



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Timothy Sullivan  
Chief Executive Officer

**DATE:** December 8, 2020

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

**Loans/Grants/Guarantees**

**Real Estate**

**Board Memoranda**

**Public Comment**

**Adjournment**

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

**November 13, 2020**

**MINUTES OF THE 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; Catherine Brennan representing State Treasurer Elizabeth Muoio of the Department of Treasury; 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: Massiel Medina Ferrara, Public Member.

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

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

**MINUTES OF AUTHORITY MEETING**

The next item of business was the approval of the October 14, 2020 meeting minutes. A motion was made to approve the minutes by Ms. Bauer, and seconded by Commissioner Caride, and was approved by the 12 voting members present.

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

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

**COVID-19 RESPONSE**

**ITEM:** Additional Funding – Small Business Emergency Assistance Loan Program – Phase 1  
**REQUEST:** To approve additional funding of up to \$750,000 from the Economic Recovery Fund to support loan approvals for the Small Business Emergency Assistance Loan Program – Phase 1.  
**MOTION TO APPROVE:** Ms. Brennan   **SECOND:** Ms. Bauer   **AYES: 12**  
**RESOLUTION ATTACHED AND MARKED EXHIBIT: 1**

**ITEM:** Memorandum of Understanding with the Department of the Treasury

**REQUEST:** To approve a Memorandum of Understanding (MOU) with the NJ Department of the Treasury, and delegated authority to the CEO to enter into additional MOUs or amendments to the aforementioned MOU, to permit the Authority to accept additional funding from the Coronavirus Relief Fund established under the Federal CARES Act.

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Mr. Alagia      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 2**

**ITEM:** New Jersey Small and Micro Business PPE Access Program - Clarification of Delegated Authority

**REQUEST:** To approve changes to delegated authority for the New Jersey Small and Micro Business PPE Access Program.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 3**

**ITEM:** Sustain & Serve NJ

**REQUEST:** To approve the creation of the Sustain and Serve NJ Program, a pilot program that will make grant funding available to eligible public or private entities, for expenses directly associated with purchasing meals from New Jersey-based restaurants that have been negatively impacted by COVID-19; Utilization of up to \$2 million from the Economic Recovery Fund to fund the program; and delegated authority to staff to administer the program.

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Ms. Brennan      **AYES: 11**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 4**

Ms. Glover abstained because Audible invested in a firm that could potentially respond to this program.

**ITEM:** Adjustments to Delegations of Authority for COVID-19 Programs

**REQUEST:** To approve changes to delegated authority for COVID-19 Programs.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 5**

### **AUTHORITY MATTERS**

**ITEM:** 2019 Comprehensive Annual Report

**REQUEST:** To approve the Authority's Comprehensive Annual Report for 2019 as required under Executive Order No. 37 (2006).

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 6**

**ITEM:** Recommendation for Contract Award, 2020-RFQ/P-060, Independent Auditor Services

**REQUEST:** To approve entering into a contract to provide Independent Auditor Services to the Authority's Board and its Audit Committee.

**MOTION TO APPROVE:** Mr. Dumont      **SECOND:** Mr. Alagia      **AYES: 12**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 7**

**ITEM:** Microsoft Software and Services Enterprise Agreement

**REQUEST:** To approve the renewal of the Authority's Microsoft Enterprise Agreement in accordance with the specifications, terms and conditions of the State Contract.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 8**

**OFFICE OF ECONOMIC TRANSFORMATION**

**ITEM:** Memorandum of Understanding (MOU) – Exploring Crowdfunding Platforms for Entrepreneurs

**REQUEST:** To approve a Memorandum of Understanding (MOU) between the Authority and Rutgers University, for up to \$45,000 for Rutgers to review and recommend possible crowdfunding platforms for communities in New Jersey.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 9**

**ITEM:** Technology Business Tax Certificate Transfer Program: 2020 Approvals

**REQUEST:** To approve the program applicants that have been evaluated according to criteria established by the program legislation; and to recommend disapproval for specified program applicants due to lack of evidence to support required eligibility criteria for approval.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 10**

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

**ITEM:** Edison Innovation Fund & NJ CoVest Program(s) COVID-19 Amendment

**REQUEST:** To approve temporarily amending the 90-day program matching capital raise requirement and to suspend this period through March 26, 2021 for businesses that did close on a qualifying independent match-funding raise and do meet other traditional diligence and underwriting requirements.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 11**

**ITEM:** Consulting Services for Creation of the New Jersey Green Fund

**REQUEST:** To approve entering a contract to provide consulting services to the Authority in connection with the design, launch planning and implementation of the New Jersey Green Fund.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 12**

**INCENTIVES**

**GROW NEW JERSEY ASSISTANCE PROGRAM (GROW NJ)**

**ITEM:** Certification Extensions under GROW NJ

**REQUEST:** To approve the adoption of a staff delegation to approve two six-month certification extensions, as authorized under the law, for Grow recipients that experience project completion and/or reporting delays as a result of conditions experienced during the current State of Emergency in the State.

**MOTION TO APPROVE:** Ms. Bauer      **SECOND:** Ms. Brennan      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 13**

**ECONOMIC REDEVELOPMENT AND GROWTH (ERG) GRANT PROGRAM**

**ITEM:** Conditions Extensions Under Economic Redevelopment and Growth Grant

**REQUEST:** To adopt a staff delegation to approve up to two six-month conditions extensions beyond the initial two six-month extension for ERG recipients that experience project conditions satisfaction and/or reporting delays as a result of COVID-19 related impacts, and to consent to the waiver of fees for approved municipal or Authority projects for the initial two six-month conditions extensions during the current Public Health Emergency in the State.

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Ms. Bauer      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 14**

**FILM TAX CREDIT**

**ITEM:** Camdrew Productions, LLC      PROD. #00188067

**MAX AMOUNT OF TAX CREDITS:** \$535,795.20

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 15**

**ITEM:** Morning Star Films, LLC      PROD. #00188016

**MAX AMOUNT OF TAX CREDITS:** \$247,007.50

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Mr. Alagia      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 16**

**BONDS PROJECTS**

**Bond Resolutions**

**PROJECT:** New Jersey-American Water Company, Inc.      PROD. #00228009

**LOCATION:** Various Townships, Various Counties

**PROCEEDS FOR:** Refunding

**FINANCING:** 75,000,000

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Ms. Bauer      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 17**

**ITEM:** NJEDA School Facilities Construction Bonds, 2021 Series QQQ

**REQUEST:** To approve the adoption of the 43<sup>rd</sup> Supplemental Resolution authorizing the issuance of the 2021 Series Bonds in the total aggregate principal amount not to exceed \$350 million, and approval of associated delegations to staff to implement the refunding action.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 18**

**LOANS, GRANTS, GUARANTEES**

**ITEM:** Brownfields Loan Program – Modifications to Application Scoring Criteria, Application Review Process, and Delegated Authority

**REQUEST:** To approve modifications to the application scoring criteria, adjustments to the review process, and delegated authority for staff to decline applications based upon non-discretionary criteria.

**MOTION TO APPROVE:** Ms. Rosenblatt      **SECOND:** Ms. Marley      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 19**

**Hazardous Discharge Site Remediation Fund (HDSRF)**

**ITEM:** Summary of NJDEP Hazardous Discharge Site Remediation Fund Program projects approved by the Department of Environmental Protection.

**MOTION TO APPROVE:** Mr. Yuen      **SECOND:** Ms. Bauer      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 20**

**PROJECT: Glassboro Borough**

PROD. #00224176

**LOCATION:** Glassboro Borough, Gloucester County

**PROCEEDS FOR:** Preliminary Assessment, Site Investigation and Remedial Action

**FINANCING:** \$63,337.50

**PROJECT: Borough of National Park**

PROD. #00218899

**LOCATION:** Gloucester Township, Camden County

**PROCEEDS FOR:** Preliminary Assessment, Site Investigation and Remedial Action

**FINANCING:** \$831,031.00

**REAL ESTATE:**

**ITEM:** Ascendia Pharmaceuticals, LLC – Fifth Amendment to the Lease Agreement, New Jersey Bioscience Center, 661 US Highway 1 South (Building 2)

**REQUEST:** To approve the Fifth Amendment to the Lease Agreement with Ascendia Pharmaceuticals, LLC to lease additional rentable square feet for a six-month period with two six-month renewal options and to extend the expiration date for its use the tenant work allowance.

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

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 21**

**BOARD MEMORANDA:**

**FYI ONLY:** Credit Underwriting Projects Approved Under Delegated Authority, Oct. 2020

**Premier Lender Program**

**PROJECT:** Edwards Realty LLC (PROD. #00224186)

**LOCATION:** Parsippany-Troy Hills Township, Morris County

**PROCEEDS FOR:** Purchase the project property

**FINANCING:** ConnectOne Bank \$4,080,000 loan with a (26.47%) \$1,080,000 Authority participation.

**Micro Business Loan Program**

**PROJECT:** Power Penn Enterprises LLC DBA Brielle Sports Club (PROD. #00224248)

**LOCATION:** Brielle Borough, Monmouth County

**PROCEEDS FOR:** Inventory, payroll and rent costs

**FINANCING:** \$22,500 working capital loan and a \$2,500 forgivable working capital loan

**FYI ONLY:** Post-Closing Bond Delegated Authority Approvals for 3rd Quarter 2020

**FYI ONLY:** Post-Closing Credit Delegated Authority Approvals for 3rd Quarter 2020

**FYI ONLY:** Post-Closing Incentives Modifications under Delegated Authority, 3rd Quarter 2020

**FYI ONLY:** New Jersey and Micro Business PPE Access Program – Designated Vendor Delegated Authority Approvals for August, September and October 2020

**FYI ONLY:** Technology & Life Sciences - Delegated Authority Approvals for 3rd Quarter 2020

**PUBLIC COMMENT**

A comment was provided by Mr. Amit Tilani regarding additional availability of funding to support small businesses.

**EXECUTIVE SESSION**

The next item was to adjourn the public session of the meeting and enter into Executive Session to discuss matters involving real estate transactions, where disclosure could adversely impact the public interest.

**MOTION TO APPROVE:** Mr. Quinn **SECOND:** Commissioner Caride **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 22**

The Board returned to Public Session.

**REAL ESTATE**

**ITEM:** Second Lease Amendment Agreement with Live Nation Office Worldwide Inc., Camden Amphitheater also known as the BB&T Pavilion (f/k/a Tweeter Center), One Harbour Boulevard, Camden

**REQUEST:** To approve the Second Lease Amendment with Live Nation Worldwide, Inc. (Live Nation) as it relates to the Camden Amphitheater also known as the BB&T Pavilion (f/k/a Tweeter center), Once Harbour Boulevard, Camden, NJ.

**MOTION TO APPROVE:** Ms. Bauer      **SECOND:** Mr. Dumont      **AYES: 13**

**RESOLUTION ATTACHED AND MARKED EXHIBIT: 23**

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

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:** December 8, 2020

**Re:** December 2020 Board Meeting

Like everyone, at the start of 2020 I had no idea of the challenges that were to come. Nine months later, I am incredibly proud of the work the NJEDA team has done to support New Jersey's small businesses. To date, more than 48,000 small businesses and non-profit organizations have been approved for support totaling over \$223.6 million in grants, loans, technical assistance, and discounts on purchases of Personal Protective Equipment (PPE). We expect to have the full \$250 million in COVID-19 recovery funds the NJEDA is administering out the door by the end of the year.

Since launching Phase 3 of the Small Business Emergency Assistance Grant Program in late October, NJEDA staff has processed more than 18,000 grants totaling more than \$131 million. The bulk of these grants have gone to restaurants and microbusinesses, which have borne the brunt of COVID-19's economic impact. The program also targeted funding to businesses in Opportunity Zones, which has helped channel funds to women-, minority-, LGBTQ-, and veteran-owned businesses that felt the pandemic's harshest effects.

While we have made great strides, there remains considerable work to be done to ensure the recovery and long-term success of New Jersey's businesses. We continue to partner with and seek input from business leaders, local officials, and business owners from all over the state to inform plans for additional programs that will help New Jersey's businesses and communities not only recover, but also position themselves for long-term success. The Small and Micro Business PPE Access Program remains a valuable resource for small businesses seeking to stock up on PPE for employees and customers as the holiday season approaches. So far, the program has provided over \$5.1 million in discounts to more than 6,000 businesses. Other programs that we anticipate launching soon include Sustain and Serve NJ, which will provide funding to community organizations to purchase meals from restaurants and distribute at no cost to residents, and Phase 2 of the Small Business Emergency Assistance Loan Program.

In addition to our COVID-19 relief efforts, we also continue taking concrete steps to prepare New Jersey communities for long-term, equitable growth. The expanded Brownfields Loan Program, which we anticipate launching in January, will help communities revitalize contaminated sites, transforming dangerous eyesores into valuable community assets. We also continue to support the growth of New Jersey's offshore wind industry through development of the New Jersey Wind Port, coordination of the WIND Institute, and other initiatives, including the Offshore Wind Supply Chain Registry and new training programs to ensure students and workers have the skills they need to succeed in offshore wind. To ensure equity in the growing industry, we also recently created a Diversity and Local Engagement Advisory Committee that will increase opportunities for historically marginalized populations and local community members to participate in the New Jersey Wind Port project

2020 has been a challenging year, but the challenges have also revealed our strength, both as individuals and as a New Jersey community. I am profoundly grateful for the tireless work and dedication of NJEDA staff,



our partners, and this Board. I am excited to enter 2021 with you, fueled by the promise of a COVID-19 vaccine and hopeful for better days ahead.

Happy Holidays!

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

**AUTHORITY MATTERS**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan  
Chief Executive Officer  
**DATE:** December 8, 2020  
**RE:** **2021 Fiscal Plan**

**Summary**

The Authority seeks approval to extend the 2020 fiscal plan through January 2021 when staff anticipates presenting the annual fiscal plan to the board for approval.

**Background**

Article V, Section 2c of the Authority's Bylaws requires staff to prepare and submit a proposed annual budget for the Authority for each ensuing year for adoption by members of the Authority. The Bylaws do not specify a deadline or timeframe for submission of the proposed annual budget.

Historically, staff has presented a fiscal plan to the board each year in December. In light of the circumstances facing the Authority this past year and the current COVID-19 situation, staff intends to present the fiscal plan in January. This timing is due to several factors. First, over the past nine months, the Authority has shifted focus to programs assisting small businesses and nonprofits during the COVID-19 pandemic. Many of these programs rely upon funding from the Coronavirus Relief Fund (CRF) established under the Federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act). To comply with the CARES Act and U.S. Department of the Treasury requirements, all CRF grant funds must be expended no later than December 30, 2020. To meet that federally mandated deadline, the Authority must focus attention on administering its CRF-funded programs and disbursing grants.

Additionally, the State extended its 2020 fiscal year by three months because of uncertainty about the coronavirus' effect on revenue and how much stimulus is coming from the federal government. The State did not adopt its FY 2021 budget until September 29, 2020. Finally, there has been a delay in expected new program legislation. To address and accommodate these circumstances, staff needs to defer our presentation of the NJEDA 2021 fiscal plan until January in order to prepare a more complete and accurate budget.

Pursuant to the requirements of Article VII, Section 3b of the Authority's Bylaws and the Audit Committee Charter, staff will present the fiscal plan to the Audit Committee for review once it is finalized. Staff anticipate presenting the proposed budget to the Audit Committee in early January, in advance of the January Board meeting.

The January Board meeting is currently schedule for Friday, January 15, 2021. The Authority plans to seek early approval by the Governor of the minutes for this item. Accordingly, staff only expects to operate three weeks into the new year without an approved 2021 annual budget. During that time period, staff expects to incur normal operating costs including administrative expenses, salary & fringe, and program costs that have been pre-approved by the board.

**Recommendation**

Staff is requesting that the 2020 fiscal plan continue to govern the Authority's financial operations from January 1, 2021 until a new budget is approved on January 15, 2021 and the expiration of the Governor's veto period or early approval.



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Tim Sullivan  
Chief Executive Officer

Prepared by: Fred Cole



**MEMORANDUM**

**Outside Special Legal Counsel**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**DATE:** December 8, 2020

**RE:** Special Counsel: Executive Order 52 (Murphy 2019), Attorney General Investigation, and Holtec Legal Action – Amendment to Retention Agreement

**Summary**

The Members are asked to approve additional contract funding of \$1,000,000 (for a revised fee cap of \$3,400,000) due to ongoing need for representation related to the subject legal matters. The additional funding will be at the blended hourly rate for all attorney positions of \$450/hour outlined in the original retention letter executed between the Authority and Friedman, Kaplan, Seiler, and Adelman, LLP (“Friedman Kaplan”) on February 21, 2019.

**Background**

On January 24, 2019, Governor Murphy signed Executive Order 52 which established a Task Force on EDA’s Tax Incentives (the “Task Force”). The mission of the Task Force is to conduct an in-depth examination of the deficiencies in the design, implementation, and oversight of Grow NJ and ERG, including those identified in the 2019 State Comptroller’s performance audit, to inform consideration regarding the planning, development and execution of any future iterations of these or similar tax incentive programs. The Task Force holds public hearings and asks individuals to testify who can provide insight into the design, implementation, and oversight of these programs. The Task Force will report its findings to the Governor and the Legislature, as appropriate.

The Attorney General announced a separate investigation of these programs.

Based on the foregoing, EDA staff in consultation with an ad hoc committee of Board members determined it was in the best interest of the Authority to retain special counsel for the Board and the staff.

On January 31, 2019, the Authority issued a Solicitation of Proposals (“Solicitation”) for Emergent, Specialized Legal Services. The purpose of the Solicitation was to obtain proposals from certain well-qualified, non-conflicted law firms that were identified by a committee of the Board to represent both the EDA Board and staff. The Solicitation resulted in an award of a one (1) year contract with three (3), one (1) year extension options at an initial retention of \$250,000 approved under delegated authority to Friedman Kaplan. This amount was increased by:

- \$400,000 with board approval on May 14, 2019, revising the fee cap to \$650,000
- \$400,000 with board approval on June 11, 2019, revising the fee cap to \$1,050,000
- \$850,000 with board approval on August 13, 2019, revising the fee cap to \$1,900,000
- \$500,000 with board approval on February 20, 2020, revising the fee cap to \$2,400,000

Work began in February of 2019 and is ongoing. Friedman Kaplan has provided continual advice and counsel with respect to matters bearing upon the investigations. Services include assistance, counseling, and guidance to the EDA Board and staff, as applicable, with respect to the production of documents, subpoenas, public hearing testimony, overall strategy, regulatory and fiduciary obligations, and potential litigation. If legal action is taken against the Authority related to the investigations, Friedman Kaplan may be requested to prepare, commence, and manage litigation on behalf of the Authority. Preparation may include significant pre-filing evaluative and investigative work. Litigation will include: drafting pleadings, motions, briefs and all other papers to be filed in court; conducting and responding to discovery; attending all pre-trial, trial and post-trial court appearances; conducting settlement negotiations and handling appeals. Special Counsel will also be expected to handle all issues arising in the litigation, including all issues that must be raised in compliance with the entire controversy doctrine. Special Counsel must regularly communicate with EDA Board Members and staff, as applicable.

Through July 31, 2020, the Authority has paid approximately \$2,354,000 under the retention agreement.

To date, \$500,000 has been reimbursed through the Authority's insurance coverage. This was the result of an initial approval for \$750,000, net of a policy deductible of \$250,000. Additional reimbursements are expected as costs are submitted, reviewed, and approved by the carrier.

**Recommendation**

In summary, approval is requested for ongoing additional contract funding of \$1,000,000 (for a revised fee cap of \$3,400,000) at the same blended hourly rate for all attorney positions of \$450/hour under the same terms and conditions outlined in the original retention letter of February 21, 2019. It should be noted that these fees are being paid from the Authority's net assets and will not detract from existing EDA programs or burden the taxpayers of the state. Additionally, some of the costs are expected to continue to be reimbursed through the Authority's insurance coverage.



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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:** December 8, 2020

**SUBJECT:** Offshore Wind Safety Training Challenge Memorandum of Understanding (MOU) — New Jersey Economic Development Authority (NJEDA) and Office of the Secretary of Higher Education (OSHE)

**REQUEST**

The Members are requested to approve a Memorandum of Understanding (MOU) between NJEDA and OSHE. This MOU enables NJEDA and OSHE to collaborate to deliver a new program, the New Jersey Offshore Wind Safety Training Challenge, which will help to establish an industry-recognized safety training program and facility to prepare New Jersey workers to participate in and support the growth of offshore wind in the State. OSHE will be responsible for the program while NJEDA will provide program design and execution support, in addition to providing \$3 million in funding that the New Jersey Board of Public Utilities (NJBPU) provided to NJEDA per the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA and NJBPU that was executed on September 28, 2020.

**BACKGROUND**

Governor Murphy’s economic development plan, “The State of Innovation: Building a Stronger and Fairer New Jersey Economy” identifies offshore wind as one of the State’s strategic sectors for accelerating growth in New Jersey’s economy. In addition, the plan outlines the concept of a “WIND Institute” to drive workforce development and research and development for offshore wind in the State.

The Governor’s WIND Council was established through Executive Order No. 79 in 2019 to further develop the mandate for a future WIND Institute that could be established by the Legislature. The WIND Council engaged industry and local stakeholder groups, including local labor unions, county colleges, and vocational technical schools, to evaluate the State’s existing workforce development assets and to identify gaps in these areas that must be addressed to strengthen New Jersey’s leadership position in offshore wind. On April 22, 2020, the WIND Council released a report summarizing recommendations.

One of the key workforce development needs identified by the WIND Council, which was also outlined in the New Jersey Offshore Wind Strategic Plan released by the New Jersey Board of Public Utilities (NJBPU) in September 2020, is Global Wind Organization (GWO) Basic Safety and Sea Survival Training. The GWO is a non-profit body founded by leading wind turbine manufacturers

and operators that aims to support an injury-free environment in the wind industry. It has set the industry-recognized standard for safety training in the industry and its members, including manufacturers and owners of wind turbines, require that many of their offshore workers complete and become certified in GWO Basic Safety and Sea Survival Training.

To achieve New Jersey's target of generating 7,500 MW by 2035 and planned solicitations as defined by NJBPU, it is estimated that at least 1,825 workers will be required to complete GWO Basic Safety and Sea Survival Training and/or complete a comparable refresher course between 2023 and 2036. Ensuring that workers receive the training in a timely manner so that they are able to support the State's offshore wind solicitation schedule and meet the needs of the industry as they arise will be critical. In addition, there may be opportunities to further leverage the program and/or facility to a) certify workers in the broader Mid-Atlantic region, b) provide other training programs that leverage the same equipment, and c) create new pathways into the industry for New Jersey students and workers by providing proactive training experiences to build new skills.

The aim of the New Jersey Offshore Wind Safety Training Challenge is to launch a GWO certified Basic Safety and Sea Survival Training program and supporting facilities in New Jersey. The training will enable New Jersey workers to obtain an industry-recognized safety certification that is required for a number of jobs in offshore wind, empowering them to participate in New Jersey's growing offshore wind industry and contribute to the growth of the State's industry.

### **MOU DESCRIPTION**

The MOU will enable NJEDA and OSHE to collaborate to implement OSHE's New Jersey Offshore Wind Safety Training Challenge. The Challenge will provide New Jersey-based academic institutions and training providers, including labor unions, an opportunity to submit proposals for establishing a Global Wind Organization (GWO) accredited Basic Safety and Sea Survival Training program and facility in New Jersey. OSHE, with program design and execution support from NJEDA, will evaluate, score, and rank proposals to select one winning proposal. The winning applicant will receive a grant up to \$3 million to support implementation of the program and construction of the supporting facility.

OSHE will administer the program and be responsible for making final decisions on all major issues, including but not limited to providing final approval of program design and execution, awarding the grant to the winning applicant, and managing the appeals process pursuant to their policies and procedures.

NJEDA will provide program design and execution support. NJEDA's staff responsibilities will include:

- Developing a proposed program design, including structure, timing, submission requirements, and scoring guidance, which will be reviewed and approved by OSHE;
- Marketing the program to potential applicants within New Jersey;
- Managing program logistics, including managing applicant engagement and proposal submissions; and
- Supporting OSHE in the evaluation of submitted proposals.

NJEDA will provide OSHE with \$3 million to be awarded as a grant to the winning applicant in the New Jersey Offshore Wind Safety Training Challenge. This budget will solely utilize funds provided

by NJBPU to NJEDA per the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA and NJBPU that the Board previously approved on September 9, 2020 and was executed on September 28, 2020.

OSHE will have final approval of the program design and administer the grant to the winning applicant.

**RECOMMENDATION**

It is the recommendation of Authority staff that the Members approve the MOU between NJEDA and OSHE, attached as Exhibit A, to enable NJEDA to provide program design and execution support to OSHE to run the New Jersey Offshore Wind Safety Training program.



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Tim Sullivan, CEO

Prepared by: Kelli Brown

Attachment: Exhibit A – Proposed MOU for New Jersey Offshore Wind Safety Challenge

Exhibit A

NEW JERSEY OFFSHORE WIND SAFETY TRAINING CHALLENGE  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AND  
THE OFFICE OF THE SECRETARY OF HIGHER EDUCATION

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this \_\_\_\_\_ day of December 2020 by and between the New Jersey Economic Development Authority (“NJEDA”) and the New Jersey Office of the Secretary of Higher Education (“OSHE”). The NJEDA and the OSHE 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

WHEREAS, OSHE is a state agency that works to ensure that New Jersey’s richly diverse population of full and part-time students has access to a high-quality higher education by advocating for, and developing policies and programs that provide students from all backgrounds accessible and affordable higher education opportunities; and

WHEREAS, Governor Murphy’s economic development plan, “The State of Innovation: Building a Stronger and Fairer New Jersey Economy”, identifies offshore wind as one of the State’s strategic sectors for accelerating growth in New Jersey’s economy; and

WHEREAS, the Governor’s WIND Council was established through Executive Order No. 79 in 2019 to develop the mandate of a future WIND Institute that could be established through the Legislature and, through engagement of industry and local stakeholder groups, including local labor unions, county colleges, and vocational technical schools, the WIND Council identified unmet workforce development needs in the State that must be addressed to strengthen New Jersey’s leadership position in offshore wind; and

WHEREAS, one of the of the key workforce development needs identified by the WIND Council is Global Wind Organization (GWO) Basic Safety and Sea Survival Training, which is the industry-recognized standard for safety training in the industry and offshore wind manufacturers and owners of wind turbines require that many of their offshore workers complete GWO Basic Safety and Sea Survival Training; and

WHEREAS, the New Jersey State Plan for Higher Education, “Where Opportunity Meets Innovation: A Student-Centered Vision for New Jersey Higher Education”, outlines a vision that includes New Jersey’s academic institutions collaborating with industry to develop high quality, market-relevant programs, enabling businesses to expand their presence in the state and equipping New Jerseyans to effectively fill workforce needs; and

WHEREAS, the New Jersey Offshore Wind Safety Training Challenge is a new initiative that will help to establish an industry-recognized safety training program and facility, the first of its kind in the State, to prepare New Jersey workers to participate in and support the growth of offshore wind in the State; and

WHEREAS, the New Jersey Offshore Wind Safety Training Challenge will provide New Jersey-based academic institutions and training providers, including labor unions, an opportunity to submit proposals for establishing a Global Wind Organization (GWO) accredited Basic Safety and Sea Survival Training program in New Jersey and, following an evaluation of proposals, the winning applicant will receive a grant up to \$3 million to support implementation of the program and construction of the supporting facility; and

WHEREAS, the NJEDA and OSHE have a history of partnering with each other in the furtherance of workforce development efforts and the Parties agree that this MOU will jointly advance implementation of the State's economic development and higher education goals; and

WHEREAS, OSHE will leverage its training and workforce development expertise to administer the New Jersey Offshore Wind Safety Training Challenge and NJEDA has agreed to provide OSHE with program design and execution support; and

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

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

1. DUTIES OF THE PARTIES: To achieve the goals of this MOU, the Parties hereby agree as follows:
  - a. NJEDA, in support of OSHE's efforts to launch a GWO accredited Basic Safety and Sea Survival Training program in New Jersey, will provide OSHE with program design support including a proposed program structure, timeline, proposal submission requirements, scoring guidance and solicitation document. NJEDA will provide these program design recommendations to OSHE within one week of the MOU being executed.
  - b. OSHE will review the program design recommendations provided by NJEDA to provide feedback and final approval prior to implementation.
  - c. NJEDA will be responsible for marketing the program to New Jersey-based academic institutions and training providers, including drafting a press release, outreach to potential applicants, and creating a website for the program.
  - d. NJEDA will be responsible for the process of receiving proposals from applicants in accordance with the program submission deadlines approved by OSHE.
  - e. OSHE and NJEDA will evaluate proposals with two delegates from OSHE and two delegates from NJEDA comprising the Evaluation Committee to assess and rank proposals. OSHE will make the final decision on the award based on the scoring.
  - f. NJEDA will provide OSHE with \$3 million to be awarded as a grant to the winner of the Challenge. This will be funded by monies that NJEDA received from the New Jersey Board of Public Utilities (NJBPU) per the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA and NJBPU that was executed on September 28, 2020.
  - g. OSHE will provide a grant up to \$3 million to the winner of the Challenge, using the funds provided by NJEDA.
  - h. OSHE will manage any applicant appeals or protests to the award of the grant pursuant to its own policies and procedures.
2. TERM: This MOU shall become effective on the date it is fully executed by both Parties and shall continue for a period of five (5) years. This MOU may be extended only by prior written agreement by the Parties.

3. SUBJECT TO THE AVAILABILITY OF FUNDING: The funding that NJEDA will provide under this MOU is subject to receipt of the funds from NJBPU, per the Offshore Wind Sector Initiatives Memorandum of Understanding between NJEDA and NJBPU that was executed on September 28, 2020.
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. ASSIGNMENT: This MOU shall not be assignable, but shall bind and inure to the benefit of the Parties hereto and their respective successors.
6. AMENDMENT: 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.
8. NOTICE: All correspondence and notices to OSHE regarding this MOU shall be addressed to the following person or his/her delegate or replacement:

Diana Gonzalez  
Deputy Secretary of Higher Education Office of the Secretary of Higher Education  
1 John Fitch Way 10th floor, 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:

Kelli Brown  
Senior Project Officer  
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.), and the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). Therefore, the Parties agree that each Party 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 Office of the Secretary of Higher Education:

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

\_\_\_\_\_  
Diana Gonzalez  
Deputy Secretary of Higher Education

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE



**TO:** Members of the Authority  
**FROM:** Tim Sullivan  
**DATE:** December 8, 2020  
**SUBJECT:** New Jersey Wind Port Project – Clarification and Budget Request for Design and Related Preconstruction Works

**Request:**

The Members of the Authority are asked to approve an additional \$3.9 million in funding for design and related preconstruction services for the New Jersey Wind Port project.

As part of the \$3.9 million overall funding request, Members are also asked to approve an \$0.81 million increase in the authorization under the Authority’s contract with Moffat & Nichol (“M&N”) for additional engineering and design services.

**Summary**

In September, the Board approved the assignment of the M&N contract from PSEG with a scope encompassing possible detailed design, feasibility design, construction administration work, and other design related work for the Port. The Board also approved specific work under that contract with a not-to-exceed amount of \$8.32 million.

While the Phase 1a detailed design cost remains unchanged from the cost provided to the Board in September, the September 2020 M&N contract assignment memorandum (“September 2020 Memorandum”) anticipated that \$4.84 million of the total contract value (relating to Phase 1a detailed design) would be included in the budgeted costs under the Authority’s Letter of Intent (LOI) with PSEG. The actual amount included in the LOI budget should have been \$1.75 million. The balance of the \$4.84 million (\$3.09 million) is an additional exposure for the Authority on the project as part of the M&N contract assignment.

In addition, Staff are requesting approval for approximately \$0.81 million to support new unanticipated design-related costs that have emerged during project development and as site conditions have become known, and to support anticipated preconstruction works that need to be accelerated in order to preserve the overall project schedule.

Approval of this request will increase the total value of M&N’s contract to \$9.13 million, however the costs incurred directly by the Authority under the contract will total \$7.38 million – recognizing that \$1.75 million of Phase 1a detailed design costs have been expended by PSEG and will be budgeted under the \$7 million LOI reimbursement cap.

The Authority's total approved funding to date for Wind Port design and related preconstruction works will increase to \$14.38 million from \$10.48 million.<sup>1</sup>

### **Background**

This update follows the September 2020 Memorandum (see Exhibit A), upon which the Board approved the assignment to the Authority of a contract with Moffat & Nichol for engineering and design services (the contract being currently held by PSEG).

As part of that approval, the Board approved a not-to-exceed amount of \$8.32 million for certain work under the M&N contract. At the time Staff reported that \$4.84 million of the contract value (for Phase 1a detailed design) would be wholly covered under the \$7 million approval for reimbursement of PSEG costs under the terms of the Authority's Letter of Intent ("LOI") with PSEG.

Detailed design costs for Phase 1a remain unchanged at \$4.84 million. However, only \$1.75 million of this cost will be paid by PSEG and, thus, should be included in the budget under the PSEG LOI. The balance, \$3.09 million, is therefore not budgeted under the LOI. Additionally, the entire remaining amount of the \$7 million funding capacity under the LOI is now budgeted to other pre-construction work (that is, not work within the scope of the M&N Phase 1a design contract). These (non-M&N) pre-construction work items include:

- Feasibility and preliminary design work related to the relocation of PSEG facilities;
- Permitting related to facility relocation;
- Phase 2 permitting; and
- Utilities feasibility assessment.

In addition, Staff are requesting an additional \$0.81 million to cover additional work under the M&N contract. The first is the addition of a new parcel (Parcel E) in Phase 2 feasibility design work. At the time of the original M&N contract, it was believed that this parcel would not be leased as part of the project however, NJEDA now anticipates leasing this land as part of Phase 2. This increases Phase 2 feasibility design costs by \$0.15 million.

The balance, \$0.67 million, covers previously unanticipated task orders as well as anticipated tasks that have been brought forward to preserve the project's development schedule. These works relate to Phase 1 (surveying; hydrological studies; vibration analysis; geophysical analysis; and groundwater lowering) and Phase 2 (geotechnical works). These works will be undertaken by M&N and its subcontractors.

The addition of this \$0.81 million in additional design-related works will increase the total value of M&N's contract to \$9.13 million, however costs incurred directly by the Authority under the contract will total \$7.38 million – recognizing that \$1.75 million of Phase 1a detailed design costs have been expended by PSEG and are budgeted under the \$7 million LOI reimbursement cap.

As outlined in Figure 1 below, these additional costs increase the Authority's total anticipated design and related preconstruction costs by \$3.9 million, including both costs it will incur directly as well as costs it will incur indirectly (under the LOI with PSEG).

<sup>1</sup> The Board has additionally approved \$4.67 million for economic feasibility, as well as financial, technical, appraisal and legal services.

**Figure 1 – Currently approved funding for design and preconstruction works, and Staff’s additional funding request**

<b>Activity</b>	<b>Current funding approval</b>	<b>Additional funding request</b>
<b>Costs incurred by PSEG (to be reimbursed by NJEDA under the LOI)</b>	\$7 million (of which \$4.84 million was attributed to the cost of Phase 1a detailed design)	No increase  The capacity freed-up under the LOI cap from the Authority directly incurring \$3.09 million of the Phase 1a detailed design will be allocated to other works
<b>Phase 1a detailed design (M&amp;N contract)</b>	No funding approval as Staff had anticipated this cost (\$4.84 million) to be wholly budgeted in the \$7 million LOI cap	\$3.09 million  This amount represents the balance of the total \$4.84 million cost of Phase 1a detailed design that is not budgeted within the \$7 million LOI reimbursement cap
<b>Phase 1 b feasibility design (M&amp;N contract)</b>	\$0.115 million	No increase
<b>Phase 1b detailed design (M&amp;N contract)</b>	\$1.125 million	No increase
<b>Phase 1a &amp; b construction administration services (M&amp;N contract)</b>	\$1.875 million <sup>2</sup>	No increase
<b>Phase 2 feasibility design (M&amp;N contract)</b>	\$0.365 million	\$0.15 million  Phase 2 feasibility costs have increased due to the addition of an approximately 55-acre parcel (“Parcel E”) into the Phase 2 scope, as well as the bringing forward of certain Phase 2 preliminary design costs
<b>Other design-related works (M&amp;N contract)</b>	None	\$0.665 million  These costs relate to four design-related field directives and two purchase orders (POs). The four field directives were authorized by PSEG under the M&N contract through the LOI but payment has not yet been made. PSEG have retained the obligation to make payment to M&N for the four field directives. By approving this increase under the assigned M&N contract, the Authority will bear the costs directly and free up additional budget capacity under the LOI. The two POs have not yet been approved.
<b>TOTAL</b>	<b>\$10.48 million</b>	<b>\$3.9 million</b>

<sup>2</sup> A not to exceed amount of \$1.875 million for construction phase services for Phase 1a and 1b was priced for the purposes of approving the contract assignment, but actual expenses will be based on time and materials.

Board members should note that certain of the above costs will extend into 2021 and, in the case of construction phase services, to mid-2023. The Authority’s current actual costs incurred and forecast costs is included below in Figure 2. This forecast is staff’s best efforts at this time. As this project is still in its early stages, there is the potential for costs to move forward or backwards.

**Figure 2 – Current & forecast preconstruction costs to the end of March 2021**

<b>Current (End of Oct)</b>	<b>By end of Nov</b>	<b>By end of Dec</b>	<b>By end of Jan</b>	<b>By end of Feb</b>	<b>By end of Mar</b>
\$5.04 million	\$5.96 million	\$7.12 million	\$8.17 million	\$9.04 million	\$9.57 million

Staff will keep the Board closely informed of current and anticipated design and preconstruction costs.

**Recommendation:**

The Members of the Authority are asked to approve an additional \$3.9 million in funding for design and related preconstruction services for the New Jersey Wind Port project.

As part of the \$3.9 million overall funding request, Members are also asked to approve an \$0.81 million increase in the authorization under the Authority’s contract with Moffat & Nichol (“M&N”) for additional engineering and design services.




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Tim Sullivan, CEO

Prepared by: Brian Sabina, Jonathan Kennedy, Dennis Feeney

## Exhibit A – September 2020 Memorandum on design contract assignment

September 9, 2020 Meeting Board Book - REAL ESTATE



### MEMORANDUM

**TO:** Members of the Authority  
**FROM:** Tim Sullivan  
**DATE:** September 9, 2020  
**SUBJECT:** New Jersey Wind Port – Engineering and Design Contract Assignment

#### REQUEST

The Members of the Authority are asked to approve the assignment of the attached Moffatt and Nichol (M&N) New Jersey Wind Port Engineering and Design contract from PSEG Nuclear (PSEG) to NJEDA and amendment thereof (Assignment) (Attachments 1 and 2) as a sole source procurement.

NJEDA is seeking to assume this contract from PSEG due on the changing relationship with PSEG and in order to have direct control over the design process and to establish privity with the port designer. In addition, the Authority is amending the contract to:

1. Conform to New Jersey public sector contracting requirements; and
2. Better fit the Authority's increased role to lead the development for the New Jersey Wind Port, including, adding a second scope of work (Scope 2) to cover:
  - a. Feasibility Design and Detailed Design work for Phase 1b;
  - b. Construction phase services for Phase 1a and Phase 1b; and
  - c. An option for design and construction phase services related to Phase 2 of the project.

Staff are currently seeking approval for a total not to exceed contract value of \$8.32 M. This includes \$7.95 M for Phase 1a and Phase 1b and \$365,000 under the Phase 2 option.

Of the total \$8.32 M, the Authority has already budgeted \$4.84 M for Phase 1a detailed design (Scope 1), originally envisioned as reimbursement to PSEG under the terms of the Letter of Intent ("LOI") with PSEG. The new, second scope included in this contract adds additional feasibility and detailed design work for Phase 1b with a not to exceed amount of \$1,240,000. Of this, \$115,000 is based on a lump-sum estimate for feasibility design work for Phase 1b and \$1,125,000 is based on an estimate of the detailed design of Phase 1b.

September 9, 2020 Meeting Board Book - REAL ESTATE

The balance of the contract amount, not to exceed \$1.875 M for construction phase services for Phase 1a and 1b, is being priced through this contract assignment, but actual expenses will be based on time and materials utilized during construction administration and therefore will not be incurred until after the project's financing.

Overall, this contract will increase the Authority's pre-financing budget by a total of \$1.60 M. Similar to other pre-financing costs, these funds are expected to be reimbursed to the NJEDA at the time of the project's financing.

This Assignment will help the Authority lock in hourly pricing for time and materials related expenses for Phase 2 work. Staff will come back to the Board to request approval for any additional lump sum or time and materials-based work related to Phase 2 option.

## **BACKGROUND**

M&N is a world-renowned leader in design and engineering services for ports. M&N has been involved with the offshore wind industry in the United States since the early 2000s when it designed the offshore substation for the now defunct Cape Wind Project in Massachusetts.

M&N has more than 75 years of experience as waterfront infrastructure planners and designers and is now focused on the retrofit and new design of port infrastructure to support the offshore wind industry.

M&N has a dedicated group of engineers that works exclusively on OSW ports.

In addition to working on the New Jersey Wind Port, M&N is the lead designer of the OSW marshalling port at the State Pier in New London, CT for Baystate Wind (a joint venture of Orsted and Eversource) and the Connecticut Port Authority (Connecticut State Pier project). The Connecticut project is similar to the marshalling port planned at the NJ Wind Port, and M&N has reached the 60 percent level of design for the Connecticut State Pier project. This technical experience and expertise will help provide insight for the upcoming detailed design.

In addition to the Connecticut State Pier project, M&N is currently working on or has completed the following OSW port projects (sample projects):

1. Design of OSW marshalling port in Mid-Atlantic region for a confidential client;
2. Design of heavy lift wharf for Port of Albany to support OSW waterfront component manufacturing site;
3. Design of pier as home berth for OSW service operations vessel (LOA +/- 350') in New York for a confidential client;
4. Feasibility study and economic analysis of existing waterfront infrastructure (8 sites) to establish capability to service OSW industry for the Port Authority of New York and New Jersey;

September 9, 2020 Meeting Board Book - REAL ESTATE

5. State of Maine Port Infrastructure Assessment, economic analysis and concept design to establish capability to service OSW industry for Maine Department of Transportation;
6. Port planning, loading analysis and design retrofits of existing Piers 1 and 2 at Port of Davisville, RI to serve as loadout point for OSW components; and
7. Design oversight of waterfront OSW monopile factory for Orsted/EEW in Paulsboro, NJ. This facility will allow for RORO transfer of monopiles up to 3000 tons.

M&N was originally engaged to assess the technical feasibility of developing an offshore wind marshalling port at the Lower Alloways Creek site by Orsted, a global offshore wind developer, through a competitive procurement process. This effort was undertaken as part of Orsted's Ocean Wind project submission for the New Jersey Board of Public Utilities' (NJBP) first offshore wind solicitation in 2018. While the NJBP did award a 1,100 MW project to Ocean Wind through its first solicitation, it decided not to fund the development of the port through ratepayer fees, and thus did not approve that portion of Ocean Wind's proposal. After the port was not funded through the NJBP process, Orsted provided the results of the technical feasibility study to PSEG (the owner of the land). Separately, the NJEDA had also identified the Lower Alloways Creek as a site with high potential for a co-located marshalling and manufacturing site and began investigating its feasibility. As part of NJEDA's evaluation of the site's technical potential, NJEDA's requested and received from Orsted the results of the original M&N technical feasibility study.

In late summer 2019, PSEG approached NJEDA about the potential to develop an offshore wind port on the site, and in October 2019 NJEDA and PSEG entered into an LOI to cooperate on conducting an economic and financial feasibility study of the site (October 2019 LOI), while beginning discussions about PSEG's and EDA's continued cooperation on the development of a possible port. At that time, in anticipation of an active role in the design and engineering work for the port, PSEG directly procured M&N's services, at PSEG's own risk, for conceptual design because M&N are a leading port engineering firm and were familiar with the site and a possible port project. The rates PSEG secured were based on the rates that were competitively procured by Orsted.

Based upon the economic and financial feasibility study completed under the October 2019 LOI, NJEDA decided it was in the Authority's and the State's best interest to partner with PSEG to pursue the development of the NJ Wind Port Project at the Lower Alloways Creek site and entered into a binding LOI with PSEG in April 2020 (approved at NJEDA's March 2020 Board meeting) to continue the project's development (April 2020 LOI).

From the inception of the project, the goal was to develop the port by 2023, to have the opportunity to support marshalling and manufacturing work related the New Jersey's first wind solicitation. This goal is consistent with the Governor's plan to jumpstart the offshore wind industry, including development of the supply chain, in New Jersey.

September 9, 2020 Meeting Board Book - REAL ESTATE

As part of the April 2020 LOI, NJEDA agreed to reimburse PSEG for certain port-related work undertaken by PSEG directly or through contractors, which included work by M&N. Accordingly, in June 2020, NJEDA Staff approved a Purchase Order for \$2.59 M to cover the first half of the Scope 1 (Phase 1a detailed design), with the expectation that pending successful completion, it would also approve a Purchase Order for the balance of the \$4.84 M needed to complete this work. (Note: through this contract assignment, the full \$4.84 M will be paid by directly by NJEDA to M&N instead of NJEDA reimbursing PSEG.)

As part of the evolution of the relationship between PSEG and NJEDA, which entailed NJEDA taking the role as sole developer of the NJ Wind Port, PSEG and NJEDA Staff determined it was more appropriate for NJEDA to assume direct control of the design of the project. Accordingly, in order to ensure a smooth transition of the existing design and engineering services and to be able to meet the 2023 deadline, Staff is recommending that NJEDA assume the M&N contract, through an assignment. This will provide NJEDA with direct privity with the port designer, which allows NJEDA to directly interact with M&N and to integrate M&N's role as engineer with the future construction work. As part of this assignment, NJEDA is including a second scope of work (Scope 2) to cover:

- Design work for Phase 1b;
- Construction phase services for Phase 1a and Phase 1b; and
- An option for design services related to Phase 2 of the project.

#### SUMMARY OF CONTRACT

PSEG currently has a contract with M&N for detailed design work for Phase 1a of the port project (Scope 1). NJEDA seeks to assume Scope 1 under the PSEG contract and to add Scope 2.

Upon assumption of the contract, NJEDA Staff proposes to initiate the portion of Scope 2 related to Phase 1b feasibility and detailed design immediately and the portion of Scope 2 related to feasibility design. NJEDA Staff anticipate initiating Phase 1a and 1b construction phase services when construction on the project starts (targeted Q2 2021)

NJEDA staff will come back to the Board to request approval to exercise additional work under the option for Phase 2 of the Port.

#### Scope 1

Scope 1 consists of the design of the following improvements, which collectively comprise Phase 1a of the project:

- A dredged vessel approach channel between the Federal Delaware River Channel and the Port site (approximately 5,000 feet), dredged to a depth of -32.38 feet relative to Mean Lower-Low water with 1.5 feet of over dredge;

September 9, 2020 Meeting Board Book - REAL ESTATE

- A vessel turning basin dredged to a depth of -32.38 feet relative to Mean Lower-Low water with 1.5 feet of over dredge and two berthing pockets (combined length of 1,280 linear feet); and
- Parcel A, a 30-acre area developed for offshore wind marshalling and assembly, which includes a heavy lift wharf and high-load upland areas.

Scope 1 has been broken down into two phases:

- Phase 1 of Scope 1 (\$2.59 million) includes geotechnical work and engineering to advance Phase 1a to 30 percent detailed design; and
- Phase 2 of Scope 1 (\$2.25 million) includes the balance of engineering to reach full Phase 1a design.

## Scope 2

Scope 2 consists of Phase 1b design works and Phase 1a and Phase 1b construction administration services.

Phase 1b design work includes Parcel G, an approximately 20-25-acre area developed for tier-1 offshore wind component manufacturing (but which may be utilized as additional storage or staging area for Parcel A in the short-term); and a heavy lift corridor between Parcel A and Parcel G to enable components to be moved back and forth between the heavy lift wharf and Parcel G.

Key Phase 1a and Phase 1b construction administration services include services and activities related to M&N overseeing construction of the project. (See attached scope for full list of services):

- M&N will review and discuss with the entity responsible for constructing and advise the NJEDA in relation to, any recommendations from the constructing entity with respect to value engineering or constructability issues;
- M&N will assist the constructing entity in identifying ways to effectively package the construction work to multiple contractors and advise NJEDA with respect to those packages;
- The M&N representative will be considered the site Resident Engineer (RE) and will observe the installation of the work to monitor and ensure compliance with the contract documents;
- M&N will consult with the NJEDA, provide administration of the contract between the NJEDA and the constructing entity, and act as the NJEDA's representative, as provided in the Terms and Conditions; and
- M&N will receive, review, and advise the NJEDA on the acceptability of any and all schedules that the constructing entity is required to submit to the NJEDA or M&N, including, but not limited to, the progress schedule, schedule of submittals, and schedule of values.

September 9, 2020 Meeting Board Book - REAL ESTATE

Scope 2 also includes an option for Phase 2 feasibility design, detailed design, and construction administration services, including:

- An expanded turning basin and an additional two berth pockets (additional combined length of 1,400 linear feet);
- Parcel B, a ~99-acre area with a portion to be developed for expanded offshore wind marshalling and tier-1 offshore wind component manufacturing; this site will likely include an additional heavy lift wharf and high-load upland areas;
- Parcel C, a ~30-acre area to be developed for additional tier-1 offshore wind component manufacturing; and
- Parcel D, a ~20-25-acre area to be developed for additional tier-2 offshore wind manufacturing, centralized parking, and other port services.

For ease of reference, please see below for the not to exceed amounts for each of the costs related to this contract<sup>1</sup>:

Related scope	Description of item	Type of contract	Timing of expense	Value
Scope 1 (Transfer from PSEG)	Phase 1a detailed design	Lump sum	Pre-financing	\$4,835,570
Scope 2 (New)	Phase 1b feasibility design	Lump sum	Pre-financing	\$115,000
Scope 2 (New)	Phase 1b detailed design estimate	Lump sum (estimate)	Pre-financing	\$1,125,000
Scope 2 (New)	Phase 1a and 1b construction administration services	Time and materials (estimate)	Post-financing	\$1,875,000
Scope 2 (New)	Phase 2 feasibility design	Lump sum	Pre-financing	\$365,000

**Total Contract Value** \$8,315,570

**Total value for Phase 1a + 1b work** \$7,950,570

**Total value of new pre-financing budget** \$1,605,000

NJEDA staff have run a series of cost reasonable analyses on these contract values, including reviewing these costs with the Authority's Owners Engineer on the NJ Wind Port project, WSP. Based on these analyses, Staff have determined that the Phase 1b and Phase 2 feasibility study estimates are in line or on the low end of what could be expected to complete work of similar scope

<sup>1</sup> The actual design fee for Phase 1b will not be able to be confirmed until the feasibility design study for Phase 1b is completed (e.g., geotechnical work is completed, and results are analyzed), but any such fee shall not exceed the amount in the table.

September 9, 2020 Meeting Board Book - REAL ESTATE

and size. The estimated detailed design cost for Phase 1b is on the low end of what is reasonable for detailed design estimates based on evaluating design costs as a percentage of expected construction costs. In addition, the overall Phase 1a + 1b costs are in line with industry standards compared to the overall expected construction costs for Phase 1. The Phase 1a + 1b Construction Administration Services hourly rates have been reviewed and are determined to be reasonable for the requested scope of work.

For ease of reference, please see below for the hourly rates related to this contract:

Staff Title	Billing Rate /Hour
Principal Engineer	\$240
Supervisory Engineer	\$234
Project Manager	\$219
Engineer III	\$171
Engineer II	\$150
Engineer I	\$126
Staff Engineer	\$105
CAD II	\$120
CAD I	\$102
Word Processing	\$72
Engineer Diver	\$141
Senior Engineer Diver	\$210
Dive Supervisor	\$117

These are M&N's 2020 rates. A 2% per year escalator will be utilized for this contract.

These hourly rates are the same rates included

**BASIS FOR THE ASSIGNMENT AND AMENDMENT OF THE CONTRACT**

As noted above, NJEDA was not involved in the initial selection of M&N as the port designer; PSEG, as the owner of the site, contracted with M&N because M&N had done an initial technical feasibility study on the potential for a marshalling port in Lower Alloways Creek and therefore was familiar with the project and the site. Through the April 2020 LOI, PSEG, concurrent with negotiations with EDA on the respective involvement of EDA and PSEG in the port's development and as potential Landlord, provided design services for the port through M&N. PSEG handled the day-to-day supervision of the M&N, with funding and high-level input provided by NJEDA.

During the financial due diligence phase of the April 2020 LOI, NJEDA explored private development options but determined that public development would provide the most efficient development pathway for the port. Additionally, the relationship between PSEG and NJEDA has continued evolving through discussions, and PSEG now anticipates generally reducing and ceasing its role in any development activities. In order to continue ongoing work in a seamless and timely

September 9, 2020 Meeting Board Book - REAL ESTATE

manner to meet the 2023 deadline, NJEDA Staff began exploring the possibility to assume the design contract.

Design engineering contracting is governed by statutes and EDA's regulations. Specifically, N.J.S.A. 52:34-9.7 and EDA's regulations at N.J.A.C. 19:30-8.1 allow the use of any State procurement process, which, as stated in Executive Order 37 (Corzine 2006) (EO 37) and reflected in the NJEDA's Internal Process Management (IPM) procedures, incorporate a sole source exception. Under EO 37, sole source can be used when there is only one vendor available or capable of providing the service. In this instance, PSEG, as the landlord and potential partner in developing the port, retained M&N. Due to the evolution of the project plans and the external time schedule pressures that this project faces based on when the NJ Wind Port needs to be operational to support the NJBPU's first offshore wind solicitation (which solicitation deadline was not established by NJEDA), use of this sole source exception is appropriate.

Hence, based on these exceptional circumstances, M&N is the only contractor capable to carry out the project needs in time to capture the State's first offshore wind project (EO 37, Section 16.c).

Moreover, the transfer or assignment of a design and engineering contract is not uncommon, especially for larger infrastructure projects. For example, the State of Connecticut recently completed a similar process for an offshore wind port project in New London. That project started conceptual design as an Orsted-led development but was shifted to a public sector entity to take forward through construction and operation.

Because this agreement will exceed \$2.5 million, NJEDA staff will transmit all materials related to this agreement to the Office of the State Comptroller after execution of the agreement.

**SUMMARY**

The Members of the Authority are asked to approve the assignment of the attached Moffatt and Nichol (M&N) New Jersey Wind Port Engineering and Design contract from PSEG Nuclear (PSEG) to NJEDA and amendment thereof (Attachments 1 and 2).



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Tim Sullivan, CEO

**LOANS/GRANTS/GUARANTEES**

**HAZARDOUS DISCHARGE SITE REMEDIATION FUND**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, Chief Executive Officer  
**DATE:** December 8, 2020  
**SUBJECT:** NJDEP Hazardous Discharge Site Remediation Fund Program

The following municipal projects have been approved by the Department of Environmental Protection to perform remedial investigation and remedial action activities. The scope of work is described on the attached project summary:

**HDSRF Municipal Grants:**

Prod 224582	Town of Kearny (Gunnell Oval School)	\$315,693.03
Prod 218893	Township of Neptune (Shark River Municipal Marina)	\$ 7,813.62
Prod 228006	Somerville Borough (Somerville Landfill)	\$482,000.00
<b>Total HDSRF Funding –December 2020</b>		<b>\$805,506.65</b>

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

Tim Sullivan

Prepared by: Kathy Junghans

## NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

### Hazardous Discharge Site Remediation - Government Facility

**APPLICANT:** Town of Kearny – Gunnell Oval School

PROD-00224582

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 488-494 Schuyler Ave.      Kearny Town      Hudson County

**APPLICANT BACKGROUND:**

In January 2016, Town of Kearny, received a grant in the amount of \$84,451 under P40059 to perform Preliminary Assessment and Site Investigation. The project site identified as Block 204, Lots 3 & 22 is a former athletic field with historic fill which has potential environmental areas of concern (AOCs). The Town of Kearny owns the project site and has satisfied proof of site control. It is the Town's intent upon completion of the environmental investigation activities to redevelop the project site for a recreational field.

NJDEP has approved this supplemental request for Remedial Action (RA) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

According to the HDSRF legislation, a grant can be awarded to a municipality, county or redevelopment entity authorized to exercise redevelopment powers up to 75% of the costs of remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the redevelopment plan and is conveyed by a development easement, deed restriction for development or conservation easement for recreation and conservation purposes. The grant is awarded based on a calculation equal to 75% of the RA costs (\$420,924.04). Township of Kearny will utilize budget funds to fund the remaining 25% of the eligible costs (\$105,231.01).

**OTHER NJEDA SERVICES:**

\$84,451, P40059

**APPROVAL REQUEST:**

Town of Kearny is requesting grant funding to perform RA in the amount of \$315,693.03 at the Gunnell Oval School project site. Total grants including this approval is \$400,144.03

**FINANCING SUMMARY:**

<b>GRANTOR:</b>	Hazardous Discharge Site Remediation Fund	
<b>AMOUNT OF GRANT:</b>	\$315,693.03	
<b>TERMS OF GRANT:</b>	No Interest; No Repayment	
<b>PROJECT COSTS:</b>	Remedial Action	\$315,693.03
	EDA Administrative Cost	\$500.00

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<b>TOTAL COSTS:</b>	<b>\$316,193.03</b>
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## NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

### Hazardous Discharge Site Remediation - Government Facility

**APPLICANT:** Township of Neptune – Shark River Municipal Marina

PROD-00218893

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** 149 South Riverside Drive      Neptune Township      Monmouth County

**APPLICANT BACKGROUND:**

Between April 2008 and December 2016, Township of Neptune received an initial grant in the amount of \$60,975 under P19519 and supplemental grants in the amount of \$44,883 under P25322, \$268,194 under P39394 and \$169,435 under P41797 to perform Site Investigation (SI) and Remedial Investigation (RI) activities. The project site identified as Blocks 402; 471; and Lots 13, 15, 16 & 24.01, is a marina which has potential environmental areas of concern (AOCs). The Township of Neptune currently owns the project site and has satisfied proof of site control. It is the Township's intent, upon completion of the environmental remediation activities to redevelop the project site for continued use as outdoor public recreation.

NJDEP has approved this supplemental request for Remedial Action (RA) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

According to the HDSRF legislation, a grant can be awarded to a municipality, county or redevelopment entity authorized to exercise redevelopment powers up to 75% of the costs of remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the redevelopment plan and is conveyed by a development easement, deed restriction for development or conservation easement for recreation and conservation purposes. The grant is awarded based on a calculation equal to 75% of the RA costs (\$10,418.16). Township of Neptune will utilize budget funds to fund the remaining 25% of the eligible costs (\$2,604.51).

**OTHER NJEDA SERVICES:**

\$60,975, P19519; \$44,883, P25322; \$268,194, P39394; \$169,435, P41797

**APPROVAL REQUEST:**

Township of Neptune is requesting aggregate supplemental grant funding to perform RA in the amount of \$7,813.62 at the Shark River Municipal Marina project site. Because this aggregate supplemental funding request exceeds the \$100,000 delegated limit, the project requires EDA's board approval. Total grant funding including this approval is \$551,300.62.

**FINANCING SUMMARY:**

**GRANTOR:** Hazardous Discharge Site Remediation Fund

**AMOUNT OF GRANT:** \$7,813.62

**TERMS OF GRANT:** No Interest; No Repayment

**PROJECT COSTS:**

Remedial Action	\$7,813.62
EDA Administrative Cost	\$500.00

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**TOTAL COSTS:                    \$8,313.62**

## NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

### Hazardous Discharge Site Remediation - Government Facility

**APPLICANT:** Somerville Borough - BDA, Somerville Landfill

PROD-00228006

**PROJECT USER(S):** Same as applicant

**PROJECT LOCATION:** Route 206      Somerville Borough      Somerset County

**APPLICANT BACKGROUND:**

In June 2011, Borough of Somerville, received a grant in the amount of \$1,193,833 under P34449 for Remedial Investigation and Remedial Action. The project site identified as Block 124, Lots 1, 21, and 23.01 is a former sanitary landfill which has potential environmental areas of concern (AOCs). The Borough of Somerville owns the project site, which is located in a Brownfields Redevelopment Area (BDA), and has satisfied proof of site control. It is the Borough's intent, upon completion of the environmental remediation activities that the site will continue to operate as a landfill.

NJDEP has approved this supplemental request for Remedial Investigation (RI) grant funding on the above-referenced project site and finds the project technically eligible under the HDSRF program, Category 2, Series A.

The City has received a Brownfield Development Area (BDA) designation from the NJDEP for this project site.

**OTHER NJEDA SERVICES:**

\$1,193,833, P34449

**APPROVAL REQUEST:**

Borough of Somerville is requesting supplemental grant funding to perform RI in the amount of \$482,000 at the Somerville Landfill BDA project site. Total grants including this approval is \$1,675,833.

**FINANCING SUMMARY:**

**GRANTOR:** Hazardous Discharge Site Remediation Fund

**AMOUNT OF GRANT:** \$482,000.00

**TERMS OF GRANT:** No Interest; No Repayment

**PROJECT COSTS:**

Remedial Investigation	\$482,000.00
EDA Administrative Cost	\$500.00

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**TOTAL COSTS:      \$482,500.00**

**REAL ESTATE**



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Tim Sullivan  
Chief Executive Officer

**RE:** Subordination of Mortgage with respect to OPort Partners, LLC  
Fort Monmouth Main Post  
Oceanport, New Jersey

**DATE:** December 8, 2020

**Summary**

I am requesting the Members' approval to execute and record a Subordination of Mortgage with respect to the Authority's interest in certain roadways in the Oceanport section of Fort Monmouth. The subordination will preserve OPort Partners, LLC's ("OPort") access rights to property it has acquired for redevelopment from the Fort Monmouth Economic Revitalization Authority ("FMERA").

**Background**

The Authority holds a mortgage dated August 3, 2018 as security for a loan issued to FMERA, originally in the amount of \$5,000,000. The loan is secured by a first mortgage on the FMERA Phase I properties in Tinton Falls and Eatontown, a second mortgage on the FMERA Phase II properties in Eatontown and Oceanport (behind the Monmouth County Improvement Authority) and an assignment of 20% of FMERA's net sales proceeds.

On October 16, 2020, FMERA sold four Phase II properties -- the former Commissary & PX, the Post Office Area, the Warehouse District and an adjacent parking lot (the "OPort Properties") -- to OPort, a company owned by Denholtz Properties. The existing buildings in the Warehouse District, Post Office Area and the PX will be demolished by the developer and redeveloped as commercial office, research & development space, and accessory warehouse/flex space. The developer's plan includes the construction of approximately six new buildings totaling 215,000 square-feet, targeting medical and general office users, innovators requiring makerspace or light fabrication space, and technology companies. OPort paid \$4,350,000 for the properties. It will invest over \$60 million in the project and is expected to create 750 part-time or full-time jobs.

FMERA has advised that OPort entered into an Access Easement with FMERA at closing over lands owned by FMERA to provide access to the OPort Properties. The Access Easement is

necessary because the existing roads serving the OPort Properties are currently FMERA-owned and have not yet been dedicated to Oceanport Borough or Monmouth County as public rights-of-way.

FMERA and OPort have asked the Authority to subordinate its interest in the roadways to OPort's access rights for no consideration. Specifically, should the Authority exercise its right to foreclose on the FMERA Phase II properties and particularly those portions impacting OPort's Access Easement, FMERA and OPort are requesting that the Authority not join OPort as a party in any such foreclosure action. This action is necessary for OPort to secure development financing.

The proposed subordination from the Authority to Oport is limited to the Access Easement set forth above and does not reduce the collateral available to secure the debt. The Access Easement is a customary and expected part of the project and supports redevelopment, which is the primary objective of the Authority's loan. As such, the request does not negatively impact the Authority's collateral position. Real Estate and Post Closing Financial Services staff recommend its approval. Attached is an October 13, 2020 letter countersigned by Monmouth County's Administrator confirming that the County will subordinate its interest.

The attached form of Subordination of Mortgage is in substantially final form. The final terms of the subordination will be subject to the approval of the Chief Executive Officer and the Attorney General's Office.

**Recommendation:**

In summary, I am requesting the Members' approval to subordinate the Authority's interest in certain roadways in the Oceanport section of Fort Monmouth to OPort Partners, LLC's access rights through the execution of the attached Subordination of Mortgage, on final terms acceptable to the Chief Executive Officer and the Attorney General's Office.



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Tim Sullivan  
Chief Executive Officer

**Attachments:** Proposed Subordination of Mortgage  
Correspondence from Monmouth County dated October 13, 2020

**Prepared by:** David E. Nuse

Subordination of Mortgage

Prepared by

Gary A. Kotler, Deputy Attorney General

**SUBORDINATION OF MORTGAGE**

made on , 2020

**BY**

**New Jersey Economic Development Authority**, a public body corporate and politic, constituting an instrumentality of the State of New Jersey, having its principal offices at 36 West State Street, PO Box 990, Trenton, New Jersey 08625 (the "Subordinator").

**WHEREAS**, the Subordinator is the holder of a mortgage, originally in the amount of \$5,000,000.00, dated August 3, 2018 and was made by and between Fort Monmouth Economic Revitalization Authority, as the mortgagor and New Jersey Economic Development Authority, as Mortgagee, recorded on August 27, 2018 in the Monmouth County Clerk's Office in Official Record 9309 Page 815, upon the lands and premises therein described, lying and being in the Borough of Oceanport, County of Monmouth, and State of New Jersey, which are commonly referred to as the FMERA Phase II Properties;

**WHEREAS, Oport Partners LLC**, a New Jersey limited liability company, having its principal offices at 116 Chestnut Street, Suite 102, Red Bank, New Jersey 07701 (the" Subordinatee") desires to obtain an Access Easement on and across lands and premises owned by **Fort Monmouth Economic Revitalization Authority**, to benefit property known as Block 110.13, Lot 1 & Block 110.14 Lot 1, Borough of Oceanport, County of Monmouth, and State of New Jersey; and Fort Monmouth Economic Revitalization Authority desires to grant the Access Easement to Subordinatee; and

**WHEREAS**, the Subordinatee has received, accepted and recorded an Access Easement and requires that the aforementioned mortgage held by the Subordinator shall be subordinated and postponed to the Access Easement, which has been recorded in the Monmouth County Clerk's Office on \_\_\_\_\_, 2020 in Official Record \_\_\_\_\_ Page \_\_\_\_\_.

**NOW THEREFORE**, in consideration of the sum of ONE DOLLAR and other good and valuable consideration the receipt whereof is hereby acknowledged, the Subordinator hereby accepts and agrees that the mortgage of the Subordinator shall be subject, subordinate and inferior to the Access Easement about to be granted to the Subordinatee, notwithstanding the prior execution and recording of the mortgage to the Subordinator, in the amount of **\$5,000,000.00**

References herein to any parties, persons, entities or corporations, the use of any particular gender of the plural or singular number is intended to include the appropriate gender or numbers of the text of the within instrument may require.

Whenever in this instrument any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation.

**IN WITNESS WHEREOF**, the Subordinator has signed and sealed this Subordination of Mortgage the day and year first above written.

Signed, sealed and delivered in the presence of or Attested by:

**New Jersey Economic Development Authority**

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

**STATE OF NEW JERSEY  
COUNT OF**

**BE IT REMEMBERED**, that on \_\_\_\_\_, **2020** before me, the subscriber, personally appeared,

who being by me dully sworn on his/her oath, deposes and makes proof to my satisfaction

\_\_\_\_\_, personally came before me and stated to my satisfaction that this person:

- (a) was the maker of the attached instrument;
- (b) was authorized to and did execute this instrument as \_\_\_\_\_ of **New Jersey Economic Development Authority** the entity named in this instrument; and,
- (c) executed this instrument as the act of the entity named in this instrument

Sworn to and subscribed before me the date aforesaid.

\_\_\_\_\_  
Notary

## Allen Weiss

Attorney and Counselor at Law  
2105 West County Line Road  
Jackson, New Jersey 08527  
[allen@allenweissesq.com](mailto:allen@allenweissesq.com)

Bar Admissions: NJ & NY

Phone: 732-364-3006

Fax: 732-364-3099

October 13, 2020

### Via Email

Michael D. Fitzgerald, Esq.  
Monmouth County Counsel  
Hall of Records; 1 East Main Street  
Freehold, New Jersey 07728

**RE: OPort Partners, LLC from FMERA  
Fort Monmouth – Phase II  
“Warehouse Parcel” & “District “A” Parcel in the Borough of Oceanport**

Dear Mr. Fitzgerald:

The County of Monmouth is the holder of Mortgage in the original principal amount of \$34,000,000.00, by and between the Fort Monmouth Economic Revitalization Authority (FMERA), as Mortgagor and the County, as Mortgagee, recorded on November 28, 2016 in the Monmouth County Clerk’s Office at OR 9199 Page 6882 upon the lands and premises therein described, within the Boroughs of Oceanport and Eatontown, which are commonly referred to as the Fort Monmouth Phase II. The “Warehouse Parcel” & “District “A” Parcel are located within Fort Monmouth Phase II and are the subject of a Purchase and Sale Agreement with FMERA.

Neither the Warehouse Parcel nor the District “A” Parcel have frontage along CR-537 Extension. Rather, each parcel has frontage along local roads within Fort Monmouth Phase II that have never been dedicated or accepted by any municipal body. These local roads are subject to the County Mortgage.

The County has been advised that OPort will be entering into an Access Easement with FMERA on and across lands owned by FMERA to provide access to the Warehouse and District “A” Parcels from dedicated roadways. The local roads are known as Oceanport Way, Anson Avenue, Murphy Drive and Todd Avenue. A sketch of the roadways is attached to this letter.

In order to facilitate the closing among OPort and FMERA, Monmouth County represents that:

1. Should Monmouth County exercise its rights under the mortgage to foreclose on Fort Monmouth Phase II affecting the Access Easement, the County will not join OPort as a party in such foreclosure action.
2. Monmouth County will enter into a Subordination Agreement with OPort subsequent to the closing of title between it and FMEA in order to subordinate the lien of its mortgage to OPort’s right of public access pursuant to the Access Easement.

Michael D. Fitzgerald, Esq.  
OPort Partners, LLC from FMERA  
October 13, 2020  
Page 2 of 2

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I have added a signature line for the Freeholder Director or the County Administrator to confirm the foregoing for distribution to the parties in order to facilitate the closing of title.

Very truly yours,  
/Allen Weiss/  
ALLEN WEISS

The foregoing is hereby confirmed.

A handwritten signature in cursive script, appearing to read "Allen Weiss", written over a horizontal line.

Freeholder Director or County Administrator  
County of Monmouth

**BOARD MEMORANDA -FYI ONLY**



**MEMORANDUM**

**TO:** Members of the Authority  
**FROM:** Tim Sullivan, Chief Executive Officer  
**DATE:** December 8, 2020  
**SUBJECT:** Credit Underwriting Projects Approved Under Delegated Authority –  
**For Informational Purposes Only**

The following projects were approved under Delegated Authority in November 2020:

**NJ Main Street Program:**

- 1) Clarity Laboratories LLC (PROD-00228640), located in Warren Township, Somerset County, was founded in 2017 as a laboratory providing toxicology-screening, comprehensive diagnostic blood tests, genetic and molecular testing. The Provident Bank approved a \$1,000,000 line of credit with a one-year, 50% Authority guarantee of principal outstanding, not to exceed \$500,000. Proceeds will be used for working capital purposes. Currently, the Company has 90 employees and plans to create 22 new positions over the next two years.

**Micro Business Loan Program:**

- 1) Maximal Security Services LLC (PROD-00224279 & 00237015), is located in Union Township, Union County. Formed in 2015, Maximal Security Services LLC offers certified, licensed, insured and bonded security guards for patrol service and security. Clients include healthcare facilities, residential complexes, corporate businesses, hotel security and retail venues. The NJEDA approved a \$45,000 working capital loan and a \$5,000 forgivable working capital loan. Currently, the Company has nine employees.
- 2) Todd Shelton LLC (PROD-00224352 & 00235742), is located in Elmwood Park Borough, Bergen County. Todd Shelton LLC was formed in 2013 as a manufacturer and retailer of men's clothing. The NJEDA approved a \$22,500 working capital loan and a \$2,500 forgivable working capital loan. The Company currently has five employees.

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

**Prepared by:** G. Robins