

RESOLUTION NO. 172

ADOPTING THE RULES AND REGULATIONS FOR THE ALBANY COUNTY SUSTAINABLE TECHNOLOGY AND GREEN ENERGY (STAGE) ACT PROGRAM

Introduced: 5/8/23

By Conservation, Sustainability and Green Initiatives Committee:

WHEREAS, By Local Law No. 1 for 2022, this Honorable Body created the Sustainable Technology and Green Energy Act (STAGE Act) in order to diversify and support green business industry in Albany County, and

WHEREAS, Pursuant to Section 4 of the Local Law, Rules and Regulations governing the implementation of the STAGE Act must be developed in collaboration and consultation with the County Legislature, Executive, Comptroller, Attorney and Commissioner of the Department of Management and Budget, and

WHEREAS, The Director of the Department of Economic Development, Conservation and Planning has requested approval and adoption of the proposed Rules and Regulations, and

WHEREAS, The adoption of these Rules and Regulation will allow for the County to continue efforts to support sustainable and green technology, and contribute to economic development, and job retention, now, therefore, be it

RESOLVED, By the Albany County Legislature, that the Rules and Regulations for the STAGE Act are hereby adopted as annexed hereto, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

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SECTION I: INTENT AND PURPOSE

This Sustainable Technology & Green Energy Plan “STAGE Plan” is developed pursuant to Albany County Local Law 1 for 2022 “ESTABLISHING THE SUSTAINABLE TECHNOLOGY AND GREEN ENERGY ACT (STAGE ACT)” (Exhibit A). This law builds upon the Economic Development Strategy Albany County Executive Daniel P. McCoy commissioned in 2019. The STAGE Plan is also intended to address the climate protection goals codified by New York State in the 2019 Climate Leadership and Community Protections Act (CLPCA). The STAGE Plan is intended to address the dual goals of creating economic opportunity and jobs for the residents of Albany County and at the same time decarbonizing our economy.

The 2019 Strategic Plan for the County was designed to enhance quality of life and accelerate economic growth throughout Albany County. Projects and initiatives are organized around four goal areas:

1. **Fill the Gaps & Align Regional Resources.**
2. **Target Investments Around Catalytic Projects and Critical Infrastructure.**
3. **Nurture, Retain, and Attract Top Talent Around Growth Sectors.**
4. **Transform Albany County’s Image**

The 2019 Strategic Plan states that Albany County has a number of existing and potential assets that support growth on the green energy sector. Since the plan was published, the County has prioritized retention and attraction of clean energy industries, including but not limited to, offshore wind, hydrogen fuel cells, battery storage, zero-emissions vehicles, and solar. In passing the STAGE Act, the Albany County Legislature clearly identified a public purpose in “that as our national, state and local governments emerge from the COVID – 19 pandemic the need for an economy driven by green economic development has become more apparent than ever. Only through sustainable investment in long-term clean energy businesses can we hope to stem the tide of decades of environmental devastation brought on by a much prolonged dependence on petroleum-based economies.”¹ The STAGE Plan is a crucial resource in the continued development of Albany County as a hub for the clean energy economy.

¹ Albany County Legislature Local Law 1 for 2022

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SECTION II- IMPLEMENTATION

SECTION II(A) - GRANT ADMINISTRATION

(1) These regulations are authorized pursuant to Section 4 of Local Law 1 of 2022. The Advance Albany County Alliance Local Development Corporation (AACALDC) shall have full authority to administer a STAGE act grant application process through which it will foster the development of green businesses in Albany County. The AACALDC shall be responsible for developing and managing an application process and ensuring that STAGE Act objectives are met.

(2) Pursuant to these regulations, the AACALDC shall, on an annual basis:

- (i) Develop and promulgate an application process that green businesses can readily access and utilize. The application shall be publically distributed and made available on the Albany County website. Each yearly application process shall also be provided to the Clerk of the Albany County Legislature, the County Executive, and relevant government officials so that it may be widely distributed;
- (ii) Perform all functions and duties granted to it under Section 1411 of the New York State Not For Profit Corporation Law, Local Law 1 for 2022, this Plan and applicable AACALDC bylaws and/or operating procedures;
- (iii) Accept and review applications from eligible green business applicants. This review process shall be consistent with the goals set out in the STAGE Act (Local Law 1 for 2022). The AACALDC shall develop and promulgate the process for the submission of applications including determining deadlines and other applicable procedures related to all applications.
- (iv) Make final decisions as to which applications shall be approved and subsequently submitted for consideration before the committee established under this Plan;
- (v) Accept grant funds and distribute the same to successful applicants consistent with the STAGE Act (Local Law 1 for 2022) and this Plan.

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- (vi) Provide financial assistance, as defined by Section 3(i) of the STAGE Act, to a successful applicant who submits an approved green business project proposal.

(3) The Chief Executive Officer of the AACALDC (the “CEO”) shall be responsible for presenting all approved and/or successful applications to the committee established under this Plan. In conjunction with the Board of Directors of the AACALDC, they shall also ensure that awarded grant funds are appropriately distributed pursuant to the STAGE Act (Local Law 1 for 2022) and this Plan. Once the AACALDC receives grant funds pursuant to the STAGE Act and this Plan, the CEO shall enter into a contractual agreement with the successful green business applicant, on behalf of the AACALDC, and, to the extent practicable, ensure that all goals of the STAGE ACT are complied with in their entirety.

(4) The AACALDC shall, on an annual basis, provide to the Director of Economic Development, the County Executive, the County Legislature, and the County Comptroller a report including: (1) applications received; (2) new grants provided; (3) job creation and investment commitments for each new grant; (4) updates on existing grants including project status, investment, and jobs created.

SECTION II(B) -STAGE ACT COMMITTEE

(1) Within one hundred and eighty (180) calendar days after January 1st, 2023, and every year thereafter, the Director of the Albany County Department of Economic Development shall convene a committee which shall have the responsibility to review and approve economic development projects which are presented to it pursuant to the Grant Administration section above. The Director may convene the committee as many times as needed throughout the year, upon at least seventy-two (72) hours’ notice to the members of the committee. In evaluating projects which are submitted to it, the Committee shall apply an objective assessment of the merits of each project and work in conjunction with the AACALDC and local officials, as listed in the STAGE Act in order to determine which projects will provide for sustainable investment in long-term green businesses in Albany County consistent with the STAGE Act and this Plan.

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- (2) The Committee shall consist of five (5) members to include :
- (i) The Commissioner of the Division of Management and Budget, or a designee of their office;
 - (ii) The Albany County Comptroller, or a designee of their office ;
 - (iii) The Albany County Executive, or a designee of their office;
 - (iv) The Chairperson of the Conservation, Sustainability & Green Initiatives Committee of the Albany County Legislature; and
 - (v) The Chairperson of the Economic Development Committee of the Albany County Legislature.
- (3) Each of the respective offices represented on the Committee shall give the Director of the Albany County Department of Economic Development written notice of the name and position of their designee. The aforementioned notice shall be sent no later than June 1st of 2023 and January 15th of every calendar year thereafter. The Director retains the ability to appoint a committee member from amongst the listed entities in the event the relevant office does not comply with this section.
- (4) The Committee shall meet as needed throughout the year to consider approved applications submitted to it by the AACALDC, as noted above, and vote to provide funding from the grant fund established in each annual Albany County Budget as authorized by the STAGE Act.
- (5) The Committee is hereby authorized, pursuant to this Plan, to award grant funds to green business projects, as presented to it by the CEO of the AACALDC under this Plan, and enter into any necessary agreements with the AACALDC regarding the disbursement of the STAGE Act funds consistent with applicable provisions of law.

SECTION II(C) - ELIGIBILITY -

- (1) To be a participant in the application program established by this Plan, an applicant must be developing a “Green Business” project in Albany County, New York. Eligibility shall be determined by the AACALDC based on the following definition of a Green Business contained within Local Law 1 for 2022: “Any entity that is a for-profit business that produces goods or provides services that benefit the environment, conserve natural resources, or reduce greenhouse gas emissions. Green businesses include, but are not limited to, corporations that manufacture, produce, build, engineer, service, supply,

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and/or distribute any product which produce clean energy sources or reduces emissions in other sectors of the economy, such as buildings or transportation, in order to meet local, state, and federal sustainability goals and contribute demonstrably to the green business footprint in the County.”

Examples include, but are not limited to, businesses that manufacture or develop products or technologies or supply chain components primarily for renewable energy systems, vehicles that use non-hydrocarbon fuels and produce zero or near zero emissions, heat pumps, energy efficiency, clean energy storage and other products that significantly reduce greenhouse gas emissions by minimizing the utilization of depletable resources or by improving industrial efficiency.

(2) Eligible categories of job creating green business may also include applicants which could be categorized as, but are not limited to:

- (i) Industrial and Manufacturing facilities;
- (ii) Commercial Facilities;
- (iii) Warehouses and Distribution Centers;
- (iv) Food Processing Facilities;
- (v) Agricultural Facilities;
- (vi) Private Developers and
- (vii) Mixed Use Facilities.

(3) A business entity must be in substantial compliance with all federal, state, and local worker protection and environmental laws and regulations, as applicable, and may not be in arrears with regard to its federal, state or local tax obligations; provided, however; in the case of a tax certiorari proceeding, a business entity would not be considered in arrears until a final decision is made with respect to such proceeding.

SECTION II(D) - APPLICATION AND REVIEW PROCESS -

(1) Applications noted above will be accepted on a rolling basis throughout each calendar year. Applications will be reviewed by staff of the AACALDC, consistent with this Plan, and shall be submitted to the Board of the AACALDC for approval. Once approved, the CEO of the AACALDC shall present the project to the abovementioned committee consistent with this Plan.

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(2) Applications will be reviewed on the following criteria:

Criteria	Scoring
Consistent with County Economic Development Strategy	1 to 5
Job Creation/Retention	1 to 5
Level of Investment	1 to 5
Project Viability	1 to 5
MWBE/OZ/PEJA/SDVOB Bonus*	2

*MWBE/OZ/SDVOB Bonus – Projects led by a Minority or Women-Owned Business Enterprise (MWBE), Service-Disabled Veteran-Owned Business (SDVOB) or located in an Opportunity Zone or Potential Environmental Justice Area will be eligible for an additional 2 points.

Projects must receive a score of at least 15 points before they are eligible for funding through the STAGE Act Program.

(3) Grant amounts shall be recommended by the AACALDC based on its discretion and professional judgment, but the Committee established pursuant to this Plan shall make the final determination as to the level of funding for each project based on the projects demonstrated ability to show deliverables on job creation/retention, level of investment, project viability, and consistency with County Economic Development Priorities. Grant amounts will be capped based on job creation/retention commitments as follows:

(i) Grants in an amount up to \$250,000 may be provided for projects that generate or retain fewer than 50 FTE jobs in a five-year period.

(ii) Grants in an amount up to \$1 million may be provided for projects that generate or retain between 50 and 200 FTE jobs in a five-year period.

(iii) Grants in an amount up to \$3 million may be provided for projects that generate or retain more than 200 FTE jobs in a five-year period

(4) All projects must demonstrate a 10:1 private sector investment match. (e.g. a project awarded \$1 million must include \$10 million in private sector

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investment). Economic Impact Statements shall be completed by the applicant for all grants greater than \$500,000

Successful Applicants must be able to clearly state in the project proposal how the project is aligned with the Economic Development Strategy Albany County commissioned in 2019 or other stated economic development priorities of the County, and how the project is aligned with the Albany County STAGE Act. The Committee established above, upon the recommendation of the AACALDC, may award STAGE Act funds to a successful applicant.

The Committee established in this Plan, at its sole discretion, may choose to not award projects in any one or all-funding categories noted above. Upon the Committee's selection of a proposed green business applicant for an award, it shall enter into an agreement with AACALDC regarding the eligible award amount.

SECTION II(E) - ELIGIBLE USES FOR GRANT FUNDS -

(1) Eligible uses of grant funding include:

- I. Architecture and engineering,
- II. Real estate acquisition,
- III. Construction and renovation,
- IV. Infrastructure and site work,
- V. Machinery and equipment acquisition, and,
- VI. Furniture and fixtures.

SECTION II(F) = DISTRIBUTION OF GRANT FUNDS

(1) Grant funds will be provided on a reimbursement basis. Receipts, invoices and other documentation must meet the requirements of the AACALDC. Projects may be initiated prior to receipt of the award letter, and *matching expense* documentation will be accepted for expenses up to one year prior to the date of the award letter.

Upon a supermajority vote of two-thirds of the STAGE Act Committee up to 50 percent of grant funds may be provided upon award in circumstances where upfront funding is necessary to advance a project.

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SECTION III-RECAPTURE

(1) General. Upon the occurrence of a Recapture Event that occurs during the Recapture Period, the AACALDC shall require the green business to provide for the recapture of the project financial assistance provided as of the date of determination (the "Project Financial Assistance"), all in accordance with the terms of this Section. If requested by the AACALDC, a green business must pay within sixty (60) days to the AACALDC the recapture of the Project Financial Assistance, as provided in this Section.

(2) Definitions. For purposes of this section the following terms shall have the following meanings:

- (i) "Recapture period"- shall mean the six (6) year period following the date in which an award of STAGE Act funding was made to a green business, and in which that business entered into an agreement with the AACALDC regarding a qualifying project.
- (ii) "Recapture Event"- shall mean an event that triggers the application of this section as agreed to by the AACALDC and the respective green business who is awarded STAGE Act funds. The AACALDC is authorized to determine on a case-by-case basis the applicable events which constitute a recapture event, and shall explicitly define the same in each contract authorized by this Plan.

(3) Project Financial Assistance to be Recaptured. The Project Financial Assistance to be recaptured, by AACALDC from the green business upon the occurrence of a Recapture Event during a Recapture Period shall be determined by the AACALDC STAGE "Recapture Benefits Policy".

In the event that the recapture of previously distributed funds becomes warranted, AACALDC shall ensure that any STAGE Act funding is properly refunded to the County of Albany and that it is reallocated to the STAGE Act fund which exists in each annual Albany County budget

(4) AACALDC Review of Recapture Determination. The AACALDC's determination to recapture all or a portion of the Project Financial Assistance shall be made by the AACALDC after an evaluation of the criteria for recapture

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set forth in the AACALDC's "Recapture Benefits Policy" If the AACALDC determines that a Recapture Event has occurred, it shall give notice of such determination to the green business. The green business shall have thirty (30) days from the date the notice is deemed given to submit a written response to the AACALDC's determination and to request a written and/or oral presentation to the AACALDC Board why the proposed recapture amount should not be paid to the AACALDC. The green business may make its presentation at a meeting of the AACALDC Board. The AACALDC shall then vote on a resolution recommending (i) a termination of Financial Assistance; (ii) a recapture of Financial Assistance; (iii) both a termination and a recapture of Finance Assistance; (iv) a modification of Financial Assistance; or (iv) no action.

State of New York
County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 8th day of May, 2023, a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.



IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 9th day of May, 2023.

A handwritten signature in cursive script, appearing to read "Debra Chamber", is written over a horizontal line.

Clerk, Albany County Legislature