

RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION

**RULES AND REGULATIONS FOR THE RENEWABLE ENERGY DEVELOPMENT
FUND INCLUDING THE MUNICIPAL RENEWABLE ENERGY INVESTMENT
PROGRAM AND THE NON-PROFIT AFFORDABLE HOUSING
RENEWABLE ENERGY INVESTMENT PROGRAM**

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RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION

RULES AND REGULATIONS FOR THE RENEWABLE ENERGY

DEVELOPMENT FUND, INCLUDING THE MUNICIPAL RENEWABLE ENERGY

INVESTMENT PROGRAM AND THE NON-PROFIT AFFORDABLE

HOUSING RENEWABLE ENERGY INVESTMENT PROGRAM

Section 1.00. Purpose.

The Rhode Island Economic Development Corporation, in order to develop an integrated organizational structure to secure for Rhode Island and its people the full benefits of cost – effective renewable energy development from diverse sources pursuant to R.I.G.L. §42-64-13.2 (a) hereby adopts these rules and regulations to implement the requirements of R.I.G.L. §42-64-13.2; R.I.G.L. §39-2-1.2 and R.I.G.L. §39-26-7.

Section 2.00. Legal Authority.

These rules and regulations are promulgated pursuant to the requirements and provisions of R.I.G.L. §42-64-13.2; R.I.G.L. §39-2-1.2; and R.I.G.L. §39-26-7.

Section 3.00. Definitions.

For the purposes of these regulations, the following terms shall have the following meanings:

3.01. “Affordable Housing” shall mean any of affordable housing or low and moderate income housing as defined in R.I.G.L. Title 42, Chapter 128, or Title 45, Chapter 53, or such other superceding statutes as may be implemented by the State of Rhode Island from time to time.

3.02. "Corporation" shall mean the Rhode Island Economic Development Corporation as established, administered and governed by R.I.G.L. Title 42, Chapter 64, as amended.

3.03. "Municipal Renewable Energy Investment Program" shall mean those funds in the Renewable Energy Development Fund utilized by the Rhode Island Economic Development Corporation pursuant to R.I.G.L. §42-64-13.2 and R.I.G.L. §39-2-1.2 (c).

3.04. "Non-Profit Affordable Housing Renewable Housing Investment Program" shall mean those funds in the Renewable Energy Development Fund utilized by the Rhode Island Economic Development Corporation pursuant to R.I.G.L. §42-64-13.2 and R.I.G.L. §39-2-1.2 (d).

3.05. "Renewable Energy Development Fund" shall mean those funds administered by the Rhode Island Economic Development Corporation pursuant to R.I.G.L. §42-64-13.2, R.I.G.L. §39-2-1.2 and R.I.G.L. §39-26-7.

3.06. Any capitalized terms not otherwise defined herein shall have the meaning ascribed to them in R.I.G.L. Title 42, Chapter 64 or R.I.G.L. Title 39, Chapter 2.

Section 4.00. Requests For Utilization of Funds From the Renewable Energy Development Fund including the Municipal Renewable Energy Investment Program, the Non-Profit Affordable Housing Renewable Energy Investment Program and the Pre-development Consultant and Technical Feasibility Program.

4.01. Requests for utilization of funds in the Renewable Energy Development Fund (other than those proposals for use of funds from the Municipal Renewable Energy Investment Program, the Non-Profit Affordable Housing Renewable Energy Investment Program or the Pre-development Consultant and Technical Feasibility Program, which are set forth in Sections 4.02, 4.03 and 4.04 respectively, below) shall use the procedures set forth in this Section 4.01.

4.01. (a). Applications for Funding.

All requests for the utilization of funds in the Renewable Energy Development Fund shall be submitted to the Corporation on application forms that may be obtained from the Corporation. Requests shall describe how the proposal will help promote the expansion and sound development of renewable energy resources in Rhode Island and fulfill the other criteria as set forth herein and as otherwise established by the Corporation from time to time.

4.01. (b). Approval Criteria.

Criteria for approval of proposals for utilization of the Renewable Energy Development Fund are as follows:

- (i) technical feasibility – proposals must include documented evidence of technical feasibility for the proposed renewable energy technology;
- (ii) financial viability – proposals must include evidence of commitments or expressions of interest from all funding sources;
- (iii) anticipated amount of renewable energy and related benefits, including diversity of renewable energy sources, the proposal will produce;
- (iv) estimated cost per kilowatt hour of energy produced over the life of the project;
- (v) project management capabilities - proposals must include biographies of all key project personnel from any firm or team of firms involved in the project as well as a description of the firm or team of firms and their experience with similar projects including brief descriptions of the team's project experience and at least three references from projects identified;
- (vi) time to market - proposals must include a detailed construction budget and project milestones leading to completion and operation;
- (vii) economic development benefits to Rhode Island – projects must identify all economic development aspects of the project, including the number, type, salary ranges (by \$10,000's) of permanent and construction jobs directly created by the project.
- (viii) preference will be given to projects that can support low interest loans and/or recoverable grants from the Renewable Energy Development Fund which allow repayment or replenishment over time.

(ix) preference will be given where the Corporation's assessment of the economic development impact of the project, including the creation of any new jobs, equals or exceeds the requested grant within a three year period from the completion of the project. Recipients of grants will be required to provide the Corporation with annual documentation certifying to job creation.

4.01. (c). Selection Process.

The Corporation shall review all requests submitted to it for funding renewable energy projects. Proposals requesting Fifty Thousand Dollars (\$50,000) of funding or less in the aggregate may be approved by the Executive Director of the Corporation. Proposals requesting more than Fifty Thousand Dollars (\$50,000) of funding in the aggregate may be approved only by both the Board of Directors of the Corporation and the Corporation's Executive Director.

4.01. (d). Method of disbursement of funds.

The Corporation shall disburse funds from the Renewable Energy Development Fund in the form of loans, grants, recoverable grants and other financial mechanisms, with or without security, for repayment, if any, and at rates, terms and other conditions as shall be deemed necessary, appropriate and in the best interest of the Renewable Energy Development Fund as determined by the Corporation.

4.01. (e). Repeat Funding and Maximum Funding Amount. Recipients, and affiliates of recipients, are ineligible for repeat funding. No funding shall exceed Seven Hundred Fifty Thousand Dollars (\$750,000) with a preference for those projects for which any funding commitment that exceeds Two Hundred Fifty Thousand Dollars (\$250,000) shall be funded over not less than a three year period.

4.02. Municipal Renewable Energy Investment Program.

Utilizing the lesser of Fifty Percent (50%) or One Million Dollars (\$1,000,000) collected annually from the .3 mils per kilo-watt hour charge for renewable energy programs that provides funds for the Renewable Energy Development Fund, the

Corporation shall administer the Municipal Renewable Energy Investment Program pursuant to these rules and regulations.

4.02. (a). Submission of Proposals from Municipalities.

The Corporation shall accept proposals from municipalities for eligible projects and shall award grants, which at the discretion of the Corporation may be recoverable, in accordance with the ranking criteria set forth below.

4.02. (b). Applications For Funding.

The Corporation shall accept such proposals from municipalities for eligible projects of the municipalities on application forms that may be obtained from the Corporation. Applications must be submitted no later than March 31 and September 30 of each year. Applicants will be notified of an approval or denial by June 30 for March 31 application submissions and December 31 for September 30 application submissions.

4.02. (c). Approval Criteria.

The criteria to rank qualified municipal renewable energy projects shall be considered as follows:

(i) technical feasibility – proposals must include documented evidence of technical feasibility for the proposed renewable energy technology;

(ii) financial viability – proposals must include evidence of commitments or expressions of interest from all funding sources;

(iii) anticipated amount of renewable energy and related benefits, including diversity of renewable energy sources, the proposal will produce;

(iv) estimated cost per kilowatt hour of energy produced over the life of the project;

(v) project management capabilities- proposals must include biographies of all key project personnel from any firm or team of firms involved in the project as well as a description of the firm or team of firms and their experience with similar projects including brief descriptions of the projects and at least three references from projects identified;

(vi) time to market - proposals must include a detailed construction budget and project milestones leading to completion and operation;

(vii) preference will be given to projects that involve the partnering of two or more municipalities.

4.02. (d). Repeat Funding and Maximum Funding Amount. Municipalities that have not previously received financing from the Municipal Renewable Energy Investment Program shall be given priority over those municipalities that have received funding under the Municipal Renewable Energy Investment Program. No grant shall exceed Five Hundred Thousand Dollars (\$500,000) with respect to each eligible proposal.

4.02. (e). Selection Process.

The Corporation shall review all requests submitted to it to fund municipal renewable projects pursuant to these rules and regulations. Proposals requesting Fifty Thousand Dollars (\$50,000) or less in the aggregate of funding may be approved by the Executive Director of the Corporation. Proposals requesting more than Fifty Thousand Dollars (\$50,000) in the aggregate of funding may be approved only by both the Board of Directors of the Corporation and the Corporation's Executive Director.

4.02. (f). Carryover of Funds.

Any funds not expended from the Municipal Renewable Energy Investment Program in a given year shall remain in the Municipal Renewable Energy Investment Program and be added to the balance to be distributed in the next award cycle.

4.02. (g). Municipal Control of Power Output. Pursuant to R.I.G.L. §39-2-1.2 (c) (3), qualifying municipal renewable energy projects must be a project that produces renewable energy resources whose output of power and other attributes are controlled in its entirety by at least one Rhode Island city or town.

4.03. Non-Profit Affordable Housing Renewable Energy Investment

Program.

Utilizing the lesser of ten percent (10%) or Two Hundred Thousand Dollars (\$200,000) collected annually from the .3 mils per kilowatt hour charge for renewable energy programs to fund qualified non-profit affordable housing renewable energy projects from the Renewable Energy Development Fund in accordance with R.I.G.L. Title 39, Chapter 2, the Corporation shall fund qualified non-profit affordable housing renewable energy projects in accordance with these rules and regulations.

4.03. (a). Applications for Funding.

All requests for funds pursuant to the Non-Profit Affordable Housing Renewable Energy Investment Program shall be submitted to the Corporation. Applications will also be available to Non-Profit Affordable Housing Developers at Rhode Island Housing Mortgage Finance Corporation.

The Corporation shall accept such proposals from Non-Profit Affordable Housing Developers for eligible projects on application forms that may be obtained from the Corporation or Rhode Island Housing Mortgage Finance Corporation. Applications must be submitted no later than March 31 and September 30 of each year. Applicants will be notified of an approval or denial by June 30 for March 31 application submissions and December 31 for September 30 application submissions.

4.03. (b). Criteria to Rank Qualified Non-Profit Affordable Housing Renewable Energy Projects.

The criteria to rank qualified Non-Profit Affordable Housing Renewable Energy Projects shall give consideration to the following:

(i) technical feasibility – proposals must include documented evidence of technical feasibility for the proposed renewable energy technology;

(ii) financial viability – proposals must include evidence of commitments or expressions of interest from all funding sources;

(iii) anticipated amount of renewable energy and related benefits, including diversity of renewable energy sources, the proposal will produce;

(iv) estimated cost per kilowatt hour of energy produced over the life of the project;

(v) project management capabilities- proposals must include biographies of all key project personnel from any firm or team of firms involved in the project as well as a description of the firm or team of firms and their experience with similar projects including brief descriptions of the projects and at least three references from projects identified;

(vi) time to market - proposals must include a detailed construction budget and project milestones leading to completion and operation;

(vii) preference will be given to projects that provide the (A) greatest number of affordable housing units to be created, (B) greatest number of affordable housing units for the lowest income households, and/or (C) greatest number of affordable housing units that are the most consistent with state and local community development plans for affordable housing.

4.03. (c). Repeat Funding and Maximum Grant.

Non-Profit affordable housing agencies that have not previously received financing from this program shall be given priority from the Non-Profit Affordable Housing Renewable Energy Investment Program over those agencies that have received funding under the Non-Profit Affordable Housing Renewable Energy Investment Program. No funding approval shall exceed One Hundred Thousand Dollars (\$100,000) with respect to each approved project.

4.03. (d). Selection Process.

The Corporation, in conjunction with the Rhode Island Housing and Mortgage Finance Corporation, shall review all requests submitted to it for funding for non-profit affordable housing renewable energy projects pursuant to these regulations. Proposals requesting Fifty Thousand Dollars (\$50,000) or less in the aggregate of funding may be approved by the Executive Director of the Corporation. Proposals requesting more than

Fifty Thousand Dollars (\$50,000) in the aggregate may be approved only by both the Board of Directors of the Corporation and the Corporation's Executive Director.

4.03. (e). Carryover of Funds.

Any funds not expended from the Non-Profit Affordable Housing Renewable Energy Investment Program in a given year shall remain in the fund and be added to the balance to be distributed in the next award cycle. Those funds not distributed in the next award cycle may be utilized in the Renewable Energy Development Fund.

4.03. (f). Non-Profit Control of Power Output.

For the purposes hereof, "qualified non-profit affordable housing renewable energy projects" means any project that produces renewable energy resources whose output of power and other attributes is controlled in its entirety by at least one non-profit affordable housing development as defined in R.I.G.L. §42-55-3 and is restricted to producing energy for the non-profit housing development.

4.04. Pre-development Consultant and Technical Feasibility Program.

Utilizing the lesser of Ten Percent (10%) or Two Hundred Thousand Dollars (\$200,000) collected annually from the .3 mils per kilo-watt hour charge for renewable energy programs that provides funds for the Renewable Energy Development Fund, the Corporation shall administer the Pre-development Consultant and Technical Feasibility Program pursuant to these rules and regulations.

4.04. (a). Submission of Proposals.

The Corporation shall accept proposals from any commercial enterprises, civic and educational institutions, non-profit organizations, municipalities and non-profit affordable housing developers for eligible consultants and technical feasibility studies and shall award grants in the case of municipalities and non-profit affordable housing developers and loans or recoverable grants in the case of commercial enterprises and other non-profit organizations in accordance with the ranking criteria set forth below.

4.04 (b). Applications For Funding.

The Corporation shall accept such proposals on application forms that may be obtained from the Corporation. Applications must be submitted no later than March 31 and September 30 of each year. Applicants will be notified of an approval or denial by June 30 for March 31 application submissions and December 31 for September 30 application submissions.

4.04. (c). Approval Criteria.

The criteria to rank qualified pre-development consultant and technical feasibility studies shall be considered as follows:

(i) a copy of the contract outlining work scope and objectives must be provided for the Corporation's review;

(ii) information on the consulting firm including a description of experience with similar assignments and client references shall be provided;

(iii) only fixed contracts will be considered;

(iv) preference will be given to applications with contributing funding from some source other than the Renewable Energy Development Fund.

4.04. (d). Repeat Funding and Maximum Funding Amount.

Recipients that have previously received financing from the Pre-development Consultant and Technical Feasibility Program are ineligible for additional funding for technical feasibility and consulting studies, but not other uses of the Renewable Energy Development Fund, the Municipal Renewable Energy Investments Program or the Non-Profit Affordable Housing Renewable Energy Investment Program or any other funds administered by the Corporation.

4.04. (e). Selection Process.

The Corporation shall review all requests submitted to it to fund pursuant to these rules and regulations. Proposals requesting Fifty Thousand Dollars (\$50,000) or less in the aggregate of funding may be approved by the Executive Director of the Corporation.

Proposals requesting more than Fifty Thousand Dollars (\$50,000) in the aggregate of funding may be approved by both the Board of Directors of the Corporation and the Corporation's Executive Director.

4.04. (f). Carryover of Funds.

There will be no carryover of funds not expended from the Pre-development Consultant and Technical Feasibility Program. Any funds not so distributed may be otherwise utilized in the Renewable Energy Development Fund.

Section 5.00 Reporting

5.01 (a) Annual Reporting.

On or before March 1 of each year, the Corporation will submit a report to the Corporation's Board of Directors, the president of the Rhode Island Senate, the speaker of the Rhode Island House of Representatives, and the Rhode Island secretary of state that will include:

- (i) Financial statements on the Renewable Energy Development Fund;
- (ii) A listing of all projects funded in the current fiscal year and past projects funded.
- (iii) A listing of all consultants engaged by the Corporation and paid by the Corporation with funds from the Renewable Energy Development Fund;
- (iv) A discussion of accomplishments, challenges and recommendations for improvement of the Renewable Energy Development Fund.

5.01 (b) Executive Director's Discretionary Authority Quarterly Report:

The Executive Director of the Corporation shall prepare a report for the Corporation's Board of Directors of all grants, recoverable grants and loans from the Renewable Energy Development Fund that were approved within the Executive Director's discretionary authority that will include:

(i) A listing of all projects funded in the previous quarter and a brief description of the project.

(ii) A listing of any grants, recoverable grants or loans provided to project recipients for consultants including the consultant's contact information and description of the consultant's scope of work.

Section 6.00. Finality.

Any request for utilization of funds from the Renewable Energy Development Fund, including the Municipal Renewable Energy Investment Program or the Non-Profit Affordable Housing Renewable Energy Investment Program, shall not constitute a "contested case" under the Administrative Procedures Act as set forth in R.I.G.L. Title 42, Chapter 35. No opportunity to object to any request shall be afforded, nor shall judicial review be available from a decision rendered by the Corporation pursuant to applicable law.

Section 7.00. Reconsideration of Corporation Decision.

Any affected person may request in writing reconsideration of a decision of the Corporation. Requests for reconsideration will be granted only where it can be demonstrated that there have been:

- (i) significant changes in the proposed project's ability to meet the applicable criteria as related to it; or
- (ii) significant changes in factors or circumstances relied upon by the Corporation in reaching its decision.

Section 8.00. Rescission of Funding.

The Corporation may revoke any funding authorized by it prior to any disbursements made by it, whether in whole or in part, upon a finding by the Corporation that:

(a) the project authorized for funding has been significantly altered in scope or impact, or in any other way the criteria utilized by the Corporation in determining the authorization for the funding has been altered, changed or impacted in a material way; or

(b) the project applicant has not made substantial and significant advancement with respect to the implementation of the project since the authorization was approved by the Corporation, as determined by the Corporation.

(c) the project applicant has not satisfied any pre-funding conditions set forth by the Corporation.

Section 9.00. Performance.

Any person or entity that has been granted funding pursuant to these rules and regulations shall report to the Corporation on the progress the applicant has made with respect to the implementation of the project for which funding was authorized. Such reports shall be in form and substance satisfactory to the Corporation and performed with a frequency as determined by the Corporation.

Section 10.00. Authority Regarding Documentation.

Any grant, loan, recoverable grant or other utilization of the Renewable Energy Development Fund, including the Municipal Renewable Energy Investment Program or the Non-Profit Affordable Housing Renewable Energy Investment program, may be documented by the Corporation with such agreements, promissory notes, memoranda of understanding, security instruments, mortgages, pledges, hypothecations and other documentation as deemed reasonably necessary and prudent by the Corporation upon terms and conditions as deemed necessary, desirable and in the best interest of the Corporation and the funds under its administrative care, including, without limitation, the right to charge interest, impose penalties and charges, and recover reasonable costs as

may be deemed appropriate and in the best interest of the Corporation and the funds administered by it.

Section 11.00. Liberal Application.

The terms and provisions of these rules and regulations shall be liberally construed to allow the Corporation to implement the intended public policy of the programs regulated hereby.

Section 12.00. Severability.

If a court with jurisdiction invalidates any provision of these rules and regulations or their application to any local government unit or circumstance, the remaining rules and regulations will not be affected. The invalidity of any section or sections, or parts of any section or sections, shall not affect the validity of the remainder of these rules and regulations.

The foregoing rules and regulations, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State of the State of Rhode Island on the to become effective after filing in accordance with applicable law.

RHODE ISLAND ECONOMIC DEVELOPMENT
CORPORATION

Saul Kaplan, Executive Director

Adopted by the Rhode Island Economic Development Corporation Board of Directors on:
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