NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Timothy Sullivan
Chief Executive Officer

**DATE:** May 12, 2021

**SUBJECT:** Agenda for Board Meeting of the Authority May 12, 2021

**Notice of Public Meeting**

**Roll Call**

**Approval of Previous Month's Minutes**

**CEO's Report to the Board**

**Economic Recovery Act**

**Economic Growth**

**Incentives**

**Loans/Grants/Guarantees**

**Real Estate**

**Board Memoranda**

**Public Comment**

**Adjournment**

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

## April 14, 2021

## MINUTES OF THE MEETING

*The Meeting was held by teleconference call.*

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

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

Members of the Authority absent: Chairman Kevin Quinn and Public Member Massiel Medina Ferrara.

Mr. Sarlo 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. He also announced that pursuant to the Internal Revenue Code of 1986, as amended, this was a public hearing and comments were invited on any private activity bond projects presented before the Board today.

## MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the March 10, 2021 meeting minutes. A motion was made to approve the minutes by Ms. Bauer, seconded by Commissioner Caride, and was approved by the 13 voting members present.

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

## COVID-19 RESPONSE

**ITEM: Use of Coronavirus Relief Fund Appropriation and Creation of Small Business Emergency Assistance Grant Program - Phase 4**
**REQUEST:** To approve a fifth amendment to the Memorandum of Understanding (MOU) with the NJ Department of Treasury whereby NJEDA will accept $85 million in funds from the Coronavirus Relief Fund, delegation of authority to the CEO to accept up to $200 million if additional funds become available, creation of a fourth phase of the Small Business Emergency Assistance Grant Program, and associated program implementation measures and delegation of authority associated with the implementation of the program.
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Ms. Brennan **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

## AUTHORITY MATTERS

**ITEM: Gap Funding to Support Microsoft Portal Application Development**
**REQUEST:** To approve new contract funding to support continued Microsoft Portals application development while a new RFQ/P for services is publicly bid.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Commissioner Angelo **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

**ITEM: 21st Century Redevelopment Program – Modifications & Application Reopening**
**REQUEST:** To approve the utilization of $500,000 through an appropriation under the New Jersey Economic Recovery Act to additionally fund the 21st Century Redevelopment Program and approve to reopen the application for a period of 45 days following a public notice of funding availability.
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Ms. Marley **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

**ITEM: Memorandum of Understanding (MOU) with the New Jersey Board of Public Utilities, Governing a $13.2 Million Funding Commitment by the NJBPU towards the New Jersey Wind Port (NJWP)**
**REQUEST:** To approve a Memorandum of Understanding (MOU) between the Authority and the New Jersey Board of Public Utilities (NJBPU) that commits the NJBPU to providing $13.2 million in funding to support the development of the New Jersey Wind Port (NJWP).
**MOTION TO APPROVE:** Mr. Shimko **SECOND:** Mr. Dumont **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

Ms. Dragon abstained because there are permits pending before NJDEP on this project.

**ITEM: Memorandum of Understanding (MOU) with the South Jersey Port Corporation (SJPC) Governing a Joint Feasibility Study and Request for $150,000 in Funding to Support the Study**
**REQUEST:** To approve a Memorandum of Understanding (MOU) between the Authority and the South Jersey Port Corporation (SJPC) for a feasibility study on the potential expansion of the Port of Salem to accommodate offshore wind supply chain activities in support of the New Jersey Wind Port (NJWP) and a funding contribution towards the study.
**MOTION TO APPROVE:** Mr. Bauer **SECOND:** Ms. Brennan **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

**ITEM: Amendment to Contract with Coalition for Green Capital for Consulting Services**
**REQUEST:** To approve an expansion of the Authority's existing contract with the Coalition for Green Capital to provide consulting services to the newly established New Jersey Council on the Green Economy for work defined in Governor Murphy's Executive Order No. 221.
**MOTION TO APPROVE:** Ms. Dragon **SECOND:** Mr. Wilton **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

Ms. Glover recused because she sits on the New Jersey Council on the Green Economy.

## ECONOMIC GROWTH

### Technology Business Tax Certificate Transfer Program

**ITEM: Technology Business Tax Certificate Transfer (NOL) Program: 2021 Program – COVID-19 Modification – Notice of Rule Modification**
**REQUEST:** To approve a modification of the rules pursuant to Executive Order 103 (Murphy 2020) for the Technology Business Tax Certificate Transfer (NOL) Program revising the requirement for a full-time employee to work 80 percent of his or her time in New Jersey to reflect Executive order EO 107 (Murphy 2020).
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Commissioner Caride **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

## BOND PROJECT

### Final Bond Resolution

**PROJECT: Linden Renewable Energy, LLC** PROD. #00228622
**LOCATION:** Linden City, Union County
**PROCEEDS FOR:** Construction, purchase equipment, fund debt service reserve fund, pay interest on the bonds during construction and cover the cost of issuance.
**FINANCING:** $195,000,000 Tax-Exempt Bond
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Mr. Alagia **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 8**
**PUBLIC HEARING:** Yes
**PUBLIC COMMENT:** None

## LOANS, GRANTS, GUARANTEES

### Loan To Lender Program

**PROJECT: NYBDC Local Development Corporation** PROD. #00188337
**LOCATION:** Oakland Borough, Bergen County
**PROCEEDS FOR:** To capitalize funding source for loan programs.
**FINANCING:** $1,527,250.00
**MOTION TO APPROVE:** Ms. Marley **SECOND:** Ms. Bauer **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 9**

**Premier Lender Program**

**PROJECT: 311 MLK Drive, LLC** PROD. #00228652
**LOCATION:** Jersey City, Hudson County
**PROCEEDS FOR:** To purchase land, building, renovations and soft costs
**FINANCING:** $3,100,000 Valley National Bank loan with a 50% ($1,550,000) Authority Participation.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Ms. Brennan **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 10**

**Petroleum Underground Storage Tank (PUST):**

**ITEM:** Summary of NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program project approved by the Department of Environmental Protection.
**MOTION TO APPROVE:** Ms. Dragon **SECOND:** Mr. Alagia **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 11**

**PROJECT:** Cheryl Scarduzio PROD.#00258153
**LOCATION:** Monroe Township, Gloucester County
**PROCEEDS FOR:** Upgrade, Closure, Remediation
**FINANCING:** $101,120.00

**INCENTIVES**

**UEZ Energy STX**

**ITEM: Salem County and Urban Enterprise Zone (UEZ) Energy Sales Tax Exemption Programs New Project Approvals**
**REQUEST:** To approve changes to the existing Salem and Urban Enterprise Zone Energy Sales Tax Exemption delegations of authority.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Mr. Wilton **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 12**

**REAL ESTATE**

**Fort Monmouth Economic Revitalization Authority**

**ITEM: FMERA Purchase and Sale & Redevelopment Agreement with Regional Development Group, LLC, subsequently assigned to its affiliate, Barker Circle Partnership, LLC for the Barker Circle Complex in Oceanport**
**REQUEST:** To consent to FMERA entering into the redevelopment agreement contained within the Purchase and Sale & Redevelopment Agreement with Barker Circle Partnership, LLC for the sale and redevelopment of the Barker Circle Complex in the Fort's Oceanport Reuse Area.
**MOTION TO APPROVE:** Commissioner Caride **SECOND:** Ms. Bauer **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 13**

**ITEM: Consent and Agreement of the Mortgagee with respect to New Jersey American Water Company easements on Fort Monmouth's Main Post in Eatontown and Oceanport, New Jersey**
**REQUEST:** To approve the execution of three Consent and Agreement of Mortgagee documents which subordinate the Authority's interest in certain roadways in Eatontown and Oceanport owned by FMERA and delegation of authority to staff to approve future requests to subordinate the Authority's interest in Fort Monmouth property.
**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Commissioner Angelo **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 14**

## BOARD MEMORANDA:

**FYI ONLY: Credit Underwriting Projects Approved Under Delegated Authority, March 2021**

**FYI ONLY: Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/Licenses for First Quarter 2021**

## PUBLIC COMMENT

There was no public comment.

## EXECUTIVE SESSION

The next item was to adjourn the public session of the meeting and enter into Executive Session to discuss a real estate project where disclosure could adversely impact the public interest.
**MOTION TO APPROVE:** Ms. Brennan **SECOND:** Commissioner Caride **AYES: 13**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 15**

Ms. Dragon left the meeting at this time.

The Board returned to Public Session.

**ECONOMIC GROWTH:**

**ITEM: LOI Amendment with PSEG Regarding the New Jersey Wind Port (NJWP)**
**REQUEST:** To approve an amendment to the Authority's existing Letter of Intent (LOI) with PSEG Nuclear ("PSEG") regarding the development of the New Jersey Wind Port (NJWP) project.
**MOTION TO APPROVE:** Ms. Hicks **SECOND:** Ms. Bauer **AYES: 12**
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 16**

There being no further business, on a motion by Ms. Hicks, and seconded by Ms. Marley, the meeting was adjourned at 12:09 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

Danielle Esser, Director
Governance & Strategic Initiatives
Assistant Secretary

**MEMORANDUM**

**To:** Members of the Authority

**From:** Tim Sullivan

**Date:** May 12, 2021

**Re:** May 2021 Board Meeting

Over the past month, the NJEDA continued to deliver on our commitment to supporting small businesses with Phase 4 of the Small Business Emergency Assistance Grant Program. This phase of the program yet again increased the amount of grant funding available to businesses and nonprofits and further expanded eligibility. To ensure grants went to businesses that needed help the most, Phase 4 targets funding to businesses that were not approved for grants during Phase 3, micro businesses, child care providers, and restaurants, as well as businesses in historically marginalized communities.

To help ensure minority-, LGBTQ-, veteran-, and women-owned businesses were aware Phase 4 and prepared to successfully apply, we once again enlisted the support of three leading marketing firms to support our outreach efforts. All three firms are minority and woman- or LGBTQ-owned, and they have extensive expertise in outreach to the business owners and communities most in need of COVID-19 relief. Over the course of the Phase 4 pre-registration period, we engaged in a holistic outreach campaign consisting of email blasts; extensive social media posts and advertising; more than 30 educational webinars; media coverage in English- and Spanish-language outlets; and communication through an extensive network of chambers of commerce, business leaders, legislators, and other partners in the state's business community. As a result of these efforts, more than 34,000 businesses pre-registered for Phase 4. As of Monday, more than 24,000 businesses had completed the application, and many more businesses are expected to apply by the May 19th deadline.

Of course, the need for small business relief remains acute, so we were delighted last week when Governor Phil Murphy announced that he and the legislature were committing an additional $235 million in funding for small business relief, with $200 million going to the Small Business Emergency Assistance Grant Program – Phase 4, $25 million supporting new businesses and startups, and $10 million going to an expansion of our successful Sustain and Serve NJ program. The additional funding for Phase 4 will allow us to fund all eligible pending applications and will also create opportunities for additional businesses to apply for funds.

As we continue to provide relief for small businesses, we are also hard at work moving forward the programs for large-scale projects created under the Economic Recovery Act of 2020. Last week we announced plans to reopen applications for the residential component of the Economic Redevelopment and Growth (ERG) Program on June 1, 2021. This reopening will use $50 million designated for residential ERG projects in the Economic Recovery Act to move much-needed shovel-ready housing projects forward, driving investment in the state and creating good-paying

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construction job opportunities. These projects will be subject to new prevailing wage and minimum wage requirements established in the Economic Recovery Act for new tax incentive programs.

Today the Board will consider rules for Emerge, a new tax credit program focused on bringing new, high-paying jobs to New Jersey that addresses the equity and accountability issues present in prior programs with similar goals. We anticipate opening applications for Emerge in late May.

In addition to supporting job creation and development projects, the Economic Recovery Act also supports New Jersey's growing innovation ecosystem by expanding the Net Operating Loss (NOL) Program, which enables early-stage technology and life sciences companies in the Garden State that have not yet reached profitability to sell their New Jersey net operating losses and unused research and development tax credits to unrelated profitable corporations for cash. Under the Economic Recovery Act, the NOL Program's annual cap increased from $60 million to $75 million and increased the lifetime cap for an individual applicant $15 million to $20 million. The 2021 application period for the expanded program launched last week and applications will remain open through June 30, 2021.

As we support businesses that are pushing the boundaries of technology and life science, we are also working with partners across state government to address the lack of adequate healthcare available to women and infants of color. In partnership with First Lady Tammy Murphy and Nurture NJ, a state-wide campaign committed to reducing maternal and infant mortality and ensuring equitable care for all women and children, we recently issued a Request for Information (RFI) seeking input to inform the establishment of a Center for Maternal and Infant Health in Trenton. The Center will be dedicated to innovation and research, with an emphasis on addressing disparities and reducing the inequities in care for mothers and infants. The RFI aims to build on Nurture NJ's tremendous knowledge base and community engagement process by gathering targeted input on the development and implementation of the Trenton-based Center.

As the pandemic continues to slow, more New Jerseyans become vaccinated, and businesses return to close to normal operations, it appears we can finally begin to feel cautiously optimistic about the future. However, the need for pandemic relief is still great and support for communities as they recover will be equally important. The NJEDA remains dedicated to listening to business owners and community partners and drawing on their insights on create new programs that address the challenges we face today and set the stage for a strong and equitable recovery.

# ECONOMIC RECOVERY ACT

# EMERGE PROGRAM

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Timothy Sullivan
Chief Executive Officer

**DATE:** May 12, 2021

**SUBJECT:** Special Adopted New Rules and Concurrent Proposed New Rules
Emerge Program (N.J.A.C. 19:31-22)

**Request:**

The Members are asked to approve:

1) The attached special adopted new rules and concurrent proposed new rules for the new Emerge Program and to authorize staff to (a) submit the special adopted new rules and concurrent proposed program rules for promulgation in the New Jersey Register and (b) submit the proposed program rules as final adopted rules for promulgation in the New Jersey Register if no formal comments are received; subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law; and

2) The creation of the Emerge Program, a tax incentive program authorized by the New Jersey Economic Recovery Act of 2020 (Sections 68 through 81 of P.L. 2020, c. 156), to encourage economic development, targeting the Governor's priority sectors through job creation and the retention of a significant number of jobs.

**New Jersey Economic Recovery Act:**

On January 7, 2021, Governor Phil Murphy signed the New Jersey Economic Recovery Act of 2020 (ERA) into law. The ERA presents a strong recovery and reform package that will address the ongoing economic impacts of the COVID-19 pandemic and position New Jersey to build a stronger and fairer economy that invests in innovation, in our communities, and in our small businesses the right way, with the protections and oversight taxpayers deserve. Tax incentives and other investment tools are critical to economic development, and when used correctly they can drive transformative change that uplifts communities and creates new opportunities for everyone.

The ERA includes 15+ economic development programs, including:

- Tax credits to incentivize job creation and capital investment;
- Investment tools to support and strengthen New Jersey's innovation economy;
- Tax credits to strengthen New Jersey's communities including revitalization of brownfields and preservation of historic properties;
- Financial resources for small businesses, including those impacted by the COVID-19 pandemic;
- Support for new supermarkets and healthy food retailers in food desert communities;
- Additional tax credits for film and digital media.

The program being presented for the Members' approval in this memorandum is the Emerge Program – one of the 15+ programs under the ERA. The Emerge Program is an incentive program designed to support job creation and large-scale job retention, with a focus on targeted industries.

This memorandum provides a summary about the Emerge Program including, program limits and general details about the program, eligibility criteria, specific program requirements, application process and the underwriting process. The specific details – and what will be promulgated and will govern the program – are included in the attached rules proposed for Board approval.

**Program Purpose and General Description**

The Emerge Program encourages economic development in the State by providing per-job tax credits for up to seven years (the "eligibility period"). The overview provided here highlights certain key aspects of the program. Additional program details are included in the section below, and full program details are contained in the draft rules (attached) and the statute.

To be eligible for the Emerge Program, a project must meet various eligibility criteria at the time of application. In addition, a project must comply with certain standards during the term of an Emerge Program project agreement. Some of the key criteria and standards include:

- Create a minimum of 35 new full-time jobs. The job requirement is lowered to 25 new full-time jobs for businesses in targeted industries. Small Businesses do not have a minimum job requirement, but must demonstrate job growth of at least 25 percent by the end of the eligibility period.
- To receive tax credits for retained jobs, the minimum number of retained jobs is 500 in certain areas and 1000 in all other eligible incentive areas.
- Be located in a qualified incentive area.
- Meet minimum capital investment requirements, except for Small Businesses.
- Yield a net positive benefit to the State of at least 400 percent of the requested tax credit. Projects in certain target areas are subject to a lower net positive benefit threshold (200 and 300 percent).

- Demonstrate that the award of the tax credit is a "material factor" in the decision to create or retain at least the minimum number of full-time jobs in the New Jersey.
- Ensure that at least 80 percent of incented employees' work time is spent in New Jersey.
- Ensure the Qualified Business Facility can accommodate at least 50 percent of incented new jobs.
    - To receive tax credits for retained jobs, the Qualified Business Facility must accommodate all the retained full-time jobs at the time of application.
- Commit to stay at the Qualified Business Facility for 1.5 times the eligibility period.

Collectively, projects under the Emerge Program and the Aspire Program - a separate program under the ERA designed to catalyze redevelopment projects in New Jersey - are subject to a program cap of $1.1 billion per year for the first six years of the programs, with the cap split between northern and southern counties. Unused amounts may be carried forward each year, and any remaining unused tax credits are available in the seventh year.

The Emerge Program tax credit awards are calculated on an annual per job basis, with base credits for jobs ranging between $500-$4,000 per job depending on project location or certain project categories. Eligible retained jobs are calculated at 50 percent the per job amount. Bonuses may increase the per job calculation up to $8,000 depending on project location, industry, and alignment with certain Emerge Program policy objectives. Jobs that are covered by a labor harmony agreement are eligible for and additional $1,000 bonus over the capped amounts.

Tax credit awards are subject to certain caps based on the project location, and tax credit awards may reduced if the new or retained full-time jobs associated with a project pays less than the county median salary. Any incented job (new or retained full-time) must pay more than 70 percent of the host county's median salary in order to be eligible. While a project may be eligible for a specific tax credit amount based on the project location and other applicable bonus criteria, the final award amount will be based on the Authority's determination of the amount necessary to induce the project to be sited in the State. In no circumstance will the Authority recommend an award amount that exceeds the maximum tax credit award calculated based upon the project location and applicable bonuses.

Tax credits awarded through the Emerge Program can be used to offset Corporate Business Tax or Insurance Premiums Tax, can be transferred for no less than 85 percent of their value, or, if allowed under the State's annual appropriation act and if funds are available, may be surrendered to NJ Division of Taxation for 90 percent of the value of the credits.

In addition to meeting the program eligibility, the project must be in substantial good standing with the NJ Department of Labor and Workforce Development, the NJ Department of Environmental Protection, and the Department of Treasury (as determined by each Department). If a compliance issue exists, the eligible business may have an agreement with the respective Department that includes a practical corrective action plan, as applicable. The eligible business must have no unpaid liability in excess of any threshold dollar amount(s) that may be established by each respective Department. Furthermore, the project will be required to provide, prior to execution of a grant agreement, a valid tax clearance certificate from the NJ Division of Taxation within the NJ Department of Treasury.

The Emerge Program rules also require that the project demonstrate that it will comply with environmental laws (including flood hazard requirements). All projects that receive Emerge support must also meet minimum environmental standards (green building requirements), pay prevailing wages to construction workers and building service workers, and provide health care to incented employees.

Applicants with a project with a total project cost exceeding or equaling $10 million must also enter into a Community Benefits Agreement with NJEDA and the county or municipality in which the project is located, unless the municipality certifies the Redevelopment Agreement and Emerge Program approval letter.

Some of the areas described above are outlined in greater detail further in this memorandum.

**Key Definitions**

Certain locations, business, and projects receive different treatment and benefits under the ERA. These are highlighted here:

*Government-Restricted Municipality*: The criteria established in the ERA result in Atlantic City, Paterson, and Trenton.

*Mega Project:* The statute requires that a mega project be a "project of special economic importance," which must be "measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry". Accordingly, the proposed definition in the rule requires:

- 500 or more new full-time jobs are created,
- capital investment of at least $50,000,000,
- in a targeted industry, and
- provides opportunities to leverage leadership in a high-priority targeted industry as demonstrated by factors including, but not limited to: being undertaken by a business that is making an industry leading investment in a new technology or high-growth sub-industry level or catalyzing a new sub-industry or industry-cluster within the State.

*Small Business:* A business with less than 100 employees at the time of application, engaged primarily in a targeted industry. The different treatment of Small Businesses recognizes their significance to New Jersey's economy and involves a pathway for these small businesses to access the Emerge Program, as small businesses were not able to easily access New Jersey's predecessor incentive programs. The rules further clarify how the number of employees will be determined.

*Targeted Industries:* The ERA provides a statutory definition of "targeted industry" that is applicable in several programs, including the Emerge Program. The definition identifies several industries and includes "other innovative industries that disrupt current technologies or business models". An applicant is considered as being in a targeted industry if the project is primarily engaged in a targeted industry or, if the project itself is not in a targeted industry, the applicant is primarily engaged in a targeted industry due to activities elsewhere or the applicant is a subsidiary of an entity that is primarily engaged in a targeted industry. Consistent with Grow NJ, the definitions of each targeted industries are not included in the rules, as they are meant to be illustrative and guidance; however, unlike past practice, the policy definitions are and will continue to be made public. These definitions have been included as an appendix to this memorandum.

## Eligibility Criteria

The following highlights certain key eligibility requirements for the Emerge Program. Full eligibility details are contained in the draft proposed rules in section 3 and the ERA in section 71. To be eligible, a project must meet various eligibility criteria at application, which the Board ascertains when the project is presented to the Board, and at project completion, when the business must submit certifications evidencing satisfaction of Program requirements and conditions.

### *Eligible Incentive Area*

As part of eligibility for the Emerge Program, a project must be located in an eligible incentive location, which may include: a government-restricted municipality, an enhanced area, distressed municipality, employment/investment corridor, qualified opportunity zone, or other eligible area. Each of these geographic locations are statutorily defined, and the Authority maintains a list of applicable municipalities for each location on its website. For locations that are not municipalities, the Authority is developing a custom mapping tool to provide more clarity to potential applicants as to which of the aforementioned eligible incentive locations the proposed project falls within.

### *Job Creation / Retention*

A project must create a minimum of 35 new full-time jobs to be eligible for the Emerge Program. However, as alluded to above, the job requirement is lowered to 25 new full-time jobs for businesses primarily engaged in targeted industries. For Small Businesses, no absolute minimum number is required, but the Small Business must grow its workforce over the course of the eligibility period with new full-time jobs by 25% of its workforce at time of application.

In order to receive tax credits for retained jobs, the minimum number of retained jobs is 500 in a qualified incentive tract or government-restricted municipality or 1,000 retained jobs in all other eligible incentive areas. The business must commit to retain the greater of the minimum eligibility retained jobs (500 or 1,000) or the business's retained jobs at the time of application.

To qualify as an eligible job, the business must demonstrate to the Authority's satisfaction that the employee spends at least 80% of the individual's work time in this State and that the eligible position requires an employee to have the individual's primary place of work in this State.

Further, the business must ensure that the Qualified Business Facility can accommodate at least 50 percent of incented new jobs. In order to receive tax credits for retained jobs, the Qualified Business Facility must accommodate all of the retained full-time jobs at the time of application.

*Capital Investment*

In addition to job creation and/or retention requirements, the business must meet the minimum capital investment requirements, except for Small Businesses, which are not required to make a minimum capital investment as long as they demonstrate their intent to stay in the State during the commitment period, as evidenced by such items like a proposed lease, membership agreement or a similar commitment for a space.

The amount of minimum capital investment required is based upon a dollar amount per square foot to be determined by the type of project (renovation or new construction) and the use of the space (industrial, warehousing, logistics, R&D, or office space). Buildings that are proximate can aggregate capital investment to meet the requirements but for projects that are complexes with non-proximate sites, each site must meet the minimum capital investment requirements specific to each site.

As an alternative to capital investment in the qualified business facility, the ERA requires the Authority to establish a dedicated fund known as the “Recovery Infrastructure Fund”, which will be credited with money remitted by eligible businesses that invest less than the statutorily required capital investment in the qualified business facility. The ERA dedicates the Recovery Infrastructure Fund for certain local infrastructure projects in the municipality in which the eligible business’s project is located. The Authority, in consultation with the Department of Community Affairs (DCA), will review and approve applications for disbursements of money from the Recovery Infrastructure Fund. The DCA will coordinate with the Authority and other entities, including boards, commissions, institutions, departments, agencies, to carry out the local infrastructure projects.

*Material Factor*

Pursuant to statute, any business applying for an Emerge Program award must demonstrate that the award of tax credits is a “material factor” in the business’s decision to create or retain at least the minimum number of full-time jobs in New Jersey. To assist the authority in making this eligibility determination with respect to whether the award of tax credits is a material factor in the business's decision to create or retain the minimum number of new and retained full-time jobs in New Jersey, the Authority will collect, as part of the business’s application, a full economic analysis of all locations under consideration; all lease agreements, ownership documents, or substantially similar documentation for the eligible business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for potential out-of-State location alternatives, to the extent they exist.

Based on this information, the Authority will undertake a full economic (cost-benefit) analysis across the proposed New Jersey site, and all competing alternative sites. Among the factors the Authority will consider, include: project location, size of the proposed facility, cost per square foot, one-time upfront costs (acquisition, construction, fit out, furniture, fixtures, and equipment), and ongoing annual costs (rental costs, real estate carrying costs, real estate taxes, utilities, expenses, building maintenance). The Authority may collect other relevant information as determined by the Chief Executive Officer, which may include but is not limited to: the proximity of the project to customers, infrastructure, supply chain or research.

Each applicant will be risk-rated using a material factor risk model developed by staff. The risk rating model considers various characteristics of the business and project and determines an overall risk rating that indicates the level of scrutiny and evidence necessary to review the material factor determination.

Finally, before the Board may consider an eligible business's application for tax credits, the eligible business shall execute a non-binding Letter of Intent with the Chief Executive Officer of the Authority. The Letter of Intent specifies the amount and terms and conditions of tax credits that the Authority is prepared to propose for Board approval and that are intended to be a material factor in the decision by the eligible business to create or retain the proposed number of new and retained full-time jobs. As part of the Letter of Intent, the eligible business certifies such tax credits are a material factor in its decision and that all factual representations made by the business to the Authority pursuant to material factor are true under the penalty of perjury.

*Net Positive Economic Benefit Test*

Pursuant to statute, any business applying for assistance under the Emerge Program must demonstrate that the project will yield a net positive economic benefit to the State, with the specific net benefit required tied to the geographic location of the project. The project must yield a net positive economic benefit to the State of 400%, however projects located in distressed Municipalities or Transit Hub Municipalities must yield a 300% net positive benefit and projects located in government-restricted municipalities, or mega projects, must yield a 200% net positive benefit to the State.

Staff is proposing to use the IMPLAN model to assist with determining the economic benefits of the project. IMPLAN is a third-party economic development model that is widely known, understood and utilized at the state, federal, and international levels. From among several widely-known, national level models, IMPLAN is a model that is more easily understood by a broader set of stakeholders. The analysis will include ongoing benefits for direct and indirect tax revenues at the State level and also direct, indirect and induced tax revenues at the State level for construction benefits. The local tax benefits will only be included when they benefit the State. An inflation rate and discount rate will also be used based on market conditions, economic conditions, and uncertainty in the company's commitment.

Under the statute, a business that is limited by the net positive economic benefit may choose to commit itself to a period longer than the commitment period, and the economic model will be extended accordingly for the extended commitment period. However, the maximum economic benefit period allowed is 20 years. If the business fails to satisfy its commitment after the initial commitment period but during the extended commitment period, the Authority will recoup the amount of tax credits approved based on the extended commitment period that the business will not satisfy.

Please refer to the Appendix B for the "Net Benefit Analysis – Overview" for a discussion of the test and model.

*Green Building Standards*

Similar to Grow NJ, the ERA requires the Emerge project to meet "minimum environmental and sustainability standards," which are statutorily defined as "standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction." The Green Building Manual is available online at http://greenmanual.rutgers.edu/.

The Authority had originally developed in 2013, and later updated in 2016, the "Green Building Standards" to evaluate Grow NJ and ERG projects. Staff has now updated the "Green Building Standards". The Green Building Standards lists options that apply the best practice principles of the Green Buildings Manual to the applicant's specific type of project. Please see Appendix E for a copy of the Authority's 2021 "Green Building Standards".

## Tax Credit Award Calculation

The calculation of tax credit per job is the sum of a base credit and all applicable bonuses. Unless the business demonstrates to the Authority's satisfaction that a job is primarily working at the qualified business facility, the tax credit for the job will be calculated with the base amount for "other eligible areas" and will not include bonuses based on characteristics that are specific to a qualified business facility, such as geographical location.

*Base Credit*

As stated above, the Emerge Program tax credit awards are calculated on an annual per job basis, with base credits for jobs ranging between $500-$4,000 per job depending on project location or certain project categories.

Generally, the eligible incentive location determines the base credit amount per job, per year. Government restricted municipalities result in the highest potential base award at $4,000/ job, per year, with other locations providing incrementally smaller awards, and areas defined as "other eligible areas" providing the minimum base award of $500/ job, per year. An exception is a mega project, which also receives the highest possible base amount per job/per year of $4,000.

*Bonus Credits*

If applicable, bonuses can increase the per job, per year award up to a maximum award amount. Some bonuses are based on the project location. One bonus is based on the number of new full-time jobs, increasing on a tiered basis. Additional bonuses are based on certain features or details related to the proposed qualified business facility, such as energy and environmental rating or excess capital investment in certain uses. Finally, bonuses may be applied based on the projects alignment with certain policy objectives.

The following is a closer look at two specific policy bonuses that are anticipated to be frequently applied to proposed Emerge Program projects:

- To help incentivize job creation and business growth in New Jersey tied to specific targeted industries of high importance to New Jersey's economy, a $500 per job/per year bonus is available under the Emerge Program for eligible businesses engaged primarily in a targeted industry.

- A bonus of $500 per job/per year is available to Small Businesses.

**<u>Fiscal Protections</u>**

The Emerge Program includes a number of measures designed to ensure transparency, equity, and responsible stewardship of taxpayer resources. This includes a per job cap, reduction based on the median job salary in comparison to the county median salary and ineligibility if the median job salary is 30 percent or more below the county median salary, and a reduction for retained job credit to 50% of the calculated amount.

After all caps are applied, the ERA requires a determination by the Authority of the amount "necessary to induce the project to be sited in New Jersey". The ERA does not provide for a negotiation but rather a determination based on economic and policy factors. Specifically, staff proposes establishing the cost differential between New Jersey and the alternative site(s) as the minimum award. A standardized methodology will be used to determine much of the award amount in addition to the cost differential should be offered to the applicant. The methodology considers economic and policy factors that quantify the importance of the project to the State and the alternatives available to the applicant, including competition by other States, such as the size of the net benefit relative to the calculated award size, the gap in financing between New Jersey in comparison to alternative state sites, high priority locations, opportunities for the State to capture leadership in a targeted industry and consideration of public policy objectives. If any of the assumptions and projections used in determining the amount necessary to induce the project to located in NJ change by the time the project is completed (for example, the project did not create a headquarter), the inducement methodology will be re-run and may cause the award to be reduced. Please refer to the Appendix D for the discussion of the inducement calculation.

**<u>Community Benefits Agreement</u>**

Section 73b(1) of the ERA requires businesses with total project costs equaling or exceeding $10 million to enter into a "Community Benefits Agreement" with the Authority and the county or municipality in which the project is located. An eligible business is not required to enter into a Community Benefits Agreement if the eligible business's redevelopment agreement and approval letter are certified by the chief executive of the municipality where the project is located. The rules require that the Agreement list a list of contributions by the business and the monetary equivalent for any non-monetary contribution.

Section 73b(2) of the ERA also requires that the Agreement create a community advisory committee (CAC). The CAC is required to produce an annual report evaluating whether the eligible business is in compliance with the terms of the Community Benefits Agreement.

The Emerge Program rules, at N.J.A.C. 19:31-22.9 (d)(6)(ii), provide for a non-binding mediation process to be implemented if the CAC's annual report indicates that the eligible business is not in compliance with the Community Benefits Agreement. The Authority will serve as or identify a mediator. The CAC, municipality or county, as applicable, and the eligible business will have 60 days of the Authority's notice of the mediator to resolve any differences. The results of the mediation will be reported to the Authority. If resolution is not achieved, then the Authority will assign a hearing officer to perform a review of the written record, with discretion to require an in-person hearing, and to issue an advisory written report to the Authority's Chief Executive Officer with finding(s) and recommendation(s). The business, municipality or county, and the CAC will also have the opportunity to file written comments and exceptions regarding the report within five business days from receipt of the report. Based on the review of the written report and submitted comments and exceptions, the Chief Executive Officer will determine compliance or non-compliance.

If the non-compliance is not due to the business and the business has been using best efforts, then the tax credit amount that the business may apply in the relevant tax period will be reduced by 120% of the sum of the monetary values of the contributions for which the business is not in compliance. For any other non-compliance, the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period where documentation demonstrates compliance has been approved by the Authority, for which tax period and each subsequent tax period the full amount of the credit will be allowed.

**Post-Approval Process**

Emerge, as Grow NJ, is a performance-based program. After approval, the business must sign an approval letter and subsequently a commitment agreement with the terms and conditions to receive the tax credit. Upon completion of the project, the business must submit certifications regarding the capital investment, jobs, and other eligibility requirements and conditions. The project must comply with eligibility criteria and the award will be adjusted based on, among other things, the amount of capital investment, jobs, salaries, and whether the company satisfies any of the Board approved bonuses. If the amount of capital investment, the number of new and retained full-time jobs, or the median salary are reduced more than 10% from the amounts approved by the Board (e.g., less than 410% for a project that must yield a 400% net positive economic benefit), the net positive economic benefit amount will be re-evaluated, which may result in a lower award. The actual amount of the tax credits issued will be based on the certifications and any adjustment or resizing. Additionally, the number of new and retained jobs and the amount of withholdings from the incented jobs in the certification establishes the number of jobs that the company must maintain during the commitment period.

For each year of the compliance period, the business must submit annual reports stating, among other things, the amount of new and retained full-time jobs and the amount of jobs Statewide. Staff reviews each report for compliance with the Program and commitment agreement requirements. Reductions in jobs result in tax credit reduction if within 20% of the jobs at certification. If the company reduces the number of jobs or median salary by more than 10% from the prior year, the net positive economic benefit will be re-evaluated, which may result in a reduced award. Additionally, the business will forfeit its tax credit awards as follows:

- For as long as job or withholdings from incented jobs are reduced by more than 20% from the amount at certification;
- For as long as the reduction in the Statewide jobs by more than 20% of the number of jobs Statewide at the end of the company's fiscal year prior to Board approval;
- With certain exceptions for relocations in the State, the remainder of the tax credits if the business sells, leases, or subleases the qualified business facility; and
- All tax credits if at any time during the eligibility period, the Authority determines that the eligible business made a material misrepresentation on the eligible business's application.

If the business does not maintain the project for the commitment period, or forfeits tax credits as described above for two or more successive tax periods, the Authority may recapture all or part of the tax credits based on the type of noncompliance, number of years in compliance, and actual number of jobs created or retained.

**Rulemaking Process**

The ERA authorizes the Authority to promulgate special adoption rules for the Emerge Program, which will be effective immediately upon filing with the Office of Administrative Law and continue for 180 days. In addition, Staff proposes pursuing concurrently the proposal of long-term rules, which will include a 60-day public comment process pursuant to the Administrative Procedures Act rulemaking procedures.

**Compliance with Executive Order 63**

In accordance with the Executive Order 63 directive to ensure outreach efforts are made to the public and affected stakeholders for agency rulemaking, the Authority issued a news release advising the public that the draft Emerge Program rules, including definitions of targeted industries, were available for review and of the opportunity to provide informal input.

The Authority staff convened three virtual public "Listening Sessions", which provided an overview of the Emerge Program draft rules and the opportunity for the public feedback, on:

- Thursday, April 8th, 2021 at 5:00 p.m.
- Monday, April 12th, 2021 at 3:00 p.m.
- Wednesday, April 14th, 2021 at 3:00 p.m.

Additionally, the public were able to submit written feedback through the NJEDA's Economic Recovery Act transparency website (www.njeda.com/economicrecoveryact) or through the newly established email account (emerge@njeda.com) from April 5th through April 16th, 2021.

**Chief Compliance Officer Certification of Draft Rule Proposal**

Pursuant to Section 101(a) of the ERA, the Chief Executive Officer is required to appoint a Chief Compliance Officer (CCO) to, among other things, "review and certify that the provisions of program rules or regulations provide the authority with adequate procedures to pursue the recapture of the value of an economic development incentive in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient, and that program rules and regulations are sufficient to ensure against economic development incentive fraud, waste, and abuse".

Bruce Ciallella has been designated the CCO. In that capacity, Mr. Ciallella has reviewed the proposed rules and regulations for the Emerge Program and is prepared to sign the certification, subject to the Board taking action to approve the same for submission to the New Jersey Office of Administrative Law for publication in an upcoming issue of the New Jersey Register.

**Fees**

The specific fee structure is outlined in the proposed new rules. Prior to establishing the proposed fee structure for this program as outlined in the proposed new rules, the Authority conducted an internal review to estimate what the administrative costs to the authority are likely to be to administer the Emerge Program. This review considered areas cross-organizationally where the Emerge Program may require staff time, and the estimated percentage of staff time that would be required.

An applicant for the Emerge Program will be responsible for a one-time, non-refundable application fee, on a tiered basis based on the number of new or retained full-time jobs. Additionally, prior to the approval of a tax credit award by the Members, the applicant will be responsible for a one-time approval fee, which may be refunded if the project is not approved for a tax credit award. The approval fee is also tiered based on the number of new or retained full-time jobs.

Prior to the receipt of a tax credit, the grantee will be responsible for an issuance fee, with the specific amount tiered based on the number of new or retained full-time jobs.

Throughout the term of the grant, the grantee will be responsible for a servicing fee, and may be responsible for a modification fee should the project require modifications to the tax credit. If the grantee elects to sell the tax credit, a transfer fee will also apply.

If a grantee requests an extension to the date by which the business shall submit the certification with respect to the capital investment, employment, and other eligibility requirements of the program, a non-refundable extension fee will apply.

Finally, a business seeking to terminate an existing incentive agreement will be responsible for a termination fee.

Please refer to the proposed new rules for more information on the specific fees and tiered fee amounts.

**Program Evaluation Plan**

Staff plans to establish a framework of key performance indicators (KPIs) to quantifiably measure over time how well the Emerge Program will meet the NJEDA's operational and strategic goals. Along with the goals and outcome of the program, the Authority will also request demographic information related to the businesses applying for the Emerge Program, including demographic information with respect to the company's leadership. This is part of the Authority's ongoing efforts to measure to what extent its programs and services are serving New Jersey's diverse residents, communities, and businesses.. Other metrics are anticipated to focus on the Emerge Program's outreach efforts and volume of applicants, process and operational effectiveness, and economic development outcomes. The KPIs will provide valuable insight for staff and the Board to assess the effectiveness of the Emerge Program. These KPIs are still under development.

**Recommendation**

The Members are requested to approve: (1) The attached special adopted new rules and concurrent proposed new rules for the new Emerge Program and to authorize staff to (a) submit the special adopted new rules and concurrent proposed program rules for promulgation in the New Jersey Register and (b) submit the proposed program rules as final adopted rules for promulgation in the New Jersey Register if no formal comments are received; subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law; and; (2) the creation of the Emerge Program, a tax incentive program authorized by the New Jersey Economic Recovery Act of 2020 (Sections 68 through 81 of P.L. 2020, c. 156), to encourage economic development, targeting the Governor's priority sectors through job creation and the retention of a significant number of jobs.

Tim Sullivan
Chief Executive Officer

Prepared by**:** Mathew Abraham and Elizabeth George-Cheniara

Attachments:
Appendix A – Proposed New Rules – Emerge Program
Appendix B – Net Benefit Analysis
Appendix C – Targeted Industry Definitions
Appendix D – Additional Material Factor Considerations
Appendix E – Green Building Standards

**D R A F T**

**OTHER AGENCIES**

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**Authority Assistance Programs**

**Emerge**

**Special Adopted New Rules and Concurrent Proposed New Rules: N.J.A.C. 19:31-22**

Special New Rules Adopted and Concurrent Proposed New Rules Authorized: May __, 2021, by Tim Sullivan, Chief Executive Officer, New Jersey Economic Development Authority.

Filed: May __, 2021, as R.2021 d.___.

Authority: P.L. 2020, c. 156.

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

Concurrent Proposal Number: PRN 2021-___.

Effective Date: May __, 2021 [Date Filed].

Expiration Date: November __, 2021 [180 Days from Effective Date].

Submit written comments by July __, 2021, to:

Jacob Genovay
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
emergerules@njeda.com

In accordance with P.L. 2020, c. 156, the New Jersey Economic Development Authority has adopted the following new rules to implement the provisions of the New Jersey Economic Recovery Act of 2020, establishing the Emerge Program Act, sections 68 through 81 of P.L. 2020, c. 156.

The new rules became effective on May __, 2021, upon acceptance for filing by the Office of Administrative Law. The specially adopted new rules shall be effective for a period not to exceed 180 days from the date of filing, that is, until November __, 2021.

Concurrently, the provisions of the new rules are being proposed for readoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The adopted amendments will become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f)) if filed on or before the 180-day expiration date from the date of filing.

The special adoption and concurrent proposal follow:

**Summary**

The New Jersey Economic Recovery Act of 2020, P.L. 2020, c. 156, creates a package of tax incentive, financing, and grant programs that will address the ongoing economic impacts of the COVID-19 pandemic and build a stronger, fairer New Jersey economy.

The Emerge program encourages economic development in the State's priority sectors by providing per-job tax credits for up to seven years. To be eligible for the program, a project must meet various eligibility criteria at application and at project certification. In addition, a project must comply with certain standards during the term of a project agreement.

Projects based on job growth must do one of the following: (i) create a minimum of 35 new full-time jobs; (ii) create a minimum of 25 new full-time jobs if the business is in a targeted industry; (iii) demonstrate growth of new full-time jobs of at least 25 percent of the total number of jobs (but no fixed minimum job requirement) if the business is engaged primarily in a targeted industry and has less than 100 employees at the time of application; (For these businesses, there is no fixed minimum job requirement; or (iv) create a minimum of 500 or more new full-time jobs if they are "mega projects" with at least $50,000,000 in capital investment in a targeted industry and meet other criteria applicable only to mega projects.

Projects based on job retention must show that the minimum number of retained jobs is 500 in certain more highly distressed areas of the State and 1,000 in all other eligible incentive areas.

In addition, they must:

• Be located in a qualified incentive area;

• Meet minimum capital investment requirements, except for small businesses;

• Yield a net positive benefit to the State of at least 400 percent of the requested tax credit (projects in certain more highly distressed areas of the State are subject to a lower net positive benefit threshold);

• Demonstrate that the award of the tax credit is a "material factor" in the decision to create or retain at least the minimum number of full-time jobs in the New Jersey;

• Ensure that at least 80 percent of incented employees' work time is spent in New Jersey;

• Ensure the qualified business facility can accommodate at least 50 percent of incented new jobs, and to receive tax credits for retained jobs, the qualified business facility must accommodate all the retained full-time jobs at the time of application; and

• Commit to stay at the qualified business facility for 1.5 times the eligibility period.

For all projects, the Emerge program awards are calculated on an annual per-job basis, with base credits for jobs ranging between $500 to $4,000 per-job depending on project location or project categories. Eligible retained jobs are calculated at 50 percent the per-job amounts. Bonuses may increase the per-job calculation up to a $8,000 cap, depending on project location, industry, and alignment with certain program policy objectives. Jobs that are covered by a labor harmony agreement are eligible for and additional $1,000 bonus over the capped amounts.

Tax credits awarded through the Emerge program can be used to offset Corporate Business Tax or Insurance Premiums Tax, can be transferred for no less than 85 percent of their value, or, if allowed under the State's annual appropriation act and if funds are available, may be surrendered to the NJ Division of Taxation for 90 percent of the value of the credits. In order to receive Emerge tax credits, the business must be in substantial good standing with the New Jersey Department of Labor and Workforce Development, the Department of Treasury, and the Department of Environmental Protection (as determined by each Department). All projects that receive Emerge support must also meet minimum environmental standards, pay prevailing wages to construction workers and building service workers, and provide health care.

Finally, projects that have a total project cost of at least $10 million must also enter into a community benefits agreement with NJEDA and the municipality or county in which the project is located, unless the municipality certifies the Redevelopment Agreement and Emerge approval letter.

Businesses seeking tax credits for a project through the Emerge program must apply before March 1, 2027. The Authority will review complete applications in order of their submission dates. However, in circumstances where interest in the program is expected to surpass available funds, the Authority may, at its discretion and upon notice, institute a competitive application process whereby all completed applications submitted by a date certain will be evaluated as if submitted on that date.

The following summarizes the contents of each section of the proposed new rules implementing the Emerge program:

N.J.A.C. 19:31-22.1 Applicability and scope – Addresses the statutory authority for the Emerge program and summarizes the scope and purpose of the program to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State, pursuant to sections 68 through 81 of P.L. 2020, c. 156.

N.J.A.C. 19:31-22.2 Definitions – Defines certain terms used in this subchapter and incorporates terms defined in P.L. 2020, c. 156 pertaining to the program.

Specifically, this section clarifies statutory terms to support the implementation of the program, such as “full-time employee”, “eligible position”, “small business”, “capital investment”, “mega project”, “project agreement” or “incentive agreement”, “qualified business facility”, “targeted industry”, and “quality child care facility”.

This section also creates additional terms to support the implementation of the program, including “act”, “approval letter”, “authorized agent of the owner”, “commitment agreement”, “community benefits agreement”, “complex of buildings”, “non-gaming business”, “phased project”, “project agreement” or “incentive agreement”, “project phase agreement” or “incentive phase agreement”, “research and development premises” or “research and development space”, “soft costs”, “square foot” or “square footage”, “square foot of gross leasable area” or “square footage of gross leasable area” or “gross leasable area”, “statewide workforce”, “total project cost”, and “withholdings”.

N.J.A.C. 19:31-22.3 Eligibility criteria – Outlines the criteria for applicants, including small, medium, and large businesses and non-profits, to be eligible for tax credits.

Eligibility criteria include requirements for capital investment and creation or retention of new or retained full-time jobs. For small businesses, defined as applicants with less than 100 full-time equivalent employees at the time of application, within certain targeted industries, the eligibility criteria establish more flexible capital investment and new job creation thresholds. For example, there is no minimum required capital investment and the minimum number of required new jobs is proportional to the size of the company.

The eligibility criteria also require the applicant to demonstrate to the Authority that the proposed project will result in a significant long-term net positive economic benefit to the State. Specifically, the program requires that the taxes resulting from the project’s capital investment and long-term job creation or retention, will be at least two to four times larger than the size of a tax credit awarded through the program. While the net economic benefits to the State will be calculated in a similar manner for all applicants, the threshold of how large the benefit must be compared to the tax credit award is primarily established based upon the location of the project. Most locations will require the project to yield a net positive economic benefit to the State of 400 percent the tax credit award.  However, projects that will locate in distressed municipalities or transit hub municipalities must yield a 300 percent net positive economic benefit, and projects located in government-restricted municipalities, or that qualify as mega-projects, must yield a 200 percent net positive economic benefit.

The eligibility criteria also require that the award of tax credits will be a material factor in the applicant's decision to locate the project in New Jersey and create or retain the minimum number of full-time jobs. This means that if the Authority believes that the tax credits are not a major factor in the applicant’s decision to undertake the proposed project in the State, the Authority will not award that project any tax credits.

Eligibility criteria also include requirements that ensure the project meets minimum environmental and sustainability standards; pays prevailing wages to construction workers and building service workers; and provides health care to all employees whose jobs are incentivized.

N.J.A.C. 19:31-22.4 Restrictions – Provides for certain restrictions on program eligibility, such as a requirement that any capital investment or jobs used as the basis for tax credit application cannot be part of a previous Authority tax credit award and that final point-of-sale retail facilities are not an eligible project.

This section also establishes that for projects that are awarded tax credits for both new and retained jobs, the applicant must meet the employment requirements for all retained jobs, which have lower per-job award values, before receiving the larger benefits for new jobs. For example, if a project received an award for 500 retained jobs and 100 new jobs, but then at some time during its eligibility period can only certify that it has a total of 599 jobs instead of the required 600 jobs, the Authority would award based on 500 retained jobs and 99 new jobs (and not based on 499 retained jobs and 100 new jobs).

The Authority will evaluate this requirement to award tax credits based upon retained jobs before new jobs across the whole project, even if there are multiple different facilities that make up a project, each with its own capital investment or job requirements.

In circumstances where a retained job position is eliminated (i.e., not a vacant position for which the business is looking for a candidate, but a position that is no longer required by the business), the business can fulfill that retained job requirement with a new eligible job position, provided that the replacement position is not the basis for any other Authority incentive award.

In cases where a business has other full-time jobs at the qualified business facility at the time of application that are not part of the tax credit award, the business must maintain 100 percent of its non-awarded jobs, before any jobs are considered eligible for tax credits.

N.J.A.C. 19:31-22.5 Application submission requirements – Establishes the information and procedures required for submitting an application to the Authority for tax credits under the program, including certain certifications pertaining to net positive economic benefit and eligible positions.

Information required at application includes: basic business details about the applicant and any affiliates contributing full-time employees or capital investment to the project; information on preexisting locations and employees in New Jersey; information on the applicant's relationships and good standing status (as defined by each department) at the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury; information about pending legal matters; and details on any other development-related subsidies received by the applicant for the project.

The applicant will also be required to provide information about the proposed project, including: a description of the project, capital investment involved, locations and facilities involved, proposed square footage, project schedule, and employment projections.

The applicant must provide an evaluation of the expected long-term net economic benefit to the State; any lease agreements relevant to the project, including those in or out of State alternative locations; and competitive incentive proposals from other states.

The applicant must certify that the information provided in the application is accurate, including that the jobs associated with the project will meet wage and benefit requirements and that persons in those jobs spend at least 80 percent of their work time in the State.

N.J.A.C. 19:31-22.6 Fees – Establishes non-refundable application and other fees intended to assist the Authority in recouping the administrative costs in processing applications.

Beyond application fees, the Authority sets rates for one-time approval fees; one-time issuance fees, which are paid at the point of initial certification; and annual servicing fees, which are paid for the years in which the Authority is monitoring the project; as well as fees for tax credit transfers, project modifications, and project terminations. All fees are sized based on the number of jobs associated with the project, with larger fee levels for larger projects. In addition, costs associated with certain third-party analyses or reviews utilized to assess the application may be passed along directly to applicants.

N.J.A.C. 19:31-22.7 Review of completed application – Outlines the Authority's review process, which includes a review to determine eligibility of a project, a Board determination, and notification to the business and the Division of Taxation of the determination.

To have an application reviewed, businesses must apply before March 1, 2027. The Authority will review complete applications in order of their submission dates.

In circumstances where interest in the program is expected to surpass available funds, the Authority may, at the Authority's discretion and upon notice, institute a competitive application process whereby all completed applications submitted by a date certain will be evaluated as if submitted on that date.

The Authority's review will include assessment that the applicant is compliant with all eligibility criteria and submission requirements. Review will also include an economic analysis between the proposed project in New Jersey and an alternative out-of-state location. In addition to this economic analysis, the Authority may also consider other factors, such as competitive incentive proposals from other states and the prevailing economic conditions, in determining whether an award of tax credits is a material factor in the eligible business's decision.

As part of the Authority's review, the long-term net economic benefit of the project will be determined. This analysis will include, but is not limited to, the direct and indirect benefits to the State, including local taxes that may benefit the State, and may include induced benefits derived from construction (but not induced benefits for ongoing operations).

Before approval, the Authority will confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the eligible business is in compliance by being in substantial good standing with the statutes, rules and other enforceable standards of the respective department (as determined by each department). Or, if the applicant has a compliance issue, the applicant may have entered into an agreement with the respective department that includes a practical corrective action plan, as applicable.

To aid in an efficient and thorough review of an application, the Authority may contract with an independent third party to perform a background checks on the eligible business or support the Authority in other necessary analyses.

Once the Authority determines that it will seek approval of tax credits for a project from the Authority's Board, the applicant will be required to enter into a non-binding letter of intent with the Chief Executive Officer of the Authority, specifying the amount and terms and conditions of tax credits, confirming that the tax credits are still a material factor in the business's decision to complete the project in the State, and that all information the Authority is using to make its final determination is true and accurate. The Authority may make the non-binding letter of intent public, unless the Authority determines that the interests of the State require confidentiality.

After a tax credit is approved by the Authority's Board, the Authority will notify the Division of Taxation within the Department of Treasury.

N.J.A.C. 19:31-22.8 Determination of grant amount; bonus award – Establishes the base amount of the value of each tax credit, as well as additional bonus awards which shall be based on factors associated with the project.

The total tax credit award will be established by determining the applicable base amounts and applicable bonuses for each job within a proposed project. Jobs that will be physically present at the facility may have higher base awards and be eligible for more bonuses, based on the project's location and facility characteristics. Jobs that are associated with the facility, but work remotely elsewhere in the State, may have lower base awards and fewer bonuses.

For projects with multiple locations or facilities, requirements and awards for facilities that are proximate to each other will be aggregated. For facilities that are in locations that are not proximate to each other, requirements and awards will be by location.

Base awards range from $500 per year to $4,000 per year, based upon the project's location and whether the project is a mega project. Higher base awards are offered to mega projects and for facilities that are located in more distressed areas of the State.

Per-job bonuses are only available if all full-time jobs at the qualified business facility, whether the full-time jobs is incentivized or not, are paid at least $15 per hour or 120 percent of minimum wage, whichever is higher. Additionally, per-job bonuses that are specific to the location or the characteristic of the qualified business facility are given to full-time jobs that are primarily working at the qualified business facility.

Bonuses are awarded based upon factors such as: the facility's location; the level of investment in the facility, the number of new full-time jobs associated with a project, the median wage levels of the jobs created or retained, and whether a project commits to certain economic development policy objectives, such as creating workforce development programs, providing on-site childcare or childcare reimbursements for employees, building facilities to be environmentally sustainable, establishing collaborative research agreements with colleges and universities within the state, utilizing labor harmony agreements for the project, and having a diverse board of directors.

Bonuses range in value from $500 to $5,000 dollars, depending on the bonus type and project-specific characteristics.

In terms of level of capital investment in an industrial or research and development facility, bonuses are calculated by first determining the minimum amount of capital investment required in any industrial or research and development space per the eligibility requirements. The level of minimum investment in this space is then compared to the proposed level of capital investment in this space. For each 40 percent block of investment over the minimum, the project is eligible for a $1,000 per-job per year bonus, up to $3,000 per year (or $5,000 per year if a project is a mega project or located in a government-restricted municipality). For example, if a non-mega project applicant was required to invest at minimum $1,000,000 in its research and development facility (not in a government restricted municipality), but instead proposed to invest $2,000,000, it would be investing 100 percent more than the minimum, or two 40 percent blocks more than the minimum. Therefore, each job located at that facility would be eligible for a capital investment bonus of $1,000 multiplied by two or $2,000.

In terms of wage-based bonuses, the median expected wages for the facility are compared to the median wages of existing full-time workers in the relevant county or municipality. For each 35 percent block that the project's median salary level exceeds the relevant existing median, a project is awarded a bonus of $250 per year per eligible job, with a maximum increase of $1,500 per year. For example, for a project developed in a county where the existing median wage is $50,000, then each 35 percent block is equivalent to $17,500 of median wages. If a facility in that county was expected to have median wages of $120,000, that would be 140 percent above the median wage (or four 35 percent blocks). Therefore, each job at the facility would be eligible for a wage-based bonus of $250 multiplied by four or $1,000.

Total per-job, per year awards, including base awards plus all applicable bonuses are capped between $3,000 and $8,000 per-job, based upon the project's location and whether the project is a mega project. Higher caps are offered for mega projects and facilities that are located in more distressed areas of the state.

If the proposed project is expected to create or retain jobs with median salaries that are below the existing median salary within a county, the total per-job, per year awards will be reduced by the percentage equal to the differential between the two median wage values. The Authority will not make any tax credit awards for jobs that have a proposed project median wage below 70 percent of the existing county median wage.

Retained full-time jobs are to be awarded tax credits equal to 50 percent of the value of equivalent new full-time jobs.

The Authority's Board shall evaluate whether the total award is more than what it believes is required to induce the project to be sited in New Jersey and reduce the amount of the award from the calculated award.

N.J.A.C. 19:31-22.9 Approval letter and commitment agreement – Requires that all applicants execute an approval letter and commitment agreement with the Authority to establish the terms and conditions and requirements for the award.

The approval letter will include, but is not limited to, the requirements that the project complies with the prevailing wage requirements, the Authority's affirmative action requirements, and that the project does not violate any environmental law requirements, including but not limited to Flood Hazard Area Control Act Rules and other minimal environmental and sustainability standards.

The approval letter will also set forth the timeline for the business to reach certain project milestones, as applicable, such as site plan approval, site control, and financial close and stipulate requirements for progress reports. The letter may contain other conditions of approval and timelines by which those conditions must be met.

Upon satisfaction of conditions in the approval letter, as determined by the Authority, the business shall execute a commitment agreement. The terms of the commitment agreement shall: be consistent with the applicable eligibility requirements; define the eligibility period and commitment period of the tax credits; and establish requirements to provide information needed to monitor award compliance. Commitment agreements for small businesses will include growth plan targets and timelines.

The commitment agreement will also include provisions to permit the Authority to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not remain in compliance with the award's requirements.

The commitment agreement will also require that the business certify on an annual basis that it has met the capital investment, employment, and other eligibility requirements of the program, and that the business continues to be in substantial good standing with relevant State agencies. The section provides a process by which the business and the Authority can utilize certain certified independent public accounting firms to confirm compliance. Further it will enable the Authority to audit certain business records to confirm program compliance and check with relevant State agencies on substantial good standing status.

The agreement will also establish the conditions under which the Authority, the eligible business, or both, may terminate the agreement. It will also include other important provisions governing the relationship between the Authority and the business during the eligibility and commitment periods, such as potential defaults and remedies and potential repayment schedules.

Finally, the commitment agreement shall have a requirement that the business to enter into a community benefits agreement with the Authority and the relevant municipality (or in some circumstances the relevant county), if the actual total costs for the project upon completion is $10,000,000 or more. This section of the rules details the process by which a community benefits agreement must be established, minimum requirements for the community benefits agreement, a process for evaluating ongoing compliance and non-compliance with the agreement, and penalties for non-compliance.

Any submissions required by the Authority under the approval letter or commitment agreement must be accompanied by a certification by the owner of the eligible business, or an authorized agent of the owner, that the information provided is true under the penalty of perjury.

N.J.A.C. 19:31-22.10 Reporting requirements and annual reports -- Imposes the annual reporting requirements of the business during the term of the commitment agreement and outlines the provisions for issuance of the annual certificate of compliance by the Authority.

In addition to the project information outlined above in the commitment agreement section, it requires a certification indicating whether or not the business is aware of any condition, event, or act, which would cause the business not to be in compliance with the approval, the Act, the commitment agreement, or community benefits agreement.

Upon the Authority's approval of each annual certified report, the Authority will provide to the business and the Department of Taxation a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability.

This section also outlines other processes and actions that the Authority may take in conjunction with annual certifications.

N.J.A.C. 19:31-22.11 Tax credit amount; application and allocation of the tax credit – Addresses the total amount of tax credit allowed per project, the tax liabilities against which the credit may be applied, the allocation of tax credits to a business and its affiliate or affiliates for the eligibility period, and the carry forward of credit amounts.

N.J.A.C. 19:31-22.12 Application for tax credit transfer certificate – Allows a business that is a holder of a credit, upon application to, and approval by, the Division of Taxation in Treasury and the Chief Executive Officer of the Authority, to sell its credit, covering one or more years, under the tax credit transfer certificate program for consideration received by the business of not less than 85 percent of the transferred credit amount.

N.J.A.C. 19:31-22.13 Cap on total credits – Establishes the caps on the value of all credits approved by the Authority pursuant to this program. The caps shall be subject to limitations set forth in section 98 of P.L. 2020, c. 156. The amount of available for new applications for tax credit shall be posted at the beginning of each calendar year on the website of the Authority.

N.J.A.C. 19:31-22.14 Reduction and forfeiture of tax credits – Establishes provisions for the reduction, forfeiture, and recapture of tax credits.

If a business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent compared to its Statewide workforce prior to approval, or if the number of jobs or the total withholdings for those jobs at the incentivized facility drops by more than 20 percent, then the business will forfeit its tax credits until it restores the relevant workforce or salary level to at least 80 percent of the level as established in the commitment letter.

Further, the Authority may reevaluate the net positive benefit of a project in any eligibility or commitment period year if either the number of new full-time employees or their median salaries drops below 10 percent of the level reported the previous year or, if in first annual report, below the level in the commitment agreement.

Tax credit awards may be reduced if a business is not in compliance with its community benefits agreement.

If at any time during the eligibility period the Authority determines that the business made a material misrepresentation on the project's application, the eligible business shall forfeit all tax credits awarded under the program and be subject to other remedies in the commitment agreement and potential criminal or civil penalties.

The Authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with the requirements of a project agreement for the duration of the commitment period. If a business has sold or assigned a tax credit that is subject to recapture, then the Authority shall pursue recapture from the business and not from the purchaser or assignee of the tax credit transfer certificate.

N.J.A.C. 19:31-22.15 Effect of sale or lease of qualified facilities and relocation of qualified business facility – Sets out implications of certain real estate transactions on tax credit awards.

Small businesses can move locations as part of this program, but tax credit awards may be reevaluated. For businesses that are not considered small businesses, this section requires a business that sells, subleases, or leases its facility forfeit the credits for the tax period in which the sale occurs and all subsequent tax credits except under certain circumstances. First, if the business is or remains as a tenant at the facility, the tax credits will remain unaffected. Second, under certain conditions, a business is allowed to dispose of its prior qualified business facility and relocate to a new qualified business facility. In all instances, however, the business acquiring, subleasing, or leasing the qualified business facility shall not acquire the capital investment of the seller, landlord, or sub-landlord for purposes of the Emerge program. These provisions are not triggered in the cases where the business merges or is consolidated into a new business entity.

N.J.A.C. 19:31-22.16 Affirmative action and prevailing wage – Provides that the Authority's affirmative action requirements, P.L. 1979, c. 203 (N.J.S.A. 34:1B-5.4) and the prevailing wage requirements in paragraph (8) of subsection a. of section 71 of P.L. 2020, c. 156 will apply to State incentive grant projects undertaken in connection with financial assistance received under the Emerge program.

N.J.A.C. 19:31-22.17 Appeals – Outlines the requirements for an applicant to appeal an action of the EDA Board and the process by which the Authority shall consider each appeal in a timely manner.

N.J.A.C. 19:31-22.18 Recovery Infrastructure Fund – Establishes a dedicated fund to be known as the Recovery Infrastructure Fund. The fund will be established by the Authority, which may allow an approved business to donate monies into the fund as part of meeting its capital investment requirements for a project. These monies can then be used by the local municipality hosting the project for local infrastructure, public safety, and workforce improvement projects. This section also establishes the process for determining donation levels and accepting donations into the fund. The Department of Community Affairs will separately establish rules by which the funds can be utilized for projects by local municipalities.

N.J.A.C. 19:31-22.19 Reports on implementation of program – Details the provisions of P.L. 2020, c.156 establishing requirements for an initial report in 2022 and subsequent biennial reports on the implementation of the program. The reports must be prepared by a State college or university in conjunction with the Authority. The Authority must also provide a written response to the report, which, together with the report, will be submitted to the Governor and the Legislature.

N.J.A.C. 19:31-22.20 Severability – States that if any portion of this subchapter is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of the subchapter are severable and shall not be affected by that determination.

## Social Impact

The proposed new rules, which establish the Emerge program to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the state, are intended to have a positive social impact.

The Emerge program is a key component of the State's broader economic development plan which balances economic impact, for example, stimulating high-quality job growth and private sector investment, with a focus on increasing equity and opportunity for all. This strategy is clearly demonstrated in the Economic Recovery Act of 2020's overall approach, which establishes or amends 15 different programs with varying development objectives. While the Emerge program is primarily focused on job creation, other programs are primarily focused on areas such as community development, small and micro business support, and other critical social issues like food security. Attracting high-quality jobs and private sector investment into the State helps bolster long-term revenues and deepens the State's base of responsible corporate partners, all of which will reinforce the State's social initiatives.

In addition, within the Emerge program there are a number of features that directly focus on social improvement. For example, the program includes policy-tied bonuses to incentivize companies to establish prisoner re-entry programs, provide subsidized childcare for employees, and support local workforce development. The program also requires community benefits agreements for all projects over $10,000,000, fostering stronger relationships between companies and their communities and supporting programs such as youth development, workforce training, and free services to underserved communities in and around the project location. Further the program creates a Recovery Infrastructure Fund where businesses can meet their capital investment requirement by contributing to a fund for local infrastructure projects in the municipality hosting the project.

The program also includes fiscal protections to ensure transparency, equity, and faithful stewardship of taxpayer dollars; including, an inducement provision that enables the Authority to size awards to the amount necessary to induce the project to be sited in New Jersey.

**Economic Impact**

The proposed new rules are intended to bolster the State's economy by stimulating new high-quality economic development. The Emerge program is the primary job creation and large-scale retention tool in the New Jersey Economic Recovery Act of 2020. It specifically encourages economic development in the State’s priority sectors, which have high economic spill-over effect into other parts of the economy. In other words, these sectors tend to sell goods and services outside of the State’s borders, thereby bringing cash into the state and fueling broader economic growth and vibrancy.

In addition, most projects participating in the Emerge program will have a minimum requirement for private capital investment. This private capital investment is, by definition, a durable and sustainable investment in the state’s economic infrastructure. These investments will support long-term job creation opportunities after tax credits have been fully utilized and even if a given project does not meet its full potential.

Further the proposed rules require that the only projects that will provide the State a positive long-term economic benefit can participate in the Emerge Program. This means that while taxpayers may provide short-term tax credits to attract a project to the State, that project is committed to operating in the State long enough to pay back two to four times the value of those credits via State payroll, sales, and other taxes. Additionally, the fact that jobs must be created and capital improvements completed before tax credits are provided to approved businesses, along with robust recapture and repayment provisions if the businesses fail to meet their long-term obligations, ensure substantial economic protections within the program.

**Federal Standards Statement**

A Federal standards analysis is not required because the proposed new rules and amendments are not subject to any Federal requirements or standards.

**Jobs Impact**

The core focus of the Emerge program is to attract new private sector jobs into the New Jersey economy. In addition, it provides for the ability to also support projects that would retain a significant amount of private sector jobs that are at-risk of being relocated to another state. The capital investment requirements of the program, which focus on new construction and refurbishment of industrial, office, and research and development properties, also ensure that participating projects will stimulate job growth in the building trades.

The Emerge program is a pay-for-performance program where tax credits are only provided to applicants once a project is fully executed, including completing required capital investments and creating jobs.

The Economic Recovery Act of 2020 creates a shared program cap between the Emerge Program and the Aspire Program of $1.1 billion per year, however actual cap usage will primarily be driven by the volume of approved applicants and individual per-job caps within the program. Prior to implementation, it is not possible to accurately forecast the number of jobs that will be supported by the Emerge program; however, the Act and these rules provide a series of transparency measures to ensure regular reporting of the number of jobs created, including bi-annual program evaluation reports.

## Agriculture Industry Impact

The proposed new rules may have a positive impact on the agricultural industry, which includes aquaculture and fisheries, through the targeted industry inclusion of the non-retail food and beverages industry. Specifically, an eligible business of the Emerge program may be within the agricultural industry through involvement with research and development activities that advance agricultural food innovation technologies. As a result, new or advanced technologies may benefit the State's agricultural industry operations for the production, processing, preservation and distribution of raw agricultural goods into consumer food products.

## Regulatory Flexibility Analysis

The proposed new rules may impose reporting, recordkeeping, or other compliance requirements on small business, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., however, any costs will be minimal and fully offset by the amount of financial assistance received. The proposed fees for the program are intended to ensure a source of necessary administrative fee revenue for EDA to more fully cover the costs of the program.

Further these rules create significant new flexibilities and supports for small businesses to participate in the program, as compared to the State's previous jobs-based tax credit programs. For example, businesses in targeted industries with less than 100 full-time equivalent employees at the time of application do not have minimum capital investment requirements, have lower minimum job requirements, and can more easily move their project's location to support accelerated growth.

In addition, the proposed new rules provide new features that allow approved applicants to use third-party, independent certified public accounting firms to support the tax credit certification process. This change is meant to improve regulatory compliance processes for all businesses and the Authority.

## Housing Affordability Impact Analysis

The proposed new rules will not impact the amount or cost of housing units, including multi-family rental housing and for sale housing in the State. The proposed new rules implement the Emerge program which provides incentives to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State.

## Smart Growth Development Impact Analysis

The proposed new rules will not impact the number of housing units or result in any increase or decrease in the average cost of housing in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed new rules implement the Emerge program which provides incentives to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State.

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

The proposed new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

**Full text** of the special adoption and concurrent proposal follows:

## SUBCHAPTER 22. EMERGE

### 19:31-22.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority to implement the provisions of the New Jersey Economic Recovery Act of 2020, establishing the Emerge Program Act, sections 68 through 81 of P.L. 2020, c. 156. The Act authorizes the Authority to administer the program to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State. The Board may approve the award of tax credits to a business upon application of the business demonstrating its eligibility under the Act and these rules and following the execution of a letter of intent and the payment of fees, subject to the limitations set forth in the subchapter. The value of all tax credits approved by the Authority for businesses eligible pursuant to section 71 of P.L. 2020, c. 156 shall be subject to the limitations set forth in section 98 of P.L. 2020, c. 156.

### 19:31-22.2 Definitions

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

"Act" means the Emerge Program Act, sections 68 through 81 of P.L. 2020, c. 156.

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations, as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or the entity is an organization in a group of organizations under common control, as defined pursuant to subsection (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by sections 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C. 29 ss.1563 and 414). An affiliate of a business may contribute to meeting either the capital investment or full-time employee requirements of a business that applies for a credit under section 71 of P.L. 2020, c. 156.

"Approval letter" means the letter sent by the Authority to the eligible business awarded tax credits under the program and countersigned by the eligible business pursuant to N.J.A.C. 19:31-22.9(a) which sets forth the conditions that must be met by the eligible business before the execution of a commitment agreement.

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

"Authorized agent of the owner" means the chief executive officer or equivalent officer for North American operations of the business.

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L. 1991, c. 252 (N.J.S.A. 27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center.

"Board" means the Board of members of the New Jersey Economic Development Authority, established by section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L. 1963, c. 150 (N.J.S.A. 34:11-56.26).

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is: a corporation that is subject to the tax imposed pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and N.J.S.A. 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or N.J.S.17B:23-5, or is a partnership, S corporation, limited liability company, or non-profit corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate. If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates. After approval by the Board of the award, if the business transfers the project in whole or in part or the business merges into another company, a business shall include a successor, as determined by the Authority in its sole discretion, to the business and a successor, as determined by the Authority in its sole discretion, to an affiliate of the business if the business applied for a credit based upon any capital investment made by or full-time employees of the affiliate, provided any successor must execute the incentive agreement, which shall include: the obligation to not reduce the number of full-time employees in the successor's Statewide employment in the last tax period prior to the approval of the award; an agreement that all parties to the incentive agreement are jointly and severally liable under the incentive agreement; and an acknowledgment that the tax credit will be allocated to each party to the incentive agreement in accordance with the number of full-time employees that each employs at, or associated with, the qualified business facility.

"Capital investment" means expenses that a business or an affiliate of the business incurs following the submission of a complete application to the Authority pursuant to section 72 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.5, but prior to the project completion date, as shall be defined in the project agreement, for:

1. Site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property, site-related utility, including but not limited to, water, electric, sewer, and stormwater, and transportation infrastructure improvements, plantings, solar panels and components, energy storage components, installation costs of solar energy systems or other environmental components required to attain the level of silver rating and gold rating standards or above in the LEED building rating system, but only to the extent that such capital investments have not received any grant financial assistance from any other State funding source including N.J.S.A. 52:27H-80 et seq., but does not include site acquisition; and

2. Obtaining, and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing. Vehicles and heavy equipment not permanently located in the building, structure, facility, or improvement shall not constitute a capital investment. Capital investment shall include the value of a capital lease, as defined by generally accepted accounting practices

(GAAP), of furnishings and machinery, apparatus, or equipment, based on the shorter of the useful life of the leased property or the commitment period.

3. Associated soft costs, which shall not exceed 20 percent of all capital investment.

“College or university” means a county college, an independent institution of higher education, a public research university, or a State college.

“Commitment agreement” means the contract between an eligible business and the Authority pursuant to N.J.A.C. 19:31-22.9, that the parties execute after the conditions in the approval letter are met.

“Commitment period” means a period that is 1.5 times the eligibility period specified in the project agreement entered into pursuant to section 73 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.9, rounded up, for each applicable phase agreement.

“Community benefits agreement” means the agreement between, the eligible business, the municipality or county and the authority pursuant to N.J.A.C. 19:31-22.9(c).

“Complex of buildings” means buildings that are part of the same financing plan and operational plan. The buildings comprising a complex of buildings may be non-contiguous and in geographical locations with different factors that affect the tax credit calculation.

“County college” means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Distressed municipality” means a municipality that is qualified to receive assistance under P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the “Local Government Supervision Act (1947),” P.L. 1947, c. 151 (N.J.S.A. 52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

“Doctoral university” means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education’s Basic Classification methodology on the effective date of P.L. 2017, c. 221.

“Eligibility period” means the period in which an eligible business may claim a tax credit under the program for a given project phase, beginning with the tax period in which the Authority accepts certification of the eligible business that it has met the capital investment, employment, and other eligibility requirements of the program for the respective project, or the respective project phase, pursuant to N.J.A.C. 19:31-22.9(d), and extending thereafter for a term of not more than seven years. The term shall be determined at the discretion of the applicant at application, provided that the term of the eligibility period may consist of nonconsecutive tax years if the applicant elects at any time after the end of the first tax period of the eligibility period to defer the continuation of the eligibility period to a subsequent tax period. The applicant must be, at the time of the deferral election, in compliance with the requirements of the program. The Authority may extend the eligibility period one additional tax period to accommodate a prorated payment pursuant to paragraph (2) of subsection a. of section 77 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.10(d).

"Eligible business" means any business that satisfies the criteria set forth in section 71 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.3 at the time of application for tax credits under the program.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee. An eligible position shall not include an independent contractor or consultant, unless the independent contractor or consultant meets the definition of a full-time employee in the Act and this section. An eligible position may not include a position that is engaged in final point-of-sale retail, unless the position is located at a qualified business facility used in connection with the operation of a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219).

"Employment and Investment Corridor" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

1. Are designated pursuant to the "State Planning Act," P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;

2. Intersect with portions of: a port district, a qualified incentive tract, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;

3. Are the proposed site of a qualified incubator facility, a tourism destination project, or transit oriented development; or

4. At the time of application, contain:

i. A vacant commercial building or campus having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year, provided that "employment and investment corridor" shall no longer include the building or campus when there is less than 400,000 square feet of vacant space; or

ii. A site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208).

“Enhanced area” means an urban transit hub as defined in section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208); the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index; and the three municipalities with the highest percentage of Supplemental Nutrition Assistance Program recipients according to the 2017 Municipal Revitalization Index.

“Full-time employee” means

1. A person:

i. Who is employed by a business for consideration for at least 35 hours a week and whose wages are subject to withholding as provided in the “New Jersey Gross Income Tax Act,” N.J.S.A. 54A:1-1 et seq.; or

ii. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization for at least 35 hours a week and whose wages are subject to withholding as provided in the “New Jersey Gross Income Tax Act,” N.J.S. 54A:1-1 et seq.; or

iii. who is a partner of a business who works for the partnership for at least 35 hours a week and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the “New Jersey Gross Income Tax Act,” N.J.S. 54A:1-1 et seq.; or

iv. who is a resident of another State, and would be eligible under i through iii above but whose income is not subject to the “New Jersey Gross Income Tax Act,” N.J.S. 54A:1-1 et seq.

v. The Authority may determine a different number of hours a week or other standard of service generally accepted by custom or practice as full-time employment for i through iii above. A “full-time employee” shall include, but shall not be limited to, an employee that has been hired by way of a labor union hiring hall or its equivalent, provided that the 35 hours of employment per week at, or associated with, the qualified business facility shall constitute one “full-time employee,” regardless of whether or not the hours of work were performed by one or more persons.

2. A “full time employee” further means a person eligible under 1 above who, except for purposes of the Statewide workforce, and as evidenced by documentation acceptable to the Authority:

i. Is provided, by the business, no later than 90 days of hire, employee health benefits under a health benefits plan authorized pursuant to State or federal law; provided, however, that with respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal, the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement; and

ii. Is paid no less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L. 1966, c. 113 (N.J.S.A. 34:11-56a4), whichever is higher.

3. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S. 54A:1-1 et seq., except that any person working as an independent contractor or contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S. 54A:1-1 et seq., for the business shall be deemed a full-time employee if the business demonstrates to the Authority that:

i. The person working as an independent contractor or contract worker for the business works at least 35 hours per week or renders any other standard service generally accepted by custom or practice as full- time employment;

ii. The person is provided, at the date of initial engagement, as evidenced by documentation acceptable to the Authority, employee health benefits under a health benefits plan authorized pursuant to State or federal law; and

iii. The business provides documentation to the Authority to permit the Authority to verify the compensation paid to, the withholdings of, and the time worked by, the person working as an independent contractor or contract worker.

iv. The business shall provide to the Authority an annual report that identifies the number of persons working as independent contractors or contract workers for the business and their contractual or partnering relationship with the business.

4. "Full-time employee" shall not include any person who, at the time of project application, works in New Jersey for consideration for at least 35 hours per week for the business, or who renders any other standard of service generally accepted by custom or practice as full-time employment, but who, prior to project application, works under an employee leasing agreement between the business and an employee leasing company that is not a professional employer organization or who was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L. 2020, c. 156, is subject to financial restrictions imposed pursuant to the Municipal Stabilization and Recovery Act, P.L. 2016, c. 4 (N.J.S.A. 52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

“Incentive area” means:

1. An aviation district;

2. A port district;

3. A distressed municipality or transit hub municipality;

4. An area designated pursuant to the “State Planning Act,” P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area); or a Designated Center under the State Development and Redevelopment Plan, provided an area designated as Planning Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a Designated Center shall be located within a one-half mile radius of the mid-point, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation.

5. An area located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21);

6. An area located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c. 137 (N.J.S.A. 5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L. 1968, c. 404 (N.J.S.A. 13:17-4);

7. An area located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L. 2016, c. 75, or town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the “Pinelands Protection Act,” P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.);

8. An area located within a government-restricted municipality;

9. An area located within land approved for closure under any federal Commission on Base Realignment and Closure action;

10. An area located within an area designated pursuant to the “State Planning Act,” P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive), so long as that area designated as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) is located within:

i. A designated center under the State Development and Redevelopment Plan;

ii. A designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

iii. Any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-14);

iv. Any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals; or

v. Any area on which an existing tourism destination project is located; or

11. An area located in a qualified opportunity zone.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law, character, or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education that is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis, or other professional persons in the field of religion.

"Industrial premises" or "industrial space" means premises or space in which at least 51 percent of the square footage will be or has been used for the assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed, manufactured, or any combination thereof, by the business at the qualified business facility; for the breaking or demolishing of finished or partially finished products; or for the production of oil or gas or the generation or transformation of electricity.

"Industrial use" means assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity. "Industrial use" includes farming purposes as that term is defined under 26 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

"Infrastructure Fund" means the Recovery Infrastructure Fund established pursuant to section 79 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.18 to fund local infrastructure improvements.

“Labor harmony agreement” means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

“Major rail station” means a railroad station that is located within a qualified incentive area and that provides to the public access to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

“Mega project” means a project of special economic importance, at which 500 or more new full-time jobs are created, having capital investment of at least $50,000,000 in a targeted industry and which provides opportunities to leverage leadership in a high-priority targeted industry as demonstrated by factors including, but not limited to: being undertaken by a business that is making an industry leading investment in a new technology or high-growth sub-industry level or catalyzing a new sub-industry or industry-cluster within the State.

“Minimum environmental and sustainability standards” means the standards established by the Authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L. 2007, c. 132 (N.J.S.A. 52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction. The Authority shall publish these standards on its website.

“Municipal Revitalization Index” means the most updated municipal revitalization distress score as published at time of project Board approval by the Department of Community Affairs.

“New full-time job” means an eligible position that did not previously exist in this State created by a business at, or associated with, a qualified business facility. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Non-gaming business" means any business, or portion of any business, which is not engaged in the operation of casino gambling or other gaming as defined in N.J.S.A. 5:12-218. For projects that contain both gaming and non-gaming operations, the number of full-time jobs and amounts of eligible capital investment shall be apportioned based on the proportionate revenue from all non-gaming revenue compared to total revenue, for example, if gaming revenue is 40 percent of total revenue, then 60 percent of the full-time employees would be deemed non-gaming and in an eligible position for the program.

"Other eligible area" means the portions of the incentive area that are not located within a distressed municipality, or the employment and investment corridor.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Phased project" means a project with an initial phase that is a mega project and each subsequent phase includes a minimum capital investment of $25 million and minimum of 250 new full-time jobs.

"Port district" means the portions of an incentive area that are located within the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L. 1968, c. 60 (N.J.S.A. 12:11A-1 et seq.).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L. 2001, c.260 (N.J.S.A. 34:8-67 et seq.).

"Program" means the Emerge Program established by sections 68 through 81 of P.L. 2020, c. 156 and as implemented by this subchapter.

"Project" means the capital investment at a qualified business facility and the employment commitment pursuant to the project agreement.

"Project agreement" or "incentive agreement" means the approval letter and the commitment agreement executed between an eligible business and the Authority, which together set forth the terms and conditions under which the eligible business may receive the tax credit award authorized by the Board pursuant to the Emerge program.

"Project phase agreement" or "incentive phase agreement" means a sub-agreement of the project agreement that governs the timing, capital investment, employment levels, and other details of the respective phase.

"Public research university" means a public research university as defined in section 3 of P.L. 1994, c. 48 (N.J.S.A. 18A:3B-3).

"Qualified business facility" means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of a business that is not engaged in final point-of-sale retail business at that location, unless the building, complex of buildings or structural components of buildings, and all machinery and equipment therein, are used in connection with the operation of a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219). In determining whether a qualified business facility for professional services is engaged in final point-of-sale retail, the Authority shall consider several factors, including, but not limited to, whether the business is a small business and whether the preponderance of its customer base is located within this State.

"Quality child care facility" means a child care center licensed by the Department of Children and Families, operating continuously, which has not been subject to an enforcement action, and which has and maintains a total licensed capacity of at least 60 children age 6 years or younger.

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more; or, a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Qualified incubator facility" means a commercial building located within an incentive area: that contains 5,000 or more square feet of office, laboratory, or industrial space; that is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which at least 50 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Qualified opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Research and development premises" or "research and development space" means premises or space in which at least 51 percent of the square footage will be or has been used for research and development.

"Retained full-time job" means an eligible position that currently exists in this State and is filled by a full-time employee, but which, because of a potential relocation by the business, is at risk of being lost to another state or country or of being eliminated. For the purposes of determining the number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"SDA district" means an SDA district as defined in section 3 of P.L. 2000, c. 72 (N.J.S.A. 18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

“Small business” means a business engaged primarily in a targeted industry, with fewer than 100 employees, as determined six months before application and at the time of application. Employees of a small business shall include a person who is employed by a business for consideration for at least 35 hours a week; who is employed pursuant to an employee leasing agreement for at least 35 hours a week; or who is a partner of a business who works for the partnership for at least 35 hours a week. Employee of a small business shall also include any person who works as an independent contractor for the business or a contract worker who works at the business for at least 35 hours a week. For those persons who are employed by the business or who work for the business as independent contractors or contract workers for less than 35 hours, 35 hours of employment a week shall constitute one employee, regardless of whether or not the hours of work were performed by one or more persons. The Authority may determine a different number of hours a week or other standard of service generally accepted by custom or practice as full-time employment. For purposes of the number of employees, a small business shall include all of its affiliates, regardless of whether the affiliate may contribute full-time jobs or capital investment to the project.

“Soft costs” means all costs associated with financing, design, engineering, legal, or real estate commissions, including but not limited to, architect fees, permit fees, loan origination and closing costs, construction management, and freight and shipping delivery, but not including early lease termination costs, air fare, mileage, tolls, gas, meals, packing material, marketing, temporary signage, incentive consultant fees, Authority fees, loan interest payments, escrows, or other similar costs.

“Square foot” or “Square footage” means the sum of all areas on all floors of a building or structure included within the outside faces of its exterior walls, including all vertical penetration areas, for circulation and shaft areas that connect one floor to another, disregarding cornices, pilasters, buttresses, and similar structures, that extend beyond the wall faces.

“Square foot of gross leasable area” or “Square footage of gross leasable area” or “Gross leasable area” means rentable area of the building or structure as calculated pursuant to the measuring standards of the project. This standard will be defined in the lease for tenant applicants. The rentable area measures the tenant's pro rata portion of the entire office floor, including public corridors, restrooms, janitor closets, utility closets, and machine rooms used in common with other tenants, but excluding elements of the building or structure that penetrate through the floor to areas below. The rentable area of a floor is fixed for the life of a building or structure and is not affected by changes in corridor sizes or configuration.

“State college” means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

“Statewide workforce” means the total number of full-time employees in the Statewide workforce of the business and any affiliate of the business, if the affiliate contributes any capital investment or full-time employees. “Statewide workforce” shall not include a new eligible position at, or associated with, the qualified business facility unless the new eligible position is in addition to the number of full-time employees specified in the commitment agreement and the business is not receiving an additional tax credit award for the new eligible position. Further, “Statewide workforce” shall not include full-time employees at any final point-of-sale retail facilities unless the project as approved by the Board includes full-time employees engaged in final point-of-sale retail.

“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. A project shall be considered to be in a targeted industry if the primary activity undertaken by the full-time employees will be in a targeted industry, or if the business is engaged primarily in a targeted industry. An eligible business shall be considered to be in a targeted industry if the project is for full-time employees of a division that primarily undertakes activity within the definition of a targeted industry or the eligible business is a subsidiary of an entity that is engaged primarily in a targeted industry, even if the project is for full-time employees that do not work directly in the targeted industry. The Authority may consider whether a business is engaged primarily in another innovative industry that disrupts current technologies or business models, by assessing factors including, but not limited to, whether businesses in the industry are offering products or services that significantly improve current market offerings on the basis of price or other performance levels, whether the new industry creates opportunities for new firms to enter and redefine the supply chain or value chain of an industry, or whether the industry utilizes new technology or business processes that allow New Jersey-based firms to collect a share of revenues that were traditionally only available to companies in other geographies.

“Total project cost” means the greater of the actual cost or the estimated cost to be incurred in connection with the project by the business or its landlord until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the commitment agreement.

“Tourism destination project” means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the incentive area and has been determined by the Authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established tourism district with a significant impact on the economic viability of that tourism district.

“Transit oriented development” means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Government-restricted municipality, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

“Transit hub” means an urban transit hub, as defined in section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), and that is also located within an incentive area.

"Transit hub municipality" means a Transit Village or a municipality: which qualifies for State aid pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L. 2007, c. 111; and in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.

"Withholdings" means the amount withheld by a business from the wages of full-time employees or estimated taxes paid by, or on behalf of, partners that are full-time employees, or any combination thereof, pursuant to the "New Jersey Gross Income Tax Act," N.J.S.A. 54A:1-1 et seq. Withholdings shall not include amounts withheld by a business from stock options or from stock options, money, or other payments given to a full-time employee pursuant to the termination of employment of the full-time employee. Withholdings shall include amounts withheld by a business from money or other payments given to a full-time employee pursuant to a bonus for commencing employment or for services rendered by the full-time employee.

**19:31-22.3 Eligibility criteria**

(a) A business eligible pursuant to this section may submit an application to the Authority in accordance with the provisions of section 72 of P.L. 2020, c. 156 and N.JA.C. 19:31-22.5 on or after the effective date of this subchapter but prior to March 1, 2027.

(b) The Authority shall make the determination that an applicant has met the criteria for eligibility for a tax award and shall determine the amount of the award. In order for a business to be eligible for tax credits under the program, a business's authorized agent of the owner, shall demonstrate to the Authority at the time of application that:

1. The business will make, acquire, or lease a capital investment at the qualified business facility equal to or greater than the applicable amount set forth in subsection (c) of this section;

2. The business will create or retain new and retained full-time jobs at, or associated with, the qualified business facility in an amount equal to or greater than the applicable minimum number of new or retained full-time jobs required to be eligible as set forth in subsection (d) of this section. To qualify as an eligible position or full-time job, the business must demonstrate to the Authority's satisfaction that the employee spends at least 80 percent of the individual's work time in this State and that the eligible position requires an employee to have the individual's primary place of work in this State;

3. The qualified business facility is located in a qualified incentive area;

4. The award of tax credits will be a material factor in the business's decision to create or retain the number of new and retained full-time jobs set forth in its application, except that:

i. The award of tax credits shall not be considered a material factor in the creation or retention of full-time jobs filled by employees providing professional services, as defined in N.J.S.A. 14A:17-3(1), and their direct administrative support staff, unless as of the date of the business's application, the full-time job is filled by an employee whose primary business office is located outside of the State. Direct administrative support staff shall not include employees in information technology, human resources, or employee relations positions.

ii. In determining whether a position provides professional services subject to i above, the Authority shall consider several factors, including, but not limited to, whether the business is a small business or whether the preponderance of its customer base is located within this State.

5. The award of tax credits, the capital investment resultant from the award of tax credits, and the resultant creation and retention of new and retained full-time jobs will yield a net positive economic benefit, as calculated by the Authority, to the State equaling at least 400 percent of the requested tax credit allocation amount except as listed in i and ii below. For a phased project, the requested tax credit allocation amount for the initial phase shall equal at least 400 percent of the requested tax credit allocation amount except as listed in i and ii below, and, for each phase thereafter, the cumulative net positive economic benefit shall equal at least 400 percent of the requested tax credit allocation amount except as listed in i and ii below. The net positive economic benefit determination shall be calculated prior to considering the value of the requested tax credit under the program and shall be based on the benefits generated during the period of time from approval through the end of the commitment period. The net positive economic benefit may be based on the benefits generated through the end of the longer period of extended commitment that the business may elect for purposes of receiving credit for benefits projected to occur after the expiration of the commitment period, pursuant to iv below.

i. An award of tax credits to a business for a qualified business facility located in a distressed municipality or transit hub municipality shall yield a net economic positive benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 300 percent of the requested tax credit amount.

ii. An award of tax credits to a business for a qualified business facility located in a government-restricted municipality, or for a mega project, shall yield a net positive economic benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 200 percent of the requested tax credit amount.

iii. The net positive economic benefits calculated for all projects shall be evaluated by the Authority on a present value basis with the requested tax credit allocation amount discounted to present value at the same discount rate as the benefits from capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs as provided in subparagraph iv. of this paragraph.

iv. A business may elect a period of extended commitment after the commitment period for which time the economic benefits shall be creditable by the Authority to the determination of the net positive economic benefit of the project. In no event shall the period for which the net positive economic benefit shall be determined, including any extended commitment period, exceed 20 years. If the business makes this election, the net positive economic benefits calculated shall be additionally discounted by the Authority to reflect the uncertainty of the business's location after the commitment period expires. A business electing a period of extended commitment and failing to maintain the project through the expiration of that extended commitment period shall be obligated to repay a proportion of the incremental benefits received on account of having extended the commitment period, taking into consideration the number of years of extended commitment during which the business maintained the project.

v. If, during the term of the program, the methodology used by the Authority in projecting the net positive economic benefits of a project in making the determination required pursuant to this paragraph is modified, the Authority may adjust prospectively the respective percentage thresholds by which the benefits must exceed the requested tax credit allocation amount set forth pursuant to this paragraph to ensure consistent application of the respective percentage thresholds . Any modification to the methodology shall be applied prospectively. Prospective application means using the modified methodology or respective percentages to pending applications and to projects that have been previously approved if the business requests a modification or this subchapter or the incentive agreement requires or authorizes the Authority to conduct a reevaluation of the net positive economic benefit;

6. The qualified business facility shall be in compliance with minimum environmental and sustainability standards upon completion of the project;

7. The project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.4) and N.J.A.C. 19:30-3.1 et seq.; and

8. Each worker employed to perform construction work or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L. 1963, c. 150 (N.J.S.A 34:11-56.25 et seq.) and P.L. 2005, c. 379 (N.J.S.A. 34:11-56.58 et seq.).

i. The payment of prevailing wage in this paragraph shall not apply if:

(1). The work performed under the contract is performed at a qualified business facility owned by a landlord that is not a business receiving authority assistance;

(2). The landlord is a party to the construction contract or building services contract; and

(3). The qualified business facility constitutes a lease of less than 35 percent of the entire facility at the time of contract and under any agreement to subsequently lease the qualified business facility.

ii In accordance with section 1 of P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.1), nothing in this paragraph shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after the Authority has issued the first certificate of compliance pursuant to paragraph (8) of subsection a. of section 71 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.10(d).

iii. The payment of prevailing for building services work shall apply for the duration of the commitment period.

(c) The minimum capital investment required to be eligible pursuant to (b)1 above shall be the sum of the applicable paragraphs 1 through 5 below, provided that to the extent a business's qualified business is comprised of more than one of the uses in paragraphs 1 through 4 below, the minimum investment for common areas will be in proportion to the other areas. If a business qualifies on the basis of retained full-time jobs, the new construction or rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises by the business qualifying on the basis of retained full-time jobs shall be equal in size to no less than the space occupied by the business's retained full-time jobs at the time of application.

1. For the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development portion of the premises for continued similar use by the business, a minimum investment of $20 per square foot of gross leasable area;

2. For the new construction of an industrial, warehousing, logistics, or research and development portion of the premises for use by the business, a minimum investment of $60 per square foot of gross leasable area;

3. For the rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises that does not qualify pursuant to subparagraph 1 or 2 of this paragraph, a minimum investment of $40 per square foot of gross leasable area;

4. For the new construction of a portion of the premises that does not qualify pursuant to subparagraph 1 or 2 of this paragraph, a minimum investment of $120 per square foot of gross leasable area;

5. For a small business, no new minimum capital investment shall be required, provided the applicant has demonstrated evidence satisfactory to the Authority of its intent to remain in the State for the commitment period. Such evidence may include, but is not limited to, a proposed lease, membership agreement or similar commitment for space; and

6. In the event the business invests less than that amount set forth in paragraph (a)1 of this subsection in the qualified business facility, the business shall donate the uninvested balance to the infrastructure fund established pursuant to section 79 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.18, which donation shall not be included in the net positive economic benefit analysis pursuant to N.J.A.C. 19:31-22.3(b)4 or the full economic analysis pursuant to N.J.A.C. 19:31-22.7(d).

(d) The minimum number of new or retained full-time jobs required to be eligible pursuant to (b)2 above shall be as set forth in 1 through 5 below. A business may be eligible for a tax credit award for both new and retained full-time jobs if the business separately satisfies the corresponding minimum number for new and retained full-time jobs.

1. For a small business, 25 percent growth of its workforce with new full-time jobs within the eligibility period. The small business shall submit a growth plan, which specifies the number of new full-time employees that the eligible business will hire each year of the eligibility period at, or associated with, the qualified business facility; provided that by the end of the eligibility period, the eligible business shall have a minimum of 25 percent growth of its workforce with new full-time jobs;

2. For a business engaged primarily in a targeted industry which does not qualify as a small business, 25 new full-time jobs;

3. For any business not in 1 or 2 above, a minimum of 35 new full-time jobs;

4. For a business locating in a qualified incentive tract or government-restricted municipality, the greater of 500 or the business's retained full-time jobs at the time of application.

5. For any business not in 4 above, the greater of 1,000 or the business's retained full-time jobs at the time of application.

(e) In addition to the requirements in (b) through (d) above, a business shall provide the following. The requirements set forth in this paragraph may be modified by the Authority to respond to an emergency, disaster, or other factors that result in employees of an eligible business having to work from a location other than the qualified business facility:

i. A plan that demonstrates that the qualified business facility is capable of accommodating more than half of the business's new or retained full-time employees as approved, as determined by the Authority in its sole discretion by considering square footage allocable to eligible positions. The business shall adhere to such plan to complete its project. If a business is approved for retained full-time jobs, the business shall also satisfy the space requirements in (c)4 and (c)5 above if a business is receiving tax credits for any retained full-time jobs.

ii. A certification by the authorized agent of the owner of the business, under the penalty of perjury, that not less than 80 percent of the withholdings of new or retained full-time jobs are, and will be, subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

(e) The owner of the business, or an authorized agent of the owner, shall certify that all factual representations made by the business to the Authority pursuant to subsections (b) through (d) of this section are true under the penalty of perjury.

(g) For a qualified business facility that is a complex of buildings:

1. The minimum capital investment required pursuant to subsection (b) and for purposes of qualifying as a mega project shall be aggregated only for buildings that are proximate, as determined by the Authority in its sole discretion. In all other instances, each building in a complex shall meet a minimum capital investment required pursuant to subsection (b) above. Proximate buildings shall include, but not be limited to, buildings that are adjacent to each other or across a single public right-of-way from each other. The following are examples of complexes of buildings that are proximate:

i. A complex of buildings consists of building A and building B, which are both on the same block but separated by other buildings.

ii. A complex of buildings will consist of building A and building B, which will be adjacent to each other but have separate entrances.

iii. A complex of buildings consists of building A and building B, which are located in an industrial park and are separated solely by a parking lot.

2. The minimum number of new or retained full-time jobs may be met in the aggregate in a complex of buildings.

(h) For a non-gaming business facility within an established Tourism District to qualify as a tourism destination project, the facility shall have a significant impact on the economic viability of the Tourism District within which it is located by satisfying the following:

1. Having a capital investment in excess of $50,000,000, at which more than 250 full-time employees of a business are created or retained; and

2. Demonstrating to the satisfaction of the Authority a combination of two or more of the following as a result of the project:

i. Positive financial benefit to the Tourism District;

ii. A net increase in visitors to the Tourism District;

iii. An increase in marketing dollars spent on the Tourism District; or

iv. The addition of unique amenities or services to the Tourism District, which amenities or services may be located at the project.

(i) A business shall be treated as owner of a qualified business facility if it holds fee simple title to the facility, whether it ground leases the land underlying the facility for at least 50 years or holds title to the land underlying the facility.

(j) A business may apply for tax credits under the program for more than one project through one or more applications. However, the Authority may, in its sole discretion, consider two or more applications as one application for one project based on factors including, but not limited to, the location of the qualified business facilities, the types of jobs proposed, and the business's financing and operational plans.

**19:31-22.4 Restrictions**

(a) The Authority shall not enter into an incentive agreement with a business that has previously received incentives administered by the Authority unless the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

(b) A project that consists solely of final point-of-sale retail facilities shall not be eligible for a grant of tax credits. If a project consists of both final point-of-sale retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. If a warehouse facility is part of a final point-of-sale retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this subsection, a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219), shall not be considered final point-of-sale retail facility.

(c) For the purposes of the certifications and annual reports required pursuant to the commitment agreement and set forth in N.J.A.C. 19:31-22.9(f) and 19:31-22.10(a)5, if a business has received an award for both new and retained full-time jobs, the business shall meet the employment requirements related to the retained full-time jobs before receiving benefits for new full-time jobs.

1. To the extent an eligible retained full-time job that was the basis of the award no longer exists, the business shall include as a retained full-time job a new eligible position that is filled by a full-time employee, provided that the position is included in the order of date of hire and is not the basis for any other incentive award.

2. If a qualified business facility comprises a complex of buildings with different factors affecting the tax credit calculation, the business shall meet the employment requirements related to the retained full-time jobs at, or associated with, each building before receiving benefits for new full-time jobs at, or associated with, any building. The business shall include as a retained full-time job a new eligible position that is filled by a full-time employee, regardless of the location of such position, provided that the position is included in the order of date of hire and is not the basis for any other incentive award, and shall be paid at the lower of the tax credit for the new eligible position filled by a full-time employee or the tax credit for the retained full-time job that no longer exists.

(d) A business with full-time employees that are the subject of an existing incentive award shall have to maintain 100 percent of the full-time employees subject of the existing incentive award before any full-time employee may be counted as an eligible position.

(e) To remain a mega project, the business shall maintain at least 500 new full-time jobs and demonstrate the factors approved for leadership each year during the commitment period.

**19:31-22.5 Application submission requirements**

(a) Each application to the Authority made by a business shall include the following information in an application format prescribed by the Authority:

1. Information on the business, including all affiliates contributing either full-time employees or capital investment or both to the project, which shall include the following:

i. The name of the business;

ii. The contact information of the person identified as the primary contact for the business;

iii. The prospective future address of the business (if different);

iv. The type of the business;

v. The principal products and services and three-digit North American Industry Classification System number;

vi. The New Jersey tax identification number;

vii. The Federal tax identification number;

viii. The total number of full-time employees in New Jersey on the date of the application and in the business's last tax period prior to the date of the application. If the application is approved in the business's subsequent tax period, the business must provide the total number of full-time employees in New Jersey in the tax period prior to credit amount approval;

ix. The total list of the business's locations in New Jersey and the function performed at each location;

x. A list of all New Jersey Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury permits and approvals or obligations and responsibilities, with which the owner or business is associated with or has an interest in. The list shall identify the entity that applied for or received such permits and approvals or have such obligations and responsibilities, such as by program interest numbers or licensing numbers. The business shall also submit a written certification by the owner of the eligible business or authorized agent of the owner stating that the business applying for the program satisfies the criteria in N.J.A.C. 19:31-22.7(c)1 to be in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury, and that he or she has reviewed the application information submitted and that the representations contained therein are accurate;

xi. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;

xii. Submission of a tax clearance certificate, pursuant to P.L. 2007, c. 101;

xiii. A list of all the development subsidies, as defined by P.L. 2007, c. 200, that the applicant is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received; and

xiv. Any other necessary and relevant information as determined by the Authority for a specific application; and

2. Project information, which shall include the following:

i. An overall description of the proposed project;

ii. A description of the capital investments planned by the business at the proposed qualified business facility.

iii. The estimated value of the capital investment and financial information demonstrating ability to complete the capital investment; and

iv. Evidence that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive economic benefit pursuant to N.J.A.C. 19:31-22.3(b)5, taking into account the criteria listed at N.J.A.C. 19:31-22.3(b)5i through v, and a statement that the applicant understands and acknowledges it may be required to submit any other information required by the Authority to conduct an analysis of the economic impact of the project;

(1) In relation to whether a proposed capital investment will yield a net positive economic benefit, the business shall submit a certification by the business's owner or authorized agent of the owner stating that:

(A) that the existing full-time jobs are at risk of leaving the State or being eliminated, if the business has any such full-time jobs;

(B) The tax credits are a material factor in any projected creation or retention, as applicable, of new full-time jobs; and

(C) All documents and all factual representations made by the business to the Authority in support of and to demonstrate the that the award of tax credits will yield a net positive benefit to the State are true and accurate at the time of submission, under the penalty of perjury;

v. A description of how the minimum environmental and sustainability standards are to be incorporated into the proposed project;

vi. Identification of the site or sites of the proposed qualified business facility, including the block and lot of the site or sites as indicated upon the local tax map. For purposes of determining geographical location of a building or contiguous buildings that extend over more than one geographical location, the building or contiguous buildings shall be considered in the geographical location in which the building or contiguous buildings are located with the most beneficial total tax credit amount;

vii. A project schedule that identifies projected move dates for the proposed qualified business facility;

viii. A schedule of short-term and long-term employment projections of the business in the State taking into account the proposed project;

ix. The terms of any lease agreements (including, but not limited to, information showing net leasable area by the business if a tenant and total net leasable area; or if the business is an owner, information showing net leasable area not leased to tenants and total net leasable area) and/or details of the purchase or building of the proposed project facility; and a full economic analysis of all locations under consideration by the business, as well as all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist;

x. The identification of key factors that are influencing the business's decision to either move to or stay in the State, or locate out of State, weighted to reflect importance to the business;

xi. A narrative description of the business's rationale to move to or stay in the State, or locate out of State and any other issues driving the applicant's decisions;

xii. Competitive proposals that the eligible business has received from other states;

xiii. The total number of anticipated new and retained full-time jobs in New Jersey and the total number of full-time employees that would occupy the qualified business facility, and the distribution of such totals identified by business entity if any such jobs and employees will be provided by affiliates;

xiv. For a small business, the growth plan required by N.J.A.C. 19:31-22.3(d)1; and

xv. Any other necessary and relevant information as determined by the Authority for a specific application; and

3. Employee information, which shall include the following:

i. A written certification by the owner of the eligible business, or an authorized agent of the owner that the eligible positions that are the subject of the application will be at, or associated with, the qualified business facility, and evidence to the Authority's satisfaction that demonstrates that 80 percent of each eligible position’s work time will be performed in this State;

ii. The average annual wage and benefit rates of full-time employees and new and retained full-time jobs at, or associated with, the qualified business facility;

iii. Evidence that the applicant has provided the application information required by the State Treasurer for a development subsidy, such as the tax credits, pursuant to P.L. 2007, c. 200; and

4. Any other necessary and relevant information as determined by the Authority for a specific application, including but not limited to:

i. A list of current employees and retained full-time employees at, or associated with, the qualified business facility;

ii. The WR 30 of the business for the privilege period prior to application;

iii. A list of affiliates that will be contributing to the capital investment or full-time employees to the project;

iv. All locations in this State of the business and affiliates that will be contributing to the capital investment or full-time employees to the project;

v. The Statewide work force for the privilege period prior to application;

vi. A floor plan of the proposed qualified business facility that identifies the location of and square footage associated with the functions of the eligible positions at the proposed qualified business facility; and

vii. A list of all affiliates that are directly or indirectly controlled by the business, and the total number of full-time employees in New Jersey of each affiliate at the time of application and in the business’s last tax period prior to the date of the application. If the application is approved in the business’s subsequent tax period, the business must provide the total number of full-time employees in New Jersey of all affiliate’s in the tax period prior to credit amount approval.

(b) The business applying to the program shall submit an application fee set forth at N.J.A.C. 19:31-22.6.

(c) The Authority may require the submission of additional information to complete the application or may require the resubmission of the entire application, if incomplete. In order to be complete, the application shall identify the proposed project site and demonstrate financial and organizational ability to undertake the proposed project through evidence of available capital sufficient to complete the project.

(d) If circumstances require an eligible business to amend its application to the Authority or to provide additional or supplemental factual representations prior to approval, then the owner of the eligible business, or an authorized agent of the owner, shall certify to the Authority that the information provided in its amended application and any other factual representations made in support of and to demonstrate the eligibility requirements in N.J.A.C. 19:31-22.3(b) through (e) are true under the penalty of perjury.

**19:31-22.6 Fees**

(a) A business applying for benefits under this program shall submit a one-time non-refundable application fee. The application fee shall be as follows:

1. For projects with 99 or fewer new and retained full-time jobs, the fee to be charged at application shall be $5,000;

2. For projects with 100 to 249 new and retained full-time jobs, the fee to be charged at application shall be $10,000; and

3. For projects with 250 or more new and retained full-time jobs, the fee to be charged at application shall be $15,000.

(b) A business shall 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.

(c) A non-refundable fee shall be charged prior to the approval of the tax credit by the Authority as follows, except that the fee shall be refunded if the Authority does not approve the tax credit:

1. For each project with 99 or fewer new and retained full-time jobs, the fee shall be $10,000;

2. For each project with 100 to 249 new and retained full-time jobs, the fee shall be $75,000; and

3. For each project with 250 or more new and retained full-time jobs, the fee shall be $165,000.

(d) A business shall pay to the Authority a non-refundable fee prior to the receipt of the tax credit certificate, as follows:

1. For each project with 99 or fewer new and retained full-time jobs, the fee shall be . $10,000;

2. For each project with 100 to 249 new and retained full-time jobs, the fee shall be $100,000; and

3. For each project with 250 or more new and retained full-time jobs, the fee shall be $200,000.

(e) A business shall pay to the Authority an annual servicing fee, beginning with the tax accounting or privilege period in which the Authority accepts the certification that the business has met the capital investment, employment, and other eligibility requirements of the program for the respective project, or the respective project phase, pursuant to N.J.A.C. 19:31-22.9(f), and for the duration of the commitment period and any period of extended commitment pursuant to N.J.A.C. 19:31-22.3(b)5.iv. The annual servicing fee shall be paid to the Authority by the business at the time the business submits its annual report, as follows:

1. For each project with 99 or fewer new and retained full-time jobs, the annual servicing fee shall be 1 $5,000;

2. For each project with 100 to 249 new and retained full-time jobs, the annual servicing fee shall be  $25,000; and

3. For each project with 250 or more new and retained full-time jobs, the annual servicing fee shall be $60,000.

(f) A business applying for a tax credit transfer certificate pursuant to N.J.A.C. 19:31-22.12 or permission to pledge a tax credit transfer certificate purchase contract as collateral shall pay to the Authority a fee, as follows:

1. For each project with 99 or fewer new and retained full-time jobs, the fee shall be $5,000 and $2,500 for each additional request made annually;

2. For each project with 100 to 249 new and retained full-time jobs, the fee shall be $10,000 and $5,000 for each additional request made annually; and

3. For each project with 250 or more new and retained full-time jobs, the fee shall be $15,000 and $7,500 for each additional request made annually.

(g) A business shall pay to the Authority a non-refundable fee for each request for any administrative changes, additions, or modifications to the tax credit; and, a non-refundable fee shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval, as follows:

1. For each project with 99 or fewer new and retained full-time jobs, a non-refundable fee of $2,500 shall be paid for each request for any administrative change, addition, or modification to the tax credit; and a non-refundable fee of $7,500 shall be paid for any major change, addition, or modification to the tax credit, such as those requiring extensive staff time and Board approval;

2. For each project with 100 to 249 new and retained full-time jobs, a non-refundable fee of $5,000 shall be paid for each request for any administrative changes, additions, or modifications to the tax credit; and a non-refundable fee of $15,000 shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval; and

3. For each project with 250 or more new and retained full-time jobs, a non-refundable fee of $7,500 shall be paid for each request for any administrative changes, additions, or modifications to the tax credit; and a non-refundable fee of $25,000 shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval.

(h) A non-refundable fee shall be paid for the first six-month extension to the date by which the business shall submit the certification with respect to the capital investment, employment, and other eligibility requirements of the program for the respective project, or the respective project phase, pursuant to N.J.A.C. 19:31-22.9(f); and a non-refundable fee shall be paid for each subsequent extension, as follows:

1. For each project with 99 or fewer new and retained full-time jobs, the fee for the first six-month extension shall be $5,000 and $7,500 for each subsequent extension;

2. For each project with 100 to 249 new and full-time retained jobs, the fee shall be $10,000 for the first six-month extension and $15,000 for each subsequent extension; and

3. For each project with 250 or more new and retained full-time jobs, the fee shall be $15,000 for the first six-month extension and $25,000 for each subsequent extension.

(i) A business seeking to terminate an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to the Emerge program shall pay to the Authority a non-refundable fee as follows:

1. For each project with 99 or fewer new and retained full-time jobs, the fee for a termination that does not require extensive staff time and Board approval shall be $2,500 and $7,500 for each termination that requires extensive staff time and Board approval;

2. For each project with 100 to 249 new and retained full-time jobs, the fee for a termination that does not require extensive staff time and Board approval shall be $5,000 and $15,000 for each termination that requires extensive staff time and Board approval; and

3. For each project with 250 or more new and retained full-time jobs, the fee for a termination that does not require extensive staff time and Board approval shall be $7,500 and $25,000 for each termination that requires extensive staff time and Board approval.

**19:31-22.7 Review of completed application**

(a) A business seeking an approval of tax credits for a project shall apply for tax credits prior to March 1, 2027.

(b) The Authority shall conduct a review of the applications commencing with the completed application bearing the earliest submission date or if interest in the program so warrants, at the Authority's discretion and upon notice, the Authority may institute a competitive application process whereby all completed applications submitted by a date certain will be evaluated as if submitted on that date. The review will determine whether the applicant:

1. Complies with the eligibility criteria;

2. Satisfies the submission requirements; and

3. Provides adequate information for the subject application.

(c) Before the Board may consider an eligible business's application for tax credits:

1. The Authority will confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the eligible business is in compliance by being in substantial good standing with the statutes, rules and other enforceable standards of the respective department, or, if a compliance issue exists, the eligible business has entered into an agreement with the respective department that includes a practical corrective action plan, as applicable.

i. Substantial good standing shall be determined by each department and mean, at a minimum, that the eligible business:

(1) As to the Department of Labor and Workforce Development and the Department of Environmental Protection:

(A) Is in substantial compliance with all material statutes, rules and other enforceable standards of the respective department that apply to the eligible business; and

(B) Has no material violations of those statutes, rules or other enforceable standards that remain substantially unresolved through entry into a corrective action plan, or other agreement with the department, with respect thereto; and

(2) As to all other departments, has no unpaid liability in excess of any threshold dollar amount(s) that may be established by each respective department.

ii. If the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury promulgates or issues its own more stringent rule or standard defining the term "substantial good standing," the respective department shall use such rule or standard to determine whether a business is in substantial good standing.

2. The Authority may contract with an independent third party to perform a background check on the eligible business.

3. The eligible business shall execute a non-binding letter of intent with the Chief Executive Officer of the Authority, specifying the amount and terms and conditions of tax credits that the Authority is prepared to propose for Board approval and that are intended to be a material factor

in the decision by the eligible business to create or retain the proposed number of new and retained full-time jobs, and in which the eligible business certifies such tax credits are a material factor in its decision.

i. If the eligible business has taken actions to commit to the project in this State, including, but not limited to, obtained site control of the qualified business facility; signed lease without penalty-free contingency language that the lease is conditioned upon receiving the tax credits; has expended physical construction costs for a building or other structure, has taken a formal decision that selects a site; made a public announcement that it intends to locate to the State; entered into any binding contract for relocation or equipment, including but not limited to, moving, furniture, fixtures and equipment purchases; or made non-refundable deposits prior to the execution of the letter of intent, then the Authority may rescind approval of the award of tax credits, unless the eligible business disclosed these facts prior to executing the letter of intent and the Authority determines that the award of tax credits was still a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program.

ii. The letter of intent will also include a certification from the owner of the eligible business, or an authorized agent of the owner that all factual representations made by the business to the Authority since the submission of the application are true under the penalty of perjury.

iii. The Authority may make the non-binding letter of intent public, unless the Authority determines that the interests of the State require confidentiality.

(d) In determining whether the award of tax credits is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program, the Authority shall undertake a full economic analysis of all locations under consideration by the eligible business. The Chief Executive Officer of the Authority may further consider the costs associated with opening and maintaining a business in New Jersey, competitive proposals that the eligible business has received from other states, the prevailing economic conditions, and any other factors that the Chief Executive Officer of the Authority deems relevant to assist the Authority in determining whether an award of tax credits is a material factor in the eligible business’s decision. Based on this information, the Authority shall independently verify and confirm the eligible business's assertion that the award of tax credits under the program is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program and, in the case of retained full-time jobs, the jobs are actually at risk of leaving the State, before the Authority may award the eligible business any tax credits under this program.

(e) In determining whether the company meets the net positive economic benefits test pursuant to N.J.A.C. 19:31-22.3(b)5 and as certified by the business’s owner or authorized agent of the owner pursuant to N.J.A.C. 19:31-22.5(a)2iv, the Authority's consideration shall include, but not be limited to, the direct and indirect benefits to the State, including local taxes that may benefit the State, and may include induced benefits derived from construction, provided that such determination shall be limited to the net positive economic benefits derived from the capital investment commenced after the submission of an application to the Authority.

(f) In making the determination of the local property tax included in the net positive economic benefit required pursuant to subsection (e), the Authority may consider local property tax from new construction and shall not consider the value of any taxes exempted, abated, rebated, or retained under the “Five-Year Exemption and Abatement Law,” P.L. 1991, c. 441 (N.J.S.A. 40A:21-1 et seq.), the “Long Term Tax Exemption Law,” P.L. 1991, c. 431 (N.J.S.A. 40A:20-1 et al.), the “New Jersey Urban Enterprise Zones Act,” P.L. 1983, c. 303 (N.J.S.A. 52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the business’s State or local tax liability.

(g) Upon completion of the review of an application pursuant to (b) through (g) above, and receipt of a recommendation from Authority staff on the application, the Board shall determine whether or not to approve the application and the maximum amount of tax credits to be granted. The Authority shall promptly notify the applicant and the Director of the Division of Taxation of the determination. The Board's award of the credits will be subject to conditions subsequent pursuant to N.J.A.C. 19:31-22.9(a).

**19:31-22.8 Determination of grant amount; bonus award**

(a) The total amount of the tax credit for an eligible business for each new or retained full-time job shall be as set forth in this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period. Unless the business demonstrates to the Authority’s satisfaction that a new or retained full-time job is primarily working at the qualified business facility, the tax credit for the full-time job shall be calculated with the base amount for a qualified business facility in other eligible areas and shall not include the bonuses in paragraphs 1, 2, 6, 7, 9, 13, 15, 16, and 17 under subsection (d).

(b) For a project that has a complex of buildings, the total amount of tax credit shall be calculated by combining the jobs in buildings that have the same factors set forth in this section that affect the tax credit calculation. Subject to subsections (c) and (d) of N.J.A.C. 19:31-22.4, the total amount of tax credit shall be calculated separately for jobs in a building with factors that are different than the factors affecting the calculation for jobs in the other buildings in a complex of buildings, including location of the buildings. Notwithstanding that the total tax credit for jobs in different buildings may be calculated separately, forfeitures pursuant to N.J.A.C. 19:31-22.14 and defaults and recaptures included in the commitment agreement pursuant to N.J.A.C. 19:31-22.9(b)6 shall be based on the aggregate capital investment and eligible full-time jobs.

(c) The base amount of the tax credit for each new or retained full-time job for an eligible business shall be as follows:

1. For a qualified business facility located within a government-restricted municipality, or which is a mega project, $4,000 per year;

2. For a qualified business facility located within an enhanced area, $3,500 per year;

3. For a qualified business facility located within a distressed municipality, $3,000 per year;

4. For a project in a qualified opportunity zone or an employment and investment corridor, $2,500 per year; and

5. For a project in other eligible areas, $500 per year.

(d) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased with the following bonuses, except that the Authority shall not award a bonus to an eligible business with full-time jobs at the qualified business facility, whether the full-time job is subject to the tax credit award or not, that pay less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L. 1966, c. 113 (N.J.S.A. 34:11-56a4), whichever is higher:

1. For an eligible business with a qualified business facility located in a municipality with a Municipal Revitalization Index score greater than 50, an increase of $1,000 per year;

2. For an eligible business with a qualified business facility that is an industrial or research and development premises for industrial or research and development use and at which the capital investment in the industrial or research and development portion of the premises is in excess of the minimum capital investment required for eligibility for the entire qualified business facility pursuant to subsection b. of section 71 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.3(c), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 40 percent, with a maximum increase of $3,000 per year, unless the project qualifies as a mega project or the qualified business facility is located in a government-restricted municipality, in which case the maximum increase is $5,000 per year;

3. For an eligible business with large numbers of new full-time jobs during the commitment period, the increases shall be in accordance with the following schedule:

i. If the number of new full-time jobs is between 251 and 400, $500 per year;

ii. If the number of new full-time jobs is between 401 and 600, $750 per year;

iii. If the number of new full-time jobs is between 601 and 800, $1000 per year;

iv. If the number of new full-time jobs is between 801 and 1,000, $1,250 per year; and

v. If the number of new full-time jobs is in excess of 1,000, $1,500 per year;

4. For an eligible business that annually funds a training program specific to the business's industry, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public a training program specific to the business's industry, an increase of $500 per year; provided, however, that if the training program is provided by a State educational institution that is within 10 miles of the qualified business facility, then the increase shall be $1,000 per year;

5. For an eligible business that qualifies as a small business, an increase of $500 per year;

6. For an eligible business with new full-time jobs and retained full-time jobs at the qualified business facility with a median salary in excess of the existing median salary for full-time workers residing in the county in which the project is located, or, in the case of a project in a government-restricted municipality, a business that employees full-time positions at the project with a median salary in excess of the median salary for full-time workers residing in the government-restricted municipality, an increase of $250 per year for the new or retained full-time employees that are at the qualified business facility during the eligibility period for each 35 percent by which the project's median salary levels exceeds the county or government-restricted municipality median salary, with a maximum increase of $1,500 per year;

7. For an eligible business with a qualified business facility located in a qualified incentive tract, an increase of $500 per year;

8. For an eligible business engaged primarily in a targeted industry, an increase of $500 per year;

9. For an eligible business with a qualified business facility located in a qualified incubator facility, an increase of $500 per year;

10. For an eligible business that enters into a labor harmony agreement, an increase of $2,000 per year that the portion of the project as represented by the new or retained full-time employees that are the subject of the labor harmony agreement is in effect; provided further that an eligible business receiving a bonus under this subparagraph may exceed the limitation applicable to the eligible business pursuant to subsection (e) below by an amount not to exceed $1,000;

11. For an eligible business that provides its employees access to child care either through an on-site quality child care facility free of charge to its employees or by offering employees a minimum of $1,500 per employee per year in reimbursements, subsidies or vouchers to be paid by the eligible business to its employees for the cost of child care in accordance with standards adopted by the authority and made available on the Authority's website, an increase of $1,000 per year.

12. For an eligible business that enters into an agreement with a prisoner re-entry program for the purpose of identifying and promoting employment opportunities at the eligible business for former inmates and current inmates leaving the corrections system, and that hires at least one active participant in the re-entry program, an increase of $500 per year;

13. For an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Silver" rating standards but does not exceed "Gold" rating standards, or that completes substantial environmental remediation, an additional increase of $250 per year, or for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Gold" rating standards, an additional increase of $500 per year;

14. For an eligible business in a targeted industry with a qualified business facility that is used by the eligible business to conduct a full-time collaborative research relationship with a college or university, including, but not limited to, a doctoral university, an increase of $1,000 per year. The full-time collaborative research relationship must commence after approval of the application and must require at least 35 hours per week of collaborative activity, or any other standard of collaborative activity generally accepted by custom or practice as full-time, as determined by the Authority, and evidenced by an agreement at certification. To be eligible for this bonus, the agreement must remain in effect each year of the eligibility period;

15. For an eligible business with a project that generates solar energy on site for use within the qualified business facility of an amount that equals at least 50 percent of the qualified business facility electric supply service needs, an increase of $500 per year;

16. For an eligible business with a marine terminal project in a municipality located outside a government-restricted municipality, but within the geographical boundaries of the South Jersey Port District, an increase of $1,500 per year;

17. For an eligible business with a qualified business facility located in a qualified opportunity zone, an increase of $1,000 per year; and

18. For an eligible business if one-third or more of the members of the eligible business's governing board or other governing body self-identify as members of an underrepresented community, which shall be Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, Alaska Native or lesbian, gay, bisexual, or transgender, an increase of $2,000 per year. The Authority shall work with the State's Chief Diversity Officer or other State entities to ensure that the bonus provided under this subparagraph is implemented faithfully and in compliance with law.

(e) Except as provided in (d)10 above, the gross amount of the tax credit available to an eligible business for each new or retained full-time job shall be the sum of the base amount set forth in (c) above and the various additional bonus amounts for which the business is eligible pursuant to (d) above, subject to the following limitations:

1. For a mega project or a project in a government-restricted municipality, the gross amount for each new or retained full-time job shall not exceed $8,000 per year;

2. For a qualified business facility located within an enhanced area, the gross amount for each new or retained full-time job shall not exceed $6,000 per year;

3. For a qualified business facility within a distressed municipality, the gross amount for each new or retained full-time job shall not exceed $5,000 per year;

4. For a qualified business facility in a qualified opportunity zone or an employment and investment corridor, the gross amount for each new or retained full-time job shall not exceed $4,000 per year; and

5. For a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed $3,000 per year.

(f) The Authority shall reduce the gross amount of tax credits per full-time job if the median salary of new full-time jobs and retained full-time jobs at, or associated with, the qualified business facility is less than the existing median salary for full-time workers residing in the county in which the qualified business facility is located. The Authority shall reduce the gross amount of tax credits per full-time job by an amount, in percentage points, equal to the percentage the median salary of new full-time jobs and retained full-time jobs at, or associated with, the qualified business facility is below the existing median salary for full-time workers residing in the county in which the qualified business facility is located. The Authority shall not award a tax credit to an eligible business if the median salary of new full-time jobs and retained full-time jobs at, or associated with, the qualified business facility is 30 percent or more below the existing median salary for full-time workers residing in the county in which the qualified business facility is located.

(g) After the determination by the Authority of the gross amount of tax credits for which an eligible business is eligible pursuant to (e) and (f) above, the final total tax credit amount shall be calculated as follows: for each new full-time job, the eligible business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and for each retained full-time job, the eligible business shall be allowed tax credits equaling 50 percent of the gross amount of tax credits for each retained full-time job.

(h) Notwithstanding the provisions of subsections (a) through (g) of this section to the contrary, for each application approved by the Board, the amount of tax credits available to be applied by the business annually shall not exceed an amount determined by the Authority to be necessary to induce the project to be sited in New Jersey as determined by the Board. The Authority shall determine the amount necessary to complete the project through staff analysis of all locations under consideration by the eligible business and all lease agreements, ownership documents, or substantially similar documentation for the eligible business's current in-State locations and potential out-of-State location alternatives, competitive proposals from other states, the prevailing economic conditions, and any other information that the Authority deems relevant, that may include, but is not limited to, public policy goals, the amount of space dedicated to eligible positions at the qualified business facility, net positive economic benefits, and leadership in targeted industries.

**19:31-22.9 Approval letter and commitment agreement**

(a) Following approval by the Board, but before the issuance of tax credits, the Authority shall require an eligible business to execute and return an approval letter to the Authority. The Board's award of the credits will be subject to conditions subsequent set forth in the approval letter. The conditions in the approval letter must be met in order to retain the approval of the tax credits prior to their issuance and receipt by the business pursuant to subsection (i) below. Such conditions shall include, but not be limited to, the requirement to provide an estimated date of completion of the project; submission of periodic progress reports; submission of the information required by 2 below; the requirement that the project complies with the prevailing wage requirements in P.L. 2020, c. 156 and N.J.A.C. 19:31-22.3(b)8 and the Authority's affirmative action requirements pursuant to P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.4) and N.J.A.C. 19:30-3.1 et seq.; that the project does not violate any environmental law requirements, including but not limited to Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; and that the business submit a plan to meet the minimum environmental and sustainability standards.

1. The approval letter shall state the period within which the business must provide to the Authority evidence that the conditions have been met.

2. Commencing with the date six months following the date the Authority and an eligible business execute the approval letter, the eligible business shall be required to demonstrate that it has obtained site plan approval for, as applicable, has committed financing for, as applicable, and has site control of, the qualified business facility in accordance within the time periods set forth below, unless otherwise modified in the approval of the application by the Board.

i. Within the later of 12 months following the date of application approval by the Authority or six months following the date of execution of the approval letter, each approved business shall submit the information required by paragraph 2 above, except that a business shall have until the later of 24 months from the date of application approval or six months following the date of execution of the approval letter to submit such information.

ii. Absent extenuating circumstances or the Authority's determination in its sole discretion, the Authority's approval of the tax credits shall expire if the information required by paragraph 2 above is not received by the Authority within the required period of time.

(b) Upon satisfaction of conditions in the approval letter, as determined by the Authority, the business shall execute a commitment agreement. The terms of the commitment agreement shall be consistent with the applicable eligibility requirements of section 71 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.3(b) through (e), and shall include, but shall not be limited to, the following:

1. A detailed description of the proposed project which will result in job creation or retention, and the number of new and retained full-time jobs that are approved for tax credits;

2. For a phased project, an incentive phase agreement which for each phase identifies a description of the phase, the expected capital investment and number of new full-time jobs, and the time following acceptance of the incentive agreement when each phase is to begin and be completed, with the awarding of tax credits under the incentive agreement to be predicated on the number of full-time jobs created through the fulfillment of each incentive phase agreement;

3. The eligibility period of the tax credits or, for a phased project, the eligibility period of the tax credits for each phase;

4. An ongoing requirement to provide the Authority with current personnel information that will enable the Authority to administer the program;

5. A requirement that the eligible business maintain the project at, or associated with, a location in New Jersey for the commitment period, with at least the minimum number of full-time jobs, salaries, and withholdings as required by this program pursuant to subsections (a) through (c) in N.J.A.C. 19:31-22.14;

6. A provision to permit the Authority to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not remain in compliance with paragraph 5 above for the required term or significantly reduces the number of full-time employees, or the salaries or withholdings thereof, based on the amounts that result in forfeitures or reductions under subsections (a) through (c) in N.J.A.C. 19:31-22.14, to an amount less than the minimum jobs, salaries, or withholdings to which the eligible business certified at the commencement of the eligibility period, for two or more successive tax periods;

7. A method for the eligible business to certify that it has met the capital investment, employment, and other eligibility requirements of the program set forth in subsections b. and c. of section 71 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.3(b) through (e), and to report annually to the Authority the number of new and retained full-time employees, and the withholdings and salaries thereof, for which the tax credits are to be allowed;

8. Representations that the eligible business is in substantial good standing or meets the agreement requirements described in paragraph (1) of subsection b. of section 71 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.7(c)1 and that the project complies with all applicable laws, and specifically, that the project does not violate any environmental law, including but not limited to Flood Hazard Area Control Act Rules, N.J.A.C. 7:13;

9. A provision permitting an audit of the payroll records of the business and any other evidence and documentation supporting the certifications pursuant to (e) below, the annual reports pursuant to N.J.A.C. 19:31-22.10, and the addition of affiliates pursuant to N.J.A.C. 19:31-22.14(i) from time to time, as the Authority deems necessary;

10. A provision acknowledging the Authority's right to confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the eligible business and each contractor and subcontractor performing work at the qualified business facility is in substantial good standing, as defined in N.J.A.C. 19:31-22.7(c), or has entered into an agreement with the respective department that includes a practical corrective action plan, as applicable;

11. A provision providing that if the eligible business is not in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury and has not entered into an agreement with the respective department, as set forth in N.J.A.C. 19:31-22.7(c), and has been given written notice thereof, including opportunity to be heard or to contest the determination, by the respective department, then the Authority may suspend the issuance of tax credits pending or resolution of the violation(s) or noncompliance, or if the violation(s) or noncompliance remain unresolved  and the suspension continues for two years, then, at the Authority's sole option, the eligible business may forfeit the tax credit for those years;

12. A requirement for the eligible business to engage in on-site consultations prior to commencement of construction with the Division of Workplace Safety and Health in the Department of Health;

13. A provision permitting the Authority to amend the agreement;

14. A provision establishing the conditions under which the Authority, the eligible business, or both, may terminate the agreement;

15. For a small business, an attached schedule with the reduced amount of the award if the business does not meet the projections in the growth plan;

16. Milestones for the project, which shall include the estimated date of commencement and completion of the project, and a provision that the Authority may rescind the award of tax credits if a project fails to advance in accordance with milestones in the commitment agreement or fails to provide progress reports required under the approval letter;

17. An agreement by the business that the statute of limitations for the collection and assessment of corporation business tax and insurance premiums tax will be extended to the period of the commitment duration;

18. Indemnification and insurance requirements;

19. Default and remedies, including, but not limited, to a default if an eligible business made a material misrepresentation on its application;

20. The schedule indicating the repayment of the incremental tax credits received by a business that elected a period of extended commitment pursuant to N.J.A.C. 19:31-22.3(b)5iv if the business fails to maintain the project through the expiration of that extended commitment period; and

21. A provision requiring a community benefits agreement if the actual total project cost upon completion of the project equals or exceeds $10 million.

(c) For a project whose total project cost equals or exceeds $10 million, in addition to the commitment agreement, an eligible business shall execute a community benefits agreement or agreements pursuant to subsection b. of section 73 of P.L. 2020, c. 156, as prescribed below:

1. The business shall enter into a community benefits agreement with the Authority and the chief executive of the municipality or, if requested by the chief executive of the municipality, the chief executive of the county, in which the qualified business facility is located. If the municipality requests the county to enter into the agreement, the chief executive of the municipality must submit to the Authority a signed letter notifying the EDA that the municipality has made the request. The Authority shall not participate in negotiations between the eligible business and the municipality or county; however, the Authority shall review the agreement prior

to the execution of the agreement to determine compliance with the requirements of this subsection (d), including, but not limited to, a provision for mediation as required by (d)4ii below. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the qualified business facility is located.

2. The community benefits agreement shall include a list of contributions by the business; the monetary equivalent for any non-monetary contribution; an event of default if the business forfeits tax credits pursuant to 7ii. below in two successive years; and the date by when the community advisory committee must submit its annual report pursuant to paragraph 6 below.

3. The eligible business and the municipality or county shall have 6 months, with two three-month extensions, after Authority Board approval of the business's application, to enter into a community benefits agreement. The community benefits agreement is a condition to entering into a commitment agreement.

4. Prior to entering a community benefits agreement, the governing body of the municipality or, if the county is executing the agreement, the governing body of the county, in which the qualified business facility is located shall hold at least one public hearing subject to the Open Public Meetings Act, at which, the chief executive or designee from the chief executive's department or office, shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address. The chief executive shall provide a record, including hearing minutes, satisfactory to the Authority, which shall be an exhibit to the community benefits agreement.

5. The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, and ensure compliance with the terms of the agreement, as follows:

i. The community advisory committee created pursuant to this subsection shall be comprised of representatives from community groups and residents of the municipality or, if the county is executing the agreement, community groups and residents of the county in which the qualified business facility is located.

ii. The chief executive of the municipality or, if the county is executing the agreement, the chief executive of the county shall appoint the members of the community advisory committee, which shall consist of not less than three members.

iii. For new construction or substantial rehabilitation projects, the community advisory committee shall have at least one representative from the business community in the zip code in which the qualified business facility is located, at least one representative from a community group, and at least one resident from the zip code in which the qualified business facility is located. There shall be no more than one municipal or county employee on the community advisory committee.

iv. For all other projects, the community advisory committee shall be determined by the chief executive of the municipality, or if the county is executing the agreement, the chief executive of the county, without regard to the criteria listed at iii above.

v. Community advisory committee members shall be required to sign a letter certifying that they have no financial or other interested relationship with the eligible business. The certifications shall be submitted to the Authority by the business or the municipality, or if the county is executing the agreement, the county.

vi. Any report or action shall be approved by a majority of the members of the community advisory committee.

6. The community advisory committee shall produce an annual report, including an evaluation of whether the eligible business is in compliance with the terms of the community benefits agreement:

i. If the report from the community advisory committee and the certification from the eligible business pursuant to N.J.A.C. 19:31-22.10(a)5 both indicate that the eligible business is in compliance with the community benefits agreement, then the eligible business shall be in compliance with the community benefits agreement. Absent extenuating circumstances and the written approval of the Authority, if the community advisory committee does not timely submit the annual report, then the determination of compliance of the eligible business shall be based on the certification from the eligible business pursuant to N.J.A.C. 19:31-22.10(a)5.

ii. If the report from the community advisory committee indicates that the eligible business is not in compliance with the terms of the community benefits agreement, the Authority shall serve as or identify a mediator. The community advisory committee, municipality or county, as applicable, and the eligible business shall enter into non-binding mediation to seek resolution or mutually agreeable amendments to the community benefits agreement within 60 days of the notice from the Authority of the person who will serve as a mediator. Thereafter, the results of the mediation shall be reported to the Authority.

iii. If a resolution is not able to be achieved through mediation, a hearing officer will be assigned by the Authority. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. Following completion of the record review and in-person hearing, as applicable, the hearing officer shall issue a written report to the Chief Executive Officer containing his or her finding(s) and recommendation(s). The hearing officer's report shall be advisory in nature. The business, municipality or county, and the community advisory committee shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days from receipt of such report. The Chief Executive Officer shall consider the hearing officer's report and any timely submitted written comments and exceptions. Based on that review, the Chief Executive Officer shall make a determination of compliance or non-compliance. The process described in this paragraph is not a contested case subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

7. If the business is not in compliance as determined under 6. above, the following apply:

i. The amount of tax credits that the business may apply in the relevant tax period shall be reduced by 120 percent of the sum of the monetary values of the contributions for which the business is not in compliance if the Authority determines that

(1) Compliance with the specific contribution is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence;

(2) The eligible business is using best efforts, with all due diligence, to proceed with the completion of the contribution; and

(3) The eligible business has made all reasonable efforts to prevent, avoid, mitigate, and overcome the noncompliance.

ii. For any other noncompliance, the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating compliance has been reviewed and approved by the Authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

8. An eligible business shall not be required to enter into a community benefits agreement pursuant to this subsection if the eligible business submits to the Authority a copy of the eligible business’s redevelopment agreement and approval letter that is certified by the chief executive of the municipality in which the project is located.

(d) Upon completion of the capital investment and employment requirements of the program, an eligible business shall submit to the Authority certifications evidencing that the eligible business has satisfied the conditions of the program and the project agreement relating to the capital investment, employment, and other eligibility requirements, including, but not limited to, withholdings. If applicable, the certifications shall evidence that the eligible business has satisfied the requirements related to a mega project. The business must submit supporting evidence satisfactory to the Authority. Absent extenuating circumstances and the written approval of the Authority, the eligible business shall submit the certifications as described in (h) below within three years following the date of approval of the application. The Authority may grant two six-month extensions of the deadline However, the date of completion shall not occur later than four years following the date of approval of the application. The Authority may grant one additional extension of no more than one year, taking the date of completion to five years past the date of approval of the application, but only if:

1. The Authority finds that:

i. The project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence;

ii. The eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and

iii. The eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

2. The eligible business provides timely notice to the Authority of the delay within 30 days after the eligible business has actual or constructive knowledge of the delay, and shall provide periodic reports, not less than every 30 days, of the status of the delay and the steps the eligible business is taking to mitigate or overcome the delay.

(e) In addition to the extensions in (d) above, if the Governor declares an emergency, then the Chief Executive Officer of the Authority shall have the discretion to grant an extension for the duration of the emergency and the Board of the Authority, upon recommendation of the Chief Executive Officer, may grant two additional six-month extensions; provided, however, that:

1. The extensions are due to the economic disruption caused by the emergency;

2. The project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence;

3. The eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and

4. The eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(f) The certifications required by subparagraph (d) of this section shall be in the following form:

1. The business shall submit a certification of a qualified independent certified public accountant, which may be made pursuant to an agreed upon procedures letter acceptable to the Authority, relating to the capital investment. Capital investment in a complex of buildings that are not proximate shall be certified for each building. If the project seeks to qualify for the bonus pursuant to N.J.A.C. 19:31-28.8(d)(2), in addition to submitting a certification of capital investment in the qualified business facility, the business shall submit a certification for the capital investment in the industrial or research and development portion of the premises for industrial or research and development use. In the event the capital investment is reduced below the capital investment amount set forth in N.J.A.C. 19:31-22.3(c), the business shall remain eligible if the business donates the difference between the amount set forth in N.J.A.C. 19:31-22.3(c) and the amount of capital investment invested into the infrastructure fund. If the amount paid into the infrastructure fund together with the amount of capital invested is less than the capital investment in the approval of the application, the Authority may reevaluate the net positive economic benefit and reduce the size of the grant accordingly. If the certified capital

investment, together with any donation to the infrastructure fund, is less than the minimum eligibility requirement, the business shall no longer be eligible for tax credits.

2. The business shall submit a certification of a qualified independent certified public accountant, which may be made pursuant to an agreed upon procedures letter acceptable to the Authority, relating to employment. The number of new and retained full-time jobs in the certification shall be utilized by the Authority in the calculation of tax credits. The number of full-time jobs utilized by the Authority in the calculation of tax credits shall not be increased regardless of additional jobs located at the qualified business facility. Except as set forth in N.J.A.C. 19:31-22.10(f), in no event will the number of jobs exceed the number of jobs previously approved by the Board. To the extent a business has received an award for both new and retained full-time jobs, the business shall meet the employment requirements as set forth in subsections (c) and (d) of N.J.A.C. 19:31-22.4. In the event the number and median salary of new or retained full-time jobs is reduced below the number or median salary of new or retained full-time jobs in the approval of the application, the Authority may reevaluate the net positive economic benefit and reduce the size of the grant accordingly. If the certification indicates that the employment is less than the minimum eligibility requirement set forth in N.J.A.C. 19:31-22.3(d), the business shall no longer be eligible for tax credits.

3. The Authority shall qualify certified public accountants and provide to the business the list of qualified certified public accountants, provided however, the business may select a certified public accountant that is independent to the business and not on the Authority's list of qualified certified public accountants for purposes of the capital investment certification, or the business's chief financial officer may certify for purposes of the employment certification upon the Authority's prior approval ,if the business demonstrates an extenuating circumstance prohibiting the business from retaining a qualified certified public accountant. Such circumstances include, but are not limited to, the unavailability of any of the qualified certified public accountants to timely complete the certification or none of the qualified certified public accountants are independent to the business, or the business is a small business.

4. The business shall submit a certification with a floor plan showing the qualified building facility as of the date of the certifications identifying the uses pursuant to N.J.A.C. 19:31-22.3(c) and square foot of gross leasable area for each such use.

5. The business shall submit a certification from a licensed engineer that the project has adhered in all material respects to the plan submitted by the business describing how the business would satisfy the minimum environmental and sustainability standards;

6. At or before the date of certifications, any modification to the project as approved by the Board, including, but not limited to, a reduction in the amount of the capital investment, new and retained full-time jobs, or square foot of gross leasable area for each use pursuant to N.J.A.C. 19:31-22.3(c), shall require review and approval by the Authority to determine that the project as modified does not undermine the basis for the tax credit award approved.

7. The Authority may request additional information or certifications from the business to determine eligibility and may seek information from the Department of Labor and Workforce Development to support the certifications.

8. The Authority may re-calculate the tax credit award, which may include a re-evaluation of the amount necessary to induce the project to be sited in New Jersey pursuant to N.J.A.C. 19:31-22.8(h), if the certifications demonstrate different assumptions or facts upon which the Authority relied to calculate the tax credit award at approval.

(g) In any submission required by the Authority pursuant to approval letter or the certifications in (f), the owner of the eligible business, or an authorized agent of the owner, shall certify that the information provided is true under the penalty of perjury.

(h) Once the Authority accepts the certifications in (f) above and the Authority determines that other required conditions have been met, within 90 days of the Authority's acceptance of the certifications and evidence satisfactory to the Authority, the Authority shall notify the business and notify the Director, and the business shall receive its tax credit certificate which will be based on the information submitted in the certifications under (e) above, provided it shall not exceed the maximum amount determined by the Board under N.J.A.C. 19:31-22.7(g) and N.J.A.C. 19:31-22.8. The use of the tax credit certificate shall be subject to the receipt of an annual certificate of compliance issued by the Authority.

**19:31-22.10 Reporting requirements and annual reports**

(a) An eligible business which is awarded tax credits under the program shall submit annually, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment period, a report that indicates that the eligible business continues to maintain the number of new and retained full-time jobs and provides the salaries specified in the commitment agreement, including, but not limited to:

1. A certification, made pursuant to an agreed upon procedures letter acceptable to the Authority, of a qualified independent certified public accountant, which shall be qualified by the Authority pursuant to N.J.A.C. 19:31-22.9(f)3, containing the following:

i. The number of full-time employees and new or retained full-time jobs employed at, or associated with, the qualified business facility;

ii. The list of affiliates that contributed to the full-time employees at, or associated with, the qualified business facility;

iii. The number of full-time employees in the business's Statewide workforce;

iv. The number of full-time employees in New Jersey in the last tax period prior to the credit amount approval of any affiliate that contributed to the full-time employees and was not listed in the application; and

v. A copy of the business's applicable New Jersey tax return showing business income and withholdings as a condition of its continuation in the program, and the quarterly wage report required under N.J.S.A. 43:21-14 submitted to the Department of Labor and Workforce Development together with an annual payroll report showing:

(1) The new full-time jobs which were created in accordance with the project agreement;

(2) The new full-time jobs created during each subsequent year of the commitment period; and

(3) The withholdings and salaries, as measured by the median salary, of the new and retained full-time jobs created and the amount of withholdings paid to New Jersey; and

2. Information on any change or anticipated change in the identity of the affiliates comprising the business elected to claim all or a portion of the credit; and

3. A certification indicating whether or not the business is aware of any condition, event, or act, which would cause the business not to be in compliance with the approval, the Act, the commitment agreement, community benefits agreement pursuant to subsection b. of section 73 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.9(c), or this subchapter.

(b) The certified report required by (a) above is due 120 days after the end of the business's tax privilege period; and failure to timely submit the certified report, absent extenuating circumstances and the written approval of the Authority, shall result in the forfeiture of the tax credits for that privilege period.

(c) An eligible business shall explain, in the certified report required by (a) above, the reason for any discrepancies between the annual payroll report submitted by the eligible business to the Authority and the quarterly wage report submitted to the Department of Labor and Workforce Development. The owner of the eligible business, or an authorized agent of the owner, shall certify that the information provided pursuant to (a) above and this subsection is true under the penalty of perjury. Claims, records, or statements submitted by an eligible business to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(d) Upon receipt and review to the Authority's satisfaction of each certified report required by (a) above submitted during the eligibility period, the Authority shall provide to the eligible business and the Director a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability. The Authority shall pro rate the tax credit for the first and last years of the eligibility period based on the number of full months the project was certified in the year the eligible business first certifies. No tax credit certificate will be valid without the certificate of compliance issued for the relevant tax privilege period. The certificate of compliance will indicate the amount of the tax credit certificate that will be recommended to the Division of Taxation for issuance for an identified tax privilege period.

(e) In conducting its annual review, the Authority may require a business to submit any information determined by the Authority to be necessary and relevant to its review.

(f) If the certified report required by (a) above submitted by a small business demonstrates that the business has met the number of new full-time employees specified in the growth plan pursuant to N.J.A.C. 19:31- 22.3(d)1 in each year of the eligibility period, then the business shall be entitled to an increased credit amount for that tax period, and each subsequent tax period, for each additional full-time employee added above the number of full-time employees certified, until the full-time employees number meets the maximum number projected for the final year of the eligibility period. Failure to meet the projections in any year shall not constitute a default but shall cause the authority to reduce the award in accordance with a schedule attached to the project agreement.

(g) An eligible business shall forfeit the credit amount for any tax period for which the eligible business's documentation remains uncertified as of the date for certification indicated in the commitment agreement, although credit amounts for the remainder of the years of the eligibility period shall remain available to the eligible business.

(h) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(i) A business may include an affiliate for any period, provided that the business provides a valid tax clearance certificate for the affiliate and a verification of the nature of the affiliate relationship during the relevant period, and provided further that the affiliate provides acceptable responses to the Authority's legal disclosures inquiries, as determined by the Authority, and the affiliate executes a joinder to the commitment agreement, in the form approved by the Authority. A business may remove an affiliate by notifying the Authority and the Director, in a form approved by the Authority, of the affiliate that is to be removed. A formal modification of the Authority's approval of the approval letter shall not be necessary to add or remove an affiliate after approval or execution of the approval letter.

(j) A business may change its name filed with the Authority by providing a copy of the filed amendment to the certificate of incorporation or formation, as the case may be, of the business and a valid tax clearance certificate with the business's new name. A formal modification of the Authority's approval shall not be necessary to change a business's name after approval or execution of the approval letter.

**19:31-22.11 Tax credit amount; application and allocation of the tax credit**

(a) Except for a small business which will have incremental or additional tax credits pursuant to a growth plan under N.J.A.C. 19:31-22.10(f), for each tax accounting or privilege period during the eligibility period, a business may apply the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years (fractions of a cent rounded down) subject to the provisions of the Act and this subchapter. Except as set forth in N.J.A.C. 19:31-22.10(f), the total tax credit amount that a business may apply each year shall not exceed the maximum annual amount determined by the Board at approval pursuant to N.J.A.C. 19:31-18.7(g) and N.J.A.C. 19:31-22.8.

(b) Upon notification to the Director by the Authority, the Director shall allow the eligible business a tax credit. The eligible business may apply the credit allowed by the Director against the eligible business's tax liability for the tax period in which the Director allowed the tax credit or may carry forward the credit for use by the eligible business in any of the next seven successive tax periods, which credit shall expire thereafter.

(c) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and N.J.S.A. 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or N.J.S. 17B:23-5.

(d) Credits granted to a partnership shall be passed through to the corporate partners, corporate members, or corporate owners, respectively, pro-rata, or pursuant to an executed agreement among all partners, members, or owners documenting an alternate distribution method provided to the Director accompanied by any additional information as the Director may prescribe consistent with any rule, guidance, or other publication issued by the Division of Taxation.

1. With respect to credits passed through to a person subject to tax liability due pursuant to sections 2 or 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and N.J.S.A. 54:18A-3), the person shall be allowed to apply credits against the person's tax liability without the provision of a tax credit certificate to the Division of Taxation in the Department of the Treasury for the tax period accompanying the person's tax return, subject to the person submitting any additional authenticating or supporting information with the tax return, and the person shall be considered the tax certificate holder and be subject to this subsection (d).

2. The Authority may recapture all or part of any tax credits claimed by a person pursuant to (d)1 above with penalties and interest from the person or the business in the event the Division of Taxation in the Department of the Treasury does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period. Such recapture amount may include interest on the recapture amount, at a rate equal to the statutory rate for tax deficiencies, plus any statutory penalties, and all costs incurred by the Authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection. The Authority shall confer with the Division of Taxation to determine the recapture amount.

(e) The Director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5). The amount of a credit applied under this section against the tax imposed pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5).

(f) In lieu of applying any credit certificate or credit transfer certificate against tax liability otherwise due pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and N.J.S.A. 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or N.J.S. 17B:23-5, the credit certificate or credit transfer certificate may be surrendered to the Division of Taxation in the Department of the Treasury for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, subject to appropriation and the availability of funds, provided that the issuance date of the credit certificate or credit transfer certificate to the taxpayer surrendering such certificate occurred at least two years prior to the date of surrender, in a form and manner prescribed by the Director.

**19:31-22.12 Application for tax credit transfer certificate**

(a) An eligible business may apply to the Director and the Chief Executive Officer of the Authority for a tax credit transfer certificate, within three years of the tax period in which the Director allows the eligible business a tax credit, in lieu of any amount of the tax credit against the eligible business's State tax liability. The tax credit transfer certificate, upon receipt thereof by the eligible business from the Director and the Chief Executive Officer of the Authority, may be sold or assigned, in an amount not less than $25,000, within three years of the tax period in which the eligible business receives the tax credit transfer certificate from the Director, to another person that may have a tax liability pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15), or N.J.S. 17B:23-5. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall apply the transferred credit against the same tax for which the eligible business was approved a tax credit under the program. The tax credit transfer certificate provided to the eligible business shall include a statement waiving the eligible business's right to claim the credit that the eligible business has elected to sell or assign.

(b) The eligible business shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the eligible business of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to the eligible business by the Director shall be subject to any limitations and conditions imposed on the application of State tax credits under this program and any other terms and conditions that the Director may prescribe, including, but not limited to, any applicable statutes of limitations for claiming a refund or credit.

(c) With respect to credits to be sold or assigned, in full or in part, pursuant to an application to the Authority for a tax credit transfer certificate by a business to a person subject to tax liability due pursuant to sections 2 or 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 or N.J.S.A. 54:18A-3), the person shall be allowed to apply the credits against the person's tax liability without the provision of a tax credit transfer certificate to the Division of Taxation in the Department of the Treasury for the tax period accompanying its tax return, subject to the person submitting any additional authenticating or supporting information with the tax return, and the person be considered a tax credit transferee and be subject to (d) below.

(d) The Authority may recapture all or part of any tax credits claimed by a person pursuant to (c) above with penalties and interest from the person or the business in the event the Authority or the Director does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period. Such recapture amount may include interest on the recapture amount, at a rate equal to the statutory rate for tax deficiencies, plus any statutory penalties, and all costs incurred by the Authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection. The Authority shall confer with the Division of Taxation to determine the recapture amount.

(e) The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

(f) The Authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the Authority and the Director pursuant to this section:

1. The name of the transferrer;

2. The name of the transferee;

3. The value of the tax credit transfer certificate;

4. The State tax against which the transferee may apply the tax credit; and

5. The consideration received by the transferrer.

**19:31-22.13 Cap on total credits**

The combined value of all credits approved by the Authority pursuant to this program shall be subject to limitations set forth in section 98 of P.L. 2020, c. 156. The amount of available tax credit shall be posted at the beginning of each calendar year on the website of the Authority.

**19:31-22.14 Reduction and forfeiture of tax credits**

(a) If, in any tax period, an eligible business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under the program, then the eligible business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the eligible business's Statewide workforce to the threshold levels required by this subsection has been reviewed and approved by the Authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(b) Except for a small business, if the annual report filed by an eligible business pursuant to section 77 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.10(a) provides that the number of new full-time employees employed by the eligible business at, or associated with, the qualified business facility, or the salaries of the new full-time employees, as measured by the median salary, was reduced by more than 10 percent of the number of new full-time employees, or salaries thereof, in the annual report of the prior year, or the commitment agreement if the annual report is the first such report filed, then the Authority may reevaluate the net positive economic benefit of the project and reduce the size of the award accordingly. This reduction shall not affect any recapture under subsection (f) of this section.

(c) If, in any tax period, the amount of withholdings paid to New Jersey or full-time employees employed by the eligible business at, or associated with, the qualified business facility, or the salaries thereof, drops below 80 percent of the withholdings and number of new and retained full-time jobs, and the salaries thereof, specified in the commitment agreement or the incentive phase agreement, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the amount of withholdings paid to New Jersey or number of full-time employees employed by the eligible business at, or associated with, the qualified business facility to 80 percent of the withholdings and number of jobs specified in the commitment agreement or incentive phase agreement or the restoration of 80 percent of the salaries specified in the commitment agreement is reviewed and approved by the Authority.

(d) If the business is not in compliance with the community benefits agreement pursuant to N.J.A.C. 19:31-22.9(c), the Authority shall reduce the size of the award by the amount equal to 120 percent of the monetary value of the contribution or contributions for which the business in not in compliance. This reduction shall not affect any recapture under subsection (f) of this section.

(e) If at any time during the eligibility period the Authority determines that the eligible business made a material misrepresentation on the eligible business's application, the eligible business shall forfeit all tax credits awarded under the program, which shall be in addition to any other remedies in the commitment agreement and any criminal or civil penalties to which the business and the officer may be subject.

(f) The Authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with the requirements of a project agreement for the duration of the commitment period. A recapture pursuant to this subsection may include interest on the recapture amount, at a rate equal to the statutory rate for corporate business or insurance premiums tax deficiencies, plus any statutory penalties, and all costs incurred by the Authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection. Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded.

(g) With the exception of N.J.A.C. 19:31-22.12(d), if all or part of a tax credit sold or assigned pursuant to section 78 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.12 is subject to recapture, then the Authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate.

(h) Any funds recaptured pursuant to this subsection, including penalties and interest, shall be deposited into the General Fund of the State.

**19:31-22.15 Effect of sale or lease of qualified facilities and relocation of qualified business facility**

(a) A small business may move its qualified business facility, upon prior notice to the Authority, provided that the business remains in New Jersey during the commitment period and, for the purposes of this subsection, the tax credit calculation for each new or retained job will be re-calculated for the new location, but the tax credit amount shall not be greater than the amount approved.

(b) Except for a small business, or an eligible business engaged primarily in a targeted industry with less than 50 employees at application:

1. If the qualified business facility is sold in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller, provided, however, that any tax credits of tenants shall remain unaffected. If the business merges with or consolidates with another entity, the resulting or transferee entity shall not be considered the new owner. The seller shall forfeit all tax credits for the tax period in which the sale occurs and all subsequent tax periods, provided, however, that an eligible business may change the location of the qualified business facility before certification of the capital investment if:

i. The new facility:

(1) Meets all applicable location qualifying criteria and has gross leasable area not less than the gross leasable area of the qualified business facility initially approved by the Authority and the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program; or

(2) Does not meet all applicable location qualifying criteria or has less gross leasable area than the gross leasable area of the qualified business facility initially approved by the Authority, if the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program The Authority shall require a new cost benefit analysis illustrating the economics of the occupancy at the alternate proposed qualified business facility location for the remaining duration of the commitment period compared to the economics of continuing occupancy at the qualified business facility proposed to be vacated. The alternate proposed qualified business facility must be 90 percent or more of the aggregate cost of the qualified business facility proposed to be vacated. If less than 90 percent, the Authority shall review the business's decision to relocate, including supporting documentation evidencing the reasons for relocation, to determine if the relocation to the alternate qualified business facility is

consistent with the Board's approval of the application for the qualified business facility to be vacated. The Authority shall re-calculate the net positive economic benefit of the project to reflect the economics of occupancy at the alternate proposed location for the remaining duration of the net positive economic benefit test period. The award of tax credits shall be reduced consistent with the variations in qualifying criteria for the alternate qualified business facility location as well as in a manner consistent with the revised net positive economic benefit calculation.

(c) In the event that the modified project economics materially deviate from the economics of the initial approval in a manner that undermines the recommendation of approval made by the staff of the Authority at the time of the initial approval, then the business requesting to relocate a qualified business facility shall be required to obtain the approval of Board.

(d) If a business leases, or subleases, or otherwise reduces its tenancy in whole or in part during the eligibility period, the new tenant shall not acquire the tax credits of the business, and the business shall forfeit all tax credits for any tax period of its lease or sublease in which the business, in continued occupation of a portion of the qualified business facility, fails to maintain the number of jobs required for the business to earn tax credits for the tax period or fails to independently satisfy the minimum capital investment or sustainability requirements for the program as set forth in section 71 of P.L. 2020, c. 156. Provided, however, if the capital investment of the business in the occupied portion of the qualified business facility is below the project minimum capital investment as set forth in section 71 of P.L. 2020, c. 156, the business may include capital investment made by or on behalf of the new tenant in the leased or subleased portion of the qualified business facility, so long as that capital investment is not the subject of an independent application under an incentive program with the Authority. Notwithstanding the foregoing, a business may lease or sublease a portion of its qualified business facility to a new tenant that is a quality child care facility and up to five percent for any other new tenant without forfeiting any of the business's credits, provided that the new tenant's full-time employees and capital investment shall not be included in the business's eligible full-time employees or capital investment.

**19:31-22.16 Affirmative action and prevailing wage**

The Authority's affirmative action requirements in P.L. 1979, c. 203 (N.J.S.A. 34:1B-5.4) and N.J.A.C. 19:30-3.1 et seq. and prevailing wage requirements in P.L. 2007, c. 245 (N.J.S.A. 34:1B-5.1), N.J.A.C. 19:30-3.4.1 et seq., and N.J.A.C. 19: 31-22.3(b)(8) will apply to projects undertaken in connection with financial assistance received under the program.

**19:31-22.17 Appeals**

(a) The Board's action shall be effective 10 business days after the Governor's receipt of the minutes, provided neither an early approval nor veto has been issued.

(b) An applicant may appeal the Board's action by submitting in writing to the Authority, within 20 calendar days from the effective date of the Board's action, an explanation as to how the applicant has met the program criteria. Such appeals are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) Appeals that are timely submitted shall be handled by the Authority as follows:

1. The Chief Executive Officer shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. The Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his or her finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. After reviewing the report, the Chief Executive Officer of the Authority may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer, which shall include the recommendation of the Chief Executive Officer, if any, and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days from receipt of such report.

3. The Board shall consider the hearing officer's report, the recommendation of the Chief Executive Officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the appeal.

4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

**19:31-22.18 Recovery Infrastructure Fund**

(a) The Authority shall establish a dedicated fund to be known as the “Recovery Infrastructure Fund.” Money in the fund shall be dedicated to the purpose of funding local infrastructure, which shall include:

1. Buildings and structures, such as schools, fire houses, police stations, recreation centers, public works garages, and water and sewer treatment and pumping facilities;

2. Sidewalks, streets, roads, ramps, and jug handles;

3. Open space with improvements such as athletic fields, playgrounds, and planned parks;

4. Open space without improvements;

5. Public transportation facilities such as train stations and public parking facilities; and

6. The purchase of equipment considered vital to public safety.

(b) The fund shall be credited with money remitted by eligible businesses pursuant to paragraph (2) of subsection b. of section 71 of P.L. 2020, c. 156, N.J.A.C. 19:31-22.3(c)6, or N.J.A.C. 19:31-22.9(f)1.

(c) Money remitted to the fund by an eligible business pursuant to N.J.A.C. 19:31-22.3(c)(6) or N.J.A.C. 19:31-22.9(f)1 shall be earmarked for use on local infrastructure projects in the municipality in which the eligible business's project is located.

(d) A municipality shall apply to the authority, in a form and manner prescribed by the Authority, for disbursements from the Recovery Infrastructure Fund. The Authority, in consultation with the Department of Community Affairs, shall review and approve applications for disbursements of money from the fund pursuant to the provisions of this section. Applications shall be reviewed in the order that completed applications are received. In order to be approved, an application will be required to meet a minimum score established by the Authority in consultation with the Department of Community Affairs, based on factors, including but not limited to, whether the applicant demonstrates that it has a financing plan for the entire project and the proposed public benefit of the project. The Authority shall issue an approval with conditions to be met prior to disbursements.

(e) The Department of Community Affairs shall coordinate with the Authority and other boards, commissions, institutions, departments, agencies, State officers, and employees to carry out the local infrastructure projects funded through the Recovery Infrastructure Fund.

**19:31-22.19 Reports on implementation of program**

Beginning in 2022 and every two years thereafter, a State college or university shall, pursuant to an agreement executed between the State college or university and the Authority, prepare a report on the implementation of the program, and submit the report to the Authority, the Governor, and, pursuant to section 2 of P.L. 1991, c. 164 (N.J.S.A. 52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each eligible business receiving a tax credit under the program, a detailed analysis of the consideration given to each applicant, an analysis of whether the incentives awarded influenced the eligible business's decisions to locate a qualified business facility in the State, the return on investment for incentives awarded, the eligible business's impact on the State's economy, and any other metrics the State college determines are relevant based upon national best practices. The Authority shall prepare a written response to the report, which the Authority shall submit to the Governor and, pursuant to section 2 of P.L. 1991, c. 164 (N.J.S.A. 52:14-19.1), to the Legislature.

**19:31-22.20 Severability**

If any section, subsection, provision, clause, or portion of this subchapter is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

# Appendix B

# Economic Recovery Act Programs - Net Benefit Analysis Overview

## Introduction

Governor Phil Murphy signed the New Jersey Economic Recovery Act of 2020 (ERA) into law on January 7, 2021. The ERA creates a package of tax incentive, financing, and grant programs that will address the ongoing economic impacts of the COVID-19 pandemic and build a stronger, fairer New Jersey economy. Included in the ERA is the creation of the Emerge program which will serve as the State's primary job creation incentive.

As with prior incentive programs, such as Grow NJ and ERG, a key statutory requirement within Emerge is that the Authority must ensure fiscal prudency by determining that the award of tax credits creates a net positive economic benefit to the State. Unlike prior incentive programs, Emerge requires a significantly greater economic benefit to the State to offset the award. For prior programs, the Authority relied upon a proprietary model that was developed by a third party but largely managed in-house. In the interest of greater transparency and consistency the Authority has determined the best approach for new programs for such analysis is to rely upon an external third-party model that would not need to be updated or maintained by the NJEDA.

To increase transparency and consistency, NJEDA staff determined that it would be important to utilize a third-party economic development model that is widely known, understood and utilized at the state, federal, and international levels. In addition, after evaluating several widely-known, national level models, staff determined that utilizing a tool that was more easily understood by a broader set of stakeholders would be beneficial. Based on a thorough analysis of available alternatives that would meet the Authority's requirements, staff is proposing to use the IMPLAN model to calculate the expected net economic benefit from projects awarded within the Emerge Program (and other ERA programs). This memo provides background on the fundamental theory underpinning IMPLAN's model, the history of EDA's work with the net benefit test, a brief overview of IMPLAN and its features, and an overview of the application of IMPLAN to calculate the net benefit for the Emerge program.

## Overview & History of Input-Output Analysis

IMPLAN's model is built on a macroeconomic analysis known as Input-Output analysis (I-O), which estimates the interdependence between economic sectors and industries. A product of I-O is an input-output table, which is a data matrix that shows the inputs from industries and sectors of the economy necessary to create the output of a given industry. As an example, Table 1 shows the intermediate input (inputs from other firms and industries) and within-firm factors of production (calculated as income going to labor, capital, and taxes) that go into producing an industry's output.

**Table 1 – I-O for US Manufacturing in 2019, millions of dollars**

| | Commodities/Industries | Manufacturing |
|---|---|---|
| A | Agriculture, forestry, fishing, and hunting | $322,670 |
| B | Mining | $371,488 |
| C | Utilities | $55,663 |
| D | Construction | $14,197 |
| E | Manufacturing | $2,458,644 |
| F | Wholesale trade | $25,085 |
| G | Retail trade | … |
| H | Transportation and warehousing | $54,383 |
| I | Information | $22,650 |
| J | Finance, insurance, real estate, rental, and leasing | $108,329 |
| K | Professional and business services | $373,668 |
| L | Educational services, health care, and social assistance | $146 |
| M | Arts, entertainment, recreation, accommodation, & food services | $12,127 |
| N | Other services, except government | $21,587 |
| O | Government | $4,698 |
| **Sum, A-O** | **Total Intermediate** | $3,913,382 |
| P | Compensation of employees | $1,131,337 |
| Q | Other taxes on production | $60,414 |
| R | Gross operating surplus | $1,125,415 |
| **Sum, P-R** | **GDP** | $2,317,167 |
| | **Total industry output (Intermediate + GDP)** | $6,230,548 |

This data provides two important sources of information. One is, when an industry's output is "shocked," or increased/decreased by a specified amount, an analyst can estimate the impact of that shock on all other associated industries and sectors of the economy. Another important source of information is the understanding and ability to estimate the ripple effects of any one shock through all the associated industries and sectors of the economy. These estimated impacts are known as multipliers, and they estimate the total change in output across all industries and sectors expected when a specified industry's final demand is shocked.

Moreover, these multipliers can be broken down into three categories, typically referred to as direct, indirect, and induced impacts, which are explained as follows:[1]

- Direct effects -- occur directly from the focus industry's shock.
- Indirect effects – occur from impacts on other industries. They are akin to second-round impacts. For example, if we shock a pharmaceutical manufacturer, a second-round impact would be from an industry that produces an intermediate good for the pharmaceutical industry, such as a chemicals manufacturer. The economic impact of the shock on the chemicals manufacturer would be considered an indirect effect.

[1] https://blog.implan.com/understanding-implan-effects; https://www.investopedia.com/terms/i/input-output-analysis.asp

- Induced effects – occur through household spending from labor income generated by the shock. These effects are created by the spending of employees in the directly and indirectly impacted industries.

Expanding on the pharmaceutical industry shock explained above, using an economic impact model, we can estimate how this one focused shock impacts the economy through areas such as employment, consumer and industrial demand, and State tax revenues

**IMPLAN**

IMPLAN was created in the 1970s, when the National Forest Management Act required the United States Forest Service to prepare a plan for alternative land management strategies and potential resource outputs. IMPLAN, short for "impact analysis for planning," estimated the economic impacts of those resource outputs on local communities.[2] IMPLAN's data is based on federal data sources from the Bureau of Labor Statistics, Bureau of Economic Analysis, and the Census Bureau.[3]

A distinguishing feature of IMPLAN is that it estimates tax revenue impacts from events. Taxes by level of government are sourced from the Census Bureau's Annual Survey of State and Local Government Finances, state government tax collections, Census of Government Finance, and the Bureau of Economic Analysis's National Income and Product Accounts.[4] The taxes are not estimated based on an analysis of what the specific company may pay, but is an estimate based on the general data. Therefore, the model does not incorporate such details about the company as individual salary or whether a company is already in the State.

IMPLAN's methodology for tax estimates has been used by other states to evaluate their incentive programs as well as industries – examples include the following:

- Nevada Governor's Office of Economic Development, which used IMPLAN to determine tax revenue estimates for the Tesla Gigafactory project in 2014[5]
- Oklahoma Incentive Evaluation Commission, which issued a report in 2016 on the effectiveness of several incentive programs and used IMPLAN to estimate the economic impacts of projects receiving tax credits[6]
- The Louisiana Economic Development Office & Legislative Fiscal Office has used IMPLAN to estimate the economic and fiscal impacts of entertainment-related industries in Louisiana[7]

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[2] https://www.implan.com/history/
[3] https://implanhelp.zendesk.com/hc/en-us/articles/115009674448-IMPLAN-Data-Sources
[4] https://implanhelp.zendesk.com/hc/en-us/articles/115009674528-Generation-and-Interpretation-of-IMPLAN-s-Tax-Impact-Report
[5] Economic Impact of Tesla on Washoe and Storey Counties, September 2014
[6] State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report, 2016
[7] BaxStarr Consulting Group LLC, Fiscal & Economic Impact Analysis of Louisiana's Entertainment Incentives. Prepared in conjunction with the Louisiana Economic Development Office of Entertainment Industry Development & the Legislative Fiscal office, April 2011

- Maryland's Department of Commerce has used IMPLAN to estimate the economic impacts of incentive programs in annual reporting[8]

IMPLAN is also currently used by the California Governor's Office of Planning and Research, the California Research Bureau, and the Washington State Department of Transportation.

IMPLAN also counts federal agencies as clients, including the Bureau of Ocean Energy Management, NASA, US Department of Agriculture, US Department of Interior, and the US Geological Survey. IMPLAN's model outputs have been published in peer-reviewed academic journals and professional publications and have been used by economists for decades.[9]

**IMPLAN & Net Benefit Test Application**

IMPLAN provides flexibility to model impacts at different levels of geographic region, including at the state, county, Metropolitan Statistical Area (MSA), ZIP code, and congressional district. To align with the distinction in the allocation of the Emerge, Aspire, and Community-Anchored Development tax credits in the Economic Recovery Act of 2020 and account for distinctly different labor and housing markets within the State, **there will be two regions in which projects will be modelled – Northern and Southern New Jersey**. Southern New Jersey comprises the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem , and Northern New Jersey is the counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren .

IMPLAN has several types of economic shocks that users can model, including industry output, industry employment, commodity output, and employee compensation. For the purposes of the NJEDA's net benefit test, the Authority will be shocking **industry employment** and **industry employee compensation,** as that information will be submitted by applicants when applying for the Emerge program and most closely align with outcomes to be directly incented by an award. Specifically, the number of new and retained full-time jobs being directly incented by the award and the total payroll associated with the jobs being directly incented. Staff will also make net benefit test adjustments for small businesses that choose to grow jobs in a phased manner via a pre-determined growth plan, for example by running the model for each year of the project separately to account for the growing number of jobs. The IMPLAN model will further adjust these figures to account for expected seasonal or additional part-time workers that would be associated with the project based upon its industry. If at certification, any one of the key input factors to the model (i.e., the actual payroll, the number of full-time jobs, or the capital investment of the project) has been reduced by more than ten percent below the respective level provided by the applicant at approval, the net benefit analysis will be performed again and the award may be adjusted down accordingly.

For each applicant, two scenarios will be run: the **ongoing business activity** and any **up-front construction** associated with the business activity (for example, some projects awarded under

[8] Fiscal Year 2017, Consolidated Incentives Performance Report, As required by the Maryland Jobs Development Act Economic Development Article 2.5-109, February 2018, Maryland Department of Commerce
[9] https://implanhelp.zendesk.com/hc/en-us/articles/360044985833-About-IMPLAN

the small business portion of the Emerge Program may not have any construction as there is no minimum required capital investment). IMPLAN's model includes estimates of federal, state, county, and municipal taxes. **Only the model's estimate of state taxes will be used to estimate the benefit to New Jersey**, as the ERA requires the determination of the net benefit to the State. Additionally, the vast majority of the tax benefit to New Jersey occurs at the state level. As proposed in the Emerge rules, **for the ongoing business activity, only direct and indirect state taxes will be used. For the construction work, direct, indirect, and induced state taxes will be used.**

As stated in the Emerge statute, the net economic benefit will be calculated for the commitment period of the project. For a phased project, the requested tax credit allocation amount shall be determined for the initial phase, and on a cumulative basis each phase thereafter. The Emerge statute also allows a company to commit to a period of time beyond the commitment period and the rules propose a maximum of 20 years, which an applicant may do if the net positive economic benefit is insufficient – based on the statutorily required net economic benefit percentages – to support the total amount of the award.

The Emerge statute requires the Authority to perform this analysis in terms of net present value, i.e., the benefit in the future should be expressed in dollars today. Additionally, the statue requires the discount to reflect the uncertainty of the company's commitment after the commitment period expires. As such, the Authority will discount expected future revenues to the State accordingly. This, in practice, is a two-step process. First, given the IMPLAN model estimates a one-time (essentially, the 1st year) impact on government revenue, the Authority must estimate the growth of future annual revenues. The Authority does this by growing future revenues by an estimated rate of inflation **The inflation rate will be set based on a five-year mean of the Personal Consumption Expenditures Price Index as provided by the Survey of Professional Forecasters adjusted annually; initially this is set at an annualized rate of two percent**. Second, the Authority must then discount these future revenues. **To calculate the discount rate, staff starts with an industry accepted net present value discount rate, which currently is six percent. To account for the significant risk and uncertainty associated with revenues in the furthest years out, and as directed by the Emerge Statute specifically for years after the eligibility period, the discount rate is increased by two percent (so, currently eight percent).** Tax revenues resulting from construction expenditures and upfront costs do not need to be discounted as they would occur prior to the issuance of any tax credits awarded to a company.

**In certain instances, taxes at the local level or with inherently local implications, impact the State and thus such taxes would be factored into the economic benefit analysis.** The local taxes that could be considered are property taxes from new construction and local payroll taxes. As both of these local tax revenues offset State funds needed for municipal aid and/or appropriations to reduce property taxes, they may directly benefit the state thus making them appropriate to be considered in this analysis. To include such local property taxes, the business will need to provide a PILOT agreement, real estate appraisal, preliminary assessment from tax assessor, or any other relevant third-party document. Conversely, the State's Urban Enterprise Zone program affords projects located in certain geographies an exemption from a portion of the State sales tax associated with a construction project, as such where this is the case the analysis will be adjusted accordingly to best reflect actual sales tax revenues to the State from the related construction project.

T**he Emerge Statute requires projects to create positive economic benefit to the State equal to between 400 and 200 percent of the award**. Generally, the project must yield a benefit to of 400%; however, projects located in distressed municipalities or transit hub municipalities must yield a 300% benefit and projects located in government-restricted municipalities, or mega projects, must yield a 200% benefit.

# APPENDIX C

## EMERGE BOARD MEMO – APPENDIX
## "TARGETED INDUSTRIES" DEFINITIONS

The proposed definition of "Targeted industry" is the following:

"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. A project shall be considered to be in a targeted industry if the activity undertaken by the full-time employees will be in a targeted industry, or if the business is in a targeted industry. An eligible business shall be considered to be in a targeted industry, if the project is for full-time employees of a division or subsidiary that falls within the definition of a targeted industry. A division or affiliate of an eligible business that is in a targeted industry shall be considered to be in a targeted industry, even if the project is for full-time employees that do not work directly in the targeted industry. The Authority may consider whether a business fits into another innovative industry that disrupts current technologies or business models, by assessing factors such as, whether businesses in the industry are offering products or services that significantly improve current market offerings on the basis of price or other performance levels, whether the new industry creates opportunities for new firms to enter and redefine the supply chain or value chain of an industry, or whether the industry utilizes new technology or business processes that allow New Jersey-based firms to collect a share of revenues that were traditionally only available to companies in other geographies.

The Authority developed definitions and policy interpretations for each of the listed industries within the definition of "Targeted industry" as included in the Emerge program regulations and statute. The following industry definitions will not be included in the Emerge Program rules, but instead would be incorporated in NJEDA's program policies and posted on the Authority's webpages for the applicable Programs.

**Advanced transportation and logistics industry** includes, but is not limited to, the research, development, commercialization, and implementation of technology and innovative methodologies to move goods, services, and people, including by rail, road, air, sea, cable, space and the processing, storage, supply chain management, handling and packaging of goods and services.

**Advanced transportation** includes, but is not limited to, the areas of infrastructure, vehicles, and operations. Examples of advanced transportation technologies may include advanced transportation, sensor development, electrification of vehicles and infrastructure, new transport vehicle development, smart infrastructure and smart cities technologies.

**Advanced logistics** includes, but is not limited to, the research, development, commercialization, and implementation of innovative planning, storage, supply chain management, handling, and packaging of goods and services.

Examples of advanced logistics technologies may include real-time dynamic tracking or pricing, automated processing and handling, the use of blockchain and artificial intelligence, and the use of advanced telecommunication technologies in logistics.

Excluded from this industry are conventional warehousing and distribution facilities, operations and conventional transportation businesses, such as trucking.

**Advanced manufacturing industry** includes, but is not limited to, activities that integrate advanced or innovative technologies, processes and materials to improve the manufacturing of products. Such activities include research, development, commercialization, and implementation of new manufacturing methods and processes that utilize technology or other innovative methodologies including both physical equipment and software supporting advanced production.

Examples of advanced manufacturing technologies include additive manufacturing technologies, computer-aided manufacturing, utilization of advanced sensors and robotics to improve production, development of advanced materials to support production, and digital twin development and utilization. This industry also includes firms that manufacture either finished or interim advanced technologies or components.
Excluded from this industry are conventional manufacturing firms that do not sufficiently develop or utilize technologies such as those listed above.

**Aviation industry** includes, but is not limited to, commercial businesses that are directly involved with air transportation, which utilizes an aircraft, such as airplanes, helicopters and drones.

The aviation industry also includes aircraft manufacturing, aviation component manufacturing, aviation research, air safety, involvement with military aviation and the design, production or use of drones. The aviation industry also includes research, development, and commercialization of aviation-specific software, processes, guidance systems, technologies, and other industry-specific innovative methodologies. This industry also includes firms that manufacture either finished or interim advanced technologies or components.

Excluded from this industry are the operations of regularly scheduled commercial or private flights.

**Autonomous vehicle research or development industry** includes, but is not limited to, the research, development and implementation of technologies that support the advancement of vehicles that operate independently, increasingly without human involvement, and the related infrastructure for such vehicles.

Examples of autonomous vehicle and infrastructure technologies include sensors, radars, cameras, actuators, complex algorithms, machine learning systems, and software processors that support autonomous vehicle operations and maintenance. Excluded from this industry are research, development, and implementation of technologies that do not advance towards fully automated vehicular operations or the related infrastructure.

This industry also includes firms that manufacture either finished or interim advanced technologies or components.

**Zero-emission vehicle research or development industry** includes, but is not limited to, the research, development and implementation of technologies that advance the production of electric and other zero emission vehicles that reduce greenhouse gas emissions or improve air quality and the related infrastructure. This industry also includes firms that are undertaking specific projects to implement these technologies.

Examples of zero-emission vehicle technologies include plug-in-hybrid electric vehicles, battery-powered electric vehicles, hydrogen fuel cell-powered vehicles, vehicle charging infrastructure, electricity grid infrastructure improvements, and software to support these technologies.

Excluded from this industry are research, development, and implementation of technologies that do not reduce greenhouse gas emissions or improve air quality.

This industry also includes firms that manufacture either finished or interim advanced technologies or components.

**Clean energy industry** includes, but is not limited to, the research, development, commercialization, manufacturing of products and services, and implementation of technologies that support renewable energy generation and distributed energy resources, grid modernization, energy efficiency and zero-carbon building development, and transport system electrification.

Examples of clean energy technologies include solar power, onshore and offshore wind, electric battery storage, fuel-cell-based storage, carbon capture technologies, non-combustion waste-to-energy technologies, wave energy, water use minimization technologies, carbon-reducing materials, nuclear energy, heat pumps and geothermal, run of river hydroelectric, and other innovative recycling technologies and processes. This industry also includes firms that manufacture either finished or interim advanced technologies or components.

Excluded from this industry are distribution or transmission utilities, conventional landfill operations, combustion-based waste-to-energy projects, and natural gas projects.

**Life sciences industry** includes, but is not limited to, the research, development, commercialization, manufacturing, and implementation of innovative treatments, diagnostic tools, healthcare related software, medical devices, services, and equipment that supports the study, protection and improvement of plant, animal and human life.

Examples of life science industry practices include specialization in biomedicine, biochemistry, pharmaceuticals, biophysics, neuroscience, cell biology, biotechnology, medical devices, nutraceuticals, health-technology, botany and advanced agricultural development, cosmeceuticals, and life systems technologies. This industry also includes firms that manufacture either finished or interim advanced technologies or components.

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

**Hemp processing industry** refers to activities in compliance with the federal Agriculture Improvement Act of 2018 (also known as the 2018 Farm Bill) and any applicable regulations regarding hemp processing promulgated by the New Jersey Department of Agriculture, United States Department of Agriculture, or the United States Food and Drug Administration, including but not limited to, the research, development, commercialization, processing and manufacturing of commercial and industrial hemp products derived from hemp seeds, oil, fibers and shives for commercial use, including in the automotive, construction, food and beverage, personal care, and textile industries.

The term also includes research and development activities that advance hemp processing equipment and technologies for production, testing, and manufacturing operations, provided that such activities comply with the above-referenced laws and regulations. This industry also includes firms that manufacture either finished or interim advanced technologies or components.

The hemp processing industry excludes hemp grown for personal use or with a tetrahydrocannabinol (THC) concentration of 0.3% or greater.

**Information technology industry** includes, but is not limited to, the research, development, and commercialization of advanced software products and information technology services.

Information technology industry includes specialization in application and software development, advanced data analytics, artificial intelligence, blockchain related development, eSports, cybersecurity, cloud computing, provision of web services or servers, telecommunications, mobile communications services, provision of software as a service and other computing technologies.

Information technology industry does not include retail IT service providers, software implementation services that utilize customized product implementations, third party technology implementation to utilizes off-the-shelf solutions, website design services, social media or marketing services, and businesses from other industries that generally utilize technology to support their business operations.

**High technology industry** includes, but is not limited to, the research, development, commercialization, and manufacturing of technology hardware, technology processes, electronics, and technology-based components.

High technology industry also includes specialization in microelectronics, telecommunications, electronics equipment and components, advanced computing hardware, data storage hardware, advanced optical products and equipment, advanced sensor and instrumentation development, digital imaging, electromagnetics, mobile communication devices and infrastructure, semiconductors and semiconductor equipment.

This industry also includes firms that manufacture either finished or interim advanced technologies or components.

**Finance and insurance industry** includes, but is not limited to, the research, development, commercialization and management of financial and risk-management solutions, products and services for individuals, businesses and government agencies, including insurance lines, investment banking, depository and lending, and investment management services.

The finance and insurance industry may include technology driven financial innovations generally referred to as fintech, research and development activities that advance finance and insurance industry practices, including executing financial transactions. The finance and insurance industry may also include wagering platforms and related products and services, cryptocurrencies and related products and services, and regional or global headquarters of finance and insurance operations.

Excluded from this industry are retail banks, insurance, or wagering operations, real estate or leasing companies, and short-term or “payday” lenders operations.

**Professional services industry** includes global headquarters, regional headquarters, or major service hubs (such as innovation centers or centers of excellence) of knowledge-economy based businesses, from which customers or operations across multiple states or countries are served.

Examples of knowledge-economy based businesses considered providing professional services include firms that specialize in consulting, accounting, advertising, law, marketing, architecture, design, and engineering firms.

Exclusions from this industry include local branch offices of professional services providers, real estate agents, travel agencies, local contractors or architects, trades-based services, financial planners, doctors, dentists, and other offices or business units where a material amount of the professionals require business licenses to operate in the State.

**Film and digital media industry** includes, but is not limited to, the production and management of media communications, processes and technologies for theatrical motion pictures, television and cable broadcast, streaming services, web-based platforms. Digital media may include spoken word production and media software including video games. Research and development activities that advance media production, management and technology are also included.

Exclusions are productions intended for local broadcast and local performance venues, and companies and businesses that provide indirect sources of support to the production industry such as food services (including craft services and catering) and vehicle rentals used solely for transportation purposes.

**Non-retail Food and Beverages industry** includes, but is not limited to, the growing, processing, packaging, preservation and distribution of raw agricultural goods into consumer food products, including fresh prepared foods, packaged foods, and alcoholic and nonalcoholic beverages, aquaculture and fisheries.

The industry includes the regional or global headquarters for food-based businesses, breweries, wineries and major wholesale food distribution facilities. Research and development activities that advance food innovation technologies, commercialization, production, food distribution models and manufacturing operations are also included in the non-retail food and beverage industry.

Excluded from this industry include distribution businesses serving retail food customers, including grocery stores, farmers markets, community supported agriculture organizations, bodegas, or convenience stores, and establishments that serve food and beverages, including restaurants, cafeterias, cafés, fast-food, pubs, delis, and catering businesses.

# Appendix D

## Additional Material Factor Considerations –

## Risk Rating and Inducement Award Sizing Methodology

***Overview***

The information below seeks to provide a more detailed description of how the Authority is proposing to meet its statutory obligation to determine whether the Emerge tax credit is a material factor in the decision of the project to locate in New Jersey and, if so, the amount necessary to induce the project to make that decision.

The first area this appendix will cover is the proposed risk rating model the Authority will use as to ascertain the degree of due diligence on the applicant's claims regarding the material factor of the Emerge incentive. The goal of the model is, as objectively as possible, to determine whether there are reasons that this company would do this project in NJ without an incentive. This exercise is performed after the Authority receives an Emerge program application and determines the project meets other program eligibility criteria unrelated to material factor.

The second area this appendix will cover is the proposed method by which the Authority will address inducement – that is, the amount necessary for the project to locate to New Jersey. This occurs after the Authority has determined that the award is eligible after performing the aforementioned risk-rating analysis and conducting the corresponding level of due diligence and after determining the calculated tax credit amount. This is one of the final steps prior to staff recommending an award amount for the Members' consideration.

***Risk Rating Model***

As part of the eligibility requirements of the Emerge Program, the applicant must demonstrate to NJEDA that the award of the tax credit is a "material factor" in the business' decision to create or retain at least the minimum number of full-time jobs in the New Jersey.

The ERA statute requires a full economic analysis of all locations under consideration. As with Grow NJ, staff proposes accomplishing this by requiring the company to complete a standard cost-comparison analysis that will result in the differential between the cost of implementing the proposed project in New Jersey as compared to the most viable alternative site in another state. This cost-comparison analysis includes both one-time costs (for example, construction and relocation) and ongoing costs for the duration of the commitment period (for example, rent and salaries).

The statute also authorizes the Chief Executive Officer to request additional information that he or she deems relevant to the material factor determination. Staff are proposing to require a and review a description of qualitative factors to ensure tax credits are needed to attract a project to the state. To ensure that this additional qualitative material factor analysis is done in a consistent and equitable manner, Staff have developed a standardized risk rating model to assess projects.

The risk rating model considers a set of questions (currently 15) across the following criteria: current location of the company, status of real estate transactions in New Jersey and alternative locations, quality of supporting real estate documents, ownership structure and location, strategic fit for New Jersey, size of the project, and the applicant's history of previous incentives with NJEDA.

The model scores the questions with different weightings based on the impact of the answer to the likelihood that a material factor exists. The higher the overall score, the less likely that the incentive is a material factor to the company's decision to undertake the project and greater due diligence is required to assist EDA in assessing the material factor validity.

If an applicant scores below a certain threshold in the risk rating model, then the qualitative analysis lends support to the applicant's claim of a material factor. If the applicant scores above the threshold on the risk rating model, Staff will perform additional due diligence and will require additional explanation and evidence from the applicant.

Staff developed this risk rating analysis based on prior experience with companies that either applied for or received incentives through predecessor programs (i.e. Grow NJ projects) and the factors that often drove decision making relative to the location of a project. Staff then created a series of qualitative questions within the risk rating model based on these factors to assess if and on what basis there are reasons to believe that it is advantageous for the project to locate in New Jersey even without the incentive award, and therefore warranted additional due diligence on the material factor claim. Staff anticipates revising and improving the criteria, questions, and weighting involved in this analysis based on experience gained from using it.

***Inducement methodology***

The ERA statute requires the Authority to size each tax credit award to the amount necessary to induce the applicant's project to be sited in New Jersey (as determined by the Board). This requirement is similar to the sizing utilized in the Grow New Jersey Program for projects with award calculations over $4 million per year, but now applies to all awards.

In no circumstances will an award size ever be greater than the maximum calculated award (after all caps are applied) as determined by the ERA statute and rules.

Similar to the Grow NJ statutes, the ERA does not provide for a negotiation but rather a determination based on economic and policy factors. To ensure that the Authority consistently and equitably estimates the size of awards required to induce a project to be sited in the State, Staff are proposing to adopt the below inducement methodology to assess all awards before they are brought to the Board for approval. The methodology considers economic and policy factors that quantify the importance of the project to the State and the alternatives available to the applicant, including competition by other States, such as the size of the net benefit relative to the calculated award size, the gap in financing between New Jersey in comparison to alternative state sites, high priority locations, opportunities for the State to capture leadership in a targeted industry and consideration of public policy objectives.

Step 1: Determine if the maximum calculated award size is larger than the cost differential between the NJ-based project and the same project at an alternative site

- As part of the normal evaluation of applicant projects, staff determine the following data points:
    A. The maximum potential calculated award size based upon the project's characteristics (location, number of jobs, size, capital investment, bonus criteria, etc.) after applying all caps, including any cap based on the project's required net benefit ratio (e.g., must meet at 200-400% net benefit requirement depending on location);
    B. The cost differential between the applicant completing the project at their identified site in New Jersey and completing the project at the most viable out of state alternative site.
- In cases where the maximum award size (A) is less than the cost differential (B), the maximum award size shall be offered to the applicant.
- In cases where the maximum award size (A) is greater than the cost differential (B), Staff will proceed to Step 2 to determine the appropriate award size.

Step 2: Determine the minimum award size (C) and the gap between the maximum award size and minimum award size (D)

- For projects where the maximum award size (A) is greater than the cost differential (B), the minimum award size (C) should be equal to:
    - The cost differential (B) in all cases where there is a *positive cost differential* (i.e., it is more expensive to do the project in New Jersey than in the alternative location); or
    - Zero when there is a *negative cost differential* (i.e., it is less expensive to do the project in New Jersey than in the alternative location). Because this inducement analysis is applied after the business is reviewed for eligibility, Staff will have determined that the business has described sufficient reasons to demonstrate a material factor to locate the project in the State even though there is a negative cost differential. Examples are a credible financial assistance from another State or a demonstrable qualitative reason the project is more likely to be located in another State.
- The gap (D) between the maximum award size (A) and the minimum award size (C) is then determined (A - C = D).
- The balance of the inducement methodology determines the *percentage* of the gap (D) that will be offered to the applicant to attract their project to New Jersey.

Step 3: Determine how much Excess Net Benefit (G) is offered to the State by the project

- Projects that with a net benefit to the State that exceeds the minimum thresholds set in the statute are high-benefit projects for which the State should offer additional tax credits to induce the project to site in New Jersey
- As part of the normal evaluation of applicant projects, staff determine the following:
  - The calculated net benefit of the project to the State in percentage terms (E)
  - The required net benefit for the project as set in statute, based upon the project's characteristics (location, size, etc.)
- The Excess Net Benefit (G) will be determined by looking at the difference between the calculated net benefit (E) and the required net benefit (F) (i.e., G = E – F in percentage points).

Step 4: Determine any location-based inducement factors (H)

- Projects with a qualified business facility that locate in more highly distressed locations within the State will generate greater benefits to the State by helping to attract additional organic economic investment, catalyze community development, and support increased local vibrancy. Thus, it is in the State's interest to offer additional tax credits to induce the project to these locations. If a project has more than one qualified business facility in different locations, the highest percentage points will be scored based on location listed below:
- A location-based inducement factor (H) will be determined based on the following schedule:
  - Government restricted municipalities – 30 percentage points
  - Enhanced areas – 30 percentage points
  - Distressed municipalities – 20 percentage points
  - Qualified opportunity zones – 20 percentage points
- Projects with qualified business facilities in other employment or investment corridors or "other incentive areas" will not get a location based inducement factor.

Step 5: Determine the total policy-based inducement factors (I)

- Projects that commit to implementing initiatives that are aligned with the State's broader stronger and fairer economic development approach provide greater societal and economic benefits to the State and set an example for other private companies in the state and support faster and more equitable economic growth. Thus, it is in the State's interest to offer additional tax credits to induce these policy-aligned projects to New Jersey.
- The State's policy priorities for the Emerge program are codified in the list below for the program. ~~existing non-geographical award bonus structure for the program.~~ The policy-based inducement factors will be calculated at the time of approval. The determination of whether a company receives any of these policy-based inducement factors will be based on whether a company qualifies for the corresponding bonus at the time of certification.
- A project may commit to multiple policy priorities of the State and therefore the total policy-based inducement factor (I) should be the sum total of all objectives that a project meets based upon the following schedule:

  - Establishes an incubator facility – 5 percentage points
  - Utilizes a labor harmony agreement – 5 percentage points
  - Is a LEED certified (silver or gold) project – 5 percentage points
  - Utilizes on-site solar (or other renewable energy sources) – 5 percentage points
  - Has established a collaborative research partnership with a university – 5 percentage points
  - Has established a training program in a targeted industry – 5 percentage points
  - Provides high-quality childcare to employees – 5 percentage points
  - Has a prisoner re-entry program – 5 percentage points
  - Has a diverse board of directors – 5 percentage points

<u>Step 6: Determine an industry leadership inducement factor (J)</u>

- Projects that offer the opportunity for New Jersey to become a leader in a high-growth sector or sub-sector or technology area have the potential to seed an industry ecosystem and attract additional high-quality projects to the State organically. In addition, global, national, and regional headquarters offices tend to attract additional investment from firms as they look to further expand. Thus, this is another area in which making an offer of additional tax credits to induce projects with these characteristics to New Jersey is in the best interest of the State.
- An industry leadership inducement factor (J) shall be determined based upon the following schedule:
  - A project that creates the opportunity for New Jersey to demonstrate leadership in a new industry. The Authority may consider whether a business fits into another innovative industry that disrupts current technologies or business models, by assessing factors such as, whether businesses in the industry are offering products or services that significantly improve current market offerings on the basis of price or other performance levels, whether the new industry creates opportunities for new firms to enter and redefine the supply chain or value chain of an industry, or whether the industry utilizes new technology or business processes that allow New Jersey-based firms to collect a share of revenues that were traditionally only available to companies in other geographies.- 50 percentage points
  - A global or national headquarters – 20 percentage points
  - A regional headquarters – 10 percentage points

<u>Step 7: Determine the final award offered to the applicant to induce the project to New Jersey</u>

- To determine the final award, the gap (D) is multiplied by the final total inducement factor score (K)
- The total inducement factor score (K) is calculated by summing the percentage points calculated through Steps 3-5 (G + H + I + J). If the sum is greater than 100 percentage points, then the total inducement factor score will be 100 percentage points.
- Staff will multiply the total inducement factor score (K) by the gap (D) and add that to the minimum award size (C) to determine the final award offer.

2021

# Green Building Standards

GUIDANCE FOR POTENTIAL ASPIRE AND EMERGE INCENTIVE APPLICANTS

NJEDA

UPDATED: 2021

# Table of Contents

## Green Building Standards Guidance for Potential Aspire & Emerge Incentive Applicants (Updated 2021)

*The below information is intended to be plain language guidance as to the process NJEDA uses to evaluate compliance with green building standards. For specific questions regarding this process or for more information on specific green building requirements for your project, please contact Rob Wisniewski – Sr. Construction Officer-Green Building,* rwisniewski@njeda.com *or (609) 858-6768.*

### Background

The enabling acts establishing the Aspire and Emerge Programs require any applicant seeking incentive grants for redevelopment projects under these programs to certify that the project was designed and built to green building standards.

Given the fact that Aspire and Emerge were expanded under the Economic Recovery Act of 2020 to allow for a greater degree of variation in the projects that are eligible for these incentives, EDA has established a flexible menu of options that applies the best practice principles of the NJ Green Buildings Manual to the applicant's specific type of project.

Potential applicants should understand going into the application process that these standards exist and, depending on the scope of the project, compliance with green building standards can impact overall project cost. **Therefore, it may be in the applicant's best interest to review this information with a design professional as early in the process as possible for guidance as to how the requirements will impact overall project cost and implementation.**

### Identifying a Project Type

Given that green building standards differ depending on the scope of the project, during the application stage, the applicant will be asked to identify the specific project type (1 or 2, see below) that best applies to the scope of construction and which will drive capital investment costs. Please note that EDA staff will not recommend any project for EDA Board approval until a project type has been clearly identified on the program application.

The **project classification types** are as follows:

**Type 1:**

*Construction consisting of 50% or more of the building's value and/or square footage*

- ***New Construction***

- ***Reconstruction –*** Commonly referred to as a "gut rehab" this includes extensive work involving the interior of a building, floor or tenant space to the degree that the work area cannot be occupied while the work is in progress, and where a new certificate of occupancy is required before the work area can be reoccupied. This does not include projects comprised only of floor finish replacement, painting, wall-papering, or the replacement of equipment or furnishings.

**Type 2:**

*Construction consisting of 50% or less of the building's value and/or square footage*

- ***Renovation*** – Work that is generally restorative in nature and involves the use of different materials. Examples include: replacement of interior finish, trim, doors, or equipment. Renovation does not involve the reconfiguration of space. Renovation also includes the replacement of equipment or fixtures.

- ***Alteration*** – Work that involves a change in layout of interior space while other portions of the space remain without rearrangement. For example, the rearrangement of any space by the construction of walls or partitions, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any equipment or fixtures, or any work which affects a primary structural component.

For projects scopes considered "equipment only," project teams must submit a letter signed by CEO (or equivalent) along with a project narrative and schedule of values clarifying the scope of work for the project to be reviewed for exemption from the green building standards stipulated above.

**Basic Application of Standards**

For all Type 1 Projects: *Table 1: Applicable Standards for Type 1 New Construction/Major Reconstruction Project - page 7*

For all Type 2 Projects: *Table 2: Minimum Required Standards for Type 2 Renovation/Alteration Project – page 11*

**NJEDA will review for green building compliance at two (2) stages for every project; Pre-Development and Post-Construction.**

**Submitting for a Pre-Development Review**

Upon Incentive application approval, EDA will require that a project's specific green building plan be submitted the sooner of six (6) months following application approval (when the first project update is due,) or upon the applicant's request for a grant agreement. **However, the plan must be submitted no later than the end of "Schematic Design" so green building elements can be incorporated into the design appropriately.** The plan is to be submitted via email to Rob Wisniewski at rwisniewski@njeda.com with the name of the project in the subject line. The email should include the following information:

- NJEDA P #:
- Classification as described above (i.e.: New Construction, Reconstruction, Renovation or Alteration):
- Pre-Development or Post-Construction Review:
- Technical Contact Info (Owner, Architect/Engineer):
- Project Location(s):

All green building plans should include the following components:

1. A letter from the Applicant (on letterhead) outlining the project size and scope, plus a commitment to their specific standards based on project classification.
2. A signed and sealed letter (please rub lead on the seal so it's visible when scanning) from a licensed design professional outlining the scope of work for the project including the following:
    a. Type of project (New Construction, Reconstruction, Renovation or Alteration as described above) with square footage of the project (and how the project relates to the overall building size – if applicable).
    b. Identify which approved path of green building compliance the applicant is proposing (i.e., LEED Silver or % better than ASHRAE 90.1).
3. Comprehensive construction budget
4. The compliance documentation identified in the chart(s) below.

The submission of this green building plan along with the backup documentation identified in the chart below will start the Pre-Development Review process.

During this Pre-Development Review, EDA will evaluate the project specific green building plan for compliance with the referenced standards applicable to that specific project type. EDA will then either approve the plan or advise applicants as to the most applicable plan amendments to satisfactorily meet the standards. Should an applicant request a "preliminary" Pre-Development approval, a letter would be required from the applicant (on letterhead) clearly identifying a commitment to an approved metric in which the project's performance shall be measured against. Once the required documentation demonstrating compliance with the identified metric (i.e., an energy model or COMcheck calculations) is available and ready for review, the applicant can submit for "final" Pre-Development Review. Once all submissions have been reviewed and approved, a project will receive an approved review letter clearly stating that project has met the pre-development green building requirements of the program.

Project design documents should not be finalized by the applicant until EDA has reviewed and approved the green building pre-development plan.

EDA's Green Building staff are available at this stage to review the green building pre-development plan. However, applicants are advised to channel questions and information through their design professional charged with planning and executing the plan.

**Submitting for a Post-Construction Review for Final Certification**

Once EDA approves the green building pre-development plan**, the applicant will be expected to execute the plan as approved**. To ensure the plan was executed as approved, EDA will minimally require a signed and sealed letter from the licensed design professional certifying that the as-built project meets the specifications of the approved plan and all green building measures identified are actually installed and/or implemented. Additional required documentation will be outlined in the approval letter based on predevelopment submission. Refer to the chart below for requirements for each measure.

**Table 1: Applicable Standards for Type 1 New Construction/Major Reconstruction Projects**

| Category | Project Type | Standard | Acceptable Measure | Pre-Development Review in addition to Green Building Plan | Proof of Compliance for Post-Construction Review |
|---|---|---|---|---|---|
| Commercial | New Construction or Reconstruction | U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) | Minimum Silver for all USGBC-LEED rating systems | LEED Scorecard identifying at least 50 points and proof of project registration from GBCI. If project will not be registered and pursue actual certification, the applicant should clearly identify this approach in the green building plan. | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan and final LEED scorecard **OR** final LEED scorecard and award certificate indicating a minimum of Silver level. Should the project not actually receive certification but complied with all of the prerequisites and implemented green building strategies equivalent to at least 50 points, the applicant should submit compliance documentation with such prerequisites and credits just as the team would have been uploaded to LEED. |
| Commercial | New Construction or Reconstruction | American Society of Heating, Refrigerating and Air-Conditioning Engineers | Whole Building Energy Simulation verifying 5% (commercial) or 15% (multi-family) above ASHRAE 90.1-2016 | Signed and sealed energy model summary results clearly identifying efficiency percentage over the referenced standard. | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan |

| Category | Project Type | Standard | Acceptable Measure | Pre-Development Review in addition to Green Building Plan | Proof of Compliance for Post-Construction Review |
|---|---|---|---|---|---|
| Commercial | New Construction or Reconstruction | New Jersey Board of Public Utilities Pay for Performance | New Jersey BPU Pay for Performance. Minimum 5% above ASHRAE 90.1-2016 | New Jersey Board of Public Utilities Pay for Performance Application and/or Energy Reduction Plan (ERP) from an approved Pay for Performance Provider. If project will not actually participate in the P4P Program, the applicant should clearly identify this approach in the green building plan along with P4P formatted ERP. | New Jersey Board of Public Utilities Pay for Performance Application. Should the project not actually submit for P4P, the applicant shall submit a signed/sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| Commercial | New Construction or Reconstruction | American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) | Standard 189.1-2014 | Energy model and Identification of Mandatory Provisions | Proof of compliance with the mandatory provisions. Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| Commercial | New Construction or Reconstruction | International Green Construction Code (IGCC) - 2015 | Choose minimum of 15 electives from the Jurisdictional and/or Project Electives | Energy Model and Completed IGCC Table 302.1 and/or Table A103.2 | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |

| Category | Project Type | Standard | Acceptable Measure | Pre-Development Review in addition to Green Building Plan | Proof of Compliance for Post-Construction Review |
|---|---|---|---|---|---|
| Residential/ Mixed Use | New Construction/ Reconstruction | LEED, Home Energy Rating System (HERS), and/or EPA Energy Star | Development projects can pursue LEED ND (Silver) or choose an identified EPA Green Building Standards Guidance compliance path for individual buildings within a development project. Residential projects (single or multifamily) within a mixed- use project, HERS 75 or less. If more than 50 percent of the project is residential, than utilize Energy Star Homes or Energy Star Multifamily, otherwise utilize Energy Star Commercial score of 75 or better | LEED: Scorecard identifying at least 50 points and proof of project registration from GBCI. If project will not be registered and pursue actual certification, the applicant should clearly identify this approach in the green building plan.<br><br>AND/OR<br><br>HERS: Letter from RESNET provider confirming eligibility and engagement<br><br>AND/OR<br><br>EPA: Screen shot of Portfolio Manager with project's status | LEED: Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan and final LEED scorecard **<u>OR</u>** final LEED scorecard and award certificate indicating a minimum of Silver level. Should the project not actually submit for actual certification but complied with all prerequisites and implemented green building strategies equivalent to at least 50 points, the applicant should submit compliance documentation with such prerequisites and credits just as would have been uploaded to LEED Online.<br><br>AND/OR<br>HERS: Certificate<br><br>AND/OR<br>EPA: Energy Star Certificate |

| **Category** | **Project Type** | **Standard** | **Acceptable Measure** | **Pre-Development Review in addition to Green Building Plan** | **Proof of Compliance for Post-Construction Review** |
|---|---|---|---|---|---|
| Commercial/ Residential | New Construction or Reconstruction | International Living Future Institute | Net Zero Building Energy Certification | Proof of registration | Net Zero Building Energy Certification |
| Residential | New Construction or Reconstruction | NJ Housing and Mortgage Finance Authority (NJ-HMFA) and NJ Department of Community Affairs (NJ-DCA) | Residential projects that are utilizing affordable housing subsidies offered by NJ-HMFA and NJ-DCA are already required to conform to green building standards which meet the statutory requirement. | NJ Housing and Mortgage Finance Authority (NJ-HMFA) and NJ Department of Community Affairs (NJ-DCA) projects follow a separate and individual process outside of the green building standards review | HMFA final green building approval |
| Residential/Mixed Use | New Construction or Reconstruction | National Green Building Standard | National Green Building Standard | Proof of registration and NGBS Green Scoring Spreadsheet | NGBS Green certificate or the checklist |
| Residential/ Commercial | New Construction or Reconstruction | Passive House Institute US | Passive House Institute US Certification | Proof of registration | Passive House Institute US Certification |

## Guidance for Type 2 Projects

Table 2 below outlines the minimum green building requirements for all Type 2 projects considered an Alteration or Renovation, that are less than 50% of the building's value and/or square footage and fitting the project type criteria. These requirements are intended to give clear guidance to program participants, provide a consistent level of expectation throughout varying project types and reduce complications during the compliance review process. As noted in submission section, project teams must submit a construction budget & scope of work narrative outlining the minimum proposed standards and any additional green measures the project intends to pursue that address, but not limited to, the following areas of sustainability:

- Energy & Water Efficiency
- Indoor Air Quality Management
- Fundamental Commissioning
- Construction & Demolition Waste Management
- Occupancy Sensors
- Daylighting
- Innovative Measures

**NOTES**

1. Because of the variability in scope of work for each approved TYPE 2 project, not every category outlined below will/may be incorporated into every project. However, if the scope of work addresses one, any, or all categories listed in Table 2, project must adhere to the required measure.
2. LEED-CI Minimum Silver Certification will fulfill all prerequisites and requirements for TYPE 2 green building program approval

**Table 2: Minimum Required Standards for Type 2 Renovation/Alteration Project**

| Category | Project Type | Standard | Acceptable Measure | Pre-Development Review in addition to Green Building Plan | Proof of Compliance for Post-Construction Review |
|---|---|---|---|---|---|
| Energy Efficiency | Newly installed lighting improvements including fixtures, ballasts and/or other electrical equipment | American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) | Minimum 5 percent energy improvement over ASHRAE 90.1-2016 | COM Check or energy model signed & sealed by project design professional | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| Energy Efficiency | Newly installed heating, ventilation, air conditioning & water heating equipment | American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) | Minimum 5 percent energy improvement over ASHRAE 90.1-2016 | COM Check or energy model signed & sealed by project design professional | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| Energy Efficiency | Appliance | EPA Energy Star | Energy Star Labeled | Spec Sheet highlighting compliance | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |

| Category | Project Type | Standard | Acceptable Measure | Pre-Development Submission | Proof of Compliance for Post Construction Review |
|---|---|---|---|---|---|
| Water Efficiency | Toilets | 1.6 Gallons per flush | In aggregate, 20% better than baseline standard | LEED v4 Indoor Water Use Reduction Calculator | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| | Urinals | 1.0 gpf | | | |
| | Public Lavatory Faucet | 2.2. gpm@60psi | | | |
| | Kitchen Faucet | 2.2 gpm@60psi | | | |
| Low Emitting Materials | Interior Wet Applied Paints | VOC Content Requirements for Wet Applied Products | Must meet the applicable VOC limits of the California Air Resources Board (CARB) 2007 | Spec Sheets highlighting compliance | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| Low Emitting Materials | Interior Adhesives/ Sealants | VOC Content Requirements for Wet Applied Products | Must meet the applicable chemical content requirements of SCAQMD Rule 1168, July 1, 2005, Adhesive and Sealant Applications | Spec Sheet highlighting compliance | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |
| Low Emitting Materials | Carpet Flooring | VOC Content requirements | CRI Green Label Plus | Spec Sheets highlighting compliance | Signed and sealed letter from the licensed design professional indicating construction is complete and in accordance with the approved green building plan. |

# ECONOMIC GROWTH

# IGNITE

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** May 12, 2021

**SUBJECT:** NJ Ignite Pilot Program Update

**Request**

This memo will serve three purposes:

1. Provide a summary update of NJ Ignite Pilot program approved workspaces nearly 1-year after the EDA board approved Covid19 relief efforts for NJ Ignite participants;
2. Provide additional financial support to approved collaborative workspaces continuing to manage through economic hardship as a result of Covid19;
3. Create a closer alignment of the current NJ Ignite Pilot Program terms, conditions and requirements with the NJ Ignite Statutory Program created in January 2021 as part of the NJ Economic Recovery Act, and scheduled to launch the application in 2022 following anticipated approval of the Program regulations in accordance with the Project Launch timeline.

**Background**

On July 25, 2018 the members of the EDA Board approved a \$500K pilot grant program called NJ Ignite ("Pilot"), capitalized from the EDA funds in the Economic Recovery Fund (ERF). The program provides real estate partnership grants that support the rent for early stage technology or life science companies to work in a New Jersey incubator or collaborative workspace (including accelerators or co-working spaces), and, thereby, further develop the state's entrepreneurial eco-system.

In April 2020, the NJEDA Board approved a series of clarifications and updates to the NJ Ignite program, along with specific modifications to support those previously approved workspaces and businesses affected through the COVID-19 pandemic. More than one year-on from the Governor's EO107 issuing a stay-at-home-order, the unforeseen severity of Covid-19's impact to collaborative workspaces and member businesses continues to be significant and overwhelming. Collaborative workspaces, expected to offer support to their member/tenant businesses, themselves, have expressed varying levels of financial stress and need to EDA throughout 2020 and into 2021. For many operating interruptions persisted through 2020 with several sites on the brink of, or ultimately, shuttering operations. Nationally, one in five coworking spaces shut down or changed leadership within the last year.[1]

Recognizing the potential of the NJ Ignite Pilot program, the recently enacted Economic Recovery Act of 2020 ("ERA"), signed into law by Governor Murphy on Jan 7, 2021, creates through legislation the NJ

[1] https://allwork.space/2021/03/landlords-try-to-refill-abandoned-coworking-spaces/

Ignite Program ("Statutory Program"). The Statutory Program will carry forward many of the characteristics of the Pilot Program's benefits and structural designs, while incorporating enhancements and lessons learned. The Statutory Program will provide for a higher level of funding support. It will also include potentially larger individual awards for companies and workspaces meeting a wider set of eligibility criteria. Regulations for the Statutory Program are anticipated in December 2021. In the meantime, the Ignite Pilot program can substantially address the benefits and requirements sought from the Statutory Program until the regulations are completed. Staff is seeking EDA Board approval to modify the Pilot Program to incorporate many of the characteristics of the Statutory Program to propagate a seamless transition from the Pilot to the Statutory Program and enable greater immediate support for this embattled sub-sector of the economy. It is projected the Statutory Program regulations will be presented to the Board in December 2021.

**<u>Annual Program Compliance Findings and Remediation</u>**

Most NJ collaborative workspaces were mandatorily shuttered during the stay-at-home order in March 2020. As a consequence of this public health measure, there was meaningful revenue loss by those collaborative workspaces. Other workspaces have operated continuously, even at reduced capacity.

EDA staff has surveyed the majority of NJ Ignite spaces in Q1 2021. Of the currently approved, 23 NJ Ignite workspaces, sixteen provided feedback in conjunction with annual workspace compliance requests. A summary of the insights can be found below (with additional feedback summary in Appendix A). This feedback is used here to help understand and improve the NJ Ignite program as it shifts from a pilot program to the Statutory Program.

**Annual Program Compliance Review Findings and Board Approval**

As part of the April 2020 approved relief for NJ Ignite approved workspaces, the workspaces were provided the option to host the required 8 annual community building events, virtually, as opposed to in-person only. Based on the compliance review results to date, many of the workspaces struggled to host even 8 virtual events given the financial crunch resulting from pandemic restrictions and negative impact on their business operations. Feedback also revealed, due to frequent staff turnover and loss of institutional knowledge at the workspaces, as a result of the pandemic induced financial crunch, in many cases, the workspaces were not even aware of this program requirement. In the current pilot program, failure to meet the annual compliance requirement, regardless of circumstance results in removal of the workspace from the Pilot program.

Of note, EDA also incurred staff turnover at the program level and was resource constrained with a focus on Covid relief grants during the last year further impacting program support. On a go forward basis, EDA staff will structure a quarterly calling plan to promote information sharing and support to the approved workspaces with such efforts as reminders of the program requirements, sharing of industry news, and even distribution of Ignite program information. This will mitigate the loss of knowledge from workspace staff turnover and ensure knowledge of the program is evenly distributed, with the intention to enhance program usage. Staff will also create a user's guide/handbook for workspace managers participating in the program to ease the transfer of program participation knowledge in the event of turnover.

**Annual Events Review Remediation**

In an effort to support all the approved NJ Ignite workspaces and preserve the future opportunity for eligible start-up businesses to benefit from this program, staff proposes the following changes to the Pilot program:

1. Given the unanticipated severity and duration of impact on the coworking sector from COVID-19 and the efforts required by coworking facilities to continue operations, staff seeks to waive the 2020 event requirement as part of the annual program compliance. As it stands, staff surveys indicated meaningful and costly efforts were undertaken by coworking spaces to support

members/tenants. Only 5 of the 23 workspaces met the annual review requirement to host 8 ecosystem building events in 2020. Current program rules require permanent removal of a workspace from the NJ Ignite Pilot Program if it fails to verify the 8 events occurred. It is a benefit to preserve the participation of the approved workspaces in the NJ Ignite program to provide a wide set of partners that might best support early-stage businesses in NJ. If the workspaces can demonstrate they offered support to member business in the form of payment waiver, discounted fees, or membership fee/rent forgiveness, or they can demonstrate a loss of business (revenues) after January 1, 2020, EDA will offer a waiver of the events requirement for the 2020 program year. Additionally, staff seeks to modify the event requirement of the NJ Ignite Pilot program for 2021 as follows:

a. If there is insufficient evidence that events were held, the workspace may make up the prior year event shortfall in the subsequent year. If the shortfall is not mitigated, the workspace will be removed from the approved NJ Ignite program list and may not qualify for a grant award for a period of 1 year, but existing grants for tenant companies will not be revoked.
b. Workspaces will receive credit for multiple events for any event with more than 50 registrants or attendees (who need not be members/tenants). Specifically, every 50 attendees will be credited as a separate event. For example, a 100-person conference will count as 2 events. This owes substantially to the meaningful nature of community building and considers the significant effort required to assemble large scale events.

Currently, the NJ Ignite Pilot requires annual program compliance reviews of approved facilities. To create greater efficiency and consistency, annual program compliance reviews shall be required from workspaces annually within 90 days following calendar year end, regardless of program approval date. For facilities approved less than a full year, the 8 event requirement will be prorated based on time since approval (e.g. a space approved June 30th must meet 4 events – half the total events year).

**NJ Ignite Pilot Improvements, Statutory Program Conformance and Board Approval**

As of January 7, 2021, the Governor signed into law the Economic Recovery Act of 2020 which results in the creation of the NJ Ignite Statutory Program. Concurrent with the anticipated launch of the Statutory Program application in early 2022, EDA will close the NJ Ignite Pilot Program to avoid program overlap. Meanwhile, to ensure continuous NJ Ignite program operation, provide increased benefit to collaborative workspaces and innovative early-stage businesses, and create for a smooth transition of programs, staff proposes approval of specific changes to the NJ Ignite Pilot program, to closely conform to the NJ Ignite Statutory Program and to further support businesses through the ongoing pandemic in 2021. Completion of regulations for the NJ Ignite Legislative program are anticipated in Q4 2021.

To enhance the pilot program and to conform with some Statutory Program conformance efforts, substantial policy and operating improvements are highlighted below. The Board is asked to approve the complete list of specific proposed changes on Appendix B, which include the highlighted items below and additional program term clarifications to conform with the proposed legislative program.

1. The Eligible member/tenant business age increases accept applications of businesses formed up to seven years from earliest date of formation vs. three years under current program specifications to allow a wider use of the program and to recognize many business start and remain in early ideation stage for several years after formation. This change is not currently in the NJ Ignite Statutory Program.
2. Eligible businesses must operate in a Targeted industry as introduced in ERA and further defined in the Emerge Program regulations, in an effort to bring alignment among innovation sector support. "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. A project shall be considered to be in a targeted industry if the activity undertaken by the full-time employees will be in a targeted industry, or if the business is in a targeted industry. An eligible business shall be considered to be in a targeted industry, if the project is for full-time employees of a division or subsidiary that falls within the definition of a targeted industry. A division or affiliate of an eligible business that is in a targeted industry shall be considered to be in a targeted industry, even if the project is for full-time employees that do not work directly in the targeted industry. The Authority may consider whether a business fits into another innovative industry that disrupts current technologies or business models, by assessing factors such as, whether businesses in the industry are offering products or services that significantly improve current market offerings on the basis of price or other performance levels, whether the new industry creates opportunities for new firms to enter and redefine the supply chain or value chain of an industry, or whether the industry utilizes new technology or business processes that allow New Jersey-based firms to collect a share of revenues that were traditionally only available to companies in other geographies.

3. Virtual events will be eligible events for the remainder of the pilot program. They were initially approved only temporarily for 2020. This considers both the expectation of the conditions created by COVID-19 to persist, and the changing nature of work as a long-term result. Event venue is not, otherwise, contemplated in ERA.
4. The maximum start-up rent grant, including any bonus months, that the Authority may provide to a collaborative workspace for the tenancy of a single start-up tenant or member business is increased to $25,000 from the $15,000 limit previously approved.
5. NJ Ignite Pilot currently offers up to three stackable bonus months to grant requests that consider applications submitted from workspaces: 1. That are located in opportunity zones, 2. That are affiliated with a university or hospital, or 3. workspaces opened less than 90 days prior to the date of application. Approval of this proposal would add two additional bonus months if: 1. the start-up tenant or member business for which the start-up rent grant is paid is certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.); or, 2. if the start-up tenant or member business for which the start-up rent grant is paid is the first presence of a foreign company entering into the United States. Bonus months first offset the start-up tenant or member's commitment, second to offset workspace commitment. In the unlikely scenario any bonus months exceed the combined startup and workspace commitments, grants will be capped at the length of the member/tenant lease submitted with the Ignite application. Of note- the bonus months do not require a matching component by the tenant or the workspace.
6. Delegated authority - The original program approval granted delegation from the Board to approve these NJ Ignite grants [Level 4: Vice President of TLS and recommending officer]. In accordance with operational updates to staff titles, and to create program efficiency staff is requesting a revision of Delegated authority to the following:
    - Delegated authority for approvals of eligible workspaces to access NJ Ignite program benefits can be approved with a Program/Product Officer recommendation and Director approval. NJ Ignite grants be approved with Operations Analyst recommendation and Program Manager of Operations approval, given the maximum grant award will be up to $25,000. Disbursement requests may be approved by Portfolio Servicing Officer recommendation and Portfolio Management Program Manager.

    - The requested delegation closely mirrors the authorization levels in place to approve similar or larger award amounts in other high-volume Innovation Programs like, the Angel Investor Tax Credit program (Program Manager of Operations may approve awards up to $100,000).

**Recommendation**

Approval is requested for the following: (1) Implementation of the four outlined compliance remediation items to provide support and opportunity for struggling approved collaborative workspaces and create ongoing program efficiencies; (2) Update the NJ Ignite Pilot program benefits and program rules to closely incorporate the NJ Ignite Legislation components as highlighted above and detailed in Appendix B; (3) Revise Delegated Authority to consider recent operational efficiencies created within EDA staff changes.

______________________________
Tim Sullivan, CEO

Prepared by: Syed Sohaib
Tim Rollender

Appendix A

- Ignite Annual Program Compliance reviews:
    - 17 of 23 workspace annual compliance reviews came due within the last 3 months.
    - 5 of 17 workspaces are current on their compliance reporting.
    - 5 of 17 workspaces did not meet the compliance requirement to host 8 physical or virtual events in 2020. They are at risk of removal from the program.
    - 7 of 17 workspaces offered an indication they met the events requirement, but have not provided adequate verification, as of 3/31/2021, and they are at risk of removal.

- 16 of 23 approved workspaces were surveyed in conjunction with their annual compliance requests. (One of 24 workspaces shuttered in May 2020. The balance of the workspaces, being approved in 2020, have not yet reached the 1-year compliance requirement).

- General findings:
    - Most of the workspaces have lost, or downsized members/tenants.
        - Most spaces report membership levels approximately 50-80% of pre-pandemic levels.
        - Many tenants that have returned have downsized: for example, if a tenant had a suite, perhaps, now they only need a virtual/hot desk with their team now working remotely.
        - At least 7 of 16 workspaces offered rent assistance to tenants (deferment, discount, forgiveness).

    - Many workspaces tried to offer community events throughout 2020 to support tenants or attract new tenants. Even those that met the 8 events required of the program found events less relevant/attractive/useful in the current environment:
        - More typical workspace events like meetups, or pitch competitions, are a tremendous amount of work for very few attendees, and they draw even fewer attendees than pre-pandemic:
            - If events were hosted virtually or in-person, in-person attendance was lower than pre-pandemic. Virtual events garner little attention given the noise and competition in the market. People don't want to sit in front of computers more than required.
            - Fewer but bigger events which may take only slightly more work but may draw a bigger crowd can be more impactful.
            - Offering office-hours and more tailored support to founders was more feasible to avoid crowds and, in many cases, more productive.
        - Workspaces spent more resources readying spaces for socially distanced work, engaging with current members/tenants or securing new tenants.

    - Workspaces saw increased staff turnover in 2020. Many of these changes were
        - staff cuts to manage operating expense;
        - organizational changes to offer modified/new forms of support to tenants;
        - caution among customer facing / front desk staff.

**Appendix B1**
**Incubator and Collaborative Workspace Rent Initiative**
**Proposed Program Specifications (from Original Memo Dated, July 25, 2018)**

| | |
|---|---|
| **Funding Source** | Total funding for **Incubator and Collaborative Workspace Rent Initiative ("ICWRI")** will be $500,000 using eligible Authority funds from the Economic Recovery Fund (ERF).<br><br>*Staff recognized that "Incubator and Collaborative Workspace Rent Initiative" is rather lengthy as a program name. Accordingly, Staff launched a market-based survey to rename the program. The selection consists of five potential names: NJ Ignite; NJ Spark; NJ Boost; Collaborate NJ; or Amplify NJ. The votes will be tallied prior to the Authority's September board meeting, and the winning name will be announced and adopted at the September board meeting. <u>The program was renamed as NJ Ignite on September 13, 2018</u>.* |
| **Program Expiration** | Program to operate on a pilot basis-funds will be committed within an estimated 6-12 months from acceptance of the first application or until such time that the funds are depleted. |
| **Administrating Agency** | New Jersey Economic Development Authority (the "EDA") |
| **Program Purpose** | The purpose of the program is to further improve the innovation ecosystem within NJ by: i) increasing the number of young companies working in collaborative spaces thereby supporting collaborative working space ecosystems and incenting development of additional collaborative working spaces; ii) reducing the financial barriers for smaller cash-constrained start-ups to work in the collaborative spaces; and iii) encourage new and existing collaborative working spaces to provide more ecosystem support for their tenants. |

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| **Collaborative Work Space Eligibility Requirements** | To be accepted as an ICWRI facility, the collaborative workspace, needs to sign a verification form that certifies (citing specific, verifiable details as appropriate) that they meet the following requirements:<br>• Located in New Jersey<br>• Has a minimum of 5 unique paying tenants over the last 2 years (tenants must have an arms-length relationship with the collaborative workspaces owners and operators); collaborative workspaces formed less than 90 days prior to the approval request may qualify for the program if they have at least 3 signed prospective lease agreements and meet other requirements<br>• Has a cost of operating the facility (e.g., rent or mortgage or internal corporate charge-back)<br>• **Offer at least one variety of work space - private office space, hot-desks or dedicated desks**<br>**-** *Collaborative workspaces must contain any of adjacent office, lab or hot desks in which employees of multiple companies, necessarily including, but not limited to, companies up to 3 years from the earliest date of formation, are conjoined under one roof by shared conference, meeting or gathering space.* ***(Change approved Memo dated April 14, 2020)***<br>• **Will host at least 10 innovation ecosystem building events a year (examples of events include: meet-ups, speaker series, office hours for lawyers/ accountants/ consultants/ investors)**<br>*-Will host at least 8 innovation ecosystem building events a year (examples of events include: meet-ups, speaker series, office hours for lawyers/ accountants/ consultants/ investors).* ***(Change approved Memo dated September 18,2018)***<br>*-Method of Convening Community Events: Permit the required 8 annual events to consider virtual, as well as, in-person events.* ***(Change approved Memo dated April 14, 2020)***<br>• Will charge rent to tenants and confirm that the rent charged to the startup and being funded by the EDA is the same or comparable to the rates charged to other community members.<br>• Will provide free rent to the startup company as defined in the program parameters outlined herein.<br>• Qualifications for a “New” facility<br>  o Must be less than 90 days old from application date<br>  o Cannot be an expansion of an existing facility (i.e., adding additional square feet in the current building)<br><br>In addition to the verification form, the collaborative workspace must provide the following supporting documentation:<br>• Satisfactory NJ tax clearance<br>• Registration certificate to conduct business in NJ |

<table>
<tr>
<td>Eligibility Requirements for Tenants Companies partnering with the Collaborative Workspaces</td>
<td>The collaborative workspace should ensure the tenant company signs a verification form that certifies (citing specific, verifiable details as appropriate) the company meets the following requirements:
<ul>
<li>Is less than 3 years from the date of earliest formation<br>Applications are accepted for companies up to 3 years from the earliest date of formation, measured at time of application submission. (Change Approved Memo dated April 14, 2020)</li>
<li>Has less than 10 employees (1099 and/or W2)</li>
<li>Has less than $1,000,000 in trailing twelve months gross sales from application submission</li>
<li>Has a minimum of one full time (i.e., works more than 35 hours per week for the company) NJ employee that will be working in the facility (1099, W2, and common law employees are eligible)</li>
<li>Has not previously utilized a collaborative workspace in NJ (use of out-of-state collaborative workspaces does not disqualify the tenant)</li>
<li>Is a technology or life science firm (see definition above)</li>
</ul>
The company must support its verification form with the following documents:
<ul>
<li>Registration certificate to conduct business in NJ</li>
<li>2-page executive summary</li>
<li>Satisfactory signed lease or membership agreement with an approved collaborative workspace facility for a period of time no less than the total occupancy required by the grant<br>A self-certification indicating the intent to remain in the collaborative workspace for the term of the program participation by the tenant/member company. Additionally, the tenant/member company will sign a satisfactory lease or membership agreement with an approved collaborative workspace and provide a current lease within 30 days of program participation approval (as per the original EDA Board approval) and again with the disbursement request.(Change approved Memo dated September 18,2018)</li>
<li>The lease must be for the facility in NJ, not a universal membership</li>
</ul>
The tenant must agree to allow the Authority to conduct site visits and/or audit the tenant to confirm any stamen made in the tenant's certification.</td>
</tr>
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| **Grant amount** | • Determined based on application request for number of months at the standard rent rates charged to all other applicant companies at the specified community for similar space<br>• Maximum base reimbursement of 6 months' rent, when first matched with 3 free months from the collaborative workspace and 3 paid months by the tenant<br>• Grants are eligible for up to three 1-month bonus months of EDA provided rent support, which do not need to be matched by the collaborative workspace or the tenant. One bonus month of rent support is provided for each of the following three categories: i) the collaborative workspace is in an *Opportunity Zone;* ii) the collaborative workspace is affiliated with a NJ university or healthcare facility; iii) the collaborative workspace has opened within the last 90 days<br>• Maximum amount per tenant company: $15,000 (including bonuses)<br>• Maximum amount per facility for pilot program: $150,000<br>• Amount of grants that are not utilized for rent for the tenant company identified in the application will be clawed back by EDA during annual collaborative working space reviews |
| **Funding Disbursement** | • **Full amount of the grant will be disbursed after the collaborative workspace has met its months of commitment in the space and the tenant company has remained for the additional months, from either 2, 4 or 6- month EDA funded amount as per ICWRI requirements - all disbursement will be made directly to the collaborative workspace for the benefit of the rent expense of the tenant company.**<br>*Full amount of the EDA grant will be disbursed after:*<br>*Step 1: The collaborative workspace has met its committed number of months (either 1 month, 2 months or 3 months)*<br>*Step 2: The tenant/member has remained and paid for its additional months (either 3 months, 6 months or 9 months)*<br>*Step 3: The collaborative workspace submits the disbursement request illustrating that both parties have met the agreed upon terms and the tenant/member stayed for the sum of Step 1 and Step 2.* ***(Change approved Memo dated September 18,2018)*** |

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| **Application and Approval Process** | • All NJ based collaborative workspaces must apply for participation into the ICWRI as detailed herein.<br>• The collaborative workspace will apply for a grant to the EDA once it has partnered with a tenant company (e.g., signed a lease or a lease contingent on grant funding to start within 30 days +/- from grant application submission date).<br>• Funds will be reserved for approved applicants while awaiting achievement of disbursement milestones.<br>• The EDA is responsible for reviewing and approving the applications by ensuring that they submitted the necessary required documentation.<br>• Applications will be reviewed on a rolling basis until all funds are committed, or program sunsets. |
| **Fees** | None |
| **Bonus Months** | To further assist the growth of incubators and collaborative workspaces, EDA will provide an additional month of grant funding for each of the following three bonus categories:<br>i) Located in a designated *Opportunity Zone* census tract<br>ii) Affiliated with a hospital system or a New Jersey university<br>iii) Been open less than 90 days from day of application and cannot be in the same location as an existing facility. |
| **Commitment to NJ** | Incubator and collaborative workspace participation:<br>• Invest in a NJ early-stage technology or life sciences company by providing 1, 2, or 3 months of free rent.<br>• The facility will need to make a commitment to holding 10 community events per year (e.g., host meetups, office hours for accountants/lawyers/investors/consultants, panels). Failure to perform the above may result in removal from the program and negatively impact the ability of the collaborative workspace to qualify for future EDA programs.<br><br>Grant:<br>• The workspace must confirm that the tenant company tied to the grant remained at the facility for at minimum the entire program commitment period. The program period includes the workspace grant rent period, tenancy period that is 1x the total grant funding, and EDA grant funded period. If the tenant company leaves the space before the full program period, the Collaborative Space will be required to refund the portion of the grant that was not utilized for the specific tenant rent. |

Appendix B2

| Current Term (from Pilot program currently): | Proposed Pilot Changes become: |
|---|---|
| • Collaborative workspaces must contain any of adjacent office, lab or hot desks in which employees of multiple companies, necessarily including, but not limited to, companies up to 3 years from the earliest date of formation, are conjoined under one roof by shared conference, meeting or gathering space. | • **"Collaborative workspace"** means a business facility approved under NJ Ignite program, located in New Jersey, developed to provide flexible workspaces for early stage innovation economy businesses, and designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared community events and shared workplace accommodations including, but not limited to, kitchens and makerspaces.<br>• Collaborative workspaces must contain any of adjacent office, lab or hot desks in which employees of multiple companies, necessarily including, but not limited to, companies up to 3 years from the earliest date of formation, are conjoined under one roof by shared conference, meeting or gathering space. |
| • **"Innovation Ecosystem Building Event"** means community events such as meet-ups, speaker series, office hours for attorneys, accountants, consultants, and/or investors, which may include on-line events. | • **"Community event"** means an event hosted by a collaborative workspace and accessible to start-up tenant or member businesses, without charge or with nominal charge, organized to support an innovation ecosystem at the collaborative workspace, including, but not limited to, events such as meet-ups, speaker series, and office hours for lawyers, accountants, consultants, or investors.<br>• This may include on-line events. |

| Current Term (from Pilot program): | Proposed Pilot Changes (from Legislation): |
|---|---|
| • Full-time employees shall consider W2 or 1099 employees working for the start-up member/tenant business. | • **"Full time employee"** means a person who is: employed by the start-up tenant or member business for at least 35 hours a week; working as an independent contractor providing critical capabilities to the start-up tenant or member business for at least 35 hours a week; or an owner or partner of the start-up tenant or member business who works for at start-up tenant or member business for at least 35 hours a week. |
| • **"Tenant"** means eligible start-up tenant company leasing a space from Grantee under the Lease or Membership Agreement. | • **"Start-up tenant or member business"** means an early stage innovation economy business that is registered to do business in New Jersey, rents space in, or access to, a collaborative workspace under the program, and enters into an agreement with the owner and operator of the collaborative workspace to rent space in, or access to, the collaborative workspace for an agreed upon period, which shall include the authority commitment period, collaborative workspace commitment period, and start-up tenant or member business commitment period. |
| • Eligibility Requirements for Tenants Companies partnering with the Collaborative Workspaces. The collaborative workspace should ensure the tenant company signs a verification form that certifies (citing specific, verifiable details as appropriate) the company meets the following requirements: • Is less than 3 years from the date of earliest formation<br>• Has less than 10 employees (1099 and/or W2)<br>• Has less than $1,000,000 in trailing twelve months gross sales from application submission<br>• Has a minimum of one full time (i.e., works more than 35 hours per week for the company) NJ employee that will be working in the facility (1099, W2, and common law employees are eligible)<br>• Has not previously utilized a collaborative workspace in NJ (use of out-of-state collaborative workspaces does not disqualify the tenant) | • **"Early stage innovation economy business"** means a business that operates within a targeted industry with<br>-at least one full-time employee, who is assigned to the collaborative workspace, and<br>-fewer than 10 employees overall and with less than $1,000,000 in gross sales over the 12-month period immediately prior to submitting an application for tenancy at a collaborative workspace.<br>-To be considered an "early stage innovation economy business" the earliest date of formation for the business must have been not more than seven years prior to utilizing or renting space in, or access to, the collaborative workspace under the program, and the business shall not have previously utilized or rented space in, or access to, another collaborative workspace in the State. |

| Current Term (from Pilot program): | Proposed Pilot Changes (from Legislation): |
|---|---|
| • Collaborative Work Space Eligibility Requirements - To be accepted as an ICWRI facility, the collaborative workspace, needs to sign a verification form that certifies (citing specific, verifiable details as appropriate) that they meet the following requirements:<br>• Located in New Jersey<br>• Collaborative workspaces must contain any of adjacent office, lab or hot desks in which employees of multiple companies, necessarily including, but not limited to, companies up to 3 years from the earliest date of formation, are conjoined under one roof by shared conference, meeting or gathering space.<br>• Will host at least 8 innovation ecosystem building events a year (examples of events include: meet-ups, speaker series, office hours for lawyers/ accountants/ consultants/ investors) (virtual events permitted in 2020)<br>• Satisfactory NJ tax clearance<br>• Registration certificate to conduct business in NJ<br>• Has a minimum of 5 unique paying tenants over the last 2 years (tenants must have an arms-length relationship with the collaborative workspaces owners and operators); collaborative workspaces formed less than 90 days prior to the approval request may qualify for the program if they have at least 3 signed prospective lease agreements and meet other requirements<br>• Has a cost of operating the facility (e.g., rent or mortgage or internal corporate charge-back)<br>• Offer at least one variety of work space - private office space, hot-desks or dedicated desks<br>• Charges the same or comparable rent to NJ Ignite participating and non-participating tenants | • The owner and operator of a business facility located in the State may apply to the authority to have the business facility certified as a collaborative workspace under the program. A business facility shall be eligible for certification as a collaborative workspace if:<br>(1) the business facility is developed to provide flexible workspaces for early stage innovation economy businesses;<br>(2) the business facility is designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared workplace accommodations;<br>(3) the owner and operator of the business facility commits to hosting at least eight community events from the business facility each year;<br>(4) the owner and operator of the business facility possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury;<br>(5) the owner and operator of the business facility possesses a business registration certificate issued by the Division of Revenue in the Department of the Treasury;<br>(6) at least five unique tenant or member businesses, in which the owner and operator of the business facility does not have a direct financial interest, have paid rent for space in, or access to, the business facility over the two years immediately preceding the submission of the application for certification as a collaborative workspace pursuant to this section or, if the business facility has been open for less than 90 days, the owner and operator of the business facility provides to the authority at least three letters of intent from prospective tenant or member businesses;<br>(7) the business facility is subject to ongoing operating costs, such as rent, mortgage payments, or internal corporate charge-backs, at the time of application for certification pursuant to this section such that the workspace can demonstrate the grant will meaningfully support the costs associated with running the workspace |

| Current Term (from Pilot program): | Proposed Pilot Changes (from Legislation): |
| --- | --- |
| | (8) the owner and operator of the business facility offers at least one type of workspace at the business facility for rent by an early stage innovation economy business - private office space, hot-desks or dedicated desks;<br>(9) the owner and operator of the business facility charges rent to tenants or members; and<br>(10) the owner and operator of the business facility certifies that any rent charged to a start-up tenant or member business is to be market-rate. |
| • Acceptance of all required documentation by Staff<br>• They (The workspace) must submit a satisfactory NJ tax clearance and a registration certificate to conduct business in NJ. The Authority will reserve the right to conduct site visits and/or audit to confirm any statement made in the collaborative workspace's certification. In instances where statements made in the workspace certification are found to be inaccurate, EDA may remove the Incubator and Collaborative workspace from program participation. | (1) The owner and operator of a business facility eligible for certification as a collaborative workspace pursuant to sections above shall submit an application for certification and participation in the program in such form as required by the authority. The application shall include any information the authority determines is necessary to administer the program.<br>(2) In evaluating applications for certification as a collaborative workspace, the authority may conduct site visits or perform any other investigation necessary to confirm any statement made in the application submitted by the owner and operator of the business facility. If the authority later finds that any statement made in the application for certification is inaccurate, then the authority may rescind its certification of the collaborative workspace. |

| Current Term (from Pilot program): | Proposed Pilot Changes (from Legislation): |
|---|---|
| • Once a workplace is approved, they are eligible to apply for the NJ Ignite grant. To apply, a workspace must reach an agreement with a prospective tenant on the length of the workspace's rent grant (1, 2, or 3 months). EDA's grant will be for 2x the collaborative workplace's commitment. The NJ Ignite partner must submit a grant application for this real estate partnership to EDA for approval. This grant application will include a certification (citing specific, verifiable details as appropriate) from the tenant company. | • Following approval of an application for certification, to participate in the program the authority and the owner and operator of a collaborative workspace shall enter into a grant agreement governing the terms, conditions, and timing under which the authority shall pay the start-up rent grant to the owner and operator of the collaborative workspace. The grant agreement shall require a collaborative workspace to share data concerning its participation in the program and on collaborative workspace utilization for the purpose of better program planning and the development of new programs to further support the State's economy. |
| • The maximum lifetime grant amount that can be provided to a workspace for use toward the rent of the same company under this program is $15,000. The maximum amount of EDA grants that a workspace can match during the pilot is $150,000. The NJ Ignite Pilot program is funded from ERF for up to $500,000 for the life of the program. | • In accordance with the grant agreement, the authority shall provide start-up rent grants to the owner and operator of a collaborative workspace through a series of scheduled payments as set forth in the grant agreement. The owner and operator of the collaborative workspace shall utilize the grant funding to provide rent-free space to a start-up tenant or member business that agrees to continue renting space in, or access to, the collaborative workspace for the start-up tenant or member business commitment period. The maximum start-up rent grant that the authority may provide to a collaborative workspace for the tenancy of a single start-up tenant or member business shall not exceed $25,000. NJ Ignite legislation provides an annual program budget of up to $250,000 annually. The Governor's proposed budget includes an allocation for up to $1,000,000 that may be accessed on top of the $250,000 annual cap if approved. Maximum grant per approved workspace per year is set at $100,000. |

| Current Term (from Pilot program): | Proposed Pilot Changes (from Legislation): |
| --- | --- |
| • To further assist the growth of incubators and collaborative workspaces, EDA will provide an additional month of grant funding for each of the following three bonus categories:<br><br>**i)** Located in a designated Opportunity Zone census tract<br>**ii)** Affiliated with a hospital system or a New Jersey university<br>**iii)** Been open less than 90 days from day of application and cannot be in the same location as an existing facility.<br><br>• The total grant award, including bonus month(s) may not exceed $15,000. | • The authority may provide a start-up rent grant for the payment of rent for space in, or access to, a collaborative workspace for up to six months; provided, however, if a collaborative workspace or start-up tenant or member business satisfies any of the bonuses set forth in (1) through (5) below, then the authority may provide an additional month of rent for each bonus satisfied by the collaborative workspace or start-up tenant or member business. The authority may award a bonus if:<br>**(1)** the collaborative workspace is located in a qualified opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;<br>**(2)** the collaborative workspace is affiliated with a hospital system or a New Jersey university;<br>**(3)** the collaborative workspace has been open less than 90 days from the date on which the owner and operator of the collaborative workspace applied to the authority to participate in the program and the collaborative workspace is not in the same location as an existing facility;<br>**(4)** the start-up tenant or member business for which the start-up rent grant is paid is certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.); or<br>**(5)** the start-up tenant or member business for which the start-up rent grant is paid is the first presence of a foreign company entering into the United States.<br><br>• The total grant award, including bonus month(s) may not exceed $25,000. Bonus months are first awarded to offset early-stage business commitment, second to offset workspace commitment. Any bonus months that exceed the combined startup and workspace commitments will be disregarded. |

| Current Term (from Pilot program): | Proposed Pilot Changes (from Legislation): |
|---|---|
| • In a yearly review EDA will request documentation that rent grants were fully utilized for the tenant/member companies for which each grant was awarded. The EDA will also request a list of the community events throughout the year. | **(1)** The owner and operator of a collaborative workspace shall annually certify to the authority, under the penalty of perjury, that it is in compliance with the grant agreement.<br>**(2)** In addition to the certification required pursuant to paragraph (1) of this subsection, the authority may conduct an annual inspection and review of the collaborative workspace and may request documentation evidencing that the collaborative workspace utilized the start-up rent grant it received from the authority in accordance with the requirements of the program and the grant agreement. |
| • The workspace must confirm that the tenant company tied to the grant remained at the facility for at minimum the entire program commitment period. The program period includes the workspace grant rent period, tenancy period that is 1x the total grant funding, and EDA grant funded period. If the tenant company leaves the space before the full program period, the Collaborative Space will be required to refund the portion of the grant that was not utilized for the specific tenant rent. | • If a start-up tenant or member business stops occupying or accessing a collaborative workspace before the end of the start-up tenant or member business commitment period, then the collaborative workspace shall refund to the authority that portion of the start-up rent grant covering any period in which the start-up tenant or member business did not have space in, or access to, the collaborative workspace. |
| • Failure to perform the above may result in removal from the program and negatively impact the ability of the collaborative workspace to qualify for future EDA programs. | • If the authority determines that a collaborative workspace is not in compliance with the requirements of the program or of the grant agreement, then the authority may rescind the business facility's certification as a collaborative workspace and bar the business facility from further participation in the program. |

# CLEAN ENERGY

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** May 12, 2021

**RE:** NJ Wind Turbine Tech Training Challenge

**Summary**

The Members are requested to approve:

1. The creation of the NJ Wind Turbine Tech Training Challenge – a competitive grant program to award a grant of up to $1,000,000 to a New Jersey community college to establish an offshore wind turbine technician training program that includes an industry-recognized, credit-bearing certificate program and pathway to an Associate degree or higher. The grant will be awarded to the proposal that achieves the highest overall score based on the scoring criteria set forth in the attached product specifications.

2. Utilization of $1,000,000 from the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA and NJBPU that was executed on September 28, 2020, to support wind turbine technician training.

**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. In addition, the plan asserts a commitment to investing in people in order to empower New Jersey students and workers to take advantage of high-growth, high-wage jobs. Governor Murphy's talent development plan, "JobsNJ: Developing Talent to Grow Business in the Garden State" emphasizes the need to bolster industry recognized post- secondary credential programs that support career pathways. The growth of the offshore wind turbine technician occupation in New Jersey represents an opportunity to realize each of these priorities.

Offshore wind turbine technicians maintain and repair wind turbines. They apply mechanical, hydraulic, and electrical and information technology skills to ensure the turbines operate effectively. Industry places significant value on having a local workforce that is equipped to carry out these critical functions throughout the installation and operation of wind farms. The workforce need for offshore wind turbine technicians was underscored by industry in discussions organized by the Governor's WIND Council, per Executive Order No. 79, as well as defined in the New Jersey Offshore Wind Strategic Plan released by NJBPU in September 2020 as offshore wind turbine technician training does not currently exist in New Jersey.

In addition, the development of an offshore wind turbine technician training program in New Jersey creates promising career opportunities for New Jersey students and workers. The profession is growing rapidly; as more turbines are installed, more wind turbine technicians are needed. According to the U.S. Bureau of Labor Statistics, employment of wind turbine service technicians (including onshore and offshore) is projected to grow 61% from 2019 to 2029, significantly outpacing most professions. Establishing a New Jersey based training program will support the development of a locally based, skilled workforce that can meet this demand.

The State has a unique opportunity to lay the groundwork for driving the growth of the State's offshore wind turbine technician occupation by helping to establish training that creates new career opportunities for New Jerseyans, promotes diversity and inclusion in the workforce, harnesses the best-in-class training capabilities of New Jersey's community colleges and their partners, meets the workforce needs of industry, and prepares the State to achieve its goal of generating 7,500 MW of offshore wind energy by 2035.

**Program Design**

The NJ Wind Turbine Tech Training Challenge is a competitive grant program open to all New Jersey community colleges that propose a solution to:

- Develop and operate an industry-recognized offshore wind turbine technician training program utilizing facilities and equipment that are conducive and sufficient to providing the training, and that includes a credit-bearing certificate and pathway to an Associate degree or higher;
- Collaborate with labor unions and industry stakeholders to develop a targeted curriculum that meets industry needs;
- Utilize outreach and recruitment practices and program design approaches that target and support a diverse and inclusive pool of training participants to enroll in and complete the program;
- Create clear and inclusive career pathways for students to enter and grow in the offshore wind industry; and
- Launch the certificate program by the first quarter of 2023.

The community college that is awarded this grant will use the grant funding to work with industry and other stakeholders to design a curriculum that meets the program's goals and industry standards. Eligible uses of grant funding include planning, soft launch, or capital costs. Potential components of the curriculum[1] may include:

[1] Bristol Community College's Offshore Wind Power Technology certificate program and Kalamazoo Valley Community College's Wind Turbine Technician Academy certificate program are examples of programs with similar

- Wind power operations and maintenance
- Wind power technology
- Information technology/software programs
- Renewable energy
- Algebra
- OSHA 10
- Resume writing and interview skills
- Electrical machinery
- Fluid systems
- Mechanical systems

New Jersey community colleges are the only entities eligible to apply for this grant as a primary applicant. New Jersey community colleges have the ability to provide a holistic program with a stackable credential (e.g. pathway to an Associate degree), have demonstrated experience serving a diverse population, can offer a wide range of support services (e.g. career services, family services, counseling, mentoring, etc.) and are well positioned to convene and work with various parties to support multiple career pathways.

Recognizing that collaborations with labor unions and industry are necessary for the successful development and delivery of the program, any New Jersey community college applying for this grant must submit applications that include plans to collaborate with regional councils or other umbrella labor union groups to meet the program's goals. Applicants must also include plans to collaborate with representatives of potential employers to ensure curriculum is aligned with industry needs and that the program prepares students for employment in New Jersey's initial offshore wind projects.

Additionally, community colleges will be encouraged to submit applications that include collaborations with other entities as needed to meet program goals such as other community colleges, higher education institutions, training providers, non-profit organizations and/or other private entities. Such collaborations can bolster outreach, recruitment, curriculum development and delivery, support services, hands-on/on-the-job training opportunities (including but not limited to access to internships, apprenticeships, and training facilities), job placement services and other program needs. Regardless of the number of collaborators, the NJEDA will only enter into an agreement with and award the grant to the single primary applicant (the community college).

Proposals will be evaluated, scored, and ranked by an Evaluation Committee comprised of staff from NJEDA, Office of the Secretary of Higher Education, and Department of Labor & Workforce Development. Other Subject Matter Experts (SMEs) from NJEDA may serve in an advisory role. Proposals will be assessed based on applicants' demonstrated abilities to:

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curriculum components. These examples are offered for illustrative purposes and all components of those programs are not intended to be viewed as requirements for this grant challenge. Note: Kalamazoo Valley's program is for onshore wind turbine technicians.

- Develop and deliver training that equips students with the knowledge, skills, and hands on experience that industry requires for offshore wind turbine technicians, as well as provides students with a credential (credit-bearing certificate and pathway to an Associate degree or higher) that is recognized and valued by offshore wind developers, equipment manufacturers and other potential employers;
- Develop approaches for recruitment and program design that enables a diverse student population to enroll in and successfully complete the program, and that drives equity, diversity and inclusion in the broader offshore wind industry;
- Collaborate with industry and regional councils or other umbrella labor groups to meet program goals;
- Execute the project efficiently and on schedule, achieving well-defined milestones to launch the program, targeted for the first quarter of 2023; and
- Manage available resources efficiently to fully deliver on the Challenge objectives and ensure sustainable operation of the training over time.

Detailed proposal requirements and evaluation and scoring criteria are included in the attached program specifications. The highest-scoring applicant will be recommended to the Members for approval of a grant of up to $1 million. Only one grant will be awarded under this program, and an applicant must achieve a minimum requisite score of 80 points (out of a possible 100) to be considered eligible to receive the grant. Applications that require funds in excess of the grant amount must demonstrate proof or commitment for any funding needed in excess of the grant amount prior to the execution of grant agreement. If the selected applicant is not able to demonstrate proof of commitment for any funding needed in excess of the grant such that NJEDA and the selected applicant cannot execute a grant agreement in a timely manner, NJEDA reserves the right to terminate the initial selection and award the grant to the next highest scorer.

Once a grant is awarded, the grant recipient will be responsible for providing NJEDA with a detailed interim and end-of-year progress report each year of the project, until the launch of the certificate program, and then for every year thereafter while the program is running until 2026. Reports must detail budgetary information, progress against milestones as outlined in the proposal, and the emergence of challenges or impediments to the development of the training program. Reports submitted after the certificate program is running must also include information on number of participants who enrolled and/or completed the program, key demographic metrics – including race and gender – and information on post-program completion job placements as available.

Further detail on how the program will be administered, including application process, scoring criteria, and disbursement structure, are outlined in the attached product specifications.

**Recommendation**

The Members are asked to approve: 1) The creation of the NJ Wind Turbine Tech Training Challenge – a competitive grant program to award a grant of up to $1,000,000 to a New Jersey community college to establish an offshore wind turbine technician training program that includes an industry-recognized, credit-bearing certificate program and pathway to an Associate degree or higher, and 2) Utilization of $1,000,000 from the Offshore Wind Sector Initiatives

Memorandum of Understanding between NJEDA and NJBPU that was executed on September 28, 2020, to support wind turbine technician training.

Attachments
Exhibit A – NJ Wind Turbine Tech Training Challenge – Program Specifications

| **NJ Wind Turbine Tech Training Challenge**<br>**Proposed Program Specifications** | |
|---|---|
| **Funding Source** | Up to $1 million - Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA / NJBPU |
| **Program Purpose** | The aim of the NJ Wind Turbine Tech Training Challenge is to establish a credit-bearing certificate program that will enable New Jerseyans to achieve industry-recognized, offshore wind turbine technician training and credentials so that they can participate in the growing offshore wind industry and help accelerate the growth of the industry in New Jersey. |
| **Eligible Applicants** | Only New Jersey community colleges are eligible to apply for this grant as the primary applicant but must include plans to collaborate with the following as part of their submissions: 1) regional councils or other umbrella labor union groups and 2) representatives of potential employers. Community colleges are additionally encouraged to collaborate with other entities as needed to meet program goals such as other community colleges, higher education institutions, training providers, non-profit organizations and/or other private entities. |
| **Eligible Uses** | Grant to be used to support costs associated with designing a curriculum and delivering a successful program to be launched by the first quarter of 2023. Potential components of the curriculum may include:<br>• Wind power operations and maintenance<br>• Wind power technology<br>• Information technology/software programs<br>• Renewable energy<br>• Algebra<br>• OSHA 10<br>• Resume writing and interview skills<br>• Electrical machinery |

| **NJ Wind Turbine Tech Training Challenge<br>Proposed Program Specifications** | |
|---|---|
| | • Fluid systems<br>• Mechanical systems<br>Eligible costs may include planning (e.g. staff costs for curriculum development), soft launch (e.g. outreach and recruitment materials, instructor costs), or capital costs (e.g. facility build out, equipment).<br><br>Prior to executing the grant agreement, the grantee will coordinate with NJEDA to ensure labor compliance, including compliance with prevailing wage and Affirmative Action requirements, where applicable. |
| **Application Process and Board Approval/** | Applications will be accepted during a competitive application round, after which all applications will be reviewed by an Evaluation Committee along the scoring criteria established below. Applications will be reviewed in the order in which they are received, but all applications submitted during the application round will be reviewed by the Evaluation Committee.<br><br>The application with the highest overall score will be recommended to the Board for approval.<br><br>Applicants will be required, as part of the application, to provide narrative responses to questions proposed by NJEDA, which will demonstrate the applicant's ability to:<br>• Develop and deliver industry-recognized training<br>• Create career pathways for New Jerseyans<br>• Implement the program and launch by first quarter of 2023<br>Additionally, the responses will provide more insight into the resources proposed by the applicant to establish the curriculum and meet the program goals.<br><br>Applications must include plans to:<br>• Collaborate with regional councils or other labor union umbrella groups to meet the program's goals, and |

| **NJ Wind Turbine Tech Training Challenge<br>Proposed Program Specifications** | |
|---|---|
| | • Collaborate with representatives of potential employers to ensure curriculum is aligned with industry needs and that the program prepares students for employment in New Jersey's initial offshore wind projects<br><br>Applicants must provide a detailed budget that demonstrates how the grant will be used, utilizing NJEDA's budget template. |
| **Grant Amounts** | One grant of up to $1 million to be awarded to highest scoring applicant (subject to Board approval) |
| **Scoring Criteria** | Applications to be scored by an Evaluation Committee based on the following criteria:<br><br>**Highest Score Possibility: 100 points**<br>**Minimum Score Requirement: 80 points**<br><br>In general, applicants will have the opportunity to receive the points outlined below based on the following criteria:<br><br>• Compelling plan and ample evidence of ability to execute – Full Credit/Points<br>• Moderately compelling plan and/or minimal evidence of ability to execute– Partial Credit/Points<br>• No compelling plan and/or no evidence of ability to execute. – No Credit/Points<br><br>**Criteria 1 - Demonstrated ability to develop and deliver industry-recognized training (Up to 35 points)**<br><br>• Provides a detailed and realistic plan for building and delivering an offshore wind turbine technician training program that will be recognized by industry (Up to 15 points) |

| **NJ Wind Turbine Tech Training Challenge<br>Proposed Program Specifications** | |
|---|---|
| | • Has significant experience delivering best-in-class programs that equip students with the necessary skills needed to be successful in the industry (Up to 10 points)<br><br>• Outlines a plan that demonstrates a strong understanding of what is required from the training to meet the needs of industry and strategies to engage with industry in the program development (Up to 5 points)<br><br>• Details a clear plan for securing qualified instructors that includes evidence of relevant experience securing instructors with specific skill sets for new programs (Up to 5 points)<br><br>**Criteria 2 - Demonstrated ability to create career pathways for New Jerseyans (Up to 35 points)**<br><br>• Details a compelling approach for delivering a stackable credential, including a credit-bearing certificate and pathway to higher degree(s), with opportunities for hands-on learning (Up to 10 points)<br><br>• Demonstrates an ability and plan for creating synergies between offshore wind programming and that of other clean energy sectors to broaden opportunities for students (Up to 3 points)<br><br>• Details a convincing plan for driving equity, diversity and inclusion, including a diversity reporting strategy (Up to 10 points)<br><br>• Details an effective plan to collaborate with labor union(s) to meet program goals (Up to 5 points)<br><br>• Details a realistic and sustainable plan for ensuring affordability for students (Up to 7 points)<br><br>**Criteria 3 - Demonstrated ability to implement (Up to 15 points)** |

| **NJ Wind Turbine Tech Training Challenge<br>Proposed Program Specifications** | |
|---|---|
| | • Details a realistic timetable with clear milestones and a convincing path to target launch of the certificate program by first quarter of 2023 (Up to 5 points)<br>• Has requisite internal expertise assigned specifically to this project (Up to 5 points)<br>• Demonstrates capacity to provide requisite facilities to successfully meet program goals (Up to 5 points)<br>**Criteria 4 - Resources required (Up to 15 points)**<br>• Grant funds requested (Up to 3 points – Application with the lowest amount of requested funds will be awarded 3 points; all other applications will be awarded a pro-rated number of points based on the percent difference from the lowest requested grant amount.)<br>• Defines a clear project budget and financing strategy for development and long-term sustainable operation of the program, including outlining costs to be covered by grant and defining funding sources for project costs that exceed the grant amount. Applications that require funding in excess of the grant must clearly demonstrate the applicant's ability, including timing, to secure all necessary funding required to deliver the program and meet program goals. (Up to 12 points) |
| **Funding Disbursement** | The grant will be disbursed according to the following milestones:<br>• 25% of the grant to be disbursed upon execution of a grant agreement between NJEDA and the highest scoring community college (contingent upon Board approval of the grant award). Applications that require funds in excess of the grant amount must demonstrate proof or commitment for any funding needed in excess of the grant amount prior to the execution of grant agreement. If the selected applicant is not |

| NJ Wind Turbine Tech Training Challenge<br>Proposed Program Specifications | |
|---|---|
| | able to demonstrate proof of commitment for any funding needed in excess of the grant such that NJEDA and the selected applicant cannot execute a grant agreement in a timely manner, NJEDA reserves the right to terminate the initial selection and award the grant to the next highest scorer.<br><br>• 50% of the grant to be disbursed upon the college's presentation of a detailed implementation plan to NJEDA.<br><br>• 25% of the grant will be disbursed upon the launch of the certificate program, expected to be Q12023. To receive this final disbursement, the community college must provide sufficient evidence that at least 75% of the funding previously received from the first two disbursements was used to pay for eligible planning, soft launch, or capital costs incurred to date. |

# FINANCE AND PROFESSIONAL SERVICES

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** esports Innovation Center Memorandum of Understanding (MOU)—New Jersey Economic Development Authority (NJEDA) and Stockton University (Stockton)

**Request**

The Members are requested to approve a Memorandum of Understanding (MOU) between NJEDA and Stockton University that will enable NJEDA to provide $200,000 in funding plus staff resources to Stockton University for its esports initiative, which includes Stockton's establishment of an esports Innovation Center ("the Center") in Atlantic City and support of its associated activities. Stockton has determined that the Center will operate as a separate 501(c)(3) nonprofit entity housed at Stockton University and be funded primarily by membership dues from private sector companies and other organizations within the esports, technology, and gaming industries.

The Members are requested to approve delegated authority for the following items:

•Provide the CEO of NJEDA the ability to approve a membership agreement between NJEDA and the Center, provided that the membership fee is no more than $50,000 per year. The delegated authority will allow the CEO to renew membership for up to 3 years.

•Provide the CEO of NJEDA the ability to award additional seed capital of up to $100,000 per year for the term of this MOU to support Stockton's initiative.

Additionally, the MOU seeks approval for NJEDA to support marketing of the Stockton initiative to achieve brand awareness of the Center within the esports industry (including but not limited to cross-promotion via NJEDA's social media channels) as well as assistance from NJEDA staff with strategic agenda development to support Stockton's efforts.

The full text of the MOU is included in Exhibit A of this memorandum.

The proposed MOU has a term of 18 months. Members are also requested to provide delegated authority to the CEO to extend the MOU by up to 12 months, if the launch of the Center is determined to be successful.

**Policy alignment**

Governor Murphy's Economic Development Strategic Plan, "The State of Innovation: Building a Stronger and Fairer Economy in New Jersey" specifically highlights investing in emerging innovative industries as critical to the State's economic development strategy.

Relevant to Stockton's esports innovation center initiative, as explained below, are the following. The plan identifies both Technology as well as Finance and Professional Services as strategic focus sectors that have the potential for outsized growth over the next five to fifteen years where the State could use targeted initiatives to promote innovation and economic development within the sectors. NJEDA has determined that esports and its associated supply chains fall within the purview of these strategic sectors.

Further, the plan notes that creating new physical innovation spaces and hubs is an important aspect of building the State's innovation economy through supporting the clustering of industry stakeholders to catalyze innovation. Additionally, the plan includes goals to create the most diverse innovation ecosystem in the country and close the racial and gender wage and employment gaps.

The proposed Stockton esports innovation center initiative will help support technological and product innovation as well as workforce development within the fast-growing esports industry, with the potential economic benefit in the long-run of high-wage, high-value job growth for New Jersey and the Atlantic City region. This initiative will build on New Jersey's existing esports ecosystem and develop Atlantic City as a hub for esports competition, innovation, and wagering.

**NJEDA's strategic support of innovation centers**

Stockton's esports innovation center initiative is part of a wider NJEDA strategic efforts that supports the Governor's Economic Development Plan, specifically through the establishment of physical innovation centers (or centers of excellence) that bring together academic, industry, and government stakeholders to collaborate and promote research, development, and technical/product innovation to help develop clusters within key industry sectors.

NJEDA may partner with any public university as an anchor institution for developing innovation centers provided the proposed activities and additional partners fall within delineated key sector(s) as identified by the Governor's Economic Development Plan and accomplish NJEDA's strategic goals.

As part of Governor Murphy's Economic Development Strategic Plan and NJEDA's purpose, NJEDA seeks opportunities to support innovation that:

1) supports and grows emerging, innovative industries in New Jersey,
2) leverages the relevant expertise of New Jersey academic institutions,
3) includes the necessary infrastructure to serve as a physical hub for R&D and innovation,
4) has the potential for positive social and economic impact in the communities in which they are located, and
5) include a focus on strengthening diversity and equity within an innovative industry.

Stockton's esports Innovation Center initiative meets all of these criteria, including through its potential to catalyze growth and workforce development in the Atlantic City economy, through Stockton's existing strength in esports competition and academics, and through the engagement of the expanding number of companies involved in esports in New Jersey.

**Additional background on the esports industry**

Even before the COVID-19 pandemic put a pause on conventional sports and entertainment, the rising popularity and prevalence of esports in the U.S. had legitimized it as a prime economic development opportunity for New Jersey.

Though the term "esports" generally refers to competitive video gaming, the industry is varied and diversified. Participants in esports competitions range from amateurs and hobbyists competing for fun, to professional teams, leagues, and events with prizes over $1 million. A diversified supply chain has developed, including esports gaming products and gear, streaming and content development, event production, software development, data analytics, machine learning/AI, and now increasingly esports wagering. The industry has a significant technological component, and leading teams and firms rely on cutting-edge innovations to reduce delays and latency to ensure responsive gameplay, effectively engage fans and spectators, harness analytics to improve player skills, strategy and coaching, and create the latest in technological and ergonomic hardware to give players and teams the latest competitive edge.

esports has been popular overseas, particularly in Asia, for several years, and has become an established, multi-billion-dollar global industry. The industry has also swiftly grown in popularity in the United States, with total revenues in North America projected to reach $250 million this year and a viewing audience of 57 million people. By 2025 the industry is expected to reach $9 billion globally.

The esports industry can help diversify New Jersey's tourism and entertainment sector and be a source of new high-quality, high-wage jobs, such as software engineers, product developers, and content provision/event production roles. The industry is large and rapidly growing, with total esports employment in the US nearly doubling from Q2 2019 to Q2 2020.

Technology-focused esports companies can leverage New Jersey's existing strengths in technology and innovation and build on the nascent esports ecosystem emerging in the state. For example, G3 esports, an Atlantic City-based esports production platform, has partnered with German streaming company SportTotal AG to establish Conference One, the first varsity esports collegiate conference in the United States. Amazon, which is highly invested in esports through Twitch, a leading streaming platform, and other technologies, has expressed specific interest is supporting esports activities in New Jersey. Elsewhere in the state, esports Entertainment Group, a publicly traded company, has located in Newark office space alongside Harris Blitzer Sports and Entertainment (HBSE). HBSE was an early investor in the esports sector including their ownership of the Dignitas franchise, a professional esports team which competes in several leagues/games globally. There is significant potential to expand the industry here and to position Atlantic City and New Jersey as innovation leaders in esports.

**Proposed activities and focus of the esports Innovation Center**

NJEDA and Stockton have worked together over the last six months to define a specific set of activities for the proposed Center that will enhance the State's position within the industry, create new academic and workforce development opportunities, and support local economic development. NJEDA staff will provide support solely to Stockton in its efforts to support these activities. These proposed activities include:

- Catalyzing collaborative technology innovation

  The Center will catalyze industry growth by identifying industry-wide technology development opportunities and hosting "hack-a-thons" and similar coding challenges focused on creating innovative solutions. This can include developing new technologies to improve gameplay, engaging online audiences, and integrating esports into the existing sports wagering ecosystem.

- <u>Supporting workforce development within the esports industry</u>

  The Center will be a hub for workforce development in esports technology, working with private sector companies and colleges and universities to develop programs teaching the skills most in-demand in the industry. Specific programs can include internship programs, training for industry certifications, and curriculum development for undergraduate majors or minors in esports technology.

- <u>Positioning New Jersey and Atlantic City as an esports leader through events and thought leadership</u>

  The Center will convene industry events, such as seminars, conferences, and technology demonstrations, that highlight opportunities and leading-edge developments in esports technology. The Center will also support esports-related research at New Jersey academic institutions, which are already home to researchers working in the fields of human-computer interaction, cloud computing, virtual reality, machine learning, and other disciplines connected to the industry. Funding and publicizing this research will help ensure that New Jersey businesses benefit from cutting-edge innovations.

- <u>Identifying and promoting best practices for regulating wagering on esports and ensuring integrity in competitions</u>

  The Center will work with the Division of Gaming Enforcement as well as independent bodies that govern integrity in competitions, with a goal of positioning New Jersey as national leader in regulation and integrity practices for esports. Proximity to the Division of Gaming Enforcement's Atlantic City offices will allow for testing of novel products. The Center could play a significant role in opening the door for a regulatory system that streamlines the process of approving esports competitions for wagering while ensuring integrity is protected.

- <u>Promoting diversity and inclusion, as well as healthy gaming practices, as essential components of esports culture.</u>

  The Center will promote opportunities for underrepresented groups as the esports industry expands. The Center can engage with diversity- and inclusion-oriented organizations and support research by academics who study the creation of positive, inclusive online communities. To diversify the pipeline of future professional players and industry leaders, the Center can lead initiatives to increase diversity in youth and collegiate esports and computer science. In addition, the Center can partner with health-related organizations to increase awareness of the increasing importance of physical fitness in esports.

**<u>MOU Description</u>**

The proposed MOU will provide $200,000 in funding to support Stockton University's initiative, which includes Stockton's efforts to launch an esports Innovation Center that will build on New Jersey's existing esports ecosystem and develop Atlantic City as a hub for esports competition, innovation, and wagering, as well as its ongoing activities for the duration of the MOU term. The NJEDA will also commit staff resources and time to working with Stockton on this initiative. NJEDA will also work to engage other government entities in the development of the Center and help to market the effort as part of the State's economic development and innovation economy activities.

Stockton will engage, through a separate master services agreement, EDGE, a service agent to assist Stockton with establishing the Center as a separate 501(c)3 organization and hiring administrative agent(s) to staff and operate the Center. Stockton will be solely responsible for this engagement process and will ensure that this engagement process satisfies all applicable University and State law procurement requirements. . Additionally, NJEDA will not separately retain EDGE, and is only involved with EDGE as necessary to support Stockton's Center activities. Stockton will provide dedicated space on its Atlantic City campus for the Center and will work with NJEDA on branding and other Center activities

The MOU acknowledges that Stockton is solely responsible for the establishment of the Center as a 501(c)3 non-profit organization through its engagement with Edge to be supported by membership dues from industry participants. The funding provided by NJEDA to Stockton does not constitute any type of membership in the Center.

Authority staff also seeks to reserve the right to seek additional funding from the Board on or around December 31st, 2021 and December 31st, 2022 if they determine additional funding is warranted to help support Stockton's initiative with respect to furthering the activities described above.

The MOU's term is for 18 months and can be extended for an additional 12 months.

**Recommendation**

It is the recommendation of Authority staff that the Members approve the MOU between NJEDA and Stockton University, attached as Exhibit A, to provide staff resources and time, marketing support, and $200,000 in funding to Stockton University's esports initiative, which includes Stockton's establishment of an esports Innovation Center and support of its operations to strengthen the esports industry and workforce in New Jersey. Members are also requested to provide delegated authority to the CEO to extend the MOU by up to 12 months, if the launch of the Center is determined to be successful, to allow the CEO of NJEDA to approve a membership agreement between NJEDA and the Center provided that the membership fee is no more than $50,000 per year and allow the CEO to renew membership for up to 3 years, and to allow the CEO of NJEDA to approve additional seed capital of up to $100,000 per year to support Stockton's initiative throughout the duration of the MOU.

____________________________
Tim Sullivan, CEO

Prepared by: Riley Edwards, Eric Solomon, Bill Penders

Attachment: Exhibit A – Proposed MOU for esports Innovation Center

**<u>ATTACHMENT A:</u>**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**AND**

**STOCKTON UNIVERSITY**

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of this _________ day of ______, 2021 (the "Effective Date"), is between the New Jersey Economic Development Authority ("NJEDA") and Stockton University ("Stockton"). NJEDA and Stockton are collectively referred to herein as the "Parties."

WHEREAS, NJEDA, 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, NJEDA has launched the Strategic Sector team to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; and

WHEREAS, technology and finance/professional services were identified as two of these growth-oriented sectors; and

WHEREAS, sporting competition using video games, also known as esports, and the accompanying technology, product innovations, and supply chain associated with esports are subcomponents thereof; and

WHEREAS, esports is a multi-billion-dollar industry worldwide with high growth potential in the United States and New Jersey in particular; and

WHEREAS, careers in the esports industry have the potential to be high-paying, high-value adding technology, product development, and media jobs key to creating a stronger and fairer New Jersey economy; and

WHEREAS, due to the popularity of in-person and virtual esports competitions and Atlantic City's strong event planning, entertainment, and hospitality experience, esports has the potential to have an outsize impact on the economy of the Atlantic City region and expand the demographic base of Atlantic City's tourism sector; and

WHEREAS, New Jersey's innovative approach to gaming regulation and Atlantic City's strong technical infrastructure allow for the expansion of esports wagering in Atlantic City; and

WHEREAS, in support of growing a robust esports sub-sector, it is in the best interest of NJEDA and the State to promote research and development in pre-competitive and leading-edge technologies with relevance to esports operations; and

WHEREAS, Stockton is a four-year public institution of higher education committed to the positive development of New Jersey and the Atlantic City region through scholarship and creative activity, civic engagement, and active stewardship; and

WHEREAS, Stockton is a leader in collegiate esports scholarship and competition, with a state-of-the-art on-campus esports facility with two dedicated esports gaming labs, thirty-two high-end gaming computers, and a dedicated esports broadcasting office; and

WHEREAS, Stockton intends to help further grow the positive impact of esports on the regional and state economy; and

WHEREAS, Stockton owns and operates facilities in Atlantic City (the "Atlantic City Campus") to support its mission and the Atlantic City region; and

WHEREAS, the creation of a member-funded innovation center in Atlantic City dedicated to research & development, product demonstrations, thought leadership, and other esports-related activities to be known as the "Esports Innovation Center at Stockton University" a/k/a the "Esports Innovation Center" would further both Stockton's and the State's interests; and

WHEREAS, the Esports Innovation Center will catalyze collaborative technology innovation and support workforce development within the esports industry, position New Jersey and Atlantic City as esports leaders through events and thought leadership, identify and promote best practices for regulating wagering on esports, and promote diversity and inclusion, as well as healthy gaming practices, as essential components of esports culture; and

WHEREAS, Stockton will through a separate master services agreement engage EDGE, a member-owned, non-profit provider of professional managed services and other technology solutions to colleges and universities, non-profit business entities and other entities, to assist Stockton in the establishment and operation of the Esports Innovation Center including but not limited to back-office services, as necessary to support the operations of the Esports Innovation Center; and

WHEREAS, Stockton, through its separate master services agreement engaging EDGE, will be solely responsible for this engagement process and will ensure that this engagement process satisfies all applicable University and State procurement laws and requirements; and

WHEREAS, NJEDA will not separately retain EDGE, and is only involved with EDGE as necessary to support Stockton pertaining to its activities outlined in the below sections; and WHEREAS, the Parties agree that it is in their best interest and in the best interest of the public to enter into this MOU; and

WHEREAS, N.J.S.A. 52:14-1 et seq. authorizes state agencies to enter agreements to provide assistance to each other.

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

1) Stockton will undertake the following activities:
    a. With the assistance of EDGE, establish the Esports Innovation Center as an independent 501(c)(3) that is separate from Stockton.
    b. Appoint one or more Stockton representative(s) to serve on the board of trustees of the Esports Innovation Center.
    c. Provide dedicated space in its Atlantic City Campus to the Esports Innovation Center on terms and conditions agreed to by Stockton and the Esports Innovation Center, for an initial estimated term of not less than 20 months.
    d. Provide power and internet to support the Esports Innovation Center's initiatives along with computer stations for the employees working in the Esports Innovation Center.
    e. With the assistance of EDGE and the approval of the board of trustees of the Esports Innovation Center, search and select qualified administrative agent(s) for the Esports Innovation Center to manage and coordinate fundraising, strategic development, event planning, and other Esports Innovation Center activities.
    f. Consult with the NJEDA on the development, onboarding, and engagement of members and key stakeholders of the Esports Innovation Center. Stockton will facilitate contact and activities between and among the Esports Innovation Center, members and key stakeholders.
    g. In addition to its Atlantic City Campus, Stockton will allow the use of appropriate facilities on its main campus in Galloway Township for large capacity events, seminars, demonstrations, etc. as appropriate and as agreed to from time to time, to support the Esports Innovation Center.
    h. Apply funds received initially and from time to time (if needed, as specified in Section 2d) by the NJEDA to support Stockton's esports initiative, including Stockton's efforts to establish and support the operation of the Esports Innovation Center. Stockton will determine how and when to apply funds received from the NJEDA and will provide semi-annual written notice to the NJEDA of the application and use of such funds for any year in which Stockton receives NJEDA funds or upon the termination of this MOU, whichever comes first. Stockton will not be required to apply funds under any specified schedule.

2) The NJEDA will undertake the following activities:
    a. Provide staff resources and time to support Stockton's esports initiative, including Stockton's efforts to establish and support the operation of the Esports Innovation Center (which will be an independent 501(c)(3) organization). The NJEDA will also assist with strategic agenda development, member and stakeholder outreach and engagement, and marketing efforts. NJEDA staff will provide support solely to Stockton for its activities related to the Esports Innovation Center, while Stockton and the Esports Innovation Center will solely be responsible for those activities.
    b. Liaise with other relevant State and Atlantic County and Atlantic City agencies and authorities as necessary or appropriate to support the development and operation of the Esports Innovation Center.
    c. Collaborate with Stockton on publicity and branding to attract more esports-related businesses to Atlantic City and the Esports Innovation Center.

d. Provide funding in the amount of $200,000 to support Stockton's esports initiative as described above. NJEDA staff reserve the right to seek additional funding from the Board on or around December 31st, 2021 and December 31st, 2022 if they determine additional funding is warranted to help support Stockton's esports initiative to further the activities described above. The funding provided by NJEDA to Stockton does not constitute any type of membership in the Esports Innovation Center. NJEDA plans to seek membership in the Center at an estimated cost of $50,000 per year. The NJEDA will not possess any interest or title in any equipment, supplies or other assets that may be purchased with proceeds of the funding.

3) The MOU shall not take effect unless executed by the authorized representatives of NJEDA and Stockton. This MOU becomes effective immediately upon execution and shall remain in effect for eighteen (18) months, unless terminated sooner pursuant to section 4 below. This MOU may subsequently be extended for an additional one (1) year term upon mutual written consent of the Parties.

4) The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to the activities described herein. This MOU 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 NJEDA or Stockton upon 60 days prior written notice to the other party. There are no third-party beneficiaries of this MOU.

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

NJEDA: 36 West State Street
PO Box 990
Trenton, NJ 08625
Attention: Bill Penders
Telephone:
Email:

Stockton: 101 Vera King Farris Drive
Galloway, NJ 08205
Attention: Scott Huston, Chief Information Officer
Telephone: 609-626-3555
Email: Scott.Huston@stockton.edu

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

**For Stockton University:**

Name: Jennifer Potter

Signature: ____________________

Title: Vice President for Administration and Finance
And Chief Financial Officer

**For New Jersey Economic Development Authority:**

Name: Tim Sullivan

Signature: ____________________

Title: Chief Executive Officer

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** Sports Wagering and Fintech Workforce Development and Innovation Center Memorandum of Understanding (MOU)—New Jersey Economic Development Authority (NJEDA) and New Jersey City University (NJCU).

**Request**

The Members are requested to approve a Memorandum of Understanding (MOU) between NJEDA and New Jersey City University that will enable NJEDA to provide $200,000 in funding and staff resources to New Jersey City University to support the establishment and initial activities of a Sports Wagering and Fintech Workforce Development and Innovation Center ("the Center") in Jersey City. The Center will operate as a separate 501(c)(3) nonprofit entity housed at New Jersey City University and be funded primarily by membership dues from private sector companies and other organizations within the sports wagering technology and fintech sectors.

The Members are requested to approve delegated authority for the following items:

Provide the Chief Executive Officer (CEO) of NJEDA the ability to approve a membership agreement between NJEDA and the Center, provided that the membership fee is no more than $50,000 per year. The delegated authority will allow the CEO to renew membership for up to 3 years.

Provide the CEO of NJEDA the ability to award additional seed capital of up to $100,000 per year to support NJCU's initiative throughout the duration of the MOU.

The MOU seeks approval for NJEDA to devote staff time to support NJCU in the branding of the center (including but not limited to cross-promotion via NJEDA's social media channels) as well as strategic guidance to support NJCU in its efforts to establish the Center and support its initial operations. The full text of the MOU is included in Exhibit A of this memorandum.

The proposed MOU has a term of 18 months. Members are also requested to provide delegated authority to the CEO to extend the MOU by up to 12 months, if the launch of the Center is determined to be successful.

**Policy alignment**

Governor Murphy's Economic Development Strategic Plan, "The State of Innovation: Building a Stronger and Fairer Economy in New Jersey" specifically highlights investing in emerging innovative industries as critical to the State's economic development strategy. The plan identifies Finance and Professional Services as one of nine strategic focus sectors that has the potential for outsized growth over the next five to fifteen years where the State could use targeted initiatives to promote innovation and economic development within the sector. NJEDA has determined that, given their high reliance on technology and innovation, both sports wagering technology and financial technology ("fintech") fall within the purview of this sector.

Further, the Strategic Plan notes that creating new physical innovation spaces and hubs is an important aspect of building the State's innovation economy, as these spaces support the clustering of industry stakeholders to catalyze innovation. Additionally, the plan includes goals to create the most diverse innovation ecosystem in the country and close the racial and gender wage and employment gaps.

This recommendation for NJEDA's in-kind and monetary support to help NJCU in launching its Sports Wagering and Fintech Workforce Development and Innovation Center is part of NJEDA's efforts to further each of these goals. The proposed initiative will help support technological and product innovation as well as workforce development within these fast-growing industries, with the potential economic benefit in the long-run of high-wage, high-value job growth for the emerging industry cluster in Jersey City and the surrounding region, as well the wider New Jersey economy. This initiative will build on New Jersey's existing value propositions and continue the development of the State as a hub for sports wagering technology and fintech growth and innovation.

**NJEDA's strategic support of innovation centers**

NJEDA's support of NJCU's initiative is part of a wider NJEDA strategic initiative that supports the Governor's Economic Development Strategic Plan, specifically through the establishment of physical innovation centers (or centers of excellence) that bring together academic, industry, and government stakeholders to collaborate and promote research, development, and technical/product innovation to help develop clusters within key industry sectors. This initiative shares many aspects of similar ones such as NJ Collaborate and the proposed eSports Innovation Center at Stockton University , and NJEDA may partner with any public university as an anchor institution for developing innovation centers provided the proposed activities and additional partners fall within delineated key sector(s) as identified by the Governor's Economic Development Plan and accomplish NJEDA's strategic goals.

As part of Governor Murphy's Economic Development Strategic Plan and NJEDA's purpose, NJEDA seeks opportunities to support innovation that:

1) supports and grows emerging, innovative industries in New Jersey,
2) leverages the relevant expertise of New Jersey academic institutions,
3) includes the necessary infrastructure to serve as a physical hub for R&D and innovation,
4) has the potential for positive social and economic impact in the communities in which they are located, and
5) includes a focus on strengthening diversity and equity within an innovative industry.

NJCU's initiative meets all of these criteria, including through its potential to catalyze growth and workforce development in the Jersey City economy, through NJCU's strong academic focus in areas relevant to sports wagering technology and fintech, and through the engagement of the expanding number of companies involved in sports wagering technology and fintech in New Jersey.

**Background on the Sports Wagering and Fintech industries**

The Center will help support technological and product innovation as well as workforce development within two high growth, high value-add New Jersey industries: sports wagering technology and financial technology ("fintech"). These sectors have already taken root and begun to flourish in New Jersey in part due to its concentration of talent, competitive regulatory environment, superior location, and access to top-of-the-line technical infrastructure. There is also strong overlap between the sports wagering technology and fintech, especially with respect to necessary workforce skills, supply chain companies (e.g., payment processing), and the technical infrastructure required to support growth and innovation.

This initiative will build on New Jersey's existing sports wagering technology and fintech ecosystems and help grow the Jersey City area as a hub for innovation in these two related sectors.

The emergence of legalized and regulated sports wagering in New Jersey represents a unique opportunity to position the state as the "intellectual and technical capital" of this growing, rapidly innovating industry. In the nearly three years since legalization, New Jersey has become one of the largest sports wagering markets in the United States and has routinely surpassed Nevada in monthly handle, which despite effects from the COVID-19 pandemic neared $1 billion per month in late 2020.

New Jersey leads the country in customer adoption of mobile and online wagering, and with over 90% of wagers in New Jersey placed online or via mobile platforms. New Jersey has positioned itself as the optimal jurisdiction for scaling tech-centric product innovations within this industry. To fully reap the benefits of the high-growth and technology-reliant nature of this industry, this Innovation Center will help New Jersey position itself as a top consumer market for these innovative products and a productive engine of leading industry innovations and workforce development programs.

Similarly, New Jersey is also uniquely positioned to establish itself as a hub for the nascent financial technology "fintech" industry. Since many of the same value propositions that make New Jersey the "intellectual and technical capital" of online sports wagering also make it a superior location for financial technology, many of the world's leading financial services companies have set up their back-office data and technology support operations in New Jersey. These firms see the value in locating in New Jersey in order to be at the forefront of technological innovation shaping the future of their services and operations. These same new digital services and capabilities developed and adopted by the fintech sector are instrumental in enabling the on-line sports wagering platforms to provide leading edge products to their customers including in play wagering products, digital payments and money transfer. There is a strategic intersection between sports wagering and fintech that this innovation center will help further support and provide focus through catalyzing innovation within and between the two sectors.

The Center would have immense value as an incubator for the sports wagering and fintech industries, using its unique position as a connector between industry, academic institutions, and relevant State agencies to grow and support sports wagering technology and fintech startups and innovation within more mature companies in these sectors as well. The overarching goal of the center would be to catalyze innovation to address the current gap that exists in domestic sports wagering and financial technology products, create a skilled talent pipeline and to further grow the state's already booming sports betting industry. This in turn will create further job growth and positive economic impacts for the state.

The Center will help New Jersey harness its many value propositions: a highly educated and talented technical workforce, proximity and connectivity to New York City and Philadelphia, world-class technical infrastructure such as broadband and fiber-optic connectivity, and, with respect to sports wagering technology, a best-in-country regulatory agency (New Jersey Division of Gaming Enforcement) that recognizes the importance of innovation, collaboration and competition to a healthy and sustainably-growing industry. Many of the jobs that industry growth would create are high-wage roles such as product developers, software engineers, traders/odds setters, etc., creating a positive multiplier effect on the regional and state economy.

**Proposed activities and focus of the Center**

The Sports Wagering and Fintech Workforce Development and Innovation Center would support a specific set of activities whose main goal would be to cement the State's prime position within these two industries, create new academic and workforce development opportunities, and support local economic development. These proposed activities include:

- Catalyzing collaborative technology innovation

  The Center will catalyze industry growth by identifying industry-wide technology development opportunities. This could include developing new products or app features as well as development of the infrastructure supporting growth in these industries (5G, fiber-optics, latency improvements, etc.).

- Supporting workforce development within the sports wagering technology and fintech industries

  The Center will be a hub for workforce development within the sports wagering technology and fintech industries, working with private sector companies and colleges and universities to develop programs teaching the skills most in-demand in the industries. Specific programs can include internship or apprenticeship programs to develop in-demand skills that are currently lacking industry-wide in the United States such as trading/odds-setting, training for industry certifications, and curriculum development for undergraduate majors or minors in sports wagering or fintech related disciplines (data analytics, computer programming, marketing, etc.).

- Positioning New Jersey as a leader within these industries, and the Jersey City area as a leading cluster supporting industry innovation through events and thought leadership

  The Center will convene industry events, such as seminars, conferences, and technology demonstrations, that highlight opportunities and leading-edge developments in both industries. The Center will also support sports wagering technology- and fintech-related research at New Jersey academic institutions. Funding and publicizing this research will help ensure that New Jersey businesses benefit from cutting-edge innovations.

- Identifying and promoting regulatory best practices for regulations and promoting regulatory innovations

  The Center will work with the Division of Gaming Enforcement with a goal of positioning New Jersey as a national leader in regulation and integrity practices for sports wagering. The NJ Division of Gaming Enforcement's close involvement with the Center will allow for early feedback or testing of novel products.

- Promoting diversity and inclusion in the sports wagering and fintech industries

  The Center will promote opportunities for underrepresented groups to harness the benefits of the growth in the sports wagering and fintech industries. The Center can engage with diversity- and inclusion-oriented organizations to attract women and minorities to the industry to diversify the pipeline of future leaders within the industry, and can help promote equity and opportunity so that underrepresented groups are equipped with the knowledge and skills to pursue careers in the industries from a young age.

**MOU Description**

Through the proposed MOU, NJEDA will provide $200,000 in funding to support NJCU in establishing and launching a Sports Wagering and Fintech Workforce Development and Innovation Center that will build on New Jersey's existing ecosystems within these industries and develop the Jersey City area as a hub for inclusive growth and innovation within these industries. The NJEDA will also provide staff resources and time to support NJCU on the establishment and launch of the Center by helping to facilitate NJCU's planning of Center goals, programs, and initiatives, as well as assisting NJCU with member and stakeholder outreach and engagement, and marketing efforts. NJEDA will also work to engage other government entities in the development of the Center and help with branding of the effort as part of the State's economic development and innovation economy activities.

In turn, NJCU commits to establishing the Center, providing dedicated space in NJCU's Exchange Place campus building to house the Center and hiring an administrative agent to staff and operate the Center. NJCU will also work with NJEDA on branding and other Center development efforts. NJCU will likely engage through a separate master services agreement with EDGE, a service agent to establish the Center as a separate 501(c) 3 to be supported by membership dues from industry participants and assist with hiring administrative agent(s) to staff and operate the Center. NJCU will be solely responsible for this engagement process and will ensure that this engagement process satisfies all applicable University and State procurement laws and requirements. Additionally, NJEDA will not separately retain EDGE, and is only involved with EDGE as necessary to support NJCU's Center activities. The funding provided by NJEDA to NJCU does not constitute a formal membership in the Center.

The MOU's term is for 18 months and can be extended for an additional 12 months.

Authority staff also seeks to reserve the right to seek additional funding from the Board on or around December 31st, 2021 and December 31st, 2022 if they determine additional funding is warranted to help support NJCU's initiative with respect to furthering the activities described above.

**Recommendation**

It is the recommendation of Authority staff that the Members approve the MOU between NJEDA and New Jersey City University, attached as Exhibit A, to provide staff resources, time, and other support, and $200,000 in funding to NJCU to support NJCU's efforts in the establishment and initial activities of a Sports Wagering and Fintech Innovation Center to strengthen the sports wagering and fintech industries and workforces in New Jersey. Members are also requested to provide delegated authority to the CEO to extend the MOU by up to 12 months, if the launch of the Center is determined to be successful, to allow the CEO of NJEDA to approve a membership agreement between NJEDA and the Center provided that the membership fee is no more than $50,000 per year and allow the CEO of NJEDA to renew membership for up to 3 years, and to allow the CEO of NJEDA to approve additional seed capital of up to $100,000 per year to support NJCU's initiative throughout the duration of the MOU.

____________________________

Tim Sullivan, CEO

Prepared by: Eric Solomon, Bill Penders

Attachment: Exhibit A – Proposed MOU for Sports Wagering Technology and Fintech Innovation Center

**ATTACHMENT A:**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**AND**

**NEW JERSEY CITY UNIVERSITY**

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made as of this _________ day of ______, 2021 (the "Effective Date"), is between the New Jersey Economic Development Authority (NJEDA) and New Jersey City University (NJCU). NJEDA and NJCU are collectively referred to herein as the "Parties."

WHEREAS, NJEDA, 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, NJEDA has launched the Strategic Sector team to focus on the growth-oriented sectors identified in the Governor's Strategic Plan for Economic Development; This plan calls for the creation of the most diverse innovation ecosystem in the nation, driven by public and private investment in people, ecosystem development and vibrant innovation spaces and technology hubs across specifically identified growth oriented business sectors.

WHEREAS, finance and professional services was identified as one of these growth-oriented sectors; and

WHEREAS, sports wagering, and the accompanying technology, product innovations, and supply chain associated with sports wagering are subcomponents thereof; and

WHEREAS, sports wagering in New Jersey has experienced incredible growth in the two-plus years since its legalization, with nearly one billion dollars wagered in-state per month; and

WHEREAS, technology and innovation have helped facilitate the growth and resilience of New Jersey's sports wagering industry, with over 85% of wagers taking place via online or mobile platforms; and

WHEREAS, careers in the sports wagering technology industry have the potential to be high-paying and high-value-adding technology, compliance, product development, and customer service jobs, key to creating a stronger and fairer New Jersey economy, and the industry has expressed the need for workforce development initiatives to support their significant growth ; and

WHEREAS, New Jersey's innovative approach to gaming and sports wagering regulation and New Jersey's strong technical infrastructure and talent pool allow for the continued growth of sports wagering technology as an industry cluster; and

WHEREAS, financial technology ("fintech"), and the accompanying product innovations and supply chain associated with fintech are subcomponents of the finance and professional services sector and are a highly utilized component of the sports wagering online platforms, supply chain and ecosystem; and

WHEREAS, fintech is a high-growth, high-value add sector of New Jersey's economy that leverages technological innovation to transform the financial services industry, which contributed over $30 billion to the New Jersey economy in 2019; and

WHEREAS, New Jersey possesses a robust talent pool, superior technical infrastructure, key stakeholder companies, and a locational advantage to continue developing a leading-edge fintech sector; and

WHEREAS, the sports wagering technology and fintech sub-sectors share several key points of intersection and attributes, including but not limited to overlap in their supply chains, end-users, technology inputs, workforce skills, etc.; and

WHEREAS, in support of growing robust sports wagering technology and fintech sub-sectors, it is in the best interest of NJEDA and the State to promote innovation in pre-competitive and leading-edge technologies as well as workforce development within these subsectors; and

WHEREAS, NJCU is a four-year public institution of higher education in Jersey City committed to the improvement of the educational, intellectual, cultural, socioeconomic, and physical environment of the surrounding urban region and beyond; and

WHEREAS, NJCU's School of Business plays a leading role in educating New Jersey's future fintech workforce, including through offering a Master of Science in Financial Technology; and

WHEREAS, NJCU's School of Business has demonstrated its interest in the sports wagering technology subsector, particularly in the area of workforce development, through their key participation in NJEDA's inaugural Sports Wagering Technology Executive Working Group Meeting in February 2020; and

WHEREAS, NJCU intends to help further grow the positive impact of sports wagering technology and fintech on the regional and state economy; and

WHEREAS, NJCU operates facilities in Jersey City's Exchange Place Neighborhood ("Exchange Place Campus") to support its mission and the Jersey City region; and

WHEREAS, the creation of a member-funded Innovation Center at NJCU's Exchange Place Campus dedicated to research & development, technology innovation, product demonstrations, thought leadership, diversity and inclusion initiatives and other activities for both sports wagering technology and fintech ("Innovation Center") would further both NJCU's and the State's interests; and

WHEREAS, the Innovation Center will catalyze collaborative technology innovation and support workforce development within the sports wagering technology and fintech industries, position New Jersey and the Jersey City region as leaders through events and thought leadership, identify and promote best practices for continued regulatory innovations to support growth in both industries, and promote diversity and inclusion within the industries; and

WHEREAS, NJCU will through a separate master services agreement engage EDGE, a member-owned, non-profit provider of professional managed services and other technology solutions to colleges and universities, non-profit business entities and other entities, to assist NJCU in the establishment and operation of the Innovation Center including but not limited to back-office services, as necessary to support the operations of the Innovation Center; and

WHEREAS, NJCU, through its separate master services agreement engaging EDGE, will be solely responsible for this engagement process and will ensure that this engagement process satisfies all applicable University and State procurement laws and requirements; and

WHEREAS, NJEDA will not separately retain EDGE, and is only involved with EDGE as necessary to support NJCU pertaining to the activities outlined in the below sections; and

WHEREAS, the Parties agree that it is in their best interest and in the best interest of the public to enter into this MOU; and

WHEREAS, N.J.S.A. 52:14-1 et seq. authorizes state agencies to enter agreements to provide assistance to each other.

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

1) NJCU will undertake the following activities:
    a. With the assistance of EDGE, establish the Sports Wagering and Fintech Workforce Development and Innovation Center as an independent 501(c)(3) that is separate from NJCU.
    b. Provide dedicated space in NJCU's Exchange Place campus building to house the Innovation Center for not less than 30 months, including negotiating any necessary leases or subleases for the Center with the appropriate landlords.
    c. Provide power, internet access, technological and material resources required to support the Innovation Center's initiatives along with computer stations for the employees working in the Innovation Center.
    d. Assist Edge in the launch and back office operations of the Innovation Center, including the drafting of required by-laws and membership agreements, and the search and selection of a qualified Director and an Administrative Coordinator for the Innovation Center. These staff members will coordinate fundraising, strategic development, event planning, and other Innovation Center activities.
    e. Consult with the NJEDA on the development, onboarding, and engagement of members and key stakeholders of the Innovation Center. NJCU will be solely responsible for decisions regarding activities related to the center its members and key stakeholders.
    f. In addition to its Exchange Place campus, allow the use of appropriate facilities on its main Jersey City campus for large capacity events, seminars, demonstrations, etc. as appropriate and as agreed to from time to time.

2) The NJEDA will contribute staff, time and resources in support of the following activities:
    a. Provide staff resources and time to support NJCU in its efforts to establish and launch the Innovation Center by helping to facilitate NJCU's planning of Innovation Center goals, programs, and initiatives, as well as assisting NJCU with member and stakeholder outreach and engagement, and marketing efforts.
    b. Assist NJCU with the expansion of initial membership of the Innovation Center through targeted outreach to relevant companies and other key stakeholders.

c. Liaise with other relevant State and local agencies and authorities as necessary or appropriate to support the development and operation of the Innovation Center.
d. Provide initial funding in the amount of $200,000, payable as a lump sum within 30 days of the execution of this MOU, to support NJCU for startup activities related to the Innovation Center. Authority staff will reserve the right to seek additional funding from the Board on or around December 31st, 2021 and December 31st, 2022 if they determine additional funding is warranted to help support NJCU's initiative with respect to furthering the activities described above. The funding provided by NJEDA to NJCU does not constitute any type of membership in the Innovation Center. NJEDA plans to seek membership in the Innovation Center at an estimated cost of $50,000 per year. The NJEDA will not possess any interest or title in any equipment, supplies or other assets that may be purchased with proceeds of the funding.

3) The MOU shall not take effect unless executed by the authorized representatives of NJEDA and NJCU. This MOU becomes effective immediately upon execution and shall remain in effect for eighteen (18) months, unless terminated sooner pursuant to section 4 below. This MOU may subsequently be extended for one (1) year upon mutual written consent of the Parties.
4) The Parties are entering into this MOU for the sole purpose of evidencing the mutual understanding and intention of the Parties with respect to the activities described herein. This MOU 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 NJEDA staff or NJCU upon 60 days prior written notice to the other party. There are no third-party beneficiaries of this MOU.

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

NJEDA: 36 West State Street
PO Box 990
Trenton, NJ 08625
Attn.: Bill Penders

NJCU:

IN WITNESS HEREOF, NJEDA and NJCU have executed this MOU on the dates below. The Parties agree to accept electronic signatures.

**For NJCU:**

Name:

Signature: ____________________

Title:

Date: ____________________

**For NJEDA:**

Name: Tim Sullivan

Signature: ___________________

Title: Chief Executive Officer

Date: ___________________

# INCENTIVE PROGRAMS

# ECONOMIC REDEVELOPMENT AND GROWTH (ERG) GRANT PROGRAM

NJEDA

**MEMORANDUM**

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

Date: May 12, 2021

RE: Argus Ellison Associates LLC and Grandparents AE, LLC
Mixed Use Parking Economic Redevelopment and Growth Grant Program
("Mixed Use Parking ERG")
Product #00187733

**Request**

As created by statute, the Economic Redevelopment and Growth (ERG) Program offers State incentive grants to finance development projects that demonstrate a financing gap. Applications to the ERG Program are evaluated to determine eligibility in accordance with P.L. 2013, c. 161 and as amended through the "Economic Opportunity Act of 2014, Part 3," P.L. 2014, c. 63, based on representations made by applicants to the Authority. Per N.J.S.A. 52 :27D-489a et seq. / N.J.A.C. 19:31-4 and the program's rules, developers or non-profit organizations on behalf of a qualified developer, must have a redevelopment project located in a qualifying area, demonstrate that the project has a financing gap, meet minimum environmental standards, meet a 20% equity requirement, and, except with regards to a qualified residential project, yield a net positive benefit to the State. Except for residential ERG projects, grants are made annually based on the incremental eligible taxes generated as a result of the project.

The Members are asked to approve the application of Argus Ellison Associates LLC and Grandparents AE, LLC (the "Applicant") for a Project located at 1-9 Van Houten Street, 3-9 Mill Street and 9-17 Ellison Street, Paterson City (the "Project"), for the issuance of tax credits pursuant to the Mixed Use Parking ERG program of the Authority as set forth in the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161 ("Act").

On July 13, 2015, legislation was enacted as P.L. 2015, c. 69 allowing municipal redevelopers to apply for tax credits under the Mixed-Use Parking ERG program for mixed use parking projects. The aggregate square footage of the Project is 165,479 of which 84,397 equating to 51% representing the parking component evidencing eligibility under the program. The maximum amount of reimbursement shall equal up to 100% of the total eligible project costs allocable to the parking component of the project and in addition 40% of the total eligible project costs allocable to the housing component of the project. The total costs of the Project are estimated to be $39,947,310 and of this amount, $33,645,295 is eligible costs under the Mixed-Use Parking ERG program. The recommendation is to award 100% of actual eligible parking costs and up to 40% of the total actual eligible project costs allocable to residential housing, not to exceed $17,000,000.

**Project Description**

Argus Ellison Development, within Paterson's Great Falls Historic District, is located at 1-9 Van Houten Street, 3-9 Mill Street and 9-17 Ellison Street, block 4602.00 and lots 1-16. This 1.3-acre site contains a vacant historic mill building, the Argus Mill, built in the late 1800s, which will be rehabilitated in concert with a new construction component to create 74 units for families. The Project will consist of two buildings: the Argus Mill will house 6 two-bedroom apartments on the upper 3 floors as well as a building lobby, office and program space on its lower level. The remaining 68 units, consisting of 1-, 2- and 3-bedroom apartments will be in a 6-story mid-rise new construction building. The small existing office buildings on the site, the Ryles/Thompson Houses, will remain in place and serve as management office space and non-profit office space.

The 74 residential units will consist of 20 one-bedroom units, 50 two-bedroom units and 4 three-bedroom units. Approximately 52 of the units will be supported by housing vouchers from the Paterson Housing Authority and Passaic County Interagency Council on Homelessness. The proposed net rents range from $1,229-$1,527 per month. The remaining 12 one-bedroom units and 10 two-bedroom units proposed net rents are $1,273 and $1,602, respectively.

The Project is constructing 74 parking spaces which will be reserved for tenants on a newly constructed elevated Parking Deck. The Parking Deck and associated structural elements are being constructed exclusively for the use of the residents. An additional 6 spaces for the benefit of management staff and office users of the Ryles/Thompson Houses are located adjacent to that building. This small lot will be improved and repaved. The Project also contains an additional 115 pre-existing surface public parking spaces on the site under the Parking Deck which will be available to the public, including tenants, and managed by the Paterson Parking Authority. The project has committed to repair and restore the pre-existing Surface Lot underneath the Parking Deck, because the lot will be negatively impacted during the construction of the parking deck above it. These repairs, consisting of re-paving and re-striping, is estimated to cost $407,500. Costs associated with these Surface Lot improvements are not included in LIHTC basis, and not included in the 50% tax exempt bond test. These spaces are necessary to facilitate the transaction with the PPA. The Surface Lot will continue to be owned, maintained, secured, and operated by the PPA.

In exchange for development of the air rights above the Surface Lot to create the Parking Deck and New Construction Building, Argus Ellison Associates LLC has agreed to enter a 99-year lease with the PPA. Payments to the PPA represent the acquisition cost for developing the lot on which the Parking Deck and New Construction Building will be built, as well as ensure a stream of payments to the PPA to continue to maintain, secure, insure, and service the Surface Lot. The lease payment of approximately $87,000 per annum to the PPA is not for use of spaces in the Parking Deck, as the deck is wholly owned and operated by Argus Ellison Associates LLC, nor is this payment for leasing ground level spaces in the Surface Lot. This lease structure is commonly utilized in dense urban areas with limited unimproved land available for residential new construction or parking associated with residential construction; effectively acting as a capitalization of the developable space above a given parcel under municipally approved zoning.

The ground floor community space within the Mill building will be designed for programming by community partners at the Grandparents Relatives Care Resource Center ("GRCRC"), a Paterson non-profit organization geared to assist Paterson residents, grandparents and kinship caregivers, and Winn Residential, property manager. GRCRC will act as the social service provider for the property and Grandparents AE, LLC ("GAE"), a solely owned single purpose entity is the co-applicant/co-recipient of the ERG credits. Costs of operating the community space are to be funded by the non-profit and are not included in the

Project's operating budget. Limited capital improvements are currently planned to the Ryles/Thompson Houses, which house the Paterson Music Project non-profit and an on-site Management Office.

The site is in a QCT, Opportunity Zone, Smart Growth area, and Ready to Grow Area and has been prioritized for redevelopment by the municipality. It is under a mile and less than a 15-minute walk from the Paterson New Jersey Transit train station, adjacent to the Paterson Great Falls National Historic Park, within walking distance of schools, shopping, restaurants, places of worship and recreational opportunities.

The project is explicitly supported by the City of Paterson in a letter dated September 22, 2020 from the Mayor of Paterson to the EDA. Construction is expected to begin in July 2021 in conjunction with the closing of financing. The anticipated completion of the Project is September 2022 with full rent up expected by the end of 2022. This date is consistent with the December 2023 required date of construction completion and temporary issuance of certificate of occupancy. The Applicant intends to comply with the green building requirements, including Energy Star certification for the residential component.

Although applicants for the Mixed-Use Parking ERG program are not required to maintain certain employment levels, it is estimated that approximately 110 temporary construction jobs will be created.

**Project Ownership**

The co-applicant for the ERG and project financing is Argus Ellison Associates LLC, such entity also to be known as the "Sponsor" and/or "Borrower." Argus Ellison Associates MM LLC will be the managing member of Argus Ellison Associates LLC with 0.01% ownership interest. Argus Ellison Member LLC will be the co-member of Argus Ellison Associates MM LLC with 95% ownership interest and Lagos Partners, LLC will be the co-member with 5% ownership interest. The equity investor in Argus Ellison Associate LLC will be Bank of America, N. A. its successors and/or assigns (aka the tax credit investor or low-income housing tax credit syndicator) with a 99.99% ownership interest and the special member with 0% ownership interest will be Bank of America CDC Special Holding Company, Inc. Winn Development Company, LP ("Winn"), located in Boston, MA, is the Developer of the Project and a related entity, WDP Manager Corp. is the managing member of Argus Ellison Associates MM LLC and the general partner of Winn. Winn has another related entity called Winn Residential the nation's sixth largest multifamily property manager, the largest manager of affordable housing and the second largest manager of privatized military housing managing more than 100,000 homes on 615 properties across 22 states in the USA. Over its 49 years of history, Winn has acquired and developed real estate assets in excess of $2.5 billion, include 36 historic properties like Argus Mill. Winn has developed five properties in New Jersey over the past five years and manages over 2,000 housing units in New Jersey. Owen Tonkins and Darrell Tyson are equal owners/members of Lagos Partners, LLC and native Paterson businessmen. NJEDA has prior experience with Winn via two projects; Roseville Ave Development Urban Renewal LLC and Riverside Arms Urban Renewal LLC. These projects are in Jersey City and Newark, respectively and were approved for incentives by the Members of the Authority for $10.1 million and $8.6 million, respectively under the RES ERG program.

**Co-Applicant**

Grandparents AE LLC ("GAE") is a subsidiary of Grandparents Relative Care Resource Center ("GRCRC"), a New Jersey Based non-profit organization with a mission to "empower every grandparent and kinship caregiver raising children in the Passaic County area and beyond to be effective in their parenting roles by equipping them with knowledge, resources, and support networks." Established in 2006, GRCR assists thousands of Paterson grandparents and kinship caregivers who support children in their families by providing comprehensive programming, caregiver support, advocacy, education, community engagement events, resource distribution and referral coordination. GRCR's food pantry provides access to healthy meals for over 2,000 households per month, with regular distributions of fresh vegetables, fruit, dairy products, and nonperishable food. This critical resource is needed now more than ever as Passaic County communities confront COVID-19 and its economic impact. GRCR has been at the forefront of the response: in May 2020 serving more than 2,200 households, including most sensitive populations, with 500+ children and 480+ seniors served.

Beyond the food pantry, GRCR also provides a drop-in center, where caregivers can gather with their peers; pick up distributions of diapers, winter clothing, and furniture; and attend seminars, conferences, and workshops. GRCR also host regular community events and provide referrals to local providers of legal assistance, medical and mental health care, financial counseling, tutoring, housing, food, and transportation.

GAE, through its parent GRCR, has successfully demonstrated to the EDA as per the July 9, 2015 board memo, that they have met all requirements to act as the non-profit by demonstrating the following:

**Purposes of the Co-Applicant: Organizing documents of the Co-Applicant will be requested as well as a narrative regarding the activities of the Co-Applicant generally, in the State and in the municipality to verify that the Co-Applicant is in a position to provide the material participation to the project discussed below.**

GRCR has provided organizing documents as well as a narrative regarding the services and activities of the non-profit generally and in the State to better understand the purposes, mission and how the non-profit is necessary and related to the project. All organizing documents are in order and current. The narrative provided focused on how the non-profit will provide direct services specifically to the senior population including technical computer assistance and recreational activities.

**Material Participation: A long-term material participation agreement must be shared illustrating how the non-profit is taking an active role in the partnership.**

A ten-year memorandum of understanding dated February 22, 2021 and license agreement, has been provided to EDA staff illustrating the non-profit is taking an active role in the partnership as 1,400 sf of community space is being allocated in the Mill building specifically for social services programming.

**Level of Contribution: The parties must demonstrate evidence that the Co-Applicant will contribute capital, real property or services related to the project that directly affect and serve the anticipated resident population.**

The Applicants have demonstrated that the non-profit will contribute services to the anticipated resident population as further described hereafter in this memorandum. GAE will use the proceeds of the sale of the credits to loan back to the project for the term of the incentive.

All residents of the Project will have access to a range of social services. These services, designed to empower the residents and encourage independent living and self-sufficiency, will include but are not limited to the distribution of supplies and resources, community building events, educational programming, referral coordination, hosting resident meetings as well as individual resident outreach for one-on-one assistance. Social services being provided to the project will be in place through the term of the incentive to ensure the tenants are being provided with adequate resources that will result in personal growth.

Based on the above information, the EDA staff believes, GAE will play a significant role to the Project in addition to being a valuable resource to the tenants of this prospective community.

**Project Uses**

| *Uses* | *Total Project Costs* | *MIXED USE PARKING ERG Eligible Amount* |
|---|---|---|
| Acquisition | 1,905,000 | 1,905,000 |
| Improvements/Construction | 23,238,130 | 23,238,130 |
| Professional Services | 1,665,700 | 1,665,700 |
| Financing and Other Costs | 6,458,200 | 4,956,186 |
| Contingency | 1,880,280 | 1,880,280 |
| Development Fee | 4,800,000 | 0 |
| **TOTAL USES** | **$39,947,310** | **$33,645,295** |

ERG eligible project costs exclude ineligible costs aggregating $6.3 million, which include Development fee of $4.8 million and escrows and reserves of $1.5 million. For a Mixed-Use Parking Project, the maximum reimbursement shall equal up to 100% of the actual eligible costs of the parking component and 40% of the actual eligible costs of the non-parking component. The total eligible costs attributable to the parking structure are $7,688,328 and the total eligible costs that can attributed to non-parking components of the project are $25,956,967 (at 40% this equals $10,382,787). The aggregate parking and non-parking eligible project costs total $18,071,115 and the applicant is seeking an ERG award of $17,000,000.

**Project Sources**

| *Sources of Financing* | *Amount* |
|---|---|
| NJHMFA Permanent Debt | $ 6,500,000 |
| ERG loan | $ 12,071,560 |
| RCA and HOME Grants Paterson | $ 1,490,000 |
| Applicant Equity: | |
| Partnership Equity (via LIHTC, B of A) | $ 17,113,865 |
| Deferred Developer Fee | $ 2,241,589 |
| Historic Tax Credit Equity (B of A) | $ 530,296 |
| Total | **$ 39,947,310** |

The above sources and uses were calculated as of 4/22/21 based on the most readily available information. It is likely that there will be minor adjustments to the figures above primarily due to changes in interest rates which will be finalized at financial closing over the next 60 days. Note that above sources and uses pertain to permanent financing and exclude $3,313,440 in costs associated with interest on the ERG bridge loan over the full ten-year term as these are not deemed ERG project costs, however, are included in the NJHMFA calculations.

The applicant has received a declaration of intent from NJHMFA at the December 10, 2020 board meeting for issuance of up to $20,200,000 in conduit bonds for the permanent financing of this project. Two notes will be issued; note 1 is tax exempt for $6,500,000 at 4.55% for 18-year term based on a 40-year amortization and note 2 for $13,700,000 at 4.55% for up to 24 months. Note 2 will be repaid once permanent sources have been closed (namely LIHTC and/or ERG bridge loan) which is anticipated to occur in the summer of 2023. This project is expected to be presented for final approval at the May 20, 2021 NJHMFA board meeting. Citibank, N.A. has provided NJEDA a commitment to purchase notes 1 and 2.

NJEDA received a taxable construction loan term sheet from Bank of America in the amount of up to $23,900,000 at Libor floating plus 235 bp interest only for up to 24 months.

NJEDA has received a commitment from the City of Paterson Home Funds in the amount of $600,000 and Regional Contribution Amount in the amount of $890,000 which have no required repayment.

Fallbrook Tax Credit LLC has provided a term sheet to act as placement agent for the $17,000,000 in ERG tax credits to be purchased by investors for approximately $0.905 on the dollar aggregating $15,385,000. These funds will be injected into the project via a commitment letter for a bridge loan of $10,533,060 from New Jersey Community Capital at 5.75% for a ten-year term (the monetization of the first year ERG tax credits of $1,538,500 is anticipated to be available in the summer of 2023 when interim financing is converted to permanent and is not part of the calculation of the sizing of the NJCC loan).

The applicant is applying for 4% LIHTC amounting to approximately $17,288,260 and anticipates the sale of the tax credits at $0.99 on the dollar. In exchange for these tax credits, the investor, Bank of America, N. A. its successors and/or assigns is expected to generate equity of $17,113,865 for the project per a term sheet provided to NJEDA.

The applicant is applying for federal historic tax credits amounting to approximately $623,875 and anticipates the sale of the tax credits at $0.85 on the dollar. In exchange for these tax credits, the investor, Bank of America, N. A. its successors and/or assigns is expected to generate equity of $530,296 for the project per a term sheet provided to NJEDA.

**Development Fee**

This project qualifies as a Mixed-Use Parking ERG as at least 51% of the square footage is allocated to parking. Per the August 12, 2014 board memo and subsequent program rule amendments approved by the Members of the Authority an alternative method of analysis based on the deferred developer is permitted to replace the internal rate of return analysis to satisfy the statutory established threshold of "the project is not likely to advance without the award of the ERG" in projects jointly applying for NJHMFA and NJEDA assistance. Developers of affordable residential developments like this project often base undertaking a project based primarily on the development fee (leaving the equity contribution and equity return to the low-income housing tax credit investor). While this project is not classified a residential project, the non-parking costs represent 77% of eligible costs which makes the development fee the most appropriate methodology to assess the economic metrics of the project.

The amount of the developer fee allowed for eligible rehabilitation or new construction costs will be limited to 15% of the total development costs excluding land, pre-operational expenses and escrows and reserves pertaining to permanent takeout financing. The total development fee includes all hard and soft costs, in addition to applicable financing fees. Developer fee at project construction completion or stabilization shall not exceed 8% (out of the 15%) with the balance being deferred and paid though cash flow generated by project. This is consistent with NJHMFA's approach.

The applicant has demonstrated to both NJHMFA and EDA that the project will not generate sufficient cash flow to return the entire developer fee within five years of project stabilization. The maximum developer fee of 15% for this project is not anticipated to be achieved until year 14.

Mixed used parking projects are required to have a minimum of 20% equity in their capital structure based on total project costs. The equity sources of capital in this project are deferred developer fee of $2,162,048, LIHTC equity syndicated by Fallbrook in the amount of $17,113,865, and HTC equity of $530,296 which collectively is 49% of total project costs.

**Other Statutory Criteria**

In order to be eligible for the program, the Authority is required to consider the following items:

**The economic feasibility and the need of the redevelopment incentive agreement to the viability of the project.**

EDA staff received WCredit LLC's financial statements (entity which provides guarantee of loans for Winn, the developer of this project) as of December 31, 2019 audited by CohnResnick LLP. EDA staff also received internally generated interim financial statements for the fiscal year ending December 31, 2020. Staff reviewed these statements and determined that the Applicant has the financial capacity to complete this project. A more detailed review of staff's analysis of the Applicant's financial capacity to complete the project can be found in the Confidential Memorandum of Financial Analysis. Winn Development LP has acquired, and developed holdings valued in excess of $2.5 billion. Winn has improved or converted more than 5 million square feet of properties into prime space for a wide range of commercial and residential uses. Winn has secured permanent financing from HMFA to fund approximately 5 low income housing projects and maintain a portfolio of 14 affordable housing developments in NJ. The project appears to be economically feasible based on the track record of the applicant and their development team as well as the numerous funding sources made available to this project.

The project has demonstrated a funding gap and this Mixed-Use Parking development is likely not to happen without the EDA's assistance. The applicant was able to exhibit a shortfall in the financing structure without being awarded the ERG tax credits.

The Authority is in receipt of a market study dated September 15, 2020 prepared by Integra Realty Resources, a third-party consultant who issued their determination of current and future market conditions. The study demonstrates an existing and anticipated future demand for the project and supports the financial assumptions included in the applicant's projected financial model. The study defined and analyzed the market area and estimated potential multifamily demand and supply within the market and the factors that could impact rental values. Research was performed on the immediate market area and demographic and housing information judged to be reliable and used in the industry. Integra concluded the unit mix, square footages and rental ranges which were consistent with the applicant's pro-forma.

The applicant did receive a letter from the Mayor of Paterson demonstrating a need for the project and supporting the development as proposed. The project also received approval of a payment in lieu of taxes for a term of 30 years at a rate of 6.28% of the annual gross revenue from the City of Paterson in an effort to receive a reduction in the annual property taxes (no redevelopment area bond is proposed).

**The degree to which the redevelopment project within a municipality which exhibits economic and social distress, will advance State, regional, local development and planning strategies, promote job creation and economic development and have a relationship to other major projects undertaken within the municipality.**

The project site is in Paterson, an urban aid municipality. The project site's surrounding area has a median family income of less than $28,000 per year. The site's surrounding population is over 95% minority with owner-occupied homes comprising 3% of the housing within the area. The average age of the homes in this area is over 50 years old and nearly 10% of the available housing remains vacant. Paterson City's unemployment rate is currently 9.1%, more than double the national average and only 10% of the City's population has a college degree. Paterson City's violent crime rate is roughly double the national average and triple the average crime rate of New Jersey as a whole.

The project has a combination of economic development, housing and public parking through historic preservation and re-use, which helps revitalize the City of Paterson as well as create new tax ratables. The Project is located in central Paterson, convenient to shopping, services and employment. The project generates a positive impact on the community by reducing the blight associated with underutilized properties; provides high-quality, affordable housing options for residents and public parking.

**Recommendation**

Authority staff has reviewed the application for Argus Ellison Associates LLC and Grandparents AE, LLC and found that it is consistent with eligibility requirements of the Act. It is recommended that the Members approve and authorize the Authority to issue an approval letter to the Applicant.

Issuance of the Mixed-Use Parking ERG tax credits is contingent upon the Applicant meeting the following conditions within one year:

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

Tax Credits shall be issued upon:

1. Completion of construction and issuance of a Certificate of Occupancy (no later than December 31, 2023; and
2. Submission of a detailed list of all eligible costs, which costs shall be certified by a CPA and satisfactory to the NJEDA;

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

Total Estimated Eligible Project Costs: $ 33,645,295.

Eligible Actual Credits and Recommended Award: The recommendation is to award 100% of actual eligible parking costs and 40% of the total actual eligible project costs allocable to residential housing uses, not to exceed $17,000,000.

Tim Sullivan, CEO

Prepared by: Michael A. Conte

# GROW NEW JERSEY ASSISTANCE PROGRAM (GROW NJ) MODIFICATIONS

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE**: May 12, 2021

**SUBJECT:** **GBT US LLC ("GBT")** – COVID-Related Termination
Grow New Jersey Assistance Program ("Grow NJ")
P #41351

**Request:**
Terminate GBT US LLC's Grow NJ Incentive Agreement pursuant to the COVID-Related Relief provisions found at Section 109(g) of the New Jersey Economic Recovery Act 2020, P.L. c. 156.

**Background:**
GBT provides end-to-end corporate travel and meetings program management for companies of all sizes and across all industries. On October 15, 2015 and as amended on January 16, 2016, the Members approved a $11,050,00 10-year Grow NJ award to incent the creation of 130 new jobs with a projected capital investment of $6,800,000 at an existing 35,000 square foot office building located at 101 Hudson Street, 34th Floor in Jersey City, New Jersey. GBT completed the project in 2017 and was issued an overall tax credit certificate in the amount of $9,145,000. GBT has maitained program compliance and was issued Annual Tax Credit Certificates of $890,753 and $860,250 for 2017 and 2018 respectively.

The Economic Opportunity Act of 2013 (as amended in 2017) provides that Grow NJ businesses must evidence that investment and employment requirements at the Qualified Business Facility ("QBF") are met within three years of the date of Board approval, but for approved extensions of not more than a total of one additional year. Each year following the certification of project completion, Grow NJ businesses must evidence continued compliance with employment requirements both at the QBF and State-wide. Failure to meet minimum employment requirements results in the Grow NJ business forfeiting tax credits, and potential recapture of previously issued tax credits.

The New Jersey Economic Recovery Act of 2020 amended the Grow NJ statute to afford Grow NJ businesses several relief measures in recognition of the potential negative effects that the COVID-19 Health Emergency 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 to terminate. Termination requests need not be based on negative financial impacts to a business, but may be based upon a decrease in workforce, a conversion of workforce to remote, real estate decisioning, and changes to business model that no longer enable participation in the 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 109(g) of P.L. 2020, c. 156 amended the Grow NJ law to allow Grow NJ businesses to terminate Incentive Agreements "provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business." A termination under this provision results in the forfeiture of all tax credits for the tax period in which the termination occurs and all subsequent tax periods. Any requested but uncertified or unissued tax credits would also be forfeited as a result of the termination. Tax credits issued for previous years may be retained by the business without recapture while the business is relieved of all ongoing reporting obligations.

The current policy for non-COVID related Grow NJ Incentive Agreement terminations is to allow termination only where there is full repayment of issued tax credits. 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.

On March 17, 2021, GBT requested such a termination of its Grow NJ Incentive Agreement executed on October 15, 2015 as amended on January 16, 2016 .

**COVID-19 Impacts and Decisioning**

GBT explained in its letter, that the COVID-19 Public Health Emergency "dramatically reduced travel and demand for travel management services, meetings and events services, and business travel consulting."

In response to Governor Murphy's Executive Order 107 on March 16, 2020 mandating that all non-essential businesses in New Jersey implement work-from-home arrangements, GBT took immediate steps to ensure its employees had the ability to perform their duties at home. In May of 2020, GBT instituted a preferred work from home policy. Currently, almost all of GBT's Jersey City workforce is working remotely.

To mitigate market impacts and manage cash, GBT reduced expenses by reducing salaries, implementing a furlough program, and executing involuntary workforce reductions. GBT has informed us they currently have 89 Grow NJ eligible employees associated with the Jersey City QBF working remotely.

GBT performed a global analysis to determine what functions could be performed remotely (e.g. human resources, marketing, legal, and finance) versus those functions that would require a physical presence (e.g. IT). Based on their findings, GBT determined that it would consolidate its real estate holdings and has decided to close approximately 40 offices globally, including its Jersey City location in the coming months. GBT has informed its employees of the plan and intends to keep over 200 remote employees in New Jersey who will be associated with a remaining office location in New York.

**Recommendation:**
Terminate GBT US LLC's Grow NJ Incentive Agreement pursuant to the NJ COVID-Related Relief provisions at Section 109(g) of P.L. 2020, c. 156.

______________________________
Tim Sullivan, CEO

Prepared: Marc Tomasini

# NJ FILM AND DIGITAL MEDIA TAX CREDIT PROGRAM

NJEDA

# MEMORANDUM

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** May 12, 2021

**SUBJECT:** Digital Media Tax Credit Program –Certification of Unused or Unredeemed Credits in SFY2020 and Increase to SFY2021

**Summary:**

The Members are requested to approve the certification of $10,000,000 in unused or unredeemed digital media tax credits for SFY2020, to increase the digital media tax credits available for SFY2021 to $20,000,000.

**Background:**

P.L. 2020, c.156 was enacted on January 7, 2021, amending the Garden State Film and Digital Media Jobs Act. Specifically, the amendment directs the Authority to certify any unused or unredeemed film and digital tax media credits in a state fiscal year which then shall be used to increase the annual cap in the subsequent state fiscal year.

Additionally, the amendment removed the $50,000,000 cap on the amount of unused or unredeemed credits that can be used to increase the annual cap in the subsequent fiscal year.

On October 14, 2020, the Board approved the certification of $64,321,724 in unused or unredeemed film tax credits for SFY2020, which increased by $50,000,000 the film tax credits available for SFY2021. This increase was the maximum allowed by statute at that time and raised the total amount of film tax credits available in SFY2021 to $150,000,000.

**Certification of Unused or Unredeemed Digital Media Tax Credits:**

The Authority will determine the amount of "unused" tax credits based on the difference between the total amount of available tax credits in a given state fiscal year, and the total amount approved by the Authority within a state fiscal year, should the Authority not approve the full amount of available tax credits within a given state fiscal year. The Authority will determine the amount of "unredeemed" tax credits based on projects that have been approved for some amount of tax credits, but are unable to certify the full amount of qualified film production expenses on which the tax credit award was based, and therefore unable to utilize the full amount of their estimated tax credit award. For unredeemed tax credits, the Authority will also look at projects that may have been approved for a tax credit award, but missed the deadline required for principal photography, as required by statute, and are therefore no longer eligible to receive the tax credit for which they were approved.

Pursuant to P.L. 2020, c. 156, the staff's proposed certification of unused or unredeemed tax credits for State Fiscal Year 2020 is below:

**SFY2020 Digital Media Tax Credit Cap:** $10,000,000

**SFY2020 Digital Media Tax Credit Award Amount**: $0

**SFY2020 Total Unused and Unredeemed Tax Credits:** $10,000,000

**Total SFY2021 Digital Media Tax Credit Cap:** $20,000,000

**Recommendation:**

The Members are requested to approve the certification of $10,000,000 in unused and unredeemed digital media tax credits for SFY2020, which will increase by $10,000,000 the digital media tax credits available for SFY2021. This increase will raise the total amount of film tax credits available in SFY2021 to $20,000,000.

Tim Sullivan, CEO

Prepared by: Matt Sestrich

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

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

**APPLICANT:** Eye on the Ball Enterprises Inc. PROD-00224173

**APPLICANT BACKGROUND:**
Eye on the Ball Enterprises Inc. is the production company responsible for "Severance S1". The series follows a despondent widower with a dark past trying to pull himself back together after undergoing the surgical procedure known as severance, a procedure which separates work and out-of-work memories.

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

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

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

| | |
|---|---|
| A. Total Film Production Expenses | $107,738,504 |
| B. Total Post-Production Expenses | $7,622,251 |
| C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses) | $1,864,760 |
| Percentage Calculation = C/(A-B) | 1.86% |
| **Criterion Met** | **No** |

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

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

| | |
|---|---|
| Total Qualified Film Production Expenses incurred in NJ in two privilege periods, of which at least $1 million is incurred in a single privilege period after July 1, 2018. | $1,864,760 |
| **Criterion Met** | **Yes** |

**AWARD CALCULATION**

| Base Award Criteria | Calculation | Result |
|---|---|---|
| 30% of Qualified Film Production Expenses | $1,864,760 x 30% = | $559,428 |
| | | |
| **Bonus Criteria Met** | | |
| Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses. | $0 x 2% = | $0 |
| 5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County. | $0 x 5% = | $0 |
| **Total Award** | | **$559,428** |

| | |
|---|---|
| **APPLICATION RECEIVED DATE:** | 8/14/2020 (Application #46) |
| **DATE APPLICATION DEEMED COMPLETE:** | 1/14/2021 |
| **PRINCIPAL PHOTOGRAPHY COMMENCEMENT:** | 11/4/2020 |
| **PRINCIPAL NJ PHOTOGRAPHY LOCATION:** | Holmdel, NJ |
| **ESTIMATED DATE OF PROJECT COMPLETION:** | 6/15/2021 |
| **APPLICANT'S FISCAL YEAR END:** | 12/31/2021 |
| **TAX CREDIT VINTAGE YEAR(S):** | 2021 |
| **TAX FILING TYPE:** | Corporate Business Tax |
| **ANTICIPATED CERTIFICATION DATE:** | 9/15/2021 |

In general, the final documentation shall be submitted to the Authority no later than four years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to

N.J.S.A. 54:10A-5 and three years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to the N.J.S.A. 54A:1-1 et seq.

The Garden State Film and Digital Media Jobs Act originally provided a total of $75 million in tax credits for State Fiscal Year 2019 and increased to $100 million as amended by law on 1/21/2020. The program amendment also allows $50 million of unused allocation to carry over to the subsequent State Fiscal Year. As a result, $150 million of film tax credits are available for State Fiscal Year 2021. After today's approvals, $142.8 million remains in the program for State Fiscal Year 2021 which may be available to 16 additional applications in the pipeline totaling $91.8 million.

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

**APPROVAL OFFICER:** S. Novak

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

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

**APPLICANT:** Metropark LLC PROD-00257918

**APPLICANT BACKGROUND:**
Metropark LLC is the production company responsible for “Metropark Season 2”, a comedy-drama web television series about a family living in Metro Park, an Indian American majority neigborhood in New Jersey.

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

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

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

| | |
|---|---|
| A. Total Film Production Expenses | $1,022,340 |
| B. Total Post-Production Expenses | $66,400 |
| C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses) | $892,540 |
| Percentage Calculation = C/(A-B) | 93.36% |
| **Criterion Met** | **Yes** |

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

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

| | |
|---|---|
| Total Qualified Film Production Expenses incurred in NJ in two privilege periods, of which at least $1 million is incurred in a single privilege period after July 1, 2018. | $902,940 |
| **Criterion Met** | **No** |

**AWARD CALCULATION**

| Base Award Criteria | Calculation | Result |
|---|---|---|
| 30% of Qualified Film Production Expenses | $902,940 x 30% = | $270,882.00 |
| | | |
| **Bonus Criteria Met** | | |
| Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses. | $902,940 x 2% = | $18,058.80 |
| 5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County. | $126,700 x 5% = (Mercer County, Camera equipment) | $6,335.00 |
| **Total Award** | | **$295,275.80** |

| | |
|---|---|
| **APPLICATION RECEIVED DATE:** | 12/22/2020 (Application #48) |
| **DATE APPLICATION DEEMED COMPLETE:** | 2/24/2021 |
| **PRINCIPAL PHOTOGRAPHY COMMENCEMENT:** | 9/15/2020 |
| **PRINCIPAL NJ PHOTOGRAPHY LOCATION:** | North Brunswick, NJ |
| **ESTIMATED DATE OF PROJECT COMPLETION:** | 1/7/2021 |
| **APPLICANT'S FISCAL YEAR END:** | 12/31/2021 |
| **TAX CREDIT VINTAGE YEAR(S):** | 2021 |
| **TAX FILING TYPE:** | Corporate Business Tax |
| **ANTICIPATED CERTIFICATION DATE:** | 4/30/2021 |

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

The Garden State Film and Digital Media Jobs Act originally provided a total of $75 million in tax credits for State Fiscal Year 2019 and increased to $100 million as amended by law on 1/21/2020. The program amendment also allows $50 million of unused allocation to carry over to the subsequent State Fiscal Year. As a result, $150 million of film tax credits are available for State Fiscal Year 2021. After today's approvals, $142.8 million remains in the program for State Fiscal Year 2021 which may be available to 16 additional applications in the pipeline totaling $91.8 million.

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

**APPROVAL OFFICER:** S. Novak

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

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

**APPLICANT:** Red Hippo Productions, Inc. PROD-00228631

**APPLICANT BACKGROUND:**
Red Hippo Productions, Inc. is the production company responsible for "Death Saved My Life", the story of a woman who faked her own death in order to trap her husband after he hires a hitman to kill her.

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

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

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

| | |
|---|---|
| A. Total Film Production Expenses | $2,965,990 |
| B. Total Post-Production Expenses | $148,444 |
| C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses) | $2,334,185 |
| Percentage Calculation = C/(A-B) | 82.84% |
| **Criterion Met** | **Yes** |

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

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

| | |
|---|---|
| Total Qualified Film Production Expenses incurred in NJ in two privilege periods, of which at least $1 million is incurred in a single privilege period after July 1, 2018. | $2,486,279 |
| **Criterion Met** | **Yes** |

**AWARD CALCULATION**

| **Base Award Criteria** | **Calculation** | **Result** |
|---|---|---|
| 30% of Qualified Film Production Expenses | $2,486,279 x 30% = | $745,883.70 |
| | | |
| **Bonus Criteria Met** | | |
| Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses. | $2,486,279 x 2% = | $49,725.58 |
| 5% of Qualified Film Production Expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County. | $336,203 x 5% = (Camden County, Site Fees and Rentals) | $16,810.15 |
| **Total Award** | | **$812,419.43** |

| | |
|---|---|
| **APPLICATION RECEIVED DATE:** | 10/21/2020 (Application #49) |
| **DATE APPLICATION DEEMED COMPLETE:** | 3/9/2021 |
| **PRINCIPAL PHOTOGRAPHY COMMENCEMENT:** | 11/5/2020 |
| **PRINCIPAL NJ PHOTOGRAPHY LOCATION:** | Haddonfield, NJ |
| **ESTIMATED DATE OF PROJECT COMPLETION:** | 2/15/2021 |
| **APPLICANT'S FISCAL YEAR END:** | 12/31/2021 |
| **TAX CREDIT VINTAGE YEAR(S):** | 2021 |
| **TAX FILING TYPE:** | Corporate Business Tax |
| **ANTICIPATED CERTIFICATION DATE:** | 6/30/2021 |

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

The Garden State Film and Digital Media Jobs Act originally provided a total of $75 million in tax credits for State Fiscal Year 2019 and increased to $100 million as amended by law on 1/21/2020. The program amendment also allows $50 million of unused allocation to carry over to the subsequent State Fiscal Year. As a result, $150 million of film tax credits are available for State Fiscal Year 2021. After today's approvals, $142.8 million remains in the program for State Fiscal Year 2021 which may be available to 16 additional applications in the pipeline totaling $91.8 million.

**APPROVAL REQUEST:**

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

**APPROVAL OFFICER:** S. Novak

# LOANS/GRANTS/GUARANTEES

# VENTURE PROGRAM

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Edison Innovation VC Growth Fund**

**APPLICANT:** Forefront Telecare, Inc. PROD-00258150

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 200 American Metro Blvd Hamilton Township Mercer County

**APPLICANT BACKGROUND:**

Forefront Telecare specializes in providing virtual behavioral telehealth to seniors, and in particular targets Medicare patients in rural hospitals and skilled nursing facilities. The company’s HIPAA-compliant platform encompasses software, hardware, and a nation network of behavioral health specialists.

**OTHER NJEDA SERVICES:**

Forefront participated in 2020 NOL program.

**APPROVAL REQUEST:**

Approval is requested for a $1,000,000 loan from the Edison Innovation VC Growth Fund as proposed.

**FINANCING SUMMARY:**

**LENDER:** NJEDA

**AMOUNT OF LOAN:** $1,000,000

**TERMS OF LOAN:** 5-Year Term. The proposed loan will have a rate of 7% with no payments for the initial 12-month period. Interest during this period will accrue and will be capitalized. Beginning month 13 principal plus interest payments will begin for the remaining four year term to fully amortize the loan.

**PRODUCT COSTS:**

| | |
|---|---|
| Working Capital | $1,000,000.00 |
| **TOTAL COSTS:** | **$1,000,000.00** |

**JOBS:**

| NJ Full Time Jobs at Application | Expected New Full Time Eligible Jobs at Project Site | Full Time Maintained Jobs at Project Site | Estimated Construction Jobs |
|---|---|---|---|
| 23 | 10 | 23 | 0 |

**DEVELOPMENT OFFICER:** Tim Rollender **UNDERWRITER OFFICER:** Madhavi Bhatia

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

## Edison Innovation VC Growth Fund

**APPLICANT:** High QA Inc. PROD-00257900

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 1 Bethany Rd., Bul. 2 Suite 26 Hazlet Township Monmouth County

**APPLICANT BACKGROUND:**

High QA, Inc provides a comprehensive Quality Management System (QMS) to enable companies of any size -small to enterprise -to automate and integrate their manufacturing, quality processes and Quality Supply Chain Management.

**OTHER NJEDA SERVICES:**

None

**APPROVAL REQUEST:**

Approval is requested for a $1,000,000 loan from the Edison Innovation VC Growth Fund as proposed.

**FINANCING SUMMARY:**

**LENDER:** NJEDA

**AMOUNT OF LOAN:** $1,000,000

**TERMS OF LOAN:** 5-Year Term. The proposed loan will have a rate of 7% with no payments for the initial 12-month period. Interest during this period will accrue and will be capitalized. Beginning month 13 principal plus interest payments will begin for the remaining four year term to fully amortize the loan.

**PRODUCT COSTS:**

| | |
|---|---|
| Working Capital | $1,000,000.00 |
| **TOTAL COSTS:** | **$1,000,000.00** |

**JOBS:**

| NJ Full Time Jobs at Application | Expected New Full Time Eligible Jobs at Project Site | Full Time Maintained Jobs at Project Site | Estimated Construction Jobs |
|---|---|---|---|
| 8 | 10 | 8 | 0 |

**DEVELOPMENT OFFICER:** Tim Rollender **UNDERWRITER OFFICER:** Madhavi Bhatia

# MICRO BUSINESS LOAN PROGRAM

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan
Chief Executive Officer

**DATE:** May 12, 2021

**RE:** Micro Business Loan Program – Changes to Delegated Authority

**Summary**

The Members are asked to approve changes to delegated authority for the Micro Business Loan Program to include delegation to the Managing Director of Community Development and Small Business Services and the Chief Community Development Officer to decline applications for non-discretionary reasons.

**Background**

The Micro Business Loan Program was initially approved by the Members in June 2020 to provide loans of up to $50,000 to micro businesses and early stage businesses in New Jersey.

Under the program as approved by the Members in June 2020, delegated authority was approved for Authority staff (Managing Director – Underwriting, Senior Vice President of Finance and Development, or Vice President of Business Operations) to approve individual applications to the Micro Business Loan Program in accordance with the terms set forth in the attached program specifications. The Members' approval also included delegated authority to those same staff members to decline applications based solely on non-discretionary reasons and, for final administrative decisions based solely on non-discretionary reasons, delegated authority for a Senior Vice President, Vice President, Managing Director, or the Director Legal Affairs to approve the Hearing Officer's final administrative decision.

Staff is requesting that delegated authority for this program be expanded to include delegated authority to the Managing Director of Community Development and Small Business Services and the Chief Community Development Officer, to decline applications based solely on non-discretionary reasons. This change in delegated authority is requested to better reflect current organizational and reporting structure at the Authority.

As a point of clarification, applicants who are declined for non-discretionary reasons will continue to have the right to appeal, and must do so within the timeframe set in the declination letter (at least 3 days but no longer than 10 days). Upon receiving the appeal, a Hearing Officer is assigned to review the application, the appeal, and any other relevant documents or information. The Hearing Officer then recommends a final administrative decision, which will be approved by a Senior Vice President, Vice President, Managing Director, or the Director Legal Affairs. This delegated authority with respect to appeals is not changing as part of the request today.

**Recommendation**

The Members are asked to approve changes to delegated authority for the Micro Business Loan Program to include delegation to the Managing Director of Community Development and Small Business Services and the Chief Community Development Officer to decline applications for non-discretionary reasons.

Tim Sullivan, CEO

# PETROLEUM UNDERGROUND STORAGE TANK (PUST)

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program

The following residential project has been approved by the Department of Environmental Protection to perform closure/upgrade and site remediation activities. The scope of work is described on the attached project summary:

**PUST Residential Grant:**

| | | |
|---|---|---|
| Prod 258036 | Gordon Luke and Hyacinth Luke | $103,092.54 |

| | |
|---|---|
| **Total UST Funding – May 2020** | **$103,092.54** |

Tim Sullivan

Prepared by: Kathy Junghans

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Underground Storage Tank - Residential**

**APPLICANT:** Gordon Luke and Hyacinth Luke PROD-00258036

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 119 Whittlesey Avenue Newark City Essex County

**APPLICANT BACKGROUND:**

Gordon Luke and Hyacinth Luke are homeowners seeking to remove a leaking 550-gallon residential #2 heating underground storage tank (UST) and perform the required remediation. The tank will be decommissioned and removed in accordance with NJDEP requirements. The NJDEP has determined that the project costs are technically eligible.

Financial statements provided by the applicant demonstrate that the applicants' financial condition conforms to the financial hardship test for a conditional hardship grant.

**OTHER NJEDA SERVICES:**

None

**APPROVAL REQUEST:**

The applicants are requesting grant funding in the amount of $103,092.54 to perform the approved scope of work at the project site.

**FINANCING SUMMARY:**

| | |
|---|---|
| **GRANTOR:** | Petroleum UST Remediation, Upgrade & Closure Fund |
| **AMOUNT OF GRANT:** | $103,092.54 |
| **TERMS OF GRANT:** | No Interest; No Repayment |

**PROJECT COSTS:**

| | |
|---|---|
| UST Project:Upgrade,Closure,Remediation | $103,092.54 |
| EDA Administrative Cost | $250.00 |
| **TOTAL COSTS:** | **$103,342.54** |

**DATE:** 5/3/2021

# HAZARDOUS DISCHARGE SITE REMEDIATION FUND

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** NJDEP Hazardous Discharge Site Remediation Fund Program

The following municipal projects have been approved by the Department of Environmental Protection to perform remedial investigation and remedial action activities. The scope of work is described on the attached product summaries:

**HDSRF Municipal Grants:**

| | | |
|---|---|---|
| Prod 235507 | Middlesex County<br>(BDA Perth Amboy Waterfront Park) | $2,695,955 |
| Prod 258071 | Township of West Orange<br>(Biddelman Inc.) | $ 195,126 |
| **Total HDSRF Funding –May 2021** | | **$2,891,081** |

Tim Sullivan

Prepared by: Kathy Junghans

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Hazardous Discharge Site Remediation - Government Facility**

**APPLICANT:** Middlesex County – BDA Perth Amboy Waterfront Park PROD-00235507

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** High Street & Washington Street Perth Amboy City Middlesex County

**APPLICANT BACKGROUND:**

In May 2017, Middlesex County received an initial grant in the amount of $4,126,929 under P43089 for remedial action at the project site which is a former industrial site and has potential environmental areas of concern (AOCs). Middlesex County currently owns the project site and has satisfied proof of site control. It is the County's intent upon completion of the environmental investigation activities to redevelop the project site for a public park.

NJDEP has approved this request for Remedial Action (RA) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

According to the HDSRF legislation, a grant can be awarded to a municipality, county or redevelopment entity authorized to exercise redevelopment powers up to 75% of the costs of remedial action for projects within a Brownfield Development Area (BDA). The grant is awarded based on a calculation equal to 75% of the approved remedial action project costs ($3,594.607). Middlesex County is providing the remaining 25% of the eligible costs ($898,652).

**OTHER NJEDA SERVICES:**

None

**APPROVAL REQUEST:**

Middlesex County is requesting supplemental grant funding to perform RA in the amount of $2,695.955 at the Waterfront Park project site. Total grant funding including this approval is $6,822,884.

**FINANCING SUMMARY:**

| | |
|---|---|
| **GRANTOR:** | Hazardous Discharge Site Remediation Fund |
| **AMOUNT OF GRANT:** | $2,695,955.00 (75% Matching Grant) |
| **TERMS OF GRANT:** | No Interest; No Repayment |

**PROJECT COSTS:**

| | |
|---|---|
| | $2,695,955.00 |
| EDA Administrative Cost | $500.00 |
| **TOTAL COSTS:** | **$2,696,455.00** |

| | |
|---|---|
| Project costs reported on related application | PROD-00258333 |

**DATE:** 5/3/2021

# NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**Hazardous Discharge Site Remediation - Government Facility**

**APPLICANT:** Township of West Orange – BDA former Biddelman Inc. PROD-00258071

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** **8**-10 Central Avenue West Orange Township Essex County

**APPLICANT BACKGROUND:**

In January 2020, the Township of West Orange received a grant in the amount of $63,956 under Product 188179 for remedial investigation at the project site. The project site is a former dry cleaning and apparel supply facility which has potential environmental areas of concern (AOCs). The Township of West Orange currently owns the project site and has satisfied proof of site control. It is the Township's intent upon completion of the environmental investigation activities to redevelop the project site for mixed use.

The City has received a Brownfield Development Area (BDA) designation from the NJDEP for this project site.

NJDEP has approved this request for supplemental Remedial Investigation (RI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

**OTHER NJEDA SERVICES:**

None

**APPROVAL REQUEST:**

The applicant is requesting supplemental grant funding to perform RI in the amount of $195,126 for the approved scope of work at the BDA Biddelman Inc. project site. Total grant funding including this approval is $259,082.

**FINANCING SUMMARY:**

**GRANTOR:** Hazardous Discharge Site Remediation Fund

**AMOUNT OF GRANT:** $195,126.00

**TERMS OF GRANT:** No Interest; No Repayment

**PROJECT COSTS:**

| | |
|---|---|
| Remedial Investigation | $195,126.00 |
| EDA Administrative Cost | $500.00 |
| **TOTAL COSTS:** | **$195,626.00** |

**DATE:** 4/21/2021

# REAL ESTATE

NJEDA

**MEMORANDUM**

To: Members of the Authority

From: Tim Sullivan
Chief Executive Officer

RE: New Jersey Bioscience Center at North Brunswick
685 South Route 1, North Brunswick, Middlesex County
Lease Agreement with miR Scientific LLC

Date: May 12, 2021

## Request

I request the Members approve executing a 63-month (5 years and 3 months) Lease Agreement ("Lease") with miR Scientific LLC ("miR") for 14,662 rentable square feet of laboratory and office space on the first floor of 685 South Route 1, North Brunswick at the New Jersey Bioscience Center ("Center"). miR will also be provided with two two-year renewal options at fair market value (but not less than the last year's rent during the initial term). miR's parent company, Impact NRS LLC. ("Impact NRS"), will guarantee the Lease.

## Background

*Lessor's Background*

Incorporated in 2014 in Delaware, miR is a privately held precision bioscience, healthcare firm whose purpose is to transform cancer management by providing early and highly accurate detection, characterization and monitoring of disease. miR is developing technology which involves analysis of microRNA and other small noncoding RNA (sncRNA) molecules in urine. Sam Salman, Dr. Martin Tenniswood and Robert Tenniswood are the founders and equity members of miR. Now in the final stages of approvals as described below, miR has not gone to market yet nor recognized income. miR has 28 full-time employees currently located between their Rensselaer, NY laboratory and office space and their corporate offices in New York City.

miR developed the miR Scientific Disease Management Platform™, which is comprised of proprietary, non-invasive, and highly accurate liquid biopsy urine tests for the detection, classification, and monitoring of urological cancers. In September 2020 miR published the results of its major multi-site, multi-year validation study for its Sentinel Prostate Test™ a urine-based, non-invasive cancer test in *The Journal of Urology*. These data show that miR Scientific's platform can detect molecular evidence of prostate cancer with sensitivity of 94% and specificity of 92%. When the cancer is diagnosed, the test further classifies the cancer as either low risk or critically, as high risk. The miR Sentinel Prostate Test™ solves an acute real-world problem involving the disease management of prostate cancer, a screened disease that represents the highest number of new cancer cases diagnosed annually and is the second leading cause of cancer deaths among men in the United States.

Having satisfied the key validation study requirements noted above, miR has been working towards applying to commercialize its tests as a Laboratory Developed Test and to secure its Clinical Laboratory Improvement Amendments (CLIA) certification/licensing. The CLIA application submission, testing, review, and approval process is estimated to take between 3-5 months. miR is a current NJBC tenant, having leased 7,066 sf in Building 3 in October 2020, under a short-term lease, planning to apply for CLIA lab approval from the NJ Department of Health in late 2020 or early 2021. Although miR leased NJBC space, they never occupied the space as their plans for undertaking initial CLIA approval at their existing New York lab facility and at NJBC were delayed. miR is current in their existing NJBC lease payments and continues as a holdover tenant since March 1, 2021. miR will terminate their existing lease upon the lease commencement date under this Lease.

Following final testing and approval, miR will prepare for the large-scale commercial launch of its Sentinel Prostate Test™ as a CLIA and Clinical Laboratory Evaluation Program (CLEP) Lab Developed Test. Once the lease is executed, it is anticipated that 9 employees will initially work out of the NJBC location and miR expects to ultimately hire 15+ new employees at the NJBC labs. miR's Lease space will be used for general office, laboratory research, and light manufacturing.

*Guarantor's Background*

The Guarantor of the Lease will be Impact NRS, LLC (majority owner of miR). Impact NRS formed as NRS Health & Wellness GP LLC in 2015, is a Delaware company with its headquarters in New York with operating subsidiaries in Israel, Canada, and Puerto Rico. Impact NRS is a leading innovation company developing transformative solutions to address persistent global challenges in human health, sustainable food production and agriculture. Impact NRS's model incorporates breakthrough advances in science, statistics, and computation to develop products and services for early and scalable adoption. Impact NRS is in the business of creating, developing, and commercializing scientific and technological breakthroughs that address humanity-level challenges in health, wellness, and sustainable development. It has a model of partnership (with majority control always held by Impact NRS) with leading research and scientific organizations around the world. These include governmental organizations (in Israel for example) and several globally recognized and leading academic research organizations.

Impact NRS employs over 40 employees through its controlled, active subsidiaries, employees, and contracted researchers. Operating expenses were approximately $8.6 million in 2019 and approximately $15.4 million in 2020 as research increased, and Impact NRS expects to realize profits beginning in 2021.

*Letter of Intent*

As outlined in the Lease Letter of Intent Summary attached as Exhibit A, miR's initial Net Rent will be $32 per rentable square foot, increasing 3% annually including the second year of each renewal, if exercised. The Lease Commencement date is anticipated to be June 1, 2021, with a Rent Commencement Date anticipated to be September 1, 2021, to permit miR to install, at its sole cost and expense, its tenant improvements. During the tenant improvement period, miR will pay only utilities. miR tenant improvements are subject to NJEDA's review and approval. NJEDA will provide miR a credit of $107,234 which is equal to the cost of painting the Premises and installing new carpet and VCT flooring that NJEDA would normally undertake prior to lease commencement; miR will paint and carpet its Lease Premises to coordinate the work with its tenant improvements.

Should miR not be able to receive CLIA certification by December 1, 2021, it will have a one-time right to terminate the Lease effective January 31, 2022 and if miR exercises this option they will be required to restore the Premises and shall pay a penalty consisting of Net Rent, operating expenses and PILOT equivalent to the period of time between June 1, 2021 and the Rent Commencement Date.

miR will receive 3 months of free rent in months 13, 14, and 15 from the Rent Commencement Date, but will be required to pay operating expenses, PILOT, and utilities during these months. miR will have a one-time Right of First Offer to lease space in the building should it become available. miR will provide a security deposit of 4 months Net Rent, operating expenses, and PILOT in the estimated amount of $222,227. Impact NRS will guarantee the amounts due under the Lease but shall be released as Guarantor should miR demonstrate having $5,000,000 in net income for two consecutive years including any renewal terms.

After deducting the credit for painting/flooring, rent abatements and the amortized leasing commission ($213,720, amortized over 63 months at 7.5%) the weighted average of the Net Rent for the leasehold will be approximately $27.03 per rentable square foot.

**Recommendation**

Approval to execute (1) the Lease with miR for approximately 14,662 rentable square feet of laboratory and office space on the first floor of 685 South Route 1, North Brunswick at the Center, on final terms consistent with the Lease Letter of Intent Summary, attached as Exhibit A; and (2) any and all documents required to complete this transaction on final terms acceptable to the NJEDA's Chief Executive Officer and the Attorney General's Office.

att: Exhibit A
Prepared by: Liza Nolan

**EXHIBIT A**
**New Jersey Bioscience Center**
**Lease Letter of Intent Summary** **5/3/2021**

**LANDLORD** New Jersey Economic Development Authority

**TENANT** miR Scientific LLC

**ADDRESS** 685 S. Route 1, North Brunswick, NJ
Building 4, Suite 1st Floor

**LEASE RENT TERM** Total Years: 5.25
Total Months: 63.00
*(Estimated Dates)* Commencing: 9/1/2021 Ending: 11/30/2026

**RENTABLE SQUARE FEET** 14,662

**BASE RENT** $32.00 NNN , thereafter increasing 3% annually, subject to the following rent abatement:
3 months of Net Rent (Months 13, 14, & 15). Tenant shall pay CAM, PILOT and Utilities during rent abatement months.

| Year | $SF Base Net Rent | Actual $SF To Be Paid | Net $SF Rent (Paid - TAI & Comm.) | Rentable Square Feet | Actual Annual Rent To Be Paid | Annual Net Rent (Paid - TAI & Comm.) | Occup. Months | Occup. Year |
|---|---|---|---|---|---|---|---|---|
| Year 1 | $32.00 | $32.00 | $27.64 | 14,662 | $469,184.04 | $405,209.75 | 12 | 1.00 |
| Year 2 | $32.96 | $24.72 | $20.36 | 14,662 | $362,444.67 | $298,470.38 | 12 | 1.00 |
| Year 3 | $33.95 | $33.95 | $29.59 | 14,662 | $497,774.88 | $433,800.59 | 12 | 1.00 |
| Year 4 | $34.97 | $34.97 | $30.61 | 14,662 | $512,730.12 | $448,755.83 | 12 | 1.00 |
| Year 5 | $36.02 | $36.02 | $31.66 | 14,662 | $528,125.28 | $464,150.99 | 12 | 1.00 |
| Year 6 | $37.10 | $9.28 | $8.18 | 14,662 | $135,990.06 | $119,996.49 | 3 | 0.25 |
| | | | | **Totals** | **$2,506,249.05** | **$2,170,384.03** | **63** | **5.25** |

| | $SF Base Net Rent | Actual $SF To Be Paid | Net $SF Rent (Paid - TAI & Comm.) | | Actual Annual Rent To Be Paid | Annual Net Rent (Paid - TAI & Comm.) |
|---|---|---|---|---|---|---|
| Lease Annual Average Rent | $34.50 | $28.49 | $24.67 | | $417,708 | $361,731 |
| Lease Annual Median Rent | $34.46 | $32.98 | $28.62 | | $483,479 | $419,505 |
| Weighted Average Rent | $34.13 | $31.23 | $27.03 | | $457,954 | $396,264 |

**UTILITIES** Utilities will be billed to the Tenant.

**CAM & PILOT** Tenant shall pay CAM and PILOT according to standard lease terms

**TENANT IMPROVEMENT ALLOWANCE (TIA)** Not applicable.

**BROKERAGE COMMISSION** Under NJEDA's contract with Jones Lang LaSalle, NJEDA will pay a brokerage commission of approximately $187,600

**RENEWAL OPTION** Tenant shall be provided two two (2) year renewal options with a nine (9) month prior written notice.
Renewal rate shall be at 95% of Fair Market as defined in the new Lease however the Net Rent shall not be less than the Net Rent in the last year of the Initial Lease Term. The Net Rent during the Renewal Option shall increase 3% for the second year of each 2 year option to renew.

**SECURITY DEPOSIT** A minimum of 4 months of Year 1 Net Rent, together with 4 months estimated first year CAM, utilities and PILOT.

**OTHER**
Guarantor is Impact NRS LLC (parent company of miR).
Tenant will have access to Premises to construct Tenant Improvements beginning approx. June 1 2021.
Tenant is responsible for all Tenant Improvements; Landlord will provide $107,234 credit for painting and flooring costs.
Tenant shall have an early termination right in December 2021 if Tenant does not receive CLIA approval.
Tenant shall have a one time Right of First Offer if other space in the Building becomes available.
Premises will be delivered as is, however, in good working condition.
Landlord shall provide janitorial in the bathroom and lobby which shall be reimbursed as a CAM expense. Tenant shall be responsible for all other janitorial within its Premises.

**ESTIMATED RETURN**

| miR Scientific LLC | | | | | | |
|---|---|---|---|---|---|---|
| | EDA Investment | Rent Paid | Commission | Net Income | Discount Rate | Annual Present Value |
| Year 1 | ($23,266) | $469,184 | ($40,708) | $405,210 | 5% | $405,210 |
| Year 2 | ($23,266) | $362,445 | ($40,708) | $298,470 | 5% | $284,258 |
| Year 3 | ($23,266) | $497,775 | ($40,708) | $433,801 | 5% | $393,470 |
| Year 4 | ($23,266) | $512,730 | ($40,708) | $448,756 | 5% | $387,652 |
| Year 5 | ($23,266) | $528,125 | ($40,708) | $464,151 | 5% | $381,858 |
| Year 6 | ($5,816) | $135,990 | ($10,177) | $119,996 | 5% | $94,020 |
| **TOTALS** | **($122,145)** | **$2,506,249** | **($213,720)** | **$2,170,384** | | **$1,946,468** |

**Present Value of Projected Cash Flow at Stated Discount Rate** **$1,946,468**

# BOARD MEMORANDA -FYI ONLY

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

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

The following projects were approved under Delegated Authority in April 2021:

**Micro Business Loan Program:**

1) 1PB Family, LLC DBA Paris Baguette (PROD-228286 & 258291), located in Hackensack City, Bergen County, was formed in 2016 as a bakery/café specializing in French-inspired pastries, cakes, sandwiches, salads and signature coffees and teas. Located in a Hackensack shopping mall, they offer online, delivery, take out and dine in services. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement payroll and rent costs. The Company currently has four employees.

2) Applicant Check Limited Liability Company (PROD-228527 & 258346), located in Lakewood Township, Ocean County, is a background check company providing comprehensive and reliable employment and tenant background checks. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement working capital. Currently, the Company has one employee.

3) Aunt Niece Spa LLC DBA Paradise Spa & Sauna (PROD-228143 & 258297), located in Fort Lee Borough, Bergen County, was formed in 2017 to provide skincare and massage services. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement lease payments. Currently, the Company has four employees.

4) Brookside Grill and Banquets, LLC (PROD-228187 & 258292), located in Bloomfield Township, Essex County, was established in 2014 as a banquet facility that holds major events and functions. The NJEDA approved a $45,000 working capital loan and a $5,000 forgivable loan. Proceeds will be used to supplement rental payments. Currently, the Company has one employee.

5) Da Vinci Films Limited Liability Company DBA Meatpacking Productions (PROD-228522 & 258362), located in Union City, Hudson County, was established in 2015 as a home-based film production and post-production company. The NJEDA approved a $45,000 working capital loan and a $5,000 forgivable loan. Proceeds will be used to purchase equipment. Currently, the Company has one employee.

6) Dream Tree Learning Center Corp. DBA Kumon Math and Reading Center of Ramsey (PROD0228182 & 258369) is located in Ramsey Borough, Bergen County. The Company was formed in 2012 as an after-schooling learning center that tutors math and reading to Pre-K through high school students. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement working capital. Currently, the Company has four employees.

7) Evergreen Tax Consulting LLC (PROD-228185 &258279), located in Englewood Cliffs Borough, Bergen County, was formed in 2012 as a full-service accounting firm specializing in business tax services, individual tax services, and financial services. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement rental payments. The Company presently has three employees.

8) Greenlight Logistics LLC (PROD-224377 & 258336), located in Berlin Township, Camden County, was established in 2014, as a produce transporting trucking company. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement the payment of lease and utilities. Currently, the Company has one employee.

9) Hera Nail LLC (PROD-224405 & 258361), located in Hamilton Township, Mercer County, was formed in 2008 as a nail salon that provides manicure and pedicure services. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement payroll, rent and utilities. The Company currently has three employees.

10) JRAS LLC DBA Villari Vineyards (PROD-228278 & 258403), located in Deptford Township, Gloucester County, was formed in 2010 as a farm winery that sells wine made from grapes grown on ten acres of farmland in Sewell. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement payroll, and inventory. The Company currently has three employees.

11) Jong Taeg Lee DBA Evergreen Tax (PROD-228216 & 258280), located in Englewood Cliffs Borough, Bergen County, is a full-service accounting firm specializing in business tax services, individual tax services and financial services. The NJEDA approved an $18,000 working capital loan and a $2,000 forgivable loan. Proceeds will be used to supplement existing cash from operations to cover payroll expenses. Presently, the Company has two employees.

12) LCH Business, LLC DBA Usable Tech Co (PROD-224391 & 258296), located in Newark City, Essex County, was founded in 2007 as an integrated marketing, tech and design agency that helps their small to mid-size business clients attain a complete virtual footprint. The NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement working capital expenses such as payroll. Currently, the Company has one employee.

13) Lyons Pizza, Inc. (PROD-228176 & 258342), located in Montclair Township, Essex County, was established in 2019 as a pizzeria restaurant. The NJEDA approved a $21,600 working capital loan and a $2,400 forgivable loan. Proceeds will be used to supplement payroll and rent expenses. The Company presently has one employee.

14) Musichood LLC DBA Musichood (PROD-228433 & 258345), located in Englewood Cliffs Borough, Bergen County, was established in 2013 as a music rental business that also specializes in instrument repairs. NJEDA approved an $18,385.20 working capital loan and a $2,042.80 forgivable loan. Proceeds will be used to supplement operating expenses such as rent and inventory. Currently, the Company has two employees.

15) My Dream Laundromat LLC (PROD-224390 & 258331), located in Glen Rock Borough, Bergen County, was established in 2018 as a traditional laundromat business. NJEDA approved a $22,500 working capital loan and a $2,500 forgivable loan. Proceeds will be used to supplement operating expenses such as rent and utilities. At present, the Company has one employee.

16) Sai Vidyalaya Inc. SBA Sylvan Learning Center (PROD-228410 & 258343), located in Hillsdale Borough, Bergen County, was formed in 2019 as a tutoring center that provides individualized learning programs serving students in primary and secondary education. NJEDA approved a $40,500 working capital loan and a $4,500 forgivable loan. Proceeds will be used to supplement working capital expenses such as rent, utilities and payroll. The Company presently has two employees.

17) Sapientia LLC (PROD-228214 & 258322), located in Paterson City, Passaic County, was formed in 2017 as a CPA firm providing accounting, consulting, and tax services to the local community's small organizations and individuals. NJEDA approved an $18,803.41 working capital loan and a $2,089.27 forgivable loan. Proceeds will be used to supplement existing cash from operations to cover operating expenses, marketing, legal expenses, furniture and new equipment. Currently, the Company has one employee.

**Prepared by:** G. Robins

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** Office of Economic Growth – Delegated Authority Approvals for Q1 2021 - For Informational Purposes Only

## Angel Investor Tax Credit Program

On January 31, 2013, the New Jersey Angel Investor Tax Credit Act was signed into law with Regulations approved by the Members of the Board in June 2013. The New Jersey Angel Investor Tax Credit Program (ATC) establishes credits against corporate business tax or New Jersey gross income tax. When the program was originally approved, the amount of the tax credit was 10%. In 2019, Governor Murphy approved an increase to the amount of the tax credit from a 10% to 20% with a 5% bonus for either investing in NJ certified women or minority owned businesses or if the business is located in an Opportunity Zone or New Markets Tax Credit census tract. This increase is effective for all investments made on or after January 1, 2020.

## Angel Investor Tax Credit Program – Q1 2021 Review

In the first quarter of 2021, two hundred and seven Angel Tax Credit applications for a $5,220,753.00 in tax credits were approved. This represented $32,935,050.00 in private investments into 17 unique technology, clean tech and life science companies. The Technology sector represented 33% of applications while Clean Tech was 6% and Life Science companies were 61% of the overall total. There were 4 new company approvals in this quarter: POM Partners, Inc., Evergreen Theragnostics, Inc, Aspargo Laboratories, Inc, and ANAX Holdings, LLC. Of these companies, POM Partners and ANAX Holdings are located in an Opportunity Zone, allowing their investors to leverage the 5% location related bonus for their respective applications.

**Angel Tax Credit 1st Q 2021 Results**

| Sector | Investment Amount | Applications | # of Companies in Each Sector | % of Total Investments | % of Total Applications |
|---|---|---|---|---|---|
| Technology | $ 10,892,997 | 37 | 1 | 33% | 18% |
| Clean Tech | $ 1,925,000 | 10 | 10 | 6% | 5% |
| Life Sciences | $ 20,117,053 | 160 | 6 | 61% | 77% |
| **Total** | **$ 32,935,050** | **207** | **17** | | |

The following seventeen companies were participants for the 1st quarter of 2021:

- Acuitive Technologies, Inc.: Based in Allendale, NJ. Acuitive Technologies is pursuing the development of novel biomaterial technologies to improve the repair and regeneration of musculoskeletal tissue.

- Agilis Chemicals, Inc.: Based in Newark, NJ. Agilis Chemicals offers a cloud-based Commerce Platform-as-a-Service to chemical producers and distributors, which consolidates supply chain fragmentation and brings efficiency to the chemical procurement process.

- Anax Holdings LLC: Based in Morris, NJ. Anax Holdings LLC commercializes the Anax Power Turbo Expander (ATE) - a Carbon Footprint reduction technology, which generates non-carbon emitting electricity for industrial users without combustion using natural gas.

- Angel Medical Systems, Inc.: Based in Eatontown, NJ. Angel Medical is a medical device company that has developed the first ever implantable, patient alerting systems for the early detection and prevention of heart attacks.

- Aspargo Laboratories, Inc.: Based in Englewood Cliffs, NJ. Aspargo Labs Inc. is a life science corporation that commercializes a therapeutic approach to addressing a clinical need for drugs that treat erectile dysfunction (ED).

- Collective Intel, Inc.: Based in Allendale, NJ. Collective Intel, Inc. has created a tech platform which uses layers of AI and human intelligence to extract and analyze data from video sources; tailored for client requests. The company de-codes quantitative and qualitative information from videos in a privacy secure environment.

- Elucida Oncology, Inc.: Based in Bound Brook, NJ. Elucida Oncology is a biotechnology company focused on clinical research, development and subsequent commercialization of life-changing products based on the Target or ClearTM technology of the novel, ultra-small nanoparticle delivery platform.

- Endomedix, Inc.: Based in Montclair, NJ. Endomedix has developed a platform technology that can be used to develop at least 4 separate product categories including surgical hemostats, tissue sealants, drug delivery and tissue engineering vehicles.

- Evergreen Theragnostics, Inc.: Based in Chatham, NJ. Evergreen Theragnostics, Inc. is a leading Contract Development and Manufacturing Organization (CDMO) servicing the radiopharmaceutical industry in developing early stage molecules.

- Inspirit Group LLC: Based in Holmdel, NJ. Inspirit Group, LLC d/b/a STOPit is a technology company that provides a comprehensive software platform that mitigates, defers and controls bullying, including cyberbullying, harassment and other harmful or inappropriate conduct.

- Leap Insurance LLC: Based in Jersey City, NJ. Leap Insurance acts as an institutional co-signer of apartment leases, providing access to apartments to renters while guaranteeing landlords against rent default.

- Mobility Capital Finance, Inc.: Based in Newark, NJ. MoCaFi has built a financial app that helps unbanked and underbanked people achieve economic mobility.

- POM Partners, Inc.: Based in Newark, NJ. POM Partners, Inc. provides an emergency communications portal solution for the higher education, healthcare and enterprise industries

- Sonnet BioTherapeutics, Inc.: Based in Princeton, NJ. Sonnet BioTherapeutics is a pre-clinical biotech company developing a pipeline of therapies relating to oncology (cancer).

- Svelte Medical Systems, Inc.: Based in new Providence, NJ. Svelte Medical Systems, Inc. was founded with a mission to address key clinical issues in the cardiovascular stent market by improving stent deliverability, reducing procedural costs and improving safety.

- United Silicon Carbide, Inc.: Based in Monmouth Junction, NJ. United Silicon Carbide, Inc. was spun out of Rutgers University in 2000 to develop high power transistors and diodes in the silicon carbide materials system.

- Vydia Inc.: Based in Holmdel, NJ. Vydia offers a centralized technology solution for video creators to manage their content, digital rights, earnings, and social trending through one centralized platform.

Since program inception in 2013 through Q1 2021, the Authority has approved 1,671 applications for investments totaling more than $616 million invested in 102 New Jersey based technology businesses.

Please find a detailed list of all ATC applications that were approved under delegated authority during the first quarter of 2021 on Exhibit A.

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## NJ Ignite Program

NJ Ignite offers grants to support the rent of early stage technology and life science companies located in an NJ Ignite approved collaborative workspace. Grants vary in amount and the start-up must commit to work for a specified time at the collaborative space under established agreements in which the workspace will partner to forego an element of the rent to support the business. As of March 31st, 2021, there were 23 approved collaborative spaces in New Jersey, some of which have multiple locations.

### NJ Ignite Program – Q1 2021 Review

Feedback from several approved collaborative workspaces continue to show slow progress in the sector. As such, there were no new Workspace Approvals for the 1st Quarter. One new tenant application was received in February from CoLab (fka BellWorks) located in Holmdel NJ, which brings the current tenant pipeline for review and approval to a total of four applications.

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## NJ Entrepreneur Support Program

On March 26, 2020, the NJEDA Board approved the NJ Startup Entrepreneur Support Program (NJESP) to help support New Jersey entrepreneurial businesses with limited funding to navigate COVID-19 related cashflow constraints by giving them access to investor support. Under the program, existing investors of the entrepreneurial businesses (operating in Innovation Economy sectors) receive a guarantee (up to 80%, not to exceed $200,000 per company) for a new, qualified bridge loan/convertible note into the NJ entrepreneurial business. The total program budget is $5 million.

Applications for the program opened on April 22, 2020 – since then, total 97 applications were received. From which, 47 applications for combined guarantee amount of $2.036 million were approved. These applications were for investments in 13 unique businesses for a combined promissory note investment of $2.545 million. These 13 businesses have total 85 full-time NJ employees. 28 applications were withdrawn, and 22 applications were declined. The program stopped taking new applications on February 12, 2021.

Investors in two companies - POM Partners, Inc. and Ricovr Healthcare, Inc. converted their promissory notes into equity.

Six investors provided a combined $240,000 in promissory notes to POM Partners, Inc. NJEDA provided a combined guarantee of $192,000 to these investors. After conversion of the promissory notes to equity, NJEDA received a ten-year warrant from POM Partners, Inc. as per the NJ Entrepreneur Support Program guarantee agreement terms.

Similarly, two investors provided $200,000 in promissory notes to Ricovr Healthcare, Inc. NJEDA provided a combined guarantee of $180,000 to these investors. After conversion of the promissory notes to equity, NJEDA received a ten-year warrant from Ricovr Healthcare, Inc. as per the NJ Entrepreneur Support Program guarantee agreement terms.

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## NJ Accelerate Program

On February 11th, 2020, the NJEDA Board approved the NJ Accelerate pilot program. The total program budget is $2.5 million. Through NJ Accelerate, the NJEDA seeks to provide early-stage businesses access to best-in-class Accelerator programs, enabling the tools and support to grow their businesses in the Garden State. The program provides up to $250,000 of direct loan funding and up to 9 months of free rent to Approved Accelerator Graduates located in New Jersey. Approved Accelerators may also receive up to $105,000 to encourage their on-the-ground engagement in the State.

**NJ Accelerate – Q1 2021 Review**

Applications to be an approved accelerator started during Q4, 2020. On November 12th, 2020 Morgan Stanley Multicultural Innovation Lab became the first approved accelerator. Currently, two accelerator applications are in review for approval.

EDA is finalizing processes for event sponsorship as well as rent and investment support for graduated companies. We anticipate all three to be "live" for approved programs in Q2 2021.

Approved Accelerators:

| Accelerator Name | Accelerator Location |
|---|---|
| Morgan Stanley Multicultural Innovation Lab | New York City |

Morgan Stanley Multicultural Innovation Lab: the Morgan Stanley Multicultural Innovation Lab was created in 2017 to drive positive economic outcomes for multicultural and women-led companies in the post-seed to Series B funding rounds by providing content, visibility, technical support, and connectivity with important stakeholders who can accelerate the growth of participants' businesses. The accelerator is built around tailored support and expertise entrepreneurs receive from a dedicated Morgan Stanley team. To date, 32 tech or tech-enabled companies have participated in the Lab, with many going on to successful acquisitions and additional funding rounds. At this time, 11 companies are participating in the 2021 Cohort which will end in July 2021.

Tim Sullivan, CEO

**ESP Prepared by:**
Madhavi Bhatia

**NJ Ignite Prepared by:**
Syed Sohaib

**NJ Accelerate Prepared by:**
Monica Valenzuela

**ATC and Memo Prepared by:**
Jennifer Toth

# EXHIBIT A

## Q1 2021 Delegated ATC Delegated Approvals

| Investors | Employees in NJ | Company | Investment | Proposed Tax Credit |
|---|---|---|---|---|
| Michael McCarthy | | Acuitive Technologies, Inc. | $350,000 | $35,000 |
| Michael O Khowaylo | | Acuitive Technologies, Inc. | $500,000 | $50,000 |
| Michael McCarthy | | Acuitive Technologies, Inc. | $75,000 | $7,500 |
| Alex Khowaylo | | Acuitive Technologies, Inc. | $60,000 | $6,000 |
| **4** | **NJ: 20 Total: 22** | **Acuitive Technologies, Inc.** | **$985,000** | **$98,500** |
| Cloquet Agilis LLC | | Agilis Chemicals Inc. | $250,000 | $25,000 |
| Pranay Maisuria | | Agilis Chemicals Inc. | $50,000 | $10,000 |
| Bipin & Mukula Patel Family LLC | | Agilis Chemicals Inc. | $200,000 | $40,000 |
| Cloquet Agilis LLC | | Agilis Chemicals Inc. | $100,000 | $20,000 |
| **4** | **NJ: 5 Total: 5** | **Agilis Chemicals Inc.** | **$600,000** | **$95,000** |
| Bruce Conway | | Anax Holdings LLC | $200,000 | $50,000 |
| Brooks Wilson | | Anax Holdings LLC | $75,000 | $18,750 |
| J. Christian Higgins | | Anax Holdings LLC | $75,000 | $18,750 |
| JAM Family Investments Inc. | | Anax Holdings LLC | $125,000 | $31,250 |
| The HAH Trust | | Anax Holdings LLC | $750,000 | $187,500 |
| AnnieJo LLC | | Anax Holdings LLC | $150,000 | $37,500 |
| Crowe Family Ventures LLC | | Anax Holdings LLC | $200,000 | $50,000 |
| Thomas O. McCarthy | | Anax Holdings LLC | $200,000 | $50,000 |
| Karl Peterson & Terry Andrews | | Anax Holdings LLC | $25,000 | $6,250 |
| Joseph E. and Susan Rich | | Anax Holdings LLC | $125,000 | $31,250 |
| **10** | **NJ: 2 Total: 2** | **Anax Holdings LLC** | **$1,925,000** | **$481,250** |
| MCM Angel Partners, LLC | | Angel Medical Systems, Inc. | $6,686,688 | $500,000 |
| Michael and Holly Lyttle | | Angel Medical Systems, Inc. | $50,000 | $10,000 |
| Victor Whitman | | Angel Medical Systems, Inc. | $50,000 | $10,000 |
| Robert Elentuch Fischell | | Angel Medical Systems, Inc. | $100,000 | $20,000 |
| Peter J Stern Family 2011 Trust | | Angel Medical Systems, Inc. | $50,000 | $10,000 |
| Kenneth P. Rosenthal and Judith L. Rosenthal JTROS | | Angel Medical Systems, Inc. | $100,000 | $20,000 |
| Gregg Turi | | Angel Medical Systems, Inc. | $100,000 | $20,000 |
| TDC Holdings, LLC | | Angel Medical Systems, Inc. | $50,000 | $10,000 |
| David R Fischell | | Angel Medical Systems, Inc. | $40,000 | $8,000 |
| James and Susan Harbison | | Angel Medical Systems, Inc. | $25,000 | $2,500 |
| Varney Hintlian | | Angel Medical Systems, Inc. | $60,000 | $12,000 |
| Lorraine DiPaolo | | Angel Medical Systems, Inc. | $100,000 | $20,000 |
| AHM Gift Trust | | Angel Medical Systems, Inc. | $45,000 | $9,000 |
| David Fischell Family Trust | | Angel Medical Systems, Inc. | $30,000 | $6,000 |
| Thomas Gilbert Mendell | | Angel Medical Systems, Inc. | $30,000 | $6,000 |
| Robert F. Semmens | | Angel Medical Systems, Inc. | $25,000 | $5,000 |
| Anne Arbetter Fischell Living Trust | | Angel Medical Systems, Inc. | $25,000 | $5,000 |
| Victor Whitman | | Angel Medical Systems, Inc. | $50,000 | $10,000 |
| Sarah Fischell Family Trust | | Angel Medical Systems, Inc. | $30,000 | $6,000 |
| **19** | **NJ: 22 Total: 26** | **Angel Medical Systems, Inc.** | **$7,646,688** | **$689,500** |

| | | | | |
|---|---|---|---|---|
| Bradley S Daniels IRA | | Aspargo Laboratories, Inc. | $300,000 | $60,000 |
| Hazem Ibrahim | | Aspargo Laboratories, Inc. | $300,000 | $60,000 |
| William Keefe and Alice Keefe | | Aspargo Laboratories, Inc. | $75,000 | $15,000 |
| William Keefe IRA | | Aspargo Laboratories, Inc. | $15,000 | $3,000 |
| Brian C. Laux | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Bruce A. and Arlene Borek | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Mark Pizzolo | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Peter J Samaras Jr | | Aspargo Laboratories, Inc. | $7,500 | $1,500 |
| Douglas M Senderoff | | Aspargo Laboratories, Inc. | $100,000 | $20,000 |
| Robert John Rubino | | Aspargo Laboratories, Inc. | $100,000 | $20,000 |
| Patrick G. LePore | | Aspargo Laboratories, Inc. | $100,000 | $20,000 |
| Timothy J. Cunningham | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Albert H. Dorsey III | | Aspargo Laboratories, Inc. | $15,000 | $3,000 |
| Shawn Christopher Ciecko | | Aspargo Laboratories, Inc. | $40,000 | $8,000 |
| William Keefe and Alice Keefe | | Aspargo Laboratories, Inc. | $25,000 | $5,000 |
| Joseph F. DelPrete | | Aspargo Laboratories, Inc. | $25,000 | $5,000 |
| Dorothea Danielle Zando | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Dominick Keefe | | Aspargo Laboratories, Inc. | $75,000 | $15,000 |
| Diane C Dodaro-Surrusco & James A. Surrusco | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| HUMPHREY PIZZOLO | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Avi Korein | | Aspargo Laboratories, Inc. | $125,000 | $25,000 |
| Benjamin Tirabassi | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Scott Joseph Wojie | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| David Wayne Kolakowski | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Peter Joseph Miceli | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Joseph Thomas Stango | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| HUMPHREY PIZZOLO | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| William Johnston McEwen | | Aspargo Laboratories, Inc. | $100,000 | $20,000 |
| Kristina Alves | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| Pedro M. Alves | | Aspargo Laboratories, Inc. | $75,000 | $15,000 |
| Bryce Edmister | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Alexander Anthony Rossano | | Aspargo Laboratories, Inc. | $25,000 | $5,000 |
| WPNSK PROPERTY LLC | | Aspargo Laboratories, Inc. | $25,000 | $5,000 |
| Anthony V Perosi III | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Marjorie Daniels | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| John Kelly Reyher | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Dustin Thomas Hocken | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Shraddha D. Munver | | Aspargo Laboratories, Inc. | $125,000 | $25,000 |
| Carl Eric Faust | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Cynthia E. Keefe Trust | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Joseph and Joann Benanti | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Jill and Thomas Landry | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| Leslie K Curran | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| WPNSK PROPERTY LLC | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| William Keefe and Alice Keefe | | Aspargo Laboratories, Inc. | $25,000 | $5,000 |
| Dina A Gatto | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| Michael Sullivan | | Aspargo Laboratories, Inc. | $30,000 | $6,000 |
| Jonathan B Camarda | | Aspargo Laboratories, Inc. | $15,000 | $3,000 |
| Peter J Samaras Jr | | Aspargo Laboratories, Inc. | $17,500 | $3,500 |
| Gerard J LePore | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |

| | | | | |
|---|---|---|---|---|
| Patricia Ann Ronca | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Carl Eric Faust | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Antonio Carvalho | | Aspargo Laboratories, Inc. | $200,000 | $40,000 |
| Stephen P Brennan | | Aspargo Laboratories, Inc. | $50,000 | $10,000 |
| Patricia Ann Sullivan | | Aspargo Laboratories, Inc. | $30,000 | $6,000 |
| Augustine Francis Xavier Kane | | Aspargo Laboratories, Inc. | $25,000 | $5,000 |
| Mark Pizzolo | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Kari Artzi | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| JP2 Group, LLC | | Aspargo Laboratories, Inc. | $30,000 | $6,000 |
| Alexander Charles Roback | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Mary Ann Savettiere | | Aspargo Laboratories, Inc. | $17,500 | $3,500 |
| Maria Christine Buzzanco | | Aspargo Laboratories, Inc. | $20,000 | $4,000 |
| Samuel Allan Lesher | | Aspargo Laboratories, Inc. | $38,000 | $7,600 |
| Benjamin John Tirabassi | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Maurice Quesnel Trust | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| Allen Ross Tyndall | | Aspargo Laboratories, Inc. | $10,000 | $2,000 |
| **66** | **NJ: 2 Total: 2** | **Aspargo Laboratories, Inc.** | **$2,860,500** | **$572,100** |
| Amit Dhand | | Collective Intel, Inc | $310,710 | $31,071 |
| **1** | **NJ: 3 Total: 4** | **Collective Intel, Inc** | **$310,710** | **$31,071** |
| Nora W Wong 2012 Descendants Trust | | Elucida Oncology, Inc. | $50,000 | $10,000 |
| Ambroseo-Lacorte Family Trust UAD 9/28/10 | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Louis Vigden | | Elucida Oncology, Inc. | $17,500 | $3,500 |
| Timothy P Hanley and Monica Hanley | | Elucida Oncology, Inc. | $37,500 | $7,500 |
| Taylor W. Lawrence Family Trust U/A/D 10/23/09 | | Elucida Oncology, Inc. | $200,000 | $40,000 |
| Tad Sanders | | Elucida Oncology, Inc. | $12,500 | $2,500 |
| Angelo and Monika Moesslang Joint Tenant | | Elucida Oncology, Inc. | $12,500 | $2,500 |
| Matthew Jason Wallach | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Ditzler Family 2003 Trust | | Elucida Oncology, Inc. | $200,000 | $40,000 |
| Samir Asgar Mammadov | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Oliver Ian Chrzan | | Elucida Oncology, Inc. | $499,928 | $99,986 |
| Raymond L Wong | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Corey Grossman | | Elucida Oncology, Inc. | $350,000 | $70,000 |
| Douglas A. Wood | | Elucida Oncology, Inc. | $68,400 | $13,680 |
| David Berger, Adrianne Berger | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Peter Brundage | | Elucida Oncology, Inc. | $150,000 | $30,000 |
| Dr. Steve and Jan Richards Revocable Trust | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| JT Ten Michael Cohn & Paula Cohn | | Elucida Oncology, Inc. | $12,540 | $2,508 |
| Richard Pilnik | | Elucida Oncology, Inc. | $120,000 | $24,000 |
| Richard Joseph Shea Tracey Shea Joint Tenant | | Elucida Oncology, Inc. | $12,500 | $2,500 |
| Lawrence D. Stern 2010 Qualified Annuity Trust | | Elucida Oncology, Inc. | $250,000 | $50,000 |
| William Francis Grieco | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Peter A. Pogany | | Elucida Oncology, Inc. | $150,000 | $15,000 |
| Liepmann Trust UAD 5/08/1984 UAD 05/08/84 | | Elucida Oncology, Inc. | $31,000 | $6,200 |
| Peter John Freix | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| PEAS Trust, dtd 12/27/2012 | | Elucida Oncology, Inc. | $350,000 | $70,000 |
| SEAS Trust, dtd 12/27/2012 | | Elucida Oncology, Inc. | $350,000 | $70,000 |
| Vahan Janjigian & Noone Janjigian | | Elucida Oncology, Inc. | $12,500 | $2,500 |
| Juan and Neith Vallarino | | Elucida Oncology, Inc. | $50,000 | $10,000 |
| Synergize Trust U/A/D 12/18/15 | | Elucida Oncology, Inc. | $50,000 | $10,000 |
| James Martin | | Elucida Oncology, Inc. | $50,000 | $10,000 |

| | | | | |
|---|---|---|---|---|
| Joan Plastiras Revocable Living Trust | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| William Krywicki and Nancie Krywicki Joint Tenant | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| Renee Herzing 2018 Revocable Trust | | Elucida Oncology, Inc. | $133,000.00 | $26,600 |
| The Steven and Kaye Yost Family Trust UAD 2/7/92 | | Elucida Oncology, Inc. | $22,800.00 | $4,560 |
| Goutham K Gorti | | Elucida Oncology, Inc. | $152,000.00 | $30,400 |
| Thomas G. Mendell Dynasty Trust UAD 12/09/10 | | Elucida Oncology, Inc. | $152,000.00 | $30,400 |
| Robert S Colman Trust UDT 3/13/85 | | Elucida Oncology, Inc. | $200,000.00 | $40,000 |
| The R Scott Greer & Michelle Greer Revocable Trust | | Elucida Oncology, Inc. | $75,000.00 | $15,000 |
| Leslie E. Wood | | Elucida Oncology, Inc. | $30,400.00 | $6,080 |
| Richard Dyke Rogers | | Elucida Oncology, Inc. | $125,400.00 | $25,080 |
| Philip M. and Pamela K. Pfeffer, JTE | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| Timothy & Martha Georgelas | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| Peter John Vincent | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| Robert Lawrence Bahr | | Elucida Oncology, Inc. | $26,600.00 | $5,320 |
| Hoyt David Morgan | | Elucida Oncology, Inc. | $380,000.00 | $76,000 |
| James R and Amita Hollingshead Revocable Trust U/A/D 05/30/08 | | Elucida Oncology, Inc. | $38,000.00 | $7,600 |
| The B&E Siliezar Trust dated 12/18/13 | | Elucida Oncology, Inc. | $100,000.00 | $20,000 |
| Glenn P. Muir | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| Gerard J. Daher Revocable Trust | | Elucida Oncology, Inc. | $25,000.00 | $5,000 |
| Jack C Holland Revocable Trust, dated the 14th day of Feb., 1979 | | Elucida Oncology, Inc. | $22,800.00 | $4,560 |
| Eric Prescott Campbell | | Elucida Oncology, Inc. | $37,500.00 | $7,500 |
| Ronald Joseph Artinian | | Elucida Oncology, Inc. | $12,500.00 | $2,500 |
| **56** | **NJ: 9 Total: 12** | **Elucida Oncology, Inc.** | **$5,444,868.00** | **$1,073,974** |
| Richard Russo | | Endomedix, Inc | $450,000.00 | $45,000 |
| Barry Krosser | | Endomedix, Inc | $150,000.00 | $15,000 |
| AJM Investments, LLC | | Endomedix, Inc | $250,000.00 | $50,000 |
| **3** | **NJ: 3 Total: 3** | **Endomedix, Inc** | **$850,000.00** | **$110,000** |
| Roman Geis | | Evergreen Theragnostics, Inc. | $175,000.00 | $35,000 |
| Dr. Victor G Paulus | | Evergreen Theragnostics, Inc. | $49,997.00 | $9,999 |
| Andrea Rota | | Evergreen Theragnostics, Inc. | $50,000.00 | $10,000 |
| Adi Goldfarb | | Evergreen Theragnostics, Inc. | $50,000.00 | $10,000 |
| James B Cook | | Evergreen Theragnostics, Inc. | $50,000.00 | $10,000 |
| **5** | **NJ: 4 Total: 4** | **Evergreen Theragnostics, Inc.** | **$374,997.00** | **$74,999** |
| Charles P. Mays III | | Inspirit Group LLC | $50,000.00 | $10,000 |
| Drivelocker, LLC | | Inspirit Group LLC | $30,000.00 | $6,000 |
| Niraj Kumar Pant | | Inspirit Group LLC | $24,669.00 | $4,934 |
| Kevin M. Kilcullen | | Inspirit Group LLC | $350,000.00 | $70,000 |
| Jeffrey R Schobel | | Inspirit Group LLC | $6,565.00 | $1,313 |
| Jai Prakash Pandu | | Inspirit Group LLC | $20,417.00 | $4,083 |
| Anthony Portannese | | Inspirit Group LLC | $50,000.00 | $10,000 |
| Timothy Makris | | Inspirit Group LLC | $45,000.00 | $9,000 |
| Makina Group LLC | | Inspirit Group LLC | $68,600.00 | $13,720 |
| Charles Parkhill Mays III | | Inspirit Group LLC | $43,475.00 | $8,695 |
| Robert A. and Harriet Druskin | | Inspirit Group LLC | $225,000.00 | $45,000 |
| James Courter | | Inspirit Group LLC | $150,000.00 | $30,000 |
| **12** | **NJ: 17 Total: 18** | **Inspirit Group LLC** | **$1,063,726.00** | **$212,745** |

| | | | | |
|---|---|---|---|---|
| Dennis Shasha | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Samuel Robert Nussbaum | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Patricia Verduin | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Joan Plastiras Revocable Living Trust | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| William Krywicki and Nancie Krywicki Joint Tenant | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Renee Herzing 2018 Revocable Trust | | Elucida Oncology, Inc. | $133,000 | $26,600 |
| The Steven and Kaye Yost Family Trust UAD 2/7/92 | | Elucida Oncology, Inc. | $22,800 | $4,560 |
| Goutham K Gorti | | Elucida Oncology, Inc. | $152,000 | $30,400 |
| Thomas G. Mendell Dynasty Trust UAD 12/09/10 | | Elucida Oncology, Inc. | $152,000 | $30,400 |
| Robert S Colman Trust UDT 3/13/85 | | Elucida Oncology, Inc. | $200,000 | $40,000 |
| The R Scott Greer & Michelle Greer Revocable Trust | | Elucida Oncology, Inc. | $75,000 | $15,000 |
| Leslie E. Wood | | Elucida Oncology, Inc. | $30,400 | $6,080 |
| Richard Dyke Rogers | | Elucida Oncology, Inc. | $125,400 | $25,080 |
| Philip M. and Pamela K. Pfeffer, JTE | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Timothy & Martha Georgelas | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Peter John Vincent | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Robert Lawrence Bahr | | Elucida Oncology, Inc. | $26,600 | $5,320 |
| Hoyt David Morgan | | Elucida Oncology, Inc. | $380,000 | $76,000 |
| James R and Amita Hollingshead Revocable Trust U/A/D 05/30/08 | | Elucida Oncology, Inc. | $38,000 | $7,600 |
| The B&E Siliezar Trust dated 12/18/13 | | Elucida Oncology, Inc. | $100,000 | $20,000 |
| Glenn P. Muir | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Gerard J. Daher Revocable Trust | | Elucida Oncology, Inc. | $25,000 | $5,000 |
| Jack C Holland Revocable Trust, dated the 14th day of Feb., 1979 | | Elucida Oncology, Inc. | $22,800 | $4,560 |
| Eric Prescott Campbell | | Elucida Oncology, Inc. | $37,500 | $7,500 |
| Ronald Joseph Artinian | | Elucida Oncology, Inc. | $12,500 | $2,500 |
| **56** | **NJ: 9 Total: 12** | **Elucida Oncology, Inc.** | **$5,444,868** | **$1,073,974** |
| Richard Russo | | Endomedix, Inc | $450,000 | $45,000 |
| Barry Krosser | | Endomedix, Inc | $150,000 | $15,000 |
| AJM Investments, LLC | | Endomedix, Inc | $250,000 | $50,000 |
| **3** | **NJ: 3 Total: 3** | **Endomedix, Inc** | **$850,000** | **$110,000** |
| Roman Geis | | Evergreen Theragnostics, Inc. | $175,000 | $35,000 |
| Dr. Victor G Paulus | | Evergreen Theragnostics, Inc. | $49,997 | $9,999 |
| Andrea Rota | | Evergreen Theragnostics, Inc. | $50,000 | $10,000 |
| Adi Goldfarb | | Evergreen Theragnostics, Inc. | $50,000 | $10,000 |
| James B Cook | | Evergreen Theragnostics, Inc. | $50,000 | $10,000 |
| **5** | **NJ: 4 Total: 4** | **Evergreen Theragnostics, Inc.** | **$374,997** | **$74,999** |
| Charles P. Mays III | | Inspirit Group LLC | $50,000 | $10,000 |
| Drivelocker, LLC | | Inspirit Group LLC | $30,000 | $6,000 |
| Niraj Kumar Pant | | Inspirit Group LLC | $24,669 | $4,934 |
| Kevin M. Kilcullen | | Inspirit Group LLC | $350,000 | $70,000 |
| Jeffrey R Schobel | | Inspirit Group LLC | $6,565 | $1,313 |
| Jai Prakash Pandu | | Inspirit Group LLC | $20,417 | $4,083 |
| Anthony Portannese | | Inspirit Group LLC | $50,000 | $10,000 |
| Timothy Makris | | Inspirit Group LLC | $45,000 | $9,000 |
| Makina Group LLC | | Inspirit Group LLC | $68,600 | $13,720 |
| Charles Parkhill Mays III | | Inspirit Group LLC | $43,475 | $8,695 |
| Robert A. and Harriet Druskin | | Inspirit Group LLC | $225,000 | $45,000 |
| James Courter | | Inspirit Group LLC | $150,000 | $30,000 |
| **12** | **NJ: 17 Total: 18** | **Inspirit Group LLC** | **$1,063,726** | **$212,745** |

| | | | | |
|---|---|---|---|---|
| Colony Insurance Company | | Leap Insurance LLC | $300,000 | $30,000 |
| **1** | **NJ: 10 Total: 11** | **Leap Insurance LLC** | **$300,000** | **$30,000** |
| Wole Cinque Coaxum | | Mobility Capital Finance, Inc. (MoCaFi) | $825,000 | $82,500 |
| W. Morgan Churchman | | Mobility Capital Finance, Inc. (MoCaFi) | $100,000 | $10,000 |
| Emerging Impact Fund II, LP | | Mobility Capital Finance, Inc. (MoCaFi) | $1,000,000 | $100,000 |
| **3** | **NJ: 6 Total: 6** | **Mobility Capital Finance, Inc. (MoCaFi)** | **$1,925,000** | **$192,500** |
| Jeff Guberman | | POM Partners, Inc. | $20,000 | $5,000 |
| Melvin Wayne Chudzik | | POM Partners, Inc. | $50,000 | $12,500 |
| Caroline Lee Reid | | POM Partners, Inc. | $35,000 | $8,750 |
| Jerry Labowitz | | POM Partners, Inc. | $649,996 | $162,499 |
| Chad Poplawski | | POM Partners, Inc. | $19,996 | $4,999 |
| **5** | **NJ: 6 Total: 6** | **POM Partners, Inc.** | **$774,992** | **$193,748** |
| Murahari Amarnath and Srilalitha Papani | | Sonnet BioTherapeutics, Inc. | $900,000 | $90,000 |
| Sitaram Lanka and Anuradha Lanka | | Sonnet BioTherapeutics, Inc. | $250,000 | $25,000 |
| Rangarajan Vekataraman and Latha Gopalan | | Sonnet BioTherapeutics, Inc. | $50,000 | $10,000 |
| Murahari Amarnath and Srilalitha Papani | | Sonnet BioTherapeutics, Inc. | $150,000 | $30,000 |
| The Jagannathan RaviKrishnan Family Trust 2018 | | Sonnet BioTherapeutics, Inc. | $150,000 | $30,000 |
| Raghu S Rao | | Sonnet BioTherapeutics, Inc. | $5,000 | $1,000 |
| The Subbarao Living Trust | | Sonnet BioTherapeutics, Inc. | $250,000 | $25,000 |
| Murahari Amarnath and Srilalitha Papani | | Sonnet BioTherapeutics, Inc. | $450,000 | $90,000 |
| Nilesh R Jariwala | | Sonnet BioTherapeutics, Inc. | $500,000 | $50,000 |
| Sateesh C. Babu and Sudha Rao | | Sonnet BioTherapeutics, Inc. | $100,000 | $10,000 |
| **10** | **NJ: 4 Total: 5** | **Sonnet BioTherapeutics, Inc.** | **$2,805,000** | **$361,000** |
| Robert W. Croce | | Svelte Medical Systems, Inc. | $591,500 | $118,300 |
| **1** | **NJ: 19 Total: 21** | **Svelte Medical Systems, Inc.** | **$591,500** | **$118,300** |
| Betsy Dawson Cotton | | United Silicon Carbide Inc | $50,000 | $10,000 |
| Leonid Fursin | | United Silicon Carbide Inc | $18,228 | $3,646 |
| John Christopher Dries | | United Silicon Carbide Inc | $2,000,000 | $400,000 |
| GHO Ventures, LLC | | United Silicon Carbide Inc | $2,165,358 | $433,072 |
| Anup Bhalla | | United Silicon Carbide Inc | $100,000 | $20,000 |
| Mari-Anne Gagliardi | | United Silicon Carbide Inc | $50,000 | $10,000 |
| **6** | **NJ: 23 Total: 26** | **United Silicon Carbide Inc** | **$4,383,586** | **$876,718** |
| Tech Council Ventures II-AI LP | | Vydia Inc. | $93,483 | $9,348 |
| **1** | **NJ: 44 Total: 45** | **Vydia Inc.** | **$93,483** | **$9,348** |
| **207** | **NJ: 199 Total: 218** | **17** | **$32,935,050** | **$5,220,753** |

NJ EDA

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** Bond Modifications – 1st Quarter 2021
(For Informational Purposes Only)

The following Post-Closing Bond action was approved under delegated authority in the 1st quarter ending March 31, 2021:

**Stand Alone and Refunding Bonds - (EDA has no Credit Exposure)**

| Applicant | Modification Action | Bond Amount |
|---|---|---|
| Congregation Oros Bais Yaakov of Lakewood Inc. | Consent to amending (i) the First and Second interest reset rate formula to 83% of 1-month LIBOR with a floor of .25%, plus 210 basis points, to be fixed for 10 years at approximately 3% fixed rate with an integrated swap (ii) adding and modifying related definitions to secure the swap. | $4,775,000 |
| Metropolitan YMCA of the Oranges | Consent to defer principal payments for 16 months due to COVID 19 related issues. | $5,500,000 |
| Beth Medrash Govoha of Lakewood, Inc. | Consent to modify the Debt Service Coverage Ratio and certain financial reporting covenants, and to add Cedarbridge Development LLC as additional Guarantor. | $28,000,000 |

Tim Sullivan, CEO

Prepared by: K. Hall

NJEDA

# MEMORANDUM

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** Post Closing Credit Delegated Authority Approvals for 1Q Quarter 2021
***For Informational Purposes Only***

The following post-closing actions were approved under delegated authority during the first quarter of 2021:

| Name | EDA Credit Exposure | Action |
|---|---|---|
| SETO MO Holdings, LLC (Seto Medical Providers, LLC) | $ 84,863 SLP | Extend the loan maturity five years to January 1, 2026 to align with corresponding extension from senior lender, M&T Bank. |
| TDH Penn Properties, LLC (Penn Temps, LLC and Pen Personnel Consultants, Inc.) | $ 47,938 SLP | Extend the loan maturity by five years to January 1, 2026 to align with corresponding extension from senior lender, M&T Bank. |

**COVID-19 Moratoria**

The following loan products were approved for an additional six-month principal and interest moratorium to provide cash flow relief from the disruption caused by COVID-19. It should be noted that Members approved an original three-month principal and interest moratorium for all direct and premier lender participation loans with options for additional extensions at the March 26, 2020 Special Board Meeting.

| Name | EDA Credit Exposure |
|---|---|
| AC Beach Normandy Ventures, LLC | $ 3,984,608 DIR |
| Yank Marine Services, LLC | $ 2,542,975 SBL |
| Headquarters Pub, LLC* (Tun Tavern Brewery) | $ 985,467 SBL |
| Margaritaville, Inc. | $ 349,778 SBL |
| Jakeabob's Bay, Inc | $ 200,950 SBL |

*This product was also approved for a corresponding 6-month maturity extension to avoid balloon payments at maturity.

| **Loans Written off with Recourse** | |
|---|---|

As required by generally accepted accounting principles, loans that are nonperforming, offer limited likelihood of future recovery and have been fully reserved are to be written off. Special Loan Management conducts a quarterly portfolio review, and with concurrence from management, recommend loans to be written off with recourse pursuant to delegated authority. EDA retains legal rights against the borrower and/or guarantors and pursue collections of these loans through litigation.

| **Name** | **Credit Exposure** | **Description** |
|---|---|---|
| Carpet Cycle, LLC | $ 78,931 DIR | EDA has not received payments since November 2019. |

Tim Sullivan, CEO

**Prepared by:** Jennifer Bongiorno and Mansi Naik

NJEDA

**MEMORANDUM**

**TO:** Members of the Authority

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

**DATE:** May 12, 2021

**SUBJECT:** Incentives Modifications – 1st Quarter 2021
(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 1st quarter ending March 31, 2021.

Tim Sullivan, CEO

Prepared by: F. Saturne

ACTIONS APPROVED UNDER DELEGATED AUTHORITY

FIRST QUARTER ENDING March 31, 2021

**Business Employment Incentive Grant Program**

| Applicant | Modification Action | Approved Award |
|---|---|---|
| A&P Coat, Apron & Linen Supply, Inc. dba Unitex | Consent to change name from A&P Coat, Apron and Linen Supply, Inc. dba Unitex to A&P Coat, Apron and Linen Supply, LLC dba Unitex | $480,000 |
| First Brokers Securities, LLC | Consent to Re-designate the Grantee from ICAP Merger Company, LLC to First Brokers Securities, LLC and Remove ICAP Services North America, LLC from the list of Grantees. | $5,300,120 |
| IPC Systems, Inc. | Consent to a location change of the QBF from Berkeley Heights to Jersey City as of April 2021. | $6,464,118 |

**GROW NEW JERSEY ASSISTANCE PROGRAM**

| Applicant | Modification Action | Approved Award |
|---|---|---|
| 1661, Inc. dba GOAT | Consent to approve a 2nd six-month extension of the certification deadline from January 13, 2021 to July 13, 2021. | $2,566,000 |
| Damascus Bakery OPCO, LLC | Consent to approve a 2nd six-month extension of the certification deadline from December 13, 2020 to June 13, 2021. | $18,648,000 |
| Factor Systems, Inc. | Consent to approve two six-month extensions of the certification deadline from August 8, 2020 to August 8, 2021. | $12,894,240 |
| Geri Care Pharmaceuticals Corp. | Consent to approve a 2nd six-month extension of the certification deadline from February 8, 2021 to August 8, 2021. | $11,700,000 |
| Richland Glass Co., Inc. | Consent to approve a 2nd six-month extension of the certification deadline from January 13, 2021 to July 13, 2021. | $2,283,470 |
| Sanofi US Services, Inc. | Consent to approve a 2nd six-month extension of the certification deadline from February 8, 2021 August 8, 2021. | $39,943,970 |