



**MEMORANDUM**

TO: Members of the Authority  
FROM: Timothy Sullivan  
Chief Executive Officer  
DATE: October 14, 2020  
SUBJECT: Agenda for Board Meeting of the Authority - October 14, 2020

**Notice of Public Meeting**

**Roll Call**

**Approval of Previous Month's Minutes**

**CEO's Report to the Board**

**Authority Matters**

**Office of Economic Transformation**

**Incentives**

**Real Estate**

**Board Memoranda**

**Public Comment**

**Adjournment**

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**September 9, 2020**

**MINUTES OF THE ANNUAL MEETING**

*The Meeting was held by teleconference call.*

Members of the Authority present via conference call: Chairman Kevin Quinn; Commissioner Marlene Caride of the Department of Banking and Insurance; Paul Yuen representing Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Jane Rosenblatt representing Commissioner Catherine McCabe of the Department of Environmental Protection; 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; Stephanie Brown, Governor's Authorities Unit; and staff.

Members of the Authority absent: State Treasurer Elizabeth Muoio of the Department of Treasury, and Public Member: Massiel Medina Ferrara.

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

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

**MINUTES OF AUTHORITY MEETING**

The next item of business was the approval of the August 11, 2020 meeting minutes. A motion was made to approve the minutes by Commissioner Caride, and seconded by Mr. Sarlo, and was approved by the 10 voting members present.

The next item of business was the approval of the August 11, 2020 Executive Session meeting minutes. A motion was made to approve the minutes by Mr. Shimko, and seconded by Ms. Bauer, and was approved by the 10 voting members present.

*Mr. Alagia joined the meeting at this time.*

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

Chairman Quinn asked Dave Nuse, Executive Vice President - Real Estate & Community Development, to read a proclamation honoring Thomas Catapano, Director of Design & Construction for the NJEDA's Real Estate Division, for his 36 years of service.

Mr. Nuse read some of the many contributions and milestones achieved by Mr. Catapano over his lengthy career. CEO Tim Sullivan echoed the previous sentiments and also thanked Mr. Catapano for his lengthy service.

Mr. Catapano thanked Chairman Quinn, Tim Sullivan and Dave Nuse for the recognition.

*Ms. Glover joined the meeting at this time.*

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

### **AUTHORITY MATTERS**

**ITEM:** Annual Organizational Meeting

**REQUEST:** To approve committee appointments, appointment and election of officers, and adoption of the Calendar of Meetings through 2021.

**MOTION TO APPROVE:** Commissioner Caride **SECOND:** Mr. Yuen **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

**ITEM:** Recommendation for Contract Award, 2020-RFQ/P-093, Due Diligence for Disqualification/Debarment Services

**REQUEST:** To approve the award of a contract for due diligence services.

**MOTION TO APPROVE:** Ms. Bauer **SECOND:** Mr. Yuen **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

### **OFFICE OF ECONOMIC TRANSFORMATION**

**ITEM:** Offshore Wind Workforce Development Memorandum of Understanding with the NJ Board of Public Utilities

**REQUEST:** To approve NJEDA entering into an MOU with the NJBPU to provide \$4.5 million in funding to the NJEDA to support efforts for the NJ workforce to support and participate in the offshore wind industry.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

**ITEM:** Clean Energy Memorandum of Understanding with the NJ Board of Public Utilities  
**REQUEST:** To approve NJEDA entering into an MOU with the NJBPU to provide \$1.25 million in funding to the NJEDA to support efforts to expand and strengthen New Jersey’s clean energy innovation economy.  
**MOTION TO APPROVE:** Ms. Rosenblatt      **SECOND:** Ms. Hicks      **AYES: 12**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

**ITEM:** Technology Business Tax Certificate Transfer Program: 2020 Program – COVID 19 Modifications – Notice of Rule Modifications  
**REQUEST:** To approve two rule modifications for the Technology Business Tax Certificate Transfer (NOL) Program in relation to the COVID-19 pandemic.  
**MOTION TO APPROVE:** Ms. Marley      **SECOND:** Mr. Yuen      **AYES: 12**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

*Ms. Bauer left the meeting at this time.*

**INCENTIVES**

**GROW NJ MODIFICATION**

**ITEM:** Nuts.com, Inc.  
**REQUEST:** Due to the reduction of eligible jobs from 150 to 55, approval is requested to affirm that the project has not otherwise materially changed to allow staff to complete the certification of project completion, and as s the number of jobs may be further reduced, delegated authority to approve a further 10% reduction from the current number of jobs.  
**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Ms. Hicks      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

**ITEM:** Resintech Inc. and Affiliates  
**REQUEST:** To approve granting a COVID-19 Related Extension of the Project Certification Deadline from October 30, 2020 to the 1<sup>st</sup> Six Months after the Emergency.  
**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Mr. Dumont      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

**FILM TAX CREDIT**

**ITEM:** Bruised Film Holdings, Inc.      PROD. #00188081      **MAX**  
**AMOUNT OF TAX CREDITS:** \$3,180,065  
*THE ABOVE PROJECT WAS WITHHELD FROM CONSIDERATION.*

**ITEM:** Dickinson 1, LLC      PROD. #00188090      **MAX**  
**AMOUNT OF TAX CREDITS:** \$1,091,766  
**MOTION TO APPROVE:** Mr. Dumont      **SECOND:** Mr. Yuen      **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 8**

**ITEM:** Netflix Productions, LLC (Beauty) PROD. #00188105 **MAX**  
**AMOUNT OF TAX CREDITS:** \$5,131,862  
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Mr. Yuen **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 9**

**ITEM:** Netflix Productions, LLC (Army of the Dead) PROD. #00188164 **MAX**  
**AMOUNT OF TAX CREDITS:** \$8,975,600  
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Mr. Yuen **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 10**

**ITEM:** All Star Movie LLC PROD.#00187861 **MAX**  
**AMOUNT OF TAX CREDITS:** \$4,440,798  
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Commissioner Caride **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 11**

**ITEM:** Stikini Films, LLC PROD. #00187831  
**MAX AMOUNT OF TAX CREDITS:** \$468,999  
**MOTION TO APPROVE:** Mr. Yuen **SECOND:** Commissioner Caride **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 12**

**ITEM:** Rose City Pictures, Inc. PROD. #00187683 **MAX**  
**AMOUNT OF TAX CREDITS:** \$2,716,452  
**MOTION TO APPROVE:** Mr. Dumont **SECOND:** Commissioner Caride **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 13**

**LOANS, GRANTS, GUARANTEES**

**Petroleum Underground Storage Tank**

**ITEM:** Summary of NJDEP Petroleum UST Remediation, Upgrade & Closure Fund Program project approved by the Department of Environmental Protection.  
**MOTION TO APPROVE:** Ms. Marley **SECOND:** Commissioner Caride **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 14**

**PROJECT:** Harry Hawtin and Andrea Lynn Hawtin PROD.#00188281  
**LOCATION:** Freehold Township, Monmouth County  
**PROCEEDS FOR:** Upgrade, Closure, Remedial Action  
**FINANCING:** \$303,650.00

**REAL ESTATE**

**ITEM:** Step-Out Labs of North Brunswick Program Refinement Request

**REQUEST:** To approve minor program refinements, including an update to Step-Out Lab program's description and package offerings.

**MOTION TO APPROVE:** Mr. Sarlo      **SECOND:** Ms. Glover      **AYES: 11**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 15**

**ITEM:** FMERA Purchase and Sale & Redevelopment Agreement with Parker Creek Partners, LLC for the Bowling Center Parcel in Eatontown

**REQUEST:** To consent to FMERA entering into the redevelopment agreement contained within the Purchase and Sale Agreement & Redevelopment Agreement ("PSARA") with Parker Creek Partners, LLC for the sale and redevelopment of the Bowling Center Parcel in the Fort's Eatontown Reuse Area.

**MOTION TO APPROVE:** Commissioner Caride      **SECOND:** Mr. Dumont      **AYES: 11**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 16**

**ITEM:** FMERA Purchase and Sale & Redevelopment Agreement with OPort Partners, LLC for the Warehouse, Post Office, Commissary/PX and the Parking Area Parcels in Oceanport

**REQUEST:** To consent to FMERA entering into the redevelopment agreement contained within the Reinstated, Amended and Merged Purchase and Sale & redevelopment Agreement ("PSARA") with OPort Partners, LLC for the sale and redevelopment of the Warehouse, Post Office, Commissary/PX and Parking Area parcels in the Fort's Oceanport Reuse Area.

**MOTION TO APPROVE:** Commissioner Caride      **SECOND:** Mr. Yuen      **AYES: 11**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 17**

**ITEM:** Security Services – NJEDA Headquarters and Barnes Street Parking Lot, Trenton, NJ

**REQUEST:** To approve entering into a purchase order under the State of New Jersey's cooperative contract for security services for the NJEDA Headquarters and Barnes Street Parking Lot in Trenton, as well as delegation of authority to the CEO for security services under a cooperative state contract.

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Commissioner Caride      **AYES: 11**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 18**

**ITEM:** New Jersey Wind Port – Engineering and Design Contract Assignment

**REQUEST:** To approve the assignment of the New Jersey Wind Port Engineering and Design Contract from PSEG Nuclear to NJEDA and amendment thereof.

**MOTION TO APPROVE:** Mr. Dumont      **SECOND:** Ms. Marley      **AYES: 10**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 19**

Ms. Rosenblatt abstained because the Department of Environmental Protection is overseeing permit applications for the project.

**BOARD MEMORANDA**

**FYI ONLY:** Credit Underwriting Delegated Authority Approvals, August 2020

**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 to discuss and receive attorney-client advice regarding a real estate financial project under negotiations where disclosure could adversely impact the public interest.

**MOTION TO APPROVE:** Mr. Dumont   **SECOND:** Mr. Yuen                   **AYES: 11**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 20**

The Board returned to Public Session.

**INCENTIVES**

**Grow New Jersey Assistance Program - Modifications**

**ITEM:** Mars Wrigley Confectionary US, LLC  
**REQUEST:** To approve Prevailing Wage Settlement, which was discussed in Executive Session.  
**MOTION TO APPROVE:** Mr. Dumont   **SECOND:** Mr. Yuen                   **AYES: 10**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 21**

Ms. Glover recused because Mars Wrigley Confectionary US, LLC is a member of the Newark Alliance.

**ITEM:** Mars Wrigley Confectionary US, LLC  
**REQUEST:** To approve change in the Qualified Business Facility.  
**MOTION TO APPROVE:** Ms. Hicks   **SECOND:** Mr. Dumont                   **AYES: 10**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 22**

Ms. Glover recused because Mars Wrigley Confectionary US, LLC is a member of the Newark Alliance.

**REAL ESTATE**

**ITEM:** Request for Extension of Letter of Intent – Offshore Wind Development Project  
**REQUEST:** To approve an extension of the Letter of Intent between NJEDA and PSEG Nuclear regarding the Offshore Wind Development Project as discussed in Executive Session.  
**MOTION TO APPROVE:** Ms. Hicks      **SECOND:** Mr. Yuen      **AYES: 10**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT:**

Ms. Rosenblatt abstained because the Department of Environmental Protection is overseeing permit applications for the project.

There being no further business, on a motion by Mr. Quinn, and seconded by Ms. Bauer, the meeting was adjourned at 12:37pm.

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.

  
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Danielle Esser, Director  
Governance & Strategic Initiatives



## MEMORANDUM

**To:** Members of the Authority

**From:** Tim Sullivan

**Date:** October 14, 2020

**Re:** October 2020 Board Meeting

COVID-19 remains a devastating health crisis and its widespread impact continues to challenge even the most stable of businesses. While the New Jersey Economic Development Authority (NJEDA) has worked to counter the virus's economic impact since the pandemic began in March, businesses' needs have only become more acute as the pandemic has dragged on for months.

Last week, we announced that, to date, we have supported more than 20,000 small businesses through our COVID-19 programs. We have provided more than \$74.2 million in funds to businesses in need through grants, low-cost loans, and partnerships with investors and Community Development Financial Institutions (CDFIs). This support has been crucial to helping businesses endure the challenges of the pandemic, but we know there are still many more business owners, employees, and families in need, and we remain committed to finding new, innovative ways to support them and their communities.

Today the Board will be asked to consider advancing two programs that will enable us to provide business owners with grant funding to support their ongoing operations and to help them purchase the Personal Protective Equipment (PPE) they need to keep their employees and customers safe. These programs respond directly to input we have received from business owners as well as Governor Phil Murphy's Restart and Recovery Council and Commission and include a number of process improvements that will streamline and simplify the application and approval processes.

While we continue to provide direct financial assistance to businesses that have faced revenue losses and unexpected expenses due to the pandemic, we have also begun to expand the support we offer to help businesses adjust to the reality of doing business in a pandemic and prepare for long-term, sustainable success. This has been particularly important for businesses in historically underserved communities that have been hit hardest by the economic impact of the pandemic but in many cases have not even been able to apply for relief or reopen safely because of a lack of consistent records, technological limitations, or other barriers to success. In rolling out these programs, we have partnered with business organizations and leaders that have their hands on the pulse of the state's small business communities to ensure we are connecting with businesses most in need of support, including woman-, minority-, veteran-, and LGBTQ-owned businesses.

As part of this effort, the NJEDA recently partnered with the African American Chamber of Commerce of New Jersey (AACCNJ) and the Statewide Hispanic Chamber of Commerce of New Jersey (SHCCNJ) to roll out a new pilot program that offers free consulting services to help small businesses address the challenges they are facing as a result of the COVID-19 pandemic and prepare



for a strong, long-term recovery. The Business Consulting for COVID-19 Recovery Program offers up to 25 hours of free coaching and support implementing solutions to help make businesses more profitable while complying with public health protections the State has instituted to slow the spread of COVID-19. Participating businesses will receive advice and assistance in securing grants and loans, adapting their business models to current needs, crafting long-term business strategies, evaluating their financial health, and improving accounting and bookkeeping systems, as well as many other topics that can help them build a stronger, more sustainable business. There was immediate interest in the program, and the current pilot phase is already oversubscribed, but we anticipate expanding the program soon to accommodate more businesses.

As we look to the future, we continue to seek input from business owners so we can better understand and address their challenges. We recently announced a partnership with the Federal Reserve Banks to promote the Fed's Small Business Credit Survey. This annual survey of small businesses in the United States aims to provide advocates and policymakers with insights they can use to address small businesses' needs. The survey is open to all businesses with 500 or fewer employees, and includes questions about business conditions, financing needs, access to credit, and the effects of the COVID-19 pandemic. The NJEDA is working with the Reserve Banks to drive responses from underrepresented businesses, with a particular focus on learning more about minority- and women-owned firms. In exchange for promoting the survey, the NJEDA will gain access to vast amounts of data that will help to inform future initiatives.

While we have all had to adjust to the day-to-day sacrifices required during the pandemic, we cannot forget that COVID-19 is an unprecedented health and economic tragedy. The NJEDA works every day to address the challenges businesses and communities face, but there is still considerable work to be done to address the economic impacts of the virus has caused and to pave the way to a vibrant and equitable recovery. The programs we introduce today will provide crucial support, but we must all continue to innovate, collaborate, and work together to move toward a stronger, fairer post-COVID economy.

A handwritten signature in dark ink, appearing to be "T. A.", is written above a horizontal line.

## **COVID-19**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, Chief Executive Officer  
**DATE:** October 14, 2020  
**RE:** **New Jersey Small and Micro Business PPE Access Program – Creation of Phase 2 and Modification of Phase 1**

**SUMMARY**

The New Jersey Small Business PPE Access Program is intended to be a two-part pilot program:

- Phase 1 – Approved by the Board on August 11, 2020 and focused on program website launch, Designated Vendor selection, and subsidies for purchases of PPE made or assembled in New Jersey under a \$3.0 million grant component of the Program.
- Phase 2 – Described briefly in Section 6 of the August 11 Board memo and detailed in this document, Phase 2 focuses on providing \$20.4 million (or such larger amount as may be approved under delegated authority below) in PPE purchase subsidies for small and micro business.

The Members are asked to approve:

1. The creation of Phase 2 of the New Jersey Small and Micro Business PPE Access Program, including the creation of a \$20.4 million grant pool to provide PPE purchase subsidies for small and micro businesses<sup>1</sup>;
2. Amending the Memorandum of Understanding (the “MOU”) between the New Jersey Department of the Treasury and the Authority to utilize \$21 million of CARES Act funding for Phase 2 of the Program (see Attachment 1);
3. The creation of an appeal reserve fund of \$600,000 from NJEDA’s general operating funds to cover subsidies for any program appeals that conclude after the relevant NJ Treasury and CRF deadlines;
4. The modification of Vendor Performance Requirements #2a and #3 in the Program Phase 1 Board memo dated August 11, 2020 (the “August 11 memo”) as stipulated in the Phase 1 Amendments section, below;

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<sup>1</sup> To simplify the language in this document, the word “business” refers to a wide variety of organizations, including for-profit companies, not-for-profit organizations and social service providers.

5. The issuance of a purchase order to 22nd Century Technologies Inc. to hire up to 9 temporary employees to administer Phase 1 and Phase 2 of the PPE Access program at a maximum aggregate cost of \$250,000; and
6. Granting delegated authority to:
  - a. The CEO to extend internal program deadlines stipulated in this memo and in the August 11 memo consistent with the amount of any extensions of relevant dates as may be made by either the New Jersey Department of Treasury or the US government (i.e., 12/1/2020 internal NJ Department of Treasury CARES Act funding disbursement deadline, 12/31/2020 US Treasury deadline to utilize all CARES Act funding).
  - b. The CEO to, based upon program demand, (i) shift allocated funding across PPE Access Program Phases, (ii) adjust per round small business coupon/discount values within the program, (iii) expand the Program to a maximum of \$40 million if additional funds become available from NJ Department of Treasury, (iv) amend the MOU with NJ Department of Treasury to enable such expansion, (v) accept a percentage of the funds made available under any such expansion to be used to pay for administrative costs of the Program, and (vi) amend the MOU to reflect actual CRF funding used and return unused funds if demand is less than anticipated.
  - c. The SVP of Economic Transformation or Office of Economic Transformation Directors to approve potential subsidy recipients as eligible for Phase II of the program as determined by an automated process or through a manual review;
  - d. The CEO or the SVP of Economic Transformation to, upon recommendation of the reviewing officer, decline Program subsidy eligibility based solely on non-discretionary reasons; and
  - e. The CEO or the SVP of Economic Transformation to approve a hearing officer's finding regarding a final administrative decision on subsidy eligibility appeals based solely on non-discretionary reasons.

### **BACKGROUND ON SMALL AND MICRO BUSINESS PPE NEEDS**

The NJ Small and Micro Business PPE Access Program was developed in response to consistent concerns emerging from the Governor's Restart and Recovery Commission, the nine sector-based committees of the Governor's Restart and Recovery Advisory Council and input from numerous other stakeholders. Both the Commission and the Advisory Council highlighted the need for readily available, fairly priced PPE to accelerate economic recovery. As small and micro businesses and organizations in historically underserved communities are particularly vulnerable to being crowded out of essential goods when tight market conditions occur, a key consideration of the program has been the need to ensure equitable distribution and pricing of PPE.

More than one third of all New Jersey workers are employed by organizations of 100 employees or fewer. Many of these companies do not have the reach or the resources to obtain goods outside of their normal retail buying channels, particularly in times of significant supply/demand imbalances. PPE falls squarely

into the category of a good that was not essential to many of these organizations before the COVID-19 outbreak but is critical today.

## **PROGRAM PURPOSE**

### **Overall Program**

The NJ Small and Micro Business PPE Access Program is designed to make fairly priced PPE more easily available to all the small and micro businesses and non-profit organizations in the state, to prevent the spread of the COVID-19 and reduce their burden of sourcing for the PPEs from the competitive markets. In addition to the above the program will:

1. Facilitate the State's economic recovery by ensuring that small and micro businesses and non-profit organizations – the customers – can access affordably priced PPE and other safeguarding equipment to protect their employees as they return to work and continue to operate in a COVID-19 environment;
2. Ensure small and micro businesses and non-profit organizations have access to the information they need to select the appropriate PPE needed for their context;
3. Ensure that businesses in historically underserved communities are particularly able to access affordable PPE; and
4. Support the State's manufacturing sector by providing an offsetting subsidy for purchases of PPE manufactured or assembled at a manufacturing facility in New Jersey.

### **Phase 1 – Selecting Designated Vendors and Sourcing PPE from NJ Companies**

On August 11, 2020, the Board approved Phase 1 of the PPE Access Program. The focus of Phase 1 has been to identify and designate qualified vendors to launch online platforms where NJ companies can buy PPE at fair prices from reliable vendors offering a curated array of quality products all at a discount to normal market prices. Small and micro businesses will access these online platforms via a PPE Access Program website hosted on the State's COVID19.nj.gov site (<https://covid19.nj.gov/ppeaccess>), where they will also be able to learn about PPE in the workplace and use a simple tool to determine their PPE needs.

In addition, Phase 1 includes an economic development component to encourage the Designated Vendors to make wholesale purchases of PPE from NJ manufacturers and from small distributors located in traditionally underserved NJ communities. To support that the Board approved the creation of a \$3.5 million grant pool to be used as subsidies to bridge potential pricing gaps between NJ manufacturers and distributors and the global market.

### **Phase 2 – Providing Purchase Subsidies to Benefit Micro Businesses**

Based on the response NJEDA staff has received from DVs of varying types and sizes, the NJEDA staff now seeks to expand the Program by launching the planned second Phase, aimed at providing purchase

subsidies through DVs to benefit the State's smallest businesses with a particular focus on those located in historically underserved communities.

If approved, in Phase 2 a grant pool of \$20.4 million will be made available to provide purchase price subsidies of 25% through DVs to small and micro businesses. The subsidized discount will have a cap of \$400 per organization generally and \$500 for organizations located in historically underserved communities. Companies eligible to benefit from these subsidies will be determined by company size (based on full-time equivalent ("FTE") employment) and location, as described more fully below.

## **PROGRAM STRUCTURE AND ELIGIBILITY**

### **Eligibility and benefits through the Program**

Phase 2 of the PPE Access Program has been structured to provide \$20.4 million of grant funding to cover 25% of eligible small business' or non-profit's PPE purchases via the DVs, up to per organization per round cap of \$400 generally, and \$500 for organization in opportunity zone eligible census tracts. This subsidy would be in addition to the minimum 10% discount required from each of the Designated Vendors as a Performance Requirement under Phase 1 of the Program.

Subsidies will be made available by the DV to businesses and non-profits ("Subsidy-Eligible Recipients" or "SERs") having 100 or fewer FTE employees, based on EDA approval of eligibility. Staff recommends setting the program eligibility threshold at 100 FTEs for the following reasons:

- Approximately 40% of the state's workforce is employed by companies having 100 or fewer employees; and
- Companies having 100 or fewer employees are far more likely to lack deep or sophisticated procurement resources; and
- These businesses tend to have smaller balance sheets and more concentrated operations, increasing the likelihood that COVID-19 has had a greater impact on their ability to survive the pandemic and resulting public health measures that have impacted the economy.

The cap of 100 FTE is higher than other NJEDA COVID-19 related programs (e.g., set at 25 or 50 FTE) for several reasons. First, due to the strong public health orientation of this program (i.e., increasing access to PPE), it is reasonable to encourage a broader spectrum of small business to participate. This will lead to more workers and more customers being protected. Second, because the per company benefits are smaller in size compared to other programs and de facto are required to be matched by the SER, funding can support a larger number of companies. Third, because Phase 2 of the program offers businesses a fixed benefit based on their location (see below for more detail), the program will provide a greater percentage benefit to smaller businesses. For example, a business with 10 FTE will have a much larger portion of their overall COVID-19-related PPE expenditures covered by the Program than a larger 90 FTE business.

As the reason for this program is to assist the businesses at their current level of employment, staff will confirm a business's FTE threshold by examining the most recent NJ Department of Labor ("DOL") form "NJ Employer Report of Wages Paid" (WR-30) where available, or, in limited circumstances where NJ DOL data is not available, through company self-certification (for example if the employer submitted

their filings through a professional employment organization (PEO)). This eligibility process is also described below.

The program will be run in rounds based upon program demand and available funding (but within the applicable deadlines). During each round, a small business will be eligible for a coupon (or functional equivalent discount method)<sup>2</sup> from a single Designated Vendor that would offset 25% of the cost of their PPE purchase through the program. For the first round of the program, coupons/discounts will be valued at \$500 for organizations located in historically underserved communities (defined as those whose registered address is fully or partially within one of the State's 715 Opportunity Zone Eligible census tracts) and \$400 for all other eligible organizations. Staff are requesting delegated authority to the CEO to adjust these subsidy values up to a maximum of \$1,000 per business per round for future rounds of the program based upon program demand and available funding.

Staff will work with the Designated Vendors to split the total value of the coupon/discount into multiple coupons/discounts of lower value to enhance flexibility of the program (i.e., allow SERs to split their PPE purchase up over multiple purchases). The ability to offer that flexibility will be determined by the Designated Vendors' technical capabilities and may differ by Designated Vendor.

While businesses will have the ability to purchase goods other than PPE from the Designated Vendors, all subsidies under this program will only apply to PPE offered through the Program.

### **General Program process**

To simplify the administration of the grant funding, funds will flow from NJEDA to the Designated Vendors, who will provide the benefits to SERs in the form of a coupon/discount to reduce their payment obligations.

The flow of application, approval and receipt of subsidies will occur as follows:

- Small businesses will submit information to confirm subsidy eligibility (as described below) and will self-certify that the PPE they are purchasing with the subsidized funds (i.e., at least 25% of their order) will be: (a) for their own business' use and (b) used prior to December 31, 2020.
- If deemed eligible, the SER will select a single Designated Vendor from which it wishes to receive a coupon/discount. (If deemed ineligible, the applicant may submit an appeal, as outlined below. In the instance of an appeal, NJEDA will set aside in reserve the amount of funding in question should the appeal have merit.)
- If funding is not available in a given round, eligible SERs will be added to a waitlist for that round. If additional funding becomes available (see below) then SERs will be notified in the order of the waitlist. SERs on the waitlist will have three days to confirm they are still interested in the program before the funding is offered to the next available business on the waitlist.

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<sup>2</sup> The exact method of executing the 25% discount may differ across Designated Vendors with some utilizing coupons or coupon codes and others utilizing other functionally equivalent methods such as providing log-in credentials to a SER that makes the SER eligible for discounts without putting in a coupon code. For the ease of communication, "coupon/discount" will be used in this memorandum to cover all discount methods.

- The coupons/discounts will be issued to the SER directly by the Designated Vendor in the appropriate amount. All discounts will expire 14 days from issuance or on November 30, 2020, whichever is earlier, in order to ensure that the maximum amount of CARES Act money is put to use. To the extent possible based on NJ Treasury and CRF deadlines (as may be extended), unused funds will be rolled back into the program budget and reissued through new coupons/discounts.
- Once Phase 2 of the program has been launched for two weeks, and if funding is still available or if additional funding is directed toward the program through a MOU between the Authority and NJ Department of Treasury, and if the Program demonstrates demand from small businesses for additional discount, Staff may launch additional program rounds. At that time, a business that has previously received a coupon/discount can re-register for an additional discount. In such cases, they will need to fill out an additional eligibility assessment and staff will again confirm that the business requires the subsidy to support a COVID-19 related PPE business need through a self-certification. All waitlisted SERs from previous rounds will be offered funding before launching the next round.
- The SERs will click through to the DV Program Site and make their product selections. In the checkout process, the coupon/discount will be applied, and their purchases will be reduced by 25%, up to the limit of their coupon/discount denomination.

Staff's determination that a business is eligible for a particular coupon/discount amount will be subject to continued funding availability. Staff will work with Designated Vendors to track how many coupons/discounts have been redeemed on a weekly basis and may make additional coupons/discounts available if previously issued coupons/discounts expire without being redeemed.

Coupon/discount reimbursement to Designated Vendors will be made within 30 days after receipt of accounting documentation. To comply with the expenditure requirements of the CARES Act and the MOU with NJ Treasury, the Designated Vendor must document the PPE purchased by each SER and must request NJEDA disbursement from NJEDA no later than December 1, 2020 (or applicable deadline based upon any updated State and Federal CARES Act disbursement requirements).

### **Eligibility confirmation process**

Organizations seeking to qualify as SERs and to benefit from the Phase 2 subsidies will be required to register on the PPE Access Program website so that the NJEDA can determine their eligibility. While the subsidy is offered through the Designated Vendors, NJEDA will be responsible for eligibility checks to ensure privacy, timeliness and simplicity.

Eligibility will be determined once per round per EIN (meaning that businesses that utilize one EIN for multiple locations will only be able to access the coupons/discounts once per round).

Given the urgency of the COVID-19 public health crisis and the need to meet the State's small business' PPE needs, Staff are recommending that the SER eligibility review process be executed in as close to real time as possible. This necessitates automation of some aspects of the eligibility screening and the use of self-certifications by businesses in some instances (as described more fully below). Staff believe this is justified given the smaller per-organization benefit available under the Program. In addition, the automated process will be supported by targeted spot-check audits to confirm a portion of the self-

certifications. The requirement for the business to pay 75% or more of the PPE purchased through the Program acts as a further deterrence to any false certifications or other misuse of the Program.

Eligibility screening will include the following tests:

- Business is registered in the State of New Jersey
  - To be verified using NJ DOL and the Department of Treasury, Division of Revenue and Enterprise Services (DORES) data
  - If information not available, to be self-certified by applicant and subject to manual review and/or spot-check audit or follow-up request from NJEDA for supporting evidence.
- Location in an Opportunity Zone Eligible census tract
  - To be determined based on information inputted and certified as correct by the organization
  - Staff will utilize automated mapping tools to confirm if the addresses' census tract was eligible to become an opportunity zone
- Size of company (above or below 100 FTE threshold)
  - To be verified in real time using most recent WR-30 filing data provided to NJEDA by the NJ DOL
  - If no WR-30 data, where applicable to be verified by NJEDA data derived from other NJEDA programs
  - If no NJEDA data, applicant to be asked to self-certify subject to manual review and/or potential sport-check audit or follow-up request from NJEDA for supporting evidence.
- NJ DOL good standing
  - Staff will confirm with NJ DOL that the company is in good standing with NJ DOL, as determined by NJ DOL
- Need and use of funds
  - Companies will self-certify that they need the discounts provided under the Program to purchase PPE that is related to the COVID-19 emergency for use by their own company before December 31, 2020.

Certain procedures frequently required of NJEDA programs will not be required for this element of the PPE Access Program:

- Tax clearance: Based on the letter provided by the Department of Treasury's Division of Taxation, tax clearance certificates are not required for SERs in this situation. However, tax clearance certificates continue to be required for the Designated Vendors in the Program.
- Duplication of benefits: Staff have concluded that it will not be necessary to seek user certification regarding potential duplication of benefits. This conclusion was based on the structure of the funding process, which precludes the possibility of duplication for the specific items being purchased under the PPE Access Program. Benefits from other sources may be used to pay for the 75% portion owed by the SER but as there is no payment made by the SER on the 25% subsidy, it cannot be duplicated.
- Disqualification reviews: Staff recommend that NJEDA legal disqualification reviews not be required of SERs in this Program. This conclusion is based on the lack of a direct funding relationship between the Authority and the SERs. In addition, this Program serves an important public health objective: the protection of employees and small business customers. Finally, the

benefit to the small business arising from this Program is relatively small (currently set at \$400-500 per SER per round with a maximum of no more than \$1000 available to any SER in any program round) and will be provided as PPE. Federal debarment reviews, however, will continue to be required and will be conducted in an automated fashion, with targeted manual reviews where necessary.

- Prohibited businesses: Due to the public health orientation of the program, Staff recommend that business that are often excluded from NJEDA programs due to the nature of the business activity (e.g., vape shops, transient merchants, short-term retail such as Christmas trees or farmers markets, etc.) be eligible for the PPE coupons/discounts.

Once each SER's eligibility has been approved, they will be able to select one Designated Vendor from which they will get a coupon/discount. Based on the SER's selection, NJEDA will share the eligibility approval with that Designated Vendor and the Designated Vendor will send a coupon/discount for the eligible amount directly to the email address provided by the SER. The SER will be required to confirm their correct email address. SERs will be solely responsible for entering a correct email address; staff will not verify or confirm the email address.

### **Appeals**

Organizations will be able to appeal the Authority's determination of Phase 2 eligibility within 5 days of notice of the determination. Appeals will be reviewed by a staff member who has not up until that point been directly involved in the eligibility determination. As the Authority is not involved in the actual issuance of the coupon/discount, in the use of the coupon/discount, in the sale of the PPE, the operation or functionality of the DV website, or such other actions or decisions under the DV's sole control, any attempt to appeal from such actions will be rejected, as they are not a protest of an EDA action or decision. Similarly, any attempt to appeal because the SER entered and confirmed an incorrect email address will not be a valid basis for an appeal. Funds will be set aside for the maximum amount of subsidy support for any appeals that are lodged with the Authority. Where possible, federal CARES Act funding will be used for the set aside funds. In the event Staff requires time beyond the NJ Treasury deadline to disburse funds or the Federal deadline for use of CARES Act funding to finalize its review of an appeal, the reserved funds shall come out of the Authority general operating funds. Staff recommend capping this at-risk reserve fund at \$300,000. Any appeals that would cause the Authority to process an application beyond a deadline or in excess of the reserve fund will be declined unless the deadlines are extended or additional funds are available.

### **Post-eligibility audits**

Staff will conduct audits to confirm that business self-certifications were accurate. In such cases where the audit reveals that the self-certification was not accurate, NJEDA may request that the funds be returned and/or may refer these organizations to the relevant State agency for further investigation.

### **Program expansion and flexibility**

The US Government has made funds available to the State of New Jersey from the Coronavirus Relief Fund under the CARES Act. This funding is being distributed among various departments and authorities to address the State's varied needs. It is possible that additional funds will become available for the PPE Access Program. In anticipation of that possibility, Staff request delegated authority to the CEO to receive up to \$19.4 million in additional funds (and accept a percentage of funds for administrative costs) and sign the corresponding amendment to the Program MOU with NJ Treasury. In addition, Staff request delegated authority to the CEO to shift funds between the two different subsidies established in this Program, for example from manufacturing/supplier subsidies in Phase 1 into small business subsidies in Phase 2, based upon market demand.

### **PROGRAM BUDGET**

#### **Phase 2 Subsidies for PPE Purchased by the State's Smallest Businesses – \$20.4 million**

As noted above, the PPE Access Program Phase 2 will include \$20.4 million of NJEDA/CARES Act grant funding to subsidize the purchase of PPE small and micro Businesses from the Designated Vendors.

#### **Phase 2 – Program Administration and Additional Marketing - \$0.6 million**

Phase 2 of the Program will require funding of approximately \$600,000 to cover the cost of NJEDA administering and marketing this phase of the Program. Administrative matters will include managing manual eligibility reviews and appeals processes for the SERs, verifying grant payment requests from the Designated Vendors, monitoring the DV program site performance reports, and other administrative matters. The total estimated additional value of administrative costs is \$450,000. Marketing and promotional expenses will largely be focused on print and social media outreach to micro businesses and entities located within OZE census tracts. Additional Phase 2 marketing expenses are estimated at \$150,000. See Attachment 2 for a more detailed breakdown of the proposed administrative costs.

Currently the Authority does not have sufficient staff resources to administer the PPE Access program quickly enough to meet the December 2020 deadline. Accordingly, staff seek approval to issue a purchase order to 22nd Century Technologies Inc. (22nd Century) to hire up to 9 temporary employees to administer the PPE Access Program at a maximum aggregate cost of \$250,000. This \$250,000 would be drawn down from the administration cost allocations (see above) for both Phase 1 and Phase 2 of the program.

The Authority is able to contract directly with 22nd Century, because 22nd Century has a State contract, which was procured by the Division of Purchase and Property (within the Department of the Treasury). In accordance with the New Jersey Administrative Code (N.J.A.C. 17:12), the State awarded a Blanket P.O. to 22nd Century based on the awarded New Mexico NASPO ValuePoint (NASPO) National Cooperative Agreement for the provision of Temporary Employment Services.

Information regarding the NASPO Master Agreement for the provision of Temporary Employment Services (Temporary Employment Services 50-000-15-00058 AA) may be found on the NASPO website

at: <http://naspo.valuepoint.org/#/contract-details/83/overview/general>. That contract offers the Authority the ability to hire temporary employees expeditiously, on acceptable terms and for the best value.

### **PHASE 1 AMENDMENTS**

As of September 29, 2020, NJEDA staff had received 10 applications to serve as a Designated Vendor under the PPE Access Program. Out of the 10 applications, 3 firms met all of the eligibility criteria, but staff has realized through further discussions with all interested entities that complying with all the Program's 16 Program Performance Requirements as stipulated in the previously approved Phase 1 Board memo is not practical given the program's accelerated timeline. In addition, certain other widely recognized companies have declined to participate because they consider the Program to be too complex. Without changes, the Program may not have more than a couple of designated vendors. Because of the tight timeframe for disbursement of funds, the uncertainty regarding whether DVs may proceed with the Program and the possibility of very few DVs, which could create a bottleneck on the sale and distribution of PPE, staff are requesting the modification or deletion of two specific Program Performance Requirements that are practically difficult for DV applicants to meet.

- Performance Requirement #2a – modify from “Has a unique URL that clearly identifies the site as part of the NJ PPE Access Program,” to “Has a unique URL.” The requirement that the program be referenced in the URL is technically difficult and not a significant contributor to the structure or effectiveness of the Program.
- Performance Requirement #3 – modify the type and number of required PPE to that listed below:

Required:

- Cloth face masks
- 3-ply surgical face mask
- Gloves
- Sanitizing gels
- Disinfecting supplies

Designated Vendors must offer all five types of PPE except for those having under \$10 million in revenues, which are only required to offer four.

Encouraged:

- N95 and KN95 masks
- Face shields and/or goggles
- Isolation gowns
- Screening devices, e.g., touchless thermometers
- Workplace safeguarding equipment, e.g., plexiglass panels and dividers
- Signage, marking devices and other social distancing tools

Under the August 11, 2020 Board memorandum, the first four items that are now proposed to be “encouraged” were “required” and DVs were required to offer seven of them (five if having revenues under \$10 million). This modification will allow a wider range of DVs to participate.

## **MEMORANDUM OF UNDERSTANDING**

The funds proposed for the Phase 2 will be transferred by the NJ Department of the Treasury to NJEDA through the attached amended Memorandum of Understanding (“MOU”) relating to the State’s Coronavirus Relief Fund moneys. The MOU requires NJEDA to follow the federal requirements that accompany the funds. NJEDA will be responsible for any audit and demand for repayment by the U.S. Department of the Treasury related to the use of these funds in this Program. Pursuant to the MOU, the NJEDA must disburse funds by December 15, 2020; any undisbursed funds on that date must be returned to NJ Treasury. If demand is less than anticipated, staff is also requesting delegated authority for the Chief Executive Officer to amend the MOU to reflect actual CRF funding used and to return unused funds.

## **REQUEST OF THE MEMBERS**

The Members are asked to approve:

1. The creation of Phase 2 of the New Jersey Small and Micro Business PPE Access Program, including the creation of a \$20.4 million grant pool to provide PPE purchase subsidies for small and micro businesses;
2. Amending the Memorandum of Understanding (the “MOU”) between the New Jersey Department of the Treasury and the Authority to utilize CARES Act funding for Phase 2 of the Program (see Attachment 1);
3. The creation of an appeal reserve fund of \$600,000 from NJEDA’s general operating funds to cover subsidies for any program appeals that conclude after the relevant NJ Treasury and CRF deadline;
4. The modification of Vendor Performance Requirements #2a and #3 in the Program Phase 1 Board memo dated August 11, 2020 (the “August 11 memo”) as stipulated in the Phase 1 Amendments section, above;
5. The issuance of a purchase order to 22nd Century Technologies Inc. to hire up to 9 temporary employees to administer Phase 1 and Phase 2 of the PPE Access program at a maximum aggregate cost of \$250,000; and
6. Granting delegated authority to:
  - a. The CEO to extend internal program deadlines stipulated in this memo and in the “August 11 memo” consistent with the amount of any extensions of relevant dates as may be made by either the New Jersey Department of Treasury or the US government (i.e., 12/1/2020 internal NJ Department of Treasury CARES Act funding disbursement deadline, 12/31/2020 US Treasury deadline to utilize all CARES Act funding).

- b. The CEO to, based upon program demand, (i) shift allocated funding across PPE Access Program Phases, (ii) adjust per round small business coupon/discount values within the program, (iii) expand the Program to a maximum of \$40 million if additional funds become available from NJ Department of Treasury, (iv) amend the MOU with NJ Department of Treasury to enable such expansion, (v) accept a percentage of the funds made available under any such expansion to be used to pay for administrative costs of the Program, and (vi) amend the MOU to reflect actual CRF funding used and return unused funds if demand is less than anticipated.
- c. The SVP of Economic Transformation or Office of Economic Transformation Directors to approve potential subsidy recipients as eligible for Phase II of the program as determine by an automated processor through a manual review;
- d. The CEO or the SVP of Economic Transformation to, upon recommendation of the reviewing officer, decline Program subsidy eligibility based solely on non-discretionary reasons; and
- e. The CEO or the SVP of Economic Transformation to approve a hearing officer's finding regarding a final administrative decision on subsidy eligibility appeals based solely on non-discretionary reasons.

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Tim Sullivan, Chief Executive Officer

Prepared by: Doug Yorke, Doyin Ashiru, Eric Solomon, and Brian Sabina

**Attachment 1 – TREASURY / NJEDA MOU**

**FIRST AMENDMENT TO  
MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE TREASURER OF THE STATE OF NEW JERSEY  
AND  
THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

This First Amendment (“First Amendment”) to the Memorandum of Understanding (“Original MOU”) made by and between the TREASURER (“Treasurer”) of the New Jersey Department of the Treasury (“Treasury”) and the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (“NJEDA”), an instrumentality of the State of New Jersey (the “State”). The NJEDA and the Treasurer may sometimes hereinafter be collectively referred to as the “Parties” and individually as a “Party.” Except as otherwise defined herein, all capitalized terms shall have their meaning as set forth in the Original MOU.

**WHEREAS**, the Parties entered into the Original MOU dated September 21, 2020, pursuant to which the Treasurer granted to the NJEDA \$4 million in CARES Funds, to develop and implement the NJ Small and Micro Business PPE Access Program- Phase I (the “Program”) to ensure that small, medium, and micro sized businesses and non-profits have access to the fairly priced personal protective equipment (PPE) necessary to facilitate safe working conditions; and

**WHEREAS**, NJEDA approved Phase I of the Program to (1) develop a Program website which includes State-developed information and/or a tool to help small businesses understand what types of PPE should be purchased for their workers and in what quantities; (2) designate NJ PPE Access Program “Designated Vendors” who have been determined to provide reliable outlets for the purchase of PPE; and (3) make grant funding available to partially subsidize the cost of specified types of PPE to Designated Vendors as defined by the Program; and

**WHEREAS**, NJEDA has been developing the Program website and has accepted and is reviewing applications for Designated Vendors; and

**WHEREAS**, the Treasurer has determined that it would be in the best interests of the State to use additional portions of the CARES Funds, in an amount not to exceed \$21 million (Phase II Funding), as further funding for Phase II of the Program, set forth in Exhibit A attached hereto and made a part hereof, as grants to provide purchase price subsidies of 25% to small and micro businesses, with a larger per-organization amount of subsidy being made available to organizations located in historically underserved communities; and

**WHEREAS**, the NJEDA has modified some Designated Vendor Performance Requirements, such modifications are described in Exhibit A; and

**NOW THEREFORE**, in consideration of the foregoing the Parties hereby agree as follows:

1. Section 1 of the Original MOU is hereby amended to read as follows:

*Subject to the terms and conditions of this MOU, the Treasurer, as recipient of the CARES Funds shall make available to the NJEDA funds in the amount of Twenty-Five Million Dollars (\$25,000,000.00) (the “Grant Funds”) for the purpose of funding the Program. The initial amount of Four Million Dollars was provided upon full execution of the Original MOU. The remaining amount of Twenty-One Million Dollars (\$21,000,000) shall be provided upon full execution of and submission by NJEDA of any requisition or other document required by the Treasurer. The Grant Funds shall be allocated as follows:*

- *\$3,500,000 for subsidizing up to 20% of a Designated Vendor’s purchase of PPE manufactured or assembled in New Jersey, or sourced from a small wholesaler in a historically underserved community*
- *\$450,000 for the cost of NJEDA technology development, marketing, and promotional efforts*
- *\$650,000 for other administration costs of the NJEDA in administering the Program*
- *\$20.4 million for New Jersey Small and Micro Business PPE Access Program – Phase II*

2. Section 3.4 of the Original MOU is hereby amended to read as follows:

*All Grant Funds must be disbursed by the NJEDA no later than December 15, 2020. On December 1, 2020, NJEDA shall provide a report to the Treasurer demonstrating actual disbursement to date and planned disbursement of Grant Funds by no later than December 15, 2020. NJEDA shall promptly return all unexpended and unplanned for Grant Funds. To ensure compliance with the CARES Act and U.S. Department of the Treasury requirements, all Grant Funds must be expended by grantees no later than December 30, 2020.*

3. Section 3.6 of the Original MOU is hereby amended to read as follows:

*The NJEDA shall comply with the CARES Act, including, but not limited to, the U.S. Department of the Treasury Guidance and Frequently Asked Questions, and the U. S. Department of the Treasury Office of the Inspector General Frequently Asked Questions, as they may be updated from time to time, in implementing the Program and expending the Grant Funds for the Program.*

4. New Section 3.11 is hereby added to the Original MOU to read as follows:

*The NJEDA will provide the New Jersey Office of Emergency Management documentation in its NJEMgrants.org grant tracking system showing a full itemized accounting of 100% of the eligible costs. The NJEDA is responsible for tracking and verification of all costs.*

5. New Section 3.12 is hereby added to the Original MOU to read as follows:

*The NJEDA is responsible for ensuring the Grant Funds do not constitute a Duplication of Benefits as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. The NJEDA shall establish appropriate policies and procedures to prevent Duplication of Benefits and shall cooperate with other State departments and agencies to prevent and rectify Duplication of Benefits, which may include, but is not limited to, recoupment of Grant Funds.*

6. Section 4.5 of the Original MOU is hereby amended to read as follows:

*The Effective Date of this MOU shall be the later of the date executed by the Parties below. The term of this MOU shall be for a period of two (2) years from the Effective Date unless extended by mutual agreement of the parties.*

7. Pursuant to Section 2 of the Original MOU, the Treasurer has reviewed the material changes, as described in Exhibit A, to Phase I of the Program and has approved such changes.
8. Except as otherwise provided in this First Amendment, all of the terms, covenants and conditions of the Original MOU shall remain in full force and effect.
9. All references to the term “MOU” in the Original MOU shall be deemed to refer to the Original MOU, as modified by this First Amendment.
10. The First Amendment shall be effective as of the date of final execution by the parties (“the Effective Date”).

[The remainder of this page is intentionally left blank.]

**IN WITNESS WHEREOF**, the Parties have executed and delivered this FIRST AMENDMENT on the date set forth next to their respective signatures below, but effective as of the date set forth above. The Parties agree to accept electronic signatures.

**Treasurer of the State of New Jersey**

\_\_\_\_\_

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

By: Elizabeth Maher Muoio

**New Jersey Economic Development Authority**

\_\_\_\_\_

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

By: Tim Sullivan, Chief Executive Officer

**Attachment 2 – SUMMARY OF CHANGES TO ADMINISTRATIVE COSTS AS PART OF FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING**

Pursuant to this First Amendment to the Original PPE Access Program MOU made by and between the Treasurer of the New Jersey Department of the Treasury and NJEDA, the NJEDA is requesting an increase to the amount of funding that the NJEDA is allocating to administrative costs. These administrative costs are above and beyond any costs included in the original budget and are only for the administration of the PPE Access Program for businesses impacted by COVID-19.

The proposed increase is from the original amount of \$500,000 as outlined in the Original MOU, to \$1,100,000 as outlined in the First Amendment to the Original MOU. This represents a total increase of \$600,000, which is the amount the NJEDA estimates is necessary to support additional administrative expenses that will be incurred as the NJEDA administers an additional \$20.4 million in PPE subsidies through the Program.

NJEDA is estimating this additional administrative expense of \$600,000 based on the following methodology:

- ~\$250,000 for staff augmentation to support program processing and audits;
- ~\$150,000 for technology development to support building Phase 2 eligibility assessment;
- ~50,000 for additional NJEDA staff time for staff augmentation oversight and technical problem solving;
- ~150,000 in additional direct purchase of advertising to support marketing of the program.



**MEMORANDUM**

To: Members of the Authority

From: Tim Sullivan  
Chief Executive Officer

Date: October 14, 2020

Subject: Delegations of Authority Regarding Disqualifications

**Request:**

Staff seeks Board approval to clarify and expand delegations of authority related to disqualification of applicants for the Small Business Emergency Assistance Grant program, under the Authority's regulations, N.J.A.C. 19:30-2.1, *et seq.*, Executive Order 34 (Byrne 1976), and other applicable laws. More specifically, Members are asked to delegate authority to the Chief Executive Officer, or any Senior Vice President, Vice President, Managing Director or Director to:

1. determine that a business should not be disqualified from receiving financial assistance if the business or its owner(s) has one or more criminal convictions on their record; and
2. determine that a business should not be disqualified if the business or its owner(s) has been fined for a licensing violation, been denied a license or permit required to engage in its business or profession, or had any such license or permit suspended or revoked by any government, provided any such suspension or revocation has been lifted by any such government or the license or permit is not needed for the operation of the business seeking financial assistance.

**Background:**

The Authority offers a large portfolio of programs and services as part the Authority's mission to advance economic development in the State of New Jersey. These include various loan, bond and grant programs (including loan and grant programs recently implemented to address the economic impacts of the COVID-19 pandemic), as well as legacy tax incentive programs and anticipated future incentive programs. Businesses applying for such programs are subject to the Authority's Disqualification/Debarment Regulations (the "Regulations"), which are set forth in N.J.A.C. 19:30-2.1, *et seq.*, and Executive Order 34 (Byrne 1976) ("EO34"). Applicants for most programs must complete a Legal Questionnaire answering certain background questions pertaining to litigation and misconduct that can lead to debarment, disqualification, or suspension under the Regulations and EO34. For emergency assistance programs, such as the COVID-19 programs, and other programs involving smaller loans and grants, the Board has authorized use of a simplified legal questionnaire.

For tax incentives and other financial assistance in excess of \$100,000, the Authority performs its own independent due diligence at various stages of the approval and certification process, before providing financial assistance. Among other things, the Authority verifies information provided by the business in response to the Legal Questionnaire. If the business discloses information that could be grounds for disqualification or suspension, or if due diligence reveals such information, then legal review is required and Board action may be required to disqualify or suspend the business or to determine that there are mitigating factors rendering disqualification inappropriate under the circumstances.

For emergency assistance programs, such as the COVID-19 grant programs, staff reviews the simplified legal questionnaire and, in particular, any affirmative answers to questions pertaining to criminal convictions. In light of the nature and goals of the COVID-19 grant programs, staff suggests that the process is not necessary or appropriate. Small Business Emergency Assistance Grants are relatively small (no more than \$5,000 for Phase 1, no more than \$10,000 for Phase 2, and no more than \$20,000 for Phase 3 (as presented to the Board today)). Grants are given to small businesses (no more than 10 FTEs for Phase 1, no more than 25 FTEs for Phase 2, and no more than 50 FTEs for Phase 3 (as presented to the Board today)).

Moreover, excluding people with criminal convictions or a history of other legal issues is not consistent with the mission and goals of the COVID-19 grant programs. These programs are driven by an overarching public policy concern to address the consequences of a public health emergency caused by COVID-19 and the necessary measures taken to contain COVID-19 rather than pure economic development considerations. Thus, the Authority developed these programs to deploy funding to small businesses and nonprofit organizations as short-term, immediate support for payroll and working capital, especially in areas hardest hit by the pandemic. Those programs are intended to provide short-term operating support to a small and medium sized businesses and non-profits that have been negatively impacted during the declared state of emergency, thereby helping to stabilize their operations, adapt to the required pandemic protection measures, and minimizing any potential furloughs and/or layoffs, to reduce the number of businesses that permanently cease operations, and to help stabilize the economy. While some of the businesses that applied have legal history that might be within the scope of the Authority's Disqualification Regulations, it does not serve the overarching public policy concerns to disqualify the business from receiving a small grant that may enable it to remain in business and/or retain employees that would otherwise be fired, furloughed or laid off during a public health emergency.

In light of these considerations, the unique mission of the Authority's grant programs would not be served by excluding individuals with past criminal convictions who have taken steps in the right direction by starting their own business. People with criminal convictions on their records often struggle to find employment. Many companies automatically disqualify applicants with certain types of convictions. They may be left with the only option of starting their own business. Accordingly, staff is recommending the Board provide additional delegated authority for the Small Business Emergency Assistance Grant program, to permit staff to determine that a business should not be disqualified from receiving financial assistance as a result of the criminal conviction of an individual owning or controlling the business.

Similarly, if a business or its owner(s) has had licensing or permitting issues in the past, it does not further the unique purpose of the the Small Business Emergency Assistance Grant program to exclude them. In addressing a prior, more limited emergency in the aftermath of Superstorm Sandy, on July 14, 2014, the Board approved delegated authority for applications for Stronger NJ financial assistance programs that authorized staff to determine that a business should not be disqualified if the business has been denied a license or permit required to engage in its business or profession or had any such license or permit suspended or revoked by any government, provided any such suspension or revocation has been lifted by any such government. Staff are now recommending a similar, slightly expanded delegation for COVID-19 programs. Staff request delegated authority to determine that a business should not be disqualified if the business or its owner(s) has been fined for a licensing violation, been denied a license or permit required to engage in its business or profession or had any such license or permit suspended or revoked by any government, provided any such suspension or revocation has been lifted by any such government or is not needed for the operation of the business seeking financial assistance.

All recommendations to disqualify or suspend will continue to come to the Board.

Recommendation:

Approve this clarification and expansion of delegation of authority related to disqualification and suspension of applicants for the Small Business Emergency Assistance Grant program, under the Authority’s Disqualification/Debarment Regulations, N.J.A.C. 19:30-2.1, *et seq.*, Executive Order 34 (Byrne 1976), and other applicable laws, more specifically, delegate authority to the Chief Executive Officer, or any Senior Vice President, Vice President, Managing Director or Director to:

1. determine that a business should not be disqualified from receiving financial assistance if the business or its owner(s) has one or more criminal convictions on their record; and
2. determine that a business should not be disqualified if the business or its owner(s) has been fined for a licensing violation, been denied a license or permit required to engage in its business or profession, or had any such license or permit suspended or revoked by any government, provided any such suspension or revocation has been lifted by any such government or the license or permit is not needed for the operation of the business seeking financial assistance.



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Tim Sullivan, Chief Executive Officer

Prepared by: Christine Baker/Monica Kostrzewa



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 14, 2020

**RE:** Use of Coronavirus Relief Fund appropriation and Creation of Small Business Emergency Assistance Grant Program - Phase 3

**Summary**

The Members are asked to approve:

1. Approval of a Memorandum of Understanding with the New Jersey Department of the Treasury whereby the EDA will accept \$70 million in funds from the Coronavirus Relief Fund plus administrative costs and agree to comply with federal requirements for the use of those funds, and delegation to the Chief Executive Officer to accept up to \$100 million in total;
2. The creation of a third phase of the Small Business Emergency Assistance Grant Program to make grant funding available for short-term operating support to a broad group of New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have been negatively impacted during the declared state of emergency. This program would be available to support businesses impacted by the COVID-19/novel coronavirus (“COVID-19”) emergency, utilizing funds appropriated to the Authority from the Coronavirus Relief Fund, consistent with the federal requirements associated therewith;
3. Approval to issue a purchase order to 22nd Century Technologies Inc. to hire temporary employees to administer any phase of the grant program, or other COVID-19 program as needed, at a maximum aggregate cost of \$1 million;
4. Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund Phase 3 of the Small Business Emergency Assistance Grant Program;

5. Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program;
6. Delegation to Authority staff (any Senior Vice President, Vice President or the Managing Director of Underwriting) to approve individual applications to the Small Business Emergency Assistance Grant Program (Phase 3) in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the authority to decline and issue final administrative decisions; and
7. Delegation to the Chief Executive Officer to (a) extend the deadline for disbursement and use of funds if the N.J. Treasury and/or CRF deadlines are extended and (b) return to N.J. Treasury any amounts remaining after all relevant applications have been processed.

### **Background**

On March 9, 2020, Governor Phil Murphy issued Executive Order 103, declaring a State of Emergency and a Public Health Emergency to ramp up New Jersey's efforts to contain the spread of COVID-19. Governor Murphy has continued to extend the Public Health Emergency since that date. Subsequent containment measures were implemented, including restrictions on public gatherings and mandated closure of non-essential businesses. While these measures are consistent with similar measures being taken nationally that are expected to limit the public's exposure to COVID-19, there has been and will continue to be a significant adverse impact on our state's economy.

On March 26, 2020, the Board approved the creation of the Small Business Emergency Assistance Grant Program – an emergency grant funding program to provide funding as efficiently and quickly as possible to SMEs that needed payroll and working capital support as a result of adverse economic impacts following the March 9, 2020 declaration of a State of Emergency and a Public Health Emergency. The initial phase of the grant program focused on the smallest enterprises in targeted industries that were among the most adversely impacted by the containment measures. The Members approved the use of \$5 million from NJEDA funds for the original Small Business Emergency Assistance Grant Program. The Casino Reinvestment Development Authority (CRDA) provided additional funds to support impacted entities in Atlantic County. The Authority launched the application for the original Small Business Emergency Assistance Grant Program on April 6, 2020, and the response to which was overwhelming. Within the first hour of the application being available, more than 10,000 businesses had submitted applications. By the time the application closed a week later, the Authority received 34,404 applications, representing an estimated \$117 million in total grant funding requested.

On May 22, 2020, the Board approved Phase 2 of the Small Business Emergency Assistance Grant Program, accepting \$51 million from the Coronavirus Relief Fund to both provide additional funding to Phase 1 and to capitalize Phase 2. The second phase of the grant program expanded its focus to include businesses of up to 25 full-time equivalent employee (FTE), and removed

industry-related restrictions to eligibility, in acknowledgement of the reality that nearly all SMEs in a wide range of industries have been adversely affected by the economic consequences of the public health emergency and were in urgent need of assistance.

Ultimately, as of September 15, 2020, 3,383 applications were approved for Phase 1, representing \$11 million in total grant funding awarded, with 11 applications still remaining under review. With regard to Phase 2, as of September 30, 2020, 14,714 applicants had been approved or had approvals in process, representing \$43.3 million in total grant funding awarded, with an additional 2,864 applications representing a requested \$8.6 million still under review. Approved awards averaged \$2,944 in size, with 36% of funds dedicated to businesses in Opportunity Zone Eligible census tracts.

### **Coronavirus Relief Fund**

As the Governor announced, the Authority will receive an additional \$70 million from the Coronavirus Relief Fund (the “Fund”), as established under the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, for grant funding. The Authority will also receive \$3.5 million for future administrative costs of the grant programs. The U.S. Treasury released its Guidance on the use of the Fund on April 22, 2020 and issued frequently asked questions (FAQs), both of which U.S. Treasury recently updated on September 2, 2020. Additionally, the U.S. Treasury Office of Inspector General has released information pertaining to CRF reporting and record keeping. The Guidance and FAQs specifically state that costs incurred between March 1 and December 30, 2020, related to grants to small businesses for costs of business interruption caused by required closures are eligible.

First, approval is sought to utilize \$70 million in funding to implement a third phase of the Small Business Emergency Assistance Grant Program. As the Members may recall, the intent of the initial phase of the Small Business Emergency Assistance Grant Program was to structure the program in a way that the limited amount of funding could be used to support some of the smallest and directly impacted businesses and organizations, as quickly as possible. Based upon research performed by staff, strict program requirements were established for the initial phase to meet this intent, which caused a large segment of the small business and non-profit community to be ineligible under the established parameters. Therefore, a significant number of entities either did not apply, or did apply and were declined for funding on the basis of not meeting the eligibility requirements. For example, over 4,500 Phase 1 applications, or 50% of the reviewed portfolio, were declined as of September 15, 2020 because they are ineligible. The reasons for these declinations include but are not limited to: the entity being a sole proprietorship, the entity having too many FTEs, or the entity not being among the eligible industries targeted under Phase 1.

In order to address the staggering demand from small businesses and not-for-profit organizations that were not eligible under the requirements of the initial phase of the program, Phase 2 of the grant program expanded eligibility to businesses of any industry with up to 25 FTEs. While Phase 2 proved to be very successful in supporting thousands of businesses, approximately 40% of the reviewed portfolio was declined due to ineligibility, and the economic effects of the public health emergency have only deepened. Staff’s experience in administering the initial Small Business Emergency Assistance Grant Program has helped to inform the recommendations described herein

for the establishment of Phase 3. For example, in recognition of the overwhelming financial need of SMEs – including those with greater than 25 employees – staff recommend expanding eligibility even further in Phase 3, while still dedicating a large portion of funds to micro-businesses with 5 or fewer FTEs. And as the ongoing safeguards on public activity continue to have an outsized effect on the restaurant industry, particularly as we enter the winter season, staff also recommend setting aside dedicated funding for restaurants with up to 100 FTEs, helping them survive the coming months and make needed adjustments to their operations.

Second, staff is seeking authority to use the fund for administrative costs associated with administering any phase of the grant program, or other COVID-19 program as needed, expected to be equivalent to approximately 5% of total grant funds. The Authority does not have sufficient staff resources to administer the Phase 3 grant program (or other phases) quickly enough to meet the December 2020 deadline. Accordingly, staff seek approval to issue a purchase order to 22nd Century Technologies Inc. (22nd Century) to hire temporary employees to administer any phase of the grant program, or other COVID-19 program as needed, at a maximum aggregate cost of \$1 million; this is expected to result in addition of 36 temporary employees. The Authority is able to contract directly with 22nd Century, because 22nd Century has a State contract, which was procured by the Division of Purchase and Property (within the Department of the Treasury). In accordance with the New Jersey Administrative Code (N.J.A.C. 17:12), the State awarded a Blanket P.O. to 22nd Century based on the awarded New Mexico NASPO ValuePoint (NASPO) National Cooperative Agreement for the provision of Temporary Employment Services. Information regarding the NASPO Master Agreement for the provision of Temporary Employment Services (Temporary Employment Services 50-000-15-00058 AA) may be found on the NASPO website at: <http://naspovaluepoint.org/#/contract-details/83/overview/general>. That contract offers the Authority the ability to hire temporary employees expeditiously, on acceptable terms and for the best value. These are expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, which are eligible under the Fund.

The above uses will be memorialized in a Memorandum of Understanding (“MOU”) with the NJ Department of Treasury. The MOU will also require EDA to follow the federal requirements that accompany the funds and will enable NJ Treasury to claw back any funds the use of which are inconsistent with those federal requirements. EDA must disburse funds by December 1, 2020. The Treasurer will review the reports submitted by NJEDA prior to December 1, 2020 and determine whether to extend the date of disbursement to December 15, 2020. If the Treasurer does not extend the date, NJEDA must promptly return all unexpended Grant Funds. To ensure compliance with the CARES Act and U.S. Department of the Treasury requirements, all Grant Funds must be expended by grantees no later than December 30, 2020.

Staff is also requesting delegated authority for the Chief Executive Officer to accept up to \$30 million in additional Fund moneys, for a total of \$100 million, if such funds are available, applicant demand exists for additional fund, and the Authority can disburse the additional funds prior to the applicable deadlines.

### **Program Details of Phase 3**

The following parameters below and further described in the attached program specifications detail the Authority's recommended approach to structuring the third phase of the pilot Small Business Emergency Assistance Grant Program.

#### *Eligibility*

Under the initial phase of the program, eligibility was restricted to businesses of no more than 10 FTEs that were operating under a very narrow set of industries as determined by the North American Industry Classification (NAICS) code, and that were not home-based businesses or sole proprietors. In Phase 2, the employee eligibility cap was increased to no more than 25 FTEs, with no restrictions by NAICS code with the exception of certain prohibited businesses, and with eligibility extended to home-based businesses and sole proprietors. .

In Phase 3, staff recommends that eligibility be expanded as follows:

- The employee eligibility cap will be 50 FTEs
- All businesses registered in New Jersey and meeting the above eligibility cap will be eligible, including home-based businesses and sole proprietors, with the exception of certain prohibited businesses as documented in the attached Phase 3 specifications sheet

Businesses that were approved for grant funding under Phase 1 or Phase 2 of the Small Business Emergency Assistance Grant Program will be eligible for Phase 3 funding. Funding received in Phases 1 or 2 will not affect the award sizes these businesses are eligible to receive in Phase 3. However, businesses that applied in Phase 1 or Phase 2 will need to re-apply and submit all required documentation regardless of their prior application.

#### *Award Size*

Phase 1 and Phase 2 of the Small Business Emergency Assistance Grant Program utilized a similar methodology for calculating a grant award, with \$1,000 available per FTE, as reported in the most recent 2019 WR-30. However, Phase 2 offered a larger potential maximum award amount: while the maximum grant amount per business/organization for Phase 1 was \$5,000, the maximum grant award size was increased to \$10,000 for Phase 2. Applicants that were approved for funding under Phase 1 that had 5 FTEs or fewer were not eligible for Phase 2 funding, as they had already received their maximum funding amount of up to \$5,000.

In Phase 3, to enable the administrative efficiency needed to execute the program in a timely manner, the staff recommend determining the award size based on the chart below with a fixed award amount based on FTE bands and industry categories rather than calculated on a per FTE basis. Furthermore, the determination of FTEs will be accomplished as described below rather than use the most recent 2019 WR-30. FTE bands and corresponding fixed award amounts are as follows; however, the award will not exceed the applicant's unmet need:

**Award sizes for “Food Services and Drinking Places” businesses with NAICS beginning with 722**

<b>FTE band</b>	<b>Award size</b>
5 FTEs or fewer, including businesses with no FTEs	\$10,000
6-25 FTEs	\$15,000
26-50 FTEs	\$20,000

**Award sizes for micro-businesses**

<b>FTE band</b>	<b>Award size</b>
5 FTEs or fewer, including businesses with no FTEs	\$5,000

**Award sizes for other small businesses**

<b>FTE band</b>	<b>Award size</b>
6-25 FTEs	\$10,000
26-50 FTEs	\$15,000

*FTE Determination*

In Phase 1 and Phase 2 of the Small Business Emergency Assistance Grant Program, verification of FTEs for both eligibility and award size purposes was based on the FTEs reported on the company’s most recently filed WR-30 with the New Jersey Department of Labor and Workforce Development (DOL).

In Phase 3, staff recommends continued verification with DOL data, but the FTE for purposes of eligibility and award size will be based on the FTE count reported on the past six quarters of WR-30 filings. Initially, the highest FTE count of the past six quarters will be used, enabling businesses to receive the award corresponding to their peak headcount in 2019 or 2020 rather than their current headcount, which may reflect substantial headcount declines due to significant losses in revenue during the COVID-19 pandemic. However, if the peak FTE would make a business ineligible, the most recent WR-30 filing will be reviewed. If the most recent WR-30 FTE count is less than the eligibility threshold, the business will be eligible and awarded the award amount for the largest FTE band relevant to the business.

As in Phases 1 and 2, because WR-30 filings are based on Employer Identification Numbers (EINs), entities with more than one EIN will be able to submit one application per EIN. That is, NJEDA will consider any entity with its own EIN as a distinct applicant. Businesses that may have multiple locations but only one EIN can only apply once and are therefore the multiple locations are subject to a single award amount applicable to their business size and industry as shows in table above. Implied FTE calculations will be rounded to the nearest FTE (e.g., 2.24 FTE would be counted as 2 FTE for the program, whereas 2.50 or 2.75 FTE would be counted as 3 FTE). While the calculation of FTEs is based on weeks worked and wages as reported on the WR-30 filing, in no event will a company receive grant funding based on a number of FTEs that exceeds the number of employees employed by the company, with the exception of sole proprietorships or

entities with no FTEs, which may receive the minimum grant amount of \$5,000 or \$10,000, depending on industry.

*Funding categories*

Staff recommends the following allocation of the \$70M in Coronavirus Relief Fund funding available to support Phase 3. An applicant is only eligible for one allocation of funding. For example: if a business is an eligible Restaurant, as determined by its NAICS code, it can only apply for the Restaurant allocation and not the Micro-business or other small business allocation, this is the same for a micro-business trying to apply for the other small business program or vice versa. Any additional funding contributed or donated beyond this \$70M would be available to any eligible Phase 3 applicant, regardless of whether they fall into the Restaurants, Micro-businesses, or Other small businesses category:

- **Restaurants:** \$35 million of funding be reserved to support businesses classified as “Food Services and Drinking Places” under NAICS code 722 (described in this document as “Restaurants”), given the disproportionate impact these businesses have experienced due to COVID-19, including caps on on-location dining and unusual costs they incurred to adapt their business models for safe operations. 33 percent of the funding within this category will be directed to support entities that have a commercial business address located (fully or partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). Because this is a reserve to be used for the applications received, any amount of the 33 percent Opportunity Zone eligible reserve that remains after processing all applications from entities in Opportunity Zone eligible census tracts would be used for any other applicant to the \$35 million restaurant funding pool. Similarly, any amount of this \$35 million pool that remains after processing all applications from restaurants would be used for any other eligible Phase 3 applicant.
- **Micro-businesses:** \$15 million of funding be reserved to support businesses that have had 5 or fewer FTEs in each of their past six quarters of WR-30 filings (including businesses with no FTEs), given the unique financial vulnerability experienced because of COVID-19 by micro-businesses, which typically have lower financial reserves. 33 percent of the funding within this category will be directed to support entities that have a commercial business address (or home address for home-based businesses) located (fully or partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). Because this is a reserve to be used for the applications received, any amount of the 33 percent Opportunity Zone eligible reserve that remains after processing all applications from entities in Opportunity Zone eligible census tracts would be used for any other applicant to the \$15 million micro-business funding pool. Similarly, any amount of this \$15 million pool that remains after processing all applications from micro-businesses would be used for any other eligible Phase 3 applicant.
- **Other small businesses:** The remaining \$20 million of funding will be reserved to support businesses that had 6 to 50 FTEs in any of the past six quarters of WR-30 filings. 33 percent of the funding within this category will be directed to support entities that have a commercial business address (or home address for home-based businesses) located (fully or partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). Because this is a reserve to be used for the

applications received, any amount of the 33 percent Opportunity Zone eligible reserve that remains after processing all applications from entities in Opportunity Zone eligible census tracts would be used for any other applicant to this \$20 million funding pool. Similarly, any amount of this \$20 million pool that remains after processing all applications would be used for any other eligible Phase 3 applicant.

There are 715 census tracts that were eligible to be Opportunity Zones in New Jersey. As was done in Phase 2, setting aside a portion of available funding under the Small Business Emergency Assistance Grant Program to support entities in these census tracts further reinforces the State's commitment to helping to ensure all Opportunity Zone eligible tracts in New Jersey receive opportunities for investment that are equitable and inclusive.

*Eligibility verification process*

Consistent with Phases 1 and 2 of the program, staff is recommending that in addition to the eligibility parameters already stated above, EDA will apply only Taxation's requirement to ensure that businesses do not have tax debts due to the State. As with Phases 1 and 2, this may be accomplished through a certification from the applicant that it does not owe any taxes, subject to repayment if the certification is not correct. The applicant will complete a simplified debarment legal questionnaire, and disqualification issues will be reviewed under existing delegated authority, including the delegated authority requested concurrent herewith. The applicant must also be in good standing with the New Jersey Department of Labor and Workforce Development (LWD) and the New Jersey Division of Alcoholic Beverage Control (ABC) (if the applicant is regulated by the ABC) at the time of application to be eligible for the grant funding.

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

- Was in operation on February 15, 2020 (consistent with the federal Paycheck Protection Program);
- Will make a best effort not to furlough or lay off any individuals from the time of application through six months after the end of the declared state of emergency. SMEs that have already furloughed or laid off workers from the time of application must make a best-effort pledge to re-hire those workers as soon as possible. Any material breach of its best efforts certification may result in the NJEDA seeking repayment of the grant;
- Has been negatively impacted by the COVID-19 declared state of emergency (e.g., has been temporarily shut down, has been required to reduce hours, has had at least a 20% drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production);
- Has a material financial need that cannot be overcome without the grant of emergency relief funds at this time (e.g., does not have significant cash reserves that can support the SME during this period of economic disruption).

Staff will take certain additional steps to ensure compliance with federal requirements. To comply with the CARES Act, including ensuring a need for the funds arising from business interruption, applicants must acknowledge and agree that the funds must be used to replace revenue lost as a result of a business interruption caused by COVID19 between March 1, 2020, and the date of the grant agreement (which must occur with enough time for EDA to disburse funding prior to December 1, 2020). If the grant amount for the applicant is greater than the need, the amount of the award will be capped at the amount of need.

To comply with duplication of benefits provisions within the Stafford Act, all applicants will be required to fill out an affidavit identifying all funding sources related to COVID-19, including insurance, Small Business Administration loans and grants, forgivable portions of Payroll Protection loans, and Economic Injury Disaster grants. Staff will use this information to ensure that the Small Business Emergency Assistance Grant (funded with federal assistance) is not used for the same purpose, i.e., creating a duplication of benefit. In addition to a certification from the applicant that their business was impacted by the Public Health Crisis, applicants will be required to answer questions about whether their business was “essential” (as defined by Executive Order), whether the business was able to remain open and to what capacity, and estimated revenue decline. Staff is also developing a language access plan to ensure that potential grant applicants whose primary language is not English will have resources or information available to help them understand and potentially access the grant funding.

Relative to the application process developed for Phases 1 and 2 of the grant program, the Authority will implement additional automation and interactivity such that businesses are immediately alerted if they enter information that may indicate ineligibility or trigger a manual review, giving them the opportunity to confirm that their responses are correct or choose not to proceed if they are ineligible. The Authority will make its best efforts to publicize the pre-registration and application opening date through a Notice of Funding Availability, information on its website, its social media channels, and outreach to the media and stakeholders to make this information available to the public in advance of the application period opening.

In expectation that the new phase will be oversubscribed, NJEDA staff and outside services hired for application review will process the applications on a first-come, first-served basis.

Consistent with the approach taken in Phases 1 and 2 of the grant program, the Members should be aware that in order to handle the volume of applications expected during this period, the Authority will be automating a number of the processing steps based on business rules as outlined in this memo. These streamlined processes were highly effective and allowed the Authority to review, approve and disburse a significant amount of funding to a large number of businesses as quickly as possible to meet the urgent need. Consistent with Phases 1 and 2, delegated authority is sought for staff (any Senior Vice President, Vice President or the Managing Director of Underwriting) to approve individual applications in accordance with the terms set forth in the attached program specifications. Because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested for approval also includes the delegated authority to decline and issue final administrative decisions if applicants appeal from those declinations.

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

Staff is also requesting delegated authority for the Chief Executive Officer or any Senior Vice President to accept governmental (Federal, State or county) funding and/or unrestricted gifts or grants that would be used to fund Phase 3 of the Small Business Emergency Assistance Grant Program. Should governmental requirements required by law restrict the ability for the Authority to utilize any of the parameters described herein, staff will revisit the program requirements with the Members for modification and alignment with governmental requirements. If governmental requirements are in addition to these parameters or the parameters of Phases 1 and 2, staff is seeking delegated authority to add these requirements. Additionally, staff is requesting delegated authority to use previously received or new unrestricted private unrestricted gifts or grants for Phase 3 for any use that may extend beyond the NJ Treasury deadline for disbursement and the US Treasury deadline for grantee use of funds.

Finally, as each amount received has been dedicated to a specific phase or subset of applications within a phase, a possibility exists that in certain instances some funds may remain after all the relevant applications have been processed. In such instance, staff is requesting delegated authority to the Chief Executive Officer to amend the MOU with N.J. Treasury to state the final, actual amount of the CRF funds and to return to N.J. Treasury the remaining funds.

Due to financial hardship, the Authority will collect no fees from the applicant for this program.

The attached product specifications further describe the program details and minimum eligibility requirements the applicant must meet to be considered for a Phase 3 grant.

### **Recommendation**

Approval is requested for:

1. Approval of a Memorandum of Understanding with the New Jersey Department of the Treasury whereby the EDA will accept \$70 million in funds from the Coronavirus Relief Fund plus administrative costs and agree to comply with federal requirements for the use of those funds, and delegation to the Chief Executive Officer to accept up to \$100 million in total;
2. The creation of a third phase of the Small Business Emergency Assistance Grant Program to make grant funding available for short-term operating support to a broad group of New Jersey small and medium sized businesses and non-profits (collectively “SMEs” or “businesses”) that have been negatively impacted during the declared state of emergency. This program would be available to support businesses impacted by the COVID-19/novel coronavirus (“COVID-19”) emergency, utilizing funds appropriated to the Authority from the Coronavirus Relief Fund, consistent with the federal requirements associated therewith;

8. Approval to issue a purchase order to 22nd Century Technologies Inc. to hire temporary employees to administer any phase of the grant program, or other COVID-19 program as needed, at a maximum aggregate cost of \$1 million;
3. Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund Phase 3 of the Small Business Emergency Assistance Grant Program;
4. Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program;
5. Delegation to Authority staff (any Senior Vice President, Vice President or the Managing Director of Underwriting) to approve individual applications to the Small Business Emergency Assistance Grant Program (Phase 3) in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the authority to decline and issue final administrative decisions; and
6. Delegation to the Chief Executive Officer to (a) extend the deadline for disbursement and use of funds if the N.J. Treasury and/or CRF deadlines are extended and (b) return to N.J. Treasury any amounts remaining after all relevant applications have been processed.



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Tim Sullivan  
Chief Executive Officer

Attachment

Exhibit A – Small Business Emergency Assistance Grant Program Phase 3 Specifications

Exhibit B – Amendment to N.J. Treasury MOU

<b>Small Business Emergency Assistance Grant Program – Phase 3                      Proposed Program Specifications                      (Revised as of September 30, 2020)</b>	
<b>Funding Source</b>	<p>\$70,000,000 - from the Coronavirus Relief Fund (the “Fund”), as established under the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. This amount will be allocated as follows; any additional funding contributed or donated beyond this \$70M would be available to any eligible Phase 3 applicant, regardless of whether they fall into the Restaurants, Micro-businesses, or Other small businesses category:</p> <ul style="list-style-type: none"> <li>▪ <b>Restaurants:</b> \$35 million of funding be reserved to support businesses classified as “Food Services and Drinking Places” under NAICS code 722 (described in this document as “Restaurants”), given the disproportionate impact these businesses have experienced due to COVID-19, including caps on on-location dining and unusual costs they incurred to adapt their business models for safe operations. 33 percent of the funding within this category will be directed to support entities that have a commercial business address located (fully or partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). Because this is a reserve to be used for the applications received, any amount of the 33 percent Opportunity Zone eligible reserve that remains after processing all applications from entities in Opportunity Zone eligible census tracts would be used for any other applicant to the \$35 million restaurant funding pool. Similarly, any amount of this \$35 million pool that remains after processing all applications from restaurants would be used for any other eligible Phase 3 applicant.</li> <li>▪ <b>Micro-businesses:</b> \$15 million of funding be reserved to support businesses that have had 5 or fewer FTEs in each of their past six quarters of WR-30 filings (including businesses with no FTEs), given the unique financial vulnerability experienced because of COVID-19 by micro-businesses, which typically have lower financial reserves. 33 percent of the funding within this category will be directed to support entities that have a commercial business address (or home address for home-based businesses) located (fully or partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). Because this is a reserve to</li> </ul>

<b>Small Business Emergency Assistance Grant Program – Phase 3                      Proposed Program Specifications                      (Revised as of September 30, 2020)</b>	
<b>Funding Source (continued)</b>	<p>be used for the applications received, any amount of the 33 percent Opportunity Zone eligible reserve that remains after processing all applications from entities in Opportunity Zone eligible census tracts would be used for any other applicant to the \$15 million micro-business funding pool. Similarly, any amount of this \$15 million pool that remains after processing all applications from micro-businesses would be used for any other eligible Phase 3 applicant.</p> <ul style="list-style-type: none"> <li>▪ <b>Other small businesses:</b> The remaining \$20 million of funding will be reserved to support businesses that had 6 to 50 FTEs in any of the past six quarters of WR-30 filings. 33 percent of the funding within this category will be directed to support entities that have a commercial business address (or home address for home-based businesses) located (fully or partially) in a census tract that was eligible to selected as New Jersey Opportunity Zone (i.e., a New Market Tax Credit census tract). Because this is a reserve to be used for the applications received, any amount of the 33 percent Opportunity Zone eligible reserve that remains after processing all applications from entities in Opportunity Zone eligible census tracts would be used for any other applicant to this \$20 million funding pool. Similarly, any amount of this \$20 million pool that remains after processing all applications would be used for any other eligible Phase 3 applicant.</li> </ul> <p><b>An applicant is only eligible for one allocation of funding. For example: if a business is an eligible Restaurant, as determined by its NAICS code, it can only apply for the Restaurant allocation and not the Micro-business or other small business allocation, this is the same for a micro-business trying to apply for the other small business program or vice versa.</b></p>
<b>Program Purpose</b>	<p>To provide short-term, immediate payroll and working capital support to New Jersey small and medium sized enterprises (businesses and non-profits) (“SMEs” or “businesses”) that have been negatively impacted during the declared state of emergency, thereby helping to stabilize their operations and minimizing any potential furloughs and/or layoffs.</p>



<b>Small Business Emergency Assistance Grant Program – Phase 3                      Proposed Program Specifications                      (Revised as of September 30, 2020)</b>	
<b>Eligible Applicants: (continued)</b>	<p>eligible and awarded the award amount for the largest FTE band relevant to the business. Implied FTE calculations will be rounded to the nearest FTE (e.g., 2.49 FTE would be counted as 2 FTE for the program, whereas 2.50 FTE would be counted as 3 FTE). While the calculation of FTEs is based on weeks worked and wages as reported on the WR-30 filing, in no event will a company receive grant funding based on a number of FTEs that exceeds the number of employees employed by the company, EXCEPT that if a sole proprietor or other applying entity has no FTEs, it may be eligible for the minimum grant award based on business type. For entities like sole proprietors the NJEDA will work with the Department of Treasury, Division of Taxation, to identify tax filing status.</p> <p>CEO/equivalent officer of the SME must self-certify that the firm:</p> <ul style="list-style-type: none"> <li>• Was in operation on February 15, 2020;</li> <li>• Will make a best effort not to furlough or lay off any individuals from the time of application through six months after the end of the declared state of emergency. SMEs that have already furloughed or laid off workers from the time of application must make a best-effort pledge to re-hire those workers as soon as possible. Any material breach of its best efforts certification may result in the NJEDA seeking repayment of the grant;</li> <li>• Has been negatively impacted by the COVID-19 declared state of emergency on March 9, 2020 (e.g., has been temporarily shut down, has been required to reduce hours, has had at least a 20% drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production); and</li> <li>• Has a material financial need that cannot be overcome without the grant of emergency relief funds at this time (e.g., does not have significant cash reserves that can</li> </ul>

<b>Small Business Emergency Assistance Grant Program – Phase 3                      Proposed Program Specifications                      (Revised as of September 30, 2020)</b>	
<b>Eligible Applicants: (continued)</b>	<p>support the SME during this period of economic disruption).</p> <p>SME must be registered to do business in the State of New Jersey at the time of application, as evidenced by a valid Business Registration Certificate.</p> <p>SME must satisfy Taxation’s requirement to ensure that the SME does not have tax debts due to the State. As with Phases 1 and 2, this may be accomplished through a certification from the applicant that it does not owe any taxes and will be subject to repayment if the certification is not correct.</p> <p>SME must be in good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor. If the SME is regulated by the Division of Alcoholic Beverage Control (ABC), then it must also be in good standing with ABC, with all decisions of good standing at the discretion of the ABC.</p> <p>Entities with multiple EIN can submit one application per EIN. Businesses with multiple locations but only one EIN will be limited to one application (under the sole EIN).</p> <p>Additional eligibility requirements may apply, which will be based on any applicable Federal requirements tied to the CARES Act funding. This may include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• applicants must acknowledge and agree to the requirement that grant proceeds be can only be used for eligible uses as defined below,</li> <li>• a restriction on duplication of benefits that could exclude potential applicants that have already received emergency COVID-19 assistance, and</li> <li>• a requirement that the applicant demonstrate that it has had negative impacts from COVID-19.</li> </ul>
<b>Eligible Uses</b>	<p>Grant funding to be used for reimbursement of lost revenue as result of the business interruption caused by COVID19 between March 1, 2020 and the date of the grant agreement (which must</p>

<b>Small Business Emergency Assistance Grant Program – Phase 3                      Proposed Program Specifications                      (Revised as of September 30, 2020)</b>	
	<p>occur with enough time for EDA to disburse funding prior to the federal deadline). If the grant amount set forth below is greater than the need, the amount of the award will be capped at the amount of need.</p> <p>Funding cannot pay for capital expenses, including construction.</p>
<b>Application Process</b>	<p>Online application. Applications will be accepted on a first-come, first-served basis, based upon the date in which the Authority receives a completed application submission.</p>
<b>Grant Amounts</b>	<p>For businesses that are classified as “Food services and drinking places,” with NAICS beginning with 722:</p> <ul style="list-style-type: none"> <li>▪ If 5 FTEs or fewer (including no FTEs): \$10,000 grant</li> <li>▪ If 6-25 FTEs: \$15,000 grant</li> <li>▪ If 26-50 FTEs: \$20,000 grant</li> </ul> <p>For micro-businesses:</p> <ul style="list-style-type: none"> <li>▪ If 5 FTEs or fewer (including no FTEs): \$5,000 grant</li> </ul> <p>For other smaller businesses</p> <ul style="list-style-type: none"> <li>▪ 6-25 FTEs: \$10,000 grant</li> <li>▪ If 26-50 FTE: \$15,000 grant</li> </ul> <p>FTE will be determined for award size in the same manner as for eligibility.</p>
<b>Funding Disbursement</b>	<p>Funding to be fully disbursed as quickly as possible upon approval of grant application.</p>
<b>Fees</b>	<p>Due to financial hardship, the Authority will collect no fees from the applicant for this program.</p>
<b>Appeals</b>	<p>Businesses whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the</p>

<b>Small Business Emergency Assistance Grant Program – Phase 3                      Proposed Program Specifications                      (Revised as of September 30, 2020)</b>	
	<p>declination letter (which must be at least 3 days but no longer than 10 days). A Senior Vice President will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will prepare a recommended decision, which must be approved, and a Final Administration Decision issued, by staff in accordance with delegated authority.</p>
<p><b>Board Approval</b></p>	<p>Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept other governmental (Federal, State or County) funding and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund Phase 3 of the Small Business Emergency Assistance Grant Program.</p> <p>Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to impose additional requirements as may be required by law as a condition of accepting governmental (Federal, State or County) funding, provided that the requirements are consistent with the parameters of the program.</p> <p>Delegation to Authority staff (any Senior Vice President, Vice President or the Managing Director of Underwriting) to approve individual applications to the Small Business Emergency Assistance Grant Program (Phase 3) in accordance with the terms set forth in this memo and the attached program specifications, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the authority to decline and issue final administrative decisions; and</p> <p>Delegation to the Chief Executive Officer to (a) extend the deadline for disbursement and use of funds if the N.J. Treasury and/or CRF deadlines are extended and (b) return to N.J. Treasury any amounts remaining after all relevant applications have been processed.</p>

**FIRST AMENDMENT TO  
MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE TREASURER OF THE STATE OF NEW JERSEY  
AND  
THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

This Second Amendment to the Memorandum of Understanding (“Second Amendment”) made by and between the TREASURER (“Treasurer”) of the New Jersey Department of the Treasury (“Treasury”) and the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (“NJEDA”), an instrumentality of the State of New Jersey (the “State”). The NJEDA and the Treasurer may sometimes hereinafter be collectively referred to as the “Parties” and individually as a “Party.”

**WHEREAS**, the Parties entered into a Memorandum of Understanding dated May 26, 2020 (“Original MOU”) pursuant to which the Treasurer granted to the NJEDA \$50 million in CARES Funds for reimbursement of the Phase One SME program and for the new Phase Two SME Program, and \$1 million for future NJEDA administrative costs associated with both phases of the program (collectively, the “Program”) to assist businesses that have been impacted by the COVID-19 Pandemic; and

**WHEREAS**, the Parties amended the Original MOU by way of a First Amendment to the Memorandum of Understanding (“First Amendment”) on September 17, 2020 to use an additional \$15 million for further funding of the Program, which were to be dedicated to businesses located in the 12 counties in New Jersey that did not receive CRF funding directly from the U.S. Department of the Treasury, and an additional \$300,000 for allowable administrative costs; and

**WHEREAS**, pursuant to the Fiscal Year 2021 Appropriations Act, L. 2020, c. 97, monies received from the federal government pursuant to a federal economic stimulus bill are appropriated to the applicable State entity to be spent on the purposes authorized by the federal economic stimulus bill; and

**WHEREAS**, the continuation of the COVID-19 Pandemic continues to seriously impact the economic viability of SMEs as they face difficulties meeting payroll obligations and supporting basic operating expenses and these challenges are expected to continue; and

**WHEREAS**, there is a staggering demand from small businesses and not-for-profit organizations that were not eligible under the Phase I or Phase II of the program, deepening the economic effects of the public health emergency; and

**WHEREAS**, NJEDA will award grants under Phase III of the Program, which expands eligibility to all businesses in NJ, including home-based businesses and sole-proprietors, with the exception of a few prohibited businesses, and raises the employee eligibility cap to 50 FTEs and creates reservations for restaurants and other food service businesses and for microbusinesses;

the specifications for Phase III are contained in Exhibit A, attached hereto and made a part hereof; and

**WHEREAS**, the Treasurer has determined that it would be in the best interests of the State to use additional portions of the CARES Funds, in an amount not to exceed \$73.5 million, as further funding for the Program and to include allowable administrative costs as described in Exhibit B;

**NOW THEREFORE**, in consideration of the foregoing the Parties hereby agree as follows:

1. All capitalized terms not otherwise defined herein shall have their respective meanings ascribed to them in the Original MOU and any amendments.
2. Section 1 of the Original MOU is hereby amended to read as follows:

*Subject to the terms and conditions of this MOU, the Treasurer, as recipient of the CARES Funds shall make available to the NJEDA funds in the amount of One Hundred and Thirty-Nine Million, Eight Hundred Thousand Dollars (\$139,800,000.00) (the "Grant Funds") for the purpose of funding the Programs. The initial amount of Fifty-One Million Dollars (\$51,000,000.00) was provided upon execution of the Original MOU, and an additional amount of Fifteen Million, Three Hundred Thousand Dollars (\$15,300,000.00) was provided upon execution of the Second Amendment. The remaining amount of Seventy-Three Million, Five Hundred Thousand Dollars (\$73,500,000) of the Grant Funds shall be provided upon full execution of the Second Amendment and submission by NJEDA of any requisition or other document required by the Treasurer. The Grant Funds shall be allocated as follows:*

- *\$5 million for reimbursement of the Phase One SME Program*
- *\$45 million for Phase Two SME Program*
- *\$4.8 million for administrative costs of the Program arising after the Original MOU*
- *\$15 million for Phase Two SME Program, which shall be dedicated to eligible businesses located in the 12 counties in New Jersey that did not receive CRF funding directly from the U.S. Department of the Treasury.*
- *\$70 million for Phase Three SME Program*

3. Section 3.4 of the Original MOU is hereby amended to read as follows:

*All Grant Funds must be disbursed by the NJEDA no later than December 1, 2020. The Treasurer shall review the reports submitted by NJEDA prior to December 1, 2020 and determine whether to extend the date of disbursement to December 15, 2020. If the Treasurer does not extend the date, NJEDA shall promptly return all unexpended Grant Funds. To ensure compliance with the CARES Act and U.S. Department of the Treasury requirements, all Grant Funds must be expended by grantees no later than December 30, 2020.*

4. Section 3.6 of the Original MOU is hereby amended to read as follows:

*The NJEDA shall comply with the CARES Act, including, but not limited to, the U.S. Department of the Treasury Guidance and Frequently Asked Questions, and the U.S. Department of the Treasury Office of the Inspector General Frequently Asked Questions, as they may be updated from time to time, in implementing the Program and expending the Grand Funds for the Program.*

5. Section 3.8 of the Original MOU is hereby amended to read as follows:

*The NJEDA is authorized to use \$4.8 million of the Grant Funds to pay for its administrative expenses relating to the future administration and implementation of the Program. Administrative expenses may include salaries and overhead, purchase or rental of equipment, insurance, Utilities, office supplies, and rental and maintenance (but not purchase) of office space.*

6. New Section 3.11 is hereby added to the Original MOU to read as follows:

*The NJEDA will provide the New Jersey Office of Emergency Management documentation in its NJEMgrants.org grant tracking system showing a full itemized accounting of 100% of the eligible costs. The NJEDA is responsible for tracking and verification of all costs.*

7. New Section 3.12 is hereby added to the Original MOU to read as follows:

*The NJEDA is responsible for ensuring the Grant Funds do not constitute a Duplication of Benefits as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. The NJEDA shall establish appropriate policies and procedures to prevent Duplication of Benefits and shall cooperate with other State departments and agencies to prevent and rectify Duplication of Benefits, which may include, but is not limited to, recoupment of Grant Funds.*

8. Section 4.5 of the Original MOU is hereby amended to read as follows:

*The Effective Date of this MOU shall be the later of the date executed by the Parties below. The term of this MOU shall be for a period of two (2) years of the Effective Date unless extend by mutual agreement of the parties.*

9. Except as otherwise provided in this Second Amendment, all of the terms, covenants and conditions of the Original MOU shall remain in full force and effect.

10. All references to the term “MOU” in the Original MOU shall be deemed to refer to the Original MOU, as modified by the First Amendment and this Second Amendment.
11. The Second Amendment shall be effective as of the date of final execution by the parties (“the Effective Date”).

**IN WITNESS WHEREOF**, the Parties have executed and delivered this **SECOND AMENDMENT** on the date set forth next to their respective signatures below, but effective as of the date set forth above. The Parties agree to accept electronic signatures.

**Treasurer of the State of New Jersey**

\_\_\_\_\_

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

By: Elizabeth Maher Muoio

**New Jersey Economic Development Authority**

\_\_\_\_\_

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

By: Tim Sullivan, Chief Executive Officer

## **AUTHORITY MATTERS**



**MEMORANDUM**

**Information Technology and Business Process Analysis Consulting Services (COVID-Related Programs Support)**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 14, 2020

**RE:** Follow-on Work: Information Technology and Business Process Analysis Consulting Services – Microsoft Dynamics CRM, Commercial Loan System and Additional Third-Party Systems

**Summary**

The Members are asked to approve \$625,000 in new contract funding to complete COVID-related system functionality identified as the Authority has launched several new emergency programs to support small businesses impacted by the COVID-19 pandemic and \$175,000 in replacement funding to complete non-COVID work. The additional COVID-related funds will support new functionality not contemplated in the original scope of work. The new work will continue to be delivered in the form of “future releases” of the software beyond the original system version launched on July 1, 2019. A one-year extension of the contract term is also requested.

**Background**

In November 2014, the Authority awarded Crowe LLP a maximum, not-to-exceed \$5,552,700 contract for consulting services to assist with process improvements, replacing the Authority’s twenty-plus year-old Microsoft FoxPro database (LMS) with Microsoft Dynamics CRM, and an integrated commercial loan application, Tech PG’s Enable. The initial term of the contract was two (2) years with three (3) one-year extension periods. The RFQ/P and the contract contemplated optional additional work at the hourly rates submitted in the fee schedule.

Work began in early 2015 and the new system was launched on July 1, 2019. On August 13, 2019, the Board approved additional project funding to support added functionality and system enhancements not contemplated in the original project scope of work and approved an extension of the contract term to November 30, 2020. The new work was structured as separate task orders under the original contract with Crowe LLP. The benefit of this change resulted in a more controlled process of discrete changes as opposed to the all-encompassing body of work approach used for the initial project. Staff prioritizes the work to be done and creates scopes of work which the vendor prices at the hourly rates provided in the original contract for each position identified. Staff can negotiate the cost of each task order if it believes the hours quoted or level of resources provided are not reasonable or beneficial to the Authority. The vendor is required to complete all work to the Authority’s satisfaction in order to close out each task order. Milestone payments are made under each task order, where appropriate.

During the term of the contract, there were three amendments approved by the Board:

- August 10, 2018 – approval of \$900,000 to support the continuation of the project.

- August 13, 2019 – approval of \$500,000 in additional contract funding due to ongoing complexities arising from the work required to complete the long-term project
- August 13, 2019 – approval of \$1,050,000 to support additional functionality and system enhancements not contemplated in the original project scope of work and extension of the contract to November 30, 2020

On March 9, 2020, Governor Phil Murphy issued Executive Order 103, declaring a State of Emergency and a Public Health Emergency to ramp up New Jersey’s efforts to contain the spread of COVID-19. Governor Murphy has continued to extend the Public Health Emergency since that date. Subsequent containment measures were implemented, including restrictions on public gatherings and mandated closure of non-essential businesses. While these measures are consistent with similar measures being taken nationally that are expected to limit the public’s exposure to COVID-19, there has been and will continue to be a significant adverse impact on our state’s economy.

On March 26, 2020 (and subsequently), the Board approved the creation of a series of Business Emergency Assistance Programs focusing on providing funding as efficiently and quickly as possible to small and medium sized businesses and non-profits that needed payroll and working capital support as a result of adverse economic impacts following the March 9, 2020 declaration of a State of Emergency and a Public Health Emergency.

#### **New COVID-Related Funding**

The new contract funding will be applied to the software development needs to stand up several of the new COVID-related products.

During the early stages of the pandemic, the Authority had to create numerous workflows, alter database structures, create new accounting processes to distribute funds, set up dashboards in CRM and Enable, and develop new reports. NJEDA invested \$175,000 in a series of task orders:

- \$100,000 initial modifications to the CRM and Enable systems for Grant Phase 1 setup, reporting, and ACH disbursement functionality (this work provided the framework for all subsequent COVID-related emergency programs)
- \$25,000 continued work and initial modifications to the CRM and Enable systems for Loan Phase 1
- \$25,000 continued work and initial modifications to CRM and Enable systems for Grant Phase 2
- \$25,000 continued work and modifications to CRM and Enable systems for all initial programs

The task order work listed above enhanced existing systems to deliver early emergency grant and loan funding to New Jersey small businesses. Working with other State agencies, staff was able to quickly stand up high-traffic sites to accommodate volume that would normally overwhelm the Authority’s systems. The above actions were considered an interim emergency stage, so staff used existing funds remaining on the contract. To the extent possible, staff plans to seek reimbursement from federal funding sources for this spending. These interim spending amounts are included in the total COVID-related contract spending approval shown in the Recommendation section below as a request for \$175,000 in replacement funding to complete the non-COVID work described in the August 13, 2019 board memo (additional core system

functionality and enhancements not contemplated in the original project scope of work). This funding is still needed to complete the original work.

Subsequent to the initial investments listed above were made to accommodate the emergency programs, the Authority's cloud footprint has been expanded to include new technologies that integrate with the Authority's Microsoft Dynamics CRM system.

In order to move forward effectively, the Authority needs three additional front-end application sites built into the Authority's new Portals platform so they can directly feed the Authority's CRM system. This will require additional funding. Each of the new emergency assistance programs have their own unique characteristics that require special automations:

- The Small Business Emergency Assistance Grant Program - Phase 3 will require \$175,000 in development costs since a unique customization to the login will provide a deeper insight into potential Duplication of Benefits.
- Phase 2 of the NJ Small and Micro Business PPE Access Program will have vast automated interactions with several Designated Vendors to ensure applicants qualify for vouchers. The programming costs for the PPE program are estimated at \$150,000.
- The Small Business Emergency Assistance Loan Program – Phase 2 will require a rewrite of existing console code developed outside of CRM in order to complete the myriad of checks with other agencies and credit companies. The estimated costs for the loan program are \$150,000.

An additional \$150,000 is needed as a contingency to make potential additional changes to CRM and Enable to accommodate these programs.

Acknowledging that the new COVID-related work will not be able to be completed by the November 30, 2020 Crowe LLP contract expiration, the Authority desires to extend the original contract term (and all extension periods) beyond its current expiration of November 30, 2020 to November 30, 2021. This will allow sufficient time for all new work and continued support to be completed plus additional time in the event that federal CARES Act spending deadlines are extended beyond December 31, 2020.

**Recommendation**

In summary, approval is requested for \$625,000 in new contract funding to support COVID-related functionality and system enhancements not contemplated in the original project scope of work and \$175,000 in replacement funding to complete the non-COVID work. The new work will continue to be structured as separate task orders under the original contract with Crowe LLP. The Authority is also requesting an extension of the contract term to November 30, 2021.



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Tim Sullivan  
Chief Executive Officer

Prepared by: Fred Cole

**OFFICE OF ECONOMIC TRANSFORMATION**



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 14<sup>th</sup>, 2020

**SUBJECT:** Clean Energy Memorandum of Understanding (MOU) — New Jersey Economic Development Authority (NJEDA) and New Jersey Commission on Science, Innovation and Technology (CSIT)

**Request**

The Members are requested to approve a Memorandum of Understanding (MOU) between NJEDA and CSIT. This MOU enables NJEDA to allocate funding of \$1,187,500 million to CSIT to support the development and delivery of a cleantech seed grant program and a cleantech R&D asset voucher program, both important steps to expand the State’s cleantech ecosystem. These initiatives will help to expand New Jersey’s clean energy economy to create new opportunities for local workers and companies, as well as help the State to meet its climate goals.

**Background**

In October 2018, Governor Murphy released the State’s comprehensive economic development plan: The State of Innovation: Building a Stronger and Fairer Economy in New Jersey. Governor Murphy then released the state’s Energy Master Plan in January 2020, setting a goal of 100 percent clean energy by 2050 and outlining a strategy to expand the Clean Energy Innovation Economy in New Jersey. The Energy Master Plan sets a vision for New Jersey to build on its clean energy economy foundations to drive growth through workforce development, clean energy finance solutions, and investments in innovative research and development programs. The programs and initiatives supported by this funding will expand and strengthen New Jersey’s Clean Energy Innovation Economy.

A memo was approved by the NJEDA Board on September 9<sup>th</sup> for an MoU (“BPU MOU”) between NJEDA and the New Jersey Board of Public Utilities (NJBPU) for the NJBPU to provide \$1.25 million in funding (“BPU Funds”) to the NJEDA to support early-stage, New Jersey-based cleantech companies (attached hereto as Exhibit B).

**MOU Description**

This MOU outlines the responsibilities between NJEDA and CSIT in the implementation of the Cleantech Seed Grant and Cleantech R&D Asset Voucher programs. As detailed in the MOU between NJBPU and NJEDA, the NJBPU has provided NJEDA with \$1.25 million in funding to implement the following programs:

- Cleantech Seed Grant program that will aid local cleantech businesses during critical proof of concept and prototyping stages, empowering them to attract outside investors and begin generating revenue (*estimated budget is \$800,000*); and
- Research and development asset mapping and voucher initiative to increase awareness, access, and utilization of the State's cleantech innovation-related assets (*estimated budget is \$450,000*).

NJEDA will transfer funding in the amount of \$1,187,500.00 to CSIT to administer these programs with NJEDA providing input on the program design and implementation which will be subject to CSIT Board approval.

CSIT staff, utilizing input from NJEDA, intends to utilize the funding provided by NJBPU as quickly as possible, with the objective of having the monies fully committed via established programs no later than June 30, 2021.

The MOU includes requirements for CSIT staff to regularly engage and update NJEDA staff on the status of these programs and initiatives.

NJEDA shall retain 5% of the \$1.25 million in BPU Funds, consistent with the BPUMOU to be used for administrative, personnel, and overhead costs. As such, NJEDA will not charge CSIT separate and additional costs for staff time and resources for CSIT Programs funded by the BPU Funds.

### **Recommendation**

It is the recommendation of Authority staff that the Members approve the MOU between NJEDA and CSIT, attached as Exhibit B for NJEDA to provide a total of \$1,187,500 million in funding to CSIT to support efforts to expand and strengthen New Jersey's Clean Energy Innovation Economy through targeted cleantech ecosystem development programs and initiatives.



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Tim Sullivan, CEO

Prepared by: Pallavi Madakasira

### Attachments:

- Exhibit A – Proposed Memorandum of Understanding for Cleantech Ecosystem Development between NJEDA and NJCSIT
- Exhibit B – Approved Memorandum of Understanding for Cleantech Ecosystem Development between NJBPU and NJEDA

Exhibit A

CLEAN ENERGY AND CLEAN TECH INNOVATION  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AND  
THE NEW JERSEY COMMISSION ON SCIENCE, INNOVATION AND TECHNOLOGY

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this \_\_\_\_\_ day of October 2020 by and between the New Jersey Economic Development Authority (“NJEDA”) and the New Jersey Commission on Science, Innovation, and Technology (“NJCSIT”). The NJEDA and the NJCSIT are collectively referred to herein as the “Parties.”

WHEREAS, the NJEDA is an independent state agency, in but not of the Department of Treasury (“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 regulated utilities, including the development of clean, renewable sources of energy; and

WHEREAS, Governor Murphy released the State’s 2019 Energy Master Plan on January 27, 2020, which set a goal of 100 percent clean energy by 2050 and outlined a strategy to expand the Clean Energy Innovation Economy in New Jersey through workforce training, investments in developing clean energy knowledge, and the growth of world-class research and development; and

WHEREAS, the 2019 Energy Master Plan recognizes that supporting clean energy and clean tech innovation aligns with two of the Administration’s top priorities of:

- i. Ensuring that New Jersey achieves 100% carbon free electricity and an 80% carbon footprint reduction by 2050, while simultaneously addressing long-standing environmental justice issues; and
- ii. Restoring New Jersey’s leadership as the most diverse and inclusive innovation ecosystem in the United States (“New Jersey’s Clean Energy and Clean Tech Ecosystem”); and

WHEREAS, the New Jersey Board of Public Utilities (NJPU) and the NJEDA entered into an MOU on September 9<sup>th</sup>, 2020 (“NJPU MOU”) wherein NJPU provided the NJEDA with one million, two hundred and fifty thousand dollars (\$1,250,000.00) in Clean Energy funding (“NJPU Funds”) to execute programs that strengthen the State’s Clean Energy and Clean Tech Ecosystem and encourage the continued development and growth of the green workforce and economy focusing on innovation; and

WHEREAS, P.L. 2018, c.91 re-established NJCSIT as an independent commission, in but not of Treasury, charging NJCSIT with responsibility for the development and oversight of policies and programs for science, innovation, and technology in New Jersey, among other duties and authorities; and

WHEREAS, the NJEDA has an existing Memorandum of Understanding (“Existing NJCSIT MOU”) related to entrepreneurial program development and execution with NJCSIT; and

WHEREAS, NJEDA has the technical expertise and capacity to support the NJCSIT’s activities and the NJEDA will provide office staff, office space, and support services to assist NJCSIT in carrying out the responsibilities identified in P.L. 2018, c.91 pursuant to the Existing NJCSIT MOU; and

WHEREAS, the NJEDA will provide the NJBPU Funds to NJCSIT in order to establish and execute programs that support the growth and development of New Jersey's Clean Energy and Clean Tech Ecosystem; and

NOW, THEREFORE, it is agreed between NJEDA and NJCSIT:

1. DUTIES OF THE PARTIES: To achieve the goals of this MOU, the Parties hereby agree as follows:
  - a. NJEDA will transfer the NJBPU Funds to NJCSIT to accomplish the goals of the NJBPU MOU
  - b. NJEDA shall retain 5% of the NJBPU Funds, consistent with the NJBPU MOU, to be used for administrative personnel and overhead costs. Additionally, NJEDA will not charge NJCSIT separate and additional costs for staff time and resources for NJCSIT Programs funded by the NJBPU Funds.
  - c. NJCSIT will use the NJBPU Funds in the manner consistent with the NJBPU MOU to support the growth and development of New Jersey's Clean Energy and Clean Tech Ecosystem. Specifically, the NJBPU Funds will support the following initiatives ("Proposed Programs"):
    - i. A seed grant program to support research and development ("R&D") activities for very early-stage, NJ-based clean tech companies. These grants will aim to enable businesses to continue their work into the proof of concept and prototyping stages, at which point they can more readily attract outside investors and, in some cases, begin to generate revenue. Given the early-stage nature of this ecosystem building activity, NJCSIT will execute this program with input from NJEDA. Consistent with the timing outlined in the NJBPU MOU, NJCSIT will work to launch this initiative as soon as possible, and anticipates the seed grant program to launch by December 1, 2020, target awards by March 31, 2021 and be disbursed by June 30, 2021.
    - ii. A clean tech R&D asset mapping and voucher initiative to increase awareness, access, and utilization of the State's physical clean tech innovation-related assets such as testing equipment and specialized fabrication equipment. This initiative would launch an effort to inventory the relevant R&D assets and help facilitate greater third-party access by encouraging more standardized approaches to pricing, certifications/training, and usage agreements. Additionally, the initiative will develop a platform to make relevant asset-sharing information readily accessible to interested individuals and businesses in order to increase access to technology such as testing equipment and specialized fabrication equipment. NJCSIT would help stimulate the asset-sharing marketplace by subsidizing the cost of a third party's access to specific R&D assets through a voucher program. NJEDA will partner with NJCSIT on this initiative. Consistent with the timing outlined in the MOU between NJBPU and NJEDA, while the NJCSIT will work to launch this initiative as soon as possible, NJCSIT anticipates the asset mapping and voucher initiative to launch by January 31, 2021 and be disbursed by June 30, 2021.
  - d. NJCSIT will provide to NJEDA quarterly updates on the use of funds. NJCSIT will target to launch the programs and utilize the NJBPU Funds no later than June 30, 2021.
  - e. NJCSIT has not proposed detailed parameters or specifications for any of the Proposed Programs. Accordingly, if NJCSIT anticipates it will not be able to undertake the Proposed Programs and utilize the NJBPU Funds by its target date of June 30, 2021, NJCSIT shall notify the NJEDA and may propose amendments to this MOU.
  - f. If the NJCSIT has not disbursed the funds by June 30, 2021, or executed an appropriate amendment by that date, the NJCSIT shall promptly remit any outstanding NJBPU Funds to the NJEDA.

- g. NJCSIT may undertake the Proposed Programs with the assistance of consultants or contractors retained by NJCSIT.
- 2. **TERM:** This MOU shall become effective on the date it is fully executed by both Parties. This MOU, unless terminated sooner as set forth in Paragraph 7, shall remain in effect for five (5) years from the execution of this MOU.
- 3. **SUBJECT TO THE AVAILABILITY OF FUNDING:** The funding that NJEDA will provide under this MOU is subject to appropriations and the availability of funds from NJBPU.
- 4. **THIRD-PARTY BENEFICIARIES:** This MOU shall not create in any individual or entity the status of a third-party beneficiary and nothing in this MOU shall be construed to create such status.
- 5. **DISPUTE:** If there are any disputes among the Parties concerning this MOU, the Chair of NJCSIT and the CEO of NJEDA, or their authorized representatives, shall confer to resolve the dispute.
- 6. **AMENDMENT:** This MOU represents the entire and integrated agreement between the Parties and supersede any and all prior agreements or understandings (whether or not in writing). This MOU may be amended, supplemented, changed, modified or altered only by mutual agreement of the Parties in writing.
- 7. **TERMINATION:** Either party may terminate this MOU upon service on the other party of written notice giving at least 90 days written notice of such intention to terminate. In the event of termination, the Parties agree to conduct a final accounting within 90 days of the termination effective date and to return any unused funds to NJEDA.
- 8. **NOTICE:** All correspondence and notices to NJCSIT regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

Judith Sheft  
Executive Director  
New Jersey Commission on Science, Innovation and Technology  
36 West State Street, PO Box 990, Trenton, NJ 08625

All correspondence and notices to NJEDA regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

Pallavi Madakasira  
Director, Clean Energy Sector Lead  
New Jersey Economic Development Authority  
36 West State Street, PO Box 990, Trenton, NJ 08625

- 9. This MOU is being entered into for the sole purpose of evidencing the mutual understanding and intention of the Parties.
- 10. The parties, both entities of the State of New Jersey, are each subject to the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other party.

IN WITNESS WHEREOF, the Parties have caused this MOU to be signed by their duly authorized representatives or designees to be hereunto affixed the day, month, and year first written above.

For the Economic Development Authority:

For the Commission on Science, Innovation and  
Technology:

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Tim Sullivan  
Chief Executive Officer

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Gunjan Doshi  
Chair

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DATE

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DATE

Exhibit B

CLEAN ENERGY AND CLEAN TECH INNOVATION  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AND  
THE NEW JERSEY BOARD OF PUBLIC UTILITIES

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this 9<sup>th</sup> day of September 2020 by and between the New Jersey Economic Development Authority (“NJEDA”) and the New Jersey Board of Public Utilities (“NJBPU”). The NJEDA and the NJBPU are collectively referred to herein as the “Parties.”

WHEREAS, the NJEDA is an independent state agency, in but not of the Department 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 regulated utilities, including the development of clean, renewable sources of energy; and

WHEREAS, the NJEDA has an existing Memorandum of Understanding related to entrepreneurial program development and execution with the New Jersey Commission on Science, Innovation, and Technology (“NJ CSIT”), an independent commission, in but not of Treasury, that focuses supporting early state entrepreneurship and innovation ecosystem building within the State; and

WHEREAS, the NJBPU is the state agency with authority to oversee the general supervision, regulation, jurisdiction, and control over public utilities in the State, including electric utilities and their rates and service. The law requires the NJBPU to ensure safe, adequate, and proper utility services at reasonable rates for customers in New Jersey; and through the NJBPU Division of Clean Energy (“DCE”), promotes energy efficiency programs and the development of clean, renewable sources of energy including solar, wind, geothermal, combined heat and power (“CHP”) and sustainable biomass. The goal of the DCE is to lower energy costs, reduce demand for electricity, emit fewer pollutants into the air and create jobs. Through its programs, the DCE offers education, outreach and financial incentives to residential, commercial businesses and industry, schools and governmental customers; and

WHEREAS, Governor Murphy released the state’s 2019 Energy Master Plan on January 27, 2020, which set a goal of 100 percent clean energy by 2050 and outlined a strategy to expand the Clean Energy Innovation Economy in New Jersey through workforce training, investments in developing clean energy knowledge, and the growth of world-class research and development; and

WHEREAS, the 2019 Energy Master Plan recognizes that supporting clean energy and clean tech innovation aligns with two of the Administration’s top priorities of:

- i. Ensuring that New Jersey achieves 100% carbon free electricity and an 80% carbon footprint reduction by 2050, while simultaneously addressing long-standing environmental justice issues; and
- ii. Restoring New Jersey’s leadership as the most diverse and inclusive innovation ecosystem in the United States (“New Jersey’s Clean Energy and Clean Tech Ecosystem”); and

WHEREAS, the NJEDA and NJBPU have a history of partnering with each other in the furtherance of clean energy and clean tech innovation and the Parties agree that this MOU will advance implementation of the statewide 2019 Energy Master Plan; and

WHEREAS, the NJBPU has agreed to provide the NJEDA with \$1.250 million in Clean Energy funding to execute programs that strengthen the state’s Clean Energy and Clean Tech Ecosystem and encourage the continued development and growth of the green workforce and economy focusing on innovation; and

WHEREAS, N.J.S.A. 52:14-1 et seq. authorizes state agencies to enter into agreements to provide assistance to each other.

NOW, THEREFORE, it is agreed between NJEDA and NJBPU:

1. DUTIES OF THE PARTIES: To achieve the goals of this MOU, the Parties hereby agree as follows:
  - a. NJBPU will provide to NJEDA \$1.250 million in Clean Energy and Clean Tech funding upon execution of this MOU.
  - b. NJEDA will utilize this funding to execute programs, in conjunction with the NJ CSIT, that support the growth and development of New Jersey's Clean Energy and Clean Tech Ecosystem. Specifically, the funds will support the following initiatives ("Proposed Programs"):
    - i. A seed grant program to support research and development ("R&D") activities for very early-stage, NJ-based clean tech companies. These grants will aim to enable businesses to continue their work into the proof of concept and prototyping stages, at which point they can more readily attract outside investors and, in some cases, begin to generate revenue. Given the early-stage nature of this ecosystem building activity, NJEDA will execute this program in conjunction with the NJ CSIT. While the NJEDA will work to launch this initiative at the earliest, NJEDA anticipates the seed grant program to launch by December 1, 2020, target awards by March 31, 2021 and be disbursed by June 30, 2021. A clean tech R&D asset mapping and voucher initiative to increase awareness, access, and utilization of the State's physical clean tech innovation-related assets such as testing equipment and specialized fabrication equipment. This initiative would launch an effort to inventory the relevant R&D assets and help facilitate greater third-party access by encouraging more standardized approaches to pricing, certifications/training, and usage agreements. Additionally, the initiative will develop a platform to make relevant asset-sharing information readily accessible to interested individuals and businesses in order to increase access to technology such as testing equipment and specialized fabrication equipment. NJEDA would help stimulate the asset-sharing marketplace by subsidizing the cost of a third party's access to specific R&D assets through a voucher program. NJEDA may partner with the NJ CSIT on this initiative. NJEDA may partner with the NJ CSIT on this initiative. While the NJEDA will work to launch this initiative at the earliest, NJEDA anticipates the asset mapping and voucher initiative to launch by January 31, 2021 and be disbursed by June 30, 2021.
  - c. NJEDA will provide to NJBPU quarterly updates on the use of funds. NJEDA will target to launch the programs and utilize the funds no later than June 30, 2021.
  - d. NJEDA has not proposed detailed parameters or specifications for any of the Proposed Programs. Accordingly, if NJEDA chooses to not undertake the Proposed Programs by its target date of June 30, 2021, NJEDA shall notify the NJBPU and may propose amendments to this MOU.
  - e. NJEDA may undertake the Proposed Programs with the assistance of consultants or contractors retained by NJEDA.

2. TERM: This MOU shall become effective on the date it is fully executed by both Parties. This MOU, unless terminated sooner as set forth in Paragraph 9, shall remain in effect for (5) years from the execution of this MOU.
3. ADMINISTRATION FEE: NJEDA may utilize up to 5% of the \$1.250 million to support the administrative, personnel, and overhead costs of running the programs. This will be a one-time cost utilizing the initial \$1.25 million of funding and not an ongoing obligation
4. SUBJECT TO THE AVAILABILITY OF FUNDING: The funding that NJBPU will provide under this MOU is subject to appropriations and the availability of funds.
5. THIRD-PARTY BENEFICIARIES: This MOU shall not create in any individual or entity the status of a third-party beneficiary and nothing in this MOU shall be construed to create such status.
6. ASSIGNMENT. This MOU shall not be assignable, except for the NJEDA's ability to partner and/or assign their responsibilities to NJ CSIT, but shall bind and inure to the benefit of the Parties hereto and their respective successors.
7. DISPUTE: If there are any disputes among the Parties concerning this MOU, the President of NJBPU and the CEO of NJEDA, or their authorized representatives, shall confer to resolve the dispute.
8. AMENDMENT: This MOU represents the entire and integrated agreement between the Parties and supersede any and all prior agreements or understandings (whether or not in writing). This MOU may be amended, supplemented, changed, modified or altered only by mutual agreement of the Parties in writing.
9. TERMINATION: Either party may terminate this MOU upon service on the other party of written notice giving at least 90 days written notice of such intention to terminate. In the event of termination, the Parties agree to conduct a final accounting within 90 days of the termination effective date.
10. NOTICE: All correspondence and notices to NJBPU regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

Kelly Mooij, Director, Division of Clean Energy  
New Jersey Board of Public Utilities  
44 S. Clinton Avenue, Trenton, NJ 08625

All correspondence and notices to NJEDA regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

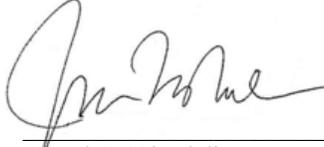
Pallavi Madakasira, Director, Clean Energy Sector Lead  
New Jersey Economic Development Authority  
36 West State Street, PO Box 990, Trenton, NJ 08625

11. This MOU is being entered into for the sole purpose of evidencing the mutual understanding and intention of the Parties.
12. The parties, both entities of the State of New Jersey, are each subject to the New Jersey Tort Claims Act and the New Jersey Tort Claims Fund. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). Therefore, the Parties agree that each entity shall be liable for its own conduct and any claims against it without indemnification from the other party.

IN WITNESS WHEREOF, the Parties have caused this MOU to be signed by their duly authorized representatives or designees to be hereunto affixed the day, month, and year first written above.

For the Economic Development Authority:  
Development:

For the Board of Public Utilities:



\_\_\_\_\_  
Tim Sullivan  
Chief Executive Officer

\_\_\_\_\_  
Joseph L. Fiordaliso  
President

September 9, 2020

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

## **INCENTIVES**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan  
Chief Executive Officer  
**DATE:** October 14, 2020  
**SUBJECT:** Film 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 \$64,321,724 in unused or unredeemed film tax credits for SFY2020, which will increase by \$50,000,000 the film tax credits available for SFY2021. This increase is the maximum allowed by statute and will raise the total amount of film tax credits available in SFY2021 to \$150,000,000.

**Background:**

P.L. 2019, c.506 was enacted on January 21, 2020, amending the Garden State Film and Digital Media Jobs Act. Specifically, the amendment extends the statutory deadline for film and digital media tax credits until June 30, 2028 and increases the annual program cap for available film tax credits from \$75,000,000 to \$100,000,000 per state fiscal year.

Additionally, the amendment directs the Authority to certify any unused or unredeemed film tax credits in a state fiscal year which then shall be used to increase the annual cap in the subsequent state fiscal year. The total increase cannot exceed \$50,000,000 of unused and unredeemed film tax credits in a state fiscal year, which could supplement the annual film tax credit cap up to a maximum of \$150,000,000.

This memo is being presented to the Board this month because the State Fiscal Years was extended to September 30, 2020.

**Certification of Unused or Unredeemed Film 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. 2019, c. 506, the staff’s proposed certification of unused or unredeemed tax credits for State Fiscal Year 2020 is below:

**SFY2020 Film Tax Credit Cap:** \$150,000,000

<b>SFY2020 – Film Tax Credit Approvals</b>	
<b>Applicant</b>	<b>Approved Total Award</b>
Viacom International, Inc.	\$583,857
WB Studio Enterprises	\$1,962,642
Twentieth Century Fox Film Corporation	\$6,855,273
Event Services, Inc.	\$2,849,160
Random Productions, LLC	\$10,173,670
Universal Television, LLC	\$14,369,717
Universal Television, LLC	\$11,213,965
SPR Media LLC	\$453,374
Arete Productions LLC	\$160,296
Big Indie Chemical Hearts, Inc.	\$2,566,865
Mida Films Inc.	\$40,316
Half Moon Pictures LLC	\$6,060,631
C7 Production Inc.	\$5,371,983
South Cape Film LLC	\$191,050
Dickinson 1, LLC	\$1,091,766
Netflix Productions, LLC (Beauty)	\$5,131,862
Netflix Productions, LLC (Army of the Dead)	\$8,975,600
All Star Movie LLC	\$4,440,798
Stikini Films, LLC	\$468,999
Rose City Pictures, Inc.	\$2,716,452
<b>Total Approved SFY2020 Tax Credits</b>	<b>\$85,678,276</b>
<b>Total Unused SFY2020 Tax Credits</b>	<b>\$ 64,321,724</b>

**SFY2020 Total Unused and Unredeemed Tax Credits:** \$64,321,724

**Cumulative Amount of Increase to SFY2021 from SFY2020:** \$50,000,000 \*

*\*Increase cannot exceed \$50,000,000.*

**Total SFY2021 Film Tax Credit Cap:** \$150,000,000

**Recommendation:**

The Members are requested to approve the certification of \$64,321,724 in unused and unredeemed film tax credits for SFY2020, which will increase by \$50,000,000 the film tax credits available for SFY2021. This increase is the maximum allowed by statute and will raise the total amount of film tax credits available in SFY2021 to \$150,000,000.



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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:** Bruised Film Holdings, Inc.

PROD-00188081

**APPLICANT BACKGROUND:**

Bruised Film Holdings, Inc. is the production company responsible for “Bruised”, a powerful love story of a young boy who saves his mother and in turn, a mother who saves her son. The film captures the vibrant pulse and diversity of the Newark, New Jersey ghetto, and the thrill of an unforgettable female underdog wrestling for her future survival.

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	\$12,507,771
B. Total Post-Production Expenses	\$820,176
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$9,936,896
Percentage Calculation = C/(A-B)	85.02%
<b>Criterion Met</b>	<b>Yes</b>

2. Qualified Film Production Expenses: During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not 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.	\$9,929,896
<b>Criterion Met</b>	<b>Yes</b>

**AWARD CALCULATION**

<b>Base Award Criteria</b>	<b>Calculation</b>	<b>Result</b>
30% of Qualified Film Production Expenses	\$9,929,896 x 30% =	\$2,978,968
<b>Bonus Criteria Met</b>		
Submission of Diversity Plan deemed satisfactory by EDA and NJ Taxation. 2% of Qualified Film Production Expenses.	\$9,929,896 x 2% =	\$198,597
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.	\$50,000 x 5% = (Atlantic County, stage rental)	\$2,500
<b>Total Award</b>		<b>\$3,180,065</b>

**APPLICATION RECEIVED DATE:** 11/8/2019 (Application #32)  
**DATE APPLICATION DEEMED COMPLETE:** 1/8/2020  
**PRINCIPAL PHOTOGRAPHY COMMENCEMENT:** 11/11/2019  
**PRINCIPAL NJ PHOTOGRAPHY LOCATION:** Newark City  
**ESTIMATED DATE OF PROJECT COMPLETION:** 10/31/2020  
**APPLICANT’S FISCAL YEAR END:** 12/31/2020  
**TAX CREDIT VINTAGE YEAR(S):** 2020  
**TAX FILING TYPE:** Corporate Business Tax  
**ANTICIPATED CERTIFICATION DATE:** 10/31/2020

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, \$146.8 million remains in the program for State Fiscal Year 2021 which may be available to 16 additional applications in the pipeline totaling \$44.1 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

## **ANGEL TAX CREDIT**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, Chief Executive Officer  
**DATE:** October 14, 2020  
**SUBJECT:** Angel Tax Credit Enhanced Delegations

**Request:**

The Board is requested to approve temporary expanded delegations for the 2020 program administration of the New Jersey Angel Investor Tax Credit (ATC) Program; whereby the Technology & Life Sciences Sr. Venture Analysts will be delegated to approve up to \$100,000 of Angel Investor Tax Credits and the Director of Technology & Life Science Operations will be delegated to approve up to \$500,000 (program cap) of Angel Investor Tax Credits.

**Background:**

Beginning in July 2003 the Members of the Authority have been asked to delegate approving authority to staff on certain financing and incentive transactions, to create efficiencies for applicants and provide fluidity to the Authority's business. Since 2013, the delegations have been reviewed in regular intervals to ensure that delegations approved by the Members continue to align with business objectives.

For the 2020 Angel Investor Tax Credit Program, there is a significant application backlog due to staff re-assignments to focus on Covid relief programs. Because the Angel Investor Tax Credit Program is a credit for investment already made into qualified NJ businesses, priorities were set to focus on new cash to New Jersey businesses negatively impacted by Covid19. The backlog of applicants has now swelled to approximately 250 applications for the 2020 program. As detailed herein, the Board has previously approved staff delegations for this program, whereas the request at hand is to broaden the approval delegations for the 2020 program to allow staff to work through the backlog associated with Covid staff re-assignments.

**NJ Angel Investor Tax Credit Program**

On January 31, 2013 the NJ Angel Investor Tax Credit Act (P.L.2013, c.14) was signed into law to simulate the growth of New Jersey's technology and life science sectors, by providing tax credits for certain non-refundable investment in emerging technology businesses. Under the Act, which is

administered by the EDA in consultation with the Division of Taxation, taxpayers are allowed a credit against their corporate business or gross income taxes. The original legislation allowed a 10% tax credit on the qualified investment amount in a NJ emerging technology business, up to a maximum allowed credit of \$500,000 for each qualified investment. On June 30, 2019, Governor Murphy signed legislation A-5604 (P.L.2019, c145) authorizing an expansion of New Jersey's Angel Investor Tax Credit Program. The expansion of the program provides for an increased tax credit to 20% of qualified investments along with a 5% bonus for businesses located in low-income communities (opportunity zone pursuant to 26 U.S.C. 7 s.1400Z-1, or a low-income community as defined in subparagraph (e) 8 of 26 U.S.C. s.45D) as well as a state certified minority or women-owned businesses. The program expansion took effect for all investments made on January 1, 2020 or thereafter.

To be eligible, the New Jersey emerging technology business must meet the following four criteria:

1. Employs fewer than 225 full-time employees, at least 75% of whom work in New Jersey
2. Does business, employs or owns capital or property, or maintains an office in New Jersey
3. Conducts at least one of the following activities in New Jersey:
  - a. Incurs qualified research expenses in the State
  - b. Conducts pilot scale manufacturing in the State
  - c. Commercializes one or more of the following eligible technologies in the State: Advanced Computing, Advanced Materials, Biotechnology, Electronic Devices, Information Technology, Life Sciences, Medical Devices, Mobile Communications, Renewable Energy Technology, and Carbon Footprint Reduction Technology.
4. Has as its primary business an eligible technology (as listed above)

As certain qualified investments are routine in the angel investment community and entail a more straight forward review, in December 2014 the Members of the Authority approved delegated approval signing authority of Level 3 (SVP or Managing Director, and one Director) to approve tax credits for the following transactions:

1. The application is for an award of up to the cap of \$500,000 in Angel Investor Tax Credits; and
2. The investment is made in exchange for stock, options, warrants, convertible debt that has converted into equity, and interest in partnership and joint ventures; and
3. The NJ technology business qualifies because it has qualified research expenses or commercializes on of the eligible technologies.

In July 2016, the Members approved further expansion of the delegations to maintain consistency with other EDA Incentive Program delegations to approval signing authority Level 4 (Any one Director with recommending officer) to approve tax credits if the application is for an award of up to and including \$100,000 in Angel Investor Tax Credits and meets the criteria listed above for delegated authority. Applications above the \$100,000 threshold continued to be approved by Level 3. In practice, this was approved by the Executive Vice President. All approvals under these delegations are reported to the board

on a quarterly basis. If an application requires more subjective and interpretive review, it can be brought to the Board for review.

This request is for new approval delegation for Senior Venture Analysts who have been working on the program for over three years and have demonstrated sound judgement and good analytical skills. The delegation would allow the Senior analyst to approve up to \$100,000 in tax credits. Furthermore, the request is also for the approval delegation for the Director of Tech & Life Science Operations to approve up to \$500,000 in eligible Angel Tax Credits. The requests are to allow staff to work through the outstanding 2020 program backlog.



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Tim Sullivan, CEO

Prepared by: Kathleen W. Coviello

## **REAL ESTATE**



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**Date:** October 14, 2020

**Subject:** Professional Services Contract Budget Increase  
Langan Engineering and Environmental Services, Inc.  
State Office Building - Health Building Project, Trenton, NJ

**Summary**

The Members are asked to approve the amendment of the contract budget amount with Langan Engineering and Environmental Services, Inc. (“Langan”) of Parsippany, New Jersey for Civil and Environmental Engineering Services associated with the abatement/demolition and parking lot improvements component of the Health Building Project (“Project”) located in Trenton.

**Background**

In September 2019, the Board approved the award of the above-mentioned contract to Langan via select vender procurement as the engineering firm of record to provide civil and environmental services for the abatement/demolition and parking lot improvements component of the Health Building Project (“Project”). The services subject to the Langan contract includes building and site investigations, the preparation of construction documents as well as abatement/demolition monitoring and inspection services for the abatement/demolition of the existing Department of Health and Agriculture buildings and the construction of a surface parking lot on the site of these former buildings upon completion of the demolition. Turner Construction Company, the construction manager of record for the Project, will perform the demolition of existing structures, construction of the new surface parking lot and site utility infrastructure work.

To initiate the procurement of the Langan contract, the Authority obtained a cost proposal from Langan in the amount of \$642,153, and in September 2019 obtained the Board’s approval to award a contract in the maximum not-to-exceed amount of \$642,153 plus a 15% contingency for a total contract budget amount of \$738,500. Langan’s cost proposal was based on unit pricing and allowances for assumed quantity and duration of work, and is attached as Exhibit A. The Board-approved budget for the Project includes a line item for demolition engineering in the amount of \$810,000 (which includes a 10% contingency). Accordingly, there is sufficient funding available in the Board-approved budget to cover this cost. In addition, the Board-approved budget for the Project also contains a project contingency which may be utilized for demolition engineering should the need arise.

Langan has thoroughly and successfully completed the building and site investigations as well as the preparation of construction documents for the abatement/demolition of the existing Department of

Health and Agriculture buildings and the construction of a surface parking lot, and Turner has obtained competitive bids for the abatement/demolition and parking lot improvements.

During the investigation phase Langan discovered a larger quantity of various hazardous materials on/within the buildings than were assumed to exist when Langan's cost proposal was prepared in 2019 that required additional collection of samples and laboratory analysis at an additional cost of \$23,000 in accordance with applicable contract unit pricing. The types and locations of these various additional hazardous materials that were discovered to exist on/within the buildings will also increase the duration of the abatement and demolition phase of the project, which will also increase the amount of abatement/demolition monitoring and inspection services that was assumed and included in Langan's cost proposal. The increase in the duration of the abatement and demolition phase of the Project is confirmed through the analysis of the schedules obtained by Turner from the abatement/demolition bidders.

The Authority obtained a cost proposal from Langan dated 7/29/20 (attached as Exhibit B) in the amount of \$138,000 for the additional abatement/demolition monitoring and inspection services imposed by the increased project duration as described above in accordance with applicable contract unit pricing. The original contract amount of \$642,153 plus \$23,000 for additional sampling/analysis services plus \$138,000 for additional monitoring/inspection services yields a revised total of \$803,153.

As mentioned above, the Board-approved budget for the Project includes a line item for demolition engineering in the amount of \$810,000 (which includes a 10% contingency). Accordingly, there is sufficient funding available in the Board-approved budget to cover this cost. In addition, the Board-approved budget also contains a project contingency which may be utilized for demolition engineering should the need arise. Therefore, it is recommended that the total contract budget be increased from \$738,500 to \$810,000 (the amount of the Board-approved budget) to cover these additional costs plus allow for \$6,847 in additional contingency if needed.

Upon completion of demolition and construction, the Authority will turn over the new parking lot to the Department of the Treasury's Division of Property Management & Construction to manage. As a surface lot, the improvements will constitute an interim use and will not preclude future development in accordance with the Capital City Redevelopment Corporation's Renaissance Plan.

**Recommendation**

In summary, approval is requested to increase the total contract budget for Langan Engineering and Environmental Services, Inc. from \$738,500 to \$810,000 for Civil and Environmental Engineering Services associated with the demolition and parking lot improvements component of the Health Building Project in Trenton.



---

Tim Sullivan  
Chief Executive Officer

Attachments: Langan cost proposals  
Prepared by: Thomas P. Catapano & David E. Nuse

EXHIBIT A

Langan Proposal for Land Development Services  
Dated May 6, 2019

Bulletin Number 1  
Dated January 30, 2020

**LANGAN ENGINEERING AND ENVIRONMENTAL SERVICES**

300 Kimball Drive, 4<sup>th</sup> Floor  
Parsippany, NJ 07054  
(973) 560-4900 Fax (973) 560-4901

**CONTRACT CHANGE ORDER FOR ADDITIONAL SERVICES**

**DATE:** 30 January 2020 **REVISED:** \_\_\_\_\_

**ADDITIONAL SERVICES REQUEST NO:** 1

**CONTRACT:** Proposal for Land Development Engineering Services dated May 6, 2019

**LANGAN PROJECT NO.** 100645005

**PROJECT TITLE:** NJEDA Health & Ag Demolition and New Parking Lot

**TO:** Tom Catapano

**COMPANY:** NJEDA

**STATEMENT OF SERVICES AND COST:**

This Additional Service Request (ASR #1) is provided to narrate services requested that are beyond the base scope of services for the NJEDA Health & Ag Demolition and New Parking Lot project located on Block 10701, Lot, Trenton, NJ. The following provides detailed scope and fees associated with this ASR.

**Background**

The initial scope of services dated May 6, 2019 included Environmental Engineering Services contained in Attachment 1.3. This presentation identified that the initial concrete sampling would summarize the laboratory analytical results, and define the concrete conditions. Based on review of these results, supplemental samples may be required to refine the concrete management strategy as part of building demolition, and proposed on site reuse of the concrete material. Given that the concrete conditions were unknown at the initiation of the project, the level of effort and laboratory services necessary for the proposed supplemental sampling was included only as a place holder.

**Initial Concrete Sample Results**

The laboratory analytical data results identified several primary concrete sample locations with exceedances of the NJDEP Soil Remediation Standard (SRS) and/or the Impact to Groundwater Soil Screening Criteria (IGW) for PCB's, and/or selected metals.

Consistent with the project strategy for material reuse on site, these isolated sample locations would realize supplemental sampling to delineate the area of impact. Once delineated these isolated areas would be field marked, and designated to be removed from the structure for separate disposal at an appropriate offsite disposal facility. The remainder of the concrete would then be considered appropriate for on site reuse as "clean fill".

**Supplemental Concrete Sampling Scope**

To facilitate the proposed project strategy for concrete reuse, the laboratory analytical data results of the initial concrete sampling event was shared with the sites New Jersey Department of Environmental Protection (NJDEP), Licensed Site Remediation Professional (Kleinfelder) and the identified responsible party (PSEG), as they must approve the proposed delineation and material management strategy.

Kleinfelder reviewed the laboratory analytical data results, and the supplemental sampling plan (**Appendix 1 - Delineation Sample Summary Table**), and provided approval of the sampling strategy on May 17, 2020 (**Appendix 2**). The supplemental sampling strategy included additional sample locations than originally presented in the initial scope of services dated May 6, 2019.

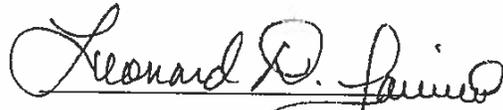
The required changes to the sample frequency and laboratory requirements are detailed in the attached **Table 1**.

**TOTAL THIS ASR:       \$ 22,849**

We will proceed with the above described scope of services based the existing contract, and terms and conditions, as authorized below. If notified to stop work on these services the client agrees to pay Langan for all work completed up to the stop work notification.

 2/12/20

Agreement Authorized By: Thomas Catapano

  
for Langan: Leonard Savino, PE

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**ASR #1  
Table 1  
Updated Budget For Environmental Services  
Proposal for Land Development Services  
Proposed Demolition and New Parking Lot  
Block 10701, Lot 2  
Trenton, Mercer County, New Jersey  
Langan Project No. 100646005**

TASK	Description	5/2019 Initial Scope and Budget including Initial Sampling and Supplemental Sampling		5/2019 Initial Scope and Budget for only Supplemental Sampling		1/2020 Revised Scope and Budget for only Supplemental Sampling		1/2020 Revised Scope and Budget for only Supplemental Sampling Lab Detail		
		Langan	Lab/Equipment Fees	Langan	Lab/Equipment Fees	Langan	Lab/Equipment Fees	Langan	Primary Lab/Equipment Fees	Contingent Lab/Equipment Fees
1A	Initial Concrete Sampling	\$13,500	\$2,685							
1B	Initial Concrete Laboratory Analysis									
	41 Concrete samples each analyzed for PAH, PCB @ \$218/ea.		\$8,938							
	30 Concrete samples each analyzed for TCL/TAL+30, EPH CAT2 non fractionated @ \$650/ea.		\$19,500							
1C	Initial Laboratory Analytical Review + Assessment	\$4,000								
2	Initial Project Coordination	\$4,000								
3	Initial Concrete Characterization Summary Memo	\$4,500								
4A	Supplemental Concrete Sampling	\$4,000	\$800	\$4,000	\$800	\$13,500	\$2,685	\$13,500	\$2,685	
4B	Supplemental Concrete Sample Frequency and Laboratory Analysis									
	20 concrete samples each analyzed for PAH, PCB @ \$218/ea.		\$4,360		\$4,360					
	6 concrete samples each analyzed for TCL/TAL+30, EPH CAT2 non		\$3,900		\$3,900					
	6 concrete samples each analyzed for TCLP, paint filter, chromium @		\$3,900		\$3,900					
	81 concrete samples each analyzed for PCB @ \$104/ea.						\$8,424			
	46 concrete samples each analyzed for PCB @ \$104/ea.							\$4,784		
	35 concrete samples each analyzed for PCB @ \$104/ea.									\$3,640
	5 concrete samples each analyzed for antimony @ \$65/ea.						\$325		\$325	
	5 concrete samples each analyzed for beryllium @ \$65/ea.						\$325		\$325	
	15 concrete samples each analyzed for cadmium @ \$65/ea.						\$975		\$975	
	5 concrete samples each analyzed for lead @ \$65/ea.						\$325		\$325	
	5 concrete samples each analyzed for mercury @ \$65/ea.						\$325		\$325	
	5 concrete samples each analyzed for nickel @ \$65/ea.						\$325		\$325	
	Contingent SPLP analysis for metals \$60.00/ea. The number of required analysis is dependent upon the supplemental sampling results. Allowance provided used as necessary.						\$2,000			\$2,000
	4 concrete samples each analyzed for TCLP, paint filter, chromium @ \$650/ea.						\$2,600		\$2,600	
4C	Supplemental Laboratory Analytical Review and Assessment	\$2,500		\$2,500		\$5,500		\$5,500		
	<i>Subtotal</i>	\$6,500	\$12,960	\$6,500	\$12,960	\$19,000	\$18,309	\$19,000	\$12,669	\$5,640
4D	Supplemental Project Coordination									
	Allowance - four (4) one hour meetings in Trenton	\$4,500		\$4,500		\$7,000		\$7,000		
5	Fill Reuse Plan (FRP)	\$5,500				\$2,500		\$2,500		
	<i>Sub Total</i>	\$42,500	\$44,083	\$11,000	\$12,960	\$28,500	\$18,309	\$28,500	\$12,669	\$5,640
	<i>Total</i>		\$86,583		\$23,960		\$46,809		\$41,169	
							\$22,849		\$17,209	\$5,640

**Notes:**

Lab standard turn around time

The 1/2020 Revised Supplemental Scope and Budget reflects updated information after review/discussion of initial sample results with the Sites LSRP

The 1/2020 revised scope field events assumes that all of the identified samples will be collected during the sample event. The analysis of the samples will be determined based on Primary and Contingent designations.

The Primary samples will be analyzed. The results of the Primary samples will determine if the Contingent samples are required.

The results of the combined Primary and Contingent sample analysis will aid in determining if delineation has been completed.



Technical Excellence  
Practical Experience  
Client Responsiveness

6 May 2019  
Via email: [TCatapano@njeda.com](mailto:TCatapano@njeda.com)

Mr. Tom Catapano  
New Jersey Economic Development Authority  
36 West State Street  
Trenton, New Jersey 08608

**Re: Proposal for Land Development Services  
Proposed Demolition and New Parking Lot  
Block 10701, Lot 2  
Trenton, Mercer County, New Jersey  
Langan Proposal No. 100646004**

Dear Mr. Catapano:

As requested, Langan Engineering & Environmental Services, Inc. (Langan) has prepared this proposal for the New Jersey Economic Development Authority (EDA) to provide land development engineering services for the Proposed Demolition and New Parking Lot project in the location of the existing Health and Agriculture Buildings on Block 10701, Lot in Trenton, New Jersey.

Based on our recent meeting at the site, we understand that the project includes the abatement and demolition of the existing Health and Agriculture buildings and the construction of a new at-grade parking lot in its place. We are very familiar with this site having previously worked on the EO215 report and preliminary demolition drawings for this site. We are also currently working on the Taxation Building north of this site, which is starting in the construction phase. We are confident that our site-specific experience, local knowledge of the area and full-service in-house capabilities will be beneficial to the success of this exciting project.

This proposal presents a brief project overview, our proposed scope of services and our estimated fees. Detailed scopes for our hazmat and demolition consulting services, site-civil engineering, landscape architecture and natural resource permitting are provided in the following attachments.

### **ESTIMATED FEES**

A summary of our estimated fees are shown in Table 1 below. Our recommended budget for reimbursable expenses is also included. Additional fee breakdown is provided per discipline in the proposal attachments.

Proposal for Land Development Services  
 Proposed Demolition and New Parking Lot  
 Block 10701, Lot 2  
 Trenton, Mercer County, New Jersey  
 Langan Proposal No. 100646004

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**Table 1. Estimated Fees**

<b>Discipline</b>	<b>Langan Fees</b>	<b>Subcontractor/ Reimbursable Expenses</b>
<b>Hazmat Consulting Services</b>	<b>\$125,000</b>	<b>\$23,000</b>
<b>Demolition Consulting Services</b>	<b>\$110,420</b>	<b>\$4,000</b>
<b>Environmental Engineering Services</b>	<b>\$42,500</b>	<b>\$44,083</b>
<b>Site-Civil Engineering Services</b>	<b>\$245,650</b>	<b>\$3,500</b>
<b>Natural Resource Permitting Services</b>	<b>\$43,000</b>	<b>\$1,000</b>

We will invoice you monthly in accordance with our attached general terms and conditions. We will not exceed our overall budget without prior authorization and will work diligently to keep costs to a minimum.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. We are available to discuss the scope of services presented herein and the proposed fees. If you find our scope of work and fee acceptable, please authorize below. Please call at your convenience if you have any questions.

Sincerely,  
**Langan Engineering and Environmental Services**



Sony David, PE, LEED AP  
 Associate



Leonard D. Savino, PE  
 Principal

- Enclosure(s): Attachment 1.1 – Hazmat Consulting Services  
 Attachment 1.2 – Demolition Consulting Services  
 Attachment 1.3 – Site-Civil Engineering Services  
 Attachment 1.4 – Natural Resource Permitting Services  
 Attachment 2 – General Conditions and Exclusions

*Proposal for Land Development Services  
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Block 10701, Lot 2  
Trenton, Mercer County, New Jersey  
Langan Proposal No. 100646004*

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**AUTHORIZATION TO PROCEED**

Receipt of this proposal, including the General Terms and Conditions annexed hereto, is hereby acknowledged and all of the terms and conditions contained therein are accepted.

Mr. Tom Catapano  
New Jersey Economic Development Authority  
36 West State Street  
Trenton, New Jersey 08608

**Re: Proposal for Land Development Services  
Proposed Demolition and New Parking Lot  
Block 10701, Lot 2  
Trenton, Mercer County, New Jersey  
Langan Proposal No. 100646004**

**Company:** \_\_\_\_\_ (“Client”)

**By/Title:** \_\_\_\_\_  
**(Authorized representative)**

**Signature:** \_\_\_\_\_

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

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## **ATTACHMENT 1.1**

### **HAZMAT CONSULTING SERVICES**

Our scope of services addresses hazardous material concerns associated with this project, which will include a hazmat survey to better determine the presence/absence of asbestos-containing materials (ACM), lead based paint (LBP), polychlorinated bi-phenyls (PCBs), and other hazardous materials in the buildings, preparation of remediation design documents and construction administration/inspection services.

#### **Task 1 – Hazardous Building Materials Survey and Report**

##### **A. Asbestos Containing Materials (ACM) Survey**

An asbestos survey of the buildings will be performed that will include the following:

- We will examine available historical data, review prior asbestos related reports and review construction records so as to facilitate the identification of ACM.
- After gathering information and site plans, we will perform an asbestos survey to identify the presence/absence of ACM. The survey will include identifying and quantifying suspect ACM in the building. The asbestos survey will be performed by Environmental Protection Agency (EPA) certified asbestos inspector(s).
- Suspect materials identified during our survey and previously not addressed will be sampled as necessary. The samples will be analyzed by a certified laboratory for the presence/absence of asbestos using Polarized Light Microscopy (PLM). Non-friable organically bound materials which test negative via PLM will be re-analyzed using Transmission Electron Microscopy (TEM). The number of samples to be collected will depend upon the type and quantities of suspect materials identified within the building.
- We anticipate that an individual who is knowledgeable about the building will accompany us, as necessary, to provide access, unlock doors, etc. to all areas of the buildings.
- Destructive exploratory surveys/probing (i.e. opening wall, floor and ceiling cavities – as needed) to identify the presence/absence of concealed ACM will be performed as part of the survey.
- Due to live electricity, suspect materials associated with electrical components which may contain suspect ACM will not be sampled and will be assumed to be ACM.

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### *Sampling Strategy and Laboratory Analyses*

Bulk samples of suspect ACM will be typically collected during the survey. Representative samples of ACM normally include cored ½ to 1 square inch pieces of ceiling tile, drywall materials, pipe and HVAC insulation material, ceramic floor and wall tile chips, etc. Sampled ACM locations will be patched using appropriate patching materials. Please be advised that we cannot guarantee that patched materials will maintain roof warranty. Bulk material sampling will be conducted such that the following sampling strategy is reliably achieved:

*Friable Surfacing Materials:* Friable surfacing materials, where encountered, are sampled based on the recommendations found in the EPA "Pink Book" entitled "Asbestos in Buildings: Simplified Scheme for Friable Surfacing Materials" (EPA document 560/5-85-030a). The number of samples collected is based on the total square footage of the homogenous area of the material.

*Thermal System Insulation (TSI):* If present, at least three samples are collected in a randomly distributed manner from each homogeneous area of TSI not assumed to be ACM. At least two samples are collected from each homogeneous area of patched TSI. Where cement or plaster is used on fittings such as tees, elbows, or valves, samples will be collected in a manner sufficient to determine whether the material is ACM or not ACM.

*Miscellaneous Materials:* This includes materials such as acoustical ceiling tiles, floor tiles and linoleum, wall board, wire insulation, caulking and sealants, laboratory equipment, draperies, etc. (basically, anything that does not fall into the first two categories). The number of samples collected of a given miscellaneous material is left to the discretion of the inspector. As a rule however, a minimum of two samples will be collected.

### B. Lead-Based Paint (LBP) Screening Survey

Our review of the 2013 and 2015 Environmental reports by Louis Berger Group (LBG) indicate that LBP survey of the building was previously conducted. We will utilize the LBG data for the preparation of abatement documents.

### C. Miscellaneous Hazmat Survey

Current Federal regulations require that Polychlorinated Biphenyls (PCBs) and mercury containing materials be properly disposed. As part of the building survey, we will conduct a universal and miscellaneous hazmat survey which will include preparing an inventory of universal and miscellaneous hazardous materials including but not limited to the following: PCBs-containing fluorescent light fixtures such as light ballasts; stained surfaces that may have been impacted by oils or PCBs-containing material; Mercury switches; Thermostats; meters, valves, and other mercury containing instruments; Oil-filled electric machines (motors, pumps, etc.), Fluorescent and other universal waste lamps, Storage tanks for oil or chemicals, CFC and

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any other refrigerant-containing appliances; Batteries such as Lead-Acid, Nickel Cadmium, Lithium and Silver Oxide Batteries; Fire extinguishers and fire suppression chemicals; Water treatment chemicals associated with heating/cooling; Containers (e.g., drums) with fluids or articles; Waste materials and other similar items that warrant special handling, Tritium containing Exit signs, Smoke detectors, etc. Sampling of this material will not be conducted as part of the proposed scope.

#### D. Caulk Testing for PCBs

Under the Toxic Substances Control Act (TSCA) 40 CFR Part 761, building compounds containing PCBs greater than 50 ppm and building materials in direct contact with sources, will require management and disposal as a PCB Bulk Product Waste per 40 CFR 761.62. Adjacent materials (including ground surfaces) containing PCBs at concentrations greater than 1 ppm and less than 50 ppm will require management and disposal as PCBs Remediation Waste in accordance with 40 CFR 761.61.

To address these concerns, caulking associated with the buildings will be tested for PCBs. The samples will be submitted to a certified environmental testing laboratory and analyzed for PCBs using EPA Method 8082. The number of samples to be collected will depend upon the type of suspect caulking materials identified in the buildings.

### **Task 2 – Evaluation and Report of Findings**

Upon completion of field survey and receipt of laboratory test results, a report of findings will be prepared describing Hazmat related issues and recommendations for required remedial actions. The report will include a summary of survey findings and testing, sampling protocol and analytical methods, location & approximate quantity of ACM, inventory of PCBs/Mercury containing materials identified in the building and recommendations for remedial actions. The report will include drawings, which will be utilized to identify sampling locations.

### **Task 3 – Preparation of Abatement Design Construction Documents**

Information obtained from the hazmat survey will be evaluated and construction drawings and technical specifications for appropriate remediation will be prepared. The abatement design documents will be prepared by a certified asbestos project designer.

We will perform the following:

- Prepare plans and drawings appropriate for demolition. For the purpose of this proposal, the base drawings, provided by your office, will be used to create asbestos removal plans. If base drawings are unavailable, Langan will prepare field sketches to show the general locations of ACM.

- Prepare technical specifications for asbestos removal work. The asbestos abatement technical specifications would include initial set-up procedures, instructions to the contractor with regard to asbestos removal, safety, and other necessary information and directives such that the work will satisfy current New Jersey Codes.
- Prepare technical specifications for the management of miscellaneous LBP and Hazmat.

#### **Task 4 – Bid Support, Meetings and Coordination**

Langan will assist you with the hazmat bidding process including preparation of a HAZMAT bid sheet. We anticipate that up to two project meetings will be required to discuss findings and assessments of the proposed tasks. Our project managers and professional staff will also be available to participate in meetings and provide status updates throughout the project. Additionally, written responses will be provided to RFI's received from prospective bidders. If requested, we will evaluate the bids and provide recommendations.

#### **Task 5 – Abatement Project Monitoring**

Langan's scope of work to provide asbestos abatement project monitoring will include following services:

- Review Contractor submittals.
- Provide third party project monitoring and air testing services during asbestos abatement.
- Conduct final clearance visual inspections/air testing to verify abatement completion.
- Retain services of an independent NYLAP accredited to analyze air samples.
- Provide necessary equipment to perform air sampling. Power to perform air sampling to be provided by the owner.
- Provide abatement completion letter for demolition permit application.

#### **Task 6 – Abatement Closure Report**

Upon project completion, a project closure report will be compiled which will include but not be limited to the following: abatement contractor and Langan's certifications; results of the air-sampling analysis; daily log reports; OSHA air compliance personal air monitoring results; medical and fit test clearance for each worker involved with the project; waste manifests; project notifications; insurance; landfill certifications; workers acknowledgement forms; and all other abatement related documents for your records.

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**FEES**

Our fees for the scope of work described herein are provided below:

**Hazmat Survey and Design**

<b>Task</b>	<b>Fees</b>
<b>Tasks 1, 2 &amp; 3</b> – Hazmat Survey, Project Coordination (including destructive probe survey); Report ; and Preparation of Abatement Design Documents	\$33,000
Allowance for Laboratory Testing and Reimbursable Expenses	\$10,000 <sup>(1)(2)</sup>
<b>Estimated Total for Hazmat Consulting Services</b>	<b>\$43,000</b>

Notes:

1. For budget purposes, \$10,000 should be estimated for laboratory testing of samples, contractor services for probes, and reimbursable expenses. The cost for the analyses of samples will be billed at cost plus 15%. The samples will be analyzed by an independent certified laboratory. The unit cost for the analyses of bulk samples is estimated as follows:

<b>Laboratory Analysis/Equipment Rental</b>		<b>Estimated Units</b>	<b>Estimated Total</b>
Lab - PLM Bulk Analysis	\$8.00	100	\$800.00
Lab - TEM	\$30.00	100	\$3,000.00
Lab – PCB Caulk Analysis	\$80.00	10	\$800.00
Sub-contractor services for Probes	\$2,000.00	2	\$4,000.00
Other Reimbursable Expenses	\$250.00	5	\$1,250.00
<b>ESTIMATED TOTAL RE-IMBURSABLE EXPENSES (Rounded)</b>			<b>\$10,000.00</b>

2. Reimbursable expenses includes field supplies, personal protective equipment, travel to and from the job site and meeting locations, express mailings, photographs, report reproduction, etc.
3. At this time we have assumed that Sub-Chapter 8 regulations will not apply on this project, and therefore, work and fee associated N.J.A.C. 5:23, subchapter 8 is excluded from our fee.

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**Construction Administration Services**

<b>Task</b>	<b>Fees</b>
<b>Task 4</b> – Bid Support, Meetings and Coordination	\$2,000
<b>Task 5</b> – Asbestos Abatement Project Monitoring (Assumes 90 9-hour shifts @ \$810/shift) (T&M)	\$72,900 <sup>(1)</sup>
Scheduling, Coordination/Management (Allowance)	\$10,100
Meetings (Allowance)	\$4,000
<b>Task 6</b> – Abatement Closure Report	\$3,000
<b>Estimated Fee (Allowance)</b>	<b>\$92,000</b>
Allowance for Laboratory Testing and Reimbursable Expenses	<b>\$13,000</b> <sup>(2)(3)</sup>

Notes:

1. The abatement monitoring fee is based on the assumption that services of one certified asbestos project monitor will be needed for ninety (90) work shifts, including time required to deliver the samples to the laboratory. A work shift includes 8 hours at the site plus an hour for sample delivery to the laboratory. Rates remain the same for regular week day, weekend or off-hours work. Any schedule overrun will be billed at \$810/shift.
  
2. The actual reimbursable expenses will be billed as they are incurred. The fee for analytical testing of the air samples will be billed on a per unit basis as reimbursable expenses. The samples will be analyzed by an independent certified laboratory. The cost for the analyses is based on the turnaround time and will be billed at cost plus 15%. The unit cost is based on turnaround time and is estimated as follows:
  - PCM Air Analysis           \$ 6 to 10/sample
  - TEM Air Analysis           \$ 60 to 90/sample
  
3. Reimbursable expenses includes field supplies, personal protective equipment, travel to and from the job site and meeting locations, lodging, express mailings, photographs, report reproduction, etc.

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## **ATTACHMENT 1.2**

### **DEMOLITION CONSULTING SERVICES**

Our proposed work will consist of the site evaluation of the existing buildings on the lot to be demolished, the preparation of bid-level demolition drawings and specifications, bidding assistance, demolition administration and close-out services. The following are some key assumptions that shape our proposal.

- Demolition of the existing Health and Agriculture buildings are included.
- The boundary and topographic survey that will be used as the base map to our plans are prepared by GEOD. Based on our experience at the Taxation site to the north, we anticipate that some additional surveying detail may be required for the site-civil design and will be coordinated and completed by GEOD to supplement the current survey.
- We do not anticipate that the existing Health and Agriculture buildings (which are to be demolished) are connected to the existing Labor building or other adjacent structures that would require structural, architectural or MEP design. These services are not included in our scope of work.
- The drawings will not indicate any interior spaces within the structure. We expect the interior details will be provided as reference documents (i.e. original design drawings, if available) and also discussed as part of the pre-bid walkthrough of the structure with the Contractors.
- The Demolition Contractor will be responsible for preparing the means and methods demolition plans and addressing field conditions during demolition activities.

The proposed project approach is discussed in detail in the following sections.

#### **DEMOLITION PLANNING/DESIGN PHASE**

##### **Task 1 - Preliminary Demolition Services**

We will review the existing information (drawings and reports) made available to us and perform a thorough site walk-through to confirm that the reference drawings identify major items (i.e. building utility connections, etc.) to be addressed in the demolition plans and specifications. We will conduct an exterior site walkthrough of the overall property and visit typical interior spaces within the building. We assume that access to the property will be provided by Ownership.

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We will coordinate with you and the project team to discuss the project and any specific demolition requirements, particularly as they relate to the final post-demolition conditions. Relevant requirements will be included in the bid documents.

## **Task 2 - Preparation of Demolition Documents**

We will advance the preliminary demolition drawings and prepare comprehensive demolition documents, including technical specifications and drawings, suitable for bidding. These documents will address demolition of the existing buildings, any associated site features and the existing utilities, which we anticipate will be cut and capped at the property line. The bid drawings will not indicate demolition of any interior portions of the building (i.e. partition walls, MEP systems, etc.). We expect the interior details will be provided as reference documents (i.e. original design drawings, if available) and also discussed as part of the pre-bid walkthrough of the structure with the Contractors.

We anticipate using the previously prepared boundary and topographic survey provided by GEOD as a base map for the demolition plans. If any existing drawings are available from the original construction, we would include them as part of the bid documents as reference drawings. We will coordinate with your office to determine if any salvageable items are necessary to be incorporated into the bid documents.

The specifications will address items including insect and rodent control, fencing, dust, noise and pollution control and the controlled backfilling of voids from utilities outside of the existing building footprints, which is an important measure in maintaining grades at the site and preventing potential differential settlement of any future structures that may be located in these areas. We will also address site activity restrictions, site restoration following demolition and contract closeout. The specifications will also address the requirements of the Contractor's Health and Safety Plan (HASP). The Contractor's safety plan will include, but not be limited to, assigning a qualified and competent Site Health and Safety Coordinator responsible for day-to-day implementation of the HASP, the Contractor's requirements for attending a pre-construction meeting and scheduled on-going safety meetings by the Contractor to address potential safety hazards and required health and safety measures. The plan will also address the proper demolition procedures regarding the installation of fencing, lighting, warning signs and other safety measures to secure the work areas. Demolition means and methods will not be part of the specifications, but exclusively be the Contractor's responsibility. We also anticipate coordinating with the Owner to incorporate any additional company-specific health and safety requirements, which may be necessary to include in the Contractor's HASP.

The drawings and specifications will include the preparation of a Final Grading Plan and an Erosion and Sediment Control (ESC) Plan and related specifications. This plan will also address any required temporary erosion protection and dust control measures and illustrate the final site restoration after the building has been demolished.

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### **Task 3 – Demolition Design Meetings**

We will attend up to 4 demolition design meetings/conference calls to coordinate with the design team as well as your office. We expect the majority of these meetings will occur during the demolition design phase through the preparation of bid documents. Note that any additional meetings required would be invoiced on a time and expense basis.

### **DEMOLITION ADMINISTRATION PHASE**

#### **Task 4 - Bidding Assistance**

We will provide assistance in the Contractor selection process, attend one pre-bid meeting and provide formal written responses to any questions asked during the bid period. We will also review the Contractors' bids and provide our recommendations for contract award.

#### **Task 5 – Field Observation during Demolition**

A representative of Langan will be on-site periodically during the demolition of the building and full-time during the verification of foundation removal and backfill activities to observe that work items are completed in accordance with the demolition documents. During earthwork operations, Langan's field representative would inspect the proofrolling of subgrades and placement of fill. Proper compaction would be verified by visual inspection and density testing utilizing a nuclear density gauge. A Site Observation Report will be prepared for each day of work documenting the activities of the day. A plan will be attached to each report identifying the specific area of work completed for that particular day. Photographs of the demolition activities observed will also be taken. Results of any laboratory testing of fill materials would also be presented in the report as they are performed. As indicated to us, we have based the duration of the field observation services on a 4-month demolition duration. If the demolition activities exceed this duration, we have provided a daily rate for the field engineer.

#### **Task 6 – Meetings**

We anticipate we will be required to attend meetings to help facilitate the demolition process. Based on a 4-month demolition duration, we have budgeted for a total of 8 meetings (every two weeks).

#### **Task 7 - Project Management**

Management of the demolition activities will be provided for the entire duration of the demolition activities. This will include communications with your office and the Contractor, correspondence, phone calls and general coordination. We would also coordinate with the Langan field representative and review the daily Site Observation Reports. We would also review any submittals and shop drawings for demolition-related items identified on the Demolition Drawings and Specifications and confirm compliance prior to field use.

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**Task 8 – Demolition Final Walkthrough and Punchlist**

Upon substantial completion of demolition, we would perform a final walk-through of the site and identify items of deficiency based on the requirements of the Contract Drawings and Specifications. We would also meet with the Contractor to review the items of deficiency and re-inspect after corrections have been made, if necessary.

**ESTIMATED SCHEDULE AND FEES**

The demolition design will require approximately 5 weeks to complete after receiving the final survey. Our estimated fees are provided in Table A below. Any changes in the scope of work and/or schedule will be reflected in the engineering costs.

**Table A – Fee Estimate for Demolition Consulting Services**

<b>Task</b>	<b>Fees</b>
<b>Task 1</b> – Preliminary Demolition Services	\$ 3,000
<b>Task 2</b> – Preparation of Demolition Documents	\$ 14,000
<b>Task 3</b> – Demolition Design Meetings *Assumes 4 meetings/conference calls	\$ 3,000
<b>Task 4</b> – Bidding Assistance (assume 1 bid package)	\$ 5,500
<b>Task 5</b> – Field Observation during Demolition <ul style="list-style-type: none"> <li>• 42 P/T site visits (\$165/hr x 4 hr-days)</li> <li>• 20 F/T site visits (\$165/hr x 9 hr-day)</li> </ul>	\$ 57,420
<b>Task 6</b> – Demolition Phase Meetings (8 incl)	\$ 7,000
<b>Task 7</b> – Project Management	\$ 17,500
<b>Task 8</b> – Final Walkthrough and Punchlist	\$ 3,000
<b>Total</b>	<b>\$ 110,420</b>
<b>Reimbursable expenses (travel, mailing, etc.)</b>	<b>\$ 4,000</b>

## ATTACHMENT 1.3

### ENVIRONMENTAL ENGINEERING SERVICES

The existing Health and Agriculture buildings are located on Block 10701, Lot 2 (formerly known as Block 60-A, Lot 206). This lot is part of the Former South Warren Street Gas Works site having a New Jersey Department of Environmental Protection (NJDEP) Case number: 00-06-14-0024-49, Site Remediation Program (SRP) Program Interest (PI) number G000005462. We understand that the Responsible Party (RP) for the site is PSEG, and they are in progress of completing environmental remedial actions on the site. Consistent with the Site Remediation Reform Act (SRRA), an NJDEP Licensed Site Remediation Professional (LSRP) is assigned to the site, Kenneth Megnin of Kleinfelder.

We understand that the NJEDA would like to reuse that the concrete sourced from the two existing buildings for on-site reuse to backfill the former basements of the structures, and potentially for use as fill material within the bounds of Lot 2. We also understand that no off-site disposal or reuse of the material is contemplated. The proposed post-demolition use of the site is anticipated to an at-grade asphalt parking lot.

In order to reuse the existing concrete generated from the existing buildings as fill material post demolition, we will be required to interact with the site's LSRP because the LSRP provides the final approval for the concrete characterization and reuse strategies. Based on our initial telephone conversations with the LSRP to prepare this proposal, the LSRP has identified that two NJDEP guidance documents for concrete reuse on site including the NJDEP *Guidance for Characterization of Concrete and Clean Material Certification for Recycling (GCCCMCR)* dated January 12, 2010, and the NJDEP *Fill Material Guidance for SRP Sites (FMG)* dated April 2015. At a minimum, the GCCCMCR is required to be implemented, while the FMG is probable but it depends on a requested site-specific Fill Reuse Plan (FRP). A FRP is a document that narrates the proposed material management, reuse and/or disposal, the co-associated sampling and laboratory requirements, and reporting documentation. As of the date of this proposal, the FRP has not been authored and/or approved by the LSRP.

Given that a FRP has not been generated, this proposal provides for pre-demolition concrete characterization, and provide a preliminary characterization of the media to aid in refining the proposed concrete strategy. The sampling integrated into this proposal will include the sample frequency (based on estimated media volume) and laboratory analytical requirements of the *GCCCMCR* (PAH, PCB). In addition discretionary sampling and laboratory analysis will be completed from biased sample locations based to address the FMG required laboratory parameters (TAL/TCL+30, EPH non fractionated). These discretionary and biased sample locations will be focused on observed conditions (e.g. boiler rooms, stained areas, flooring joint caulk, etc.), or former use areas (e.g. laboratory, boiler room, etc.).

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These initial laboratory analytical results will be compared to the NJDEP Soil Remediation Standards (SRS) to determine if there are any constituents exceeding the SRS. If these initial laboratory analytical results identify samples exceeding the NJDEP Soil Remediation Standards (SRS), supplemental sampling and analysis will be required to delineate the impacted areas, refine the concrete use strategy, and potentially assess off-site disposal of concrete impacted above the SRS. Given that these expected requirements cannot be quantified until the initial data is reviewed and the concrete strategy refined, a delineation and consultation allowance is included as part of this proposal to address these potential requirements including additional sampling, laboratory analysis, and consulting support. Know that this allowance is an estimate, and actual site conditions and data will determine the scope and budget of the actual required services.

### ***Previous Building Environmental Decommissioning***

A number of environmental initiatives have previously been advanced to address the site buildings and include building assessment, investigation or remediation of existing conditions including: laboratory decontamination, mercury, Lead Based Paint (LBP) and radiological contamination. These efforts are recognized and document in a series of reports provided by the NJEDA.

This proposal does not provide comment on the conclusions of the aforementioned activities, and assumes that any suggestions and/or recommendations for material remediation and/or management (i.e. laboratory decontamination, mercury, Lead Based Paint (LBP), radiological contamination, etc.) contained in these documents have already been completed prior to the proposed concrete sampling. These supplied reports include the following:

- Phase I Laboratory Decommissioning Report, New Jersey Health and Agriculture Laboratory, Trenton, NJ; January 2012, Louis Berger Group, Inc.
- Limited Environmental Assessment Report; May 2013, Louis Berger Group, Inc.,
- Sampling and Investigation Work plan, Health Lab & Administration Building; November 2013, Louis Berger Group, Inc.
- Decontamination & Decommissioning Final Status Survey Report, State of NJ Department of Health and Agricultural Laboratory; April 9, 2015, DDES, LLC
- Final Feasibility Study, Health Lab & Administration Building; August 15, 2017, Lammey & Giorgio, PA
- Cultural Resources Mitigation Plan for the proposed Demolition of the Health & Agriculture Buildings, 369 South Warren Street, Block 10701, Lot 2, Trenton; October 2017, Hunter Research

### ***Concrete Volume Estimation***

The following estimates are provided for concrete volumes of each structure, to be used for sample frequency requirements.

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Health Administration Building

- o 175,000 gross square feet (gsf), 8 floors plus basement
- o  $175,000 / 9 = 19,444$  square feet (sf) per floor
- o Floors:  $175,000 \text{ sf} \times 6'' \text{ thick floors} = 3,240$  cubic yards
- o Exterior Walls:
  - $520 \text{ linear feet per floor} \times 8 \text{ floors} \times 5' \text{ high wall (remaining } 5' \text{ of wall is glass)} \times 6'' \text{ thick} = 385$  cubic yards.
- o Basement Walls:  $100 \text{ feet} \times 160 \text{ feet} = 520$  linear exterior feet per floor
  - $520 \text{ linear feet per floor} \times 1 \text{ floor} \times 10' \text{ high wall} \times 6'' \text{ thick} = 97$  cubic yards.
- o Total estimated cubic yards of concrete for onsite reuse = *3,722 CY, rounded to 4,000CY*

Agriculture Laboratory Building

- o 90,000 gsf, 6 floors plus basement
- o  $90,000 / 7 = 12,857$  sf per floor
- o Floors  $90,000 \text{ sf} \times 6'' \text{ thick} = 1,666$  cubic yards
- o Exterior Walls:
  - $(2\pi R \times H) = 2 \times 3.14 \times 65\text{ft} \times 10\text{ft} = 4,084$  sf per floor
  - $4,084\text{sf} \times 6'' \text{ thick} = 76$  cubic yards for the walls per floor.
  - $76 \text{ cubic yards} \times 7 = 532$  cubic yards
- o Total estimated cubic yards of concrete for onsite reuse = *2,198 CY, rounded to 2,500 CY*

Greenhouse structure

- o 2,000 gross square feet (gsf), 1 floor
- o Floors:  $2,000 \text{ sf} \times 6'' \text{ thick floors} = 37 \text{ CY, rounded to } 40 \text{ CY}$
- o This allowance includes foundation walls.

Tunnels

- o  $20' \text{ high} \times 150' \text{ long} \times 6'' \text{ thick} = 56$  cubic yards
- o Two (2) tunnels
- o Total estimated cubic yards of concrete for onsite reuse = *112 CY, rounded to 200 CY*

Residual Sidewalks/Retaining Walls/Ancillary Exterior Concrete

- o Actual area and thickness unknown, allowance provided
- o Total estimated cubic yards of concrete for onsite reuse = *800 CY, rounded to 1,000CY*

Field Determined Interior Concrete Samples

- o Additional areas which may require sampling will be field determined, and discretionary focused on observed conditions (e.g. boiler rooms, stained areas, flooring joint caulk, etc.), or former use areas (e.g. laboratory, boiler room, etc.).
- o An allowance is provided for the number of potential samples.

Below are the tasks required to address the Concrete Characterization and Re-Use Strategy for this project:

**TASK 1 – CONCRETE CHARACTERIZATION**

**Task 1A – Initial Concrete Sampling**

Concrete sampling will be completed pre-demolition, while the buildings are still intact. The sampling will include biased, grab samples at field determined locations.

The concrete sampling will be completed via chip samples consistent with the *GCCCMCR*; and the NJDEP *Field Sampling Procedure Manual* (FSPM) updated April 2011. Manual tools, electric chip hammers, hammer drills or similar will be utilized.

The sampling will be considered destructive, wherein holes and/or damage will be realized in the immediate area of the sample(s). For the purpose of this proposal, it is understood that repair of the sample locations will be required for those structures or areas that are still in use. These specific areas will be identified by the NJEDA at the initiation of sampling. Said repair will include the placement of one application of epoxy grout to fill the damaged areas only in the presently occupied areas; no replacement of carpeting and/or other materials damaged as part of the sampling operations will be implemented.

**Task 1B – Initial Concrete Sample Frequency and Laboratory Analysis**

The basis of the sample frequency will be the *GCCCMCR*, and will be supplemented by the conditions encountered wherein discretionary and biased sample locations will be focused on observed conditions (e.g. stain), or former use areas (e.g. laboratory, boiler room).

The following identifies the anticipated sample frequencies.

Health Administration Building:

- o Total estimated cubic yards of concrete for onsite reuse = +/- 4,000 CY
- o 16 concrete samples (minimum 1 per floor) each analyzed for PAH, PCB

Agriculture Laboratory Building

- o Total estimated cubic yards of concrete for onsite reuse = +/- 2,500 CY
- o 12 concrete samples (minimum 1 per floor) each analyzed for PAH, PCB

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Greenhouse structure

- Floors: 2,000 sf x 6" thick floors = +/- 40 CY
- 2 concrete samples each analyzed for PAH, PCB

Tunnels

- Total estimated cubic yards of concrete for onsite reuse = +/- 200 CY
- 4 concrete samples (2 per tunnel structure) each analyzed for PAH, PCB

Residual Sidewalks/Retaining Walls/Ancillary Exterior Concrete

- Total estimated cubic yards of concrete for onsite reuse = +/- 1,000 CY
- 7 concrete samples (minimum 1 per concrete structure [e.g. sidewalk, wall, stairs, etc.]) each analyzed for PAH, PCB

Field Determined Discretionary Concrete Samples

- 30 concrete samples (minimum 1 per discretionary field determined area) each analyzed for TCL/TAL+30, EPH CAT2 (includes PAH, PCB)

**Task 1C – Initial Laboratory Analytical Review and Assessment**

The initial concrete laboratory analytical sample results will be reviewed and compared to the NJDEP Soil Remediation Standard (SRS) to determine if any contingent analysis may be required to address the selected strategy.

This task will also include assembling a summary laboratory data table.

**Task 2 – Initial Project Coordination**

Project management, coordination and communication will be required between the client, and the Site LSRP. Inclusive to these operations will be conference calls, memorandum, and meeting. Given that the scope and necessity for these operations is not defined, and allowance is provided, and will be used as needed.

**Task 3 – Initial Concrete Characterization Summary Memorandum**

Upon project completion, a project memorandum will be compiled which will include the following:

- Concrete sampling operations narrative;
- Concrete sample location map;
- Summarized laboratory analytical data summary table(s);
- Photographs;
- Sample results narrative; and,
- Recommendations and conclusions.

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#### **Task 4 – Supplemental Concrete Delineation and Consultation Allowance**

This task is included as an allowance to address the potential need for supplemental delineation of the identified impacted areas, and to aid with refining the concrete use strategy, and potentially assessment requirement for off-site disposal of concrete impacted above the SRS.

As previously discussed, given that these expected requirements cannot be quantified until the initial data is reviewed, allowances are provided as follows:

##### **Task 4A – Supplemental Concrete Sampling**

Concrete sampling will be completed pre-demolition, to aid in delineating the concrete conditions identified in the initial sampling event. The means and methods will be the same as previously identified. The level of effort for this task is identified in the following table, and will be utilized on an as needed basis.

##### **Task 4B – Supplemental Concrete Sample Frequency and Laboratory Analysis**

The basis of the sample frequency and laboratory analytical parameter selection will be dependent upon the results of the initial sample event, and the proposed material use strategy. There is a possibility that some of the materials may be impacted so as on site use may not be possible, and off site disposal reflected as the remedial strategy. The level of effort for this task is identified in the following table, and will be utilized on an as needed basis.

##### **Task 4C – Supplemental Laboratory Analytical Review and Assessment**

The concrete laboratory analytical sample results will be reviewed and compared to the NJDEP Soil Remediation Standard (SRS) to determine if any contingent analysis may be required to address the selected strategy. This task will also include assembling a summary laboratory data table.

##### **Task 4D – Supplemental Project Coordination**

Continued project management and coordination will be required with the project owner, and/or contractors, as described earlier in this document. The level of effort for this task is identified in the following table, and will be utilized on an as needed basis.

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## FEE ESTIMATE

Our estimated fee for the aforementioned environmental engineering services for laboratory, equipment and reimbursable expenses is provided below.

<b>Task</b>	<b>Langan Fees</b>	<b>Lab/Equipment Fees</b>
<b>Task 1A</b> – Initial Concrete Sampling	\$13,500	\$2,685
<b>Task 1B</b> – Initial Concrete Laboratory Analysis		
o 41 concrete samples each analyzed for PAH, PCB @ \$218/ea		\$8,938
o 30 concrete samples each analyzed for TCL/TAL+30, EPH CAT2 non fractionated @ \$650/ea		\$19,500
<b>Task 1C</b> – Initial Laboratory Analytical Review + Assessment	\$4,000	
<b>Task 2</b> – Initial Project Coordination	\$4,000	
<b>Task 3</b> – Initial Concrete Characterization Summary Memo	\$4,500	
<b>Task 4A</b> – Supplemental Concrete Sampling	\$4,000	800
<b>Task 4B</b> – Supplemental Concrete Sample Frequency and Laboratory Analysis		
o 20 concrete samples each analyzed for PAH, PCB @ \$218/ea		\$4,360
o 6 concrete samples each analyzed for TCL/TAL+30, EPH CAT2 non fractionated @ \$650/ea.		\$3,900
o 6 concrete samples each analyzed for TCLP, paint filter, chromium @ \$650/ea.		\$3,900
<b>Task 4C</b> – Supplemental Laboratory Analytical Review and Assessment	\$2,500	
<b>Task 4D</b> – Supplemental Project Coordination		
Allowance - four (4) one hour meetings in Trenton	\$4,500	
<b>Task 5</b> – Fill Reuse Plan (FRP)	\$5,500	
<b>Estimated Fee (Allowance)</b>	<b>\$42,500</b>	<b>\$44,083</b>

### Conditions and Exclusions

1. The on-site sampling efforts assume electric power is available for powered drill incl. interior lighting.
2. The sampling will be completed during normal business hours; M-F; 8:00AM – 6:00PM
3. The initial concrete laboratory analytical sample results must be reviewed and compared to the NJDEP Soil Remediation Standard (SRS) to determine which management strategy is appropriate (e.g. on site reuse, off-site disposal), and if any contingent analysis may be required to address the selected strategy. Said contingent sampling effort and laboratory analysis, if required, are unknown as of the date of this document, and would be included as part of the allowance allocation.

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4. All laboratory analysis will be completed by a New Jersey certified laboratory, on a standard turn-around time of five (5) business days.
5. The total volume of concrete for each of the structures has not been provided. The text provides narration describing the estimated concrete volume so as sample frequencies could be determined to accommodate the NJDEP guidance. The total volume of concrete generated from this project will be the Contractor's responsibility to determine and verify.
6. This proposal does not include coring of the concrete structures, nor providing for an estimate and/or volume "take off" of the concrete.
7. If environmentally impacted concrete requires delineation to accommodate the selected management strategy, said additional efforts would be a change condition and not included herein.
8. Provided that the concrete management strategy has not been determined, no regulatory interaction and/or reporting, or off-site disposal coordination/management is included herein.
9. Concrete management strategy, including on site reuse and/or off-site disposal management, should be approved in advance by the site LSRP (Kleinfelder).
10. No NJDEP Licensed Site Remediation Professional (LSRP) services are contemplated as part of this scope of services.
11. Reimbursable expenses include field supplies, equipment rental, personal protective equipment, travel, express mailing, etc.
12. Any deviation from the scope of work outlined in this proposal will be immediately brought to your attention and a separate budget will be provided if additional work is required.

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## **ATTACHMENT 1.4**

### **SITE-CIVIL ENGINEERING SERVICES**

#### **DESIGN DEVELOPMENT PHASE**

We will prepare and submit civil engineering documents and specifications. We anticipate preparing the following drawings as part of this submission:

- Cover Sheet
- Boundary and Topographic Survey (prepared by others)
- Site Plan
- Grading and Drainage Plan
- Utility Plan
- Landscape Plan
- Lighting Plan
- Soil Erosion and Sediment Control (SESC) Plan
- Detail Sheets (3 or 4 sheets)

The following tasks address the preparation of the other design drawings required for a complete civil engineering drawing package.

Cover Sheet – We will prepare the cover sheet in accordance with the City of Trenton Land Development Ordinance. The cover sheets will include the 200-foot property owners list, zoning table and necessary key maps.

Site Plan – We will prepare a detailed Site Plan of the new parking area. Preparation of the site plan would include detailing curbs and sidewalks, vehicular and pedestrian circulation areas, and traffic control signage. We anticipate using the existing driveways and not create any new driveways.

Grading and Drainage Plan - We would prepare a Grading and Drainage Plan based on an acceptable Site Plan and on the topographic survey (prepared by others). The proposed parking layout and elevations will be coordinated with your office. The stormwater conveyance system will be designed in accordance with municipal and state standards. We will locate the stormwater inlets and conveyance pipes on the Grading and Drainage Plan. The stormwater management design is described in a subsequent task.

Utility Plan – Based on an acceptable Site Plan, we would prepare a Utility Plan indicating any necessary relocations for water, sanitary sewer, gas and electric/telephone/cable services to accommodate the proposed parking lot layout.

Site Landscape Design and Plan - We will prepare a landscape planting plan based on the approved site plan. The landscape will also be designed to satisfy the ordinance requirements

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and stipulations in the Trenton Downtown Capital District Master plan. We will design landscape planting including buffer planting and perimeter planting. Plant species will be selected to accentuate site features and building architecture and provide seasonal interest. The landscape plans will also include a planting schedule, notes and details.

Site Lighting Design and Plan - We will work with the team to develop a coordinated site lighting plan that will meet the performance, security and budgetary goals of the client and the design team. We expect to develop a design that incorporates high-efficiency fixtures and will provide a lighting layout, fixture schedule, specifications and supporting details as our deliverables. Note that any site electrification layout and design is excluded from this proposal.

Stormwater Management Design and Report - We will design the stormwater management system and prepare a report based on the proposed drainage collection system layout in accordance with local requirements. This will include existing and proposed drainage area maps, times of concentration and runoff coefficients and will be submitted with the Site Plan Application Package.

Stormwater Detention Design - We will design the stormwater detention and conveyance systems based on the proposed site layout and in accordance with the NJ Stormwater Management Regulations and the Land Development Ordinance. Subsurface detention would likely be required due to space limitations at the site. As such, we will coordinate the locations of the detention system and expect that the system would be located below the parking lot and flow by gravity to the City sewer system. The design will include outlet structures, piping sizes and configurations and calculations for routing through the systems to the tie-in points at the City sewers. The stormwater detention system will be presented in a Stormwater Management Report discussed in the previous task.

Soil Erosion and Sediment Control Plan and Details - We will prepare the Soil Erosion and Sediment Control Plan, details, and construction notes. The submission of the formal application to the Soil Conservation District is not part of this scope but would be completed during the construction phase of the project.

Coordination with Project Team - On a project of this type, coordination will be required to ensure quality control during the design. We expect this would include coordination with your office, local officials and facilities personnel in the existing buildings. We anticipate providing information to and coordination as part of the preparation of the final Site Plan design packages. We would include a budget estimate for this work and will notify you if a budget adjustment becomes necessary based on our coordination activities.

Meetings/Conference Calls - We will prepare for and attend required meetings and participate in conference calls through the approval process. We expect this will include meetings/conference calls with the EDA representatives and local regulatory agencies. We

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have budgeted for a total of six meetings. Additional meetings would require a budget adjustment.

## **PERMITTING**

We will prepare all necessary drawings and applications to complete the following coordination or obtain the identified permits that we anticipate will be necessary for the project:

- SCD Soil Erosion Certification
- NJDEP Stormwater Discharge

Please note that we assume application fees would be paid directly by your office.

## **CONSTRUCTION DOCUMENT PHASE**

Revisions to Plans and Responses to Comments – We will make revisions per comments from regulatory agencies and input from the design team. An allowance would be for this task since the extent of comments is not known at this time.

Construction Drawings - We will advance the resolution compliance drawings to a level suitable for bidding and construction. The drawings shall be inclusive of all documents necessary for bidding and construction purposes, including the technical specifications described in the task below.

Technical Specifications - We will develop a set of site-civil technical specifications to better define materials and requirements for the work. The work will include site-civil elements, such as defining curbs and sidewalks, asphalt pavement, utilities and other related work.

Bidding Assistance - We will provide assistance in the Contractor selection process, attend the pre-bid meeting and provide formal written responses to any questions asked during the bid period. We will also review the Contractors' bids and provide our recommendations for contract award.

## **CONSTRUCTION ADMINISTRATION PHASE**

Contractor Submittal/Shop Drawing Review - We would review any submittals and shop drawings for site-civil and construction-related items identified on the Construction Drawings and in the Sitework Specifications and verify compliance prior to field use. These items would include sidewalks, curbs, utilities, stormwater improvements, etc. We will provide responses to the submittals in a timely manner so as not to inhibit construction activities.

Review and Response to RFIs - We will review any site-civil and construction-related questions during the construction phase and provide responses, as necessary. We will also provide any necessary sketches in a timely manner to clarify any issues that may arise.

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Construction Meetings - We will attend meetings and site visits to discuss technical issues that may arise during construction, as needed. Each occurrence will be attended by the relevant field or management level personnel. We will participate in each construction meeting and have budgeted for a total of 12 occurrences.

Field Inspection During Construction – We will provide construction inspection for all site/civil, geotechnical and landscape architecture-related aspects of the project. As indicated to us, we have based the duration of the field observation services on a 5-month construction duration. If the demolition activities exceed this duration, we have provided a daily rate for the field engineer. The construction inspection services will include the following items:

- A. *Earthwork* – During earthwork operations, Langan’s field representative would inspect the proofrolling of subgrades and placement of fill to verify compliance with the Construction Specifications. Proper compaction would be verified by visual inspection and density testing utilizing a nuclear density gauge, where necessary. We would also provide recommendations to the earthwork contractor to expedite the earthwork operations whenever possible.
- B. *Utility Installations* - During utility installation, we would inspect trench subgrades to verify utilities are placed on suitable subgrade material. In addition, we would inspect the placement of utility bedding material and utility lines to verify utilities are constructed in accordance with the specifications and details provided in the Construction Drawings, the criteria defined in the Construction Specifications and the conditions set forth in the NJDEP Flood Hazard Area Permit.
- C. *Retaining Wall Footing Subgrade and Backfill* – We would observe and approve the proposed retaining wall foundation subgrade to verify that construction takes place on the proper bearing material and that subgrade preparation is addressed according to the and the Construction Specifications. We would observe the backfill operations for the retaining wall as well. Please note that we do not provide concrete or steel testing services as part of our scope.
- D. *Pavements Subgrades and Asphalt Placement* - We would inspect the pavement subgrades in parking and roadway areas to verify that pavement is constructed on suitable subgrade material. In addition, we would inspect the placement of the asphalt to verify the pavement is constructed in accordance with the pavement section on the Construction Drawings and in accordance with the Construction Specifications. Compaction of the constructed pavement would be verified through nuclear density testing.
- E. *Landscaping and Lighting* – Trees are a long term investment and selecting the best possible specimens makes financial sense. As such, we would visit the nursery with the Landscape Subcontractor to tag particular tree specimens for your project.

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We will perform a general assessment in the nursery, observing tree quality based on a variety of criteria. We expect one to two nursery visits will be necessary.

During light pole installation we would inspect subgrade materials to verify pole bases are constructed on adequate subgrade materials.

- F. *Daily Site Observation Reports* – We would prepare a Site Observation Report documenting the activities of each day. A plan would be attached to each report identifying the specific area of work for that particular day. A summary of field density tests (when necessary) would be attached when field tests are performed. Results of any laboratory testing of fill materials would also be presented in the report as they are performed.
- G. *Project Management* – We would provide project management of construction observation field activities during the construction stage and provide technical support as necessary. The project manager would provide direct oversight of Langan’s field representative. The project manager would also be available as necessary for meetings with Contractor for the duration of the project.

Final Site Walk and Punch List – Upon substantial completion of construction we would perform up to two final walk-throughs of the site and identify items of deficiency based on the requirements of the Construction Drawings and the Sitework Specifications. We would also meet with the Contractor to review the items of deficiency and re-inspect after repairs have been made.

**ESTIMATED SCHEDULE AND FEES**

The site-civil engineering design will require approximately 6 to 8 weeks to complete after receiving the final survey. Our estimated fees are provided in Table A below. Any changes in the scope of work and/or schedule will be reflected in the engineering costs.

**Table A – Fee Estimate for Site-Civil Engineering Services**

<b>Task</b>	<b>Fees</b>
<b>Task 1</b> – Design Development Phase	\$ 68,000
<b>Task 2</b> – SESC and RFA Permitting	\$ 5,500
<b>Task 3</b> – Construction Document Phase	\$ 26,000
<b>Task 4</b> – Construction Observation Services <ul style="list-style-type: none"> <li>• 66 F/T site visits (\$165/hr x 9 hr-days)</li> <li>• PM Support (\$290/hr x 1/hr-day )</li> </ul>	\$ 117,150
<b>Task 5</b> – Construction Administration Phase	\$ 29,000
<b>Total</b>	<b>\$ 245,650</b>
<b>Reimbursable expenses (travel, mailing, etc.)</b>	<b>\$ 3,500</b>

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## **ATTACHMENT 1.5**

### **NATURAL RESOURCE PERMITTING SERVICES**

All work proposed within a regulated water, flood hazard area (regulatory floodplain), and riparian zone is regulated by the New Jersey Department of Environmental Protection (NJDEP) Division of Land Use Regulation (DLUR) pursuant to the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13). As per the latest FEMA mapping adopted in June 2016, the New Jersey Flood Hazard Area associated with Delaware River located is mapped in the northern portion of the project site. The proposed site design will result in disturbance to the flood hazard area and as such, an Individual Flood Hazard Permit and Flood Hazard Verification will be required.

We will schedule and attend a pre-application meeting with the NJDEP DLUR to review the NJDEP flood hazard area permitting requirements for the conceptual site plan when developed. This meeting will be scheduled and attended by a Langan natural resource permitting specialist and the project engineer. The meeting will serve as an introduction of the project to DLUR and will also provide useful insight and guidance from DLUR on the necessary flood hazard area (FHA) permitting required for the project. At this meeting we will confirm the FHA elevation to be used for the project (FHA Verification used for the Taxation building is set to expire May 2020). Meeting minutes summarizing the key issues discussed at the meeting will be prepared.

Langan will prepare and submit a Flood Hazard Area Permit Application to the New Jersey Department of Environmental Protection Division of Land Use Regulation for the proposed redevelopment project. This application will include the following: an application form, application checklists, a description of the site and proposed development, compliance statement addressing the applicable policies of the Flood Hazard Area Control Act Rules, figures and forms, site photographs, net fill calculations and plan, design and permitting drawings, and public noticing requirements. FHA policies to be addressed include, but are not limited to, building first floor elevations, parking elevations, stormwater management and net fill. A permit decision typically takes 4-5 months to receive from the time of application submission. This task includes one round of comments and plan revisions as required by the NJDEP DLUR.

For the purpose of this proposal we assume that any fill required can be balanced onsite in accordance with N.J.A.C. 7:13-11.4. As such we will prepare detailed cut/fill plans and calculations to confirm zero net fill is proposed within the flood hazard area. This is typically calculated by determining the existing and proposed flood storage on a 20-foot grid. We have assumed we can design the project such that neither a hardship exception nor riparian zone mitigation will be required. If it is determined at the pre-application meeting or during the design that a hardship exception or mitigation is required, we can provide a separate proposal for this work.

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**Assumptions and Exclusions**

1. For the purpose of this proposal we have assumed that a FHA hardship exception request will not be required.
2. We expect that the NJEDA would pay for any applicable permit application fees.
3. Does not include any permit condition compliance tasks such as filing permit with County.

**ESTIMATED SCHEDULE AND FEES**

The natural resources permitting services will require approximately 6 weeks to complete after the final parking lot design is finalized. Our estimated fees are provided in Table A below. Any changes in the scope of work and/or schedule will be reflected in the fees below.

**Table A – Fee Estimate for Natural Resource Permitting Services**

<b>Task</b>	<b>Fees</b>
<b>Task 1</b> – Pre-Application Meeting	\$ 3,500
<b>Task 2</b> – Flood Hazard Area Application	\$ 30,000
<b>Task 3</b> – Cut-Fill Plan and Calculations	\$ 6,000
<b>Task 4</b> – Revisions Due to Comments	\$ 3,500
<b>Total</b>	<b>\$ 43,000</b>
<b>Reimbursable expenses (travel, mailing, etc.)</b>	<b>\$ 1,000</b>

EXHIBIT B

Langan Proposal for Additional Services # 2  
Dated July 29, 2020

**LANGAN ENGINEERING & ENVIRONMENTAL SERVICES**  
300 Kimball Drive, 4<sup>th</sup> Floor  
Parsippany, NJ 07054  
(973) 560-4900 Fax (973) 560-4901  
**CONTRACT CHANGE ORDER FOR ADDITIONAL SERVICES**

**DATE:** July 29, 2020 **REVISED:** \_\_\_\_\_

**ADDITIONAL SERVICES REQUEST NO:** 2

**CONTRACT:** Proposal for Land Development Engineering Services dated May 6, 2019

**LANGAN PROJECT NO.** 100645005

**PROJECT TITLE:** NJEDA Health & Ag Demolition and New Parking Lot

**TO:** Tom Catapano

**COMPANY:** NJEDA

**STATEMENT OF SERVICES AND FEE:**

This Additional Service Request (ASR #3) is provided to narrate services requested that is beyond the base scope of services for the NJEDA Health & Agriculture Demolition and New Parking Lot project located on Block 10701s, Lot 2 and 3, in Trenton, NJ. The following provides detailed scope and fees.

**Background**

Hazmat Consulting Services were included in our initial scope of services dated May 6, 2019.

Supplemental Destructive Probe Survey

Several areas in the buildings were inaccessible during the Hazmat Survey. Additionally, destructive means of survey will be necessary to confirm the presence/absence of asbestos in suspect materials which were concealed and assumed ACM. Supplemental site visits will be necessary for completing supplemental probe survey and testing.

An additional **\$12,000** fee for engineering services including reimbursable expenses (e.g. laboratory analytical analysis, mailing, travel, equipment rental, sampling supplies, etc.) should be added to our agreement for the supplemental destructive probe survey.

Construction Administration Services

Construction administration services budget for abatement oversight services included abatement oversight allowance for 90 work shifts. Based on the hazmat findings and the abatement/demolition schedule provided by the Construction Manager, the abatement/demolition activities are expected to be completed in 200 work shifts. Based on this schedule, we estimate an additional one hundred and ten (110) shifts will be necessary for abatement monitoring services.

An additional **\$126,000** fee for engineering services including re-imbursable expenses (e.g. laboratory analytical analysis, mailing, travel, equipment rental, sampling supplies, etc.) should be added to our agreement for the supplemental abatement oversight/monitoring services. A fee breakdown is as follows:

<b>Task</b>	<b>Fee</b>
Asbestos Abatement Project/Air Monitoring Services (Additional 110 Work Shifts @ \$810/shift) (T & M)	\$89,100
Project Coordination/Management	\$11,000
Meetings (Attend 10 additional Bi-weekly meetings)	\$6,000
Allowance for Laboratory Testing of Samples/Re-imbursable Expenses	\$20,000
<b>Estimated Total</b>	<b>\$126,000 (Rounded)</b>

**Conditions and Exclusions**

1. This ASR excludes services for the preparation of permit applications.
2. The supplemental abatement monitoring fee is based on the assumption that services of one certified asbestos project monitor will be needed for the additional one hundred ten (110) work shifts, including time required to deliver the samples to the laboratory. A work shift includes 8 hours at the site plus an hour for sample delivery to the laboratory. Rates remain the same for regular week day, weekend or off-hours work. Any schedule overrun will be invoiced at \$810/shift.
3. The actual reimbursable expenses will be invoiced as they are incurred. The fee for analytical testing of the air samples will be invoiced on a per unit basis as reimbursable expenses. The samples will be analyzed by an independent certified laboratory. The cost for the analyses is based on the turnaround time and will be invoiced at cost plus 15%. The unit cost is based on turnaround time and is estimated as follows:
  - PCM Air Analysis           \$ 6 to 10/sample
  - TEM Air Analysis           \$ 60 to 90/sample
4. Reimbursable expenses includes field supplies, personal protective equipment, travel to and from the job site and meeting locations, lodging, express mailings, photographs, report reproduction, etc.
5. Back-up of laboratory and re-imbursable expenses will be provided with our invoices.

An additional fee for engineering services including re-imbursable expenses (e.g. laboratory analytical analysis, mailing, travel, equipment rental, sampling supplies, etc.) should be added to our agreement. Our work will be invoiced in accordance with our prior agreement.

**TOTAL FEE:       \$ 138,000**

We will proceed with the above described scope of services based the existing contract, and terms and conditions, as authorized below. If notified to stop work on these services the client agrees to pay Langan for all work completed up to the stop work notification.

\_\_\_\_\_  
 Agreement Authorized By: Tom Catapano

  
 \_\_\_\_\_  
 for Langan: Leonard D. Savino, PE

## **BOARD MEMORANDA**



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** October 14, 2020

**SUBJECT:** Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/ Licenses for Third Quarter 2020 - *For Informational Purposes Only*

The following approvals were made pursuant to Delegated Authority for Leases and ROE/ Licenses in July, August and September 2020 :

**LEASES**

<u>TENANT</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>TERM</u>	<u>S.F.</u>	<u>CCIT GRANT</u>
Angex Pharmaceuticals	Bioscience Center Incubator	Lease Extension	One Year	125sf	N/A
Skunkworx Labs	Bioscience Center Incubator	New Lease	One Year	1,300sf	N/A
Smirta Innovation	Bioscience Center Incubator	New Lease	One Year	124sf	N/A
Bioaegis Therapeutics	Bioscience Center Step Out Labs	New Lease	Three Years	1,823sf	N//A
Pharmanest dba Genesis Imaging Services	Bioscience Center Incubator	Lease Extension	One Year	800sf	N/A

**COVID19 LEASE DEFERRAL**

<u>TENANT</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>TERM</u>	<u>AMOUNT</u>
Bright Cloud International	Bioscience Center Incubator	Lease Amendment	8 months	\$1,300.00
Adlai Nortye USA	Bioscience Center Step Out Labs	Lease Amendment	11.5 months	\$28,308.38

**RIGHT OF ENTRY/LICENSES/EXTENSIONS**

<u>ENTITY</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>CONSIDERATION</u>
Avery Dennison Corp.	NJ Bioscience Center	Right of Entry	\$0
Bristol Myers Squibb	NJ Bioscience Center	Right of Entry	\$0

**MISCELLANEOUS**

<u>ENTITY</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>CONSIDERATION</u>
None			



\_\_\_\_\_  
 Tim Sullivan  
 Chief Executive Officer

Prepared by: Stacy Pellegrino



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, Chief Executive Officer  
**DATE:** October 14, 2020  
**SUBJECT:** Credit Underwriting Projects Approved Under Delegated Authority –  
**For Informational Purposes Only**

The following project was approved under Delegated Authority in September 2020:

**Premier Lender Program:**

- 1) DFP 14 LLC (PROD-00206946), located in Farmingdale Borough, Monmouth County, is a real estate holding company formed in 2020 to own the project property. The operating company, Dolan's Fire Protection Supply, LLC, was formed in 2002 as a wholesaler of fire protection equipment. The Company markets exclusively to contractors who sell and service hand portable fire extinguishers and fire suppression systems across the U.S. TD Bank N.A. approved a \$1,625,000 loan contingent upon a 21% (\$342,000) Authority participation. Proceeds will be used to purchase the project property. Currently, the Company has twelve full time employees and plans to create fifteen new jobs over the next two years.

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

Tim Sullivan  
Chief Executive Officer

**Prepared by:** G. Robins