

AS ADOPTED  
7/19/10

**JOINT OPERATING PROCEDURES  
OF THE  
RENEWABLE ENERGY INVESTMENTS BOARD  
AND  
CONNECTICUT INNOVATIONS, INCORPORATED,  
AS ADMINISTRATOR**

**Relating to the Administration and  
Operation of the  
Renewable Energy Investment Fund**

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## **I. PRELIMINARY MATTERS**

These Joint Operating Procedures (these "Procedures") are applicable to the administration and operation of the Renewable Energy Investment Fund, commonly known as the Connecticut Clean Energy Fund or CCEF (the "Fund"), which was established by Section 16-245n of the Connecticut General Statutes, as amended by Public Act No. 07-152 (the "Act"). Pursuant to the Act, a Renewable Energy Investments Board (the "CCEF Board") was created to act on matters related to the Fund, including, but not limited to, the development of a comprehensive plan and the expenditure of funds. The Fund exists within Connecticut Innovations, Incorporated ("CI") for administrative purposes only. CI, acting in its capacity as administrator of the Fund pursuant to the Act, is referred to in these Procedures as the "Administrator".

These Procedures have been adopted by the CCEF Board pursuant to Section 16-245n(e) of the Connecticut General Statutes and by CI pursuant to Sections 32-11 a(e) and 1-121 of the Connecticut General Statutes, in each case for the purpose of setting forth the respective roles, responsibilities and procedures of the CCEF Board and the Administrator relating to the administration and operation of the Fund.

## **II. DEVELOPMENT OF COMPREHENSIVE PLAN**

Pursuant to Section 16-245n(d) of the Act, the CCEF Board shall develop a comprehensive plan with respect to the Fund and expenditures therefrom and shall, in such comprehensive plan, give preference to projects that maximize the reduction of federally mandated congestion charges. The CCEF Board shall determine the overall process for development of the draft comprehensive plan and shall consider whether outside consultants should be retained to assist in development of the draft comprehensive plan or to otherwise provide advice to the CCEF Board regarding the comprehensive plan.

The CCEF Board shall develop and adopt the draft comprehensive plan in accordance with all provisions of Section 16-245n(d), including but not limited to those provisions relating to notice and public comment. Additionally, the CCEF Board shall:

- (1) make the draft comprehensive plan available on the homepage of the Fund's website at [www.ctcleanenergy.com](http://www.ctcleanenergy.com);
- (2) conduct at least three public hearings in three different regions of the State on the comprehensive plan;
- (3) include a copy of all public comments received in writing by CCEF with the final comprehensive plan approved by the CCEF Board and submitted to the DPUC for approval; and

- (4) provide a copy of the comprehensive plan as approved or modified by the DPUC to the Governor.

The Administrator shall provide such support to the CCEF Board in connection with the development, preparation, promulgation, consideration and approval of the comprehensive plan as the CCEF Board may reasonably require. The comprehensive plan, as so approved or modified by the DPUC, is referred to in these Procedures as the "Comprehensive Plan".

### III. \_\_\_\_\_ **AUTHORITY OF ADMINISTRATOR**

#### **A. Authority Generally**

Subject to the overall decision-making authority of the CCEF Board, the Administrator shall administer, operate and otherwise act on behalf of the Fund pursuant to the Act, these Procedures, such resolutions of the CCEF Board pertaining thereto (and not inconsistent with the Act or these Procedures) as may from time to time be adopted, and any other applicable legal authority. In furtherance and not in limitation of the foregoing, the Administrator shall have and may exercise such of the powers granted to CI in Section 32-39 of the Connecticut General Statutes, as amended, as may be necessary or convenient for purposes of the administration and operation of the Fund. The Administrator, on behalf of the Fund, may enter into, execute and deliver all instruments, contracts, agreements, commitments, guarantees, releases, certificates and other writings as may be appropriate in connection with the administration and operation of the Fund. Such instruments, contracts, agreements, commitments, guarantees, releases, certificates and other writings shall be entered into in the name of the Fund, or in the name of the Administrator acting on behalf of the Fund. In the case of contracts dealing solely with the Fund, such contracts must be signed by the CCEF President. All obligations arising under such instruments, contracts, agreements, commitments, guarantees, releases, certificates and other writings shall be special obligations payable solely from the assets, revenues and other resources of the Fund without recourse to CI individually.

#### **B. Special Delegation**

The CCEF Board may from time to time assign or delegate to the Administrator or to one or more executive officers appointed pursuant to Section C of Article IV such other duties and responsibilities of the CCEF Board as the CCEF Board determines to be reasonable and proper, subject only to the reservation to the CCEF Board of those responsibilities which pursuant to the Act, the Bylaws of the CCEF Board or otherwise applicable provisions of law are expressly to be exercised by the CCEF Board or a duly authorized committee thereof.

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#### **IV. CCEF STAFF**

##### **A. Staffing Plan**

In advance of, or in connection with, the adoption of an annual or interim budget pursuant to Article V of these Procedures, the CCEF Board shall approve a staffing plan for the Fund consistent with the Comprehensive Plan, which staffing plan shall include (i) a chart of positions, (ii) job titles, minimum job qualifications and summary job descriptions, (iii) compensation ranges by salary grade (including incentive compensation ranges, if applicable), (iv) identification of the principal supervisory positions to be designated as executive officers of the Fund pursuant to Subsection C of this Article IV, including a description of the principal duties, responsibilities and authority with respect to the Fund of each such principal supervisory position, and (v) the reporting relationships among such principal supervisory positions. In the case of positions filled by CI employees also working on CI matters unrelated to the Fund, the chart of positions shall indicate, for budgeting purposes, the portion of such employee's time expected to be devoted to the administration and operation of the Fund. Such employees shall record their time actually spent on matters related to the administration and operation of the Fund, and reimbursement to CI from the Fund for compensation and benefit expenses for such employees pursuant to Article V of these Procedures shall be based on the relationship between the actual time spent on such matters and the employee's total work time. The staffing plan may be modified or supplemented by the CCEF Board from time to time; provided, however, that (i) if such modification or supplement would result in a change in CI compensation and benefit expenses chargeable to the Fund, there shall be a corresponding amendment to the applicable annual or interim budget adopted pursuant to Article V of these Procedures, and (ii) no previously authorized and filled position on the staffing plan shall be eliminated except in accordance with the applicable personnel practices and procedures of CI. The Administrator shall provide such support in the development, preparation, consideration and approval of the staffing plan as the CCEF Board may reasonably require, including the preparation of draft staffing plans for review and consideration by the CCEF Board. References in these Procedures to the "Staffing Plan" mean the approved staffing plan then in effect.

##### **B. Assignment and Supervision of CI Employees**

CI shall select and assign to duties related to the administration and operation of the Fund such of CI's employees as CI determines to have the requisite qualifications, experience and availability for the positions set forth in the Staffing Plan. If there are no current CI employees with the requisite qualifications, experience and availability, CI shall undertake to recruit and hire such employees. The selection and/or hiring of the CI employees who will be appointed and serve as certain executive officers of the Fund shall be subject to the advice and consent of the CCEF Board as provided in Section C of this Article IV. The CI employees assigned to duties related to the administration and operation of the Fund, including the executive officers of the Fund, shall remain employees of CI under the overall supervision and control of the Board of Directors of CI and CI's President and Executive Director, and shall be subject to the employment

policies and practices and the terms and conditions of employment, including with respect to matters of hiring, job performance and evaluation, promotion and dismissal, as are from time to time in effect with respect to CI employees generally.

In connection with job performance evaluations of CI employees assigned to work exclusively on Fund matters, and decisions with respect to merit or incentive compensation and promotion as a consequence of such evaluations, CI shall obtain and consider the input of the President of the Fund appointed pursuant to subsection C of this Article IV, and in the case of the President, and other principal executive officers of the Fund appointed pursuant to Section C of Article V, CI shall obtain and consider the input of the CCEF Board Chairperson.

**C. Executive Officers of the Fund**

From among the employees of CI assigned to duties relating to the administration and operation of the Fund pursuant to the Staffing Plan, CI shall appoint executive officers of the Fund to fill the principal supervisory positions identified in the Staffing Plan. Such executive officers shall include a President, Counsel, Director of Project Development, and may include other officers as specified in the Staffing Plan. The appointment of the CCEF President, CCEF Counsel, and CCEF Director of Project Development shall be subject to the advice and consent of the CCEF Board. The President of the Fund shall, on behalf of the Administrator and at the pleasure of the CCEF Board, attend meetings of the CCEF Board and report on matters related to the implementation of the Comprehensive Plan, expenditures from the Fund, the status of renewable energy projects and programs, and other matters of Fund operations; subject, however, to the overall responsibility and authority of the President and Executive Director of CI for the performance of the administrative duties of the Administrator. The President and other executive officers shall have such other duties, responsibilities and authority as conferred by these Procedures, or as set forth in the Staffing Plan or any applicable resolutions or instruments of appointment.

**D. CCEF Counsel**

The attorneys, paralegals, or CI employees providing legal services to the Fund pursuant to the Staffing Plan may address legal matters on behalf of the Fund which include, but are not limited to: (1) contracts and other legal instruments relating to the Fund's operations; (2) regulatory and other administrative law matters; (3) CCEF Board matters; and (4) all general statutory matters pertaining to the Fund and/or the CCEF Board. The attorneys, paralegals, or CI employees providing legal services to the Fund pursuant to the Staffing Plan shall treat both the CCEF Board and the Administrator as the client and shall adhere to all ethical and professional standards relative to the attorney-client relationship. The CCEF Board and the Administrator shall be jointly entitled to the benefit of any applicable attorney-client privilege.

**V. ANNUAL OPERATING BUDGET; PAYMENT OF EXPENSES OF ADMINISTRATION AND OPERATION; ACCOUNTING MATTERS; THIRD PARTY CLAIMS; FREEDOM OF INFORMATION COMPLIANCE**

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**A. Adoption of Budget**

On an annual basis (or on an interim basis for any period not covered by an approved annual budget) the CCEF Board shall adopt a budget for the expenses of administration and operation of the Fund, which budget shall be consistent with the Comprehensive Plan and the Staffing Plan and shall include the costs of services provided by the Administrator, a reasonable management fee to the Administrator as jointly established by the CCEF Board and the Administrator, and costs of necessary third party contractual, professional and consulting services. The costs of services provided by the Administrator shall include a reasonable allocation of CI personnel costs, including compensation and benefit expense, costs of office space, equipment and supplies, and other overhead and administrative costs fairly attributable to the administration and operation of the Fund. Any annual or interim budget may be modified or supplemented by the CCEF Board at any time; provided, however, that no such modification or supplement shall impair funding necessary to fulfill commitments or obligations already entered into by the Administrator based on a prior approved interim or annual budget or other CCEF Board approval. The Administrator shall provide such support to the CCEF Board in connection with the development, preparation, consideration, approval, modification or supplement of any annual or interim budget as the Board may reasonably require, including preparation by the Administrator of draft budgets for the CCEF Board's review and consideration. References in these Procedures to the "Budget" refer to the approved annual or interim budget then in effect.

**B. Disbursements**

The Administrator shall be authorized to make disbursements from the Fund from time to time in payment or reimbursement of the expenses of administration and operation of the Fund (including disbursements to CI in reimbursement of the costs of services provided by CI and in payment of the management fee) in accordance with the Budget. If, between meetings of the CCEF Board, the Administrator, in consultation with the CCEF Board Chairperson, or in his or her absence, the CCEF Board Vice-Chairperson, determines that it is necessary to make an unbudgeted disbursement from the Fund for expenses of administration and operation, which unbudgeted disbursement is not in excess of \$5,000, the Administrator shall be authorized to make such unbudgeted disbursement, which shall be reported to the CCEF Board and to the CCEF Finance and Operations Committee at their next respective meetings. A listing of all unbudgeted disbursements in excess of \$1,000 made since submission of the prior draft comprehensive plan to DPUC shall be included in each draft comprehensive plan submitted to the DPUC. Any unbudgeted disbursement from the Fund for expenses of administration and operation of the Fund in excess of \$5,000 and less than \$75,000 shall require the advance approval of the CCEF Finance and Operations Committee. Any unbudgeted disbursement from the Fund for expenses of administration and operation of the Fund in excess of \$75,000 shall require the advance approval of the CCEF Board.

### **C. Accounting Matters**

The Administrator shall maintain the books and records of the Fund in accordance with accounting standards generally accepted in the United States and applicable to special revenue funds of governmental entities, including any requirements of the State Comptroller and the State Auditors of Public Accounts. Such books and records shall be audited by the independent accountants then engaged by CI pursuant to Section 32-35(d) of the Connecticut General Statutes, and shall be subject to audit by the State Auditors of Public Accounts in accordance with law. The CCEF Board in its discretion may require the Administrator to implement additional accounting controls or perform additional accounting procedures with respect to the Fund, or may require that CI's independent accountants, or other independent accountants selected by CI pursuant to Section 32-35(d) with the advice and consent of the CCEF Board, perform additional agreed procedures or, in the case of other independent accountants, a separate audit of the Fund; provided, however, that in each such case any additional costs of CI, including an allowance for any additional staff time, of such additional controls, procedures or audit shall be considered expenses of administration and operation of the Fund approved by the CCEF Board.

### **D. Third Party Claims**

The CCEF Board and CI shall cooperate in the investigation and defense of any third party claim, demand, suit or other legal proceeding against the Fund, the CCEF Board or the Administrator, and of any third party claim, demand, suit or other legal proceeding against CI or any employee of CI arising out of the administration and operation of the Fund (each a "Claim"). If CI and the CCEF Board determine that the investigation and defense of any Claim falls within the statutory authority and responsibility of the Attorney General, such Claim shall be promptly referred to that office.

All reasonable and necessary expenses incurred by CI in connection with the investigation or defense of a Claim, and any payment by CI in settlement or satisfaction of any such claim, shall be considered expenses of administration and operation of the Fund reimbursable to CI; provided, however, that (i) no Claim shall be settled or otherwise paid (other than a payment required to satisfy a final judgment) unless first approved by the CCEF Board, and (ii) if the expenses of investigation and defense to be charged to the Fund are expected to exceed \$5,000, the Administrator shall as soon as practicable in the circumstances prepare and present to the CCEF Board for its approval a budget setting forth such expenses in reasonable detail, including appropriate contingencies, and (iii) no payment or reimbursement shall be made by the Fund with respect to a Claim against a CI Director, officer, or employee except in circumstances where such director, officer or employee is found to have been acting in the discharge of his or her duties or within the scope of his or her employment and the act or omission forming the basis for such Claim is found not to have been wanton, reckless, willful or malicious. In the event that a Claim is filed with, served upon, or otherwise presented to the CCEF Board but not the Administrator, or the Administrator but not the CCEF Board, the receiving party shall promptly provide to the other notice of

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such Claim, together with a copy of any complaint, demand letter or other writing setting forth such Claim. Nothing in these Procedures shall be deemed to constitute a waiver of the defense of governmental immunity in connection with any Claim, and such defense, to the extent available as a matter of law, is hereby expressly reserved by the Fund, the CCEF Board, and the Administrator.

#### **E. Freedom of Information Compliance**

The Administrator shall act as custodian of the records of the activities of the Fund and the proceedings of the CCEF Board and shall have authority and responsibility to respond to any public records request pursuant to the Connecticut Freedom of Information Act relating to any such records whether directed to CI, the Administrator, the Fund or the CCEF Board. Upon receipt of any public records request pursuant to the Connecticut Freedom of Information Act relating to such records, the CCEF Board Chairperson, or his or her designee, and the Administrator shall each be immediately notified of such request. In connection with any such public records request, the Administrator shall identify and review the records responsive to the request, and prior to substantively responding to such request, shall notify the CCEF Board Chairperson, or his or her designee, of the Administrator's intent to disclose any records or invoke any exemption from public records disclosure that appears from such review to be applicable as a matter of law, such notice to contain such information and to be made in a manner agreed upon by the CCEF Board Chairperson and the Administrator. The expenses incurred by the Administrator in responding to any such public records request, including the costs of any administrative or court proceeding in which the applicability of any disclosure exemption is asserted or contested, shall be considered expenses of administration and operation of the Fund reimbursable to the Administrator.

#### **VI. APPROVAL OF EXPENDITURES FOR RENEWABLE ENERGY PROJECTS, DIRECT PROGRAM EXPENSES, AND PROGRAM-RELATED REGULATORY AND POLICY INITIATIVES**

Expenditures from the Fund for renewable energy projects, direct program expenses, and program-related regulatory or policy initiatives shall be consistent with and in furtherance of the Comprehensive Plan and shall be authorized by or in accordance with a resolution of the CCEF Board or a duly authorized committee thereof. For purposes of these Procedures, references to a "renewable energy project" or a "project" or a "direct program expense" or a "program-related regulatory or policy initiative" means a project, program, initiative or activity relating to the promotion of investment in renewable energy by means including without limitation any of the following: (a) growth, development and commercialization of renewable energy sources and related enterprises; (b) research, development, manufacture, financing, commercialization, deployment or installation of renewable energy technologies or sources; (c) education and training of individuals, businesses and lending institutions with regard to renewable energy technologies or sources; (d) the stimulation of demand for renewable energy and the deployment of renewable energy sources serving end use

customers in the State; or (e) the support of demonstration projects for advanced technologies that reduce energy use from traditional sources.

A direct program expense may include, but is not limited to, expenses such as the cost of retaining renewable energy system inspectors, program measurement and verification (“M&V”) studies and consultants, legislatively mandated studies, and program marketing and sponsorship expenses.

A program-related regulatory or policy initiative may include, but is not limited to, expenses such as Public Utility Control evidentiary docket proceedings (i.e., Project 150, IRP, Comprehensive Plan, etc.) and other evidentiary proceedings before state and federal commissions and tribunals that may impact the Fund’s renewable energy development programs.

Financial assistance for a renewable energy project may take the form of a grant, loan, equity investment, contractual payments, lease, sale or contribution of real or personal property or services or other form of financial assistance. The form and terms and conditions of financial assistance from the Fund for a renewable energy project shall be approved by or in accordance with an authorizing resolution of the CCEF Board or a duly authorized committee thereof. The Administrator shall be authorized to make disbursements from the Fund for approved renewable energy projects in accordance with the terms and conditions of such approval. The form and terms and conditions for contract payments from the Fund for a direct program expense or a program-related regulatory or policy initiative shall be in accordance with Article VIII of these Procedures. The Administrator shall be authorized to make disbursements from the Fund for direct program expenses and program-related regulatory or policy initiatives in accordance with Article VIII of these Procedures. Expenditures for expenses of administration and operation of the Fund pursuant to Article V of these Procedures shall not be considered expenditures for a renewable energy project, a direct program expense, or a program-related regulatory or policy initiative governed by this Article VI, Article VIII, and/or Article IX.

## **VII. CONTRACTING PROCEDURES GENERALLY**

Except in circumstances involving expenditures from the Fund for a renewable energy project in circumstances where the CCEF Board determines that one of the methods of selection and award set forth in Article IX of these Procedures is appropriate and in the best interests of the Fund or in circumstances involving expenditures from the Fund for a direct program expense or a program-related regulatory or policy initiative where the contracting procedure is set forth in Article VIII of these Procedures, contracting activities by the Administrator for the purposes and account of the Fund, including contracting activities related to the administration and operation of the Fund for which necessary funds are provided in the Budget, shall be carried out in accordance with the applicable operating procedures and governing statutes of CI, including its operating procedures relating to the purchase, lease or acquisition of real and personal property and contracting for professional and other personal services. Notwithstanding the foregoing, in connection with any single procurement with a vendor

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or multiple procurements with the same vendor that may involve the expenditure from the Fund of more than \$75,000 in any fiscal year, the CCEF Board in its discretion may impose procurement conditions, controls or requirements in addition to those otherwise applicable to procurement by CI, provided that any additional costs of CI, including an allowance for any additional staff time, in implementing or administering such additional conditions, controls or requirements shall be considered expenses of the administration and operation of the Fund approved by the CCEF Board.

#### **VIII. CONTRACTING PROCEDURE FOR DIRECT PROGRAM EXPENSES AND PROGRAM-RELATED REGULATORY OR POLICY INITIATIVES**

The contracting procedure in this Article VIII applies to the award of contracts involving the expenditure of funds from the Fund for direct program expenses and program-related regulatory or policy initiatives. The funding for direct program expenses and program-related regulatory or policy initiatives shall take the form of contract-for service payments only. For a total contract payment to a vendor that will be \$75,000 or greater, or the sum of one or more total contract payments to a vendor that cumulatively will be \$75,000 or greater in any fiscal year, the issuance of a competitive request for proposals ("RFP") shall be required and the form and terms and conditions of such contract payments from the Fund must be approved by or in accordance with an authorizing resolution of the CCEF Board or a duly authorized committee thereof. For contract payments that will be less than \$75,000, an RFP and competitive award is not required and the form and terms and conditions of the contract payments from the Fund shall be authorized and approved in accordance with CI's applicable operating procedures. Except if the sum of one or more total contract payments to a vendor that cumulatively will be \$75,000 or greater in any fiscal year then an RFP will be required and the form and terms and conditions of such contract payments from the Fund must be approved by or in accordance with an authorizing resolution of the CCEF Board or a duly authorized committee thereof.

#### **IX. CONTRACTING PROCEDURES FOR RENEWABLE ENERGY PROJECTS**

The procedures in this Article VIII are generally applicable to the award of financial assistance or contracts involving the expenditure of funds from the Fund for a renewable energy project in circumstances where the CCEF Board determines that it is in the best interest of the Fund that one of the following methods be used in the selection and award process: (1) competitive selection and award, (2) programmatic selection and award, or (3) strategic selection and award. The factors to be considered in choosing the appropriate selection and award method, and the general procedures to be followed in each such case, are set forth below.

##### **A. Competitive Selection and Award**

1. Applicability: Competitive selection and award shall be the preferred method when the CCEF Board determines that it is appropriate in the circumstances to invite and consider proposals for a particular renewable energy project or projects in a

competitive process under an established schedule and pursuant to formal qualification and selection criteria so that proposers and proposals may be evaluated fairly and thoroughly on a comparative basis.

2.     Issuance of RFP: A request for proposals (“RFP”) shall be published or distributed in a manner that the Administrator determines will promote broad participation in the competitive process. Deadlines for particular stages in the competitive selection process will be set forth in the RFP. Notice of the RFP shall be posted on the Web sites of the Administrator and the Fund and, as deemed appropriate in the circumstances, may be published in one or more major daily newspapers published in the State, and may also be posted on the Web site of the Connecticut Department of Administrative Services. The RFP itself shall also be posted on the Web sites of the Administrator and the Fund, and shall be mailed to or otherwise made available to interested parties in a reasonable manner.
3.     Eligibility: Each RFP shall be authorized by resolution of the CCEF Board and issued pursuant to guidelines established by the Administrator consistent with such CCEF Board authorization. Such guidelines shall at a minimum set forth: (1) proposer qualification requirements, (2) project eligibility criteria, (3) the nature and amount of financial assistance available from the Fund under the program, (4) the principal selection criteria, (5) any mandatory terms and conditions under which such funding is available, (6) applicable application, processing or other program fees, and (7) the process by which proposals will be considered and acted upon. Such guidelines may be modified, in whole or in part, from time to time and at any time by the Administrator, consistent with the authorizing resolution of the CCEF Board.
4.     Selection Criteria: Selection criteria shall include, as applicable, the eligibility of the proposer, the proposer’s qualifications and experience, the financial feasibility of the project, including the availability and firmness of required financing, the cost effectiveness of the project, the technological characteristics of the project, including the potential for technological improvements and advancements, the project’s operational feasibility and commercial applicability, and the contributions to be made by the project toward the statutory purposes of the Fund and the furtherance of the Comprehensive Plan. Other selection criteria may be established for any RFP, and any weighting of selection criteria shall be in the discretion of the Administrator acting pursuant to the authorizing resolution of the CCEF Board. If appropriate in the circumstances, an RFP may be first issued as a request for qualifications, following

which those respondents found to be qualified are invited to respond to a final request for proposals.

5.     Selection Process: The selection process shall be pre-established by the RFP, shall be designed to provide for a fair and thorough evaluation of each eligible and qualified proposal, and shall be described in the RFP. The selection process may include the use of a review or scoring team, which may include members of the any advisory committee, members of the staff of the Administrator, and independent members with relevant industry, academic or governmental experience. No member of any such review or scoring team shall have any financial or other personal interest in any proposed project. Any such review or scoring team shall act in an advisory capacity only and shall not constitute a committee or subcommittee of the CCEF Board, and the members of any such review or scoring team shall not be deemed to be public officials as a result of their service thereon. If the Administrator determines that the responses to the RFP have been insufficient in number or quality to achieve the objectives of a competitive selection and award process or otherwise determines it to be in the best interest of the Fund, the RFP may be extended, withdrawn and reissued, or cancelled at any time.
6.     Selection Decision: One or more proposers may be selected for the purpose of entering into negotiations, if applicable, with respect to a project. Such selection shall be made by the Administrator acting pursuant to the authorizing resolution of the CCEF Board after taking into account the established selection criteria, any report or recommendation by staff of the Administrator, the report of any review or scoring team, and the results of any review and recommendation by any advisory committee to the CCEF Board, applied on an equitable basis. If more than one proposal is selected, they may be ranked in order of preference, which ranking may be based on the recommendation of staff of the Administrator, such advisory committee, or the review or scoring team.
7.     Notification to Proposers; Effect of Selection: All proposers shall be promptly notified of the results of the selection process. Such results may also be posted on the Web sites of the Administrator and the Fund. Any such selection and notification is solely for the purpose of qualification for possible negotiation and does not constitute a financing commitment or the award of a contract.
8.     Negotiation:     The Administrator may enter into good faith negotiations with one or more of the selected proposers at such time and in such order as the Administrator may determine in its discretion consistent with the authorizing resolution of the CCEF

Board. The commencement of such negotiations does not signify a commitment to provide financial assistance or to enter into a contract with a proposer. Either the proposer or the Administrator may terminate such negotiations at any time for any reason. The Administrator reserves the right to enter into negotiations with any other proposer at any time. Such negotiations shall not be limited to the scope or terms of the proposal but may include such other matters or different terms as the Administrator may determine to be in the best interests of the Fund. acting pursuant to the authorizing resolution of the CCEF Board.

9. Award: No award of a contract or of any financial assistance with respect to a project shall be final and effective unless and until it is authorized and approved by the CCEF Board as provided in Article VI of these Operating Procedures.
10. Fees and Expenses: The Administrator may impose reasonable application or similar fees in connection with the submission and processing of proposals, and may require, as a condition of negotiation with any selected proposer, that such proposer agree to pay costs incurred by the Administrator, including fees and disbursements of the Administrator's counsel, consultants and other professional advisors.
11. State Contracting Requirements: Any RFP shall be subject to, and any definitive financing or contracting documents shall include, such provisions as may be required by applicable laws or executive orders, including with respect to non-discrimination and affirmative action.
12. Other Terms and Conditions: Any RFP may be subject to and include such other terms and conditions, not inconsistent with the requirements of these procedures, as the Administrator may determine in its discretion to be appropriate and in the best interests of the Fund, consistent with the authorizing resolution of the CCEF Board.

## **B Programmatic Selection and Award**

1. Applicability: Programmatic selection and award shall be the preferred method when the CCEF Board determines that it is appropriate in the circumstances to invite applications on a continuing or periodic basis for renewable energy projects with identified characteristics and to consider such applications under pre-established program-based qualification, eligibility and selection criteria, but it is not necessary or appropriate to evaluate such applications on a comparative basis as part of a competitive RFP

process. Any such program may be discontinued or suspended or extended or expanded at any time by the CCEF Board, as the CCEF Board may determine in its discretion to be appropriate and in the best interests of the Fund.

2. Program Guidelines: Each such program shall be authorized by resolution of the CCEF Board and operated and administered by the Administrator pursuant to program guidelines established by the Administrator consistent with such CCEF Board authorization, which shall at a minimum set forth: (1) applicant qualification requirements, (2) project eligibility criteria, (3) the nature and amount of financial assistance available from the Fund under the program, (4) the principal selection criteria, (5) any mandatory terms and conditions under which such funding is available, (6) the application process, including a standard application form, (7) applicable application, processing or other program fees, and (8) the process by which applications will be considered and acted upon. Such program guidelines may be modified, in whole or in part, from time to time and at any time by the Administrator, consistent with the authorizing resolution of the CCEF Board. A general description of each such program, including the applicable program guidelines and all such modifications, if any, shall be posted on the Web sites of the Administrator and the Fund.
3. Approval; Terms and Conditions of Award: Applications shall be subject to the approval of the CCEF Board, or of the Administrator if and to the extent so authorized in the authorizing resolution of the CCEF Board, after taking into account any report or recommendations of the staff of the Administrator or any advisory committee. Funding from the Fund for a project under any such program shall be in such amount, and shall be subject to such project-specific terms, conditions and requirements, as may be determined by the Administrator within the limits established by the authorizing resolution of the CCEF Board and consistent with the program guidelines.
4. Timing of Consideration; Notice of Approval or Disapproval: While the processing time for applications may vary considerably based on the specific requirements of each program, applicants for financial assistance available under a Fund program will receive notice of approval or disapproval within one hundred twenty (120) days of the submission of a complete application (including receipt of such additional information as the Administrator may reasonably request in order to complete its application review). Failure to act on a completed application within such one hundred twenty (120) day period shall be deemed disapproval. Such one hundred twenty

(120) day period may be extended at the request of either the Administrator or the applicant with the consent of the other.

5. Fees and Expenses: In addition to defraying the administrative expenses of the Administrator, applicants may be assessed program fees consisting of application, commitment, closing and other processing fees, and applicants may be required to pay or reimburse the out-of-pocket expenses of the Administrator incurred in connection with the processing of an application or the closing of an award from the Fund, including the reasonable fees and disbursements of the Administrator's counsel, consultants and other professional advisors retained for the purpose of such application or award. Any pre-established application, processing or other program fees shall be set forth in the applicable program guidelines.

### **C. Strategic Selection and Award**

1. Applicability: While the utilization of an open and public process for awards from the Fund (either competitive or programmatic) is anticipated most often to be in the best interest of the Fund and is to be strongly preferred, there are nevertheless recognized to be certain circumstances in which, based on special capabilities, uniqueness of the opportunity, urgency of need, cost and similar factors, the public interest and the strategic mission of the Fund is best served by direct participation by the Fund in, and funding of, a particular renewable energy project outside of an existing program and absent a competitive process of selection and award. Such strategic selection and award method may be utilized upon an affirmative resolution, adopted by a two-thirds majority of the members of the CCEF Board present at a meeting of the CCEF Board, determining that the advantages of strategic selection and award clearly outweigh the general public interest in an open and public process based on a finding that at least three (3) of the following characteristics are present and are of predominant importance to the Fund:
  - a. Special Capabilities - The opportunity is presented by a party with exceptional experience, expertise or availability or holding patent or other proprietary rights of special value to the Fund.
  - b. Uniqueness - The opportunity is one-of-a-kind by virtue of location, high visibility, and leverage with other already committed public or private funding or similar unique

attributes.

- E. Public Act No. 09-158 relating to documentation of contractor compliance with non-discrimination requirements in state contracting;

- c. Strategic Importance - The opportunity has exceptionally strong compatibility with the mission of the Fund or offers the Fund an organizational role, participation in governance, a formative or other key role in the industry, high funding leverage potential, broad market reach, exceptional educational or public relations value or similar special strategic advantages important to the Fund.
  - d. Urgency and Timeliness - There is an urgent need to act on the opportunity as a result of public exigency or emergency, or a strategically important opportunity would become unavailable as a result of delay, or it would take an unacceptable length of time for a similar opportunity to reach the same level of readiness.
  - e. Multiphase Project; Follow-on Investment - The opportunity relates to the next phase of a multiphase proposal or the expenditure is necessary to support or protect an existing the Fund investment or initiative.
- 2 Other Requirements: Awards made by strategic selection and award shall to the extent applicable be otherwise subject to the same procedures set forth will respect to competitive selection and award under the headings "Negotiation", "Award", "Fees and Expenses", "State Contracting Requirements", and "Other Terms and Conditions".

## **X. STATE PROCUREMENT AND CONTRACTING REQUIREMENTS**

Any solicitation of bids or proposals and any contract award with respect to the Fund shall be subject to all applicable state procurement and contracting requirements, including without limitation the following to the extent applicable in the circumstances:

- A. Section 9-612 of the General Statutes relating to campaign contributions by state contractors and their principals;
- B. Section 4-252 of the Connecticut General Statutes relating to gift certifications;
- C. Section 4a-81 of the Connecticut General Statutes relating to consulting fees affidavits;
- D. Sections 4a-60 and 4a-60a relating to non-discrimination in state contracting;

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- F. Section 3-13! of the Connecticut General Statutes relating to finder's fees;
- G. Executive Order No. 7c of Governor M. Jodi Rell; and
- H. Section 4-61dd of the Connecticut General Statutes related to whistleblower protections.

## **XI. DISPUTE RESOLUTION**

The CCEF Board and CI recognize that disagreements may arise in connection with the performance of their respective obligations under these Procedures (a "Dispute"). In the event any such Dispute continues for a period longer than twenty (20) business days, either party shall be permitted to commence the dispute resolution process specified hereunder.

Any such Dispute shall be resolved in the following manner:

1. The CCEF Board Chairperson and the CI Board Chairperson shall endeavor to resolve such Dispute.
  2. If such Dispute is not so resolved within twenty (20) business days after the commencement of such efforts, such Dispute shall be referred to the CCEF Executive Committee and the CI Audit and Governance Committee for their consideration and they shall endeavor to resolve such Dispute.
  3. If such Dispute is not resolved by such committees within twenty (20) business days after the commencement of such efforts, the parties shall make a good faith attempt to settle the Dispute by mediation. Unless the parties to the Dispute agree otherwise, the mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") then in effect, or such alternative rules or guidelines as the parties may determine by agreement, by a mediator who shall be a retired judge, state or federal, or neutral and impartial lawyer with satisfactory academic and professional credentials: (1) who is or has been practicing law, or served as a judge, for at least 15 years; and (2) who has had both training and experience as a mediator and who has successfully mediated at least three cases in the field of the Dispute. Within ten (10) days after the mediator has been selected as provided above, the parties shall meet with the mediator at the mediator's office or such other location convenient to the parties, including the mediator, as the mediator shall select for one mediation session of at least four hours, it being agreed that each party or representative thereof attending such mediation session shall have full authority to settle the Dispute. If the Dispute cannot be settled at such mediation session or at any mutually agreed continuation thereof, any party may give the other party or parties
- E. Public Act No. 09-158 relating to documentation of contractor compliance with non-discrimination requirements in state contracting;

and the mediator a written notice declaring the mediation process at an

end, in which event then the Dispute shall be resolved as provided in paragraph (4).

4. If the Dispute is not resolved by mediation as provided in paragraph (3), then the parties shall be left with such other legal recourse and remedies as may be available in the circumstances.

## **XII. Periodic Review; Amendments**

No less than semi-annually, the Executive Committee of the CCEF Board and the Finance, Operations and Compensation Committee of the CI Board of Directors shall meet to review and discuss the matters addressed by these Procedures and, if deemed necessary, to make recommendations for amendment of these Procedures to CI and the CCEF Board. Amendments to these Procedures shall be effective only upon adoption of such amendments by both the CCEF Board and the CI Board of Directors.

\* \* \*

Adopted as amended by CCEF Board:

Adopted as amended by CI Board: