private equity investors, and startups on how to access capital from the New Jersey Innovation Evergreen Fund (NJIEF). At the last board meeting this board approved eight corporations to purchase \$50 million in tax credits to fuel the NJIEF, which is expected to help support six to 10 high-growth businesses this year. The webinar had nearly 800 participants, which shows there's great interest in the Fund.

This month the nation observes Black History Month and reflects on past struggles, celebrates great progress, and continues to work towards a more equitable nation for all – and the NJEDA recognizes its role in creating a fairer, stronger New Jersey through a variety of products and programs. As CEO, I am proud of the work the NJEDA does every day to support communities of color across the state. Whether it's through the Black and Latino Seed Fund, or our collaboration with NJ Nurture to close racial health disparities in maternal health or fighting food insecurity with the FRIDG program – the NJEDA is at the forefront of supporting communities of color and ensuring they have the tools and resources to succeed.

The accomplishments highlighted here are a testament that we are off to an exceptional start to 2023. With continued hard work and commitment from our staff and Board, the NJEDA will make critical investments in our state contributing towards job creation, innovation, and building a stronger economy that works for all New Jerseyans. Here's to a successful 2023!

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

Tim Sullivan, CEO



## **MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** February 8, 2023

**Subject:** Wind Institute for Innovation and Training Grant Agreement – New Jersey Economic Development Authority (NJEDA) and New Jersey Department of the Treasury

### **Request:**

1. Members of the Board are requested to approve a Grant Agreement between the New Jersey Economic Development Authority (NJEDA) and the New Jersey Department of the Treasury (Treasury Department). On June 30, 2022, Governor Murphy signed S2023, the Fiscal Year 2023 Appropriations Act, into law as P.L. 2022, c. 49. The Appropriations Act includes \$5 million Grant-in-Aid to “New Jersey Wind Institute for Innovation and Training, EDA.” P.L. 2022, c. 49, p. 208. This agreement enables the Treasury Department to provide the \$5 million to NJEDA to support the Wind Institute for Innovation and Training’s administration and operations, and implementation of workforce training, education, research, and innovation programs that will empower New Jerseyans to participate in the offshore wind industry.

The full text of the Grant Agreement is included as Exhibit A of this memorandum.

### **Background:**

Governor Murphy established clear and aggressive clean energy goals, including generating 7.5 GW of electricity from offshore wind energy by 2035 as part of the State’s plan to transition to 100 percent clean energy by 2050. To successfully reach these goals, New Jersey must invest in and coordinate workforce training, education, research, and innovation efforts. Through Executive Order 79, the Governor established the WIND Council, a cross-governmental effort that developed a plan for creating the Wind Institute for Innovation and Training (Wind Institute). Once established by an act of the legislature, the Wind Institute will coordinate and deploy resources for education, research, innovation, and workforce training related to offshore wind in New Jersey.

Since the issuance of the WIND Council's report in April 2020 and with funding provided to NJEDA through September 2020 and July 2021 MOUs with the NJ Board of Public Utilities, NJEDA has been charged with fulfilling the goals of the yet to be established Wind Institute and developing programs that further its two objectives: 1) to accelerate the development of a robust and diverse offshore wind workforce, and 2) to champion research and innovation that unlock market potential. NJEDA has made significant advancements and financial commitments in offshore wind workforce training and research. These efforts include:

- Conducting grant challenges like the Offshore Wind Safety Training Challenge that led to Atlantic Cape Community College being selected to create a Global Wind Organization Basic Sea and Survival facility and program, and the Offshore Wind Turbine Technician Training Challenge where Rowan College of South Jersey was selected to establish a suite of wind turbine technician training programs.
- Establishing MOUs with Rutgers University, NJ Institute of Technology, Rowan University, and Montclair State University to create the Wind Institute Fellowship and University Initiatives to Advance Offshore Wind.
- Establishing MOUs with Gloucester County Institute of Technology and Salem County Vocational Technical Schools to expand their welding and painting programs to help meet the needs of monopile fabrication and other component manufacturing for offshore wind.
- Hosting a series of offshore wind workforce and industry engagements and trainings for small businesses and stakeholders to engage the offshore wind supply chain.
- Launching the Offshore Wind Workforce and Skills Development Grant Challenge to support new or expanded offshore wind training programs, with a focus on New Jersey's Overburdened Communities.
- Conducting a feasibility study to identify the need for an offshore wind research and testing facility in New Jersey.

In New Jersey's Fiscal Year 2023 budget, \$5 million was appropriated as a Grant-in-Aid for the Wind Institute for Innovation and Training to continue the State's efforts to launch the Wind Institute.

#### **Grant Agreement Description:**

The Grant Agreement will provide \$5 million in funding to support NJEDA's costs associated with administering and operating the Wind Institute for Innovation and Training. The funding will support:

- Administrative expenses, including, but not limited to, staff, office supplies, travel, consultants and technology.
- Development and execution of programs through deploying funding and resources to organizations or providing other supports for offshore wind workforce and skills training; stakeholder engagement and education initiatives that promote and explain

the opportunities and benefits of growing the offshore wind industry; research that furthers the development of offshore wind in the State; and/or efforts to support innovation that furthers efficiencies in offshore wind technology and development.

NJEDA will establish a separate bank account to manage and track these funds. All funds must be expended or obligated by June 30, 2024. NJEDA will submit a final report by July 31, 2024.

**Recommendation:**

The Members of the Board are requested to approve the Grant Agreement between the NJEDA and the Treasury Department, attached as Exhibit A, that enables the Treasury Department to provide \$5 million in funding to NJEDA for administration, operations and program costs for the Wind Institute for Innovation and Training related programs.



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Tim Sullivan, CEO

Prepared by: Jen Becker

Exhibit A: Grant Agreement between NJ Department of the Treasury and NJ Economic Development Authority for the Wind Institute for Innovation and Training

## Exhibit A

### **GRANT AGREEMENT BETWEEN THE NEW JERSEY DEPARTMENT OF THE TREASURY AND THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY FOR THE WIND INSTITUTE FOR INNOVATION AND TRAINING**

This Grant Agreement, together with the Standard Terms and Conditions for Grant Agreements attached hereto as Exhibit A and made a part hereof (collectively, the “Agreement”), made as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the New Jersey Department of the Treasury (“Treasury”) of the State of New Jersey (the “State”) and the New Jersey Economic Development Authority (“Grantee”), an independent authority of the State (“Grantee”) will confirm the mutual understanding and the intention of the parties hereto as to the following:

**WHEREAS**, Governor Murphy signed Executive Order No. 79 which established the WIND Council, a cross-governmental effort that has recommended the creation of the Wind Institute to serve as a center for education, research, innovation and workforce training related to the development of offshore wind in New Jersey, the Northeast and the Mid-Atlantic region; and

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

**WHEREAS**, the EDA is undertaking actions to develop and support the offshore wind industry pending the Legislature’s establishment of the to-be-created Wind Institute; and

**WHEREAS**, on June 30, 2022, Governor Murphy signed into law the New Jersey Fiscal Year 2023 Budget as P.L.2022, Chapter 49 (hereinafter the “Budget”); and

**WHEREAS**, the Budget appropriated \$5,000,000.00 (five million dollars) through Treasury accounts (“Appropriated Funds”) in support of the New Jersey Wind Institute for Innovation and Training (“Wind Institute”) which shall be established by an act of the legislature; and

**WHEREAS**, the Grantee has previously advanced numerous initiatives to further the intended purpose of the WIND Council’s objectives; and

**WHEREAS**, the Grantee is best positioned to use the \$5 million appropriation to support the costs associated with personnel and administrative operating costs associated with the advancement of the objectives outline by the WIND Council and the development and execution of programs through deploying funding and resources to partner organizations or providing other supports for offshore wind workforce and skills training; stakeholder

engagement and education initiatives that promote and explain the opportunities and benefits of growing the offshore wind industry; research that furthers the development of offshore wind in the State; and efforts to support innovation that furthers efficiencies in offshore wind technology and development.

**NOW, THEREFORE,** Treasury and Grantee do hereby agree as follows:

1. The WHEREAS clauses set forth above are hereby incorporated into this Agreement.
2. The Grant is for \$5,000,000.00. The Grant shall be paid over to the Grantee within thirty (30) days of the execution of this Agreement.
3. Grantee agrees to maintain a separate bank account for the Grant.
4. The Grant is to be expended by Grantee solely to fund the Grantee's administration and operations associated with developing the Wind Institute and designing, establishing, funding, and implementing Wind Institute related programs currently structured within the Grantee until the Wind Institute is established, and may be used to pay for administrative expenses, including, but not limited to, staff, office supplies, travel, consultants and technology. These funds must be expended or obligated by June 30, 2024. Absent a written approval from the Treasurer of a request for extension, any monies remaining at such time must be returned to the Treasurer.
5. Grantee agrees to submit to Treasury the following material by July 31, 2024, so that staff can perform a reasonable review:
  - a. A full accounting of all expenditures that were funded from the Grant. This will include a description of all services made and their associated costs. Proof of payment, such as vendor receipts, will also be required.
  - b. Bank statements for the separate account in which Grantee deposits the Grant; and
  - c. Such additional information as the Department of the Treasury, Division of Administration may request.

The documentation and material submitted in accordance with this Section 5 above shall be provided via email Catherine Nichols (Department of the Treasury, Division of Administration) at [Cathy.Nichols@treas.nj.gov](mailto:Cathy.Nichols@treas.nj.gov).

6. Grantee agrees that all funds not expended in accordance with this Agreement will be returned to the Treasurer no later than July 31, 2024.
7. To the extent permitted by law, the Grantee shall be solely responsible for and shall keep, save, and hold the State of New Jersey, its officers and employees harmless from all



claims, loss, liability, expense, or damage resulting from all mental or physical injuries or disabilities, including death, and any other claim (including any action, liability, loss, expense, or damage) that may arise out of the project as funded by this Agreement. The Grantee's responsibilities under this paragraph shall also include payment of all legal fees and costs that may arise from any such claims or actions. The Grantee's liability under this Agreement shall continue after the termination or expiration of this Agreement with respect to any claim resulting from action or inaction occurring prior to termination.

8. All notices and communications, exchanged in accordance with or in furtherance of this Agreement, except those submitted in accordance with Section 5 above, shall be deemed given when (i) hand delivered with receipt acknowledged, (ii) sent by telecopy, telegraph, telex, facsimile transmission, or any other similar means of electronic communication, (iii) mailed by first class mail, certified, return receipt requested, or (iv) sent by recognized overnight carrier, postage prepaid and with acknowledgement of delivery to the party at the address or numbers set forth below or as to each party at such other or additional address or numbers as shall be designated by such party in a written notice to the other party hereto:

New Jersey Department of the Treasury  
Division of Administration  
P.O. Box 211  
Trenton, New Jersey 08625-0211  
Attention: Catherine Nichols  
Cathy.Nichols@treas.nj.gov

New Jersey Economic Development Authority  
36 West State Street  
Trenton, New Jersey 08625-0211  
Attention: Jen Becker  
jbecker@njeda.com

9. Remedies: If Grantee fails to comply with the terms of this Agreement whether stated in a State or Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the Treasurer may take one or more of the following actions, as appropriate in the circumstances:
  - d. Disallow all or part of the cost of the activity or action not in compliance;
  - e. Wholly or partly suspend or terminate the Grant;
  - f. Withhold further awards, if applicable;

- g. Request the balance of the Appropriated Funds to be returned and/or seek reimbursement for funds expended that were not in compliance with the terms and conditions of this Agreement;
  - h. Take other remedies that may be legally available.
10. The terms and conditions set out in the Department of the Treasury Circular 07-05-OMB are incorporated into this Agreement by reference and Grantee agrees to comply with such terms and conditions.
11. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.
12. This Agreement may be executed in any number of counterparts, all of which counterparts, taken together, shall constitute but one and the same Agreement.

IN WITNESS WHEREOF, the Department of the Treasury and the New Jersey Economic Development Authority have executed this Agreement as of the date and year first written above:

**DEPARTMENT OF THE TREASURY OF THE STATE OF NEW JERSEY**

By: \_\_\_\_\_  
Elizabeth Maher Muoio  
State Treasurer

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Tim Sullivan  
Chief Executive Officer



## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2022

**SUBJECT:** Wind Institute Fellowship Program for Public Universities

### **Request:**

The Members are asked to approve:

1. Five (5) Memorandums of Understanding (MOU) with similar terms with 1) Montclair State University, 2) New Jersey Institute of Technology, 3) Rowan University, 4) Rutgers University, and 5) Stockton University to support student research in offshore wind via the Wind Institute Fellowship Program for the 2023-2024 and 2024-2025 academic years (Fellowship Year 2 and Fellowship Year 3, respectively). The full texts of the MOUs are included as Exhibits A- E.
2. Utilization of up to \$1,971,200 in funding for the NJ Wind Institute Fellowship Program to be split equally between funding from the \$10 million allocated via the October 2022 Memorandum of Understanding (MOU) between NJEDA and the New Jersey Board of Public Utilities (NJBPU) for Wind Institute programs and the Fiscal Year 2023 State budget allocation for a \$5,000,000 grant-in-aid to the yet to be established Wind Institute for Innovation and Training, provided that the latter source of funding, which will occur through a grant agreement with Treasury, is approved by the Members. If grant-in-aid funding is not approved by the Members, then this program will be entirely funded through the MOU with NJBPU.

### **Background:**

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

In April 2020, the WIND Council issued the WIND Council Report, which outlined the strategic priorities for the Wind Institute once it is established by an act of the New Jersey State Legislature. To date, NJEDA has worked to support the goals outlined by the WIND Council in anticipation of the establishment of the Wind Institute for Innovation and Training by focusing on its two core objectives: 1) accelerate the development of a robust and diverse offshore wind workforce and 2) champion research and innovation that unlocks market potential.

To support offshore wind research, the NJEDA Board approved entering into MOUs with the State's leading public research universities at the March 2, 2022, Board Meeting to create the Wind Institute Fellowship Program (Fellowship Program) and the Universities Initiative Program. These MOUs were executed with New Jersey's four, public research universities classified by the Carnegie Commission on Higher Education as R1 (Very High Research Activity) or R2 (High Research Activity): Rutgers University, Rowan University, Montclair State University and New Jersey Institute of Technology. In its first year, the Fellowship Program is supporting 26 Fellows across these four schools for the 2022-2023 academic year. These MOUs remain in force and are not impacted by the new MOUs proposed herein.

For its second and third academic years of running the Wind Institute Fellowship Program, the NJEDA seeks to enter into a new but similar set of MOUs with these four schools as well as with Stockton University. While Stockton University is classified as a Doctoral/Professional University and not an R1 or R2 university, NJEDA staff recommends including Stockton University as the fifth public university because of its involvement in offshore wind (including work with NJ offshore wind developers, Orsted and Atlantic Shores) and other offshore wind related research assets such as its Marine Field Station and Coastal Research Center.<sup>1</sup>

The previous year's MOUs included provisions for University Initiatives to Advance Offshore Wind whereby NJEDA provided funds to the universities to support faculty research, curriculum development and other activities. The University Initiatives to Advance Offshore Wind program is not included in these MOUs but may be considered for a separate program in the future.

### **Program Details:**

The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student and faculty advisor expertise in offshore wind. Participating students (Fellows) will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows will convene as a cohort to participate in industry trainings, guest lectures, site visits and other activities to support their knowledge of the offshore wind industry and their exposure to industry stakeholders. This program has been developed in consultation with the Secretary of Higher Education and is structured similarly to the first year of the Fellowship Program.

For each Fellowship Year, each school will be responsible for recruiting a diverse set of students and managing their own application and selection process. Fellows may be upper class undergraduate (juniors and seniors) and graduate students, including masters and doctoral students, in any discipline/degree program as long as the research conducted for the Fellowship Program is focused on offshore wind. NJEDA will provide funding to each school to disburse as stipends for a capped number of students as described

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<sup>1</sup> NJEDA also intends to open the program to students at the State's Private, Public-Mission Universities classified as R1 and R2 through a separate grant process. This board memo is applicable only to the five (5) public universities listed above.

below. Undergraduate Fellows will receive a \$15,000 stipend and graduate Fellows will receive a \$30,000 stipend. Each fellow will be provided an additional \$1,000 stipend for travel, material, equipment, and other research expenses related to their Fellowship. Montclair State University, New Jersey Institute of Technology, Rowan University and Stockton University will be able to select up to four (4) Fellows, with a goal of at least one undergraduate (junior and senior) and one graduate (masters or ph.d) fellow for each Fellowship Year. Rutgers University will be able to select up to twelve (12) Fellows, with a goal of at least 3 undergraduate (junior and senior) and 3 graduate (masters or ph.d) Fellows, due to its larger student enrollment size. In addition, new for Fellowship Year 2 and Fellowship Year 3, each faculty advisor will receive a \$1,000 honorarium, and each school will be provided 10% of the total grant amount for facilities and administration (F&A) expenses.

The Fellows' research is expected to be completed over the course of the academic year, with the addition of the preceding or following Summer semester at each school's discretion. Overall, the Fellowship should be in place for a minimum of 25 weeks and a maximum of 40 weeks. Fellowship Year 2 will take place during the 2023-2024 academic year beginning no later than the Fall 2023 semester and ending no later than the Summer 2024 semester. Fellowship Year 3 will take place during the 2024-2025 academic year beginning no later than the Fall 2024 semester and ending no later than the Summer 2025 semester. For each Fellowship Year, NJEDA will organize cohort meetings from October to April as well as an April symposium where Fellows will present their research findings to an audience of government, academic, and industry stakeholders.

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

- Develop and submit a Fellowship marketing and selection process plan that will guide efforts to advertise the program widely and support engagement of a diverse group of students and faculty advisors.
- Conduct an application and selection process with established selection criteria
- Facilitate connections between Fellows and faculty advisors and relevant resources at the university
- Submit the names of the selected students, advisors, project descriptions, and signed participation forms to NJEDA within fifteen (15) days of completing the selection process and no later than September 1, 2023 for Fellowship Year 2 and September 1, 2024 for Fellowship Year 3
- Begin the Fellowship Program no later than the Fall 2023 semester and conclude the program no later than the Summer 2024 semester for Fellowship Year 2 and begin no later than the Fall 2024 semester and conclude no later than the Summer 2025 semester for Fellowship Year 3
- Assign a university representative to support NJEDA staff on communications with the Fellows and advisors throughout the Fellowship Program
- Disburse and track program expenditures including payments to Fellows and honorariums to advisors per the university's internal policies and procedures
- Submit a report detailing the use of funds throughout the Fellowship Program no later than September 1, 2024 for Fellowship Year 2 and no later than September 1, 2025 for Fellowship Year 3

- Return any funds not utilized for the program to EDA by September 30, 2024 for Fellowship Year 2 and September 30, 2025 for Fellowship Year 2. With EDA's written approval, each university may roll over any unutilized Fellowship Year 2 funding to be used for Fellowship Year 3.

In support of the Fellowship Program, NJEDA will:

- Provide communication materials and support the schools in marketing the Fellowship Program
- Organize five to eight Fellowship cohort meetings from October to April of each Fellowship Year for Fellows to participate in industry trainings, guest lectures, site visits, and/or presentations
- Recruit and engage key industry stakeholders throughout the program to maximize the Fellows' exposure to the industry
- Organize the NJ Wind Institute Fellowship Symposium to take place in April of each Fellowship Year
- Upon receiving the names of the selected students and their project descriptions, provide schools with funding based on the number and graduate level of the selected Fellows for each Fellowship Year.

Funds will be allocated to universities as follows for each Fellowship Year:

- \$30,000 per graduate Fellow
- \$15,000 per undergraduate Fellow
- \$1,000 stipend per undergraduate or graduate Fellow for travel, materials, and other Fellowship expenses
- \$1,000 faculty honorarium per faculty advisor
- 10% of the grant amount for Facilities and Administration expenses

For each Fellowship Year, the maximum grant amount for Montclair State University, New Jersey Institute of Technology, Rowan University, and Stockton University is \$140,800 to each per year (calculation based on all four Fellows at the graduate level). The maximum amount for Rutgers University would be \$422,400 per year (calculated based on all 12 Fellows at the graduate level). The grant award for each university would be less if the university selects fewer than the specified number of Fellows in total and/or a mix of undergraduate and graduate Fellows. With EDA's written approval, each university may roll over any unutilized Fellowship Year 2 funding into Fellowship Year 3.

### *Diversity, Equity, and Inclusion*

Fostering diversity, equity and inclusion is core to the goals of the yet to be established Wind Institute. As NJEDA is unable to provide funding to individual fellows, the Fellowship Program places the responsibility of the fellow selection process on each university. Each university is required to conduct a selection process that facilitates a diverse set of students participating in the program.

### *Eligible Funding Uses*

Funds for the Wind Institute Fellowship Program may only be used for:

- Student research
- Travel/material stipends<sup>2</sup>
- Faculty advisor honorariums
- 10% of the total grant amount for facilities and administrative expenses

## **Program Funding**

Half of the funding for this program will be through the October 27, 2022 MOU between NJEDA and NJBPU for Wind Institute programming. and half will be funded through the Fiscal Year 2023 State budget allocation for a \$5 million grant-in-aid to the yet-to-be-established Wind Institute for Innovation and Training. This grant-in-aid funding is subject to the Member's approval of a grant agreement with Treasury to transfer this funding. If grant-in-aid funding is not approved by the Members, then this program will be entirely funded through the MOU with NJBPU. For each Fellowship Year, upon receipt of a university's list of Fellows and final calculation of the funding to be distributed to a university, NJEDA will disburse the funds to each university.

## **Recommendation:**

It is the recommendation of Authority staff that the members approve:

1. Five (5) Memorandums of Understanding (MOU) with similar terms with 1) Montclair State University, 2) New Jersey Institute of Technology, 3) Rowan University, 4) Rutgers University, and 5) Stockton University) to support student research in offshore wind via the Wind Institute Fellowship Program for the 2023-2024 and 2024-2025 academic years (Fellowship Year 2 and Fellowship Year 3, respectively). The full texts of the MOUs are included as Exhibits A- E.
2. Utilization of up to \$1,971,200 in funding for the NJ Wind Institute Fellowship Program to be split equally between funding from the \$10 million allocated via the October 27, 2022 Memorandum of Understanding (MOU) between NJEDA and the New Jersey Board of Public Utilities (NJBPU) for Wind Institute programs and the Fiscal Year 2023 State budget allocation for a \$5 million grant-in-aid to the Wind Institute for Innovation and Training, provided the latter grant agreement with Treasury is approved by the Members. If grant-in-aid funding is not approved by the Members, then this program will be entirely funded through the MOU with NJBPU.



Tim Sullivan, CEO

Prepared by: Julia Kortrey

## **Attachments**

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<sup>2</sup>The travel & material stipend shall be used by the fellows for any costs incurred related to their research project for the Fellowship. These may include travel to monthly Fellowship events, travel to recommended optional offshore wind events, travel required for their research, and any materials, equipment or other Fellowship-related expenses.

- Exhibit A: Memorandum of Understanding Between NJEDA and Montclair State University
- Exhibit B: Memorandum of Understanding Between NJEDA and New Jersey Institute of Technology
- Exhibit C: Memorandum of Understanding Between NJEDA and Rowan University
- Exhibit D: Memorandum of Understanding Between NJEDA and Rutgers University
- Exhibit E: Memorandum of Understanding Between NJEDA and Stockton University



**MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of \_\_\_\_\_ of 2023 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and \_\_\_\_\_ (school name), (collectively the "Parties").

WHEREAS, the EDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of Treasury, that serves as the State's principal agency for driving economic growth and is committed to making New Jersey a national model for inclusive and sustainable economic development by focusing on key strategies to help build strong and dynamic communities, create good jobs for New Jersey residents, and provide pathways to a stronger and fairer economy; and

WHEREAS, the EDA has launched the Office of Economic Transformation to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

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

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

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

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

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

WHEREAS, NJEDA approved, in 2022, the NJ Wind Institute Fellowship Program (“Fellowship Program”) to support a diverse set of students from multiple New Jersey institutions of higher education engaging in offshore wind focused research thereby generating a pipeline of students with offshore wind industry interest and knowledge in accordance with the WIND Council’s recommendations to develop a strategy to recruit New Jersey students into offshore wind jobs and support next generation research at New Jersey’s academic institutions; and

WHEREAS, NJEDA entered into separate Memorandum of Understandings with Montclair State University, New Jersey Institute of Technology, Rowan University and Rutgers University, each dated March 24, 2022 and each amended on August 3, 2022, to launch the first year of both the Fellowship Program and the University Initiatives to Advance Offshore Wind; and

WHEREAS, \_\_\_\_\_ is a New Jersey public institution of higher education with the capability to support and guide student research in offshore wind across a multitude of disciplines.

NOW, THEREFORE, the Parties to this MOU hereby agree to the following to implement the second and third years of the Fellowship Program that furthers research in offshore wind. The second Fellowship cohort will conduct research in the 2023-24 academic year (“Fellowship Year 2”) and the third Fellowship cohort will run in the 2024-2025 academic year (“Fellowship Year 3”).

1. The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student expertise in offshore wind. Participating students (“Fellows”) will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows may be upper class undergraduate (juniors and seniors), or graduate students, including masters and doctoral students, in any discipline/degree program as long as the research conducted for the Fellowship Program is focused on offshore wind. Research is expected to be completed over no fewer than 25 weeks and no more than 40 weeks in an academic year. Fellows must be ready to present on research findings by early April 2024 for Fellowship Year 2 and April 2025 for Fellowship Year 3, even if their research may continue past that date per the agreed upon schedule with their home institution.

Fellows from all participating institutions will convene as a cohort on a monthly basis from October 2023 to April 2024 for Fellowship Year 2 and October 2024 to April 2025 for Fellowship Year 3 to participate in industry trainings, guest lecturers, site visits and other activities to enhance their

knowledge of the offshore wind industry and their exposure to industry stakeholders.

- a. \_\_\_\_\_ is allocated up to four (4) Fellowship spots for Fellowship Year 2 and up to four (4) Fellowship spots for Fellowship Year 3, with a goal of selecting at least one (1) undergraduate (junior or senior) Fellow and at least one (1) graduate (masters or doctoral) Fellow in each Fellowship Year. The remaining spots may be either undergraduate or graduate Fellows.
- b. \_\_\_\_\_ will undertake the following activities for the Fellowship Program:
  - i. Within 30 days of signing a grant agreement with EDA, submit a fellowship marketing and selection plan to EDA for Fellowship Year 2 that raises awareness of the fellowship opportunity by a diverse range of students and enables the selection of a diverse range of students. Diversity in this instance can include: gender, race, age, first generation at college, university major/degree, and other factors. No later than February 1, 2024, \_\_\_\_\_ shall notify EDA if it plans to utilize the same marketing and selection plan for Fellowship Year 3 or submit a revised Fellowship Year 3 plan. The marketing and selection plan must outline the process to:
    - Communicate the fellowship opportunity widely to the university's student population including the requirements for the Fellows to attend monthly meetings, present at the final fellowship symposium, and complete research by the due date set by the university;
    - Conduct a selection process that facilitates the participation of a diverse set of students;<sup>3</sup>
    - Connect selected Fellows with advisors; and
    - Distribute funds to Fellows and advisors throughout the fellowship per the university's internal policies and procedures
  - ii. Within 15 (fifteen) days of completing the selection process for each Fellowship Year, and no later than September 1, 2023 for Fellowship Year 2 and September 1, 2024 for Fellowship Year 3, submit the following to EDA:
    - Details of all fellows, including but not limited to name, degree

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<sup>3</sup> Students that participated in a previous year of the Fellowship Program may be eligible to apply so long as they are not given preference in the selection process over students who did not previously participate in the Fellowship Program. No Fellow can be awarded the fellowship for more than two consecutive years.

program, undergraduate or graduate level, project description, faculty advisor, beginning and end date for the Fellowship (i.e. including whether the Fellowship includes a Summer semester or not), and short Fellow biographies

- Signed participation forms from each Fellow and the faculty advisor who will guide and support the Fellow's research
- Signed photo release forms and headshots of the Fellows unless a Fellow provides written communication that they will not allow the use of their picture on Wind Institute and EDA public platforms
- Name of a university representative that will serve as the administrative point of contact for EDA for the duration of the fellowship program

- iii. For each Fellowship Year, set research fellowships for a duration no fewer than 25 weeks and no more than 40 weeks beginning no later than the Fall 2023 semester and ending no later than the Summer 2024 semester with the addition of Summer 2023 or Summer 2024 at each school's discretion for Fellowship Year 2 and beginning no later than the Fall 2024 semester and ending no later than the Summer 2025 semester with the addition of Summer 2024 or Summer 2025 at each school's discretion for Fellowship Year 3. The number of hours/week shall be determined by the university and/or the faculty advisor per the universities internal processes and procedures.
- iv. Facilitate and support all communications among university faculty advisors, fellows, and EDA
- v. Facilitate and encourage fellows' participation in monthly cohort meetings and the final research symposium
- vi. Coordinate and facilitate all logo use, branding permissions, and other university approvals and sharing of information as need arises
- vii. Ensure all funds go to eligible uses including the full amount of the fellows' stipends to the fellows
- viii. Disburse Fellow stipends and faculty honorariums per the university's internal policies and procedures.
- ix. Track all use of funds for Fellowship Year 2 and submit a final Fellowship Year 2 report to EDA the sooner of 15 days after the Year 2 Fellowship is completed for all students at \_\_\_\_\_ or September 1, 2024. Any funds received for Fellowship Year 2 that are not utilized should be returned to EDA by September

30, 2024 unless EDA provides written approval to roll unutilized funding from Fellowship Year 2 into funding to be utilized for Fellowship Year 3

- x. Track all use of funds for Fellowship Year 3 and submit a final Fellowship Year 3 report to EDA the sooner of 15 days after the Year 3 Fellowship is completed for all students at \_\_\_\_\_ or September 1, 2025. Any funds received for Fellowship Year 3 that are not utilized should be returned to EDA by September 30, 2025.

2. EDA will undertake the following activities for the Fellowship Program:

- i. Provide communication material such as a program description to support \_\_\_\_\_'s marketing of the Fellowship Program
- ii. Organize five to eight Fellowship cohort meetings from October 2023 to April 2024 for Fellowship Year 2 and from October 2024 to April 2025 for Fellowship Year 3 that convene the cohort for industry trainings, guest lectures, site visits, and other activities to support their learning and exposure to the offshore wind industry
- iii. Recruit and coordinate a group of industry experts to participate in the Fellowship cohort meetings as guest lecturers, trainers, and site visit hosts to facilitate their exposure to industry stakeholders
- iv. Organize a NJ Wind Institute Fellowship Symposium to showcase Fellows' research through presentations and posters and for Fellows to receive exposure to and feedback from industry stakeholders
- v. Upon i) receipt and approval of the outreach and selection process plan referenced in section 1.b.i and all materials listed in section 1.b.ii, provide \_\_\_\_\_ with the following funding support for a total of up to four (4) fellows for Fellowship Year 2 and up to four (4) fellows for Fellowship Year 3, with a goal of selecting at least one undergraduate (junior or senior) and one graduate (masters or doctoral) Fellow for each Fellowship Year , as follows:
  - \$30,000 per graduate Fellow
  - \$15,000 per undergraduate Fellow
  - \$1,000 stipend per undergraduate or graduate Fellow for travel, materials,

and other Fellowship expenses<sup>4</sup>

- \$1,000 faculty honorarium per faculty advisor<sup>5</sup>
- 10% (ten percent) of the total grant amount for Facilities and Administration expenses
- The total funding cap for Fellowship Year 2 provided to \_\_\_\_\_ shall not exceed \$140,800. The total funding cap for Fellowship Year 3 provided to \_\_\_\_\_ shall not exceed \$140,800.

vi. Publicize the names of the Fellows and advisors, as well as final presentation materials shared by Fellows on the EDA or Wind Institute website.

3. Nothing in this MOU implies that EDA will gain Intellectual Property rights for any research conducted by the fellows. All Intellectual Property rights shall comply with \_\_\_\_\_'s internal policies and procedures governing Intellectual Property.
4. The MOU shall not take effect unless executed by the authorized representatives of EDA and \_\_\_\_\_. This MOU becomes effective immediately upon execution and shall remain in effect for thirty-two (32) months.
5. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to furthering the growth of knowledge and expertise in offshore wind by students at New Jersey public institutes of higher education. It may be amended, modified, and supplemented at any time by mutual consent and in writing signed by the undersigned or their designees. This MOU may also be terminated by EDA or \_\_\_\_\_ upon 60 days prior written notice to the other.
6. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other party.
7. This MOU shall not be assignable, except for the EDA's ability to partner and/or assign their

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<sup>4</sup> The travel & material stipend shall be used by the Fellows for any costs incurred related to their research project for the fellowship. These may include travel to monthly fellowship events, travel to recommended optional offshore wind events, travel required for their research, and any materials, equipment or other fellowship-related expense.

<sup>5</sup> If an individual faculty advisor is advising more than one Fellow, the advisor will receive \$1,000 honorarium per Fellow.

responsibilities to the NJ Wind Institute for Innovation and Training upon its establishment but shall bind and inure to the benefit of the Parties hereto and their respective successors.

8. All notices, demands or communications to any party to this MOU shall be send to the addresses set forth below or as may be otherwise modified in writing:

EDA: 36 West State Street  
PO Box 990  
Trenton, NJ 08625

SCHOOL:

\_\_\_\_\_  
\_\_\_\_\_

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

For: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For EDA:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of \_\_\_\_\_ of 2023 (the "Effective Date"), is between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA") and RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY, including all chancellor units (Rutgers), (collectively the "Parties").

WHEREAS, the EDA, established pursuant to N.J.S.A. 34:1B-1 et seq., is an independent State authority, in but not of Treasury, that serves as the State's principal agency for driving economic growth and is committed to making New Jersey a national model for inclusive and sustainable economic development by focusing on key strategies to help build strong and dynamic communities, create good jobs for New Jersey residents, and provide pathways to a stronger and fairer economy; and

WHEREAS, the EDA has launched the Office of Economic Transformation to focus on the growth- oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

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

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

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

WHEREAS, the EDA has a role in supporting the development of the offshore wind industry in



the State of New Jersey; and

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

WHEREAS, NJEDA approved, in 2022, the NJ Wind Institute Fellowship Program ("Fellowship Program") to support a diverse set of students from multiple New Jersey institutions of higher education engaging in offshore wind focused research thereby generating a pipeline of students with offshore wind industry interest and knowledge in accordance with the WIND Council's recommendations to develop a strategy to recruit New Jersey students into offshore wind jobs and support next generation research at New Jersey's academic institutions; and

WHEREAS, NJEDA entered into separate Memorandum of Understandings with Montclair State University, New Jersey Institute of Technology, Rowan University and Rutgers University, each dated March 24, 2022 and each amended on August 3, 2022, to launch the first year of both the Fellowship Program and the University Initiatives to Advance Offshore Wind; and

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

NOW, THEREFORE, the Parties to this MOU hereby agree to the following to implement the second and third years of the Fellowship Program that furthers research in offshore wind. The second Fellowship cohort will conduct research in the 2023-24 academic year ("Fellowship Year 2") and the third Fellowship cohort will run in the 2024-2025 academic year ("Fellowship Year 3".)

2. The Fellowship Program is designed to encourage and support student research in topics that further the development of offshore wind in New Jersey and build student expertise in offshore wind. Participating students ("Fellows") will conduct independent research under the tutelage of a faculty advisor at their home institution. Fellows may be upper class undergraduate (juniors and seniors), or graduate students, including masters and doctoral students, in any discipline/degree program as long

as the research conducted for the Fellowship Program is focused on offshore wind. Research is expected to be completed over no fewer than 25 weeks and no more than 40 weeks in an academic year. Fellows must be ready to present on research findings by early April 2024 for Fellowship Year 2 and April 2025 for Fellowship Year 3, even if their research may continue past that date per the agreed upon schedule with their home institution.

Fellows from all participating institutions will convene as a cohort on a monthly basis from October 2023 to April 2024 for Fellowship Year 2 and October 2024 to April 2025 for Fellowship Year 3 to participate in industry trainings, guest lecturers, site visits and other activities to enhance their knowledge of the offshore wind industry and their exposure to industry stakeholders.

- a. Rutgers is allocated up to twelve (12) Fellowship spots for Fellowship Year 2 and up to twelve (12) Fellowship spots for Fellowship Year 3, with a goal of selecting at least three (3) undergraduate (junior or senior) Fellows and at least three (3) graduate (masters or doctoral) Fellows in each Fellowship Year. The remaining spots may be either undergraduate or graduate Fellows.
- b. Rutgers will undertake the following activities for the Fellowship Program:
  - i. Within 30 days of signing a grant agreement with EDA, submit a fellowship marketing and selection plan to EDA for Fellowship Year 2 that raises awareness of the fellowship opportunity by a diverse range of students and enables the selection of a diverse range of students. Diversity in this instance can include: gender, race, age, first generation at college, university major/degree, and other factors. No later than February 1, 2024, Rutgers shall notify EDA if it plans to utilize the same marketing and selection plan for Fellowship Year 3 or submit a revised Fellowship Year 3 plan. The marketing and selection plan must outline the process to:
    - Communicate the fellowship opportunity widely to the university's student population including the requirements for the Fellows to attend monthly meetings, present at the final fellowship symposium, and complete research by the due date set by the university;
    - Conduct a selection process that facilitates the participation of a diverse set

- of students;<sup>6</sup>
- Connect selected Fellows with advisors; and
- Distribute funds to Fellows and advisors throughout the fellowship per the university's internal policies and procedures
- ii. Within 15 (fifteen) days of completing the selection process for each Fellowship Year, and no later than September 1, 2023 for Fellowship Year 2 and September 1, 2024 for Fellowship Year 3, submit the following to EDA:
  - Details of all fellows, including but not limited to name, degree program, undergraduate or graduate level, project description, faculty advisor, beginning and end date for the Fellowship (i.e. including whether the Fellowship includes a Summer semester or not), and short Fellow biographies
  - Signed participation forms from each Fellow and the faculty advisor who will guide and support the Fellow's research
  - Signed photo release forms and headshots of the Fellows unless a Fellow provides written communication that they will not allow the use of their picture on Wind Institute and EDA public platforms
  - Name of a university representative that will serve as the administrative point of contact for EDA for the duration of the fellowship program
- iii. For each Fellowship Year, set research fellowships for a duration no fewer than 25 weeks and no more than 40 weeks beginning no later than the Fall 2023 semester and ending no later than the Summer 2024 semester with the addition of Summer 2023 or Summer 2024 at each school's discretion for Fellowship Year 2 and beginning no later than the Fall 2024 semester and ending no later than the Summer 2025 semester with the addition of Summer 2024 or Summer 2025 at each school's discretion for Fellowship Year 3. The number of hours/week shall be determined by the university and/or the faculty advisor per the universities internal processes and procedures.
- iv. Facilitate and support all communications among university faculty advisors, fellows, and EDA
- v. Facilitate and encourage fellows' participation in monthly cohort meetings and the

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<sup>6</sup> Students that participated in a previous year of the Fellowship Program may be eligible to apply so long as they are not given preference in the selection process over students who did not previously participate in the Fellowship Program. No Fellow can be awarded the fellowship for more than two consecutive years.

final research symposium

- vi. Coordinate and facilitate all logo use, branding permissions, and other university approvals and sharing of information as need arises
- vii. Ensure all funds go to eligible uses including the full amount of the fellows' stipends to the fellows
- viii. Disburse Fellow stipends and faculty honorariums per the university's internal policies and procedures.
- ix. Track all use of funds for Fellowship Year 2 and submit a final Fellowship Year 2 report to EDA the sooner of 15 days after the Year 2 Fellowship is completed for all students at Rutgers or September 1, 2024. Any funds received for Fellowship Year 2 that are not utilized should be returned to EDA by September 30, 2024 unless EDA provides written approval to roll unutilized funding from Fellowship Year 2 into funding to be utilized for Fellowship Year 3
- x. Track all use of funds for Fellowship Year 3 and submit a final Fellowship Year 3 report to EDA the sooner of 15 days after the Year 3 Fellowship is completed for all students at Rutgers or September 1, 2025. Any funds received for Fellowship Year 3 that are not utilized should be returned to EDA by September 30, 2025.

9. EDA will undertake the following activities for the Fellowship Program:

- vii. Provide communication material such as a program description to support Rutgers' marketing of the Fellowship Program
- viii. Organize five to eight Fellowship cohort meetings from October 2023 to April 2024 for Fellowship Year 2 and from October 2024 to April 2025 for Fellowship Year 3 that convene the cohort for industry trainings, guest lectures, site visits, and other activities to support their learning and exposure to the offshore wind industry
- ix. Recruit and coordinate a group of industry experts to participate in the Fellowship cohort meetings as guest lecturers, trainers, and site visit hosts to facilitate their exposure to industry stakeholders
- x. Organize a NJ Wind Institute Fellowship Symposium to showcase Fellows' research through presentations and posters and for Fellows to receive exposure to and feedback from industry stakeholders
- xi. Upon i) receipt and approval of the outreach and selection process plan referenced in section 1.b.i and all materials listed in section 1.b.ii, provide

Rutgers with the following funding support for a total of up to twelve (12) fellows for Fellowship Year 2 and up to twelve (12) fellows for Fellowship Year 3, with a goal of selecting at least three (3) undergraduate (junior or senior) and three (3) graduate (masters or doctoral) Fellows for each Fellowship Year , as follows:

- \$30,000 per graduate Fellow
- \$15,000 per undergraduate Fellow
- \$1,000 stipend per undergraduate or graduate Fellow for travel, materials, and other Fellowship expenses<sup>7</sup>
- \$1,000 faculty honorarium per faculty advisor<sup>8</sup>
- 10% (ten percent) of the total grant amount for Facilities and Administration expenses
- The total funding cap for Fellowship Year 2 provided to Rutgers shall not exceed \$422,400. The total funding cap for Fellowship Year 3 provided to Rutgers shall not exceed \$422,400.

xii. Publicize the names of the Fellows and advisors, as well as final presentation materials shared by Fellows on the EDA or Wind Institute website.

10. Nothing in this MOU implies that EDA will gain Intellectual Property rights for any research conducted by the fellows. All Intellectual Property rights shall comply with Rutgers' internal policies and procedures governing Intellectual Property.

11. The MOU shall not take effect unless executed by the authorized representatives of EDA and Rutgers. This MOU becomes effective immediately upon execution and shall remain in effect for thirty-two (32) months.

12. The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to furthering the growth of knowledge and expertise in offshore wind by students at New Jersey public institutes of higher education. It may be amended, modified, and supplemented at any time by mutual consent and in writing

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<sup>7</sup> The travel & material stipend shall be used by the Fellows for any costs incurred related to their research project for the fellowship. These may include travel to monthly fellowship events, travel to recommended optional offshore wind events, travel required for their research, and any materials, equipment or other fellowship-related expense.

<sup>8</sup> If an individual faculty advisor is advising more than one Fellow, the advisor will receive \$1,000 honorarium per Fellow.

signed by the undersigned or their designees. This MOU may also be terminated by EDA or Rutgers upon 60 days prior written notice to the other.

13. The Parties acknowledge that they are both public entities of the State of New Jersey. Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other party.
14. This MOU shall not be assignable, except for the EDA's ability to partner and/or assign their responsibilities to the NJ Wind Institute for Innovation and Training upon its establishment but shall bind and inure to the benefit of the Parties hereto and their respective successors.
15. All notices, demands or communications to any party to this MOU shall be send to the addresses set forth below or as may be otherwise modified in writing:

EDA: 36 West State  
Street POBox 990  
Trenton, NJ 08625

SCHOOL:

\_\_\_\_\_  
\_\_\_\_\_

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

For Rutgers:

For EDA:

Name:  
Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_







## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** Wind Institute Fellowship Program for Private Research Universities

### **Request:**

The Members are asked to approve:

1. The creation of the Wind Institute Fellowship Program for Private Research Universities, a grant program that will enable juniors, seniors, and graduate students at New Jersey Private, Public-Mission Universities to participate in the Wind Institute Fellowship Program for the 2023-2024 and 2024-2025 academic years (Fellowship Year 2 and Fellowship Year 3, respectively);
2. Utilization of up to \$844,800 in grant funding for the Wind Institute Fellowship Program for Private Research Universities to be split equally between funding from the \$10 million allocated via the October 27, 2022 Memorandum of Understanding (MOU) between NJEDA and the NJ Board of Public Utilities (NJBPU) for Wind Institute programs and the Fiscal Year 2023 State budget allocation for a \$5,000,000 grant-in-aid to the yet to be established Wind Institute for Innovation and Training, provided that the latter source of funding, which will occur through a grant agreement with Treasury, is approved by the Members. a If grant-in-aid funding is not approved by the Members, then this program will be entirely funded through the MOU with NJBPU.
3. Delegation of authority to the Chief Executive Officer to approve individual applications from universities in accordance with the eligibility criteria set forth in this memo and the attached grant program specifications and enter into grant agreements with awarded applicants.

### **Background:**

Governor Murphy's economic development plan, "The State of Innovation: Building a Stronger and Fairer New Jersey Economy" identifies offshore wind as one of the State's strategic sectors for accelerating growth in New Jersey's economy and meeting the State's clean energy goals. In August

2019, the Governor demonstrated the State's commitment to offshore wind by issuing Executive Order No. 79 to establish the WIND Council, a cross-governmental effort that would develop a plan for the creation of the Wind Institute.

In April 2020, the WIND Council issued the WIND Council Report, which outlined the strategic priorities for the Wind Institute once it is established by an act of the New Jersey State Legislature. To date, NJEDA has worked to support the goals outlined by the WIND Council in anticipation of the establishment of the Wind Institute for Innovation and Training by focusing on its two core objectives: 1) accelerate the development of a robust and diverse offshore wind workforce and 2) champion research and innovation that unlocks market potential.

To support offshore wind research, the NJEDA Board approved entering into MOUs with the State's leading public research universities at the March 2, 2022, Board Meeting to create the Wind Institute Fellowship and Universities Initiatives Program. These MOUs were executed with New Jersey's four, public research universities classified by the Carnegie Commission on Higher Education as R1 (Very High Research Activity) or R2 (High Research Activity): Rutgers University, Rowan University, Montclair State University and New Jersey Institute of Technology. In its first year, which covered the entire 2022-2023 academic year, the Fellowship Program is supporting 26 Fellows across these four schools. These Fellowship Programs are set to expire at the end of the 2023 summer term. NJEDA intends to enter into new MOUs with these schools and with Stockton University for the second and third years of the Fellowship Program.

Staff now seeks to open the program to students of New Jersey's Private, Public-Mission Universities that are classified as R1 and R2 by the Carnegie Commission on Higher Education. Because they are not public entities, the Authority offers this funding to eligible private universities through a grant program.

### **Program Details:**

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

For each Fellowship Year, each school will be responsible for recruiting a diverse set of students and managing their own application and selection process. Fellows may be upper class undergraduate (juniors and seniors) and graduate students, including masters and doctoral students, in any discipline/degree program as long as the research conducted for the Fellowship Program is focused on offshore wind. NJEDA will provide funding to each school to disburse as stipends for a capped number of students as described below. Undergraduate Fellows will receive a \$15,000 stipend and graduate Fellows will receive a \$30,000 stipend. Each Fellow will be provided an additional \$1,000 stipend for travel, material, equipment, and other research expenses related to their Fellowship. Each Private, Public Mission University will be able to select up to four (4) Fellows, with a goal of selecting at least one undergraduate (junior and senior) and one graduate (masters or ph.d) Fellow for each

Fellowship Year. In addition, each faculty advisor will receive a \$1,000 honorarium, and each school will be provided 10% of the total grant amount for facilities and administration (F&A) expenses.

The Fellows' research is expected to be completed over the course of the academic year, with the addition of the preceding or following Summer semester at each school's discretion. Overall, the Fellowship should be in place for a minimum of 25 weeks and a maximum of 40 weeks. Fellowship Year 2 will take place during the 2023-2024 academic year beginning no later than the Fall 2023 semester and ending no later than the Summer 2024 semester. Fellowship Year 3 will take place during the 2024-2025 academic year beginning no later than the Fall 2024 semester and ending no later than the Summer 2025 semester. For each Fellowship Year, NJEDA will organize cohort meetings from October to April as well as an April symposium where Fellows will present their research findings to an audience of government, academic, and industry stakeholders.

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

- Develop and submit a Fellowship marketing and selection process plan that will guide efforts to advertise the program widely and support engagement of a diverse group of students and faculty advisors.
- Conduct an application and selection process with established selection criteria
- Facilitate connections between Fellows and faculty advisors and relevant resources at the university
- Submit the names of the selected students, advisors, project descriptions, and signed participation forms to NJEDA within fifteen (15) days of completing the selection process and no later than September 1, 2023 for Fellowship Year 2 and September 1, 2024 for Fellowship Year 3
- Begin the Fellowship Program no later than the Fall 2023 semester and conclude the program no later than the Summer 2024 semester for Fellowship Year 2 and begin no later than the Fall 2024 semester and conclude no later than the Summer 2025 semester for Fellowship Year 3
- Assign a university representative to support NJEDA staff on communications with the Fellows and advisors throughout the Fellowship Program
- Disburse and track program expenditures including payments to fellows and honorariums to advisors per the university's internal policies and procedures
- Submit a report detailing the use of funds throughout the Fellowship Program no later than September 1, 2024 for Fellowship Year 2 and no later than September 1, 2025 for Fellowship Year 3
- Return any funds not utilized for the program to EDA by September 30, 2024 for Fellowship Year 2 and September 30, 2025 for Fellowship Year 2. With EDA's written approval, each university may roll over any unutilized Fellowship Year 2 funding to be used for Fellowship Year 3.

In support of the Fellowship Program, NJEDA will:

- Provide communication materials and support the schools in marketing the Fellowship Program

- Organize five to eight Fellowship cohort meetings from October to April of each Fellowship Year for Fellows to participate in industry trainings, guest lectures, site visits, and/or presentations
- Recruit and engage key industry stakeholders throughout the program to maximize the Fellows' exposure to the industry
- Organize the NJ Wind Institute Fellowship Symposium to take place in April of each Fellowship Year
- Upon receiving the names of the selected students and their project descriptions, provide schools with funding based on the number and graduate level of the selected Fellows for each Fellowship Year.

Funds will be allocated to universities as follows for each Fellowship Year:

- \$30,000 per graduate Fellow
- \$15,000 per undergraduate Fellow
- \$1,000 stipend per undergraduate or graduate Fellow for travel, materials, and other Fellowship expenses
- \$1,000 faculty honorarium per faculty advisor
- 10% of the grant amount for Facilities and Administration expenses

For each Fellowship Year, the maximum grant amount for each university is \$140,800 (calculation based on all four Fellows at the graduate level). The grant award for each university would be less if the university selects fewer than the specified number of Fellows in total and/or a mix of undergraduate and graduate Fellows.

#### *University Eligibility:*

Only New Jersey Private, Public-Mission Universities designated by the Carnegie Commission on Higher Education as R1 (Very High Research Activity) or R2 (High Research Activity) as of December 1, 2022, are eligible to apply for this grant. These schools are: Princeton University, Stevens Institute of Technology, and Seton Hall.

In addition to the eligibility parameters already stated above, the university applicant must also be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and NJ Department of Environmental Protection (DEP).

#### *Diversity, Equity and Inclusion:*

Fostering diversity, equity and inclusion is core to the goals of the Wind Institute. As NJEDA is unable to provide direct funding to individual Fellows, the Fellowship Program places the responsibility of the Fellow selection process on each university. Each university is required to conduct a selection process that facilitates a diverse set of students participating in the program.

#### *Eligible Funding Uses:*

Funds may only be used for the Wind Institute Fellowship Program for:

- Student research
- Travel/material stipends
- Faculty advisor honorariums
- 10% of the total grant amount for facilities and administrative expenses

#### *Application Process:*

Applications will be accepted during a defined application window no fewer than 5 days, which the Authority will make potential applicants aware of through a Notice of Funding Availability. After the defined application window is closed, NJEDA staff will review all applications for completeness and compliance with the required documentation. All eligible applicants will be notified of their selection. NJEDA staff may request clarifying or additional information from applicants with incomplete or noncompliant applications and such information must be received within five (5) business days of the date of request or the response may be rejected.

#### **Delegated Authority:**

The Members are requested to approve delegated authority to the Chief Executive Officer to approve individual university applications to the Wind Institute Fellowship Program for Private Universities in accordance with the terms set forth in the attached product specifications and enter into grant agreements with the awarded applicants. The delegated authority requested also includes the authority to decline for any decisions based solely on nondiscretionary reasons. Applicants whose applications are declined will have the right to appeal.

#### **Program Funding**

Half of the funding for this program will be through the October 27, 2022 MOU between NJEDA and NJBPU for Wind Institute programming, and half will be funded through the Fiscal Year 2023 State budget allocation for a \$5 million grant-in-aid to the yet-to-be-established Wind Institute for Innovation and Training. This grant-in-aid funding is subject to the Member's approval of a grant agreement with Treasury to transfer this funding. If grant-in-aid funding is not approved by the Members, then this program will be entirely funded through the MOU with NJBPU. For each Fellowship Year, upon receipt of a university's list of Fellows and final calculation of the funding to be distributed to a university, NJEDA will disburse the funds to each university.

Upon receipt of a university's list of Fellows and final calculation of the funding to be distributed to a university, NJEDA will deposit the funds into NJEDA's Economic Recovery Fund and utilize the grant-making powers as defined in the New Jersey Economic Recovery Fund Act per NJSA 34:1B-7.13 (12) to disburse funds to each university. The statutory provision permits grant funding for initiative-based activities which stimulate growth in targeted industries as defined by the Authority's board. NJEDA has designated offshore wind as a targeted industry aligned with Governor Murphy's economic development plan, "The State of Innovation: Building a Stronger and Fairer New Jersey Economy" that identifies offshore wind as one of the State's strategic sectors for accelerating growth in New Jersey's economy and meeting the State's clean energy goals.

**Fees:**

As required by NJEDA regulations, there is a \$1,000 application fee for this program.

**Recommendation:**

The members are asked to approve:

1. The creation of the Wind Institute Fellowship Program for Private Research Universities, a grant program that will enable juniors, seniors, and graduate students at New Jersey Private, Public-Mission Universities to participate in the Wind Institute Fellowship Program for the 2023-2024 and 2024-2025 academic years (Fellowship Year 2 and Fellowship Year 3, respectively)
2. Utilization of up to \$844,800 in funding for the Wind Institute Fellowship Program for Private Research Universities to be split equally between funding from the \$10 million allocated via the October 27, 2022 Memorandum of Understanding (MOU) between NJEDA and the NJ Board of Public Utilities (NJBPU) for Wind Institute programs and the Fiscal Year 2023 State budget allocation for a \$5,000,000 grant-in-aid to the yet to be established Wind Institute for Innovation and Training, provided that the latter source of funding, which will occur through a grant agreement with Treasury, is approved by the Members. If grant-in-aid funding is not approved by the Members, then this program will be entirely funded through the MOU with NJBPU.
3. Delegation of authority to the Chief Executive Officer to approve individual applications from universities in accordance with the terms set forth in this memo and the attached program specifications and enter into grant agreements with awarded applicants.



Tim Sullivan, CEO

Prepared by: Julia Kortrey

**Attachments:**

Exhibit A –Wind Institute Fellowship for Private Research Universities: Proposed Grant Program Specifications

**Exhibit A – Wind Institute Fellowship for Private Research Universities: Proposed Grant Program Specifications**

<b>Wind Institute Fellowship for Private Research Universities Proposed Program Specifications</b>	
<b>1. Funding Source</b>	Offshore Wind Initiatives MOU signed between NJEDA and the NJ Board of Public Utilities dated October 27, 2022 and Fiscal Year 23 State Budget appropriation for the Wind Institute for Innovation and Training
<b>2. Program Purpose</b>	The aim of the Wind Institute Fellowship Program for Private Research Universities is to strengthen offshore wind research in New Jersey by formally engaging students and faculty advisors at New Jersey’s top research universities to expand the number of individuals with expertise in offshore wind in the state. The program will provide funding to selected universities for the 2023-2024 academic year (Fellowship Year 2) and the 2024-2025 academic year (Fellowship Year 3).
<b>3. Eligible Applicants</b>	Eligible applicants include all Private, Public-Mission colleges/universities in New Jersey classified by the Carnegie Commission on Higher Education as R1 (Very High Research Activity) or R2 (High Research Activity). The application window will be a minimum of 5 days.
<b>4. Eligible Uses</b>	<p>For each Fellowship Year, each selected university will be allocated up to four (4) Fellowship spots that will be the basis for the following use of funds:</p> <ul style="list-style-type: none"> <li>• Paid stipends for fellows based on the rate/Fellow described below. Universities should seek to have at least one undergraduate and one graduate student selected as Fellows. The remaining two spots may either be for undergraduate or graduate students</li> <li>• Paid stipends for Fellows’ travel, material, equipment and other Fellowship-related costs</li> <li>• Honorariums for faculty advisors</li> <li>• 10% of the final grant amount for indirect costs, including facilities and administrative fees</li> </ul>
<b>5. Grant Amounts</b>	The final grant amount for Fellowship Year 2 and Fellowship Year 3 will be determined after the university completes its Fellow selection process. Each university will be allocated up to 4 Fellowship spots and the final grant amount will be based on:

**Wind Institute Fellowship for Private Research  
Universities  
Proposed Program Specifications**

	<ul style="list-style-type: none"> <li>• \$15,000 per undergraduate (junior or senior) Fellow</li> <li>• \$30,000 per graduate (masters or doctoral) Fellow</li> <li>• \$1,000 per Fellow for travel, materials, equipment and other fellowship-related costs</li> <li>• \$1,000 honorarium per faculty advisor for each student</li> <li>• 10% of total grant amount for indirect costs, including facilities and administrative fees, equaling a maximum of \$ \$12,800 (or \$3,200 per Fellow).</li> </ul>
<b>6. Scope of Work</b>	<p>The universities shall be responsible for the coordination and execution of the following activities:</p> <ul style="list-style-type: none"> <li>• Within 30 days of signing a grant agreement with NJEDA, submit a Fellowship marketing and selection plan to NJEDA that outlines the process to: <ul style="list-style-type: none"> <li>○ Communicate the Fellowship opportunity widely to the university's student population including the requirements for the Fellows to attend monthly meetings, present at the final Fellowship symposium, and complete research by the due date set by the university</li> <li>○ conduct a selection process that facilitates a diverse set of students participating in the program</li> <li>○ connect selected Fellows with advisors,</li> <li>○ distribute funds to Fellows throughout the fellowship per the university's internal policies and procedures</li> </ul> </li> <li>• Within 15 days of completing the selection process, and no later than September 1, 2023 for Fellowship Year 2 and September 1, 2024 for Fellowship Year 3, submit the following to NJEDA: <ul style="list-style-type: none"> <li>○ Details of all Fellows, including but not limited to name, degree program, undergraduate or graduate level, project description, faculty advisor, beginning and end date for the Fellowship (i.e. including whether a Summer semester is included or not), and short Fellow biographies</li> <li>○ Signed participation forms from each Fellow and the faculty advisor who will guide and support the Fellow's research</li> </ul> </li> </ul>



**Wind Institute Fellowship for Private Research  
Universities  
Proposed Program Specifications**

- |  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>○ Signed photo release forms and headshots of the Fellows unless a Fellow provides written communication that they will not allow the use of their picture on Wind Institute and EDA public platforms</li> <li>○ Name of a university representative that will serve as the administrative point of contact for EDA for the duration of the Fellowship program</li> </ul> <ul style="list-style-type: none"> <li>● Set research Fellowships for a duration no fewer than 25 weeks and no more than 40 weeks. Fellowship Year 2 shall begin no later than the Fall 2023 semester and conclude no later than the Summer 2024 semester. Fellowship Year 3 shall begin no later than the Fall 2024 semester and conclude no later than the Summer 2025 semester. The number of hours/week shall be determined by the university and/or the faculty advisor per the universities internal processes and procedures.</li> <li>● Facilitate and support all communications among university faculty advisors, Fellows, and EDA</li> <li>● Facilitate and encourage Fellows’ participation in monthly cohort meetings and the final research symposium</li> <li>● Coordinate and facilitate all logo use, branding permissions, and other university approvals and sharing of information as need arises</li> <li>● Ensure all funds go to eligible uses including the full amount of the Fellows’ stipends to the Fellows</li> <li>● Disburse Fellow stipends and faculty honorariums per the university’s internal policies and procedures.</li> <li>● Track all use of funds and submit a final report to EDA the sooner of 15 days after the Fellowship is completed for all students or September 1, 2024 for Fellowship Year 2 and September 1, 2025 for Fellowship Year 3.</li> </ul> |
|--|---|

**Wind Institute Fellowship for Private Research  
Universities  
Proposed Program Specifications**

	<ul style="list-style-type: none"> <li>Any funds not utilized must be returned to NJEDA by September 30, 2024 for Fellowship Year 2. With written approval from EDA, a university may roll unutilized funds from Fellowship Year 2 into Fellowship Year 3. Any funds not utilized for Fellowship Year 3 must be returned to NJEDA by September 30, 2025.</li> </ul>
<b>7. Scoring Criteria</b>	There is no scoring criteria for this Program. NJEDA will enter an agreement with any and all applicants meeting the eligibility criteria subject to the availability of funds.
<b>8. Funding Disbursement</b>	<p>No later than September 1, 2023 for Fellowship Year 2 and September 1, 2024 for Fellowship Year, each selected university must submit the following documents: Fellow and Advisor details, signed participation forms, signed photo release forms and headshots (or communications declining photo use), and university administrative point person.</p> <p>After receipt of these documents, NJEDA will disburse funds to the university as follows:</p> <ul style="list-style-type: none"> <li>\$15,000 per undergraduate Fellow</li> <li>\$30,000 per graduate Fellow</li> <li>\$1,000 per undergraduate or graduate Fellow for travel, materials, and other Fellowship related expenses</li> <li>\$1,000 per faculty advisor</li> <li>10% of the grant amount for Facilities and Administration expenses</li> </ul>
<b>Application Fees</b>	Application fees for this program will be \$1,000



## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** Modifications to the SSBCI Clean Energy Business Financing Program (“New Jersey Clean Energy Loans (NJ CELs)”)

### **Request:**

The Members are asked to approve the modifications to the Clean Energy Business Financing Program “New Jersey Clean Energy Loans (NJ CELs)” as specified in this memo and attached Proposed Program Specifications sheet regarding the definition of “Private Lenders”.

### **Background:**

SSBCI is a federal program administered by the US Department of the Treasury to strengthen programs of eligible jurisdictions that support private financing to small businesses. The program was first established in 2010, and a second round was funded by the American Rescue Plan Act (ARP) in the spring of 2021, with \$10 billion available overall, allocated non-competitively to states, territories, and Tribal governments. New Jersey is eligible for a total of \$255 million.

On November 16, 2022, the Board approved the creation of the Clean Energy Business Financing Program; the utilization of \$80,000,000 from New Jersey’s allocation of \$255,197,631 from U.S. Treasury’s State Small Business Credit Initiative (SSBCI), contingent on final approval of the SSBCI application by U.S. Treasury; and the delegation of authority to the Chief Executive Officer to approve individual applications for the Clean Energy Business Finance Program for transactions of up to \$3,000,000 in SSBCI funds, in accordance with the terms set forth in the respective memo and program specifications.

### **Program Details:**

The Clean Energy Business Financing Program “New Jersey Clean Energy Loans (NJ CELs)” is a \$80,000,000 co-lending program that offers term loans to eligible small businesses (“Borrowers”) seeking to finance eligible clean energy projects (“Projects”) that create jobs in New Jersey.

The program has been designed to meet the requirements for a Loan Participation Program (“LPP”) under the rules of SSBCI. As an LPP, Federal SSBCI funds allocated to NJEDA may make up a portion of the overall financing plan for a particular Project, through the use of either of two mechanisms: originating companion loans directly to Borrowers in parallel with Private Lenders, as defined below; or purchasing participations in loans Private Lenders extend to Borrowers.

NJEDA is opting to leverage both mechanisms authorized under the SSBCI rules for LPPs to provide maximum flexibility to meet the needs of both potential borrowers and Private Lenders. In all cases, NJEDA will only fund up to 50% of the overall principal amount of the financing of a Project (“SSBCI Loan”), requiring at least 50% of the overall principal amount to be funded by one or more Private Lenders.

*Definition of Private Lenders*

On November 16, 2022, NJ CELs was approved by the Board with the following requirement:

“To formally apply to the Program, applicants must have a term sheet with a Private Lender outlining the basis for the financing proposed to be offered by the Private Lender. In order to be a ‘Private Lender,’ the institution must be on NJEDA’s Premier Lender list, which can include CDFIs, credit unions, and minority-, woman-, or veteran-owned financial institutions.”

This memo requests the following amendment to the definition of “Private Lender” for NJ CELs:

“To formally apply to the Program, applicants must have a term sheet (or letter of intent, draft agreement, commitment letter, or similar document) with a Private Lender outlining the basis for the financing proposed to be offered by the Private Lender.

In order to be a ‘Private Lender,’ the institution must meet the requirements for lenders as set forth in the SSBCI Capital Program Policy Guidelines, and must meet the criteria in the attached Proposed Program Specifications sheet.”

This amendment will allow us to expand the pool of eligible lender(s) for this program. Expanding the pool of lenders to include all eligible lenders under the SSBCI Capital Program Policy Guidelines would help ensure that SSBCI funds are deployed within the required timeline for this program.

**Recommendation:**

The Members are requested to approve the modifications to the Clean Energy Business Financing Program “New Jersey Clean Energy Loans (NJ CELs)” regarding the definition of Private Lenders, as specified in this memo and attached Proposed Program Specifications sheet.



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Tim Sullivan, CEO

Prepared by: Marta Cabral

Attachments:

Appendix A – Proposed Program Specifications: Clean Energy Business Financing Program (“New Jersey Clean Energy Loans (NJ CELs)”)

<b>Proposed Program Specifications:</b> <b>Clean Energy Business Financing Program (“New Jersey Clean Energy Loans (NJ CELs)”)</b> <b>February 8, 2023</b>	
<b>“Private Lender”</b>	<p>According to the U.S. Department of the Treasury’s SSBCI Capital Program Policy Guidelines:</p> <p>Lenders are entities that bear the risk of loan transactions on a transaction-by-transaction basis. Under SSBCI capital-at-risk guidelines, lenders must bear 20 percent or more of the risk of loss in any loan transaction and must retain at least 5 percent of the risk of loss of the transaction if they transfer the ownership or risk of the lending transactions.</p>
<b>Eligibility Criteria for Private Lenders</b>	<p>Eligible Private Lenders for NJ CELs must:</p> <ul style="list-style-type: none"> <li>• Meet the definition and requirements for “lenders” as set forth in the U.S. Department of the Treasury’s SSBCI Capital Program Policy Guidelines (which include meeting lender assurances and national customer protection standards, subject to change if updated by SSBCI); and <ul style="list-style-type: none"> <li>○ Be on the NJEDA Premier Lender list or NJEDA’s CDFI Premier Lender list; or</li> <li>○ Be a private equity fund, bank, pension fund, insurance company, hedge fund, mezzanine fund, original equipment manufacturer (OEM), developer, family office, specialty finance company, or such other entity that has originated, maintained, and serviced more than \$5 million in clean energy loans over a three-year period.</li> </ul> </li> </ul> <p>In the event the NJEDA declines an applicant due to the term sheet from the prospective Private Lender, the lender as well as the prospective borrower will have the right to appeal such decision, in accordance with the NJEDA’s appeals process.</p> <p>The U.S. Treasury’s SSBCI Capital Program Policy Guidelines can be found here: <a href="https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci">https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci</a></p>



**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**RE:** New Jersey Indoor (NJ) Amusement Park Grant Program

### **Summary**

The Members are asked to approve:

- 1) The creation and specifications of a pilot grant program called the “NJ Indoor Amusement Park Grant,” which will make grant funding available to for-profit establishments that operate indoor amusement parks, arcades and entertainment facilities, and demonstrate a minimum 50 percent reduction in indoor gross revenue for the 12-month period beginning April 1, 2019.
- 2) The utilization of \$5,000,000 from the Fiscal Year 2023 (FY2023) Appropriations Act (“Act”) for “Recovery Grants to Indoor Amusement Parks” to capitalize the NJ Amusement Park Grant.<sup>1</sup>
- 3) Delegation of authority to the Chief Executive Officer to approve individual applications for the NJ Amusement Park Grant Program, within the parameters set forth in this memo and attached program specifications.

### **Background**

On June 30, 2022, Governor Murphy signed S2023, the Fiscal Year 2023 (FY2023) Appropriations Act (“Act”), into law as P.L. 2022, c.49. The Act allocates significant State funding for numerous strategic economic development investments to support key industries and continue to bolster recovery for NJ businesses to assist with statewide growth. One of the specific strategic COVID support reinvestments in the Act is an appropriation of \$5 million to support NJ indoor amusement parks impacted by COVID-19. This funding is specific to NJ businesses engaged in activities under specific North American Industry Classification System (NAICS) codes (code 713110 – Amusement and Theme Parks or 713120 – Amusement Arcades) as of April 1, 2020. As COVID-19 restrictions prohibited or restricted public gatherings, this public safety measure resulted in a significant reduction in indoor amusement park and arcade attendance and usage, leading to significant loss of revenue to establishments that rely on admission fees to support operations. This budget appropriation will allow NJEDA to create and administer a COVID-specific non-competitive grant product for this specific industry. NJEDA established eligibility criteria based off the appropriation language and staff is proposing that criteria in this memo and product specifications to then take in applications from eligible applicants to then process.

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<sup>1</sup> Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for Recovery Grants to Indoor Amusement Parks shall be used to provide grants to businesses that are engaged in activities described in Code 713110 or 713120 of the North American Industry Classification System, as that code read on April 1, 2020, and that are able to demonstrate a minimum 50 percent reduction in gross revenues from indoor operations for the 12-month period beginning April 1, 2019, pursuant to an application process administered by the New Jersey Economic Development Authority, subject to the approval of the Director of the Division of Budget and Accounting. P.L. 2022, c.49, p. 193.

### **Program Details:**

This pilot grant program will provide grants to help subsidize a loss of revenue for indoor amusement facilities. Specifically, grants are open to establishments that are engaged in activities described by specific codes of the North American Industry Classification System (NAICS) and must be registered under NAICS code 713110 or 713120 as of April 1, 2020 or on their 2020 and 2021 federal tax return. Based on these NAICS codes there will be some applicants that may have a combination of indoor and outdoor operations. NJEDA staff will be utilizing the federal tax returns from 2020, 2021, and proof of current tax return or approved extension for each applicant to ensure this code registration requirement is being met and is consistent with other federal tax filings. Staff will also be utilizing federal tax returns of year 2019, 2020, 2021, and current tax filings to ensure applicants self-reported revenue is comparable to their tax returns. Amended tax returns will not be allowed. Any entity not classified under the two eligible NAICS codes (713110 or 713120) for their 2020, 2021, and current tax return are ineligible for this grant because the appropriation speaks specifically to these two codes only. The appropriation requires the applicants to demonstrate a minimum 50 percent reduction in gross revenues from indoor operations for the 12-month period beginning April 1, 2019. For NJEDA to make this determination applicants will be asked to identify their NJ indoor gross revenue at time of application from April 1, 2019 to March 31, 2020 compared to April 1, 2020 to March 31, 2021, as well as gross revenue on all NJ operations, thus demonstrating a reduction in overall gross revenue and ensuring each applicant has a need. This will be used to determine both eligibility and awards sizes for the grant program, and to ensure applicants meet the 50 percent reduction to indoor gross revenue that is required. NJEDA will utilize the applicants' federal tax returns to ensure their self-reported gross revenue information is in line with their federal tax returns.

### **Eligibility**

NJEDA will be requesting the applicants NJ formation documents to ensure eligible applicants were formed on or before March 9, 2020. Applicants must also certify at time of application to currently being open and operating.

Eligible applicants would have to provide their federal tax returns starting from year 2019 up to their current tax filing. NJEDA would look to their 2020, 2021, and current filing to ensure the eligibility was met by having the two specific NAICS code identified in the budget language. This would ensure consistency in filing and use of NAICS code year over year. If someone has changed their NAICS code in any one of the identified years and it is different from the two identified, then the applicants would be deemed ineligible for this grant.

Applicants must demonstrate a need by showing a minimum 50 percent reduction in their indoor self-reported gross revenue at time of application for a month period starting April 1, 2019 to March 31, 2020 compared to April 1, 2020 to March 31, 2021. Applicants will also have to report their gross revenue on operations at the same location. To be eligible applicants would also have to show a reduction in their self-reported gross revenues at time of application. All gross revenue reported will be specific to the applicant's operations in NJ whether it's related to their self-reported indoor or gross revenue. Both needs have to be met to be eligible for a grant award.

Consistent with the approach taken across other NJEDA grant programs, the applicant must be in good standing with the New Jersey Department of Treasury, Division of Taxation, as evidenced by a current NJ tax clearance certificate; the New Jersey Department of Labor and Workforce Development (LWD), the New Jersey Department of Environmental Protection prior to approval to be eligible for the grant funding. Applicants can't have defaulted with NJEDA on any other products.

Because this grant is for applicants that have an indoor component to their operations, applicants must certify at time of application to having a portion of their operations being indoors. For example, this means that outdoor waterparks that have the eligible NAICS code (for example for an indoor arcade), but have no other indoor activity, ride, or operations will be deemed ineligible for this grant.

### **Awards**

Grant awards will be calculated by the amount of decrease in the applicant's self-declared gross revenue from April 1, 2019 to March 31, 2020 and April 1, 2020 to March 31, 2021, or \$100,000, whichever is less, unless the applicant is located in an Opportunity Zone eligible census tract. If the applicant is located in an Opportunity Zone eligible census tract, the award cap is \$150,000.

Awards will be based purely on the on the reduction of the applicant-provided gross revenue, not their indoor gross revenue. Applicants are allowed to receive one grant award per EIN, with a minimum award of \$5,000.00 per EIN.

### **Eligible Uses of Funds**

Applicants that receive an award will enter into a grant agreement with NJEDA and will agree that the uses of the grant proceeds are limited to support the applicant's working capital costs only. The grant cannot be used for any other use. Specific ineligible uses may include but are not limited to any construction work or contract labor costs, purchase of land, improvements to their facility, and any equipment purchases that exceed costs of \$1,999.99.

### **Application Approvals, Declinations and Appeals**

Applications for this program will be accepted on a first-come, first-served basis, based on the date and time in which the Authority receives the application for a period of at least 30 days, or until funds are exhausted, whichever is first. All applications will be reviewed for completeness in the order that they are received by the Authority. At the sole discretion of the Authority, staff may ask for clarification of the information provided in the application including, but not limited to, responses, documentation, and attachments at any time prior to award. Applications will be accepted on a rolling basis and proceed based on their completeness. Limit of one grant award per EIN.

As a pilot program, decisions based on non-discretionary reasons are subject to the existing delegated authority. Accordingly, CEO will delegate to the appropriate staff on all declination decisions and appeal decisions for non-discretionary reasons.

### **Fees**

Applicants for the New Jersey Indoor (NJ) Amusement Park Grant Program will be charged a \$1,000 application fee as required for pilot products under the Authority's fee rules.

### **Recommendation**

The Members are asked to approve:

- 1) The creation and specifications of a pilot grant program called the "NJ Indoor Amusement Park Grant," which will make grant funding available to for-profit establishments that operate indoor amusement parks, arcades and entertainment facilities, and demonstrate a minimum 50 percent reduction in indoor gross revenue for the 12-month period beginning April 1, 2019.



- 2) The utilization of \$5,000,000 from the Fiscal Year 2023 (FY2023) Appropriations Act (“Act”) for “Recovery Grants to Indoor Amusement Parks” to capitalize the NJ Amusement Park Grant<sup>1</sup>
- 3) Delegation of authority to the Chief Executive Officer to approve individual applications for the NJ Amusement Park Grant Program, within the parameters set forth in this memo and attached program specifications.



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Tim Sullivan, CEO

Attachments

Exhibit A – New Jersey Amusement Park Product Specifications

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<sup>1</sup> Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for Recovery Grants to Indoor Amusement Parks shall be used to provide grants to businesses that are engaged in activities described in Code 713110 or 713120 of the North American Industry Classification System, as that code read on April 1, 2020, and that are able to demonstrate a minimum 50 percent reduction in gross revenues from indoor operations for the 12-month period beginning April 1, 2019, pursuant to an application process administered by the New Jersey Economic Development Authority, subject to the approval of the Director of the Division of Budget and Accounting. P.L. 2022, c.49, p. 193.

## Appendix A

### New Jersey (NJ) Amusement Park Grant Program- Product Specifications

<b>Funding Source</b>	\$5,000,000 as listed in the Fiscal Year 2023 Appropriations Act
<b>Program Purpose</b>	Utilize designated 2023 budget funding to create a grant program to support for-profit establishments that operate indoor amusement parks under the NAICS codes of 713110 and 713120 (must be as of April 1, 2020) and are able to demonstrate a minimum 50 percent reduction in their indoor gross revenues for the 12-month period beginning April 1, 2019.
<b>Eligible Applicants</b>	<ul style="list-style-type: none"> <li>• Eligible applicants must meet the following criteria to be eligible for this grant:</li> <li>• Must be a for profit entity located in New Jersey as per the budget language.</li> <li>• Uses NAICS Code 713110 or 713120 of the North American Industry Classification System, as that code read on April 1, 2020 using as per their 2020, 2021, and current federal tax return or proof of approved extension. Federal tax returns cannot be amended and used for the grant application. Applicants would have to provide federal tax returns for 2020, 2021, and current tax return to demonstrate this is met.</li> <li>• Demonstrate a minimum 50 percent reduction in indoor gross revenues for the 12-month period beginning April 1, 2019 to March 31, 2020 and April 1, 2020 to March 31, 2021 as certified by applicant at time of application.</li> <li>• Applicants must have a demonstration of need which will be determined by a reduction in the applicants self-reported gross revenue in their federal tax return for the 12-month period beginning April 1, 2019 to March 31, 2020 and April 1, 2020 to March 31, 2021.</li> <li>• Registered to do business in New Jersey and in good standing with the NJ Division of Taxation, as evidenced by a current NJ Tax Clearance Certificate prior to approval.</li> <li>• Applicant must be good standing at time of approval with the NJ Department of Labor, NJ Department of Environmental Protection and NJ EDA.</li> <li>• Applicant certification at time of application that their operation has at least a portion of their business that is indoors of their NJ commercial space and their operations are currently open and operating.</li> <li>• NJ formation documentation that verifies the applicant was formed on or prior to March 9, 2020.</li> <li>• Ineligible applicants: waterparks that have only outdoor operations,</li> </ul>

	activities, rides, or services. An indoor component of operations, rides, activities, or services must be within the applicant's commercial space.
<b>Eligible Uses</b>	<p>Grant funds may only be used for operating costs for the business.</p> <p>Grant funds may not be used for any purpose other than operating costs including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Property acquisition</li> <li>• Any construction or contracts for labor</li> <li>• Demolition</li> <li>• Purchase of equipment or installation greater than \$1,999.99</li> </ul>
<b>Application Intake: Review, Approval, Declines, and Appeals</b>	<p>Applications for this program will be accepted on a first-come, first-served basis, based on the date and time in which the Authority receives the application for a period of at least 30 days, or until funds are exhausted, whichever is first.</p> <p>Applications will be limited to one (1) application per EIN</p> <p>Delegation of authority to the Chief Executive Officer to approve individual applications for the NJ Amusement Park Grant Program, within the parameters set forth in this memo and attached program specifications.</p>
<b>Grant Amount</b>	<p>Grant awards will be calculated by the amount of the decrease in the applicant's gross revenue self-declared at time of application from April 1, 2019 to March 31, 2020 compared to April 1, 2020 to March 31, 2021 or \$100,000; whichever is less, unless the applicant is located in an Opportunity Zone eligible census tract then the award cap is at \$150,000.</p> <p>Minimum awards of \$5,000.00.</p>
<b>Disbursement</b>	Disbursements will be made upon execution of the grant agreement.
<b>Fees</b>	\$1,000 application fee for each applicant.



## **MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** February 8, 2023

**SUBJECT:** Award of New Jersey Asset Activation Planning Grants

### **Summary**

The Members are asked to approve:

- 1) Grant award to Mount Holly Township for in the amount of \$11,000 to conduct a feasibility study and prepare a concept plan repurposing developing a municipal parking lot as community open space supporting the downtown business direct for passive and accessible outdoor recreation, as well as for active community events, such as concerts and the local farmer's market.
- 2) Grant award to RyArMo Productions in the amount of \$50,000 to undertake several analyses and produce concept designs for a City of Newark owned site within the City of Newark's Lincoln Park Redevelopment Plan for a mixed-use / mixed-income development project.
- 3) Grant award to Atlantic City the amount of \$50,000 for a legal analysis and feasibility study of the Casino Reinvestment Development Authority (CRDA) owned Renaissance Plaza considering tenant selection, and concept designs for site improvements within the context of the Midtown neighborhood.
- 4) Grant Award to Camden Special Services District in the amount of \$50,000 for the "Market Street Plaza: Placemaking and Activation Study," which will activate a public space in the Cooper Grant Neighborhood to complement forthcoming traffic and pedestrian improvements and support local businesses.
- 5) Grant Award to the Trenton Parking Authority in the amount of \$47,000 to undertake civic engagement, and market analysis of the structurally unsound Broad and Front Street Garage in the core of Trenton's downtown district.
- 6) Grant Award to the Borough of Penns Grove in the amount of \$50,000 for an economic analysis and feasibility study to guide development of the Borough's waterfront area, as part of the Borough's 2007 Actin Plan, and ongoing Master Plan Re-examination.

## **Background**

On March 9, 2022, the NJEDA Board approved the New Jersey Asset Activation Planning Grant (NJAAP). With an award pool of up to \$400,000. This program offers grants to New Jersey public, private, and nonprofit entities of up to \$50,000 for pre-development planning activities, such as conceptual design, feasibility studies, economic or market analyses, etc., for projects that activate distressed and under-utilized assets owned by a New Jersey municipality, county, independent authority, bureau, commission, or other public body. Funded projects must be completed within six months following an executed grant agreement (with a possible two-month extension). Funds are disbursed in portions of 50% upon execution, 25% following a mid-point report, and 25% upon completion.

The program began accepting applications on July 26th, 2022, the 90-day acceptance window ended October 24th, 2022. Eleven (11) applications were received for the program in total, which were reviewed on a first-come, first served basis. One (1) application was withdrawn in October, and the first two (2) applications to complete the review process were presented to the board at the November meeting, both projects received approval. The final eight (8) applications have completed review and scoring.

As part of the review process, an application must meet the minimum scoring threshold of 65 out of 100 possible points to demonstrate the ability to successfully complete the proposed planning activities and gauge the improved utilization of a proposed or investigated public asset. The program scoring committee, composed of various subject matter experts among NJEDA staff, determined scores for each of the applications based on five components:

- 1) Asset Impact (40 points)
- 2) Project Purpose and Merits (20 points)
- 3) Previous Experience (20 points)
- 4) Community Engagement (10 points)
- 5) Municipal Revitalization Index Score (10 points)

The scoring committee determined that application #4 from Mount Holly Township received 77.7 out 100 points, (detailed in Appendix B), which exceeds the requisite overall score, hence the project was approved by the board to receive a grant award of \$11,000.

The scoring committee determined that application #5 from RyArMo Productions received 67.7 out 100 points, (detailed in Appendix B), which exceeds the requisite overall score, hence the project was approved by the board to receive a grant award of \$50,000.

The scoring committee determined that application #6 from Atlantic City received 74.7 out 100 points, (detailed in Appendix B), which exceeds the requisite overall score, hence the project was approved by the board to receive a grant award of \$50,000.

The full award of grant funding to Atlantic City exceeds the initial tranche of \$200,000 in ERF funding, therefore, EDA staff memorialized the exercise of EDA's CEO delegated authority to drawn down the second tranche of \$200,000.

The program scoring committee determined that application #7 from the Camden Special Services District received 80.3 out 100 points, (detailed in Appendix B), which exceeds the requisite overall score, hence the project was approved by the board to receive a grant award of \$50,000.

The program scoring committee determined that application #8 from the Trenton Parking Authority received 65.5 out 100 points, (detailed in Appendix B), which exceeds the requisite overall score, hence, the project was approved by the board to receive a grant award of \$47,000.

The program scoring committee determined that application #9 from the Borough of Penns Grove received 84.7 out 100 points, (detailed in Appendix B), which exceeds the requisite overall score, hence the project was approved by the board to receive an award of \$50,000.

Based on the request of the above recipients, the program does not demonstrate sufficient funds to support the awards of the next submitted applications. Per program procedures, and approval from the Board, staff will discuss options with the applicant including partial awards with the balance of the remaining funds.

### **Project Descriptions**

Mount Holly Township requests grant funding of \$11,000 to conduct a feasibility study and prepare a concept plan to repurpose the Township-owned “Municipal Parking Lot #5” as a community green space for passive recreation, active community events, and access to the Rancocas Creek.

The improvements to this public space would enhance the development of the adjacent commercial district and attract visitors to its businesses through programs and events, including becoming the new site for the local farmer’s market. The proposed open space would enhance visibility and access to the historic Shinn-Curtis Log House (circa 1712) on one side of the property and provide boat access to North Branch of the Rancocas Creek on the other, while removing impervious area and adding green stormwater infrastructure to help mitigate regular flooding-stated goals of Township’s Open Space and Recreation Master Plan.

RyArMo Photography Studio LLC is a live/work commercial property within the Lower Broadway neighborhood of Newark, which has evolved from a commercial photography studio into a community creative space engaging artistic entrepreneurs in the Greater Newark Area. The applicant proposes to demonstrate viability of a mixed-use / mixed-income development project of a city owned site containing a vacant one-story commercial building and vacant lot within the City of Newark’s Lincoln Park Redevelopment Plan.

To plan for this development, the applicant requests \$50,000 in grant funds to engage a team of professionals that will collaborate with government agencies, community stakeholders and local neighborhood groups such as Lincoln Park Coast Cultural District and Newark Arts to conduct zoning analysis, site surveys, environmental review, financial feasibility analysis, preliminary market study, and concept design.

Atlantic City is proposing a legal analysis and feasibility study of Renaissance Plaza. Renaissance Plaza is owned by the Casino Reinvestment Development Authority (CRDA). There are multiple retail tenants, including a pharmacy and grocery store occupying more than 75,000 square feet

amongst three single-story buildings.

The \$50,000 grant would fund the study of the site's full potential - starting with the facility operator lease structure, tenant status, tenant selection, and concept designs for site improvements with consideration for Crime Prevention Through Environmental Design (CPTED), and context within the Midtown neighborhood.

Camden Special Services District (CSSD) requests a grant of \$50,000 for their "Market Street Plaza: Placemaking and Activation Study," to beautify and activate the public plaza within the extended setbacks at the corner of 3<sup>rd</sup> Street (City Right-of-Way) and Market Street (County Right-of-Way), as well as the blank wall facade of the Camden Aerospace and L3 Communications facility between 2<sup>nd</sup> and 3<sup>rd</sup> street. These improvements are objectives of the City's 'Cooper Grant/Central Waterfront Area Neighborhood Action Plan' and meant to complement forthcoming traffic and pedestrian improvements to the area when Market Street is realigned for two-way traffic flow.

Possible future interventions, such as lighting improvements, landscaping designs, outdoor seating, musical stage, temporary street closures, public art, temporary activations/events, and food truck operation would fall under the existing public space management responsibilities of the CSSD, and outcomes will be highly dependent on community feedback.

Trenton Parking Authority (TPA) is the owner of a 5-level parking garage on Broad and Front Street. The garage was determined to be structurally unsound in 2012, and as a consequence, ceased use since that time. TPA is requesting \$47,000 in grant funding to undertake visioning through civic engagement, and market analysis of the project site which is in the core of Trenton's downtown district.

Borough of Penns Grove is requesting \$50,000 for an economic analysis and feasibility study of the Borough's waterfront area, which includes Borough managed Open Space along the Delaware River with a pavilion and abandoned pier, and several properties along West Main Street (A County Right-of-Way), including one Borough Owned property. This project will continue the goals set in the Boroughs 2007 Actin Plan, and ongoing Master Plan Re-examination. The resulting revitalization strategy will include feedback from public engagement and stakeholders.

### **Recommendations**

Approval is requested for the award of a New Jersey Asset Activation Planning Grant to:

- 1) Mount Holly Township in the amount of \$11,000 to conduct a feasibility study and prepare a concept plan repurposing and developing a municipal parking lot that will operate as community open space supporting the downtown business direct for passive and accessible outdoor recreation, as well as for active community events, such as concerts and the local farmer's market.
- 2) RyArMo Productions in the amount of \$50,000 to undertake several analyses and produce concept designs for a city owned site within Lincoln Park Redevelopment Plan for a mixed-use / mixed-income development project.
- 3) Atlantic City the amount of \$50,000 for a legal analysis and feasibility study of the Casino

Reinvestment Development Authority (CRDA) owned by Renaissance Plaza, the award will support tenant selection, and concept designs for site improvements within the context of the Midtown neighborhood.

- 4) Camden Special Services District in the amount of \$50,000 for the “Market Street Plaza: Placemaking and Activation Study,” which will activate a public space in the Cooper Grant Neighborhood to complement forthcoming traffic and pedestrian improvements and support local businesses.
- 5) Trenton Parking Authority in the amount of \$47,000 to undertake civic engagement, and market analysis of the structurally unsound Broad and Front Street Garage in the core of Trenton’s downtown district.
- 6) Borough of Penns Grove in the amount of \$50,000 for an economic analysis and feasibility study to guide development of the Borough’s waterfront area, as part of the Borough’s 2007 Actin Plan, and ongoing Master Plan Re-examination.



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Tim Sullivan, CEO

Attachment:

- Appendix A – Product Specifications
- Appendix B – Scoring Summaries



**Appendix A**  
**New Jersey Asset Activation Planning Grant Specifications**  
**Approved: March 2022**

<b>Funding Source</b>	NJEDA Economic Recovery Fund. \$200,000 for initial pilot program. Authority for additional \$200,000 contingency.
<b>Program Purpose</b>	The New Jersey Asset Activation Planning Grant Program will award grants of up to \$50,000 to public, private, or non-profit entities, for early-stage planning and analysis that will demonstrate viability of projects that activate distressed or under-utilized public assets that benefit their communities and the regional economy
<b>Eligible Applicants</b>	<p>Qualified applicants are defined as a New Jersey:</p> <ul style="list-style-type: none"> <li>• Municipality,</li> <li>• County,</li> <li>• Municipal, county, regional or state redevelopment agency,</li> <li>• Municipal, county, regional or state independent authority,</li> <li>• Non-profit entity</li> <li>• Private, for-profit entity that meet additional criteria detailed below and holds a valid New Jersey tax clearance certificate.</li> </ul> <p>An Applicant in a lead role is the entity that is the sole recipient of grant funds and responsible for all terms of the grant agreement. The lead role applicant will serve as the primary point of contact with the Authority, submit any requests for fund disbursement, and provide reports to the Authority.</p> <p>An applicant may only submit one application each in a lead role but can be included as a partner in additional applications where they play a non-lead role. Any named strategic partner or partners included in the proposal cannot be changed without the prior written consent of the Authority.</p> <p>Applicants may add strategic partners whose experience, knowledge, skills, and ability may provide an advantage in the production of analyses and reports.</p> <p>The strategic partnership must be recognized by a signed memorandum of understanding or a written agreement between the partner and the applicant and included in the completed application.</p> <p>Private and nonprofit entities proposing projects in relation to public properties must provide a letter of approval from the chief executive of the public entities that hold ownership of the subject property. Assets owned by The State are not eligible for project applications, however assets owned by Independent State Authorities are eligible when accompanied by a letter of approval.</p> <p>A proposal on behalf of a county or independent authority does not preclude a municipality within that county; or municipality or county within boundary of independent authority; or independent authority whose boundaries overlap a municipality or county from submitting their own proposal.</p>

<b>Eligible Uses</b>	<p>The New Jersey Asset Activation Planning Grant Program will provide grants of up to \$50,000 directly to grantees for pre-development planning that will demonstrate viability of projects. Proposed plans may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Conceptual design</li> <li>• Feasibility studies</li> <li>• Economic analysis</li> <li>• Market analyses</li> </ul> <p>Proposal plans must demonstrate to what extent the utilization of a public asset will be improved by the proposed project and how development of an asset will benefit the regional economy and the community.</p> <p>Projects should target deficient, under-utilized, or vacant land, buildings, or infrastructure owned by a county, municipality, district, public authority, public agency, or other political subdivision or public body.</p> <p>Plans should demonstrate a strong connection to the State’s development objectives through project elements, such as:</p> <ul style="list-style-type: none"> <li>• Creating or catalyzing a new business sector, or target industry <ul style="list-style-type: none"> <li>○ As defined by the NJEDA Emerge program, “Targeted industry” means any industry identified from time to time by the Authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models</li> </ul> </li> <li>• Driving economic growth and equity</li> <li>• Creating an innovative use for distressed public assets, unutilized or underutilized public property or unutilized public lands</li> <li>• Expanding access to public transportation or public services</li> <li>• Attracting employers and a diverse, talented workforce</li> <li>• Expanding entrepreneurial opportunities and support local businesses</li> <li>• Improving land use efficiency and sustainability</li> </ul>
<b>Application Process and Board Approval/ Delegated Authority</b>	<p>Applications for the New Jersey Asset Activation Planning Grant will be accepted on a rolling basis.</p> <p>EDA anticipates notifying each applicant within five business days of receipt if the application has been deemed complete. Applicants whose applications have been deemed incomplete will be given five business days to cure any deficiencies. If at the end of the five-day period, the applications are still incomplete, they will be notified the application will not be advancing and a new application would need to be submitted for further consideration.</p> <p>Applications will be evaluated and scored on a first in, first out basis using the date and time that the Authority receives a completed application. Applications that meet the minimum score requirement of 65 will be recommended to the Board for award approval in that order.</p> <p>Applications will be accepted during a 90-day window publicized in the Notice of Funding Available. Delegated authority is requested to allow the Chief Executive Officer to draw down additional funding of up to \$200,000 from ERF for the purposes of making additional awards should the application volume, received prior to the initial deadline, exceed the original funding amount.</p>

	<p>Applications must include plans for specific deliverables that can be fully completed (with copies provided to EDA appropriate for public consumption) six calendar months after the execution of funding agreement between EDA and the recipient. Upon written request by the grantee an extension of up to two months may be authorized for the plan's final delivery, at the sole discretion of the Authority.</p>
<b>Scoring</b>	<p>Applications will be reviewed and scored by staff of the Authority formed as a scoring committee.</p> <p>The scoring committee may utilize the advice of subject matter experts from both the Authority and other New Jersey state departments, agencies, councils, offices, and boards to advise scoring decisions.</p> <p>Grants will be scored on a scale of 0-100 points, with 100 points being the highest score possible. Grants award recommendations will be limited to applications that meet or exceed the Minimum Score Requirement of 65 points.</p> <p>Applications will be evaluated and scored on each of the criteria below.</p> <p><u>Criteria #1 - Asset Impact</u> (Up to 40 points) – Proposals must demonstrate how projects will improve the utilization of a public asset and contribute to the community and regional economy. Example of these may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Projects that look to innovative uses of underutilized, distressed, or vacant public land, improvements or structures that will provide possibilities for local equitable economic growth</li> <li>• Projects that develop publicly owned parking lots into ratable businesses, or mixed-use neighborhoods infill.</li> <li>• Projects that activate use of public rights-of-way for multi-modal trail connections.</li> <li>• Designs for innovative and transformative new buildings on unused public lands.</li> <li>• Development of vacant, under-utilized, or distressed public land, improvements or structures for a targeted industry research, development, workforce training or manufacturing hub.</li> </ul> <p>Scoring measure:  0 - 10 points: Demonstrates minimal impact  11 - 20 points: Demonstrates marginal impacts  21 - 30 points: Demonstrates significant impacts  31 - 40 points: Demonstrates superior impacts</p> <p><u>Criteria #2 – Identification of Project Purpose and Merits</u> (Up to 20 points) – Proposals should identify community benefits of the project, and challenges that have precluded prior development of the asset. Considerations may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Ability to address locality-specific needs and challenges.</li> <li>• Emphasis on long term viability and adaptability of a given concept.</li> <li>• Ability to consider and mitigate any past difficulties that created challenges for a given asset/grouping of assets.</li> <li>• Ability to identify and balance local needs with those of the region and state.</li> </ul> <p>Scoring measure:</p>

	<p>0 - 5 points: Little or no demonstration of features  5 - 10 points: Features are present but show deficiencies.  11 - 15 points: Features are well demonstrated.  16 - 20 points: Significantly exceeds requirements.</p> <p><u>Criteria #3 - Previous Experience</u> (Up to 20 points) – Preference will go to entities who are able to display a strong record of early-stage project planning and analysis that lead to development. Applications should demonstrate a commitment to engage in development projects by a record of past project involvement. Applications may bolster these criteria through strategic partnerships and detailing those partners’ records. Preference will go to applicants who can demonstrate a track record of:</p> <ul style="list-style-type: none"> <li>• Partnership and engagement with public entities for development and redevelopment.</li> <li>• Adherence to state and local development plans.</li> <li>• Dedication to principles of environmental sustainability.</li> <li>• Previous investments in business sector or innovation projects.</li> </ul> <p>Scoring measure:  0 - 5 points: Little or no demonstration of features  5 - 10 points: Features are present but show deficiencies.  11 - 15 points: Features are well demonstrated.  16 - 20 points: Significantly exceeds requirements.</p> <p><u>Criteria #4 - Community Engagement</u> (0 to 10 points) - Preference will go to applicants that are able to display efforts to engage local residents and businesses in planning efforts. Local interest may be shown in the form of both past and present support, whether formal (municipal resolutions) or informal (community discussion and engagement).</p> <p>Scoring measure:  1-5 points: Feature is present but shows deficiencies  5-7 points: Meets requirements  7-10 points: Significantly exceeds requirements</p> <p><u>Criteria #5 - Municipal Revitalization Index Score</u> (0 to 10 points) – The Municipal Revitalization Index (MRI) serves as the State’s official measure and ranking of municipal distress. The MRI ranks New Jersey’s municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality. Most recent MRI scores will be applied based on time of application submission and physical location of proposed project’s municipal host community.</p> <p>Scoring measure:  2 points: MRI Distress Score 30 – 34.9  4 points: MRI Distress Score 35 – 39.9  6 Points: MRI Distress Score 40 – 49.9  8 Points: MRI Distress Score 50 – 69.9  10 Points: MRI Distress Score 70 or higher</p>
<b>Grant Amounts</b>	Grant awards will be up to \$50,000

<b>Funding Disbursement</b>	<p>Grant disbursements by the Authority will only be made to the lead role entity. The lead role entity shall be responsible for assuring the compliance of any strategic partners and/or subcontractors with all terms and conditions of this application - and assumes the sole and absolute responsibility for any payments due to any municipal, county, or strategic partners.</p> <p>All Applicants who are successfully awarded a grant will follow a uniform disbursement schedule. The lead entity will receive 50% of the grant amount upon execution of grant agreement, and 25% upon completion and submission of a mid-way progress report, and 25% upon completion and submission of a final plan and final progress report. At a minimum, the progress reports must include:</p> <ul style="list-style-type: none"> <li>• Summary of funds expended to date, and</li> <li>• Narrative detailing milestones achieved and overall progress toward completion of final plan.</li> </ul>
<b>Reporting requirements</b>	<p>A monthly call with the Designated Authority Project Manager and the Grantee's assigned Account Manager or Back-Up Account Manager will be held monthly for the first three months of the grant term, up until the halfway point of the grant term.</p> <p>During and following that time, additional calls may be held on an as needed basis until the grant term has ended.</p> <p>At the end of the grant term, the awarded grantee must provide a copy of the final report to the Authority for review and public dissemination.</p>
<b>Fees</b>	<p>A non-refundable fee of \$ 1,000 shall accompany every application for Authority assistance.</p>

## Appendix B

New Jersey Asset Activation Planning Grant  
Scoring Summary

**Applicant #4 : Mount Holly Township (PROD-00306495)**

Criteria	Committee Average Score	max score
#1 Asset Impact	32.7	/40
#2 Project Purpose and Merits	16.3	/20
#3 Previous Experience	15.3	/20
#4 Community Engagement	7.3	/10
#5 MRI Index	6.0	/10

**Final Score 77.7 /100**

New Jersey Asset Activation Planning Grant  
Scoring Summary

**Applicant #5: RyArMo Productions (PROD-00306599)**

Criteria	Committee Average Score	max score
#1 Asset Impact	27.0	/40
#2 Project Purpose and Merits	13.0	/20
#3 Previous Experience	12.3	/20
#4 Community Engagement	5.3	/10
#5 MRI Index	10.0	/10

**Final Score 67.7 /100**

New Jersey Asset Activation Planning Grant  
Scoring Summary

**Applicant #6: Atlantic City (PROD-00308514)**

Criteria	Committee Average Score	max score
#1 Asset Impact	30.0	/40
#2 Project Purpose and Merits	14.3	/20
#3 Previous Experience	16.3	/20
#4 Community Engagement	4.0	/10
#5 MRI Index	10.0	/10

**Final Score 74.7 /100**

New Jersey Asset Activation Planning Grant  
Scoring Summary

**Applicant #7: Camden SSD (PROD-00308515)**

Criteria	Committee Average Score	max score
#1 Asset Impact	31.7	/40
#2 Project Purpose and Merits	13.7	/20
#3 Previous Experience	16.7	/20
#4 Community Engagement	8.3	/10
#5 MRI Index	10.0	/10

**Final Score 80.3 /100**

New Jersey Asset Activation Planning Grant  
Scoring Summary

**Applicant #8: Trenton Parking Authority (PROD-00308518)**

Criteria	Committee Average Score	max score
#1 Asset Impact	22.1	/40
#2 Project Purpose and Merits	17.0	/20
#3 Previous Experience	9.0	/20
#4 Community Engagement	7.3	/10
#5 MRI Index	10.0	/10
<b>Final Score</b>	<b>65.5</b>	<b>/100</b>

New Jersey Asset Activation Planning Grant  
Scoring Summary

**Applicant #9: Borough of Penns Grove (PROD-00308524)**

Criteria	Committee Average Score	max score
#1 Asset Impact	33.0	/40
#2 Project Purpose and Merits	16.0	/20
#3 Previous Experience	18.0	/20
#4 Community Engagement	7.7	/10
#5 MRI Index	10.0	/10
<b>Final Score</b>	<b>84.7</b>	<b>/100</b>



## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** Recommendation for Additional Funding for the Main Street Micro Business Loan

### **Summary:**

The Members are asked to approve:

1. The utilization of \$25,000,000 from the Fiscal Year 2022 (FY2022) Appropriations Act ("Act") known as Lending Partnerships to supplement the Main Street Micro Business Loan.
2. The utilization of a three percent (3%) administrative fee in the amount of \$750,000 from the appropriation to support the NJEDA costs to administer this additional funding dedicated to this product.

### **Background:**

On June 29, 2021, Governor Murphy signed the Fiscal Year 2022 (FY2022) Appropriations Act ("Act") into law. The Act allocates significant State funding for numerous strategic economic development investments to support key industries and continue to bolster recovery for NJ businesses to help assist with statewide growth. One of those investments was the designation of \$25 million to NJEDA to support existing lending products through a designation called Lending Partnerships. This funding allocation was transferred to NJEDA in June of 2022 and needs to be used prior to the end of the current Fiscal year (June 30, 2023). It can be used to support any existing loan program and NJ Treasury (OMB) was made aware of the use. Treasury approves of using these funds in FY 2023 since NJEDA didn't receive them until June 14, 2022. Due to the oversubscription of the Main Street Micro Business Loan, staff recommends that this \$25 million allocation be used to support that product.

The Main Street Recovery Finance Program was created under the Economic Recovery Act of 2020, and the Micro Business Loan is one of several products offered under the Main Street program. This product allows micro businesses, defined as businesses that have less than \$1.5 million in gross revenue and 10 or less full-time employees, to get up to \$50,000 in working capital. The loans have attractive rates and terms and a substantial forgiveness component after payments are made for 5 years.



On October 6, 2022, NJEDA launched the Main Street Micro Business Loan. It has been popular, taking in 1998 applications that requested a cumulative total of \$94 million in funding. The application window for this product has closed due to this high level of demand.

NJEDA has already approved the utilization of \$20 million for the Micro Business Loan from the Main Street Recovery Fund. However, due to the demand of this product, there is a need to supplement the existing \$20 million to ensure more micro businesses are able to receive this much needed support while they work through a recovery to maintain their operations. By adding \$25 million in funding to the Micro Business Loan from the Lending Partnerships budget appropriation, funding for other Main Street products from the Main Street Recovery Fund will not be impacted.

Exhibit A, attached, provides a summary of all Main Street Products, their funding levels and application activity to date.

**Recommendation:**

1. The utilization of \$25,000,000 from the Fiscal Year 2022 (FY2022) Appropriations Act (“Act”) known as Lending Partnerships to supplement the Main Street Micro Business Loan.
2. The utilization of a three percent (3%) administrative fee in the amount of \$750,000 from the appropriation to support the NJEDA costs to administer this additional funding dedicated to this product.



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Tim Sullivan, CEO

Prepared by: Christina Fuentes

Exhibit A – Main Street Micro Business Loan – Approved Memo/Specs

Exhibit B – Main Street Recovery Finance Program Product Summary



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** September 14, 2022

**SUBJECT:** Main Street Recovery Finance Program - Micro Business Loan – Product Revision

**Summary**

The Members are asked to approve a revision to the Main Street Recovery Finance Program - Micro Business Loan to remove the requirement for personal guarantees from all owners.

Staff would also like to clarify that the Authority's 3% administration fee to be taken from the Main Street Recovery Fund will be in addition to the loan product budget, so that the total funding available for this loan product will be \$20 million.

**Background**

At the November 10, 2021 Board meeting, the Members approved the creation of the Main Street Micro Business Loan, a pilot product funded through the Main Street Recovery Finance Program to provide support to New Jersey micro businesses. The Main Street Micro Business Loan offers financing of up to \$50,000 to for-profit and non-profit businesses, including home-based businesses, registered to do business in New Jersey (except for non-profit businesses that are not required to register), with a business location (including a home office) in New Jersey. Then, at the March 9, 2022 Board meeting, the Members approved a product revision to extend eligibility to a business operating for 6 months prior to the application date (as evidenced by their date formed).

**Product Revision**

The Main Street Micro Business Loan product, as approved by the Members in November 2021, and March 2022, includes the requirement to obtain personal guarantees from all applicant owners.

The original intent of this requirement was to ensure that NJEDA could pursue all owners for repayment in case there was a default on this loan product and the micro business was unable to

## EXHIBIT A

repay their loan. However, since this product has a substantial forgiveness component, and the borrower is only required to make payments from year 2 to the end of year 5 before they can apply for loan forgiveness, the need for these guarantees is not critical. The Economic Recovery Act, which established the Main Street Recovery Program, called for NJEDA to have the ability to offer forgivable loans, and the appropriated funds designated to this program allow for NJEDA to determine loan forgiveness parameters.

By removing the personal guarantee requirement, this program would mirror the federal program of Payment Protection Program (PPP), which also has a substantial forgivable component and didn't require personal guarantees. This revision would streamline the applicant process, and help to reduce the burden on micro business owners who already have limited access to capital during this stage of operations.

If the personal guarantee requirement from all owners is lifted, NJEDA would still need to enforce precautions in case of a potential default. If an entity defaults on their Main Street Micro Business Loan, then they will still need to attempt to cure their default by entering into and complying with a repayment plan with NJEDA to get in good standing with NJEDA. By not being in good standing with NJEDA an entity may not be eligible for other products offered by NJEDA.

This is the only product revision requested, and all other product details will remain as approved from the November 10, 2021, and March 9, 2022 Board meeting. However, in addition, Staff did want to clarify that since NJEDA has received additional appropriated funding through the budget the administration fee does not have to be a net from the Micro Business Loan product funding. The administration fee can be in addition to the \$20 million for this product, so there will be a total of \$20 million available to support eligible micro businesses.

### **Recommendation**

Approval is requested for a revision to the Main Street Recovery Finance Program – Micro Business Loan to remove the requirement to obtain personal guarantees from the owners of the micro business. Approval is also requested for Staff's clarification that the Authority's 3% administration fee to be taken from the Main Street Recovery Fund in addition to the product budget, so that the total funding available for the Main Street Micro Business Loan will be \$20 million.



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Tim Sullivan, CEO

### Attachments

Exhibit A – Main Street Micro Business Loan – Product Specifications – updated

## EXHIBIT A

<b>Main Street Micro Business Loan - Proposed Product Specifications</b>	
<b>Funding Source</b>	<p>Up to \$20,000,000 - Main Street Recovery Fund under Economic Recovery Act</p> <p>40% or \$8 million of total funding amount will be reserved for businesses located in an eligible NJ Opportunity Zone census tract.</p>
<b>Program Purpose</b>	<p>To provide low-cost financing to micro businesses in New Jersey.</p>
<b>Eligible Applicants</b>	<p>The following entities are eligible for financing under the Main Street Micro Business Loan:</p> <ul style="list-style-type: none"><li>• For-profit business, non-profit, and home-based businesses with a business location in New Jersey and that have been formed for at least six months prior to the date of application (as evidenced by their date of formation).</li><li>• No real estate or holding companies are eligible for this product.</li></ul> <p>All entities must meet the following requirements to be eligible under the Micro Business Loan:</p> <ul style="list-style-type: none"><li>• Must have annual gross revenues of \$1,500,000 or less according to the most recent federal tax return that the applicant was required to file.</li><li>• At time of application and three months prior to application entity cannot have more than 10 full-time employees in total. All employees must work in New Jersey as evidenced by WR-30 filings. There is no minimum employee number and sole proprietors are eligible.</li><li>• One loan per business entity (verified by the business's employer identification number, or EIN)</li><li>• Applicants and recipients of the original Micro Business Loan are eligible for this loan if they meet all eligibility requirements.</li></ul>

## EXHIBIT A

Main Street Micro Business Loan - Proposed Product Specifications	
<b>Eligible Applicants (continued)</b>	<ul style="list-style-type: none"> <li>• A business entity with multiple locations (that is, all locations operate under only one EIN) will be limited to one application under this new product (under the sole business entity).</li> <li>• Entity must provide a current Tax Clearance Certification prior to receiving EDA approval.</li> <li>• Applicant must be in substantial good standing with the Department of Labor and Department of Environmental Protection, with all decisions of substantial good standing at the discretion of the Commissioner of the Department of Labor.</li> <li>• Applicant must submit a completed legal debarment questionnaire and not be subject to disqualification based on that questionnaire.</li> </ul> <p>Businesses that are engaged in the following are not eligible for funding: the conduct or purveyance of "adult" (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi-nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or "lost-our-lease" or "going-out-of-business" or similar sale; sales by transient merchants, Christmas tree sales or other outdoor storage; or any activity constituting a nuisance.</p>
<b>Eligible Uses</b>	<ul style="list-style-type: none"> <li>• Future operating expenses, which may be held as working capital to fund such future operating expenses</li> <li>• Future inventory expenses</li> <li>• Future purchases of equipment as long as installation and construction costs do not exceed \$1,999.99</li> <li>• Home-based businesses cannot use loan, proceeds for any residential costs (i.e., home mortgage/lease payments)</li> </ul> <p>The following uses are <b>not</b> eligible uses:</p> <ul style="list-style-type: none"> <li>• Refinancing of existing debt</li> </ul>

## EXHIBIT A

<b>Main Street Micro Business Loan - Proposed Product Specifications</b>	
<b>Eligible Uses (continued)</b>	<ul style="list-style-type: none"> <li>• Personal, non-business obligations or costs incurred by related entities</li> <li>• Construction</li> <li>• Equipment requiring installation or construction costs in excess of \$1,999</li> <li>• Rolling stock - no cars, trucks, or vans can be purchased</li> </ul>
<b>Application Process and Board Approval/ Delegated Authority</b>	<ul style="list-style-type: none"> <li>• Applications will be reviewed on a rolling basis (first-come, first-served as applications are completed) until all funds are committed or program expires (3 years).</li> <li>• Delegation to Authority staff (Chief Community Development Officer, Managing Director - Underwriting and Community Development, Director of Small Business Services, Senior Vice President of Finance and Development, or Vice President of Business Operations) to approve individual applications to the Main Street Micro Business Loan in accordance with the terms set forth in the attached program specifications.</li> <li>• The delegated authority requested for approval also includes the delegated authority to decline for any decisions based solely on non-discretionary reasons. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval by a Chief Legal &amp; Strategic Affairs Officer, any Vice President, or the Director Legal Affairs.</li> <li>• Entities whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 10 business days). The Director of Legal Affairs will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will recommend a final administrative decision. For final appeal decisions on non-discretionary reasons, delegated authority is issued to the following staff: Chief Legal &amp; Strategic Affairs Officer, any Vice President, and Director of Legal Affairs.</li> </ul>

## EXHIBIT A

<b>Main Street Micro Business Loan - Proposed Product Specifications</b>	
<b>Underwriting/ Approval Criteria</b>	<ul style="list-style-type: none"> <li>• For for-profit businesses, the financial information that is provided will only be utilized to verify annual revenue to determine an applicant's eligibility criteria and ownership - it will not be used to determine the applicant's ability to repay this loan.</li> <li>• If otherwise eligible, staff will have a specialty hard credit report pulled specific for small businesses from CoreLogic Credco. At least one of the guarantors (owners) must have a credit score of 600 and above in at least one of the three data sources provided in the credit report: Equifax (Beacon 5.0), Experian (FICO II), and TransUnion (FICO Classic 04).</li> <li>• Non-profits will be required to meet a minimum Debt Service Coverage Ratio (DSCR) of 1.00x based on most recent tax return or financial statements.</li> </ul>
<b>Loan Amounts</b>	Up to \$50,000
<b>Rates &amp; Terms</b>	<ul style="list-style-type: none"> <li>• Standard 10-year term</li> <li>• The interest rate will be 2 percent for this program, set at approval.</li> <li>• No payments or interest will accrue during the first year after closing. Payments of principal and interest will begin at the beginning of year 2.</li> <li>• No payment term amendments are allowed prior to end of 5th year - all other modifications unrelated to the payment terms may be permitted throughout the term of the loan. If after the 5th year any payment terms are modified, the business will no longer be eligible for forgiveness.</li> <li>• At the end of year 5 the applicant may be eligible for the balance to be forgiven if the applicant (1) has made their loan payments as identified in their loan agreement with no</li> </ul>

## EXHIBIT A

<b>Main Street Micro Business Loan - Proposed Product Specifications</b>	
<b>Rates &amp; Terms (continued)</b>	<p>delinquency of more than 90 days, (2) has no current default, and (3) is still open and operating. The applicant will be required to submit a certification form to EDA certifying that they are open and operating, that they have used the loan for approved purposes only, and that they are not in default. This form will be included in the loan agreement and must be returned by the applicant 60 days prior to the end of the 5th year so a decision can be made by EDA. If the applicant does not submit the form by that date, they may still qualify for loan forgiveness, however loan payments will continue to be required until their certification form is supplied to and verified by EDA, which will reduce the balance EDA will forgive. Staff will verify the business is open and operating, which may be through an Internet search. If verified, EDA will forgive the remaining balance at the end of year 5 or later if the certification form is not received by the due date as described above. If an applicant is not eligible for forgiveness or does not request forgiveness and submit the required documentation, they are required to continue making their payments as defined in their loan agreement.</p>
<b>Lien/Collateral/Security</b>	<ul style="list-style-type: none"> <li>• No collateral or guarantees are required</li> <li>• Risk Rating: expected to be substandard. If the risk rating is found to support an override to a lower risk rating, then staff will do so to reflect the appropriate rating.</li> <li>• Applicants that default on their loan may not be eligible to qualify for other NJEDA products until their default is cured by establishing a payment plan with NJEDA.</li> </ul>
<b>Fees</b>	<p>Staff is requesting a partial waiver of EDA's standard application and closing fees because of the drastic negative impact of the pandemic on most micro businesses:</p> <ul style="list-style-type: none"> <li>• Application fee of \$100 (non-refundable) at time of application</li> </ul>



## EXHIBIT A

<b>Main Street Micro Business Loan - Proposed Product Specifications</b>	
<b>Fees (continued)</b>	<ul style="list-style-type: none"><li>• Closing fee: \$400</li></ul> <p>EDA will use a 3% administration fee that will be in addition to the \$20 million funding for administration to process applications and to cover other operating fees since fees to applicants are reduced.</p> <p>EDA will use an additional amount up to \$250,000 to hire temporary employees for processing if deemed necessary.</p>
<b>Disbursement</b>	Approved loan amount to be fully disbursed upon closing.

## New Jersey Economic Development Authority

### Main Street Recovery Finance Program Product Summary

Main Street Products	Board Approved	Approvals	Approved Amount	Balance of Funding	Applications Under Review	Under Review Amount	Board Approval	Product Launch
<b>Small Business Lease Grant</b>	\$ 20,000,000.00	323	\$ 7,901,815.02	\$ 12,098,184.98	106	\$ 19,569,000.01	August of 2021	10/20/2021
EDA Admin Fee	\$ 600,000.00							
Temp Funding	\$ 250,000.00							
<b>Total</b>	<b>\$ 20,850,000.00</b>							
<b>Small Business Improvement Grant</b>	\$ 45,000,000.00	996	\$ 24,654,788.63	\$ 20,345,211.37	1596	\$ 39,130,861.56	August of 2021	2/10/2022
EDA Admin Fee	\$ 1,350,000.00							
Temp Funding	\$ 750,000.00							
<b>Total</b>	<b>\$ 47,100,000.00</b>							
<b>Main Street Lenders Grant</b>	\$ 15,000,000.00	8	\$ 11,700,000.00	\$ 3,300,000.00	1	\$ 1,500,000.00	February of 2022	5/26/2022
EDA Admin Fee	\$ 450,000.00							
Temp Funding	\$ -							
<b>Total</b>	<b>\$ 15,450,000.00</b>							
<b>Main Street Micro Business Loan</b>	\$ 20,000,000.00	334	\$ 16,227,583.52	\$ 3,772,416.48	1576	\$ 74,227,886.78	September of 2022	10/6/2022
EDA Admin Fee	\$ 600,000.00							
Temp Funding	\$ 250,000.00							
<b>Total</b>	<b>\$ 20,850,000.00</b>							
<b>E-commerce Technical Assistance</b>	<b>\$ 4,000,000.00</b>						December of 2022	February
<b>Total of funds allocated to products</b>	<b>\$ 104,000,000.00</b>	<b>1661</b>	<b>\$ 60,484,187.17</b>	<b>\$ 39,515,812.83</b>	<b>3279</b>	<b>\$ 134,427,748.35</b>		

\*As of 1/23/23

<b>Total Main Street Appropriation</b>	<b>\$ 150,000,000.00</b>
Allocated to Programs	\$ 104,000,000.00
Allocated to EDA Admin Fees	\$ 3,000,000.00
Allocated to Temps	\$ 1,250,000.00
<b>Balance</b>	<b>\$ 41,750,000.00</b>



To: Members of the Authority

From: Tim Sullivan  
Chief Executive Officer

Date: February 8, 2023

RE: Policy for Measuring Economic Benefit of Transformative Commercial Projects.  
**Amendment to Net Benefit Test Requirement for Transformative Commercial Projects**

### **Request**

The Members are asked to approve a change to the Authority's approach to measuring the net positive economic benefits (NPEB) of Transformative Commercial Projects under the Authority's Aspire program.

This new test is tailored to, and recognizes, unique economic impacts associated with Transformative Commercial Projects' special economic significance in contrast to conventional commercial projects. This will allow the unique economic impacts to the State that are not part of the "regular" NPEB to be included as part of the calculation of the net benefits to the State.

Unique to Transformative Commercial Projects, beyond the direct, indirect, and induced economic benefits that are generated at the outset by project construction, and over the 10-year eligibility period (or, for a phased transformative project, for the period beginning with the first phase eligibility period and ending with the last phase eligibility period) by wages earned through project-related employment, EDA staff are asking for this policy update to reflect the following project-related specificities and/or categories of benefits when considering state net positive economic benefit calculations:

1. Project-specific job densities as provided by the applicant with sufficient supporting materials which would then be reviewed and corroborated or adjusted by a third-party consultant to NJEDA.
2. Measurable project-related economic benefits to State agencies and bodies that are substantially supported through State appropriations, such as public universities, certain public transit agencies, publicly owned health facilities, etc., if they are generated:

- a. Directly by such an entity's project activity (including, e.g., patient fees, intellectual property licensing fees, direct revenue generation, etc.); or
- b. By payments made to such an entity including for use of the entity's real property assets via lease or other payment method.

These additional impacts to the Net Benefit calculation of Transformative Commercial Project would be unique to this category of project. Point one above is recommended because of the substantial impact of unique uses included in Transformative Commercial Projects as evidenced by passing the test of special economic importance. The second point above is included because, for state budget-supported entities, these benefits would also benefit the State by reducing the need for State revenues for the particular State agency or body.

As required by the Aspire statute and rules, a commercial project is a Transformative Commercial Project if the project:

1. Includes a minimum investment of \$100 million;
2. Includes renovation or construction of more than 500,000 square feet of office or industrial space, or 250,000 square feet of film production space;
3. Demonstrates it has special economic importance to the State and that the project creates modern facilities that enhance the State's competitiveness in attracting targeted industries, as set forth in the Aspire program rules<sup>1</sup>; and
4. Leverages the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets, as set forth in the Aspire program rules<sup>2</sup>.

Only after satisfying the four criteria above would a project qualify as a Transformative Commercial Project and then be subject to the NPEB test as recommended in this memo.

### **Background – Aspire Rules versus Benefit Measurement Methodology**

Like its predecessor program ERG, and like its sibling programs Emerge and Offshore Wind under the Economic Recovery Act, the Aspire program has procedures in place to ensure fiscal prudence of tax credits awarded to program applicants. The NPEB is one of these measures (although not applied to residential projects or to certain health care or food delivery sources that are components of commercial projects).

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<sup>1</sup>To do so, an applicant must satisfy this requirement by meeting two criteria. Except for projects with 250,000 square feet related to film production, the first criterion is either the creation of at least 500 new full-time jobs or the substantial renovation of a vacant commercial building. The second criterion is to demonstrate that the project provides opportunities to leverage leadership in a high-priority targeted industry, for example, where the developer is making an industry leading investment in a new technology or high-growth sub-industry or catalyzing a new sub-industry or industry-cluster within the State

<sup>2</sup> An applicant can demonstrate this leveraging of assets if a third-party prepared market or feasibility study explains how the project benefits from any such State asset or if the developer has negotiated an agreement with the entity responsible for the asset that benefits the project, its tenants, or occupants.

As they relate to measuring NPEBs, Aspire program rules specify that:

- Benefits must be measured over the 10-year Aspire eligibility period (or, for a phased transformative project, for the period beginning with the first phase eligibility period and ending with the last phase eligibility period), plus benefits associated with project construction (19:31-23.6 (c))
- The award of Aspire tax credits will yield a NPEB to the State of at least 150% for a project in a government-restricted municipality, and at least 185 percent anywhere else (19:31-23.6 (c)); and
- Average, rather than project-specific, wages will be used to calculate employment-related economic benefits (19:31-23.6 (d)).

Of note, although the program rules do not establish precisely how NPEB will be calculated, the November 2021 Board memo provides some specificity about how EDA staff will evaluate commercial Aspire project benefits, and establishes an approach based on an unvarying measurement process and a transparent, replicable benefit-measurement approach. Key elements of this methodology include:

- Use of the IMPLAN regional input-output modeling tool;
- Use of standardized employment densities for each proposed land use type to estimate total employment; and
- Inclusion of local tax benefits that generally serve to reduce State funding obligations.

The underlying motivation for this policy is to ensure predictability and transparency in the marketplace about the way net positive economic benefit tests for commercial aspire projects will be measured.

As noted herein, this proposal now includes changing from standard employment densities to project specific densities and the addition of certain net benefits specific to Transformative Commercial Projects outside the IMPLAN modeling tool. Both updates are recommended in order to recognize the special economic importance of this category of project and capture a fuller economic and state fiscal impact in our analysis.

### **Motivation for Policy Update**

There is a growing recognition by staff that the NPEB methodology presented in November 2021 may lead to the underestimation of economic benefits generated by Transformative Commercial Projects.

Standard economic impacts that are generated by conventional commercial projects are comprehensively reflected and incorporated in regional economic input-output models such as IMPLAN. Staff believes this sufficient for “regular” Aspire commercial projects.

However, Transformative Commercial Projects – which are determined by meeting significant project scope and project cost thresholds as well as by a test of special economic significance as outlined earlier in this memo – are by definition unique and without precedent. As a result, generic impact-measurement methodologies will fail to comprehensively reflect the benefits that such projects can be shown to generate.

Thus, applying the “regular” Aspire NPEB methodology would yield a lower estimate of benefit to the State compared to reality for Transformative Commercial Projects. Tax credit award levels might then not be sufficient to fund the project which is likely to have a large positive economic impact to the State.

Accordingly, EDA staff proposes an updated NPEB methodology that recognizes the unique project impact characteristics of those specific Transformative Commercial Projects as detailed herein as compared with more conventional commercial applications for Aspire program support.

### **Implementation**

Recognizing the potential for the present NPEB approach to under-reflect the benefits of Transformative Commercial Projects, EDA staff are proposing a modification of the current approach to have the following programmatic features:

1. Staff will continue to run the Project NPEB using the IMPLAN model for all commercial Aspire projects.
2. If the applicant meets the prescribed Commercial Transformative Project scenario as detailed above, the applicant may submit quantitative analysis of the additional net benefit scenarios as allowed. The quantitative detail on the historical experience must be submitted for consideration.
3. EDA staff shall validate and diligence the project-related specific estimates provided by applicants by using in-house resources or resources of outside, retained experts (e.g., economics consultants such as those currently retained for validation of project economics).
4. To the extent that the developer’s analysis is validated, staff will include the additional benefit. Based on the nature of these new project-related specifics, EDA staff will also recommend conditions to such projects to ensure that the unique characteristics of the project that results in the additional net economic benefits remain during the eligibility period.

### **Net Benefit in Other EDA Programs**

The net benefit test approach is built into three programs under the Economic Recovery Act (ERA): Aspire, Emerge, and Offshore Wind Tax Credit.

As with prior incentive programs, such as Grow NJ and ERG, a key statutory requirement for these ERA programs is that the Authority must ensure fiscal prudence by determining that the award of tax credits creates a net positive economic benefit to the State.

As outlined in Board-approved materials for each of these programs, the Authority has transitioned from an approach relying on a proprietary, third party-developed model managed largely in-house to a more consistent and transparent approach reliant on an external third party-managed model that would not need to be updated or maintained by the NJEDA. Specifically, the Authority has moved to use the IMPLAN model to calculate the expected net economic benefit from projects awarded under each of these ERA programs.

Neither the Emerge nor the Offshore Wind Tax Credit program contains a transformative program component. In addition, real estate projects lack a material factor test and, more generally, the real estate incentive economics environment differs fundamentally from the job retention, attraction, and creation policy setting. For these reasons, Authority staff believe the net benefit calculation approach proposed for the subset of Transformative Commercial Projects in the Aspire program does not have implications for the net benefit calculus test as applied in either the Emerge or the Offshore Wind program.

### **Recommendation**

Approve a modification to the Net Positive Economic Benefit (NPEB) measurement methodology that is tailored to, and recognizes, the unique economic impacts associated with projects that can meet the Transformative Commercial Project's test and the specific criteria outlined herein of special economic significance relative to more conventional commercial projects.

The modification adds the following project-related specificities and/or categories of benefits:

1. Project-specific job densities as provided by the applicant with sufficient supporting materials which would then be reviewed and corroborated or adjusted by a third-party consultant to NJEDA.
2. Measurable project-related economic benefits to State agencies and bodies that are substantially supported through State appropriations, such as public universities, certain public transit agencies, publicly owned health facilities, etc., if they are generated:
  - a. Directly by such an entity's project activity (including, e.g., patient fees, intellectual property licensing fees, direct revenue generation, etc.); or
  - b. By payments made to such an entity including for use of the entity's real property assets via lease or other payment method.



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Tim Sullivan, CEO

Attachment: Aspire Net Benefit Test / Transformative Commercial Project Special Calculation

A rubric illustrating EDA's proposed approach to establishing project transformative status, special economic importance, unique economic impacts beyond standard benefit assessment methodology, and forecasted state-supported agency fiscal impacts



## Transformative Commercial Project Net Positive Economic Benefit Model Workbook

Transformative Commercial Project				
	Is the investment over \$100,000,000			
	Is the project more than 500,000 square feet of office or industrial space or is it more than 250,000 square feet of film production			
Special Economic Significance				
	How does the project demonstrate Special Economic Importance to the State?			
	How does the project create modern facilities that enhance the State's competitiveness in attracting targeted industries?			
	How does the project leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets?			
Unique Economic Impacts				
Project-Specific Job Densities				
	Did the applicant provide project-specific job densities with supporting material?			
	Did EDA staff and a third-party consultant agree with the conclusions?			
State Agency Impact				
	Which state agencies are expected to see increased revenue from the project?			
	How will the state agencies see increased revenue?	Type of revenue	Amount Projected	
		Lease Payments		

		Patient Fees		
		Licensing		
		Other:		

SAMPLE



To: Members of the Authority

From: Tim Sullivan  
Chief Executive Officer

Date: February 8, 2023

RE: Aspire Program- Product #305785  
**NJ Innovation Associates Urban Renewal LLC (“Applicant”)**

**Request**

The Members are asked to approve the application of NJ Innovation Associates Urban Renewal LLC (“Applicant”) for the Transformative Project located in New Brunswick, New Jersey, Middlesex County (the “Project”), for the issuance of tax credits to the Aspire program of the Authority as set forth in the New Jersey Economic Recovery Act of 2020 (“ERA”), P.L. 2020, c. 156, as amended by P.L. 2021 c.160 and P.L. 2022, c.46 (N.J.S.A. 34:1B-322, et seq).

As further detailed herein, the recommended approval is to award up to 40% of project costs, not to exceed \$271,186,902 in Aspire tax credits based upon the financing gap illustrated by the project’s capital stack.

**Aspire Program Background**

As created by the New Jersey Economic Recovery Act of 2020, N.J.S.A. 34:1B-322, et seq, the Aspire Program statute provides that the “authority shall administer the program to encourage redevelopment projects through the provision of incentive awards to reimburse developers for certain project financing gap costs.” N.J.S.A. 34:1B-324. The Authority has established program rules. N.J.A.C. 19:31-23.1, et seq. Applications to the Aspire Program are evaluated to determine eligibility in accordance with the statute and the program rules. Per the statute at N.J.S.A. 34:1B-325 (Eligibility for incentive award for redevelopment project) and the program rules at N.J.A.C. 19:31-23.3 (Eligibility criteria), developers must demonstrate (1) that without the incentive award, the redevelopment project is not economically feasible, (2) that a project financing gap exists after the developer has contributed an equity participation of at least 20 percent of the total development cost, (3) the project results in a net positive benefit to the State, and (4) the project meets specific cost thresholds, depending on where the project is located.

The Aspire Program provides tax credits for ten years (the “eligibility period”). N.J.S.A. 34:1B-323 (Definitions). The amount of tax credits a real estate development project (referred to in the statute as a “redevelopment project,” N.J.S.A. 34:1B-323) receives is generally a percentage of the project’s costs and is subject to a statutory cap determined by project location and other aspects of each project.

### **Project Description**

This Project represents the first phase of the New Jersey Health + Life Science Exchange (“HELIX”) which is being developed in downtown New Brunswick. Known as H-1, the Project entails the construction and development of a 12-story, 573,400 square foot building consisting of three major components: the New Jersey Innovation HUB providing space for innovation and startups, new research laboratories for Rutgers University’s translational research effort, and a new medical education facility for the Rutgers Robert Wood Johnson Medical School. The project will also include an outdoor “Paseo” that will serve as a public space connecting the Rutgers campus, the Robert Wood Johnson University Hospital District, the New Brunswick Train Station and the Government and Arts District in downtown New Brunswick. HELIX is expected to include additional phases not encompassed in the Project, entailing additional laboratory and office space as well as a residential component.

The City of New Brunswick has approved a redevelopment plan for HELIX to be developed on a 3.6-acre site, which includes land situated on the southeast side of Albany Street, bounded by Kirkpatrick Street, Paterson Street, and Spring Street, with the parcels included in the plan consisting of Block 17.01, Lots 1.02 and 1.03, Block 17.02, Lot 1.04, and Block 18, Lots 1, 2, 3, 8, 9 and 10. H-1 is being developed on a 1.2-acre parcel now known as Block 17.01, Lot 1.03; with these parcels consisting of Block 17, Lot 1.01; Block 18, Lots 1, 2, 3, 4.01, 8, 9, 10, 11.02, and 19.01, and it will ultimately be owned by NJ Innovation Associates Urban Renewal, LLC (“NJIA”) a special purpose entity of which New Brunswick Development Corporation (“Devco”) is the sole member. NJIA has been designated as the Redeveloper of the Project by the City’s redevelopment entity, the New Brunswick Housing Authority, and the Project is subject to an executed Redevelopment Agreement. H-1 received final site plan approval from the City of New Brunswick Planning Board as of July 2022.

### **Project Ownership**

The New Brunswick Parking Authority (“NBPA”) currently owns the property that will be the site of the Project and on December 12, 2021, executed a Purchase Sale Agreement (“PSA”) with Downtown HUB Associates LLC (“Downtown HUB”), of which Devco is the managing member, with an initial payment of \$6 million made towards the overall purchase price of \$22.8 million. The applicant anticipates that NJIA will receive an assignment from Downtown HUB and will then acquire property directly with the payment of the balance at financial closing.

Approved by the Board on December 8, 2022 as a Strategic Innovation Center investment, the NJEDA is a member of Downtown HUB and made an investment of \$10 million, with \$6

million of those funds used to make the initial payment by Downtown HUB to NBPA and \$4 million to fund site preparation and related costs to support H-1. The Downtown HUB Operating Agreement provides that the \$10 million will be reimbursed to NJEDA by applying the amount against NJEDA's base rental payments as a tenant at the facility by way of creation of a sinking fund that will be used to pay NJEDA costs. The final terms of any lease will ultimately be subject to a separate review and approval by the NJEDA Board at a later date.

As previously noted, NJ Innovation Associates Urban Renewal, LLC is the applicant entity to be awarded Aspire tax credits and is a special purpose entity of which New Brunswick Development Corporation is the sole member. To date, NJIA either directly or by way of Downtown HUB has facilitated, coordinated, and administered all planning, design development, finance, and construction activity necessary for the development and construction of H-1 and, as indicated previously, is the designated Redeveloper of the Project by New Brunswick.

Additionally, NJIA either directly or by way of Downtown HUB is coordinating ongoing infrastructure improvements that include new roadway and intersection upgrades together with utility realignment and replacement. NJIA is responsible for obtaining all governmental approvals as well as the negotiation of necessary parking agreements with NBPA. NJIA will facilitate and coordinate the financing of the project through the Middlesex County Improvement Authority ("MCIA"). During construction, and for at least 30 years after completion, the property, and the Project, including all improvements, will be owned in their entirety by NJIA. NJIA will also be responsible for the negotiation and execution of a 30-year financial agreement under New Jersey's Payment in Lieu of Taxes ("PILOT") program, N.J.S.A 40A:20-1, et seq, with the City of New Brunswick for the building.

**Lead Development Entity:** Devco was established in 1976 as a nonprofit development company to initiate redevelopment projects and to serve as the vehicle for public and private investment in the City of New Brunswick. Since that time, Devco has overseen and managed over \$3.5 billion of redevelopment activity including the development of residential, commercial, office, and other projects in order to aid in the city's economic revitalization. Key staff from Devco involved in the Project includes Christopher Paladino - President, Sarah Clarke - Executive Vice President, Merissa Buczny - Vice President; each having more than 20 years of experience in real estate development.

Devco has been the lead developer for several other projects that have received assistance from the NJEDA including: 1] Transit Village Associates - a \$76 million Urban Transit Hub tax credit awarded in January of 2010 for a \$314 million mixed-use project in New Brunswick in conjunction with Rutgers University; 2] College Avenue Redevelopment Associates, LLC for a \$33 million Urban Transit Hub residential tax credit awarded in April of 2013 for a \$298 million mixed-use project in New Brunswick in conjunction with Rutgers University; 3) Washington Street University Housing Urban Renewal Associates, LLC - a \$23 million RES ERG tax credit awarded in February of 2014 for a \$95 million mixed-use project in Newark in conjunction with Rutgers University; 4] Island Campus Redevelopment Associates, LLC for a \$38.4 million RES ERG for a \$125 million academic housing project and a \$29.9 RES ERG for a \$35 million

parking project in Atlantic City; and 5] Cultural Center Redevelopment Associates Urban Renewal, LLC - a \$40 million RES ERG tax credit awarded in June of 2017 for a \$152 million mixed-use project in New Brunswick.

**Architect:** Design for the Project has been undertaken by Elkus Manfredi Architects, a full-service design firm providing architecture, master planning, urban design, interior architecture, and workplace consulting. The firm was founded in 1988 by Howard F. Elkus, FAIA, RIBA, LEED AP; and David P. Manfredi, FAIA, LEED AP.

Elkus Manfredi has experience in a wide range of industries with a portfolio of completed work including a number of highly acclaimed and award-winning projects: The Paramount Center at Emerson College; InterContinental Boston Hotel & Residences at 500 Atlantic Avenue; The Eli and Edythe L. Broad Institute of MIT and Harvard; Liberty Wharf on Boston's Waterfront; The Peninsula Chicago hotel and retail base at 730 North Michigan Avenue; The Grove in Los Angeles; Neiman Marcus in Natick, Massachusetts; the retail podium of Time Warner Center in New York City; Harvard University Graduate Commons; South Campus Gateway at The Ohio State University; and State Street Financial Center at One Lincoln Street in Boston.

**General Contractor:** A contract has not yet been awarded to a general contractor with the expectation that this is finalized shortly following the award of tax credits in conjunction with the financial closing.

### **Project Details**

As noted previously, the 573,400 square foot project consists of 3 primary components described in detail below:

**The New Jersey Innovation HUB** (“the HUB”) is the cornerstone of the overall H-1 project totaling 128,957 square feet including the assignment of support and mechanical space. The HUB will consist of 59,125 square feet of incubator space. The incubator space is designed to include 364 wet lab benches, each having access to lab support space and equipment including chemical storage, biosafety cabinets, refrigerators, freezers, fume hoods, centrifuges, vibration tables, sequencers, mass spectrometer, microscopes, general protocol incubators and other shared equipment. The HUB will be one of few incubator or accelerator facilities in the country to provide access to vivarium facilities in addition to other advanced research equipment. Dry lab stations will be available with access to appropriate power source and computer access to facilitate dry bench research.

The remaining 69,832 square feet of the HUB will be dedicated to anchor tenants (“Core Partners”) including Rutgers University, Hackensack Meridian Health, RWJ Barnabas Health, and Middlesex County. Additional committed tenants include Princeton University and DEVCO. While NJEDA agreed to reimbursement of the \$10 million Strategic Innovation Center investment as rent payment, the determination by NJEDA as to whether to become a Core Partner and or a regular tenant is subject to a later review and approval by the Board. Rutgers

and Princeton together account for more than \$1 billion annually in sponsored research, while RWJ Barnabas Health and Hackensack Meridian Health have a combined network of 31 hospitals and 16,000 physicians treating 6 million patients annually. Middlesex County has established a partnership with Rutgers' Center for Infrastructure and Transportation ("CAIT") in the development of DataCity, which is an initiative in autonomous vehicles and smart mobility that will also be headquartered at the HUB.

The building design and business model have been modeled on other successful incubators and accelerators including Lab Central (Cambridge, MA), Cambridge Innovation Center, Pennovation (Philadelphia, PA), and New Labs (Brooklyn, NY). In addition to providing access to state-of-the-art facilities, the HUB's management model incorporates programming with the venture community and other professionals vital to the start-up eco-system including discussions led by affiliates of the partners as well as by industry and academic experts, opportunities for networking, and other activities such as consulting, legal support, access to start up talent. The overall space of the HUB will include open connecting stairs and communal spaces, with collaborative areas including white-boards and seating designed to encourage and facilitate the sharing of ideas, support, and cooperation between incubator members and Core Partners.

**Translational Research Facility** component of the project totals 248,555 square feet including the assignment of support and mechanical space and represents the largest single investment in Life Sciences Translational Research in New Jersey history. Rutgers intends to populate the Translational Research facility with 80 Principal Investigators and their research teams. Rutgers has committed \$270 million to recruit and retain new Principal Investigators over the next 7 years.

The facility will include wet labs, lab support, dry labs, offices, conference space, and a vivarium. The wet lab program will include 592 wet lab benches and write up desks. The dry-lab component will include support for 129 dry lab stations. The lab support will include a core vector facility that will allow for the production of lentivirus and adenovirus for clinical research as well as for the safe production of biological products (germ transfer vectors) that facilitate the transfer of specific genes into either normal or aberrant cells. The lab support will also include tissue culture rooms, cold rooms, fume hoods, freezer equipment, imaging, general protocol incubators, nitrogen drawers, centrifuges, advanced microscope technology, mass spectrometers, sequencers, biosafety storage, chemical storage, and lab safety storage. The vivarium will include cage racks, rack washers, tunnel washers, waste bedding disposal systems, office space, procedure, and imaging rooms.

**Rutgers Robert Wood Johnson Medical School** will entail 180,142 square feet including the assignment of support and mechanical space and will provide state of the art pedagogical spaces, modern simulation, and skills and anatomy labs. The Medical School's current facility is in an isolated suburban location in Piscataway, New Jersey in a building that has pedagogical,

accessibility, and research capability challenges because it is not adjacent to a major medical campus allowing for exposure to clinical operations. The new facility will provide immediate access to the Robert Wood Johnson University Hospital, the Rutgers Cancer Institute of New Jersey, the Clinical Academic Building, and the Eric B. Chandler Health Center with them all within a few blocks of H-1.

The Medical School is incorporated on 4 floors of H-1 and includes a two-story forum that can be used as stadium seating for up to 200 persons for special events. The Medical School facility will have 3 primary teaching spaces each with significant technology focused on the M-1 and M-2 educational experience. There will be two 200-person traditional classroom spaces that can be combined for a joint lecture with a capacity of 400 that can also be used for school events. The facility will also include state-of-the-art spaces for a simulation lab, a skills lab, and a gross anatomy lab. The Simulation Lab will include a patient room, medical ICU, and operating rooms and will include realistic looking simulation rooms, mannequins, and equipment allowing for training of both students and healthcare professionals without risk of patient harm. The Skills Lab will offer specific practical skills training that provides medical students with the necessary basic skills for later clinical activity by the means of models, phantoms, and fellow students or with standardized patients. The gross anatomy lab will include 30 refrigerated tables, with each table including monitors and overhead surgical lights to project to other monitors in the lab.

**Public Spaces** within H-1 will include the Innovation Hall, which is a 15,476 square foot European-style food hall adjoining the previously described outdoor Paseo, with curated events to be hosted year-round at both. The Maker Space is also found as part of the ground floor public space, featuring equipment such as 3D printers, 3D scanners, CNC milling machines, multimeters, PCB Printers, digital cameras, traditional wood and metal shop equipment, and sewing machines in an environment that combines high- and low-tech fabrication. The Maker Space will provide students, faculty, researchers, and entrepreneurs with the tools and resources to build and prototype.

### **Transformative Project**

The Aspire statute provides for a category of redevelopment projects that may be either residential or commercial projects, which are referred to as "transformative projects." N.J.S.A. 34:1B-333 (Transformative project). Such projects must meet certain significant criteria and can receive tax credit awards up to the lesser of \$350 million or 40 percent of project costs.

For any project to be transformative it must have project costs that are at a minimum \$100 million. In addition, the project square footage, exclusive of any parking component must be at least 500,000 new or substantially renovated industrial, commercial, or residential space; or at least 250,000 of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production. A transformative project shall not include a redevelopment project at which more than 50 percent of the premises is occupied by one or more



businesses engaged in final point of sale retail. H-1 is a predominantly commercial project larger than 500,000 square feet that is not predominantly final point of sale retail and has project costs greater than \$100 million, as such it satisfies these eligibility criteria to be a commercial transformative project. N.J.S.A. 34:1B-333(a).

For a commercial project meeting the above criteria in size, it must also meet the following special economic importance criteria to be considered transformative:

1. Either creates 500 new full-time jobs, which shall be demonstrated by determining the anticipated employee occupancy based on the regional averages for employment density for the type of use or uses at the redevelopment project or involve the substantial renovation of a vacant commercial building; and
  2. Provides opportunities to leverage leadership in a high-priority targeted industry as demonstrated by factors including, but not limited to, being undertaken by a developer that is making an industry leading investment in a new technology or high-growth sub-industry or catalyzing a new sub-industry or industry-cluster within the State.
- N.J.A.C. 19:31-23.11.

Anticipated employee occupancy at the project based on the regional averages for employment density for the type of uses at the project which include laboratory, office, higher education, and restaurants are expected to produce in excess of 500 new full-time jobs. The project entails a combination of Rutgers' multi-year commitment to invest \$270 million in the recruitment of Principal Investigators, the largest capital investment in translational research facilities in the State's history, the significant expansion of the State's leading medical school in the context of providing access to significantly greater clinical research opportunities, and the creation of a purpose built incubator space to house resultant start-up businesses with laboratory facilities providing programmatic support. The Project can be characterized as an industry leading investment in the life sciences sector enabling the State to expand its leadership position in this high priority targeted industry, with the NJEDA having previously identified life sciences as a high priority targeted industry by policy. As such the project satisfies these eligibility criteria.

Lastly, all transformative projects must leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets, in attracting or retaining both employers and skilled workers generally or in targeted industries by providing employment or housing. N.J.A.C. 19:31-23.11. The Project leverages mass transit assets by being located immediately adjacent to the New Brunswick train station which has both NJ Transit and Amtrak rail service. Additionally, the Project relies on partnerships with numerous institutions of higher education in the State. The Project will expand opportunities for researchers and entrepreneurs in the State and will serve to meaningfully improve the State's ability to attract workers in these sectors.

Additionally, the expansion of the State’s leading medical school in a location adjacent to the clinical and practical experiences previously described is expected to greatly improve the State’s ability to retain physicians. While many states across the country are suffering a physician shortage, according to the U.S. Department of Health and Human Services, New Jersey is projected to have the worst primary care physician shortage of any Northeastern state by 2025, with the State falling about 1,000 physicians short of the number required. The Project satisfies these eligibility criteria.

### **Project Uses and Sources**

The Applicant proposes the following uses for the Project:

<b>Uses</b>	<b>Total Development Costs</b>	<b>Project Costs</b>
Acquisition of land and building	\$22,936,000	\$0
Hard construction costs including fit out	\$626,172,374	\$626,172,374
Professional services	\$49,944,180	\$41,205,343
Financing and other soft costs	\$38,709,816	\$27,631,674
Developer fee	\$16,125,300	\$0
<b>Total</b>	<b>\$753,887,670</b>	<b>\$695,009,390</b>

Project costs are the costs included in total development costs that are used for sizing the tax credit. By statute, eligible project costs exclude land purchases, marketing and startup costs associated with programming at the HUB, NJEDA fees, and developer fee(s). Additionally, professional services costs incurred prior to application are excluded by Rules.

The \$10 million previously provided by NJEDA to Downtown HUB Associates LLC are not included in the project costs used to size the tax credit, as they primarily funded the purchase of land and soft costs incurred prior to application. Also, ultimately these costs will not be incurred directly by NJIA and only as a credit to Downtown HUB Associates LLC at financial closing of the land purchase.

The Applicant proposes the following Sources for the Project:

<b>Sources</b>	<b>Type</b>	<b>Amount</b>
Tax Exempt Bonds <sub>1</sub>	Permanent financing	\$ 399,896,011
Taxable Bonds <sub>1</sub>	Permanent financing	\$ 47,723,317
Tax Credit Bonds <sub>1,2</sub>	Tax credit bridge financing	\$ 46,268,342
Cash <sub>3</sub>	Equity	\$260,000,000
	<b>Total</b>	<b>\$753,887,670</b>

1. Project will be financed with several discrete series of tax-exempt and taxable lease revenue bonds that will be utilized to fund loan facilities for the project. The bonds will be issued by the Middlesex County Improvement Authority (“MCIA”). The Applicant has provided an executed Letter of Intent from CITIGROUP GLOBAL MARKETS INC. expressing a commitment to serve as underwriter in the marketing of these bonds and has provided an accompanying pricing analysis that supports costs of capital assumed in the applicant’s financial modeling of the Project. Additionally, the applicant has provided draft leases and Project Support Agreements from Core Partners including Rutgers that will all be relied upon when these lease revenue bonds are put forth for public offering. Core Partners are likely to guarantee any debt service resulting from operating short falls at the incubator piece of the Innovation HUB exclusive to debt allocated to this portion of the project. NJEDA’s financial commitments including any potential lease payments and debt service guarantees beyond the \$10 million previously provided to Downtown HUB Associates LLC would be contingent upon a subsequent NJEDA Board approval.
2. Applicant has provided an executed Letter of Intent with Citibank, NA indicating a willingness to purchase the expected Aspire tax credits associated with the Project and evidencing the purchase price(s) of \$0.90 assumed in the Applicant’s financial modeling of the Project. The tax credits are allocated proportionally to the Rutgers only pieces and the HUB respectively. As such, the Rutgers only pieces represent \$210.1 million in Aspire tax credits with sale proceeds being retained as project income and representing \$18.9 million annually based on an Aspire tax credit sale price of \$.9. The Innovation HUB is allocated \$61 million in tax credits with \$5.5 million available annually based upon the Aspire tax credit sale price of \$0.90 that will service bridge financing used to put equity into the project during construction and paid back over the 10-year eligibility period. The \$ 46,268,342 in Tax Credit Bonds above represents the funds available to the project from the HUB Aspire tax credit allocation including capitalized interest on the loan during construction and other costs of issuance.
3. Applicant has provided a Letter of Intent from Rutgers’ Executive Vice President and Chief Operating Officer Antonio Calcado indicating Rutgers’ commitment to pledge the \$260 million in equity to NJIA and that the equity and a Master Lease Agreement supporting the development of the project are scheduled to be considered for approval at the February 28, 2023 meeting of its Board of Governors. At the time of the financial closing for the Project, NJIA will enter into a Master Lease with Rutgers University (“Rutgers Master Lease”) for the Translational Research Facility (which includes the Vivarium) together with the Rutgers RWJ Medical School, for a 30-year fixed term. Rutgers will have as its exclusive option the ability to purchase the air right estates included within the Rutgers Master Lease for \$1.00 at the expiration of the lease. Additionally, Rutgers will have the option to acquire the Innovation HUB after 30 years for \$1.00, provided that Rutgers reimburses any operational guaranty amounts previously paid on the Innovation HUB, if any, by the Core Partners.

### **Developer Contributed Equity**

Based on the equity requirement in the Aspire Rules of 20% of total development (N.J.A.C. 19:31-23.3) costs for a transformative project not in a government-restricted municipality, the required equity in this Project equates to \$150,777,534. Equity consists of cash of \$260,000,000 pledged to the applicant by Rutgers University and satisfies this program requirement.

### **Statutory Aspire Award Cap**

This is a transformative project subject to an Aspire tax credit cap of the lesser of 40 percent of project costs or \$350 million. N.J.A.C. 19:31-23.11. Total development costs of the project (“TDC”) are estimated to be \$753,887,670 with project costs per the Aspire Program Rules estimated to be \$695,009,390. As such the Project is eligible for an Aspire tax credit not to exceed \$278,003,756, which is the lesser of \$350 million and 40 percent of the project costs, and the Applicant has requested a tax credit award of \$271,186,902. This is the maximum potential award and will subsequently be subject to caps related to the project financing gap and the relevant state fiscal impact analysis.

### **Financing Gap Analysis**

NJEDA staff has reviewed the application to determine if there is a shortfall in the project development economics pertaining to the return on the investment for the developer and their ability to attract the required investment for this Project. Staff analyzed the pro forma and projections of the Project and compared the returns with and without the Aspire award over 13 years. The Applicant will utilize a 36-month timeframe to build and stabilize the Project and assumes a 10-year cash flow with an assumed exit through the sale of the Project in year 14 for purposes of calculating the Project IRR.

<b>IRR without Aspire tax credit</b>	2.29%
<b>IRR with Aspire tax credit</b>	9.28%

As indicated in the chart above, the Project would not otherwise be completed without the benefit of the Aspire tax credit. With the benefit of the Aspire tax credit, the Equity IRR is 9.28%, which is below the Hurdle Rate provided by EDA's contracted consultant Jones Lang LaSalle (“JLL”) following an analysis of comparable life sciences, incubator, and educational facilities, which indicates a maximum IRR of 15% for a comparable project with life science, school classroom, and related incubator space uses in New Brunswick, NJ.

### **Net Positive Benefit Analysis:**

As directed by the Aspire statute the NJEDA shall conduct a fiscal impact analysis to determine and ensure that the overall public assistance provided to an Aspire awarded project will result in a net positive economic benefit to the State. Exceptions to the requirement are capital investment for a residential project, a capital investment for a food delivery source, or a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services that is located in a municipality with a Municipal Revitalization Index distress score of

at least 50 lacking adequate access. N.J.S.A. 34:1B-333. The Project does not have any of the exempted uses and, therefore, the entire award and capital investment are subject to the net positive benefit analysis.

The Aspire rules set the required net positive economic benefit to the State at 185 percent of the award of tax credits for projects, unless it is located in a government-restricted municipality, in which case it is 150 percent. N.J.A.C. 19:31-23.6 (Financing gap and fiscal impact analysis). The Project is not located in a government-restricted municipality and thus the award is subject to the 185 percent threshold. The Aspire statute directs the authority to discount the Aspire tax credit award issued over the 10-years from the perspective of net present value in the same fashion as which it discounts the estimated ongoing benefits to the State over the same time period. N.J.S.A. 34:1B-333.

Based upon the policy outlined in the Board Memo seeking initial approval of the Aspire Rule and recently expanded to include specific policies for transformative projects, staff employed Implan to model the expected net positive benefit related to the construction activities and ongoing employment at the Project. Given the unique nature and the special economic importance of the Project by way of it being a transformative project, and the analysis provided by the applicant, Authority staff engaged its contracted consultant, JLL, to assist in estimating the job numbers anticipated at the Project and to validate Project specific job density numbers provided by the applicant that were based upon an analysis of like spaces performed by its 3<sup>rd</sup> Party consultant. This analysis was focused on the Translational Research Facility looking at the employment that can be expected in supporting a single Principal Investigator and extrapolated out based on the expectation of the number of Principal Investigators that Rutgers will recruit; and the evaluation of comparable life sciences incubator spaces used to inform the design of the incubator piece of the HUB relating to the density of the lab spaces included in the Project. JLL indicated that for the incubator piece especially, the proposed building design was flexible enough to support market trends as needed.

As a transformative project the Project is also able to include measurable project-related economic benefits to State agencies and bodies that are substantially supported through State appropriations in this analysis. The applicant has provided analysis that supports the expectation that the Project will result in increased revenue to the State by way of licensing revenue to Rutgers, which is an instrumentality of the State and is funded through significant appropriations from the State, derived from expanded scientific research at the Project.

JLL provided an analysis of the licensing revenue achieved by peer universities in the regions as well as an analysis of scientific research grant funding from the National Institute of Health and the National Science Foundation of these same universities to evaluate the credibility of the growth projections of licensing revenue included in the application. The analysis shows that Rutgers scientific grant research is on par with most of these peer universities over the past few

years before making the previously mentioned commitment to spend \$270 million to recruit and retain Principal Investigators over the next 7 years. Additionally, the JLL analysis shows that the growth rate projected by Rutgers for licensing revenue over the next 10 years is lower than that which was achieved over the last decade by Rutgers, again before making the previously mentioned commitment to spend \$270 million to recruit and retain Principal Investigators over the next 7 years.

Finally, the applicant has evidenced that a PILOT agreement will be entered into with the City, indicating an increase in local property taxes resulting from the Project that are also included in the ongoing benefits to the State.

The results of this analysis are detailed in the tables below:

**Project**

<b>Full-time equivalent Employment at Innovation HUB</b>	743
<b>Full-time equivalent Employment at Translational Research</b>	735
<b>Full-time equivalent Employment at Medical School</b>	299
<b>Full-time equivalent Employment at Restaurant</b>	57
<b>Total One-time Benefit</b>	\$22,138,711
<b>Total Annual Ongoing Benefit</b>	\$43,007,435
<b>Net Present Value of Benefits over 10 years</b>	\$340,449,009
<b>Aspire Award</b>	\$271,186,902
<b>Net Present Value of Aspire Award</b>	\$181,968,618
<b>NPV of Benefit as % of NPV of Aspire</b>	187%

**Other Statutory Criteria**

**Scoring:**

As established by the Aspire Rules at N.J.A.C. 19:31-23.7 (Approval of completed application; tax credit amounts) and further detailed in the memo provided to the Board at time of approval, the applicant is required to achieve a minimum score to be eligible for an Aspire award. The Project was scored in the areas of Equitable Development, Housing Opportunity, Smart Growth, Environmental Justice, and Climate Resilience. The applicant has satisfactorily evidenced to staff that the Project is consistent with the policy objectives represented by this scoring criteria. The specific scoring for the Project is contained in the “Scoring Exhibit” attached.

**Community Benefit Agreement:**

The Aspire statute indicates that for a redevelopment project whose total project cost equals or exceeds \$10 million, a community benefit agreement is required to be entered into by the chief executive of the municipality and the applicant. N.J.S.A. 34:1B-328 (Incentive award agreement). As required by Aspire Rules at N.J.A.C. 19:31-23.8 (Approval letter; incentive award agreement), the applicant has provided a letter of support from the chief executive of the municipality acknowledging this requirement and affirming that the municipality shall proceed to negotiate a community benefits agreement in good faith with the developer and will execute

the community benefits agreement within the time required by the program rules (six months, with two possible three-months extensions, after this approval).

**Labor Harmony Agreement:**

The Aspire statute indicates that NJEDA shall not enter into an incentive award agreement for a redevelopment project that includes at least one retail establishment which will have more than 10 full-time employees, at least one distribution center that will have more than 20 full-time employees, or at least one hospitality establishment which will have more than 10 full-time employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment, distribution center, or hospitality establishment enters into a labor harmony agreement with a labor organization or cooperating labor organizations that represent retail or distribution center employees in the State. Under the Aspire statute, a labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. N.J.S.A. 34:1B-328.

The applicant has acknowledged this requirement and that the retail operations at the Project will be subject this provision for so long as the State has proprietary interest in the redevelopment project. It is anticipated that as currently structured the State will have a proprietary interest in the redevelopment project. Additionally, other labor harmony agreement statutes administered by the Department of Labor, N.J.S.A. 52:39A-1 to -5, may also apply.

**Prevailing Wage Obligations:**

The Aspire statute and rules require that for any project awarded Aspire tax credits all workers employed to perform construction work or building services work at the redevelopment project shall be paid prevailing wages, which continue through the end of the eligibility period. N.J.S.A. 34:1B-325. The applicant has acknowledged this requirement and that in any year where this is found not to be the case the Applicant shall forfeit the tax credit for that year.

**Substantial Good Standing/Subcontractor and Contractor Requirements:**

The Aspire statute and rules require that, for the duration of the eligibility period, the developer must be in substantial good standing (or have entered into an agreement) with the Department of Labor, Environmental Protection, and the Treasury for any project awarded Aspire tax credits each contractors and subcontractors performing work at the redevelopment project: is registered as required by the Public Works Contractor Registration Act, has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State, and possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

### **Availability of Emerge/Aspire Resources**

At the time of this recommendation, there are \$2.5 billion in unallocated tax credit resources available to Aspire transformative projects. Additionally, the City of New Brunswick has not had a transformative project awarded to it and thus there are 2 transformative project awards available for the City of New Brunswick.

### **Recommendation**

Authority staff has reviewed the application for NJ Innovation Associates Urban Renewal LLC and finds that it satisfies the eligibility requirements of the Aspire statute and rules. It is recommended that the Members approve and authorize the Authority to issue a redevelopment agreement to the applicant. The tax credit award would be credited against the total available Aspire transformative projects award authority.

Staff recommends the following conditions of approval:

1. The Applicant is required to submit executed leases and project support agreements from all Core Partners & contents must be satisfactory to the Authority within six months of Authority board approval. This includes satisfactory evidence that Rutgers has made the \$260 million in Project equity available to NJ Innovation Associates Urban Renewal LLC.
2. The applicant must demonstrate to the NJEDA on an ongoing basis during the eligibility period that the project includes the uses relating to the special economic importance required for a transformative project and for the resulting net benefit analysis assumptions inherent to this special economic importance: an academic research facilities hosting Principal Investigators with lab and supporting space as previously described and the presence of a life sciences incubator with lab and support spaces as previously described. This shall also include evidence of Rutgers's expenditure of \$270 million and continued commitment to recruiting and retaining Principal Investigators as previously described.

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

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

Tax Credits shall be issued upon:



1. Completion of construction and issuance of a Temporary Certificate of Occupancy (no later than February 8, 2027; and
2. Submission of satisfactory evidence of the completion of the redevelopment project and satisfaction of the program eligibility requirements, including, but not limited to, a detailed list of all project costs, which costs shall be certified by a CPA and satisfactory to the NJ EDA.

The recommendation is approval of an award of up to 40% of actual project costs, not to exceed \$271,186,902 in Aspire tax credits based upon the financing gap illustrated by the Project's actual capital stack at time of commitment.

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

Tim Sullivan, CEO



## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** **Just Greens, LLC dba Aerofarms (“Aerofarms”)**  
Grow New Jersey Assistance Program (“Grow NJ”)  
Modification P39142 (PROD-00171803)

### **Request:**

Consent to increase the square footage of the Qualified Business Facility (“QBF”) from 46,099 to 71,280 (a 35% change). Specifically, to add 24,849 sf to the 43,604 sf industrial premises at 212 Rome Street, Newark location.

This approval is conditioned upon the continuation of the business’s operations at the 50 Park Place QBF location of the project.

### **Background:**

Just Greens, LLC dba Aerofarms is an aeroponic grower of leafy greens. On December 9, 2014, the Board approved Aerofarms for a ten-year \$6,555,000 Grow NJ award for the development of a 52,800 sf headquarters and production facility located at 212 Rome Street, Newark incenting the creation of 69 new jobs. The estimated eligible capital investment to complete the project was \$19,252,253.

At the time of approval, the project was comprised of two existing adjacent buildings, with one of the buildings to be rehabilitated to house the growing space and retail showroom and the other existing building would be demolished and a new building constructed to house additional growing space and headquarter space. The QBF did not include 16,375 sf of the existing building that was already designated as a retail showroom.

The project was to be completed by December 2018. Concurrently, an Economic Redevelopment and Growth Grant (“ERG”) was approved for the applicant’s landlord and developer for 9.48 % of actual eligible costs, not to exceed \$2,214,192.

In May 2017, Aerofarms was also approved for a second Grow NJ award for \$11 MM Grow NJ award to incent the construction of a similar project in Camden. That project was later withdrawn.

**Previous Modifications and Project Completion:**

Subsequent to approval, the rehabilitation work to the first building proceeded as anticipated. However, the demolition and construction of the second building was met with delays on the part of the developer. As Aerofarms recognized the challenge of timely project completion due to the developer's delays in the construction of the second building, Aerofarms requested a series of changes to the QBF approved by the Board so as to complete the project by the statutory time period for certification under the Grow NJ law.

In May and June 2018 Aerofarms requested three modifications to the QBF that would not impact the size of the award, proposed jobs, bonuses, or project use.

This series of approved modifications prior to project completion resulted in the addition of the re-purposed 16,375 sf retail showroom space that was excluded at Board approval, the removal of the 25,853 sf second building consisting of headquarter space at 212 Rome Street at Board approval, and the addition of a 2,495 sf office space at 50 Park Place for corporate management, marketing, and R&D staff functions. In total there was an increase in minimum capital investment of \$916,360 and a decrease in estimated capital investment of \$11,120,528. Although the second building was removed from the QBF, the developer continued work on the second building and Aerofarms informed the Authority that at a future time Aerofarms anticipated expanding into the second building upon completion.

In December 2018, Aerofarms certified project completion with capital investment at the 46,099 sf QBF exceeding the required minimum capital investment and jobs requirements. Prior to the end of 2021 the project had 128 of employees working at the 212 Rome Street location and 56 number of employees working at the 50 Park Place location. Over the course of the last year 18 employees relocated from 50 Park Place to 212 Rome Street. Going forward the expectation for the project is to have 38 employees remain at the 50 Park Place location with 146 at 212 Rome Street.

Aerofarms has maintained annual reporting compliance for tax credit years 2018 and 2019 for \$655,500 each year and has been issued \$1,311,000 to date. The annual compliance reports for tax credit years 2020 and 2021 are currently under EDA review.

**Modification:**

Aerofarms has requested that the Members allow the additional space in the second building to be added to the QBF location at 212 Rome Street. While Aerofarms has been occupying the second building, it is not currently part of the QBF because it was not developed in time. Pursuant to program statute and regulations, which were included in the approval letter and incentive agreement executed by Aerofarms, to be considered a Grow incented employee, the employee must spend a certain amount of the employee's work time in the QBF. The proposed addition of 24,849 sf increases the Rome Street location from 43,604 sf to 68,453 sf. The proposed total square footage of the project inclusive of both the 212 Rome Street and the 50 Park Place locations is 70,948 sf (a 35% change). The proposed modification to the project does not contemplate any change to the jobs commitment of 78.

To ensure that the updated project continued to meet its designation as an industrial premises as originally approved, staff reviewed an updated floor plan for the project, confirming that the required threshold was met.

A site visit performed by Staff saw the expansion premises and confirmed completion of the second building and the space is fully operational.

To evaluate the request staff applied the approval analysis to the proposed expanded project. While not certified by a CPA, Aerofarms has represented it spent \$6,766,078, bringing its total capital investment spend to \$17,886,606 across the entirety of the project. This significantly exceeds the required minimum capital investment for the larger project, which is \$1,425,600. As the second building is part of a separate ERG approval, staff has been able to confirm that this construction was compliant with Prevailing Wage and Affirmative Action requirements as well as Green Building Energy Standards. As part of the ERG tax credit process, the additional spend on the second building will be certified by an independent CPA.

**Sublease of Park Place:**

With the completion of the second building at the 212 Rome Street QBF location, Aerofarms revisited the necessity for the project to maintain the 50 Park Place location and considered relocating employees from Park Place to Rome Street and subleasing Park Place to a third party.

While the rules and the Agreement generally allows the project to sublease up to 5% of the QBF, in this case, Aerofarms requested and was approved to add 50 Park Place after the initial approval of its application so that Aerofarms could complete its project in time while waiting for the developer to complete the second building. Because operations at 50 Park Place was an integral part of the QBF which allowed the Applicant to certify project completion, staff recommends requiring that Aerofarms maintain operations at the 50 Park Place location (without subleasing or terminating the lease for that site) as a condition of the approval of this modification.

**Summary of Project Changes:**

	<b><u>Actual at Certification</u></b>	<b><u>Proposed</u></b>
<b>Jobs</b>	78 (69 New)	78 (69 New)
<b>Total Award Amount</b>	\$6,555,000	\$6,555,000
<b>Square Footage</b>	46,099 sf	70,948 sf
<b>Min Capital Investment</b>	\$916,360	\$1,425,600
<b>Est Capital Investment</b>	\$11,120,528	\$17,886,606

Approval of the request would not result in a change of the \$6,555,000 award.

**Recommendation:**

Consent to increase the square footage of the Qualified Business Facility (“QBF”) from 46,099 to 71,280 (a 35% change). Specifically, to add 24,849 sf to the 43,604 sf industrial premises at 212 Rome Street, Newark location.

These proposed changes will not increase the \$6,555,000 Grow NJ award.

This approval is conditioned upon the continuation of the business’s operations at the 50 Park Place QBF location of the project.

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

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Tim Sullivan, CEO

**Prepared by: Marc Tomasini**



## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** **LI 2000, Inc. d/b/a Century 21 Department Stores, LLC**  
Grow New Jersey Assistance Program ("Grow NJ") – COVID-Related  
Termination - P #39501 (PROD-00184629)

**Request:**

Approve LI 2000, Inc. d/b/a Century 21 Department Stores ("LI 2000" or "Company") request to terminate its Grow NJ Incentive Agreement retroactive to its 2020 tax year pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 (ERA), P.L.2020, c. 156, as amended by P.L. 2022, c. 134.

**Background:**

LI 2000 was founded in 1961 as a single retail store in New York City. Under the trade name of Century 21 Department Stores, LI 2000 operated a chain of 8 retail department stores selling designer clothing for men, women, and children as well as accessories, shoes and home goods.

On October 14, 2014, the Members approved a \$39,957,500 10-year Grow NJ award to incent the creation of 261 new, and 931 retained Grow-eligible employees with an estimated capital investment of \$76,290,000 to relocate to a 1,234,829 square foot non-industrial distribution facility as its Qualified Business Facility ("QBF"), located at several addresses in Secaucus, NJ.

In July 2017, the Applicant requested, and the EDA approved, a six-month extension to certify its project completion to provide additional time for the Applicant to increase its job numbers. On October 23, 2017, LI 2000 submitted its project certification for 186 new and 931 retained Grow eligible jobs, and a decreased capital investment of \$54,395,998. The Board approved this adjustment in January 9, 2018, resulting in an aggregate tax credit certificate of \$35,557,500.

The Incentive Agreement includes: Century 21 Department Stores, LLC and Century 21 Department Stores of New Jersey, LLC, as affiliates. LI 2000 maintained the minimum number of required jobs for 2017 and was issued an Annual Tax Credit Certificate of \$3,429,250 for tax year 2017. Annual reporting on the tax credits for 2018 has been completed and certified by Staff in the amount of \$2,643,375 and a request for certification was sent to Taxation. Annual

reporting for 2019 is currently under review and a preliminary review of that report indicates that LI 2000 will be issued a tax credit for that year in the amount of \$2,349,375.

### **COVID Relief**

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

Specifically, Section 108(g) of P.L. 2020, c. 156, as amended by P.L. 2022, c. 134, amended the Grow NJ law to allow businesses to terminate Grow NJ Incentive Agreements retroactively beginning with tax year 2020 “provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the Public Health Emergency and describing the impact of the Public Health Emergency on the business.” A termination under this provision results in the forfeiture of all tax credits for the tax period in which the termination occurs and all subsequent tax periods.

Tax credits issued for previous years may be retained by the business without recapture while the business is relieved of all ongoing reporting obligations. To guard against misrepresentation by businesses, termination letters executed under the COVID-Related Relief provisions will include a provision allowing EDA to seek recapture of any tax credits issued should it be determined that the Grow NJ business decisioning was made without consideration of the impact of the COVID-19 Health Emergency on the business.

### **LI 2000 COVID-19 Impacts and Decisioning**

Prior to the onset of the COVID-19 Public Health Emergency, LI 2000 had an average of 895 full-time eligible incented employees working at the QBF for the year of 2019. The COVID-19 Public Health Emergency impacted the Company's ability to operate successfully, which ultimately resulted in a filing for bankruptcy in September 2020, by LI 2000 d/b/a Century 21Department Stores, LLC, Century 21 Department Stores, LLC and Century 21 Department Stores of New Jersey, LLC. The Company hired a Plan Administrator to manage the liquidation of the Company's assets. The Plan Administrator acts on behalf of the Wind-Down Debtor (formerly LI 2000) and acts in the capacity as that of a company officer in carrying out those duties.

The non-essential work Executive Order combined with the bankruptcy led to decreased employee levels at the QBF. The Company requested the bankruptcy court for the ability to continue working at a reduced amount of square feet at the QBF in December 2020. LI 2000 indicated that it had no employees working at the QBF after March 31, 2021 and ceased operations in the State, having only contractual relationships with a handful of previous employees, to further assist the Plan Administrator with the asset liquidation.

A reduction of square footage leased and the ceasing of operations at its approved QBF are both Events of Default under the Grow NJ Incentive Agreement. Additionally, the Company would no longer be able to meet its headcount requirement going forward. However, the amendments to the ERA effective January 2021, allow a company to terminate its Incentive Agreement with no recapture of previously issued tax credits.

On February 1, 2021, after the COVID Relief Termination law had been passed, the Company's CEO submitted a CEO Certification to the EDA summarizing the events leading to the Company's bankruptcy and the desire to terminate the Company's Grow NJ Incentive Agreement. To verify that COVID impacts were the cause of the Company's financial position, Staff reviewed the Company's financials for the years ended, February 2, 2019, and February 1, 2020, and observed a year over year increase in net losses of more than 300%, from 2019 to 2020. Staff has determined that while LI 2000 experienced financial hardships prior to the Public Health Emergency, the reports indicate further significant loss after the outset of the Public Health Emergency.

Staff has determined that LI 2000 has met the requirements for a COVID-related termination. Pursuant to the Board Memo dated February 10, 2021, all COVID-related terminations must be presented to the Members for approval.

**Recommendation:**

Approve LI 2000's request to terminate its Grow NJ Incentive Agreement retroactive to its 2020 tax year pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 (ERA), P.L.2020, c. 156, as amended by P.L. 2022, c. 134.



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Tim Sullivan, CEO

**Prepared by: Mark Chierici**



## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** **Adoption of Written Post-Issuance Compliance Procedures with Respect to the Authority's Biomedical Research Facilities Bonds**  
**PROD-00149843**

### **APPROVAL REQUEST**

The Members of the Authority are asked to (i) adopt written post-issuance compliance procedures (the "Written Procedures") with respect to the Authority's Biomedical Research Facilities Bonds, 2016 Series A (the "2016 Bonds") and any Refunding Bonds (as such term is defined in the hereinafter defined Resolution) issued pursuant to the Resolution (together with the 2016 Bonds, "Tax-Exempt Bonds"), (ii) appoint one or more Tax Compliance Officers to carry out the Written Procedures and (iii) approve the use of professionals and authorize Authority staff to take all necessary actions incidental to the foregoing.

### **BACKGROUND**

The 2016 Bonds were issued pursuant to (i) the New Jersey Economic Development Authority Act, L. 1974, c. 80, as amended and supplemented, N.J.S.A. 34:1B-1 et seq. (the "Act") and (ii) a resolution of the Authority entitled "Biomedical Research Facilities Bond Resolution" adopted by the Authority on November 13, 2015, as amended and supplemented, including by a First Supplemental Biomedical Research Facilities Bond Resolution adopted by the Authority on November 13, 2015 and a Series Certificate of the Authority dated as of September 8, 2016 (collectively, the "Resolution"; unless otherwise noted, capitalized terms used but not defined herein shall have the meanings given them in the Resolution).

In accordance with the provisions of the Tax Certificate, and as is required pursuant to the Internal Revenue Code of 1986, as amended, and the related regulations promulgated thereunder, since the issuance of the 2016 Bonds, the Authority has been undertaking arbitrage compliance with respect to the 2016 Bonds, and the Rowan University – Rutgers Camden Board of Governors (the "Joint Board") has been monitoring private use with respect to the facility financed with the proceeds of the 2016 Bonds. The Authority now desires to memorialize those on-going tax compliance procedures in writing pursuant to and as described in the Written Procedures.

Currently, the Members of the Authority are asked to adopt a Resolution authorizing the Written Procedures and the appointment of one of more Tax Compliance Officers (as such term is defined in the Written Procedures). The Members of the Authority also are asked to authorize an

Authorized Officer of the Authority to take any and all actions necessary in connection with the foregoing.

Through a competitive RFQ/RFP process performed by the Attorney General's Office on behalf of Treasury for State appropriation-backed bonds, and in compliance with Executive Order No. 26 (Whitman 1994), M. Jeremy Ostow, Esq. ("Jerry Ostow") was selected as Bond Counsel ("Bond Counsel") in connection with the Written Procedures. The Members are asked to approve the use of Jerry Ostow as Bond Counsel and authorize Authority staff to take all necessary actions incidental to the adoption of the Written Procedures, subject to review by the Attorney General's Office and Bond Counsel.

### **RECOMMENDATION**

Based upon the above description, the Members are requested to approve the adoption of the resolution entitled "RESOLUTION AUTHORIZING ADOPTION OF WRITTEN POST-ISSUANCE COMPLIANCE PROCEDURES AND OTHER MATTERS WITH RESPECT TO THE AUTHORITY'S BIOMEDICAL RESEARCH FACILITIES BONDS" authorizing, among other things, the adoption of the Written Procedures and the appointment of Tax Compliance Officers. The Members are also asked to authorize the use of Jerry Ostow as Bond Counsel and authorize the Authorized Officers of Authority to take any and all necessary actions incidental to the adoption and implementation of the Written Procedures, subject to final review and approval of all terms and documentation by Bond Counsel and the Attorney General's Office.



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Tim Sullivan, CEO

Prepared By: Lori Zagarella

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY  
POST ISSUANCE TAX COMPLIANCE PROCEDURES  
FOR  
USE OF TAX-EXEMPT BOND FINANCED PROPERTY AND PROCEEDS  
Relating to:  
BIOMEDICAL RESEARCH FACILITIES BONDS**

**BACKGROUND**

On September 14, 2016, the New Jersey Economic Development Authority (the “Authority”) issued, on a tax-exempt basis, its \$46,850,000 Biomedical Research Facilities Bonds, Series 2016A (the “2016 Bonds”). The 2016 Bonds were issued under and pursuant to the Constitution and laws of the State including, particularly the New Jersey Economic Development Authority Act, constituting Chapter 80 of the Laws of 1974 of the State, as amended and supplemented (the “Act”), including as supplemented by L. 2006, c. 102, as amended and supplemented (the “2006 Act”); a resolution of the Authority entitled “Biomedical Research Facilities Bond Resolution” (the “Bond Resolution”), as supplemented by a First Supplemental Biomedical Research Facilities Bond Resolution (the “First Supplemental Resolution”), both adopted November 13, 2015, and a Series Certificate dated the date of sale of the 2016 Bonds (the “Series Certificate;” and together with the Bond Resolution and the First Supplemental Resolution, the “Resolution”). Capitalized terms used but not defined herein shall have the meanings given to them in the Resolution or in the Tax Certificates (as hereinafter defined). These procedures apply to the 2016 Bonds and any Refunding Bonds, notes or Other Obligations (as each such term is defined in the Bond Resolution) issued under the Bond Resolution. The 2016 Bonds, and any Refunding Bonds, notes or Other Obligations subsequently issued as tax-exempt under the Resolution are referred to herein as the “Bonds”.

The 2016 Bonds were issued to: (i) pay Capital Costs of the Project (as described and defined below), and (ii) paying the costs associated with the issuance of the 2016 Bonds.

The Project (the “Project”) consists of the acquisition of approximately 0.86 acres of land (the “Land”) in the City of Camden, Camden County, New Jersey by the Rowan University – Rutgers Camden Board of Governors (the “Joint Board”), which has been leased to Rutgers, the State University (“Rutgers”) pursuant to a Ground Lease Agreement, dated July 7, 2016, between the Joint Board, as Landlord, and Rutgers, as Tenant, and the construction thereon of an approximately 65,000 square foot Health Sciences Center (the “Building”) to house a Biomedical Research Facility, including instructional and clinical space, research offices and laboratories, to be owned by Rutgers. Portions of the Building have been subleased by Rutgers to Rowan University (“Rowan” and, together with the Joint Board and Rutgers, the “JBRR Users”) and to the Joint Board, respectively. The space occupied by Rutgers is being used to provide a center for computational biology, the space occupied by Rowan is being used to provide biomedical delivery research and the space occupied by the Joint Board is being used to provide administrative space.

The Joint Board is an instrumentality of the State created and existing pursuant to L. 2012, c. 45, as amended by L. 2013, c. 227. Each of Rutgers and Rowan is a body corporate and politic

and an instrumentality of the State. Each of the JBRR Users is a “governmental person” within the meaning of Regulations Section 1.141-1(b).

The Joint Board and Rutgers entered into a Development Agreement, dated July 7, 2016, pursuant to which the Joint Board developed the Project. In connection therewith, the Joint Board entered into a Project Development Agreement with the Camden County Improvement Authority (“CCIA”) pursuant to which CCIA provided certain services in connection with the development of the Project.

The permitted uses of the Project include shared biomedical research, biomedical and biomechanical clinical simulation laboratories and instructional spaces in support of a range of degree programs, including administrative ‘hotel’ style offices, touchdown stations, conference rooms, classrooms, seminar space, multi-purpose event space and support. The space occupied by Rutgers is being used to provide a center for computational biology, and the space occupied by Rowan is being used to provide biomedical delivery research. A minor portion of the Project is occupied by the Joint Board and used to provide administrative space.

The 2006 Act provides that the Project will be operated by a consortium (the “Consortium”) consisting of Rutgers and Coriell Institute for Medical Research. The Consortium has entered into an Operation and Management Agreement, dated July 7, 2016, with the Joint Board for day-to-day operation and management of the Project. Although the 2006 Act provides for Coriell to be included in the Consortium, Coriell does not occupy or use any space in the Project.

Rutgers, Rowan and the Joint Board have entered into an agreement pursuant to which each will pay its proportionate share of the operating expenses of the Project. It is not anticipated that the Project will generate any operating revenues from third parties.

Pursuant to the Bond Resolution, the Authority has agreed to cause the Rebate Amount to be calculated, and to furnish a copy of such calculation with the Trustee (as defined therein), at the end of each Bond Year at the times and in the manner set forth in the Authority Tax Certificate (as hereinafter defined).

In the Authority’s Tax Regulatory Agreement delivered in connection with the issuance of the 2016 Bonds (the “Authority Tax Certificate”), the Authority represents that it expects and intends to be able to comply with and will, to the extent permitted by law, comply with the provisions and procedures set forth in the Authority Tax Certificate and do and perform all acts and things necessary or desirable to ensure that interest paid on the 2016 Bonds shall be excluded from gross income for federal tax purposes under Section 103 of the Code. The Authority Tax Certificate was executed and delivered by the Authority in reliance, among other things, on the Certificate as to Compliance with the Internal Revenue Code of 1986 executed and delivered by the Joint Board (the “Joint Board Tax Certificate”).

Based on the representations of the Authority in the Authority Tax Certificate and of the Joint Board in the Joint Board Tax Certificate, bond counsel delivered its tax opinions in connection with the issuance of the 2016 Bonds, which provide, in part, that under existing law,

interest on the 2016 Bonds: (i) is excludable from gross income for purposes of federal income taxation under Section 103 of the Code; and (ii) is not an item of tax preference to be included in calculating alternative minimum taxable income under the Code for purposes of the alternative minimum tax.

Pursuant to the Resolution and any tax compliance certificate or tax regulatory agreement with respect to any Refunding Bonds issued, on a tax-exempt basis, under the Resolution (“Refunding Bonds Tax Certificate”) executed by the Authority in connection with the issuance of the Refunding Bonds, the Authority will covenant to comply with the provisions of the rebate requirements with respect to the Refunding Bonds under Section 148 of the Internal Revenue Code of 1986, as amended and the Resolution to calculate and pay, subject to the receipt of funds under the State Contract (as defined in the Refunding Bonds Tax Certificate), the Rebate Amount (as defined in the Refunding Bonds Tax Certificate) and to prepare and file with the Trustee (as defined therein) a report setting forth the amount required to be rebated to the United States from time to time pursuant to the Code.

In any Refunding Bonds Tax Certificate for any Refunding Bonds which may be issued, on a tax-exempt basis, under the Resolution, the Authority will represent that it expects and intends to be able to comply with and will, to the extent permitted by law, comply with the provisions and procedures set forth in such Refunding Bonds Tax Certificate and do and perform all acts and things necessary or desirable to ensure that interest paid on the Refunding Bonds shall be excluded from gross income for federal tax purposes under Section 103 of the Code.

The Authority Tax Certificate, the “Joint Board Tax Certificate” and any Refunding Bonds Tax Certificate are herein referred to as the “Tax Certificates”.

## **PURPOSE OF POST-ISSUANCE TAX COMPLIANCE PROCEDURES**

Section 141 of the Code contains limitations on the extent to which proceeds of the Bonds can benefit persons other than a state or local governmental unit. In addition, Section 148 of the Code imposes limitations on the investment of proceeds of the Bonds and requires that excess earnings be rebated to the federal government. The procedures set forth herein are intended to enable the Authority and the Joint Board to comply with the applicable requirements of the Code and thereby preserve the tax-exempt status of the Bonds. These procedures, together with the Tax Certificates, establish procedures for: (1) identifying uses that may constitute private uses; (2) managing and tracking changes in use; (3) accomplishing remedial actions when necessary; (4) ensuring compliance with the arbitrage requirements of the Code; and (5) ensuring compliance with the record retention requirements of the Code.

These procedures may be amended as necessary or appropriate in connection with the issuance of any Refunding Bonds, notes or Other Obligations to conform to the requirements of the Code as may be in effect at the time of such issuance.

## **RESPONSIBILITY**

In order to facilitate continuing compliance with the federal income tax requirements relating to the tax-exempt status of the Bonds (the “Tax Requirements”), the Authority, by Resolution dated December 14, 2022, has appointed one or more tax compliance officers (each a “Tax Compliance Officer” and, together, the “Tax Compliance Officers”) with respect to the Bonds. The Tax Requirements include both limitations on the private use of the Project and arbitrage limitations on the investment of the proceeds of the Bonds. The Authority will also require that the Joint Board agree to be bound by these procedures and designate a person or persons within the Joint Board (the “Joint Board Tax Compliance Officer”) for the Bonds. The Joint Board Tax Compliance Officer will have the primary responsibility to monitor the Joint Board’s compliance with the Tax Requirements for the Bonds set forth below under the heading “Private Activity Limitations” (the “Private Activity Requirements”). The Tax Compliance Officers will have the primary responsibility to monitor the Authority’s compliance with the Tax Requirements for the Bonds set forth below under the headings “Arbitrage Compliance” (the “Arbitrage Requirements”) and “Miscellaneous” (the “Miscellaneous Requirements”). Each of the Tax Compliance Officer and the Joint Board Tax Compliance Officer will be responsible for ensuring an adequate succession plan for transferring post-issuance compliance responsibility when changes in Authority staff or Joint Board staff, as the case may be, occur.

The general responsibilities of the Tax Compliance Officer with respect to the Private Activity Requirements shall include, but not be limited to, communicating the monitoring procedures outlined herein to the Joint Board Tax Compliance Officer, obtaining annual certification from the Joint Board Tax Compliance Officer that the Joint Board has followed the monitoring procedures outline herein as hereinafter provided, and in consultation with the Joint Board Tax Compliance Officer, requesting that the Attorney General’s Office engage nationally recognized bond counsel (“Bond Counsel”) as necessary in the event that a potential issue arises with respect to the tax-exempt status of the Bonds. The responsibilities of the Tax Compliance Officer with respect to the Arbitrage Requirements and the Miscellaneous Requirements shall be a set forth below. The procedures set forth below are intended to supplement the Tax Certificates. The Authority, in consultation with Bond Counsel, will supplement and update these procedures as appropriate to provide a continuing source of guidance on these requirements.

## **PRIVATE ACTIVITY LIMITATIONS**

### ***Bond-Financed Facilities***

As described above under “Background,” the facilities financed or refinanced with the proceeds of the Bonds includes the Land and the Building (also referred to herein as the “bond-financed facilities”). The Joint Board Tax Compliance Officer will establish and maintain books and records reflecting the actual expenditure of proceeds of Bonds for the Project as described below under “Monitoring Procedures.” Copies of such books and records will be furnished to the Authority within a reasonable time following such request.

### ***Private Activity Review***

Federal tax law limits the permitted amount of private business use of bond-financed facilities by reference to a percentage of the total amount of proceeds (the “Private Activity

Limitations”). In the case of private uses that are related to the governmental use of the facility, the limit is 10% of proceeds. In the case of private uses that are unrelated to the governmental use or related but disproportionate to the governmental use, the limit is 5% of proceeds. Federal tax law also limits the amount of private loans to the lesser of 5% of proceeds or \$5,000,000.

In order to demonstrate compliance with the Private Activity Limitations, the Joint Board Tax Compliance Officer will oversee the procedures described below under “Monitoring Procedures.” These procedures are designed to assist the Joint Board Tax Compliance Officer in identifying the potential occurrence of any of the events set forth below (each, a “Tax Event”) with respect to any portion of the bond-financed facilities:

**Change in use of bond-financed facilities** -- a change in the use of the bond-financed facilities as a result of any one or more of the other Tax Events set forth below.

**Change of ownership of bond-financed facilities** -- the ownership of any portion of the Project is transferred to anyone other than a State or local governmental unit, prior to the earlier of the end of the expected economic life of the Project or the latest maturity date of any bond of the issue financing (or refinancing) the Project.

**Private business use of bond-financed facilities** -- any portion of the Project will be used by anyone other than a State or local governmental unit or members of the general public who are not using the property in the conduct of a trade or business. Examples of uses that can give rise to private business use include use by a person as an owner, lessee, purchaser of the output of facilities under a “take” or “take or pay” contract, purchaser or licensee of research, a manager or independent contractor under certain management or professional service contracts or any other arrangement that conveys special legal entitlements (e.g., arrangement that conveys priority rights to the use or capacity of the financed property) for beneficial use of the property financed with the proceeds of tax-exempt debt or special economic benefit.

**Leases of bond-financed facilities** -- any portion of the Project is to be leased or otherwise subject to an agreement which gives possession of any portion of the Project to anyone other than a State or local governmental unit.

**Management agreement or service agreement with respect to bond-financed facilities** -- any portion of the Project is to be used under a management contract or professional service contract (e.g., medical group), other than a contract for services that are solely incidental to the primary function of the Project, such as janitorial services or office equipment repair.

**Sale of output from bond-financed facilities** -- any output of the Project is to be sold under a long-term contract to any person other than a governmental unit.

**Naming rights agreements with respect to bond-financed facilities** -- any portion of the Project will become subject to a naming rights or sponsorship agreement, other than a “brass plaque” dedication.

**Research using bond-financed facilities** -- any portion of the Project will be used for the conduct of research under the sponsorship, or for the benefit, of any organization other than a governmental unit.

**Private Loan of proceeds of the Bonds** -- any portion of the proceeds of the Bonds (including any investment earnings thereon) is to be loaned by the Authority to any person other than a governmental unit.

On or prior to the occurrence of any Tax Event, or prior to an imminent, suspected, potential, or anticipated Tax Event, the Joint Board Tax Compliance Officer will request that the Authority request that the Attorney General's Office obtain the advice of Bond Counsel, at the Joint Board's expense, to ascertain what effect, if any, a contemplated Tax Event may have on the tax-exempt status of interest on the Bonds. In certain circumstances, it may be necessary for the Authority and/or the Joint Board to take a remedial action under Treasury Regulation Section 1.141-12 to preserve the tax-exempt status of interest on the Bonds. Timely identification of a Tax Event is necessary to take a remedial action. In certain cases, remedial action may not be available and the Authority and/or the Joint Board may need to consider entering into a voluntary closing agreement with the IRS.

### ***Monitoring Procedures***

#### ***Responsible Persons***

The Joint Board Tax Compliance Officer will be responsible for reporting the occurrence or possibility of the occurrence of any Tax Event to the Tax Compliance Officer as soon as practicable upon learning of any such occurrence or possibility of such occurrence. The Tax Compliance Officer will seek the assistance of the pertinent staff of the Authority, the Joint Board Tax Compliance Officer, and pertinent staff of the Joint Board in its review.

#### ***Ongoing Contract Review***

The Joint Board Tax Compliance Officer will oversee the establishment of a procedure for the review on an on-going basis of all existing and prospective contracts between a JBRR User and a non-governmental person, including, but not limited to, the federal government or a non-profit organization described in Section 501(c)(3) of the Code, that involve the use of, management of, or provision of services with respect to, any portion of the Project. Excluded from such review process and reporting requirement will be construction contracts, engineering or similar contracts, purchase contracts, and incidental contracts such as contracts for janitorial services or office equipment repair. Based upon such review of contracts, the Joint Board Tax Compliance Officer will oversee the maintenance of written records that identify, for each such contract involving a non-governmental person, as described above, the type of use by the contracting party, the term of the contract and the compensation arrangement.

For all such contracts involving a non-governmental person, as described above, the Joint Board Tax Compliance Officer will request that the Tax Compliance Officer request that the Attorney General's Office obtain the advice of Bond Counsel, at the expense of the Joint Board,



with respect to whether the contract meets, or will meet, the requirements for a safe harbor management contract under the Code and Regulations and applicable Revenue Procedures and Revenue Rulings or another exception to private use or can be revised to meet a safe harbor or exception. For those contracts that cannot meet a safe harbor or exception from private use, including all leases and sale contracts with a non-governmental person, the Joint Board Tax Compliance Officer will request that the Tax Compliance Officer request that the Attorney General's Office obtain the advice of Bond Counsel as to any further steps to be taken, including remedial action if necessary.

### *Change in Use and Remediation*

No less frequently than annually, the Joint Board Tax Compliance Officer will undertake a review to identify any changes in use of the Project that might result in private use and/or private payments, including any privatization initiatives. Within thirty (30) days following the completion of each such review, the Joint Board Tax Compliance Officer shall file with the Tax Compliance Officer a certification from the Joint Board Tax Compliance Officer (the "Joint Board Compliance Certificate") that the Joint Board has followed the monitoring procedures outlined herein in the form annexed hereto as Exhibit 1. Should the information collected by the Joint Board Tax Compliance Officer indicate that there may be a change in private use and/or private payments from what was contemplated at the time of the issuance of the Bonds, the Joint Board Tax Compliance Officer shall request that the Tax Compliance Officer request that the Attorney General's Office engage Bond Counsel, at the expense of the Joint Board, to provide advice as to any further steps to be taken, including remedial action if necessary. To the extent that any such potential change comes to the attention of the Tax Compliance Officer or the Joint Board Tax Compliance Officer prior to the next scheduled annual review, the Tax Compliance Officer or the Joint Board Tax Compliance Officer, as the case may be, shall not wait until the next scheduled annual review but shall, as soon as possible after such change comes to the attention of the Tax Compliance Officer or the Joint Board Tax Compliance Officer, request that the Attorney General's Office engage Bond Counsel to provide advice as to any steps to be taken, including remedial action if necessary.

### ***Recordkeeping***

The Internal Revenue Service (the "IRS") has advised issuers of tax-exempt obligations that they have post-issuance recordkeeping responsibilities that are necessary to satisfy the IRS in the event of an audit. Accordingly, all files must be maintained for the life of the Bonds plus three years. See IRS FAQs on Record Retention, current as of January 14, 2021, attached as Appendix A. The FAQs, as from time to time updated by the IRS, can be found at the following link: <https://www.irs.gov/tax-exempt-bonds/tax-exempt-bond-faqs-regarding-record-retention-requirements#1>.

The records to be maintained by the Joint Board Tax Compliance Officer and furnished to the Tax Compliance Officer upon request include:

1. Information and records regarding any use of proceeds of the Bonds to make or finance a loan to any person other than a state or local governmental unit;

2. Records reflecting actual expenditures of the proceeds of the Bonds;
3. Information and records regarding the continued use and ownership of the Project;
4. Any use arrangements affecting the Project, which result in private business use of any portion of the Project; and
5. Copies of any leases, management contracts, service contracts or other written arrangements with persons other than a state or local governmental unit relating to the Project.

## **ARBITRAGE COMPLIANCE**

The arbitrage restrictions imposed under the Code include restrictions on the investment of proceeds of tax-exempt obligations at an unrestricted yield and the rebate of excess investment earnings to the federal government, as more fully described in the Authority Tax Certificate maintained with the record of proceedings for the Bonds.

### ***Arbitrage Review***

The Tax Compliance Officer will establish a timeline for review of arbitrage-related issues as more fully described below, and will maintain the records and documents described below under “Recordkeeping.” The Joint Board Tax Compliance Officer is responsible for maintaining or causing to be maintained records documenting the allocation of proceeds of the Bonds and furnishing such records to the Tax Compliance Officer. The Tax Compliance Officer is responsible for maintaining or causing to be maintained records documenting the investment of proceeds of the Bonds and, based on records provided by the Joint Board Tax Compliance Designee, determining if any spending exception allowed by the Code and set forth in the Authority Tax Certificate is applicable to the expenditure of the proceeds of the Bonds, causing the rebate analysis for the Bonds to be prepared at the times required by the Authority Tax Certificate and/or the Code, and determining the amount of any required rebate due to the federal government and the applicable due date thereof. The Joint Board Tax Compliance Officer will cooperate with the Tax Compliance Officer and any rebate consultant retained by the Authority in connection with arbitrage review and rebate analysis.

### ***Temporary Period***

The available temporary periods with respect to the 2016 Bonds are as set forth in the Authority Tax Certificate. If any proceeds of the Bonds remain unexpended beyond the applicable temporary period, the Tax Compliance Officer must assure that such proceeds are yield restricted. Yield restriction will be accomplished through either an actual investment below the relevant yield or the making of yield reduction payments. The Tax Compliance Officer will work with the Authority’s auditor or arbitrage consultant to make timely yield reduction payments.

### ***Rebate***

The Tax Compliance Officer will be responsible for ensuring that a rebate analysis with respect to the Bonds is performed at the times provided in the Authority Tax Certificate. The Tax Compliance Officer will work with the Authority's auditor or arbitrage consultant to make timely filings and payments with respect to any rebate amount due.

#### *Arbitrage Consultant*

The Authority will maintain a contract with a third-party nationally recognized arbitrage consultant (the "Arbitrage Consultant") for the purpose of providing arbitrage consulting services, including but not limited to:

1. Annual analysis of the Bonds;
2. Arbitrage rebate calculations;
3. Yield restriction calculations; and
4. Technical support on an ad-hoc basis.

The Arbitrage Consultant will provide, on an annual basis, an analysis of the Bonds to review and identify potential arbitrage or rebate liability, issues regarding yield restriction compliance, and/or other arbitrage related issues. The Tax Compliance Officer will review the arbitrage analysis and coordinate with the Arbitrage Consultant to prepare any necessary filings and payments on a timely basis. The Tax Compliance Officer will file with the IRS the appropriate IRS arbitrage rebate and yield restriction reports, Form 8038-T, along with any payments due with respect to the Bonds. The Arbitrage Consultant previously retained by the Authority has determined that as of July 15, 2021, there no rebate liability with respect to the 2016 Bonds.

#### ***Recordkeeping***

In order to satisfy the arbitrage recordkeeping requirements, the Tax Compliance Officer shall create and maintain, or cause to be created and maintained, records (which records may include spreadsheets, bank statements, investment purchase confirmations, agreements, certificates, etc.) of the following, provided that the allocations described in paragraph 2 below shall be prepared by the Joint Board Tax Compliance Officer and furnished to the Tax Compliance Officer:

1. Purchases or sales of investments made with the proceeds of the Bonds (including amounts treated as "gross proceeds" as a result of being part of a sinking fund or pledged fund or otherwise under section 148 of the Code, other than amounts that meet the exception for bona fide debt service funds) and receipts of earnings on those investments;
2. The allocations, by date and amount, of the proceeds of the Bonds to expenditures, together with purchase contracts, construction contracts, invoices, and cancelled checks;

3. Information and records showing that investments made with unspent proceeds of the Bonds after the expiration of the applicable temporary period were not invested in higher-yielding investments;

4. Information and records, including bank and earnings statements, that will be sufficient to demonstrate to the IRS, upon an audit of the Bonds, that the Authority has complied with one or more available spending exceptions to the arbitrage rebate requirement with respect to the Bonds;

5. In the event that an exception to the arbitrage rebate requirement was not applicable, information and calculations that will be sufficient to demonstrate to the IRS, upon an audit of the Bonds, that the rebate amount, if any, that was payable to the United States of America with respect to investments made with gross proceeds of the Bonds was calculated and timely paid with Form 8038-T being timely filed with the IRS;

6. Information and records demonstrating that all rebate calculations and reports prepared in connection with the Bonds were prepared in accordance with the requirements of the Authority Tax Certificate and the Code;

7. Information and records showing that investments held in yield-restricted advance refunding or defeasance escrows funded with the proceeds of the Bonds were not invested in higher-yielding investments; and

8. The Tax Certificates delivered by the Authority and the Joint Board as part of the record of proceedings for the Bonds.

## **MISCELLANEOUS**

### ***Training Requirements***

The Authority will provide or arrange for training for the Tax Compliance Officer, the Joint Board Tax Compliance Officer, and any successor(s) thereto regarding the requirements of these procedures and will periodically provide or arrange for training for each of such individuals concerning their respective duties under these procedures.

## **Appendix A**

### **Tax Exempt Bond FAQs Regarding Record Retention Requirements**

- During the course of an examination, IRS Tax Exempt Bonds (TEB) agents will request all material records and information necessary to support a municipal bond issue's compliance with section 103 of the Internal Revenue Code. The following information is intended solely to answer frequently asked questions concerning how the broad record retention requirements under section 6001 of the Code apply to tax-exempt bond transactions. Although this document provides information with respect to many of the concerns raised by members of the municipal finance industry about record retention, it is not to be cited as an authoritative source on these requirements. TEB recommends that issuers and other parties to tax-exempt bond transactions review section 6001 of the Code and the corresponding Income Tax Regulations in consultation with their counsel.
- These frequently asked questions and answers are provided for general information only and should not be cited as any type of legal authority. They are designed to provide the user with information required to respond to general inquiries. Due to the uniqueness and complexities of Federal tax law, it is imperative to ensure a full understanding of the specific question presented, and to perform the requisite research to ensure a correct response is provided.

#### **Why keep records with respect to tax-exempt bond transactions?**

- Section 6001 of the Internal Revenue Code provides the general rule for the proper retention of records for federal tax purposes. Under this provision, every person liable for any tax imposed by the Code, or for the collection thereof, must keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Section 1.6001-1(a) of the Income Tax Regulations amplifies this general rule by providing that any person subject to income tax, or any person required to file a return of information with respect to income, must keep such books and records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by that person in any return of such tax or information.
- The IRS regularly advises *taxpayers* to maintain sufficient records to support their tax deductions, credits and exclusions. In the case of a tax-exempt bond transaction, the primary taxpayers are the beneficial holders of the bonds. However, in most cases, the beneficial holders of tax-exempt bonds will not have any records to support their exclusion of the interest paid on those bonds. Instead, these records will generally be found in the bond transcript and the books and records of the issuer, the conduit borrower, and other participants to the transaction. Therefore, in order to ensure the continued exclusion of interest by the beneficial holders, it is important that the issuer, the conduit borrower and other participants retain sufficient records to support the continued exclusion being taken by the beneficial holders of the bonds. Pursuant to this statutory regime, IRS agents conducting examinations of tax-exempt bond transactions will look to these parties to provide books, records, and other information documents supporting the bonds continued compliance with federal tax requirements.
- Additionally, in the case of many private activity bonds, the conduit borrowers are also primary taxpayers. For instance, the conduit borrower will generally deduct the interest indirectly

paid on the bond issue through the loan documents. Conduit borrowers are also often entitled to claim depreciation deductions for bond-financed property. Consequently, conduit borrowers should maintain sufficient records to support their interest deductions, depreciation deductions or other tax deductions, exclusions or credits related to the tax-exempt bond issue.

- Moreover, issuers and conduit borrowers should retain sufficient records to show that all tax-exempt bond related returns submitted to the IRS are correct. Such returns include, for example, IRS Forms 8038, 8038-G, 8038-GC, 8038-T, and 8038-R.
- In addition to the general rules under section 6001, issuers and conduit borrowers are subject to specific recordkeeping requirements imposed by various other Code sections and regulations. For example, section 1.148-5(d)(6)(iii)(E) of the arbitrage regulations requires that an issuer retain certain records necessary to qualify for the safe harbor for establishing fair market value for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow.

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### **Who may maintain records?**

- Read together, section 6001 of the Code and section 1.6001-1(a) of the Regulations apply to taxpayers and persons filing tax returns, including returns related to tax-exempt bond transactions (i.e., Forms 8038, 8038-G, 8038-GC, 8038-T, 8038-R, 8328, 8703). This encompasses several parties to the bond transaction including:
  1. issuers as the party responsible for satisfying the filing requirements under section 149(e) of the Code;
  2. conduit borrowers for deductions taken for payment of interest on outstanding bonds or depreciation of bond-financed facilities; and
  3. bondholders, lenders, and lessors as recipients of exempt income from the interest paid on the bonds.
- Since many of the same records may be examined to verify, for example, both the tax-exempt status of the bonds and the interest deductions of the conduit borrower, it is advisable for the bond documents to specify which party will bear the responsibility for maintaining the basic records relating to a bond transaction. Additional parties may also be responsible for maintaining records under contract with any of the parties named above. For example, a trustee may agree to maintain certain records pursuant to the trust indenture.

### What are the basic records that should be retained?

- Although the required records to be retained depend on the transaction and the requirements imposed by the Code and the regulations, records common to most tax-exempt bond transactions include:
    - Basic records relating to the bond transaction (including the trust indenture, loan agreements, and bond counsel opinion);
    - Documentation evidencing expenditure of bond proceeds;
    - Documentation evidencing use of bond-financed property by public and private sources (i.e., copies of management contracts and research agreements);
    - Documentation evidencing all sources of payment or security for the bonds; and
    - Documentation pertaining to any investment of bond proceeds (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- 

### Are these the only records that need to be maintained?

- No, the list above is very general and only highlights the basic records that are typically material to many types of tax-exempt bond financings. Each transaction is unique and may, accordingly, have other records that are material to the requirements applicable to that financing. The decision as to whether any particular record is material must be made on a case-by-case basis and could take into account a number of factors, including, for instance, the various expenditure exceptions. Moreover, certain records may be necessary to support information related to certain requirements applicable to specific types of qualified private activity bonds. With respect to single and multifamily housing bonds as well as small issue industrial development bonds, examples of such additional material records include:

Single Family Housing Bonds	<p>Documents evidencing that at least 20% of proceeds were available for owner financing of targeted area residences.</p> <p>Documentation evidencing proper notification of each mortgagor of potential liability of the mortgage subsidy recapture tax.</p>
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Multi-Family Housing Bonds	<p>Documentation evidencing that the facility is not used on a transient basis.</p> <p>Documentation evidencing compliance with the income set-aside requirements.</p> <p>Documentation evidencing timely correction, if any, of noncompliance with the income set-aside requirements.</p>
Small Issue Industrial Development Bonds	<p>Documentation evidencing compliance with the \$10,000,000 limitation on the aggregate face amount of the issue.</p> <p>Documentation evidencing that no test-period beneficiary has been allocated more than \$40,000,000 in bond proceeds.</p>

### **In what format must the records be kept?**

- All records should be kept in a manner that ensures their complete access to the IRS for so long as they are material. While this is typically accomplished through the maintenance of hard copies, taxpayers may keep their records in an electronic format if certain requirements are satisfied.
- Rev. Proc. 97-22, 1997-1 C.B. 652 provides guidance to taxpayers that maintain books and records by using an electronic storage system that either images their hardcopy (paper) books and records, or transfers their computerized books and records, to an electronic storage media. Such a system may also include reasonable data compression or formatting technologies so long as the requirements of the revenue procedure are satisfied. The general requirements for an electronic storage system of taxpayer records are provided in section 4.01 of Rev. Proc. 97-22. A summary of these requirements is as follows:
  1. The system must ensure an accurate and complete transfer of the hardcopy books and records to the electronic storage system and contain a retrieval system that indexes, stores, preserves, retrieves, and reproduces all transferred information.
  2. The system must include reasonable controls and quality assurance programs that (a) ensure the integrity, accuracy, and reliability of the system; (b) prevent and detect the unauthorized creation of, addition to, alteration of, deletion of, or deterioration of electronically stored books and records; (c) institute regular inspections and evaluations; and (d) reproduce hardcopies of electronically stored



books and records that exhibit a high degree of legibility and readability.

3. The information maintained in the system must be cross-referenced with the taxpayer's books and records in a manner that provides an audit trail to the source document(s).
4. The taxpayer must maintain, and provide to the Service upon request, a complete description of the electronic storage system including all procedures relating to its use and the indexing system.
5. During an examination, the taxpayer must retrieve and reproduce hardcopies of all electronically stored books and records requested by the Service and provide the Service with the resources necessary to locate, retrieve, read and reproduce any electronically stored books and records.
6. The system must not be subject, in whole or in part, to any agreement that would limit the Service's access to and use of the system.
7. The taxpayer must retain electronically stored books and records so long as their contents may become material in the administration of federal tax law.

---

### **How long should records be kept?**

- Section 1.6001-1(e) of the Regulations provides that records should be retained for so long as the contents thereof are material in the administration of any internal revenue law. With respect to a tax-exempt bond transaction, the information contained in certain records support the exclusion from gross income taken at the bondholder level for both past and future tax years. Therefore, as long as the bondholders are excluding from gross income the interest received on account of their ownership of the tax-exempt bonds, certain bond records will be material. Similarly, in a conduit financing, the information contained in the bond records is necessary to support the interest deduction taken by the conduit borrower for both past and future tax years for its payment of interest on the bonds.
  - To support these tax positions, material records should *generally* be kept for as long as the bonds are outstanding, plus 3 years after the final redemption date of the bonds. This rule is consistent with the specific record retention requirements under section 1.148-5(d)(6)(iii)(E) of the arbitrage regulations.
  - Certain federal, state, or local record retention requirements may also apply.
-

### **How does this general rule apply to refundings?**

- For certain federal tax purposes, a refunding bond issue is treated as replacing the original new money issue. To this end, the tax-exempt status of a refunding issue is dependent upon the tax-exempt status of the refunded bonds. Thus, certain material records relating to the original new money issue and all material records relating to the refunding issue should be maintained until 3 years after the final redemption of both bond issues.
- 

### **What happens if records aren't maintained?**

- During the course of an examination, TEB agents will request material records and information in order to determine whether a tax-exempt bond transaction meets the requirements of the Code and regulations. If these records have not been maintained, then the issuer, conduit borrower or other party may have difficulty demonstrating compliance with all federal tax law requirements applicable to that transaction. A determination of noncompliance by the IRS with respect to a bond issue can have various outcomes, including a determination that the interest paid on the bonds should be treated as taxable, that additional arbitrage rebate may be owed, or that the conduit borrower is not entitled to certain deductions.
  - Additionally, a conduit borrower who fails to keep adequate records may also be subject to an accuracy-related penalty under section 6662 of the Code on the underpayment of tax attributable to any denied deductions. Section 6662 of the Code imposes a penalty on any portion of an underpayment of tax required to be shown on a return that is attributable to one of several factors, including negligence or disregard of rules or regulations. Section 1.6662-3(b)(1) of the Regulations provides that negligence includes any failure by the taxpayer to keep adequate books and records or to substantiate items properly. Under section 6662(a) of the Code, the penalty is equal to 20 percent of the portion of the underpayment of tax attributable to the negligence. Section 6664(c)(1) provides an exception to the imposition of accuracy-related penalties if the taxpayer shows that there was reasonable cause for the underpayment and that the taxpayer acted in good faith.
- 

### **Can a failure to properly maintain records be corrected?**

- Yes, a failure to properly maintain records can be corrected through the Tax Exempt Bonds Voluntary Closing Agreement Program (TEB VCAP). This program provides an opportunity for state and local government issuers, conduit borrowers, and other parties to a tax-exempt bond transaction to voluntarily come forward to resolve specific matters through closing agreements with the IRS. For example, TEB Compliance and Program Management has resolved arbitrage rebate concerns in cases where issuers have approached the IRS and reported a failure to retain sufficient records to determine, precisely, the correct amount of arbitrage rebate due on a bond issue. More information on VCAP is available.
-

**Are there exceptions to the general rule regarding record retention for certain types of records?**

No, but TEB encourages members of the municipal finance industry to submit comments and suggestions for developing record retention limitation programs for specific types of bond records, for specific classes of tax-exempt bond issues, or for specific segments of the bond industry. Comments can be submitted in writing to TEB and sent by e-mail to [TEGE@TEB.org](mailto:TEGE@TEB.org) or [TEB@TEB.org](mailto:TEB@TEB.org).

## **EXHIBIT 1**

### **Form of Joint Board Compliance Certificate**

The undersigned, \_\_\_\_\_ of the Rowan University – Rutgers Camden Board of Governors (the “Joint Board”), hereby certify as follows:

1. This Certificate is delivered pursuant to and in accordance with the Post Issuance Tax Compliance Procedures for Use of Tax-Exempt Bond Financed Property and Proceeds Relating to: Biomedical Research Facilities Bonds (the “Procedures”) adopted by the New Jersey Economic Development Authority (the “Authority”) on December 14, 2022. Capitalized terms used but not defined in this Certificate shall have the meanings given to them in the Procedures.

2. I am the \_\_\_\_\_ of the Joint Board and the Joint Board Tax Compliance Officer and am authorized to execute this Joint Board Compliance Certificate on behalf of the Joint Board.

3. I have completed the review to identify any changes in use of the Project that might result in private use and/or private payments, including any privatization initiatives for the twelve-month period ending \_\_\_\_\_, 20\_\_\_\_ (the “Review Period”).

4. I hereby certify that the Joint Board has followed the monitoring procedures outlined in the Procedures and, except (a) as previously disclosed to the Tax Compliance Officer during the Review Period pursuant to the Procedures (copies of which are attached to this Certificate), and (b) as set forth below, there have been no changes in use of the Project that might result in private use and/or private payments, including any privatization initiatives during the Review Period (attach additional pages as needed).

If applicable, list any changes in use of the Project:

IN WITNESS WHEREOF, I have executed this Joint Board Compliance Certificate as of the date first set forth above.

ROWAN UNIVERSITY – RUTGERS CAMDEN  
BOARD OF GOVERNORS

By: \_\_\_\_\_

Name:

Title: Joint Board Tax Compliance Officer

**RESOLUTION OF THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY  
AUTHORIZING ADOPTION OF POST ISSUANCE TAX COMPLIANCE  
PROCEDURES, DESIGNATION OF A TAX COMPLIANCE OFFICER AND OTHER  
MATTERS WITH RESPECT TO THE AUTHORITY'S BIOMEDICAL RESEARCH  
FACILITIES BONDS**

**WHEREAS**, on September 14, 2016, the New Jersey Economic Development Authority (the "Authority") issued, on a tax-exempt basis, its \$46,850,000 Biomedical Research Facilities Bonds, Series 2016A (the "Bonds"); and

**WHEREAS**, the Bonds were issued under and pursuant to the Constitution and laws of the State including, particularly the New Jersey Economic Development Authority Act, constituting Chapter 80 of the Laws of 1974 of the State, as amended and supplemented (the "Act"), including as supplemented by L. 2006, c. 102, as amended and supplemented (the "2006 Act"); a resolution of the Authority entitled "Biomedical Research Facilities Bond Resolution" (the "Bond Resolution"), as supplemented by a First Supplemental Biomedical Research Facilities Bond Resolution (the "First Supplemental Resolution"), both adopted November 13, 2015, and a Series Certificate dated the date of sale of the Bonds (the "Series Certificate;" and together with the Bond Resolution and the First Supplemental Resolution, the "Resolution"; capitalized terms used but not defined herein shall the meanings given to them in the Resolution); and

**WHEREAS**, the Bonds were issued to (i) pay Capital Costs of a certain project (the "Project") consisting of the acquisition of approximately .86 acres of land in the City of Camden, Camden County, New Jersey by the Joint Board, to be ground leased to Rutgers, The State University ("Rutgers"), and the construction thereon of an approximately 65,000 square foot Health Sciences Center which will house a Biomedical Research Facility, including instructional and clinical space, research offices and laboratories, to be owned by Rutgers and operated by a consortium consisting of Rutgers and Coriell Institute for Medical Research, and (ii) paying the costs associated with the issuance of the Series 2016A Bonds; and

**WHEREAS**, pursuant to the Resolution, one or more Series of Refunding Bonds, notes or Other Obligations may be issued as provided in the Resolution (such Refunding Bonds, notes or Other Obligations issued as Tax-Exempt Bonds are, collectively with the Series 2016A Bonds, hereinafter referred to as the "Tax-Exempt Bonds"); and

**WHEREAS**, the Authority desires to develop written procedures for post-issuance tax compliance (the "Procedures") in connection with such Tax-Exempt Bonds by establishing procedures for: (1) identifying uses that may constitute private use; (2) managing and tracking changes in use, (3) accomplishing remedial action when necessary; and (4) ensuring compliance with the arbitrage requirements of the Internal Revenue Code of 1986, as amended (the "Code"); and

**WHEREAS**, the Authority's Written Procedures will also set forth the respective responsibilities of the Authority as issuer of the Tax-Exempt Bonds, Authority's Tax Compliance Officer(s), the Joint Board and the Joint Board Tax Compliance Officer, as described therein; and

**WHEREAS**, the Tax Compliance Officer(s) and the Joint Board Tax Compliance Officer is expected to acknowledge and adopt the Written Procedures, setting forth the respective responsibilities of the Authority, such Tax Compliance Officer(s), the Joint Board and the Joint Board Tax Compliance Officer as described therein.

**NOW, THEREFORE, BE IT RESOLVED BY THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY THAT:**

**Section 1. Establishment of Post Issuance Tax Compliance Procedures.**

The Written Procedures, in substantially the form presented to this meeting, are hereby approved, provided that an Authorized Officer of the Authority is hereby authorized, with the advice of Bond Counsel and the State Attorney General, to make such changes, insertions and deletions to and omissions from such form as may be necessary or appropriate. The Chief Executive Officer of the Authority or his designee, is hereby authorized and directed, with the advice of Bond Counsel and the State Attorney General, to amend from time to time such Written Procedures as may be necessary or desirable or as may be required by the Code and Regulations.

**Section 2. Designation of Tax Compliance Officer.**

The Chief Executive Officer of the Authority is hereby authorized and directed to appoint one or more Tax Compliance Officers, in addition to or in lieu of the Tax Compliance Officer(s) named in the form of Written Procedures submitted to this meeting.

**Section 3. Additional Proceedings.**

Any of the Chairman, Vice Chairman, Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer, Director, or any other authorized Authority representative who shall have power to execute contracts pursuant to the bylaws or a resolution adopted by the Authority is hereby authorized to take any additional actions which are necessary or desirable to achieve the purposes of this resolution, including without limitation the entry into a memorandum of understanding or other arrangement with the Joint Board, upon advice of Bond Counsel and the State Attorney General.

**Section 4. Effective Date.**

This resolution shall take effect in accordance with the Act.



## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**RE:** 2021 Comprehensive Annual Report

### **Summary**

The Members of the Board are requested to approve the Authority's comprehensive annual report for 2021, as required under N.J.S.A. 4:1B-4 and Executive Order No. 37 (2006).

### **Background**

Pursuant to the Authority's enabling act (N.J.S.A. 4:1B-4), the Authority prepares and distributes an Annual Report of accomplishments and activities to support economic development in New Jersey. Beginning in 2006, in order to meet the requirements of Executive Order No. 37 (2006), the Annual Report is combined with the Authority's audited financial statements and serves as the NJEDA's comprehensive annual report.

The audited financial statements for the year ending December 31, 2021 were prepared pursuant to Generally Accepted Accounting Principles for a government entity. I am pleased to inform the Board that the independent accounting firm of PKF O'Connor Davies, LLP has issued an unmodified opinion with regard to the 2021 financial statements. Certification accompanying the financial statements has been executed by the Controller and the Chief Executive Officer that the Authority has followed its standards, procedures, and internal controls.

On December 8, 2022, per its Charter, as well as section 9 of Executive Order 122 (2004), the Audit Committee reviewed the 2021 audited financial statements, and considered the relevancy, accuracy and completeness of the information presented. Also pursuant to Executive Order 122 (2004), the independent auditor met with the Audit Committee, where it was reported that the financial audit resulted in no negative findings or internal control deficiencies.

Subsequent to the meetings and review, the Committee recommended that the comprehensive Annual Report be presented to the Board for approval.



Under Executive Order No. 37 (2006), the Authority is required to obtain approval of a comprehensive annual report from its Board of Directors. Upon approval, this report will be submitted to the Authorities' Unit, posted to the EDA website, and transmitted electronically to members of the Legislature.

**Recommendation:**

Authority staff has prepared the comprehensive annual report for 2021 as required under Executive Order No. 37 (2006) and recommends Members' approval in order to submit the report to the Governor's Authorities Unit, post to the Authority's website, and transmit to the Legislature.

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

Tim Sullivan, CEO

# ANNUAL REPORT 2021



**NJEDA**  
ECONOMIC DEVELOPMENT AUTHORITY



*Come in*  
WE'RE  
**OPEN**

INVESTING IN  
PEOPLE • COMMUNITY • INNOVATION • OPPORTUNITY



# CONTENTS

<b>5</b>	Message from Chairman Kevin Quinn
<b>6</b>	Message from NJEDA CEO Tim Sullivan
<b>8</b>	2021 NJEDA ACTIVITY
<b>10</b>	ECONOMIC RECOVERY ACT OF 2020
<b>10</b>	Main Street Recovery Program
<b>12</b>	Encouraging Companies to Locate and Grow in New Jersey
<b>13</b>	Supporting Equitable and Inclusive Development
<b>16</b>	Complementary Resources for Development
<b>18</b>	INNOVATION ECONOMY
<b>22</b>	Clean Energy
<b>23</b>	Offshore Wind
<b>25</b>	New Jersey Film & Digital Media Tax Credit Program
<b>26</b>	SMALL BUSINESS ECONOMIC RECOVERY
<b>29</b>	Technical Assistance
<b>30</b>	Additional Sources of Funding for Small Businesses
<b>32</b>	ECONOMIC SECURITY
<b>35</b>	NJEDA'S COMMITMENT TO STEWARDSHIP AND TRANSPARENCY
<b>36</b>	NJEDA EXECUTIVE TEAM
<b>37</b>	NJEDA BOARD MEMBERS



## LETTER FROM THE CHAIRMAN

The struggles of the COVID-19 pandemic continued throughout 2021, as the NJEDA team and workers all over the state navigated the many realities of working and learning from home. The pandemic continued to shock and exhaust us in ways that will impact New Jersey and its economy for many years to come. Throughout the year, however, as our economy transitioned from pandemic to endemic, the focus of the NJEDA's efforts gradually shifted from emergency relief to strengthening New Jersey's businesses and communities, and building a more resilient economy.

It has been an honor to work with Governor Phil Murphy, NJEDA Chief Executive Officer Tim Sullivan, members of the NJEDA Board, and the phenomenal team at the Authority to provide critical relief to New Jersey's workers and business owners. Simultaneously, we have developed programs that will not only help the state's economy emerge from the pandemic poised for growth but will also ensure greater resiliency for New Jersey businesses and workers when faced with future catastrophic events. Through it all, I have been amazed every day with the competence, compassion, and commitment to New Jerseyans that NJEDA staff has shown.

As a result of the NJEDA's COVID-19 recovery programs, I have seen countless examples of the unparalleled strength of New Jersey's business owners and the workers they employ. And through programs created under Governor Murphy's Economic Recovery Act of 2020 (ERA), that same spirit of tenacity and hope for a better future for New Jerseyans from all backgrounds and areas abounds.

This Annual Report recaps the NJEDA's continued work in 2021 to help businesses and communities turn the corner from some of the darkest months of the COVID-19 pandemic toward a time of greater stability and renewed growth. It also showcases how, during an exceptionally busy and challenging time, the NJEDA managed to make significant headway toward standing up a robust suite of solutions created by the ERA to ensure businesses are durable enough to ride out inevitable highs and lows, and keep their staff employed and their families safe. Progress toward the stronger, fairer recovery Governor Murphy envisions is steadily accelerating. This progress comes in the form of projects that will cultivate our offshore wind industry, nurture our innovation ecosystem, facilitate the use of clean energy technology, and drive new resources to communities that have struggled with access to capital.

Simultaneously, the NJEDA has continued to make significant progress in its efforts to be best in class as a steward of fiscal resources, strengthening a culture of compliance and ensuring that all programs and initiatives are rigorously implemented and reviewed.

It's not likely we'll ever see a year quite like 2021 again, and we can also be sure the future holds its share of unexpected challenges. The world will likely never be exactly as it was pre-COVID-19, but I have every confidence that New Jerseyans, with characteristic kindness, generosity, and determination, will achieve Governor Murphy's vision for a fairer, more equitable New Jersey economy.

**KEVIN A. QUINN**  
*Chairman, NJEDA Board of Directors*







## LETTER FROM THE CEO



2021 was a transformative year for both the NJEDA and the entire Garden State. While we all breathed a collective sigh of relief when the COVID-19 vaccines provided a turning point, the human and economic devastation caused by the pandemic will not soon be forgotten. Throughout the pandemic, and now, NJEDA staff continue to work tirelessly to support New Jersey's main streets and small businesses most impacted by COVID-19 by processing thousands of grants and loans, and by administering programs that not only support our state's economic recovery but ensure greater resiliency and future growth for our communities, small businesses, and strategic sectors.

While COVID-19 is not fully in the rearview mirror, we have shifted out of an emergency response posture enough to enable a shift toward advancing programs designed to build the long-term resiliency of the state's economy. Many of these programs were created under the Economic Recovery Act of 2020 (ERA), signed by Governor Phil Murphy in January of 2021. Thanks largely to this united effort by Governor Murphy, the New Jersey Legislature and elected officials, this package of programs demonstrate that our state's economic recovery from COVID-19 is underway.

This annual report provides a look back at pandemic recovery efforts and the advancement of programs created under the ERA, as well as other strategic initiatives, throughout 2021. This includes critically important projects and programs that will pave the way for inclusive, equitable, long-term economic growth, such as the New Jersey Wind Port and other clean energy-focused initiatives, the Main Street Recovery Program to help build the resilience of small businesses and nonprofits, and new programs to drive investment into New Jersey's innovation ecosystem.

Since Governor Murphy tasked the NJEDA with leading the state's economic recovery from the COVID-19 pandemic, the team has assessed the ongoing needs of the business community and responded with agility and a sense of urgency. Since March of 2020, the NJEDA has provided more than \$1 billion in economic assistance to ensure that New Jersey's small businesses keep their lights on, and doors open, and that our communities have the support necessary to thrive for years to come.

One of these programs, Sustain & Serve NJ, had awarded more than \$34 million to 31 organizations across the state as of December 2021, resulting in the purchase of nearly 3.3 million meals from more than 400 participating restaurants since the program launched in December 2020. Additionally, we launched the Community Stage Relief Grant Program, which provided much needed financial support for creative businesses most impacted by the pandemic. NJEDA's programs are being developed with a particular focus on women- and minority-owned businesses and businesses in historically underserved communities, with both serving as a testament to Governor Murphy's commitment to building a stronger, fairer economy.

While all of our COVID-19 relief programs were critically important to the businesses that received support, our Small Business Emergency Assistance Grant Program stands out as having an especially positive impact. Over four phases of this program, we have awarded nearly \$600 million to a broad swath of businesses that may not have been able to remain solvent through the pandemic without this support.

COVID-19 resources were a top priority in 2021, but NJEDA staff also focused heavily on tools for a strong and equitable recovery, with a specific focus on developing new funding sources for underbanked communities. Our Board approved the expansion of the Micro Business Loan Program and continued to support Small Business Bonding Readiness Assistance Program in partnership with the African American Chamber of Commerce of New Jersey and the Statewide Hispanic Chamber of Commerce of New Jersey.

We created new products to help main street businesses and nonprofits rebuild, including the Small Business Lease Grant and the Small Business Improvement Grant. The first approvals under the Small Business Lease Grant were made during the latter part of 2021, and to date, more than more than 1,100 grants totaling over \$27 million in support under the two programs has been approved.

The pandemic also laid bare some significant existing disparities in issues impacting the economic security of New Jerseyans. This includes issues such as child care, infant and maternal health, and food insecurity. The NJEDA continues to develop programs to address these issues, including a rigorous process for gathering public input on the nature and availability of resources. First to launch were the Food Security Planning Grant Program and the Child Care Facilities Improvement Program, both of which started accepting applications this fall.

2021 also saw tangible progress in the effort to establish New Jersey as a hub for offshore wind. In September, Governor Murphy led a groundbreaking at the New Jersey Wind Port in Lower Alloways Creek, Salem County, and progress continues toward nation's first purpose-built, greenfield offshore wind port that will bring billions of dollars and tens of thousands of jobs to New Jersey. Headway was also made on several offshore wind-related workforce development initiatives to ensure equitable access to the job opportunities this new industry creates. This growing sector will play an important role in driving economic growth and job creation across the state as our recovery from the pandemic continues.

Since 2020, New Jersey businesses and workers have faced some of the most extraordinary challenges any of us will ever see. Under the Governor's leadership, New Jersey is on course for a robust recovery that provides family-sustaining opportunities for all New Jerseyans. I am incredibly proud of the NJEDA team's commitment to serving New Jersey throughout the pandemic, as represented here in this annual report.

2021 was a heart-rending year, with ongoing loss of life and lingering challenges for businesses. I am grateful to all of NJEDA's employees, Board members, partners, and other stakeholders that continue to help to advance a strong, equitable, and inclusive economic recovery.

**TIM SULLIVAN**  
NJEDA Chief Executive Officer







# 2021 NJEDA ACTIVITY

Below is a summary of activity in calendar year 2021, reflecting:

**■ NON-INCENTIVES ACTIVITY** - Defined as financing projects that have closed, as well as other assistance that has been provided through non-incentive programs.

**2021 Non-Incentives activity includes the following programs:**

- 21st Century Redevelopment Program
- CDFI Loan to Lender Program
- CSIT Clean Tech Seed Grant
- CSIT SBIR/STTR Grant Program
- CSIT Clean Tech R&D Voucher
- Direct Loan
- Hazardous Discharge Site Remediation Fund
- Hurricane Ida/Henri Business Assistance Grant
- Main Street Small Business Lease Grant
- Micro Business Loan Program
- Micro Lender Support Grant Program
- NJ Ignite
- NJ ZIP
- Tax Exempt Bond Financing
- Small Business Lease Assistance Program
- Small Business Bonding Readiness Assistance Program
- Energy Resilience Bank
- Premier Lender Program
- Petroleum Underground Storage Tank Program



**■ INCENTIVES ACTIVITY** - Incentive projects (primarily involving tax credits) that have been approved in calendar year 2021 and are pending certification. For Film Tax Credit Program specifically, this represents a preliminary approval of tax credits only, as any approved project must certify completion of the project and any associated job creation/retention and/or capital investment before tax credits are issued. For information on projects that have received an issuance of tax credits in CY2021, please see the 2021 Incentives Issuance Report available as an appendix to this report.

**2021 Incentives activity includes the following programs:**

- Film Tax Credit Program – Projects Approved in CY2021
- Digital Media Tax Credit Program – Projects Approved in CY2021
- Emerge – Projects Approved in CY2021
- Economic Redevelopment and Growth (ERG) Program
- Angel Investor Tax Credit – Angel Investments Approved for Tax Credits
- Technology Business Tax Certificate Transfer (NOL) Program – Companies Approved to sell Net-Operating Losses

## ■ COVID-19 BUSINESS SUPPORT ACTIVITY -

Projects that have closed in 2021 under programs the NJEDA has established specifically to provide financial assistance to businesses impacted by the COVID-19 pandemic.

2021 COVID-19 Business Support activity includes the following programs:

- NJ Community Stage Grant Program
- Small Business Emergency Assistance Grant Program (Phase 2)
- Small Business Emergency Assistance Grant Program (Phase 3)
- Small Business Emergency Assistance Grant Program (Phase 4)
- Small Business Emergency Assistance Loan Program (Phase 1)
- Small Business Emergency Assistance Loan Program (Phase 2)
- Sustain & Serve NJ
- PPE Access Program



### CY 2021 Non-Incentives Activity

Projects / Companies Assisted	1,307
NJEDA Assistance	\$84,474,644
Estimated Public/Private Investment	\$100,728,413
Estimated New Jobs	191

### CY 2021 Incentives Activity

Projects / Companies Assisted	625
NJEDA Assistance \$	444,358,619
Estimated Public/Private Investment	\$1,042,165,411
Estimated New Jobs	2,284

*\* Some of the programs captured under CY2021 Incentives Activity (Film Tax Credit, Digital Media Tax Credit, Angel Investor Tax Credit, and NOL Program) do not include a job creation requirement, as these incentives are based upon either capital investment made in New Jersey, or net-operating losses incurred in New Jersey. Therefore, estimated new jobs are not tracked for these programs as they are not relevant data points to the assistance being provided, and the estimated new jobs figures are only applicable to programs where a job creation requirement exists.*

### CY 2021 COVID-19 Business Support Activity

Projects / Companies Assisted	48,456
NJEDA Assistance	\$ 437,485,908

*\* COVID-19 business support programs were intended to provide support short-term, immediate assistance to enable New Jersey businesses impacted by COVID-19 to sustain operations. Businesses receiving this funding were not required or expected to create new jobs or make new capital investment with this funding. Therefore, estimated new jobs and estimated public/private investment was not tracked for these programs, as they were not relevant data points to the assistance being provided.*

A detailed list of these projects can be found on the EDA Project List (see addendum). In addition to the summary listed above and corresponding project list, additional information is available as appendices to this report. This includes incentive projects that have that have certified completion and received an issuance of tax credits or reimbursements in calendar year 2021, as well as additional programmatic annual activity reports that are statutorily required of the Authority.







# ECONOMIC RECOVERY ACT OF 2020

In addition to supporting the recovery and long-term resilience of the state's small business community, the ERA also addresses many other important facets of the state's economy to maximize economic growth and ensure equity and inclusiveness.

Programs outlined in the Act include tax credits to incentivize job creation and capital investment to bolster New Jersey's communities, as well as tools to support and strengthen New Jersey's innovation economy. It also offers resources to revitalize brownfields and preserve historic properties, as well as support for new supermarkets and healthy food retailers in food desert communities, the expansion of tax credits for film and digital media, and financial resources for small businesses, including those impacted by the COVID-19 pandemic.



Governor Murphy signed the ERA outside of NJEDA-supported Carella's Chocolates and Gifts in Hamilton in January 2021.



*“Supporting small businesses is the centerpiece of Governor Murphy’s plan for a stronger, fairer recovery from the COVID-19 pandemic. The Main Street Recovery Program will build on the NJEDA’s successful COVID-19 relief programs to provide new resources tailored specifically to help business owners recover from the impacts of the pandemic and prepare for long-term success.”*

– NJEDA Chief Executive Officer TIM SULLIVAN

## ■ MAIN STREET RECOVERY PROGRAM

Funded at \$100 million, the Main Street Recovery Program is a small business support program comprised of multiple financial assistance products aimed at supporting the growth and success of small businesses in New Jersey. In line with Governor Murphy's commitment to a stronger, fairer recovery from the COVID-19 pandemic, 40 percent of all Main Street Recovery Program funds are reserved for businesses located in census tracts that were eligible to be designated as Opportunity Zones. Providing dedicated funding for businesses located in these census tracts helps to ensure equitable access to resources for communities and entrepreneurs that have historically struggled to connect with capital.

In August 2021, the NJEDA Board approved program rules for the creation of two grant products funded by the Main Street Recovery Program, the Small Business Lease Assistance Grant and the Small Business Improvement Grant.



Applications opened in October 2021 for the \$10 million Small Business Lease Assistance Grant, which provides grants to businesses entering new or amended leases with at least five-year terms that include at least 250 square feet of street-level space. This grant funding offsets a portion of annual lease payments for two years. By the end of 2021, more than 730 applications for the Lease Grant had been received, and the first approvals were processed in December.

The NJEDA opened applications in the spring of 2022 for its \$15 million Small Business Improvement Grant, designed to provide grants of up to \$50,000 to reimburse eligible businesses for a portion of costs associated with improvements and/or the purchase or installation of furniture, fixtures, and equipment.

Another component of the Main Street Recovery Program, the \$20 million Main Street Micro Business Loan, was approved by the Board in November 2021 and funding through the Main Street Recovery Fund. It provides financing of up to \$50,000 to eligible micro businesses in New Jersey with ten or fewer full-time employees and no greater than \$1.5 million in annual revenues that can be used to cover future eligible operating expenses. The Main Street Micro Business Loan is the successor to the Micro Business Loan Program, which was established by the NJEDA in 2019. Applications for the program launched in October 2022.





“Our new location in Berkeley Heights will be a center of excellence for technology and product innovation, allowing us to access a deep and diverse bench of financial and banking technology talent while bringing our people together to best serve our clients. We look forward to deepening our roots and growing our presence in the state.”

– Fiserv President and Chief Executive Officer FRANK BISIGNANO

## ■ ENCOURAGING COMPANIES TO LOCATE AND GROW IN NEW JERSEY

The ERA also created the Emerge program, designed with the intent to drive economic development in New Jersey. It will do this by making tax credits available to projects that invest private capital into the state and create good-paying jobs, with a focus on the State's priority sectors. Applications for the program opened in May 2021, and the NJEDA's Board made the first two approvals under the program in September 2021 – for Fiserv and Party City Holding, Inc.

Fiserv, which is investing more than \$105 million to improve and relocate to a mostly vacant office building in Union County, was approved by the Board for a tax credit award of \$109.2 million over seven years with a 313 percent net positive benefit to the state. The company is expected to create 1,927 new jobs and retain 1,063 existing jobs at risk of being located outside the state.



## ■ SUPPORTING EQUITABLE AND INCLUSIVE DEVELOPMENT

In addition to creating opportunities for companies looking to invest in New Jersey, the ERA extended and established resources to help bridge financing gaps for developers. On June 1, 2021, the NJEDA reopened applications for the residential component of the Economic Redevelopment and Growth (ERG) Program. The Authority first announced the extension of the program, enabled by \$50 million in tax credits designated in the Economic Recovery Act of 2020, in March. The ERG program, which was originally created to address project financing gaps in development projects, had previously stopped accepting new applications in June 2019. The ERA also included an additional \$100 million for commercial ERG projects.

The new phase of the ERG program is being administered based on pre-existing ERG regulations and statutes, as amended by the ERA, which added new prevailing-wage and minimum-wage requirements.

Governor Murphy and the Legislature acted to reopen ERG applications under the ERA to enable the movement of much-needed shovel-ready housing projects forward, while new programs created by the ERA, such as the Aspire program, are being developed.

Under the ERA, residential ERG projects can receive tax credits of up to 30 percent of total eligible project costs. Projects in five cities — Atlantic City, Camden, Paterson, Passaic, and Trenton — can receive tax credits of up to 40 percent of eligible project costs.

In December, the NJEDA Board approved an application for a project in Paterson involving the purchase and renovation of Hamilton Square, a 68-unit mill-style, two building apartment community located in the Great Falls Historic District. Co-applicants Hamilton Square Urban Renewal LLC and Soldier On Veterans Village VII, LLC (SOVV) intend to purchase and renovate the property, which consists of a three-story brick historic building built in 1814 and a four-story brick building built in 1997. SOVV is a subsidiary of Soldier On Inc., a Massachusetts-based nonprofit committed to ending veteran homelessness.

The project includes a mix of seven one-bedroom units, 54 two-bedroom units, seven three-bedroom units, and parking spaces for tenants. Seven units on the property will be converted to full Americans with Disabilities Act (ADA) compliance as part of the planned rehabilitation. The project was approved for tax credits of 37.57 percent of eligible project costs of \$16.8 million, not to exceed \$6.3 million.



“Reaching the homeless Veteran population is an enormously difficult task, but a crucial one. Our dedicated Veterans Service Officers and the two existing state-run Veterans Havens do incredible work every day toward the goal of ensuring all New Jersey Veterans can access the benefits they have earned. The tremendous efforts of Governor Murphy, the Legislature, the NJEDA, private and public organizations together, affirm steadfast support for those who have served and sacrificed for our great state and nation.”

– New Jersey Department of Military and Veterans Affairs Commissioner Brigadier General LISA J. HOU, D.O.



At its February meeting, the NJEDA's Board approved ERG tax credits for the redevelopment of Hinchliffe Stadium in Paterson. This project represents the final approval under the pre-ERA phase of the ERG program. The redevelopment of the historic stadium, which has been vacant for decades, will include a museum honoring the site's history as a Negro League baseball stadium, a 7,800-seat stadium and recreational center for the Paterson community, affordable housing for seniors, a restaurant and event space, and a parking garage.



*“The resurrection of Hinchliffe Stadium is not just about an historic ballpark, but about uplifting a neighborhood in a city that is making strides toward its own revitalization. While it has been tragic to see Hinchliffe fall into disrepair over these many years, today we imagine a new Hinchliffe that will not only look back at the sacrifice and endurance of such players as Paterson’s own Larry Doby, but will one day provide an opportunity for future boys and girls who can be inspired by its very existence toward their own unique greatness. This ERG award will nurture the future of Hinchliffe Stadium, and its surrounding neighborhood, so that together they will once again become a vibrant part of Paterson, a sorely needed recreational asset for its young people, and a source of renewal for the entire city for many years to come.”*

- Senator NELLIE POU



In May, the NJEDA and the New Jersey Housing and Mortgage Finance Agency announced their approvals of support for a project at the historic Argus Mill site in the Great Falls Historic District of Paterson. The Argus Ellison Development project is creating 74 housing units and associated parking for residents. A minimum of 40 percent of the units in this mixed-income development will average 60 percent or less of area median income. Most of the apartments on site will be supported by housing vouchers from the Paterson Housing Authority. The project also includes program space for Grandparents Relatives Care Resource Center, a Paterson-based nonprofit that provides family services, and office space for Winn Residential, the project's property manager.

At its final meeting of the year in December, the NJEDA Board approved rules for the Aspire program, a place-based economic development program created under the ERA that supports mixed use, transit-oriented development by providing tax credits to commercial and residential real estate development projects that have financing gaps.

The amount of tax credits a project is eligible to receive is a percentage of the project's eligible costs, subject to a cap that is determined by the project's location, other financing available, and other aspects of the project. Most projects are eligible for tax credits up to \$42 million, but projects that meet specific criteria may receive tax credits up to \$60 million. Projects that qualify as "transformative projects" may receive tax credits up to \$350 million.

Among other project requirements and similar to the Emerge program, Aspire rules include requirements to ensure that communities where projects are located participate in - and benefit from - the economic growth the project generates. As part of the application for projects, applicants must provide a letter of support from the governing body of the municipality or municipalities in which the project is located. Additionally, projects with an eligible project cost equaling or exceeding \$10 million must also enter into a Community Benefits Agreement with the Authority and municipality or county in which the project is located.

Also, at the NJEDA's December meeting, the Board announced three awards under the Government Restricted Municipality (GRM) Planning Grants Program. The cities of Atlantic City, Paterson and Trenton, which are the only entities identified as GRM municipalities in the ERA, will each receive a grant of \$250,000 under Phase One of this two-phase program.

The funds awarded to each city will support the creation of detailed, long-term, and action-oriented strategic plans that synthesize existing plans from both the municipality and stakeholders and identify technical capacity gaps that have held projects back from completion. These projects are considered to have significant potential to provide sustainable and resilient benefits for community members and business stakeholders.

*“We are extremely excited about the Argus development project and are profoundly grateful for the state’s assistance in achieving equitable housing and quality infill development. Grandparents raising grandchildren is a growing portion of our city, so we are very supportive of filling this niche need, while also serving as a beacon for other communities to serve their citizens in creative ways.”*

- Paterson Mayor ANDRE SAYEGH





## ■ COMPLEMENTARY RESOURCES FOR DEVELOPMENT

Several non-ERA NJEDA initiatives focused on driving equitable and inclusive development, particularly in areas suffering from decades of disinvestment, were advanced this year. While not specifically ERA programs, they share the ERA's goal of encouraging investment in and a thoughtful approach to redevelopment that will lead to thriving communities and better quality of life for all New Jerseyans.

The Brownfield Redevelopment Incentive will provide tax credits to support brownfields remediation projects and the Brownfields Loan Program makes low-interest loans of up to \$5 million available to brownfield redevelopment projects for all aspects of revitalization, including assessment, investigation, and demolition.

Historically, remediation has been a major barrier to successful brownfield redevelopment projects because of the lack of funding sources available to support site assessment, planning, and cleanup. The Brownfield Redevelopment Incentive and Brownfields Loan Program aim to address this challenge by filling in these funding gaps.

An additional brownfields resource was announced in December 2021, when the Board approved the creation of the Brownfields Impact Fund. The Fund makes low-interest loans of up to \$350,000 available to for-profit organizations and will make grants of up to \$350,000 available to nonprofit organizations and units of local governments. Grants may be combined with low-interest loans to help facilitate the redevelopment of brownfields by addressing funding gaps to make the remediation phase of the project financially viable.



*“Brownfield remediation and redevelopment is good for the environment and good for the community. Not only do we advance environmental justice but we improve neighborhoods and reinvent hazardous places into sites for economic development and job creation. Legislation like the New Jersey Economic Recovery Act fosters innovative opportunities for us to reinvent our spaces to benefit all of our residents in all of our communities around the state.”*

- Senator M. TERESA RUIZ



Under another program focused on returning dormant assets to productive use, eight communities were approved at the NJEDA's September Board meeting for grants totaling \$400,000 to help them create plans to redevelop, repurpose, or regreen stranded assets, such as vacant and underutilized retail or office complexes, that have a major impact on local economic conditions. Each awardee will receive a \$50,000 grant through the NJEDA's 21st Century Redevelopment Program.

The 21st Century Redevelopment Program was created in October 2018 as a response to the growing number of stranded assets in NJ communities and their impact on their hosts. Business, demographic, and economic trends resulted in several closures and long-term vacancies of large suburban office complexes and shopping malls. These closures impacted New Jersey communities in many ways, including loss of business traffic, decreased employment, and reductions in property rates. In response to subsequent stakeholder feedback, eligibility criteria were adjusted in 2019 to make more properties eligible while ensuring that vacant and underutilized office and retail complexes of significant scope and scale remain prioritized. The NJEDA paused the program in April 2020 as a result of the emergency COVID prevention measures and reopened applications in May 2021.

The eight approved communities were Atlantic City, Jersey City, Millville, Passaic County, Pemberton Township, Borough of Raritan, White Township, and Willingboro Township.

*“COVID-19 ushered in a brand-new approach to the way we utilize space within our communities and downtowns. The creative ideas that our awardees have for reinvigorating their stranded assets are reflective of this new mindset and each one aligns with Governor Murphy's goal of emerging from the pandemic in a fair and equitable manner.”*

- NJEDA Chief Executive Officer  
TIM SULLIVAN





## INNOVATION ECONOMY

*“We’re very encouraged to see the VC community invest in New Jersey startups on a scale we haven’t seen in decades. It’s well known that New Jersey is the birthplace of innovation, but investors are clearly showing that our state is the future of innovation as well.”*

– Governor PHIL MURPHY

The Murphy Administration’s commitment to bolstering the innovation economy and emerging as a national leader in innovation saw significant milestones in 2021.

In 2021, New Jersey surged into the Top 10 states for venture capital dollars invested. According to PitchBook, 219 innovative companies in New Jersey secured \$5.5 billion of investment in 2021, up from \$1.7 billion in 154 companies in 2020. This represents a significant uplift for New Jersey relative to 2017, when the state saw a total of \$818 million invested in 143 companies. In this latest ranking, New Jersey jumped three spots from where it stood at #12 in 2020, and seven spots from #16 in 2013. During 2021, the NJEDA closed on two new fund commitments to New Jersey based venture firms from the Authority’s Venture Fund Program, catalyzing a total of \$25 million into innovative New Jersey-based companies over the next four years. The investments went into Edison Partners X and Newark Venture Partners II.

### NEW JERSEY - TOP 10 STATE FOR VENTURE CAPITAL DOLLARS INVESTED

**219**

innovative companies

**\$5.5 billion**

of investment in 2021

**\$818 million**

invested in 143 companies

In September 2021, Governor Murphy announced plans for the NJEDA and Princeton-based venture capital firm SOSV to form a new entity - HAX LLC - to bring SOSV’s acclaimed HAX hard tech startup development program to Newark. He also announced that SOSV will establish the U.S. headquarters of its HAX program at the Newark site. HAX provides complete support for emerging companies, including a \$250,000 initial investment in each participating company, 180 days of hands-on collaboration, and a global founder community for early-stage founders building hard tech startup. SOSV selected Newark through a competitive search that compared locations across the country. The NJEDA is investing \$25 million into the new entity, while SOSV has committed to invest \$25 million in 100 New Jersey startups companies participating in its program, where the companies will in turn create a combined minimum of 2,500 new, high-paying jobs and capital investment.

Investors continued to benefit from the State’s Angel Investor Tax Credit Program, through which an investor can receive a refundable tax credit equal to a percentage of their qualified investment made in a New Jersey early-stage company. The program was expanded thanks to legislative actions taken in 2019 and the ERA. These include increasing the annual amount of tax credits from \$25 million to \$35 million, increasing the amount of tax credits available per qualified investment into a technology business from 10 percent to 20 percent, adding a five-percent bonus credit for qualified investments made in a New Jersey certified minority-or women-owned technology business or a technology business that is located in a qualified Opportunity Zone or New Markets Tax Credit Census Tract, and expanding the definition of a qualified investment to include investment commitments made into qualified venture funds. During 2021, the NJEDA approved 559 Angel Investor Tax Credit applications, representing the injection of nearly \$107 million into New Jersey’s innovation economy.

Another popular program that was expanded through the ERA is the Net Operating Loss (NOL) Program, which enables companies that have yet to reach profitability sell their net operating losses and unused research and development (R&D) tax credits for cash. The ERA increased the program’s annual cap from \$60 million to \$75 million. It also increased the lifetime cap for an individual applicant from \$15 million to \$20 million. Finally, the existing first allocation of benefits for companies located in innovation zones was expanded to include companies located in opportunities zones as well as companies certified as a woman- or minority-owned in order to provide increased support underserved communities. Thirty-two (32) early-stage companies were approved to share a combined \$55.5 million in funding through the 2021 NOL Program.

In addition to funding resources, the NJEDA also offers emerging New Jersey companies access to real estate, as well as mentorship opportunities.

Strategically located in the heart of the State’s research corridor between Rutgers and Princeton universities, the New Jersey Bioscience Center is a 50-acre, five-building research park in North Brunswick owned and operated by NJEDA. The park consists of approximately 300,000 square feet of lab and office space.

The New Jersey Bioscience Center includes several levels of real estate products to support life science companies at all different stages of development. The first offering for new biotechnology businesses is the Incubator at North Brunswick

*“Thanks to the NOL Program’s increased lifetime cap this year, we were able to secure more funding than we would have under the program’s previous parameters. This non-dilutive capital will be instrumental to the advancement of our efforts to develop first-in-class therapies. We are grateful for the NJEDA’s continued support of the New Jersey biotech community through resources such as the NOL Program.”*

– Caladrius Biosciences President and  
Chief Executive Officer  
DAVID J. MAZZO, Ph.D.

- a 48,000 square foot facility with 27 wet labs and access to shared equipment and business support services. The Incubator has been in existence for 20 years and boasts a roster of graduates that are significant job creators in the state. The Incubator includes both small and large labs, as well as offices and offers discounted first-year rent for university spinouts. Additionally, it provides tenant companies with educational programs and a host of supporting resources, including help to identify funding sources and access to small business development resources, networking opportunities, and administrative support. During 2021, two new tenants moved to the Incubator and two graduated into larger spaces within New Jersey.







Next door to the Incubator, the Step-Out Labs at North Brunswick provides a life sciences workplace environment for post-incubation and rapidly-growing biopharmaceutical companies, including businesses graduating out of the Incubator.

Both the Step-Out Labs and the Incubator are within the New Jersey Bioscience Center research park, which has over \$70 million invested in facilities and improvements.

To help provide entrepreneurs with access to mentorship, the NJEDA continues to welcome accelerators throughout

the country into its NJ Accelerate program. The program, which launched in late 2020, is designed to grow New Jersey's innovation ecosystem by promoting greater participation by the state's entrepreneurs in qualified accelerator programs throughout the United States. It also incentivizes graduate companies from approved accelerators to consider locating in New Jersey, as well as to showcase the talent in the state's accelerators on a national stage. In 2021, the NJEDA approved the University City Science Center's Launch Lane (UCSC), Venture Well's Aspire Program, and Cleantech Open Northeast for participation in NJ Accelerate.

*“New Jersey is home to thousands of scientists and entrepreneurs working to develop life-saving and life-enhancing technologies. We are excited to invite them into our programs to support their efforts to commercialize their products as a result of our participation in NJ Accelerate.”*

- CHRISTINA TAMER, Director of Programs – Early-Stage Innovation & Venture Development at VentureWell



*“Golden Seeds has a proven track record of successfully investing in, and creating opportunities for, women-led startups nationwide and we have experienced first-hand the impact that this angel investor network has on our state's female entrepreneurs. Our flourishing New Jersey chapter continues to open doors and provide opportunities for women-led companies throughout the state. Establishing a Golden Seeds chapter in New Jersey has been vital in building our innovation ecosystem and driving sustainable, economic growth that will continue to thrive after the pandemic.”*

- First Lady TAMMY MURPHY

2021 marked the first full year of the New Jersey Chapter of Golden Seeds. Golden Seeds is a national angel investment firm dedicated to pursuing positive investment returns through the empowerment of women entrepreneurs. The NJEDA, in partnership with First Lady Tammy Murphy, launched the New Jersey Chapter in early 2020 to address – and correct – the underrepresentation of women and women-led startups in angel and venture capital investing. A Forbes 2021 article noted that underfunding women entrepreneurs excludes at least \$3 trillion from the global economy. It also added that one recent Harvard Business Review study suggested funding women entrepreneurs could add as much as \$5 trillion to the global gross domestic product.

In line with Governor Murphy's goal of creating equity and inclusion within the investment community and leveling the

playing field for female entrepreneurs, the Golden Seeds – New Jersey Chapter hosts monthly office hours, during which female entrepreneurs meet one-on-one with seasoned investors to discuss possible funding opportunities. The chapter also holds several networking events throughout the year for entrepreneurs within New Jersey's innovation ecosystem.

As of December 31, 2021, over 100 entrepreneurs had participated in office hours since February 2020 and the chapter had grown to more than 35 members. New Jersey office hours attracted entrepreneurs from all geographic areas of the state as well as innovators from Indiana, Illinois, Florida, Massachusetts, Maryland, New York, Pennsylvania, and Virginia.



*“Access to capital has always been one of the greatest barriers to success for female founders, and under Governor Murphy's leadership, New Jersey is focused on removing that impediment.”*  
*“By connecting female founders directly with experienced investors who can offer feedback and guidance and the potential for funding, we are arming them with the tools they need to best position their early-stage companies for growth.”*

- NJEDA Chief Economic Transformation Officer KATHLEEN COVIELLO

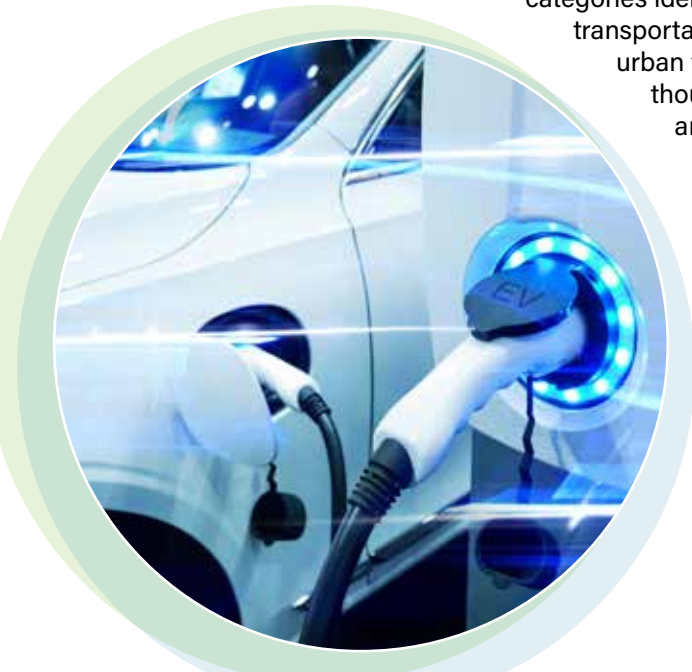




## ■ CLEAN ENERGY

The NJEDA's support for Governor Murphy's ambitious goal of making New Jersey 100 percent clean energy by 2050 took an important step forward in 2021 with the launch of the highly popular New Jersey Zero-Emission Incentive Program (NJ ZIP). NJ ZIP began as a \$15 million pilot program to provide vouchers for up to \$100,000 to businesses and institutional organizations in the greater Newark and Camden areas to support the purchase of new, zero emission medium and heavy-duty vehicles (MHDVs) such as pickup trucks, vans, busses, and box trucks. Due to its success, the program expanded twice in 2021 and offered the vouchers to entities in the greater New Brunswick and greater Shore areas. By the end of 2021, a total of \$44.25 million was allocated to the program, and the NJEDA had received 186 applications and approved 26 applications for 26 entities to support the purchase of 114 vehicles.

NJ ZIP is the first NJEDA initiative in New Jersey's holistic, Regional Greenhouse Gas Initiative (RGGI)-funded effort to support the deployment of zero emission MHDVs. RGGI is a multi-state "cap-and-trade" program regulating carbon dioxide emissions. The State is implementing plans to deploy RGGI funds within four initiative categories identified in the RGGI Strategic Funding Plan: catalyzing clean, equitable transportation; promoting blue carbon in coastal habitats; enhancing forests and urban forests; and creating a New Jersey Green Fund. This Plan reflects the thoughtful public input that was collected through four public workshops and one webinar held during November and December of 2019.



*"Getting more zero-emission vehicles on the roads is a key step in New Jersey's response to climate change and improving health outcomes in our overburdened communities – and just makes good economic sense for our small businesses. We are excited to see such a robust and diverse response to our pilot program, and are thrilled that the funding announced today will allow us to bring NJ ZIP to more communities within our state, making strides toward Governor Murphy's vision for a stronger and fairer – and greener – New Jersey."*

- NJEDA Chief Executive Officer TIM SULLIVAN

## ■ OFFSHORE WIND

Offshore wind (OSW) is a rapidly expanding global industry that Governor Phil Murphy has prioritized as a target sector for driving long-term, sustainable economic growth in New Jersey. As a central component of his administration's Energy Master Plan to achieve 100 percent clean energy by 2050, Governor Murphy recently increased the state's goal for production of OSW energy from 7,500 megawatts (MW) by 2035 to 11,000 MW by 2040, and has taken a comprehensive approach to establishing New Jersey as a global hub of OSW.

In 2021, the NJEDA spearheaded several initiatives to grow the OSW industry in the state. The most noteworthy being the groundbreaking for Phase 1 of the New Jersey Wind Port, a first-of-its-kind offshore wind manufacturing and marshalling facility located in Lower Alloways Creek, Salem County. The Wind Port will provide a location for essential staging, assembly, and manufacturing activities related to offshore wind projects on the East Coast. The Wind Port has the potential to create up to 1,500 manufacturing, assembly, and operations jobs and drive billions of dollars in economic growth.

From the time the NJ Wind Port was first announced, the NJEDA wanted to ensure that a project of this magnitude had aligned goals to ensure that we engage the state's diverse population through inclusive access to contracting and workforce opportunities. In 2020, NJEDA commissioned



a special Disparity Study for the Wind Port project, conducted by Rutgers University. This led to the commitment to specific construction contracting targets for small, minority-, women-, and veteran-owned businesses and targets for minorities and female workers at the site. To support NJEDA's efforts, the Authority also formed the Diversity and Local Engagement Committee, which includes public officials, chambers of commerce, educational institutions, clergy, and others to provide input on how we can maximize opportunities to achieve project goals.



NJEDA staff joined Governor Murphy, legislators, and public and private industry leaders in September 2021 to break ground on the New Jersey Wind Port. It is the nation's first purpose-built offshore wind marshalling port and promises to position New Jersey as a hub for the U.S. offshore wind industry.

*"The interest we are seeing in the New Jersey Wind Port demonstrates that we do not have to choose between addressing climate change and creating jobs. Through this project and Governor Murphy's other efforts to combat climate change, we can drive economic growth, strengthen our workforce, and create family sustaining jobs for all New Jerseyans who want to be involved in the green economy."*

- JANE COHEN, Executive Director, Office of Climate Action and the Green Economy



Additionally, New Jersey's first offshore wind manufacturing facility, the Paulsboro Marine Terminal, broke ground in April. EEW American Offshore Structures (EEW), a leading manufacturer of offshore wind monopile foundations, is investing \$250 million in this state-of-the-art monopile manufacturing facility, which will supply the 1,100 MW Ocean Wind farm being developed by Ørsted and PSEG off the coast of southern New Jersey. The facility is a key asset for the state, and in addition to supplying Ocean Wind, will serve the rapidly progressing U.S. offshore wind industry for years to come.

Further efforts advanced by the NJEDA in 2021 to establish New Jersey as a hub for offshore wind were focused on developing a pipeline of talent to support the state's OSW initiatives and ensure New Jerseyans are well-positioned to benefit from these family-sustaining career opportunities. These efforts included entering a Memorandum of

Understanding (MOU) with Gloucester County Institute of Technology (GCIT) to support the expansion of GCIT's welding and painting programs; establishing an Offshore Wind Tax Credit Program to enable global offshore wind companies to make the decision to locate, invest, hire, and most importantly, build a local supply chain in New Jersey; awarding the NJ Wind Turbine Tech Training Challenge to Rowan College of South Jersey (RCSJ) to develop an industry-recognized wind turbine technician training program that will support the offshore wind industry and workforce in New Jersey; and awarding the New Jersey Offshore Wind Safety Training Challenge to Cape Community College (Atlantic Cape) to establish an industry-recognized Global Wind Organization (GWO) safety training program and facility to prepare New Jersey workers for jobs in the growing offshore wind industry.

*“Offshore wind will create thousands of good-paying, permanent jobs. A critical step toward ensuring the state's future success in this industry is strengthening our investment in workforce training and education today. As one of our key apprenticeship partners, RCSJ's plans are an exciting step forward that will equip our workforce with the skills and knowledge they need to fill these family sustaining positions.”*

- ROBERT ASARO-ANGELO, Department of Labor Commissioner

Through the MOU with the GCIT, the NJEDA provided up to \$75,000 for programs that prepare students and workers for jobs in heavy steel offshore wind component manufacturing. The Offshore Wind Tax Credit Program is a \$350 million program that provides tax credits, often up to 40-60 percent of the qualified capital investments made by a business in a qualified wind energy facility that will be employing at least 150 new, full-time employees. RCSJ received a grant of \$819,019 to develop an industry-recognized wind turbine technician training program that will ensure New Jersey students and workers have access to the training they need to work in offshore wind. Moreover, the GWO safety training program and facility will create new opportunities for New Jerseyans to gain access to the critical training, education, and skills required to compete for jobs in offshore wind.

Offshore Wind is a once-in-a-generation opportunity that will drive New Jersey's clean energy economy for future generations. This booming industry will open doors for thousands of New Jerseyans looking to reap the benefits from these investments, moving us closer to Governor Murphy's vision for a stronger, fairer New Jersey and cementing New Jersey's position as the capital of American offshore wind.



## ■ NEW JERSEY FILM & DIGITAL MEDIA TAX CREDIT PROGRAM

The New Jersey Film and Digital Media Tax Credit is a program meant to attract production companies to film and create digital media content in New Jersey and to encourage the development of large-scale studios in the state.

First signed into law by Governor Murphy in July 2018 and later expanded, the program provides up to \$330 million in annual tax credits based upon a percentage of film or digital media costs incurred in the state. The increase in film and digital media productions helps to strengthen the State's economy by attracting film, television, and digital media production, as well as the associated economic benefit that is generated through these productions, such as permanent job creation, decent living wages, increased tourism activity and spending, infrastructure and community investment in production facilities, and support for local small businesses and vendors.

The program provides tax credits of up to 35 percent of eligible costs for film and digital media productions. Early in 2022, the program's two percent diversity bonus was amended to allow for an additional two percent to encourage hiring of women and minorities in all areas of production of

films, specifically local on-screen talent as well as production crew and staff, entry level positions, management positions and talent-related positions. In 2021 alone, 20 projects were approved through the New Jersey Film and Digital Media Tax Credit for a total of \$71.6 million in tax credits, contributing more than \$500 million to the state's economy. That's the highest single-year revenue reported to date. Some of these high-profile projects approved for tax credits in New Jersey in 2021 included NBC's TV series "Lincoln," the movies "Clerks 3" and "Jules," and New Jersey native Queen Latifah's CBS series "The Equalizer."

The New Jersey Film and Digital Media Tax Credit program has made New Jersey a national film and television production hub and continues to pave the way for our state to reinforce its legacy as a premier destination for leading film and television productions. These productions benefit all residents by creating job opportunities for people from diverse backgrounds, and injecting millions of dollars into local businesses. This translates into long-term economic benefits for New Jersey and improved quality-of-life for all New Jerseyans.

*“It is so exciting to see the film industry thrive once again in New Jersey. Major film and television productions are investing in New Jersey's economy, the creative local workers they hire, and the communities where they choose to tell their stories. We cannot wait to see more of the Garden State on camera in the coming years.”*

- TAHESHA WAY, New Jersey Secretary of State





## SMALL BUSINESS ECONOMIC RECOVERY

When the COVID-19 pandemic hit in March of 2020, the Governor made clear that it was first and foremost a public health crisis, but the economic impact of the pandemic was nearly as devastating, especially to the state's small business community. While the availability of the COVID-19 vaccine was encouraging news in early 2021, the economic effects of the pandemic continued to be felt all year long. Throughout the year, the NJEDA gradually shifted its focus from supporting the post-pandemic recovery of small businesses to creating the resources and programs necessary in order to help small business owners build long term economic resilience and be better prepared for future economic disturbances.

In addition to being the heartbeat of New Jersey's iconic cities, quaint downtowns, and family-friendly suburbs, small businesses are the state's largest creator of jobs, and generate economic activity that sustains our state's economy.

For these reasons, they are a crucial focus of Governor Murphy's plan for a stronger, fairer New Jersey economy.

Throughout 2021, NJEDA-administered COVID-19 programs continued to provide relief to small businesses. Steps taken by the NJEDA in 2021 included the expansion of grant and loan programs for small businesses, and implementation of innovative and creative approaches to address residual impacts of the pandemic felt by industries such as restaurants and the arts. Both launched in 2021, the well-recognized Sustain & Serve NJ grant program partners local nonprofits and restaurants and the Community Stage Relief Grant Program provides relief for performing arts venues and production companies. By the end of 2021, NJEDA's responsive and myriad programs resulted in the approval of more than 92,000 grants, loans, loan guarantees, and technical support awards totaling more than \$666 million.

*"Minority- and women-owned businesses were impacted particularly hard by the pandemic. COVID-19 exacerbated the existing challenges faced by businesses owned by people of color, and ensuring an equitable and successful recovery is imperative to the economic future of all New Jersey families."*

- NJEDA's Chief Diversity and Inclusion Officer MICHELLE BODDEN

Within weeks of Governor Murphy declaring a public health emergency in March 2020, the NJEDA created a series of loan and grant programs to help small businesses keep their doors open and their employees paid. The vast majority of these awards were funded with federal Coronavirus Aid, Relief, and Economic Security (CARES) Act appropriations. Spanning four phases over 2020 and 2021, the Small Business Emergency Assistance Grant Program provided more than 77,700 grants totaling over \$589 million to small businesses. Other support included more than \$14.3 million in loans to over 213 businesses, discounts of nearly \$11.1 million for 13,000 businesses purchasing Personal Protective Equipment (PPE) through NJEDA approved vendors. The NJEDA also provided funding to Community Development Financial Institutions (CDFIs), which in turn, provided 409 low-interest loans totaling \$9.2 million to small businesses, largely minority- and woman-owned businesses in underbanked communities.



Another enormously impactful program to come out of the COVID-19 pandemic was Sustain & Serve NJ. Repeatedly hailed as a "home-run" by Governor Murphy, Sustain & Serve NJ offers a creative approach to supporting both restaurants affected by the pandemic and those who struggle with food insecurity. Through Sustain & Serve NJ, the NJEDA provides grants to entities statewide to purchase meals for local restaurants and provide them free of charge to New Jerseyans facing food insecurity. During 2021, the NJEDA awarded a total of \$35 million to 32 organizations through two rounds of funding, supporting the purchase of nearly three million meals from over 400 restaurants in all 21 counties. Additional information about Sustain & Serve NJ can be found within the Economic Security section of this annual report.





*“New Jersey’s eclectic arts and cultural scene is an essential element of its economic success and Governor Murphy is committed to supporting performing arts businesses that were hit hard by the economic effects of COVID-19. The Community Stage Relief Grant Program will ensure our communities remain vibrant places to live, work, and play by providing the funds performing arts venues and other businesses involved in live performances need to recover and reopen safely in the aftermath of the pandemic.”*

- NJEDA Chief Executive Officer TIM SULLIVAN



Live performance venues and companies that produce live events were another sector that took a particularly hard hit during the pandemic. To help them overcome their losses, the NJEDA launched applications for the New Jersey Community Stage Relief Grant Program in August 2021. The program provided grants of up to \$300,000 to businesses involved in the promotion and production of live events. Qualified businesses were eligible for grants of up to 30 percent of their decline in operating revenue from 2019 to 2020. To ensure grants reached businesses in the hardest hit communities, including communities of color, one-third of the funding available through the Community Stage Relief Grant Program was targeted to businesses with a primary business location in a census tract that was designated as eligible to be selected as an Opportunity Zone. More than \$5.1 million was awarded to 38 entities through the program. A separate grant program administered by the New Jersey State Council on the Arts was created to provide COVID-19 relief to nonprofit arts venues.

In the midst of the ongoing pandemic, parts of the state were unexpectedly hit by tropical storms Henri and Ida late in the summer of 2021. Just days after President Joe Biden announced the availability of federal funding for businesses impacted by Hurricane Ida, the NJEDA announced the approval of the Henri/Ida Business Assistance Grant Program at a special meeting of its Board. The \$10.5 million program offered grants of \$1,000 to \$5,000 for businesses and non-profits that suffered physical damage from the effects of recent tropical storms Henri and Ida.



NJEDA Chief Executive Officer Tim Sullivan speaks at Governor Phil Murphy’s press conference announcing \$10 million in financial relief for small businesses impacted by Hurricane Ida.



This program provided short-term, immediate rent/mortgage reimbursement support to New Jersey businesses and non-profits with up to 50 full-time equivalent employees that suffered physical damage from Tropical Storm Henri on August 22nd and 23rd, or from Tropical Storm Ida on September 1st, 2nd and 3rd, 2021. Grants totaling \$3.5 million have been approved for 1,016 businesses through the program.

The NJEDA also partnered with the African American Chamber of Commerce of New Jersey and the Statewide Hispanic Chamber of Commerce of New Jersey to help guide businesses that sustained storm damage through the process of seeking federal financial assistance through the Small Business Administration’s (SBA’s) Non-COVID Economic Injury Disaster Loan (EIDL) Program and/or Business Physical Disaster Loan Program.



## ■ TECHNICAL ASSISTANCE

In addition to programs providing direct financial support, the NJEDA developed several inventive approaches to helping businesses overcome their challenges. Many businesses reliant on in-person sales were faced with a daunting transition to doing business online when faced with declining sales due to the pandemic. To support their efforts, the NJEDA employed the services of three marketing firms -- Hudson Integrated, Positive Solutions, and Suasion Communications Group -- to help businesses that normally depend on foot traffic and face-to-face transactions identify and implement the website and ecommerce capabilities they need to stay in business while complying with current health guidelines and changing customer preferences. Through this program, more than 60 New Jersey businesses pivoted to expand their online capabilities, which has helped them continue to serve their customers throughout the pandemic. In addition to resources created under the ERA, existing NJEDA programs continued to help small businesses throughout the state grow.

Another resource, the Small Business Bonding Readiness Program, helps small business owners compete for city, county, and state contracts and expand their portfolios of projects, which in turn helps them grow their businesses. The Program was created in 2018 in partnership with the African American Chamber of Commerce of New Jersey (AACCNJ).

In July 2021, the NJEDA and the AACCNJ announced that 23 participants had fully completed the class work that kicked off earlier in the year. This round of participants completed the program with ten small businesses qualifying for surety bonding, which totaled more than \$11.5 million at that time.

As of the end of 2021, 91 small-, minority-, and women-owned businesses had participated in the Small Business Bonding Readiness Assistance Program and 46 of them had qualified for over \$33 million in surety bonds. The State budget for Fiscal Year 2022 included \$500,000 for the Small Business Bonding Readiness Program, doubling what was allocated in prior years.





## ■ ADDITIONAL SOURCES OF FUNDING FOR SMALL BUSINESSES

The NJEDA announced in 2021 that ten lenders were selected to receive grants through the Micro Lender Support Grant Program. This \$2 million pilot program provides grants to CDFIs, Minority Depository Institutions (MDIs), and other organizations that lend to New Jersey small and micro businesses to support the costs associated with scaling up their operations and offering direct assistance to more New Jersey-based businesses.

The following organizations were selected to receive grants



through the Micro Lender Support Grant Program:

- **Union County Economic Development Corporation (UCEDC)**
- **Cooperative Business Assistance Corporation (CBAC)**
- **Elizabeth Development Company of NJ**
- **Grameen America Inc**
- **Pursuit**
- **NJ Community Capital**
- **Reinvestment Fund**
- **1st Bergen Federal Credit Union**
- **Greater Newark Enterprises Corporation (GNEC)**
- **Lakewood Development Corporation**

The ten grant recipients will each receive a \$200,000 grant. These funds will be used to support operating expenses associated with servicing micro and small businesses, such as hiring additional staff or opening new offices, and the buying down of interest rates of loans offered to small and micro businesses.

The NJEDA continuously works independently and through partnerships to assess the challenges and needs of small businesses when it comes to accessing capital. Early in 2021, the NJEDA entered a Memorandum of Understanding (MOU) with the Federal Reserve Bank of Philadelphia to create a Research in Action Lab on the topic of minority-owned small businesses.

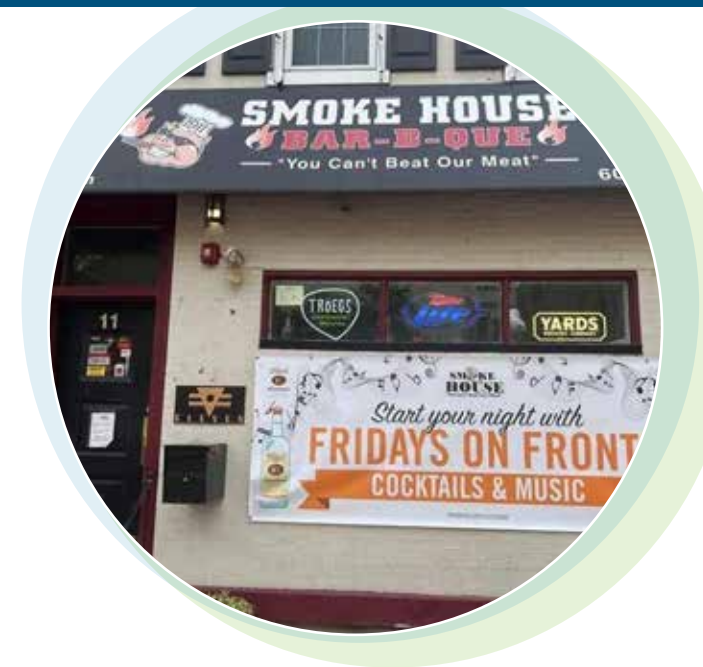
Research in Action Labs are part of the Economic Growth and Mobility Project, an initiative of the Federal Reserve Bank of Philadelphia dedicated to promoting equal access to economic opportunity for all.

*“Supporting small businesses is central to Governor Phil Murphy’s vision for a stronger, fairer recovery from COVID-19. Throughout the pandemic, lenders that specifically support micro businesses have been crucial to helping the most at-risk small businesses keep the lights on, but the ongoing challenges of the pandemic have strained these organizations. The Micro Lender Support Grant Program awards announced today will provide much needed resources to help CDFIs and other lenders continue supporting micro and small businesses that need help while increasing their capacity to serve even more businesses in need.”*

- NJEDA Chief Executive Officer TIM SULLIVAN

*“The New Jersey Economic Development Authority interacts with small businesses every day and addresses economic inequities head on. The Philadelphia Fed is excited to partner with the NJEDA who will provide valuable insight into the challenges businesses are facing in their local communities throughout this partnership.”*

- ASHLEY PUTNAM, Director of the Economic Growth and Mobility Project at the Federal Reserve Bank of Philadelphia



A Research in Action Lab moves research into action on a specific issue of poverty and economic mobility impacting a community. The goal of this Research in Action Lab is to explore innovative solutions through cross-sector partnerships. This includes convening stakeholders across sectors to address systemic issues of economic inequality related to minority-owned small businesses, piloting and innovating solutions, and affecting systemic change.

The NJEDA and the Federal Reserve Bank of Philadelphia began collaborating in the fall of 2020, when the NJEDA helped to promote the Federal Reserve’s Small Business Credit Survey, an annual survey of small businesses in the United States that aims to provide advocates and policymakers with insights they can use to address small businesses’ needs. The NJEDA worked with the Reserve Banks to drive responses from underrepresented businesses with a particular focus on learning more about minority- and women-owned firms. Through its promotion of the survey, the NJEDA was able to drive more than 2,300 responses from New Jersey small business owners

*“Supporting minority-owned businesses is vital to achieving a strong and equitable recovery from the COVID-19 pandemic. Partnering with the Philadelphia Fed to gain insights into the unique challenges these businesses are facing during the pandemic and expect to face during recovery will help us to craft programs that address their needs and open the door to long-term success.”*

- NJEDA Chief Community Development Officer TAI COOPER







## ECONOMIC SECURITY

In alignment with Governor Murphy's commitment to building a stronger and fairer New Jersey, the NJEDA's Economic Security team focuses on developing and implementing programs and initiatives to enhance community wellbeing and economic opportunity for all New Jerseyans. In 2021, the team focused on combating food insecurity, tackling racial disparities in maternal and infant health outcomes, and bolstering the state's vital child care sector.

The Sustain & Serve NJ program was one of the most impactful programs to come out of the COVID-19 pandemic and offers a creative approach to supporting both restaurants impacted by the pandemic and those who struggle with food insecurity. Sustain & Serve NJ started as a \$2 million pilot program to provide grants to organizations to buy meals from COVID-impacted restaurants and distribute them for free to New Jerseyans facing hunger. The NJEDA began accepting applications for Phase 1 in December 2020. By the end of 2021, the program had awarded \$35 million to 32 organizations through two rounds of funding. In the program's first year, the grants supported the purchase and distribution of nearly three million meals from 413 different restaurants throughout all 21 New Jersey counties. Governor Murphy has repeatedly hailed Sustain & Serve NJ as a "home run" for the enormous impact it had in combatting food insecurity while enabling restaurants to keep their doors opened and their employees paid.

In late 2021, the NJEDA announced it was opening applications for a third round of Sustain & Serve NJ funding. That round resulted in the awarding of an additional \$17.5 million to 30 nonprofit organizations in mid-2022. By spring 2023, NJEDA anticipates Sustain & Serve NJ will have supported the purchase of more than five million meals.



*"Feedback from organizations and restaurant owners participating in Sustain & Serve NJ has been overwhelmingly positive, and we are incredibly grateful for Governor Murphy's support of a third phase of the program. The meals provided through Sustain & Serve NJ not only offer basic sustenance for families in need, but also provide dignity and are responsive to the needs of New Jersey's diverse communities. We are thrilled to expand a program that embodies Governor Murphy's commitment to advancing a stronger and fairer state for all New Jerseyans."*

- TARA COLTON, NJEDA Executive Vice President for Economic Security



*"The structure of Sustain & Serve NJ is smart and proactive in terms of the dual benefits it provides. In addition to helping restaurants keep their lights on and their workers employed, the program provides an opportunity for them to make a positive difference for their communities."*

- NJ Restaurant and Hospitality Association, President and Chief Executive Officer DANA LANCELLOTTI

The Economic Security team spent much of 2021 laying the foundation for programs and initiatives that launched in 2022. The NJEDA issued several Requests for Information (RFIs) to seek input from the community to help shape much-needed programs to strengthen the economic security of the state.

The Food Desert Relief Act was a critical part of the ERA legislation signed by Governor Murphy in early 2021. The Act directs the NJEDA to address the food security needs of communities across New Jersey by providing up to \$240 million over six years in tax credits, grants, loans, and/or technical assistance to increase access to nutritious foods and develop new approaches to alleviate food deserts.

In March 2021, the NJEDA issued an RFI seeking insight into food security challenges faced by communities across the Garden State, including specific obstacles and disparities within communities that are considered "food deserts." The information gathered from this RFI helped inform the creation of a New Jersey-specific definition of food deserts and offered potential solutions to increase the accessibility and affordability of healthy, nutritious foods for all New Jersey residents. The RFI received nearly three dozen responses. Incorporating community feedback, the NJEDA approved a final list of 50 Food Desert Communities in early 2022 and opened applications for a Food Security Planning Grant Program later in the year.





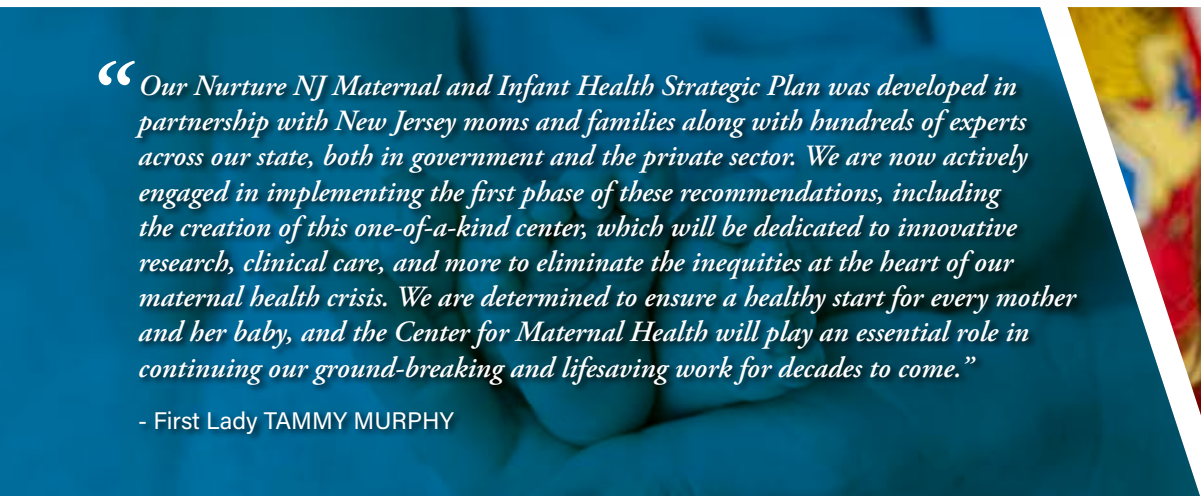
In furtherance of First Lady Tammy Murphy’s Nurture NJ initiative’s Maternal and Infant Health Strategic Plan, the NJEDA is developing a first-of-its-kind Maternal and Infant Health Innovation Center in Trenton. The Center will support health care access to New Jersey expectant and new parents and babies, advance the growth and development of the perinatal workforce, and serve as a hub for maternal and infant health policy and innovation focused on eliminating racial disparities in maternal and infant health outcomes that will benefit the City of Trenton, the State, and the entire country. Nurture NJ is a statewide, multi-agency campaign committed to both reducing maternal and infant mortality and morbidity and ensuring equitable care among women and children of all races and ethnicities, making New Jersey the safest and most equitable place in the nation to deliver and raise a baby. The proposed Center is a key element of the Nurture NJ Strategic Plan, unveiled by the First Lady in January 2021. In April 2021, NJEDA issued an RFI to inform the establishment of the Center. The RFI received over 50 responses. Based on these responses, in 2022 NJEDA partnered with the John S. Watson Institute for Urban Policy and Research at Kean University for ongoing community engagement efforts related to the establishment of the Center.

Legislation signed by Governor Murphy in the summer of 2021 appropriated \$100 million in American Rescue Plan funds to the Department of Community Affairs to support the child care sector. \$54.5 million of that funding was provided to the NJEDA to help child care providers make improvements to their facilities and receive the technical assistance they need to survive and thrive. The NJEDA launched Phase 1 of the Child Care Facilities Improvement Program in late 2022.



“The NJ Child Care Facilities Improvement Program will allow child care providers to leverage public resources to upgrade and improve, and to create and sustain safe, nurturing environments intended to help develop young minds. This investment in state-of-the-art child care programs will encourage healthy growth and development for New Jersey’s children, and will strengthen the child care options available to working families. This is a welcome inclusion in efforts to support families and children in New Jersey to thrive.”

– New Jersey Department of Children and Families Commissioner  
CHRISTINE NORBUT BEYER

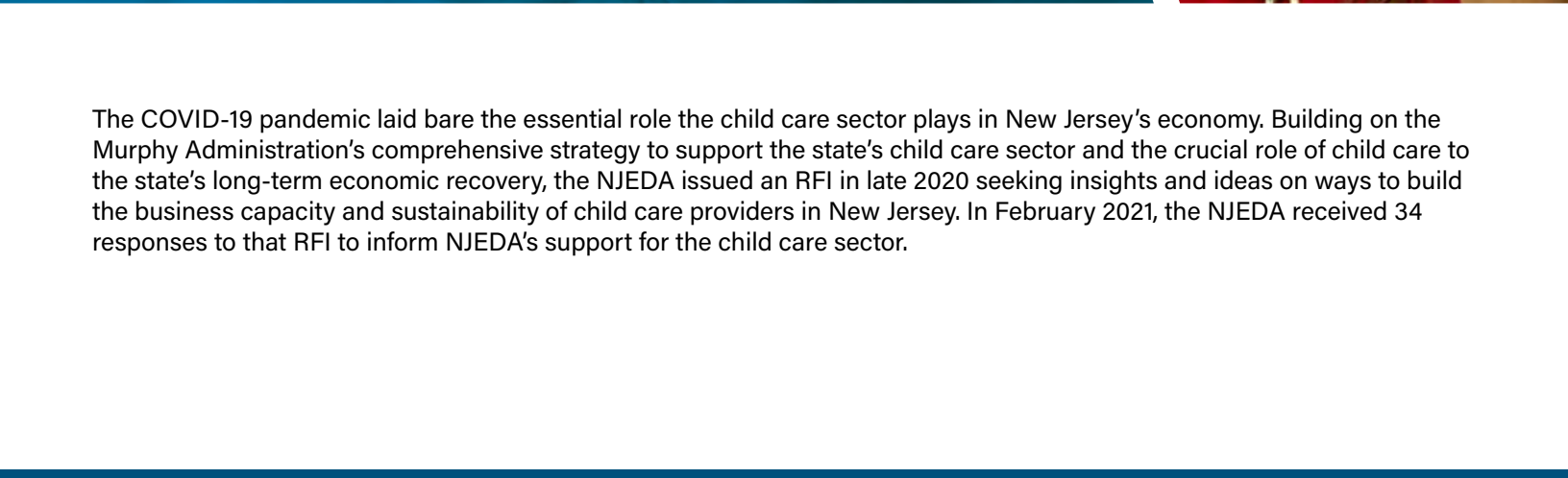


“Our Nurture NJ Maternal and Infant Health Strategic Plan was developed in partnership with New Jersey moms and families along with hundreds of experts across our state, both in government and the private sector. We are now actively engaged in implementing the first phase of these recommendations, including the creation of this one-of-a-kind center, which will be dedicated to innovative research, clinical care, and more to eliminate the inequities at the heart of our maternal health crisis. We are determined to ensure a healthy start for every mother and her baby, and the Center for Maternal Health will play an essential role in continuing our ground-breaking and lifesaving work for decades to come.”

– First Lady TAMMY MURPHY

**NJEDA'S COMMITMENT TO STEWARDSHIP AND TRANSPARENCY**

The NJEDA remains committed to serving as an effective, responsible steward of taxpayer resources and continues to improve its internal controls. Additionally, in 2021, the NJEDA utilized the services of an Integrity Oversight Monitor to oversee its COVID programs. It also procured the services of a Compliance Auditor to conduct periodic, systematic audits of our programs for compliance with applicable laws, regulations, codes, orders, procedures, advisory opinions and rulings. The NJEDA contracted with an independent, external compliance auditor, who began work mid-2021.



The COVID-19 pandemic laid bare the essential role the child care sector plays in New Jersey’s economy. Building on the Murphy Administration’s comprehensive strategy to support the state’s child care sector and the crucial role of child care to the state’s long-term economic recovery, the NJEDA issued an RFI in late 2020 seeking insights and ideas on ways to build the business capacity and sustainability of child care providers in New Jersey. In February 2021, the NJEDA received 34 responses to that RFI to inform NJEDA’s support for the child care sector.





## NJEDA EXECUTIVE TEAM



**Tim Sullivan**  
Chief Executive Officer



**Christine Baker**  
Chief Legal and  
Administrative Officer



**Michelle Bodden**  
Chief Diversity and  
Inclusion Officer



**Bruce Ciallella**  
Chief Operations and  
Compliance Officer



**Fred Cole**  
Senior Vice President,  
Business Support



**Tara Colton**  
Executive Vice President –  
Economic Security



**Tai Cooper**  
Chief Community  
Development Officer



**Emma Corrado**  
Chief of Staff



**Kathleen Coviello**  
Chief Economic  
Transformation Officer



**Lori Matheus**  
Senior Vice President,  
Portfolio Operations



**Jorge Santos**  
Chief Real Estate  
Development Officer



## NJEDA BOARD MEMBERS

### PUBLIC MEMBERS

**Kevin A. Quinn**

Chairman  
Partner, Genki Advisory LLC

**Charles H. Sarlo, Esq.**

Vice Chairman  
Private sector title:  
Law Office / Partner and  
General Counsel, DMR Architects

**Phillip B. Alagia**

Essex County Chief of Staff

**Virginia S. Bauer**

Chief Executive Officer, GTBM Inc.

**Fred. B. Dumont**

Business Manager, Heat & Frost Insulators  
and Asbestos Workers Local 89

**Massiel Medina Ferrara**

Planning Director, County of Hudson

**Aisha Glover**

VP, Urban Innovation, Audible

**Marcia Marley**

President, BlueWaveNJ and Succeed2gether

### ALTERNATE PUBLIC MEMBERS

**Rosemari Hicks**

CEO, CoWork Street

**Robert Shimko**

Business Manager, Local 400, International  
Brotherhood of Electrical Workers

### EX OFFICIO MEMBERS

**Robert Asaro-Angelo**

Commissioner - NJ Department of Labor  
& Workforce Development

**Marlene Caride**

Commissioner - NJ Department of  
Banking & Insurance

**Shawn LaTourette**

Commissioner - NJ Dept of  
Environmental Protection

**Elizabeth Maher Muoio**

State Treasurer, NJ Department of  
the Treasury

**Noreen Giblin**

Executive Branch Designee

## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Timothy Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** Amended Administrative Rules  
Authority Fee Rules

**Request:**

The Members are asked to:

- 1) Approve the attached amended administrative rules regarding Authority fees and to authorize staff to submit the amended fee rules to the Office of Administrative Law for publication in the New Jersey Register, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law.
- 2) Authorize staff to submit the amended fee rules to the Office of Administrative Law for final adoption in the event no substantive comments are received during the 60-day Office of Administrative Law comment period, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law.

**Background:**

The goal of the Fee Rule amendments is to address issues that the Board and EDA staff have identified, including the lack of flexibility in the current rules when it comes to setting fees, waiving fees, and refunding fees. The Authority's Fee Rules were first adopted in 1974. Through the 1980s and up until 2000, discrete sections were added. Since then, the Fee Rules have been repeatedly readopted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., but they have not been significantly amended or updated.

EDA's authorizing statute empowers the Authority "...to require and collect such fees and charges as the authority shall determine to be reasonable...." Specifically, section (k) of N.J.S.A. 34:1B-5 (Powers) provides: "In connection with any action undertaken by the authority in the performance of its duties and any application for assistance or commitments therefor and modifications thereof, to require and collect such fees and charges as the authority shall determine to be reasonable, including but not limited to fees and charges for the authority's administrative, organizational, insurance, operating, legal, and other expenses."

**Details:**

The Fee Rule amendments create a new “General fee applicability” section at N.J.A.C. 19:30-6.0. Part (a) of the new section 6.0 provides that all applicants will be subject to fees that are either: (1) included in a specific rulemaking or (2) are generally applicable fees as provided in the Fee Rules themselves. Part (b) of the new section 6.0 establishes that the Board may approve, as determined to be reasonable and in the best interest of the Authority, separate program or initiative specific fees if: (1) it is an emergency assistance program established in connection with a declared State of Emergency; (2) it is a pilot program in effect for no more than three years; or (3) other sources of funding are available for the Authority’s administrative costs. New section 6.0(b) also includes a list of non-exhaustive factors that may be considered when setting these fees.

The existing “Application” section (N.J.A.C. 19:30-6.1) is amended to provide that an application fee may be refunded in whole or in part where an application is not processed or approved because the application is incomplete or the funding for the program or initiative is exhausted.

The existing “Commitment fees” section (N.J.A.C. 19:30-6.2) is amended to clarify the extension fee process and to correct a citation.

The existing “Closing fees” section (N.J.A.C. 19:30-6.3) is amended to add the word “Bond” to the title for clarity. The amendments also remove the lease origination fee for structured finance lease transactions because it is not used.

The existing “Post-closing fees” section (N.J.A.C. 19:30-6.4) is amended to add “Bond” to the title and to subsection (b) for clarity. The language regarding due diligence fees is also amended from a required fee to a permissive fee to reflect Authority practice. The section regarding participation in auto-debit transaction payments is removed because it is not used.

Finally, the existing “Fee waiver” section (N.J.A.C. 19:30-6.7) is amended to provide that the Board may adopt objective criteria for waiving fees and delegate the authority to approve fee waivers based on that criteria to the CEO. The criteria may include, but are not limited to, the nature of the applicant and whether the fee presents an undue financial hardship for the applicant. The language regarding delegations is clarified. The language regarding fee waivers for municipal governmental agencies, State agency projects, and transactions that support multi-jurisdictional, interstate projects is clarified such that it applies to all fees, rather than just certain fees.

**Recommendation:**

The Members are requested to: (1) approve the attached amended administrative rules regarding Authority fees and authorize staff to submit the amended fee rules to the Office of Administrative Law for publication in the New Jersey Register, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law; and (2) authorize staff to submit the amended fee rules to the Office of Administrative Law for final adoption in the event no substantive comments are received during the 60-day Office of Administrative Law comment period, subject to final review and approval by the Office of the Attorney General, the Governor's Rules Office, and the Office of Administrative Law.



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Tim Sullivan, CEO

Prepared by: Alyson R. Jones

Attachments  
Amended Fee Rules



## **OTHER AGENCIES**

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

#### **Authority Administrative Rules Fees**

**Proposed Amendments: N.J.A.C. 19:30-6.1, 6.2, 6.3, 6.4, and 6.7**

**Proposed New Rule: N.J.A.C. 19:30-6.0**

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

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

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

Proposal Number: PRN 2022- \_\_\_\_.

Submit written comments by \_\_\_\_\_, to:

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

The agency proposal follows:

#### **Summary**

The New Jersey Economic Development Authority (“NJEDA” or “Authority”) is proposing amendments to the existing fee rules at N.J.A.C. 19:39-6.1 et seq., and a new fee rule.

Specifically, a new “General fee applicability” section at N.J.A.C. 19:30-6.0 is proposed. Part (a) of the new section 6.0 provides that all applicants will be subject to fees that are either: (1) included in a specific rulemaking or (2) are generally applicable fees as provided in the Fee Rules themselves. Part (b) of the new section 6.0 establishes that the Authority’s Board may approve, as determined to be reasonable and in the best interest of the Authority, separate program or initiative specific fees if: (1) it is an emergency assistance program established in connection with a declared State of Emergency; (2) it is a pilot program in effect for no more than three years; or (3) other sources of funding are available for the Authority’s administrative costs. New section 6.0(b) also includes a list of non-exhaustive factors that may be considered when setting these fees.



The existing “Application” section (N.J.A.C. 19:30-6.1) is amended to provide that an application fee may be refunded in whole or in part where an application is not processed or approved because the application is incomplete or the funding for the program or initiative is exhausted.

The existing “Commitment fees” section (N.J.A.C. 19:30-6.2) is amended to clarify the extension fee process and to correct a citation.

The existing “Closing fees” section (N.J.A.C. 19:30-6.3) is amended to add the word “Bond” to the title for clarity. The amendments also remove the lease origination fee for structured finance lease transactions because it is not used.

The existing “Post-closing fees” section (N.J.A.C. 19:30-6.4) is also amended to add “Bond” to the title and subsection (b) for clarity. The language regarding due diligence fees is also amended from a required fee to a permissive fee to reflect Authority practice. The section regarding participation in auto-debit transaction payments is removed because it is not used.

Finally, the existing “Fee waiver” section (N.J.A.C. 19:30-6.7) is amended to provide that the Board may adopt objective criteria for waiving fees and delegate the authority to approve fee waivers based on that criteria to the Chief Executive Officer. The criteria may include, but are not limited to, the nature of the applicant and whether the fee presents an undue financial hardship for the applicant. The language regarding delegations is clarified. The language regarding fee waivers for municipal governmental agencies, State agency projects, and transactions that support multi-jurisdictional, interstate projects is clarified such that it applies to all fees, rather than just certain fees.

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

### **Social Impact**

The Authority’s authorizing statute empowers it “...to require and collect such fees and charges as the authority shall determine to be reasonable....” N.J.S.A. 34:1B-5(k). The Authority anticipates that the proposed fee amendments and new fee rule will have a positive social impact by allowing the Authority to appropriately, responsibly, and transparently standardize its fee setting, waiving, and refunding process.

### **Economic Impact**

The Authority anticipates that the proposed amendments to the existing fee rules and the new fee rule will help strengthen the State’s economy by allowing the Authority to impose rightsized fees on applicants, thus supporting the Authority’s mission to implement programs and initiatives that improve quality of life, enhance economic vitality, and strengthen New Jersey’s long-term economic competitiveness.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed fee amendments and new fee rule are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed fee rule amendments and new fee rule are not expected to have a direct impact on the creation or loss of jobs.

### **Agriculture Industry Impact**

The proposed fee amendments and new fee rule will not have any impact on the agriculture industry of the State of New Jersey.

### **Regulatory Flexibility Analysis**

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

### **Housing Affordability Impact Analysis**

The proposed amendments and new rule are not likely to have a direct effect on the average costs associated with housing, nor will it affect the affordability of housing in the State.

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

The proposed fee amendments and new rule will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments and new rule would evoke a change in housing production in Planning Areas 1 or 2, or in designated centers, under the State Development and Redevelopment Plan.

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

The proposed fee amendments and new fee rule will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

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

## **SUBCHAPTER 6. FEES**

### **19:30-6.0 General fee applicability**

**(a) Except as otherwise provided in (b) below, applicants for Authority assistance shall be subject to a fee in accordance with:**

**1. The applicable fees specifically adopted through rulemaking for the administration of a program or initiative; or**

**2. The generally applicable fee established in accordance with this subchapter, unless otherwise established by law.**

**(b) The Members of the Board may set separate program or initiative specific fees or establish that fees will not be charged, as determined to be reasonable and in the best interest of the Authority, under the following circumstances:**

**1. Any emergency assistance program or initiative established in connection with a declared State of Emergency, for which the Authority's Board has set different fees in an open public meeting, which fees shall be based on factors that may include, but are not limited to:**

- i. The nature of the State of Emergency;**
- ii. The amount of funding available;**
- iii. The hardship to the prospective applicants as a result of the emergency;**
- iv. The anticipated demand for assistance;**
- v. The need to provide assistance under exigent circumstances;**
- vi. The administrative costs to the Authority;**
- vii. The availability of other sources of funding for the Authority's administrative costs; or**

**2. Any pilot program or initiative that will be in effect for three or fewer years, for which the Members of the Board have set different fees in an open public meeting, which fees shall be based on factors that may include, but are not limited to:**

- i. The nature of the pilot program or initiative;**
- ii. The amount of funding available;**
- iii. The mission of the prospective applicant pool;**
- iv. The anticipated demand for the assistance;**
- v. The administrative costs to the Authority;**
- vi. The availability of other sources of funding for the Authority's administrative costs; or**

**3. Any program or initiative where there is availability of other sources of funding for the Authority's administrative costs.**

### **19:30-6.1 Application [fee] fees**

(a) [Except as set forth (c) and (d) below,] **Unless otherwise established in accordance with N.J.A.C. 19:30-6.0**, a non-refundable fee of \$1,000 shall accompany every application for Authority assistance, except for:

1. An application under the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund, for which the fee is \$2,500;

[2. An application submitted by a higher education institution pursuant to P.L. 2009, c. 90 for which the fee is .125 percent of the total project cost or \$15,000, whichever is greater;]

[3.] **2.** An application for assistance under the Small Business Fund and **the New Jersey Local Development Financing Fund Act**, N.J.S.A. 34:1B-47 et seq., for which the fee is \$300.00; **and**

[4.] **3.** An application for assistance under the Real Estate Impact Fund, for which the fee is \$2,500[; and].

[5. An application for assistance under the Brownfields Loan Program, for which the fee is \$2,500; ]

(b) The non-refundable application fee of \$1,000 for a guarantee of a bond issued by the Authority is in addition to the bond application fee.

[(c) For applicants filing concurrent applications for Authority assistance for multiple products of equivalent type, for example all loans, the application fee for the subsequent application shall be reduced by 50 percent.]

[(d) For applicants filing application(s) for Authority assistance within 12 months of closing a previous financing, a non-refundable application fee in an amount equaling 50 percent of the regular application fee shall be paid.]

[(e)] **(c)** In addition to the application fee at (a) above, an applicant [shall] **may** pay to the Authority the full amount of direct costs of due diligence, including, but not limited to, debarment/ disqualification reviews, or other analyses by a third-party retained by the Authority, if the Authority deems such retention to be necessary.

**(d) An application fee may be refunded in whole or in part where an application is not processed or approved because the application is incomplete or the funding for the program or initiative is exhausted.**

#### 19:30-6.2 Commitment fees

*No change to sections (a) through (d).*

(e) A non-refundable commitment fee of .875 percent of the loan amount is charged with the acceptance by an applicant of any direct loan commitment other than as described in (a), (b), (c), **or** (d) [or (e)] above.

(f) A non-refundable extension fee of \$750.00, per extension requested by the borrower **or applicant**, shall be charged for the granting of an extension of the commitment letter **or of conditions required in an approval letter** beyond the original expiration date.

#### 19:30-6.3 **Bond** Closing fees

*No change to sections (a) through (e).*

[(f) For structured finance lease transactions whether or not the Authority has exposure, the lease origination fee will be one tenth of the sales tax savings achieved at lease signing.]

#### 19:30-6.4 **Bond** Post-closing fees

(a) The fees in this section are due and payable upon closing of the bond amendment, approval of change of ownership, or signing of modification consent, waiver, or similar documents.

*No change to sections 1. through 9.*

10. For due diligence, including, but not limited to, debarment/disqualification reviews, or other analyses by a third-party retained by the Authority, if the Authority deems such retention to be necessary, the full amount of direct costs [shall] **may** be charged.

(b) When a **bond** transaction does not by its terms fall into one of the above categories, the Authority in its discretion shall determine the appropriate category based on the substance of the transaction. The categorization of the transaction on U.S. Department of the Treasury, Internal Revenue Service Form 8038 will be a significant factor in the determination of the fee.

[(c) For those borrowers who choose not to participate in auto-debit transaction payments, a fee of .25 basis points will be added to the rate of interest charged on each applicable loan.]

[(d)] (c) Any payment made on a direct loan which is returned due to insufficient funds shall result in a charge of \$35.00.

#### 19:30-6.7 Fee waiver

(a) The Chief Executive Officer may, with the approval of the [m]**Members of the Board**, waive certain fees upon demonstration by [the] **an** applicant that the imposition of the fee(s) would impose an undue financial hardship.

**(b) The Members may adopt criteria for the waiving of fees in an open public meeting and delegate authority to the Chief Executive Officer for approving fee waivers under**

**those criteria. The criteria may include, but are not limited to, the nature of the applicant or whether the fee presents an undue financial hardship for the applicant.**

**(c)** The members may delegate to [a Director, with the concurrence of] the Chief Executive Officer, [Chief Operating Officer, or Senior Vice President,] **who may further delegate** authority to waive a loan commitment extension fee; [and] **or** [may delegate to a Director,] authority to waive late fees when the cause for the late fee is beyond the control of the borrower.

**(d)** The Chief Executive Officer, with the approval of the [m]Members, may waive, postpone, or decrease [bond application and closing] fees for municipal governmental agency(s), State agency projects, or [conduit bond] transactions that support multi-jurisdictional, interstate projects. In the case of State agency projects, such waiver, postponement, or decrease shall be in accordance with the directives of the State Treasurer regarding the specific State agency projects.

## **MEMORANDUM**

To: Members of the Authority

From: Tim Sullivan  
Chief Executive Officer

Date: February 8, 2023

RE: Approval of Memorandum of Understanding with New Jersey Institute of Technology

### **Request**

Members are asked to approve the transfer of \$190,000 to the New Jersey Institute of Technology (NJIT) to fund three (3) years of compensation and related expenses for a new part-time Administrative Director staff position at the New Jersey Big Data Alliance (NJBDA).

Funding for this transfer is from a \$200,000 FY2023 State budget appropriation to the NJEDA that was specifically designated for the NJBDA.

Staff also requests that NJEDA charge an administrative fee of 5% of this appropriation, representing a total fee of \$10,000, to assist with the administration of this program.

The Members are also asked to approve the attached Memorandum of Understanding (MOU), attached as Appendix A, between the New Jersey Economic Development Authority (NJEDA) and the New Jersey Institute of Technology (NJIT). NJIT has been selected by the NJBDA consortium of universities to administer the NJBDA funding for the new Administrative Director position. The term of the proposed MOU with NJIT is for three (3) years from the date of its execution with an option to extend it for one (1) year.

### **Background**

On 8/15/2014 NJBDA was designated as the State's advanced cyberinfrastructure consortium by P.L. 2014, c. 33 (codified at N.J.S.A. 52:17C-3.4) ("Chapter 33"), with the purpose of encouraging State government, academia, and industry to address, in a strategic and coordinated manner, the significant and immediate challenges posed by the proliferation of big data sources and the resultant deluge of digital data. Major initiatives may include, but not be limited to: (1) encouraging the creation of joint education programs, including the establishment of a common curriculum for data sciences and the creation of coordinated certificates, workforce training, and outreach programs; (2) promoting inter-university research collaborations; (3) catalyzing interaction with national and international data consortiums, such as the National Consortium for Data Science; (4) organizing events that promote big data education and collaborating across State government, academia, and industry; (5) collaborating with the Rutgers Discovery Informatics Institute and the Office of Information Technology to develop an advanced cyberinfrastructure plan for the State; and (6) developing a shared data cloud that integrates data infrastructure, hosted data, and data analytics

Since 2014, NJBDA has engaged in various operational and collaborative activities (outlined in Exhibit D of the MOU) including but not limited to the following:

- A. Multi-disciplinary Research and Educational Collaborations: The Alliance and its Members strive to identify potential inter-university synergies in key big data, cyberinfrastructure and advanced computation research areas such as data policy, data infrastructure (storage, management and transport), analytics, and data sustainability and preservation. The Alliance explores the possibility of securing and providing funding from a variety of sources for research collaborations and for supporting joint proposals from its Members and third parties. The Alliance organizes joint education programs including establishing a common curriculum for data sciences and creating coordinated certificate, workforce training, and outreach programs with its Members and other third parties. Finally, the Alliance explores academic-government-industry partnerships with its Members and third parties as catalysts for technology based economic development.
- B. New Jersey Big Data Symposium: The Alliance will host and fund a symposium each year which will provide a forum for industry, government and academic experts to discuss latest trends, current research, industry needs, strategies and mechanisms to address big data, cyberinfrastructure and advanced computation challenges and opportunities, in order to establish New Jersey's position as a leader in the era of Big Data. The 2023 New Jersey Big Data Symposium will be held May 9<sup>th</sup>, 2023 at Seton Hall University.

On June 30, 2022, Governor Murphy signed into law the New Jersey Fiscal Year 2023 Budget as P.L.2022, Chapter 49, which appropriated \$200,000 to NJEDA for the New Jersey Big Data Alliance.

On September 30, 2022, NJBDA's Executive Board voted to make NJIT the hosting entity for the NJBDA. NJBDA is a consortium of members and cannot execute legal agreements. NJEDA therefore proposes to enter into an MOU with NJIT in order to transfer the funds appropriated in the FY2023 budget for the use of NJBDA. NJIT will use the funds to pay the salary for an Administrative Director of NJBDA, who will be the first employee of the consortium. NJIT will also cover some of NJBDA's other expenses, as specified below. As has been customary for NJBDA, Rutgers University will continue to handle NJBDA's membership dues and other funding in a separate financial account.

### Funding

As per the terms and conditions of the MOU, NJEDA shall make available to NJIT funds in an amount not to exceed \$190,000 (\$200,000 minus the one-time 5% NJEDA administration fee of \$10,000) for the purpose of funding the compensation of an Administrative Director and related administrative expenses. Upon full execution of the MOU, NJEDA will disburse the funds as outlined below.

NJIT, in partnership with NJBDA, will provide NJEDA with quarterly progress reports on all core activities of the NJBDA and its Administrative Director. Financial reporting of expenditures will be provided on a semiannual basis. This documentation and reporting will ensure NJIT's compliance with the MOU.

### MOU with NJIT, Project Criteria and Timeline

The Administrative Director of NJBDA will be hosted at NJIT for the purposes of administration, payroll, human resources, IT and facilities, and will occupy an office at NJIT's Jersey City Campus in the Institute for Data Science. NJBDA is governed by a non-compensated board of directors,



whose officers are selected from its member institutions. The President of NJBDA will oversee the Administrative Director in their role, duties and responsibilities, as listed in Exhibit A of the attached MOU. The President of NJBDA, in consultation with the Executive Board of NJBDA, will oversee performance, counseling and progressive discipline of the Administrative Director. For reference, Exhibit E of the MOU shows the decision of the hosting location was decided by the Executive Board of NJBDA.

NJIT's human relations department shall ensure that best practices in hiring are followed in connection with hiring an Administrative Director. The Executive Board of NJBDA, along with other members of NJBDA, will serve on the interview and hiring committee. The Executive Board of NJBDA will approve the final hire and inform NJEDA of its decision. The Administrative Director will comply with the New Jersey First Act, which establishes a NJ residency requirement.

The Administrative Director of NJBDA will have the responsibility to manage the day-to-day operations of NJBDA. Funding will be disbursed to NJIT according to the following schedule:

**Year 1:** Upon hire of the Administrative Director, the NJEDA will disperse an estimated \$76,000 in funding to be used for the first year of employment, fringe benefits and operational costs, and a one-time, overhead costs of 10% of the total \$190,000 distributed to NJIT, representing a total fee of \$19,000.

**Year 2:** On the first anniversary of the hire of the Administrative Director, NJEDA will disburse an estimated \$57,000 for use toward the second year of employment, fringe benefits and operational costs.

**Year 3:** On the second anniversary of the hire of the Administrative Director, NJEDA will disburse an estimated \$57,000 for use toward the third year of employment, fringe benefits and operational costs.

Through these installments, the compensation for NJBDA Administrative Director will be paid via a monthly salary schedule totaling an annual salary of \$50,000 for a part-time position of 25 hours per week. The annual fringe benefit rate, currently at 7.9%, which is set by the NJ Dept. of Health and Human Services (Exhibit G of the MOU) may vary from year to year and alter the exact amount of the disbursements.

The NJEDA shall charge a customary administrative fee of 5%, representing a total of \$10,000, to assist with the administration of this program.

To ensure the funds are being used as intended, NJIT, in partnership with NJDBA, will provide NJEDA with hiring milestones, pay schedule, 1099s / paystubs and tasks / one pager – production / tasks on a quarterly basis and final annual report.

The proposed MOU with NJIT is attached here as Appendix A. The MOU also contains Exhibits that provide details on the new staff position, job milestones, fringe benefits, and other costs. The Exhibits of the MOU are as follows:

- Exhibit A – NJBDA Administrative Director Position Description
- Exhibit B – Milestones and Measures of Success for the NJBDA and its Administrative Director
- Exhibit C – P.L. 2014, Chapter 33
- Exhibit D - New Jersey Big Data Alliance Memorandum of Agreement

- Exhibit E – NJBDA 2022 Annual In-Person Meeting, September 30, 2022, Princeton Innovation Center
- Exhibit F – Application of F&A Costs on Sponsored Programs (NJIT 10% Overhead Cost)
- Exhibit G – Indirect Cost Rate Agreement (NJIT 7.9% Fringe Benefit Rate)
- Exhibit H – Documentation regarding Diversity and Inclusion efforts when hiring
- Exhibit I – P.L.2022, CHAPTER 49, approved June 30, 2022, Senate, No. 2023, ANTICIPATED RESOURCES FOR THE FISCAL YEAR 2022-2023: p 192-3

### Recommendation

The FY2023 State Budget specifically designated \$200,000.00 to NJEDA for use by the NJBDA. Members are therefore asked to approve the transfer of \$190,000 from NJEDA to the New Jersey Institute of Technology to fund a new part-time Administrative Director staff position at the New Jersey Big Data Alliance. Staff also requests that NJEDA retain an administrative fee of 5%, or \$10,000 to assist with the administration of this program.

The Members are also asked to approve the attached Memorandum of Understanding (MOU) between the New Jersey Economic Development Authority (NJEDA) and the New Jersey Institute of Technology (NJIT). NJIT has been selected by the NJBDA consortium of universities to administer the NJBDA funding for the new Administrative Director position. The term of this MOU is for three (3) years from date of execution, with the option to extend for up to one (1) year.



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Tim Sullivan, CEO

Prepared by: Gene Palermo, David Ramsay and Doug MacDonald

### **Attachments:**

- A. MOU between New Jersey Institute of Technology and New Jersey Economic Development Authority

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
NEW JERSEY INSTITUTE OF TECHNOLOGY  
AND  
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

This **MEMORANDUM OF UNDERSTANDING** (“**MOU**”), effective as of the later of the date executed by the Parties (hereinafter “**Effective Date**”), is by and between **NEW JERSEY INSTITUTE OF TECHNOLOGY** (hereinafter “**NJIT**”), a body corporate and politic organized and existing under the authority of N.J.S.A. 18A:64E-12 et seq., having its offices at 323 Martin Luther King Jr. Blvd., Newark NJ 07102, and the **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY** (hereinafter the “**NJEDA**”), a body corporate and politic organized and existing under the authority of N.J.S.A. 34:1B-1 et seq., having its offices at 36 West State Street, PO Box 990, Trenton, New Jersey 08625-0990, (the above entities being hereinafter referred to as the “**Parties**”).

**PREAMBLES**

**WHEREAS**, the **NEW JERSEY BIG DATA ALLIANCE** (hereinafter “**NJBDA**”), was designated as the State’s advanced cyberinfrastructure consortium by P.L. 2014, c. 33 (codified at N.J.S.A. 52:17C-3.4) (“Chapter 33”) (Exhibit C), whose purpose shall be to encourage State government, academia, and industry to address, in a strategic and coordinated manner, the significant and immediate challenges posed by the proliferation of big data sources and the resultant deluge of digital data; and

**WHEREAS**, Chapter 33 provides that the purpose of the consortium shall be to encourage State government, academia, and industry to address, in a strategic and coordinated manner, the significant and immediate challenges posed by the proliferation of big data sources and the resultant deluge of digital data. Major initiatives may include, but not be limited to: (1) encouraging the creation of joint education programs, including the establishment of a common curriculum for data sciences and the creation of coordinated certificates, workforce training, and outreach programs; (2) promoting inter-university research collaborations; (3) catalyzing interaction with national and international data consortiums, such as the National Consortium for Data Science; (4) organizing events that promote big data education and collaborating across State government, academia, and industry; (5) collaborating with the Rutgers Discovery Informatics Institute and the Office of Information Technology to develop an advanced cyberinfrastructure plan for the State; and (6) developing a shared data cloud that integrates data infrastructure, hosted data, and data analytics; and

**WHEREAS**, on June 30, 2022, Governor Murphy signed into law the New Jersey Fiscal Year 2023 Budget as P.L.2022, Chapter 49 (hereinafter the “FY 2023 Budget”) (Exhibit I); and

**WHEREAS**, the FY 2023 Budget appropriated \$200,000 to the NJEDA for the New Jersey Big Data Alliance; and

**WHEREAS**, the Parties wish to set forth their understandings with respect to this budget appropriation, how it may be used and other terms and conditions; and

**WHEREAS**, NJIT is an academic member of the NJBDA.

**NOW, THEREFORE**, NJEDA and NJIT agree as follows:

#### Section 1. Terms

1.1 NJIT shall use the budget appropriation for the purpose of funding three (3) years of compensation for a part-time Administrative Director for NJBDA, along with payroll, overhead and fringe benefit expenses for the same as specified herein.

1.2 The Administrative Director of NJBDA will be hosted at NJIT for the purposes set forth in the New Jersey Big Data Alliance Memorandum of Agreement attached as Exhibit D, including being the primary point of contact for the NJBDA, convening monthly phone calls and semi-annual meetings and coordinating efforts across different working groups. NJIT will provide an office for the Administrative Director at NJIT's Jersey City Campus in the Institute for Data Science. NJIT reserves the right to relocate this office in its reasonable discretion. Exhibit E shows the minutes from the NJBDA's annual meeting on September 30, 2022, where the hosting location was decided upon.

1.3 As an employee of NJIT, the Administrative Director will comply with the New Jersey First Act, N.J.S.A. 52:14-7 (L. 2011, Chapter 70), which requires employees of all public employers (for example, state, county, and municipal governments), public agencies, authorities, boards, bodies, commissions, public institutions of higher education, certain quasi-public entities, and all school boards to reside in the State of New Jersey unless otherwise exempted under the law. However, some work of the Administrative Director may be done remotely in accordance with NJIT employment policies and practices. The Executive Board President of NJBDA (identified in Section 5. below) and his/her academic institution will oversee the fiscal administration of the NJBDA, and the Administrative Director will assist the Executive Board President of NJBDA in his/her role, duties and responsibilities as described in the NJBDA Administrative Director Position Description attached as Exhibit A. The Executive Board President of NJBDA, in consultation with the Executive Board of NJBDA, will oversee performance, counseling and progressive discipline of the Administrative Director after consultation with and the consent of NJIT's Human Resources Department.

1.4 NJIT's Human Resources Department shall ensure that best practices in hiring are followed in connection with hiring an Administrative Director. The Administrative Board of NJBDA along with other members of NJBDA will serve on the interview and hiring committee. The Administrative Board of NJBDA will approve the final hire. NJEDA will ensure that the hire is aligned with this MOU, Chapter 33, Diversity and Inclusion procedures (Exhibit H), and all other applicable laws.

1.5 The Administrative Director is expected to tentatively start employment at NJIT in his/her role as Administrative Director of NJBDA in March of 2023. The Administrative Director's salary will

be disbursed by NJIT on a bi-monthly payment schedule, in accord with NJIT's regular salary payment schedule and all applicable laws. The Administrative Director will be a part-time employee working a total of 25 hours per week with an estimated annual salary of \$50,000 (excluding the cost of fringe benefits as detailed below), subject to the appropriate NJIT bargaining unit agreement (if any) and applicable NJIT salary and wage policies.

## Section 2. Budget Appropriation

2.1 Subject to the terms and conditions of this MOU, NJEDA shall make available to NJIT funds on a cost reimbursement basis in an amount not to exceed ONE HUNDRED NINETY THOUSAND DOLLARS (\$190,000) ("**Funds**") for the purpose of funding the compensation of an Administrative Director of NJBDA and other expenses specified herein. Upon the Effective Date of this MOU, NJEDA will disburse the Funds to NJIT on an annual basis as outlined below.

2.2 A 5% NJEDA administration fee of TEN THOUSAND DOLLARS (\$10,000) will be deducted from the total FY 2023 Budget appropriated \$200,000 and retained by the NJEDA.

2.3 The Administrative Director position will be housed at NJIT. NJIT will collect a one-time Overhead charge of 10%, illustrated in Exhibit F, of the total \$190,000 being distributed to NJIT, representing a total Overhead charge of \$19,000 for NJIT to use at its discretion in accordance with its applicable policies. NJIT will also collect an annual Fringe Benefit rate, which is estimated to be 7.9% of the below total 3-year budget for the Administrative Director. The annual Fringe Benefit Rate, which may vary in subsequent years from the original 7.9%, will be based on the Fringe rates determined annually by the Indirect Cost Rate Agreement with the U.S. Department of Health and Human Services attached as Exhibit G.

2.4 The explanation of all fees applied to the funding are as follows:

<b>Total NJBDA Funding</b>	<b>\$ 200,000.00</b>
NJEDA Administrative Fee (5%)	<u>\$ (10,000.00)</u>
<b>Balance of Funding</b>	<b>\$ 190,000.00</b>
NJIT Overhead Cost (10%) (One Time Payment to NJIT)	<u>\$ (19,000.00)</u>
<b>Total 3-year Budget for NJBDA Administrative Director</b>	<b>\$ 171,000.00</b>
NJIT Fringe Benefit rate (estimated 7.9% per year)	<u>\$ (13,509.00)</u>
<b>Funds Available for Administrative Director 3-year Compensation</b>	<b><u>\$ 154,755.00</u></b>

## Section 3. Milestone Disbursements

NJEDA will disburse the Funds to NJIT over three (3) contract years, i.e., each twelve (12) month period following the Effective Date of this MOU. Given the Administrative Director's expected salary, related fees and benefits, the 3-year annual disbursement schedule is as follows:

**Year 1: Upon hire of the Administrative Director, for the benefit of the first year of employment**

NJIT Overhead Cost (10%) (One Time Payment)	\$ 19,000.00
Administrative Director's Annual Salary	\$ 50,000.00
NJIT Fringe Benefit rate (estimated 7.9% Annual Deduction)	\$ 4,503.00
Operational Costs	\$ 2,497.00
<b>Total Year 1 Disbursement</b>	<b>\$ 76,000.00</b>

**Year 2: First anniversary of the hire of the Administrative Director, for the benefit of the second year of employment**

Administrative Director's Annual Salary	\$ 50,000.00
NJIT Fringe Benefit rate (estimated 7.9% Annual Deduction)	\$ 4,503.00
Operational Costs	\$ 2,497.00
<b>Total Year 2 Disbursement</b>	<b>\$ 57,000.00</b>

**Year 3: Second anniversary of the hire of the Administrative Director, for the benefit of the third year of employment**

Administrative Director's Annual Salary	\$ 50,000.00
NJIT Fringe Benefit rate (estimated 7.9% Annual Deduction)	\$ 4,503.00
Operational Costs	\$ 2,497.00
<b>Total Year 3 Disbursement</b>	<b>\$ 57,000.00</b>

**Total of Disbursements / Funds** **\$ 190,000.00**

Operational costs related to NJIT supporting the Administrative Director will be taken out of the annual money distributed to NJIT each year as set forth above, representing a maximum of \$2,497 annually and \$7,491 for the duration of this MOU, to be used as needed in the discretion of NJIT. NJBDA anticipates the following operational costs over three (3) years:

- Travel - \$1,500 (mileage, attending meetings and any required air/rail travel)
- Meeting Expenses - \$1,000 (food, room charge)
- Computer - \$1,500 (one-time cost)
- Miscellaneous Operational Costs - \$3,491

NJIT shall submit to NJEDA invoices for the above total annual amounts. NJIT may submit its invoice for the Year 1 total amount (\$76,000) immediately following the Effective Date of this MOU. NJIT may submit its invoices for the Year 2 (\$57,000) and Year 3 (\$57,000) respective total annual amounts no earlier than sixty (60) days before the start of each such annual period. NJEDA shall act upon all invoices without delay and pay the same within thirty (30) days of receipt. Each invoice shall be subject to review and approval by NJEDA. NJIT is required to comply with all federal cost guidelines.

#### Section 4. Responsibilities of NJBDA

4.1 Financial reporting of cost expenditures will be provided on a semiannual contract year basis (i.e., each 6-month period following the Effective Date) within forty-five (45) days thereafter. This documentation and reporting will ensure NJIT is within compliance with this MOU. NJIT, in collaboration with NJBDA, shall provide a report to the NJEDA demonstrating actual or committed disbursements made pursuant to the Funds. NJIT, in collaboration with NJBDA, will provide NJEDA copies of the invoices or receipts of these expenses which shall not to exceed the annual budgeted dollar amount.

4.2 Following the Effective Date of this MOU, NJIT will provide NJEDA with quarterly progress reports for the life of this MOU, forty-five (45) days after the closing of each quarter in Year 1, Year 2 and Year 3 (based on calendar years 2023, 2024 and 2025). The progress reports will describe all of the core activities of the NJBDA and its Administrative Director. Each year, the quarterly progress reports will be generally due as follows:

- Quarter 1: January 1 – March 31, Due Day of May 15th
- Quarter 2: April 1 – June 30, Due Day of August 15th
- Quarter 3: July 1 – September 30, Due Day of November 15th
- Quarter 4: October 1 – December 31, Due Day of February 15<sup>th</sup> of the following calendar year

4.3 The Milestones and Measures of Success for the NJBDA and its Administrative Director attached as Exhibit B outlines the milestones and measures of success for the NJBDA and its Administrative Director.

4.4 NJIT, in collaboration with NJBDA, will recruit and hire a new Administrative Director in accordance with NJIT's employment policies. NJIT, in collaboration with NJBDA, will ensure that the new Administrative Director complies with the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 *et seq.*, and all other applicable ethics laws and requirements. The decision making on the hiring will be made by the Administrative Board of NJBDA with the approval of NJIT, who will ensure that no known conflict of interest occurs within the requirements of the New Jersey Conflicts of Interest Law.

4.5 NJIT, in collaboration with NJBDA, shall establish and maintain during the Term of this MOU, and for five (5) years after the date of final payment, financial documents related to this MOU and all relevant supporting documentation.

#### Section 5. Points of Contact

All correspondence and notices to NJBDA regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

**Name:** Dr. David Bader

**Title:** Distinguished Professor, Department of Data Science, Ying Wu College of Computing / NJIT's Representative, New Jersey Big Data Alliance

**Address:** Department of Data Science  
Ying Wu College of Computing  
New Jersey Institute of Technology  
Newark, NJ 07102

**Email Address:** bader@njit.edu

**Phone Number:** 404-281-1162

**Name:** Matthew Hale

**Title:** Associate Professor, Department of Political Science and Public Affairs /  
Executive Board President, New Jersey Big Data Alliance

**Address:** Academic Year Address  
Seton Hall University  
400 South Orange Ave  
Jubilee Hall, Room 566  
South Orange, NJ 07079

Summer Address  
346 N. 4th Ave  
Highland Park, New Jersey 08904

**Email Address:** matthew.hale@shu.edu

**Phone Number:** 609-240-2171

All correspondence and notices to the NJEDA regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

**Name:** William Penders

**Title:** Managing Director Strategic Sector Development

**Address:** One Gateway Center  
11-43 Raymond Plaza West  
Suite 1410  
Newark NJ 07102

**Email Address:** wpenders@njeda.com

**Phone Number:** 609-731-0974

## Section 6. General Provisions

6.1 This MOU may be modified or extended only by prior written agreement by the Parties. This MOU may be terminated by either NJEDA or NJIT upon ninety (90) days' prior written notice to the other Party. Upon termination of the MOU, NJIT shall submit, within thirty (30) days of the date of termination, a claim for reimbursement for all eligible costs incurred prior to the termination date stated in the notice of termination. NJEDA will reimburse NJIT for all such costs, not to exceed the total annual amounts permitted under Section 3 above. With respect to any prepayments made to NJIT by NJEDA for costs not incurred by NJIT prior to the termination date stated in the notice of termination, NJIT will refund to NJEDA the same, including a per-diem, pro-rated portion of NJIT's Overhead Cost payment of \$19,000.



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

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

6.4 Neither Party shall assign, transfer, convey or otherwise dispose of this MOU or any part thereof, or of its right, title or interest herein, without the written consent of the other Party.

6.5 This MOU shall continue from the Effective Date until three (3) years thereafter, subject to termination as provided herein. The Parties may extend this MOU for up to one (1) year, upon mutual written agreement.

6.6 NJEDA and NJIT shall retain all the powers, obligations and immunities provided by law, including without limitation the immunities provided under the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.).

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

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

6.9 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. Facsimile signatures or portable document files (or "PDF") of signatures to this MOU shall be effective.

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

**New Jersey Economic Development Authority**

\_\_\_\_\_  
By: Tim Sullivan  
Chief Executive Officer, NJEDA

Date: \_\_\_\_\_

**New Jersey Institute of Technology**

\_\_\_\_\_  
By: Atam P. Dhawan, Ph.D.  
Senior Vice Provost for Research

Date: \_\_\_\_\_

- Exhibit A – NJBDA Administrative Director Position Description
- Exhibit B – Milestones and Measures of Success for the NJBDA and its Administrative Director
- Exhibit C – P.L. 2014, Chapter 33
- Exhibit D - New Jersey Big Data Alliance Memorandum of Agreement
- Exhibit E – NJBDA 2022 Annual In-Person Meeting, September 30, 2022, Princeton Innovation Center
- Exhibit F – Application of F&A Costs on Sponsored Programs (NJIT 10% Overhead Cost)
- Exhibit G – Indirect Cost Rate Agreement (NJIT 7.9% Fringe Benefit Rate)
- Exhibit H – Documentation regarding Diversity and Inclusion efforts when hiring
- Exhibit I – P.L.2022, CHAPTER 49, approved June 30, 2022, Senate, No. 2023,  
ANTICIPATED RESOURCES FOR THE FISCAL YEAR 2022-2023: p 192-3



## **MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**RE:** **Updates to Delegation of Authority:  
Real Estate Development, NJ Accelerate, and NJ Energy Resilience Bank**

### **Summary**

The Members are asked to approve updates to delegations of authority, including revisions to existing delegations and several new delegations as detailed below. Consistent with the Delegation Policy approved on March 9, 2022, all delegations are to the Chief Executive Officer unless specified otherwise.

### **Background**

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. In November 2019, the Board approved the award of the Board Governance Consulting Services contract to Funston Advisory Services, LLC (Funston). Funston completed a thorough review of the Authority's board governance processes and practices. The Funston team solicited input from staff and Board Members. The Attorney General's Office was also consulted.

In its final written report dated October 9, 2020, Funston provided recommendations related to delegations of authority. Funston noted that the NJEDA by-laws contained significant delegation of authority to the CEO regarding the management of the authority with respect to internal operations and policy, legislation, governance, and strategic initiatives. Funston noted that the leading practice is to list all delegated authorities in one document, which provides clear articulation of responsibilities and accountabilities and facilitates Board and staff revisions to delegation levels and conditions.

Funston provided several specific recommendations for changes to the Authority's policies and processes surrounding delegations of authority:

1. The Board should consolidate and clarify the authorities delegated to the CEO.
2. The Board should continue to set policy, consistent with established New Jersey law and precedent but may delegate programmatic transactional approval/rejection decisions to the CEO, subject to any conditions the Board may desire and are necessary to ensure policy oversight, such as dollar thresholds and/or meeting defined criteria or minimum scoring thresholds. The Board may change, revoke, or add delegations at any point, and should review the efficacy of the delegation terms and conditions at least biennially.
3. The Board should, with input from the CEO and relevant committees, review the current thresholds for approval by the Board to determine whether more authority can be prudently delegated to staff.

Staff reviewed these recommendations and, in consultation with the Attorney General's Office, reviewed all existing delegations of authority and identified areas where it may be appropriate to delegate additional authority to staff. This review was performed consistent with the Delegation Policy approved by the Members on March 9, 2022. The intent was to identify areas where staff can handle more routine and non-discretionary decisions. These include areas where the Members have approved (or can set) specific, objective criteria that can be administered and implemented by staff.

Changes to delegations of authority are intended to improve the Authority's operating efficiency and responsiveness in program administration. These new and revised delegations will 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. Thus, as a general rule, Board approval will still be required for any decisions that involve setting policy (including but not limited to the creation of new programs), are not routine, have significant impact to the Authority or the State, or relate to the adoption of rules or changes to fee structures. In contrast, if staff can take action based on specific, objective criteria, or under dollar thresholds or specified circumstances, then delegation of authority is appropriate.

### **Updates to Delegations of Authority:**

Members are asked to approve new delegations and revisions to existing delegations consistent with the Delegation Policy and the parameters outlined above. This memo describes those new delegations of authority and updates to existing delegations of authority, as recommended by staff. Existing delegations that will not be revised (other than by changing the delegation to the CEO) will remain in effect. All delegations are listed in the chart appended to this memorandum for reference.

***Recommendations to update to Delegation of Authority are generally based on the following reasons:***

**Streamlining Real Estate Related Agreements and Processes**

The Members are asked to approve revisions to delegations of authority related to lease management, real estate procurements, rights of entries and easements, property closing documents, and compromise and settlement of claims, to promote efficient and consistent management of real estate related agreements and processes.

**New Delegated Authority for Product Decisioning (Approvals and Declinations)**

The Members are asked to delegate authority for routine program approvals based on Board-approved program requirements for the NJ Accelerate Program.

**Program Administration – NJ Energy Resilience Bank**

The Members are asked to make adjustments to the administration of the NJ Energy Resilience Bank to ensure efficiency in program management.

**This memo presents 16 recommendations for changes to delegations of authority in the following business areas:**

- A. Real Estate Development - 13 changes
- B. NJ Accelerate - 2 changes
- C. NJ Energy Resilience Bank – 1 change

Each section of the memo lists the existing delegation (if any), followed by the proposed revised delegation, or the proposed new delegation, with relevant justification provided.

## **A. REAL ESTATE DEVELOPMENT**

The NJEDA manages 3 million square feet of real estate assets and undertakes planning, design, and construction of economic development projects. When required, the activities include site acquisition, design, construction, leasing, maintenance, procurement, and required compliance for the duration the Authority's ownership of the asset. The Authority manages contracts and agreements for assets within its real estate portfolio. **Except for procurement, none of the Real Estate delegations included in this memo include the New Jersey Wind Port.**

Throughout the real estate delegations, modifications to terms have been made as follows:

1. "Lease" is replaced with "occupancy agreements," which includes but is not limited to leases, memorandum of understanding, use and occupancy agreements or another form of occupancy agreement, and occupancy agreements with landlords for NJEDA Operations; and
2. Occupancy agreements with NJEDA tenants is expanded to include properties owned or controlled by NJEDA, not just occupancy agreements at the New Jersey Bioscience Center.

### **Occupancy Agreements for NJEDA Owned or Controlled Properties (#1-5)**

1. **Existing delegated authority:** The CEO is authorized to select tenants and execute leases up to 8,000 square feet at a fair market rental package at the NJBC. This does not include the Incubator and Step Out Labs as these programs have different leasing requirements. The CEO is authorized to amend a lease to increase space up to 25% of current square footage of tenant's existing lease, on terms consistent and coterminous with that existing lease (at current market rental package). No additional EDA funding will be provided above the existing tenant fit out allowance per square foot.

**Proposed Delegation:** Delegated authority is requested to authorize the CEO to:

1. Select tenants, approve, execute, and amend occupancy agreements that are less than or equal to 10% of the rentable area in NJEDA owned or controlled property, for no less than 95% of the fair market rental package, or if applicable, the rate in the existing occupancy agreement;
2. Approve Tenant and/or Landlord Work up to an amount less than or equal to \$1 million; and
3. Increase an occupancy agreement rentable area up to 10% of the total NJEDA rentable area, without providing an additional tenant work allowance.

Occupancy agreements can be approved, executed, and amended only in accordance with the purpose, if any, established by the Board for the subject property.

**Justification:** The proposed delegation will address routine real estate leasing matters that do not warrant policy consideration by the Board so long as these conditions are met: (1) the rent is at least 95% fair market rent (or the existing rent, if applicable), (2) that the tenant improvement allowance is within the market range of similar occupancy agreements (e.g., similar size, age and condition); and (3) the tenant and landlord improvement allowances do not exceed \$1 million.

The requested \$1 million delegated authority is based upon an average tenant allowance for office and laboratory space in New Jersey; the 10% cap on occupied space for one tenant ensures a reasonable limit to a property's financial exposure to one tenant.

An occupancy agreement that is greater than 10% of the total rentable area within a NJEDA owned or controlled property will require Board approval to add additional rentable area.

This delegation excludes the Incubator and the Step Out Labs

2. **Existing delegated authority:** Waiver of Late Fees – The CEO is authorized to reduce or waive rent late charges upon a tenant's request up to 90 days or up to \$50,000, whichever is less.

**Proposed delegation:** Delegated authority is requested to authorize the CEO to reduce and/or waive rent late charges for up to six (6) months of calculated late fees, not to exceed \$100,000, upon tenant request for financial hardship. The existing delegated authority for the Step Out Labs will be consolidated with this delegation.

**Justification:** The proposed delegation increases the delegated approval threshold for routine transactional leasing matters regarding the reduction or waiver of late fees. A request for the reduction or waiver of late fees can be a solution to a tenant with funding or other issues that arise outside of the tenant's control. This increase is within the dollar threshold of the Authority's delegated authority to compromise and settle a claim. Within the last five years the Board approved approximately three memos that addressed the waiver of late fees for financial hardship. The \$50,000 cap has been in place since 2010 and staff recommends the cap be increased due to rental market conditions.

3. **Existing delegated authority:** Reduce, Waive or Defer Rent Payments – The CEO is authorized to reduce or waive rent payments upon tenant request up to 90 days or up to \$50,000, whichever is less.

**Proposed delegation:** Delegated authority is requested to authorize the CEO:

1. To reduce or waive rent for up to 3 months, not to exceed \$500,000, upon tenant request for financial hardship as follows:
  - a. Net Rent or Similar Occupancy Agreement: waive rent excluding operating expenses and utilities. The Authority shall not reduce or waive real estate taxes or payment in lieu of taxes.
  - b. Modified Gross Rent or Similar Occupancy Agreement: waive all items included in the rent calculation including utilities and operating expenses but not items that are charged in addition to the rent. For example, the rent may include all costs except utilities. These separately charged items would

be excluded from any reduction or waiver of rent. The Authority shall not reduce or waive real estate taxes or payment in lieu taxes.

- c. Gross Rent or Similar Occupancy Agreement: waive rent including utilities, and operating expenses. The Authority shall not reduce or waive real estate taxes or payment in lieu of taxes.

The Tenant must be current within the last 12 months prior to the request or the missed rent payment.

2. Defer rent up to \$500,000 of rent, for up to six months so long as follows:

- a. Net Rent or Similar Occupancy Agreement: defer rent excluding operating expense, utilities and real estate taxes or payment in lieu of taxes.
- b. Modified Gross Rent or Similar Occupancy Agreement: defer all items included in the rent calculation including utilities and operating expenses but not items that are charged in addition to the rent. For example, the rent may include all costs except utilities. The separately charged utilities will not be deferred. In no event shall the Authority defer real estate taxes or payment in lieu taxes.
- c. Gross Rent or Similar Occupancy Agreement: defer all items included in the rent charge, including utilities and operating expenses but excluding real estate taxes or payment in lieu of taxes.

The deferred rent must be paid within the current occupancy agreement term (excluding any future extensions) and the tenant must be current within the last 12 months prior to the request or the missed rent payment.

The existing delegated authority for the Step Out Labs will be consolidated with this delegation.

**Justification:** The proposed delegation would revise the period to provide waivers of rent to months rather than days, consistent with how tenant leases are structured. A request for the reduction or waiver of late fees can be a solution to a tenant, typically in good standing, with funding or other issues that arise outside of the tenant's control. This increase is within the dollar threshold of the Authority's delegated authority to compromise and settle a claim. Additionally, authority to defer rent up to six months has been added to the delegation to efficiently administer leases with no change to the lease term or amount to be paid.



4. **Existing delegated authority:** Upon tenant request, the CEO is authorized to terminate a lease or reduce space and rent proportionately during the last six months of the lease term up to \$50,000.

**Proposed delegation:** Delegated authority is requested to authorize the CEO to terminate or reduce space in an occupancy agreement in the last 12 months of the occupancy agreement term for an amount up to \$500,000, upon tenant request with evidence of financial hardship. Tenant does not have to be in good standing, and this reduction includes anything accrued and owing as of the date that the CEO may approve termination of the lease. The existing delegated authority for the Step Out Labs will be consolidated with this delegation.

**Justification:** Upon a financial review of a company's ability/inability to pay the remainder of the lease, the proposed delegation will authorize the CEO to terminate the lease or reduce the rentable area in an occupancy agreement. This dollar threshold is consistent with the Authority's delegated authority to compromise and settle claims.

5. **Proposed new delegation:** Delegated authority is requested to authorize the CEO to select, approve the tenant, and execute an occupancy agreement with an Incubator tenant to rent a Step-Out Lab office (includes small interior office/ not eligible for lab space or not large office suites) for less than 3 years under the following conditions: (i) the tenant is approved to occupy the Incubator; (ii) there is no current available rentable space in the Incubator; (iii) the initial occupancy term is up to 1 year; (iv) occupancy agreement may be renewed for a maximum of three (3) terms of one (1) year with an annual two (2%) percent increase in rent for each additional one (1) year term while tenant is waiting for available rentable space in the Incubator; (v) the rent is the current fair market rent; and (vi) upon space becoming available, tenant moves to the Incubator and is responsible for Incubator rent. Once tenant has entered the fifth year in the occupancy term, the occupancy agreement converts to month-to-month, for a maximum of up to 12 months, to allow tenant flexibility to relocate. Under the occupancy agreement, Tenant cannot enter the Incubator in the fifth year, but can be considered for a standard Step-Out Lab lease.

**Justification:** The current delegation gives authorization to select Incubator and Step-Out Labs tenants. In the case of the Incubator, the current delegation gives authorization to select Incubator tenants to lease up to 6,000 sq. ft. of wet lab and related office space. This proposed delegation allows the CEO to select, approve the tenant and execute temporary occupancy agreements with prospective Incubator tenants for the Step Out Lab office space only while awaiting office space to become available in the Incubator, provided the tenant falls within the parameters and guidelines required for the Incubator program and is approved to occupy the Incubator space. Priority for the Step-Out Labs will remain for existing internal Step-Out Labs tenants and external prospects. In the event that Step-Out Labs space is unoccupied and available with no expectation for internal or external demand, then having the space occupied by an incubator tenant allows for maximum occupancy for both facilities.

Delegated authority exists for both programs. This delegation is commensurate with existing delegated authority for the Incubator.

### **Occupancy Agreements for NJEDA Operations (#6-7)**

- 6. Existing delegated authority:** The CEO is authorized to select space/site, negotiate current market rental package, and execute lease agreements with landlords for leases for NJEDA operations up to \$250,000, which includes average fair market rent and the cost of tenant improvements, operating expenses, minus the average tenant allowance NJEDA would receive from the landlord to pay for the tenant improvements.

**Proposed delegation:** Delegated authority is requested to authorize the CEO to approve and execute leases and other forms of occupancy agreements for NJEDA operations with total occupancy costs less than or equal to \$1 million which includes average fair market rent and the cost of tenant improvements, operating expenses, minus the average tenant allowance NJEDA would receive from the landlord to pay for the tenant improvements. The leases and occupancy agreements will be for office space within the geographic areas where NJEDA currently has offices or new areas approved by the Board for NJEDA offices.

**Justification:** The increased delegated authority limit of \$1 million is based upon the average fair market rent and the cost of tenant improvements, operating expenses, minus the average tenant allowance NJEDA would receive from the landlord to pay for the tenant improvements. The selection of geographic location of NJEDA office lease space will require Board approval, however, this delegation permits staff to manage site selection and associated tasks.

- 7. Proposed delegation:** Delegated authority is requested to authorize the CEO to purchase furniture, fixtures and equipment associated with a NJEDA owned or controlled office space, not to exceed \$500,000.

**Justification:** The delegated authority will authorize the CEO to purchase furniture, fixtures, and equipment for NJEDA owned, leased or other controlled property consistent with NJEDA delegated authority for administrative overhead and program costs. This makes this procurement for FF&E consistent with all other NJEDA procurements.

### **Right of Entry, Site Licenses and Easements (#8-10)**

- 8. Existing delegated authority:** Right of Entry or License Agreements:  
The CEO is authorized to enter into short term right of entry and license agreements with third parties, including, but not limited to utility/communication companies, or other public utility or communication companies, state, county and local governmental entities, non-profit entities or entities entering into an agreement for fundraising purposes for a term of

up to 5 years. Consideration for temporary access to NJEDA owned property, for revenue generating events, is 20% of the third party's receipts received/collected. Consideration for use may be waived for government associated entities.

- grant limited use of real estate owned by or leased by the Authority to a third party (non-monetary/up to 90-day term); and
- acquire the rights for the Authority to enter upon property owned by a third party related (non-monetary/short-term); and
- for non-monetary transactions, for a term of 3 years with two 1-year renewal options; and
- for transactional agreements, which have previously been defined as a right of entry or license agreement in which the EDA receives a fee in relation to the use (payments up to and including \$100,000/for a term of 3 years with two 1-year renewal options); and
- enter into Right of Entry/License Agreements for EDA owned property for standard utility, communications, infrastructure use between EDA and utility companies, communications companies, companies providing public utility, or other governmental entities requiring access to provide EDA or its tenants services (10 years with two 5-year renewal options).

**Proposed delegation:** Delegated authority is requested to authorize the CEO to enter into Right of Entry or License Agreements that does not interfere with NJEDA operations as follows:

- Grant limited use of real estate owned by or leased by the Authority to a third party (non-monetary/up to 90-day term).
- Grant access/use of Authority property to a non-profit for: (1) up to a 1-year term; (2) nominal or no consideration; and (3) a fundraising activity or a public event that does not charge entry fees.
- Grant access/use of Authority property to a government entity (state, county, municipal) for: (1) up to a 1-year term; (2) nominal or no consideration; and (3) a fundraising activity, public event that does not charge a general admission fee, staging area for a public improvement, or access to adjacent property owned by the government entity.
- Grant access/use to a utility or communication company, or a government entity (state, county, municipal) for: (1) up to a 10-year term with up to two 5-year extensions; (2) nominal or no consideration; and (3) a service or improvement that benefits the Authority or its tenants, e.g., internet, utility, communication or other infrastructure, curb or sidewalk improvements.
- Grant access to an entity that will generate revenue from the property (excluding a utility or communication company as noted above) for: (1) consideration up to \$500,000; and (2) up to a 3-year term with two 1-year renewal options. For example, a parking authority or Camden Aquarium may request to use EDA lots for special events.
- Permit the Authority to enter upon property owned by another entity for: (1) consideration up to \$500,000; and (2) a term of up to a 3-year term with two 1-year

renewal options; (3) the purpose of implementing a real estate development project or on-going operations and/or maintenance of Authority property.

Under this delegation, licenses and rights of entry will be granted by the Authority only when the grantee provides indemnification and proof of adequate insurance. In any case, licenses and rights of entry will be granted or received only when the other party enters into the Authority's standard form of Right of Entry Agreement or License Agreement. Final terms of the document will be subject to the approval of the Chief Executive Officer and the Attorney General's Office.

**Justification:** This delegation will permit the CEO to enter into agreements that are administrative in nature and do not warrant policy consideration by the Board.

Approval thresholds are consistent with delegated authority for procurement and other real estate agreements. Any agreement in excess of the approved delegated amount will require Board approval. All agreements shall be reported to the Board on a quarterly basis, regardless of the dollar threshold. In addition, the language consolidates language of similar delegated authorities for right of entry or site license agreements approved in August 2016.

9. **Proposed new delegation:** Delegated authority is requested to authorize the CEO to approve and execute a non-monetary right of entry agreements, where:
- NJEDA requires access to adjacent or other property for environmental monitoring purposes; or
  - Access to NJEDA owned property is required for environmental monitoring purposes.

Access may be required pursuant to the Brownfield and Contaminated Site Remediation Act (for example, N.J.S.A. 58:10B-16), that Act's implementing regulations, or otherwise for monitoring of environmental issues. Access must be in accordance with N.J.A.C. 7:26C-8 (NJ Department of Environmental Protection's regulations establishing minimum requirements for access for remediation of property not owned by a person) and not require other concessions by NJEDA (i.e., amendment to any existing lease, purchase and sale, license, or other agreement) which would require Board approval. NJEDA will request that the licensed site remediation professional (LSRP) minimize any interference of NJEDA's or its tenants' use of the property as a result of the monitoring activities, subject to the agreement.

**Justification:** This delegation permits the CEO to authorize environmental right of entry agreement for environmental monitoring required by law and permits the responsible party to comply with the Brownfield and Contaminated Site Remediation Act for environmental monitoring and remediation (if necessary) without interruption.

**10. Existing delegated authority:** CEO is authorized to execute a routine, standard recorded permanent easement agreement with a public utility where payment to EDA is up to and including \$300,000. Easement agreements with a consideration in excess of \$300,000 would be subject to the prior approval of the EDA Board. Under this delegation, easement agreements will be granted by EDA only when the grantee provides adequate proof of valuation of the easement area satisfactory to EDA and the proposed easement will not reduce the value of the EDA property by more than 10% of the current appraised or book value of the property, whichever is more current. If EDA does not have an appraisal on file dated within 18 months of the easement request, the requestor will be requested to provide a valuation of the full property as well as a valuation of the easement area. In any case, standard public utility easements will be granted only when the other party enters into a form of agreement acceptable to the Attorney General's Office.

**Proposed delegation:** Delegated authority is requested to authorize the CEO to approve and execute recorded or permanent easements with state, county, and local government entities, or public or municipal utility, telecommunication, infrastructure providers for consideration up to \$500,000 where 1) the impact of easement to property value is minimal (easement is less than 10% of property's assessed (with the equalization ratio) or appraised value-appraisals must be dated within 18 months of the easement request), (2) the easement does not impact the property's development, and (3) there are no other policy considerations for the Board to consider regarding the easement. An easement valued greater than \$500,000 will require Board approval.

**Justification:** This delegation increases the dollar threshold to be consistent with the Authority's delegated authority for procurement and other agreements that are administrative in nature and will have a nominal impact on the value and/or use of the property as well as allows the assessed value with the equalization ratio to be an alternative valuation methodology.

#### **Litigation and Compromise and Settlement of Claims (#11) (real estate agreements, occupancy agreements and other claims)**

**11. Existing delegated authorities:** The CEO is authorized to enter into:

- Settlement Agreements and/or other final disposition documentation regarding litigation matters as follows: (i) for prelitigation and active litigation agreements with third parties, where payment is being made by EDA or its insurance carrier, up to \$75,000; and (ii) for prelitigation and active litigation agreements with third parties where a third party or the third party insurance company has tendered defense of EDA in the litigation matter and neither EDA nor its insurance carrier are required to remit any payment directly.
- Settlement Agreements and final disposition documentation requiring payment by EDA or its insurance carrier in excess of \$75,000, that impose any new non-monetary obligation, or that concede any liability will be subject to the prior approval of the EDA Board. Final terms of all Settlement Agreements and/or final disposition documentation will be subject to the prior approval of the President/Chief Operating Officer and the Attorney General's Office.

**Proposed delegation:** Delegated authority is requested to authorize the CEO to enter into: Settlement Agreements and/or other final disposition documentation to compromise and/or settle a claim, dispute, or litigation settlement, including for contractual agreements (Occupancy, Transactional and Professional Services Agreements), as follows:

- for prelitigation and active litigation agreements with third parties, where payment is being made by EDA or its insurance carrier, up to \$500,000, that do not impose any new non-monetary obligation and do not concede any liability; and
- for prelitigation and active litigation agreements with third parties where a third party or the third-party insurance company has tendered defense of EDA in the litigation matter, neither EDA nor its insurance carrier are required to remit any payment directly, and that does not impose any new non-monetary obligation and do not concede any liability.

Final terms of all Settlement Agreements and/or final disposition documentation will be subject to the prior approval of the CEO and the Attorney General's Office.

**Justification:** The Authority may be required to enter into Settlement Agreements or agreements regarding either potential litigation or final disposition of lawsuits as part of active litigation for EDA owned, leased or other properties in which EDA is considered to have an interest. In some cases, execution of this documentation is time sensitive and delay of same may jeopardize a previously agreed to settlement between all parties. This delegation increases the amount for which the CEO can enter into settlements consistent at an amount similar to the other delegated authorities listed above.

## **Procurement (#12-13)**

**12. Existing Delegated authority:** The CEO is authorized to execute contracts up to and including \$300,000.00 for professional and other services as follows:

- Contracts under Treasury DPP public bidding threshold.
- Contracts for professional services related professional services as defined by N.J.S.A. 52:34-12(a), N.J.A.C. 19:30-8 over \$25,000 up to & including \$50,000.
- Contracts for professional services not defined by N.J.S.A. 52:34-12(a), N.J.A.C. 19:30-8, over Treasury DPP public bidding threshold, over \$50,000 and up to and including \$300,000.
- Contracts for construction related services not defined by N.J.S.A. 52:34-12(a), N.J.A.C. 19:30-8 over \$300,000.
- Contracts for construction related services not defined by N.J.S.A. 52:34-12(a), N.J.A.C. 19:30-8 over Treasury DPP public bidding threshold and up to and including \$50,000.
- Contracts for construction related services not subject to S-2194 over Treasury DPP public bidding threshold over \$50,000 and up to and including \$300,000.
- Contracts (direct procurement) over Treasury DPP public bidding threshold up to and including \$50,000.
- Contracts (direct procurement) over Treasury DPP public bidding threshold over \$50,000 up to and including \$150,000.



**Proposed delegation:** Delegated authority is requested to authorize the CEO to execute standard professional services contracts for real estate development projects, including architectural/engineering, construction management, appraisal, real estate brokerage, and other services in an amount up to and including \$500,000. This does not include construction contracts, which are described in the delegated authority below.

**Justification:** This delegated contract amount is consistent with and aligns with the Procurement Division's delegated authority for contracting.

- 13. Existing delegated authority:** The CEO is authorized to execute contracts for construction, demolition, and other construction services in an amount up to and including \$300,000.

**Proposed delegation:** Delegated authority is requested to authorize the CEO to approve and execute construction contracts, such as demolition, construction, site work, (excluding at risk construction management services and other construction management services) where the lowest compliant responsible bid is the only consideration so long as the lowest compliant and responsible bid is not greater than 115% of the independent cost estimate obtained prior to bid opening, up to the maximum board approved project budget.

**Justification:** This delegated authority will facilitate the day-to-day management of a real estate construction project where the Board has already approved the project and the budget. Accordingly, contracting for construction services under the proposed delegated criteria is administrative. The independent cost estimate will be included in the scope of work prepared by the project engineer or from an independent estimator for the creation of the bid specifications and considered when evaluating bids. Unless the project manager determines a reduction of scope or re-bid is necessary, a lowest compliant responsible bid that is greater than 115% of the independent cost estimate will require Board approval.

## B. NJ ACCELERATE (#14-15)

NJ Accelerate encourages the participation of New Jersey entrepreneurs in high-quality accelerator programs, which supports the growth and expansion of innovative companies in the State. The NJEDA Board approved the NJ Accelerate pilot program on February 11, 2020, with updates approved on July 14, 2020. The total program budget is \$2.5 million. Through NJ Accelerate, the NJEDA partners with best-in-class Accelerators to provide support to early-stage businesses located in New Jersey.

NJ Accelerate offers three (3) benefits:

- Approved Accelerators may receive sponsorship of up to \$100,000 in total to produce events in NJ to encourage their on-the-ground engagement in the State.
- Approved Accelerator Graduates may participate in rent benefit consisting of a grant which provides the funding to an approved NJ Ignite facility for up to 6 months of rent.
- Approved Accelerator Graduates may receive a loan benefit up to \$250,000 direct funding in the form of a convertible note matched to the Approved Accelerators' financial investment.

All benefits also have the ability for an added bonus supporting to diversity, equity, and inclusion. As part of the approved pilot, delegated authority was granted Staff to approved applications for:

- Accelerators to participate in NJ Accelerate.
- Approved Accelerators event sponsorship.
- Approved Accelerator Graduates rent benefit.

On May 11, 2022, Board members approved a Delegations of Authority action for many existing Programs which included added the delegations for NJ Accelerate to include non-discretionary declinations for:

- Accelerators to participate in NJ Accelerate.
- Approved Accelerators event sponsorship.
- Approved Accelerator Graduates rent benefit.

Also added to the delegations of authority was the ability to issue final administrative decisions if applicants appeal from those declinations.

As per the Board approved NJ Accelerate program guidelines, approved Accelerator Graduate companies may apply for the Program's loan benefit. This is a 10-year term convertible note with a fixed interest rate of 3% and no payments for the first 84-months. Interest accrues and is capitalized during this period. Beginning with month 85, principal plus interest payments repayment begins for the remaining 36-month term to fully amortize the disbursed loan along with capitalized interest. The amount of the loan is determined by matching on a 1 to 1 basis the financial commitment made to the company by the approve Accelerator program. The maximum loan amount is up to \$250,000. But, for graduate companies certified as woman or minority owned by the State of NJ, an additional 5% bonus amount can be added bringing the maximum available

loan amount to \$262,500. Also, the NJEDA will receive a warrant in effect for a 10-year period. The warrant amount will equal to 50% of the loan amount.

- 14. New Proposed delegation:** Delegation of authority to the CEO is requested for the NJ Accelerate program to approve individual NJ Accelerate Loan Benefit applications for Approved Accelerator graduates.

**Justification:** This new delegated authority is requested because staff have experience with reviewing these loans, and approvals of these loans are based on criteria that are straight forward and do not involve policy decisions, consistent with the program parameters as approved by the Board.

Addition of the requested delegations will increase efficiency by shortening response time identified as critical for the success of the approved Accelerator Graduates and the NJ Accelerate program. Staff has already proven the capability to provide a thorough review of loan benefit application for NJ Accelerate and other program similar in structure and dollar value. Beyond staff review, companies in the Accelerator Program have gone through a due diligence process that has been reviewed and meets strict standards of the program to participate. Records of all actions taken under delegated authority for NJ Accelerate will continue to be reported to the Board on a quarterly basis.

- 15. New Proposed delegation:** Delegation of authority to the CEO is requested for the NJ Accelerate program to approve modification of terms for approved NJ Accelerate funding, in accordance with existing post-closing delegated authority for loan programs.

**Justification:**

Adding the NJ Accelerate loans to the existing post-closing delegated authority creates consistency and is based on staff's experience administering such post-closing modifications for other programs. Records of all actions taken under delegated authority for NJ Accelerate will continue to be reported to the Board on a quarterly basis.

### **C. NJ ENERGY RESILIENCE BANK (#16)**

As part of continuing efforts to minimize the impact of future major power outages and increase energy resiliency, the State launched the New Jersey Energy Resilience Bank (ERB), the first public infrastructure bank in the nation to focus on energy resilience. Utilizing \$200 million through New Jersey's second Community Development Block Grant-Disaster Recovery (CDBG-DR) allocation, the ERB has supported the development of distributed energy resources at critical facilities throughout the state that will enable them to remain operational during future outages.

#### **Modifications to Reservations of Funding**

**16. Existing delegated authority:** The CEO is authorized to make non-material changes to project scope and budget.

**Proposed delegation:** Delegated Authority is requested to authorize the CEO to approve increased project scope and budget based on approval of additional funding reservations for the projects by the Department of Community Affairs (DCA).

**Justification:** This delegation is needed to allow subrecipients impacted by the COVID-19 Public Health Emergency by significant delays in project schedules and increases of the costs of materials additional funds to not only complete construction, but also to adequately meet all regulations. Applications are no longer open for this program and there is no additional funding available through the NJEDA. Additional funds can only be provided to projects at the discretion of DCA, utilizing reallocated Sandy Program funds held by DCA.

#### **Recommendation**

The Members are asked to approve the new delegations and updates to existing delegations of authority, as detailed above.



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Tim Sullivan, CEO

#### **Attachment:**

NJEDA Real Estate Division Property Portfolio

**NJEDA REAL ESTATE PORTFOLIO (as of 2/1/2023)**

COUNTY	MUNICIPALITY	PROJECT	ADDRESS	PROJECT DESCRIPTION
Camden	Camden	Camden Prison, f/k/a Riverfront State Prison	Block 79, Lot 13, City of Camden, NJ	State owned - EDA does not have ownership interest. Currently pending Developer RFP issued by EDA.
Camden	Camden	Camden Waterfront	Block 81, p./o Lot 2	Parking Lots
Camden	Camden	Camden Amphitheater	1 Harbour Blvd., Camden, NJ	Offices and Black Box Theater
Camden	Camden	Camden Amphitheater a/k/a Waterfront Music Pavilion; (f/k/a BB&T Pavilion, f/k/a Susquehanna Bank Center, f/k/a Tweeter Center)	1 Harbour Blvd., Camden, NJ	Open and enclosed performing arts facility operated by Pavilion Partners-Waterfront Development Tract
Camden	Camden	Replacement Parking Camden Waterfront	Riverside Drive Block 81.01, Lots 1 (.45 ac) and 2 (.37 ac) Block 81.04, Lot 1.01 (.90 ac) Camden, NJ	Two parking lots and one vacant
Camden	Camden	Camden Basketball Partners Sixers Practice Facility (76ers)	MLK & Delaware Ave. , Lot 1, in Block 139.01 City of Camden, County of Camden, New Jersey	76ers corporate offices and practice facility
Camden	Belmawr	State Police	133 Wellwood Avenue, Block 70, Lot 6, Belmawr, Camden, Co., NJ	Rehabilitation and Renovation of 5 State Police Barracks
Cumberland	Bridgeton	Bridgeton	Pamphylia and South East Ave Block 190, Lot 1, City of Bridgeton, Cumberland Co, NJ 4.75 ac	Portfolio Services Asset in which REDD is assisting in developing property for sale or transfer
Cumberland	Deerfield Twp.	State Police	3 Landis Avenue, Block 1903, Lot 3.01, Upper Deerfield Twp., Cumberland Co., NJ	Rehabilitation and Renovation of 5 State Police Barracks
Hunterdon	Union	State Police	90 Route 173, Block 12, Lot 13, Union Twp., Hunterdon Co., NJ	Rehabilitation and Renovation of 5 State Police Barracks
Mercer	Trenton	NJEDA HQ	Headquarters Bldg. 36 West State Street, Trenton, NJ	EDA Headquarters

COUNTY	MUNICIPALITY	PROJECT	ADDRESS	PROJECT DESCRIPTION
Mercer	Trenton	NJEDA Parking Lot	Lot for HQ parking West Hanover and Barnes Street, Trenton, NJ	Parking Lot
Middlesex	North Brunswick	New Jersey Bioscience Center f/k/a Technology Centre of NJ	631-691 US Hwy One, No. Brunswick, NJ	Tech Center owned, developed and operated by NJEDA
Middlesex	North Brunswick	Tech Centre Expansion	Block 252 Lots 1.06, 1.03, US Hwy One, No. Brunswick, NJ	Development Site - Youth Festival License Agreement
Sussex	Frankford	State Police	27 US 206, Block 17, Lot 1.01, Frankford Twp., Sussex Co., NJ	Rehabilitation and Renovation of 5 State Police Barracks
Warren	Hope	State Police	502 Route 521, Block 5200, Lot 300, Hope Township, Warren Co., NJ	Rehabilitation and Renovation of 5 State Police Barracks





## **MEMORANDUM**

### **Outside Special Legal Counsel**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**RE:** Special Counsel: Executive Order 52 (Murphy 2019), Attorney General Investigation, Holtec and Other Legal Actions – Amendment to Retention Agreement

### **Summary**

The Members are asked to approve additional contract funding of \$500,000 (for a revised fee cap of \$4,820,000) due to ongoing need for representation related to the subject legal matters. The additional funding will be at the blended hourly rate for all attorney positions of \$450/hour outlined in the original retention letter executed between the Authority and Friedman, Kaplan, Seiler, and Adelman, LLP (“Friedman Kaplan”) on February 21, 2019. The Members are also asked to approve the extension of the term of the contract for one (1) year from February 20, 2023 to February 19, 2024.

### **Background**

On January 24, 2019, Governor Murphy signed Executive Order 52 which established a Task Force on EDA’s Tax Incentives (the “Task Force”). The mission of the Task Force was to conduct an in-depth examination of the deficiencies in the design, implementation, and oversight of Grow NJ and ERG, including those identified in the 2019 State Comptroller’s performance audit, to inform consideration regarding the planning, development and execution of the future iterations of these or similar tax incentive programs. The Task Force held public hearings and asked individuals to testify who could provide insight into the design, implementation, and oversight of these programs. The Task Force reported its findings to the Governor and the Legislature. During the same timeframe, the Attorney General announced a separate investigation of these programs.

Based on the foregoing, EDA staff, in consultation with an ad hoc committee of Board members, determined it was in the best interest of the Authority to retain special counsel for the Board and the staff.

On January 31, 2019, the Authority issued a Solicitation of Proposals (“Solicitation”) for Emergent, Specialized Legal Services. The purpose of the Solicitation was to obtain proposals from certain well-qualified, non-conflicted law firms that were identified by a committee of the Board to represent both the EDA Board and staff. The Solicitation resulted in an award of a one (1) year contract with three (3), one (1) year extension options at an initial retention of \$250,000 approved under delegated authority to Friedman Kaplan. This amount was increased by:

- \$400,000 with board approval on May 14, 2019, revising the fee cap to \$650,000
- \$400,000 with board approval on June 11, 2019, revising the fee cap to \$1,050,000
- \$850,000 with board approval on August 13, 2019, revising the fee cap to \$1,900,000
- \$500,000 with board approval on February 20, 2020, revising the fee cap to \$2,400,000
- \$1,000,000 with board approval on December 20, 2020, revising the fee cap to \$3,400,000
- \$920,000 with board approval on July 14, 2021, revising the fee cap to \$4,320,000

Work began in February of 2019 and is ongoing. Friedman Kaplan has provided continual advice and counsel with respect to matters bearing upon the investigations. Services include assistance, counseling, and guidance to the EDA Board and staff, as applicable, with respect to the production of documents, subpoenas, public hearing testimony, overall strategy, regulatory and fiduciary obligations, and potential litigation. To date, two legal claims have been filed against the Authority – one from Holtec International (“Holtec”) and one from Cooper University Hospital (“Cooper”). Both companies are Grow NJ applicants. The Holtec claim is an active litigation matter for which Friedman Kaplan is providing continuing representation to EDA. For the Cooper matter, Friedman Kaplan has been in regular contact with Cooper on the status of their Grow NJ tax credits.

When legal action is taken against the Authority related to the investigations, Friedman Kaplan has been requested to prepare, commence, and manage litigation on behalf of the Authority. Preparation may include significant pre-filing evaluative and investigative work. Litigation will include drafting pleadings, motions, briefs and all other papers to be filed in court; conducting and responding to discovery; attending all pre-trial, trial and post-trial court appearances; conducting settlement negotiations and handling appeals. Special Counsel will also be expected to handle all issues arising in the litigation, including all issues that must be raised in compliance with the entire controversy doctrine. Special Counsel must regularly communicate with EDA Board Members and staff, as applicable.

Through January 31, 2023, the Authority has paid approximately \$4,202,264 under the retention agreement.

To date, \$750,000 has been reimbursed through the Authority’s insurance coverage, less a policy deductible of \$250,000.

## **Recommendation**

In summary, approval is requested for an extension of the term for one (1) year from February 20, 2023 to February 19, 2024 and ongoing additional contract funding of \$500,000 (for a revised fee cap of \$4,820,000) at the same blended hourly rate for all attorney positions of \$450/hour under the same terms and conditions outlined in the original retention letter of February 21, 2019. It should be noted that these fees are being paid from the Authority's net assets and will not detract from existing EDA programs or burden the taxpayers of the state.



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Tim Sullivan, CEO

Prepared by: Fred Cole

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** February 8, 2023

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

The following projects were approved under Delegated Authority in December 2022 and January 2023:

**Premier Lender Program:**

- 1) American Christian School Society (PROD-00305692), located in Rockaway Township, Morris County, was established in 1964 as a not-for-profit independently chartered school. In 2016, the school campus located in Succasunna was expanded to a second campus to meet the growing enrollment needs. The school is accredited by Cognia/AdvancEd, the largest accreditation company in the country. Investors Bank approved a \$1,750,500 bank loan contingent upon a 28.59% (\$500,500) Authority participation. Proceeds will be used to purchase the project property. Currently, the Company has 50 employees and plans to create 7 new positions within the next two years.
- 2) PKP Land, LLC (PROD-00308763), located in Wall Township, Monmouth County, was established in 2022 as a real estate holding company formed to purchase the project property. The operating company, Lemings Landing West, L.L.C. d/b/a Mr. Shrimp Seafood Market & Restaurant, was established in 2001 as a full-service seafood restaurant and seafood market. OceanFirst Bank approved a \$1,170,000 bank loan contingent upon a 44.44% (\$520,000) Authority participation. Proceeds will be used to purchase the project property. The Company currently has 35 employees and plans to create 2 additional jobs over the next two years.

**Small Business Fund Program:**

- 1) Spot Auto LLC (PROD-00305732) is located in Manville Borough, Somerset County. The Company was established in 2020 as a wholesale business that buys and sells cars, motorcycles, trucks, and commercial vehicles through a direct-to-consumer model. The NJEDA approved a \$349,224 loan to purchase new equipment/machinery, furniture, and fixtures, and to cover working capital expenses. The Company currently has 1 employee.



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Tim Sullivan, CEO



## MEMORANDUM

**TO:** Members of the Authority

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

**DATE:** February 8, 2023

**SUBJECT:** Post-Closing Delegated Authority Bond Modification Approvals for 4<sup>th</sup> Quarter 2022  
*(For Informational Purposes Only)*

The following Post-Closing Bond action was approved under delegated authority in the 4<sup>th</sup> quarter ending December 31, 2022:

**Stand Alone and Refunding Bonds - (EDA has no Credit Exposure)**

Applicant	Product Number	Modification Action	Bond Amount
The Atlantic City Sewerage Company	157463	Modify the interest rate benchmark provision from LIBOR to SOFR.	\$2,525,031
The Atlantic City Sewerage Company	167883	Modify the interest rate benchmark provision from LIBOR to SOFR.	\$3,988,582
The Atlantic City Sewerage Company	129277 152415	Modify the interest rate benchmark provision from LIBOR to SOFR.	\$6,751,941

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

Tim Sullivan, CEO

Prepared by: **David A. Lawyer**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, Chief Executive Officer  
**DATE:** February 8, 2023  
**SUBJECT:** Post Closing Incentives Delegated Authority Memo –4<sup>th</sup> Quarter 2022

(For Informational Purposes Only)

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

Attached is a list of the Incentive Modifications that were approved in the 4<sup>th</sup> quarter ending December 31, 2022.

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

Tim Sullivan, CEO

Prepared by: F. Saturne



ACTIONS APPROVED UNDER DELEGATED AUTHORITY

FOURTH QUARTER ENDING December 31, 2022

**GROW NEW JERSEY ASSISTANCE PROGRAM**

<b>Applicant</b>	<b>Modification Action</b>	<b>Approved Award</b>
Artech Information Systems, LLC	Consent to change the Applicant's name to Artech, LLC	\$2,205,000
Seton Hall- Hackensack Meridian School of Medicine	Consent to change to Applicant's name to Hackensack Meridian School of Medicine on the Grow NJ Incentives Agreement, approve changes to ownership structure, and update the Qualified Business Facility address from 340 Kingsland Street, Nutley Township to 123 Metro Blvd., Nutley, New Jersey and 111 Ideation Way, Nutley, New Jersey.	\$13,972,500
Suez Water Management & Services Inc. and Suez Water Inc.	Consent to change the Applicant's names to Veolia Water M&S (Paramus), Inc. and Veolia Water USA, Inc. on the Incentive Agreement.	\$5,512,500
Wenner Bread Products, Inc.	Consent to change the Applicant's name to Europastry USA, Inc. on the Incentive Agreement.	\$30,360,000

**BUSINESS EMPLOYMENT INCENTIVE GRANT PROGRAM**

<b>Grantee</b>	<b>Modification Action</b>	<b>Approved Award</b>
Comcast Business Communications, LLC	Consent to elect to convert the BEIP Grant to a tax credit effective July 1, 2016.	\$6,534,530
SG Americas Operational Services, Inc.	Consent to change the name of the Grantee to SG Americas Operational Services LLC .	\$10,088,400

## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** February 8, 2023

**SUBJECT:** Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/  
Licenses for Fourth Quarter 2022 *For Informational Purposes Only*

The following approvals were made pursuant to Delegated Authority for Leases and ROE/  
Licenses in October 2022, November 2022 and December 2022:

### LEASES

<u>TENANT</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>TERM</u>	<u>S.F.</u>
Chrom-Matrix Inc.	Bioscience Center Incubator	New Lease	One Year	900sf
Lactiga US Inc.	Bioscience Center Incubator	New Lease	One Year	152sf
Meridian Life Sciences	Step Out Labs	New Lease	Three Years	2915sf
Kamat Pharmatech	Step Out Labs	Amendment	25 months	1060sf
Acasti Pharma US	Step Out Labs	Termination/ Surrender	n/a	2170sf
SPES Pharmaceuticals	Bioscience Center Incubator	Month to Month	Month to Month	1600sf
Bright Cloud International	Bioscience Center Incubator	Month to Month	Month to Month	900sf

## RIGHT OF ENTRY/LICENSES/EXTENSIONS

<u>ENTITY</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>CONSIDERATION</u>
NJ Aquarium (a/k/a Adventure Aquarium	1 Aquarium Drive	Parking Management Agreement	\$0

## MISCELLANEOUS

<u>ENTITY</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>CONSIDERATION</u>
None	None	None	None



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Tim Sullivan, CEO

Prepared by: Cyndi Costello