



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: November 13, 2020

RE: Sustain and Serve NJ

Summary

The Members are asked to approve:

1. The creation of the Sustain and Serve NJ Program – a pilot program that will make grant funding available to any eligible public or private entity, including all 501(c) non-profit organizations, for expenses directly associated with purchasing meals from New Jersey-based restaurants that have been negatively impacted by COVID-19.
2. Economic Recovery Fund Utilization of up to \$2 million to fund the Sustain and Serve NJ Program.
3. Delegation to Authority staff (any Managing Director or Senior/Executive Vice President), upon recommendation of the reviewing officer, to approve individual applications or to decline for non-discretionary reasons to the Sustain and Serve NJ Program in accordance with the terms set forth in this memo and the attached program specifications.
4. In connection with appeals from declinations based solely on non-discretionary reasons, delegated authority to the Chief Executive Officer or any Senior/Executive Vice President to designate a one or more Hearing Officers to prepare a Final Administrative Decisions. The Final Administrative Decision must be approved by a Senior Vice President, Executive Vice President, Vice President, Managing Director, Director, or Senior Legislative Officer, upon recommendation of the Hearing Officer.
5. Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept reimbursement of the Authority funding for this program from any available governmental (Federal, State or County) funding and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program.

6. Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept unencumbered gifts for the purposes of expanding the funding pool of the Sustain and Serve NJ program.

Background

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

Businesses classified as "Food Services and Drinking Places" under NAICS code 722 (described in this document as "Restaurants"), have been disproportionately impacted by COVID-19, because of caps on location dining and unusual costs incurred to adapt business models for safe operations.

With the Public Health Emergency in place and millions of New Jerseyans abruptly staying home, restaurant revenue plummeted or disappeared, and many restaurants have had little choice but to change – or abandon – their operating model overnight, with some having to close their doors completely and lay off or furlough all staff. Many restaurants that have changed their model have rapidly shifted to a takeout-only model, which resulted in a significant reduction in staff.

In 2019, according to the NJ Department of Labor and Workforce Development (NJDOL), 270,000 restaurant workers were employed in New Jersey. Since the beginning of the pandemic, NJDOL reports that 131,710 restaurant workers have filed Unemployment Insurance claims. In 2018, the National Restaurant Association reported there were over 19,000 restaurants in NJ. Prior to the pandemic, the sector was growing, with NJDOL projecting the sector would expand by more than 12 percent by 2026. Now, the New Jersey Restaurant and Hospitality Association estimates as many as 30 percent of New Jersey restaurants remain at risk of permanent closure.

While these figures are staggering, they were likely mitigated in part due to several New Jersey-based initiatives that emerged in direct response to COVID-19. Based on research by Authority staff, these initiatives appear to share the same core function - bulk purchase of pre-made meals from New Jersey restaurants, which were then distributed for free to target populations.

These initiatives aimed to achieve two central goals:

- 1) To provide urgently needed revenue to restaurants to offset direct losses due to COVID-19. This included restaurants that had temporarily closed; were preparing to close; and/or reduced their staff through layoffs or furloughs.
- 2) To distribute free meals purchased from local restaurants to target populations, including low-income individuals, senior citizens, health care workers, and first responders.

Based on research conducted by Authority staff, there appear to be commonalities in the approaches that have been used. These include:

- Purchasing meals from NJ-based restaurants at a consistent, flat rate (e.g. \$5 or \$10 per meal)
- Buying meals in bulk and at a large scale (hundreds or thousands per day)
- Identifying and/or requesting information from prospective restaurants about the impact of COVID-19 on their business (e.g., lost revenue, layoffs etc.)

Some of the initiatives were launched by existing organizations (primarily not-for-profits with 501(c)(3) designations). Others emerged quickly and organically within local communities. Some of the newly-formed groups have remained informal or have suspended their operations. Other new entities have obtained 501(c)(3) designation and/or joined forces with existing entities, like foundations.

While the Authority has been supporting restaurants through direct grants and other more standard assistance, this proposed pilot program assists restaurants by providing support in a way that enables restaurants to continue their core business of preparing food. Although the direct recipient of the grant are the entities described above, the ultimate beneficiaries are the restaurants.

Program Structure and Eligibility

Under the Sustain and Serve NJ Grant Program being presented for the Members for consideration, up to \$2 million from Economic Recovery Fund would be utilized to make grants of at least \$100,000 available to entities to support prospective expenses directly tied to bulk purchasing of meals from New Jersey-based restaurants negatively impacted by COVID-19. As part of the program requirements, the grant recipient is prohibited from reselling any meals purchased with grant funding.

Eligibility for grant recipients will be limited to public or private entities, including all 501(c) non-profit organizations, that can demonstrate as applicable: (1) legal registration to do business in the State of New Jersey, evidenced by a valid Business Registration Certificate; (2) good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor, and (3) a tax clearance certificate from the New Jersey Division of Taxation prior to execution of grant agreement.

Grant applications must also identify the restaurant(s) that they will be purchasing meals from using the grant funding, and must demonstrate through the grant application that those restaurant(s) have met their own program eligibility parameters. This includes: (1) a physical commercial location in New Jersey; (2) legal registration to do business in the State of New Jersey, evidenced by a valid Business Registration Certificate; (3) good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor, (4) satisfaction of the requirement by the New Jersey Division of Taxation with regard to taxes, which may be through a tax clearance certification or verification from the Division of Taxation that the restaurant is in good standing and does not have tax debts due to the State, (5) for all restaurants regulated by the Division of Alcoholic Beverage Control (ABC), good standing with ABC, with all decisions of good standing at the discretion of the ABC, and (6) current and valid certification from municipal and/or county government inspection that the restaurant has received a rating of Satisfactory as per New Jersey Retail Food Establishment Rating system. Furthermore, restaurant partners cannot have more than 50 full-time equivalent employees (FTEs) in total, at time of application, based on the company's most recently filed WR-30 with NJDOL.

To be eligible, grant applicants must demonstrate as part of the application their prior experience bulk purchasing meals, and capacity to continue bulk purchasing, by providing documents demonstrating purchases of 3,000 or more meals made by the entity from any New Jersey-based restaurant(s) totaling at least \$50,000, purchased between March 9, 2020 and the date of application launch. Restaurants will not be permitted to apply directly for this grant. For the purposes of this grant, applicants may purchase from a new restaurant(s) they have not previously purchased from.

In the application, the applicant would be required to identify all restaurants they are proposing to purchase from, each restaurant's New Jersey physical commercial location, and provide a certification from each restaurant certifying that they were in operation on February 15, 2020, and detailing how the restaurant(s) has been negatively impacted by the COVID-19 declared state of emergency on March 9, 2020 (e.g., was temporarily shut down, was forced to reduce hours, has had a drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production). The Authority anticipates providing a template form that applicants could provide to restaurants for their attestation. Once completed, it would be submitted as part of the grant application package. Grant applicants/recipients will be responsible for providing to the Authority any necessary supporting information and documentation from the restaurants to verify eligibility – whether that be as part of the application process, prior to grant agreement, or following execution of a grant agreement as part of an audit the Authority, U.S. Treasury, or any other relevant State or federal entity may conduct against the certifications provided at application.

Under this program, grant funding is restricted to expenses that will be incurred from the date of execution of grant agreement through April 30, 2021. Eligible expenses will be limited to the direct cost to the grantee of purchasing restaurant meals, as determined by the restaurant(s). The price charged by the restaurant per meal may include, but is not limited to, the restaurant's cost of food and ingredients, labor, packaging, and facilities, as well as any profit margin. Sales tax

and gratuity cannot be paid for using grant funds. While the restaurant may charge any amount, the award amount will be capped at \$10 per meal.

No other expense incurred by the grantee, whether in support of the meal purchase from the restaurant or otherwise, is eligible. This includes, but is not limited to: indirect/overhead costs incurred by the applicant (e.g. rent, insurance), staff, transportation, distribution, marketing, communications, sales tax and gratuity.

As part of the application for grant funding, entities will request a grant amount based on the projected number of meals to be purchased and estimated cost (per meal), excluding sales tax and gratuity. All grant estimates must be based on a flat rate per meal, subject to the cap of \$10 per meal. For any grant that is awarded, disbursement of the total grant amount will be made incrementally from the Authority to the grantee as eligible expenses are incurred and disbursement is requested by the grantee. These disbursement requests must document that the expenses actually incurred are consistent with eligible uses of grant funding (i.e. the quantity of meals purchased, the cost per meal, and the restaurant from which the meals were purchased).

It is anticipated that during the term of the grant, the grant recipient may have a need to request a change or addition to its identified restaurants. The Authority will allow the grant recipient to request a change or addition to its eligible restaurants. This request, which must be submitted in writing, must verify the same requirements as the initial restaurants. Requests for changes or additions to restaurants will be reviewed by the Authority, and no changes or additions to the list of restaurants can be made by the grant recipient without the Authority's approval.

Unlike some of the other grant and loan programs administered by the Authority related to COVID-19, this application will not be first-come, first-serve. Instead, there will be a defined application window for entities to apply. If the total amount of grant funding requested and initially determined to be eligible among all eligible applications, as determined by staff, exceeds the \$2 million available for this program, staff will prorate grant awards based upon the amount determined by staff for each eligible applicant, reducing all grant awards to reflect an eligible applicant's share of the eligible pool.

At this time, staff is requesting the use of funds from the Economic Recovery Fund under the recent statutory amendment that allows the use of that fund for grants to small and medium sized businesses and non-profits or that directly benefit such businesses and non-profits during a state of emergency. While the Authority has been able to use CARES Act funding from the Coronavirus Relief Fund ("CRF") for other emergency programs, the current deadline for expenditures under federal law for CRF is December 30, 2020. As there remains a possibility that future federal funding may become available, staff is requesting delegated authority (Chief Executive Officer or any Senior Vice President) to accept reimbursement from any governmental (Federal, State, or County) funding for the Authority funds used in this program and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program. Additionally, as with other emergency grant programs, staff is requesting delegated authority (Chief Executive Officer or any Senior Vice President) to accept unencumbered and unrestricted gifts for the purposes of expanding the funding pool of this program

To ensure that the grant funding can be disbursed as quickly as possible to support urgent economic need from New Jersey-based restaurants that are at risk of permanent closure, consistent with the approach taken in other COVID-19 related programs, and because multiple applications are anticipated, delegated authority is sought for staff (any Managing Director or Senior/Executive Vice President) to approve individual applications, upon recommendation of the reviewing officer, in accordance with the terms set forth in the attached program specifications. Because the specifications and eligibility requirements will result in nondiscretionary decisions, staff also requests the delegated authority to decline applicants. In connection with appeals from declinations based solely on non-discretionary reasons, staff additionally requests delegated authority to the Chief Executive Officer or any Senior/Executive Vice President to designate a one or more Hearing Officers to prepare a Final Administrative Decision. The Final Administrative Decision must be approved by a Senior Vice President, Executive Vice President, Vice President, Managing Director, Director, or Senior Legislative Officer, upon recommendation of the Hearing Officer.

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

Recommendation

Approval is requested for: (1) The creation of the Sustain and Serve NJ Program – a pilot program that will make grant funding available to any eligible public or private entity, including all 501(c) non-profit organizations, for expenses directly associated with purchasing meals from New Jersey-based restaurants that have been negatively impacted by COVID-19; (2) Utilization of up to \$2 million from the Economic Recovery Fund to fund the Sustain and Serve NJ Program, (3) Delegation to Authority staff (any Managing Director or Senior/Executive Vice President), upon recommendation of the reviewing officer, to approve individual applications to the Sustain and Serve NJ Program in accordance with the terms set forth in this memo and the attached program specifications. Because the specifications are streamlined and will result in non-discretionary decisions, staff requests the delegated authority to decline applicants, (4) In connection with appeals from declinations based solely on non-discretionary reasons, delegated authority to the Chief Executive Officer or any Senior/Executive Vice President to designate a one or more Hearing Officers to prepare a Final Administrative Decision. The Final Administrative Decision must be approved by a Senior Vice President, Executive Vice President, Vice President, Managing Director, Director, or Senior Legislative Officer, upon recommendation of the Hearing Officer (5) Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept reimbursement of the Authority funding for this program from any available governmental (Federal, State or County) funding and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program, and (6) Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept unencumbered gifts for the purposes of expanding the funding pool of the Sustain and Serve NJ program.

Tim Sullivan
Chief Executive Officer

Attachments
Exhibit A – Sustain and Serve NJ Program Specifications

**Sustain and Serve NJ
Proposed Program Specifications**

Funding Source	Up to \$2,000,000 – Economic Recovery Fund
Program Purpose	To provide urgently needed revenue to New Jersey-based restaurants to offset direct losses due to COVID-19. This included restaurants that had temporarily closed; were preparing to close; and/or reduced their staff through layoffs or furloughs.
Eligible Applicants	<p>Any public or private entity, including all 501(c) non-profit organizations, that can demonstrate as applicable:</p> <ul style="list-style-type: none"> • Legal registration to do business in New Jersey, as evidenced by a NJ Business Registration Certificate • Good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor; and • A tax clearance certificate from the New Jersey Division of Taxation, prior to execution of grant agreement. • Must be able to demonstrate capacity to bulk purchase meals, as evidenced by purchases of a minimum of 3,000 meals and \$50,000 during the time period of March 9, 2020 – date of program application launch (expected to be December 2020). • Restaurants cannot apply directly for grants. • Grant recipients are prohibited from reselling meals that are purchased using grant funding. <p>Grant applications must also demonstrate, as part of the grant application, the following requirements were met by restaurants from which the grant applicants will be bulk purchasing meals:</p> <ul style="list-style-type: none"> • Restaurant is classified as “Food Services and Drinking Places” under NAICS code 722 • 50 or less full-time equivalent employees at time of application, based on the company’s most recently filed WR-30 with NJDOL. • Physical commercial location in New Jersey • Legal registration to do business in New Jersey, as evidenced by a NJ Business Registration Certificate • Good standing with the Department of Labor, with all decisions of good standing at the discretion of the Commissioner of the Department of Labor

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- If the restaurant is regulated by the Division of Alcoholic Beverage Control (ABC), then it must also be in good standing with ABC, with all decisions of good standing at the discretion of the ABC.
- Current and valid certification from municipal and/or county government inspection that the restaurant has received a rating of Satisfactory as per New Jersey Retail Food Establishment Rating system
- Satisfaction of the requirement by the New Jersey Division of Taxation with regard to taxes, which may be through a tax clearance certification or verification from the Division of Taxation that the restaurant is in good standing and does not have tax debts due to the State
- Attestation from the restaurant that they were in operation on February 15, 2020, and that they have been negatively impacted by the COVID-19 declared state of emergency on March 9, 2020 (e.g., was temporarily shut down, was forced to reduce hours, has had a drop in revenue, has been materially impacted by employees who cannot work due to the outbreak, or has a supply chain that has materially been disrupted and therefore slowed firm-level production). Grant applicants/recipients will be responsible for providing to the Authority any necessary supporting information and documentation from on behalf of the restaurants to verify eligibility – whether that be as part of the application process, prior to grant agreement, or following execution of a grant agreement as part of an audit the Authority, U.S. Treasury, or any other relevant State or federal entity reserves the right to may conduct against the certifications provided at application.

Prohibited businesses include, but are not limited to: gambling or gaming activities; the conduct or purveyance of “adult” (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi-nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or “lost-our-lease” or “going-out-of-business” or similar sale; sales by transient merchants, Christmas tree sales or other outdoor storage; any activity constituting a nuisance; or any illegal purposes.

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<p>Eligible Uses</p>	<p>Grant funding can only be used for direct costs associated with bulk purchasing of meals that are projected to be incurred between date of grant execution – April 30, 2021. These direct costs include:</p> <ul style="list-style-type: none"> • Cost of food and ingredients • Costs incurred by the restaurant for labor, packaging, and facilities • Any profit margin for the restaurant <p>No other expense incurred by the applicant, whether in support of the meal purchase from the restaurant or otherwise, is eligible. This includes, but is not limited to: indirect/overhead costs incurred by the applicant (e.g. rent, insurance), transportation, distribution, marketing, communications, sales tax and gratuity.</p>
<p>Application Process and Board Approval/ Delegated Authority</p>	<ul style="list-style-type: none"> • Online application. Applications will be accepted during a defined application period, and all applications will be reviewed following the closure of the application period. • Delegation to Authority staff (any Managing Director or Senior/Executive Vice President), upon recommendation of the reviewing officer, to approve individual applications to the Sustain and Serve NJ Program, and because the specifications are streamlined and will result in non-discretionary decisions, the delegated authority requested includes the authority to decline and issue final administrative decisions • Businesses whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 3 days but no longer than 10 days). The CEO or any Senior/Executive Vice President will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will prepare a recommended decision, which must be approved, and a Final Administration Decision issued, a Senior Vice President, Executive Vice President, Vice President, Managing Director, Director, or Senior Legislative Officer, upon recommendation of the Hearing Officer.

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	<ul style="list-style-type: none"> • Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept reimbursement of the Authority funding for this program from any available governmental (Federal, State or County) funding and to impose additional requirements as may be required by law as a condition of accepting, provided that the requirements are consistent with the parameters of the program. • Delegation to Authority staff (Chief Executive Officer or any Senior Vice President) to accept unencumbered gifts for the purposes of expanding the funding pool of the Sustain and Serve NJ program.
Grant Amounts	<ul style="list-style-type: none"> • Minimum Grant Amount: \$100,000 • Specific grant awards to be calculated based on the projected number of meals to be purchased and estimated cost (per meal), excluding sales tax and gratuity. All meal purchases must be based on and supported by a flat rate per meal. • While there is no exclusion for entities purchasing meals at more than \$10/meal, grant funding will be capped at \$10/meal. • Once the Authority receives all applications, if the total amount grant funding requested among all eligible applications exceeds the \$2 million available for this program, the Authority will prorate grant awards based upon the amount determined by staff for each eligible applicant, reducing all grant awards to reflect an eligible applicant’s share of the eligible pool.
Funding Disbursement	<ul style="list-style-type: none"> • The total grant award will be disbursed incrementally as eligible projected expenses are incurred and disbursement is requested from the Authority by the grantee. • These disbursement requests must be evidenced by documentation supporting that the expenses were actually incurred and consistent with eligible uses of grant funding (i.e. the quantity of meals purchased, the cost per meal, and the restaurant from which the meals were purchased).

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Fees	<ul style="list-style-type: none">• Due to the financial hardship experienced by restaurants, there will be no fees associated with the Sustain and Serve NJ Program.