



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Agenda for Board Meeting of the Authority May 13, 2025

Notice of Public Meeting

Roll Call

Approval of Previous Month's Minutes

CEO's Report to the Board

Public Comment

Community Development

Economic Transformation

Authority Matters

Incentives

Real Estate

Board Memoranda

Adjournment

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

April 9, 2025

MINUTES OF THE MEETING

The Meeting was held in-person, via Microsoft Teams, and by teleconference call.

Members of the Authority present in person: Chairman Terry O'Toole, Commissioner Robert Asaro-Angelo of the Department of Labor and Workforce Development; Jamera Sirmans representing Aaron Creuz, Executive Representative; Public Members Charles Sarlo, Vice Chair; Philip Alagia, Massiel Medina Ferrara, Marcia Marley, Josh Weinreich, and Robert Shimko, First Alternate Public Member.

Member of the Authority present via Microsoft Teams: Aaron Binder representing Elizabeth Muoio, State Treasurer; Manuel Paulino representing Commissioner Justin Zimmerman of the Department of Banking and Insurance; Elizabeth Dragon representing Commissioner Shawn LaTourette of the Department of Environmental Protection; Fred Dumont, and Jewell Antoine-Johnson, Second Alternate Public Member.

Members of the Authority absent: Public Members Aisha Glover.

Also present: Timothy Sullivan, Chief Executive Officer of the Authority; Mary Maples, Deputy Chief Executive Officer, Matthew Reagan, Assistant Attorney; and staff.

Chairman O'Toole called the meeting to order at 10:00 am.

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

MINUTES OF AUTHORITY MEETING

The next item of business was the approval of the March 12, 2025 meeting minutes. A motion was made to approve the minutes by Mr. Dumont, seconded by Mr. Alagia, and approved by the twelve (12) voting members present.

Commissioner Angelo and Manuel Paulino joined the meeting at this time.

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

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

PUBLIC COMMENT

The next item of business was the public comment portion. Chairman O' Toole asked Ms. Esser to share the NJEDA's public comment policy and process for the Board Meeting. There was no public comment.

FOR INFORMATION ONLY: The next item was a summary of the Policy Committee meetings from March 27, 2025, and April 3, 2025.

AUTHORITY MATTERS

ITEM: Use of Economic Recovery Fund, for the Creation of the Route 80 Business Assistance Grant Program

REQUEST: To approve: (1) The creation of an initial pilot Route 80 Business Assistance Grant Program grant funding available to support certain Morris County, New Jersey small and medium sized businesses and non-profits that have suffered negative financial impact as a result of the Route 80 sinkholes closures; (2) Delegation to CEO to contribute funding from other governmental and/or unrestricted gifts or grants, or dedicate previously received unrestricted gifts or grants, to fund the Route 80 Business Assistance Grant Program; (3) Delegation to CEO to impose additional requirements as required by law as a condition of accepting governmental funding, provided that the requirements are consistent with the parameters of the program; and (4) Delegation to CEO or delegate to approve individual applications for the Route 80 Grant Program in accordance with program specifications.

MOTION TO APPROVE: Ms. Marley **SECOND:** Comm. Angelo **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 1

ECONOMIC TRANSFORMATION

VENTURE

ITEM: New Jersey Innovation Evergreen Fund: April 2025 Qualified Investment Approval

REQUEST: To approve a Qualified Investment presented under the New Jersey Innovation Evergreen Program.

MOTION TO APPROVE: Mr. Shimko **SECOND:** Ms. Marley **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 2

STRATEGIC INNOVATION CENTERS

ITEM: Strategic Innovation Center Investment in the NJ AI Hub LLC

REQUEST: To approve: (1) An investment to form a new Strategic Innovation Center, NJ AI Hub LLC to promote AI commercialization and accelerate start-up ventures, engage with New Jersey's industry players and institutions of higher education to promote and advance AI innovation, support AI education and workforce training at scale in New Jersey, and provide decision makers with thought leadership on the ethical and responsible use of AI; (2) Authorization to the CEO to execute all documents required; and (3) To approve an administrative fee for the NJEDA for administrative costs plus associated Authority legal costs as allowed through the Economic Recovery Fund statute.

MOTION TO APPROVE: Comm. Angelo **SECOND:** Mr. Alagia **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 3

ITEM: Strategic Innovation Center Investment in the NJII Venture Studio

REQUEST: To approve: (1) An aggregate investment to fund operating expenses that form in combination a new Strategic Innovation Center; (2) Authorization to the CEO to execute all documents required; and (3) to approve an administrative fee for the NJEDA for administrative costs plus associated Authority legal costs as allowed through the Economic Recovery Fund statute.

MOTION TO APPROVE: Mr. Weinreich **SECOND: Ms. Ferrara** **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 4

CLEAN ENERGY

ITEM: Hydrogen Demonstration Project MOU with Rutgers

REQUEST: To approve: Entering into an MOU with Rutgers University allowing NJEDA to provide RGGI funds to Rutgers University; and delegation of authority to the CEO to approve a one-year extension of the MOU; reallocation of any unused funds; and the disbursement of each funding tranche.

MOTION TO APPROVE: Ms. Marley **SECOND: Ms. Sirmans** **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 5

ITEM: NJ Green Workforce Training Grant Challenge Awards and Declinations

REQUEST: To approve: (1) four applications and their respective grant awards for the NJ Green Workforce Training Grant Challenge utilizing funding from the Green Council MOU between NJEDA/NJDEP dated March 28, 2024 (EDA/DEP Funding); and (2) decline other applications.

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

RESOLUTION ATTACHED AND MARKED EXHIBIT: 6

Mr. Shimko recused because the IBEW is a potential applicant.

DEI

ITEM: Employee Stock Ownership Plan Assistance Program

REQUEST: To approve: (1) The creation of the Employee Stock Ownership Plan Assistance Program, a product that will offer funding in employee stock ownership plan (ESOP) Feasibility Study Services to be provided to eligible New Jersey businesses; (2) Delegation of Authority to the CEO to approve individual requests for an Employee Stock Ownership Plan Assistance Program; and (3) application fee waiver for the Program.

MOTION TO APPROVE: Mr. Alagia **SECOND: Ms. Marley** **AYES: 14**

RESOLUTION ATTACHED AND MARKED EXHIBIT: 7

LOANS

FOR INFORMATION ONLY: The next item was a summary of the Director's Loan Review Committee meeting from March 26, 2025.

ITEM: Creation of NJ LEND the New Jersey Loan Expansion and Network Development pilot program

REQUEST: To approve: (1) The creation of the New Jersey Loan Expansion and Network Development (NJ LEND) program – a three-year pilot program that will allow the Authority to offer fixed asset financing to eligible NJ businesses when applicable; (2) The utilization funding from the Economic Recovery Fund economic growth sub-account to fund this new lending initiative; and (3) Delegation to the Authority’s CEO to approve individual applications for the Program in accordance with the terms set forth in the attached product specifications.

MOTION TO APPROVE: Ms. Ferrara SECOND: Mr. Weinreich AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 8

INCENTIVES

FOR INFORMATION ONLY: The next item was a summary of the Incentives Committee meeting from March 26, 2025.

FILM TAX CREDIT PROGRAM

Apple Studios LLC
PROD-00317590

MAX AMOUNT OF TAX CREDITS: \$12,335,600

MOTION TO APPROVE: Mr. Alagia SECOND: Mr. Weinreich AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 9

REAL ESTATE

ITEM: Creation of the Apprenticeship Training Centers Construction Grant Program

REQUEST: To approve: (1) The creation of the Apprenticeship Training Centers Construction Grant Program, a competitive grant program that will provide funds to support the development of facilities for use as training centers for USDOL Registered Apprenticeship programs located within New Jersey Overburdened Communities; Utilization of funding from the Workforce Development Partnership Fund (WDPF) including funds to support the Authority’s administrative costs for the Program. These funds will be allocated pursuant to the current MOU between the NJEDA and NJ Department of Labor (NJDOL) dated February 23, 2024; (3) Waiving the application fee for the Apprenticeship Training Centers Construction Grant Program; and (4) Delegation of authority to the CEO of the Authority to extend program timelines, as deemed necessary.

MOTION TO APPROVE: Comm. Angelo SECOND: Mr. Weinreich AYES: 13
RESOLUTION ATTACHED AND MARKED EXHIBIT: 10

Mr. Shimko recused because the IBEW is a potential applicant.

ITEM: Second Lease Amendment between Boehringer Ingelheim Animal Health, USA, Inc. and the Authority (Second Lease Amendment) Product Number PROD-00191445

REQUEST: To approve the Second Lease Amendment with Boehringer Ingelheim Animal Health, USA, Inc at the at the New Jersey Bioscience Center.

MOTION TO APPROVE: Mr. Weinreich SECOND: Ms. Ferrara AYES: 14
RESOLUTION ATTACHED AND MARKED EXHIBIT: 11

AUTHORITY MATTERS

ITEM: Recommendation for Contract Extension M4010 – Business and Information Technology Consulting and Advisory Services
THIS ITEM HAS BEEN WITHHELD FROM CONSIDERATION

BOARD MEMORANDA - FYI ONLY

- Credit Underwriting Projects Approved Under Delegated Authority, March 2025
- Economic Security Products Delegated Authority Approvals, Declinations, and Other Actions in 2024
- Real Estate Division Delegated Authority for Leases and Right of Entry (ROE)/ Licenses, Q4 2024

There being no further business, on a motion by Ms. Marley, and seconded by Mr. Weinreich, the meeting was adjourned at 11:28AM.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the New Jersey Economic Development Authority at its meeting.


Danielle Esser, Director
Governance & Strategic Initiatives
Assistant Secretary



To: Members of the Authority

From: Tim Sullivan, Chief Executive Officer

Date: May 11, 2025

Re: Creation of the NJ Cannabis Business Development (CBD) Grant

Summary

The Members are asked to approve:

- 1) Authorization of \$5 million from the New Jersey FY25 State Appropriation Act for NJEDA cannabis equity grant programs to create the NJ Cannabis Business Development (CBD) Grant Program – a pilot program that will make grant funding available to eligible cannabis businesses in the State of New Jersey.
- 2) Authorization of the Chief Executive Officer to delegate to the appropriate staff on all approval, decline, and appeal decisions for non-discretionary reasons in accordance with the terms set forth in the product specifications.
- 3) Requested policy amendment for the Cannabis Grant program to exclude from disqualification, debarment, or suspension any marijuana and hashish related offenses, as stated in the CRC statute and as administered by CRC when found in the legal review process.
- 4) Delegation of authority to the CEO to apply any future funds that may be appropriated to the Authority for cannabis-related uses, or recaptured funds from the Joint Ventures and Seed Equity programs, toward the CBD Grant.
- 5) Delegation of Authority to allow staff to utilize 5% of the \$5 million grant program allocated for awardees (\$250,000) for the Authority's administrative fees associated with operating the program. If additional funds are appropriated, then NJEDA will take another 5% of that future amount as well.

I. Background & Overview

In February 2021, Governor Phil Murphy signed the New Jersey Cannabis Regulatory, Enforcement, Assistance, and Market Modernization Act (“CREAM Act”), legalizing adult-use cannabis in the state. Since the launch of recreational sales in April 2022, New Jersey’s cannabis market experienced significant growth, generating over \$2 billion in total revenue,

with 288 licensed businesses open and operating. In 2024 alone, combined medical and recreational sales reached \$1 billion — a nearly 25% increase over 2023 — underscoring the strength of New Jersey’s regulated market. Beyond direct sales, the industry stimulated the broader economy, driving an estimated \$2.50 in economic impact for every dollar spent, supporting jobs, ancillary businesses, and new intrastate supply chains.

In June 2022, New Jersey adopted legislation enabling the New Jersey Economic Development Authority (“the Authority”) to establish financial and technical assistance programs for cannabis businesses. On December 21, 2022, the Authority’s Board approved the Cannabis Equity Grant Program, and launched two grant programs, the Joint Ventures and Seed Equity Grant Programs, and provided essential funding to help offset startup costs, high real estate expenses, and limited access to traditional financing, laying the groundwork for a stronger, more equitable cannabis economy in New Jersey.

The Joint Ventures Grant Program was structured for cannabis businesses further advanced in the licensing process, requiring verified site control and municipal approval at the time of application. To promote equity within the industry, the program reserved 40% of awards for NJCRC-designated social equity applicants and 5% for businesses located in designated Impact Zones. Launched on April 20, 2023, the program was oversubscribed in just 40 minutes, underscoring the urgent demand for capital. The Authority awarded 46 grants of \$250,000 each, distributed in two tranches: an initial disbursement of \$100,000 following verification of site control and municipal approval, and a second disbursement of \$150,000 upon the successful opening of the business. As of mid-April 2025, the Joint Ventures grant has disbursed \$8.8 million in funding and supported 29 cannabis business openings, including 22 dispensaries, three cultivators, three manufacturers, and one testing lab. The Authority’s grant awards reflected a diverse group of grantees:

- 27 approvals were Minority-Owned Business Enterprises (56%),
- 20 approvals were Woman-Owned Business Enterprises (43%),
- 12 approvals were both Minority and Woman-Owned Business Enterprises (25%).

The Seed Equity Grant Program, launched on November 30, 2023, was also highly oversubscribed, again demonstrating strong market demand. Designed for individuals at the beginning of their business journey, the program lowered entry barriers by not requiring site control or municipal approval for eligibility. To promote equity and diversity, only businesses designated as social equity applicants by the New Jersey Cannabis Regulatory Commission (NJCRC) were eligible.

A key component of the program was mandatory participation in the Cannabis Technical Assistance Program (CTAP), developed and delivered by Oaksterdam University, a national leader in cannabis education. The CTAP featured New Jersey-based instructors and provided grantees with critical guidance on launching their businesses. The nine-week course covered entrepreneurship fundamentals through interactive digital content, live virtual classes, personalized coaching, in-person workshops, and networking opportunities. The program

proudly achieved a 100% graduation rate. Seed Equity grants were awarded in a milestone-based structure, totaling \$150,000 per grantee in four equal disbursements: the first after week four of CTAP, the second upon program completion, the third upon securing site control and municipal approval, and the final disbursement when the business opened. Through this program, the Authority awarded 48 grants, supporting the growth of New Jersey's emerging cannabis entrepreneurs.

As of mid-April 2025, the Seed Equity grant has disbursed \$4.8 million and supported nine cannabis business openings, including seven dispensaries, one cultivator, and one manufacturer. In addition, 23 additional grantees have obtained site control and municipal approval, as they continue to work toward opening their businesses. Seed Equity grant awards also reflected a diverse group of grantees:

- 36 approvals were Minority-Owned Business Enterprises (73.5%)
- 10 approvals were Woman-Owned Business Enterprises (20%)
- 9 approvals were both Minority and Woman-Owned Business Enterprises (18%)

These inaugural programs were historic in scale, representing the largest cannabis startup grants in the nation and delivering unprecedented support for emerging businesses entering this highly regulated industry. Now, the Cannabis Business Development (CBD) Grant represents the next phase in supporting a sustainable and equitable cannabis market. The CBD grant will help alleviate the financial burden of ongoing State and local compliance and offset operating expenses for early-stage companies, strengthening the long-term viability and equity of New Jersey's budding recreational cannabis industry.

II. Cannabis Grant Funding Source

The CBD pilot grant program will utilize \$5 million from the New Jersey FY25 State Appropriation Act, notwithstanding to P.L.2021, c.16 (C.24:6I-31 et al.), paragraph (1) of subsection b. of section 41 of P.L.2021, c.16 (C.24:6I-50). Despite any other laws or regulations, the revenues deposited into the "Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund" will be used to support the equitable development of the New Jersey cannabis industry, with \$5 million provided specifically to the New Jersey Economic Development Authority (NJEDA) for cannabis equity grant programs.

Pursuant to N.J.S.A. 24:6I:-49, the Authority must reserve a portion of any available funds for businesses operating in NJCRC designated Impact Zones, which stimulate economic development in historically underserved areas. To remain aligned with the Authority's other cannabis programs in the CEGP, 5% of this grant will also be set aside for businesses located in a NJCRC Impact Zone. These zones are designated by the NJCRC on factors such as past marijuana arrests, law enforcement activity, unemployment, and population. Additionally, any extra funds previously administered by the Authority's cannabis grants can be carried over to support businesses through this program. The Authority is also authorized to accept any additional funds appropriated by the Governor in the future for the same product, as authorized by the NJEDA Board.

III. Eligible Applicants and Restrictions

1. At the time of application, eligible applicants must possess a valid and current annual license digital card as per the final recommendation issued by NJ Cannabis Regulatory Commission (NJCRC) Office of Licensing in one of the following categories:
 - Class 1 – Cultivator
 - Class 2 – Manufacturer
 - Class 5 – Retailer
 - Testing Lab License (Medicinal-Only Labs Ineligible)
2. Eligible applicants must be in substantial good standing with the New Jersey Cannabis Regulatory Commission, New Jersey Department of Labor and Workforce Development and the New Jersey Department of Environmental Protection prior to approval.
3. Eligible applicants must provide a current tax clearance certificate to demonstrate the applicant is in substantial good standing with the New Jersey Division of Taxation prior to approval.
4. Eligible applicants must provide a New Jersey Certificate of Formation prior to approval.
5. Any entity awarded an NJEDA Cannabis grant that has received funds (Joint Ventures and Seed Equity) are not eligible.
6. Holders of “Final Agency Decision Acceptance of Alternative Treatment Center (“ATC”) Certification Authorization To Operate in Adult Personal-Use Market” and Multi-State Operators (MSOs) are not eligible. MSOs are defined as cannabis companies with operations in multiple states.

IV. Application Process and Approval

The pilot grant program will accept applications online on a rolling grant application basis, where grants will be awarded “first-come, first-served” as completed applications are submitted. The program will be available for three years from the date applications are made available to the public, or until the total funding pool is exhausted (whichever is sooner).

As part of the application, the Authority will request information that shall include, but is not limited to:

- 1) Copy of the NJCRC annual license digital card as per the final recommendation issued by NJCRC Office of Licensing. Conversion letters are not acceptable.
- 2) Brief Project description and overview
- 3) All business locations/addresses that are open and operating in and outside of New Jersey.

- 4) A New Jersey Certificate of Formation
- 5) The Authority will capture applicant expenses through an NJEDA-provided template (in an Excel file format) that lists out all eligible expenses, descriptions, dates, and amounts of the item or service already paid for in the last 36-months prior to their application submission date.

As stated, the Authority will perform a review of applications for completeness in the order that they are received. There will be a \$750 non-refundable application fee for all applicants due at time of application. An application submitted without a fee is considered incomplete and will not be reviewed until the fee is received. The date of application submission will be based on the date the Authority received the application fee from the applicant. Applications that are submitted with a fee at the time of application will take priority over incomplete applications.

At the sole discretion of the Authority, staff may ask for cures and clarifications of the information included in the application, including but not limited to narrative responses, supporting documentation, and attachments. Applicants will have 10 business days from the date of the staff's email to provide the requested information and submit any missing and/or incomplete documents. Applicant's responses to the staff's requests will be reviewed in the order they are received. Failure to respond to the request within the same 10-business day period will result in the application being deemed administratively withdrawn. If an applicant fails to meet eligibility requirements as described above, the application may be declined from the program. Applicants have the ability to withdraw from the application process at any time. Applicants are not able to cure an absent CRC annual license as it is required at time of application; there are no exceptions. Approvals and declinations will be under delegated authority.

V. Eligible Expenses

Eligible expenses shall include:

- Rental expenses (including common area maintenance (CAM) charges), as evidenced by a fully executed lease signed by both the landlord and the tenant (the named tenant must be the applicant or a related entity to the applicant) that has commenced. Sub-leases are ineligible. Applicant must demonstrate good standing with their landlord through certification in application.
- Payroll Expenses – may be evidenced by a WR30 or equivalent payroll documentation (including 1099 contractors).
- Employee training expenses related to the applicant – cost to train employees or independent contractors for any function of their business operations.
- Professional Services (must be invoiced and/or addressed to the applicant entity listed on the application. that may include but are not limited to legal services, legal services related to the NJ CRC license and regulatory process, accounting services, human resources services, business planning, transportation services, security, marketing or branding services, website development, or lab services and any other outside services that may be

needed to operate an eligible cannabis business in NJ or obtain/maintain any license or authorization to operate from the NJ CRC.

Ineligible uses shall include, but are not limited to:

- Business supplies
- Controlled inventory
- Construction
- Equipment and/or installation fees costing greater than \$2,000.00
- Violations, fines or penalties

All expenses and associated supporting documentation are subject to NJEDA review and discretion. Applicants must provide documentation to verify expenses, such as paid invoices with proof of payment such as cancelled checks, credit card statements, or bank statements for cash payments. Applicants will need to provide as much detail as possible regarding all eligible expenses included in their application. All uses and documentation will be subject to the Authority's review and approval.

VI. Delegated Authority

As a pilot program, decisions based on non-discretionary reasons are subject to the existing delegated authority. Accordingly, the CEO will delegate to the appropriate staff on all approval, decline, and appeal decisions for non-discretionary reasons. Staff requests delegated authority to the Chief Executive Officer to approve an individual application to Cannabis Business Development (“CBD”) Grant Program in accordance with the terms set forth in the attached product specifications. Staff also requests delegated authority to the CEO to utilize any future funds appropriated to the Authority for cannabis-related uses, or any funds that may be recaptured from the Joint Ventures and Seed equity programs, to be applied to the CBD Grant program

As with other financial assistance programs, staff will perform legal reviews in accordance with Executive Order 34 (Byrne) and the Authority’s Disqualification/Debarment Regulations (N.J.A.C. 19:30-2.1, *et seq.*) to ensure that applicants demonstrate and maintain the highest standards of responsibility and moral integrity. For the purposes of the Cannabis Business Development Grant Program only, the Members are also requested to delegate authority to:

- decide not to disqualify, debar, or suspend applicants and affiliates convicted of marijuana and hashish-related offenses that meet the criteria for a “social equity business” as defined in the Cannabis Regulatory Commission’s rules (specifically N.J.A.C. 17:30-6.6 and as administered by CRC, provided the applicant does not have other disqualifying convictions or judgments); and
- limit the timeframe for investigation into criminal matters, to those where the date of conviction, satisfactory completion of probation or parole, or release from incarceration, whichever is later, occurred five (5) years prior to the date of application, in accordance with N.J.A.C. 17:30-7.12. This modification to the delegated authority approved by the Board on June 8, 2022, will be consistent with NJ CRC’s timeframe for disqualifying convictions (as stated in N.J.A.C. 17:30-7.12(d)).

VII. Awards

Each grant award will total \$75,000, disbursed as a one-time payment following the execution of the grant agreement. Awards will not be reduced below this amount to accommodate applicant unable to provide documentation to verify the full value of eligible paid expenses. As stated, grants will be awarded on a rolling basis until all available funds are exhausted. Each applicant, as identified by their EIN, may receive only one award, and any applicants holding multiple licenses may receive only one grant per location.

VIII. Compliance Term

The compliance term for this grant will be 24-months post the-executed grant agreement date. The Authority's staff will ensure awardees are still open and in good standing with the NJCRC every year after the date of their fully executed grant agreement through the Authority's prepared awardee certification. If an awardee is no longer open, then the Authority will have the ability to seek recapture at the Authority's discretion. In the event of any default on the grant agreement within 12 months of executing the grant agreement, 100% of the grant will be recaptured; any defaults after 12 months will result in a 50% recapture. Awardees, as per NJCRC, are not allowed to sell or transfer license of their business for 24 months following the award date. Awardees are not allowed to pursue another cannabis business license and open operations outside the state of New Jersey during the compliance term of the grant.

Recommendation

The Members are asked to approve:

- 1) Authorization of \$5 million from the New Jersey FY25 State Appropriation Act for NJEDA cannabis equity grant programs to create the NJEDA Cannabis Business Development (CBD) Grant Program – a pilot program that will make grant funding available to eligible cannabis businesses in the State of New Jersey.
- 2) Authorization of the Chief Executive Officer to delegate to the appropriate staff on all approval, decline, and appeal decisions for non-discretionary reasons in accordance with the terms set forth in the product specifications.
- 3) Requested policy amendment for the Cannabis Grant program to exclude from disqualification, debarment, or suspension any marijuana and hashish related offenses, as stated in the CRC statute and as administered by CRC when found in the legal review process.
- 4) Authorization of the NJEDA Board to use any future funds that may be appropriated by the Governor, or recaptured funds from the Joint Ventures and Seed Equity programs, toward the CBD Grant.

- 5) Delegation of Authority to allow staff to utilize 5% of the \$5 million grant program allocated for awardees (\$250,000) for the Authority's administrative fees associated with operating the program. If additional funds are appropriated, then NJEDA will take another 5% of that future amount as well.

A handwritten signature in blue ink, appearing to read "T. Sullivan".

Timothy Sullivan, CEO

Prepared by: Aubrey Flanagan, Sr. Advisor, Community Development

Attachment: CBD Program Specifications

CBD (Cannabis Business Development) Grant Program
Program Specifications
May 2025

Program Purpose	<p>The CBD Grant is a pilot cannabis equity grant program that will deliver essential financial support to recreational cannabis businesses in New Jersey that have received their annual license digital card as per the final recommendation issued by NJ Cannabis Regulatory Commission (NJCRC) Office of Licensing. These businesses face unique barriers, including high startup costs and limited access to capital due to federal restrictions. This grant will help alleviate and manage the financial burden of ongoing State and local compliance, as well as operating expenses for early-stage companies, strengthening the long-term viability and equity of New Jersey's budding recreational cannabis industry.</p>
Funding Source	<p>The CBD Grant program will allocate \$5 million from the New Jersey FY25 State Appropriation Act, Notwithstanding the provisions of P.L.2021, c.16 (C.24:6I-31 et al.), including paragraph (1) of subsection b. of section 41 of P.L.2021, c.16(C.24:6I-50), or any other law or regulation to the contrary, revenues deposited into the "Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund" are appropriated for the following purpose....\$5,000,000 for New Jersey Economic Development Authority cannabis equity grant programs.</p> <p>Pursuant to N.J.S.A. 24:6I:-49, NJEDA must reserve a portion of any available funds for businesses operating in Impact Zones to stimulate economic development in historically underserved areas. To remain aligned with other NJEDA cannabis programs, 5% of this grant will also be set aside for businesses located in a NJCRC Impact Zone. These zones are designated by the NJCRC on factors such as past marijuana arrests, law enforcement activity, unemployment, and population.</p> <p>Additionally, any remaining funds from previously board-approved NJEDA cannabis programs can be carried over to support businesses through the CBD program. Under this program, the NJEDA board will also have the authority to accept any additional funds that may be appropriated by the State Governor in the future to support approvals under this product.</p>
Eligible Applicants and Restrictions	<p>At the time of application, eligible applicants must possess a valid and current annual license digital card as per the final recommendation issued by NJ Cannabis Regulatory Commission (NJCRC) Office of Licensing in one of the following categories:</p> <ul style="list-style-type: none"> - Class 1 – Cultivator - Class 2 – Manufacturer - Class 5 – Retailer - Testing Lab License (Medicinal-Only Testing Labs Ineligible) <p>Additional Requirements:</p> <ul style="list-style-type: none"> - Must be in substantial good standing with the NJCRC, New Jersey

CBD (Cannabis Business Development) Grant Program
Program Specifications
May 2025

	<p>Department of Labor and Workforce Development and the New Jersey Department of Environmental Protection prior to approval.</p> <ul style="list-style-type: none"> - A current tax clearance certificate to demonstrate the applicant is in substantial good standing with the New Jersey Division of Taxation prior to approval. - Any entity awarded an NJEDA Cannabis grant that has received funds (Joint Ventures and Seed Equity) are not eligible. - Holders of “Final Agency Decision Acceptance of Alternative Treatment Center (“ATC”) Certification Authorization to Operate in Adult Personal-Use Market” and Multi-State Operators (MSOs) are not eligible. MSOs are defined as cannabis companies with operations or pursuing licenses in multiple states.
Application Process and Approval	<p>The pilot grant program will accept applications online on a rolling grant application basis, where grants will be awarded “first-come, first-served” as completed applications are submitted. The program will be available for three years from the date applications are made available to the public, or until the total funding pool is exhausted (whichever is sooner).</p> <p>As part of the application, the Authority will request information that shall include, but is not limited to:</p> <ol style="list-style-type: none"> 1) Copy of the NJCRC annual license digital card as per the final recommendation issued by NJCRC Office of Licensing. Conversion letters are not acceptable. 2) Brief Project description and overview 3) All business locations/addresses that are open and operating in and outside of New Jersey. 4) Identify any other states the applicant has filed licenses in to operate a recreational cannabis facility. 5) Landlord certification (if applicable) 6) Certification that the awardee is to not use proceeds on controlled inventory or violation or fines. 7) Certification that the applicant is aware of and agrees to comply with the two-year compliance requirement. 8) NJEDA will capture applicant expenses through an NJEDA-provided template (in an Excel file format) that lists out all eligible expenses, descriptions, dates, and amounts of the item or service already paid for in the last 36-months prior to their application submission date. Eligible expenses shall include: <ul style="list-style-type: none"> • Rental expenses (including common area maintenance (CAM) charges), as evidenced by a fully executed lease signed by both the landlord and the tenant (the named tenant must be the applicant) that has commenced. Sub-leases are ineligible. Applicant must provide a landlord certification to demonstrate they are in good standing and current on their lease payments with their landlord.

CBD (Cannabis Business Development) Grant Program
Program Specifications
May 2025

	<ul style="list-style-type: none">• Payroll Expenses – that may be evidenced by a WR30 or equivalent payroll documentation (including 1099 contractors).• Employee training expenses related to the applicant – cost to train employees or independent contractors for any function of their business operations.• Professional Services (must be invoiced and/or addressed to the applicant) that may include but are not limited to legal services, legal services related to the NJ CRC license and regulatory process, accounting services, human resources services, business planning, transportation services, security, marketing or branding services, website development, or lab services and any other outside services that may be needed to operate an eligible cannabis business in NJ or obtain/maintain any license or authorization to operate from the NJCRC.
--	--

Funds may not be used for:

- Business supplies
- Controlled inventory
- Construction
- Equipment and/or installation costing greater than \$2,000.00
- Violations, fines or penalties

All expenses and associated supporting documentation are subject to NJEDA review and discretion. Applicants must provide documentation to verify expenses, such as paid invoices with proof of payment like cancelled checks, credit card statements, or bank statements for cash payments.

Applicants will need to provide as much detail as possible regarding all items requested eligible expenses included in their application.

The Authority will perform a review of applications in the order that they are received. At the sole discretion of the Authority, staff may ask for cures and clarifications of the information included in the application, including but not limited to narrative responses, supporting documentation, and attachments. Applicants will have 10 business days from the date of the staff's email to provide the requested information and submit any missing and/or incomplete documents. Applicant's responses to the staff's requests will be reviewed in the order they are received. Failure to respond to the request within the 10-business day period will result in the application being deemed administratively withdrawn. If an applicant fails to meet eligibility requirements as described above, the application may be declined from the program. Applicants have the ability to withdraw from the application process at any time.

CBD (Cannabis Business Development) Grant Program
Program Specifications
May 2025

	<p>Applicants are not able to cure a missing annual license, it is required at time of application.</p> <p>Approvals and declinations will be under delegated authority.</p>
Grant Award and Disbursements	<p>Each grant award amount will be \$75,000. The Authority will disburse a one-time grant award after the execution of the grant agreement.</p> <p>Applicants must document at least \$75,000 of expenses to be eligible for this grant.</p> <p>Grants will be awarded until funds are fully exhausted. The Authority will award only one grant per applicant (based on EIN) for a single location.</p> <p>Applicants that hold more than one license are only able to receive one award.</p> <p>Grant award proceeds may not be used for the purchase of controlled inventory. Grant award proceeds may not be used for any violations or fines.</p>
Rolling Applications	<p>Applications will be accepted on a rolling basis. Applications that are complete will be evaluated for approval on a “first in, first out basis” using the date and time that the Authority receives a completed application and application fee. An application submitted without a fee is considered incomplete and will not be reviewed until the fee is received.</p>
Delegated Authority	<p>As a pilot program, decisions on approval or declination that are based on non-discretionary reasons are subject to the existing delegated authority. Accordingly, the CEO will delegate to the appropriate staff on all approval, decline, and appeal decisions for non-discretionary reasons.</p> <p>Delegated authority to the Chief Executive Officer to approve an individual application to CBD Grant Program in accordance with the terms set forth in the attached product specifications.</p> <p>As with other financial assistance programs, staff will perform legal reviews in accordance with Executive Order 34 (Byrne) and the</p>

CBD (Cannabis Business Development) Grant Program
Program Specifications
May 2025

	<p>Authority's Disqualification/Debarment Regulations (N.J.A.C. 19:30-2.1, et seq.) to ensure that applicants demonstrate and maintain the highest standards of responsibility and moral integrity. For the purposes of the Cannabis Grant Program only, the Members are also requested to delegate authority to:</p> <ul style="list-style-type: none"> • decide not to disqualify, debar, or suspend applicants and affiliates convicted of marijuana and hashish-related offenses that meet the criteria for a "social equity business" as defined in the Cannabis Regulatory Commission's rules (specifically N.J.A.C. 17:30-6.6 and as administered by CRC, provided the applicant does not have other disqualifying convictions or judgments); and • limit the timeframe for investigation into criminal matters, to those where the date of conviction, satisfactory completion of probation or parole, or release from incarceration, whichever is later, occurred up to five (5) years prior to the date of application, in accordance with N.J.A.C. 17:30-7.12. This modification to the delegated authority approved by the Board on June 8, 2022, will be consistent with NJ CRC's timeframe for disqualifying convictions (as stated in N.J.A.C. 17:30-7.12(d)).
Compliance Term	<p>The compliance term for this grant will be 24-months post the fully executed grant agreement date. NJEDA staff will ensure awardees are open and operating and in good standing with the NJCRC every year after the date of their fully executed grant agreement through an NJEDA-prepared awardee certification. If awardees are no longer open and operating or not in good standing with NJCRC, then NJEDA will have the ability to seek recapture at the Authority's discretion. In the event of any default on the grant agreement within 12 months of executing the grant agreement, 100% of the grant will be recaptured; any defaults after 12 months will result in a 50% recapture.</p> <p>Awardees as per NJCRC are not allowed to sell or transfer license of their business for 24 months following the award date. Awardees are not allowed to pursue another cannabis business license and open operations outside the state of New Jersey during the compliance term of the grant.</p>
Application Fee and Administrative Fee	<p>There will be a \$750 non-refundable application fee for all applicants due at time of application.</p> <p>NJEDA will seek to utilize 5% of the \$5 million grant program allocated for awardees (\$250,000) for the Authority's administrative fees associated with operating the program. If additional funds are appropriated, then NJEDA will take another 5% of that future amount as well.</p>



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Utilization of FY25 Main Street Appropriation

Summary:

The Members' approval is requested to:

1. Allocating the remaining balance of \$10 million identified in the Fiscal Year 25 State Budget Appropriation Act to the Main Street Finance Program Recovery Fund (P.L. 2023, c.74) to fund additional grant approvals for the Small Business Improvement Grant (SBIG) and Small Business Lease Grant (SBLG).
2. The utilization of an additional 5% administrative fee in the amount of \$500,000, from the \$10 million, to cover NJEDA's costs to administer the additional funding.
3. Utilization of the remaining \$9,500,000 for grant approvals as follows:
 - \$7,125,000 allocated to the SBIG, with 40% set aside for grants to businesses located in Opportunity Zone eligible census tracts.
 - \$2,375,000 allocated to the SBLG, with 40% set aside for grants to businesses located in Opportunity Zone eligible census tracts.

Background:

On August 11, 2021, the NJEDA Board approved the utilization of \$25 million of Main Street Recovery Finance Program funds to capitalize the Small Business Improvement Grant (SBIG) and Small Business Lease Grant (SBLG). The SBIG received an initial \$15 million with delegation to the Chief Executive Officer (CEO) to increase funding to \$30 million and the SBLG received an initial \$10 million with delegation to the CEO to increase funding to \$20 million. Forty percent (40%) of the total funding, or \$10,000,000, is set aside for grants to businesses located in Opportunity Zone eligible census tracts. Approval was also received for utilization of \$500,000 of the funding to cover the cost of temporary employees to process grant applications for both

programs and a 3% administrative fee in the amount of \$750,000 to cover NJEDA's cost to administer both programs. The SBIG reimburses 50% of eligible project costs for building improvements and/or the purchase of new furniture, fixtures and equipment, not to exceed \$50,000 and the SBLG offsets a portion of annual lease payments for small businesses leasing between 250 -10,000 square feet of new or additional space.

Due to consistent demand for the products, in October 2022 the CEO, under delegated authority, approved an additional allocation of \$25 million, bringing the total SBIG funding to \$30 million, SBLG funding to \$20 million, set-aside for Opportunity Zones to \$20 million (40%), and administrative fee to \$1.5 million.

In December 2022, the Board approved utilization of an additional \$15 million of Main Street Recovery Finance Program funds for the SBIG with delegated authority for the CEO to increase funding to \$60 million. Approval was also received for utilization of an additional \$500,000 to cover the continued cost of temporary employees and an additional 3% administrative fee in the amount of \$450,000. This brought the total SBIG funding to \$45 million. For both programs it brought the combined total set-aside for Opportunity Zones to \$26 million (40%), cost to cover temporary employees to \$1 million and administrative fee to \$1,950,000 (3%).

In October 2023, the Board approved utilization of an additional \$1 million of Main Street Recovery Finance Program funds to cover the continued cost of temporary employees to process grant applications for both programs. This brought the total cost for temporary employees to \$2 million.

In April 2024, the CEO, under delegated authority, approved an additional allocation of \$15 million for the SBIG, bringing the total approved SBIG funding to \$60 million. For both programs it brought the combined total set-aside for Opportunity Zones to \$32 million (40%) and total administrative fee to \$2.4 million (3%).

In June 2024, the Board approved an additional \$20 million for the SBIG and \$6,552,500 million for the SBLG. Approval was also received for a 5% administrative fee in the amount of \$1,397,500. This brought the total SBIG funding to \$80 million and total SBLG funding to \$26,552,000. For both programs it brought the combined total set-aside for Opportunity Zones to \$42,621,000 (40%) and the total administrative fee to \$3,797,500.

As of April 2025, the total funding for SBIG is \$80,000,000 and SBLG is 26,552,500. The total set-aside for Opportunity Zones is \$42,621,000 (or 40%) and the total administrative fee for NJEDA is \$3,797,500. Exhibit A provides a recap of all approvals through April 2025.

Both the SBIG and SBLG are high volume products with hundreds of applications submitted annually. As of April 4, 2025, SBIG approvals exceed \$65 million and average 20 new applications a week and SBLG approvals exceed \$18 million and average 10 new applications a week, demonstrating the need for additional funding to ensure NJ small businesses can continue to submit applications. The requested additional funding will allow staff to meet demand and ensure these products remain capitalized through Fiscal Year 2026.

Exhibit B illustrates all NJEDA Main Street Recovery Finance Program products and their respective funding, balances and pending application activity through April 4, 2025. The current Main Street Recovery Finance Program remaining balance for Fiscal Year 2025 is \$10,000,000. Since there are pending applications for both products that nearly exceed the available remaining funds, additional funding is needed. With the requested funding increase the total allocation to fund grant approvals for the SBIG would be \$87,125,000 and SBLG would be \$26,552,000. For both programs the combined total set-aside for Opportunity Zones would be \$34,850,000 (40%), the total administrative fee would be \$3,797,500 and the total administrative fee would be \$3,797,500.

This additional funding is necessary to ensure that SBIG and SBLG programs continue to be funded through Fiscal Year 2026. With this support, NJEDA can continue to accept applications without closing the application windows, maintaining our commitment to support small businesses in New Jersey during a critical growth period.

Recommendation:

The Members are asked to approve:

1. Allocating the remaining balance of \$10 million identified in the Fiscal Year 25 State Budget Appropriation Act to the Main Street Finance Program Recovery Fund (P.L. 2023, c.74) to fund additional grant approvals for the Small Business Improvement Grant (SBIG) and Small Business Lease Grant (SBLG).
2. The utilization of an additional 5% administrative fee in the amount of \$500,000, from the \$10 million, to cover NJEDA's costs to administer the additional funding.
3. Utilization of the remaining \$9,500,000 for grant approvals as follows:
 - \$7,125,000 allocated to the SBIG, with 40% set aside for grants to businesses located in Opportunity Zone eligible census tracts.
 - \$2,375,000 allocated to the SBLG, with 40% set aside for grants to businesses located in Opportunity Zone eligible census tracts.



Tim Sullivan, CEO

Prepared by: Holly Morgan, Team Lead
Maggie Peters, Director SBS

Exhibit A – Funding Approved through April 2025

Exhibit B – Main Street Recovery Finance Program Product Summary
(includes SBIG and SBLG approvals)

Small Business Improvement Grant & Small Business Lease Grant
Funding Approved through April 2025

Date	Approved By	Funding Requested	Total Amount Approved	OZ Set-aside	Admin. Fee Amount	Temporary Staff
8/11/2021	Board Approved	\$25 million of Main Street Recovery Finance Program funds to capitalize SBIG (\$15M) and SBLG (\$10m) w/delegated authority to CEO to increase funding up to \$30 million.	\$25,000,000	\$10,000,000	\$750,000	\$500,000
10/4/2022	Delegated Authority	Additional \$25 million to supplement SBIG (\$15m) and SBLG (\$10M)	\$25,000,000	\$10,000,000	\$750,000	\$0
12/21/2022	Board	\$15 million of Main Street Recovery Finance Program funds for SBIG w/delegated authority to CEO to increase funding up to \$30 million	\$15,000,000	\$6,000,000	\$450,000	\$500,000
10/12/2023	Board	\$1 million of Main Street Recovery Finance Program funds to cover SBIG and SBLG continued temporary staffing costs	\$0	\$0	\$0	\$1,000,000
4/25/2024	Delegated Authority	Additional \$15 million to supplement SBIG	\$15,000,000	\$6,000,000	\$450,000	\$0
6/12/2024	Board	\$27,950,000 balance of FY24 Main Street Recovery Finance Program funds for SBIG (\$20m) and SBLG (\$6,552,500)	\$26,552,500	\$10,621,000	\$1,397,500	\$0
Total as of April 2025			\$106,552,500	\$42,621,000	\$3,797,500	\$2,000,000

New Jersey Economic Development Authority
Main Street Recovery Finance Program Product Summary

Main Street Products	Board Approved	Approvals	Approved Amount	Balance of Funding	Applications Under Review	Under Review Amount	Board Approval	Product Launch
Small Business Lease Grant	\$ 26,552,500.00	766	\$ 19,080,091.10	\$ 7,472,408.90	81	\$4,161,475.52	August of 2021	10/20/2021
EDA Admin Fee	\$ 600,000.00							
Temp Funding	\$ 250,000.00							
Total	\$ 27,402,500.00							
Small Business Improvement Grant	\$ 80,000,000.00	2592	\$ 66,211,115.27	\$ 13,788,884.73	288	\$9,806,223.18	August of 2021	2/10/2022
EDA Admin Fee	\$ 3,197,500.00							
Temp Funding	\$ 1,750,000.00							
Total	\$ 84,947,500.00							
Main Street Lenders Grant	\$ 22,500,000.00	11	\$ 15,700,000.00	\$ 6,800,000.00	1	\$ 1,500,000.00	February of 2022	5/26/2022
EDA Admin Fee	\$ 675,000.00							
Temp Funding	\$ -							
Total	\$ 23,175,000.00							
Main Street Micro Business Loan	\$ 20,000,000.00	411	\$ 19,993,056.80	\$ 6,943.20	0		September of 2022	10/6/2022
EDA Admin Fee	\$ 600,000.00							
Temp Funding	\$ 1,000,000.00							
Total	\$ 21,600,000.00							
Main Street Micro Business Loan	\$ 28,300,000.00		\$ 69,667,038.00	\$ 2,947,143.49	0	\$ -	September of 2022	10/6/2022
EDA Admin Fee	\$ 849,000.00						May of 2023	
Temp Funding	\$ -							
Total	\$ 28,375,000.00	544	\$ 25,427,856.51	\$ 2,947,143.49				
Total for MBLS	\$ 72,625,000.00	1466	\$ 69,667,038.00					
Main Street Acquisition Support Grant	\$ 10,000,000.00	5	\$ 142,275.00	\$ 9,857,725.00	23	\$ 908,945.00	February of 2024	10/1/2024
EDA Admin Fee	\$ 500,000.00							
Temp	\$ 500,000.00							
Total	\$ 11,000,000.00							
Small Business Liquor License Grant	\$ 10,000,000.00						November of 2024	Hasn't launched yet
EDA Admin Fee	\$ 500,000.00							
Temp	\$ -							
Total	\$ 10,500,000.00							
E-commerce Technical Assistance	\$ 10,000,000.00	567	\$ 4,439,227.19	\$ 5,560,772.81	0	\$0.00	12/21/2022	2/24/2023
Total of funds allocated to products	\$ 217,000,000.00	5818	\$179,532,803.36	\$ 46,433,878.13	393	\$16,376,643.70		

Total Main Street Appropriation	\$ 227,000,000.00
Allocated to Fund Approvals	\$ 206,578,500.00
Allocated to EDA Admin Fees	\$ 6,921,500.00
Allocated to Temps	\$ 3,500,000.00
Balance	\$ 10,000,000.00



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: May 13, 2025

Subject: Strategic Innovation Center Investment in the New Jersey Bell Labs Venture Studio, LLC

Summary:

Members of the Board are requested to approve:

- An aggregate investment of up to \$15 million including \$5 million to fund operating expenses and \$10 million to fund investment from New Jersey Bell Labs Venture Studio, LLC (“Venture Studio”) a newly formed limited liability company, to be owned on a 1:1 basis by the New Jersey Economic Development Authority (“NJEDA”) and Nokia of America Corporation (“Nokia”).
- Authorization to the CEO to execute all documents required, including the Operating Agreement (Appendix A) and Side Letter Agreement (Appendix B) attached hereto in the appendix to this memo in substantially final form.
- The Members are also asked to approve a 4.5% administrative fee to NJEDA for administrative costs plus associated Authority legal costs as allowed through the Economic Recovery Fund (“ERF”) statute.

Background:

Strategic Innovation Centers:

In July 2021, the Board of the New Jersey Economic Development Authority (“NJEDA”) approved policies for utilizing the Economic Recovery Fund (ERF), created by P.L. 1992, c. 16, to undertake development of or to invest in strategic innovation centers to accelerate economic recovery and drive the long-term growth of the State’s innovation economy. Strategic Innovation Centers are defined as facilities that either, directly support research and development (R&D), innovation, or entrepreneurship, or are aimed at solving specific problems in new and innovative ways through a combination of services such as mentorship, networking opportunities, hands-on training, business support services, education opportunities, and/or access to testing, fabrication, or manufacturing facilities and equipment.

The policy approval included the use of fifty-five million dollars (\$55,000,000) appropriated to the NJEDA’s ERF for the purpose of developing Strategic Innovation Centers in accordance with the policies. The 2023, 2024 and 2025 State appropriations acts allocated an additional seventy million dollars (\$70,000,000), seventy-five million dollars (\$75,000,000), and fifty million (\$50,000,000) respectively. In March 2025, EDA, with approval from the Joint Budget Oversight Committee (JBOC), reallocated seven million eight hundred fifteen thousand dollars (\$7,815,000) from the closeout of the Edison Loan Program to the Strategic Innovation Center initiative,

bringing the total amount to two-hundred fifty seven million eight hundred fifteen thousand dollars (\$257,815,000) available for Strategic Innovation Center (SIC) investments. NJEDA's policy anticipates capturing a 4.5% administrative fee at approval of each project, in accordance with Board approved program policy. Additionally, the ERF statute authorizes the use of ERF funding for the costs of a project, including legal expenses (including special counsel retained by the Attorney General's Office). Inclusive of the commitments itemized below and associated administrative fee there remains available \$135,965,000 of unallocated SIC funds before approval of the Venture Studio.

To date, the Members have approved the following use of SIC funding:

- Investment in HAX, LLC (approved October 13, 2021): \$25,000,000
- Investment in Helix (DevCo) (approved December 8, 2021): \$10,000,000
- Allocation to Maternal and Infant Health Innovation Center (approved May 8, 2024): \$3,000,000
- Investment in NJ FAST powered by Plug and Play (approved July 17, 2024): \$17,100,000
- Investment in Atlantic County NJ Aerospace LLC (approved December 19, 2024): \$8,600,000
- Allocation to Maternal and Infant Health Innovation Center (approved February 24, 2025): \$7,000,000
- Investment in NJ AI Hub LLC (Approved April 9, 2025): \$15,000,000
- Investment in NJII Venture Studio (Approved April 9, 2025): \$5,800,000

The approved policies for Strategic Innovation Center projects consider how NJEDA staff will:

1. Address opportunities for the Authority to take a lead role in developing Strategic Innovation Centers such as building and/or overseeing the operations of the Strategic Innovation Center or collaborating with another party through an early investment that serves as a catalyst for the project.
2. Consider unsolicited proposals or investment opportunities for Strategic Innovation Center projects in the State. In all cases, funding is limited to twenty-five million dollars (\$25,000,000) for any single project with a requirement for matching private capital, and the project must align with the ERF targeted industries¹ or demonstrate that it will meaningfully support increasing diversity and inclusion within the State's entrepreneurial economy. Additionally, all Strategic Innovation Center projects using ERF funds under these policies must be approved by the Board.

Following evaluation (Confidential Appendix E), EDA staff have determined the project, herein, the New Jersey Bell Labs Venture Studio LLC, meets the outlined policy requirements for a SIC investment given that it directly supports R&D, innovation and entrepreneurship for start-up companies in the Advanced Manufacturing, Information and High Technology industries.

Background on New Jersey Bell Labs Venture Studio, LLC

Nokia of America Corporation, a Delaware corporation, submitted proposals for investment to the NJEDA in September 2024, for the Venture Studio, simultaneously with, the NJ Nokia Innovation Center, LLC, incubator and co-working facility. Venture capital as an institutional investment

¹ “Targeted industry” means any industry identified from time to time by the Authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

model, traditionally, invests in operating startups and small- to medium-sized enterprises with high growth potential. Meanwhile, a venture studio as a business model systematically ideates, builds and scales multiple startups from the ground up, leveraging shared resources, expertise, and a hands-on approach. What is critical about this process is demonstrating a significant market need as well as contracting customers and partners before the company is launched. Through intentionally building a company and structuring it in this manner, a modest investment will result in a robust company that will be well positioned for success while retaining the majority of the equity. Nokia has established a business model that funds new business ventures based on innovations that offer high business growth opportunities. Promising Bell Labs technology will be incubated as separate businesses with the goal of rapid commercialization. In February 2025, Nokia, and the NJEDA announced a non-binding letter of intent to establish the Venture Studio.

After review of the SIC proposal, Staff's recommendation is to provide financial support in the form of an equity investment into the Venture Studio pursuant to the Strategic Innovation Center policy, as the project aligns with the objectives of the Strategic Innovation Centers initiative (Confidential Appendix E).

Venture Studio Strategy

The Venture Studio looks to build the future of deep tech in America, as New Jersey stands out for its unique advantages, which place it as a focal point for scaling deep tech in the Northeast. With three R1 universities, a thriving corporate landscape ranging from logistics to deep tech to fintech, national centers of research ranging from energy to transportation, and a highly engaged state government, there are ample opportunities to build and scale the future of deep tech platforms in New Jersey.

The next 10 years could see more disruptive innovation than the last half-century. Renewed interest in the frontiers of microelectronics, from communications to compute, are driving new possibilities for an innovation ecosystem across the state of New Jersey. The Studio will aim to take a strategic focus on AI & Software Systems, Automation, Semiconductors & Devices, Machines designing chips, Heterogeneous Integration, Chiplets and Compute within New Jersey. The Studio plans to build and invest in these sectors because of their potential to create deep tech platform technologies capable of begetting further innovation.

The Venture Studio will provide capital, company building expertise, and access to a network of talent to commercialize the technologies developed by the scientists and engineers at Nokia, as well as other corporations and universities. The Studio team will identify the most promising opportunities and create companies that can be nurtured to the point where outside investment capital can join to help the companies reach scale within the state of New Jersey.

The Studio will operate in close collaboration with Nokia Bell Labs. As Nokia's industrial research lab, Nokia Bell Labs seeks to innovate with purpose by pursuing responsible, sustainable technologies that will have a demonstrable impact on society. Nokia will provide office and lab space for the Venture Studio team at the Bell Labs facility in New Jersey, initially at Murray Hill, then later at Nokia's new headquarters to be built in New Brunswick, and access to certain technology from Bell Labs for continued technology development, and scientists to support and build upon the technology created at Bell Labs.

SIC Management

Nokia Corporation is a Finnish, multinational telecommunications, information technology, and consumer electronics corporation. The Company has a market cap of \$28.5 billion. Nokia Corporation has more than 78,000 employees worldwide. The North American operations are headquartered in Dallas with meaningful presence in both California and New Jersey – including

the base of operations for Nokia Bell Labs. The Nokia team brings the Studio a broad range of talent across technology development, portfolio management, and venture building. The team has been responsible for developing and overseeing countless innovations and scientific advancements across their careers and provides the executive level support within Nokia and Nokia Bell Labs that will serve as a strong foundation for the studio and its ability to leverage the talent and technology within Nokia Bell Labs. Researchers at Bell Labs have a long history of developing breakthrough technologies including building the first lasers and transistors, connecting the world using communications satellites, and inventing technologies like solar cells and hearing aids. Today, Nokia Bell Labs continues advancing state-of-the-art communications technologies while broadening its reach into exciting fields of research.

The management of Venture Studio will be hired and approved by the Studio Board of Directors, with additional subject matter expertise from Nokia staff. The board shall initially consist of 5 members. One (1) representative from Nokia, two (2) representatives from NJEDA, one (1) seat reserved for the CEO of the Studio, and one (1) independent member to be approved by NJEDA and Nokia. In addition to its role of providing Governance over the Studio, the Board shall approve and monitor the budget, project acceptance into the Studio, and opine on the technologies to be commercialized by the Studio.

Key hires of the Venture Studio will include a Head of Studio, a Product Manager, and a Director of Operations. The Studio will receive support from a broad range of talent from Nokia Bell Labs. The Venture Studio will enter into a Master Services Agreement (confidential appendix D) to establish secondment of Nokia employees who will work directly with Bell Labs Venture Studio. Biographies for members of the Investment Committee and Venture Studio professionals appear below:

Chris Jones is Nokia VP of Strategic Partnerships, focused on driving external corporate partnerships and ecosystem building to enhance innovation and business value. Chris has worked over 25 years in the Nokia/Alcatel-Lucent portfolio of companies. He first joined as a Bell Labs researcher after receiving a PhD from Cornell University. His career has included leading a Technology Strategy and CTO Services team, six years in corporate strategy, and held various senior product development, innovation, and management roles. A key focus area for his current position is to enhance Nokia's innovation framework – to realize the strategic and commercial impact of internal incubation, external spinouts and VC investment. Chris's group houses an internal incubator with active internal startups and license technologies to new and existing companies for commercialization. Chris sits on the investment committee of NGP Capital, Nokia's VC arm, which is currently deploying Fund V, a \$400M fund that started in February 2022.

Mike Chen, Nokia VP of Ventures and Partnerships, a veteran business builder, who co-authored Nokia Innovation Framework 2.0 that reshaped the Nokia venture partnership framework. He successfully setup and spun-out multiple ventures from Nokia. Previously, he led and managed \$1B+ business for Nokia. Mike demonstrated success with company acquisitions that resulted in multiple returns for the organization. He co-founded Nokia WIFI, a startup that became a key driver for Nokia's home business. Prior to Nokia, Mike used to manage Linksys global business. He was instrumental in the acquisition of Linksys from Cisco in 2013, as well as led the integration of Linksys into Belkin International. Mike co-founded and successfully launched Belkin camera, Belkin WEMO, Belkin Bluetooth, and Linksys SMB startups and scaled them into thriving businesses. He has an MBA from University of California Irvine and B.S in Mechanical Engineering from University of California Santa Barbara.

Winn Hong, Nokia Americas Venture Partner, a seasoned entrepreneur and venture builder with 20+ years of experience. Prior to joining Nokia, he served as the Deputy Managing Director of the

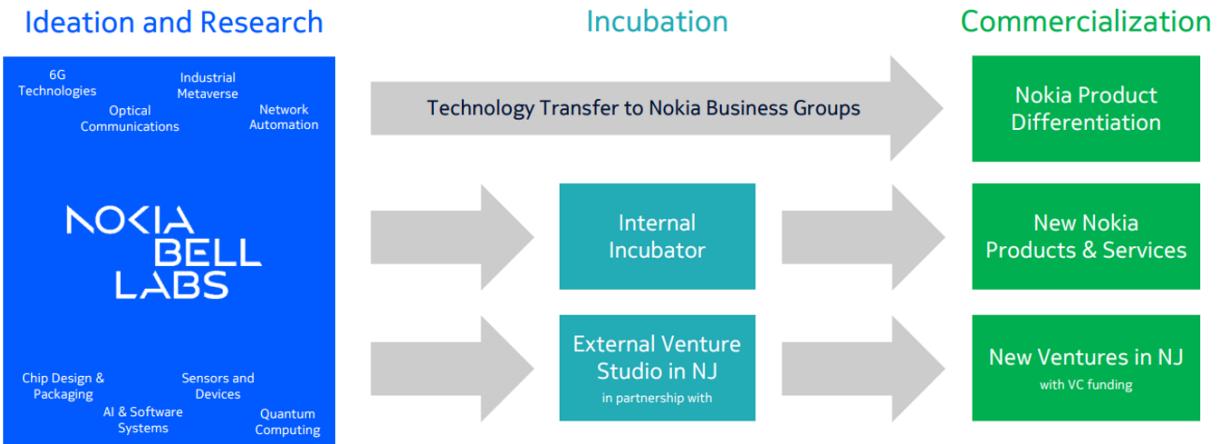
Alfred Mann Institute of USC. During his tenure, in working with a team of venture builders, researchers, and professors, Winn grew its AMI's endowment from \$150M to \$270M over a span of 14 years. He has co-founded, led, and fundraised for multiple start-ups, as well as successfully exiting many ventures in his career. In addition, he had served as a Sr. Tech Strategist for UCLA School of Engineering to commercialize high-impact technologies, as well as spent four years with NASA/JPL as a member of its technical staff. He has a M.S. in Mechanical and Biomedical Engineering degrees from UCLA, along with an MBA from the University of Chicago.

Ujwal Kapoor, Nokia Venture Technology Partner with 20+ years of Telecom & IT Industry experience. His areas of expertise include software defined networks, enterprise architecture, transport networks, data centers, and multi-cloud platforms. At Nokia, Ujwal has been instrumental in leading the development of Technology Strategy across multiple domains including Cloud-Network Fusion, Intelligent Edge Cloud platforms, Multi-Cloud Networks and Enterprise applications. He also leads the charter for the development of end-to-end Technology Architecture to shape the transformation towards future Communication Networks. He also spent a considerable amount of time working with start-ups & technology incubators in Silicon Valley in the areas of intent-based networks, software defined WANs, & cloud networks. He has a bachelor's degree in technology & a master's in business management from Institute of Management Technology, India.

Matt Watson, Nokia Venture Commercial Partner, brings a wealth of venture, M&A, legal, and commercial experience. Matt served as Nokia's Sr. Counsel and has transacted and advised on numerous M&A and commercial deals in his current and past roles. Prior to joining Nokia, Matt had partaken in three investment firms as co-founder, director, and partner in a span of ten years with demonstrated success. He led the creation of Nokia venture transaction legal instruments. Matt is also seasoned in transacting assets and patent licensing, transfer, and clearance for venture spinouts.

Structure and Business Model

To strengthen its capabilities to rapidly commercialize research and innovation outside of its traditional product portfolio, the Venture Studio will serve as a joint venture between the NJEDA and Nokia, supporting pre-seed ventures with capital, tech and legal advisory. The aim of the planned joint venture is to create start-up company opportunities and job growth. Relatedly, much of this growth will occur at the Helix 2 (H2) Real Estate SIC upon completion in 2028. To feed this growth, Nokia Bell Labs and other Nokia organizations have a funnel of technology innovations being evaluated for internal or external incubation. The mission of the Venture Studio is to co-found breakthrough deep tech companies with the nation's most brilliant scientists, engineers, and innovators. Leveraging Nokia's company creation methodology, it will get involved at the earliest possible moment — a promising technology, a concept modeled in wire frame, or a breakthrough idea in the mind of an engineer — and rapidly accelerate product development, commercialization, and recruitment. During the Venture Studio program, selected ventures will reside, initially at Murray Hill, and later in the Helix 2, adjacent to the NJ Nokia Innovation Center. Housing the Venture Studio will serve as part of Nokia's in-kind contribution to Venture Studio. Ventures that have successfully completed the program will become legally independent of Nokia and its joint venture between NJEDA, and will operate as separate companies, thereafter, while being encouraged to remain part of the ecosystem. In short, the Venture Studio creates an external path for value creation of Nokia Bell Labs innovations, and those of other corporates, entrepreneurs and universities.



Over the next five years, the Venture Studio plans to build at least 14 pre-company creations, leading to 8 or more fundable startups. An average of \$500,000 will be invested per company at the pre-company stage, with up to \$1,000,000 invested in Venture Studio companies, each, that reach the seed investment criteria. To achieve this objective, the Manager will use reasonable best efforts to identify and evaluate approximately 30 Venture Studio Focus technologies for feasibility of commercialization. Nokia will use reasonable best efforts to identify, during the Program Operations Period, 14 technology programs for further development. During this Pre-Company Creation the Venture Studio will fund the development of a working prototype of the applicable technology from the Investment Pool.

Once an incubation reaches the Seed Stage it will be able to continue its research and growth within the fully equipped H2 laboratory with access to ancillary support facilities within the building. Thereby, avoiding the extremely capital-intensive costs of creating and equipping lab space to continue its research and growth. Each Participant Company is expected to have an initial team of at least two (2) full-time equivalent employees. Nokia anticipates 320 jobs will be created in the first 5 years of the Venture Studio.

	Pre-Seed	Seed	Series A	Series B	Series C
# of HC/ventures	2.5	10	20	40	80
# of Target Ventures	14	8	6	5	4
Gross Employees	35	80	120	200	320

Nokia and the NJEDA will each contribute \$15,000,000 to support the SIC for a total investment of \$30,000,000 in cash or in-kind. NJEDA will contribute \$5,000,000 of cash to fund the Venture Studio Operations which will be disbursed quarterly each year during the five-year operating period. Nokia will provide a \$10,000,000 in-kind contribution to support the studio operations, therefore, achieving a 1:2 ratio to fund operating expenses. Nokia will provide office and lab space for Bell Labs venture studios and ventures at Bell Labs Murray Hills facility in NJ, grant access to certain Intellectual Property from Bell Labs both in the US and abroad, facilities for continued technology development, and scientists to support and build upon the technology created at Bell Labs. Additionally, Nokia communicates (at a high level) its organization's technology ambitions and areas of focus to facilitate alignment of vision for the Venture Studio with Venture Studio partners. Nokia In-Kind Contributions may include, but are not limited to:

- Office/ Lab Space
- “First-Look” access to Nokia Bell Labs technology available for external ventures
- Nonexclusive access to Nokia Bell Labs Science Advisors
- Bell Labs & Nokia Brand
- Nokia/Bell Labs Translation Expertise

- Access to Nokia in-house expertise in IP protection
- Access to Nokia legal, finance and accounting expertise
- Access to Nokia Company Advisors and Network

Cash contributions from both groups, including \$10,000,000 from the NJEDA and \$5,000,000 from Nokia will be invested to support follow-on investment into companies that demonstrate meaningful traction from the Venture Studio, representing a 2:1 ownership stake in the Participant Companies.

Community Engagement and Economic Development

Nokia Bell Labs, initially at Murray Hill, then at New Brunswick, will build on its existing partnerships and forge new ones. By the nature of the studio model, engagement won't be limited to established companies and institutions and will plan to utilize the new facilities as fertile ground to launch new homegrown ventures in New Jersey. Nokia has committed to undertake community engagement efforts and provide specific reporting with regard to those efforts and tracking demographic data of the portfolio companies.

The Studio will seek to measure its economic benefit to New Jersey through:

- *Building the Future of New Startups with an Iconic New Jersey Leader:* While initially located at the iconic Nokia Bell Labs in Murray Hill, NJ it will move to New Brunswick upon the completion of the new landmark Nokia Bell Labs putting it squarely at the crossroads of new innovation projects in the state. The Studio will build new high-potential startups in close proximity to other regional leaders.
- *Revitalizing the New Jersey Tech Ecosystem:* the team will hire a New Jersey-based team to both build new startups and scout existing deep tech startups within the region and state while working with the groundbreaking researchers at Nokia Bell Labs. The Venture Studio managed by Nokia will initially establish an academic agreement with Rutgers, the State University.
- *Satellite Locations to Other National Centers:* Through its relationship with Nokia, the Studio will be able to connect the leading NJ companies in its portfolio to outposts in Silicon Valley or Washington, D.C. to facilitate connections for NJ entrepreneurs to policy, science and technology, channel partners, as well as investment leaders to empower global growth.
- *Providing Strong Venture Returns:* The Studio seeks to generate strong financial returns for NJEDA and aligned partners with a mix of preferred and common equity holdings in startups.
- *Re-investment in New Jersey:* The Studio will evangelize the benefits of the opportunity for opening facilities in New Jersey (i.e., manufacturing, research collaboration, etc.) while serving as a regional ambassador to other national leaders.
- *Leveraging the Full Suite of NJEDA Services:* The Studio will work with NJEDA to secure the full menu of services available from NJEDA including angel tax credits and the Evergreen Fund match to supercharge portfolio companies.

Nokia will coordinate with NJEDA to support community engagement, including participation at NJ Founders & Funders, office hours, sharing reporting/qualitative insights to enhance efforts. Community engagement efforts are documented in the side letter agreement (appendix B) and referenced in reporting appendix of the operating agreement.

Recommendation:

Members of the Board are requested to approve:

- An aggregate investment of up to \$15 million including \$5 million to fund operating expenses and \$10 million to fund investment from New Jersey Bell Labs Venture Studio, LLC (“Venture Studio”) a newly formed limited liability company, to be owned on a 1:1 basis by the New Jersey Economic Development Authority (“NJEDA”) and Nokia of America Corporation (“Nokia”).
- Authorization to the CEO to execute all documents required, including the Operating Agreement (Appendix A) and Side Letter Agreement (Appendix B) attached hereto in the appendix to this memo in substantially final form.
- The Members are also asked to approve a 4.5% administrative fee to NJEDA for administrative costs plus associated Authority legal costs as allowed through the Economic Recovery Fund (“ERF”) statute.



Tim Sullivan, Chief Executive Officer

Prepared by:

Ram Akella – EVP, Innovation Impact

Tim Rollender – Senior Advisor, Strategic Innovation Initiatives

Attachment:

Appendix A – Nokia Venture Studio LLC Operating Agreement

Appendix B – Nokia Venture Studio LLC Side Letter to Operating Agreement

Appendix C – New Jersey Bell Labs Venture Studio Form of Subscription Agreement

Appendix D – **CONFIDENTIAL** Master Services Agreement

Appendix E – **CONFIDENTIAL** Strategic Innovation Center Documentation, Eligibility and Evaluation Checklist

APPENDIX A

**LIMITED LIABILITY COMPANY AGREEMENT
OF
NEW JERSEY BELL LABS VENTURE STUDIO, LLC
A NEW JERSEY LIMITED LIABILITY COMPANY**

Adopted as of [•], 2025

**LIMITED LIABILITY COMPANY AGREEMENT
OF
New Jersey Bell Labs Venture Studio, LLC
(A New Jersey Limited Liability Company)**

This Limited Liability Company Agreement, effective as [•], 2025 (the “*Effective Date*”), of New Jersey Bell Labs Venture Studio, LLC, a New Jersey limited liability company (the “*Company*”), is hereby entered into by the Members of the Company. Capitalized terms shall have their respective meanings set forth in Article I unless otherwise defined.

WHEREAS, the Company has been formed in accordance with the requirements of the Act;

WHEREAS, the Company has been formed to engage in (a) the evaluation of certain intellectual property assets related to the Focus, (b) the formation, support and financing of one or more Participant Companies developing or operating businesses related to the Focus, (c) promotion of ecosystem engagement related to the Focus, and (d) all other activities and transactions as are incidental to the foregoing (items (a) through (d), collectively, the “*Business*”).

WHEREAS, the Members and the Company desire to continue the operation of the Company and to allow for the admission of additional Members in accordance with the terms of this Agreement and the Side Letter.

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby enter into this Agreement as follows:

ARTICLE I

Definitions

1.01 **Definitions.** The following terms used in this Agreement shall have the following meanings (unless otherwise expressly provided herein):

(a) “*Act*” shall mean the New Jersey Revised Uniform Limited Liability Company Act (N.J.S.A. 42:2C-1 *et. seq.*).

(b) “*Administrative Manager*” shall have the meaning set forth in Section 5.03(a).

(c) “*Advisory Board*” shall have the meaning set forth in Section 8.08.

(d) “*Affiliate*” shall mean, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including, without limitation, any general partner, managing member, officer, director or trustee of such Person.

(e) “*Agreement*” shall mean this Limited Liability Company Agreement as originally executed and as further amended and/or restated from time to time in accordance with its terms.

(f) “*Alternative Site*” shall have the meaning set forth in Section 8.07(a).

(g) “*Approved Annual Operating Budget*” shall have the meaning set forth in Section 8.04.

(h) “*Applicable Law*” means all applicable laws, statutes, rules, regulations, ordinances and other pronouncements having the effect of law of any federal, national, multinational, state, provincial, county, city or other political subdivision.

(i) “*Board*” shall mean the Board of Managers of the Company, as constituted from time to time pursuant to the terms of this Agreement.

(j) “*Book Value*” of an asset shall mean, as of any particular date, the value at which the asset is properly reflected on the books of the Company as of such date.

(k) “*Budget*” shall have the meaning set forth in Section 8.04.

(l) “*Business*” shall have the meaning set forth in the Recitals.

(m) “*Capital Account*” shall mean the capital account established and maintained for each Member pursuant to Section 6.07.

(n) “*Capital Contribution*” shall mean any contribution (or deemed contribution) to the capital of the Company in cash or property by a Member whenever made.

(o) “*Capital Call Default*” shall have the meaning set forth in Section 6.06.

(p) “*Capital Call Notice*” shall have the meaning set forth in Section 6.04.

(q) “*Capital Commitment*” shall have the meaning set forth in Section 6.03.

(r) “*CEO Manager*” shall have the meaning set forth in Section 5.01(b)(iii).

(s) “*Certificate of Formation*” shall mean the Certificate of Formation of the Company as filed with the New Jersey Division of Revenue, as the same may be amended from time to time.

(t) “*Code*” and “*I.R.C.*” shall mean the Internal Revenue Code of 1986, as amended from time to time, including corresponding provisions of succeeding law.

(u) “*Company*” shall mean New Jersey Bell Labs Venture Studio, LLC, a New Jersey limited liability company.

(v) “*Company Minimum Gain*” shall have the meaning attributable to “partnership minimum gain” pursuant to Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

(w) “*Concentration Cap*” shall have the meaning set forth in Section 7.04(b).

(x) “*Confidential Information*” shall have the meaning set forth in Section 9.01.

(y) “*Covered Persons*” shall have the meaning set forth in Section 5.08.

(z) “*Defaulting Member*” shall have the meaning set forth in Section 6.06.

(aa) “*Definitive Agreements*” shall mean this Agreement, the Services Agreement and the Side Letter.

(bb) “*Depreciation*” means, for each Fiscal Year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Fiscal Year or other period; provided, however, that except as may be required by Regulations Section 1.704-3(d), if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction with respect to such asset for such Fiscal Year or other period bears to such beginning adjusted tax basis; and provided further that, if the federal income tax depreciation, amortization or other cost recovery deduction for such Fiscal Year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Partnership Representative.

(cc) “*Disclosing Party*” shall have the meaning set forth in Section 9.01.

(dd) “*Distributable Cash*” means, at any given time, the cash available for distribution to the Members computed after payment of any costs and expenses of the Company which are due and payable, less the portion thereof used to pay or establish Reserves.

(ee) “*Effective Date*” shall have the meaning set forth in the Preamble.

(ff) “*Entity*” shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, committee, cooperative or association, or any foreign trust, or foreign business organization.

(gg) “*Excluded Opportunity*” shall have the meaning set forth in Section 5.08.

(hh) “*Fair Market Value*” shall mean the value as determined by the Board in good faith using such reasonable method of valuation as the Board may adopt.

(ii) “*Fiscal Year*” means the calendar year.

(jj) “*Focus*” means deep technology across high-impact industry verticals identified by the Members from time to time, including, without limitation, microelectronics, artificial intelligence, advanced manufacturing, computing, information technology and NextGen communications.

(kk) “*Future Site*” shall have the meaning set forth in Section 8.07(a).

(ll) “*GAAP*” shall have the meaning set forth in Section 8.03(a).

(mm) “*Gross Asset Value*” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset as determined by the Board;

(ii) The Gross Asset Values of all Company assets shall be adjusted to equal their respective fair market values, as reasonably determined by the Board, as of the following times: (w) the acquisition of any additional interests in the Company by any new or existing Member in exchange for more than a *de minimis* Capital Contribution, (x) the Distribution by the Company to a Member of more than a *de minimis* amount of Company assets as consideration for an interest in the Company, (y) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), and (z) such other time specified in Regulations Section 1.704-1(b)(2)(iv)(f); provided, however, that the adjustments pursuant to clauses (w), (x), and (z) above shall be made only if the Board determines, in its reasonable discretion, that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(iii) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution, as determined by the Board; and

(iv) If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraph (i), (ii) or (iii), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset.

(nn) “Identified Technology” shall have the meaning set forth in Section 7.01(c).

(oo) “Improvements” means each invention that is discovered, conceived, invented or developed during the Term in connection with the evaluation and development activities contemplated by Article 7 of this Agreement and that is derived from the Nokia Background IP.

(pp) “Indemnitees” shall have the meaning set forth in Section 13.03(a).

(qq) “Independent Manager” shall have the meaning set forth in Section 5.01(b)(iv).

(rr) “Initial Site” shall have the meaning set forth in Section 2.03.

(ss) “Initial Technologies” shall have the meaning set forth in Section 7.01(b).

(tt) “Intellectual Property Rights” means all intellectual property rights, whether registered or unregistered, that are recognized in any jurisdiction of the world, including such rights in patents, utility models, trademarks and tradenames, copyrights and trade secrets, (and any registrations of or applications to register any of the foregoing).

(uu) “Investment Capital Contribution” shall have the meaning set forth in Section 6.05.

(vv) “Investment Committee” shall have the meaning set forth in Section 5.01(h)(ii).

(ww) “Investment Commitment” shall have the meaning set forth in Section 6.03.

(xx) “Investment Period” shall have the meaning set forth in Section 7.04(a).

(yy) “Losses” means any liabilities, claims (including, without limitation, claims for compensation or in connection with death or personal injury, expenses (including reasonable and document out-of-pocket attorneys’ fees and expenses), and damages, excluding, in each case, any damages measured by lost profits or a multiple of earnings or any punitive, exemplary, special, indirect, consequential or similar damages.

(zz) “Majority Approval” means the approval by a majority of the then-serving Managers (i) present, in person or by proxy, at any duly called meeting of the Board at which a Quorum is present or (ii) acting by written consent pursuant to Section 5.01(g)(iii).

(aaa) “Manager” shall have the meaning set forth in Section 5.01(b).

(bbb) “*Material Adverse Effect*” means a material adverse effect on the business, assets, liabilities, financial condition or results of operations of the Company or the NJEDA Member (solely in its capacity as such), as applicable.

(ccc) “*Material Breach*” means, with respect to a Person (including without limitation the Investment Committee, any member of the Investment Committee or the Administrative Manager), such Person’s (i) breach of such Person’s obligations under this Agreement or any Definitive Agreement, in each case, that results in a Material Adverse Effect, (ii) conviction for fraud, gross negligence, willful misconduct, or violations of securities laws, (iii) becoming a Defaulting Member pursuant to Section 6.06, or (iv) becoming the subject matter of any proceeding relating to its bankruptcy, insolvency, receivership, liquidation, dissolution, winding up or entering into a plan of arrangement or similar agreement with creditors.

(ddd) “*Member*” shall mean each of the parties who execute a counterpart signature page to this Agreement as a Member and each of the parties who may hereafter become a Member pursuant to the terms hereof.

(eee) “*Member Minimum Gain*” shall have the meaning attributable to “partner nonrecourse debt minimum gain” as defined under Regulations Section 1.704-2(i)(2).

(fff) “*Member Nonrecourse Deductions*” shall have the meaning attributable to “partner nonrecourse deductions” as defined in Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

(ggg) “*Modified Capital Account*” means, for each Member, such Member’s aggregate Capital Account balance increased by such Member’s share of Company Minimum Gain and Member Minimum Gain (as determined pursuant to Regulations Sections 1.704-2(g) and 1.704-2(i)(5), respectively).

(hhh) “*MOU*” shall have the meaning set forth in Section 8.06(a).

(iii) “*Net Profits*” and “*Net Losses*” mean, for each Fiscal Year, an amount equal to the Company’s taxable income or loss for such Fiscal Year, as applicable, determined in accordance with Section 703(a) of the Code (but including in taxable income or loss, for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code), with the following adjustments:

(i) any income of the Company exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be added to such taxable income or loss;

(ii) any expenditures of the Company described in Section 705(a)(2)(B) of the Code (or treated as expenditures described in Section 705(a)(2)(B) of the Code pursuant to Regulation Section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be subtracted from such taxable income or loss;

(iii) in the event the Gross Asset Value of any asset of the Company is adjusted in accordance with paragraph (ii) or paragraph (iii) of the definition of "Gross Asset Value" above, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Profits or Net Losses;

(iv) gain or loss resulting from any disposition of any asset of the Company with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the asset disposed of, notwithstanding that the adjusted tax basis of such asset differs from its Gross Asset Value;

(v) in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period, computed in accordance with the definition of "Depreciation" above;

(vi) the amount of any adjustment to the Gross Asset Value of any Company asset pursuant to Section 734(b) or Section 743(b) of the Code that is required to be reflected in the Capital Accounts of the Members pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) shall be treated as an item of gain (if the adjustment is positive) or loss (if the adjustment is negative), and only such amount of the adjustment shall thereafter be taken into account in computing items of income and deduction; and

(vii) any items which are specially allocated pursuant to Section 10.02 shall not be taken into account in computing Net Profits or Net Losses.

The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to Section 10.02 shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (v) above.

(jjj) "New Jersey Academic Partner" shall have the meaning set forth in Section 8.06(a).

(kkk) "New Jersey Academic Partner IP" means Intellectual Property Rights and technologies within the Focus that are owned or controlled by a New Jersey Academic Partner (together with all know-how of the New Jersey Academic Partner relating thereto) and are made available by such New Jersey Academic Partner for licensing to the Company or a Participant Company.

(lll) "New Jersey Presence Requirements" shall have the meaning set forth in Section 7.02(b)

(mmm) "NJ Startup Matters" shall have the meaning set forth in Section 8.08.

(nnn) "NJEDA Capital Commitment" shall have the meaning set forth in Section 6.03.

(ooo) “NJEDA Investment Commitment” shall have the meaning set forth in Section 6.03.

(ppp) “NJEDA Managers” shall have the meaning set forth in Section 5.01(b)(ii).

(qqq) “NJEDA Member” means New Jersey Economic Development Authority, a body corporate and politic of the State of New Jersey.

(rrr) “NJEDA Operations Commitment” shall have the meaning set forth in Section 6.03.

(sss) “Nokia Background IP” means all Nokia IP (i) owned or controlled by the Nokia Member or its Affiliates prior to the Effective Date or (ii) developed or acquired by the Nokia Member or its Affiliates on or after the Effective Date other than in connection with the evaluation and development activities contemplated by Article 7 of this Agreement.

(ttt) “Nokia Capital Commitment” shall have the meaning set forth in Section 6.02.

(uuu) “Nokia In-Kind Contributions” shall have the meaning set forth in Section 6.02.

(vvv) “Nokia Investment Commitment” shall have the meaning set forth in Section 6.02.

(www) “Nokia IP” means Intellectual Property Rights and technologies within the Focus that are owned or controlled (including through a license) by the Nokia Member or its Affiliates (together with all know-how of the Nokia Member and its Affiliates relating thereto) and are made available by the Nokia Member or its Affiliates to the Company or a Participant Company.

(xxx) “Nokia Manager” shall have the meaning set forth in Section 5.01(b)(i).

(yyy) “Nokia Member” means Nokia of America Corporation, a Delaware corporation.

(zzz) “Nokia Operations Commitment” shall have the meaning set forth in Section 6.02.

(aaaa) “Officer” shall have the meaning set forth in Section 5.02(a).

(bbbb) “Operations Capital Contribution” shall have the meaning set forth in Section 6.04.

(cccc) “Operations Commitment” shall have the meaning set forth in Section 6.03.

(dddd) “Participant Company” shall have the meaning set forth in Section 7.02(a).

(eeee) “Participant Company Leases” shall have the meaning set forth in Section 8.07(b).

(ffff) “Participant Company Space” shall have the meaning set forth in Section 8.07(b).

(gggg) “Partnership Representative” shall have the meaning set forth in Section 5.06.

(hhhh) “Percentage Interest” shall mean, at any time of determination and with respect to any Member, a percentage derived by dividing (i) the number of issued and outstanding Units then held by such Member by (ii) the aggregate number of Units then issued and outstanding.

(iiii) “Permitted Transfer” shall have the meaning set forth in Section 11.01.

(jjjj) “Person” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of the “Person” when the context so permits.

(kkkk) “Pre-Company Creation” shall have the meaning set forth in Section 7.01(c).

(llll) “Program Operations Period” shall have the meaning set forth in Section 7.01(c).

(mmmm) “Quorum” shall have the meaning set forth in Section 5.01(e).

(nnnn) “Receiving Party” shall have the meaning set forth in Section 9.01.

(oooo) “Redemption Price” shall have the meaning set forth in Section 7.02(c).

(pppp) “Regulations” means pronouncements, as amended from time to time, or their successor pronouncements, which clarify, interpret and apply the provisions of the Code, and which are designated as “Treasury Regulations” by the United States Department of the Treasury.

(qqqq) “Regulatory Allocations” shall have the meaning set forth in Section 10.02(h).

(rrrr) “Representative” shall have the meaning set forth in Section 9.03.

(ssss) “*Reserves*” shall mean, for any taxable year, funds set aside or amounts allocated during such period to reserves that shall be maintained in amounts deemed sufficient by the Board for working capital and to pay taxes, insurance, debt service, capital improvements, replacements, contingencies and other costs and expenses incident to the ownership or operation of the Company’s business.

(tttt) “*Revised Partnership Audit Procedures*” means Subchapter C of Chapter 63 of Subtitle F of the Code, as modified by Section 1101 of the Bipartisan Budget Act of 2015, Public Law Number 114-74 and any successor statute thereto or Treasury Regulations promulgated or official guidance issued thereunder (or any comparable provision of foreign, state, or local income tax laws, and any corresponding or similar provision of any succeeding income tax law).

(uuuu) “*Sale Transaction*” shall mean (i) a transaction or series of related transactions in which a Person, or a group of related other Persons and/or their Affiliates, acquires from the Members, Units representing more than fifty percent (50%) of the outstanding Units and/or Unit Equivalents of the Company; (ii) a merger or consolidation in which the Company is a constituent party, except any such merger or consolidation involving the Company in which the Units and Unit Equivalents outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for equity that represents, immediately following such merger or consolidation, at least a majority of the outstanding equity of the surviving or resulting entity; or (iii) the sale, lease, transfer, assignment, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any Subsidiary of the Company of all or substantially all the assets of the Company and its Subsidiaries taken as a whole.

(vvvv) “*sell*” and “*sale*” shall have the meanings set forth in Section 11.01.

(wwww) “*Services Agreement*” shall have the meaning set forth in Section 8.05.

(xxxx) “*Side Letter*” shall mean the Side Letter dated the Effective Date between the Nokia Member and the NJEDA Member.

(yyyy) “*Site*” shall have the meaning set forth in Section 8.07(a).

(zzzz) “*Subsidiary*” shall mean, with respect to any Person, any corporation, partnership, joint venture, limited liability company, association, or other Entity (excluding, with respect to the Company and its Subsidiaries, each Participant Company and its respective subsidiaries) in which such Person owns, directly or indirectly, fifty percent (50%) or more of the outstanding equity securities or interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such Entity.

(aaaaa) “*Suspension Period*” have the meaning set forth in Section 7.05(b).

(bbbbbb) “*Uncured Material Breach*” shall mean that (i) a Material Breach shall have occurred, (ii) the Nokia Member and/or the NJEDA Member, as applicable, have sent written notice to the breaching Person of the occurrence of such Material Breach, and

(iii) the breaching Person shall have failed to cure the Material Breach (if susceptible to cure) within 90 days of delivery of the notice referenced in clause (ii).

(ccccc) “Unit” shall have the meaning set forth in Section 4.03.

(ddddd) “Unit Equivalent” shall mean any security or obligation that is by its terms, directly or indirectly, convertible into, exchangeable or exercisable for Units, including any option, convertible debt, warrant or other right to subscribe for, purchase or acquire Units that are then or may in the future become convertible, exchangeable or exercisable.

(eeee) “Unreturned Capital Amount” means, with respect to each Member, the aggregate amount of Capital Contributions as of a date of determination minus all distributions made by the Company after the Effective Date to such Member pursuant to Section 10.03(a)(i).

ARTICLE II

Formation and Continuation of Company

2.01 Formation and Continuation. The Company has been formed pursuant to the requirements of the Act with the filing of its Certificate of Formation conforming to the requirements of the Act with the New Jersey Department of Treasury, Division of Revenue in the State of New Jersey on [•], 2025. The Members hereby agree to continue to operate the Company pursuant to the Definitive Agreements for the purposes and upon the terms and conditions hereinafter set forth. The Board is authorized to file with such authorities any and all amendments to the Certificate of Formation as may be required under the Act.

2.02 Name. The Company shall conduct its activities under the name “New Jersey Bell Labs Venture Studio, LLC”.

2.03 Principal Place of Business. The principal business office of the Company shall be located at 600 Mountain Avenue, New Providence, New Jersey (the “Initial Site”). The Company may locate its place of business and registered office at any other place or places as the Board may from time to time deem advisable, consistent with Section 8.07.

2.04 Registered Agent and Registered Office. The name of the Company’s registered agent is [•]. The address of the registered office of the Company in the State of New Jersey is [•].

2.05 Term. The Company shall have perpetual existence, unless sooner dissolved as hereinafter provided.

ARTICLE III

Business of the Company

3.01 Purposes and Powers. The purpose of the Company shall be to engage in the Business and any lawful business reasonably related thereto which is permitted under the Act

and other Applicable Law. The Company and the Board, the Administrative Manager and the Officers (in each case, on behalf of the Company) shall have and exercise the power to do any and all acts and things necessary, appropriate, advisable, suitable or convenient for the furtherance and accomplishment of the purposes of the Company, including, without limitation, to engage in any kind of activity, and to enter into and perform obligations and agreements of any kind, necessary to, in connection with, or incidental to the accomplishment of the purposes of the Company, so long as said activities and obligations may be lawfully engaged in or performed by a limited liability company under the Act and are permitted by and in accordance with this Agreement and the Side Letter.

3.02 No State-Law Partnership. The Members intend that the Company shall not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be an agent, partner or joint venturer of any other Member, for any purposes other than as a partnership for federal and state tax purposes, and this Agreement shall not be construed to suggest otherwise.

3.03 Separate Legal Existence; Limited Liability. The Company shall do all things necessary to maintain its limited liability company existence separate and apart from each Member and any Affiliate of any Member, including holding regular meetings of the Board and maintaining its books and records on a current basis separate from that of any Member or Affiliate of a Member, and shall not commingle the Company's assets with those of any Member, Affiliate of a Member, or any other Person. Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and none of the Members, Managers, Officers, employees or agents of the Company shall be obligated personally for any such debt, obligation or liability of the Company unless explicitly obligated under the terms of this Agreement or the Side Letter.

ARTICLE IV

Members; Units; Percentage Interest

4.01 Members. The mailing addresses and notice information of the Members as of the Effective Date are set forth on Exhibit A hereto. The initial Capital Contributions, Capital Accounts and Percentage Interests of the Members, and the number of Units held by the Members, in each case, as of the Effective Date, are set forth on Exhibit B hereto.

4.02 Additional Members. The Company shall admit such additional Members as shall be determined from time to time pursuant to Article IX of this Agreement.

4.03 Units. The limited liability company interests of the Members shall be represented by issued and outstanding units (each, a "Unit"). Each Unit shall, for all purposes, be deemed personal property. Units shall have the rights and preferences in the assets and management of the Company as provided herein. The Units represent a Member's ownership interest in the Company, including its Capital Account, allocations, information, the right to participate in the management of the business and affairs of the Company and any and all other rights, powers and benefits accorded to a Member under this Agreement and the Side Letter, and

such Member's duties and obligations hereunder. The Members shall be entitled to vote on the matters set forth in this Agreement based on the number of Units held by such Member in relation to the total number of Units then outstanding.

ARTICLE V

Management

5.01 Board.

(a) Powers of the Board. Subject to the express limitations contained in any provision of this Agreement and the Side Letter, the management of the business and affairs of the Company shall be controlled by the Board. The members of the Board shall constitute the Company's managers for purposes of the Act and other Applicable Law. The Board shall have all powers necessary, convenient or appropriate for carrying out the purposes and business of the Company, and in conjunction therewith, except as otherwise set forth herein, the Board may appoint, contract or otherwise deal with any Person to perform any acts or services for the Company as it may determine, and as provided in Section 5.02 may delegate administrative or other powers under this Agreement. No Member, by virtue of having the status of a Member, shall have any management power over the business and affairs of the Company or actual or apparent authority to enter into contracts on behalf of, or to otherwise bind, the Company except as otherwise set forth in this Agreement.

(b) Appointment and Removal of Managers. The Board shall initially comprise five (5) natural Persons (each, a "Manager"). Each Member hereby agrees to take all action necessary to appoint, elect, ratify, and confirm the appointment of Managers as follows:

(i) One (1) Manager (the "Nokia Manager") shall be appointed by the Nokia Member, for so long as it (together with its Affiliates) holds at least 50% of the Units held by it as of the Effective Date, who shall initially be Chris Jones.

(ii) Two (2) Managers (the "NJEDA Managers") shall be appointed by the NJEDA Member, for so long as it (together with its Affiliates) holds at least 50% of the Units held by it as of the Effective Date, who shall initially be [•].

(iii) One (1) Manager (the "CEO Manager") shall be the then-serving Chief Executive Officer of the Company who shall initially be Mike Chen.

(iv) One (1) Manager (the "Independent Manager") shall be appointed by majority vote of the then-seated Managers other than the Independent Manager .

(v) Each Manager shall hold office until the earlier to occur of his/her inability to act in such capacity or his/her resignation or removal from such office in accordance with the terms of this Agreement. Any Manager may be removed as a Manager at any time, with or without cause, only at the direction and with the consent of the Member or Members who designated such Manager (or, in the case of each Independent Manager, majority vote of the then-seated Managers other than the Independent Manager). If any Manager shall die, resign, be

removed or otherwise cease to be a Manager, the Member or Members who designated such Manager (or, in the case of each Independent Manager, a majority of the then-seated Managers other than the Independent Manager) shall designate a replacement or successor Manager, and the Members hereby agree to take all action necessary to appoint, elect, ratify and confirm such replacement or successor as a Manager.

(c) Proxy Grant; Alternate Managers. Each Manager shall have the right to grant a proxy, by executing a signed instrument, directing another Manager to vote on his/her behalf in his/her absence in connection with any meeting of or action taken by the Board. Each Member shall also have the right to designate one or more Persons to act as an alternate for the Manager that such Member has the right to designate and any such alternate shall act for, fulfill the obligations of and have all rights, privileges and responsibilities of such Manager (including the right to vote on behalf of such Manager) in the event that the Manager for which such Person has been designated as an alternate, is unable, and has not granted a proxy, to act at any meeting, or to take action, of the Board, and each such alternate so designated shall be treated as a “Manager” at any meeting where serving in such capacity. No Person designated an alternate may simultaneously serve as an alternate for multiple Managers or be granted (or exercise) multiple proxies, except that a Manager may be granted (and exercise) multiple proxies.

(d) Meetings of the Board. The Board shall hold at least one (1) meeting per calendar quarter, on a date and at a place decided by the Board. Additional meetings of the Board may be called by the Board or by the Nokia Member or the NJEDA Member on not less than ten (10) days’ prior written notice of the date, time and place to each Manager and a description, in reasonable detail, of the agenda for such meeting. Attendance at a meeting by any Manager who does not object to proper notice at the meeting shall constitute waiver of such notice.

(e) Quorum. At all meetings of the Board, the presence of a majority of the then-serving Managers which must include the Nokia Manager and both NJEDA Managers, in person or by proxy, shall constitute a quorum (a “Quorum”). A Quorum must exist at all times of a meeting, including the reconvening of any meeting that has been adjourned, for any action taken at such meeting to be valid. Any and all Managers may participate in any Board meeting by, or through the use of, any means of communication by which all Managers participating and entitled to vote may simultaneously hear each other during the meeting. A Manager so participating is deemed to be present in person at the meeting. If a Quorum is not present, in person or by proxy, at any meeting of the Board, the Managers present at such meeting may adjourn the meeting without notice other than announcement at the meeting, until such time as a Quorum is present. For the avoidance of doubt, there shall be no Quorum requirement with respect to any committee of the Board that is established pursuant to the terms hereof.

(f) Compensation of the Managers. No Manager shall be entitled to any compensation from the Company for services as a Manager, unless unanimously agreed to by the Board. Each Member shall be responsible for the expenses of its designated Managers to attend meetings of the Board and to otherwise fulfill his/her duties hereunder.

(g) Acts of the Board; Approval Requirements.

(i) General. Unless otherwise set forth in Section 5.01(g)(ii) or as otherwise set forth in this Agreement, in any instance in which the approval or consent of the Board is required under this Agreement, such approval or consent will require Majority Approval.

(ii) Matters Requiring Unanimous Board Consent. The Company shall not (and shall not cause or permit any of its Subsidiaries to) effect any of the following acts or transactions, either directly or indirectly by amendment, merger, consolidation or otherwise, without (in addition to any other consent or approval required by this Agreement) the unanimous approval of the Board (whether by resolution at a duly called meeting of the Board or by written consent, in each case, pursuant to the applicable terms of this Article V), and any such action undertaken without such approval shall be null and void *ab initio* and of no force or effect:

(1) incur any indebtedness for borrowed money, or any other material liability of the Company (which shall include fees and expenses of the Investment Committee) other than as included in the Approved Annual Operating Budget;

(2) change any material tax election or policy of the Company or its Subsidiaries;

(3) change the external auditors of the Company or its Subsidiaries, other than to (x) KPMG LLP, Deloitte LLP, PricewaterhouseCoopers LLP or Ernst & Young U.S. LLP (or their respective Affiliates), (y) an auditing firm then engaged by the Nokia Member or (z) a regionally recognized auditing firm with a major presence in New Jersey (as reasonably determined by the Nokia Member and the NJEDA Member);

(4) cease to conduct the Business, commence the conduct of a business other than the Business or any material change in the Business or any conduct of business outside of the Focus;

(5) remove the Administrative Manager or appoint a replacement Administrative Manager, in each case, except as set forth in Section 5.03(a);

(6) remove a member of the Investment Committee or appoint a replacement or additional member of the Investment Committee, in each case, except as set forth in Section 5.01(h)(ii);

(7) enter into, amend or terminate any Academic Partnership Agreement;

(8) appointment and replacement of the Chief Executive Officer, or other executive position, of the Company;

(9) approve the employment of any personnel directly by the Company; or

(10) upon any dissolution of the Investment Committee by the NJEDA Member in accordance with Section 5.01(h)(ii), appoint a third-party investment manager to exercise the authority delegated to the Investment Committee pursuant to the terms of this Agreement.

(iii) Written Consent. Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing (which may be in counterparts) setting forth the action so taken shall be signed by those Managers that would have constituted a Quorum had a meeting taken place in person; provided that each Manager shall have been provided with a copy of the action to be taken and the consent before the action is to be taken with a reasonable opportunity to sign it.

(h) Committees.

(i) The Board may establish one (1) or more committees. The Board may delegate to any committee such power and authority as it may deem advisable, including the power and authority to take actions that shall not require any subsequent approval, ratification or confirmation by the Board prior to their becoming effective. Such committee(s) shall have such name(s) as may be determined from time to time by the Board. Each of the Nokia Manager and the NJEDA Managers shall have the right to be a member of any committee established by the Board (except as set forth in clause (ii) below with respect to the Investment Committee).

(ii) Without limiting the generality of the foregoing, the Board hereby establishes an Investment Committee of the Board (the "Investment Committee"). The Nokia Manager shall initially be the sole member of the Investment Committee, and the appointment of any other member of the Investment Committee shall be subject to the approval of the Nokia Member; provided, that in the event that the Nokia Manager resigns as the sole member of the Investment Committee, the Board may designate a replacement member of the Investment Committee by unanimous approval; and provided, further, that upon the occurrence of an Uncured Material Breach with respect to the Nokia Member, the NJEDA Member shall have the right to require the Board to dissolve the Investment Committee and to select a third party investment manager (subject to unanimous approval of the Board pursuant to Section 5.01(g)) to exercise the authority delegated to the Investment Committee pursuant to the terms of this Agreement. The Investment Committee shall have the authority to (w) recommend that the Company cause the formation of one or more Participant Companies or that the Company provide funding to one or more Participant Companies, (x) recommend that the Company call capital from the Capital Commitment pursuant to Article 6, (y) recommend that the Company enter into any other transaction with, or take any other action with respect to, a Participant Company, subject to the terms of this Agreement and (z) undertake all activities that are ancillary to the foregoing. The Investment Committee shall notify the Board of any recommendation pursuant to the foregoing sentence (which notice may be delivered by email), and any recommendation of the Investment Committee pursuant to the preceding sentence shall be binding upon the Company and its Members unless vetoed by the Board (by majority vote of the then-seated Managers that are not then serving on the Investment Committee) within three (3) days of the Investment Committee's delivery of notice to the Board of the applicable recommendation pursuant to this sentence. Any

reference in this Agreement to a recommendation, determination or other action of the Investment Committee shall be construed in a manner that is consistent with this Section 5.01(h)(ii).

(i) Operations. The day-to-day operations of the Company shall be managed by the Officers of the Company appointed in accordance with Section 5.02, except as otherwise provided herein.

5.02 Officers.

(a) General. The Company shall have such officers, holding such titles, as may be designated by the Board from time to time, subject to the terms of this Agreement and the Side Letter (each, an "Officer"). Each Officer shall hold office for such term as determined by the Board and shall serve at the pleasure of the Board. Officers will serve at the pleasure of the Board and shall be agents of the Company. Any individual may hold any number of offices. The compensation, general areas of responsibility and specific administrative powers, duties and responsibilities of each Officer will be determined by the Board and may be revised from time to time; provided that the Board shall have the authority to take any actions it deems advisable to effectuate the day-to-day operations of the Company whether or not otherwise prescribed as a duty of an Officer. The initial Officers of the Company are set forth on Schedule A attached hereto.

(b) Removal and Resignation of Officers. Any Officer may be removed, either with or without cause, by the Board at any time. Any Officer may resign at any time by giving written notice to the Board. Any resignation will take effect on the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in that notice, the acceptance of the resignation will not be necessary to make it effective. Appointment as an Officer does not guarantee employment by the Company. Removal from a position as an Officer shall not affect an individual's rights or obligations under any contract of employment, unless otherwise provided therein.

5.03 Administrative Manager.

(a) Administrative Manager. The Company shall have an Administrative Manager (the "Administrative Manager"), which shall initially be the Nokia Member. The Administrative Manager shall serve as the sole administrative manager of the Company and shall have the authority and obligations set forth herein, which shall include, without limitation, evaluating Nokia IP and New Jersey Academic Partner IP, overseeing the development of prototypes with respect to Identified Technologies, assessing the feasibility of forming Participant Companies to commercialize such Identified Technologies and other administrative functions as further set forth in the Services Agreement and in each case, also as set forth herein. The Administrative Manager may only be removed with the unanimous consent of the Board pursuant to Section 5.01(g)(ii)(5), provided, that in the event of an Uncured Material Breach with respect to the Administrative Manager in its capacity as such, the NJEDA Member shall have the right to remove the Administrative Manager (subject to Majority Approval, which shall not be unreasonably withheld or delayed), in which case the Board, acting by Majority Approval, shall be entitled to appoint a replacement Administrative Manager; and provided, further, that the Administrative Manager may resign at any time by delivery of written notice to the Board (in

which case a replacement Administrative Manager may be appointed only with the unanimous consent of the Board pursuant to Section 5.01(g)(ii)(6)).

5.04 Members.

(a) Rights and Powers. The management and control of the Company shall be vested in the Board and, except as may be otherwise expressly required by Law or any other provision of this Agreement or the Side Letter, Members shall not have any right or power to take part in the management or control of the Company or its Business or to act for or bind the Company in any way in their capacity as Members.

(b) Voting Rights. No Member has any voting right except with respect to those matters specifically reserved for a Member vote that are set forth in this Agreement, the Side Letter and as may otherwise be required under the Act. For the avoidance of doubt, a Person holding Units that has not been admitted as a Member in accordance with this Agreement shall have no voting rights with respect to its Units.

(c) Meetings. Meetings of the Members may be called by either the Nokia Member or the NJEDA Member. The call shall state the location of the meeting and the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than five (5) calendar days or more than thirty (30) calendar days prior to the date of such meeting. Members may vote in person, by proxy, or by video conference at such meeting and may waive advance notice of such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement or the Side Letter, such vote or consent may be given at a meeting of the Members or may be given in accordance with the procedure prescribed in this Section 5.04. Except as otherwise expressly provided in the Agreement or Side Letter, the consent of the Members holding at least a majority of all Units then outstanding, voting as a single class, shall be required to constitute the act of the Members.

(d) Date of Meeting. For the purpose of determining the Members entitled to vote on, or to vote at, any meeting of the Members or any adjournment thereof, the Board may fix, in advance, a date as the record date for any such determination. Such date shall not be more than thirty (30) calendar days nor less than ten (10) calendar days before any such meeting.

(e) Proxies. Each Member may authorize any Person or Persons to act for it by proxy on all matters in which a Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Member or its attorney-in-fact. Every proxy shall be revocable at the pleasure of the Member executing it.

(f) Voting. Notwithstanding this Section 5.04, and except as otherwise set forth in this Agreement or the Side Letter, the Company may take any action contemplated under this Agreement or the Side Letter when approved by the written consent of the Members holding at least a majority of all Units then outstanding, voting as a single class, such consent to be provided to the Company by e-mail or by registered or certified mail, postage and charges prepaid.

5.05 Required Member Consents. Notwithstanding any other provision of this Agreement, the Company shall not (and shall cause its Subsidiaries not to) either directly or indirectly by amendment, merger, consolidation or otherwise, effect any of the following acts or transactions without the written consent of each of the Nokia Member and the NJEDA Member, and such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

- (a) incur or guarantee indebtedness for borrowed money of a Participant Company;
- (b) invest more than the Concentration Cap in any one Participant Company;
- (c) make any investment in publicly traded securities, excluding (i) private placements of public company securities, (ii) securities which were not publicly traded at the time of such investment, (iii) securities acquired in a "going private" transaction or series of transactions and (iv) short-term investments such as money market funds;
- (d) reinvest proceeds from the sale of Participant Company securities during the Investment Period if doing so would cause the aggregate amount of Investment Capital Contributions to exceed \$15,000,000;
- (e) amend, alter, renew or repeal any provision of this Agreement or any Definitive Agreement or approve the waiver of any term hereof or thereof;
- (f) authorize, issue, redeem or repurchase any Units or Unit Equivalents, in each case, other than the redemption right of the NJEDA Member pursuant to Section 7.02(c);
- (g) commence any liquidation, insolvency or bankruptcy proceedings with respect to the Company or any Subsidiary;
- (h) consummate (x) any Sale Transaction or other merger or consolidation to which the Company or any Subsidiary is a party, or (y) the sale of any assets of the Company or any equity interests of a Participant Company then held by the Company or any of its Subsidiaries (except in connection with a change of control or other strategic transaction with respect to the applicable Participant Company);
- (i) approve any transfer of Units or Unit Equivalents in the Company or any Subsidiary pursuant to Article XI, except for a Permitted Transfer; or
- (j) (x) approve or amend the Approved Annual Operating Budget, or (y) approve or incur any expenditure in excess of the aggregate limit on expenditures set forth in the Approved Annual Operating Budget.

5.06 Partnership Representative. The Members hereby designate the Nokia Member as the "partnership representative" (as defined in and for the purposes of the Revised Partnership Audit Procedures) of the Company (the "Partnership Representative"), and, in its

capacity as the Partnership Representative, the Nokia Member shall be entitled to implement the Revised Partnership Audit Procedures and make any additional changes that, in its reasonable discretion, it deems necessary or desirable, including the election pursuant to Section 6226 of the Code (as enacted by the Revised Partnership Audit Procedures) or such other similar provisions. Each Member will, upon request, supply any information requested by the Partnership Representative in connection with any tax proceedings. Each Member agrees to reasonably cooperate with the Partnership Representative and to do or refrain from doing any or all things reasonably requested by the Partnership Representative with respect to the conduct of such proceedings. The Company shall reimburse and indemnify the Nokia Member for all reasonable expenses incurred in its capacity as the Partnership Representative. The Partnership Representative may be removed and replaced by the Board at any time, subject to the prior written consent of the Nokia Member and the NJEDA Member. The provisions of this Section 5.06 shall survive the termination of the Company or the termination of any Member's interest in the Company and shall remain binding on the Members for as long a period of time as is necessary to resolve with the Internal Revenue Service any and all matters regarding the U.S. federal income taxation of the Company or the Members.

5.07 Liability for Certain Acts. Except as provided in the Act, the Members shall not, nor shall any other Members hereafter admitted, be obligated personally for any debt, obligation, or liability of the Company or of any other Member solely by reason of being a Member of the Company.

5.08 Other Activities. It is anticipated that the Members will have other business interests and will engage in other activities in addition to those relating to the Company. Except as expressly set forth in Article VII of this Agreement, neither the Company nor any Member shall have any right, by virtue of this Agreement or otherwise, to share or participate in other investments or activities of the Members or to the income or proceeds derived therefrom. Notwithstanding anything to the contrary in this Agreement, the Company, and each of the Members, renounces, to the fullest extent permitted by Applicable Law, any interest or expectancy of the Company in, or in being offered an opportunity to participate in, or being informed about, any Excluded Opportunity. An "Excluded Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any Manager who is not an employee, consultant or service provider (other than as a Manager) of the Company or any of its Subsidiaries, or (ii) any Member or any Affiliate, partner, member, manager, unitholder, employee or agent (or the equivalent) of any such Member, other than someone who is an employee, consultant or service provider (other than as a Manager) of the Company or any of its Subsidiaries (collectively, "Covered Persons"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a Manager or employee, consultant or agent of the Company.

5.09 No Fiduciary Duties. It is hereby acknowledged and agreed that, to the fullest extent permitted by the Act and other Applicable Laws, (i) the Managers shall have fiduciary duties to the Company and its Members as contemplated by the Act and other Applicable Laws, and (ii) neither the Members nor the Administrative Manager shall have any duties or obligations to the Company, any Member, or any other party (including, without limitation, fiduciary duties) except as expressly set forth in this Agreement or in any Definitive Agreement.

The Members agree that, to the greatest extent permitted by law, any action taken by a Manager, the Administrative Manager or a Member (in each case, in its capacity as such) that is (i) permitted by this Agreement and not prohibited by Applicable Law; (ii) not inconsistent with any express provision of this Agreement or any Definitive Agreement; or (iii) not expressly prohibited by this Agreement or any Definitive Agreement, shall be deemed to be taken in good faith and within the terms of the agreement contemplated by the parties hereto. The Members further acknowledge and agree that the Administrative Manager shall not have any liability whatsoever to the Members or the other parties hereto from time to time in connection with its exercise of its authority and performance of its duties in such capacity, and the Members hereby express disclaim any such liability on the part of the Administrative Manager and waive any and all claims in connection therewith unless any such liability is a result of the gross negligence, willful misconduct, fraud or bad faith of the Administrative Manager or material breach by the Administrative Manager of any provision of the Definitive Agreements.

ARTICLE VI

Contributions to the Company and Capital Accounts

6.01 Members' Capital Contributions. Simultaneously with the execution of this Agreement, each Member hereby commits to make Capital Contributions to the Company in the amount set forth opposite such Member's name on Exhibit B hereto as its initial Capital Contribution, and further agrees to make additional Capital Contributions from time to time as set forth in this Article VI.

6.02 Nokia Capital Commitment. The Nokia Member agrees to make Capital Contributions in the aggregate amount of Fifteen Million Dollars (\$15,000,000) (the "Nokia Capital Commitment") to the Company subject to the terms of this Agreement. Ten Million Dollars (\$10,000,000) of the Nokia Capital Commitment (the "Nokia Operations Commitment") may be called from time to time during the Program Operations Period in the amounts, and for the uses, set forth in the Approved Annual Operating Budget, and may include in-kind contributions (the "Nokia In-Kind Contributions") the type and value of which as set forth in the Approved Annual Operating Budget, and Five Million Dollars (\$5,000,000) of the Nokia Capital Commitment (the "Nokia Investment Commitment") may be called from time to time upon the recommendation of the Investment Committee during the Investment Period to finance the Company's investments into Participant Companies pursuant to the terms of this Agreement.

6.03 NJEDA Capital Commitment. The NJEDA Member agrees to make Capital Contributions in the aggregate amount of Fifteen Million Dollars (\$15,000,000) (the "NJEDA Capital Commitment," and together with the Nokia Capital Commitment, each a "Capital Commitment") to the Company pursuant to the terms of this Agreement. Five Million Dollars (\$5,000,000) of the NJEDA Capital Commitment (the "NJEDA Operations Commitment") (together with the Nokia Operations Commitment, the "Operations Commitment") may be called from time to time during the Program Operations Period in the amounts, and for the uses, set forth in the Approved Annual Operating Budget, and Ten Million Dollars (\$10,000,000) of the NJEDA Capital Commitment (the "NJEDA Investment Commitment," and together with the Nokia Investment Commitment, the "Investment Commitment") may be called from time to time upon the recommendation of the Investment Committee during the Investment Period to finance the

Company's investments into Participant Companies pursuant to the terms of this Agreement. Under no circumstances will the NJEDA Member be required to make Capital Contributions in excess of the NJEDA Capital Commitment.

6.04 Operations Capital Calls. Upon the election of the Administrative Manager and at least fifteen (15) days' prior to the required funding date, the Administrative Manager shall deliver written notices (each, a "Capital Call Notice") to the NJEDA Member and/or the Nokia Member calling for the applicable Member to fund a portion of its applicable Operations Commitment consistent with the amounts set forth in the Approved Annual Operating Budget (each, an "Operations Capital Contribution"), which notice shall include what operations such Operations Capital Contribution shall fund and over what period of time. Each Member shall fund (which may include, in the Nokia Member's case, contribution by way of a Nokia In-Kind Contribution) the applicable amounts set forth in a Capital Call Notice on or prior to the funding date set forth therein, provided that:

(i) the NJEDA Operations Commitment shall be called on a quarterly basis in increments of no less than One Hundred Thousand Dollars (\$100,000) and no more than Two Hundred and Fifty Thousand Dollars (\$250,000);

(ii) the NJEDA Member's obligation to fund any portion of the NJEDA Operations Commitment shall be conditioned upon the Nokia Member either (x) concurrently funding a portion of the Nokia Operations Commitment in cash and/or (y) becoming required, pursuant to the terms of the applicable Capital Call Notice, to provide Nokia In-Kind Contributions on the schedule set forth in the applicable Capital Call Notice, which aggregate amounts shall equal at least two (2) times the value of such portion of the NJEDA Operations Commitment, provided that, any Operations Capital Contributions made in excess of the Operations Commitment shall be made solely by the Nokia Member subject to clause (viii) below, and provided, further, that under no circumstances shall the NJEDA Member be required to make Operations Capital Contributions (excluding any items allocated therein to the Investment Commitment) in excess of the NJEDA Operations Commitment;

(iii) the Nokia Member's obligation to fund any portion of the Nokia Operations Commitment (whether in cash or in Nokia In-Kind Contributions, as set forth in the applicable Capital Call Notice) shall be conditioned upon the NJEDA Member concurrently funding a portion of the NJEDA Operations Commitment equal to at least fifty percent (50%) of the value of such portion of the Nokia Operations Commitment;

(iv) in the event that any portion of the NJEDA Operations Commitment is utilized for capital improvements or equipment installation in an aggregate amount (with respect to any given Capital Call Notice) of over two thousand dollars (\$2,000) at the Initial Site, the Company and the Administrative Manager agree that all contractors providing services at the Initial Site in connection with the expenditure of such portion of the NJEDA Operations Commitment shall be subject to the NJEDA Member's prevailing wage and affirmative action requirements, including, but not limited to, payroll reporting and contractor registration under the New Jersey Public Works Contractor Registration Act;

(v) in the event that some or all of the Nokia Member's Operations Capital Contribution as set forth in a Capital Call Notice is to consist of Nokia In-Kind Contributions, then the Nokia Member shall provide such Nokia In-Kind Contributions on the timeline set forth in the Capital Call Notice and not, for the avoidance of doubt, by the required funding date for Operations Capital Contributions consisting of cash as set forth in the Capital Call Notice;

(vi) for all purposes of this Agreement, and subject to clause (vii) below, any Nokia In-Kind Contributions shall be deemed to have the aggregate value set forth in the applicable Capital Call Notice and Approved Annual Operating Budget; provided, that upon request by the NJEDA Member, the Nokia Member shall provide detailed invoices and other information reasonably requested by the NJEDA Member to allow the NJEDA Member to verify the value of such Nokia In-Kind Contributions;

(vii) in the event that the Administrative Manager determines in its reasonable discretion that the amount of Nokia In-Kind Contributions for a prior period exceeded the value of the Nokia In-Kind Contributions set forth in the applicable Capital Call Notice(s) or Approved Annual Operating Budget, then the outstanding Nokia Operations Commitment shall be reduced by the amount of such excess Nokia In-Kind Contributions;

(viii) notwithstanding the foregoing, during the Program Operations Period and for so long as the Nokia Member is then serving as the Administrative Manager, in the event that the Board approves an Approved Annual Operating Budget pursuant to the terms hereof that contemplates aggregate expenditures of the Company (excluding any items allocated therein to the Investment Commitment) in excess of \$15,000,000, then the Administrative Manager may deliver one or more Capital Call Notices to the Nokia Member that would require the Nokia Member to fund such amounts pursuant to the terms of this Section 6.04 on terms (which may include, without limitation, the issuance of additional Units to Nokia) that are mutually acceptable to the Nokia Member, the NJEDA Member and the Company; and

(ix) if the Investment Period is suspended pursuant to Section 7.05 or the Company is dissolved or terminated pursuant to Article XIII, the NJEDA Member may, in its sole discretion, be relieved of its obligation to fund its outstanding NJEDA Operations Commitment.

6.05 Investment Capital Calls. Upon the recommendation of the Investment Committee during the Investment Period and at least fifteen (15) days' prior to the required funding date, the Investment Committee shall deliver a Capital Call Notice to the NJEDA Member and the Nokia Member requiring each Member to fund a portion of its applicable Investment Commitment in connection with the financing by the Company of a Participant Company (each, an "Investment Capital Contribution"). Each Member shall fund the applicable amounts set forth in any Capital Call Notice on or prior to the date set forth therein provided that:

(i) the NJEDA Investment Commitment shall be called in increments of no less than One Hundred Thousand Dollars (\$100,000);

(ii) the NJEDA Member's obligation to fund any portion of the NJEDA Investment Commitment shall be conditioned upon the Nokia Member concurrently funding a portion of the Nokia Investment Commitment equal to at least fifty percent (50%) of the value of such portion of the NJEDA Investment Commitment; and

(iii) The Nokia Member's obligation to fund any portion of the Nokia Investment Commitment shall be conditioned upon the NJEDA Member concurrently funding a portion of the NJEDA Investment Commitment equal to at least two hundred percent (200%) of the value of such portion of the Nokia Investment Commitment.

6.06 Capital Call Default. Upon a failure by the Nokia Member or the NJEDA Member to contribute the full amount, when due, of any Operations Commitment (whether consisting of cash or Nokia In-Kind Contribution) or Investment Commitment pursuant to Sections 6.04 or 6.05, respectively (a "Capital Call Default"), such defaulting Member (a "Defaulting Member") shall, at the written election of the other Member at least fifteen (15) days after the date of the applicable Capital Call Default (so long as the Defaulting Member has not yet cured the applicable Capital Call Default), automatically forfeit, without payment of any consideration, a portion of such Defaulting Member's Units or Unit Equivalents equal to the product of (a) (i) the amount of the Operations Commitment and/or Investment Commitment that the Defaulting Member failed to fund, divided by (ii) \$15,000,000, multiplied by (b) the aggregate number of Units then held by such Defaulting Member and its Affiliates. The Company shall promptly update Exhibit B hereto to reflect any such forfeiture. The Defaulting Member shall promptly execute and deliver any documentation that is reasonably requested by the other Member to reflect such forfeiture. The remedies set forth in this Section 6.06 are not exclusive and shall not be deemed to limit either Member's remedies in any way in connection with an Uncured Material Breach by the other Member.

6.07 Capital Accounts. A separate Capital Account will be maintained for each Member. Each Member's Capital Account shall be maintained in accordance with the following provisions:

(a) to each Capital Account there shall be credited all the applicable Member's Capital Contributions equal to the amount of cash and the Gross Asset Value of property other than cash, such Member's distributive share of Net Profits, any items in the nature of income or gain that are specially allocated to such Member pursuant to Article VIII and the amount of any Company liabilities that are assumed by such Member or that are secured by any Company assets distributed to such Member;

(b) to each Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Company assets distributed to the applicable Member pursuant to any provision of this Agreement, such Member's distributive share of Net Losses, any items in the nature of deductions or losses that are specially allocated to such Member pursuant to Article VIII and the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed by such Member to the Company;

(c) in the event that all or some of a Member's Units are sold in accordance with this Agreement and the Side Letter, the transferee shall succeed to the Capital Account of the assignor to the extent it relates to the transferred Units; and

(d) no Member shall be required to pay to the Company or to any other Member or Person any deficit in such Member's Capital Account upon dissolution of the Company or otherwise.

6.08 Withdrawal or Reduction of Members' Contributions to Capital. A Member shall not receive out of the Company's property any part of its Capital Contribution until all liabilities of the Company, except liabilities to a Member on account of its Capital Contribution, have been paid or there remains property of the Company sufficient to pay them. A Member, irrespective of the nature of its Capital Contribution, has only the right to demand and receive cash in return for its Capital Contribution.

6.09 Limited Liability. The liability of each Member shall be limited to such Member's Capital Contributions that such Member has made or agreed to make to the Company.

ARTICLE VII

Technology Evaluation and Participant Companies Formation

7.01 Technology Evaluation; Intellectual Property Matters.

(a) The Nokia Member covenants and agrees to provide the Company with access to material information relating to the Nokia IP, subject to the confidentiality provisions set forth herein and solely to the extent required to undertake the evaluation and development contemplated by this Section 7.01, provided that (i) the Nokia Member shall only be required to provide such access to the extent permitted by Applicable Law and not prohibited by any agreements between the Nokia Member and any third parties with respect to the Nokia IP (in each case, as determined by the Nokia Member acting reasonably and with Nokia's reasonable consideration of whether such prohibitions may be waived), (ii) the Nokia Member may require that the Company and the NJEDA Member execute additional confidentiality agreements (subject to the terms of the Side Letter) or otherwise agree to other reasonable terms and conditions as requested by the Nokia Member prior to the Company and the NJEDA Member receiving access to such Nokia IP pursuant to the terms hereof, (iii) the Nokia Member shall provide all Nokia IP on an "as is" basis without making any representations and warranties whatsoever with respect to such Nokia IP, and (iv) in the event that any of the Nokia IP is owned or controlled by an Affiliate of the Nokia Member, the terms of this Section 7.01(a) and Section 7.01(e) shall apply with respect to such Affiliate of the Nokia Member and such Affiliate of the Nokia Member shall be deemed an express third-party beneficiary of the terms of this Section 7.01(a) and Section 7.01(e).

(b) During the Program Operations Period, the Administrative Manager will use its reasonable best efforts to identify and evaluate approximately thirty (30) technologies within the Nokia IP, New Jersey Academic Partner IP and/or technologies of other academic institutions within the Focus for feasibility of commercialization (such technologies, the "Initial Technologies").

(c) The Administrative Manager will use reasonable best efforts, during the five (5)-year period following the date of this Agreement, which may be extended by mutual consent of the Members (the “*Program Operations Period*”), to identify fourteen (14) of the Initial Technologies (each, an “*Identified Technology*”) for further development and feasibility of commercialization (such development stage, with respect to each Identified Technology, the “*Pre-Company Creation*”).

(d) During the Pre-Company Creation stage with respect to each Identified Technology, the Investment Committee shall be entitled to recommend the issuance of Capital Call Notices pursuant to Section 6.04 to fund the development of working prototypes of the applicable Identified Technology from the Investment Commitment, which must be approved by the Board.

(e) As between the parties hereto, notwithstanding anything to the contrary herein, it is hereby acknowledged and agreed that the Nokia Member shall own (i) all Nokia Background IP and (ii) all Improvements thereto. The Nokia Member hereby grants to the Company a worldwide, non-exclusive, non-sublicensable, royalty-free license to the Nokia Member’s rights in and to the Nokia Background IP and all Improvements thereto, in each case, solely for the limited purposes of conducting the evaluation and development activities contemplated by this Article 7.

7.02 Participant Company Formation.

(a) Upon successful development of a working prototype and positive assessment of applicable commercial factors of an Identified Technology (in each case, as determined by the Investment Committee), the Investment Committee shall be entitled to recommend Identified Technologies to be selected for progression from the Pre-Company Creation stage to seed stage company formation (any such entity, a “*Participant Company*”). Upon the recommendation of the Investment Committee, the Company will provide initial funding (which may take the form of an equity investment, an investment in convertible securities, or any other form of investment, in each case, as recommended by the Investment Committee) to each Participant Company from the Investment Commitment, subject to the terms hereof. The Investment Committee shall recommend the entity form of each Participant Company, subject to the terms hereof.

(b) The Company will enter into an agreement with each Participant Company which shall contain, without limitation, the following provisions: (i) each Participant Company must maintain an office presence in the State of New Jersey with at least one C-suite level executive working in the State of New Jersey for no less than three (3) years from the date of its formation; and (ii) each Participant Company must be provided with the option to utilize office and lab space, and conduct their operations, at a Site on the terms set forth herein until such Participant Company procures material funding from a third party, and (iii) each Participant Company shall have a team of at least two (2) full-time equivalent employees (the “*New Jersey Presence Requirements*”). The Company shall endeavor to provide each Participant Company with the option to utilize office and lab space, and to conduct its operations, at a Site even when no longer required to do so pursuant to the New Jersey Presence Requirements.

(c) The NJEDA Member shall be promptly provided with each agreement entered into between the Company and a Participant Company. If a Participant Company fails to maintain the New Jersey Presence Requirements for a period of at least thirty (30) consecutive days, the Company must issue a default notice to such Participant Company. From the date of such default notice, the Administrative Manager shall have one hundred and eighty (180) days to determine if such Participant Company has come back into compliance with the New Jersey Presence Requirements. If such compliance is not accomplished by the end of such cure period (as reasonably determined by the Administrative Manager), then (i) the Nokia Member shall have the right, but not the obligation, to acquire all shares of capital stock or membership units (as applicable) of such Participant Company then held by the Company, at an aggregate price equal to the greater of (x) the aggregate dollar amount that the Company has then invested in such Participant Company, (y) (A) the price per share of capital stock or membership unit (as applicable) in the applicable Participant Company's most recent round of third-party funding multiplied by (B) the number of shares of capital stock or membership units (as applicable) of the applicable Participant Company then held by the Company or (z) (A) the price per share of the classes or series of capital stock or membership units (as applicable) of the Participant Company then held by the Company, as set forth in the applicable Participant Company's most recent third-party valuation multiplied by (B) the number of shares of capital stock or membership units (as applicable) of the applicable Participant Company then held by the Company (such price the *"Redemption Price"*) and (ii) in the event that the Nokia Member does not consummate the acquisition contemplated by clause (i) above within ninety (90) days of the end of the cure period referenced in the preceding sentence, then the applicable Participant Company shall be required to redeem all shares of capital stock or membership units (as applicable) of such Participant Company that are then held by the Company at the Redemption Price within sixty (60) days of the end of such ninety (90) day period. After the consummation of the acquisition or redemption transaction (as applicable) contemplated by clauses (i) or (ii) of the preceding sentence, the applicable Participant Company shall cease to be a Participant Company for all purposes hereunder.

(d) The Company and the Administrative Member will use reasonable efforts to cause the formation of two (2) Participant Companies (in the aggregate) in the first (1st) and second (2nd) years of the Program Operations Period, three (3) Participant Companies (in the aggregate) in the third (3rd) and (4th) years of the Program Operations Period, and four (4) Participant Companies in the fifth (5th) year of the Program Operations Period.

(e) Upon the formation of a Participant Company, the Company shall cause such Participant Company to reserve up to 10% of the anticipated fully diluted equity capitalization of such Participant Company (calculated after giving effect to the initial investment by the Company in each such Participant Company) for issuance of equity awards to members of the management team and other personnel of such Participant Company, such awards to be subject in each case to Majority Approval.

7.03 Nokia Intellectual Property. Upon commencement of the Pre-Company Creation stage pursuant to Section 7.02, in the event that the Company and, subsequently, the applicable Participant Company seek to license Nokia IP or New Jersey Academic Partner IP or other Intellectual Property Rights in connection with the applicable Identified Technology from the Nokia Member or its Affiliates or a New Jersey Academic Partner or other academic institution, as applicable, the Company or such Participant Company, as applicable, shall negotiate in good

faith with the Nokia Member (or its applicable Affiliate), the New Jersey Academic Partner or other academic institution, as applicable, to enter into a licensing arrangement for the relevant Nokia IP, New Jersey Academic Partner IP or Intellectual Property Rights of other academic institutions within the Focus, as applicable (provided, for the avoidance of doubt, that in no event shall the Nokia Member and its Affiliates be obligated to enter into a licensing arrangement with respect to Nokia IP pursuant to this Section 7.03 other than on mutually acceptable terms (provided that the Nokia Member shall negotiate in good faith and make best efforts to enter into such licensing arrangements with respect to Identified Technologies on mutually acceptable terms), subject to the following provisions:

- (i) in the event that the relevant Nokia IP or New Jersey Academic Partner IP or other Intellectual Property Rights are contributed to a Participant Company in consideration for issuance of equity interests in the Participant Company to the Nokia Member or a New Jersey Academic Partner or other academic institution (as applicable), such equity interests shall not exceed twenty percent (20%) of the Participant Company's fully diluted equity capitalization after giving effect to the initial funding of such Participant Company by the Company out of the Investment Commitment;
- (ii) the licensing agreement shall not provide for annual royalties and other similar payments (excluding, for the avoidance of doubt, any sales or developmental milestone payments or other similar payments) in excess of ten percent (10%) of the Participant Company's annual gross revenue; and
- (iii) any such agreement shall be subject to Majority Approval.

7.04 Investment Parameters.

(a) The Investment Committee shall be entitled to recommend the issuance of Capital Call Notices with respect to the Investment Commitment from time to time pursuant to the terms hereof for a term commencing on the Effective Date and expiring on the earlier to occur of (i) the five-year anniversary of the Effective Date and (ii) the date on which the Investment Commitment shall have been fully invested (such period, the "Investment Period").

(b) The Company shall not invest more than Two Million Dollars (\$2,000,000) from the Investment Commitment in any individual Participant Company (the "Concentration Cap").

(c) The Company shall use reasonable best efforts to deploy at least 15% of the aggregate Investment Commitment each year, and 100% of the aggregate Investment Commitment by the end of the Investment Period, subject, in each case, to the Investment Committee's discretion with respect to any and all investments in Participant Companies.

7.05 Suspension or Termination of the Investment Period.

(a) Upon the occurrence of an Uncured Material Breach with respect to the Nokia Member, any member of the Investment Committee, the Investment Committee or the Administrative Manager, the NJEDA Member shall have the right, which shall be exercisable at

any time upon fifteen (15) days prior written notice to the Nokia Member and the Investment Committee, to suspend the Investment Period.

(b) If the NJEDA Member exercises its right to suspend the Investment Period pursuant to Section 7.05(a), the Company will enter a “Suspension Period”, during which neither Member shall be required to make any Investment Capital Contributions, provided that the Investment Committee may recommend the issuance of Capital Call Notices (and the Members shall be required to fund the applicable amounts of their respective Investment Commitments set forth therein) during any Suspension Period for the following purposes only:

(i) funding follow-on investments with respect to existing Participant Companies;

(ii) consummating transactions with respect to which the Company has entered into a binding written commitment prior to the commencement of the Suspension Period.

(c) The Investment Period may be reinstated at the election of the NJEDA Member at any time prior to the date that is one hundred and eighty (180) days following the date on which the Suspension Period shall have commenced. If the Suspension Period has not been reinstated pursuant to the preceding sentence prior to the date that is one hundred and eighty (180) days following the date on which the Suspension Period shall have commenced, the Investment Period will automatically terminate and may not be reinstated.

7.06 Nokia Investments. During the period beginning on the date of formation of a Participant Company and ending on the earlier to occur of (a) the expiration of the Program Operation Period (as extended from time to time pursuant to the terms hereof), (ii) the expiration or termination of the Investment Period or (iii) the Concentration Cap being reached for the applicable Participant Company, the Nokia Member will not acquire equity securities of a Participant Company (except, for the avoidance of doubt, on an indirect basis in its capacity as a Member of the Company). Notwithstanding the foregoing, this Section 7.06 shall not prevent the Nokia Member from acquiring up to twenty percent (20%) of the fully diluted capitalization of a Participant Company pursuant to Section 7.03(i).

ARTICLE VIII

Rights and Obligations of Members

8.01 Company Debt Liability. A Member will not be personally liable for any debts or losses of the Company beyond the Member’s Capital Contributions, except as provided in Section 8.13.

8.02 Company Books. In accordance with Section 10.07, the Administrative Manager shall maintain and preserve, during the term of the Company, and for six (6) years thereafter, all accounts, books, and other relevant Company documents. Upon reasonable request, each Member shall have the right, during ordinary business hours, to visit the Company’s

properties and inspect and copy the Company's books and documents at the requesting Member's expense.

8.03 Information Rights. The Administrative Manager, on behalf of the Company, shall deliver to each Member:

(a) As soon as practicable, but in any event within 180 days after the end of each Fiscal Year, (i) an audited balance sheet as of the end of such year and (ii) audited statements of income and cash flows for such year, all prepared in accordance with U.S. Generally Accepted Accounting Principles ("GAAP");

(b) As soon as practicable, but in any event within 45 days after the end of each quarter of each Fiscal Year of the Company, (i) an unaudited balance sheet as of the end of such fiscal quarter, (ii) unaudited statements of income and cash flows for such year, all prepared in accordance with GAAP, except that such financial statements may not contain all notes thereto that may be required in accordance with GAAP and may be subject to normal year-end audit adjustments and (iii) quarterly reports in the format set forth on Exhibit E hereto, which shall include reasonable detail about the Participant Companies;

(c) As soon as practicable, the Approved Annual Operating Budget; and

(d) On a quarterly basis, the Administrative Manager will meet with the NJEDA Member or any authorized representative designated by the NJEDA Member to discuss the progress of the Participant Companies and other business and financial matters relating to the Company.

8.04 Annual Budget. The Administrative Manager, on behalf of the Company shall, at least 30 days before the end of each Fiscal Year, prepare an annual budget and business plan for the next Fiscal Year, prepared on a monthly basis, including balance sheets, income statements and statement of cash flow for such months (the "Budget"). The Company shall submit the Budget for approval to (i) the NJEDA Member and the Nokia Member in accordance with Section 5.05(j) hereof, (ii) the Board, and (iii) the Administrative Manager and the Budget, if and when approved pursuant to clauses (i)-(iii), shall be referred to as the "Approved Annual Operating Budget". The Administrative Manager may propose further updates to the Approved Annual Operating Budget from time to time, subject to approval of the Board, the NJEDA Member and the Nokia Member. The initial Approved Annual Operating Budget as of the date of this Agreement is attached hereto as Exhibit C.

8.05 Service Agreements. It is acknowledged by the Members that as of the date of this Agreement, the Company and the Nokia Member, in its capacity as Administrative Manager, shall have entered into a Master Services Agreement in substantially the form attached hereto as Exhibit D (the "Services Agreement"). It is hereby acknowledged and agreed that the services provided by the Nokia Member under the Services Agreement shall not be deemed to include any investment advisory services or any services that could be deemed to be investment advisory services under the Investment Advisers Act of 1940, as amended, or the rules or regulations promulgated thereunder.

8.06 Academic Collaborator Partners.

(a) The Nokia Member shall cause the Company to execute at least Academic Partnership Memoranda of Understanding (each, a “MOU”) with one or more universities and/or research institutions located in New Jersey (each, a “New Jersey Academic Partner”), and shall use its commercially reasonable efforts to execute additional MOUs with New Jersey Academic Partners from time to time, in each case, in form and substance satisfactory to the Nokia Member and the NJEDA Member. Each MOU will contain terms for (i) the offer of training and educational, licensing and research opportunities by each New Jersey Academic Partner for to Participant Companies; (ii) creation of an entrepreneurial community around the Company through potentially offering internship opportunities to students from the New Jersey Academic Partners; (iii) co-sponsorship of Company program activities; (iv) limited use of each New Jersey Academic Partner’s intellectual property; and (v) limited use of the New Jersey Academic Partner’s name, marks, and logos.

(b) It is acknowledged by the Members that as of the date of this Agreement, the Company shall have entered into the following MOU[s]: [•].¹

8.07 Studio Real Estate.

(a) During the Program Operations Period, the Nokia Member and NJEDA Member will cause the Company to move the business operations of the Company from the Initial Site to the new Nokia Bell Labs office in New Brunswick, New Jersey (the “Future Site”); provided, that in the event that the Future Site is not available for occupancy during the Program Operations Period, the Nokia Member will cause the Company to continue to operate at either (i) the Initial Site, or (ii) a site approved by Majority Approval, which site must be in New Jersey with a defined lease term (an “Alternative Site”) (together with the Initial Site and the Future Site, each a “Site”).

(b) The Nokia Member or its designated Affiliate shall enter into lease agreements with each Participant Company (each, a “Participant Company Lease,” and together, the “Participant Company Leases”), subject in each case to the consent of the applicable Participant Company, for up to an aggregate amount of 5,000 leased square feet of office and lab space (the “Participant Company Space”) at one or more Sites. It is anticipated that 2,000 square feet of the Participant Company Space will be located at the Future Site (once available for occupancy), and the balance of Participant Company Space will be at an Alternative Site.

(c) The cost of the Participant Company Leases and operating costs for the Participant Company Space shall be contained in the Annual Approved Operating Budget, and the excess of (i) the fair market value of the space at the applicable Site that the Nokia Member provides to a Participant Company minus (ii) the amount paid by the Participant Company pursuant to a Participant Company Lease for such site shall count towards the Nokia Operations Commitment as Nokia In-Kind Contributions.

(d) The monthly lease payment per Participant Company Lease shall be calculated on the basis of the lesser of (i) the fair market value for comparable space in the immediate area and (ii) an amount not to exceed forty dollars (\$40) per square foot.

¹ Note to Draft: To be populated.

(e) Without limiting the foregoing, it is anticipated that the Nokia Member will make physical space available to the Company and to Participant Companies at the Initial Site and the Future Site on substantially the terms set forth in Exhibit F hereto.

8.08 Advisory Board. The Nokia Member and NJEDA Member shall cooperate together to establish an advisory board (the “Advisory Board”) to provide non-binding advice to the Officers, the Board, and the Administrative Manager on: (i) cultivating a network of potential executives, (ii) establishing relationships with New Jersey corporations, (iii) managing the business, operations and governance of Participant Companies and (iv) other topics applicable to the Company and the Participant Companies (collectively, “NJ Startup Matters”). The Advisory Board shall initially consist of one (i) representative designated by the Nokia Member, one (1) representative designated by the NJEDA Member, and up to three (3) additional members familiar with NJ Startup Matters, to be mutually designated by the Nokia Member and the NJEDA Member. For the avoidance of doubt, the Advisory Board shall serve a purely advisory function and shall not exercise any of the powers of the Board.

8.09 Insurance. The Administrative Manager shall cause the Company to procure and maintain standard commercial general liability, commercial auto liability, workers compensation, umbrella/excess liability (if applicable), professional liability (if applicable) and other insurances as would be procured by a similarly situated party, in each case, on customary and commercially reasonable terms and with minimum coverage amounts reasonably acceptable to the NJEDA Member. The NJEDA Member shall be entitled to designate one (1) of its Affiliates as an additional insured party for each such insurance policy.

8.10 Compliance with Law.

(a) The Company shall: (a) comply with all Applicable Laws; (b) obtain and comply with all legally required licenses and permits in connection with the operation of its business, (c) comply with all applicable New Jersey laws regarding insurance coverage; and (c) comply with all New Jersey laws & regulations regarding non-discrimination and contractor and supplier diversity.

(b) All contracts and subcontracts to which the Nokia Member or Company is a party for building services (i.e., cleaning and routine building maintenance work) performed at a Site shall provide for payment of the contractor or subcontractor (as applicable) at no less than the prevailing wage rate as determined by the New Jersey Commissioner of Labor and Workforce Development.

8.11 Non-Solicitation. For so long as this Agreement remains in effect, the NJEDA Member hereby covenants and agrees that it will not directly or indirectly solicit or induce (or attempt to or assist others, including its Affiliates, to solicit or induce) employees or consultants of the Nokia Member or its Affiliates who are directly or indirectly engaged in the Business to terminate their relationship with the Nokia Member (or its Affiliate, as applicable) for the benefit of the NJEDA Member or for the benefit of any other Person.

8.12 Priority and Return of Capital. Except as may be expressly provided in Article VIII, no Member shall have priority over any other Member, either for the return of Capital

Contributions or for Net Profits, Net Losses, or distributions; *provided* that this Section 8.12 shall not apply to loans (as distinguished from Capital Contributions) which a Member has made to the Company.

8.13 Liability of a Member to the Company. A Member who receives the return in whole or in part of its Capital Contribution is nevertheless liable to the Company only to the extent now or hereafter provided by the Act.

ARTICLE IX

Confidentiality.

9.01 Confidentiality. Each Member and the Company (each, in such capacity and together with its Affiliates, a "Disclosing Party") may disclose to the other Members or the Company (each, in such capacity, a "Receiving Party"), and the Receiving Party may receive from the Disclosing Party (or such Disclosing Party's Affiliates, consultants, contractors, or other third parties acting on such Disclosing Party's behalf) or from the Administrative Manager, during the course and conduct of activities under this Agreement, certain proprietary or confidential information of the Disclosing Party or its Affiliates in connection with the Business and the matters contemplated by the Definitive Agreements. The term "Confidential Information" means, with respect to each Disclosing Party, all proprietary or confidential information or materials, in tangible or non-tangible form, disclosed by or on behalf of such Disclosing Party or its Affiliates hereunder, including all technical and non-technical information of the Disclosing Party and its Affiliates and of any Participating Company that is conveyed to the Receiving Party in any form, electronic data, and scientific, marketing, financial and other proprietary information, samples, compounds, methods, formulas, processes, protocols, technologies and equipment employed, information relating to quality assurance, techniques, inventions, know-how, apparatus, and formulae, related to the current, future and proposed compounds, compositions, materials and code of the Disclosing Party and its Affiliates and of any Participating Company. For clarity, the terms of the Definitive Agreements shall constitute the Confidential Information of each Member hereunder.

9.02 Exceptions. Notwithstanding any other provisions herein, Confidential Information does not include information which:

(a) was known to the Receiving Party or any of its Affiliates prior to the time of disclosure;

(b) is at the time of disclosure hereunder or later becomes public knowledge through no fault or omission of the Receiving Party or any of its Affiliates; provided, however, that disclosures by the Receiving Party permitted under Section 9.04 or Section 9.05 shall not be considered a wrongful disclosure hereunder;

(c) is obtained by the Receiving Party or any of its Affiliates from a third party which, to Receiving Party's knowledge after reasonable investigation, is under no obligation of confidentiality to the Disclosing Party or its applicable Affiliate(s); or

(d) has been independently developed by employees, contractors, consultants or agents of the Receiving Party or any of its Affiliates without the benefit, aid, application or use of, or access to, Confidential Information of the Disclosure Party or its Affiliates, as evidenced by contemporaneous written records.

9.03 Use of Confidential Information. For a period commencing on the Effective Date and expiring six (6) years after the expiration of the Program Operations Period, each Receiving Party shall take reasonable steps to keep the Disclosing Party's Confidential Information in confidence and will only disclose such Confidential Information to such Receiving Party's directors, trustees, officers, employees, consultants, subcontractors, advisors and agents (any such person, a "Representative") who have a need to know such Confidential Information (provided that such need to know requirement shall not apply to personnel of a Receiving Party or its Affiliates who are subject to written obligations of confidentiality at least as stringent as those set forth herein). Except as otherwise expressly provided in this Agreement or the Side Letter or otherwise agreed to in writing, the Receiving Party shall not use or disclose the Disclosing Party's Confidential Information except for the purposes contemplated by this Agreement or the Side Letter. Except as otherwise expressly permitted in this Agreement or the Side Letter, the Receiving Party shall (and shall ensure that any authorized Persons to which it discloses the Disclosing Party's Confidential Information shall) only use the Disclosing Party's Confidential Information for the purposes of performing its obligations and exercising its rights under this Agreement or the Side Letter. It is hereby acknowledged and agreed that the Affiliates of the Nokia Member are express third party beneficiaries of this Article 9.

9.04 Permitted Disclosures.

(a) Each Receiving Party may disclose the Disclosing Party's Confidential Information to the extent necessary to comply with Applicable Law (including any securities law or regulation or the rules of a securities exchange or self-regulatory organization (such as the Financial Industry Regulatory Authority)) or as required in a legal or administrative proceeding; provided, however, that, to the extent permitted by Applicable Law, the Receiving Party shall promptly provide written notice to the Disclosing Party if legally permitted and cooperate with the Disclosing Party to minimize the scope of disclosure, seek a protective order or prevent disclosure of such information; provided, that no such notice shall be required, and the Receiving Party may disclose the Disclosing Party's Confidential Information, if and to the extent the Receiving Party or its controlled Affiliate is requested or required to disclose such Confidential Information during the course of a routine supervisory or regulatory examination that does not target the Disclosing Party, the Disclosing Party's Confidential Information or this Agreement, and if such supervisor or regulator is bound by Applicable Law or written obligations to keep such information confidential.

(b) Notwithstanding anything to the contrary in this Agreement, the Members recognize that each Member may be involved in discussions, partnerships, investments or business relationships with Persons engaged in, or contemplating, similar businesses to the actual or planned business of the other Member(s). The fact that a Member or any of its Affiliates may have such discussions, investments or business relationships with other Persons shall not give rise to any presumption that such Member has breached any of its obligations under this Agreement. Nothing in this Agreement will be construed as a representation or agreement that

any Member or its Affiliates will (i) not develop, receive or otherwise possess ideas, plans or other information which may be similar to that embodied in the Confidential Information, (ii) not invest in or otherwise be associated with a business that competes, directly or indirectly, in whole or in part, with the business of other Member(s) or their Affiliates, or (iii) have any duty to any Person not to trade in securities on the basis, or while in possession, of Confidential Information or not use Confidential Information received hereunder in connection with evaluating investment opportunities, trading securities in the public markets and participating in private investment transactions, provided that each Receiving Party and its Affiliates shall not disclose or otherwise provide the Disclosing Party's Confidential Information (or any derivatives, extracts or summaries thereof) to anyone in violation of this Agreement or the Side Letter.

9.05 Press Releases. Except as required by Applicable Law or as expressly provided in this Agreement or the Side Letter, each Member agrees not to issue any press release or public statement disclosing information relating to this Agreement or the transactions contemplated hereby or the terms hereof without the prior written consent of the other Member(s). Notwithstanding any other provisions of this Agreement, the Members may provide information about this Agreement as required by Applicable Law (including federal and state reporting requirements).

ARTICLE X

Allocations, Distributions, Elections, and Reports

10.01 Allocations. After giving effect to the special allocations provided in Section 10.02, Net Profits and Net Losses, and to the extent appropriate, individual items of income, gain, loss and deduction thereof, of the Company for each Fiscal Year shall be allocated to the Members so as to increase or decrease, as the case may be, each Member's Modified Capital Account to the extent necessary such that each Member's Modified Capital Account is equal to the amount that such Member would receive if the Company were liquidated, its assets sold for their Gross Asset Value, its liabilities satisfied in accordance with their terms (limited with respect to each nonrecourse liability to the Gross Asset Value of the assets securing such liability) and all remaining amounts were distributed to the Members in accordance with Article X of this Agreement, immediately after making such allocation.

10.02 Regulatory Allocations. The following allocations shall, except as otherwise provided, be made in the following order:

(a) **Minimum Gain.** Notwithstanding any other provision of this Article X, if there is a net decrease in Company Minimum Gain or in any Member Minimum Gain during any Fiscal Year or other period, prior to any other allocation pursuant hereto, each Member shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount and manner required by Regulations Section 1.704-2(f) or 1.704-2(i)(4). The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2.

(b) **Qualified Income Offset.** Any Member who unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4),

(5) or (6) which causes or increases a negative balance in its Modified Capital Account shall be allocated items of income and gain sufficient to eliminate such increase or negative balance caused thereby, as quickly as possible, to the extent required by such Regulations.

(c) Limitation on Allocation of Net Losses. In no event shall Net Losses of the Company be allocated to a Member if such allocation would cause or increase a negative balance in such Member's Modified Capital Account. In the event some but not all of the Members would have a negative Modified Capital Account balance as a consequence of an allocation of Net Losses pursuant to Section 10.01 hereof, the limitation set forth in this Section 10.02(c) shall be applied on a Member by Member basis and any Net Losses not allocable to any Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Member's Capital Accounts so as to allocate the maximum permissible Net Losses to each Member under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

(d) Nonrecourse Deductions. Nonrecourse Deductions shall be allocated to the Members in accordance with their Percentage Interests.

(e) Allocation of Nonrecourse Liabilities. Nonrecourse liabilities shall be allocated in accordance with Code Section 752 and the Regulations thereunder. "Excess nonrecourse liabilities" of the Company under Regulations Section 1.752-3(a)(3) shall be allocated to the Members in accordance with their Percentage Interests.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year or other period shall be allocated to the Member that made, or guaranteed or is otherwise liable with respect to, the loan to which such Member Nonrecourse Deductions are attributable in accordance with principles under Regulations Section 1.704-2(i).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset, pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(h) Curative Allocations. The foregoing allocations set forth in this Section 10.02 (the "*Regulatory Allocations*") are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2(b). Notwithstanding any other provisions of this Agreement, other than the Regulatory Allocations, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to such Member if the Regulatory Allocations had not occurred. The Board shall have reasonable discretion, with respect to each Fiscal Year or other period, to apply the provisions of this Section

10.02(h) in whatever manner is likely to minimize the economic distortions that might otherwise result from the Regulatory Allocations.

(i) Tax Allocations; Code Section 704(c). In accordance with Code Section 704(c) and the Regulations promulgated thereunder, income, gain, loss, deduction and credit with respect to any property contributed to the capital of the Company, and with respect to any Company Property the Gross Asset Value of which is adjusted pursuant to the definition thereof, shall, solely for tax purposes, be allocated between the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value using any reasonable method permitted by the Regulations issued pursuant to Code Section 704(c) to account for such differences, as determined by the Partnership Representative.

10.03 Distributions.

(a) The Board, in its sole discretion (subject to the terms of this Agreement and the Side Letter), acting by Majority Approval, may cause the Company to make distributions to the Members of Distributable Cash or other assets or property of the Company from time to time as follows:

(i) First, to the Members *pro rata* in proportion to their respective Unreturned Capital Amounts until all Unreturned Capital Amounts are reduced to zero; and

(ii) Thereafter, to the Members *pro rata* in accordance with their Percentage Interests.

(b) A Member shall not have the status of, and is not entitled to the remedies available to, a creditor of the Company with regard to distributions that such Member becomes entitled to receive pursuant to this Agreement and the Act.

10.04 Limitation Upon Distribution. No distribution shall be declared and distributed unless, after the distribution is made, the assets of the Company are in excess of all liabilities of the Company, except obligations to Members on account of Capital Contributions.

10.05 Interest On and Return of Capital Contributions. No Member shall be entitled to interest on its Capital Contribution or to return of its Capital Contribution, except as otherwise specifically provided for in this Agreement.

10.06 Accounting Period and Taxable Year. The Company's accounting period and taxable year shall be the Fiscal Year unless otherwise required under Applicable Law.

10.07 Records, Audits, and Reports. At the expense of the Company, the Company shall maintain records and accounts of all operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records, which records must be maintained by the Company for six (6) years after the dissolution of the Company in accordance with this Agreement and the Side Letter:

(a) A current list of the full name and last known business, residence, or mailing address of each Member, both past and present, as provided to the Company by each Member;

(b) A copy of the Certificate of Formation of the Company and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the six (6) most recent years;

(d) Copies of the Company's currently effective written agreements, copies of any writings permitted or required with respect to a Member's obligation to contribute cash, property, or services, and copies of any financial statements of the Company for the three (3) most recent years;

(e) Minutes of every meeting of the Board or the Members called in accordance with the terms hereof; and

(f) Any written consents obtained from Members or the Board for actions taken by Members or the Board, as applicable, without a meeting.

10.08 Returns and Other Elections. The Partnership Representative shall, at the Company's expense, cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary or required to be filed by the Company. Copies of those returns, or pertinent information from the returns, shall be furnished to the Members within a reasonable time after the end of the Company's taxable year. The Partnership Representative shall notify the Members upon receipt of any notice of tax examination of the Company by federal, state, or local authorities.

10.09 Certain Tax Matters. The Company shall not elect, and the Board shall not permit the Company to elect, to be treated as an association taxable as a corporation for U.S. federal, state or local income tax purposes under Regulations Section 301.7701-3 or under any corresponding provision of state or local law. The Company and the Board shall not permit the registration or listing of any Units on an "established securities market," as such term is used in Regulations Section 1.7704-1. No Member shall take any position on a tax return that is inconsistent with this Section 10.09.

ARTICLE XI

Membership

11.01 General. No Member shall have the right to sell, assign, pledge, hypothecate, transfer, exchange, or otherwise transfer for consideration (collectively, "sell", and any act thereof, a "sale"), or gift all or any such Member's Units or Unit Equivalents, except with the unanimous approval of the Board, which consent may be given or withheld in each Manager's sole discretion; provided, that the foregoing restriction shall not apply (a) solely with respect to

the Nokia Member (or its transferee pursuant to a Permitted Transfer), any sale of Units or Unit Equivalents to an Affiliate, (b) with respect to any direct or indirect sale of a Member or equity interests of such Member or (c) solely with respect to the NJEDA Member, any transfer or sale of Units or Unit Equivalents to a governmental division, department or Entity of the State of New Jersey (each of (a), (b) and (c), a “Permitted Transfer”).

11.02 Admission to Membership. A Person may become a Member from time to time by acquiring one or more Units pursuant to a Permitted Transfer, subject to the terms hereof. Exhibit A hereto and Exhibit B hereto shall be updated accordingly without requiring the consent of the Members to reflect such admissions. Any such additional Member shall, as a condition to being admitted as a Member, execute a joinder to this Agreement pursuant to which such Person shall agree to be bound by all of the terms of this Agreement and the Side Letter.

11.03 Transferee Not Member in Absence of Consent. If the Board does not unanimously approve of a proposed sale or gift of the Transferring Member’s Units or Unit Equivalents to a transferee or donee who is not a Member immediately before the sale or gift (excluding, in each case, a Permitted Transfer), the proposed transferee or donee shall have no right to become a Member. No Person may be admitted as a Member pursuant to this Article IX (including, without limitation, pursuant to a Permitted Transfer) until such Person executes and delivers to the Company an agreement, in form and substance satisfactory to the Board, binding such Person to the terms and conditions of this Agreement and the Side Letter as if such Person had been named a Member herein. The restrictions on transfer in this Section 11.03 are intended to comply (and shall be interpreted consistently) with the restrictions on transfer set forth in the Act. If a transferee of Units or Unit Equivalents of the Company is not admitted to the Company as a Member pursuant to this Agreement, the transferee may not vote or otherwise participate in the governance of the Company or enforce the provisions of this Agreement or the Side Letter. A transferee that is not a Member is entitled to receive the distributions and allocations of income and loss to which the Member would have been entitled had the transfer not occurred and is subject to the restrictions imposed by this Agreement and the Side Letter to the same extent as a Member.

11.04 Financial Adjustments. No new Members shall be entitled to any retroactive allocation of losses, income, or expense deductions incurred by the Company. The Members may, at their option, at the time a Member is admitted, close the Company books (as though the Company’s taxable year had ended) or make *pro rata* allocations of loss, income, and expense deductions to a new Member for that portion of the Company’s tax year in which a Member was admitted in accordance with the provisions of I.R.C. § 706(d) and the Treasury Regulations promulgated thereunder.

ARTICLE XII

Dissolution and Termination

12.01 Dissolution.

(a) The Company shall, subject to the terms of this Agreement and the Side Letter, be dissolved upon the occurrence of any of the following:

- (i) by the unanimous written consent of the Members;
- (ii) by election of either Member upon an Uncured Material Breach by the other Member;
- (iii) at any time there are no Members of the Company, unless the business of the Company is continued in accordance with the Act; or
- (iv) upon the entry of a decree of judicial dissolution under Section 18-802 of the Act.

(b) As soon as possible following the occurrence of any of the events specified in this Section 12.01 effecting the dissolution of the Company, the affairs of the Company shall be wound up, the Company shall be dissolved in accordance with the Act and Article XII and this Agreement and the Side Letter shall be terminated (except for (i) Article I, Article II, Article III, Sections 5.06 – 5.09, Section 8.01, Section 8.02, Section 8.13, Article IX, Article X, Article XII and Article XIII) and (ii) any provisions hereof that expressly survive such termination).

12.02 Winding Up, Liquidation, and Distribution of Assets. Upon dissolution, an accounting shall be made by the Company's independent accountants of the accounts of the Company and the Company's assets, liabilities, and operations, from the date of the last previous accounting until the date of dissolution. The Members shall immediately proceed to wind up the affairs of the Company. If the Company is dissolved and its affairs are to be wound up, the Board shall:

(a) Sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Members, by unanimous consent, may determine to distribute any assets to the Members in kind);

(b) Allocate any profit or loss resulting from such sales to the Members' Capital Accounts in accordance with Article VIII;

(c) Discharge all liabilities of the Company, including liabilities to Members who are creditors, to the extent otherwise permitted by the Act, other than liabilities to Members for distributions, and establish such Reserves as may be reasonably necessary to provide for contingencies or liabilities of the Company (for purposes of determining the Capital Accounts of the Members, the amounts of such Reserves shall be deemed to be an expense of the Company);

(d) If any assets of the Company are to be distributed in kind, determine the net Fair Market Value of those assets as of the date of dissolution. Those assets shall be deemed to have been sold as of the date of dissolution for their Fair Market Value, and the Capital Accounts of the Members shall be adjusted pursuant to the provisions of Article VIII and Section 6.07 to reflect such deemed sale.

(e) Distribute the remaining assets to the Members in accordance with Section 10.03.

(f) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Treas. Reg. § 1.704-1(b)(2)(ii)(g), if any Member has a deficit Capital Account balance (after giving effect to all contributions, distributions, allocations, and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of the Member's Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose whatsoever.

(g) Upon completion of the winding up, liquidation, and distribution of the assets, the Company shall be deemed terminated.

(h) The Members, and any Officers shall comply with any applicable requirements of the Act pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

12.03 Return of Contribution; Nonrecourse to Other Members. Except as provided by the Act or as expressly provided in this Agreement, upon dissolution, each Member shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the Capital Contribution of one or more Members, such Member shall have no recourse against any other Member.

ARTICLE XIII

Miscellaneous Provisions

13.01 Notices. Any notice, demand, or communication required or permitted to be given by any provision of this Agreement or the Side Letter shall be deemed to have been sufficiently delivered or served for all purposes if (a) delivered personally to the applicable Person, (b) delivered to a recognized overnight courier service for next day delivery to the applicable Person at the address set forth in Exhibit A hereto, (c) sent by email transmission to an email address set forth in Exhibit A hereto, or (d) sent by registered or certified mail, postage and charges prepaid, addressed to the applicable Person's address, as appropriate, which is set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given one business day after a confirmed email transmission is sent or after delivery to the courier service or three business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid. Any Member may change its address set forth in Exhibit A hereto by notice to the other Members.

13.02 Books of Accounts and Records. Proper and complete records and books of account shall be kept or shall be caused to be kept by the Company, in which shall be entered fully and accurately all transactions and other matters relating to the Company's business in the detail and completeness customary and usual for business of the type engaged in by the Company. The books and records shall be maintained as provided in Section 10.07. The books and records shall at all times be maintained at the principal executive office of the Company and shall be open to the reasonable inspection and examination of the Members or their duly authorized representatives during reasonable business hours and shall be maintained for six (6) years after the dissolution of the Company.

13.03 Indemnification.

(a) The Company agrees to defend, indemnify and hold harmless the State of New Jersey and the NJEDA Member, and each of their respective officers, directors, commissioners, employees and representatives (collectively, the "Indemnitees") from any and all Losses solely to the extent such Losses arise from or result from any act, omission, negligence, fault or default of the Nokia Member or its agents, employees, independent contractors or subcontractors in connection with their performance of their obligations under the Agreement and the Side Letter. For the avoidance of doubt, the indemnification obligation set forth in the preceding sentence shall be borne by the Company alone, and no Member shall (i) bear any liability whatsoever for such indemnification obligation or (ii) be required to fund any Capital Contribution for purposes of enabling the Company to satisfy such indemnification obligation.

(b) The Company and the Nokia Member acknowledge that the NJEDA Member is prohibited by law from indemnifying any Person.

13.04 Governing Law/Jurisdiction. This Agreement and the Side Letter shall be governed by and construed in accordance with the laws of the State of New Jersey without giving effect to conflict of laws principles thereof. In particular, the Company is formed pursuant to the Act, and the rights and liabilities of the Members shall be as provided therein, except as herein otherwise expressly provided. Notwithstanding the foregoing, (i) all tort claims against the NJEDA Member shall be governed by the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and (ii) all contract claims against the NJEDA Member shall be governed by the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1. The Company and the Members agree to irrevocably submit to jurisdiction and venue in the courts of Mercer County of the State of New Jersey with respect to any action, claim, or other legal proceeding.

13.05 Dispute Resolution. (a) If either Member has a complaint, dispute or wishes to bring a claim (a "Dispute") against the other Member, it shall first notify the other Member in writing of such Dispute in reasonable detail and both Members shall make good faith efforts to resolve such dispute through discussions between the Nokia Manager and one of the NJEDA Managers or senior officers of each Member. If such discussions do not result in resolution within ten (10) business days of the notice of such Dispute, the parties must first engage in non-binding mediation in accordance with Section 13.05(b) through (f) prior to pursuing other remedies available pursuant to Applicable Law.

(b) Non-binding mediation is intended to assist the Members in the resolution of Disputes under this Section 13.05(b). Within ten (10) business days of the end of the period set forth in Section 13.05(a), the Members shall select a mediator by mutual agreement or, if agreement cannot be reached within such time period, the Members shall promptly request a list of five (5) names of mediators from the American Arbitration Association and select a mediator from such list by mutual agreement within five (5) business days of receipt. Any mediator selected by the Parties shall: (i) be an appropriately experienced and qualified professional; (ii) have no current or ongoing relationship with any Member; (iii) agree to provide a decision within ten (10) Business Days of the submission to the mediator of the written statement of the Members' respective positions; and (iv) be required to execute procurement and compliance forms and enter into a procurement agreement with the relevant NJEDA Member in a form acceptable to the NJEDA Member in its sole discretion.

(c) Unless otherwise agreed by the Members, the non-binding mediation contemplated by this Section 13.05 shall be conducted in accordance with rules and procedures reasonably determined by the mediator which such rules and procedures shall require that the Members submit to the mediator, within ten (10) business days of the selection of the mediator, their respective positions, in writing and that the mediator shall render a decision within ten (10) business days of the submission of the written positions of the Members.

(d) Members shall each be responsible for: (A) their own costs to participate in the non-binding mediation, including the costs for experts, attendees, graphics or otherwise; and (B) an equal share of the costs: (x) for the services of the mediator; and (y) of any administrative services used for the non-binding mediation, such as conference facilities.

(e) No mediator will have the authority to render a binding decision as to any Dispute or to impose a settlement upon the Members. The Members may reach a separate agreement in non-binding mediation that will be final and binding on the Members, subject to any necessary approvals.

(f) For the avoidance of doubt: (A) the use of non-binding mediation by the Members shall not be construed, in whole or in part, as a waiver, release or modification of any provisions of or requirements under the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (hereinafter, the "Contractual Liability Act"), including but not limited to N.J.S.A. 59:13-5; and (B) the use of non-binding mediation shall be construed as or constitute a waiver by the Parties of any claim or defense otherwise available in any subsequent legal action, including any defense that any claim or part of a claim fails to comply with the notice provisions of the Contractual Liability Act.

13.06 Waiver of Action for Partition. Each Member irrevocably waives during the term of the Company any right that it may have to maintain any action for partition with respect to the property of the Company.

13.07 Amendments. This Agreement, together with the other Definitive Agreements, comprises the entire agreement among the Members with respect to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, between the parties with respect thereto, whether or not relied or acted upon. The Members agree that, to the extent

that any provision of this Agreement conflicts with any provision of the Side Letter, the Side Letter shall supersede each such provision and all provisions of the Side Letter are controlling. No course of conduct pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, and no usage of trade shall amend this Agreement or the Side Letter or impair or otherwise affect any Member's obligations, rights, and remedies pursuant to this Agreement or the Side Letter. Except as otherwise set forth herein, neither this Agreement nor the Side Letter may be modified, altered, supplemented, or amended, and the terms hereof and thereof may not be waived, without the prior written consent of each Member (provided, that each Member may waive its own rights hereunder without the prior written consent of the other Member).

13.08 Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney, and other instruments necessary to comply with the Act or Applicable Law.

13.09 Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.10 Headings. The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent, or intent of this Agreement or any of its provisions.

13.11 Waivers. No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement or the Side Letter shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement or the Side Letter shall be effective unless made in a writing duly executed by such Member.

13.12 Rights and Remedies Cumulative. The rights and remedies provided by this Agreement and the Side Letter are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have pursuant to the Act or other Applicable Law.

13.13 Severability. Each provision of this Agreement and the Side Letter shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable, or illegal under any existing or future law, such invalidity, unenforceability, or illegality shall not impair the operation of or affect those portions of this Agreement and the Side Letter that are valid, enforceable, and legal.

13.14 Heirs, Successors, and Assigns. Each and all of the covenants, terms, provisions, and agreements contained in this Agreement and the Side Letter shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement and the Side Letter, their respective heirs, legal representatives, successors, and assigns.

13.15 Creditors. None of the provisions of this Agreement or the Side Letter shall be for the benefit of or enforceable by any creditors of the Company.

13.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Any signed counterpart may be delivered by electronic transmission (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) with the same legal force and effect for all purposes as delivery of an originally signed agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The undersigned hereby agree, acknowledge, and certify that the foregoing Agreement constitutes the Limited Liability Company Agreement of New Jersey Bell Labs Venture Studio, LLC, a New Jersey limited liability company, adopted by the Members of the Company effective as of the date first written above.

[Nokia Member]

By: _____

Name:

Title:

New Jersey Economic Development Authority

By: _____

Name:

Title:

EXHIBIT A

MEMBERSHIP LISTING

Member	Address
[Nokia Member]	[•]
New Jersey Economic Development Authority, Attention: _____	36 W. State Street Trenton, New Jersey 08608

EXHIBIT B

CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS; PERCENTAGE INTEREST; UNITS

Member	Capital Contributions	Capital Account	Total Percentage Interest	Units
[Nokia Member]				
New Jersey Economic Development Authority				
Total:	\$	\$	100%	

EXHIBIT C
INITIAL APPROVED ANNUAL OPERATING BUDGET

	YR 2025	YR 2026	YR 2027	YR 2028	YR 2029	Total 5 Yrs
Studio Concepts (qualified pitches)	6	6	7	7	8	34
#of Pre-Seed Ventures (\$500/NewCo)	2	2	3	3	4	14
# of Seed Stage Ventures (\$1.02M/Venture		1	2	2	3	8
 CASH IN - STUDIO	 \$20,000,000					
Studio Operating Expenses						
Head of Studio, PM, Ops (3 e'ees)	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$2,500,000
Payroll Taxes (estimate 24%)	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000	\$625,000
Misc Operation Expenditures	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$1,000,000
General & Administrative	\$175,000	\$175,000	\$175,000	\$175,000	\$175,000	\$875,000
 Total Operating Expenses	 \$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$5,000,000
<i>Per Company</i>						
Pre Company Creation						
Vendor/Supplier Expenses	\$100,000	\$200,000	\$200,000	\$300,000	\$300,000	\$400,000
IT/SW Equipments	\$100,000	\$200,000	\$200,000	\$300,000	\$300,000	\$400,000
Company Funding (non Bell Labs e'ees)	\$300,000	\$600,000	\$600,000	\$900,000	\$900,000	\$1,200,000
 Total Pre-Seed Ventures	 \$500,000	\$1,000,000	\$1,000,000	\$1,500,000	\$1,500,000	\$2,000,000
 Total Seed Stage Ventures	 \$1,000,000	\$ -	\$1,000,000	\$2,000,000	\$2,000,000	\$3,000,000
						\$8,000,000

EXHIBIT D
FORM OF MASTER SERVICES AGREEMENT

EXHIBIT E

QUARTERLY REPORT

The Venture Studio shall quarterly prepare and submit detailed, written progress reports to NJEDA and unaudited financials.

Annually, the Venture Studio shall provide audited financials and K-1 statement prepared by a qualified accounting firm approved by the Board of Directors.

These reports will include:

- Program overview and development
- Upcoming list of activities and programs
- Identify risks and plans to mitigate such risks
- Summary of program results and metrics, including:
 - Funding raised by Participant Companies (e.g., grants, venture capital)
 - Mentorship network
 - Participant Company failure rate (starting in Year 2)
 - Related jobs created in the State from Participant Companies
 - Demographic profile of each Participant Company, including (i) geographic origin of the company and (ii) whether any company is a State-certified minority- or women-owned business enterprise
 - Media coverage of activity and events
 - Thought leadership activity via events, web visits, web blogs, YouTube, social media & podcasts

Exhibit F

Bell Labs Murray Hills, New Jersey (600 Mountain Ave, Murray Hills, NJ)

- Space will be made available in Building 7E, with approximately 5,000 square feet of office and lab space (to include work benches for prototyping and testing).
- Such space is anticipated to be sufficient to house 5 Participant Companies, including up to a maximum of 40 personnel in the aggregate.
- The Nokia Member will provide convenient and secure access to such space for relevant Company and Participant Company personnel.
- A separate and dedicated WIFI and wired network for the studio will be made available to Participant Companies' personnel, contractors, and guests.
- The operational costs borne by the Nokia Member in connection with such space, as set forth in the Approved Annual Operating Budget, shall constitute Nokia In-Kind Contributions for all purposes of the Agreement. Such costs are anticipated to include, without limitation:
 - o Lease cost: \$40 per square foot per annum.
 - o Utility costs: \$____ per annum.
 - o Insurance costs: \$____ per annum.
 - o Network/IT costs: \$____ per annum.

A rendition of such space is set forth as follows (within the blue outline): CONFIDENTIAL MAP REDACTED

Bell Labs New Brunswick, New Jersey (120 Albany Street, New Brunswick, NJ)

- Space will be made available on floor 6, with approximately 2,000 square feet of office and lab space (to include work benches for prototyping and testing) (the "Initial New Brunswick Space"). In addition, the Nokia Member may elect to make an additional 3,000 square feet of office and lab space available at such facility in connection with one or more Pre-Company Creations (the "Additional New Brunswick Space").
- The Initial New Brunswick Space is anticipated to be sufficient to house 5 Participant Companies, including up to a maximum of 40 personnel in the aggregate.
- The Nokia Member will provide convenient and secure access to the Initial New Brunswick Space and Additional New Brunswick Space for relevant Company and Participant Company personnel.
- A separate and dedicated WIFI and wired network for the studio will be made available to Participant Companies' personnel, contractors, and guests.
- The operational costs borne by the Nokia Member in connection with the Initial New Brunswick Space and Additional New Brunswick Space, as set forth in the Approved Annual Operating Budget, shall constitute Nokia In-Kind Contributions for all purposes of the Agreement. Such costs are anticipated to include, without limitation:
 - o Lease cost: \$40 per square foot per annum.
 - o Utility costs: \$____ per annum.
 - o Insurance costs: \$____ per annum.
 - o Network/IT costs: \$____ per annum.

A rendition of the Initial New Brunswick Space is set forth as follows (within the blue outline): CONFIDENTIAL MAP REDACTED

SCHEDULE A

OFFICERS OF THE COMPANY

Chief Executive Officer: Mike Chen

APPENDIX B

NEW JERSEY BELL LABS VENTURE STUDIO, LLC

600 Mountain Avenue
New Providence, New Jersey 07974

May [REDACTED], 2025

New Jersey Economic Development Authority
36 West State Street
P.O. Box 990
Trenton, NJ 08625-0990
Attn: Timothy Sullivan, Chief Executive Officer

Re: Capital Commitment to New Jersey Bell Labs Venture Studio, LLC

Ladies and Gentlemen:

This letter agreement (as amended and/or restated from time to time, the “*Letter Agreement*”) is written in connection with an investment by **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (“NJEDA”)** in New Jersey Bell Labs Venture Studio, LLC, a New Jersey limited liability company (the “*Company*”). Each capitalized term used in this Letter Agreement and not otherwise defined in this Letter Agreement has the meaning specified in the Limited Liability Company Agreement of the Company dated as of [REDACTED], 2025 (as amended, restated or modified from time to time, the “*LLC Agreement*”) entered into between the NJEDA and Nokia of America Corporation, a Delaware corporation, in its capacity as investor and a member of the Company (“*Nokia*”). Subject to the restrictions and limitations set forth in this Letter Agreement, NJEDA, Nokia and the Company hereby agree as follows:

1. INVESTMENTS IN NEW JERSEY-BASED BUSINESSES.

(a) The Company shall report, not less often than annually, on diversity and inclusion with respect to the Company’s consummated investments in Participating Companies to the extent Participating Company diversity and inclusion statistics or policies are reasonably available. The Company shall request such information, on the form provided by NJEDA to the Company, to each Participating Company to complete in order to compile the information called for by this paragraph; *provided, however* that NJEDA acknowledges and understands that the completion of this form by each such portfolio company shall be voluntary.

2. NJ FOUNDERS & FUNDERS EVENTS. For so long as NJEDA is not a Defaulting Member, Nokia will cause a representative of Nokia to participate in New Jersey’s semi-annual NJ Founders & Funders Event or another NJEDA sanctioned event related to the entrepreneurial community in New Jersey.

3. AUTHORITY AND POWER; IMMUNITY.

(a) Nokia acknowledges and agrees that the authority and powers of NJEDA are and shall be governed by the provisions of the New Jersey Economic Development Authority Act (New Jersey Statutes Annotated 34:1B-1 et seq.; P.L. 1974, c80, as amended and supplemented) and shall be construed in accordance with New Jersey law.

(b) Nokia and the Company acknowledge that NJEDA reserves all immunities, defenses, rights and actions arising out of its status as a sovereign state or entity, including those under the Eleventh Amendment of the United States Constitution and the laws and Constitution of the State of New

Jersey. No waiver of any such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of NJEDA entering into the LLC Agreement, this Letter Agreement or any agreement related thereto (collectively, the “**Subject Agreements**”), by any express or implied provision thereof, or by any actions or omissions to act by NJEDA or any representative or agent of NJEDA, whether taken or omitted to be taken pursuant to any Subject Agreement or prior to the entry by NJEDA into any Subject Agreement. Nothing contained herein, however, shall relieve NJEDA of any obligation it may have under the LLC Agreement to contribute capital in respect of its Capital Commitment.

4. DISPUTE RESOLUTION.

(a) Notwithstanding anything to the contrary in the Subject Agreements, any claims asserted against NJEDA shall be subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.) and the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) as if incorporated herein, as each may be amended from time to time.

(b) By reason of the laws, regulations and public policies of the State of New Jersey applicable to NJEDA as a governmental entity and instrumentality of the State of New Jersey, Nokia and the Company freely agree that, notwithstanding anything to the contrary in the Subject Agreements, any action, claim, or other legal proceeding (i) brought by Nokia, the Company or their respective Affiliates against NJEDA shall be brought and heard only in, and shall be subject to the exclusive jurisdiction of, the trial division of the Superior Court of the State of New Jersey, and that such proceeding shall be governed by the procedural rules and laws of the State of New Jersey, without regard to principles of conflicts of law, and (ii) brought by NJEDA against the Company, Nokia or their respective Affiliates may be brought in, and subject to the jurisdiction of, the Superior Court of the State of New Jersey, in which case such proceeding shall be governed by the procedural rules and laws of the State of New Jersey, without regard to principles of conflicts of law. In order to effectuate the purpose of the first sentence of this paragraph, Nokia and the Company hereby agree to irrevocably waive any objection either may now or hereafter have to the laying of jurisdiction or venue in the courts of the State of New Jersey with respect to any action, claim, or other legal proceeding described above and each waive any claim that any such action, claim or proceeding brought in any such court has been brought in an inconvenient or improper forum.

Notwithstanding any provision to the contrary in the Subject Agreements, Nokia and the Company agree that NJEDA shall not be deemed to have waived any objection that it may now or hereafter have to the laying of jurisdiction or venue of any action, claim, or other legal proceeding in any courts other than the courts of the State of New Jersey, nor be deemed to waive any claim that any such action, claim or proceeding brought in any such court has been brought in a court without jurisdiction or an inconvenient or improper forum.

5. INDEMNIFICATION. NJEDA hereby represents to Nokia and the Company that, under the laws of the State of New Jersey, NJEDA is not authorized to indemnify the Company, Nokia or their respective Affiliates. Based on the foregoing, Nokia and the Company agree that, notwithstanding the provisions of the Subject Agreements, none of the Subject Agreements shall impose any indemnification obligations on NJEDA or be applied or construed to require NJEDA to provide indemnification to any person or entity thereunder, including, but not limited to, Nokia, the Company, or any of their respective Affiliates.

6. DISCLOSURE.

(a) NJEDA represents that it is a governmental entity and instrumentality subject to New Jersey state laws, regulations and policies and applicable case law which could result in the disclosure of information (including Confidential Information) regarding the Company and any Participant Company that is provided to NJEDA, including, without limitation, the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.)

and the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) as each may be amended from time to time (together, including all applicable regulations and policies and applicable case law, and the New Jersey common law right to know, the “**Public Records Acts**”).

(b) Notwithstanding anything else in the Subject Agreements, based on the foregoing representation, in the event that, pursuant to the Public Records Acts, NJEDA makes available to the public any report, notice or other information received by NJEDA from the Company, Nokia or any Affiliate of the foregoing which NJEDA reasonably believes is required to be disclosed or made public by NJEDA pursuant to the Public Records Acts or any comparable laws, regulations or policies to which NJEDA is subject, neither the Company, Nokia, nor any Affiliate of the foregoing shall make any claim against NJEDA relating to or arising from such disclosure. NJEDA agrees to use reasonable efforts, subject to NJEDA’s obligations under the Public Records Acts, including without limitation, the obligation to comply with required time frames (i) to notify Nokia and the Company promptly of any Public Records Acts disclosure requests for Confidential Information that would reasonably be viewed as leading to public disclosure of information that is required to be kept confidential pursuant to the Subject Agreements and (ii) to provide such additional cooperation as NJEDA reasonably determines is appropriate and as is consistent with applicable law, including the Public Records Acts, in connection with any efforts by Nokia or the Company to protect such Confidential Information. Nokia shall cooperate in the defense of any action against NJEDA or the State of New Jersey arising from or related to the non-disclosure of any Confidential Information requested by Nokia, the Company or an Affiliate of the foregoing.

(c) NJEDA shall not be liable to the Company or Nokia for breaches of Article IX of the LLC Agreement by any Representatives to the extent acting within such capacity; provided that NJEDA shall not have provided any such Representative with any Confidential Information unless such Representative is subject to an existing obligation to maintain the confidentiality of such Confidential Information on terms no less stringent in any material respect than those set forth in Article IX of the LLC Agreement and, provided further, for the avoidance of doubt, any Persons receiving Confidential Information pursuant to the Public Record Acts will have no duty to maintain the confidentiality of such information.

(d) Because NJEDA is subject to the Public Records Acts, Nokia and the Company acknowledge and agree that notwithstanding anything to the contrary contained in the Subject Agreements or this Letter Agreement, NJEDA may, with or without the receipt of a specific information request, disclose or report to the public, on its website or otherwise, identifying information about the Company, which shall be limited to a brief description of Nokia; Nokia’s logo, if any; a link to Nokia’s website, to the extent such website is operational and available to the public; formation year; name and address of Company; and the Company’s purpose (e.g., venture capital, buyout, etc.).

7. OPINIONS. Nokia agrees that for purposes of any provision of the Subject Agreements requiring the delivery of an opinion of counsel by NJEDA, the opinion may be rendered by the Attorney General of the State of New Jersey or such special counsel designated by the Office of the Attorney General.

8. PLACEMENT AGENT FEES. Nokia and the Company represent and warrant that, to their knowledge, the Company, Nokia, any Affiliates of the foregoing, their respective partners, directors, officers, or employees have not employed or retained any company, person or other entity to solicit or secure NJEDA’s investment in the Company, and none of the aforementioned parties had paid or agreed to pay any company, person, or other entity any fee, commission, percentage, brokerage fee, gift, political contribution, charitable contribution or any other compensation contingent upon or resulting from NJEDA’s investment in the Company.

9. EXPENSES.

(a) Nokia and the Company acknowledge that the people responsible for managing NJEDA and its investments (the “*NJ Managers*”) are employees of the State of New Jersey and are subject to certain New Jersey ethical laws, regulations and guidelines (the “*NJ Ethics Requirements*”). In an effort to ensure compliance with the NJ Ethics Requirements, NJEDA has requested clarification with regard to the treatment of certain expenses relating to conferences, seminars and meetings which the NJ Managers attend.

(b) From time to time, Nokia or the Company may pay NJEDA’s expenses in attending conferences, seminars and meetings relating to the Company or the Participant Companies, including annual meetings of the Company or Participant Companies, which may include the cost of meals, transportation and accommodations. For the avoidance of doubt, such expenses, if paid by Nokia or the Company, shall be deemed to be services to be provided by Nokia under the Subject Agreements, for which Nokia is being compensated in accordance with the Subject Agreements. Such expenses, if paid by the Company, shall be deemed to be expenses of the Company which may be charged to the NJEDA, in accordance with the Subject Agreements. For the avoidance of doubt, this paragraph will not be deemed to create any obligation on the part of Nokia or the Company to pay any of NJEDA’s expenses unless otherwise required under the LLC Agreement or the other Subject Agreements.

10. IN-KIND DISTRIBUTIONS. The Company agrees that, in the event that the Company intends to distribute any securities of a Participant Company in-kind to its Members, the Company shall give advance written notice to NJEDA and NJEDA may, with respect to the securities of each Participant Company proposed to be distributed, request to instead receive all such distributions in cash in accordance with Sections 10.03 and 12.02 of the LLC Agreement, provided that NJEDA must make such request within twenty (20) days of its receipt of such written notice. In the event that NJEDA makes such a request, the Company shall use commercially reasonable efforts to sell the Participant Company securities that it proposes to distribute in-kind to NJEDA (provided, that such securities are publicly traded on a United States securities exchange and may be sold pursuant to an effective registration statement under applicable securities laws or an exemption from registration under applicable securities laws) in lieu of distributing such securities to NJEDA and, in the event that the Company sells such securities, shall distribute the cash proceeds of such sale (net of the reasonable and documented costs incurred by the Company in connection with such sale) to NJEDA in full satisfaction of NJEDA’s right to receive the applicable distribution pursuant to Sections 10.03 and 12.02 of the LLC Agreement. This paragraph shall apply at all times during the term of the Company, including during the Company’s liquidation and winding up.

11. TAX WITHHOLDING. NJEDA has advised Nokia and the Company that NJEDA is a tax-exempt entity under United States federal, state and local laws, and has never been subject to, and is unlikely to be subject to, any tax withholding requirements of the United States federal, state or local laws. Based on the foregoing, before withholding and paying over to any United States federal, state or local taxing authority any amount purportedly representing a tax liability of NJEDA, the Company shall provide NJEDA with written notice of the claim of any such United States taxing authority that such withholding and payment is required by law and shall provide NJEDA with the opportunity to contest such claim during any period. To the extent that such contest subjects the Company to any potential liability to such taxing authority or any other governmental authority for any withholding payment, interest, or penalties thereon, NJEDA consents to such withholding and payment. If withholding is made, the Company shall use its commercially reasonable efforts to apply for and obtain a refund of amounts that are withheld as to NJEDA, based on NJEDA’s tax-exempt status, provided that NJEDA cooperates in such efforts and agrees to reimburse the Company and Nokia for reasonable out-of-pocket expenses incurred by the Company or Nokia in connection therewith.

12. LISTED AND PROHIBITED TRANSACTIONS. The Company agrees that (i) it shall use its commercially reasonable efforts to ensure that each of its investments in Participant Companies is

not a “listed transaction” as defined in U.S. Treasury Regulation Section 1.6011-4(b)(2), and (ii) it shall not knowingly make an investment that is (x) a “prohibited reportable transaction” as defined by Section 4965(e) of the Code, or (y) a “reportable transaction” as defined by Section 6707A(c)(1) of the Code (except that the Company may, directly or indirectly, enter into any such reportable transaction (other than a listed transaction or prohibited reportable transaction) if it complies with the reporting requirements of Treasury Regulation Section 1.6011-4(d)). If Nokia, as Administrative Manager, becomes aware that the Company becomes, or has engaged directly or indirectly in a transaction that is, a listed transaction, a reportable transaction (other than a reportable transaction (which is not a listed or prohibited reportable transaction) for which it complied with the reporting requirements of Treasury Regulation Section 1.6011-4(d)) or a prohibited reportable transaction, it shall promptly notify NJEDA.

13. CONFLICT WAIVER. NJEDA has notified Nokia and the Company that waiving any conflict of interest would constitute a violation of the New Jersey Rules of Professional Conduct 1.7(a) and 1.7(b), and Nokia and the Company hereby agree that, notwithstanding any provision of the LLC Agreement or any other waiver contained in the Subject Agreements, any such waiver shall not apply to NJEDA.

14. ARBITRATION/JURY TRIAL. Notwithstanding anything in the Subject Agreements or any amendment that might be made to Subject Agreements in the future, Nokia and the Company agree that neither they nor their respective Affiliates shall not submit any claims or disputes related to the Company or any Subject Agreements to arbitration or jury trial and all claims and disputes shall be adjudicated by a court of competent jurisdiction as set forth in paragraph 4 of this Letter Agreement. Nokia agrees that NJEDA shall not in any event be required to submit any claims against or dispute with Nokia or the Company to arbitration or jury trial.

15. COPIES OF AMENDMENTS. The Company agrees to promptly provide NJEDA with copies of all amendments to the LLC Agreement and all Subject Agreements.

16. FCPA. The Company is familiar with and shall comply with (and shall cause their officers, directors and employees to comply with) the U.S. Foreign Corrupt Practices Act of 1977, as amended (“*FCPA*”), and other relevant bribery and/or corruption laws and regulations.

17. OFAC/PATRIOT ACT COMPLIANT INVESTMENTS. The Company shall take reasonable measures to avoid any investment by the Company, and shall avoid transactions, that would violate (a) any relevant anti-money laundering legislation, rules or regulations, including the USA PATRIOT Act or (b) any rules, regulations or orders administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“*OFAC*”), including any investment in the Company by or transaction with (i) any person appearing on OFAC’s Specially Designated Nationals and Blocked Persons List, (ii) any person headquartered in or organized under the laws of a country subject to comprehensive sanctions, (iii) any person owned or controlled by any one or more Persons described in the foregoing, or (iv) any other person with whom a transaction is prohibited by OFAC. For purposes of this paragraph 17, the Company’s obtaining and good faith reliance on representations and warranties made by any person at or before the time of the Company’s investment or at the time of such transaction, as applicable, shall constitute reasonable inquiry. The Company confirms that the term “person” in this paragraph 17 includes governments, territories and other political entities.

18. COMPANY INDEBTEDNESS. Notwithstanding anything to the contrary in the Subject Agreements, the Company may not incur debt, or guaranty debt of Participant Companies, without the prior written consent of NJEDA. In addition, the Company confirms and agrees that in connection with any indebtedness incurred by the Company, NJEDA will not be required to (a) execute or deliver any information, document, opinion, guarantee, confirmation or certification or (b) provide any financial information for the benefit of any lender or other third-party other than information that is publicly available,

except that NJEDA may be required to execute an acknowledgement of its obligations to make Capital Contributions pursuant to the LLC Agreement. the Company shall not grant a security interest in or pledge to any lender NJEDA's membership interest in the Company, and NJEDA shall not be obligated to grant a security interest in or pledge its membership interest in the Company to any lender.

19. REPRESENTATIONS. Each of the Company and Nokia represents and warrants to NJEDA on the date hereof, on a several basis and with respect to itself only, that:

(a) The Company and Nokia have been duly formed and are validly existing and in good standing in the state of Delaware.

(b) The Company and Nokia each have the necessary power and authority to consummate the transactions contemplated by the LLC Agreement and the other Subject Agreements.

(c) Unless otherwise disclosed by Nokia or the Company (as applicable) as of the date hereof, there is no legal action, suit, arbitration or other legal, administrative or other governmental investigation, inquiry or proceeding (whether U.S. federal, state, or local or foreign) pending or, to the knowledge of the Company or Nokia, threatened against (A) the Company or its properties, assets or Business, or (B), Nokia, or any of its Affiliates, properties, assets or business in any way related to, or which would have a Material Adverse Effect with respect to, the Company or the Business. To the knowledge of the Company and Nokia, there is no reasonable basis for any such action, suit, arbitration, investigation, inquiry or proceeding. During the preceding three years, to the knowledge of the Company and Nokia, none of the entities or the individuals referred to in clauses (A) and (B) above has (1) been the subject of any actual action, suit, arbitration, legal, administrative or other governmental investigation, inquiry or proceeding (whether U.S. federal, state, or local or foreign) that claims or alleges on the part of such person fraud, misrepresentation, willful misconduct, breach of fiduciary duty or violation of any federal or state securities law, rule or regulation, or (2) settled any actual or threatened action, suit, arbitration, legal, administrative or other governmental investigation, inquiry or proceeding (whether U.S. federal, state, or local or foreign) of the type described in the immediately preceding clause (1).

(d) The execution, delivery and performance of the Subject Agreements and the offer and sale of limited Company interest to NJEDA pursuant thereto will not (i) result in the violation of any of the terms or conditions of any agreement or instrument to which Nokia or the Company is bound or affected, the result of which would be a material breach of such agreement or instrument, (ii) violate any order, writ, judgment or decree by which Nokia or the Company is bound or affected, or (iii) require the filing or registration with, or the approval, authorization license or consent of, any court or governmental department, agency or authority which has not already been duly and validly obtained, except in the case of this clause (iii), notice filings under applicable securities laws.

(e) Mike Chen (the "**Key Persons**") has been appointed as Chief Executive Officer of the Company and pursuant thereto has the authority to execute all Subject Agreements and take actions with respect to the Company on the terms set forth in the Subject Agreement. The Company shall promptly notify NJEDA in writing prior to any change in the identity of any Key Person. The Manager(s) will notify NJEDA in writing prior to any change of the position of Chief Executive Officer or any members of the Investment Committee.

20. AUDIT/INSPECTION RIGHTS. Appropriate records and books of account shall be kept, on the accrual basis, at the principal place of business of the Company during the term of the Company and for at least six years following the dissolution of the Company. Upon ten (10) days prior written notice to Nokia, at any time while the Company continues and for six years thereafter, NJEDA (or any Person designated by NJEDA, including but not limited to the New Jersey Office of the State Comptroller) may

fully examine and/or audit, during normal business hours and without undue disruption, the Company's books, records, accounts, assets, including bank balances, and such other information as is reasonably necessary to enable the requesting Investor (or such designated Person) to review the state of the investment activities of the Company and may make, or cause to be made, any such examination or audit at NJEDA's expense.

21. GOVERNING LAW. This letter shall be governed by the laws of the State of New Jersey.

22. DEEMED CONSENT. Notwithstanding the express provisions of the Subject Agreements, the Company agrees that NJEDA's failure to respond to a request for approval or consent for purposes of any provision in the Subject Agreements shall not be deemed to constitute NJEDA's consent or approval for purposes of such paragraphs.

23. MEDIA ATTENTION. The Company agrees to use commercially reasonable efforts to provide NJEDA with prompt notice of (a) any material public media attention or material public scrutiny of which the Company is aware and which, in the Company's reasonable judgment, is reasonably likely to have a Material Adverse Effect on the public profile of the Company or NJEDA, and (b) any event or activity of the Company which requires a publicly available filing with a securities regulatory authority or other governmental agency to be made by the Company or Nokia that discloses NJEDA's name. For greater certainty, such events and activities do not include routine filings of the Company including beneficial ownership reports, insider reports or filings related to licenses to carry on business in local jurisdictions.

24. AFFILIATE TRANSFERS. Nokia agrees that it will not unreasonably withhold its consent to any assignment or transfer by NJEDA of its interest in the Company to any governmental division, department or Entity of the State of New Jersey; *provided* that any such assignment or transfer complies with the conditions set forth in Article XI of the LLC Agreement.

25. MISCELLANEOUS.

(a) The execution and delivery of this Letter Agreement by Nokia and the Company constitutes the representation that (i) Nokia and the Company are authorized under the terms of the LLC Agreement and otherwise to execute this Letter Agreement, and (ii) the terms of this Letter Agreement are binding upon, and in full force and effect against, Nokia and the Company. The execution and delivery of this Letter Agreement by NJEDA constitutes the representation that (x) NJEDA is authorized to execute this Letter Agreement and (y) the terms of this Letter Agreement are binding upon, and in full force and effect against, it. This letter shall survive delivery of fully executed originals of the LLC Agreement and NJEDA's admission to the Company as a Member.

(b) This Letter Agreement may not be modified or amended unless expressly agreed to in writing by NJEDA, Nokia, and the Company. Any consent, waiver or approval contemplated by this Letter Agreement shall be effective only if provided in writing by the party against which enforcement of such consent, waiver or approval is sought.

(c) The terms of this Letter Agreement shall become effective upon the execution and delivery of this Letter Agreement by each of the parties hereto. The rights and benefits afforded to NJEDA in this Letter Agreement shall terminate if NJEDA is no longer a Member of the Company.

(d) This Letter Agreement may be executed by PDF in multiple counterparts which, when taken together, shall constitute one and the same agreement. Pursuant to written policy, NJEDA allows documents to be signed electronically and hereby agrees, and Nokia and the Company hereby agree, to be bound by electronic signatures with respect to the Subject Agreements.

(e) The Company acknowledges that: (i) it may be required by N.J.S.A. 19:44A-20.27 (L. 2005, c. 271) and regulations promulgated thereunder to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission; (ii) it is the responsibility of the Company to determine whether such filing is necessary; and (iii) failure to make such filing, if required, can result in the imposition of financial penalties by the New Jersey Election Law Enforcement Commission.

(f) This Letter Agreement amends and supplements the Subject Agreements, including, without limitation, the LLC Agreement. Accordingly, any and all rights established herein, and any terms of this Letter Agreement which alter and/or supplement the LLC Agreement and/or any Subject Agreement, shall govern with respect to NJEDA as a Member of the Company. Notwithstanding the foregoing, in the event that there is a conflict between a provision of this Letter Agreement and a provision of any Subject Agreement, the provision of this Letter Agreement shall control and govern, and as to a conflict between the terms of any Subject Agreement and the terms of the LLC Agreement or this Letter Agreement, the LLC Agreement as modified by this Letter Agreement shall control.

(g) All notices, elections, approvals, and communications arising under this Letter Agreement shall be made or provided in accordance with and otherwise governed by Section 13.01 of the LLC Agreement.

(h) If any provision of this Letter Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

(i) This Letter Agreement shall be treated as confidential by the parties hereto in the same manner as the LLC Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

NEW JERSEY BELL LABS VENTURE STUDIO, LLC

By: _____

Name:

Title:

NOKIA OF AMERICA CORPORATION

By: _____

Name:

Title:

AGREED AND ACCEPTED:

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

By: _____

Name: Tim Sullivan

Title: Chief Executive Officer

APPENDIX C

SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT (this “**Agreement**”) is made as of [•], 2025, by and among New Jersey Bell Labs Venture Studio, LLC, a New Jersey limited liability company (the “**Company**”), and the New Jersey Economic Development Authority (“**Subscriber**”). Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Limited Liability Company Agreement of the Company, as in effect on the date hereof (as modified and supplemented by that certain side letter agreement dated the date hereof, the “**Operating Agreement**”).

RECITALS

Subscriber is willing to purchase, and the Company is willing to issue and sell to Subscriber, [•] Units of the Company (the “**Units**”).

AGREEMENT

In consideration of the foregoing recitals and mutual promises, representations, warranties and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I. **SUBSCRIPTION FOR UNITS**

1.1 Purchase. On the date hereof, upon the terms and subject to the conditions contained herein, the Company hereby sells to Subscriber, and Subscriber hereby purchases from the Company, the Units for an aggregate purchase price of \$1.00, which is acknowledged to be the fair market value of the Units as of the date hereof.

ARTICLE II. **REPRESENTATIONS BY AND COVENANTS OF SUBSCRIBER**

2.1 Subscriber has full legal capacity, power and authority to execute and deliver this Agreement and to perform Subscriber's obligations hereunder.

2.2 Subscriber recognizes that an investment in the Company and the purchase of the Units involves a high degree of risk and that only investors who can afford the loss of their entire investment should consider making an investment.

2.3 Subscriber represents and warrants that it is an “accredited investor” as such term is defined in Rule 501 of Regulation D promulgated under the United States Securities Act of 1933, as amended (the “**Act**”), and that it is able to bear the economic risk of an investment in the Units.

2.4 Subscriber acknowledges that it has prior investment experience, has made an investigation of the pertinent facts relating to the operation of the Company and has reviewed the terms of the Operating Agreement, to the extent Subscriber deems necessary, or Subscriber has employed the services of an investment advisor, attorney or accountant to evaluate the merits and

risks of such an investment on its behalf, and that Subscriber recognizes the highly speculative nature of this investment.

2.5 Subscriber acknowledges that it must retain its own professional advisors to evaluate the tax and other consequences of an investment in the Units.

2.6 Subscriber represents that any Units issued pursuant to this Agreement are being issued for its own account, for investment and not for distribution or resale to others. Except as permitted by the Operating Agreement, Subscriber will not assign any or all of such Units or any beneficial interest therein, in whole or in part, to any other person.

2.7 Subscriber understands that there is no public market for the Units and that a public market is not likely to develop. Subscriber represents that it is cognizant of and understands Rule 144 promulgated under the Act and the limitations on the transfer of "restricted securities" imposed thereby which shall apply to the Units. Subscriber understands that the Units have not been registered under the Act or any state securities laws by reason of specific exemptions under the provisions thereof which depend in part upon the investment intent of Subscriber and of the other representations made by Subscriber in this Agreement.

ARTICLE III. REPRESENTATIONS BY THE COMPANY

3.1 The Company represents and warrants that the Company is a duly formed and validly existing limited liability company in good standing under the laws of the State of New Jersey and, subject to applicable law, has all requisite corporate power and authority to accept subscriptions hereunder and to carry on its business and to perform its obligations as described in the Operating Agreement and this Agreement. The execution of this Agreement has been authorized by all necessary action on behalf of the Company. Upon the subscription of the Units by the Company pursuant to this Agreement, the Units shall be duly authorized, validly issued, fully paid, and nonassessable.

ARTICLE IV. MISCELLANEOUS

4.1 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or similar electronic means of transmission), each of which shall serve as an original of the party executing the same, but all of which shall constitute one and the same Agreement. Any signed counterpart may be delivered by electronic transmission (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) with the same legal force and effect for all purposes as delivery of an originally signed agreement.

4.2 Interpretation. Any reference in this Agreement to gender shall include all genders, including the neuter, and words imparting the singular only shall include the plural and vice versa. Any reference to a "person" shall mean an individual, a partnership, a joint venture, a corporation,

a limited liability company, a trust, an unincorporated organization and a government or any department or agency thereof.

4.3 Amendments. This Agreement shall not be changed, modified or amended except by a writing signed by Subscriber and the Company, and this Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the party to be charged.

4.4 Assignment. This Agreement shall not be transferred, hypothecated or otherwise assigned by Subscriber without first obtaining the written consent of the Company, which may be withheld in its sole discretion. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, legal representatives, successors and assigns. This Agreement and the Operating Agreement set forth the entire agreement and understanding between the parties as to the subject matter thereof and merge and supersede all prior discussions, agreements and understandings of any and every nature among them.

4.5 Governing Law. Notwithstanding the place where this Agreement may be executed by any of the parties hereto, the parties expressly agree that all the terms and provisions hereof shall be construed in accordance with and governed by the laws of the State of New Jersey.

4.6 Waiver of Jury Trial. THE UNDERSIGNED IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF THE TRANSACTIONS CONTEMPLATED BY THIS SUBSCRIPTION AGREEMENT.

4.7 Severability. In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or provisions had never been contained herein.

4.8 Further Assurances. The parties agree that they will cooperate with each other in any manner that may be required to fully effectuate the complete terms and intent of this Agreement. Such cooperation shall include the execution of any instrument and the doing of any act necessary to effectuate the complete terms and intent of this Agreement.

ARTICLE V. LEGEND

5.1 Legends. Subscriber understands that the Units and any securities issued in respect of or subscription for the Units, may be notated with the following legend or a substantially similar legend:

“THE UNITS REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION

THEREOF. NO SUCH TRANSFER MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933."

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

COMPANY:

NEW JERSEY BELL LABS VENTURE
STUDIO, LLC

By: _____

Name: Mike Chen

Title: Chief Executive Officer

[Signature Page to Subscription Agreement]

LEGAL56432 E # 185590295.2

SUBSCRIBER:

New Jersey Economic Development Authority

By:_____

Name:

Title:



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: May 13, 2025

Subject: Strategic Innovation Center Investment in the NJ Nokia Innovation Center, LLC

Summary:

Members of the Board are requested to approve:

- A Strategic Innovation Center investment of up to \$10 million in a newly formed two-member New Jersey limited liability company, NJ Nokia Innovation Center, LLC (“Innovation Center”), in partnership with Nokia of America Corporation (“Nokia”) that will enter into a real estate lease for a minimum of 13,500 square feet of fully equipped and fitted-out co-working laboratory and office space at the newly constructed Helix 2 (“H2”) in New Brunswick, New Jersey.
- Authorization to the CEO of the New Jersey Economic Development Authority (“Authority” or “NJEDA”) to execute all documents required, including the operating Agreement (Appendix A) and Side Letter Agreement (Appendix B) attached in the appendix to this memo in substantially final form.
- The Members are also asked to approve a 4.5% administrative fee to NJEDA for administrative costs plus associated Authority legal costs allowed through the Economic Recovery Fund (“ERF”) statute.

Background:

Strategic Innovation Centers:

In July 2021, the Board of the New Jersey Economic Development Authority approved policies for utilizing the Economic Recovery Fund (ERF), created by P.L. 1992, c. 16, to undertake development of or to invest in strategic innovation centers to accelerate economic recovery and drive the long-term growth of the State’s innovation economy. Strategic Innovation Centers are defined as facilities that either, directly support research and development (R&D), innovation, or entrepreneurship, or are aimed at solving specific problems in new and innovative ways through a combination of services such as mentorship, networking opportunities, hands-on training, business support services, education opportunities, and/or access to testing, fabrication, or manufacturing facilities and equipment.

The policy approval included the use of fifty-five million dollars (\$55,000,000) appropriated to the NJEDA’s ERF for the purpose of developing Strategic Innovation Centers in accordance with the policies. The 2023, 2024 and 2025 State appropriations acts allocated an additional seventy million dollars (\$70,000,000), seventy-five million dollars (\$75,000,000), and fifty million dollars (\$50,000,000) respectively. In March 2025, EDA, with approval from the Joint Budget Oversight Committee (JBOC), reallocated seven

million eight hundred fifteen thousand dollars (\$7,815,000) from the closeout of the Edison Loan Program to the Strategic Innovation Center initiative, bringing the total amount to two-hundred fifty million dollars (\$257,815,000) available for Strategic Innovation Center (SIC) investments. NJEDA's policy anticipates capturing a 4.5% administrative fee at approval of each project, in accordance with Board approved program policy. Additionally, the ERF statute authorizes the use of ERF funding for the costs of a project, including legal expenses (including special counsel retained by the Attorney General's Office). Inclusive of the commitments itemized below and associated administrative fee there remains available \$135,965,000 of unallocated SIC funds before approval of the Innovation Center.

To date, the Members have approved the following use of SIC funding:

- Investment in HAX, LLC (approved October 13, 2021): \$25,000,000
- Investment in Helix (DevCo) (approved December 8, 2021): \$10,000,000
- Allocation to Maternal and Infant Health Innovation Center (approved May 8, 2024): \$3,000,000
- Investment in NJ FAST powered by Plug and Play (approved July 17, 2024): \$17,100,000
- Investment in Atlantic County NJ Aerospace LLC (approved December 19, 2024): \$8,600,000
- Allocation to Maternal and Infant Health Innovation Center (approved February 24, 2025): \$7,000,000
- Investment in NJ AI Hub LLC (Approved April 9, 2025): \$15,000,000
- Investment in NJII Venture Studio (Approved April 9, 2025): \$5,800,000

The approved policies for Strategic Innovation Center projects consider how NJEDA staff will:

1. Address opportunities for the Authority to take a lead role in developing Strategic Innovation Centers such as building and/or overseeing the operations of the Strategic Innovation Center or collaborating with another party through an early investment that serves as a catalyst for the project.
2. Consider unsolicited proposals or investment opportunities for Strategic Innovation Center projects in the State. In all cases, funding is limited to twenty-five million (\$25,000,000) for any single project with a requirement for matching private capital, and the project must align with the ERF targeted industries¹ or demonstrate that it will meaningfully support increasing diversity and inclusion within the State's entrepreneurial economy. Additionally, all Strategic Innovation Center projects using ERF funds under these policies must be approved by the Board.

Following evaluation (Confidential Appendix F), EDA staff have determined the project, herein, the NJ Nokia Innovation Center LLC, meets the outlined policy requirements for a SIC investment given that it directly supports R&D, innovation and entrepreneurship for start-up companies in the Advanced Manufacturing, Information and High Technology

¹ “Targeted industry” means any industry identified from time to time by the Authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

industries.

Background on NJ Nokia Innovation Center, LLC and Strategy

Nokia of America Corporation, a Delaware corporation, submitted proposals for Strategic Innovation Center investments to the NJEDA in September 2024, for the New Jersey Bell Labs Venture Studio, LLC, simultaneously with, this, the Innovation Center, incubator and co-working facility. In February 2025, Nokia, and the NJEDA announced a non-binding letter of intent to establish the Innovation Center.

In its 80-year history in New Jersey, Bell Labs has been responsible for historic innovations in technology that have led to countless commercial advancements. Nokia Bell Labs is now preparing to enter its next phase of innovation by building a state-of-the-art research and development facility in New Brunswick. Scheduled for completion in 2028, this modern 350,000 square foot technology hub will supply Nokia Bell Labs with the world-class infrastructure it needs to continue its mission, while reaffirming its commitment to New Jersey. Nokia's vision for the new facility will not only advance Nokia's technology leadership but also create opportunities for on-site collaboration with universities and start-up ventures, as well as opportunities to collaborate with enterprises on new industry communications and networking solutions. Successfully accelerating innovation requires partnerships with universities, industrial enterprises, and venture capital to build an advanced technology creation ecosystem that enables rapid growth. The Helix 2 will provide that environment. It is proposed that Nokia and NJEDA would form a 50/50 real estate venture to serve as Nokia's Strategic Innovation Center to provide approximately 13,500 square feet of a turnkey Co-Research facility within Nokia Bell Labs's leasehold at H2, in New Brunswick, NJ. Additionally, the Innovation Center will provide office and lab space and access to certain technology from Bell Labs for continued technology development, and scientists to support and build upon the technology created at Bell Labs.

After review of the SIC proposal, Staff's recommendation is to provide financial support in the form of an equity investment into the Innovation Center pursuant to the Strategic Innovation Center policy, as the project aligns with the objectives of the Strategic Innovation Centers initiative (Confidential Appendix F).

Operations and Structure

Nokia is relocating its Bell Labs research and development headquarters from Murray Hill, New Jersey, to a new state-of-the-art facility in New Brunswick, New Jersey. The new facility will be located within the HELIX (Health + Life Science Exchange) campus in downtown New Brunswick. Nokia plans to move approximately 1,000 employees to New Brunswick, making it their new global headquarters for research and development. The move is expected to be completed by 2028. The overall H2 development contribution by Nokia is projected to be \$316,000,000 towards the total 350,000 ft building that will house the Innovation Center. Establishment of a Strategic Innovation Center within H2 will enable Nokia and government, industry and university partners to collaborate on leading-edge research in communications, AI (Artificial Intelligence), cloud computing, optical and wireless networks, and enterprise network solutions. As a joint venture with the New Jersey Economic Development Authority and Nokia, the Innovation Center will have a focus supporting growing companies in Deep Tech potentially including Microelectronics, Artificial Intelligence, Advanced Manufacturing, Next Gen communications, and compute. The Innovation Center will enter into a 20-year lease (Appendix D) with Nokia Corporation of America that will serve as the 13,500 sq foot innovation center.

Management

Nokia Corporation is a Finnish, multi-national telecommunications, information technology, and consumer electronics corporation. The Company has a market cap of \$28.5 billion. Nokia has more than 78,000 employees world-wide. The North American operations are headquartered in Dallas with meaningful presence in both California and New Jersey – including the base of operations for Nokia Bell Labs. Nokia has one of the broadest businesses in the world with leading market positions in wireless communications equipment, fixed broadband electronics and access networking, routing, microwave, optical transmission, enterprise edge computing, autonomous network services, and an active research portfolio relevant to advancing each of these business units. Nokia Bell Labs' reputation for innovation is world-renowned, producing 10 Nobel Prize winners, along with multiple Turing Awards, Draper Prizes, US National Medals of Science and countless other accolades. This history continues to drive our spirit of innovation.

In addition, Nokia is a leader in semiconductor chip design, quantum computing and security research, artificial intelligence and machine learning, and other foundational next generation capabilities. The result of this activity includes one of the largest patent portfolios in the world. This experience positions Nokia well for creating a real estate SIC that will benefit the larger New Jersey ecosystem. The Innovation Center will offer access to shared equipment, technology experts and space to bring together interested parties to further collaboration.

Nokia will serve as the Manager of the JV as drawn out in the operating agreement, with specific responsibilities further detailed in the Administrative Services Agreement (Appendix C) and License Agreement (Appendix E) with licensees, or users of the space. The Authority and Nokia will collectively comprise the Advisory Board, the governing body, and will have the right to approve specified “major decisions” such as the admission of additional members, insurance of debt, sale or transfer of the project, and mergers, consolidation and liquidations.

Strategic Innovation Center Investment Funding

As outlined in the Operating Agreement, the proposed ownership for the Innovation Center is a limited liability company with two members: the Authority and Nokia, a Delaware corporation, each owning 50% of the Innovation Center. Permitted by the superior lease, Nokia has developed and paid for the right to utilize up to 13,500 square feet of H2 for shared laboratory and office spaces for students, scientists and others of all levels to learn coding and other tech skills; cutting-edge, research and prototyping lab spaces; and flexible spaces for conferences, lectures, classes, product launches, and other special purposes, which will promote the creation and growth of technology enterprises in the central New Jersey region and the New Brunswick community. Nokia shall contribute \$10,000,000 towards construction of the Innovation Center. NJEDA will invest up to \$10,000,000 as presented for approval to fund the fit-out and operations of the Innovation Center based on a predetermined investment schedule, funded through milestones, as drawn out in the operating agreement.

Rents received by the Innovation Center from the co- research partners, seed stage companies or other occupants will be distributed on a quarterly basis, first to NJEDA as a priority distribution until NJEDA receives, a 9% priority return on the NJEDA investment contributed at such time, which will accrue during the Innovation Center Lease Term as a first-priority distribution. Thereafter, Nokia will be entitled to a 9% catch-up on its investment, if available, but otherwise accruing during the Innovation Center Lease Term.

All distributable income from operations, income and gain from any disposition, and each item of income, deduction or credit of the Aerospace SIC will be allocated in proportion to each party's pro rata equity ownership interest. NJEDA, will not share in any operating losses of the Innovation Center.

Community Engagement and Economic Development

The Helix 2 hub will serve as a launch point for engaging with the larger New Jersey scientific, business and academic communities. From New Brunswick, Bell Labs will build on its existing partnerships and forge new ones. Furthermore, engagement won't be limited to established companies and institutions. Nokia plans to utilize these new facilities as fertile ground to launch new homegrown ventures in New Jersey

Nokia agrees in the operating agreement to coordinate with NJEDA to support community engagement, including participation office hours, sharing reporting/qualitative insights to enhance efforts. Community engagement efforts documented in the side letter agreement and referenced in reporting appendix of the operating agreement.

Bell Labs will build on its existing partnerships and forge new ones. By the nature of the innovation center, Nokia will plan to utilize the new facilities as fertile ground to host entrepreneurs, students and industry colleagues and see the launch of new homegrown ventures in New Jersey. Nokia has committed to undertake community engagement efforts and provide specific reporting with regard to those efforts and tracking of demographic data of the tenants.

The Innovation Center will work with NJEDA to secure the full menu of services available from NJEDA including angel tax credits and the Evergreen Fund match to supercharge portfolio companies. Nokia will coordinate with NJEDA to support community engagement, including participation at NJ Founders & Funders, office hours, sharing reporting/qualitative insights to enhance efforts. Community engagement efforts are documented in the side letter agreement (appendix B) and referenced in reporting appendix of the operating agreement.

The Authority will receive periodic reporting from the JV, including quarterly financial statements and annual audited financial statements.

Recommendation:

- A Strategic Innovation Center investment of up to \$10 million in a newly formed two-member New Jersey limited liability company, NJ Nokia Innovation Center, LLC ("Innovation Center"), in partnership with Nokia of America Corporation ("Nokia") that will enter into a real estate lease for a minimum of 13,500 square feet of fully equipped and fitted-out co-working laboratory and office space at the newly constructed Helix 2 ("H2") in New Brunswick, New Jersey.
- Authorization to the CEO of the New Jersey Economic Development Authority ("Authority" or "NJEDA") to execute all documents required, including the operating Agreement (Appendix A) and Side Letter Agreement (Appendix B) attached hereto in the appendix to this memo in substantially final form.
- The Members are also asked to approve a 4.5% administrative fee to NJEDA for administrative costs plus associated Authority legal costs as allowed

through the Economic Recovery Fund (“ERF”) statute.



Tim Sullivan, Chief Executive Officer

Prepared by:

Ram Akella – EVP, Innovation Impact

Tim Rollender – Senior Advisor, Strategic Innovation Initiatives

Attachment:

Appendix A – NJ Nokia Innovation Center, LLC Operating Agreement

Appendix B – NJ Nokia Innovation Center, LLC Side Letter to Operating Agreement

Appendix C – **CONFIDENTIAL** Administrative Services Agreement

Appendix D – **CONFIDENTIAL** Lease Agreement

Appendix E – **CONFIDENTIAL** License Agreement

Appendix F – **CONFIDENTIAL** Strategic Innovation Center Documentation, Eligibility
and Evaluation Checklist

APPENDIX A

LIMITED LIABILITY COMPANY AGREEMENT

of

NJ NOKIA INNOVATION CENTER LLC

a New Jersey limited liability company

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, NOR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES LAWS, OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION. BECAUSE SUCH SECURITIES HAVE NOT BEEN REGISTERED OR QUALIFIED THEY MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS THE SECURITIES HAVE BEEN QUALIFIED AND REGISTERED UNDER APPLICABLE STATE, FEDERAL OR OTHER RELEVANT SECURITIES LAWS OR ARE EXEMPT FROM REGISTRATION THEREUNDER. TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO THE RESTRICTIONS, TERMS AND CONDITIONS SET FORTH HEREIN.

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1	
DEFINITIONS	2
Section 1.01. Definitions	2
Section 1.02. Construction.....	10
ARTICLE 2	
THE COMPANY.....	11
Section 2.01. Organization.....	11
Section 2.02. Limited Liability Company Agreement	11
Section 2.03. Company Name.....	11
Section 2.04. Purpose	11
Section 2.05. Powers	11
Section 2.06. Term	11
Section 2.07. Filings; Agent for Service of Process.....	12
Section 2.08. Maintenance.....	12
Section 2.09. Registered Agent.....	12
Section 2.10. No State-Law Partnership.....	12
ARTICLE 3	
UNITS	12
Section 3.01. Units	12
Section 3.02. Capital Accounts	13
Section 3.03. Negative Capital Accounts	14
Section 3.04. No Withdrawal.....	14
Section 3.05. Loans from Members	15
Section 3.06. Transfer of Capital Accounts.....	15
Section 3.07. Reserves.....	15
Section 3.08. SIC Lease.....	15
ARTICLE 4	
DISTRIBUTIONS AND ALLOCATIONS	15
Section 4.01. Distributions.....	15
Section 4.02. Allocations.....	17
Section 4.03. Special Allocations.....	17
Section 4.04. Tax Allocations.....	19

ARTICLE 5

MANAGEMENT

20

Section 5.01. General	20
Section 5.02. Advisory Board Meetings.....	21
Section 5.03. Officers	22
Section 5.04. Budget.....	22
Section 5.05. Services Agreement.....	23
Section 5.06. Project Matters	23

ARTICLE 6

LIMITATION OF LIABILITY; INDEMNIFICATION; RIGHTS AND OBLIGATIONS OF MEMBERS . 24

Section 6.01. No Fiduciary Duties; Limitation of Liability.....	24
Section 6.02. No Liability for Company Obligations	25
Section 6.03. Lack of Authority.....	26
Section 6.04. NJEDA Duties as a State Entity.....	26
Section 6.05. Indemnification by the Company.....	26
Section 6.06. Indemnification by the Nokia Member	28
Section 6.07. Reservation of Other Business Opportunities.....	29
Section 6.08. No Right to Vote	30
Section 6.09. No Right of Partition	30
Section 6.10. Information Rights	30
Section 6.11. Books and Records.....	31
Section 6.12. Determination by Manager	31
Section 6.13. Fiscal Year	31

ARTICLE 7

TRANSFER OF UNITS..... 31

Section 7.01. General Restrictions on Transfers.....	31
Section 7.02. NJEDA Rights	32
Section 7.03. Nokia Member Right of First Refusal.....	33
Section 7.04. Nokia Member Transfer	34
Section 7.05. Tag-Along Rights.....	34
Section 7.06. Permitted Transferees.....	37
Section 7.07. Liability for Transfer Expenses	37

ARTICLE 8

ADMISSION OF SUBSTITUTED AND ADDITIONAL MEMBERS .. 37

Section 8.01. Substituted Member	38
Section 8.02. Additional Members.....	38

ARTICLE 9

WITHDRAWAL AND RESIGNATION OF MEMBERS.....	38
--	----

ARTICLE 10

DISSOLUTION AND LIQUIDATION	38
-----------------------------------	----

Section 10.01. Dissolution	38
Section 10.02. Liquidation and Termination	39
Section 10.03. Cancellation of Certificate.....	39
Section 10.04. Reasonable Time for Winding Up	40
Section 10.05. Return of Capital.....	40
Section 10.06. No Action for Dissolution	40

ARTICLE 11

TAX MATTERS	40
-------------------	----

Section 11.01. Partnership Tax Audit Rules.....	40
Section 11.02. Tax Matters.....	41
Section 11.03. Tax Returns.....	41

ARTICLE 12

CERTAIN COVENANTS	42
-------------------------	----

Section 12.01. Compliance	42
Section 12.02. Prevailing Wages and Affirmative Action	42
Section 12.03. Non-Discrimination.....	43
Section 12.04. Conflict of Interest	43
Section 12.05. State Record Keeping	44
Section 12.06. Confidentiality	44
Section 12.07. Member Representatives	46
Section 12.08. Insurance.....	46

ARTICLE 13

MISCELLANEOUS.....	46
--------------------	----

Section 13.01. Representations and Warranties.....	46
Section 13.02. Power of Attorney	48
Section 13.03. Amendment; Waiver	48
Section 13.04. Notices	49
Section 13.05. Binding Effect.....	49
Section 13.06. Creditors	49
Section 13.07. Remedies Cumulative.....	49
Section 13.08. Headings	50
Section 13.09. Severability	50
Section 13.10. Incorporation by Reference	50
Section 13.11. Further Action.....	50
Section 13.12. Dispute Resolution	50
Section 13.13. GOVERNING LAW AND CHOICE OF FORUM	51

Section 13.14. WAIVER OF JURY TRIAL.....	52
Section 13.15. Counterpart Execution.....	52
Section 13.16. No Effect upon Lender Relationship.....	52
Section 13.17. Entire Agreement	53
Section 13.18. Certain Acknowledgments	53
Section 13.19. No Third-Party Beneficiaries.....	53
Section 13.20. Injunctive Relief.....	53
Section 13.21. Termination.....	53
Section 13.22. Conflicting Agreements.....	54
Section 13.23. Offset	54

EXHIBITS AND SCHEDULES

Exhibit A – Helix 2 Property

Exhibit B – SIC Lease

Exhibit C – IC Services Agreement

Schedule A – List of Members

Schedule B – Initial Capital Contributions

Schedule C – Milestones / Additional Capital Contributions

Schedule D – Community Engagement Commitments

Schedule E – Monthly Report Format

Schedule F – Minimum Insurance Requirements

LIMITED LIABILITY COMPANY AGREEMENT OF NJ NOKIA INNOVATION CENTER LLC

This Limited Liability Company Agreement of NJ Nokia Innovation Center LLC, a New Jersey limited liability company (the “**Company**”), is entered into as of April __, 2025 (the “**Effective Date**”), by and among the Company and the Members set forth on Schedule A hereto, and each other Person that becomes a Member from time to time after the Effective Date pursuant to the provisions of this Agreement.

RECITALS

A. SJP New Brunswick LLC (“**SJP**”) owns certain real property in the City of New Brunswick, New Jersey measuring approximately [] acres, as described on Exhibit A hereto (the “**Helix 2 Property**”). The Helix 2 Property is subject to an adopted redevelopment plan entitled “**Ferren Redevelopment Plan**” that, as may be amended, contemplates, as a key component, the redevelopment of the Helix 2 Property with, *inter alia*, an office, laboratory, research and development building.

B. In furtherance of that objective, the Nokia Member has entered into an Agreement of Lease dated December 8, 2023 (the “**Underlying Lease**”) wherein SJP has agreed to develop an approximately ten story, 350,889 square foot office, laboratory, research and development building on the Helix 2 Property (the “**Building**”), and Nokia has agreed to lease the entire Building on the terms set forth in the Underlying Lease.

C. As permitted by the Underlying Lease, Nokia has developed and paid for the right to utilize up to 13,500 square feet of the Building (the “**Licensed Space**”) for shared laboratory and office spaces for students, scientists and others of all levels to learn coding and other tech skills; cutting-edge, research and prototyping lab spaces; and flexible spaces for conferences, lectures, classes, product launches, and other special purposes (the “**Project**”), which will promote the creation and growth of technology enterprise in the central New Jersey region and the New Brunswick community.

D. The Economic Recovery Fund (“**ERF**”) law, P.L. 1992, c.16, as most recently amended by the New Jersey Economic Recovery Act of 2020 (ERA), authorizes the NJEDA to provide grants, financing or equity in innovation centers, research centers, incubators, and accelerators, and other similar innovation-oriented entities focused on targeted industries such as life sciences. NJEDA has reviewed the proposed Project and determined that it qualifies as a Strategic Innovation Center under the ERF law as defined by the NJEDA policy approved on July 14, 2021 (and is eligible to receive funds from the Fiscal Year 2025 appropriation for the “Economic Recovery Fund –Strategic Innovation Centers”) (the “**NJEDA Funding**”). As required by the ERF law, NJEDA has reviewed the proposed Project and determined that:

- i. The Project is economically feasible;
- ii. The Project will advance Statewide and regional strategies and objectives;

- iii. The Project will substantially and to the greatest extent practicable leverage other sources of funds; and
- iv. The Project will significantly promote economic development, the creation and retention of jobs, and the stimulation of private sector investment and expansion.

E. In furtherance of the Project, the Company was formed as a New Jersey limited liability company by filing a certificate of formation with the with the Department of Treasury, Division of Revenue and Enterprise Services of the State of New Jersey on [●], 2025.

F. In connection with the closing of the transactions contemplated by the NJEDA Funding for the Project, the NJEDA will be a Member of the Company.

G. The Members desire to set forth herein the terms that will govern the Company.

NOW, THEREFORE, in consideration of the representations, warranties, agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01. *Definitions.* For purposes of this Agreement, each of the following terms shall have the meaning given such term in this Article 1.

“Act” means the New Jersey Revised Uniform Limited Liability Company Act (N.J.S.A. 42:2C-1, et. seq.), as amended from time to time, and any successor to such Act.

“Additional Member” means a Person admitted to the Company as a Member pursuant to Section 8.02.

“Additional NJEDA Capital Contributions” has the meaning set forth in Section 3.02.

“Additional Nokia Member Capital Contributions” has the meaning set forth in Section 3.02.

“Advisory Board” has the meaning set forth in Section 5.02.

“Affiliate” means, with respect to any Person, any other Person that controls, is controlled by, or is under common control with such Person. The term **“control”**, as used with respect to any Person, means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. **“Controlled”** and **“controlling”**

have meanings correlative to the foregoing. Notwithstanding the foregoing, no Member nor any of its subsidiaries (other than a Company Party) shall be considered an Affiliate of (x) any Company Party or (y) another Member or any of its subsidiaries, and *vice versa*.

“Agreement” means this Limited Liability Company Agreement, as amended and supplemented by the Side Letter and as further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Approved Budget” has the meaning set forth in Section 5.04.

“Available Cash” means, with respect to a Fiscal Year, all cash and cash equivalents of the Company at the end of such Fiscal Year.

“beneficial ownership” and **“beneficially own”** and similar terms have the meaning set forth in Rule 13d-3 under the Securities Exchange Act.

“Book Value” means, with respect to any of the Company’s property, unless otherwise determined by the Manager, the Company’s adjusted basis for federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulations Sections 1.704-1(b)(2)(iv)(d)-(g) and (m). The Book Value of the Company’s property as of the date of this Agreement shall equal the current fair market value of the property.

“Building” has the meaning set forth in the Preamble.

“Business Day” means any day other than Saturday, Sunday or any day on which banks are required or authorized by Law to be closed in the State of New Jersey.

“C/O” has the meaning set forth in Section 3.08.

“Capital Account” has the meaning set forth in Section 3.02.

“Capital Contributions” means, with respect to any Member, the amount of cash, cash equivalents or the Fair Market Value of other assets, securities or property (net of any liabilities) which such Member contributes or is deemed to have contributed to the Company with respect to any Unit pursuant to Section 3.01.

“Cash Flow” means (a) income from operations of the Company, before income tax, (b) less expenses from operations of the Company. Cash Flow does not include depreciation, depletion, and amortization, interest expense on all obligations or dividends, withdrawals, and other distributions.

“Certificate” means the Certificate of Formation of the Company originally filed on [●], 2025 with the Department of Treasury, Division of Revenue and Enterprise Services of the State of New Jersey in accordance with the Act, as such Certificate may be amended from time to time in accordance with this Agreement and the Act.

“Change of Control” means the occurrence of any of the following events:

(a) the sale or disposition, in one or a series of related transactions, of all or substantially all, of the assets of the Company to any “person” or “group” (as determined in accordance with Securities Exchange Act requirements but excluding, for the avoidance of doubt, any such “group” that may be deemed to be created by virtue of this Agreement);

(b) any person or group, determined in accordance with Securities Exchange Act requirements but excluding, for the avoidance of doubt, any such “group” that may be deemed to be created by virtue of this Agreement, is or becomes the beneficial owner, directly or indirectly, of a Common Percentage of more than 50% (or of the Equity Securities of any entity which controls the Company or which is a successor to all or substantially all of the assets of the Company), including by way of merger, recapitalization, reorganization, redemption, issuance of capital stock, consolidation, tender or exchange offer or otherwise; or

(c) a merger of the Company with or into another Person in which the holders of Common Units and/or their Affiliates immediately prior to such merger cease to hold, directly or indirectly, at least 50% of the Common Units (or of the power to elect the members of the board of directors (or similar governing body) of such Person or, in the absence of such a body, the power to control the management of such Person) of the surviving or successor entity or ultimate parent immediately following such merger;

provided that, in each case under clause (a), (b) or (c), in no event shall a Change of Control be deemed to include any transaction effected for the purpose of changing, directly or indirectly, the form of organization or the organizational structure of the Company, so long as the Members holding Common Units immediately prior to such transaction own Equity Securities with respect to the Company in substantially the same proportions as their ownership of the Common Units immediately prior to such transaction.

“Code” means the Internal Revenue Code of 1986, as amended.

“Common Percentage” means, at any time with respect to one or more Members, a fraction, expressed as a percentage, the numerator of which is equal to the number of Common Units then owned by such Member(s) and the denominator of which is equal to the aggregate number of Common Units then outstanding.

“Common Unit” means a Unit designated as a “Common Unit” and having the rights and obligations specified with respect thereto in this Agreement.

“Company” has the meaning set forth in the Preamble.

“Company Party” means the Company or any of its Affiliates.

“Confidential Information” has the meaning set forth in Section 12.06.

“Covered Persons” has the meaning set forth in Section 6.07.

“Designated Individual” has the meaning set forth in Section 11.01.

“Distributable Cash” means Available Cash less the Minimum Cash Reserve.

“Distribution” means each distribution made by the Company to a Member, whether in cash, property or securities of the Company and whether by liquidating distribution, redemption, repurchase or otherwise; *provided, however*, that none of the following shall be a Distribution: (a) any recapitalization or exchange of Units, and any subdivision (by Unit split or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units; *provided* that all Members holding the same class of Units are treated equally in connection with any of the foregoing transactions; (b) any repurchase or redemption of Units pursuant to any right of first refusal or other repurchase right or obligation of the Company; (c) any repurchase or redemption of Units from any Member that is approved by the Advisory Board; or (d) any fees, expenses or other amounts paid to a Member (or any Affiliate of any Member) that are not in respect of such Member’s Units, including payments made pursuant to Section 6.05. For avoidance of doubt, any Distribution made to a Member shall be classified as either a Distribution of Profit or a Distribution in return of capital, but not both.

“Effective Date” has the meaning set forth in the Preamble.

“Encumbrance” means any lien, security interest, pledge, claim, option, right of first refusal, marital right or other encumbrance with respect to any Unit.

“Equity Securities” means, with regard to any Person, as applicable: (a) any capital stock, voting, partnership, membership, joint venture or other ownership or equity interests, or other share capital of such Person; (b) any securities of such Person, directly or indirectly, convertible into or exchangeable for any capital stock, partnership, membership, joint venture or other ownership or equity interests, or other share capital (whether voting or non-voting, whether preferred, common or otherwise) of such Person or containing any profit participation features with respect to such Person; (c) any rights or options directly or indirectly to subscribe for or to purchase any capital stock, partnership, membership, joint venture or other ownership or equity interests, other share capital of such Person or securities containing any profit participation features with respect to such Person or directly or indirectly to subscribe for or to purchase any securities directly or indirectly convertible into or exchangeable for any capital stock, partnership, membership, joint venture or other ownership interests, other share capital of such Person or securities containing any profit participation features with respect to such Person; (d) any share, unit or membership interest appreciation rights, phantom share rights, contingent interest or other similar rights relating to such Person; or (e) any Equity Securities of such Person issued or issuable with respect to the securities referred to in clauses (a) through (d) above in connection with a combination of shares, units or membership interests or recapitalization, exchange, merger, consolidation or other reorganization.

“Fair Market Value” means, with respect to a Unit or any other property or asset, the price that a willing buyer not Affiliated with the seller and under no compulsion to buy would pay in an arm’s-length purchase from a willing seller not Affiliated with the buyer under no compulsion to sell, as of the relevant time and as reasonably determined by the two Members.

“**Ferren Redevelopment Plan**” has the meaning set forth in the Preamble.

“**Fiscal Quarter**” means each calendar quarter ending March 31, June 30, September 30 and December 31, or such other quarterly accounting period as may be established by the Manager upon reasonable advance written notice to the NJEDA but in no event less than ninety (90) days advance written notice.

“**Fiscal Year**” has the meaning set forth in Section 6.13.

“**Force Majeure Event**” means any of the following events: (i) acts of God; (ii) floods, fires, earthquakes, explosions, or other natural disasters; (iii) wars, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots, or other civil unrest; (iv) governmental authority, proclamations, orders, laws, actions, or requests; (v) embargoes or blockades; (vi) epidemics, pandemics, or other national or regional states of emergency; (vii) strikes, labor stoppages or slowdowns, or other industrial disturbances; (viii) shortages of supplies, adequate power, or transportation facilities; or (ix) other events beyond the reasonable control of the party claiming such Force Majeure Event.

“**GAAP**” means United States generally accepted accounting principles in effect from time to time.

“**Governmental Authority**” means the United States or any state, provincial, local or foreign government, or any subdivision, agency or authority of any thereof having competent jurisdiction over any Company Party or any Member, as applicable.

“**Helix 2 Property**” has the meaning set forth in the Recitals.

“**IC Services Agreement**” has the meaning set forth in Section 5.05.

“**Indemnified Liabilities**” has the meaning set forth in Section 6.05(a).

“**Indemnified Person**” has the meaning set forth in Section 6.05(a).

“**Law**” means each provision of any applicable federal, state or local law, statute, ordinance, order, code, rule or regulation, promulgated or issued by any Governmental Authority.

“**Licensed Space**” means the separately demised office and work spaces within the Project to be offered to tenants pursuant to office leases or licenses, as applicable, as set forth in the Preamble.

“**Losses**” means items of the Company’s loss and deduction determined according to Section 3.02.

“**Manager**” means Nokia of America Corporation, who, for purposes of the Act, will be deemed a “manager” (as defined in the Act) but will be subject to the rights, obligations, limitations and duties set forth in this Agreement.

“Member” means each of the Persons listed on Schedule A hereto, and any Person admitted to the Company as a Substituted Member or Additional Member, but, in each case, only for so long as such Person is the owner of Units.

“Member Nonrecourse Debt Minimum Gain” means partner nonrecourse debt minimum gain as defined in Treasury Regulation Section 1.704-2(i)(2).

“Minimum Cash Reserve” means a cash reserve equal to the sum of (a) the forecasted amount of any payments in connection with any indebtedness of the Company during the immediately following six (6) months plus (b) the forecasted amount of the operating expenses of the Company during the immediately following three (3) months plus (c) for a period of five (5) years commencing on the first calendar year following the Effective Date, ten percent (10%) of Available Cash for potential capital improvements and technology upgrades to the Project, and for support services for start-up businesses in occupancy at the Project (expenditures from the latter reserve shall require prior written NJEDA consent which shall not be unreasonably withheld or delayed).

“Minimum Gain” means the partnership minimum gain determined pursuant to Treasury Regulations Section 1.704-2(d).

“NJEDA” means the New Jersey Economic Development Authority, a body corporate and politic of the State of New Jersey.

“NJEDA Indemnitees” has the meaning set forth in Section 6.06.

“NJEDA Investment Milestones” means, with respect to an Additional NJEDA Contribution, the milestones set forth on Schedule C hereto which must be achieved, with respect to the Project, as a condition precedent to the NJEDA’s obligation to make such Additional NJEDA Capital Contribution.

“NJEDA Representative” has the meaning set forth in Section 12.07.

“Nokia Member” means Nokia of America Corporation, together with any of its Permitted Transferees who actually hold Units.

“Nokia Member Representative” has the meaning set forth in Section 12.07.

“Officer” and **“Officers”** have the meaning set forth in Section 5.03(a) and include, for the avoidance of doubt, the Executive Director.

“Partnership Representative” has the meaning set forth in Section 11.01(a).

“Partnership Tax Audit Rules” means Sections 6221 through 6241 of the Code, as amended by the U.S. Bipartisan Budget Act of 2015, together with any binding administrative guidance issued thereunder or successor provisions and any similar provision of state or local tax laws.

“Percentage Interests” means, as to any Member, a fraction, expressed as a percentage, equal to the number of Units (irrespective of class) held by each Member divided by the total number of Units (irrespective of class) held by all Members, as may be adjusted from time to time in accordance with the provisions of this Agreement. The Percentage Interests of all Members shall at all times aggregate to one hundred percent (100%).

“Permitted Transferee” means:

- (a) with respect to the Nokia Member, any Affiliate of the Nokia Member;
- (b) with respect to the NJEDA, any governmental division, department or entity of the State of New Jersey, if the Transfer is required by Law; and
- (c) with respect to any Member, any other Person if the Transfer is required by Law.

“Person” means an individual, partnership, corporation, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization, association or other entity or a Governmental Authority.

“Profits” means items of the Company’s income and gain determined according to Section 3.02.

“Project” has the meaning set forth in the Recitals.

“Project Agreements” has the meaning set forth in Section 5.01(b).

“Proposed NJEDA Transfer” has the meaning set forth in Section 7.03.

“Proposed NJEDA Transferee” has the meaning set forth in Section 7.03.

“Put Purchase Price” has the meaning set forth in Section 7.08.

“Put Right” has the meaning set forth in Section 7.08.

“PWCRA” has the meaning set forth in Section 12.02.

“Regulatory Allocations” has the meaning set forth in Section 4.03.

“Representatives” has the meaning set forth in Section 12.06.

“Right of First Refusal” has the meaning set forth in Section 7.03.

“ROFR Notice” has the meaning set forth in Section 7.03.

“SIC Lease” means that certain lease entered into between the Nokia Member and the Company as of the Effective Date and attached as Exhibit B hereto, pursuant to which

the Company has leased a portion of the Project for purposes of development of the Innovation Center.

“Securities Act” means the U.S. Securities Act of 1933.

“Securities Exchange Act” means the U.S. Securities Exchange Act of 1934.

“Side Letter” means the Side Letter dated the Effective Date between the Nokia Member and NJEDA.

“State Employee” has the meaning set forth in Section 12.04.

“State Entity” means the State of New Jersey or any department, agency, authority, or other body of the State of New Jersey, including, but not limited to, NJEDA.

“Substituted Member” means a Person that is admitted as a Member to the Company pursuant to Section 8.01.

“Tag-Along Notice” has the meaning set forth in Section 7.05.

“Tag-Along Notice Period” has the meaning set forth in Section 7.05.

“Tag-Along Offer” has the meaning set forth in Section 7.05.

“Tag-Along Response Notice” has the meaning set forth in Section 7.05.

“Tag-Along Right” has the meaning set forth in Section 7.05.

“Tag-Along Sale” has the meaning set forth in Section 7.05.

“Tag-Along Seller” has the meaning set forth in Section 7.05.

“Tagging Person” has the meaning set forth in Section 7.05.

“Taxable Year” means the calendar year.

“Transfer” means, with respect to any Equity Securities of any Company Party, any sale, charge, assignment, disposition, exchange, pledge, encumbrance, hypothecation, or other transfer of such Equity Securities or any participation or interest therein, in each case whether directly or indirectly (including pursuant to a derivative transaction or through the transfer of any Equity Securities in any direct or indirect holding company holding Equity Securities of a Company Party or through the issuance and redemption by any such holding company of its Equity Securities or through the grant of an option or other right or the imposition of a restriction on disposition or voting), or any agreement or commitment to do any of the foregoing, and regardless of whether any of the foregoing is effected, with or without consideration, voluntarily or involuntarily, by operation of law or otherwise, or whether *inter vivos* or upon death, but excluding redemptions or repurchases of Equity Securities of any Member in accordance with Article 7. The terms “**Transferee**”,

“**Transferor**”, “**Transferred**” and other forms of the word “**Transfer**” shall have the correlative meanings.

“**Transferor**” has the meaning set forth in Section 8.01.

“**Treasury Regulations**” means the final or temporary income tax regulations that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

“**Underlying Lease**” has the meaning set forth in the Recitals.

“**Unit**” means a unit of membership interest in the Company representing an interest in the Profits, Losses and Distributions of the Company, which, as of the Effective Date, means a Common Unit. With respect to any particular class of Unit, such class of Unit shall be deemed to include any Equity Securities received in connection with any combination of Equity Securities, recapitalization, merger, consolidation, or other reorganization, or by way of stock split, stock dividend or other distribution in respect of such class of Units or such other Equity Securities.

“**Unreturned Capital Contributions**” means, with respect to any Member, the Capital Contributions made by such Member, reduced by Distributions in return of capital made to such Member, reduced by any net Losses allocated to such Member.

Section 1.02. *Construction.* Unless otherwise expressly provided or unless the context requires otherwise: (a) all references in this Agreement to Articles, Schedules and Sections shall mean and refer to Articles, Schedules and Sections of this Agreement; (b) all references to statutes shall include all amendments of the same and any successor or replacement statutes and regulations promulgated thereunder, and all references to regulations shall include all amendments and any successor or replacement regulations; (c) words using the singular or plural number also shall include the plural and singular number, respectively; (d) references to “hereof,” “herein,” “hereby” and similar terms shall refer to this entire Agreement (including the schedules and exhibits hereto); (e) references to any Person shall be deemed to mean and include the successors and permitted assigns of such Person (or, in the case of any Governmental Authority, Persons succeeding to the relevant functions of such Person), and, in the case of any Person that is a trust, to the trustees thereof acting in their capacity as such (as the context may require to be most protective of the Company and the other Members); (f) the terms “Nokia Member” and “NJEDA” shall also mean, if any such Person shall have Transferred any of its Units to any of its Permitted Transferees, such Person and its Permitted Transferees, taken together, and any right, obligation or action that may be exercised or taken at the election of such Person may be taken at the election of such Person and its Permitted Transferees; (g) the term “including” shall mean “including, without limitation”; (h) every covenant, term and provision of this Agreement shall be construed according to its fair meaning and not for or against any Member; and (i) all pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the Person or Persons may require.

ARTICLE 2

THE COMPANY

Section 2.01. *Organization.* The Company was formed as a New Jersey limited liability company by filing the Certificate with the Department of Treasury, Division of Revenue and Enterprise Services of the State of New Jersey on [●], 2025.

Section 2.02. *Limited Liability Company Agreement.* The Company and the Members hereby execute this Agreement for the purpose of establishing the affairs of the Company and the conduct of its business in accordance with the provisions of the Act. The Members hereby agree that during the term of the Company set forth in Section 2.06, the rights and obligations of the Members with respect to the Company will be determined in accordance with the terms and conditions of this Agreement and, except where the Act provides that such rights and obligations specified in the Act shall apply “unless otherwise provided in an operating agreement” or words of similar effect and such rights and obligations are set forth in this Agreement, the Act; *provided, however,* that to the extent that the rights or obligations of any Member are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control.

Section 2.03. *Company Name.* The name of the Company shall be NJ Nokia Innovation Center LLC, and all business of the Company shall be conducted in such name or such other name as the Manager shall determine.

Section 2.04. *Purpose.* The purpose of the Company is to: (a) plan, develop, construct, manage and operate the Project; and (b) carry on any and all other lawful businesses and activities permitted from time to time under the Act related to the Project. The Company may engage in any and all activities necessary, desirable or incidental to the accomplishment of the foregoing. Subject to the terms and conditions of this Agreement, including any approval of the Advisory Board required by this Agreement, the Company is specifically authorized to enter into, make, and perform all contracts and other undertakings, and engage in all other activities and transactions as the Manager may deem necessary, advisable, or convenient for carrying out the purposes of the Company.

Section 2.05. *Powers.* The Company shall possess and may exercise all the powers and privileges granted by the Act, all other applicable Laws or by this Agreement, together with any powers incidental thereto, so far as such powers and privileges are necessary or convenient to the conduct, promotion and attainment of the business, purposes or activities of the Company approved by the Manager and, to the extent required by this Agreement, the Advisory Board.

Section 2.06. *Term.* The term of the Company shall be perpetual unless and until the Company is dissolved pursuant to the Act or as set forth herein. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate in the manner required by the Act.

Section 2.07. *Filings; Agent for Service of Process.*

(a) *Certificate.* The Certificate has been filed in the office of the Department of Treasury, Division of Revenue and Enterprise Services of the State of New Jersey in accordance with the provisions of the Act. The Manager shall take any and all other actions reasonably necessary to maintain the status of the Company under the Laws of the State of New Jersey or any other state in which the Company shall do business. The Manager shall cause amendments to the Certificate to be filed whenever required by the Act. Such amendments shall be executed by the Manager or any Person authorized by the Manager.

Section 2.08. *Maintenance.* The Manager (or any Person authorized by the Manager) shall take any and all other actions as may be determined by the Manager to be reasonably necessary to perfect and maintain the status of the Company under the Laws of any other states or jurisdictions in which the Company engages in business.

Section 2.09. *Registered Agent.* The registered agent for service of process on the Company in the State of New Jersey, and the address of such agent, shall initially be as set forth in the Certificate. The Manager may change the registered agent and appoint successor registered agents.

Section 2.10. *No State-Law Partnership.* The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement, for any purposes other than as set forth in the last sentence of this Section 2.10, and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise. The Members intend that the Company shall be treated as a partnership for U.S. federal and all applicable state and local income tax purposes, and that each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

ARTICLE 3
UNITS

Section 3.01. *Units.*

(a) *General.* The membership interests of the Members shall be represented by the Units, which are, as of the Effective Date, the Common Units, which shall have the rights and preferences in the assets of the Company as provided herein. The Company has authority to issue an unlimited number of Common Units. The Units shall not be certificated. A Unit shall for all purposes be personal property. The Manager shall maintain and update from time to time a Schedule of Members to reflect changes in the Members, number of Common Units held by them and their Capital Contributions, in each case in accordance with the terms of this Agreement. The Company may issue whole or fractional Units.

(b) *Capital Contributions.* Each Member has made (or shall be deemed for purposes of this Agreement to have made) a Capital Contribution to the Company on or prior to the Effective Date with respect to such Member's Units, the amount of which shall be as set forth on Schedule B hereto and shall be reflected on the Schedule of Members maintained by the Manager. The NJEDA shall, subject to achievement of the applicable NJEDA Investment Milestones, make additional Capital Contributions in the amounts set forth on Schedule C hereto ("Additional NJEDA Capital Contributions"). To the extent the Nokia Member has not previously made a Capital Contribution equal to or greater than the amount of the Additional NJEDA Capital Contribution(s) at the time that the NJEDA makes an Additional NJEDA Capital Contribution, the Nokia Member shall make additional Capital Contributions at the same time as the Additional NJEDA Capital Contributions and in such amount required such that the amount of Additional Nokia Member Capital Contributions equals the amount of the Additional NJEDA Capital Contributions at such time (the "Additional Nokia Member Capital Contributions"). The NJEDA shall not be required to make capital contributions over ten million dollars (\$10,000,000) in any event. The Company shall, without any requirement to obtain the consent of any Person, issue to the Nokia Member, or the NJEDA, as applicable, the number of Units applicable to such Additional Nokia Member Capital Contribution or Additional NJEDA Capital Contribution as set forth on Schedule C hereto. Except for the Additional Nokia Member Capital Contributions and the Additional NJEDA Capital Contributions, the Members shall have no obligation to make any other Capital Contributions to the Company for any reason, provided that, notwithstanding anything to the contrary, the Nokia Member may make additional Capital Contributions and the Company may issue additional Common Units to the Nokia Member in exchange therefor subject to the approval of the Advisory Board as set forth in Section 5.01(b).

(c) *Certain Adjustments.* If there shall occur any (one or more) changes in the capital structure of the Company, including any distribution, recapitalization, reclassification, merger or other change affecting the Common Units or any other the equity securities of the Company, the Manager may, in the manner and to the extent that it reasonably deems appropriate and equitable in good faith, cause an adjustment to be made in the number of the Common Units and any other terms hereunder that are affected by the event to maintain the Members' rights and obligations hereunder.

Section 3.02. *Capital Accounts.*

(a) *Maintenance of Capital Accounts.* The Company shall maintain a separate capital account for each Member according to the rules of Treasury Regulations Section 1.704-1(b)(2)(iv) (a "Capital Account"). For this purpose, the Company may, upon the occurrence of any of the events specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such regulation and Treasury Regulations Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of the Company's property. The initial Capital Account of each Member as of the Effective Date shall be as set forth on Schedule B hereto and shall be reflected on the Schedule of Members maintained by the Manager.

(b) *Computation of Income, Gain, Loss and Deduction Items.* For purposes of computing the amount of any item of the Company's income, gain, loss or deduction to be allocated pursuant to Article 4 and to be reflected in the Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes (including any method of depreciation, cost recovery or amortization used for this purpose); *provided* that:

(i) The computation of all items of income, gain, loss and deduction shall include those items described in Section 705(a)(1)(B) of the Code or Section 705(a)(2)(B) of the Code and Treasury Regulations Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for federal income tax purposes.

(ii) If the Book Value of any of the Company's property is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property.

(iii) Items of income, gain, loss or deduction attributable to the disposition of the Company's property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the Book Value of such property.

(iv) Items of depreciation, amortization and other cost recovery deductions with respect to the Company's property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g).

(v) To the extent an adjustment to the adjusted tax basis of any of the Company's assets pursuant to Sections 732(d), 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

Section 3.03. *Negative Capital Accounts.* No Member shall be required to make any payment to any other Member or the Company by reason of any deficit or negative balance which may exist from time to time in such Member's Capital Account (including upon and after dissolution of the Company).

Section 3.04. *No Withdrawal.* No Person shall be entitled to withdraw or demand the return of any part of such Person's Capital Contributions or Capital Account or to receive any Distribution from the Company, except as expressly provided herein.

Section 3.05. *Loans from Members.* No Member shall be required to lend any funds to the Company or to make any additional contribution of capital to the Company, except as otherwise required by Law, this Agreement or any other agreement between such Member and the Company. Any Member may, with the approval of the Advisory Board, on such terms as are determined by the Advisory Board, make loans to the Company, and any loan by a Member to the Company shall not be considered to be a Capital Contribution. The amount of any such funds shall be debt of the Company to such Member and shall be payable or collectible in accordance with the terms and conditions upon which such funds are advanced.

Section 3.06. *Transfer of Capital Accounts.* The original Capital Account established for each Substituted Member shall be in the same amount as the Capital Account of the Member (or portion thereof) to which such Substituted Member succeeds, at the time such Substituted Member is admitted as a Member of the Company. The Capital Account of any Member, whose interest in the Company shall be increased or decreased by means of: (a) the Transfer to such Member of all or part of the Units of another Member, or the Transfer by such Member of all or part of its Units to another Member; or (b) the repurchase or forfeiture of Units, shall be appropriately adjusted to reflect such Transfer, repurchase or forfeiture. Any reference in this Agreement to a Capital Contribution of or Distribution to any Member that has succeeded any other Member shall include any Capital Contributions or Distributions previously made by or to such other Member on account of the Units of such other Member Transferred to such Member.

Section 3.07. *Reserves.* Reserves in an amount determined by the Manager, in its sole discretion but subject to the amount of reserves being pro rata to the rest of the space leased by the Nokia Member pursuant to the Underlying Lease, may be retained out of Capital Contributions, net proceeds from sales or refinancing or net proceeds from operations, *provided* that no Distributions shall be made until the Company has established a cash reserve in an amount equal to or greater than the Minimum Cash Reserve. Any reserves remaining on the dissolution of the Company shall be held until the final liquidation and then distributed to the Members in accordance with the provisions of Section 10.02.

Section 3.08. *SIC Lease.* Upon the Company's receipt of a temporary or permanent (whichever is received first) Certificate of Occupancy, with respect to the Project (the "C/O"), the SIC Lease shall officially commence.

ARTICLE 4 DISTRIBUTIONS AND ALLOCATIONS

Section 4.01. *Distributions.*

(a) *General.* The Manager shall direct the Company to make Distributions of Distributable Cash to the Members no later than thirty (30) days after the end of each Fiscal Quarter, provided that no Distributions shall be made to any Member unless each of the conditions set forth in this Section 4.01 have been satisfied. All Distributions made under this Section 4.01 shall be distributed, subject to provisions herein

and the Priority Returns, to the Members, pro rata, in accordance with their respective Percentage Interests.

(b) *Conditions Precedent to Distributions.* The Company shall not make, and no Member shall be entitled to, any Distributions unless:

(i) The Project shall have reached a period of stabilization by operating for at least six (6) months following receipt of the C/O;

(ii) The Company would have, after giving effect to such Distribution, a cash reserve equal to or greater than the Minimum Cash Reserve; and

(iii) The Company has actually received rental revenue from end users of the Licensed Space.

(c) *NJEDA Priority Return.* Any Distribution of Distributable Cash otherwise payable by the Company pursuant to this Section 4.01 shall be Distributed first only to NJEDA as a priority distribution until such time as NJEDA has received a cumulative Distribution equal to nine percent (9%) of the cumulative Capital Contributions of NJEDA up to such date of Distribution (the “**NJEDA Priority Return**”).

(d) *Nokia Member Priority Return.* Any Distribution of Distributable Cash otherwise payable by the Company pursuant to this Section 4.01, after satisfaction of the NJEDA Priority Return pursuant to this Section 4.01 shall be distributed next only to the Nokia Member as a priority Distribution until such time as the Nokia Member has received a cumulative Distribution equal to nine (9%) percent of the cumulative Capital Contributions of the Nokia Member up to such date of Distribution (the “**Nokia Priority Return**” and together with the NJEDA Priority Return, the “**Priority Returns**”).

(e) *Withholding.*

(i) If the Company is required by Law to pay any tax that is specifically attributable to a Member (or the status of a Member), including amounts in respect of any imputed underpayment (within the meaning of Section 6225 of the Code), federal or state withholding taxes, state personal property taxes, and state unincorporated business taxes, then such Member shall indemnify and reimburse the Company the amount of such tax (including any interest or penalties). The Company may offset Distributions to any Member that it is otherwise entitled to receive under this Agreement against such Member’s obligation and such offset amounts shall be treated as distributed to such Member for all purposes of this Agreement. A Member’s obligation to indemnify and reimburse the Company under this provision shall survive the Member’s Transfer of its Units in the Company and the termination, dissolution, liquidation or winding up of the Company. The Company may pursue remedies against any Member, including instituting a lawsuit to collect such indemnification and reimbursement with interest calculated at a rate equal to a variable rate per annum equal to the rate of

interest most recently published by *The Wall Street Journal* as the “prime rate” at large U.S. money center banks Base Rate *plus* three percentage points per annum (but not in excess of the highest rate per annum permitted by Law), compounded on the last day of each Fiscal Quarter so long as such amount remains unpaid. Any reimbursement made pursuant to this Section 4.01 shall increase the Member’s Capital Account, but shall not be treated as a Capital Contribution for purposes of this Agreement.

(ii) The Company is authorized to withhold from payments and distributions, or with respect to allocations to the Members, any amounts required to be withheld under Law. All amounts withheld with respect to a Member shall be treated as if such amounts were distributed to such Member under this Agreement. The Members agree to provide the Manager with any information, representation, certification or form reasonably requested by the Manager with respect to withholding taxes or otherwise with respect to tax matters of the Company or any entity in which the Company holds an interest. The Company shall not be liable for any over-withholding in respect of any Member, and, in the event of any such over-withholding, a Member’s sole recourse shall be as provided under Law.

(f) *Debt Restrictions.* Notwithstanding anything herein to the contrary, the Manager shall not make any Distributions to the Members hereunder that would violate applicable restrictions, if any, on such Distributions contained in the debt financing agreements of the Company.

(g) *Distributions In-Kind.* Subject to compliance with securities Laws, to the extent that the Company distributes property in-kind to the Members, the Company shall be treated as making a distribution equal to the Fair Market Value of such property for purposes of this Section 4.01 and such property shall be treated as if it were sold for an amount equal to its Fair Market Value, and any resulting gain or loss shall be allocated to the Members’ Capital Accounts in accordance with Sections 4.02 through 4.04.

Section 4.02. *Allocations.* For each Fiscal Year (or portion thereof), except as otherwise provided in this Agreement, (i) Profit (and, to the extent necessary, individual items of income or gain) of the Company shall be allocated among the Members in accordance with their Percentage Interests as of the date an item of Profit is realized; and (ii) Loss (and, to the extent necessary, individual items of loss or deduction) of the Company shall be allocated solely to the Nokia Member as of the date an item of Loss is realized.

Section 4.03. *Special Allocations.* Notwithstanding anything contained herein to the contrary:

(a) If a Member would at any time receive, but for this Section 4.03, an allocation of deduction, loss, or expenditure that would cause or increase a deficit balance in such Member’s Capital Account in excess of any amount of such deficit balance that the Member is obligated to restore or deemed obligated to restore (as determined in accordance

with Treasury Regulations Sections 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1) and 1.704-2(i)(5)), then the portion of such allocation that would cause or increase such deficit Capital Account balance will be specially allocated to the other Members, if any, with positive Capital Account balances in proportion to such balances. The loss limitation under this Section 4.03 is intended to comply with Treasury Regulations Section 1.704-1(b)(2)(ii)(d), including the reductions described in subparagraphs (4), (5) and (6) therein, and will be interpreted consistently therewith.

(b) If in any Fiscal Year, a Member receives an adjustment, allocation or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain (consisting of a pro rata portion of each item of Company income and gain for such Fiscal Year) will be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the deficit balance in such Member's Capital Account in excess of any amount of such deficit balance that the Member is obligated to restore or deemed obligated to restore (as determined in accordance with Treasury Regulations Sections 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1) and 1.704-2(i)(5)) as quickly as possible; *provided* that an allocation pursuant to this Section 4.03 will be made only if and to the extent that such Member would have a Capital Account deficit after all other allocations provided for in this Article 4 have been tentatively made as if this Section 4.03 were not in the Agreement. This Section 4.03 is intended to qualify and be construed as a "qualified income offset" within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and will be interpreted consistently therewith.

(c) If there is a net decrease in Minimum Gain attributed to the Company or Member Nonrecourse Debt Minimum Gain (determined in accordance with the principles of Treasury Regulations Sections 1.704-2(d) and 1.704-2(i)) during any Taxable Year, the Members will be allocated items of income and gain attributed to the Company for such year (and, if necessary, subsequent years) in an amount equal to their shares of such net decrease during such year, determined pursuant to Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5). The items to be so allocated will be determined in accordance with Treasury Regulations Section 1.704-2(f). This is intended to comply with the Minimum Gain chargeback requirements in such Treasury Regulations and will be interpreted consistently therewith, including that no chargeback will be required to the extent of the exceptions provided in Treasury Regulations Sections 1.704-2(f) and 1.704-2(i)(4).

(d) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) of the Code or Section 743(b) of the Code is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of its Units, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(e) Any “Member nonrecourse deductions” (which has the same meaning as the term “partner nonrecourse deductions” in Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2)) with respect to a Fiscal Year shall be allocated to the Member who bears the economic risk of loss with respect to the “Member nonrecourse debt” (which has the same meaning as the term “partner nonrecourse debt” in Treasury Regulations Section 1.704-2(b)(4)) to which such Member nonrecourse deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)(1).

(f) The allocation provisions set forth in this Article 4 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and will be interpreted and applied in a manner consistent with such Treasury Regulations, as determined by the Manager in its reasonable discretion.

(g) It is the intent of the Members that, to the extent possible, any special allocations of items of income, gain, loss or deductions pursuant to Section 4.03 (the “**Regulatory Allocations**”) will be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 4.03. The Manager will make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it deems appropriate so that the net amount of items allocated to each Member pursuant to Section 4.02 and this Section 4.03 will, to the extent possible, be equal to the net amount that would have been allocated to each such Member pursuant to the provisions of Section 4.02 if such special allocations had not occurred. In exercising its discretion under this Section 4.03(g), the Manager will take into account future Regulatory Allocations under [Section 4.03(c)] that, although not yet made, are likely to offset other Regulatory Allocations previously made under [Section 4.03(e)].

Section 4.04. *Tax Allocations.*

(a) *Allocations Generally.* The income, gains, losses, and deductions of the Company will be allocated for federal, state and local income tax purposes among the Members in accordance with the allocation of such income, gains, losses, and deductions among the Members for computing their Capital Accounts pursuant to Section 4.02 and Section 4.03; except that if any such allocation is not permitted by the Code or other applicable Law, the Company’s income, gains, losses and deductions will be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) *Code Section 704(c) Allocations.* Items of the Company’s taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Section 704(c) of the Code so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value. In addition, if the Book Value of any asset of the Company is adjusted pursuant to the requirements of Treasury Regulations Section 1.704-1(b)(2)(iv)(e) or (f), then subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take

account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in accordance with Section 704(c) of the Code. The Manager shall determine all allocations pursuant to this Section 4.04 in accordance with Section 704(c) of the Code using the traditional method under Treasury Regulations Section 1.704-3(b).

(c) *Effect of Allocations.* Allocations pursuant to this Section 4.04 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, Distributions or other items of income, gain, deduction and loss pursuant to any provision of this Agreement.

ARTICLE 5 MANAGEMENT

Section 5.01. *General.*

(a) *Manager.* The business and affairs of the Company shall, subject to Section 5.01(b) and as further limited by the provisions of this Agreement, be managed by, or under the direction of, the Manager. Subject to Section 5.01(b) and other provisions of this Agreement, the Manager shall have the power and authority to manage and to direct the management of the business and affairs of the Company and to make decisions to be made by or on behalf of the Company. Subject to Section 5.01(b) and other provisions of this Agreement, the powers of the Manager shall include all powers, statutory or otherwise, possessed by or permitted to managers of a limited liability company under the Laws of the State of New Jersey and the Act.

(b) *Major Decisions.* Notwithstanding Section 5.01(a), the Company shall not, and shall not enter into any commitment to (and the Manager shall not authorize or permit the Company to), do any of the following without the majority approval of the Advisory Board:

(i) admit any Additional Members;

(ii) undergo any merger, consolidation, liquidation, dissolution, winding up, voluntary bankruptcy, composition of creditors, assignment for the benefit of creditors of the Company, or appointment of a receiver, rehabilitator or conservator of or for the Company or sell all, or substantially all, of the Company's assets;

(iii) create any new class or series of Equity Securities of the Company or issue any Equity Securities of the Company;

(iv) redeem or repurchase any Equity Securities;

(v) transfer any Equity Securities, except transfers to Permitted Transferees, which shall not be subject to Advisory Board approval;

- (vi) incur any indebtedness, pledge or grant liens on any assets or guarantee, assume, endorse or otherwise become responsible for the obligations of any other Person unless previously included in the Approved Budget;
- (vii) cease to construct, manage, or otherwise operate the Project;
- (viii) sell, transfer, or otherwise convey all or any portion of the Project or any material asset of the Project including without limitation Equity Securities of the tenants of the Licensed Space;
- (ix) amend this Agreement, the Side Letter, the Certificate, the IC Services Agreement or the SIC Lease (together, the “**Project Agreements**”);
- (x) any material change in tax policy or tax elections;
- (xi) any revision to the Collaboration Agreement Template or any material deviation from such Collaboration Agreement Template when entering into the related collaboration agreement with an academic institution in accordance with Section 5.06 hereto;
- (xii) any material change in the business of the Company;
- (xiii) any termination or replacement of the Manager; or
- (xiv) any change in the external auditors of the Company, other than to one of the “big four” national auditing firms, the auditing firm used in the ordinary course of business by the Nokia Member, or a well-respected regional auditing firm with a major presence in New Jersey (an “**Approved Auditing Firm**”).

(c) *Delegation of Authority.* The Manager may, from time to time, delegate to one or more Persons such authority and duties as the Manager may deem advisable. Any delegation pursuant to this Section 5.01 may be revoked at any time by the Manager.

Section 5.02. *Advisory Board Meetings.* The Members hereby establish a Member advisory board (the “**Advisory Board**”), which consists of three (3) individuals, one (1) of which shall be appointed by the Nokia Member, and two (2) of which shall be appointed by NJEDA. The Manager may at any time call for a meeting of the Advisory Board or for a vote without a meeting by written consent. Additionally, the Manager shall call for a meeting of the Advisory Board following receipt of a reasonable written request therefor from the NJEDA. Within ten (10) days after the date on which the Manager decides (or is obligated) to call a meeting of the Advisory Board, the Manager shall notify all Members of record and the Advisory Board of the time and place of the Company meeting, if called, and the general nature of the business to be transacted. The Advisory Board may participate in the meeting by means of telephone conference or other communications equipment by means of which all persons participating in the meeting can hear each other,

and participation in a meeting by such means shall constitute presence in person at such meeting.

Section 5.03. *Officers.*

(a) *Election of Officers and Term of Office.* The day-to-day business and operations of the Company shall be overseen and implemented by such officers of the Company as determined by the Manager (each, an “**Officer**” and collectively, the “**Officers**”), which Officers may include such officers and titles as the Manager may, from time to time determine, subject to the limitations imposed by, and the authority of, the Manager, in consultation with the Advisory Board. Each Officer shall hold office until a successor shall have been duly elected or appointed and shall have qualified or until such Officer’s death, resignation or removal in the manner provided hereinafter. Any one Person may hold more than one office. The authority and responsibility of the Officers shall include the carrying out of the Company’s business and affairs on a day-to-day basis (subject to the authority of the Manager in consultation with the Advisory Board) and such other duties as the Manager may, from time to time, delegate to them in accordance with the terms of this Agreement.

(b) *Resignation; Removal; Vacancies.* Any Officer may be removed as such, either with or without cause, by the Manager in its discretion at any time in consultation with the Advisory Board; *provided, however,* that such removal shall be without prejudice to the contract rights, if any, of the individual so removed. The designation of an individual as an Officer shall not of itself create any contract or employment rights. Any vacancy occurring in any office of the Company may be filled by the Manager in consultation with the Advisory Board and shall remain vacant until so filled.

The initial Officers shall be

(c) *Salaries.* The salaries or other compensation, if any, of the Officers shall, subject to the terms of any written agreement between any the Company and such applicable Officer, be fixed from time to time by the Manager in accordance with the Approved Budget.

(d) *Duties of Officers Generally.* The Officers, in the performance of their duties as such, shall owe to the Company duties of loyalty and due care of the type owed by the officers of a corporation to such corporation and its equity holders under the Laws of the State of New Jersey.

Section 5.04. *Budget.* The Company shall, no later than thirty (30) days prior to the end of each Fiscal Year, prepare and deliver to each Member and the members of the Advisory Board, an annual budget for the Company and the Project for the immediately following Fiscal Year which shall include a forecast of the Company’s revenues and expenses for each Fiscal Quarter during such Fiscal Year and which shall be developed in consultation with the Advisory Board (the “**Approved Budget**”).

Section 5.05. *Services Agreement.* The Members acknowledge and agree that the Nokia Member, or an Affiliate thereof, shall provide certain services to the Company which may include financial accounting, preparation of financial statements, billing, collections, responding to requests for documents from tax authorities, paying all taxes owed by the Company from the Company funds, vendor payments, providing all necessary insurance coverage for the Company, marketing, property inspections, tenant screening, tenant communications, property evaluation, introductions to academic partners and capital providers, drafting and reviewing contracts, including tenant lease agreements, recruiting and onboarding new employees, handling employee relations issues including terminations, paying payroll and withholding taxes from the Company funds and handling all aspects of the planning, development, construction, management and operation of the Project in compliance with applicable Law and this Agreement. Such services, and the compensation payable by the Company to the Nokia Member for such services are further detailed in the services agreement entered into between the Company and the Nokia Member as of the Effective Date (the “**IC Services Agreement**”), a copy of which is attached hereto as Exhibit C.

Section 5.06. *Project Matters.*

(a) *Project Commitments.* The Company shall use commercially reasonable efforts to, with respect to the Project, comply with the community engagement commitments set forth on Schedule D hereto.

(b) *SIC Lease.* The Company has entered into the SIC Lease. The term of the SIC Lease shall be for an initial term of twenty (20) years, commencing on the date that a C/O is issued for the Project (as it may be extended with Advisory Board approval, the “**SIC Lease Term**”). Following the expiration of the SIC Lease Term or earlier termination of the SIC Lease, the Nokia Member shall remain obligated to honor certain reporting obligations to NJEDA, including without limitation the obligations set forth in Section 6.10, for a period of four (4) years thereafter (including the SIC Lease Term, the “**Reporting Period**”).

(c) *Academic Agreements.* Prior to the Effective Date, an Affiliate of the Manager entered into a memorandum of understanding regarding relating to the Project, including the strategic innovation center of New Jersey Bell Labs Venture Studio, LLC, with at least one (1) of the State’s engineering schools, which may include, without limitation, Princeton University, Rutgers, Stevens Institute of Technology, Rowan University, and New Jersey Institute of Technology, to allow access to various university resources, facilities, intellectual property, researchers, and technical students who can participate in the Project, and professors to provide mentorship to companies within the Project that could help drive innovation and deliver solutions. Following execution of a memorandum of understanding, the Company shall use commercially reasonable efforts to support additional more formal collaboration agreements relating to the Project with the school and other schools using a pre-defined template to be provided by the Nokia Member, which template must be reasonably satisfactory to NJEDA (the “**Collaboration Agreement Template**”).

ARTICLE 6

LIMITATION OF LIABILITY; INDEMNIFICATION; RIGHTS AND OBLIGATIONS OF MEMBERS

Section 6.01. *No Fiduciary Duties; Limitation of Liability.* Notwithstanding anything to the contrary in this Agreement or at Law or in equity, including the Act, each Member agrees that any fiduciary duty imposed under the Laws of the State of New Jersey (including the duty of loyalty and the duty of care) on any Member or Manager, any holder of Equity Securities of any Company Party, or any Covered Person, shall be defined, limited and eliminated as provided in this Section 6.01. To the fullest extent permitted by applicable Law, including the Act, no Member or any Manager, or any Covered Person, shall have any duty (fiduciary, contractual or otherwise) in its capacity as such to any Company Party, or to any Member or other holder of Equity Securities of any Company Party other than pursuant to this Agreement.

To the fullest extent permitted by Law, no Member or member of the Advisory Board made or threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such Person is or was a Member shall be liable to any Company Party or to any other Person that is a party hereto or is otherwise bound hereby for any act or failure to act with respect to or in connection with any Company Party or any Company Party's business or affairs, except in the case of fraud or willful misconduct.

In performing his or her or its duties, each Member, Manager, member of the Advisory Board or Officer shall be entitled to rely in good faith on the provisions of this Agreement and on information, opinions, reports or statements (including financial statements and information, opinions, reports or statements as to the value or amount of the assets, liabilities, profits or losses of the Company or any facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid) of the following other Persons or groups: one or more Officers or employees of the Company, any attorney, independent accountant, appraiser or other expert or professional employed or engaged by or on behalf of the Company or the Manager; or any other Person who has been selected by or on behalf of the Company, the Advisory Board or the Manager, in each case as to matters which such Member, member of the Advisory Board, Manager or Officer reasonably believes to be within such other Person's competence. Neither the amendment nor repeal of this Section 6.01, nor the adoption of any other provision to this Agreement, nor, to the fullest extent permitted by the Act, any modification of Law, shall eliminate or reduce the effect of this Section 6.01 in respect of any acts or omissions occurring prior to such amendment, repeal, adoption or modification.

(a) *Good Faith and Other Standards.* Whenever in this Agreement or any other agreement contemplated herein or to which the Company is a party, each of the Manager and member of the Advisory Board is permitted or required to take any action or to make a decision or determination in its "good faith" or under another express standard, each of the Manager and member of the Advisory Board shall act in good faith or under such express standard and, to the extent permitted by Law, shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein or to which the Company is a party, and, notwithstanding anything contained herein

to the contrary, so long as such Manager or member of the Advisory Board acts in good faith and in accordance with such other express standard, if any, the resolution, action or terms so made, taken or provided by the Manager or member of the Advisory Board shall not impose liability upon such Manager, any of such Manager's Affiliates, employers, employees, agents or representatives or member of the Advisory Board. Whenever in this Agreement or any other agreement contemplated herein, each of the Manager and member of the Advisory Board is permitted or required to take any action or to make a decision in its "sole discretion" or "discretion" or under a grant of similar authority or latitude, each Manager and member of the Advisory Board shall be entitled to consider such interests and factors as he, she or it desires, including his or her own interests, and shall, to the maximum extent permitted by Law, have no duty or obligation to give any consideration to any interests or factors affecting any Member.

(b) *Limitation of Duties; Conflict of Interest.* To the maximum extent permitted by Law, the Company and each Member hereby waives any claim or cause of action against the Manager, each member of the Advisory Board and each other Member (other than the Officers in their capacities as such), and their respective Affiliates, employers, employees, agents and representatives for any breach of any fiduciary duty to the Company Parties or their members or shareholders by any such Person, including as may result from a conflict of interest between the Company Parties or their members or shareholders and such Person or otherwise. No Member (in its capacity as such and without limiting the duties of an Officer in their capacity as such) shall have any duty to the Company, or any other Member or Manager, except as expressly set forth herein or in other written agreements between such Member, the Company, or any other Member. No Member, Manager or member of the Advisory Board (other than the Officers in their capacities as such) shall be obligated to recommend or take any action in his or her capacity as a Member, Manager or member of the Advisory Board that prefers the interests of the Company Parties or their members or shareholders over the interests of such Person or its Affiliates, employers, employees, agents or representatives, and each of the Company Parties and each Member hereby waives the fiduciary duty, if any, of such Person to the Company Parties or their members and shareholders, including in the event of any conflict of interest or otherwise.

This Section 6.01 shall not in any way release any Person who is an employee of the Company or any Affiliate thereof from any liabilities, obligations, duties or responsibilities that such Person may have in his or her capacity as an employee of the Company or such Affiliate or pursuant to any other agreement that such Person may have with the Company or such Affiliate, or otherwise affect, limit or modify any Person's liabilities, obligations, duties or responsibilities under any employment agreement or any other agreement with the Company or any Affiliate of the Company.

Section 6.02. *No Liability for Company Obligations.* Except as otherwise provided by the Act or Section 6.03 below, no Member, Manager, member of the Advisory Board or Officer shall be liable or obligated personally for the debts, obligations and liabilities of any Company Party, whether arising in contract, tort, judgment of a court or otherwise, whether to any Company Party, to any of the other Members, to the creditors of any Company Party or for any losses of any Company Party, solely by reason of being a

Member, member of the Advisory Board or acting as a Manager or Officer. Notwithstanding anything contained herein to the contrary, the failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business and affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Members (including any Manager) or members of the Advisory Board for liabilities of the Company.

Section 6.03. *Lack of Authority.* No Member in such Member's capacity as such or by virtue of being a Member is an agent of the Company or has the authority or power to act for or on behalf of the Company in any manner or way, to bind the Company, or do any act that would be (or could be construed as) binding on the Company, in any manner or way, or to make any expenditures on behalf of the Company, unless such specific authority and power has been expressly granted to and not revoked from such Member by the Manager or the members of the Advisory Board in accordance with the terms of this Agreement and the Members hereby consent to the exercise by the Manager and the members of the Advisory Board of the powers conferred on it by Law and this Agreement. This Section 6.03 supersedes any authority granted to the Members pursuant to the Act. Any Member who takes any action or binds or purports to bind the Company (in such Member's capacity as such) shall be in violation of this Section 6.03.

Section 6.04. *NJEDA Duties as a State Entity.* Notwithstanding anything to the contrary in this Article 6 or elsewhere in this Agreement, the duties (including fiduciary duties, if any) of the NJEDA as a Member shall be subject to N.J.S.A. 34:1B-1 et seq.; the Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq.; and other Law applicable to a New Jersey instrumentality.

Section 6.05. *Indemnification by the Company.*

(a) ***Generally.*** The Company hereby agrees to indemnify and hold harmless any Person (each an "**Indemnified Person**") to the fullest extent permitted by the Laws of the State of New Jersey (including indemnification for acts or omissions constituting negligence, gross negligence or breach of duty), as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such amendment, substitution or replacement), against all actions, causes of action, suits, claims, liabilities, losses, damages and costs and expenses (including attorney fees, judgments, fines, excise taxes and penalties) (collectively, the "**Indemnified Liabilities**") incurred or suffered by such Person (or one or more of such Person's Affiliates) by reason of the fact that such Person (w) is or was a member of the Advisory Board, (x) is or was a Member, (y) is or was a partner, shareholder, member, Affiliate, principal, director, officer, fiduciary, manager, controlling person, employee, representative or agent of a Member or a partner, shareholder, member, Affiliate, principal, director, officer, fiduciary, manager, controlling person, employee, representative, and agent of any of the foregoing, or (z) is or was serving as a Manager, is or was an officer or director (or equivalent) of any Company Party (other than the Company) or is or was serving at the request of the Company as a managing member, manager, officer,

director, principal, member, employee, agent or representative of another corporation, partnership, joint venture, limited liability company, trust or other enterprise, each of whom in clauses (w) through (z) is an intended third-party beneficiary of this Agreement and may specifically enforce the Company's obligations under this Article 6; *provided* that, if and to the extent that the foregoing undertaking may be unavailable or unenforceable for any reason, the Company hereby agrees to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities that is permissible under Law; *provided, further*, that no Indemnified Person shall be indemnified for any Indemnified Liabilities suffered to the extent such Indemnified Liabilities are attributable to (x) such Indemnified Person's fraud or willful misconduct, (y) in the case of an Officer, any act or omission by such Officer for which a corporation organized under the laws of the State of New Jersey would not be able to indemnify its officers under the laws of the State of New Jersey, or (z) any present or future breaches of any representations, warranties or covenants by such Indemnified Person or its Affiliates (excluding, for purposes hereof, the Company Parties), employers, employees, agents or representatives contained herein or in any other agreement with any Company Party; *provided, further*, that no Person shall be entitled to indemnification hereunder with respect to a proceeding initiated by such Person (other than a proceeding to enforce such Person's rights under this Section 6.05). Expenses, including attorneys' fees and expenses, incurred by any such Indemnified Person in defending a proceeding (but not a proceeding initiated by such Indemnified Person, other than a proceeding to enforce such Indemnified Person's rights under this Section 6.05) shall be paid by the Company, in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company. This indemnification shall not include the indemnification obligations of the Nokia Member under Section 6.06 hereof, which shall solely be the responsibility of the Nokia Member.

(b) *Nonexclusivity of Rights; Priority of Company and Nokia Indemnifications.* The rights of any Indemnified Person to indemnification hereunder will be in addition to any other rights any such person has under any other agreement or instrument referenced above or any other agreement or instrument to which such Indemnified Person is or becomes a party or is or otherwise becomes a beneficiary or under Law or regulation and shall extend to such Indemnified Person's heirs, successors and assigns. The Company hereby agrees that it is the indemnitor of first resort (i.e., its obligations to any Indemnified Person under Section 6.05(a) this Agreement are primary and any obligation of any Member (or any Affiliate thereof (other than the Company)) to provide advancement or indemnification for the same Indemnified Liabilities (including all interest, assessment and other charges paid or payable in connection with or in respect of such Indemnified Liabilities) incurred by such Indemnified Person are secondary), and if any Member (or any Affiliate thereof, other than the Company) pays or causes to be paid, for any reason, any amounts otherwise indemnifiable hereunder or under any other indemnification agreement (whether pursuant to any contract, any organizational documents or otherwise) with any Indemnified Person, then (i) such Member or Affiliate shall be fully subrogated to all rights of such Indemnified Person with respect to such payment, and (ii) the Company shall reimburse such Member (or such other Affiliate) for the payments actually made. The Company hereby unconditionally and irrevocably waives,

relinquishes and releases (and covenants and agrees not to exercise, and to cause each other Company Party not to exercise), any claims or rights that the Company may now have or hereafter acquire against any Indemnified Person (in any capacity) that arise from or relate to the existence, payment, performance or enforcement of the Company's obligations under this Agreement or under any indemnification obligation (whether pursuant to any other contract, any organizational document or otherwise), including any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of any Indemnified Person against any Indemnified Person, whether such claim, remedy or right arises in equity or under contract, statute, common law or otherwise, including any right to claim, take or receive from any Indemnified Person, directly or indirectly, in cash or other property or by set-off or in any other manner, any payment or security or other credit support on account of such claim, remedy or right. Likewise, Nokia shall be the indemnitor of first resort with respect to the indemnification obligations under Section 6.06 and the provisions of this Section 6.05(b) shall apply to Nokia with respect to its indemnification obligations under Section 6.06.

(c) *Insurance.* The Company may maintain insurance, at its expense, to protect any Indemnified Person against any expense, liability or loss described in Section 6.05 above whether or not the Company would have the power to indemnify such Indemnified Person against such expense, liability or loss under the provisions of this Section 6.05.

(d) *Limitation.* Notwithstanding anything contained herein to the contrary (including in this Section 6.05), any indemnity by the Company relating to the matters covered in this Section 6.05 shall be provided out of and to the extent of the Company's assets only, and no Member (unless such Member otherwise agrees in writing or is found in a final decision by a court of competent jurisdiction to have personal liability on account thereof) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity of the Company.

(e) *Survival.* Neither the amendment nor repeal of this Section 6.05, nor the adoption of any other provision to this Agreement, nor, to the fullest extent permitted by the Act, any modification of Law, shall eliminate or reduce the effect of this Section 6.05 in respect of any acts or omissions occurring prior to such amendment, repeal, adoption or modification.

Section 6.06. *Indemnification by the Nokia Member.* The Nokia Member agrees to defend, indemnify, and hold harmless all Persons, including without limitation the NJEDA, the State of New Jersey, and each of their respective officers, directors, members, commissioners, employees and representatives (collectively, the "**NJEDA Indemnitees**") from and against any and all claims, judgments, expenses and liabilities for injuries to Persons natural or otherwise, including without limitation death and other damage(s), if and to the extent the same results from any act, omission, negligence, fault, or default of the Nokia Member, the Company, or the contractors or subcontractors of the Nokia Member or the Company, or their agents, employees, servants, independent contractors, or subcontractors and from any claims against, or liability incurred by the NJEDA Indemnitees by reason of claims against the Nokia Member, the Company, or the

contractors or subcontractors of the Nokia Member, or their employees, agents, servants, independent contractors or subcontractors for any matter whatsoever relating to injuries to persons (natural and otherwise) in connection with the construction, management and operation of the Project, including, but not limited to, claims for compensation, injury or death, and agree to reimburse the NJEDA Indemnitees for reasonable attorneys' fees incurred in connection with the above, in each case other than where such claim results from such NJEDA Indemnitee's gross negligence or willful misconduct.

Section 6.07. Reservation of Other Business Opportunities. Notwithstanding any duty otherwise existing at Law or in equity, to the fullest extent permitted by Law, and subject only to the provisions of this Section 6.07, the Members expressly acknowledge and agree that:

(a) the Members and their Affiliates, including any directors, managers and officers of any Company Party affiliated with or designated by such Member, and any member of the Advisory Board (collectively, "**Covered Persons**"), have the right to, and shall have no duty (fiduciary, contractual or otherwise) not to, directly or indirectly engage or invest in the same or similar business activities or lines of business as any of the Company Parties, on its own account, or in partnership with, or as an employee, officer, director, manager, shareholder or member of any other Person, including those lines of business deemed to be competing with any of the Company Parties; (ii) none of the Company Parties or any other Member shall have any rights in and to the business ventures of any Covered Persons, or the income or profits derived therefrom; (iii) each Covered Person may do business with any potential or actual customer or supplier of any of the Company Parties or may employ or otherwise engage any officer or employee of any of the Company Parties; and (iv) in the event that any Covered Person acquires knowledge of a potential transaction or matter that may be an opportunity for any of the Company Parties or any other Member, such Covered Person shall have no fiduciary duty or other duty (contractual or otherwise) to communicate or present such opportunity to any of the Company Parties or any other Member and, notwithstanding any provision of this Agreement to the contrary, shall not be liable to any of the Company Parties or any other Member (and their respective Affiliates) for breach of any fiduciary duty or other duty (contractual or otherwise) by reason of the fact that such Covered Person directly or indirectly pursues or acquires such opportunity for itself, directs such opportunity to another Person, or does not present such opportunity to any Company Party or any other Member;

(b) in the event of any conflict of interest between any Company Party, on the one hand, and any Covered Person or its Affiliates, on the other hand, such Covered Person may act in such Covered Person's own best interest and (ii) none of the Covered Persons acting in their capacity as Manager shall be obligated (x) to reveal to any Company Party confidential information belonging to or relating to the business of such Covered Person or (y) to recommend or take any action in its capacity as such Member or Manager, as the case may be, that prefers the interest of any Company Party over the interest of such Covered Person; and

(c) no Covered Person or any Affiliate associated therewith shall have any fiduciary duty or other duty (contractual or otherwise) to disclose any actual or potential conflict of interest (whether known or unknown) between such Covered Person or Affiliate, on the one hand, and any Company Party, on the other hand, and it is further understood and agreed that such Covered Person shall have no duty of inquiry with respect to, and shall not be deemed to be conflicted solely as a result of, existing or potential conflicts of interest involving such Covered Person or its Affiliates.

(d) This Section 6.07 shall not in any way affect, limit or modify or enlarge any rights, liabilities, obligations, duties or responsibilities of any Person under any employment agreement, consulting agreement, confidentiality agreement, other restrictive covenant agreement or any other agreement with the Company Parties or their respective Affiliates or with any other Member(s) or their Affiliates or members of the Advisory Board.

Section 6.08. *No Right to Vote.* Except as expressly provided in this Agreement or required by Law, the Members shall have no right to vote in respect of any Equity Securities of the Company (including any Units) on any matter and do hereby expressly waive any such right. In order for the Members to consent or approve any Member vote required, both the Nokia Member and the NJEDA must consent.

Section 6.09. *No Right of Partition.* No Member shall have the right to seek or obtain partition by court decree or operation of law of any of the Company's property, or the right to own or use particular or individual assets of the Company.

Section 6.10. *Information Rights.* The Company shall deliver to each Member: (a) a monthly report in the form attached hereto as Schedule E, provided that such obligation shall cease at the expiration of the Reporting Period; (b) within forty-five (45) days of the end of each Fiscal Quarter, quarterly unaudited financial statements, prepared in accordance with GAAP; and (c) within one hundred twenty (120) days of the end of each Fiscal Year, annual financial statements, prepared in accordance with GAAP, and audited by an Approved Auditing Firm, *provided* that each Member who receives any such information agrees to (x) hold such report in confidence in accordance with Section 12.06 and (y) not divulge any such information to any third party (except to the extent permitted by Section 12.06). Each Member shall be permitted, at such Member's expense, to visit and inspect the Company's properties, examine its books of account and records, and discuss the Company's affairs, finances, and accounts with its Officers, during normal business hours of the Company as may be reasonably requested by such Member. The rights granted to a Member pursuant to this Section 6.10 are expressly subject to compliance by such Member with any safety, security, classification and confidentiality procedures and guidelines of the Company (including any confidentiality obligations to which the Company or any Affiliate may be subject), as such procedures and guidelines may be reasonably established by the Manager from time to time. Notwithstanding anything to the contrary in this Agreement, the Manager shall have the right to keep confidential from the Members and all other Persons, for such period of time as the Manager deems reasonable, any information that the Manager reasonably believes to be in the nature of trade secrets or other information the disclosure of which the Manager in good

faith believes is not in the best interests of the Company or could damage the Company or its business, or which the Company is required by law, security classification or by agreement with a third party to keep confidential.

Section 6.11. *Books and Records.* The Company shall keep appropriate books and records pertaining to the business of the Company. The books and records of the Company shall be kept at the principal office of the Company or at such other place, within or without the State of New Jersey, as the Manager shall reasonably from time to time determine. Such books and records shall be maintained by the Manager for a period of five (5) years after the final dissolution of the Company.

Section 6.12. *Determination by Manager.* Unless otherwise provided in the Agreement, all matters concerning (a) the determination of the relative amount of allocations and distributions among the Members pursuant to Article 3 and Article 4, and (b) accounting procedures and determinations, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be reasonably determined by the Manager in good faith.

Section 6.13. *Fiscal Year.* The fiscal year of the Company shall begin on the first day of January and end on the last day of December each year or such other annual accounting period as may be established by the Manager as required under the Code (“**Fiscal Year**”).

ARTICLE 7 TRANSFER OF UNITS

Section 7.01. *General Restrictions on Transfers.*

(a) *General Prohibitions.* No Member may Transfer or permit the Transfer of any of its Units; *provided* that, subject to compliance with the remainder of this Article 7, such prohibition shall not apply to Transfers: (i) to Permitted Transferees in accordance with Section 7.06; (ii) in connection with a direct or indirect pledge or other grant of security interest in or to Units held by the Nokia Member in connection with any debt financing agreement of the Nokia Member or any Affiliate thereof including any Company Party provided that the Advisory Board must approve of such pledge or grant of security interest; (iii) by the NJEDA in accordance with Section 7.02; or (iv) by the Nokia Member in accordance with Section 7.04. The parties hereto acknowledge that the limitations on Transfers of Units set forth in this Article 7 are reasonable and are in addition to any restrictions otherwise set forth in this Agreement or imposed by applicable Law.

(b) *Joinder Requirements for Third-Party Transfers.* Any transferee of Units that is not already party to this Agreement shall be required, at the time of and as a condition to such Transfer, to become a party to this Agreement by executing and delivering a Joinder Agreement and such other documents as may be necessary, in the reasonable opinion of the Manager, to make such Person a party to this Agreement, whereupon such Transferee will be treated as a Member for all purposes of this Agreement;

provided that the foregoing shall not apply to any permitted pledge of Units by the Nokia Member unless and until the pledgee seeks to enforce such pledge and become a Member.

(c) *Invalid Transfers Null and Void.* Any purported Transfer of Units, other than in accordance with this Agreement, shall be null and void *ab initio*, and the Company shall refuse to recognize any such Transfer for any purpose and shall not reflect in its records any change in record ownership of Units pursuant to any such Transfer.

(d) *No Inconsistent Agreements or Proxies.* No Member shall grant any proxy or enter into or agree to be bound by any voting trust with respect to any Units or enter into any agreements or arrangements of any kind with any Person with respect to any Units inconsistent with the provisions of this Agreement, including agreements or arrangements with respect to the acquisition, disposition or voting (if applicable) of any Units.

(e) *Additional Statutory Limitations on Transfers.* No Member shall be entitled to Transfer any Units or any other rights under this Agreement (including to an Affiliate or other Permitted Transferee) at any time unless the Manager is reasonably satisfied that such Transfer would not:

(i) violate the Securities Act or any state (or other jurisdiction) securities or “Blue Sky” laws applicable to the Company or the Units;

(ii) cause the Company to become subject to the registration requirements of the Investment Companies Act;

(iii) cause the Company to become subject to the registration requirements of Section 12(g) of the Securities Act;

(iv) cause the Company to be treated as a “publicly traded partnership” within the meaning of Section 7704(b) of the Code and/or Treasury Regulation Section 1.7704-1; or

(v) be a nonexempt “prohibited transaction” under the Employee Retirement Income Security Act of 1974 or the Code or cause all or any portion of the assets of the Company to constitute “plan assets” under the Employee Retirement Income Security Act of 1974 or Section 4975 of the Code.

Section 7.02. *NJEDA Rights.* The NJEDA may, notwithstanding anything to the contrary, subject to the rights of the Nokia Member set forth in Section 7.03 and Section 7.05, Transfer all of its Units to a third party if the Company or the Nokia Member is adjudicated by a court of competent jurisdiction to not be in compliance with any of its obligations pursuant to the Side Letter and Section 12.01, Section 12.02, Section 12.03, or Section 12.04.

Section 7.03. *Nokia Member Right of First Refusal.*

(a) *Grant.* Subject to the terms of Section 7.02 and this Section 7.03, the NJEDA hereby unconditionally and irrevocably grants to the Nokia Member a right of first refusal (a “**Right of First Refusal**”) to purchase all or any portion of the Units that the NJEDA may propose to Transfer (a “**Proposed NJEDA Transfer**”), at the same price and on the same terms and conditions as those offered to the proposed transferee (the “**Proposed NJEDA Transferee**”).

(b) *Notice.* The NJEDA must immediately, and not later than ninety (90) days prior to the proposed date of consummation of such Proposed NJEDA Transfer, deliver a notice (an “**ROFR Notice**”) to the Nokia Member of any Proposed NJEDA Transfer. Such ROFR Notice shall contain the material terms and conditions (including price, number of Units to be sold, and form of consideration) of the Proposed NJEDA Transfer, the identity of the Proposed NJEDA Transferee and the intended date of the Proposed NJEDA Transfer. The Nokia Member shall, no later than forty-five (45) days after delivery of the ROFR Notice, deliver a notice to the NJEDA of its intent to exercise its Right of First Refusal under this Section 7.03, specifying the number of Units to be purchased by the Nokia Member. If no such notice is delivered, the Nokia Member will be deemed to have forfeited the right to purchase any such Units.

(c) *Forfeiture of Rights.* If the total number of Units that the Nokia Member has agreed to purchase is less than the total number of Units the NJEDA proposes to sell in the Proposed NJEDA Transfer, then the Nokia Member shall be deemed to have forfeited any right to purchase such additional Units, and the NJEDA shall be free, subject to Section 7.02, to sell all, but not less than all, of such additional Units to the Proposed NJEDA Transferee set forth in the ROFR Notice on terms and conditions substantially similar to (and in no event more favorable than) the terms and conditions set forth in the ROFR Notice, it being understood and agreed that: (i) any such sale or transfer shall be subject to the other terms and restrictions of this Agreement; (ii) any future Proposed NJEDA Transfer shall remain subject to the terms and conditions of this Agreement; and (iii) such sale shall be consummated within one hundred twenty (120) days after receipt of the ROFR Notice by the Nokia Member and, if such sale is not consummated within such one hundred twenty (120) day period, such sale shall again become subject to the Right of First Refusal on the terms set forth herein.

(d) *Consideration; Closing.* If the consideration proposed to be paid for the Units is in property, services or other non-cash consideration, the Fair Market Value of the consideration shall be as reasonably agreed between the Nokia Member and the NJEDA Member. If the Nokia Member cannot for any reason pay for the Units in the same form of non-cash consideration, the Nokia Member may pay the cash value equivalent thereof, as reasonably determined in good faith by the Manager. The closing of the purchase of Units by the Nokia Member shall take place, and all payments from the Nokia Member shall have been delivered to the NJEDA, by the later of (i) the date specified in the ROFR Notice as the intended date of the Proposed NJEDA Transfer; and (ii) ninety (90) days after delivery of ROFR Notice.

Section 7.04. *Nokia Member Transfer.* The Nokia Member shall, subject to the NJEDA's Tag-Along Right as set forth in Section 7.05, be permitted to Transfer all or any portion of the Units held by such Nokia Member to a third party only with the consent of the NJEDA and further provided the proposed Transferee (x) is not in violation of the NJEDA's debarment and disqualification rules, (y) is in "substantial good standing" with the New Jersey Department of Environmental Protection, the New Jersey Department of Labor and Workforce Development and the New Jersey Department of Treasury and (z) satisfies all compliance requirements applicable to such proposed Transferee as set forth in Section 12.01, Section 12.02, Section 12.03 and Section 12.04.

Section 7.05. *Tag-Along Rights.* (a) If, after first complying with the other applicable provisions of this Article 7, either the Nokia Member, NJEDA or any Permitted Transferee thereof (each, as applicable, the "**Tag-Along Seller**") proposes to Transfer, in a single transaction or a series of transactions, Units then held by such Tag-Along Seller (a "**Tag-Along Sale**"), the Tag-Along Seller shall provide the other Member (provided the Member holds Units at the time of such proposed Tag-Along Sale) written notice of the terms and conditions of such proposed Transfer (the "**Tag-Along Notice**") and offer the other Member the opportunity to participate in such Transfer in accordance with this Section 7.05 (the "**Tag-Along Offer**").

(b) The Tag-Along Notice shall identify the number of Units proposed to be sold by the Tag-Along Seller, the form and amount of per Unit consideration for which the Transfer is proposed to be made, and all other material terms and conditions of the Tag-Along Offer, including the form of the proposed agreement, if any.

(c) The Member receiving the Tag-Along Offer (referred to in this Section 7.05 as a "**Tagging Person**") shall have the right (a "**Tag-Along Right**"), exercisable by written notice (a "**Tag-Along Response Notice**") given to the Tag-Along Seller within sixty (60) days after its receipt of the Tag-Along Notice (the "**Tag-Along Notice Period**"), to request that the Tag-Along Seller include in the proposed Transfer up to a number of Units representing such Tagging Person's Tag-Along Portion; *provided* that each Tagging Person shall be entitled to include in the Tag-Along Sale no more than its Tag-Along Portion of Units and the Tag-Along Seller shall be entitled to include the number of Units proposed to be Transferred by the Tag-Along Seller as set forth in the Tag-Along Notice (reduced, to the extent necessary, so that the Tagging Person shall be able to include its Tag-Along Portion); *provided, further*, that (x) for the avoidance of doubt, the Tag-Along Seller and the Tagging Person shall receive the same amount and type of consideration for each Unit (*provided* that, with respect to this clause (x), if any securities are part of the consideration payable to the Members, each Member that is not an "accredited investor" as such term is defined under the Securities Act may, in the discretion of the Manager, receive, and hereby agrees to accept, in lieu of such securities, cash consideration with an equivalent value to such securities as determined by the Manager) and (y) in any Tag-Along Sale that is a Change of Control, the fact that any Member may obtain the right, or be subject to the obligation, to make a debt or equity investment in a purchaser or one of its Affiliates (whether directly or through a contribution of Units or other Equity Securities) shall not constitute a failure to satisfy any of the conditions set forth in this Section 7.05). Each Tag-Along Response Notice shall include wire transfer or other instructions for payment of the

consideration for the Units being transferred in such Tag-Along Sale. The Tagging Person shall also deliver to the Tag-Along Seller, together with its Tag-Along Response Notice, the certificates or other applicable instruments, if any, representing the Units of such Tagging Person to be included in the Tag-Along Sale, together with a notarized, limited power-of-attorney authorizing the Tag-Along Seller or its representative to Transfer such Units on the terms set forth in the Tag-Along Notice. Delivery of the Tag-Along Response Notice with such certificates, if any, and limited power-of-attorney shall constitute an irrevocable acceptance of the Tag-Along Offer by the Tagging Person, subject to the provisions of this Section 7.05. If, at the termination of the Tag-Along Notice Period, the Tagging Person shall not have elected to participate in the Tag-Along Sale, or shall have elected to participate in the Tag-Along Sale to a lesser extent than its Tag-Along Portion, such Member shall be deemed to have waived its rights under this Section 7.05 with respect to the Transfer of its Units (or the Transfer of its Units for the portion of its Tag-Along Portion for which it did not elect to participate) pursuant to such Tag-Along Sale.

(d) If at the end of a 60-day period after delivery of such Tag-Along Notice (which 60-day period shall be extended if any of the transactions contemplated by the Tag-Along Offer are subject to regulatory approval and such regulatory approval is required by the binding, definitive agreement entered into to give effect to such transactions until the expiration of five Business Days after all such approvals have been received, but in no event later than 270 days following receipt of the Tag-Along Notice by the Tag-Along Seller), the Tag-Along Seller has not completed the Transfer of all Units proposed to be sold by the Tag-Along Seller and the Tagging Person at the same price and on substantially the same other terms and conditions in the aggregate as set forth in the Tag-Along Notice, the Tag-Along Seller shall (i) return to the Tagging Person the limited power-of-attorney and all certificates and other applicable instruments, if any, representing the Units that such Tagging Person delivered for Transfer pursuant to this Section 7.05 and any other documents in the possession of the Tag-Along Seller executed by the Tagging Persons in connection with the proposed Tag-Along Sale, and (ii) all the restrictions on Transfer contained in this Agreement or otherwise applicable at such time with respect to such Units shall continue in effect.

(e) Promptly after the consummation of the Tag-Along Sale, the Tag-Along Seller shall (i) notify the Tagging Person thereof, (ii) remit to the Tagging Person the total consideration for the Units of the Tagging Persons Transferred pursuant thereto *less* the Tagging Persons' pro rata portion of any escrows, holdbacks or adjustments in purchase price and any transaction expenses (in each case as determined in accordance with the aggregate purchase price to be received by the Tag-Along Seller in such Tag-Along Sale), with the cash portion of the purchase price paid by wire transfer of immediately available funds in accordance with the wire transfer instructions in the applicable Tag-Along Response Notices and (iii) furnish such other evidence of the completion and the date of completion of such transfer and the terms thereof as may be reasonably requested by the Tagging Person. The Tag-Along Seller shall promptly remit to the Tagging Person any additional consideration payable upon the release of any escrows, holdbacks or adjustments in purchase price.

(f) Notwithstanding anything contained in this Section 7.05, there shall be no liability on the part of the Tag-Along Seller to the Tagging Person (other than the obligation to return any certificates evidencing Units and limited powers-of-attorney received by the Tag-Along Seller) or any other Person hereunder if the Transfer of Units pursuant to this Section 7.05 is not consummated for whatever reason. Whether to effect a Transfer of Units pursuant to this Section 7.05 by the Tag-Along Seller is in the sole discretion of the Tag-Along Seller.

(g) The Tagging Person shall reasonably cooperate in good faith with the Tag-Along Seller in connection with any Tag-Along Sale. The Members acknowledge and agree that the transfer documents required to be executed by the Tagging Persons in connection with a Tag-Along Sale are expected to provide customary representations, warranties, indemnities, and escrow arrangements relating to such Tag-Along Sale, including customary representations and warranties that (i) such Member holds all right, title and interest in and to the Units that such Member purports to hold, free and clear of all Encumbrances, (ii) the obligations of such Member in connection with the transaction have been duly authorized, if applicable, (iii) the documents to be entered into by such Member have been duly executed by such Member and delivered to the acquiror and are enforceable against such Member in accordance with their respective terms and (iv) neither the execution and delivery of documents to be entered into in connection with the transaction, nor the performance of such Member's obligations thereunder, will cause a breach or violation of the terms of any agreement to which it is a party, law or judgment, order or decree of any court or Governmental Authority applicable to such Member.

(h) In connection with any such Tag-Along Sale, if required by the Tag-Along Seller, the Tagging Person shall agree to become party to the agreement between the Tag-Along Seller and the buyer, which agreement shall be in form and substance as agreed by the Tag-Along Seller, and pursuant to which each of the Tag-Along Seller and the Tagging Person shall each (i) make his, her or its customary representations and warranties contained therein; and (ii) be obligated to join in his, her or its share (based on such Member's proportionate share of the proceeds of such Tag-Along Sale) of any indemnification or other obligations that the Tag-Along Seller agrees to provide in connection with such Transfer (other than any such obligations that relate specifically to a particular Member such as indemnification with respect to representations and warranties given by a Member regarding such Member's title to and ownership of Units); *provided*, that for the avoidance of doubt, the Tagging Seller's liability in respect of any such indemnification claim (other than any such obligations that relate specifically to the Tagging Seller such as indemnification with respect to representations and warranties given by the Tagging Seller regarding such Tagging Seller's title to and ownership of Units except in the case of fraud or willful breach by such Tagging Seller) shall be limited to such Tagging Seller's proportionate share of the aggregate cash proceeds derived from the Tag-Along Sale, and shall in no event (except in the case of fraud or willful breach by such Tagging Seller) exceed the aggregate cash proceeds derived by such Tagging Seller from the Tag-Along Sale. A Tagging Seller's obligation to provide indemnification shall not exceed his, her or its aggregate cash proceeds derived from the Tag-Along Sale. Notwithstanding anything to the contrary herein, the representations and warranties to be made by each of the Members that are Tagging Sellers in connection with a Tag-Along

Sale shall be limited to representations and warranties related to authority, ownership and the ability to convey title to such Units, including but not limited to representations and warranties that (i) such Member holds all right, title and interest in and to the Units such Member purports to hold, free and clear of all liens and encumbrances, (ii) the obligations of such Member in connection with the transaction have been duly authorized, if applicable, (iii) the documents to be entered into by such Member have been duly executed by such Member and delivered to the acquirer and are enforceable against such Member in accordance with their respective terms and (iv) neither the execution and delivery of documents to be entered into in connection with the transaction, nor the performance of such Member's obligations thereunder, will cause a breach or violation of the terms of any agreement to which it is a party, law or judgment, order or decree of any court or governmental agency.

(i) The provisions of this Section 7.05 shall not apply to any proposed Transfer of Units by the Tag-Along Seller to a Permitted Transferee.

Section 7.06. *Permitted Transferees.* Subject to Section 7.01, any Member may at any time Transfer any or all of its Units to a Permitted Transferee without the consent of any Person, so long as such Permitted Transferee (if not already a party to this Agreement) shall have agreed in writing to be bound by the terms of this Agreement by executing a counterpart hereto. Such Member must give prior written notice to the Company and the other Member(s) of any proposed Transfer to a Permitted Transferee, together with a copy of an agreement to be bound by the terms and conditions hereof duly executed by such Permitted Transferee.

Section 7.07. *Liability for Transfer Expenses.* Subject to Section 7.05 hereof, any Member that proposes to Transfer Units in accordance with the terms and conditions hereof shall be responsible for any expenses incurred by any Company Party in connection with such Transfer.

Section 7.08. *NJEDA Member Put Right.* Subject to the terms and conditions of this Section 7.08, if the Licensed Space is not fully completed and ready to be used with a TCO secured for the purposes of the Project on or before December 31, 2029, the NJEDA Member will have the right (the "**Put Right**"), but not the obligation, to cause the Nokia Member to purchase all (but not less than all) of the NJEDA Member's Units for a price equal to the cumulative Capital Contributions made by the NJEDA Member up to that date (the "**Put Purchase Price**"). As a condition to the Nokia Member's obligation to purchase the NJEDA Member's Units, all of the NJEDA Member's Units shall be delivered to the Company free and clear of all encumbrances and liens. The NJEDA Member shall exercise the Put Right by delivering written notice to the Nokia Member. The closing on the sale and purchase of the NJEDA Member's Units shall occur within thirty (30) days following the delivery of the Exercise Notice through wire transfer by the Nokia Member of the Put Purchase Price in immediately available funds to the account notified in writing by the NJEDA Member to the Nokia Member.

ARTICLE 8

ADMISSION OF SUBSTITUTED AND ADDITIONAL MEMBERS

Section 8.01. *Substituted Member.* In connection with the Transfer of Units of a Member (the “**Transferor**”) permitted under the terms of this Agreement and the other agreements contemplated hereby, the Transferee shall become a Substituted Member on the later of (a) the effective date of such Transfer, and (b) the date on which the Advisory Board approves such Transferee as a Substituted Member, and such admission shall be shown on the books and records of the Company; *provided, however*, in connection with the Transfer of Units of a Member to a Permitted Transferee permitted under the terms of this Agreement and the other agreements contemplated hereby, the Transferee shall become a Substituted Member on the effective date of such Transfer; *provided* that no Transferee shall become a Substituted Member until such Transferee furnishes to the Company (i) a letter of acceptance, in form satisfactory to the Manager, of all the terms and conditions of this Agreement, including the power of attorney granted in Section 13.02, and (ii) such other documents or instruments as may be deemed necessary or appropriate by the Manager to effect such Person’s admission as a Member.

Section 8.02. *Additional Members.* A Person may be admitted to the Company as an Additional Member only as contemplated under Section 3.01 and only upon furnishing to the Company (a) a letter of acceptance, in form satisfactory to the Manager, of all the terms and conditions of this Agreement, including the power of attorney granted in Section 13.02, and (b) such other documents or instruments as may be deemed necessary or appropriate by the Manager to effect such Person’s admission as a Member. Such admission shall become effective on the date on which the Manager determines that such conditions have been satisfied and when any such admission is shown on the books and records of the Company.

ARTICLE 9 WITHDRAWAL AND RESIGNATION OF MEMBERS

No Member shall have the power or right to withdraw or otherwise resign from the Company prior to the dissolution and winding up of the Company pursuant to Article 10, without the prior written consent of the Advisory Board and Manager, except as otherwise expressly permitted by this Agreement. Upon a Transfer of all of a Member’s Units in a Transfer permitted by this Agreement, such Member shall cease to be a Member. Notwithstanding that payment on account of a withdrawal may be made after the effective time of such withdrawal, any completely withdrawing Member will not be considered a Member for any purpose after the effective time of such complete withdrawal, and, in the case of a partial withdrawal, such Member’s Capital Account (and corresponding voting and other rights) shall be reduced for all other purposes hereunder upon the effective time of such partial withdrawal.

ARTICLE 10 DISSOLUTION AND LIQUIDATION

Section 10.01. *Dissolution.* The Company shall not be dissolved by the admission of Additional Members or Substituted Members. The Company shall dissolve and its affairs shall be wound up upon the first of the following to occur:

(a) liquidation and the affirmative vote of the Advisory Board approving such dissolution; and

(b) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act.

Except as otherwise set forth in this Article 10, the Company is intended to have perpetual existence. The death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member, or the occurrence of any other event that terminates the continued membership of a Member in the Company, shall not cause a dissolution of the Company, and the Company shall continue in existence subject to the terms and conditions of this Agreement.

Section 10.02. *Liquidation and Termination.* On the dissolution of the Company, the Manager shall act as liquidator or may appoint one or more representatives, Members or other Persons as liquidator(s). The liquidators shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne by the Company as an expense. Until final distribution the liquidators shall continue to operate the Company's properties with all of the power and authority of the Manager. The steps to be accomplished by the liquidators are as follows:

(a) First, the liquidators shall pay, satisfy or discharge from the Company's funds all of the debts, liabilities and obligations of the Company (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidators may reasonably determine); and

(b) Second, the liquidators shall distribute all remaining asset to the Members consistent with Section 4.01.

In making such distributions, the liquidators shall allocate each type of asset (i.e., cash or cash equivalents, equity securities, etc.) among the Members ratably based upon the aggregate amounts to be distributed with respect to the Units held by each such Member.

The distribution of cash or property to a Member in accordance with the provisions of this Section 10.02 shall constitute a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its interest in the Company and all of the Company's property and constitutes a compromise to which all Members have consented within the meaning of the Act. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

Section 10.03. *Cancellation of Certificate.* On completion of the distribution of the Company's assets as provided herein, the Company is terminated (and the Company shall not be terminated prior to such time), and the Manager (or such other Person or Persons as the Act may require or permit) shall file a certificate of cancellation with the New Jersey Department of Treasury, Division of Revenue and Enterprise Services, cancel any other filings made pursuant to this Agreement that are or should be canceled and take such other actions as may be necessary to terminate the Company. The Company shall be deemed to

continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 10.03.

Section 10.04. Reasonable Time for Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 10.02 in order to minimize any losses otherwise attendant upon such winding up.

Section 10.05. Return of Capital. The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Members (it being understood that any such return shall be made solely from the Company's assets).

Section 10.06. No Action for Dissolution. The Members acknowledge that irreparable damage would be done to the goodwill and reputation of the Company if any Member should bring an action in court to dissolve the Company under circumstances where dissolution is not required by Section 10.01. This Agreement has been drawn carefully to provide fair treatment of all parties and equitable payment in liquidation of the Units of all Members. Accordingly, except where the Manager has failed to liquidate the Company as required by Section 10.02, each Member hereby irrevocably waives and renounces its right to initiate legal action to seek dissolution or to seek the appointment of a receiver or trustee to liquidate the Company.

ARTICLE 11 TAX MATTERS

Section 11.01. Partnership Tax Audit Rules. The Nokia Member shall appoint the "partnership representative" as defined in Section 6223 of the Partnership Tax Audit Rules (the "**Partnership Representative**"), the "designated individual" for purposes of the Bipartisan Budget Act (the "**Designated Individual**") and other person having similar rights, powers, authority or obligations for any tax purpose.

If for any reason the Company is liable for a tax (including imputed underpayments), interest, addition to tax or penalty as a result of any audit (including state and local audits), each Person who was a Member during the taxable year of the Company that was audited, even if such Person is no longer a Member, including as a result of a transfer of such Member's interest (unless a transferee Member has agreed to bear such liability in an appropriate document evidencing a transfer), shall pay to the Company an amount equal to such Person's proportionate share of such liability (and any expenses incurred by the Company in adjudicating or otherwise resolving such liability), as determined in good faith by the Partnership Representative, based on the amount each such Person should have borne (computed at the tax rate used to compute the Company's liability) had the Company's tax return for such taxable year reflected the audit adjustment, and the expense for the Company's payment, adjudication or other resolution of such tax, interest, addition to tax and penalty shall be specially allocated to such Persons (or their successors) in such proportions. If the Partnership Representative causes the Company to duly and timely make an election under Section 6226 of the Code and the Treasury Regulations promulgated thereunder, each Person who was a Member during any taxable year of the

Company that was audited will be required to personally bear any tax, interest and penalty resulting from adjustments based on such audit and, if such an election is made, the Partnership Representative shall notify each such Person (and the Internal Revenue Service) of their share of such audit adjustments.

Each Member agrees to (i) cooperate with the Partnership Representative, (ii) provide tax and other information reasonably requested by the Partnership Representative, (iii) execute, certify, acknowledge and deliver such documents and certifications as may be reasonably requested by the Partnership Representative, (iv) do or refrain from doing any or all things reasonably requested by a Partnership Representative in connection with any tax proceeding (including any audit, examination or investigation) of the Company, (v) keep the Partnership Representative informed of each material development with respect to any tax matter relating to or affecting the Company and make related documents available to the Partnership Representative before submission to any taxing authority or court, (vi) take any action reasonably requested by the Partnership Representative (or refrain from taking action so requested) in order to satisfy any requirement under the Partnership Tax Audit Rules, including taking into account any allocation or adjustment of taxes, interest and penalties determined by the Partnership Representative under the Partnership Tax Audit Rules, including in each case in connection with (x) a modification of any proposed “imputed underpayment” under the Partnership Tax Audit Rules (including the “pull-in” procedure), (y) an election under Section 6226 of the Code, or (z) any other action taken by a Partnership Representative.

The Company shall indemnify and reimburse the Partnership Representative, Designated Individual and other similar person for all expenses, including legal and accounting fees, claims, liabilities, losses and damages incurred by it, in such capacity, including in connection with any administrative or judicial proceeding with respect to the tax liability of the Company or the Members.

This Section 11.01 shall survive a Member’s withdrawal from the Company and the liquidation of the Company.

Section 11.02. *Tax Matters.* The Partnership Representative shall have the authority to make any and all elections under the Code or any state or local tax law (except as otherwise provided herein), including pursuant to Sections 734(b), 743(b), and 754 of the Code, provided that the Partnership Representative shall not cause the Company to make an election to be treated as other than a partnership for United States federal income tax purposes.

Section 11.03. *Tax Returns.*

(a) The Company shall timely cause to be prepared all U.S. federal, state, local and foreign tax returns (including information returns) of the Company and shall cause such returns to be timely filed. The Company shall use commercially reasonable efforts to furnish to each Member, within 90 days after the close of each taxable year of the Company, a Schedule K-1 and any other information that such Member may reasonably require for the preparation of its U.S. federal and state income tax returns. Prior

to filing any IRS Form 1065, the Company shall provide the Nokia Member with a draft of such IRS Form 1065 and reflect any reasonable comments made by the Nokia Member.

(b) Each Member agrees not to, except as otherwise required by applicable law or regulatory requirements, (i) treat, on such Member's individual income tax returns, any item of income, gain, loss, deduction or credit relating to such Member's interest in the Company in a manner inconsistent with the treatment of such item by the Company as reflected on the Schedule K-1 or other information statement furnished by the Company to such for use in preparing such Member's income tax returns or (ii) file any claim for refund relating to any such item based on, or which would result in, such inconsistent treatment. In respect of an income tax audit of any tax return of the Company, the filing of any amended return or claim for refund in connection with any item of income, gain, loss, deduction or credit reflected on any tax return of the Company, or any administrative or judicial proceedings arising out of or in connection with any such audit, amended return, claim for refund or denial of such claim, (A) the Partnership Representative shall be authorized to act for, and its decision shall be final and binding upon, the Company and all Members, (B) all expenses incurred by the Partnership Representative or Designated Individual in connection therewith (including attorneys', accountants' and other experts' fees and disbursements) shall be expenses of, and payable by, the Company and (C) no Member shall have the right to (1) participate in the audit of any Company tax return, or (2) participate in any administrative or judicial proceedings conducted by the Company arising out of or in connection with any such audit.

(c) *Partnership Status.* At all times during which the Company has two or more Members, the Company shall be treated as a partnership (other than a publicly traded partnership) for U.S. federal, state and local tax purposes, and each Member shall take such actions and make such elections (or refrain from taking any actions or elections) as may be necessary to achieve the foregoing.

ARTICLE 12 CERTAIN COVENANTS

Section 12.01. *Compliance.* The Nokia Member, by itself, as Manager and on behalf of the Company, agrees to, in connection with the performance of the obligations contemplated by the Project Agreements: (a) comply with all applicable Laws; (b) obtain and comply with all legally required licenses and permits, etc.; and (c) secure and maintain Workers' Compensation and Disability insurance and comply with all New Jersey Laws regarding the same.

Section 12.02. *Prevailing Wages and Affirmative Action.* In performing, requiring, or paying in whole or in part for, any work for the Project under a construction contract, as that term is defined N.J.A.C. 19:30-3.1 and -4.1, or in performing, requiring, or paying in whole or in part for, any cleaning or building maintenance related to the Project, including sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing or maintenance of the Project, the Company shall cause its contractors and subcontractors to comply, with all applicable prevailing wage requirements (including, but

not limited to, N.J.S.A. 34:11-56.25 et seq., N.J.S.A. 34:1B-5.1, N.J.A.C. 19:30-4.1 et seq., and N.J.S.A. 34:11-56.48) and affirmative action requirements (including, but not limited to, N.J.S.A. 34:1B-5.4 and N.J.A.C. 19:30-3.1 et seq.), which requires, among other things, including mandatory language from the NJEDA in the construction contracts and subcontracts. Further, the Company, and its contractors, subcontractors shall comply with the provisions of the Public Works Contractor Registration Act (“PWCRA”), N.J.S.A. 34:11-56.48 et seq., where applicable, including, but not limited to, the requirement that all contractors, subcontractors and lower tier subcontractors who bid on or engage in any contract for “public work” as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development.

Section 12.03. *Non-Discrimination.* The Nokia Member, by itself and on behalf of the Company, agrees to comply, and to require its contractors and subcontractors to comply with the following: (a) Laws and executive orders prohibiting discrimination, including, but not limited to, Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and their state Law counterparts; (b) the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a) (for construction contractors, 41 CFR §60-4.3(a)); (c) non-discrimination of qualified individuals based on their status as protected veterans or individuals with disabilities and does not discriminate against individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or any other characteristic protected by Law; (d) affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status, or disability and (e) the provisions of 29 CFR Part 471, Appendix A to subpart a, as applicable. Such compliance with this paragraph shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Section 12.04. *Conflict of Interest.*

(a) The Nokia Member, by itself and on behalf of the Company, hereby agrees to abide by the prohibitions contained in this Section 12.04 on activities between the Nokia Member, by itself and on behalf of the Company, and any State officer or employee or special State officer or employee as defined by N.J.S.A. 52:13D-13(b) and (e) (“**State Employee**”). Any violation of these prohibitions by the Nokia Member shall render the Nokia Member liable to debarment in the public interest, pursuant to the procedures established by Executive Order No. 34 (1976), Executive Order No. 189 (1988), and NJEDA debarment rules at N.J.A.C. 19:30-2.1 et seq., as amended and supplemented.

(b) The Nokia Member, by itself and on behalf of the Company, hereby warrants that it has not paid and shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State Employee with which the Nokia Member, by itself or on behalf of the Company, transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13(i), of any such State Employee, or

any Person with which they are employed or associated, or in which such State Employee has an interest within the meaning of N.J.S.A. 52:13D-13(g).

(c) The Nokia Member, by itself and on behalf of the Company, hereby warrants that the solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State Employee from the Nokia Member or the Company shall be reported in writing forthwith by the Nokia Member to the Attorney General of the State of New Jersey and the New Jersey State Ethics Commission.

(d) The Nokia Member, by itself and on behalf of the Company, hereby warrants that it shall not undertake directly or indirectly any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, expressed or implied, or sell any interest in the Nokia Member to any State Employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any Person with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13(g). The Nokia Member, by itself and on behalf of the Company, hereby warrants that any relationships subject to this provision shall be reported in writing forthwith to the New Jersey State Ethics Commission, which may grant a waiver of this restriction upon application of the State Employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

(e) The Nokia Member, by itself and on behalf of the Company, hereby warrants that it shall not influence, or attempt to influence or cause to be influenced, any State Employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said State Employee.

Section 12.05. State Record Keeping.

(a) The Nokia Member, by itself and on behalf of the Company, shall maintain all documentation related to products, transactions or services under this Agreement for a period of five (5) years from the date of dissolution of the Company. Such records shall be made available to the NJEDA and the New Jersey Office of the State Comptroller upon request. Furthermore, the Nokia Member acknowledges that relevant records of Persons entering into contracts with NJEDA are subject to audit or review by the Office of the State Comptroller pursuant to N.J.S.A. 52:15C-14(d).

(b) NJEDA and the State of New Jersey reserve the right to audit the records of the Nokia Member in connection with all matters related to this Agreement and of the Company. The Nokia Member, by itself and on behalf of the Company, agrees to maintain records in accordance with GAAP, for period of not less than five (5) years after the date of dissolution of the Company.

Section 12.06. Confidentiality.

(a) Each Member acknowledges that during the term of this Agreement, it may have access to and become acquainted with trade secrets, proprietary information and confidential information belonging to the Company and its Affiliates, or the Members and their Affiliates, that are not generally known to the public, including, but not limited to, information concerning business plans, financial statements and other information provided pursuant to this Agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists or other business documents that the Company or Member, as applicable, treats as confidential, in any format whatsoever (including oral, written, electronic or any other form or medium) (collectively, "**Confidential Information**"). In addition, each Member acknowledges that: (i) the Company and Members have invested, and continue to invest, substantial time, expense and specialized knowledge in developing its Confidential Information; (ii) the Confidential Information provides a competitive advantage over others in the marketplace; and (iii) the Company or Member, as applicable, would be irreparably harmed if the Confidential Information were disclosed to competitors or made available to the public. Without limiting the applicability of any other agreement to which any Member is subject, no Member shall, directly or indirectly, (a) disclose Confidential Information to third-parties or (b) other than for the benefit of the Project, use, including use for personal, commercial or proprietary advantage or profit, any Confidential Information of which such Member is or becomes aware. Each Member in possession of Confidential Information shall take all appropriate steps to safeguard such information and to protect it against disclosure, misuse, espionage, loss and theft.

(b) Nothing contained in this Section 12.06 shall prevent any Member from disclosing Confidential Information: (i) upon the order of any court or administrative agency; (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Member; (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests; (iv) to the extent necessary in connection with the exercise of any remedy hereunder; (v) to the other Member; (vi) to such Member's directors, officers, employees, consultants, financial advisors, counsel, accounts, and other agents (collectively, "**Representatives**") who, in the reasonable judgment of such Member, need to know such Confidential Information and who are notified of the obligations of confidentiality in this Agreement; (vii) to any potential Permitted Transferee in connection with a proposed Transfer of Units from such Member, as long as such Transferee agrees to be bound by the provisions of this Section 12.06 as if a Member or (viii) as permitted by the Side Letter; provided, that in the case of clause (i), (ii) or (iii), such Member shall notify the Company and other Member of the proposed disclosure as far in advance of such disclosure as practicable (but in no event make any such disclosure before notifying the Company and other Member) and use commercially reasonable efforts to ensure that any Confidential Information so disclosed is accorded confidential treatment satisfactory to the Company, when and if available.

(c) The restrictions of this Section 12.06 shall not apply to Confidential Information that: (i) is or becomes generally available to the public other than as a result of a disclosure by a Member in violation of this Agreement; (ii) is or has been independently developed or conceived by such Member without use of Confidential Information; or (iii) becomes available to such Member or any of its Representatives on a

non-confidential basis from a source other than the Company, the other Member or any of their respective Representatives; provided, that such source is not known by the receiving Member to be bound by a confidentiality agreement regarding the Company.

(d) The obligations of each Member under this Section 12.06 shall survive (i) the termination, dissolution, liquidation and winding up of the Company, (ii) the withdrawal of such Member from the Company, and (iii) such Member's Transfer of its Units.

(e) Notwithstanding this Section 12.06, each Member acknowledges that this Agreement is subject to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1.1 et seq., and any review and approval by the NJEDA Board shall be in a public meeting pursuant to the Open Public Meetings Act (OPMA), N.J.S.A. 10:4-6 et seq.

Section 12.07. Member Representatives. The Nokia Member shall appoint a representative (the "**Nokia Member Representative**"), who shall initially be [Severine Siebert] and the NJEDA shall appoint a representative (the "**NJEDA Representative**"), who shall initially be Tim Sullivan. The Nokia Member Representative and the NJEDA Representative shall be its respective Member's primary point of contact with respect to matters related to this Agreement and with respect to any services to be provided by the Nokia Member to the Company pursuant to the IC Services Agreement or otherwise. The Nokia Member Representative and NJEDA Representative shall meet at such places and at such times as such parties may agree from time to time, *provided* that, from the time of issuance of the C/O until the time at which the NJEDA ceases to be a Member, such parties shall meet at least quarterly. The Nokia Member may replace the Nokia Member Representative, and the NJEDA may replace the NJEDA Representative, in each case upon written notice to the other Member.

Section 12.08. Insurance. The Nokia Member will procure and maintain, or cause to be procured and maintained, on behalf of the Company, standard commercial general liability, commercial auto liability, workers compensation, umbrella/excess liability (if applicable), professional liability (if applicable) and other necessary insurances in amounts as reasonably determined by the Manager; provided, however that the minimum insurance requirements as set forth on Schedule F attached hereto must be satisfied. Notwithstanding the foregoing, the Nokia Member may satisfy its insurance obligations hereunder utilizing existing and/or new policies maintained or obtained by the Nokia Member, as applicable, so long as the Company is included as a named insured and the NJEDA or any other State Entity designated by the NJEDA shall all be named as an additional insured on such policies.

ARTICLE 13 MISCELLANEOUS

Section 13.01. Representations and Warranties. Each Member hereby represents and warrants to the Company and each other Member, and each Transferee of Units shall

be deemed to represent and warrant to the Company and each other Member, upon the Transfer of Units to such Transferee, that:

(a) such Member is acquiring the Units being acquired by it for investment and not with a view to distributing all or any part thereof in any transactions which would constitute a “distribution” within the meaning of the Securities Act;

(b) such Member acknowledges that the Units have not been registered under the Securities Act or any state securities Law, and the Company is under no obligation to file a registration statement with the Securities and Exchange Commission or any state securities commission with respect to the Units;

(c) such Member is able to bear the complete loss of his, her or its investment in the Units;

(d) such Member or entity is an “accredited investor” (as defined in Rule 501(a) of Regulation D promulgated under the Securities Act);

(e) such Member understands that the exemption from registration afforded by Rule 144 (the provisions of which are known to such person or entity) promulgated by the Securities and Exchange Commission under the Securities Act depends upon the satisfaction of various conditions, that such exemption is currently not available and that, if applicable, Rule 144 may in many instances afford the basis for sales only in limited amounts;

(f) such Member, in making his, her or its decision to invest in the Units, (i) has relied upon an independent investigation made by such Member and his, her or its representatives (including financial, tax and legal advisors) to the extent believed to be appropriate by such Member and (ii) has been given the opportunity to examine all documents and to ask questions of, and receive answers from, the Company and its representatives concerning the business of the Company and the terms and conditions of such Member’s purchase of his, her or its Units;

(g) such Member is duly authorized to join in this Agreement and the Person executing this Agreement on its behalf is duly authorized to do so;

(h) the execution, delivery and performance of this Agreement have been duly authorized by such Member and do not require such Member to obtain any consent or approval that has not been obtained and do not contravene or result in a default under any provision of any law or regulation applicable to such Member or other governing documents or any agreement or instrument to which such Member is a party or by which such Member is bound; and

(i) this Agreement is valid, binding and enforceable against such Member (including, in the case of a Member that is a trust, the trust property) in accordance with its terms.

Section 13.02. Power of Attorney. Each Member hereby constitutes and appoints the Manager and the liquidators, and their respective designees, with full power of substitution, as his, her or its true and lawful agent and attorney in fact, with full power and authority in his or its name, place and stead, solely to execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates and other instruments in accordance with the terms of this Agreement which the Manager deems appropriate or necessary to form, qualify, or continue the qualification of, the Company as a limited liability company in the State of New Jersey and in all other jurisdictions in which the Company may conduct business or own property; (b) all instruments which the Manager deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement effected in accordance with Section 13.03; and all conveyances and other instruments or documents which the Manager or the liquidators deems appropriate or necessary to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, including a certificate of cancellation; and (c) all instruments relating to the admission, withdrawal or substitution of any Member pursuant to Article 8 or Article 9. The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Member and the Transfer of all or any portion of his, her or its Units and shall extend to such Member's heirs, successors, assigns and personal representatives.

Section 13.03. Amendment; Waiver. Any provision of this Agreement or the Side Letter may at any time be amended, waived or supplemented by the Manager only with the approval of the Advisory Board pursuant to a written instrument making specific reference to this Agreement that identifies itself as an amendment, modification or supplement to this Agreement and that is executed by the Company and each Member. Notwithstanding the foregoing in this Section 13.03, the Manager, without the consent or approval of any Member, may amend any provision of this Agreement, and may execute, acknowledge, deliver, file and record all documents necessary or desirable in connection therewith, to reflect: (x) the admission, substitution, termination or withdrawal of any Member in accordance with the provisions of this Agreement or (y) any change that is (A) of an inconsequential nature and does not adversely affect any Member in any material respect, (B) necessary or desirable to cure any ambiguity or to correct or supplement any provisions of this Agreement so long as approved by the Advisory Board, (C) necessary to reflect the current number of Units held by each Member on Schedule A hereto, following any change to such items in accordance with the provisions of this Agreement and (D) any issuance of Units effected in accordance with this Agreement. Notwithstanding anything herein to the contrary, (x) if any such amendment, modification or waiver would adversely affect in any material respect the rights and obligations of any Member in a manner that is disproportionate relative to the other Members holding the same series or classes of Units held by such adversely affected Member, then such amendment, modification or waiver also shall require the written consent of such adversely affected Member, and (y) if any such amendment, modification or waiver would adversely affect in any material respect the rights and obligations of any series or class of Units in a manner that is disproportionate relative to the series or classes of Units held by the Nokia Member (or its Permitted Transferee) approving such amendment, modification or waiver, then such amendment, modification or waiver also shall require the written consent of the holders of a majority of

such series or class of Units so adversely affected. The Company shall provide written notice to the Members within ten (10) Business Days of any such amendment or restatement effected in accordance with this Section 13.03.

The parties hereto may not waive any provision of this Agreement, except pursuant to a written instrument signed by the party or parties hereto against whom enforcement of such waiver is sought. No action taken pursuant to this Agreement, including any investigation by or on behalf of any party hereto, constitutes a waiver by the party taking such action of compliance with any provision of this Agreement. The waiver by any party hereto of any provision of this Agreement is effective only in the instance and only for the purpose that it is given and does not operate and is not to be construed as a further or continuing waiver of such provision or as a waiver of any other provision. Any failure by any party at any time to enforce any of the provisions of this Agreement, or single or partial enforcement of any rights, powers or remedies conferred by this Agreement, shall not be construed a waiver of such provision or any other provisions hereof, or preclude any other or further exercise thereof.

The Manager and the Members agree that, to the extent that any provision of this Agreement conflicts with any provision of the Side Letter, the Side Letter shall supersede each such provision and all provisions of the Side Letter are controlling.

Section 13.04. Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally; the next Business Day if sent by email; three Business Days after sending if such notice is sent with a reputable international express courier service (using any delivery option reasonably believed to deliver such notice within three Business Days), with postage thereon prepaid, and in each case, addressed to such Member at the address set forth on Schedule A attached hereto or agreement to be bound hereby (or such other address as may be designated by such Member from time to time by written notice to the Company and the other Members).

Section 13.05. Binding Effect. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legatees, legal representatives, successors, permitted Transferees and permitted assigns.

Section 13.06. Creditors. None of the provisions of this Agreement shall be for the benefit of or enforced by any creditor of the Company or any Member.

Section 13.07. Remedies Cumulative. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at Law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

Section 13.08. *Headings.* Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

Section 13.09. *Severability.* Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

Section 13.10. *Incorporation by Reference.* Every schedule and exhibit attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

Section 13.11. *Further Action.* Each Member agrees to perform all further acts and execute, acknowledge and deliver any documents which may be reasonably necessary, appropriate or desirable to carry out the provisions of this Agreement.

Section 13.12. *Dispute Resolution.* (a) If either Member has a complaint, dispute or wishes to bring a claim (a “Dispute”) against the other Member, it shall first notify the other Member in writing of such Dispute in reasonable detail and both Members shall make good faith efforts to resolve such dispute through discussions between the Nokia Member Representative and the NJEDA Representative or other senior executive officers of each Member. If such discussions do not result in resolution within twenty (20) Business Days of the notice of such Dispute, the parties must first engage in non-binding mediation in accordance with Section 13.05(b) through (f).

(b) Non-Binding Mediation is intended to assist the Members in the resolution of Disputes under this Section 13.12(b). Within ten (10) Business Days of the end of the period set forth in Section 13.12(a), the Members shall select a Mediator by mutual agreement or, if agreement cannot be reached within such time period, the Members shall promptly request a list of five (5) names of mediators from the American Arbitration Association and select a Mediator from such list by mutual agreement within five (5) Business Days of receipt. Any Mediator selected by the Parties shall: (i) be an appropriately experienced and qualified professional; (ii) have no current or ongoing relationship with any Member; (iii) agree to provide a decision within ten (10) Business Days of the submission to the Mediator of the written statement of the Members’ respective positions; and (iv) be required to execute procurement and compliance forms and enter into a procurement agreement with the NJE in a form acceptable to the NJEDA in its sole discretion.

(c) Unless otherwise agreed by the Members, the Non-Binding Mediation shall be conducted in accordance with rules and procedures reasonably determined by the Mediator which such rules and procedures shall require that the Members submit to the Mediator, within ten (10) Business Days of the selection of the Mediator, their respective positions, in writing and that the Mediator shall render a decision within ten (10) Business Days of the submission of the written positions of the Members.

(d) Members shall each be responsible for: (A) their own costs to participate in the Non-Binding Mediation, including the costs for experts, attendees, graphics or otherwise; and (B) an equal share of the costs: (x) for the services of the Mediator; and (y) of any administrative services used for the Non-Binding Mediation, such as conference facilities

(e) No Mediator will have the authority to render a binding decision as to any Dispute or to impose a settlement upon the Members. The Members may reach a separate agreement in Non-Binding Mediation that will be final and binding on the Members, subject to any necessary approvals.

(f) For the avoidance of doubt: (A) the use of Non-Binding Mediation by the Members shall not be construed, in whole or in part, as a waiver, release or modification of any provisions of or requirements under the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (hereinafter, the "Contractual Liability Act"), including but not limited to N.J.S.A. 59:13-5; and (B) the use of Non-Binding Mediation shall be construed as or constitute a waiver by the Parties of any claim or defense otherwise available in any subsequent legal action, including any defense that any claim or part of a claim fails to comply with the notice provisions of the Contractual Liability Act.

Section 13.13. GOVERNING LAW AND CHOICE OF FORUM.

All matters relating to the interpretation, construction, validity and enforcement of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of New Jersey without giving effect to any choice or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdiction) that would cause the application of laws of any jurisdiction other than the State of New Jersey. the parties hereto acknowledge and agree that all tort claims against the NJEDA shall be governed by the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and all contract claims against NJEDA shall be governed by the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1.

Each of the parties submits to the exclusive jurisdiction of the Superior Court of the State of New Jersey, located in Mercer County, and any State appellate court therefrom within the State of New Jersey (or, if such Superior Court declines to accept jurisdiction over a particular matter, any state or federal court within the State of New Jersey) in any issue, claim, demand, action, cause or action, suit or proceeding arising out of, or relating to, this agreement, agrees that all claims in respect of the action or proceeding may be heard and determined in any such court (and the appropriate appellate courts therefrom in any such claim, action, suit or proceeding) and agrees not to bring any action or proceeding arising out of, or relating to, based on or in connection with this agreement in any other court. each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto. Each party agrees that service of summons and complaint or any other process that might be served in any action or proceeding may be made on such party by sending or delivering a copy of the process to the party to be served at the address of the party and in the manner provided for the giving of notices in Section 13.04. Nothing in this section, however, shall affect the right of any

party to serve legal process in any other manner permitted by law. Each party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law.

EACH MEMBER AND EACH PARTY HERETO WAIVES ITS RIGHT TO TRIAL OF ANY ISSUES BY A JURY. Notwithstanding the foregoing, the parties may apply to any court of competent jurisdiction (subject to Section 13.20) for preliminary or interim equitable relief without breach of this provision.

Section 13.14. WAIVER OF JURY TRIAL. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY IRREVOCABLY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION, CAUSE OF ACTION, SUIT OR PROCEEDING ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. EACH PARTY HERETO ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY THE OTHER PARTIES HERETO THAT THIS Section 13.144 CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH THEY ARE RELYING AND WILL RELY IN ENTERING INTO THIS AGREEMENT. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS Section 13.14 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

Section 13.15. Counterpart Execution. This Agreement may be executed and delivered in any number of counterparts, any one of which need not contain the signatures of all the parties hereto, with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Any signed counterpart may be delivered by electronic transmission (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) with the same legal force and effect for all purposes as delivery of an originally signed agreement.

Section 13.16. No Effect upon Lender Relationship. Notwithstanding anything herein to the contrary, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of any Member or any of its Affiliates in its capacity as a lender to any Company Party pursuant to any agreement under which any Company Party has borrowed money. Without limiting the generality of the foregoing, any such Person, in exercising its rights as a lender, including making its decision on whether to foreclose on any collateral security, will have no duty to consider (a) its status or the status of any of its Affiliates as a direct or indirect Member or equityholder of any Company Party, (b) the interests of any Company Party, or (c) any duty it may have to any other direct or indirect Member or equityholder of any Company Party, except as may be required under the applicable loan documents or by commercial Law applicable to creditors generally.

Section 13.17. *Entire Agreement.* This Agreement and those documents expressly referred to herein including without limitation all Project Agreements embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

Section 13.18. *Certain Acknowledgments.* Upon execution and delivery of a counterpart to this Agreement or a joinder to this Agreement, each Member (including each Substituted Member and each Additional Member) shall be deemed to acknowledge to the Company and to every other Member as follows: (a) the determination of such Member to acquire Units in connection with this Agreement or any other agreement has been made by such Member independent of any other Member and independent of any statements or opinions as to the advisability of such purchase or as to the properties, business, prospects or condition (financial or otherwise) of the Company which may have been made or given by any other Member or by any agent or employee of any other Member and (b) no other Member has acted as an agent of such Member in connection with making its investment hereunder and that no other Member shall be acting as an agent of such Member in connection with monitoring its investment hereunder.

Section 13.19. *No Third-Party Beneficiaries.* Except as set forth in Section 6.05, this Agreement is not intended and shall not be construed as granting any rights, benefits or privileges to any Person not a party to this Agreement. Except as provided in this Agreement, the consent of or notice to any person who is not a party to this Agreement shall not be required for any termination, rescission or agreement to any variation, waiver, assignment, novation, release or settlement under this Agreement at any time.

Section 13.20. *Injunctive Relief.* The parties hereto acknowledge and agree that a violation of any of the terms of this Agreement will cause the other parties irreparable injury for which adequate remedy at law is not available. Accordingly, it is agreed that each of the parties hereto shall be entitled to seek an injunction, restraining order or other equitable relief to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof in the courts provided by Section 13.13 in addition to any other remedy to which it may be entitled at law or equity, without the posting of any bond.

Section 13.21. *Termination.* This Agreement shall automatically terminate in its entirety upon the earliest to occur of (i) the written agreement of the Members, or (ii) the dissolution or liquidation of the Company. This Agreement shall also terminate as to any Member, except for this Section 13.21, which shall survive any such termination as to such Member, upon such Member ceasing to hold any Equity Securities; *provided* that any provision of this Agreement that expressly survives by its terms shall survive as expressly provided therein. In case of the termination of this Agreement in its entirety only, there shall be no liability on the part of any parties hereto or their respective officers or directors, except as provided in this Article 13. Notwithstanding the foregoing or any termination of this Agreement, no party hereto shall be relieved from liability for any willful breach of this Agreement.

Section 13.22. *Conflicting Agreements.* Each Member represents and agrees that it has not granted and shall not grant any proxy, and that it has not and shall not become a party to any voting trust or other agreement, in either case which is inconsistent with, conflicts with, or violates any provision of this Agreement. If, notwithstanding the foregoing or any other any other provisions in this Agreement, any Member is or becomes party to any trust, agreement or arrangement that does conflict with or violate any provision of this Agreement, the terms of this Agreement and the Side Letter shall, as among the parties hereto, control.

Section 13.23. *Offset.* Whenever the Company is to pay any sum to any Member or Affiliate or related Person thereof, any amounts that such Member or such Affiliate or related Person owes to the Company thereof may be deducted from that sum before payment.

IN WITNESS WHEREOF, the parties have entered into this Limited Liability Company Agreement as of the date first set forth above.

NJ NOKIA INNOVATION CENTER LLC

By: _____
Name:
Title:

NOKIA OF AMERICA CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Name:
Title:

[Signature Page to LLC Agreement]

168580514.4

168580514.8

168580514.10

Exhibit A
Helix 2 Property

168580514.4

168580514.8

168580514.10

Exhibit B
SIC Lease

168580514.4

168580514.8

168580514.10

Exhibit C
IC Services Agreement

168580514.4

168580514.8

168580514.10

Schedule A
LIST OF MEMBERS

Name of Member	Common Units
NOKIA OF AMERICA CORPORATION [Address] [email] With a copy (which shall not constitute notice: [Address]	
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY 36 W. State Street Trenton, New Jersey 08608 [email] With a copy (which shall not constitute notice: [Address]	
Total:	

Schedule A

168580514.4

168580514.8

168580514.10

Schedule B
INITIAL CAPITAL CONTRIBUTIONS

Member	Contribution
Nokia Member	The Nokia Member shall contribute a minimum of ten million dollars (\$10,000,000) for the construction of the Project.
NJEDA	NJEDA shall contribute up to ten million dollars (\$10,000,000) in capital for the construction of the Project, which shall include, without limitation, the Venture Studio, with such contribution(s) conditioned on the achievement of certain Milestones, which milestones are indicated on Schedule C. In no event will the NJEDA be obligated to contribute more than ten million dollars (\$10,000,000).

Schedule C
MILESTONES / ADDITIONAL CAPITAL CONTRIBUTIONS

Each of the following milestones must be completed to the satisfaction of the NJEDA Member in its sole but reasonable discretion:

1. Site Plan Approval - \$1,500,000
2. Completion of Construction Documents for the Core and Shell – building drawings - \$1,500,000
3. Issuance of initial construction permits for the Core and Shell - \$1,500,000
4. Execution of Construction Contact [by SJP] with GMP in place for the Core and Shell - \$2,000,000
5. Closing of Construction Loan [by SJP] in a minimum principal amount of at least \$160,000 - \$2,000,000
6. Closing of Operator/Landlord's Institutional Equity joint venture [by SJP] (Morgan Stanley) - \$1,500,000

Schedule D

COMMUNITY ENGAGEMENT COMMITMENTS

NJEDA and the Nokia Member will work together to establish relationships for guidance purposes with New Jersey locally elected officials, academic institutions, non-profit organizations, community development institutions, and other similar groups. The Nokia Member and NJEDA shall meet at least monthly to best ensure regular information sharing relevant to support for the users of the Licensed Spaces (“**Licensees**”). The Nokia Member will facilitate introductions between NJEDA and the Licensees.

Pursuant to the IC Services Agreement, the Nokia Member shall cause the Nokia Member Representative to convene regular in-person office hours (or virtual) to support engagement within the targeted industries in New Jersey on a regular basis and shall provide an annual roster of events and participants to NJEDA. The estimated frequency and format of events shall be presented for NJEDA’s review and approval at least annually in advance of the calendar year starting January 1st.

During each year, the Nokia Member shall cause a representative of the Nokia Member to participate in not less than one of (i) NJEDA’s semi-annual NJ Founders & Funders Events or (ii) an event endorsed and approved by NJEDA, in its sole discretion.

Schedule E

Schedule E
MONTHLY REPORT FORMAT

Reporting

Reporting: The Innovation Center shall monthly prepare and submit detailed, written progress reports to NJEDA. Annually, the Innovation Center shall provide audited financials prepared by a qualified accounting firm approved by Board of Directors.

These reports will include:

Program overview and development

Upcoming list of activities and programs

Identify risks and plans to mitigate such risks

Summary of program results and metrics, including:

- i. Funding raised by tenant companies (e.g., grants, venture capital)
- ii. Mentorship network
- iii. Tenant company failure rate (starting in Year 2)
- iv. Related jobs created in the State from tenant companies
- v. Demographic profile of each tenant, including (i) geographic origin of the company and (ii) whether any company is a State-certified minority- or women-owned business enterprise
- vi. Media coverage of activity and events
- vii. Thought leadership activity via events, web visits, web blogs, YouTube, social media & podcasts

Schedule F

Insurance Provisions for NJ Bell Innovation Labs Nokia SIC

Please note that the following sample language is provided for reference only. As we cannot comment on the legality of this wording, we recommend having it reviewed by legal counsel prior to inclusion in any documents.

The Company, the Nokia Member on its behalf, shall secure and maintain in force, at their own expense, for so long as the New Jersey Economic Authority (the “Authority”) is a member of NJ Nokia Innovation Center LLC (the “Company”), insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company.

All Members of the Company shall be included as Insureds on all policies, either within the policy form definition of an Insured or via endorsement to the policy.

All policies must be endorsed to provide 30 days’ written notice of cancellation or material change to the Authority at the address shown below. If the insurer cannot provide 30 days’ written notice, then it will become the obligation of the Company to provide the same to the Authority within forty-eight (48) hours of receipt of notification from their insurance company.

The Company shall provide the Authority with current certificates of insurance for all coverages and applicable renewals thereof and shall cause all subcontractors to comply with the provisions hereof. Renewal certificates shall be provided within 10 days of the expiration of the insurance. No work is permitted to begin until evidence of the required insurance is provided. The certificates of insurance shall indicate the Contract number or purchase order number and title of the Contract in the Description of Operations box and shall list the New Jersey Economic Development Authority in the Certificate Holder box. The certificates and any notice of cancellation shall be mailed to the Authority at: New Jersey Economic Development Authority, PO Box 990, 36 West State Street, Trenton, NJ 08625-0990.

The Company and any subcontractors hereby waive all rights of subrogation against New Jersey Economic Development Authority for recovery of damages to the extent those damages are covered by any insurance policies the Company/subcontractor is required to maintain as set forth herein. The Company/subcontractor agrees to obtain, at its own cost, any endorsement necessary to provide such a waiver under the applicable insurance coverage.

The Company, the Nokia Member on behalf of the Company, shall maintain the following insurance coverages until the Authority is no longer a member of the Company:

COMMERCIAL PROPERTY

Commercial Property Insurance Commercial Property Insurance in an amount equal to 100 percent of the full replacement cost of the Business Personal Property and Tenant Improvements & Betterments (if applicable) and providing for protection against the perils insured under the ISO special causes of loss form CP 10 30 00 (or a substitute providing equivalent terms and conditions), including flood and earthquake (if available). Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form.

COMMERCIAL GENERAL LIABILITY

The Company shall maintain Commercial General Liability (CGL) insurance, with a limit of not less than ***\$1,000,000 each occurrence*** and ***\$2,000,000 general aggregate*** limit. Insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising out of, occasioned by, or resulting from: bodily injury, property damage, products/completed operations, personal injury and advertising injury, premises operations, independent contractors, and liability assumed under an insured contract. Any deductible, or self-insured retention, applicable to the aforementioned insurance shall be written using ISO endorsement CG 03 00 (or a substitute form providing equivalent coverage) which otherwise requires each Company to be responsible for the deductible or retention.

WORKERS COMPENSATION

Either the Company or the Members supplying employees to the Company will maintain Worker's Compensation applicable to the laws of the State of New Jersey and shall include an endorsement to extend coverage to any State, which may be interpreted to have legal jurisdiction and Employer's Liability Insurance with limits of no less than ***\$100,000/\$500,000/\$100,000***.

UMBRELLA/EXCESS LIABILITY

The Company shall maintain Umbrella/Excess Liability providing limits in addition to, and following form over: Employers' Liability, Commercial General Liability, and Automobile Liability. Limits of no less than ***\$10,000,000 each occurrence and in the aggregate***. If such insurance contains a general aggregate limit, it shall apply separately to the specified premises/project. All endorsements (additional insured, primary non-contributory and Waiver of Subrogation) will follow the underlying policy form or be endorsed accordingly.

Schedule F

DIRECTORS & OFFICERS LIABILITY

Directors & Officers Liability, with limits of not less than ***\$1,000,000 each occurrence and aggregate***, providing coverage to past and present managers, directors and officers of the Companies for allegations of negligent acts, errors or omissions. Coverage may be provided on a claims-made basis as long as the retroactive date is prior to commencement of work at the site (must be indicated on certificate of insurance) and continuous coverage is maintained, or an extended discovery period exercised for a period of five (5) years beginning from the time the policy is terminated.

EMPLOYMENT PRACTICES LIABILITY

Either the Company or the Members supplying employees to the Company will maintain, Employment Practices Liability with limits of not less than ***\$1,000,000 each occurrence and aggregate***. Coverage may be provided on a claims-made basis as long as the retroactive date is prior to commencement of work at the site (must be indicated on certificate of insurance) and continuous coverage is maintained, or an extended discovery period exercised for a period of five (5) years beginning from the time the policy is terminated.

APPENDIX B

NJ NOKIA INNOVATION CENTER, LLC
600 Mountain Avenue
New Providence, New Jersey _____

[REDACTED], 2025

New Jersey Economic Development Authority
36 West State Street
P.O. Box 990
Trenton, NJ 08625-0990
Attn: Timothy Sullivan, Chief Executive Officer

Re: Capital Commitment to NJ Nokia Innovation Center, LLC

Ladies and Gentlemen:

This letter agreement (the “*Letter Agreement*”) is written in connection with an investment by **NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (“NJEDA”)** in NJ Nokia Innovation Center, LLC, a New Jersey limited liability company (the “*Company*”). Each capitalized term used in this Letter Agreement and not otherwise defined in this Letter Agreement has the meaning specified in the Limited Liability Company Agreement of the Company dated as of [REDACTED], 2025 (as amended, restated or modified from time to time, the “*LLC Agreement*”) entered into between the NJEDA and Nokia of America Corporation, a Delaware corporation, in its capacity as investor and a member of the Company (“*Nokia*”). Subject to the restrictions and limitations set forth in this Letter Agreement, NJEDA and Nokia (on its own behalf and on behalf of the Company) hereby agree as follows:

1. AUTHORITY AND POWER; IMMUNITY.

(a) Nokia acknowledges and agrees that the authority and powers of NJEDA are and shall be governed by the provisions of the New Jersey Economic Development Authority Act (New Jersey Statutes Annotated 34:1B-1 et seq.; P.L. 1974, c80, as amended and supplemented) and shall be construed in accordance with New Jersey law.

(b) Nokia, for itself and on behalf of the Company, acknowledges that NJEDA reserves all immunities, defenses, rights and actions arising out of its status as a sovereign state or entity, including those under the Eleventh Amendment of the United States Constitution and the laws and Constitution of the State of New Jersey. No waiver of any such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of NJEDA entering into the LLC Agreement, this Letter Agreement or any agreement related thereto (collectively, the “*Subject Agreements*”), by any express or implied provision thereof, or by any actions or omissions to act by NJEDA or any representative or agent of NJEDA, whether taken or omitted to be taken pursuant to any Subject Agreement or prior to the entry by NJEDA into any Subject Agreement. Nothing contained herein, however, shall relieve NJEDA of any obligation it may have under the LLC Agreement to contribute capital in respect of its Capital Commitment.

2. DISPUTE RESOLUTION.

(a) Notwithstanding anything to the contrary in the Subject Agreements, any claims asserted against NJEDA shall be subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.) and the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) as if incorporated herein, as each may be amended from time to time.

(b) By reason of the laws, regulations and public policies of the State of New Jersey applicable to NJEDA as a governmental entity and instrumentality of the State of New Jersey, Nokia, for itself and on behalf of the Company, freely agrees that, notwithstanding anything to the contrary in the Subject Agreements, any action, claim, or other legal proceeding (i) brought by Nokia on behalf of itself or on behalf of the Company, or their respective Affiliates against NJEDA shall be brought and heard only in, and shall be subject to the exclusive jurisdiction of, the trial division of the Superior Court of the State of New Jersey, and that such proceeding shall be governed by the procedural rules and laws of the State of New Jersey, without regard to principles of conflicts of law, and (ii) brought by NJEDA against the Company, Nokia or their respective Affiliates may be brought in, and subject to the jurisdiction of, the Superior Court of the State of New Jersey, in which case such proceeding shall be governed by the procedural rules and laws of the State of New Jersey, without regard to principles of conflicts of law. In order to effectuate the purpose of the first sentence of this paragraph, Nokia, for itself and on behalf of the Company, agrees to irrevocably waive any objection either may now or hereafter have to the laying of jurisdiction or venue in the courts of the State of New Jersey with respect to any action, claim, or other legal proceeding described above and each waive any claim that any such action, claim or proceeding brought in any such court has been brought in an inconvenient or improper forum.

Notwithstanding any provision to the contrary in the Subject Agreements, Nokia, for itself and on behalf of the Company, agrees that NJEDA shall not be deemed to have waived any objection that it may now or hereafter have to the laying of jurisdiction or venue of any action, claim, or other legal proceeding in any courts other than the courts of the State of New Jersey, nor be deemed to waive any claim that any such action, claim or proceeding brought in any such court has been brought in a court without jurisdiction or an inconvenient or improper forum.

3. INDEMNIFICATION. NJEDA hereby represents to Nokia and the Company that, under the laws of the State of New Jersey, NJEDA is not authorized to indemnify the Company, Nokia or Nokia's Affiliates. Based on the foregoing, Nokia, for itself and on behalf of the Nokia's Affiliates and the Company, agrees that, notwithstanding the provisions of the Subject Agreements, none of the Subject Agreements shall impose any indemnification obligations on NJEDA or be applied or construed to require NJEDA to provide indemnification to any person or entity thereunder, including, but not limited to, Nokia, the Company, or any of their respective Affiliates.

4. DISCLOSURE.

(a) NJEDA represents that it is a governmental entity and instrumentality subject to New Jersey state laws, regulations and policies and applicable case law which could result in the disclosure of information (including Confidential Information) regarding the Company and any Participant Company that is provided to NJEDA, including, without limitation, the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.) and the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) as each may be amended from time to time (together, including all applicable regulations and policies and applicable case law, and the New Jersey common law right to know, the "**Public Records Acts**").

(b) Notwithstanding anything else in the Subject Agreements, based on the foregoing representation, neither the Company, Nokia, for itself and on behalf of the Company nor any Affiliate of Nokia, shall make any claim against NJEDA if, pursuant to the Public Records Acts, NJEDA makes available to the public any report, notice or other information received by NJEDA from the Company, Nokia or any Affiliate of Nokia which NJEDA reasonably believes is required to be disclosed or made public by NJEDA pursuant to the Public Records Acts or any comparable laws, regulations or policies to which NJEDA is subject. NJEDA agrees to use reasonable efforts, subject to NJEDA's obligations under the Public Records Acts, including without limitation, the obligation to comply with required time frames (i) to notify Nokia promptly of any Public Records Acts disclosure requests for Confidential Information that would reasonably

be viewed as leading to public disclosure of information that is required to be kept confidential pursuant to the Subject Agreements and (ii) to provide such additional cooperation as NJEDA reasonably determines is appropriate and as is consistent with applicable law, including the Public Records Acts, with any efforts by Nokia to protect such Confidential Information. Nokia shall cooperate in the defense of any action against NJEDA or State of New Jersey arising from or related to the non-disclosure of any Confidential Information requested by Nokia, the Company or an Affiliate of Nokia.

(c) NJEDA shall not be liable to the Company or Nokia for breaches of Section 12.06 of the LLC Agreement by its Representatives; *provided* that NJEDA shall not provide any such third parties with any Confidential Information unless such third party is subject to an existing obligation to maintain the confidentiality of such Confidential Information and, *provided further*, for the avoidance of doubt, any Persons receiving Confidential Information pursuant to the Public Record Acts will have no duty to maintain the confidentiality of such information.

(d) Because NJEDA is subject to the Public Records Acts, Nokia acknowledges and agrees that notwithstanding anything to the contrary contained in the Subject Agreements or this Letter Agreement, NJEDA may, with or without the receipt of a specific information request, disclose or report to the public, on its website or otherwise, identifying information about the Company, which shall be limited to a brief description of Nokia; Nokia's logo, if any; a link to Nokia's website, to the extent such website is operational and available to the public; formation year; name and address of Company; and the Company's purpose (e.g., venture capital, buyout, etc.).

5. OPINIONS. Nokia agrees that for purposes of any provision of the Subject Agreements requiring the delivery of an opinion of counsel by NJEDA, the opinion may be rendered by the Attorney General of the State of New Jersey or such special counsel designated by the Office of the Attorney General.

6. PLACEMENT AGENT FEES. Nokia, for itself and on behalf of the Company, represents and warrants that, to its knowledge, the Company, Nokia, any Affiliates of the foregoing, their respective partners, directors, officers, or employees have not employed or retained any company, person or other entity to solicit or secure NJEDA's investment in the Company, and none of the aforementioned parties had paid or agreed to pay any company, person, or other entity any fee, commission, percentage, brokerage fee, gift, political contribution, charitable contribution or any other compensation contingent upon or resulting from NJEDA's investment in the Company.

7. EXPENSES.

(a) Nokia, for itself and on behalf of the Company, acknowledges that the people responsible for managing NJEDA and its investments (the "NJ Managers") are employees of the State of New Jersey and are subject to certain New Jersey ethical laws, regulations and guidelines (the "NJ Ethics Requirements"). In an effort to ensure compliance with the NJ Ethics Requirements, NJEDA has requested clarification with regard to the treatment of certain expenses relating to conferences, seminars and meetings which the NJ Managers attend.

(b) From time to time, Nokia or the Company may pay NJEDA's expenses in attending conferences, seminars and meetings relating to the Company or the Participant Companies, including annual meetings of the Company or Participant Companies, which may include the cost of meals, transportation and accommodations. For the avoidance of doubt, such expenses, if paid by Nokia or the Company, shall be deemed to be services to be provided by Nokia under the Subject Agreements, for which Nokia is being compensated in accordance with the Subject Agreements. Such expenses, if paid by the Company, shall be deemed to be Company Expenses, allocated to NJEDA in accordance with the Subject Agreements. For the avoidance of doubt, this paragraph will not be deemed to create any obligation on the part of Nokia or the

Company to pay any of NJEDA's expenses unless otherwise required under the LLC Agreement or the other Subject Agreements.

8. IN-KIND DISTRIBUTIONS. Nokia agrees that, in the event Nokia or any Nokia Affiliate intends to distribute any securities in kind from the Company, Nokia shall give advance written notice to Investor and Investor may, with respect to the securities of each Participant Company proposed to be distributed, elect to instead receive all such distributions in cash. In order to receive such distribution in cash, such election shall be made by NJEDA within twenty (20) days of receipt of the written notice by Nokia sent in accordance with the preceding sentence. This paragraph shall apply at all times during the term of the Company, including during the Company's liquidation and winding up.

9. TAX WITHHOLDING. NJEDA has advised Nokia and the Company that NJEDA is a tax-exempt entity under United States federal, state and local laws, and has never been subject to, and is unlikely to be subject to, any tax withholding requirements of the United States federal, state or local laws. Based on the foregoing, before withholding and paying over to any United States federal, state or local taxing authority any amount purportedly representing a tax liability of NJEDA, Nokia, as Administrative Manager of the Company, shall provide NJEDA with written notice of the claim of any such United States taxing authority that such withholding and payment is required by law and shall provide NJEDA with the opportunity to contest such claim during any period. To the extent that such contest subjects the Company to any potential liability to such taxing authority or any other governmental authority for any withholding payment, interest, or penalties thereon, NJEDA consents to such withholding and payment. If withholding is made, Nokia, as Administrative Manager of the Company, shall use its commercially reasonable efforts to apply for and obtain a refund of amounts that are withheld as to NJEDA, based on NJEDA's tax-exempt status, provided that NJEDA cooperates in such efforts and agrees to reimburse the Company and Nokia for reasonable out-of-pocket expenses incurred by the Company or Nokia in connection therewith.

10. LISTED AND PROHIBITED TRANSACTIONS. Nokia agrees that, as Administrative Manager, at the time that it commits to make each investment on behalf of the Company, (i) it shall use its commercially reasonable efforts to assure that such investment is not a "listed transaction" as defined in U.S. Treasury Regulation Section 1.6011-4(b)(2), and (ii) it shall not knowingly make an investment that is (x) a "prohibited reportable transaction" as defined by Section 4965(e) of the Code, or (y) a "reportable transaction" as defined by Section 6707A(c)(1) of the Code (except that the Company may, directly or indirectly, enter into any such reportable transaction (other than a listed transaction or prohibited reportable transaction) if it complies with the reporting requirements of Treasury Regulation Section 1.6011-4(d)). If Nokia, as Administrative Manager, becomes aware that the Company becomes, or has engaged directly or indirectly in a transaction that is, a listed transaction, a reportable transaction (other than a reportable transaction (which is not a listed or prohibited reportable transaction) for which it complied with the reporting requirements of Treasury Regulation Section 1.6011-4(d)) or a prohibited reportable transaction, it shall promptly notify the Partners.

11. POWER OF ATTORNEY. Nokia agrees that the power of attorney rights granted to Nokia pursuant to the power of attorney granted in Section 13.02 of the LLC Agreement or any other provision or related agreement are intended to be ministerial in scope and limited solely to those items permitted under the relevant grant of authority, and such power of attorney rights are not intended to be a general power of attorney to independently exercise discretionary judgment on behalf of NJEDA or any other Partner. Notwithstanding anything in the power of attorney granted in the LLC Agreement or any related agreement which may be construed to the contrary, the parties hereto agree that no exercise of such power by Nokia which contravenes any federal, state or local law, to which NJEDA is or may become subject, is authorized by NJEDA and no such exercise shall be deemed valid.

12. CONFLICT WAIVER. NJEDA has notified Nokia and the Company that waiving any conflict of interest would constitute a violation of the New Jersey Rules of Professional Conduct 1.7(a) and 1.7(b), and Nokia, for itself and on behalf the Company, hereby agrees that, notwithstanding any provision of the LLC Agreement or any other waiver contained in the Subject Agreements, any such waiver shall not apply to NJEDA.

13. ARBITRATION/JURY TRIAL. Notwithstanding anything in the Subject Agreements or any amendment that might be made to Subject Agreements in the future, Nokia agrees that neither it, its Affiliates, nor the Company shall not submit any claims or disputes related to the Company or any Subject Agreements to arbitration or jury trial and all claims and disputes shall be adjudicated by a court of competent jurisdiction as set forth in paragraph 2 of this Letter Agreement. Nokia agrees that NJEDA shall not in any event be required to submit any claims against or dispute with Nokia or the Company to arbitration or jury trial.

14. COPIES OF AMENDMENTS. Nokia, for itself and on behalf the Company, agrees to promptly provide NJEDA with copies of all amendments to the LLC Agreement and all Subject Agreements

15. FCPA. Nokia and the Company are familiar with and shall comply with (and shall cause their officers, directors and employees to comply with) the U.S. Foreign Corrupt Practices Act of 1977, as amended (“**FCPA**”), and other relevant bribery and/or corruption laws and regulations.

16. OFAC/PATRIOT ACT COMPLIANT INVESTMENTS. Nokia, as Administrative Manager, shall cause the Company to take reasonable measures to avoid any investment by the Company, and shall cause the Company to avoid transactions, that would violate (a) any relevant anti-money laundering legislation, rules or regulations, including the USA PATRIOT Act or (b) any rules, regulations or orders administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”), including any investment in the Company by or transaction with (i) any person appearing on OFAC’s Specially Designated Nationals and Blocked Persons List, (ii) any person headquartered in or organized under the laws of a country subject to comprehensive sanctions, (iii) any person owned or controlled by any one or more Persons described in the foregoing, or (iv) any other person with whom a transaction is prohibited by OFAC. For purposes of this paragraph 21, Nokia’s obtaining and good faith reliance on representations and warranties made by any person at or before the time of the Company’s investment or at the time of such transaction, as applicable, shall constitute reasonable inquiry. Nokia confirms that the term “person” in this paragraph 21 includes governments, territories and other political entities.

17. COMPANY INDEBTEDNESS. Notwithstanding anything to the contrary in the Subject Agreements, Nokia confirms and agrees that the Company may not incur debt, or guaranty debt of portfolio companies, without the prior written consent of NJEDA. In addition, Nokia confirms and agrees that in connection with any indebtedness incurred by the Company, NJEDA will not be required to (a) execute or deliver any information, document, opinion, guarantee, confirmation or certification or (b) provide any financial information for the benefit of any lender or other third-party other than information that is publicly available, except that NJEDA may be required to execute an acknowledgement of its obligations to make Capital Contributions pursuant to the LLC Agreement. Nokia shall not grant a security interest in or pledge to any lender NJEDA’s membership interest in the Company, and NJEDA shall not be obligated to grant a security interest in or pledge its membership interest in the Company to any lender.

18. REPRESENTATIONS. Nokia, for itself and on behalf the Company, represents and warrants to NJEDA on the date hereof that:

(a) The Company has been duly formed and is validly existing and in good standing in the state of New Jersey. Nokia has been duly formed and is validly existing and in good standing in the state of Delaware.

(b) The Company and Nokia each have the necessary power and authority to consummate the transactions contemplated by the LLC Agreement and the other Subject Agreements.

(c) Unless otherwise disclosed by Nokia as of the date hereof, there is no legal action, suit, arbitration or other legal, administrative or other governmental investigation, inquiry or proceeding (whether U.S. federal, state, or local or foreign) pending or, to the knowledge of the Company or Nokia, threatened against (A) the Company or its properties, assets or Business, or (B), Nokia, or any of its Affiliates, properties, assets or business in any way related to, or which would have an effect on, the Company or the Business. To the knowledge of the Company and Nokia, there is no reasonable basis for any such action, suit, arbitration, investigation, inquiry or proceeding. During the preceding three years, to the knowledge of the Company and Nokia, none of the entities or the individuals referred to in clauses (A) and (B) above has (1) been the subject of any actual action, suit, arbitration, legal, administrative or other governmental investigation, inquiry or proceeding (whether U.S. federal, state, or local or foreign) that claims or alleges on the part of such person fraud, misrepresentation, willful misconduct, breach of fiduciary duty or violation of any federal or state securities law, rule or regulation, or (2) settled any actual or threatened action, suit, arbitration, legal, administrative or other governmental investigation, inquiry or proceeding (whether U.S. federal, state, or local or foreign) of the type described in the immediately preceding clause (1).

(d) The execution, delivery and performance of the Subject Agreements and the offer and sale of limited Company interest to NJEDA pursuant thereto will not (i) result in the violation of any of the terms or conditions of any agreement or instrument to which Nokia or the Company, is bound or affected, the result of which would be a material breach of such agreement or instrument (ii) violate any order, writ, judgment or decree by which Nokia or the Company is bound or affected, or (iii) require the filing or registration with, or the approval, authorization license or consent of, any court or governmental department, agency or authority which has not already been duly and validly obtained, except in the case of this clause (iii), notice filings under applicable securities laws.

(e) _____ (the “**Key Persons**”) have been appointed as _____ and pursuant thereto have the authority to execute all Subject Agreements and take actions with respect to the Company. Nokia shall promptly notify NJEDA in writing prior to any change in the identity of any Key Person, and Nokia shall not change the identity of any Key Person without the prior written consent of NJEDA, which consent shall not be unreasonably withheld. In addition, the Board will appoint _____ as [Chief Executive Officer] to manage the operations of the Company. The Manager(s) will notify NJEDA in writing prior to any change of the position of Chief Executive Officer or any members of the Investment Committee.

19. AUDIT/INSPECTION RIGHTS. Appropriate records and books of account shall be kept, on the accrual basis, at the principal place of business of the Company during the term of the Company and for at least six years following the dissolution of the Company. Upon ten (10) days prior written notice to Nokia, at any time while the Company continues and for six years thereafter, NJEDA (or any Person designated by NJEDA, including but not limited to the New Jersey Office of the State Comptroller) may fully examine and/or audit, during normal business hours and without undue disruption, the Company’s books, records, accounts, assets, including bank balances, and such other information as is reasonably necessary to enable

the requesting Investor (or such designated Person) to review the state of the investment activities of the Company and may make, or cause to be made, any such examination or audit at NJEDA's expense.

20. GOVERNING LAW. This letter shall be governed by the laws of the State of New Jersey.

21. DEEMED CONSENT. Notwithstanding the express provisions of the Subject Agreements, Nokia, for itself and on behalf of the Company, agrees that NJEDA's failure to respond to a request for approval or consent for purposes of any provision in the Subject Agreements shall not be deemed to constitute NJEDA's consent or approval for purposes of such paragraphs.

22. MEDIA ATTENTION. Nokia agrees to use commercially reasonable efforts to provide NJEDA with prompt notice of (a) any material public media attention or material public scrutiny of which Nokia is aware and which, in Nokia's reasonable judgment, is reasonably likely to have a material adverse effect on the public profile of the Company or NJEDA, and (b) any event or activity of the Company which requires a publicly available filing with a securities regulatory authority or other governmental agency to be made by the Company or Nokia that discloses NJEDA's name. For greater certainty, such events and activities do not include routine filings of the Company including beneficial ownership reports, insider reports or filings related to licenses to carry on business in local jurisdictions.

23. AFFILIATE TRANSFERS. Nokia agrees that it will not unreasonably withhold its consent to any assignment or transfer by NJEDA of its interest in the Company to any governmental division, department or Entity of the State of New Jersey; *provided* that any such assignment or transfer complies with the conditions set forth in Article XI of the LLC Agreement.

24. MISCELLANEOUS.

(a) The execution and delivery of this Letter Agreement by Nokia constitutes the representation that (i) Nokia is authorized under the terms of the LLC Agreement and otherwise to execute this Letter Agreement, and (ii) the terms of this Letter Agreement are binding upon, and in full force and effect against, Nokia and the Company. The execution and delivery of this Letter Agreement by NJEDA constitutes the representation that (x) NJEDA is authorized to execute this Letter Agreement and (y) the terms of this Letter Agreement are binding upon, and in full force and effect against, it. This letter shall survive delivery of fully executed originals of the LLC Agreement and NJEDA's admission to the Company as a Member.

(b) This Letter Agreement may not be modified or amended unless expressly agreed to in writing by NJEDA, Nokia, and the Company. Any consent, waiver or approval contemplated by this Letter Agreement shall be effective only if provided in writing by the party against which enforcement of such consent, waiver or approval is sought.

(c) The terms of this Letter Agreement shall become effective upon the execution and delivery of this Letter Agreement by each of the parties hereto. The rights and benefits afforded to NJEDA in this Letter Agreement shall terminate if NJEDA is no longer a Member of the Company.

(d) This Letter Agreement may be executed by PDF in multiple counterparts which, when taken together, shall constitute one and the same agreement. Pursuant to written policy, NJEDA allows documents to be signed electronically and hereby agrees, and Nokia (for itself and on behalf of the Company) hereby agrees, to be bound by electronic signatures with respect to the Subject Agreements.

(e) Nokia, by itself and on behalf of the Company, acknowledges that: (i) it may be required by N.J.S.A. 19:44A-20.27 (L. 2005, c. 271) and regulations promulgated thereunder to file an

annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission; (ii) it is the responsibility of Nokia to determine whether such filing is necessary; and (iii) failure to make such filing, if required, can result in the imposition of financial penalties by the New Jersey Election Law Enforcement Commission.

(f) This Letter Agreement amends and supplements the Subject Agreements, including, without limitation, the LLC Agreement. Accordingly, any and all rights established herein, and any terms of this Letter Agreement which alter and/or supplement the LLC Agreement and/or any Subject Agreement, shall govern with respect to NJEDA as a Member of the Company. Notwithstanding the foregoing, in the event that there is a conflict between a provision of this Letter Agreement and a provision of any Subject Agreement, the provision of this Letter Agreement shall control and govern, and as to a conflict between the terms of any Subject Agreement and the terms of the LLC Agreement or this Letter Agreement, the LLC Agreement as modified by this Letter Agreement shall control.

(g) All notices, elections, approvals, and communications arising under this Letter Agreement shall be made or provided in accordance with and otherwise governed by Section 13.01 of the LLC Agreement.

(h) If any provision of this Letter Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

(i) This Letter Agreement shall be treated as confidential by the parties hereto in the same manner as the LLC Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

NJ NOKIA INNOVATION CENTER, LLC

By: _____
Name:
Title:

AGREED AND ACCEPTED:

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Name: Tim Sullivan
Title: Chief Executive Officer

Side Letter Execution Page



TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: New Jersey Innovation Fellows (NJIF) Updated Scoring Procedures & Cohort II Appeal Outcomes

RECOMMENDATION:

The members are requested to approve the staff's recommendation:

1. Update Program scoring procedures, including removing the Diversity Finance Advisory Board (DFAB) members from scoring NJIF applications.
2. Increase the number of NJIF Cohort II awards to ten (10) from eight (8), representing an increased total grant award amount of \$3.45 million from \$2.8 million.

BACKGROUND

The New Jersey Innovation Fellows Program provides financial and mentorship support to teams of first-time entrepreneurs, with business plans to operate in an eligible targeted industry, through two-year income replacement grants and a dedicated mentorship program. The Program offers a \$200,000 base grant award over a two-year period, with potential bonuses based upon specific criteria and is designed to help teams of entrepreneurs forgo traditional employment while focusing on their startup venture. The bonuses include \$50,000 for entrepreneurs residing in opportunity zones, and for entrepreneurs self-identified as diverse or providing evidence of a graduating from New Jersey college or university. Based upon these bonuses, teams of entrepreneurs may be eligible to receive a grant up to \$400,000.

The competitive Program supports teams of at least three entrepreneurs, of whom at least 50% of its members are first-time entrepreneurs, and who are committed to work full-time on their proposed business for at least two years. All entrepreneurs are required to pay gross income tax during the Program's two-year grant period and meet NJEDA compliance requirements.

The Program requires all members to participate in a mentorship program which helps increase the chance of business longevity and success. If an approved team fails to meet continued eligibility or compliance requirements, their funding may be paused, and they must correct the default within three months to continue receiving grants. If the team fails to resolve the issue, the team may be removed from the Program and subject to clawback of disbursed funds.

The two-year grant and mentorship program aims to nurture innovation in New Jersey by providing both financial and strategic support to the newly formed innovative business.

Recommendation 1: Updated Scoring Process

Staff is seeking approval to update Program scoring procedures to better evaluate NJIF application based upon insights gained by staff from the scoring and appeal process of Cohort I and II. Under the original Board-approved scoring process, completed and eligible applications were scored in two stages. First, an Evaluation Committee, comprised of at least two members of Authority staff per application, conducted an initial round of scoring. Next, up to the 20 highest-scoring applications were scored by selected members of the independent Diversity Finance Advisory Board (DFAB). Then staff ranked DFAB's scores from highest to lowest to determine the highest ranked applications slated for award.

Following two applicants appealing, issues with the NJIF scoring process were brought to the staff's attention by hearing officer inquiries revealing inconsistencies in the implementation of the approved scoring process. In response, program staff reviewed the board approved scoring process against their past practice to clarify and better streamline the NJIF scoring process. Staff recommends that moving forward DFAB members should no longer be responsible for scoring applications. Instead, for each program cohort, an evaluation committee, comprised of at least three (3) staff members, will be established to score applications submitted for funding consideration. Each member will score each application based on the predefined competitive scoring criteria. These individual scores will be averaged to reflect the overall score and used to determine the rank of the application.

Applications will be evaluated and scored in the following competitive scoring criteria:

NJIF Scoring Rubric

Each eligible applicant is evaluated by staff using the NJIF Scoring Rubric. This rubric, approved by the NJEDA board on November 16, 2022, assesses a broad range of criteria relevant to the applicant's potential for success within the program. Under updated procedures, scores in each category will be averaged then summed to come up with an overall score. The final scores will then be ranked from highest to lowest. The maximum average score of the NJIF Scoring Rubric is 29 points.

- Well-written business plan: (0-5 points)
- Operations: (0-4 points)
- Management: (0-20 points)

NJIF AI Innovation Rubric

As part of the FY'25 appropriations, the program was awarded an additional \$2 million to focus on expanding the state's AI innovative business universe. With this additional funding, applicants to the cohort, known as the "AI Cohort," will submit their AI business ideas for completeness review and eligibility determination, and those applicants found to be eligible for the Program will undergo evaluations by staff against a scoring rubric. Following the Evaluation Committee's review against the approved NJIF scoring rubric, the same committee will utilize the AI Innovation Scoring Rubric to score the applications.

The AI Innovation Scoring Rubric will supplement the NJIF Scoring Rubric and will be used to evaluate applicants on AI innovation and technological advancement, feasibility and implementation, and code of conduct, prioritizing AI solutions focused on driving actionable outcomes within their respective targeted industries.

- AI Innovation and Technological Advancement Score: (1-3 points)
- Feasibility and Implementation: (1-3 points)
- Code of Conduct: (1-3 points)

The maximum average score from the AI Innovation Scoring Rubric is nine (9) points. Applicants must receive an average score of at least 2 points in each category of this rubric to be considered for an award.

Committee Scoring & Ranking

To the extent possible, the NJIF scoring evaluations are to be conducted by the same committee members to ensure consistency and fairness throughout the scoring process. If a cohort receives more than 60 applications to score, program staff will add additional members to the Evaluation Committee.

Applicants must achieve a total average score that ranks among the top-rated candidates, subject to the caps for each respective cohort, to be eligible for an award and entry into the mentorship program within their respective cohort. The number of awards for each cohort depends on the availability of funding, and additional awards may be offered if more funds become available

Specifically for the AI Cohort, applications are evaluated using both the NJIF Scoring Rubric and the AI Innovation Scoring Rubric, with a combined maximum score of 38 points (29 points from the NJIF Scoring Rubric and nine (9) points from the AI Innovation Scoring Rubric). Applications will be ranked from highest to lowest average score, established tie-breaking procedures are utilized if necessary.

The AI Cohort is expected to operate for one (1) funding round, after which the Program's focus will revert to its original scope. For non-AI Cohort applications, scoring evaluations will be conducted using the NJIF Scoring Rubric. This ensures that all applications are assessed based on criteria most relevant to their specific focus, while maintaining consistency and fairness across the evaluation process.

See details of scoring procedures incorporating both the NJIF Scoring rubric and the AI Innovation Scoring rubric (collectively, the “NJIF Scoring Process”) published in Appendix NJIF Scoring Procedures.

Recommendation 2: Cohort II Appeal Outcomes – Flo Good Technologies & Uplift Media

On February 24, 2025, members were asked to approve the staff's recommendation to award the top eight scoring applications in Cohort II of the Program, including approval to discretionarily decline five (5) applications that received scores below the top eight (8). On March 6, 2025, and March 7, 2025, respectively, the Program received two (2) appeals from discretionarily declined applicants contesting the result that the applicants failed to meet the minimum score to be ranked in the top eight (8) of scored applications. Following receipt of these appeals, staff were prompted to complete a review of the entire scoring process.

Under the approved NJIF Scoring Process, following review by the Evaluation Committee members, the top 20 highest scored applications are submitted to DFAB members for scoring and final ranking and awards solely on DFAB's scores. Furthermore, the applications with the highest DFAB scores are recommended to the Authority's board for an award. It was determined that during the NJIF Cohort II scoring process, staff averaged DFAB scores with staff scores to identify the top ranked applications, conflicting with approved guidelines and impacting final rankings. As the scoring process was originally approved, DFAB scores should have directly selected the top ranked awardees.

Upon the hearing officer's review of the appeals and subsequent inquiries, program staff identified that, as initially approved, the appellants were not in the top eight slated for awards due to the averaging of the DFAB and evaluation committee scores. Following the board-approved process, where the DFAB scores determine the final ranking, the appellants were among the top eight highest-scored applicants and should have been awarded funds. Given this inconsistency, staff recommends that the board increase the total number of awards available for this cohort from eight to ten, allowing the appellants to receive awards while ensuring that the previously ranked seventh and eighth firms are not penalized due to the error.

See Appendix: NJIF Cohort II Scoring Results.

	Flo Good Technologies	Uplift Media
Industry:	Non-retail food and beverage business (including food innovation)	Film and Digital Media
Total Award:	\$350,000	\$300,000
DFAB Score:	26.5	17.0

RECOMMENDATION:

The members are requested to approve the staff's recommendation:

1. Update Program scoring procedures, including removing the Diversity Finance Advisory Board (DFAB) members from scoring NJIF applications.
2. Increase the number of NJIF Cohort II awards to ten (10) from eight (8), representing an increased total grant award amount of \$3.45 million from \$2.8 million.



Tim Sullivan, CEO

Prepared by: Michelle Martinez, Venture Programs

APPENDIX A: NJIF Competitive Scoring Rubric

APPENDIX B: NJIF AI Innovation Scoring Rubric

APPENDIX C: NJIF Scoring Procedures

APPENDIX D: NJIF Cohort II Scoring Results

APPENDIX A: NJIF Competitive Scoring Rubric

Updated Tuesday, May 13, 2025

The NJIF Scoring Rubric is designed to evaluate applications based on their business plan, operational readiness, and management expertise. Applications can achieve a maximum total score of 29 points, distributed across the following scoring categories:

Business Plan Scoring: 0 - 5points //				
Sub-Category		Points	Details	
1	Does the applicant have a clearly identified problem?	0 or 1	0: Applicant fails to clearly identify a specific problem that their solution aims to address.	1: Applicant has successfully identified a clear and specific problem, establishing a foundation for their solution.
2	Is the identified problem and total addressable market (TAM) "significant?"	0 or 1	0: Problem is not significant, and the TAM is not substantial enough to justify the solution.	1: Problem is significant, and the TAM is sufficiently large, indicating a substantial opportunity for the solution.
3	Does the applicant present a detailed report on the competitive landscape?	0 or 1	0: The applicant does not provide a thorough analysis of the competitive landscape, lacking insights into competitors, market position, and potential challenges.	1: Detailed report is presented, offering insights into competitors, market position, and potential challenges.
4	Does the applicant present a detailed "go-to-market" plan?	0 or 1	0: Applicant does not clearly present a detailed plan for how they will enter and succeed in the market.	1: Comprehensive plan is presented, detailing strategies for market entry, customer acquisition, and growth.
5	Does the applicant have a clearly articulated value proposition?	0 or 1	0: Applicant fails to clearly articulate the unique value proposition or benefit their solution offers to the market.	1: Applicant clearly articulates a compelling value proposition that differentiates their solution from competitors.

Operations Scoring: 0 - 4points				
6	Does the applicant have a clearly articulated finance & accounting management plan?	0 or 1	0: No clear plan for managing finances and accounting, indicating a potential risk in financial oversight.	1: Clearly articulated plan for managing finances and accounting is in place, demonstrating preparedness in financial management.

7	Does the applicant have industry and subject-matter competencies amongst its team, and does it have clearly delineated roles and responsibilities amongst the managing entrepreneurs?	0 or 1	0: Team lacks demonstrated industry and subject-matter competencies, and roles among team are not clearly defined.	1: Team demonstrates strong industry and subject-matter competencies, with clearly delineated roles and responsibilities among managing entrepreneurs.
8	Did the applicant attach a diversity & inclusion thesis/plan that will support and guide the company's buildout and development plans?	0 or 1	0: No diversity & inclusion plan attached.	1: Diversity & inclusion plan attached.
9	Does the applicant clearly state other needed resources beyond award in order to effectuate their plan?	0 or 1	0: No clear statement of the additional resources needed beyond the award to implement the plan effectively.	1: Applicant clearly states the additional financial, human, or operational resources needed beyond the award to implement the plan.

Management Scoring: 4 - 20 points					
10	How many years of professional experience does the team have on average?	1 to 5 Points	1: Team has less than 3 years of combined professional experience across relevant fields.	2.5: Team has between 3 and 7 years of combined professional experience, indicating moderate expertise.	5: Team boasts over 7 years of professional experience, showcasing significant expertise and a strong foundation.
11	How many years of expertise does the team have on average, in the addressable industry?	1 to 5 Points	1: Team has less than 3 years of experience specifically in the targeted industry, suggesting limited familiarity.	2.5: Team possesses 3 to 7 years of industry-specific experience, providing a balanced understanding of the field.	5: Team has more than 7 years of industry-specific expertise, reflecting deep knowledge
12	Does the team have expertise and competency in sales, operations, product development and finance?	1 to 5 Points	1: Less than 3 years of combined expertise in sales, operations, product development, and finance.	2.5: 3 to 7 years of combined expertise in these areas, indicating a competent level of skill and knowledge.	5: Over 7 years of combined expertise, demonstrating advanced capabilities and leadership in these critical domains.

13	How long has the team been working together?	1 to 5 Points	1: Team has been working together for less than 1 year, which may impact team cohesion and collaboration.	2.5: Team has worked together for 1 to 3 years, suggesting established collaboration and shared understanding.	5: More than 3 years of working together, indicating strong team dynamics and well-established working relationships.
----	--	---------------	---	--	---

APPENDIX B – NJIF AI Innovation Scoring Rubric

The AI Innovation Scoring Rubric evaluates **only applicants that apply for the AI Cohort** on three (3) primary criteria, AI innovation and technological advancement, feasibility and implementation and code of conduct and is used in conjunction with the original Board-approved rubric

The maximum average score from the AI Innovation Scoring Rubric is nine (9) points. Applicants must receive an average score of at least 2 points in each category of this rubric to be considered for an award.

AI Innovation Scoring: 3 – 9 points

Criteria		Points
1.	AI Innovation and Technological Advancement	Evaluates how the proposed AI solution aims to create a novel product or improve processes in the market, assessing effectiveness.
2.	Feasibility and Implementation	Evaluates a proposed AI solution's practical path from concept to execution
3.	Code of Conduct	Evaluates the applicant's commitment to transparency, fairness, and compliance with industry standards.

1. To what extent does the proposed AI solution utilize one or more AI technologies to significantly improve industry operations or create new opportunities?

Technologies include Learning and Adaptation, Autonomous Decision-Making, Data-Driven Insights, Natural Language Processing (NLP), Perception and Interaction, Generative AI.

Evaluation Scale

- **Score 1:** Basic application of AI technology, with minimal innovation or benefit over existing methods or products.
- **Score 2:** The proposed AI solution shows strong potential for application, demonstrates potential to improve industry operations or creates new market opportunities, though not necessarily transformative.
- **Score 3:** the AI is central to the business model, offering a transformative solution that improves industry operations or creates new market opportunities.

2. How ready is the AI solution for implementation, and can it be scaled to serve larger markets using the specified AI technology?

Evaluation Scale:

- **Score 1:** The solution is feasible but requires additional work or adjustments to scale to larger markets.
- **Score 2:** The solution is feasible with a general plan proposed to address challenges
- **Score 3:** The solution is highly feasible, with a clear plan for implementation and plans for expansion.

3. How thoroughly does the proposed business address ethical considerations through its code of conduct in relation to AI utilization?

Evaluation Scale:

- **Score 1:** The proposed business mentions ethical considerations but lacks sufficient depth or specificity in addressing key issues like bias, fairness, or transparency in their proposed AI development process.
- **Score 2:** The proposed business demonstrates a solid understanding of ethics, with clear plans to address issues such as bias, fairness, and transparency in the development and deployment of AI solutions.
- **Score 3:** The proposed business integrates ethical practices throughout, with actionable plans to mitigate issues like bias, fairness, transparency, and privacy

Appendix C: NJIF Scoring Procedures

I. NJIF Evaluation Committee

Applications for the New Jersey Innovation Fellows (NJIF) program will be accepted during a fixed application period. Upon the closing of the application period, Product Owner and Product Operations Team review applications for completeness and eligibility. During this phase, any applicants who do not meet the eligibility criteria will be excluded from scoring and ranking process. Applicants whose application submissions are non-discretionarily declined will have the right to appeal. Ineligible or non-discretionarily declined applicants may reapply for consideration in later application rounds, if available.

For each program cohort, an Evaluation Committee is established to score applications submitted for funding consideration. The committee's primary responsibility is to ensure that all applications are evaluated with expertise, consistency, and fairness.

Evaluation Committee Guidelines:

- **Staff Scoring Members:** Scoring members will be responsible for evaluating all applications based on competitive scoring criteria. To the extent possible, the NJIF scoring evaluations are to be conducted by the same committee to ensure consistency and fairness throughout the scoring process. If a cohort receives more than 60 applications to score, an additional evaluation committee consisting of three authority staff members will be formed. This committee will be responsible for scoring additional applications beyond the initial 60.
- **Multiple Rounds of Scoring Reviews:** After each scorer submits completed rubrics, the Product Officer will compare scores across scorers and discuss any significant variances. As needed, the committee will reconvene to align scoring conclusions before finalizing the top-ranked applications.
- **Scoring Documentation:** Staff are required to document justifications for their scores, to provide transparency and accountability. Only completed, eligible scored applications will proceed to the ranking phase.
- **Average Scoring:** Scores will be averaged to create a final score for each application. Scores will be summed then averaged to reflect the final score and then be used to determine the rank of the application.
- **Validating & Ranking:** Once the final scores are accepted, the Product Officer and a supervisor will review and validate the scores. After establishing the validity of the scores, the applications will be ranked from highest to lowest final score, initiating tie-breaking procedures if necessary. The final rankings including those eligible and ineligible for the award based on those ranking will then be prepared for submission to the NJEDA Board for approval or discretionary declination.

II. Process for Scoring Applications

The Program's scoring process consists of an evaluation of the applicant's business plan, operations, and management capabilities. Depending on whether the cohort is an AI-specific group, an additional evaluation is conducted on the AI innovation being proposed.

NJIF Competitive Scoring Rubric

- Action: Assess the applicant's business plan, operations, and management capabilities. Utilizing the Board-approved NJIF Competitive Scoring Rubric to score applications.
- Minimum Score Requirement: 0 points
- Potential Maximum Score: 29 points

NJIF Artificial Intelligence (AI) Innovation Scoring Rubric (if applicable)

- Action: Evaluates the technological advancement, feasibility, and ethical considerations of AI-driven solutions. Utilizing the AI Innovation Scoring Rubric to assess AI-related aspects of applications.
- Minimum Score Requirement: 6 points
- Potential Maximum Score: 9 points

Only scored applications will be ranked from highest average score to lowest, prioritizing those with the highest final scores for funding and mentorship consideration.

III. Ranking and Tie-Breaking

- Action: Rank scored applications by their average score, from highest to lowest. In the event of a tie, a series of tie-breaking criteria will be based on average scores (collected and recorded from the rubric scoring process that preceded the application ranking) from one specific category at a time, until the tie is resolved.
 - **Tie-breaking for AI Cohort**
 - First Tie-Breaker - AI Innovation: Staff will use scores from the AI Innovation Scoring Rubric for tied applications. The application with the highest average score is prioritized.
 - Second Tie-Breaker - Management Experience: If a tie persists, Staff will use the sum of the average scores in the Management Experience category and select the application with the highest score.
 - Third Tie-Breaker - Business Plan: If the tie remains, Staff will use the sum of average scores from the Business Plan category and select the application with the highest score.
 - Fourth Tie-Breaker - Operations: If necessary, Staff will use the sum of average scores from the Operations category and select the application with the highest score.
 - **Tie-breaking for Regular Cohort (non-AI)**
 - First Tie-Breaker - Management Experience: If a tie persists, Staff will use the sum of the average scores in the Management Experience category and select the application with the highest score.
 - Second Tie-Breaker - Business Plan: If the tie remains, Staff will use the sum of average scores from the Business Plan category and select the application with the highest score.

- Third Tie- Breaker - Operations: If necessary, Staff will use the sum of average scores from the Operations category and select the application with the highest score.

Appendix D: NJIF Cohort II Scoring Results

Applicant	Diversity Finance Advisory Board Member (DFAB)	Average of Staff Scores	Average of DFAB and Staff
Recognition AI	25.0	23.8	24.2
Best Bar None NJ	21.5	23.8	23.0
Business Advisor	19.0	24.3	22.5
Sevillian Laboratories	24.0	21.5	22.3
Smart Ship Network	19.5	22.5	21.5
Cognimetry	21.5	19.5	20.2
Natural Sense	16.0	18.8	17.8
Estate Ease	15.5	18.5	17.5
Flo Good Technologies	26.5	12.8	17.3
MidPay	16.5	14.0	14.8
Katalyst	9.0	14.3	12.5
Uplift Media	17.0	8.8	11.5
eir	11.0	11.3	11.2
Grand Total	18.6	18.0	18.2



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 13, 2025

RE: Revisions to the Route 80 Business Assistance Grant Program

Summary

The Members are asked to approve revisions to the pilot Route 80 Business Assistance Grant Program (“Program”) approved on April 9, 2025, to:

1. Expand eligibility by removing a requirement that the grant recipient be located in Morris County.
2. Allocate up to \$500,000 in additional funding from the Economic Recovery Fund (“ERF”), bringing total ERF funding for the program to \$5,500,000.

All other aspects of the Program remain unchanged.

Background

On March 8, 2025, Governor Murphy issued Executive Order 383 declaring a state of emergency following geophysical hazards created along eastbound Interstate 80 (I-80) in Morris County, New Jersey due to sinkholes, resulting in the temporary closure of a portion of the roadway.

In response to this emergency and the associated impact to small and medium sized businesses in the area, the Members approved up to \$5,000,000 to fund the Route 80 Business Assistance Grant Program on April 9, 2025. The New Jersey Economic Development Authority (NJEDA) subsequently launched the Program on April 22, 2025 to provide short-term financial support for small and medium New Jersey businesses (SMEs) in affected areas. The sinkholes, which first appeared in December 2024 and have continued into April 2025, have led to extensive closures of I-80, particularly in Morris County. These closures have significantly impacted local commerce, with businesses experiencing decreased revenue due to reduced customer access and disrupted supply chains.

The Program revisions being presented for the Members’ approval allow for the inclusion of businesses within 5 miles of the Route 80 closures, regardless of county. This revision will support businesses that were negatively impacted but not eligible based on the April 2025 criteria, which required businesses to be located in Morris County. While the Governor’s state of emergency was specific to Morris County, businesses located outside Morris County but within the 5-mile radius sustained an equal level of negative financial impact.

Amended Program Details

The pilot Route 80 Grant Program is tailored as a support measure to SMEs impacted by the closure of Route 80 due to sinkholes. The updated Program will provide grants from \$1,000 up to \$15,000 to New Jersey-based SMEs that have suffered a negative financial impact as a result of the Route 80 closures and are located within 5 miles of the closures, regardless of the county where the business is located.

To fund this Program, staff requests an additional ERF funding of up to \$500,000. Staff estimates this amount will be sufficient to cover non-Morris County businesses that are newly eligible for the grant if the expanded eligibility requirement is approved by the Members.

Expanded Eligibility

With the Members' approval, eligibility requirements will be expanded to include SMEs with a physical commercial location within five miles of Exit 34 on Route 80 in New Jersey (e.g., an office, a physical point of sales, a warehouse, manufacturing facility, etc.) regardless of county location.

All other aspects of the Program remain the same as approved by the Members on April 9, 2025. Updated Program Specifications are attached for the Members' reference in Exhibit A.

Application Process

The Authority will open applications for businesses situated within a 5-mile radius of exit 34 on Route 80 in New Jersey, based on their zip code. The funding is allocated on a first-come, first-served basis, determined by the submission date of each application.

Recommendation

The Members are asked to approve revisions to the pilot Route 80 Business Assistance Grant Program ("Program") approved on April 9, 2025, to:

1. Expand eligibility by removing a requirement that the grant recipient be located in Morris County.
2. Allocate up to \$500,000 in additional funding from the Economic Recovery Fund, bringing total ERF funding for the program to \$5,500,000.



Tim Sullivan
Chief Executive Officer

Attachments:

Exhibit A – Route 80 Business Assistance Grant Program Specifications

**Route 80 Business Assistance Grant Program
Amended Program Specifications – May 2025**

Funding Source	Up to \$5,500,000 million – Economic Recovery Fund Up to \$15 million to be added with delegated authority if necessary.
Program Purpose	To provide short-term, immediate working capital support to New Jersey small and medium sized enterprises (businesses and non-profits) (“SMEs” or “businesses”) that have suffered a negative financial impact as a result of the Route 80 closures due to sinkholes.
Eligible Applicants	<p>Applicants must be a SMEs with no more than 50 Full Time Equivalent employees (FTEs).</p> <p>Applicants must certify to a negative financial impact of greater than \$1,000 for 1st quarter of 2025.</p> <p>The SME must have sustained business interruption at their commercial location as a result of the Route 80 closures due to sinkholes.</p> <p>Initial Application Process:</p> <p>Phase 1: SMEs within 5 miles of Route 80 exit 34</p> <p>Phase 2 (subject to funding availability): SMEs within 10 miles of Route 80 exit 34</p> <p>Phase 3 (subject to funding availability): SMEs greater than 10 miles, but within Morris County</p> <p>Application Reopening Process:</p> <p><u>SME's within 5 miles of Route 80 Exit 34</u></p> <p>The SME must have a physical commercial location in New Jersey (e.g., an office, a physical point of sales, a warehouse, manufacturing facility, etc.). Home-based businesses are NOT eligible for this Program. Landlords are also NOT eligible for this Program.</p>

**Route 80 Business Assistance Grant Program
Amended Program Specifications – May 2025**

Eligible Applicants: (continued)	<p>SME must be registered to do business in the State of New Jersey at the time of application, as evidenced by a valid Business Registration Certificate, if required. If the SME is not recognized by the Division of Taxation, then the SME must provide proof of registration with the State prior to December 1, 2024 and a valid Business Registration Certificate (BRC). The SME will have 7 calendar days from initial notification from the Authority to satisfy that requirement. No grant agreement will be executed without a current registration status from the Division of Taxation or a valid BRC, if applicable.</p> <p>Prohibited businesses include, but are not limited to: gambling or gaming activities; the conduct or purveyance of “adult” activities, services, products or materials; any auction or bankruptcy or fire or “lost-our-lease” or “going-out-of-business” or similar sales; sales by transient merchants, Christmas tree sales or other outdoor storage; any activity constituting a nuisance; or any illegal purposes.</p> <p>To determine the number of FTEs for the purpose of calculating eligibility, the Authority will utilize the 4th Quarter 2024 New Jersey WR-30 filings with the NJ Department of Labor (DOL). Implied FTE calculations will be rounded to the nearest FTE (e.g., 2.49 FTE would be counted as 2 FTE for the program, whereas 2.50 FTE would be counted as 3 FTE). While the calculation of FTEs is based on weeks worked and wages as reported on the WR-30 filing.</p> <p>CEO/equivalent officer of the SME must self-certify that the firm:</p> <ul style="list-style-type: none">• Was in operation on December 1, 2024; and <p>Has sustained a negative financial impact as a result of the Route 80 closures due to sinkholes.</p> <p>The SME must have tax clearance, which will be confirmed with the New Jersey Department of Taxation or through the submission of a tax clearance certificate prior to the SME being approved.</p> <p>Entities can submit only one application per EIN. Accordingly,</p>
---	---

**Route 80 Business Assistance Grant Program
Amended Program Specifications – May 2025**

Eligible Applicants: (continued)	<p>businesses with multiple locations but only one EIN will be limited to one application.</p> <p>The applicant must also be in good standing with the New Jersey Department of Labor and Workforce Development (LWD) at the time of application, as determined in the sole discretion of LWD.</p> <p>Additional eligibility requirements will apply to ensure that federal funds, if available, can be used for this program or to reimburse the Authority for use of its funds for this program. This may include, but is not limited to:</p> <ul style="list-style-type: none"> • applicants must acknowledge and agree to the requirement that grant proceeds can only be used for eligible uses as defined below, • applicant is not on the SAM.gov exclusion list, • a restriction on duplication of benefits that could exclude potential applicants that have already received financial assistance, and • a requirement that the applicant demonstrate that it has had business interruption as a result of the Route 80 closures.
Eligible Uses	<p>Grant funding to be used to pay for working capital expenses. If the grant amount set forth below is greater than the negative financial impact, taking into account other funds received for the same purpose, the amount of the award will be capped at the lesser amount.</p> <p>As this grant is solely for working capital expenses, funding cannot be used for any other purpose, including, but not limited to, capital expenses, such as remediation or construction.</p>
Grant Amounts	<p>The minimum grant amount is \$1,000 with a maximum award set forth below, which is capped at the lesser of applicant's financial need or FTE count.</p> <p>Maximum Award Amount</p> <ul style="list-style-type: none"> • 0-5 FTEs: \$5,000 • 6-20 FTEs: \$10,000

**Route 80 Business Assistance Grant Program
Amended Program Specifications – May 2025**

	<ul style="list-style-type: none">• 21-50 FTEs: \$15,000
Application Process	Online application. Applications will be accepted on a first-come, first-served basis, based upon the date in which the Authority receives a completed application submission.
Funding Disbursement	Funding to be fully disbursed as quickly as possible upon closing of grant agreement.
Fees	Due to financial hardship experienced from the sinkholes, the Authority will collect no fees from the applicant for this program.
Appeals	Businesses whose applications are denied will have the right to appeal. An appeal 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 Managing Director of Legal Affairs will designate a Hearing Officer who will review the application, the appeal, and any other relevant documents or information. The Hearing Officer will prepare a recommendation that must be approved, and a final administrative decision will be issued by staff in accordance with delegated authority.

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Recommendation for Contract Extension
M4010 – Business and Information Technology Consulting and Advisory Services

Summary

The members of the Board are asked to approve an extension and increase of the Business and Information Technology Consulting and Advisory Services Contract, currently awarded to the Boston Consulting Group, Inc. (BCG) to increase the contract for five (5) months for a total increase of \$2,300,000. If approved, this extension will authorize BCG to commence phase four of their current workstream for Information Technology (IT) support, focusing on the tactical implementation of the Authority-wide data roadmap, while upskilling and identifying a long-term operating model for the New Jersey Economic Development Authority's (NJEDA) data team. Focusing primarily on data, this final phase of support from BCG will further streamline and modernize how NJEDA collects, manages, and uses data—ensuring the Authority can make more informed decisions and deliver programs more effectively.

Background – Boston Consulting Group

In April of 2024, the NJEDA Board approved entering into a contract with BCG under the State's M4010 – Business and Information Technology Consulting and Advisory Services contract. BCG was engaged to provide IT consulting support, with a focus on three key objectives: launching new IT operating cadences and processes, supporting the implementation of NJEDA's IT Strategic Plan, and designing and piloting a data and analytics function for IT performance management. BCG's initial contract spanned six (6) months of support, and was valued at \$900,000 for Phase I. In order to continue the momentum of Phase I, the NJEDA Board approved an additional \$1,500,000 for four (4) more months of support in October of 2024 for Phase II of the contract. To date, the NJEDA Board has approved \$2,400,000 in funds for BCG, bringing the combined contract total to \$4,700,000 for 15 months of support for IT support services.

During Phase I and Phase II of engagement, BCG supported the development and implementation of a functional roadmap for the Authority's Information Technology and Systems (ITS) department to better align with business needs and meet increased demand for services. Working closely with NJEDA staff, BCG focused on three core objectives: enhancing transparency into IT offerings, streamlining service requests, and creating feedback loops to improve service delivery. This included launching new IT operating cadences, clarifying service ownership, piloting intake and prioritization processes, and strengthening communication between ITS and business units.

BCG began by conducting a diagnostic of the ITS environment and evaluating the existing roadmap, resulting in the creation of strategic “North Star” pillars to guide future initiatives and ensure alignment with NJEDA’s broader goals. They then developed a detailed implementation roadmap with 17 initiative charters and 9 deep dives, along with a timeline to help prioritize based on impact, effort, and resource needs. Additionally, to support leadership readiness, BCG also delivered GenAI and product strategy training sessions, which led to the formation of a Product Lifecycle Working Group. These sessions and planning efforts have positioned NJEDA to better manage its IT products, respond to emerging technologies, and align long-term IT planning with agency strategy.

Building on the momentum of Phase I and Phase II, Phase III of BCG’s engagement focused on establishing an agency-wide data program framework and roadmap. BCG collaborated with NJEDA leadership and internal stakeholders to align on guiding principles, define long-term data program goals, and identify 18 high-value data use cases across more than 10 departments. Using an industry-standard prioritization framework, two priority use cases were selected for implementation in the next phase. An 18-month roadmap was created, including seven deep dives to provide practical, best-practice-aligned execution plans.

As part of this phase, BCG also worked closely with NJEDA’s ITS team to finalize and launch version one of the Power BI dashboard. This included resolving functionality issues, optimizing usability, and developing detailed support materials—such as revised widget-to-data mappings and a comprehensive guide documenting where each dashboard widget pulls its data. These materials will support knowledge transfer, upskill future Power BI users, and ensure long-term sustainability of the dashboard.

To further operationalize the data program, BCG supported the onboarding of a dedicated data lead, developed a 30/60/90-day plan, ensured proper IT access, and launched key working cadences. BCG also helped establish NJEDA’s Data Governance Council by identifying core members, defining roles and responsibilities, and facilitating cross-departmental collaboration. These foundational efforts ensure clear ownership of data strategy and governance, and position NJEDA to effectively implement and sustain the data roadmap going forward.

Despite the significant progress made through the initial phases of BCG’s work, it has become clear that sustained support is needed to fully implement the high-impact initiatives identified in the roadmap. Resource constraints within ITS are limiting the Authority’s ability to operationalize key components of the data and IT strategies—particularly several “quick win” initiatives that are essential to delivering measurable improvements in service delivery and internal efficiency. To maintain momentum and bring this work to completion, staff recommends extending NJEDA’s current contract with BCG to support a final phase focused on implementation, as well as staffing and increased IT scalability that in turn will better support NJEDA’s products, programs, and teams.

Proposed Scope of Work for Extended Service from Boston Consulting Group

To build on the progress made across Phases I through III, Authority staff requested a proposal from BCG for an additional five (5) months of consulting services to further advance NJEDA’s ITS strategic plan and performance management workstream. This request is authorized by the

Division of Purchase and Property's Method of Operation for State Contract M4010, which allows for additional requirements to be added either through an amendment to the original task order or an additional task order. In response, BCG provided a proposed scope of work for contract extension focusing on operationalizing data governance through a structured, three-part approach: aligning leadership on data strategy and principles, defining data governance roles and operating models, and building the skills and processes necessary to sustain long-term data quality and accountability.

Specifically, within the Phase IV scope of work, BCG will support the implementation of a formal data governance model, including launching a functional Data Governance Council and defining key roles such as data owners and stewards. They will also document a data standardization approach and develop a consistent taxonomy for key systems, beginning with a CRM data cleansing pilot. These efforts are intended to reduce inconsistencies, streamline reporting, and ensure reliable data is available across departments.

In parallel, BCG will co-develop a new Power BI dashboard with internal staff to support program evaluation goals. The development process will include live, hands-on training for a user group—such as the product or economist team—ensuring that NJEDA teams are equipped to self-service and expand dashboard use moving forward.

To support long-term sustainability, this phase includes the design and piloting of a data literacy program and the development of key performance indicators (KPIs) to measure governance effectiveness. These efforts will help embed the data strategy into day-to-day operations and promote greater accountability for data quality and usage across the organization.

Together, these activities will help NJEDA address longstanding data challenges—such as inconsistent reporting, unclear ownership, and limited insight into program outcomes—while strengthening internal capacity to manage data independently. By embedding this work within existing systems and teams, Phase IV ensures the Authority can scale its use of data to make faster, more informed decisions, support operational transparency, and deliver more impactful programs.

Following BCG's submission of the proposed scope of work for the Phase IV engagement, the Authority initiated a best and final offer (BAFO) process to ensure competitive pricing and value for the proposed services. After several rounds of communication with the vendor, the total price submitted by BCG for the Phase IV workstream was \$2,300,000. While BCG did not reduce their price during the BAFO process, this was because the Phase IV scope was initially valued at \$2,900,000 and had already been reduced by \$600,000 during detailed scoping discussions with Authority staff. As a result, the \$2,300,000 submitted represented BCG's best and final offer. After a thorough review by the Authority's Chief Operations Officer, Chief of Staff, and Procurement department, the scope of work provided by BCG was determined to be the most advantageous to the NJEDA, considering both price and other qualitative factors.

Recommendation

Staff recommends that the Board approve the extension of a contract for Business and Information Technology Consulting and Advisory Services, currently awarded to BCG for up to five (5) months of additional support totaling \$2,300,000.



Tim Sullivan, CEO

Prepared by: E. Corrado, B. Ciallella, T. Fanikos, and D. Albin



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Approval to Extend NJEDA-Affiliated Director Board Term; Approval of NJEDA-Affiliated Director to New Jersey Green Bank Board

Request:

The members of the Board are asked to approve:

1. The renewal of Ram Akella, Executive Vice President of Innovation Impact at the New Jersey Economic Development Authority (“NJEDA”), as an NJEDA-Affiliated Director of the New Jersey Green Bank (“NJGB”) Board for a term of three (3) years; and
2. The approval of the appointment of Lisa Almeida, NJEDA’s Chief Counsel, as the fourth NJEDA-Affiliated Director on the NJGB Board for a term of three (3) years.

Background: NJ Green Bank Board of Directors

On April 10, 2024, the NJEDA adopted a Resolution (the “Authorizing Resolution”) approving the creation of the New Jersey Green Bank as a subsidiary of the NJEDA pursuant to Section 16 of P.L. 1997, c. 150 (C. 34:1B-159) (the “Subsidiary Act”). As part of the Board’s action establishing the subsidiary, three (3) NJEDA staff members were named to the NJGB Board: Tim Sullivan (Chief Executive Officer of the NJEDA), Kathleen Coviello (Chief Economic Transformation Officer of the NJEDA), and Ram Akella (Executive Vice President of Innovation Impact of the NJEDA).

The NJGB By-Laws approved by the Board through the Authorizing Resolution indicated that these initial NJEDA-Affiliated Directors should “serve staggered terms, with one (1) NJEDA-Affiliated Director serving one (1) year; one (1) NJEDA-Affiliated Director serving two (2) years; and one (1) NJEDA-Affiliated Director serving three (3) years.” In line with this provision, this memo memorializes that the staggered terms for the Initial Board are as follows: a one-year (1) term for Ram Akella, a two-year (2) term for Tim Sullivan, and a three-year (3) term for Kathleen Coviello.

As indicated in the NJGB By-Laws, “upon expiration of these initial terms, subsequent NJEDA-Affiliated Directors shall each serve a term of three (3) years.” As such, the renewal term being sought for Ram Akella is for a term of three (3) years.

Revisions made to the NJGB By-laws that were approved by the NJGB Board on September 5, 2024, and the NJEDA Board on October 9, 2024, expanded the NJGB Board to seven (7) total members, consisting of four (4) NJEDA-Affiliated Directors and three (3) Public Directors. With

the extension of Ram Akella's term and the appointment of Lisa Almeida to the NJGB Board, the NJGB Board would be comprised of four (4) NJEDA-Affiliated Directors and two (2) Public Directors. The additional Public Director needed to grow the NJGB Board to seven (7) members will be added at a future NJGB Board Meeting.

The NJGB Board previously approved the appointment of Lisa Almeida at its February 11, 2025, Board Meeting. However, given that this appointment involves an NJEDA-Affiliated Director, NJEDA Board approval is being sought to ensure compliance with the NJGB By-Laws.

Qualifications of Board Candidates

Lisa Almeida possesses deep expertise in public policy, legal strategy, and risk management, among other areas, which would make her appointment particularly valuable to the NJGB Board. Lisa joined the NJEDA as its Chief Counsel in January 2024 from the New Jersey Governor's Office, where she served as Deputy Chief Counsel. During her time with the New Jersey Governor's Office, she oversaw legislative activity, developed executive orders, and provided strategic legal guidance on several policy areas, including energy. As a senior member of the Governor's budget team, Lisa also negotiated multi-billion-dollar budgets and worked on policy implementation with key stakeholders across the State.

Ram Akella was previously appointed as an NJEDA-Affiliated Director as part of the Authorizing Resolution approved by the NJEDA Board at its April 10, 2024, Board Meeting. Ram has extensive relevant experience in renewable energy project finance and investment banking, in addition to his prior year of experience as an NJGB Board Member. As an Executive Vice President of Innovation Impact at NJEDA, Ram's work has included overseeing the development of the NJGB and other clean energy initiatives as well as all of the Authority's venture fund of funds activity, innovation products and programs including direct investing in emerging companies, and strategic innovation center investing.

Recommendation

The members of the Board are asked to approve:

1. The renewal of Ram Akella, Executive Vice President of Innovation Impact at the NJEDA, as an NJEDA-Affiliated Director of the NJGB Board for a term of three (3) years; and
2. The approval of the appointment of Lisa Almeida, NJEDA's Chief Counsel, as the fourth NJEDA-Affiliated Director on the NJGB Board for a term of three (3) years.



Tim Sullivan
Chief Executive Officer

Prepared by: Ryan Klaus



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Proposed Policy Amendment to New Jersey Re-assigning In-State Employees (NJ RISE) Program

Request:

The Members are asked to approve:

1. A policy amendment to the NJ RISE program allowing businesses to select the year of application or one of the two subsequent tax years for their award disbursement under the program, contingent upon the business's established tax filing methodology.
2. This policy amendment will be retroactive, extending to existing applications currently in the review process.

Background:

On July 21, 2023, the New Jersey State Legislature passed and Governor Phil Murphy approved P.L. 2023, c.125 (“Chapter 125”), which included a pilot grant program, to be administered by the New Jersey Economic Development Authority (EDA), to provide grants to businesses principally located outside of New Jersey that re-assign New Jersey residents that are currently assigned to work in a state with “convenience of the employer” income taxation to work in New Jersey locations.

On March 7, 2024, the Board approved the pilot program, policies and specs. NJ RISE provides grants to businesses principally located in another state to re-assign employees who are New Jersey residents assigned to work at locations in a state that uses the “convenience of the employer” income taxation to work at New Jersey locations. The grant is equal to the amount of New Jersey Gross Income Tax withholdings of the re-assigned resident employees during one tax year of the business, not to exceed \$500,000 in the aggregate per business.

Application Process:

Currently, applicants may select the tax year of application or the following tax year for reimbursement of withholdings.

Under the proposed policy amendment, businesses applying for the NJ RISE program are required to specify either the application year or one of the two (2) immediate subsequent years for reimbursement, and the selected year must correspond to the business's annual tax filing method. This proposal has been reviewed and accepted with the Division of Taxation.

If an applicant chooses any of the subsequent tax years after the application date, they may be required to submit a six-month progress update to the Authority, confirming their ongoing intent to reassign employees or verifying that the reassignment has begun or was completed prior to the chosen tax year. The reassignment of employees can commence once an application is submitted, even if a subsequent tax year (e.g., year 2) is selected for reimbursement.

This policy change will be retroactive to any current applications that are currently under review.

For the Members' reference, the NJ RISE product specifications as approved on March 7, 2024, are attached as Exhibit A. An updated Notice of Funding Availability (NOFA) reflecting changes to the program policies and available funding will be posted.

Recommendation:

The Members are asked to approve:

1. A policy amendment to the NJ RISE program allowing businesses to select the year of application or one of the two subsequent tax years for their award disbursement under the program, contingent upon the business's established tax filing methodology.
2. This policy amendment will be retroactive, extending to existing applications currently in the review process.



Tim Sullivan, CEO

Prepared by: Tomasita Generals

Attachments:

Appendix A –March 7, 2024, Approved Board Memo & Specs

**MEMORANDUM**

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: March 7, 2024

SUBJECT: New Jersey Re-assigning In-State Employees (NJ RISE) Program

Request:

The Members are asked to approve:

1. The creation of the New Jersey Re-assigning In-State Employees (NJ RISE) Program, a pilot program that will provide grants to businesses principally located in another state that apply before July 1, 2028 to re-assign the location of employment for certain of their New Jersey resident employees from out-of-State to New Jersey.
2. The utilization of up to \$35,000,000 for NJ RISE in any State fiscal year, contingent on continued appropriations.
3. Delegation of authority to the Chief Executive Officer to approve individual applications for the NJ RISE Program within the parameters set forth in this memo and the attached program specifications.
4. Delegation of authority to the Chief Executive Officer to extend the time period for submission of the CPA Certification for a one-time extension of up to six (6) months and for administrative changes described in this memo.

Background:

On July 21, 2023, the New Jersey State Legislature passed and Governor Phil Murphy approved P.L. 2023, c.125 (“Chapter 125”), which included a pilot grant program, to be administered by the New Jersey Economic Development Authority (EDA), to provide grants to businesses principally located outside of New Jersey that re-assign New Jersey residents that are currently assigned to work in a state with “convenience of the employer” income taxation to work in New Jersey locations.

Convenience of the Employer Sourcing Taxation

States tax compensation in different ways. In some states, like New Jersey (with the exceptions noted below), the state taxes an employee’s compensation based on the location where the work was done, regardless of whether the location is at the convenience of the employee or the employer. For instance, an employee who is assigned by the employer to work at a location in New Jersey but chooses to work at

home outside of the State three days a week, will be taxed by New Jersey only for the two days the employee works in the State. The exceptions in New Jersey are due to (1) the Reciprocal Agreement between New Jersey and Pennsylvania that subjects compensation by the residents of each state to the income tax of the state of residency and (2) other limited statutory exceptions.

Other states, such as Delaware, Nebraska, and New York, implement a “convenience of the employer” income taxation. Under this system, the state taxes a nonresident employee’s compensation based on (“sourced to”) the employer’s assigned location even if the employee is working from an out-of-state location (e.g., at home in their resident state) for the employee’s own convenience rather than for the necessity or convenience of the employer. For example, a New Jersey resident employee who is assigned by their employer to work at a location in a “convenience of the employer” state (“State A”) but whose employer requires him to work in New Jersey three days a week will be taxed by State A for the compensation earned for the two days the employee is at the State A location and not for the three days the employee is in New Jersey, because the work in New Jersey is at the necessity or convenience of the employer. If, however, a New Jersey resident employee who is assigned by their employer to work at a location in State A chooses to work at home in New Jersey three days a week, State A will tax all five days of compensation, as if the employee were working at the assigned State A location every day, because the decision to work in New Jersey was at the convenience of the employee.

The goal of NJ RISE is to encourage businesses principally located outside of New Jersey to re-assign New Jersey resident employees who are assigned to locations in states with “convenience of the employer” income taxation to locations in New Jersey. It is anticipated that the effect of the re-assignment will lead to increased revenue from the New Jersey Gross Income Tax.

Program Details:

The Authority shall provide grants to businesses principally located in another state to re-assign employees who are New Jersey residents assigned to work at locations in a state that uses the “convenience of the employer” income taxation to work at New Jersey locations. The grant is equal to the amount of New Jersey Gross Income Tax withholdings of the re-assigned resident employees during one tax year of the business, not to exceed \$500,000 in the aggregate per business. The sum of all grants approved will not exceed \$35 million per State fiscal year. Detailed program specifications, including definitions for capitalized terms, are attached.

Eligibility:

- The business has 25 or more U.S. Full-Time Employees.
- The business must submit a completed application to the EDA on or before July 1, 2028.
- The business is a Business Principally Located In Another State.
- The business must be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and New Jersey Department of Environmental Protection (DEP).
- Re-assigned Employees are Full-Time Employees and part-time employees (which includes employees leased through a professional employment organization but not independent contractor or individuals working on a consulting basis for the business) that are re-assigned by their employers from a place of work in a State with Convenience of The Employer Income Taxation to work at a location in New Jersey.

Restrictions:

- The value of all grants to the business under the program shall not exceed \$500,000.
- No grant may be based upon a Resident Employee for which a business has an active EDA incentive.

- A business's application is identified by EIN. Affiliates with different EIN numbers will not be included in the same application and can apply for separate grant awards.
- The Authority will not approve awards that exceed the sum of \$35 million in any State fiscal year, and the Authority will not approve more than the amount of appropriation it has received from the Legislature. The current appropriation is \$35 million.

A current tax clearance will also need to be provided at application and maintained through disbursement to demonstrate the applicant is properly registered to do business in New Jersey and in substantial good standing with the New Jersey Division of Taxation.

All construction contracts that the applicant enters into to meet the requirements of the program that are equal or greater to \$2,000 are subject to the Authority's affirmative action requirements, N.J.S.A. 34:1B-5.4, and prevailing wage requirements, N.J.S.A. 34:1B-5.1.

Application Process:

1. Review of completed applications will be done on a rolling basis, with delegated authority for the CEO to make approvals. A business may make changes to a completed application until approval but no modifications after approval, except as described in the fee section below. Although the statute allows the Authority in its discretion to enact a preference for businesses that acquire or lease office space in this State and make a capital investment in such office space or that submit to the Authority a plan showing that the business will provide bonuses to, or otherwise increase the compensation of, employees re-assigned to the State (or both), in order to simplify the approval process, staff recommends that no preference be made.
2. A business may submit multiple applications, including within one tax year. Each application must be for Resident Employees not included in any other program award.
3. In the application, the business will select the tax year for reimbursement of Withholdings, which shall be either the tax year of application or the following tax year.
4. Approval will be made for a Grant Award Cap based on Withholdings estimated by the business of proposed Re-assigned Employees, not to exceed \$500,000 in the aggregate per business.

After approval, the business may replace proposed Re-assigned Employees if it submits to the Authority the same information it submitted at application for the original Re-Assigned Employees. Such replacement shall not be considered a modification or an administrative change and shall be subject to the Grant Award Cap.

Grant Disbursement Process:

After the completion of the tax year selected by the business for the grant, the business must submit a CPA Certification within 120 days after the completion of the tax year. Upon staff's satisfactory review and acceptance of the CPA Certification, the business will be paid 75% of the estimated Withholdings substantiated by the CPA Certification. Staff will submit information to the Division of Taxation, which is required under Chapter 125 to certify the actual amount of Withholdings of the Re-assigned Employees. Based on that certification, staff will pay the remainder of the Withholdings, not to exceed the amount of the Grant Award Cap.

Delegated Authority:

The Members are requested to approve:

1. Delegated authority to the Chief Executive Officer to approve individual applications to the NJ RISE Program in accordance with the terms set forth in the attached product specifications. Entities whose applications are denied will have the right to appeal (which must be within at least 10 business days) pursuant to existing policies and delegated authority.
2. Delegation of authority to the Chief Executive Officer to extend the time period for submission of the CPA Certification for a one-time extension of up to six (6) months. No further extensions will be granted and any grantee that does not submit their CPA Certifications within that time will forfeit their grant award.
3. Delegation of authority to the Chief Executive Officer for administrative changes as described below. These changes are routine and staff has experience processing these changes based on other incentive programs.

Program Funding

In Chapter 125, funds were appropriated from the General Fund to the New Jersey Economic Development Authority in the sum of \$35,000,000 subject to the approval of the Director of Budget and Accounting in the Department of the Treasury. Approvals for grants in excess of the currently appropriated amount will be subject to future appropriations and availability of funds.

Fees:

Application Fee: \$5,000

Administrative Fee: \$1,000

Administrative fee will be charged for routine updates to customer files such as company name changes and redesignations as a result of an internal reorganization and for extensions. Modifications that will not be accepted include mergers, acquisitions, spin-offs, separations, and divestitures.

* All fees are non-refundable, unless funds are not available to support the application request.

Recommendation:

The Members are asked to approve:

1. The creation of the New Jersey Re-assigning In-State Employees (NJ RISE) Program, a pilot program that will provide grants to businesses principally located in another state that apply before July 1, 2028 to re-assign the location of employment for certain of their New Jersey-resident employees from out-of-State to New Jersey.
2. The utilization of up to \$35,000,000 for NJ RISE in any State fiscal year, contingent on continued appropriations.

3. Delegation of authority to the Chief Executive Officer to approve individual applications for the NJ RISE Program within the parameters set forth in this memo and the attached program specifications.
4. Delegation of authority to the Chief Executive Officer to extend the time period for submission of the CPA Certification for a one-time extension of up to six (6) months and for administrative changes described in this memo.

A handwritten signature in blue ink, appearing to read "T. Sullivan".

Tim Sullivan, CEO

Prepared by: Tomasita Generals

Attachments:

Appendix A – Proposed Product Specifications: **NJ RISE**

Proposed Program Specifications March 7, 2024	
Funding Source	EDA has received an appropriation in State Fiscal Year (SFY) 2024 for \$35 million. EDA is authorized to award up to \$35 million per SFY, subject to additional appropriations.
Program Purpose	Grants to businesses principally located in another state to re-assign their New Jersey resident employees assigned to work at locations in states that have convenience of the employer taxation to work at New Jersey locations.
Definitions	<ul style="list-style-type: none"> “Business Principally Located In Another State” means a business that has a primary place of business outside of New Jersey, as determined by the Authority, in its sole discretion, which may consider factors such as revenue size, job count, customer base, square footage, and the location of the actual seat of management or control of the corporation. “Employee” means a person who is employed by a business in the United States for consideration. An “Employee” shall also include a person who is employed pursuant to an employer leasing agreement in accordance with N.J.S.A. 34:8-67 et seq. between a business and a professional employment organization. “Employee” shall not include any person who works as an independent contractor or on a consulting basis for the business. “Full-Time Employee” means an Employee who is employed for consideration for at least 35 hours a week. “Grant Award Cap” means the maximum amount of the award at approval and stated in the grant agreement. “Re-assigned Employee” means a Resident Employee that before application is assigned to a location in a State With Convenience Of The Employer Income Taxation and after approval is assigned to a location in New Jersey. “Re-assigned Employee” shall not include any Resident Employee assigned to a location in a State With Convenience Of The Employer Income Taxation within three months prior to the date of the completed application absent the Authority’s acceptance of satisfactory documentation submitted by the business to demonstrate a bona fide assignment. “Resident Employee” means a Full-Time Employee or part-time Employee who is a New Jersey resident taxpayer. “State With Convenience Of The Employer Income Taxation” means a state that imposes an income or compensation tax that

Proposed Program Specifications
March 7, 2024

	<p>requires employee compensation to be sourced to an employer's location if the nonresident employee renders the personal services from an out-of-state location for the convenience of the nonresident employee and not due to the necessity of the employer, excluding any state with a reciprocal agreement with New Jersey concerning the taxation of income.</p> <ul style="list-style-type: none"> • “Withholdings” has the same meaning as that used in N.J.S.A. 54A:7-1 to -7 and N.J.A.C. 18:35-7.1 to -7.11 and, for purposes of this program, will be determined by the Division of Taxation.
Eligible Applicants	<ul style="list-style-type: none"> • The business has 25 or more Full-Time Employees. • The business must submit a completed application to the EDA on or before July 1, 2028. • The business is a Business Principally Located In Another State. • Must be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and the New Jersey Department of Environmental Protection (DEP). • Re-assigned Employees may include Full-Time and part-time Employees but not independent contractors or individuals working on a consulting basis for the business. • A current tax clearance will need to be provided at application and maintained through disbursement to demonstrate the applicant is properly registered to do business in New Jersey and in substantial good standing with the New Jersey Division of Taxation.
Restrictions	<ul style="list-style-type: none"> • The value of all grants to the business under the program shall not exceed \$500,000. • No grant may be based upon a Resident Employee for which a business has an active EDA incentive. • A business's application is identified by EIN. Affiliates with different EIN numbers will not be included in the same application and can apply for separate grant awards. • The Authority will not award more than the sum of \$35 million in any State fiscal year, and the Authority will not approve more than the amount of appropriation it has received from the Legislature.

Proposed Program Specifications
March 7, 2024

Eligible Uses	There are no restrictions on the business's use of the grant funds.
Application	<p>Each application to the Authority by a business must shall include the following information:</p> <ul style="list-style-type: none"> • Evidence that the applicant is a Business Principally Located In Another State. • Evidence that the applicant has 25 Full-Time Employees., e.g. Form 941. • Job log of Resident Employees that are currently assigned to a location in a State With Convenience Of The Employer Income Taxation that the applicant proposes to be Re-assigned Employees, with estimated future New Jersey Withholdings. • Evidence to demonstrate that the proposed Re-assigned Employees are Resident Employees that are currently assigned to a location in a State With Convenience Of The Employer Income Taxation and will be Re-assigned Employees, which shall include but not be limited to: <ul style="list-style-type: none"> a. Payroll report(s) from the business b. Documents demonstrating viability of each Re-assigned Employee's work location in New Jersey c. Proof of the business's Withholdings from the prior quarter to confirm that each proposed Re-assigned Employee is assigned to a location outside of New Jersey in a State With Convenience Of the Employer Income Taxation, e.g. document equivalent to New Jersey's WR-30. If hired during that quarter, documentation to demonstrate bona fide assignment. d. W-3 for the relevant fiscal year. • Selection by the business of the business's tax year for reimbursement of Withholdings, which shall be either the tax year of application or the following tax year. The selected tax year will apply to all Re-assigned Employees associated with the grant. • A written certification by the chief executive officer, or equivalent officer for North American operations, stating that the business applying for the program is not in default with any other program administered by the State of New Jersey, and that the officer has reviewed the application information submitted and that the representations contained therein are true and accurate, under the penalty of perjury. • Indication whether any new work location(s) in New Jersey for Re-assigned Employees will require construction or renovation.

Proposed Program Specifications
March 7, 2024

	<ul style="list-style-type: none"> Any other necessary and relevant information as determined by the Authority for a specific application.
Application Review and Board Approval/ Delegated Authority	<ul style="list-style-type: none"> Review of completed applications will be done on a rolling basis without any preference, with delegated authority for CEO to make approvals. A business may submit multiple applications, including within one tax year. Each application must be for Resident Employees not included in any other active incentive. Approval will be made for a Grant Award Cap based on estimated Withholdings of proposed Re-assigned Employees.
Grant Amounts	The grant amount is equal to the New Jersey Gross Income Tax Withholdings of Re-assigned Employees subject to the Grant Award Cap.
Fees	<p>Application Fee: \$5,000</p> <p>Administrative Fee: \$1,000</p> <p>Administrative fee will be charged for routine updates to customer files such as company name changes and redesignations as a result of an internal reorganization and for extensions. Modifications that will not be accepted include mergers, acquisitions, spin-offs, separations, and divestitures.</p> <p>* All fees are non-refundable, unless funds are not available to support the application request.</p>
Grant Agreement	<p>Upon approval, the authority shall send a grant agreement which will include, at a minimum:</p> <ul style="list-style-type: none"> the Grant Award Cap the minimum number of Re-assigned Employees. The minimum number of Re-assigned Employees will be the number of Re-assigned Employees whose Withholdings add up to at least one half of the Grant Award Cap a provision that no modifications will be allowed, except for certain administrative changes (as described in the memorandum). The business may replace previously proposed Re-assigned Employees if it submits the information required in the Application section for the original Re-Assigned Employees; such replacement shall not be considered a modification and shall be subject to the Grant Award Cap

Proposed Program Specifications
March 7, 2024

	<ul style="list-style-type: none"> • a provision that payment under the grant agreement is subject to appropriation and that payment shall be made solely to the grantee and not to any professional employment organization that may be a co-employer of Re-assigned Employees • the requirement that absent extenuating circumstances and the written approval of the Authority, CPA Certifications are due 120 days after the completion of the tax year that the business has selected for reimbursement. The CPA Certification shall include a certification regarding the Re-assigned Employees by an independent CPA based on staff created “agreed upon procedures” and other documentation and certifications from the business as is consistent with other Authority job-based incentive programs. • a provision that, upon staff’s satisfactory review and acceptance of the CPA Certification the business will be paid 75% of the estimated Withholdings. • a provision that, upon the Division of Taxation’s certification of the actual amount of Withholdings of the Re-assigned Employees, the business will be paid the remainder of the certified amount of Withholdings, not to exceed the Grant Award Cap • recapture provisions in the event of overpayment and an event of default and full repayment for any material misrepresentation • the grant agreement will not require a compliance period • affirmative action and prevailing wage requirements, if applicable • a provision permitting an audit of the payroll records of the business and any other evidence and documentation supporting the reports required to demonstrate the Re-assigned Employees and the estimated Withholdings from time-to-time, as the Authority deems necessary
Disbursement	<p>EDA will disburse 75% of the grant award based on the CPA certification with a 25% retainage that will only be released after certification by the Division of Taxation of the actual amount of Withholdings of the Re-assigned Employees. The retainage is anticipated to allow staff to make adjustments to the payment amount without requesting repayment. As stated above, the grant agreement will require recapture in the unlikely event of overpayment.</p>



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Policy Update for Cultural and Arts Facility Expansion (CAFE)

Request:

The Members are asked to approve a policy for the Cultural Arts Facilities Expansion (CAFE) program for determining the eligibility criteria for cultural arts projects that have commenced construction prior to application to demonstrate that the project could not be completed without the award of tax credits. This policy aims to encourage the completion of projects that are stalled or are at risk of stalling which the Authority deems cannot be completed without the award of tax credits. This policy seeks to provide clarity and ensure fairness to applicants.

Background:

The CAFE Program is designed to support cultural arts projects through the award of tax credits. The Board approved the creation of the program and the program rules at the January 23, 2025, Special Board Meeting.

CAFE encourages the development of arts and cultural facilities in the State by providing tax credits during the 5-year eligibility period, which begins when the Cultural Arts Project is certified as complete. The amount of tax credits a Cultural Arts Institution (or “applicant”) receives is up to 100 percent of the eligible project costs and is subject to a statutory cap of \$75 million per project.

The program currently operates as a competitive program, as required by statute. The CAFE program began accepting applications for the first competitive round on April 7, 2025, with the closing date set for June 6, 2025.

The CAFE statute and program rules include the following eligibility criteria.

- **Statute:** "Construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the authority determines that the cultural arts project ***would not be completed without an award of tax credits under the program.***"
- **Program Rules:** "Construction has not commenced at the site of the cultural arts project prior to submitting an application, unless the work was ordered by a building code or other official with jurisdiction over the site of the cultural arts project to correct a health, safety, or other hazard ***or*** the Authority determines that the cultural arts project ***would not be completed without an award of tax credits under the Program.*** Construction shall not include demolition or site remediation activities for purposes of this paragraph."

The proposed policy provides the criteria that applicants must meet to be eligible under the statutory exception referenced above for projects that have commenced construction prior to the application and that "would not be completed without an award of tax credits under the program." The policy focuses on projects that have experienced unexpected increases in construction costs and are unable to fundraise to fill the gap within a reasonable timeframe which would not significantly impact the construction schedule. Consistent with existing policy, an application for a project by a cultural arts institution, who acquires an existing project and is unrelated to the previous developer(s), would be considered a new project. In those instances, the new project would not have been considered to have "commenced construction." Therefore, this policy specifically applies to projects where the applicant is either the party that initiated construction or is related to that party. Consistent with the similar restriction in the Historic Property Reinvestment Program, whether an entity is related to applicant will be based on whether the entity is an Affiliate of the applicant or the entity did the work at the direction of or under contract with the applicant or an Affiliate of the applicant. This policy aims to address the specific needs and challenges of cultural arts projects only while minimizing unintended impacts on other programs. While this policy serves as an initial step in addressing challenges related to unexpected increases in construction costs coupled with fundraising and grant shortfalls unique to cultural and arts facilities, there may be other circumstances that could be considered in the future. Staff will continue to consider how this policy may apply in other contexts and situations.

Program Details:

This policy provides the criteria that applicants must meet to be eligible under exception referenced above that the project "would not be completed without an award of tax credits under the program."

1. Eligibility:

To be eligible for CAFE as a project that has commenced construction prior to submitting a CAFE application per the statute, the applicant must demonstrate that the project would not be completed without the award of CAFE tax credits by meeting the following criteria:

- **Unexpected Increase in Construction Costs:** Applicants must demonstrate a minimum 10% increase in the construction budget resulting from unexpected increases in construction costs due to factors that they could not reasonably anticipate (for example, cost increases due to tariffs higher than anticipated, or greater than expected inflation). The

construction cost increase will be measured against the budget at the time construction commenced. Applicants will need to provide evidence of the budget at the time construction commenced (such as a construction contract, approval of the project budget by the applicant's governing body, or other evidence deemed acceptable by the Authority). This must be substantiated through certification by the CEO or equivalent officer. This 10% threshold aligns with the typical retainage/contingency on many real estate projects. For example, a project might face significant price increases in materials due to sudden tariff changes, making completion financially unfeasible without additional support. As the CAFE program was borne out of a conditional veto of the Community-Anchored Development Program, which was created in the Economic Recovery Act, only projects which commenced construction after the Economic Recovery Act of 2020 was enacted on January 7, 2021, are eligible. Consistent with the program rules and for the purposes of this policy, demolition, environmental assessment, and environmental remediation activities are not considered as the commencement of construction. Applications based on increases in the construction budget due solely to an increase in the project's scope will not be eligible.

- **Credible Financing Plan:** At the start of construction, applicants must have had a credible financing plan; that is, a budget that would have been sufficient to complete the project as of that time. This must be substantiated through certification by the CEO or equivalent officer. This requirement supports that the applicant initially had the capacity to complete their project when they started the project, maintaining consistency with existing policy that requires applicants to demonstrate that the structure and terms of the financial, corporate, and real estate instruments to be utilized are adequate to successfully complete and then operate the project. Embarking on construction without a credible financing structure indicates a lack of capacity and preparedness to successfully complete the project.
- **Inability to Fundraise:** This policy is aimed at nonprofit and governmental entities who have shortfalls in fundraising and grants. Thus, applicants must show they cannot credibly fundraise to fill the financing gap within a reasonable timeframe, which would not significantly impact the construction schedule. This must be substantiated through certification by the CEO or equivalent officer.

2. Award Amount:

- Consistent with the current program rules, prior construction costs are not eligible project costs. With the exception of soft costs (which may be incurred up to one year prior to application), eligible project costs only include project costs incurred after application.
- The award size under this proposed policy is limited to the unexpected increases in construction costs, and documentation of increased costs satisfactory to the Authority is required. The increase in construction cost is based on the budget at the time construction commenced. For example, a cultural arts project initially had a budget of \$30 million at the time construction commenced, and they have already spent \$5 million and raised an additional \$10 million (for a total of \$15 million raised), but due to unexpectedly high

inflation rates, the project's budget has escalated to \$40 million. In this scenario, assuming the CEO certifies and the Authority accepts that the initial financing plan was credible, the award size would be limited to covering the \$10 million increase in eligible project costs, provided that the applicant submits thorough documentation acceptable to the Authority substantiating these increased costs. This ensures that the tax credits are allocated specifically to address unforeseen financial challenges, rather than exceeding the project's original scope.

- Although the Board has not yet approved any projects under the CAFE program, this policy does not apply to projects that have been approved as a new project. Once a project is approved, the award amount for the specific CAFE project is capped at the amount approved by the Board, consistent with longstanding Authority policy. This will limit projects that have been previously approved for the CAFE program from withdrawing and reapplying to receive a higher award amount due to higher construction costs. Under this policy, only the "increase" in construction costs is eligible for funding, ensuring that any previously approved amount is excluded from subsequent approvals.
- The award will be further sized by deducting certain sources raised to date and expected to be raised within 12 months of Board approval. Debt sources, such as loans, will not be deducted from the award amount, as these are typically repaid with interest and do not represent net financial support to the project. However, other sources, including but not limited to grants and funds raised, will be deducted, as these directly offset the need for additional funding. Furthermore, any sources included for the original construction budget will also be deducted. This approach ensures that the award reflects the true additional financial need of the project. Thus, in the scenario described above, if the applicant had raised \$32 million (rather than \$15 million), the award would be limited to \$8 million as the \$10 million unexpected increase would be reduced by the \$2 million in funds raised above the original construction budget.

3. Prevailing Wage:

- To be eligible under this policy, the Authority's prevailing wage requirements for construction work will apply to all construction work for the cultural arts project, including work that commenced prior to application. This means that the cultural arts institution (or affiliate) must have paid prevailing wage for all prior construction costs for the project and must satisfy all other prevailing wage requirements, including, but is not limited, to the Public Works Contractor Registration requirements. This means that all contractors and subcontractors must have had their Public Works Contractor Registration in place at the time they conducted any work for which the Authority requires payment of prevailing wage. It is expected that projects that have other State funding will have met such requirements.

4. Minimum Project Size:

- The minimum project size remains unchanged at \$5 million in eligible project costs. The \$5 million minimum project size will be determined without regard to any additional fundraising, even though the additional fundraising will be subtracted to determine the award amount. In addition, as discussed above, the project must demonstrate a minimum of a 10% increase in construction costs.

5. Prior Costs:

- As discussed above, with the exception of soft costs, as defined in the program rules, work conducted prior to application is not considered an eligible project cost. However, all cumulative project costs are included in the total project cost calculation. Because equity contributions are determined based on the total project costs, this approach ensures that the financial responsibility borne by the applicant is proportional to the entire scope of the project, including both past and future expenses.

To ensure a consistent and fair process, staff recommends implementing this policy after the initial round of applications closes and a new application is released. We anticipate a new application could be developed as early as July of 2025.

Recommendation:

The members are asked to approve the policy for determining the eligibility criteria for cultural arts projects that have commenced construction prior to application to demonstrate that the project could not be completed without the award of tax credits. This policy will make the CAFE Program more accessible to stalled cultural arts projects and cultural arts projects at risk of stalling, enabling their completion with the support of tax credits.



Tim Sullivan, CEO

Prepared by: Elizabeth Limbrick, Dan Jennings, and Paul Ceppi



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Readoption of the February 2024 Specially Adopted Amendments and New Rules to the Garden State Film & Digital Media Tax Credit Program (N.J.A.C. 19:31T-1.1, et seq.)

Request:

The Members are asked to approve the attached readoption of the February 2024 specially adopted rule amendments and new rules for the Garden State Film & Digital Media Tax Credit Program pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; P.L. 2023, c. 97; and P.L. 2024, c.33; and authorize staff to (a) submit for publication in the New Jersey Register and (b) submit as final adopted rules for publication in the New Jersey Register if no substantive comments are received, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law.

Background:

The film tax credit program was first created in 2005 by P.L. 2005, c. 345 (“Chapter 345”). Since that time, it has been repeatedly amended, sunset, and ultimately reinstated in 2018 by P.L. 2018, c. 56 (“the Garden State Film and Digital Media Jobs Act” or “Film and Digital Media Act”) and recodified at N.J.S.A. 54:10A-5.39b and N.J.S.A. 54A:4-12b. It was significantly amended by the New Jersey Economic Recovery Act of 2020 (“ERA”), P.L. 2020, c. 156, as amended by P.L. 2021, c. 160, and additional laws. The goal of the program is to incentivize production companies to film and create digital media content in New Jersey.

On January 21, 2020, Governor Murphy signed P.L. 2019, c. 506 (“Chapter 506”). The law extended the availability period of the tax credits through 2028, increased the annual film tax credit cap to \$100 million and created a process for the Authority to certify any unused credit amounts in one fiscal year to be used in the subsequent year.

On January 7, 2021, Governor Murphy signed the ERA into law. The ERA created a package of tax incentive, financing, and grant programs to address the ongoing economic impacts of the COVID-19 pandemic and build a stronger, fairer New Jersey economy, including amendments to the Film & Digital Media Tax Credit Program. Most significantly, these amendments created “film partners” and “film-lease partners.”

On July 2, 2021, Governor Murphy signed P.L. 2021, c. 160 (“Chapter 160”), extending the program through 2034, adding a definition of “incurred in New Jersey,” removing “film partner” and adding “studio partner,” restricting the use of unredeemed and unused credits in subsequent years, providing additional specification to the Authority’s review of the taxpayer’s required certified public accountant report, and increasing the tax credit percentage and bonus amounts available for film projects.

On January 12, 2022, Governor Murphy signed P.L. 2021, c. 367 (“Chapter 367”). This law reestablished the Authority’s ability to certify unused and unredeemed tax credits from one State Fiscal Year for use in the subsequent State Fiscal Year. It also created an additional two percent diversity bonus for productions that submit a diversity plan, which includes specific goals for hiring certain local, on-screen talent. Chapter 367 also increased the tax credit percentage for Digital Media productions from 20 percent to 30 percent, while increasing the allocation from \$10 million to \$30 million annually.

In June 2022, the NJEDA Board approved proposed rule amendments and proposed new rules to implement Chapter 506; ERA changes to the program; Chapter 160; and Chapter 367. On August 1, 2022, the proposed amendments and proposed new rules were published in the New Jersey Register. See 54 N.J.R. 8(1). Significant public comments were received. Thereafter, legislative changes were enacted and the rules proposal was allowed to expire so that rules responsive to new legislative changes could be prepared.

On July 6, 2023, Governor Murphy signed P.L. 2023, c. 97 (“Chapter 97”), which extended the program through 2039, removed the “film-lease partner” allocation category and created the “film-lease production company” allocation category. This new category has an annual allocation of \$150 million. The “studio partner” allocation was increased from \$100 million to \$150 million as well. Chapter 97 also created the “film-lease production facility” designation, available to up to three large studios who meet certain requirements and increased the tax credit amount available for “studio partners” and “film-lease production companies” to 40 percent. In addition, this legislation also authorized NJEDA to adopt immediately effective (“special adoption”) rules to implement the statutory changes.

On February 26, 2024, the Authority filed specially adopted and concurrently proposed amended and new rules for the program, pursuant to the legislative amendments from the

previous five bills, with the Office of Administrative Law. These rules took effect immediately and were published in the New Jersey Register on April 1, 2024.

Effective March 27, 2024, N.J.A.C. 19:31 ("Authority Assistance Programs") was recodified and readopted. As a part of the readoption, these program rules then codified at N.J.A.C. 19:31-21 were recodified to N.J.A.C. 19:31T with attendant technical updates to the rule text concerning cross-references, agency names, addresses, etc., effective May 6, 2024.

The public comment period for the February 2024 rule making closed on May 31, 2024. Significant public comments were received.

On July 10, 2024, the program was again amended by P.L. 2024, c.33 ("Chapter 33"), which created additional eligibility criteria for digital media projects, added definitions of "independent post-production company", and amended the definitions of "digital media content", "film", "full-time or full-time equivalent employee", "highly compensated individual", "incurred in New Jersey", "loan out company", "New Jersey film-lease production company", "New Jersey studio partner", "qualified digital media content production expenses", and "qualified film production expenses".

Chapter 33 expanded the eligibility pathways for digital media applicants incurring post-production expenses in New Jersey, increased the per person cap for qualified payments to above-the-line (ATL) personnel for certain projects, and gave the Authority the discretion to reallocate certain legacy film allocation category funds to be used for digital media applicants.

The public comments received from the proposed rule amendments and the subsequent enactment of Chapter 33 generated a need for further discussion, interagency collaboration, and ultimately additional rule changes. Accordingly, on January 26, 2025, the Governor extended the expiration of the specially adopted rules to February 22, 2026. The extension was published in the February 18, 2025, New Jersey Register.

Summary of Special Adoption and Concurrently Propose and New Rules Changes:

The specially adopted and concurrently proposed amended and new rules that were filed on February 26, 2024, included numerous changes based on direct statutory amendments, public comments, and policy decisions. These changes impact the implementation and operation of the program and are included in the attached readoption.

The changes included new or amended definitions, including, but not limited to, "applicant", "commitment period", "eligibility period", "film production use", "homeowner", "incurred in New Jersey", "personal residence", "production facility", "qualified film production expense", "reality show", and "shoot day".

In addition to amendments to definitions, several policy decisions were implemented including: increasing the diversity hiring goal threshold for an approved diversity plan from 15% to 25%, requiring studio partner and film-lease partner facilities to obtain a temporary

certificate of occupancy within 36 months of designation approval, limiting the amount of tax credits that could be recaptured by the Authority to only the additional amounts received based on the entity's designation, and all production facilities involved in either a studio partner or film-lease partner facility designation will have to comply with all prevailing wage, affirmative action, and contractor registration requirements for construction contracts.

Summary of Proposed Rule Changes

The readoption being considered today includes changes from the February 26, 2024 rules. In addition to the legislative changes, these new rules contain several changes based on staff's proposals for policy decisions, as well as changes based on comments. These changes will impact the implementation and operation of the program. The changes are described below:

The readopted rules include language that clarifies the relationship between the defined terms of "commitment period", and "eligibility period" for studio partners. Staff clarified that, as allowed under the statute, depending on when a studio partner begins principal photography on its initial project in New Jersey, the eligibility period can commence before the commitment period. This would allow a studio partner to have an eligibility period of greater than ten years.

The readopted rules amend the definition of "total film production expenses" to only include expenses incurred on or before 30 days after the date the film is in final format (referred to as "film completion").

The readopted rules include language to clarify the exclusion of any prizes or awards for any reality show, competition or game show from qualified film production expenses.

Additionally, the readopted rules amend the definition of "tax credit vintage year". Previously, the vintage year was based on the applicant's tax year at initial approval. The definition is amended for applications approved after the anticipated effective date of these rules to be the applicant's tax year in which the Authority gives final approval, that is, when the Authority approves the CPA certification submission. The readopted rules also allow any applicant that received initial approval prior to that effective date, and has not yet received final approval by the Authority, to elect to use the later tax year as the new tax credit vintage year.

This rule proposal clarifies the eligibility criteria for both film and digital media projects. The eligibility criteria thresholds for each program only includes expenses for goods incurred in New Jersey and services performed in New Jersey.

The application submission requirements for the program are changed for projects submitted by studio partners that include expenses incurred by unrelated third parties. These projects will need to provide evidence acceptable to the Authority that the studio partner remained in compliance with the designation, and either controls the project through pre-production, production, and post-production, or controls the distribution of the final product.

The readopted rules contain language based on statutory amendments increasing the diversity bonus for digital media projects to four percent and that any studio partner projects that

included qualified film production expenses based on any deferred compensation provide to the Authority a supplement report no later than two years following the date the locked cut or equivalent format was made available for distribution.

Additional policy decisions implemented in the proposed rules surround certain recapture or claw back scenarios for studio partners, film-lease production facilities, and film-lease production companies. For scenarios where a film production company designated as a studio partner on the basis of a lease or other occupancy of space at a film-lease partner facility prior to the designated facility obtaining a temporary certificate of occupancy (TCO), the Authority will not recapture or claw back any award amounts for one year following the Authority's approval of the studio partner designation.

Similarly, if a film-lease production company is issued any tax credits prior to the film-lease partner facility obtaining a TCO, and the film-lease production company fails to meet the qualification of a film-lease production company, such as not occupying space at the film-lease partner facility, the Authority will terminate all approvals that have not yet received final approval as film-lease production company projects, and convert them to legacy film projects. The Authority may also recapture any increased incentives the film-lease production company received that were only available by virtue of the film-lease production company status. The Authority will not recapture any tax credits within one year of the film-lease production company's lease with the film-lease production company.

These changes allow additional security for designated film-lease partner facilities to attract tenants prior to obtaining a TCO, including large studio entities looking for long term commitments to New Jersey.

Compliance with Executive Order 63

In accordance with Executive Order 63, which ensures outreach efforts are made to the public and affected stakeholders during rule drafting, the Authority posted draft rule amendments and draft new rules to its website at <https://www.njeda.gov/rules-and-regulations/> where the public is able to submit written feedback on Authority programs from April 9th, 2025 to April 15th, 2025.

In addition, the Authority issued a news release advising the public that the draft Garden State Film and Digital Media Tax Credit Program rules were available for review and invited informal input. Furthermore, several known stakeholder groups were contacted directly by the Authority and notified that the draft was available for feedback via the Authority's website.

Chief Compliance Officer Certification

Pursuant to the ERA, the Chief Executive Officer is required to appoint a Chief Compliance Officer (CCO) to, among other things, "review and certify that the provisions of program rules or regulations provide the Authority with adequate procedures to pursue the recapture of the value of an economic development incentive in the case of substantial noncompliance, fraud, or abuse by

Film & Digital Media Tax Credit Program Rules

the economic development incentive recipient, and that program rules and regulations are sufficient to ensure against economic development incentive fraud, waste, and abuse.” N.J.S.A. 34:1B-365.

Chief Counsel Lisa Almeida has been designated the Acting CCO. In that capacity, Mrs. Almeida has reviewed this readoption for the Garden State Film & Digital Media Tax Credit Program and is prepared to sign the certification, subject to the Board taking action to approve the same and expiration of the Governor’s veto period for submission to the New Jersey Office of Administrative Law for publication in an upcoming issue of the New Jersey Register.

Recommendation

The Members are asked to approve the attached readoption of the February 2024 specially adopted rule amendments and new rules for the Garden State Film & Digital Media Tax Credit Program pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; P.L. 2023, c. 97; and P.L. 2024, c.33; and authorize staff to (a) submit for publication in the New Jersey Register and (b) submit as final adopted rules for publication in the New Jersey Register if no substantive comments are received, subject to final review and approval by the Office of the Attorney General and the Office of Administrative Law.



Tim Sullivan, CEO

Prepared by:
Matt Sestrich

Attachments: Appendix A – Notice of Readoption of the Garden State Film & Digital Media Tax Credit Program Rules

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Authority Assistance Programs

Garden State Film and Digital Media Jobs Program

Readoption of Specially Adopted Amendments with Substantial Changes: N.J.A.C. 19:31T-1.1 through -1.7, N.J.A.C. 19:31T-1.10 through -1.12, and N.J.A.C. 19:31T-1.14

Readoption of Specially Adopted New Rules with Substantial Changes: N.J.A.C. 19:31T-1.8, 1.9, and 1.13

Authorized By New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Filed: [Insert Date], as R.2025 d._____.

Authority: P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; P.L. 2023, c. 97; P.L. 2024, c. 33.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: _____

Effective Date: _____

Expiration Date: _____

Submit written comments by _____, to:

Alyson Jones, Managing Director of Legislative and Regulatory Affairs
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
Alyson.Jones@njeda.gov

Take notice that in accordance with P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; P.L. 2023, c. 97, and P.L. 2024, c. 33 the New Jersey Economic Development Authority (“NJEDA” or “Authority”) is readopting the specially adopted amendments and new

rules and proposing substantial changes to implement the provisions of the Garden State Film and Digital Media Jobs Act, N.J.S.A. 54:10A-5.39b and 54A:4-12b.

The specially adopted amendments and new rules became effective on February 26, 2024, upon acceptance for filing by the Office of Administrative Law (OAL). The specially adopted amendments and new rules were to be effective for a period not to exceed 180 days from the date of filing, that is, until August 26, 2024. Concurrently, the amendments and new rules were proposed for amendment in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. As the NJEDA filed the original notice of readoption before August 26, 2024, the expiration date was extended 180 days to February 22, 2025, pursuant to N.J.S.A. 52:14B-5.1.c. The concurrently proposed amendments and new rules would have become effective and permanent upon notice of adoption if filed on or before February 22, 2025. See N.J.A.C. 1:30-6.4(f).

On February 22, 2025, Governor Murphy extended the expiration date of the specially adopted amendments and new rules for one year. The new expiration date is February 22, 2026. See 57 N.J.R. 388(a). The notice of concurrent proposal expired on April 1, 2025, pursuant to N.J.A.C. 1:30-6.4. The Authority is now readopting the specially adopted amendments and new rules with significant changes pursuant to P.L. 2024, c. 33, which has no bearing on the expiration date of the Gubernatorially extended specially adopted amendments and new rules. The readopted specially adopted amendments and new rules with substantial changes will become effective and permanent upon notice of adoption, if filed on or before February 22, 2026. See N.J.A.C. 1:30-6.4(f).

The readoption of the specially adopted amendments and new rules with substantial changes follows:

Summary

The Garden State Film and Digital Media Jobs Act, N.J.S.A. 54:10A-5.39b and 54A:4-12b, provides a transferable credit against the corporation business tax and the gross income tax for qualified expenses incurred for the production of certain film and digital media content in New Jersey. The goal of the act is to incentivize production companies to film and create digital media content in New Jersey.

The New Jersey Economic Development Authority is incorporating provisions of recent statutory revisions, pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; P.L. 2023, c. 97, P.L. 2024, c. 33, as well as industry and stakeholder input received through prior rulemakings into the existing rules.

Summary of the Rulemaking and Legislative History

The film tax credit program was first created in 2005 pursuant to P.L. 2005, c. 345, and codified at N.J.S.A. 54:10A-5.39; 54A:4-12. Since that time, it has been repeatedly amended, sunset, reinstated in 2018 at P.L. 2018, c. 56, as the Garden State Film and Digital Media Jobs Act and recodified at N.J.S.A. 54:10A-5.39b and 54A:4-12b, and significantly amended in the New Jersey Economic Recovery Act of 2020 (ERA), P.L. 2020, c. 156, as amended at P.L. 2021, c. 160, and additional bills.

On August 1, 2022, the NJEDA published proposed amendments and proposed new rules for the Garden State Film and Digital Media Jobs Program (Program) rules, pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; and P.L. 2021, c. 367, in the New Jersey Register. See 54 N.J.R. 1530(a). As summarized below, significant public comments were received.

Thereafter, legislative changes were enacted. On July 6, 2023, Governor Murphy signed P.L. 2023, c. 97 into law. This new law modified the Garden State Film and Digital Media Program in various ways including:

- extending the privilege period through 2039 and increasing the amount of tax credits available;
- replacing the concept of “film-lease partners” with a new concept of “film-lease production companies” and creating the concept of a “film-lease partner facility”;
- expanding the definitions of “film” and “qualified film production expenses,” adding definitions of “commitment period” and “eligibility period,” and amending the definitions of “film” and “studio partner,” and “full-time or full-time equivalent employee”;
- enumerating certain rescind and recapture penalties for “studio partners”;
- revising requirements related to the diversity plan credit;
- making certain changes to deferred compensation payments; and
- clarifying provisions related to filming at a personal residence.

In addition, P.L. 2023, c. 97, authorized the NJEDA to specially adopt rules to be immediately effective for a period not to exceed 180 days from the date of the filing. The August 1, 2022, notice of proposal was superseded by P.L. 2023, c. 97 and allowed to expire.

The NJEDA filed special adoption and concurrently proposed amendments and new rules for the Program on February 26, 2024, which were published in the April 1, 2024 New Jersey Register. See 56 N.J.R. 491(a). As summarized below, significant public comments were again received.

Meanwhile, N.J.A.C. 19:31, Authority Assistance Programs, was recodified and readopted effective March 27, 2024. As a part of the readoption, these Program rules then codified at N.J.A.C. 19:31-21 were recodified to N.J.A.C. 19:31T with attendant technical updates to the rule text concerning cross-references, agency names, addresses, etc., effective May 6, 2024.

Thereafter, additional legislative changes were enacted. Governor Murphy signed S3275 into law as P.L. 2024, c. 33 on July 10, 2024. Chapter 33 modified the ERA at N.J.S.A. 34:1B-362 to make up to \$300,000,000 in unused tax credits under the Authority-administered Aspire

and Emerge Programs available in State Fiscal Year 2025 to the Garden State Film and Digital Media Jobs Program and to make tax credits available to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies. The new law also modified the Garden State Film and Digital Media Program in various ways including, but not limited to:

- Expanding the tax credit qualifying expenses to include film production expenses for certain qualifying reality shows;
- Excluding qualified wage and salary payments made to full-time employees working on digital media from tax credit qualifying expenses;
- Allowing certain post-production expenses to qualify for tax credits;
- Requiring tax credit application approval even when the Program is oversubscribed;
- Expanding the scope of qualified film production expenses and qualified digital media content production expenses to include wage and salary expenses (including those paid to “loan out companies”) for workers who are not subject to New Jersey gross income taxes due to tax reciprocity with another state;
- Adding a new definition for “independent post-production company”;
- Expanding the definitions of “digital media content”, “highly compensated individual”, “incurred in New Jersey”, “New Jersey Film-Lease Production Company”, “New Jersey Studio Partner” and “Qualified digital media content production expenses”;
- Limiting the definition of “loan out company” to require such companies to be authorized to do business in New Jersey;
- Revising the definition of “film” to change the exception which permits a reality show to be considered a “film”;
- Amending certain diversity plan provisions; and
- Extending the deadline for the qualifying expense period to July 1, 2034.

This readoption incorporates the P.L. 2024, c. 33 changes as well as comments received in response to the February 26, 2024 special adoption.

Summary of Public Comments and Agency Responses in Response to the August 1, 2022, Notice of Proposal at 54 N.J.R. 1530(a):

In response to the August 1, 2022, notice of proposal at 54 N.J.R. 1530(a), the Authority received comments from Kathy Banuelos, Senior Vice President, State Government Affairs, Motion Picture Association; John C. Biggins, Executive Managing Director, Biggins Lacy Shapiro and Company, LLC; Jason Hariton, EVP & Chief Real Estate Officer, MBS Group; Nick Maniatis,

Director Studio and Production Affairs – North America; Christine Cascio Peluso, Esq., Tax Credits US, and Fred Siegel, CPA.

1. COMMENT: The commenter requested that the Authority expedite approvals of initial applications, specifically related to tax clearance and good standing determinations.

RESPONSE: The Authority is determined to complete reviews as expeditiously as possible; however, the Authority obtains tax clearances from every applicant to determine that applicants are in good standing with the New Jersey Department of Labor and Workforce Development, the New Jersey Department of the Treasury, and the New Jersey Department of Environmental Protection.

2. COMMENT: The commenter indicated that the requirements that the construction at the production facility comply with the prevailing wage and affirmative action requirements should only apply to the work performed by the studio partner and not its landlord or potential landlord pursuant to an executed lease or lease term sheet.

RESPONSE: Revised N.J.A.C. 19:31-21.12 sets forth that, for studio partners and film-lease partner facilities, the Authority's affirmative action requirements at N.J.S.A. 34:1B-5.4 and N.J.A.C. 19:30-3 and prevailing wage requirements at N.J.S.A. 34:1B-5.1 and N.J.A.C. 19:30-4 shall apply to work performed at the production facility after the Authority's approval of the designation.

3. COMMENT: Several of the commenters inquired as to the necessity of the publication of certain information related to tax credit transfers.

RESPONSE: The requirement is amended as part of the rulemaking at N.J.A.C. 19:31-21.10(e).

4. COMMENT: The commenter requested removal of the requirement that the information provided by the taxpayer pursuant to N.J.A.C. 19:31-21.4 be submitted with a certification that it

is true as the information may include a discrepancy between what is truthfully submitted and what is ultimately approved by the Authority.

RESPONSE: Information provided to the Authority regarding eligible costs that is thought to be true at the time of submittal, but is subsequently deemed ineligible by the Authority, would not be considered untruthful.

5. COMMENT: The commenter requested an expansion of the list of executives qualified to provide the report required pursuant to N.J.A.C. 19:31-21.4. The commenter also indicated that the information the Authority requires regarding estimates of future production activities will be projections only and may be subject to change.

RESPONSE: This requirement has been removed as part of the rulemaking.

6. COMMENT: The commenter suggested clarifying the definition of “qualified film production expenses” at N.J.A.C. 19:31-21.2.

RESPONSE: The Authority agrees with this comment and has clarified the definition of “qualified film production expenses,” as suggested by the commenter, in the rulemaking.

7. COMMENT: The commenter requested an amendment to the rules to expand the definition of “combined group.”

RESPONSE: “Combined group” is a defined term utilized in other programs and by other State agencies; therefore, its meaning will not be changed for this Program.

8. COMMENT: The commenter requested timely processing of applications for the studio partner designation.

RESPONSE: The Authority processes applications in as timely a manner as possible on a first-in-time basis. The Authority may institute a competitive process if interest in the studio partner designation so warrants.

9. COMMENT: The commenter requested an amendment to the definition of “studio partner” to expand the designation to those other than content creators.

RESPONSE: The Authority is bound by the statutory definition of “studio partner” at N.J.S.A. 54:10A-5.39b.h and 54A:4-12b.h.

10. COMMENT: The commenter requested additional time to satisfy the requirements of the studio partner designations beyond the 36-month time period in addition to the potential for two six-month extensions.

RESPONSE: The Authority has determined that the time period set forth at N.J.A.C. 19:31-21.8 is sufficient to satisfy the requirements of the studio partner designations. There are a limited number of designations and the timeframes set forth at N.J.A.C. 19:31-21.8 are necessary to ensure that the studio partner designations are utilized, and construction of production facilities is completed in a timely manner.

11. COMMENT: The commenter suggested amendment to the requirement that the studio partner remain in compliance with the award agreement, including maintaining minimum site control of the facility as a result of sale, sublicense, and/or sublease of the facility.

RESPONSE: The requirement to maintain the minimum site control pursuant to the award agreement is necessary to ensure that the applicant can fulfil the requirements of the Program throughout the commitment period. The minimum site control requirement does not wholly prohibit sale, sublicense, or sublease of the facility. However, to be eligible for, and remain in compliance with, the designation, any modifications of site control will require the prior consent and approval of the Authority. A studio partner may sublease in certain circumstances pursuant to N.J.A.C. 19:31-21.8(h)2.

12. COMMENT: The commenter requested that the Authority add “an executed lease term sheet” in addition to ownership or a lease.

RESPONSE: The Authority requires a completed application to be designated as a studio partner to include an executed deed, lease, sublease, purchase contract for the production facility, or letter of intent with a governmental authority for the purchase of property for the purpose of developing a production facility. The executed lease or sublease shall have a term that extends for the commitment period based on the anticipated commencement of the commitment period. See N.J.A.C. 19:31-21.4(b)1.

13. COMMENT: The commenter requested that the Authority accept a letter of intent in lieu of the required lease required at N.J.A.C. 19:31-21.2.

RESPONSE: Due to the limited number of designations, the Authority requires more substantial evidence of a commitment than a letter of intent; however, a lease with contingencies is acceptable. Site control by a studio partner applicant is required.

14. COMMENT: The commenter inquired as to the commencement of the commitment period and the requirement to maintain site control throughout the commitment period as evidenced by a lease for the appropriate time frame.

RESPONSE: “Commitment period” is defined by statute at N.J.S.A. 54:10A-5.39b.h and 54A:4-12b.h. The commencement of the “commitment period” is clarified in this rulemaking, see N.J.A.C. 19:31-21.2.

15. COMMENT: The commenter requested amendment to the application of the Columbus Circle 30-mile radius tax credit reduction at N.J.A.C. 19:31-21.4.

RESPONSE: The Authority is bound by the statutory requirement to apply the Columbus Circle 30-mile radius tax credit reduction found at N.J.S.A. 54A:4-12b.a(2) and 54:10A-5.39b.a(2).

16. COMMENT: The commenters asked for clarification of the reduction provisions for film-lease partners and, specifically, the impact of non-compliance with the requirement to expend the minimum annual average of qualified film production expenses at N.J.A.C. 19:31-21.2.

RESPONSE: This is removed as part of the rulemaking pursuant to statutory amendments.

17. COMMENT: The commenter requested clarification on the determination of the completion of a film.

RESPONSE: The completion of a film is conditioned upon the approval of the New Jersey Motion Picture and Television Commission (Commission). The Commission is required to take into account factors including, but not limited to, the budget and audience of the film, marketing materials promoting the State as a film and entertainment production destination, placement of a “Filmed in New Jersey” or “Produced in New Jersey” statement, or an appropriate logo approved by the Commission in the end credits of the film. See N.J.A.C. 19:31-21.3(a)3 and N.J.S.A. 54:10A-5.39b.a(1)(c) and 54A:4-12b.a(1)(c).

18. COMMENT: The commenter requested clarification of the meaning of “authorized to do business in New Jersey.”

RESPONSE: The term “vendor authorized to do business in New Jersey” is amended by the rulemaking. See N.J.A.C. 19:31-21.2 and N.J.S.A. 54A:4-12b.h and 54:10A-5.39b.h.

19. COMMENT: The commenter requested clarification of what costs may be “incurred in New Jersey,” specifically related to real property and intangible property when included in qualified film production expenses.

RESPONSE: The terms “incurred in New Jersey,” “homeowner,” and “personal residence” are added and/or amended by the rulemaking to clarify the inclusion of certain real property and

exclusion of intangible property at N.J.A.C. 19:31-21.2. See N.J.S.A. 54A:4-12b.h and 54:10A-5.39b.h.

20. COMMENT: The commenter requested an expedited qualification of certified public accountants pursuant to N.J.A.C. 19:31-21.7(d).

RESPONSE: The Authority is currently developing this process, which is beyond the scope of the Program rules.

21. COMMENT: The commenter requested that the Authority amend the certification requirement of the certified public accountant report required to be submitted upon application for film tax credits pursuant to N.J.A.C. 19:31-21.7(c)6.

RESPONSE: The Authority requires that the information provided in the certified public accountants report be certified to ensure the truthfulness and accuracy of the information.

22. COMMENT: The commenter requested the publication of the currently available tax credit funding pursuant to the Program.

RESPONSE: The Authority publishes this information quarterly on the Authority's website. Authority staff are able to provide more frequent updates to this information upon request.

23. COMMENT: The commenter requested confirmation of the amount of funding available to studio partners pursuant to the Program beginning in 2025 pursuant to N.J.A.C. 19:31-21.11.

RESPONSE: The caps on funding are amended in the rulemaking pursuant to statutory amendment at N.J.S.A. 34:1B-362. The Authority publishes this information quarterly on the Authority's website. Authority staff are able to provide more frequent updates to this information upon request.

24. COMMENT: The commenters objected to the fee amounts of the Program as established at N.J.A.C. 19:31-21.5.

RESPONSE: The Authority has amended N.J.A.C. 19:31-21.5 to reduce fees while still offsetting the cost to the Authority of administering the Program.

25. COMMENT: The commenter requested clarification as to whether certain services performed within the 30-mile radius described at N.J.A.C. 19:31-21.6(a)2 that are qualified production expenses qualify for a credit rate of 35 or 30 percent.

RESPONSE: Qualified wage and salary payments made to a loan out company or an independent contractor providing services used directly in a production and qualified wages of W-2 employees are not included in the reduction to 30 percent and are eligible to receive 35 percent, as long as they are incurred in New Jersey.

26. COMMENT: The commenter requested that the Authority clarify and distinguish the meaning of “non-payroll expenses” and “qualified wages.”

RESPONSE: “Non-payroll expense” includes expenses outside of compensation. “Qualified wages” includes all wages subject to New Jersey gross income tax, including payments made to loan out companies and independent contractors performing services directly related to the production.

Summary of Public Comments and Agency Responses in Response to the February 26, 2024, Special Adoption at 56 N.J.R. 4(1):

In response to the specially adopted and concurrently proposed amendments and new rules filed on February 26, 2024, at 56 N.J.R. 491(a), the Authority received comments from the Motion Picture Association (MPA), the Screen Alliance of New Jersey (SANJ), and Fred Siegel, CPA.

1. COMMENT: Commenters requested modifications to the definition of "Incurred in New Jersey" to remove "at the Authority's discretion" and to add "intangible property" and "real property". A commenter also requested that the Authority amend the definition to specify "the form and manner" in which a film production company may provide vendor information to the Authority when such information is required to establish that "rented tangible property" is "used and consumed in New Jersey".

RESPONSE: P.L. 2024, c. 33 (S3275) makes the submission of vendor information mandatory in order for rented tangible property expenses to be considered "used or consumed in New Jersey". As such, the Authority is amending this definition to remove "at the Authority's discretion" in order to be consistent with Chapter 33. As for the remaining requests, the Authority is bound by the definition of "incurred in New Jersey" set forth in N.J.S.A. 54A:4-12b and N.J.S.A. 54:10A-5.39b.

2. COMMENT: A commenter requested that the Authority remove "and occupies" from the definition of "homeowner". Another Commenter requested clarification of the meaning of "or otherwise" as used in the definition of "homeowner".

RESPONSE: The Authority will clarify the use of "homeowner" in the guidance published on NJEDA's website. The definition provided in the rules for this term is consistent with applicable statutes.

3. COMMENT: A commenter requested that the Authority remove "and a residential unit that another person occupies as that person's primary residence" from the definition of "personal residence". Another commenter asked for clarification of the definition of "personal residence".

RESPONSE: The intent of the addition of the definition of "personal residence" in the rules is to provide relief from filing requirements where the homeowner is not a registered business. The

Authority is satisfied that the definition provided in the rules for this term is consistent with applicable statutes.

4. COMMENT: Commenters requested that the Authority modify the definition of “qualified film production expenses” and add a definition for “intangible personal expenses” (as used in the definitions of “qualified film production expenses” and “total film production expenses”) to the rules.

RESPONSE: The Authority is bound by the definitions of “qualified film production expenses” set forth in N.J.S.A. 54A:4-12b and N.J.S.A. 54:10A-5.39b. However, to address the commenters’ concerns, the Authority is replacing “intangible personal expenses” with “intangible personal property” in the definitions of “qualified film production expenses” and “qualified digital media content production expenses”.

5. COMMENT: A commenter requested clarification on what sort of marketing materials would be sufficient to satisfy N.J.A.C. 19:31T-1.3(a)(3) and how the Authority will determine whether it is appropriate to include references or logos indicating the production was filmed or produced in New Jersey.

RESPONSE: The commenter’s request is beyond the scope of the rulemaking, which does not include changes to N.J.A.C. 19:31T-1.3(a)(3). The New Jersey Motion Picture and Television Commission determines the propriety of marketing materials.

6. COMMENT: A commenter sought to amend the application submission requirements to eliminate the need for counsel to review New Jersey studio partner and film-lease production company contracts for compliance purposes.

RESPONSE: P.L. 2024, c. 33 (S3275) removed the requirement that a “New Jersey studio partner” hold the copyright to “works made for hire”, thereby eliminating the need for counsel to review

New Jersey studio partner contracts. The rules are being updated accordingly. As for the remainder of commenter's request, the Authority has determined that the opinion of counsel is necessary to ensure that the applicant is compliant with Program requirements. This provision appropriately safeguards the Program and the public trust.

7. COMMENT: A commenter requested the deletion of a provision allowing the Authority to request any information it deems necessary, or clarification of that provision to explain what other items the Authority can request.

RESPONSE: The Authority generally includes this language in all of its rules and reserves the right to request information as needed on a case-by-case basis. This provision appropriately safeguards the Program and the public trust.

8. COMMENT: A commenter requested reconsideration and reduction of the Program fee schedule.

RESPONSE: The Authority reduced and restructured fees in the specially adopted and concurrently proposed new rules and amendments filed on February 26, 2024. The fees are necessary to offset the cost to the Authority of administering the Program. The Authority's reduction of fees was recently the subject of an audit by the State Auditor.

9. COMMENT: A commenter requested an adjustment to the Program rules such that no additional information regarding steps taken to achieve diversity hiring objectives is required for applicants that meet the 25 percent diversity threshold.

RESPONSE: The Authority has reviewed its process related to achieving the statutorily established diversity hiring objectives and determined the current rule is appropriate. This provision appropriately safeguards the Program and the public trust.

10. COMMENT: A commenter requested a list of acceptable proofs of residency.

RESPONSE: The Authority will update the guidance published on the Authority's website to provide more information on acceptable proofs of residency.

11. COMMENT: A commenter sought to cap third-party consultant fees at \$1,000.

RESPONSE: The Authority is making efforts to keep applicant costs down. However, the current fees are necessary to offset the cost to the Authority of administering the Program. The Authority's fees were recently the subject of an audit by the State Auditor.

12. COMMENT: A commenter requested that the Authority modify the evaluation process for a tax credit to include a term sheet or letter of intent to occupy as evidence of occupying production space in a film-lease partner facility.

RESPONSE: N.J.S.A. 54:10A-5.39b.e(1) and 54A:4-12b.f(1) require an applicant to lease or otherwise occupy the production facility for the duration of the commitment period. While the Authority permits applicants to submit letters of intent to occupy production space in the program application, the applicant must ultimately prove that it did legally occupy production space prior to receiving a tax credit. This provision appropriately safeguards the Program and the public trust.

13. COMMENT: A commenter requested that the Authority strike "but not be limited to," from the description of conditions that may be included in the Authority's approval letter.

RESPONSE: This language is generally found in all of the Authority's program rules and allows the Authority necessary flexibility to adjust to changing circumstances.

14. COMMENT: A commenter requested modification of language allowing the Authority to unilaterally amend its award agreement to state that any amendment must be mutually agreed to.

RESPONSE: This language is standard in Authority award agreements and provides the necessary flexibility to adjust to changing circumstances.

15. COMMENT: A commenter requested modification of N.J.A.C.19:31T-1.9(a) to state that in the event the studio partner fails to occupy the production facility as required... "the Authority **may** revoke the designation of the studio partner" instead of stating "the Authority **shall** revoke..." to mirror the statutory definition of "new jersey studio partner."

RESPONSE: The current rule language provides clear notice to the applicant of the Authority's intention to exercise its statutorily authorized discretion and revoke the "New Jersey studio partner" designation in this situation.

16. COMMENT: A commenter requested deletion of "and all films from film-lease production companies that relied on the film-lease partner facility designation for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate" from N.J.A.C. 19:31T-1.9(b) stating that if the Authority has granted an initial approval, and a company that otherwise meets the criteria provided in the statute relied on the approval to commence production, then the current production's film-lease company designation should not terminate.

RESPONSE: The Authority is bound by N.J.S.A. 54:10A-5.39b.e(1), which requires the Authority to create recapture provisions. This provision appropriately safeguards the Program and the public trust.

17. COMMENT: Commenters argued that prevailing wage should not generally apply to all "work performed at the production facility" or to qualified expenses for film production or digital media content production as required by N.J.A.C. 19:31T-1.12 because this application is beyond the scope of N.J.S.A. 34:1B-5.1.

RESPONSE: The Authority agrees that prevailing wage does not apply to all "work performed at the production facility" or to qualified expenses for film production or digital media content production. N.J.S.A. 34:1B-5.1(b) provides that NJEDA "shall adopt rules and regulations

requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work...". Consequently, prevailing wage requirements apply to contracted work performed at a production facility and qualified expenses for film production or digital media content production if such work falls within the prevailing wage categories cited above. The Authority has inserted "construction contracts for" in N.J.A.C. 19:31T-1.12(b) to clarify this position.

18. COMMENT: A commenter expressed a belief that the new definition for "film lease production company" in N.J.A.C 19:31T-1.2 puts this part of the program out of reach for most current New Jersey companies.

RESPONSE: The Authority is bound by the new statutory definition of "New Jersey film-lease production company" in P.L. 2024, c. 33 (S3275), which is consistent with N.J.A.C. 19:31T-1.2.

19. COMMENT: A commenter sought clarification of the definition of "film" and asks for incorporation of industry jargon. Commenter also seeks clarification on whether certain content is considered a "television show".

RESPONSE: The Authority is bound by the statutory definitions in N.J.S.A. 54A:4-12b and N.J.S.A. 54:10A-5.39b. However, a new definition for "television series" has been added to provide clarification.

20. COMMENT: A commenter requested that the term "documentary feature film" be changed to "documentary film" to conform with industry jargon.

RESPONSE: The Authority is satisfied with the term "documentary feature film" because it delineates the length of a qualifying documentary.

21. COMMENT: A commenter asked for specifics on what constitutes a “loan out company” and whether the names or job positions of all personnel have to be stated in the contract with a “loan out company”.

RESPONSE: The Authority is satisfied with the definition of "loan out company" in N.J.A.C. 19:31T-1.2. To qualify payments to a loan out company, evidence of individual gross income tax withholding is required.

22. COMMENT: A commenter sought a more specific explanation of the term "ancillary contractor services" and how it differs from a "loan out company".

RESPONSE: N.J.A.C. 19:31T-1.2 (“Definitions Section”) distinguishes the services provided by a "loan out company" from "ancillary contractor services". Specifically, the definition for “loan out company” in the Definitions Section states that a loan out company provides “specified individual personnel such as artists, crew, actors, producers or directors for the performance of services used directly in a production”. The Definitions section of the rules further provides that "ancillary contractor services" means services such as “catering, construction, trailers, equipment, or transportation”.

23. COMMENT: A commenter requested an amendment to the definition of “Principal Photography” to state that the filming of major and significant portions of a qualified film can involve the director of photography or the cinematographer, not just the director of the film on set.

RESPONSE: The Authority is satisfied with this definition, which was drafted in consultation with the New Jersey Motion Picture and Television Commission.

Summary of the February 26, 2024 Specially Adopted Amendments and New Rules

N.J.A.C. 19:31-21.1 (Recodified at N.J.A.C. 19:31T-1.1) Applicability and Scope

The specially adopted amendments revise this section to include citations to statutory revisions to the Garden State Film and Digital Media Jobs Act.

N.J.A.C. 19:31-21.2 (Recodified at N.J.A.C. 19:31T-1.2) Definitions

The specially adopted amendments define certain new terms used in this subchapter, and incorporate terms defined at P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; and P.L. 2023, c. 97. Specifically, the following terms are amended to support the Program: “Commission,” “digital media content,” “film,” “full-time or full-time equivalent employee,” “highly compensated individual,” “independent contractor,” “loan out company,” “primary place of business,” “principal photography,” “qualified digital media content production expenses,” “qualified film production expenses,” “selling business,” “taxable year,” “tax credit transfer certificate,” “tax credit vintage year,” “total digital media content production expenses,” “total film production expenses,” and “vendor authorized to do business in New Jersey.” The amendments also create additional terms, including: “applicant,” “approved applicant,” “commitment period,” “deferred compensation,” “eligibility period,” “film production uses,” “homeowner,” “incurred in New Jersey,” “New Jersey film-lease partner facility” or “film-lease partner facility,” “New Jersey film-lease production company” or “film-lease production company,” “New Jersey studio partner or studio partner,” “personal residence,” “production facility,” “reality show,” “shoot day,” “square feet,” and “taxpayer.”

N.J.A.C. 19:31-21.3 (Recodified at N.J.A.C. 19:31T-1.3) Eligibility Criteria

N.J.A.C. 19:31T-1.3, which outlines the criteria for a taxpayer to be eligible for the Program, is revised as follows:

N.J.A.C. 19:31T-1.3 (a) and (a)1 are amended to add the term “applicant” and remove the term “taxpayer” and clarify the eligibility of wages and salaries in the calculation of total film production expenses and qualified film production expenses.

N.J.A.C. 19:31T-1.3 (a)2 is amended to clarify that the requirement to commencement of principal photography must occur within 180 days from the date of the completed application.

N.J.A.C. 19:31T-1.3 (a)4 is amended to include the term “applicant” and remove the term “taxpayer.”

N.J.A.C. 19:31T-1.3 (a)5 is amended to include the terms “applicant” and “homeowner” and remove the term “taxpayer.”

N.J.A.C. 19:31T-1.3 (a)6 is added to require that at least one principal photography day is shot within New Jersey.

N.J.A.C. 19:31T-1.3 (a)7 is added to require that, for a studio partner or film-lease production company, the principal photography of the film must commence after the designation of the studio partner or the corresponding film-lease partner facility.

N.J.A.C. 19:31T-1.3 (b), (b)1, and (b)2 are amended for clarity to add the term “applicant” and remove the term “taxpayer.”

N.J.A.C. 19:31T-1.3(c) is amended to include the title of the New Jersey Gross Income Tax Act; and add the terms “approved applicant,” “applicant,” “homeowner,” and “personal residence,” as well as to remove the term “taxpayer.”

N.J.A.C. 19:31T-1.3(d) is added to set forth the application and eligibility requirements to be designated a studio partner and provides that no more than three film production companies may be designated as a studio partner.

N.J.A.C. 19:31T-1.3(e) is added to set forth the application and eligibility requirements to be designated as a film-lease partner facility.

N.J.A.C. 19:31T-1.3(e)1 sets forth that, with certain exceptions, in order for a production facility to be designated as a film-lease partner facility, the owner or developer shall accept the acquisition by the Authority of equity in the production facility.

N.J.A.C. 19:31T-1.3(e)2 sets forth that no more than three New Jersey production facilities may be designated as a film-lease partner facility; provided, however, this limitation shall not apply to production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a studio partner.

N.J.A.C. 19:31T-1.3(f) is added to set forth the application and eligibility requirements for a reality show.

N.J.A.C. 19:31T-1.3(g) is added to provide that for two or more buildings to qualify as a production facility, the buildings must be proximate to each other. N.J.A.C. 19:31T-1.3(g)1, 2, and 3 set forth examples of buildings that are proximate.

N.J.A.C. 19:31-21.4 (Recodified at N.J.A.C. 19:31T-1.4) Application Submission Requirements

N.J.A.C. 19:31T-1.4(a) is amended to remove the wording “, but not limited to, the following.”

N.J.A.C. 19:31T-1.4(a)4 is amended to differentiate the required breakout of projected costs for applications filed before July 2, 2021, versus on or after July 2, 2021.

N.J.A.C. 19:31T-1.4(a)5 is amended to update “project” to “film project.”

N.J.A.C. 19:31T-1.4(a)8 is deleted.

Recodified N.J.A.C. 19:31T-1.4(a)9 is amended to reflect the increased diversity bonus as established at P.L. 2023, c. 97, and found at N.J.A.C. 19:31T-1.6(l)2.

Recodified N.J.A.C. 19:31T-1.4(a)10 is amended to clarify that an executed letter of interest, lease, sublease, deed, or purchase contract is required.

N.J.A.C. 19:31T-1.4(a)11 is revised to require that an application for tax credits shall include a completed questionnaire disclosing all relevant legal matters in accordance with the Authority's debarment and disqualification rules found at N.J.A.C. 19:30-2.

N.J.A.C. 19:31T-1.4(a)12 is added to require that an application for tax credits shall include the submission of a tax clearance certificate.

N.J.A.C. 19:31T-1.4(a)13 is added to require than an application for tax credits shall include a list of all the development subsidies, as defined at N.J.S.A. 52:39-1 et seq., that the developer is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received.

N.J.A.C. 19:31T-1.4(a)14 is added to set forth the requirements if the applicant is seeking a film tax credit as a studio partner.

N.J.A.C. 19:31T-1.4(a)15 is added to set forth the requirements if the applicant is seeking a film tax credit as a film-lease production company.

N.J.A.C. 19:31T-1.4 (a)16 is added to allow the Authority to obtain any other necessary and relevant information, as determined by the Authority, for a specific application.

N.J.A.C. 19:31T-1.4 (b) is added to set forth what is required in a completed application to be designated as a studio partner.

N.J.A.C. 19:31T-1.4(c) is added to set forth what is required in a completed application to be designated as a film-lease partner facility.

N.J.A.C. 19:31T-1.4(d) is amended to set forth what is required in a completed application for digital media tax credits.

Recodified N.J.A.C. 19:31T-1.4(d)7 is amended to reflect the increased diversity bonus as established at P.L. 2023, c. 97, and found at N.J.A.C. 19:31T-1.6(l)2.

N.J.A.C. 19:31-21.5 (Recodified at N.J.A.C. 19:31T-1.5) Fees

N.J.A.C. 19:31T-1.5(a) is amended to set forth the revised application fees for the Program.

N.J.A.C. 19:31T-1.5(b) is added to set forth the revised fees required prior to approval for the Program.

N.J.A.C. 19:31T-1.5(c) is amended to set forth the revised fees required prior to receipt of tax credits for the Program.

N.J.A.C. 19:31T-1.5(d) is amended to set forth the revised fees required upon application of a tax credit transfer certificate for the Program.

N.J.A.C. 19:31T-1.5(e) is added to set forth the fees required upon extension of the date the temporary certification of occupancy for the production facility is due.

N.J.A.C. 19:31T-1.5(f) is added to set forth the fees required for each request for any minor administrative changes, additions, or modifications and for each request for any major administrative changes, additions, or modifications.

Recodified N.J.A.C. 19:31T-1.5(g) is amended to set forth that the full amount of direct costs of due diligence including, but not limited to, debarment/disqualification reviews or other analyses by a third-party retained by the Authority, if the Authority deems such retention to be necessary, shall be paid by the applicant.

N.J.A.C. 19:31-21.6 (Recodified at N.J.A.C. 19:31T-1.6) Tax credit amounts; bonus amount; carryforward of tax credits

N.J.A.C. 19:31T-1.6(a) is amended to remove and replace the term “taxpayer” with the term “approved applicant,” revise a cross-reference to N.J.A.C. 19:31T-1.7(d), and revise language

to update the percentage of qualified film production expenses pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160, P.L. 2021, c. 367; and P.L. 2023, c. 97.

N.J.A.C. 19:31T-1.6(b) is amended to remove and replace the term “taxpayer” with the term “approved applicant” and revise language updating the percentage of qualified film production expenses pursuant to P.L. 2020, c. 156, set forth at new N.J.A.C. 19:31T-1.6(b)1, 2, and 3.

N.J.A.C. 19:31T-1.6(c) is amended to add language clarifying that no tax credit shall be allowed for expenses in an application if it has already been included in the calculation of an award pursuant to N.J.A.C. 19:31T-1.6(a) or (b).

N.J.A.C. 19:31T-1.6(d) and (e) are amended to add the title of the Corporation Business Tax Act and add “pursuant to this Program” to clarify certain circumstances where a business may be an eligible applicant.

N.J.A.C. 19:31T-1.6(f) is amended to add “gross income” to clarify the application of the tax credit to a gross income taxpayer.

N.J.A.C. 19:31T-1.6(g) is amended to delete “section” and replace it with “subchapter,” as well as add “gross income” to clarify the application of the tax credit to a gross income taxpayer.

N.J.A.C. 19:31T-1.6(i) is amended to clarify that the amount of the tax credit applied pursuant to this section against the tax imposed pursuant to N.J.S.A. 54:10A-5 for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law, shall not reduce the tax liability of the corporate business taxpayer to an amount less than the statutory minimum provided at N.J.S.A. 54:10A-5.

N.J.A.C. 19:31T-1.6(j) is amended to add “gross income” to clarify that the amount of the tax credit applied pursuant to this section against the tax otherwise due pursuant to N.J.S.A. 54A:1-

1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law, shall not reduce the tax liability of the gross income taxpayer to an amount less than zero.

N.J.A.C. 19:31T-1.6(l) is amended to include the limits found at N.J.A.C. 19:31T-1.6(b), include reference to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and include, at N.J.A.C. 19:31T-1.6(l)1i, the eligibility for an increase in the tax credit to 25 percent for applicants approved after February 26, 2024, the effective date of the rulemaking.

N.J.A.C. 19:31T-1.6(l)2 and 3 are deleted and new paragraph (l)2 is added to reflect the increase to a 25 percent goal of hiring persons as performers in the film and digital media production who are women or members of a minority group (N.J.A.C. 19:31T-1.6(l)2i), have been residents of New Jersey for at least 12 months preceding the beginning of filming or recording (N.J.A.C. 19:31T-1.6(l)2ii), and are members of a labor union (N.J.A.C. 19:31T-1.6(l)2iii).

N.J.A.C. 19:31-21.7 (Recodified at N.J.A.C. 19:31T-1.7) Evaluation Process for Tax Credits; Initial Approval for Tax Credits, Award of Tax Credits

The heading at N.J.A.C. 19:31T-1.7 is amended to remove “appeals.” The appeals language is now codified at N.J.A.C. 19:31T-1.13.

N.J.A.C. 19:31T-1.7(a) is amended to clarify that applications “for film tax credits” shall be submitted to the Commission, which, upon review for content eligibility, will forward the application to the Authority with the Commission's recommendation.

N.J.A.C. 19:31T-1.7(a)1 is amended to clarify that an application for tax credits shall be considered by the Authority for initial approval on a first-in-time basis, subject to the annual caps set forth at N.J.A.C. 19:31T-1.11.

N.J.A.C. 19:31T-1.7(a)2 is amended to set forth that the Authority may retain a third-party consultant, at the cost of the applicant, to review the budget submitted by the applicant to determine if the qualified film or digital media expenses are reasonable based on industry standards.

N.J.A.C. 19:31T-1.7(a)3 is amended to clarify that the Authority shall issue an initial approval letter to an approved applicant that will include conditions subsequent to receipt of the tax credit including, but not limited to, the requirement for progress reports and the date by when final documentation pursuant to N.J.A.C. 19:31T-1.7(b) is required. N.J.A.C. 19:31T-1.7(a)3 is further amended to set forth that the approval letter shall constitute the non-binding, administrative pre-certification process for potentially eligible projects and failure to submit timely reports may lead to the forfeiture of the tax credit.

N.J.A.C. 19:31T-1.7(b) is amended to replace the term “taxpayer” with the term “approved applicant.”

N.J.A.C. 19:31T-1.7(c) is amended to replace the term “taxpayer” with the term “approved applicant” and clarify that the documentation related to the total film production expenses or the total digital media content production expenses are for the privilege period or taxable year identified in the initial approval.

N.J.A.C. 19:31T-1.7(c)1 is amended to remove language regarding the time period from the initial approval by the Authority and clarify that is from the date of the completed application for the tax credit.

N.J.A.C. 19:31T-1.7(c)2 is added to set forth that if the approved applicant is a studio partner or film-lease production facility, a certification must be provided by the designated studio partner or film-lease partner facility that it has continued to satisfy the requirements of a studio partner or film-lease production facility from the commencement of principal photography.

N.J.A.C. 19:31T-1.7(c)3 is amended to clarify that actual budgets and proof of total and qualified film production expenses or total and qualified digital media content production expenses, including a listing of the name of the company or person paid, as well as Federal identification number are required.

N.J.A.C. 19:31T-1.7(c)4 is newly codified and amended to add “approved” to applicant and remove “and.”

N.J.A.C. 19:31T-1.7(c)4i is newly codified and amended to remove and replace the term “taxpayer” with the term “approved applicant” and to add that the report shall include the date of the last total film production expense, excluding any deferred compensation payments.

N.J.A.C. 19:31T-1.7(c)4i(1) through (5) are added to set forth reviews required by the report set forth at N.J.A.C. 19:31T-1.7(c)4.

N.J.A.C. 19:31T-1.7(c)4ii is added to set forth that in the report, the approved applicant’s qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified.

N.J.A.C. 19:31T-1.7(c)4iii is newly codified to set forth that the amount of the qualified film production expenses or qualified digital media content production expenses in the report shall not be increased regardless of additional expenses after the date of the report.

N.J.A.C. 19:31T-1.7(c)4iv is added to set forth that if the approved applicant is a studio partner and the qualified film production expenses include deferred compensation payments, the report shall include information necessary and relevant, as determined by the Authority, to demonstrate such deferred compensation payments.

N.J.A.C. 19:31T-1.7(c)4v is added to set forth that if the applicant is a film-lease production company, the report shall also include verification of principle photography shoot days, as necessary, to demonstrate eligibility as a film-lease production company.

N.J.A.C. 19:31T-1.7(c)5 is deleted to remove language regarding the New Jersey Division of Taxation conducting verification of partners or members of pass-through entities and add language regarding what is required in the report for approved applicants that received initial approval for the production of a reality show. New N.J.A.C. 19:31T-1.7(c)5i through 5v are amended to set forth the additional requirements for approved applicants that received initial approval for the production of a reality show.

Recodified N.J.A.C. 19:31T-1.7(c)7 is amended to set forth that if the “approved” applicant was initially approved for a bonus amount for a diversity plan pursuant to N.J.A.C. 19:31T-1.6(l), evidence of achieving the relevant percentage in the diversity plan or good faith efforts to undertake the diversity plan must be provided. The bonus amount shall not be included in the amount of the final approval if the applicant fails to submit satisfactory evidence to the Authority and the New Jersey Division of Taxation.

N.J.A.C. 19:31T-1.7(c)8 is added to set forth that if the approved applicant is a film-lease production company, the executed lease, sublease, or license to occupy production space in a film-lease partner facility is required in the report.

N.J.A.C. 19:31T-1.7(c)9 is added to set forth that a certification from the approved applicant that the information provided in the report is true pursuant to the penalty of perjury is required.

N.J.A.C. 19:31T-1.7(c)10 is added to set forth that the Authority may request any other information necessary for the Authority and the Director to determine compliance with the Program.

N.J.A.C. 19:31T-1.7(d) is amended to replace “certification” with “report” and “taxpayer” with “approved applicant.”

N.J.A.C. 19:31T-1.7(e) is amended to add “approved” and replace “taxpayer” with “approved applicant.”

N.J.A.C. 19:31T-1.7(f) is relocated to N.J.A.C. 19:31T-1.11 and new subsection (f) is added to set forth that if a studio partner received a tax credit for qualified film production expenses that included deferred compensation payments, the studio partner shall submit a supplemental report prepared by a certified public accountant pursuant to agreed-upon procedures prescribed by the Authority and the Director no later than two years after the date on which the production concludes, as established by the date of the last total film production expense, excluding any deferred compensation payments.

N.J.A.C. 19:31-21.8 (Recodified at N.J.A.C. 19:31T-1.8) Evaluation Process and Designation of Studio Partner and Film-Lease Partner Facility

New N.J.A.C. 19:31T-1.8 is added to set forth the evaluation process and designation of studio partner and film-lease partner facility.

N.J.A.C. 19:31T-1.8(a) sets forth that an application for designation as a studio partner or a film-lease partner facility shall be submitted to the Authority.

N.J.A.C. 19:31T-1.8(b) sets forth that the completed application for designation as a studio partner or film-lease partner facility shall be considered by the Authority for approval on a first-in-time basis. If interest in studio partner or film-lease partner facility designation so warrants the Authority may institute a competitive application process.

N.J.A.C. 19:31T-1.8(c) sets forth that, in order to assist the Authority in designating a studio partner or film-lease partner facility, the Authority may employ an independent consultant, at the cost of the applicant, or may consult with the New Jersey Motion Picture and Television Commission.

N.J.A.C. 19:31T-1.8(d) sets forth that upon review of the application, the Authority's Board shall consider whether to designate the applicant as a studio partner or film-lease partner facility pursuant to N.J.A.C. 19:31T-1.3(d) and (e), respectively. The designation shall expire at the end of the studio partner's commitment period.

N.J.A.C. 19:31T-1.8(d)1 sets forth that, effective upon designation as a studio partner, a film production company shall be eligible for a credit as a studio partner pursuant to this subchapter, provided that the film production company otherwise complies with the eligibility requirements of the Program.

N.J.A.C. 19:31T-1.8(d)2 sets forth that a film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the Authority, provided that final approval of such agreement occurs on or before the date on which production commences at the facility.

N.J.A.C. 19:31T-1.8(e) sets forth that, following approval by the Authority's Board, the Authority shall require the applicant to execute and return an approval letter to the Authority. The Board's designation shall be subject to conditions subsequent set forth in the approval letter. The conditions in the approval letter must be met to retain the designation.

N.J.A.C. 19:31T-1.8(e)1 sets forth that the conditions of approval shall include, but not be limited to: submission of periodic progress reports; executed financing commitments, if applicable; evidence of site plan approval or executed redevelopment agreement with a

governmental entity, as applicable; and evidence of site control of the production facility within one year from the Board approval of the designation. The Authority shall grant no more than two six-month extensions of this deadline.

N.J.A.C. 19:31T-1.8(e)2 sets forth that, consistent with N.J.A.C. 19:31T-1.10, the conditions shall also include the requirement that construction at the production facility complies with prevailing wage and affirmative action requirements and that the production facility does not violate any environmental law requirements, including, but not limited to, the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.

N.J.A.C. 19:31T-1.8(e)3 sets forth that a studio partner or film-lease partner facility shall submit the final floor plan, or site plan if there are multiple buildings, indicating the uses and square footage of each area and one or more temporary certificates of occupancy for the minimum required square footage within 36 months from the later of Board approval of the designation and February 26, 2024. The Authority shall grant no more than two six-month extensions of this deadline.

N.J.A.C. 19:31T-1.8(e)4 sets forth that, absent extenuating circumstances or the Authority's determination in its sole discretion, the Authority's designation shall expire if the approved applicant does not provide the required documents within the period of time prescribed in this subsection.

N.J.A.C. 19:31T-1.8(f) sets forth that, when deciding whether to make an equity investment in a film-lease partner facility and the terms of such investment, the Authority shall consider such factors as the financial structure of the production facility, the risk of the investment in the production facility, the developer-contributed capital or equity, the magnitude of State or other

governmental support, the reasonable and appropriate return on investment to the developer and the Authority, and the terms offered to other equity owners and investors.

N.J.A.C. 19:31T-1.8(g)1 and (g)2 set forth that a studio partner shall execute an award agreement that shall include, but not be limited to, the commencement of the commitment and eligibility periods and an agreement that that the studio partner shall maintain the lease or ownership of the production facility for the duration of the commitment period.

N.J.A.C. 19:31T-1.8(g)2i sets forth that the studio partner shall not lease, sublease, or license any part of the production facility, such that the studio partner occupies less than the minimum amount of square feet for more than 12 consecutive months or for a period longer than the remainder of the duration of the commitment period.

N.J.A.C. 19:31T-1.8(g)2ii sets forth that unless otherwise allowed in this subchapter, the studio partner shall not receive any benefits from this Program for any activity of its tenant or subtenant and the tenant or subtenant shall not receive any benefits from this Program from the studio partner's designation.

N.J.A.C. 19:31T-1.8(h)1 and 2 set forth that a film-lease partner facility shall execute an award agreement that shall include, but not be limited to: the commencement of the ownership, lease, or operation; and if not owned, the length of the lease or other site control agreement and an agreement that the film-lease partner facility shall maintain the lease or ownership of the production facility in order to maintain the designation.

N.J.A.C. 19:31T-1.8(h)2i sets forth that a film-lease partner facility shall not lease, sublease, or license any part of the production facility for uses other than film production uses, such that the film-lease partner facility occupies less than the minimum amount of square feet.

N.J.A.C. 19:31T-1.8(h)2ii sets forth that, absent the Authority's written consent, the film-lease partner facility shall not sell any part of the production facility, provided that a film-lease partner facility may sell the production facility if it remains the tenant in the production facility occupying at least the minimum amount of square feet.

N.J.A.C. 19:31T-1.8(h)2iii sets forth that unless otherwise allowed in this subchapter, the film-lease partner facility shall not receive any tax credits pursuant to this Program for any activity of its occupant, tenant, or subtenant.

N.J.A.C. 19:31T-1.8(i) sets forth what must be included in the award agreement for a studio partner and a film-lease partner facility.

N.J.A.C. 19:31-21.9 (Recodified at N.J.A.C. 19:31T-1.9) Recapture and Reduction of Tax Credits

New N.J.A.C. 19:31T-1.9 is added. N.J.A.C. 19:31T-1.9(a) sets forth that, if a studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a studio partner, the Authority shall recapture the portion of the tax credit from the studio partner that was only available to the studio partner by virtue of the studio partner's designation as a studio partner, and all the studio partner's films for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate.

N.J.A.C. 19:31T-1.9(b) sets forth that, if a film-lease partner facility fails to operate the production facility developed, purchased, or leased as a condition of designation as a film-lease partner facility or otherwise fails to satisfy the conditions for designation as a film-lease partner facility for the duration of the five-year period, the Authority shall recapture the portion of the tax credit from the film-lease partner facility that was only available to film-lease production

companies by virtue of the film-lease partner facility's designation as a film-lease partner facility, and all films from film-lease production companies that relied on the film-lease partner facility designation for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate.

N.J.A.C. 19:31T-1.9(c) sets forth that if an approved applicant has received tax credits on the basis of deferred compensation and the supplemental report from the independent certified public accountant does not evidence actual payment of the deferred compensation, the Authority shall recapture the amount of the tax credit that was based on the projected deferred compensation. If the approved applicant fails to submit the supplemental report by the date required, the Authority shall recapture all of the tax credit based on the projected deferred compensation.

N.J.A.C. 19:31T-1.9(d) and (e) set forth that if, at any time, the Authority determines that a designated studio partner or film-lease partner facility or an approved applicant, respectively, made a material misrepresentation, the approved applicant shall forfeit, and the Authority may recapture any or all of the tax credits awarded.

N.J.A.C. 19:31T-1.9(e) sets forth that any funds recaptured pursuant to this section, including penalties and interest, shall be deposited into the General Fund of the State.

Recodified N.J.A.C. 19:31-21.10 (Recodified at N.J.A.C. 19:31T-1.10) Application for Tax Credit Transfer Certificate

N.J.A.C. 19:31T-1.10(a), (b), and (c) are amended to replace the term "taxpayer" with the term approved applicant."

New N.J.A.C. 19:31T-1.10(e) sets forth that the Authority shall publish on its Internet website information concerning each tax credit transfer certificate approved by the Authority.

Recodified N.J.A.C. 19:31-21.11 (Recodified at N.J.A.C. 19:31T-1.11) Cap on Total Credits

N.J.A.C. 19:31T-1.11(a) sets forth the total cap on tax credits.

N.J.A.C. 19:31T-1.11(a)1 sets forth that, pursuant to N.J.S.A. 54:10A-5.39b.e(1) and 12b.f(1), for qualified film production expenses of applicants other than for studio partners and film-lease production companies, the cumulative total shall not exceed \$100,000,000.

N.J.A.C. 19:31T-1.11(a)2i sets forth that, for studio partners and film-lease production companies, pursuant to N.J.S.A. 54:10A-5.39b.e(1) and 12b.f(1), except as provided for at N.J.A.C. 19:31T-1.11(a)2ii and iii, the cumulative total shall not exceed \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of \$150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040.

N.J.A.C. 19:31T-1.11(a)3 sets forth that if the applicable cumulative total amount of tax credits initially approved and tax credit transfer certificates approved for privilege periods or taxable years commencing during a single fiscal year exceeds the amount of tax credits available in that fiscal year, then applicants who have first applied for and have not been approved a tax credit or tax credit transfer certificate amount for that reason shall have their applications approved by the Authority, provided the applications otherwise satisfies the requirements of the Program, and shall be allowed the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates are not in excess of the amount of applicable credits available.

N.J.A.C. 19:31T-1.11(b) sets forth that the value of tax credits for digital media content production expenses, including tax credits allowed through the granting of tax credit transfer certificates, approved by the Authority and the Director, shall not exceed a cumulative total of \$30,000,000 in fiscal year 2019, and in each fiscal year thereafter prior to 2040. If the total amount of tax credits initially approved and tax credit transfer certificates approved for privilege periods

or taxable years commencing during a single fiscal year exceeds the amount of tax credits available in that year, then applicants who have first applied for and who have not been approved a tax credit or tax credit transfer certificate amount for that reason shall have their tax credits considered for initial approval and their tax credit transfer certificates considered for approval, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates are not in excess of the amount of credits available.

New N.J.A.C. 19:31T-1.11(c) and (d) set forth the process by which the Authority shall certify available tax credits pursuant to the Program.

N.J.A.C. 19:31T-1.11(e) sets forth that, notwithstanding any provision of this section or other law to the contrary, if a film production company designated as a studio partner ceases to qualify for its designation as a studio partner and becomes designated as a film-lease partner facility, the Authority shall reduce the cumulative total amount of tax credits made available to studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for film-lease production companies.

Recodified N.J.A.C. 19:31-21.12 (Recodified at N.J.A.C. 19:31T-1.12) Affirmative Action and Prevailing Wage

N.J.A.C. 19:31T-1.12(a) is amended to clarify when the Authority's affirmative action and prevailing wage requirements apply to qualified film production expenses and qualified digital media content production expenses.

N.J.A.C. 19:31T-1.12(b) is added to state when the Authority's affirmative action and prevailing wage requirements apply to studio partners and film-lease partner facilities.

New N.J.A.C. 19:31-21.13 (Recodified at N.J.A.C. 19:31T-1.13) Appeals

N.J.A.C. 19:31T-1.13 sets forth the appeal process. This provision is relocated from N.J.A.C. 19:31T-1.7. The amendment to this section sets forth that the Board's action shall be effective 10 business days after the Governor's receipt of the minutes, provided neither an early approval nor veto has been issued.

N.J.A.C. 19:31T-1.13(c) is added and sets forth that appeals that are timely submitted shall be handled by the Authority.

Recodified N.J.A.C. 19:31-21.14 (Recodified at N.J.A.C. 19:31T-1.14) Severability

The severability provision is recodified without change.

Summary of the Substantial Changes Made with this Readoption of the Specially Adopted Amendments and Specially Adopted New Rules:

N.J.A.C. 19:31T-1.1 Applicability and Scope

The substantial changes made with this readoption of the specially adopted amendments and new rules update the section to include citations to the most recent statutory revisions to the Garden State Film and Digital Media Jobs Act at P.L. 2024, c. 33.

N.J.A.C. 19:31T-1.2 Definitions

The following terms are amended to support the Program: "digital media content", "eligibility period", "film" or "film project", "fiscal year", "full-time or full-time equivalent employee", "highly compensated individual", "incurred in New Jersey", "loan out company", "New Jersey film-lease partner facility" or "film-lease partner facility", "New Jersey film-lease production company" or "film-lease production company", "New Jersey studio partner" or "studio partner", "production facility", "qualified digital media content production expenses", "qualified film production expenses", "reality show", "square feet", "taxable year", "Taxation", "tax credit

vintage year", "total digital media content production expenses" and "total film production expenses".

The following new terms are added: "digital media content", "film completion", "independent post-production company", "qualified wage and salary payments" and "television series".

N.J.A.C. 19:31T-1.3 Eligibility Criteria

N.J.A.C. 19:31T-1.3(a)1i and ii are amended to include the requirement that such expenses be incurred in New Jersey.

N.J.A.C. 19:31T-1.3(a)iii is added and provides eligibility requirements for reality shows.

N.J.A.C. 19:31T-1.3(a)4 is amended to correct a citation reference.

N.J.A.C. 19:31T-1.3(b)1i is amended to limit qualifying digital media content production expenses to those incurred in New Jersey and exclude qualified wage and salary payments made to full time employees working on digital media for applications submitted after July 10, 2024.

N.J.A.C. 19:31T-1.3(b)ii is added to permit additional qualifying digital media content production expenses of at least \$500,000 incurred in New Jersey for post-production services, including visual effects services that are performed at a New Jersey film-lease production facility or by a studio partner.

N.J.A.C. 19:31T-1.3(b)iii is added to permit additional qualifying digital media content production expenses of at least \$500,000 incurred in New Jersey for post-production services, including visual effects services that are performed by a qualified independent post-production company.

N.J.A.C. 19:31T-1.3(c) is amended to include certain payments made by an approved applicant to a loan out company as qualified film production expenses and qualified digital media

content production expenses, provided that the payments are made for services performed in New Jersey by loan out company employees whose wages are subject to New Jersey income tax withholding, unless those employees are not subject to withholding because of a reciprocity agreement with another state.

N.J.A.C. 19:31T-1.3(d) and (e) are amended to correct citation references.

N.J.A.C. 19:31T-1.3(e)1 is amended for the purpose of grammatical clarification.

N.J.A.C. 19:31T-1.4 Application Submission Requirements

N.J.A.C. 19:31T-1.4(a)2, 3, and 4 are amended to correct citation references.

N.J.A.C. 19:31T-1.4(a)8 is amended for the purpose of grammatical clarification.

N.J.A.C. 19:31T-1.4(a)10 is amended by identifying the existing text as subparagraph (a), which applies to reality show eligibility requirements for applications submitted before July 10, 2024, and adding a new subparagraph (b), which establishes reality show eligibility requirements for applications submitted after July 10, 2024.

N.J.A.C. 19:31T-1.4(a) is amended by deleting subparagraphs 11 and 12.

N.J.A.C. 19:31T-1.4(a)13 is recodified as N.J.A.C. 19:31T-1.4(a)11 and is amended by replacing “developer” with “applicant”.

N.J.A.C. 19:31T-1.4(a)14 is recodified as N.J.A.C. 19:31T-1.4(a)12.

Recodified N.J.A.C. 19:31T-1.4(a)12i is amended to add “film production company designated as a” before “studio partner” for the purpose of clarity.

Recodified N.J.A.C. 19:31T-1.4(a)12ii(2)(A), (B) and (C) are deleted and replaced with new subparagraphs (2)(A) and (B), which set forth that if the applicant is seeking a film tax credit as a studio partner unrelated to the studio partner, but principally engaged the production a film that is the subject of the application because of a contract with the studio partner, the applicant

must provide written consent from the studio partner for the unrelated entity to apply for tax credits and a copy of a contract with the studio partner evidencing that such studio is in control of the film and its distribution rights, which was signed before expenses were incurred but after the studio partner's designation.

Recodified N.J.A.C. 19:31T-1.4(a)13ii is amended to add a requirement that an applicant seeking a film tax credit under subparagraph (a)1i of the definition of film-lease production company must also submit written proof of occupancy of a film-lease partner facility during the required principal photography shoot days.

Recodified N.J.A.C. 19:31T-1.4(a)13iii is deleted and a new subparagraph iii is added to require that an applicant seeking a film tax credit under subparagraph (a)1ii of the definition of film-lease production company must also submit a budget that meets the requirements of that subparagraph as well as written proof of occupancy in a film-lease partner facility during the time of the required qualified film production expenses incurred at, or for the use of, the film-lease partner facility.

A new N.J.A.C. 19:31T-1.4(a)13iv is added to provide that an applicant seeking a film tax credit under subparagraph (a)2 of the definition of film-lease production company must also submit the lease or sublease of the of the film-lease partner facility and the contract with the facility required by subparagraph (a)2 that is dated prior to incurring qualified film production expenses.

The prior N.J.A.C. 19:31T-1.4(a)13iv is recodified as N.J.A.C. 19:31T-1.4(a)13v without change.

Recodified N.J.A.C. 19:31T-1.4(a)13v(3)(C) is amended to correct a citation and make other grammatical clarifications.

N.J.A.C. 19:31T-1.4(b)1 is amended for the purpose of grammatical clarification.

N.J.A.C. 19:31T-1.4(b)5 and 6 are deleted.

N.J.A.C. 19:31T-1.4(b)7 is recodified as N.J.A.C. 19:31T-1.4(b)5 without change.

N.J.A.C. 19:31T-1.4(c)5 and 6 are deleted.

N.J.A.C. 19:31T-1.4(c)7 is recodified as N.J.A.C. 19:31T-1.4(c)5 without change.

N.J.A.C. 19:31T-1.4(d)1 is amended by adding text and citations for clarity.

N.J.A.C. 19:31T-1.4(d)2 is added and sets forth that if an applicant for digital media tax credits is applying to recover expenses for services provided by a qualified independent post-production company, the applicant must also provide the ownership structure of that company and any other evidence that the company qualifies as an independent post-production company while the applicant's expenses were incurred.

N.J.A.C. 19:31T-1.4(d)2 is recodified as N.J.A.C. 19:31T-1.4(d)3 and amended to correct citations.

N.J.A.C. 19:31T-1.4(d)3 is recodified as N.J.A.C. 19:31T-1.4(d)4 without change.

N.J.A.C. 19:31T-1.4(d)4 is recodified as N.J.A.C. 19:31T-1.4(d)5 without change.

N.J.A.C. 19:31T-1.4(d)5 is recodified as N.J.A.C. 19:31T-1.4(d)6 without change.

N.J.A.C. 19:31T-1.4(d)6 is recodified as N.J.A.C. 19:31T-1.4(d)7 without change.

N.J.A.C. 19:31T-1.4(d)7 is recodified as N.J.A.C. 19:31T-1.4(d)8 and is amended to delete the reference to the increased bonus amount of tax credits pursuant to N.J.A.C. 19:31T-1.6(l)2 and its associated requirements.

N.J.A.C. 19:31T-1.4(d)9 is added to require an applicant for digital media tax credits to provide a list of development subsidies, as defined at N.J.S.A. 52:39-1 et seq., that the developer is requesting or receiving, the name of the granting body, the value of each development subsidy, and the total value of all development subsidies requested or received.

N.J.A.C. 19:31T-1.4(d)8 is recodified as N.J.A.C. 19:31T-1.4(d)10 without change.

N.J.A.C. 19:31T-1.4(e)1 and 2 are added and require all applicants seeking digital media tax credits to submit a legal questionnaire associated with the Authority's debarment and disqualification rules and a tax clearance certificate.

N.J.A.C. 19:31T-1.6 Tax credit amounts; bonus amount; carryforward of tax credits

N.J.A.C. 19:31T-1.6(a) is amended to limit a tax credit vintage year to a privilege period or taxable year between July 1, 2018 and July 1, 2039. N.J.A.C. 19:31T-1.6(a)1 through (a)4 are amended with text clarifications specifying that "applications" means "completed applications" and to provide that the expenses described in N.J.A.C. 19:31T-1.6(a)2 and N.J.A.C. 19:31T-1.6(a)4ii include qualified wage and salary payments.

N.J.A.C. 19:31T-1.6(a)5 is deleted.

N.J.A.C. 19:31T-1.6(b) is amended to limit the tax credit vintage year to a privilege period or taxable year between July 1, 2018 and July 1, 2039.

N.J.A.C. 19:31T-1.6(b)1 is added to establish digital media tax credits applicable to completed applications submitted after July 10, 2024.

N.J.A.C. 19:31T-1.6(b)1i is added and allows an applicant to obtain a digital media tax credit equal to forty percent of its qualified digital media content production expenses incurred in New Jersey for post-production services, including visual effects services, which were performed at a film-lease partner facility or which were incurred by a studio partner during a privilege period or taxable year.

N.J.A.C. 19:31T-1.6(b)1ii is added and allows an applicant to obtain a digital media tax credit equal to thirty-five percent of its qualified digital media content production expenses

incurred in New Jersey for post-production services, including visual effects services, which were performed by a qualified independent post-production company.

N.J.A.C. 19:31T-1.6(b)1 is recodified as N.J.A.C. 19:31T-1.6(b)2 and is amended with a text clarification specifying that “application” means “completed application”.

N.J.A.C. 19:31T-1.6(b)2ii is amended to correct a citation and to provide that the expenses described in N.J.A.C. 19:31T-1.6(b)2i include qualified wage and salary payments.

N.J.A.C. 19:31T-1.6(b)2 is recodified as N.J.A.C. 19:31T-1.6(b)3 and is amended with a text clarification specifying that “application” means “completed application” and adds that this section applies only to applications submitted prior to July 10, 2024.

N.J.A.C. 19:31T-1.6(b)3ii is amended to correct a citation and to provide that the expenses described in N.J.A.C. 19:31T-1.6(b)3i include qualified wage and salary payments.

N.J.A.C. 19:31T-1.6(b)3 is deleted.

N.J.A.C. 19:31T-1.6(l)1 is amended to specify that “applicant” means “approved applicant” and to provide that an increase in tax credits is allowed which is equal to two percent of the qualified film production expenses or the qualified digital media content expenses. N.J.A.C. 19:31T-1.6(l)1 is further amended to state that the diversity plan information submitted must be in relation to the total film production expenses or total digital media content production expenses.

N.J.A.C. 19:31T-1.6(l)1iv is amended to specify that “applicant” means “approved applicant”.

N.J.A.C. 19:31T-1.6(l)2 is amended to specify that this subparagraph applies to applications submitted on or after January 12, 2022, and to provide that background actors and extras with no spoken lines cannot be included in the 25 percent diversity hiring goal.

N.J.A.C. 19:31T-1.7 Evaluation process; approval of award of tax credits

N.J.A.C. 19:31T-1.7(a) is amended for the purpose of clarity.

N.J.A.C. 19:31T-1.7(a)1 is added and amended to state that completed applications will be received by the Authority and then be forwarded to the Commission for its review for content eligibility.

N.J.A.C. 19:31T-1.7(a)1 is recodified as N.J.A.C. 19:31T-1.7(a)2.

N.J.A.C. 19:31T-1.7(a)2 is recodified as N.J.A.C. 19:31T-1.7(a)3 and is amended by deleting the reference to assigning a tax credit vintage year and clarifying that “digital media expenses” means “digital media content production expenses”.

N.J.A.C. 19:31T-1.7(a)3 is recodified as N.J.A.C. 19:31T-1.7(a)4.

N.J.A.C. 19:31T-1.7(b) is amended for the purpose of clarification.

N.J.A.C. 19:31T-1.7(b)1 is added to reflect that this subparagraph applies to approved applications with a tax vintage year based upon subparagraph (a) of the definition of “tax credit vintage year”.

N.J.A.C. 19:31T-1.7(b)1 is added and applies to approved applications with a tax vintage year based upon subparagraph (b) of the definition of “tax credit vintage year”, and adds that final documentation must be submitted no later than three years after the Authority’s initial approval, but that the Authority may grant up to two six-month extensions.

N.J.A.C. 19:31T-1.7(b) is amended to state that the approved applicant can also submit the required documentation at film completion.

N.J.A.C. 19:31T-1.7(c) is amended by deleting “total film production expenses or” and to state that the approved applicant can also submit the required documentation at film completion.

N.J.A.C. 19:31T-1.7(c)1 is amended to create subparagraph i containing the original text.

N.J.A.C. 19:31T-1.7(c)1ii is added and requires the approved applicant to provide evidence that marketing materials are included in the film which comply with N.J.A.C. 19:31T-1.3(a)3.

N.J.A.C. 19:31T-1.7(c)1iii is added and requires the approved applicant to provide evidence of film completion.

N.J.A.C. 19:31T-1.7(c)3 is recodified as N.J.A.C. 19:31T-1.7(c)4.

N.J.A.C. 19:31T-1.7(c)4ii is amended to change “section” to “program”.

N.J.A.C. 19:31T-1.7(c)4v is amended with grammatical clarifications.

N.J.A.C. 19:31T-1.7(c)4 and 5 are deleted.

N.J.A.C. 19:31T-1.7(c)6 is recodified as N.J.A.C. 19:31T-1.7(c)5 and is amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.7(c)7 is recodified as N.J.A.C. 19:31T-1.7(c)6.

N.J.A.C. 19:31T-1.7(c)7 is added and provides that if an approved applicant is seeking tax credits on the basis of services performed by a qualified independent post-production company, then it must submit a certification that the independent post-production company met the definition of a qualified independent post-production company during the time in which the qualified digital media content production expenses were incurred.

N.J.A.C. 19:31T-1.7(c)8 is amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.7(d) is added and provides that approved applicants who receive initial approval for a reality show do not have to provide evidence that all episodes have been filmed or that the reality show has premiered.

N.J.A.C. 19:31T-1.7(d) is recodified as N.J.A.C. 19:31T-1.7(e).

N.J.A.C. 19:31T-1.7(e) is recodified as N.J.A.C. 19:31T-1.7(f) and amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.7(f) is recodified as N.J.A.C. 19:31T-1.7(g) and amended to state that the date the production concludes is the date of film completion instead of the date of the last total film production expense.

N.J.A.C. 19:31T-1.8 Evaluation process and designation of studio partner and film-lease partner facility

N.J.A.C. 19:31T-1.8(d) is amended to reflect that “application” means “completed application”.

N.J.A.C. 19:31T-1.8(d)3 is added and provides that for completed applications approved after July 10, 2024, a film-lease production company applying under subparagraph (a)2 in the definition of film-lease production company can apply for film tax credits upon the designation of the corresponding film-lease partner facility.

N.J.A.C. 19:31T-1.8(e)1 is amended to require the submission of planning and zoning approvals and permits and any other required permits as conditions of approval in the approval letter and to replace the requirement that the Authority “shall grant no more than two” deadline extensions with language stating that the Authority “may grant” six-month deadline extensions.

N.J.A.C. 19:31T-1.8(e)2 is amended to correct a citation.

N.J.A.C. 19:31T-1.8(e)3 is amended by replacing the requirement that the Authority “shall grant no more than two” deadline extensions with language stating that the Authority “may grant” six-month deadline extensions.

N.J.A.C. 19:31T-1.8(g)1 is amended to require an award agreement to include the end of the commitment and eligibility periods.

N.J.A.C. 19:31T-1.8(g)2i is amended to provide an exception to the rule restricting a studio partner from leasing, subleasing, or licensing its production facility which results in the studio

partner occupying less than the minimum required square feet for more than twelve months or for the period longer than the remainder of the commitment period.

N.J.A.C. 19:31T-1.9 Recapture and reduction of tax credits

N.J.A.C. 19:31T-1.9(a) is added and provides consequences if a studio partner is designated on the basis of a lease of a production facility that is a portion of a film-lease production facility before the film-lease partner facility receives a temporary certificate of occupancy and fails to occupy such facility.

N.J.A.C. 19:31T-1.9(a)1 is added and requires the Authority to revoke the designation of the studio partner under the circumstances described in N.J.A.C. 19:31T-1.9(a).

N.J.A.C. 19:31T-1.9(a)2 is added and states that all films approved for film tax credits on the basis of the designated studio partner that have received initial approval, but not final approval shall terminate and be given film project status.

N.J.A.C. 19:31T-1.9(a)3 is added and allows the Authority to recapture the portion of the tax credit available to the studio partner by virtue of its designation as a studio partner, except that no tax credits shall be recaptured within a year after the studio partner designation.

N.J.A.C. 19:31T-1.9(a) is recodified as N.J.A.C. 19:31T-1.9(b) and amended to state that it applies to all studio partners other than those described in N.J.A.C. 19:31T-1.9(a), and is otherwise amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.9(b) is recodified as N.J.A.C. 19:31T-1.9(c) and amended to state that the Authority “may” instead of “shall” revoke the designation of the film-lease partner facility. This subparagraph is further amended for the purpose of grammatical clarification and to state that all films that relied on the film-lease party facility designation that have been given initial but not

final approval shall not terminate but instead be reduced to eliminate the portion of the tax credits only available by virtue of the film-lease partner facility's designation as a film-lease partner facility.

N.J.A.C. 19:31T-1.9(d) is added and establishes consequences if a film-lease production company receiving a film tax credit under section (a)2 in the definition of film-lease production company fails to meet the qualifications of a film-lease production company or comply with the application provisions in the definition of film-lease production company.

N.J.A.C. 19:31T-1.9(d)1 is added and provides that all of the film-lease production company's films which have initial but not final approval shall be terminated as a film-lease production company film project and instead be deemed a film project.

N.J.A.C. 19:31T-1.9(d)2 is added and allows the Authority to recapture the portion of the tax credit available to the film-lease production company by virtue of the designation of a film-lease partner facility, except that no tax credits shall be recaptured within a year of the date of the film-lease production company's lease with the film-lease partner facility.

N.J.A.C. 19:31T-1.9(c) is recodified as N.J.A.C. 19:31T-1.9(e) and amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.9(d) is recodified as N.J.A.C. 19:31T-1.9(f) and amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.9(e) is recodified as N.J.A.C. 19:31T-1.9(g).

N.J.A.C. 19:31T-1.9(h) is added to state that if the Authority later obtains information indicating that a reduction, forfeiture, or recapture of tax credits should have applied, it will recapture the tax credits for the relevant time period.

N.J.A.C. 19:31T-1.9(i) is added and states that if a tax credit subject to recapture has been sold or assigned pursuant to N.J.A.C. 19:31T-1.10, the Authority will pursue recapture from the corresponding studio partner, film-lease partner facility, or film production company, not from the purchaser or assignee.

N.J.A.C. 19:31T-1.9(f) is recodified as N.J.A.C. 19:31T-1.9(j).

N.J.A.C. 19:31T-1.10 Application for tax credit transfer certificate

N.J.A.C. 19:31T-1.10(e) is amended for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.11 Cap on total credits

N.J.A.C. 19:31T-1.11(a) is amended to specify what taxes Authority-issued film tax credits apply against and to provide when such tax credits are allowed.

N.J.A.C. 19:31T-1.11(a)1 is amended to for the purpose of grammatical clarity.

N.J.A.C. 19:31T-1.11(a)2 is added and makes an additional \$300,000,000 of uncommitted Aspire and Emerge program tax credits available as Program tax credits in 2025.

N.J.A.C. 19:31T-1.11(a)2 is recodified as N.J.A.C. 19:31T-1.11(a)3.

N.J.A.C. 19:31T-1.11(a)3i is amended to correct citations.

N.J.A.C. 19:31T-1.11(a)3ii is amended to correct citations and for the purpose of grammatical clarification.

Recodified N.J.A.C. 19:31T-1.11(a)3iii is amended to correct citations.

N.J.A.C. 19:31T-1.11(a)3 is recodified at N.J.A.C. 19:31T-1.11(a)4 and amended for the purpose of grammatical clarification.

N.J.A.C. 19:31T-1.11(b) is amended to specify what taxes Authority-issued digital media tax credits apply against and to provide when such tax credits are allowed.

N.J.A.C. 19:31T-1.11(b)1 is added and to increases the amount of digital media tax credits allowed in the fiscal year of initial approval to \$30,000,000.

N.J.A.C. 19:31T-1.11(b)2 is added and states that beginning July 1, 2024, in the Authority's discretion, up to an additional \$100,000,000 may be made available for the award of tax credits, including those allowed through the granting to tax credit transfer certificates, from funds available to approved applicants for film tax credits other than studio partners and film-lease production companies pursuant to N.J.S.A. 34:1B-362(d)(3) and N.J.A.C. 19:31T-1.11(a)2.

N.J.A.C. 19:31T-1.11(b)3 is amended to allow applications for tax credits and tax credit transfer certificates to be approved by the Authority for use in the next fiscal year in the event that the total tax credits and tax credit transfers approved during a single fiscal year exceed the amount of tax credits available that year, as long as the applications satisfy the requirements of this section.

N.J.A.C. 19:31T-1.11(c) and (d) are amended to correct citations.

N.J.A.C. 19:31T-1.12 Affirmative action; and prevailing wage

N.J.A.C. 19:31T-1.12(b) is amended to specify that the Authority's prevailing wage and affirmative action requirements apply to construction contracts for work performed at the production facility.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Garden State Film and Digital Media Jobs Program authorizes corporation business and gross income tax credits for certain expenses incurred for the production of certain films and digital media content in New Jersey, with additional benefits for production companies making

long-term film production commitments, or significant capital investments in New Jersey. The readoption of specially adopted amendments and new rules with substantial changes will have a positive social impact by attracting motion picture, television, and digital media production in New Jersey, which create both permanent production jobs, as well as construction jobs, promote New Jersey's diverse locations and landscapes, incentivize diversity in recruitment and hiring, revitalize local economic activity, catalyze tourism activity, and reestablish New Jersey's competitiveness in the motion picture and television industry.

Economic Impact

The total amount of film tax credits available pursuant to the legacy program is \$100 million, each State fiscal year, beginning with State Fiscal Year 2019 and ending with State Fiscal Year 2039, for a total available pool of \$2 billion. The total amount of film credits available for studio partners is \$100 million each State fiscal year, beginning in State Fiscal Year 2019 and ending in State Fiscal Year 2023, and beginning in State Fiscal Year 2024 and ending in State Fiscal Year 2039 is \$150 million each State Fiscal year for a total available pool of \$2.65 billion. The total amount of film credits available for film-lease production companies is \$100 million per State fiscal year, beginning in State Fiscal Year 2019 and ending in State Fiscal Year 2023, the total amount of tax credits available to film-lease production companies is \$150 million beginning in State Fiscal Year 2024 and ending in State Fiscal Year 2039 for a total available pool of \$2.65 billion.

The readoption of the specially adopted amendments and new rules with substantial changes will impose appropriate costs on applicants. The fees for the Program are intended to ensure a source of necessary administrative fee revenue for the NJEDA to more fully cover the costs of administering the Program.

Federal Standards Statement

A Federal standards analysis is not required because the readoption of the specially adopted amendments and new rules with substantial changes are not subject to any Federal requirements or standards.

Jobs Impact

In New Jersey, average annual employment in the motion picture and video industry totals over 7,000 or 0.6 percent of the State's private sector workers, with wages paid of more than \$374 million or 0.4 percent of the State's total wages. The Authority anticipates that the readoption of the specially adopted amendments and new rules with substantial changes will spur an indeterminate amount of job creation, which includes direct job creation through film, television, and digital media production companies producing content in New Jersey, and indirectly through local businesses and vendors that provide support services to film, television, or digital media production. The specially adopted and concurrently proposed amendments and new rules, which offer additional benefits for production companies making long-term film production commitments and/or significant capital investment in New Jersey, will result in the creation of jobs that are less transient, relative to individual film productions, and more permanent relative to sustained and ongoing film and television production.

Agriculture Industry Impact

The readoption of the specially adopted amendments and new rules with substantial changes will not have any impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Analysis

The readoption of the specially adopted amendments and new rules with substantial changes may impose minimal reporting, recordkeeping, and other compliance requirements on

small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Specifically, eligible businesses will be required to comply with the Authority's standard online application process and regular incentive compliance requirements, however, any costs due to reporting, recordkeeping, and other compliance requirements on qualifying businesses will be fully offset by the amount of financial assistance received, and the only professional services required for such purposes are fully offset by the amount of financial assistance received and the only professional services required for such purposes are from a certified public accountant.

Housing Affordability Impact Analysis

The readoption of the specially adopted amendments and new rules with substantial changes will not have any effect on the average costs associated with housing, nor will it affect the affordability of housing in the State because the specially adopted and concurrently proposed amendments and new rules incentivize production companies to file and create digital media content in New Jersey and do not affect housing costs.

Smart Growth Development Impact Analysis

The readoption of the specially adopted amendments and new rules with substantial changes will have an insignificant impact on smart growth and there is an extreme unlikelihood that they would evoke a change in housing production in Planning Areas 1 or 2, or in designated centers, pursuant to the State Development and Redevelopment Plan because the specially adopted and concurrently proposed amendments and new rules incentivize production companies to file and create digital media content in New Jersey and do not affect housing development.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The readoption of the specially adopted amendments and new rules with substantial changes will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

Full text of the readoption specially adopted amendments and new rules with substantial changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]) and the readoption with substantial changes (additions indicated in bold italics **thus**; deletion indicated in special brackets {thus}):

N.J.A.C.19:31T-1.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Division of Taxation to implement the Garden State Film and Digital Media Jobs Act, P.L. 2018, c. 56, **as amended at P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; {and} P.L. 2023, c. 97; and P.L. 2024, c. 33.**

N.J.A.C. 19:31T-1.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Applicant" means:

1. A film production company applying for designation as a studio partner;
2. An entity applying for designation as a film-lease partner facility;
3. A person or entity applying for a tax credit for qualified film production expenses. Such an entity includes, but is not limited to, a designated studio partner or an entity applying for a tax credit as a film-lease production company; or
4. A person or entity applying for a tax credit for qualified digital media content production expenses.

"Approved applicant" means an applicant for a tax credit for qualified film production expenses or qualified digital media content production expenses that has received initial approval from the Authority.

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to N.J.S.A. 54:50-39.d.

"Commission" means the New Jersey Motion Picture and Television [Development] Commission.

"Commitment period" means, for studio partners, the period beginning with the commencement of the eligibility period and expiring 10 years following:

1. In the case of studio partner developing or purchasing a production facility, the issuance of a temporary certificate(s) of occupancy for the production facility developed or purchased as a condition of designation as a studio partner; or
2. In the case of studio partner leasing a production facility, commencement of the lease term for the production facility leased as a condition of designation as a studio partner.

"Deferred compensation" means additional payments made to highly compensated individuals, such as writers, directors, producers, and performers, other than background actors with no scripted lines, that increase the total remuneration received for services performed on a production. Deferred compensation payments may include, but are not limited to, payments and advance payments for profit participations, residuals, launch bonuses, buy-out fees, or any other compensation due a highly compensated individual as a result of their services performed on, or the financial exploitation of a film or commercial audiovisual product.

"Digital media content" means {any data or information that is produced in digital form, including data or information created in analog form, but reformatted in digital form, text, graphics, photographs, animation, sound, and video content} *the following digitally formatted and distributed content, which content includes data or information created in analog form but reformatted in digital form: animation; video games; visual effects; interactive media, including virtual, augmented, or mixed reality; content containing text, graphics, or photographs; sound; and video.* "Digital media content" [does] **shall** not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.A. 2C:34-2 and 2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the [taxpayer] **approved applicant** for distribution or incorporation into the [taxpayer's] **approved applicant's** digital media content.

"Director" means the Director of the New Jersey Division of Taxation.

"Eligibility period" means, with respect to studio partners, the period in which a studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the approved applicant's designation as a studio partner{, beginning the earlier of: }.

(a) The eligibility period begins the earlier of:

1. The commencement of the principal photography for the studio partner's initial film in New Jersey; or
2. In the case of a studio partner developing or purchasing a production facility, at the issuance of a temporary certificate(s) of occupancy for the production facility developed or purchased as a condition of designation as a studio partner, and in the case of a studio partner leasing a production facility, at the commencement of the lease term for the production facility leased as a condition of designation as a studio partner.

(b) Regardless of the event that commences the eligibility period, the eligibility period ends ten years after the issuance of the temporary certificate of occupancy or the commencement of the lease term described in (a)2 above.

"Film" or "film project" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to[, a]:

1. A documentary feature film, documentary television series, or documentary television show{s};
2. A game show[, award show,];
3. A talk show;
4. A competition or variety show filmed before a live audience; or
5. An award show or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Film" shall not include a production featuring news, current events, weather, and market reports or public programming, [talk show,] or sports events, a production that solicits funds, a production containing obscene material as defined [under] **at** N.J.S.A. 2C:34-2 and 2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except {for [taxpayers] **applicants** applying for a tax credit against the tax imposed pursuant to section 5 [of] **at** P.L. 1945, c. 165,} if the production company of the reality show {owns, leases, or otherwise occupies a production facility [of no less than 20,000 square feet of real property] for a minimum term of 24 months, and [invests] **makes a capital investment**, after July 1, 2018, **of** no less than \$ 3,000,000 in such a facility within a designated enterprise zone established pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., or a UEZ-impacted business district established pursuant to N.J.S.A. 52:27H-66.2} **has obtained a minimum six episode order from, and is commissioned and scheduled to premiere on, a major linear**

network or streaming service. {The **capital** investment of the production company may include the **capital** investment of its landlord after July 1, 2018. To determine the **capital** investment of the landlord, the Authority shall multiply the owner's total capital investment in the building by the fraction, the numerator of which is the leased net leasable area and the denominator of which is the total net leasable area.} "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Film Completion" means *thirty days after the process of postproduction of a film has been finished and a final composite answer print, delivery air master, HD air master, interoperable master format (IMF), digital cinema files, or industry equivalent of the film is completed.*

"Film production use" means a film studio, professional stage, sound stage, television studio, recording studio, screening room, or other production support space or infrastructure used for producing films or other commercial audiovisual products, including, but not limited to, production offices, mill space, or backlots, provided that the predominant use shall not be administrative or back-office use and that backlots shall not exceed 20 percent of the required minimum size of the production facility.

"Fiscal year" means the State's fiscal year{, which begins July 1 and ends June 30}.

"Full-time or full-time equivalent employee" means an individual employed by the [taxpayer] **approved applicant** for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., **or whose wages are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.A. 54A:1-1, et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident gross income taxpayer**, or who is a partner[, the taxpayer] **of an approved applicant**, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the [taxpayer] **approved applicant**.

"Highly compensated individual" means, **for studio partners and film-lease production companies**, an individual who directly or indirectly receives compensation in excess of \$500,000 for the performance of services used directly in a production **and for approved applicants other than studio partners and film-lease production companies who applied on or after July 10, 2024, an individual who directly or indirectly receives compensation**

in excess of \$750,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the [taxpayer] **approved applicant** pays a loan out company that, in turn, pays the individual for the performance of services.

"Homeowner" means an individual who owns and occupies a personal residence, whether as their primary residence or otherwise.

"Incurred in New Jersey" means, for any application submitted after July 3, 2018, the effective date of P.L. 2018, c. 56, pursuant to which a tax credit has not been allowed prior to July 2, 2021, the effective date of P.L. 2021, c. 160, service performed in New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property *is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey {or}and{, at the Authority's discretion,} the film production company provides to the Authority the vendor's information in a form and manner prescribed by the Authority.* Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired in New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey, *to the extent that the property is located in New Jersey during its use or consumption, if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.* Payment made to a homeowner for the use of a personal residence located in the State for filming shall be deemed an expense incurred in New Jersey, notwithstanding the fact that such homeowner is not a vendor authorized to do business in New Jersey, provided that the approved applicant has made the withholding required by N.J.S.A. 54:10A-5.39b.g and 54A:4-12b.h and N.J.A.C. 19:31T-1.3(c).

"Independent contractor" means an individual treated as an independent contractor for Federal and State tax purposes who is contracted with by the [taxpayer] **approved applicant** for the performance of services used directly in a production.

"Independent post-production company" or "qualified independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production services, including visual effects services, for a film or films described in this section including a film or films that do not satisfy the requirements of N.J.S.A. 54:10A-5.39b(a)(1)(a), N.J.S.A. 54A:4-12b(a)(1)(a), and N.J.A.C. 19:31T-1.3(a), which entity is not a publicly-traded entity or for which entity no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly-traded entity.

"Loan out company" means *for applications submitted prior to July 10, 2024, a personal service corporation or other entity with which an approved applicant contracts for the provision of specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production; and, for applications submitted on or after July 10, 2024, a personal service corporation or other entity, authorized to do business in New Jersey, that is contracted with by the [taxpayer] approved applicant to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production.* "Loan out company" [does] **shall** not include entities contracted with by the [taxpayer] **approved applicant** to provide goods or ancillary contractor services, such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner facility" or "film-lease partner facility" means one of the following for which the owner, developer, or tenant has made the commitment to build, lease, or operate for a period of at least five successive years beginning with the later of the date of Authority approval or the issuance of the temporary certificate(s) of occupancy:

1. A production facility;
2. A production facility built, leased, or operated by a production company designated as a studio partner, which the studio partner no longer occupies; or
3. A portion of a production facility owned by a studio partner that is in excess of the space being utilized by the studio partner; provided that the space utilized by the studio partner *and by the film-lease partner facility* both exceed{s} the minimum size for a studio partner and film-lease partner facility, respectively.

"New Jersey film-lease production company" or "film-lease production company" means:

(a) {a} An applicant, including any applicant that is a member of a combined group pursuant to N.J.S.A. 54:10A-4.11 or any other entity in which the film-lease production company has a material ownership interest of at least 30 percent and material operational role in the production, including, but not limited to, as a producer, that otherwise complies with the eligibility requirements of the program and has made a commitment to lease or otherwise occupy production space in a film-lease partner facility {and who will shoot}.

1. *In addition to the foregoing, if a film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria:*
 - i. *The film production company shoots at least 50 percent of the total principal photography shoot days of the film project within New Jersey at the film-lease partner facility{.}; or*
 - ii. *The qualified film production expenses of the project for all services performed and goods used or consumed at the film-lease partner facility and payments made*

for the use of the film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the project.

2. *In addition to the forgoing, if a film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have:*
 - i. *Entered into a lease or sublease with the owner or developer of a film-lease partner facility, which:*
 - (1) *Is for not less than three years of occupancy of the film-lease partner facility; and*
 - (2) *Includes at least 36,000 square feet of soundstage space; and*
 - ii. *Executed a contract with the owner or developer of the film-lease partner facility for such owner or developer to provide production services for films produced by the film production company in New Jersey prior to the film-lease partner facility's receipt of a temporary or final certificate of occupancy.*

(b) {A "New Jersey film-lease production company" may include a}An unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a designated film-lease production company contracts to perform film production services on its behalf, such that the designated film-lease production company controls such film or product during preproduction, production, and postproduction, and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the film-lease production company pursuant to the provisions of the Federal Copyright Act of 1976, 17 U.S.C. §§ 101 et seq.

"New Jersey studio partner" or "studio partner" means:

(a) *When applying for a designation:*

1. {a}A film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility, or has executed a purchase contract with a governmental authority for the purpose of developing a production facility, which purchase contract must be executed within 48 months from the date of designation as a New Jersey studio partner; provided, however, the Authority Board, in its discretion, may extend the time to execute a purchase contract for an additional 12 months; or{.}
2. A {"studio partner" shall also include a} film production company that executes at least a 10-year lease for a production facility that is a portion of a film-lease partner facility.

(b) *When applying for a film tax credit:*

1. *The film production company designated as a studio partner;*

2. {A "New Jersey studio partner" may include a}Any other member of {an applicant's} *the combined group, pursuant to N.J.S.A. 54:10A-4.11, of the film production company designated as a studio partner;{.} or*
3. {For the purpose of applying for film tax credits pursuant to N.J.A.C. 19:31T-1.3, a "New Jersey studio partner" shall also mean an} *An {unrelated} entity unrelated to the film production company designated as a studio partner, which entity is principally engaged in the production of a film or other commercial audiovisual product with whom the film production company {a} designated as a studio partner contracts to perform film production services on its behalf or for its benefit, such that the film production company designated as a studio partner:*
 - i. {controls} *Controls such film or product during pre-production, production, and post-production{, and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the studio partner pursuant to the provisions of the Federal Copyright Act of 1976, 17 U.S.C. §§ 101 et seq.}; or*
 - ii. *Controls global distribution rights for the resulting film or other commercial audiovisual product, provided that the studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred.*

"Partnership" means an entity classified as a partnership for Federal income tax purposes.

"Personal residence" means a residential unit, the land on which the residential unit is located, and any other structures on such land. A personal residence includes, but is not limited to, a condominium, a unit in a horizontal property regime, or a unit in a cooperative or mutual housing corporation of a residential shareholder. A personal residence excludes a multi-family residential structure of more than four units and a residential unit that another person occupies as that person's primary residence.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects. There shall be no distinguishing between the production and post-production phases for animated films due to the intertwined relationship between those two phases in animation.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated. For animated films, pre-production constitutes the period of time during which models are drawn on paper and/or created in the computer (for example, storyboarding).

"Primary place of business" means, for purposes of determining the amount of tax credit pursuant to N.J.A.C. 19:31T-1.6(a) and (b), the headquarters or commercial facility of a vendor at which the qualified expense transaction occurs.

"Principal photography" means the filming of major and significant portions of a qualified film that involves the [lead actors or actresses] **director of the film on set**. For animated films, "principal photography" means the point at which the models created during the pre-production phase are complete and the staff begins to choreograph, animate, and render the animations.

"Privilege period" means the calendar or fiscal accounting period for which a tax is payable under the Corporation Business Tax Act, N.J.S.A. 54:10A-5.

"Production facility" means a building or buildings in New Jersey used for film production uses {of no less than 20,000 square feet for a production company of a reality show and} with no less than 250,000 square feet for a film-lease partner facility or a studio partner.

"Program" means the Garden State Film and Digital Media Jobs Program.

"Qualified digital media content production expenses" means expenses incurred in New Jersey after July 1, 2018, *to the extent that any such expense is incurred* for the production of digital media content. "Qualified digital media content production expenses" shall include, but [shall] not be limited to{,}: **the** wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., has been paid or is due, *and any wages and salaries of individuals employed in the production of digital media content that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S. 54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state;* {and,} the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; *and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering.* Payments made to a loan out company or to an independent contractor shall not be [a] **deemed** "qualified digital media content production expenses" unless the payments are made in connection with a trade, profession, or occupation carried out in this State or for the rendition of personal services performed in the State and the [taxpayer] **approved applicant** has made the withholding required [by] **pursuant to N.J.S.A. 54:10A-5.39b.g and 54A:4-12b.h and** N.J.A.C. 19:31T-1.3(c). { "Qualified} *For applications submitted prior to July 10, 2024, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. For applications submitted after July 10, 2024, "qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of websites; or other costs not directly related to the production of digital media content.* Costs related to the acquisition or licensing of digital media content by the [taxpayer] **approved applicant** for distribution or incorporation into the [taxpayer's] **approved applicant's** digital media content *or any costs included in another program*

application submitted to the Authority, or other costs for intangible personal {expenses} property, shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey *(i)* after July 1, 2018, for the production of a film, including pre-production costs, and post-production costs incurred in New Jersey *and, (ii) for completed applications submitted on or after January 1, 2026, until film completion, except that deferred compensation may be incurred after film completion.* "Qualified film production expenses" shall include, but [shall] not be limited to: *the* wages and salaries of individuals employed in the production of a film on which the tax imposed [by] **pursuant to** N.J.S.A. 54A:1-1 et seq., has been paid or is due, *and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state;* and, the costs for tangible personal property used and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be **deemed** a "qualified film production expense[s]" unless the payments are made in connection with a trade, profession, or **occupation** [carried out] **performed** in this State or for the rendition of personal services performed in this State and **the** [taxpayer] **approved applicant** has made the withholding required [by] **pursuant to N.J.S.A. 54:10A-5.39b.g, 54A:4-12b.h and N.J.A.C. 19:31T-1.3(c).** As of July 6, 2023, the effective date of P.L. 2023, c. 97, payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a "qualified film production expense" unless the approved applicant has made the withholding required pursuant to N.J.S.A. 54:10A-5.39b.g and 54A:4-12b.h and N.J.A.C. 19:31T-1.3(c). For the purposes of this definition, wages and salaries of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by studio partners, provided the studio partner files a supplemental report as set forth at N.J.A.C. 19:31T-1.7(f). "Qualified film production expenses" shall not include: *costs for intangible personal {expenses} property incurred after February 26, 2024; expenses incurred in marketing or advertising a film; {and} expenses for a story, script, or scenario to be used for a film; reality show, game show and competition show prizes or awards; any costs included in an another program application submitted to the Authority; for taxpayers other than studio partners and film-lease production companies, payment in excess of {\$ 500,000} \$750,000 to a highly compensated individual for {costs for a story, script, or scenario used in the production of a film and} wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines[.]; and for studio partners and film-lease production companies, payment in excess of \$500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows,*

based on the qualified film production expenses in the State without including the excess amounts paid to highly compensated individuals:

1. For a studio partner that incurs less than ~~[\$ 50,000,000}~~ \$25,000,000 in qualified film production expenses in the State, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$ 18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;
2. For a studio partner that incurs ~~[\$ 50,000,000}~~ \$25,000,000 or more in qualified film production expenses in the State, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$ 72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;
3. For a film-lease production company that incurs less than \$ 50,000,000 in qualified film production expenses in the State, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and
4. For a film-lease production company that incurs \$ 50,000,000 or more in qualified film production expenses in the State, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

***"Qualified wage and salary payments"** means the wage and salary payments incurred by the approved applicant in New Jersey.*

"Reality show" means content that is centered around the filming of people in *purported* real-life, predominantly unscripted or soft-scripted, situations.

"Selling business" means [a taxpayer] **an approved applicant** that has unused tax credits, which it wishes to sell.

"Shoot day" means a minimum of eight hours from first unit crew call to wrap.

"Square feet" or "square footage" means the sum of all areas on all floors of a building included within the outside faces of its exterior walls, including all vertical penetration areas for circulation and shaft areas that connect one floor to another, but disregarding cornices, pilasters, buttresses, and similar structures that extend beyond

the wall faces. For backlot, "square feet" means the area dedicated by the applicant for backlot use as evidenced on a site plan.

"Taxable year" means the calendar or fiscal accounting period for which a tax is payable [under] **pursuant to N.J.S.A. 54A:1-1 et seq.**{, and commencing on or after July 1, 2018, but before July 1, [2023]2039}.

"Taxation" **or "Division"** means the New Jersey Division of Taxation.

"Tax credit transfer certificate" means the certificate issued by [the Division of] Taxation certifying to the selling business the amounts of film tax credit being sold. The certificate shall state that the transferor waives its right to claim the credit shown on the certificate. The certificate shall [show the fiscal year in which the application was initially approved and] have the same tax credit vintage year as the original tax credit certificate.

"Tax credit vintage year" means:

(a) {t}The applicant's privilege period or taxable year in which the Authority issued the initial approval of the application [and the tax credit may be applied], until the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to applicants exceeds the amounts of tax credits available in a fiscal year, after which "tax credit vintage year" shall mean the next subsequent privilege period or taxable year of the applicant in which tax credits are available{.};

(b) For applications approved on or after January 1, 2026, "tax credit vintage year" means the applicant's privilege period or taxable year in which the Authority gives final approval; or

(c) For applications that received initial approval prior to January 1, 2026, but have not yet received final approval, the approved applicant may elect upon written notice to the Authority to use the tax credit vintage year in (b) above.

"Taxpayer" means an applicant, a designated studio partner, a designated film-lease partner facility, or an approved applicant.

"Television series" means a series of one or more television shows each 22 minutes or more in length.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content **including, but not limited to, wages and salaries.** {"Total digital media content production expenses" shall not include costs for intangible personal property incurred after February 26, 2024.}

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film, **including, but not limited to, wages and salaries.** *{"Total film production expenses" shall not include costs for intangible personal expenses incurred after February 26, 2024.} For completed applications submitted on or after January 1, 2026, total film production expenses shall not include any costs incurred after film completion, except that deferred compensation may be incurred after film completion.*

"Vendor authorized to do business in New Jersey" means a vendor that, **at the time the expense was incurred in New Jersey**, has obtained authorization to conduct business in this State by filing the appropriate documents with the State of New Jersey Department of the Treasury, Division of Revenue and Enterprise Services.

N.J.A.C. 19:31T-1.3 Eligibility criteria

(a) [A taxpayer] **An applicant** shall be eligible for the program for film tax credits if the Authority finds that:

1. {The [taxpayer] **applicant** will incur after} *After July 1, 2018[, at]:*
 - i. **At least 60 percent of the *applicant's* total film production expenses, exclusive of post-production costs, are incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including wages and salaries{, or }[the];**
 - ii. **The qualified film production expenses of the [taxpayer] **applicant** during at least one privilege period or taxable year incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including wages and salaries, exceed \$ 1,000,000 per production; or**
 - iii. **For reality shows, at least 60 percent of the applicant's total film production expenses, exclusive of post-production costs, are incurred in New Jersey for services performed, and goods purchased through vendors authorized to do business in New Jersey, including wages and salaries, and the qualified film production expenses of the applicant during at least one privilege period or taxable year incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including wages and salaries, exceed \$1,000,000 per production;**
2. The principal photography of the film commences within [the earlier of]180 days from the date of the completed application for the tax credit[, or 150 days from the date of the initial approval of the application pursuant to N.J.A.C. 19:31-21.7(a) for the tax credit];
3. The film includes, when determined to be appropriate by the Commission, taking into account factors including, but not limited to, the budget and audience of the film, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the Commission, in the end credits of the film;

4. The [taxpayer] **applicant** submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with N.J.A.C. 19:31T-1.7(c){2}4; [and]
5. The [taxpayer] **applicant** complies with the withholding requirements provided for payments to loan out companies, [and] independent contractors, **and any homeowner** in accordance with (c) below[.];
6. **At least one principal photography day is shot in New Jersey; and**
7. **For a studio partner or film-lease production company, the principal photography of the film commenced after the designation of the studio partner or the corresponding film-lease partner facility.**

(b) [A taxpayer]**An applicant** shall be eligible for the program for digital media tax credits if the Authority finds that{:

1. T}the [taxpayer] **applicant** will incur qualified digital media content production expenses during a privilege period or taxable year, provided that:
 1. **After July 1, 2018:**
 - i. At least \$ 2,000,000 of the total digital media content production expenses of the [taxpayer] **applicant** are incurred *in New Jersey* for services performed, and goods purchased, through vendors authorized to do business in New Jersey, **including wages and salaries; provided, however, for the purposes of eligibility, for applications submitted after July 10, 2024, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed. In addition,** {ii. At}at least 50 percent of the qualified digital media content production expenses of the [taxpayer] **applicant** are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey; {and}
 - ii. **At least \$ 500,000 of the qualified digital media content production expenses of the applicant are incurred in New Jersey for post-production services, including visual effects services, performed at a film-lease production facility or by a studio partner; or**
 - iii. **At least \$ 500,000 of the qualified digital media content production expenses of the applicant are incurred in New Jersey for post-production services, including visual effects services, performed by a qualified independent post-production company;**
 - {iii.}2. The [taxpayer] **applicant** submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with N.J.A.C. 19:31T-1.7(c)4; and
- {2.} 3. The [taxpayer] **applicant** complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with (c) below.

(c) [A taxpayer]**An approved applicant** shall withhold from each payment to a loan out company, [or] to an independent contractor, **or, for an applicant for a film tax credit, to**

a homeowner for the use of a personal residence, an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the **New Jersey Gross Income Tax Act**, N.J.S.A. 54A:1-1 et seq., and the [taxpayer] **approved applicant** shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to Chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to Chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the [taxpayer] **approved applicant** withheld. *Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the approved applicant to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages and salaries are subject to withholding but not subject to tax under the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state.*

(d) For any applicant applying to be designated as a studio partner, the applicant shall be eligible if the applicant demonstrates to the Authority that the applicant meets the definition of a studio partner for purposes of designation and that it shall satisfy the conditions of approval at N.J.A.C. 19:31T-1.8{(f)}(e) within the prescribed time. No more than three film production companies may be designated as a studio partner.

(e) For any applicant applying to be designated as a film-lease partner facility, the applicant shall be eligible if the applicant demonstrates to the Authority that the applicant meets the definition of a film-lease partner facility and that it shall satisfy the conditions of approval at N.J.A.C. 19:31T-1.8{(f)}(e) within the prescribed time.

1. Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a studio partner by the Authority on or before January 3, 2024, in order for a production facility to be designated as a film-lease partner facility, the owner or developer shall accept the acquisition by the Authority, at {the Authority's} its discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the Authority and the film-lease partner facility and on the condition that the Authority{'s} may require the applicant to redeem the investment if the applicant is not compliant with the program. The Authority may, at its discretion, accept the offer to purchase the shares of stock by the film-lease partner facility or any other investor in lieu of redemption.

2. No more than three New Jersey production facilities may be designated as a film-lease partner facility; provided, however, this limitation shall not apply to

production facilities, or portions thereof, owned, built, leased, or operated by a film production company designated as a studio partner.

(f) For any applicant applying to produce a reality show, the applicant will be eligible for the program if the Authority finds the applicant meets the requirements set forth at (a) above and demonstrates to the Authority that the applicant's production meets the definition of a reality show and meets the requirements for reality show productions set forth in the definition of a film.

(g) For two or more buildings to qualify as a production facility, the buildings must be proximate to each other. Proximate buildings shall include, but not be limited to, buildings that are adjacent to each other or across a single public right-of-way from each other. The following are examples of buildings that are proximate:

- 1. A production facility consists of building A and building B, which are both on the same block, but separated by other buildings.**
- 2. A production facility consists of building A and building B, which are adjacent to each other, but have separate entrances.**
- 3. A production facility consists of building A and building B, which are located in an industrial park and are separated solely by a parking lot.**

N.J.A.C. 19:31T-1.4 Application submission requirements

(a) A completed application for film tax credits shall include [, but not be limited to, the following]:

- 1. A preliminary budget for the film project with a breakout of projected costs, including pre-production costs and post-production costs;**
- 2. A breakout of projected total film production expenses, excluding pre-production costs, to be incurred, pursuant to N.J.A.C. 19:31T-1.3{(a)1}, for services performed and goods purchased through vendors authorized to do business in New Jersey;**
- 3. A breakout of projected qualified film production expenses, pursuant to N.J.A.C. 19:31T-1.3{(a)2}, in New Jersey;**
- 4. [A] For applications filed before July 2, 2021 (the effective date of P.L. 2021, c. 160), a breakout of projected costs, including pre-production and post-production costs, to be incurred, pursuant to N.J.A.C. 19:31T-1.6{(h)2 or 3}{(a)1}, for services performed and tangible personal property purchased through a vendor whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County; and for applications filed on or after July 2, 2021 (the effective date of P.L. 2021, c. 367), a breakout of projected costs, including pre-production and post-production costs, to be incurred, pursuant to N.J.A.C. 19:31T-1.6(a){2}4 for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York;**
- 5. A description of the film project, which must include:**

- i. A plot summary;
- ii. The genre and subject matter;
- iii. The anticipated film rating, if applicable;
- iv. The names of principals and actors; and
- v. The location(s) for filming;

6. The filming schedule;

7. The anticipated or actual dates of commencement and completion of principal photography and total film production expenses;

[8. An election by the taxpayer as to whether the tax credit will be based on total film production expenses, exclusive of post-production costs, or on qualified film expenses during a privilege period or taxable year, that exceed \$1,000,000 per production;]

[9.]8. {If the applicant is a partnership or limited liability company, a }A list of members or owners ***of the applicant*** {applying for a tax credit [under] **pursuant to** this program}, including the percentage of ownership interest of each;

[10.]9. If the applicant intends to participate in the bonus amount of tax credit for a diversity plan pursuant to N.J.A.C. 19:31T-1.6(l)1, satisfaction of the requirements [in]at N.J.A.C. 19:31T-1.6(l)1i [through] , ii, iii, and iv; and **for the increased bonus amount of tax credits pursuant to N.J.A.C. 19:31T-1.6(l)2, satisfaction of the requirements at N.J.A.C. 19:31T-1.6(l)2i through iii;**

[11.] 10. If the film production involves an eligible reality show{,}:

(a) ***For applications submitted prior to the effective date of P.L.2024, c.33 (July 10, 2024)***, a description of the capital investment, which shall be no less than \$ 3,000,000, and a description of the production facility, which shall be no less than 20,000 square feet of real property, respectively, within a designated enterprise zone established pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., or a UEZ-impacted business district established pursuant to N.J.S.A. 52:27H-66.2[.], **and an executed letter of interest, lease, sublease, deed, or purchase contract;**

(b) ***For applications submitted on or after the effective date of P.L.2024, c.33 (July 10, 2024), evidence that a major linear network or streaming service has commissioned or ordered a minimum of six episodes and has scheduled the reality show to premiere.***

{11. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;}

12. Submission of a tax clearance certificate;}

{13.}11. A list of all the development subsidies, as defined at N.J.S.A. 52:39-1 et seq., that the {developer} ***applicant*** is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received;

{14.}12. If the applicant is seeking a film tax credit as a studio partner:

- i. A certification from the *film production company designated as a studio partner* that it remains eligible as a studio partner; and
- ii. If the applicant is not the designated studio partner, one of the following:
 - (1) Written verification that the applicant is a member of the studio partner's group pursuant to N.J.S.A. 54:10A-4.11; or
 - (2) *If the applicant is an entity unrelated to the studio partner and is principally engaged in the production of the film that is the subject of the application with whom a designated studio partner contracts to perform film production services on its behalf or for its benefit, written consent from the studio partner for the unrelated entity to apply for tax credits and a copy of the production services agreement with the designated studio partner evidencing that the designated studio partner:*
 - (A) *controls such film during pre-production, production, and post-production; or*
 - (B) *controls global distribution rights for the resulting film, provided that the studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred and after the designated studio partner was approved for such designation by the Authority;*

{For "works made for hire" for the studio partner:

- (A) Documentation evidencing that the applicant is principally engaged in the production of film and other commercial audiovisual product;
- (B) An executed contract with the studio partner to perform film production services for the film on the studio partner's behalf such that the studio partner controls the film or product during preproduction, production, and post-production and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the studio partner pursuant to the provisions of the Federal Copyright Act of 1976, 17 U.S.C. §§ 101 et seq.; and
- (C) Opinion of counsel that the executed contract with the studio partner satisfies the criteria at (a)14ii(2)(B) above; }

{15.}13. If the applicant is seeking a film tax credit as a film-lease production company:

- i. A certification from the film-lease partner facility that it remains eligible as a film-lease partner facility;

ii. *If the applicant is seeking a film tax credit under (a)II in the definition of film-lease production company, the {F}filming schedule including all locations in and out of the State of New Jersey and an executed lease, sublease, license, or letter of intent to occupy production space in a film-lease partner facility during the required principal photography shoot days at the facility. The sublease, license, or letter of intent can be obtained from a tenant or subtenant of the film-lease partner facility;*

{iii. An executed lease, license, or letter of intent to occupy production space in a film-lease partner facility during the required principal photography shoot days at the facility; and }

iii. If the applicant is seeking a film tax credit under (a)1ii in the definition of film-lease production company, a detailed budget demonstrating that the applicant meets the requirements of that section and an executed lease, sublease, license, or letter of intent to occupy production space in a film-lease partner facility during the time of the required qualified film production expenses at, or for the use of, the film-lease partner facility; and

iv. *If the applicant is seeking a film tax credit under (a)2 in the definition of film-lease production company, the lease or sublease for the film-lease partner facility and the contract with the owner or developer of the film-lease partner facility required in that section, which contract shall be dated prior to incurring qualified film production expenses.*

{iv}v. If the applicant is not the film-lease production company, one of the following:

- (1) Written verification that the applicant is a member of the film-lease production company's combined group;
- (2) Any documentation evidencing the film-lease production company's ownership interest in the applicant and any agreement evidencing the film-lease production company's operational role in the film production; or
- (3) For "works made for hire" for the film-lease production company:
 - (A) Documentation evidencing that the applicant is principally engaged in the production of film and other commercial audiovisual product;
 - (B) An executed contract with the film-lease production company to perform film production services for the film on the film-lease production company's behalf such that the designated film-lease production company controls the film or product during pre-production, production, and post-production, and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey studio partner pursuant to the provisions of the Federal Copyright Act of 1976, 17 U.S.C. §§ 101 et seq.; and

(C) **Opinion of counsel that the executed contract with the {studio partner} *film-lease production company* satisfies the criteria {at} *in* {(a)14ii (3)}(B) above; and**

16. Any other necessary and relevant information as determined by the Authority for a specific application.

(b) A completed application to be designated as a studio partner shall include:

1. An executed deed, lease, sublease, *or* purchase contract for the production facility, or letter of intent with a governmental authority for the purchase of property for the purpose of developing a production facility. The executed lease or sublease shall have a term that extends for the commitment period based on the anticipated commencement of the commitment period;

2. A detailed floor plan or, if the production facility comprises multiple buildings, a site plan, indicating the uses of each area, the total square footage of the production facility, and the square footage of any backlot;

3. Evidence, including, but not limited to, a certification, that the applicant has made a commitment to produce films or commercial audiovisual products in New Jersey;

4. Except for an applicant that will execute a purchase contract with a governmental authority, preliminary site plan approval or temporary certificate(s) of occupancy for the production facility, an adopted redevelopment plan by a municipality or municipalities which contemplates the development of the production facility, or an executed redevelopment agreement with a municipality or municipalities for the development of the production facility; *and*

{5. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;}

6. Submission of a tax clearance certificate; *and*}

{7.}5. Any other necessary and relevant information as determined by the Authority for a specific application.

(c) A completed application to be designated as a film-lease partner facility shall include:

1. An executed lease, sublease, deed, or purchase contract for the production facility. The executed lease or sublease shall have a term that extends for the minimum five-year period;

2. A detailed floor plan or, if the production facility comprises multiple buildings, a site plan, indicating the uses of each area, the total square footage of the production facility and the square footage of any backlot;

3. Preliminary site plan approval or temporary certificate(s) of occupancy for the production facility, an adopted redevelopment plan by a municipality or municipalities which contemplates the development of the production facility, or

an executed redevelopment agreement with a municipality or municipalities for the development of the production facility;

4. Written acceptance by the applicant of the acquisition by the Authority, at the Authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the Authority and the film-lease partner facility; *and*

{5. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;

6. Submission of a tax clearance certificate; *and*}

{7.}5. Any other necessary and relevant information as determined by the Authority for a specific application.

[(b)][d] A completed application for digital media tax credits shall include[, but not be limited to, the following]:

1. A preliminary or actual budget demonstrating **the minimum required [at least \$ 2,000,000 of] total **and qualified** digital media content production expenses [incurred for services performed and goods purchased through vendors authorized to do business in New Jersey] **pursuant to N.J.A.C. 19:31T-1.3(b)1i, ii, or iii;****

2. *If the applicant is applying on the basis of services performed by a qualified independent post-production company, the ownership structure of the company and any other evidence that the company meets the definition of a qualified independent post-production company during the time in which the qualified digital media content production expenses were incurred;*

{2.}3. If applicable pursuant to N.J.A.C. 19:31T-1.6(b){1}2i or {2}3i, a breakout of qualified digital media expenses for services performed and tangible personal property purchased through a vendor whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County;

{3.} 4. A breakout of projected digital media content production expenses for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

{4.} 5. The total number of current full-time or full-time equivalent digital media employees, plans for anticipated new full-time or full-time equivalent employees, and current non-digital media full-time or full-time equivalent employees;

[4.] {5.} 6. A **detailed description of the [project, which must include an overall summary of] digital media content; *[and]***

{6.} 7. **If the digital media content relates to any film, a list of all such films;**

[5.] {7.} 8. If the applicant intends to participate in the bonus amount of tax credit for a diversity plan pursuant to N.J.A.C. 19:31T-1.6(l)1, satisfaction of the requirements [under] **pursuant to N.J.A.C. 19:31T-1.6(l)1i [through], ii, iii, and iv{; and for the increased bonus amount of tax credits pursuant to N.J.A.C. 19:31T-1.6(l)2, satisfaction of the requirements at N.J.A.C. 19:31T-1.6(l)2i, ii, and iii[i]; and }**

9. A list of all the development subsidies, as defined at N.J.S.A. 52:39-1 et seq., that the developer is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received; and

{8.} 10. Any other necessary and relevant information as determined by the Authority for a specific application.

(e) For all applicants, a completed applications shall also require:

- 1. A completed legal questionnaire disclosing all relevant legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2.1 through -2.7; and**
- 2. Submission of a tax clearance certificate.**

N.J.A.C. 19:31T-1.5 Fees

(a) A non-refundable fee shall accompany every application, as follows:

- 1. For [projects] applications with total [tax credits] qualified film production expenses or digital media production expenses of \$ 1,000,000 or less, the fee to be charged at application shall be [\$500.00] \$ 100.00; [and]**
- 2. For [projects] applications with total qualified film production expenses or digital media production expenses of \$ 1,000,000, but less than \$ 6,000,000, the fee to be charged at application shall be [\$2,500.]\$ 250.00;**
- 3. For applications with total qualified film production expenses or digital media production expenses of \$ 6,000,000, but less than \$ 15,000,000, the fee to be charged at application shall be \$ 2,000;**
- 4. For applications with total qualified film production expenses or digital media production expenses of \$ 15,000,000, but less than \$ 30,000,000, the fee to be charged at application shall be \$ 5,000;**
- 5. For applications with total qualified film production expenses or digital media production expenses of \$ 30,000,000 or more, the fee to be charged at application shall be \$ 10,000;**
- 6. For applications to be designated as a studio partner, the fee to be charged at application shall be \$ 10,000; and**
- 7. For applications to be designated as a film-lease partner facility, the fee to be charged at application shall be \$ 5,000.**

(b) A non-refundable fee shall be paid prior to the approval of the application by the Authority as follows, except that the fee shall be refunded if the Authority does not approve the credit:

- 1. For applications with total qualified film production expenses or digital media production expenses of less than \$ 1,000,000, the fee to be charged prior to approval shall be \$ 100.00;**

- 2. For applications with total qualified film production expenses or digital media production expenses of \$ 1,000,000, but less than \$ 6,000,000, the fee to be charged prior to approval shall be \$ 500.00;**
- 3. For applications with total qualified film production expenses or digital media production expenses of \$ 6,000,000, but less than \$ 15,000,000, the fee to be charged prior to approval shall be \$ 5,000;**
- 4. For applications with total qualified film production expenses or digital media production expenses of \$ 15,000,000, but less than \$ 30,000,000, the fee to be charged prior to approval shall be \$ 12,000;**
- 5. For applications with total qualified film production expenses or digital media production expenses of \$ 30,000,000 or more, the fee to be charged prior to approval shall be \$ 25,000;**
- 6. For applications to be designated as a studio partner, the fee to be charged prior to approval shall be \$ 50,000; and**
- 7. For applications to be designated as a film-lease partner facility, the fee to be charged prior to approval shall be \$ 50,000.**

[(b)](c) A non-refundable fee [of 0.5 percent of the approved tax credit amount] shall be paid to the Authority prior to the receipt of the tax credit[.] as follows:

- 1. For approved applicants with total qualified film production expenses or digital media production expenses of less than \$ 1,000,000, the fee to be charged shall be \$ 100.00;**
- 2. For approved applicants with total qualified film production expenses or digital media production expenses of \$ 1,000,000, but less than \$ 6,000,000, the fee to be charged shall be \$ 500.00;**
- 3. For approved applicants with total qualified film production expenses or digital media production expenses of \$ 6,000,000, but less than \$ 15,000,000, the fee to be charged shall be \$ 5,000;**
- 4. For approved applicants with total qualified film production expenses or digital media production expenses of \$ 15,000,000, but less than \$ 30,000,000, the fee to be charged shall be \$ 12,000; and**
- 5. For approved applicants with total qualified film production expenses or digital media production expenses of \$ 30,000,000 or more, the fee to be charged shall be \$ 25,000.**

[(c)](d) A non-refundable fee [of \$1,000] shall be paid to the Authority upon application for a tax credit transfer certificate pursuant to N.J.A.C. 19:31T-1.10 as follows:

- 1. For approved applicants with total qualified film production expenses or digital media production expenses of less than \$ 1,000,000, the fee to be charged shall be \$ 1,000; and**

2. For approved applicants with total qualified film production expenses or digital media production expenses of \$ 1,000,000 or greater, the fee to be charged shall be \$ 5,000.

(e) A studio partner or a film-lease production facility shall pay to the Authority a non-refundable fee of \$ 5,000 for the first six-month extension and \$ 7,500 for each subsequent extension to the date the temporary certification of occupancy for the production facility is due pursuant to N.J.A.C. 19:31T-1.8(e)3.

(f) A studio partner or a film-lease production facility shall pay to the Authority a non-refundable fee of \$ 5,000 for each request for any minor administrative changes, additions, or modifications and \$ 10,000 for each request for any major administrative changes, additions, or modifications, such as those requiring extensive staff time and Board approval, to the designation as a studio partner or a film-lease production facility.

[(d)][(g) The full amount of direct costs of [any analysis] **due diligence, including, but not limited to, debarment/disqualification reviews or other analyses** by a third-party retained by the Authority, if the Authority deems such retention to be necessary, shall be paid by the applicant.

N.J.A.C. 19:31T-1.6 Tax credit amounts; bonus amount; carryforward of tax credits

(a) [A taxpayer] **An approved applicant**, upon final approval of an application to the Authority and the Director for film tax credits pursuant to N.J.A.C. 19:31T-1.7(e), shall be allowed a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the tax otherwise due for the taxable year [under] **pursuant to N.J.S.A. 54A:1-1 et seq., [in an amount equal to 30 percent of the qualified film production expenses of the taxpayer, which tax credit may be applied for a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2023]corresponding to the tax credit vintage year, which shall be a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2039, in an amount equal to:**

1. For *completed* applications received prior to July 2, 2021, 35 percent of the qualified film production expenses of the approved applicant during a privilege period or taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.
2. For *completed* applications received prior to January 7, 2021, 30 percent of the qualified film production expenses not included at (a)1 above, *including qualified wage and salary payments.*
3. For *completed* applications received on or after January 7, 2021, and prior to July 2, 2021, 35 percent of the qualified film production expenses of the approved applicant during a privilege period or taxable year.
4. For *completed* applications received on or after July 2, 2021, the following percent of the qualified film production expenses of the approved applicant during a privilege period or taxable year:

i. For such expenses that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York:

(1) For *completed* applications received after July 6, 2023, 35 percent for applications from film-lease production companies and studio partners; and

(2) For all other *completed* applications, 30 percent.

ii. For all other expenses, *including qualified wage and salary payments*:

(1) For *completed* applications received after July 6, 2023, 40 percent for applications from film-lease production companies and studio partners; and

(2) For all other *completed* applications, 35 percent.

{5. For purposes of this subsection, wages, salaries, and other compensation shall be considered Statewide expenses.}

(b) [A taxpayer] **An approved applicant**, upon final approval of an application to the Authority and the Director for digital media tax credits pursuant to N.J.A.C. 19:31T-1.7(e), shall be allowed a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the tax otherwise due for the taxable year [under] pursuant to N.J.S.A. 54A:1-1 et seq., **corresponding to the tax credit vintage year, which shall be a privilege period or taxable year commencing on or after July 1, 2018 but before July 1, 2039**, in an amount equal to [20 percent of the qualified digital media content production expenses of the taxpayer which tax credit may be applied for a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2023.]:

1. For *completed* applications received on or after July 10, 2024:

i. *Forty percent of the qualified digital media content production expenses of the approved applicant during a privilege period or taxable year that are incurred in New Jersey for post-production services, including visual effects services, performed at a film-lease partner facility or are incurred by a studio partner.*

ii. *Thirty-five percent of the qualified digital media content production expenses of the approved applicant during a privilege period or taxable year that are incurred in New Jersey for post-production services, including visual effects services, and which post-production services are performed by a qualified independent post-production company.*

2. For *completed* applications received prior to January 12, 2022:

i. Twenty-five percent of the qualified digital media content production expenses of the approved applicant during a privilege period or taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in

Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

ii. Twenty percent of the qualified digital media content production expenses during a privilege period or taxable year of the approved applicant not included at (b){1}2i above, *including qualified wage and salary payments.*

{2.} 3. For *completed* applications received on or after January 12, 2022, but prior to July 10, 2024:

i. Thirty-five percent of the qualified digital media content production expenses of the approved applicant during a privilege period or taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

ii. Thirty percent of the qualified digital media content production expenses during a privilege period or taxable year of the approved applicant not included at (b){2}3i above, *including qualified wage and salary payments.*

{3. For purposes of this subsection, wages, salaries, and other compensation shall be considered Statewide expenses pursuant to (b)2ii and 3ii above.}

(c) No tax credit shall be allowed pursuant to this subchapter for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the Director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period or taxable year for which a tax credit authorized pursuant to this subchapter is allowed. **No tax credit shall be allowed for expenses in an application if it has already been included in the calculation of an award pursuant to (a) or (b) above.**

(d) A business that is not a "taxpayer" as defined and used in **the Corporation Business Tax Act**, N.J.S.A. 54:10A-1 et seq., and, therefore, is not directly allowed a credit [under] **pursuant to** this subchapter, but is a business entity that is classified as a partnership for Federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined [in] **at** N.J.S.A. 54:10A-4c, or a limited liability company formed [under] **pursuant to** the Revised Uniform Limited Liability Company Act, N.J.S.A. 42:2C-1 et seq., or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined [in] **at** N.J.S.A. 54:10A-4c, but otherwise meets all other requirements of this subchapter, shall be considered an eligible applicant [and "taxpayer" as that term is used in this section] **pursuant to this program.**

(e) A business entity that is not a gross income "taxpayer" as defined and used [in] **at** N.J.S.A. 54A:1-1 et seq., and, therefore, is not directly allowed a credit [under] **pursuant to** this subchapter, but otherwise meets all the other requirements of this subchapter, shall be considered an eligible applicant [and "taxpayer" as that term is used in this section] **pursuant to this program**, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subchapter.

(f) A business entity that is classified as a partnership for Federal income tax purpose shall not be allowed a tax credit pursuant to this section directly, but the amount of the tax credit of a **gross income** taxpayer in respect of a distributive share of entity income shall be determined by allocating to the **gross income** taxpayer that proportion of the tax credit acquired by the entity that is equal to the **gross income** taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the **gross income** taxpayer's taxable year.

(g) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this [section] **subchapter** directly, but the amount of tax credit of a **gross income** taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the **gross income** taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the **gross income** taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending with the **gross income** taxpayer's taxable year.

(h) The order of priority in which the tax credit allowed by this section and any other credits allowed by law may be taken, shall be as prescribed by the Director.

(i) The amount of the tax credit applied [under] **pursuant to** this section against the tax imposed pursuant to N.J.S.A. 54:10A-5, for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the **corporate business** taxpayer to an amount less than the statutory minimum provided [in] **at** N.J.S.A. 54:10A-5.

(j) The amount of the tax credit applied [under] **pursuant to** this section against the tax otherwise due [under] **pursuant to** N.J.S.A. 54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the **gross income** taxpayer to an amount less than zero.

(k) The amount of tax credit otherwise allowable [under] **pursuant to** this section that cannot be applied for the taxable year due to the limitations of this subsection or [under] **pursuant to** other provisions at N.J.S.A. 54:10A-1 et seq., or 54A:1-1 et seq., may be carried forward, if necessary, to the seven privilege periods or taxable years following the privilege period or taxable year for which the credit was allowed.

(l) Notwithstanding any limit [in] **at** (a) **or** (b) above, the tax credits awarded may be increased pursuant to the following:

1. [A taxpayer] **An approved applicant** shall be allowed an increase in the tax credit against the tax imposed pursuant to N.J.S.A. 54:10A-5, **or pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.**, in an amount equal to two percent of the qualified film *production expenses* or *the qualified digital media content production expenses*. *For applications submitted on or after July 10, 2024, an increase of four percent of the qualified digital media content production expenses shall be allowed.* [.] *In all cases, {provided that} the application {is} shall be* accompanied by a diversity plan, outlining, *in relation to the total film production expenses or total digital media content production expenses*:
- i. The intention to prioritize the hiring of minority persons and women in an amount of not less than 15 percent **for applications approved prior to February 26, 2024**,

and 25 percent for applications approved thereafter of the total hired for the qualified film or digital media{1} production;

ii. The efforts made, or to be made, in the recruitment, selection, appointment, promotion, training, and related employment areas to ensure equal employment opportunities for minority persons and women;

iii. The specific goals, which may include advertising and recruitment actions, for hiring minority persons and women, including full-time jobs for full-time or full-time equivalent employees in New Jersey for production staff and crew, entry level positions, management positions, and talent-related positions; and

iv. Whether the *approved* applicant intends to participate, or has participated, in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of minority persons and women.

[2. The tax credit allowed pursuant to (a) above against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the tax otherwise due for the taxable year under N.J.S.A. 54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a privilege period or taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

3. The tax credit allowed pursuant to (b) above against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the tax otherwise due under N.J.S.A. 54A:1-1 et seq., shall be in an amount equal to 25 percent of the qualified digital media content production expenses of the taxpayer during a privilege period or taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.]

2. For applications submitted on or after January 12, 2022, {T}the amount of the increase to a tax credit allowed pursuant to (l)1 above shall increase to four percent of the qualified film {or digital media content} production expenses of the approved applicant if the diversity plan, in addition to meeting the requirements at (l)1 above, outlines specific goals that include hiring no less than 25 percent of persons as performers, *excluding background actors and extras with no spoken lines*, in the film {or digital media production} who:

i. Are women or members of a minority group;

ii. Have been residents of New Jersey for at least 12 months preceding the beginning of filming or recording; and

iii. Are members of a bona fide labor union representing film and television performers.

N.J.A.C. 19:31T-1.7 Evaluation process; [initial] approval of award of tax credits[; appeals]

(a) ***Completed* {A}applications for {film} tax credits** shall be submitted to the {Commission} **Authority**:

1. For completed applications for film tax credits, the Authority shall {which, upon review for **content** eligibility, will} forward the application to the {Authority with the Commission's recommendation} **Commission for its review for content eligibility**.

{1.}2. The application **for tax credits** shall be considered by the Authority for initial approval on a first in time basis, subject to [an]the annual caps [of \$75 million for film production tax credits and \$10 million for digital production tax credits in fiscal year 2019, and in each fiscal year thereafter prior to fiscal year 2024] **at N.J.A.C. 19:31T-1.11.**

{2.}3. At initial approval, the Authority will designate the maximum amount of the tax credit {and will assign a tax credit vintage year to the tax credit}. **To assist the Authority in reviewing the application, the Authority may retain a third-party consultant, at the cost of the applicant, to review the budget submitted by the applicant to determine if the qualified film or digital media content production expenses are reasonable based on industry standards.**

{3.}4. The **Authority shall issue an** initial approval letter [received by] **to the [taxpayer] approved applicant that** will include conditions subsequent to receipt of the tax credit including, but not limited to, the requirement for progress reports and the date by when final documentation pursuant to (b) below is required. **The approval letter shall constitute the non-binding, administrative pre-certification process for potentially eligible projects.** Failure to submit timely[,] periodic reports that demonstrate satisfactory progress or **timely** final documentation may lead to the forfeiture of the tax credit.

(b) {In general, t}The final documentation required [by] **pursuant to** (c) below shall be submitted to the Authority **as follows:**

1. For approved applications with a tax credit vintage year based on subparagraph (a) of the definition of “tax credit vintage year”, no later than four years after the Authority's initial approval if the [taxpayer] **approved applicant** is seeking a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 and three years after the Authority's initial approval if the approved applicant is seeking a credit against the tax imposed pursuant to the N.J.S.A. 54A:1-1 et seq.

2. For approved applications with a tax credit vintage year based on subparagraph (b) of the definition of “tax credit vintage year,” no later than three years after the Authority's initial approval. The Authority shall grant no more than two six-month extensions of this deadline.

(c) Upon completion of {total film production expenses or} the total digital media content production expenses **for the privilege period or taxable year identified in the initial approval** [or the incurrence of qualified film production expenses during a privilege period or taxable year that exceed \$1,000,000 per production] **or at film completion**, the [taxpayer] **approved applicant** shall submit the following final documentation, which the

Authority, in consultation with the Director and the Commission, shall process and evaluate:

1. With respect to a film{,}:
 - i. {e}Evidence satisfactory to the Commission, and written confirmation from the Commission to the Authority that principal photography commenced within {the earlier of} 180 days from the date of **the completed application** [or 150 days from the date of initial approval by the Authority] **for the tax credit**;
 - ii. *Evidence satisfactory to the Commission that the film includes marketing materials, as deemed appropriate, pursuant to N.J.A.C. 19:31T-1.3(a)3; and*
 - iii. *Evidence of film completion;*
2. **If the approved applicant is a studio partner or film-lease production facility, a certification from the designated studio partner or film-lease partner facility that it has continued to satisfy the requirements of a studio partner or film-lease production facility from the commencement of principal photography;**

[2. The Authority shall review and approve actual]3. **Actual** budgets and proof of total and qualified film production expenses or total and qualified digital media content production expenses, including a listing of the name of the company or person paid; his, her, or its Federal identification number; [and a]

{3.}4. A report prepared by an independent certified public accountant licensed in the State verifying the expenses claimed by the **approved** applicant. The report shall be prepared by the independent certified public accountant, pursuant to agreed-upon procedures prescribed by the Authority and the Director[; and].

 - i. **The report** shall include such information and documentation as shall be determined to be necessary by the Authority and the Director to substantiate the total and qualified film production expenses or the total and qualified digital media content production expenses of the [taxpayer.] **approved applicant, and the date of the last total film production expense excluding any deferred compensation payments, including:**
 - (1) **A review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over \$ 20,000;**
 - (2) **A review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than \$ 2,500, but less than \$ 20,000;**
 - (3) **A review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than \$ 2,500;**
 - (4) **A review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and**
 - (5) **A review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other**

than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages;

- ii. In the report, the approved applicant's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, and qualified wages. The approved applicant's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages in each strata pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages in each strata. The determination shall be provided by the independent certified public accountant, in writing, to the approved applicant, the Authority, and the Director, and the approved applicant shall include a copy of the written determination in the filing of a return that includes a claim for a tax credit allowed pursuant to this {section} program;
- iii. The amount of the qualified film production expenses or qualified digital media content production expenses in the [certification] report shall not be increased regardless of additional expenses after the date of the [certification] report;
- iv. If the approved applicant is a studio partner and the qualified film production expenses include deferred compensation payments based on work or services provided on a production, the report shall include information necessary and relevant as determined by the Authority to demonstrate such deferred compensation payments; and
- v. If the *approved* applicant is a film-lease production company *under section (a)1i in the definition of film-lease production company*, the report shall also include verification of principle photography shoot days as necessary to demonstrate eligibility as a film-lease production company;

{4. For approved applicants that received initial approval for the production of a reality show:

- i. The report required at (c)4 above shall include verification of the actual capital investment in the production facility. If the capital investment in the report is less than the minimum eligibility requirement in the definition of film, the approved applicant shall no longer be eligible for tax credits for the production;
- ii. The temporary certificate of occupancy;
- iii. A detailed floor plan, indicating the uses of each area, of the production facility;
- iv. The executed deed, lease, or sublease evidencing site control. If the approved applicant is a tenant and the lease or sublease has a term, including renewals and options, of less than the minimum eligibility requirement in the

definition of film, the approved applicant shall no longer be eligible for tax credits for the production; and

v. Any other information necessary to determine compliance with the requirements of a reality show;

[3.] **5.** With respect to a film, evidence satisfactory to the Commission that the film includes marketing materials, as deemed appropriate, pursuant to N.J.A.C. 19:31T-1.3(a)3;}

[4.] **{6}5.** If the **approved** applicant was initially approved for a bonus amount of tax credit for a diversity plan pursuant to N.J.A.C. 19:31T-1.6(l)[1], evidence of **achieving the relevant percentage in the diversity plan or** good faith efforts to undertake the diversity plan. The bonus amount shall not be included in the amount of the final approval if the **approved** applicant fails to submit satisfactory evidence to the Authority and the Division;

[5. The Division shall conduct verification of partners or members of pass through entities, such as partnerships or LLCs.]

{7}6. If the approved applicant is a film-lease production company, the executed lease, sublease, or license to occupy production space in a film-lease partner facility;

7. *If the approved applicant is seeking tax credits on the basis of services performed by a qualified independent post-production company, a certification from the approved applicant that the independent post-production company met the definition of a qualified independent post-production company during the time in which the qualified digital media content production expenses were incurred;*

8. A certification from the approved applicant that the information provided pursuant to this subsection is true {pursuant to} under the penalty of perjury; and

9. Any other information necessary for the Authority and the Director to determine compliance with this program.

(d) Approved applicants that received initial approval for a reality show shall not be required to demonstrate evidence that all episodes commissioned or ordered have been filmed or produced or that the reality show has premiered.

{(d)}(e) The Authority, in consultation with the Division and Commission, shall determine final approval of the tax credit in an amount based on the Authority's determination of the total and qualified film production expenses or total and qualified digital media content production expenses reported in the independent certified public accountant's [certification] **report**, but in no event shall the tax credit be greater than the amount stated in the Authority's initial approval. The Authority shall provide, in writing, to the [taxpayer] **approved applicant**, the determination of the expenses, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

{(e)}(f) If the Authority has approved the application, the Authority shall notify the Division of the final approval. The Division shall then issue the tax credit certificate to the

approved applicant. The [taxpayer's] **approved applicant's** use of the tax credit shall be limited [by] **pursuant to** N.J.A.C. 19:31T-1.9{(a) or (b), as applicable}.

[(f) An applicant may appeal the Authority's initial approval or denial under (a) above and final approval or denial under (c) above by submitting, in writing to the Authority, within 20 calendar days from the date of the Authority's action, an explanation as to how the applicant has met the program criteria. Such appeals are not contested cases subject to the requirements of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administration Procedure Rules, N.J.A.C. 1:1. Appeals that are timely submitted shall be handled by the Authority as follows:

1. The Chief Executive Officer shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. The Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his or her finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. The Chief Executive Officer, or equivalent officer, of the Authority may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer, which shall include the recommendation of the Chief Executive Officer, if any, and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days from receipt of such report.

3. The Board shall consider the hearing officer's report, the recommendation of the Chief Executive Officer, or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the appeal.

4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.]

{(f)}{(g) If a studio partner received a tax credit for qualified film production expenses that included deferred compensation payments based on work or services provided on a production, the studio partner shall submit a supplemental report prepared by a certified public accountant pursuant to agreed-upon procedures prescribed by the Authority and the Director no later than two years after the date on which the production concludes, as established by the {date of the last total film production expense, excluding any deferred compensation payments}date of film completion.

N.J.A.C. 19:31T-1.8 Evaluation process and designation of studio partner and film-lease partner facility

(a) **An application for designation as a studio partner or a film-lease partner facility shall be submitted to the Authority.**

(b) **The completed application for designation as a studio partner or film-lease partner facility shall be considered by the Authority for approval on a first in time basis. If interest in studio partner or film-lease partner facility designation so**

warrants, at the Authority's discretion, and upon notice, the Authority may institute a competitive application process whereby all completed applications submitted by a date certain will be evaluated as if submitted on that date.

(c) To assist the Authority in designating a studio partner or film-lease partner facility, the Authority may employ an independent consultant, at the cost of the applicant, or may consult with the Commission.

(d) Upon review of the *completed* application, the Authority's Board shall consider whether to designate the applicant as a studio partner or film-lease partner facility pursuant to N.J.A.C. 19:31T-1.3(d) and (e), respectively. The designation shall expire at the end of the studio partner's commitment period.

1. Effective upon designation as a studio partner, a film production company shall be eligible for a credit as a studio partner pursuant to this subchapter, provided the film production company otherwise complies with the eligibility requirements of the program.

2. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the Authority provided final approval of such agreement occurs on or before the date on which production commences at the facility.

3. *For completed applications approved on or after July 10, 2024, a film-lease production company may apply for film tax credits upon the designation of the corresponding film-lease partner facility if the film-lease production company applies under section (a)2 in the definition of film-lease production company.*

(e) Following approval by the Authority's Board, the Authority shall require the approved applicant to execute and return an approval letter to the Authority. The Board's designation shall be subject to conditions subsequent set forth in the approval letter. The conditions in the approval letter must be met to retain the designation.

1. The conditions of approval shall include, but not be limited to, submission of periodic progress reports; executed financing commitments, if applicable; and evidence of site plan approval or executed redevelopment agreement with a governmental entity, as applicable; *all required planning and zoning approvals and permits, and any other required permits*; and evidence of site control of the production facility within one year from Board approval of the designation. The Authority {shall grant no more than two} *may grant* six-month extensions of this deadline.

2. As set forth at N.J.A.C. 19:31T-1.1{0}2, the conditions shall also include the requirement that construction at the production facility complies with the prevailing wage and affirmative action requirements; and that the production facility does not violate any environmental law requirements, including, but not limited to, the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.

3. A studio partner or film-lease partner facility shall submit the final floor plan, or site plan if there are multiple buildings, indicating the uses and square footage of each area and one or more temporary certificates of occupancy for the minimum required square footage within 36 months from the later of Board

approval of the designation and February 26, 2024. The Authority {shall grant no more than two} *may grant* six-month extensions of this deadline.

4. Absent extenuating circumstances or the Authority's determination in its sole discretion, the Authority's designation shall expire if the approved applicant does not provide the required documents within the period of time prescribed in this subsection.

(f) When deciding whether to make an equity investment in a film-lease partner facility and the terms of such investment, the Authority shall consider such factors as the financial structure of the production facility, the risk of the investment in the production facility, developer contributed capital or equity, the magnitude of State or other governmental support, the reasonable and appropriate return on investment to the developer and the Authority, and the terms offered to other equity owners and investors.

(g) A studio partner shall execute an award agreement that shall include, but not be limited to:

1. The commencement *and end* of the commitment and eligibility periods; and
2. An agreement that the studio partner shall maintain the lease or ownership of the production facility for the duration of the commitment period. The studio partner shall:

i. Not lease, sublease, or license any part of the production facility such that the studio partner occupies less than the minimum amount of square feet for more than 12 consecutive months or for a period longer than the remainder of the duration of the commitment period *unless the lease, sublease, or license is to another entity that is a studio partner when applying for a film tax on the basis of the designated studio partner;*

ii. Not sell any part of the production facility, provided that a studio partner may sell the production facility if it remains the tenant in the production facility occupying at least the minimum amount of square feet; and

iii. Unless otherwise allowed in this subchapter, not receive any benefits from this program for any activity of its tenant or subtenant and the tenant or subtenant shall not receive any benefits from this program from the studio partner's designation.

(h) A film-lease partner facility shall execute an award agreement that shall include, but not be limited to, the following:

1. The commencement of the ownership, lease, or operation and if not owned, the length of the lease or other site control agreement; and
2. An agreement that the film-lease partner facility shall maintain the lease or ownership of the production facility in order to maintain the designation. The film-lease partner facility shall:

- i. Not lease, sublease, or license any part of the production facility for uses other than film production uses such that the film-lease partner facility occupies less than the minimum amount of square feet;
- ii. Absent the Authority's written consent, not sell any part of the production facility, provided that a film-lease partner facility may sell the production facility if it remains the tenant in the production facility occupying at least the minimum amount of square feet; and
- iii. Unless otherwise allowed in this subchapter, not receive any tax credits pursuant to this program for any activity of its occupant, tenant, or subtenant.

(i) The award agreement for a studio partner and a film-lease partner facility shall also include:

1. A method for the approved applicant to certify that it has met the eligibility requirements of the program;
2. A provision permitting an audit of evidence and documentation of the approved applicant supporting any submissions demonstrating eligibility and site visits, as the Authority deems necessary;
3. A provision permitting the Authority to amend the agreement;
4. A provision establishing the conditions pursuant to which the Authority, the approved applicant, or both parties, may terminate the agreement;
5. Indemnification and insurance requirements from the approved applicant;
6. Events that would trigger forfeiture, reduction, or recapture of tax credits, including, but not limited to, provisions in this subchapter; and
7. Default and remedies, including, but not limited to, a default if an approved applicant made a material misrepresentation on its application.

N.J.A.C. 19:31T-1.9 Recapture and reduction of tax credits

(a) *If the studio partner was designated on the basis of a lease of a production facility that is a portion of a film-lease production facility before the film-lease partner facility receives a temporary certificate of occupancy and fails to occupy such facility:*

1. *The Authority shall revoke the designation of the studio partner;*
2. *All the studio partner's films, and all films from film production companies approved for film tax credits as studio partners on the basis of the designated studio partner, for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate as a studio partner film project and shall be considered as a film project without the benefit of a studio partner designation; and*
3. *The Authority may recapture from the studio partner the portion of the tax credit that was only available to the studio partner or any film production company by virtue of the studio partner's designation as a studio partner except that the Authority*

shall not recapture any tax credits within one year after the approval of the studio partner designation.

(b) For all studio partners other than those described in (a) above, {I}if a designated studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a studio partner, the Authority shall revoke the designation of the studio partner and recapture from the studio partner the portion of the tax credit {from the studio partner} that was only available to the studio partner or any film production company by virtue of the studio partner's designation as a studio partner, and all the studio partner's films, and all films from film production companies approved for a film tax credit as studio partners on the basis of the designated studio partner, for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate.

{(b)}(c) If a film-lease partner facility fails to operate the production facility developed, purchased, or leased as a condition of designation as a film-lease partner facility or otherwise fails to satisfy the conditions for designation as a film-lease partner facility for the duration of the five-year period, the Authority {shall} may revoke the designation of the film-lease partner facility and recapture from the film-lease partner facility the portion of the tax credit {from the film-lease partner facility} that was only available to film-lease production companies by virtue of the film-lease partner facility's designation as a film-lease partner facility, and all films from film-lease production companies that relied on the film-lease partner facility designation for which an initial approval has been given, but for which the Authority has not given final approval, shall {terminate} be reduced to eliminate the portion of the tax credits only available by virtue of the film-lease partner facility's designation as a film-lease partner facility.

(d) If a film-lease production company that was issued a film tax credit under section (a)2 in the definition of film-lease production company has failed to meet the qualifications of a film-lease production company or otherwise comply with the applicable provisions in the definition of film-lease production company:

- 1. All the film-lease production company's films for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate as a film-lease production company film project and shall be considered a film project without the benefit of any film-lease partner facility designation; and*
- 2. The Authority may recapture from the film-lease production company the portion of the tax credit that had been awarded to the film-lease production company that was only available to the film-lease production company on the basis of the designation of a film-lease partner facility, except that the Authority shall not recapture any tax credits within one year of the date of the film-lease production company's lease with the film-lease partner facility.*

{(c)}(e) If an approved applicant has received tax credits on the basis of deferred compensation and the supplemental report from the independent certified public accountant does not evidence actual payment of the entire amount of deferred

compensation, the Authority shall recapture the amount of the tax credit that was based on the projected deferred compensation *that was not evidenced*. If the approved applicant fails to submit the supplemental report by the date required, the Authority shall recapture all of the tax credit based on the projected deferred compensation.

{(d)}{(f) If, at any time, the Authority determines that a designated studio partner or film-lease partner facility made a material misrepresentation on its application or any submission pursuant to this program, the Authority shall revoke the designation and *the studio partner or film-lease partner facility shall forfeit*, and the Authority may recapture any or all of, the tax credits awarded to the studio partner or any *film-lease production company or film production company* approved for tax credits by virtue of the designation *of the studio partner or film-lease partner facility*, which shall be in addition to any other remedies in any approval letter, award agreement, and any criminal or civil penalties to which the approved applicant and the respective officer may be subject.}

{(e)}{(g) If, at any time, the Authority determines that an approved applicant for a tax credit made a material misrepresentation on the approved applicant's application or any submission pursuant to this program, the approved applicant shall forfeit, and the Authority may recapture any or all of, the tax credits awarded pursuant to the program, which shall be in addition to any other remedies in any approval letter, award agreement, and any criminal or civil penalties to which the approved applicant and the respective officer may be subject.}

(h) If, based on new information, the Authority determines that a reduction, forfeiture, or recapture should have been applicable pursuant to any of the provisions in this section, the Authority shall recapture the tax credits for the relevant tax period(s).

(i) If all or part of a tax credit sold or assigned pursuant to N.J.A.C. 19:31T-1.10 is subject to recapture, then the Authority shall pursue recapture from the corresponding studio partner, film-lease partner facility, or film production company and not from the purchaser or assignee of the tax credit transfer certificate.

{(f)}{(j) Any funds recaptured pursuant to this section, including penalties and interest, shall be deposited into the General Fund of the State.}

N.J.A.C. 19:31T-1.10 Application for tax credit transfer certificate

(a) Tax credits, upon receipt thereof by [a taxpayer] **an approved applicant** from the Director and the Authority, may be transferred, by sale or assignment, in full or in part, pursuant to this section, subject to the cumulative total [in] **at** N.J.A.C. 19:31T-1.11(a), to any other taxpayer who may have a tax liability pursuant to N.J.S.A. 54:10A-5 or 54A:1-1 et seq. [A taxpayer] **An approved applicant** shall apply to the Authority and the Director for a tax credit transfer certificate, in lieu of the [business] **approved applicant** being allowed any amount of the credit against the tax liability of the [taxpayer] **approved applicant**. Such application shall identify the specific tax credits to be transferred, the consideration received therefor, and the identity of the transferee. Once approved by the Chief Executive Officer of the Authority and the Director of the Division of Taxation, a tax credit transfer certificate shall be issued to the [taxpayer] **approved applicant**, naming the transferee. The certificate issued to the [business] **approved applicant** shall include a

statement waiving the [taxpayer's] **approved applicant**'s right to claim that amount of the tax credit against the taxes that the [business] **approved applicant** has elected to sell or assign. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the tax credits pursuant to N.J.A.C. 19:31T-1.6.

(b) The sale or assignment of any amount of a tax credit transfer certificate allowed [under] **pursuant to** this section shall not be exchanged for consideration received by the [taxpayer] **approved applicant** of less than 75 percent of the transferred credit amount. In order to evidence this requirement, the [taxpayer] **approved applicant** shall submit to the Authority an executed form of standard selling agreement that evidences that the consideration received by the [taxpayer] **approved applicant** is not less than 75 percent of the transferred tax credit.

(c) In the event that the [taxpayer] **approved applicant** is a partnership and chooses to allocate the income realized from the sale of the tax credits other than in proportion to the partners' distributive shares of income or gain of the partnership, the selling agreement shall set forth the allocation among the partners that has previously been submitted to the Director of the Division of Taxation in the Department of the Treasury pursuant to N.J.A.C. 19:31T-1.6.

(d) The Authority shall develop and make available forms of applications and certificates to implement the transfer processes described in this section.

(e) **The Authority shall publish on its {Internet} website the following information concerning each tax credit transfer certificate approved by the Authority and the Director pursuant to this section:**

- 1. The name of the transferrer;**
- 2. The name of the transferee;**
- 3. The value of the tax credit transfer certificate; and**
- 4. The State tax against which the transferee may apply the tax credit.**

N.J.A.C. 19:31T-1.11 Cap on total credits

(a) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the Director and the Authority pursuant to N.J.A.C. 19:31T-1.6(a) *to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.* shall [not exceed a] *be allowed in the fiscal year of initial approval, except as provided in subparagraph 4 below, as follows:*

- 1. Pursuant to N.J.S.A. 54:10A-5.39b{.}{(e){(1)}} and 54A:4-12b{.}{(f){(1)}}, and except as provided in N.J.S.A. 34:1B-362(d) and subparagraph 2 below, to approved applicants, other than studio partners and film-lease production companies, the cumulative total [of \$75,000,000] shall not exceed \$ 100,000,000 in fiscal year 2019, and in each fiscal year thereafter prior to fiscal year [2024] 2040{, as indicated by**

[fiscal year in which the tax credit was initially approved] **the tax credit vintage period**, to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to **the New Jersey Gross Income Tax Act**, N.J.S.A. 54A:1-1 et seq.}.

2. Pursuant to N.J.S.A. 34:1B-362(d), notwithstanding the provisions of any other law to the contrary, of the uncommitted balance of the total value of tax credits authorized for award by the Authority pursuant to N.J.S.A. 34:1B-362(b)(1)(f) to the New Jersey Aspire Program Act, N.J.S.A. 34:1B-322 through -335, and the Emerge Program Act, N.J.S.A. 34:1B-336 through -348, \$ 300,000,000 shall also be made available for tax credits allowed in fiscal year 2025.

{2.}3. For studio partners and film-lease production companies:

- i. Pursuant to N.J.S.A. 54:10A-5.39b{.}(e){(1)} and 54A:4-12b{.}(f){(1)}, except as provided at (a){2}3ii and iii below, the cumulative total shall not exceed \$ 100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of \$ 150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year 2040, to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.**
- ii. Pursuant to N.J.S.A. 34:1B-362{.}(d), notwithstanding the provisions of any other law to the contrary, of the uncommitted balance of the total value of tax credits authorized for award by the Authority pursuant to N.J.S.A. 34:1B-362{.}(b)(1)(f) to the New Jersey Aspire Program Act, N.J.S.A. 34:1B-322 through {34:1B}-335, and the Emerge Program Act, N.J.S.A. 34:1B-336 through {34:1B}-348, \$ 250,000,000 shall also be made available for tax credits allowed in fiscal years 2023, 2024, and 2025.**
- iii. Pursuant to N.J.S.A. 34:1B-362{.}(b)(1)(i), 54:10A-5.39b{.}(e){(1)}, and 54A:4-12b{.}(f){(1)}, beginning in fiscal year 2023, in addition to the cumulative total tax credits made available for studio partners pursuant to (a){2}3i and ii above, up to an additional \$ 400,000,000 may be made available annually to studio partners and \$ 250,000,000 for film-lease production companies, in the discretion of the Authority, for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, from the funds made available pursuant to N.J.S.A. 34:1B-362{.}(b)(1)(i), from the tax credits made available pursuant to N.J.S.A. 34:1B-362{.}(b)(1)(f) to the New Jersey Aspire Program Act, N.J.S.A. 34:1B-322 through {34:1B}-335, and the Emerge Program Act, N.J.S.A. 34:1B-336 through {34:1B}-348, not including tax credits awarded for transformative projects.**

{3.}4. If the **applicable cumulative total amount of tax credits initially approved and tax credit transfer certificates approved for privilege periods or taxable years commencing during a single fiscal year [under] **pursuant to** N.J.A.C. 19:31T-1.6(a) exceeds the amount of tax credits available in that fiscal year, then [taxpayers] **applicants** who have first applied for and have not been approved a tax credit or tax**

credit transfer certificate amount for that reason shall have their [tax credits considered for initial approval and their tax credit transfer certificates considered for approval, in the order in which they have submitted an application,] **applications approved by the Authority, provided the applications otherwise {satisfies} satisfy the requirements of the program, and shall be allowed** the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates [under] **pursuant to N.J.A.C. 19:31T-1.6(a)** are not in excess of the amount of applicable credits available.

(b) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the Authority and the Director pursuant to N.J.A.C. 19:31T-1.6(b) *to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.* shall {not exceed a} *be allowed in the fiscal year of initial approval as follows:*

1. Pursuant to N.J.S.A. 54:10A-5.39b(e) and 54A:4-12b(f), the cumulative total of [\$10,000,000] **\$ 30,000,000** in fiscal year 2019, and in each fiscal year thereafter prior to fiscal year [2024] **2040**, {as indicated by the tax credit vintage year, to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to **the New Jersey Gross Income Tax Act**, N.J.S.A. 54A:1-1 et seq.}.

2. Beginning in the fiscal year beginning July 1, 2024, in addition to the total amount of tax credits and tax credit transfer certificates allowed to approved applicants for privilege periods or taxable years commencing during a single fiscal year under (b)1 above, up to an additional \$100,000,000 may be made available, in the discretion of the Authority for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, from the funds made available to approved applicants for film tax credits other than studio partners and film-lease production companies pursuant to N.J.S.A. 34:1B-362(d)(3) and (a)2 above.

3. If the total amount of tax credits initially approved and tax credit transfer certificates approved for privilege periods or taxable years commencing during a single fiscal year [under] **pursuant to N.J.A.C. 19:31T-1.6(b)** exceeds the amount of tax credits available in that year, then [taxpayers] **applicants** who have first applied for and who have not been approved a tax credit or tax credit transfer certificate amount for that reason shall {have their tax credits considered for initial approval and their tax credit transfer certificates considered for approval, in the order in which they have submitted an application,} *have their applications approved by the Authority, provided the applications otherwise satisfy the requirements of this section, and shall be allowed* the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates [under] **pursuant to N.J.A.C. 19:31T-1.6(b)** are not in excess of the amount of credits available.

(c) Notwithstanding any provision at (a) above to the contrary, for any fiscal year in which the amount of tax credits approved to studio partners, film-lease production companies, or approved applicants other than studio partners and film-lease production companies pursuant to N.J.A.C. 19:31T-1.6(a) and N.J.S.A. 54:10A-5.39b{(1)}(a) and 54A:4-12b{(2)}(a) is less than the cumulative total amount of tax

credits permitted to be approved to each such category, in that fiscal year, the Authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for studio partners, film-lease production companies, or approved applicants other than studio partners and film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year. The Authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the approved applicant is not able to redeem or transfer to another taxpayer pursuant to this subchapter, and shall increase the cumulative total amount of tax credits permitted to be approved for studio partners, film-lease production companies, or applicants other than studio partners and film-lease production companies in the subsequent fiscal year by the amount of tax credits previously approved for each such category, but not subject to redemption or transfer.

(d) Notwithstanding any provision at (b) above to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to N.J.A.C. 19:31T-1.6(b) and N.J.S.A. 54:10A-5.39b{(1)}{(b)} and 54A:4-12b{(2)}{(b)} is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the Authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The Authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the approved applicant is not able to redeem or transfer to another taxpayer pursuant to this section and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(e) Notwithstanding any provision of this section or other law to the contrary, if a film production company designated as a studio partner ceases to qualify for its designation as a studio partner and becomes designated as a film-lease partner facility, the Authority shall reduce the cumulative total amount of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to studio partners in each fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for film-lease production companies in each fiscal year by a corresponding amount equal to the lesser of:

1. One third; and
2. The greater of the percentage of the studio partner's number of film tax credit applications out of the volume of applications submitted by studio partners and film-lease production companies, the percentage of the cumulative total amount of tax credits approved for the studio partner out of the cumulative total amount of tax credits approved to studio partners and film-lease production companies in the prior fiscal year, and the percentage of the studio partner's square footage out of the total square footage of production facility space occupied in the State by studio partners and production facilities.

N.J.A.C. 19:31T-1.12 Affirmative action; and prevailing wage

(a) The Authority's affirmative action requirements, N.J.S.A. 34:1B-5.4, and prevailing wage requirements, N.J.S.A. 34:1B-5.1, [will apply to productions undertaken with financial assistance received under the Garden State Film and Digital Media Jobs Program] **shall apply to the qualified film production expenses and the qualified digital media content production expenses, including, but not limited to, the following:**

- 1. Construction contracts for work performed on or after the Authority's initial approval; and**
- 2. Construction contracts for work performed before the application and after February 26, 2024.**

(b) **For studio partners and film-lease partner facilities, the Authority's affirmative action requirements at N.J.S.A. 34:1B-5.4 and N.J.A.C. 19:30-3 and prevailing wage requirements at N.J.S.A. 34:1B-5.1 and N.J.A.C. 19:30-4 shall apply to construction contracts for work performed at the production facility after the later of February 26, 2024 and the Authority's approval of the designation.**

N.J.A.C. 19:31T-1.13 Appeals

(a) **The Board's action shall be effective 10 business days after the Governor's receipt of the minutes, provided neither an early approval nor veto has been issued.**

(b) **An applicant may appeal the Authority's action by submitting, in writing, to the Authority, within 20 calendar days from the effective date of the Authority action, an explanation as to how the applicant has met the program criteria. Such appeals are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.**

(c) **Appeals that are timely submitted shall be handled by the Authority as follows:**

1. The Chief Executive Officer shall designate an employee of the Authority to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal. Unless the application was submitted in response to a competitive application process, the Authority may consider new evidence or information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his or her finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. After reviewing the report, the Chief Executive Officer of the Authority may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer, which shall include the recommendation

of the Chief Executive Officer, if any, and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days from receipt of such report.

3. The Board shall consider the hearing officer's report, the recommendation of the Chief Executive Officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the appeal.

4. Final decisions rendered by the Board shall be appealable to the Superior Court of New Jersey, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

N.J.A.C. 19:31T-1.14 Severability

If any section, subsection, provision, clause, or portion of this subchapter is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY – FILM TAX CREDIT PROGRAM**

As created under the Garden State Film and Digital Media Jobs Act, P.L. 2018, c. 56 (the Act), the New Jersey Film and Digital Media Tax Credit Program provides a credit against the corporation business tax and the gross income tax for certain expenses incurred for the production of certain film and digital media content in New Jersey. Under the Film Tax Credit Program, applicants are eligible for a tax credit equal to 30% of qualified film production expenses, or 35% of qualified film production expenses incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.

As amended by P.L.2021, c.160, the eligible tax credit for qualified film production expenses increased from 30% to 35% for applications received after Jan 7, 2021. Additionally, for applications received after July 2, 2021, the program amendment also eliminates the targeted county bonus and specifies a tax credit of 30% for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

APPLICANT: TCS Louisiana Productions 5, Inc

PROD-00318060

APPLICANT BACKGROUND:

TCS Louisiana Productions 5, Inc is the production company for “Deliver Me From Nowhere”. This full-length feature film about Bruce Springsteen is based on a book of the same name from Warren Zanes, and is written and directed by Scott Cooper.

Coming off of The River tour, the album which had given him his first hit single “Hungry Heart”, Bruce Springsteen embarks on an emotional journey to record his most surprising album, Nebraska. The album marks a pivotal moment in Springsteen’s life, that he would openly talk about decades after its release. He returns feeling depleted, in need of a home he doesn’t have, and he has broken up with his girlfriend. He is isolated in a rented house in Colts Neck where he begins writing songs in his bedroom and records them on a Teac 144. The result, “Nebraska,” is one of his most important songs with a dark and raw nature, a reflection of his mood and mental condition during this time. Despite its unconventional approach, the demos recorded in his bedroom become his next album in 1982.

The film content has been reviewed and recommended for approval under the Act by the New Jersey Motion Picture and Television Commission. The Commission has determined that the film shall include, at no cost to the State, marketing materials promoting the State, including the placement of a logo in the end credits of the program.

ELIGIBILITY AND TAX CREDIT CALCULATION:

As part of eligibility for tax credits under the New Jersey Film Tax Credit Program, a film must meet at least one of two expense eligibility thresholds:

1. **Total Film Production Expenses:** A minimum of 60% of the film’s total production expenses (calculated excluding post-production expenses) must be incurred after July 1, 2018 but before July 1, 2039 for services performed and goods purchased through vendors authorized to do business in New Jersey. The following film production expenses are projected by the applicant.

A. Total Film Production Expenses	\$85,614,118.59
B. Total Post-Production Expenses	\$13,559,602.63
C. Total expenses for services performed and goods purchased through vendors authorized to do business in New Jersey (excluding any post-production expenses)	\$48,209,019.66
Percentage Calculation = C/(A-B)	67%
\$48,209,019.66/(\$85,614,118.59-\$13,559,602.63)	
Criterion Met	YES

2. **Qualified Film Production Expenses:** During a single privilege period, the film must have more than \$1 million in qualified film production expenses. “Qualified film production expenses” are expenses incurred in New Jersey after July 1, 2018 for the production of a film, including pre-production costs and post-production costs. “Qualified film production expenses” shall include, but shall not be limited to: wages and salaries of individuals employed in the production of a film on which the New Jersey Gross Income Tax has been paid or is due; and any wages and salaries of individuals employed in the production of a film that are not subject to tax under the “New Jersey Gross Income Tax Act.,” N.J.S.54A:1-1 et seq., due to the provision of a reciprocity agreement with another state; and, the costs for tangible personal property used and services performed in New Jersey, directly and exclusively in the production of the film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payments made to a loan out company or to an independent contractor shall not be a “qualified film production expenses” unless the payments are made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by N.J.A.C. 19:31-21.3(c). “Qualified film production expenses” shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$750,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except for other expenses above certain thresholds as set forth in P.L. 2021, c. 367. The following qualified film production expenses are projected by the applicant to be incurred in New Jersey:

Qualified Film Production Expenses incurred in NJ during a <u>single</u> privilege period after July 1, 2018.	\$1,976,984.20
Criterion Met	YES

AWARD CALCULATION

Total Estimated Qualified Film Production Expenses	\$41,832,221.20
Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	\$10,304,340.00

Base Award Criteria	Calculation	Result
30% of Estimated Qualified Film Production Expenses incurred within 30-mile radius of Columbus Circle, NYC	\$10,304,340 x 30% =	\$3,091,302.00
35% of Estimated Qualified Film Production	(\$41,832,221.20 -	\$11,034,758.42

Expenses	$\$10,304,340) \times 35\% =$	
Bonus Criteria Met		
Submission of satisfactory Diversity Plan 2% of Qualified Film Production Expenses for hiring employees of diverse backgrounds	$\$41,832,221.20 \times 2\% =$	$\$836,644.42$
Submission of satisfactory Diversity Plan 2% of Qualified Film Production Expenses for hiring onscreen performers of diverse backgrounds	$\$0.00 \times 2\% =$	$\$0.00$
Total Award		$\\$14,962,705$

APPLICATION RECEIVED DATE: 12/12/2024
DATE APPLICATION DEEMED COMPLETE: 3/6/2025
PRINCIPAL PHOTOGRAPHY COMMENCEMENT: 10/28/2024
PRINCIPAL NJ PHOTOGRAPHY LOCATION: Newark, NJ
ESTIMATED DATE OF PROJECT COMPLETION: 1/10/2025
APPLICANT'S FISCAL YEAR END: 9/30/2024
TAX CREDIT VINTAGE YEAR(S): 2025
TAX FILING TYPE: Corporate Business Tax
ANTICIPATED CERTIFICATION DATE: 9/30/2025

In general, the final documentation shall be submitted to the Authority no later than four (4) years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 and three (3) years after the Authority's initial approval if the taxpayer is seeking a credit against the tax imposed pursuant to the N.J.S.A. 54A:1-1 et seq.

APPROVAL REQUEST:

The Members of the Authority are asked to approve the proposed award to the applicant under the New Jersey Film and Digital Media Tax Credit Program. The recommended tax credit is contingent upon receipt by the Authority of evidence that the applicant has met certain criteria to substantiate the recommended award and is subject to final approval by the Authority and the Division of Taxation. Staff may issue the Authority's final approval if the criteria met by the company is consistent with that shown herein. If the criteria met by the company differs from that shown herein, Staff may lower the tax credit amount to reflect what corresponds to the actual criteria that have been met.

Prepared By:
Saurin Parikh
Team Lead - Product Operations

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Request for Approval of Memorandum of Understanding between NJEDA and NJDEP to become the Project Delivery Partner for Phase 2 of the Liberty State Park Revitalization Program (“LSP-RP”)
(#PROD-00319178)

Request

I request the Members approve entering into a Memorandum of Understanding (“MOU”) with the New Jersey Department of Environmental Protection (“NJDEP”) permitting the Authority to collaborate with NJDEP to plan, design, and construct a portion of the Liberty State Park Revitalization Program (“LSP-RP”, the “Project”) in Hudson County. NJDEP will fully fund the Phase 2 development, which is comprised of four priority development areas known as Gateway, Marina Green, Terminal Plaza, and Train Shed (collectively “Phase 2”). Serving as the delivery partner, NJEDA will procure a construction manager at risk to construct the required improvements for Phase 2.

Background

Since its inception, Liberty State Park has been in a constant state of development and revitalization, transforming areas from an abandoned rail yard and illegal dumping ground into valued parkland area. The Murphy administration has advanced the Park’s improvement with the formal launch of the LSP-RP. This program will explore ways the park can better meet the needs of New Jersey residents and the millions of visitors it receives annually from across the globe. NJDEP plans to implement improvements throughout LSP-RP through a three-phased Project, which includes renovations to the Park’s interior, Audrey Zapp Drive corridor, Morris Pesin Drive corridor, and the waterfront. Details associated with each phase of the project are provided below.

Managed by NJDEP and in collaboration with the Army Corps of Engineers, Phase 1 of the Project includes the initial cleanup of 230+ acres of the Park’s interior. Similarly, Phase 3 of the Project is managed by NJDEP, in collaboration with the New Jersey Department of Transportation (“NJDOT”). Phase 3 of the Project includes renovating the lawn space between Audrey Zapp Drive and the Liberty Landing Marina, which involves the installation of a new floating dock and restoration of the historic ferry slips in front of the Central Railroad of New Jersey Terminal. Phase 3 also includes installing electric vehicle chargers in the Park’s parking lot #4. The Authority is not expected to deliver these phases of the work, as it is to be completed by others.

NJEDA will serve as the delivery partner for portion of Phase 2 includes four (4) priority areas of the LSP-RP Project, which include:

- Renovating Audrey Zapp Drive Gateway at the intersection of Johnston and Jersey Avenues to create an entrance to the north end of the Park;
- Renovating the existing plaza at the eastern end of Audrey Zapp Drive within the Terminal Plaza portion of the Project;
- Creating multi-use athletic fields within the Marina Green portion of the Project; and
- Renovation of the Central Railroad of New Jersey Terminal as part of Train Shed portion of the Project. The Authority will serve as the delivery partner for train shed renovation and will engage a construction manager at risk to construct and manage the work.

Phase 2 will be funded with \$20 million of American Rescue Plan Act (“ARPA”) funds and \$35.8 million from the New Jersey Debt Defeasance and Prevention Fund (“DDPF”) appropriated in the 2025 fiscal year State budget.

NJDEP was allocated \$50 million in ARPA funding for use on LSP-RP. As of April 22, 2025, \$30 million has been expended or committed to other phases of LSP-RP, with the remaining balance (\$20M) being available for the Project. ARPA funding must be fully expended by December 31, 2026.

In State Fiscal Year 2025, NJDEP was appropriated \$35.8 million of DDPF pursuant to P.L. 2024, c.18 which provided funds “for Liberty State Park for Capital Improvements that shall be used only for the construction of athletic fields, active recreation, community center, railroad terminal, or community gardens, and improvements that directly support such facilities, including concessions, restrooms, and mobility within Liberty State Park.” Pursuant to the MOU between NJDEP and NJ Department of the Treasury (“Treasury”) for use of the DDPF, all funds must be disbursed by July 31, 2027. As such, NJDEP and the Authority agree to make all reasonable efforts to expend these funds by July 31, 2027. As of April 22, 2025, the full appropriated amount remains available for use.

Staff estimates that Phase 2 construction will begin in Quarter 4 2025 and Phase 2 pre-construction and construction timeframes are still yet to be determined.

Under the MOU, the LSP-RP will be administered and coordinated by the NJDEP and NJEDA. The MOU will define roles and responsibilities of the NJDEP and NJEDA for Phase 2 as follows:

- **NJDEP** – Serve as the primary responsible party for obtaining free and clear unencumbered access to Property, including obtaining any necessary easements and/or other property rights required for the Project and providing a right of entry license. As well, NJDEP shall be primarily responsible for the design, planning, and engineering of the Project, including the creation of the Project plans and specifications (the “Project Development Documents”) and retaining the engineer of record for Project support (“Construction Administration Services”) throughout construction of the Project. NJDEP will also be responsible for funding the development of the Project and for satisfying all State and federal regulatory requirements related to the development of the Project, including but not limited to permitting, environmental remediation, relocation assistance, and natural resources mitigation.

- **NJEDA** – The Authority will collaborate on the planning and design of Phase 2 and will serve as the delivery partner for Phase 2 by procuring a construction manager at risk to construct the required improvements.

NJDEP has sourced the funds described in Table 1 below for LSP-RP, specifically for the development of Phase 2. Note the available funds reported from NJDEP reflect the balance at the time of this request and are subject to change.

Table 1 - LSP-RP Funding Summary Table

Funding Source	Available Funds
ARPA	\$20 Million
DDPF	\$35.8 Million
Total Available to NJEDA	\$55.8 Million

Given the Authority's history of engaging in development activities throughout the State and in consideration of the alignment of goals between all parties, the Authority desires to enter into a MOU with NJDEP to collaborate on the planning, design, and construction of the LSP-RP, and to serve as the Delivery Partner for Phase 2 of the Project. The MOU attached as Exhibit A to this memo is in a substantially final form. The final document may be subject to revision, although the basic terms and conditions will remain consistent with the attachment. The final terms of the Agreement will be subject to the approval of the Chief Executive Officer and the other parties to the Agreement.

The Authority intends to contract with a construction management firm to carry out the development of Phase 2. The Authority will be seeking vendors either procured directly by the Authority or procured by another state entity in a manner that is consistent with the Authority's procurement policy. It is anticipated that a subsequent request will be submitted to the members for approval upon the conclusion of the solicitation process and a recommendation to award has been developed. It is also envisioned that the Project budget will be presented in the same request. This request is anticipated to be submitted to the Board in Q3 2025

Funds will be released to NJEDA through several tranches, this release strategy has been identified in the attached MOU. The Authority will be collecting an administrative fee (4%) to deliver the work.

Recommendation

Members are requested to approve entering into a MOU with NJDEP permitting the Authority to collaborate, plan, design, and construct Phase 2 of the LSP-RP in Hudson County.



Tim Sullivan, CEO

Attachments

- Exhibit A: Final Form MOU between NJDEP and NJEDA for Phase 2 of Liberty State Park Revitalization Program
- Attachment A – Estimated Project Budget
- Attachment B – MOU between NJDCA AND NJDEP for Liberty State Park Remediation and Redesign Program (including Exhibits A-E)
- Attachment C – Expenditure Report
- Attachment D – SIROMS Reporting
- Attachment E – Project Overview Map

**MEMORANDUM OF UNDERSTANDING
BETWEEN NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
AND NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

This **MEMORANDUM OF UNDERSTANDING** (“MOU”), made on this ____ day of _____, 2025, and effective as of the date of the last signature of the parties hereto (the “Effective Date”), is between the New Jersey Economic Development Authority (“NJEDA”) and the New Jersey Department of Environmental Protection (“NJDEP”) (each a “Party,” and collectively the “Parties”).

WHEREAS, NJEDA is an independent State authority established pursuant to N.J.S.A. 34:1B-1, et seq., in but not of the Department of Treasury, which serves as the State’s principal agency for driving economic growth; and

WHEREAS, the NJDEP is charged with the responsibility and empowered to acquire, hold, lease, operate manage, protect, and develop lands which are the property of the State of New Jersey for recreation, conservation, historic, cultural, and educational purposes pursuant to N.J.S.A. 13:1L-8; and

WHEREAS, pursuant to N.J.S.A. 13:1L-4, NJDEP has experience and authority in the planning, engineering, improvement, development, and programming of State parks, forests, and historic sites throughout New Jersey; and

WHEREAS, NJDEP plans to implement improvements throughout Liberty State Park (the “Park”) in three phases, called the Liberty State Park Revitalization Program (“LSP-RP”), which includes renovations to the Park’s interior, Audrey Zapp Drive corridor, Morris Pesin Drive corridor, and the waterfront (collectively, the “Property”); and

WHEREAS, NJDEP has requested NJEDA’s assistance with the second phase of the LSP-RP and not the first or third phases; and

WHEREAS, the scope of the second phase of the LSP-RP (“Project”) consists of four priority areas: Gateway, Terminal Plaza, Marina Green, and Train Shed (see Project Overview Map in Attachment E hereto). The Gateway portion of the Project includes renovating Audrey Zapp Drive Gateway at the intersection of Johnston and Jersey Avenues to create an entrance to the north end of the Park; the Terminal Plaza portion of the Project includes renovating the existing plaza at the eastern end of Audrey Zapp Drive; the Marina Green portion of the Project includes creation of multi-use athletic fields; and the Train Shed portion of the Project includes renovation of the Central Railroad of New Jersey Terminal (the “Terminal”); and

WHEREAS, NJDEP desires to assign certain Project delivery responsibilities to NJEDA under this MOU; and

WHEREAS, NJEDA is willing to assume such Project delivery responsibilities from NJDEP; and

WHEREAS, NJDEP is prepared to provide construction and delivery support as outlined below for Project elements where NJDEP's specific expertise is required, such as historical knowledge of the Park, stakeholder engagement, and communication of design and planning intentions, as requested by NJEDA; and

WHEREAS, N.J.S.A. 52:14-2 authorizes government entities to call upon any department, office, division, or agency of the State to assist with its mission; and

WHEREAS, the Parties recognize that the Project can only reach its full potential through their evolving and coordinated partnership and by leveraging their individual areas of expertise to inform the development, long-term maintenance, and post-Project utility of the Park; and

WHEREAS, the Parties have determined that they can assist each other with the implementation of the Project by providing the support outlined below, and that it is mutually beneficial and in the best interests of the public to enter into this MOU.

NOW THEREFORE, the Parties hereby agree as follows:

1. Incorporation. The recitals set forth above are hereby incorporated into and made part of this MOU.
2. Purpose of MOU. The Parties are entering into this MOU to document the mutual understanding and intention of the Parties in carrying out their respective obligations for the Project under this MOU.
3. General Responsibilities. As more specifically described herein for each priority area of the Project, the roles and responsibilities of the Parties shall be as follows:
 - a. NJDEP shall be primarily responsible for:
 - 1) providing free and clear unencumbered access to the Property, including obtaining any necessary easements and/or other property rights required for the Project and providing a right of entry license as described in Section 10 below;
 - 2) the design, planning, and engineering of the Project, including the creation of the Project plans and specifications ("the Project Development Documents") and retaining the engineer of record ("Engineer") for Project support throughout construction of the Project, as described in more detail in Section 5.c below.
 - 3) funding the development of the Project and for satisfying all State and Federal regulatory requirements related to the development of the Project, including but not limited to permitting, environmental remediation, relocation assistance, and natural resources mitigation.
 - 4) procuring its own construction manager and/or necessary contractors for other components of the LSP-RP development that are not included in the Project. Written notice shall be given to NJEDA ten (10) days prior to such procurement, and NJDEP shall ensure that its other contractors and the services they provide do not interfere with NJEDA's delivery of the Project.

- b. NJEDA shall serve as the “Delivery Partner” (defined herein and in Section 5.a below) for the planning, design, and construction of the Project in accordance with Sections 4 and 5 below. NJEDA’s Delivery Partner responsibilities shall include procuring a construction manager to execute the Project (including preconstruction and construction) (“Construction Manager”). The Construction Manager will utilize subcontractors to complete activities in accordance with the Project Development Documents prepared by NJDEP and its consultants.
- 4. Planning and Design Responsibilities. The Parties agree to work collaboratively to ensure harmony and consistency in the implementation of the Project.
 - a. NJDEP Responsibilities include:
 - 1) lead the planning, design, and engineering of all aspects of the Project;
 - 2) lead the preparation of the Project Development Documents, subject to NJEDA review and concurrence, to ensure consistency and suitability of all plans for implementation under this MOU;
 - 3) obtain and maintain a contract with a design engineer and/or architect to develop the Project Development Documents and for performing engineering services during construction; and
 - 4) coordinate with the Construction Manager regarding select events to be held at the Park to minimize impact to both construction timeline and event experience, including but not limited to:
 - a) May 5, 2025 – Fleet Week NYNJ – Jersey City
 - b) June 6-8, 2025 – Pokemon GoFest
 - c) June 19, 2025 – All About US Juneteenth Celebration
 - d) June 29, 2025 – NJSO Summer Parks Concert Series
 - e) September 19-21, 2025 – Festival Event – name TBA
 - f) Summer 2026 – FIFA Fanfest - exact dates TBD
 - b. NJEDA Responsibilities include that NJEDA shall coordinate and cooperate with NJDEP to inform NJDEP’s planning and design of the Project, including all requested aspects of engagement with NJDEP’s consultants, to ensure the Project supports and, as appropriate, incorporates NJEDA’s economic development strategies and initiatives.
 - c. Once approved by the Parties, all design and construction activities shall be conducted in accordance with the approved Project Development Documents. Any changes to the Project Development Documents will be made with the express consent of NJDEP and any changes that materially impact the Project delivery or maintenance and operations responsibilities of either Party must be approved in writing by the CEO of NJEDA and the Commissioner of NJDEP, or their respective designees.
 - d. The Parties agree to promote coordination and cooperation amongst their respective consultants in the advancement of the Project.

5. Construction Responsibilities.

- a. Upon design completion of the Project, NJEDA, as “Delivery Partner”, shall use its contractors to implement the development and construction of the Project’s design plans, including all necessary goods and services related to work on the Project. Delivery Partner responsibilities include the receipt of design and construction documents for the Project from NJDEP for NJEDA’s integration into biddable construction documents. NJEDA will review all submitted documents and offer comments and suggested changes for constructability and overall efficiency of the proposed work within the timeframe established by NJEDA, NJDEP, and their respective consultants.
- b. NJEDA shall maintain oversight of the Engineer during Project construction and will directly engage with the Engineer on Project delivery matters. Prior to the execution of any change to the Parties’ construction contracts supporting the Project, NJEDA and NJDEP shall have the right to review, revise, and comment on such changes, including those made under the existing engineering consulting services contract held by NJDEP for the design engineer and/or architect.
- c. NJDEP’s Engineer shall provide Construction Administration Services and support NJEDA’s Delivery Partner obligations under this MOU. “Construction Administration Services” includes reviewing submittals, answering subcontractor Requests for Information, performing inspections of work, assisting in the change management process, participating in subcontractor solicitations, and attending meetings with NJEDA’s Construction Manager, subcontractors, and project stakeholders. The Engineer will provide on-site representation and oversight of the Project, ensuring adherence to the Project Development Documents. The Parties shall coordinate to determine the frequency at which the Engineer will have representatives at the Project site, and if such representation will be completed by a singular individual or by a committee. NJEDA shall be permitted to request removal and replacement of the Engineer’s staff from the job site as a result of poor performance. Request for removal shall involve formal notification from NJEDA to NJDEP outlining the reasons for the request.
- d. NJEDA and NJDEP agree to conduct any construction activities in the Park in a manner consistent with the Project Development Documents.
- e. Unless and until the Project Development Documents have been agreed to by both Parties and NJDEP secures all property interests necessary for NJEDA’s development of the Project, including providing a right of entry license as described in Section 10 below, and notifies NJEDA, NJEDA shall not issue a notice to proceed with the Project to its Construction Manager.
- f. Changes to subcontracts held by NJEDA’s Construction Manager that result in a material quantity increase or decrease within fifteen percent (15%) of the subcontract amount or estimate will be settled by NJEDA and shall not require approval from

NJDEP prior to acceptance. These changes will be communicated to NJDEP for informational purposes after acceptance. Any changes exceeding this 15% threshold shall require review and approval from NJDEP. The timing for approvals of such changes will be established when the change is requested.

- g. Changes to the Project Development Documents proposed by NJEDA's Construction Manager or its subcontractors that offer cost-saving value engineering options, without altering the design intent or aesthetics, will be settled by NJEDA, in collaboration with NJDEP's Engineer, and shall not require approval from NJDEP prior to acceptance. Revisions requested for constructability concerns or resulting from design architect errors that significantly change the design intent or aesthetics shall require approval from NJDEP prior to acceptance. The timing for approval of such revisions will be established when the change is requested. All design revisions initiated by the Construction Manager or their subcontractor during procurement or construction must follow a formal approval process established by NJEDA.

6. Project Funding.

- a. The Parties recognize that Project funding will be provided from multiple sources, and those sources shall be utilized to maximize available funding. Below are the sources of funds currently held for the Project ("Funds"). If the Funds are insufficient, NJDEP is responsible for securing additional funding required to complete the Project:
 - 1) NJDEP was allocated \$50 million in American Resue Plan Act ("ARPA") funding for use on LSP-RP. As of April 22, 2025, \$30 million has been expended or committed to other phases of LSP-RP, with the remaining balance (\$20M) being available for the Project. ARPA funding must be fully expended by December 31, 2026. The \$20 million in ARPA funds include \$600,000 for NJEDA's administrative fee.
 - 2) In State Fiscal Year 2025, NJDEP was appropriated \$35.8 million from the New Jersey Debt Defeasance and Prevention Fund ("DDPF") pursuant to P.L. 2024, c.18 "for Liberty State Park for Capital Improvements that shall be used only for the construction of athletic fields, active recreation, community center, railroad terminal, or community gardens, and improvements that directly support such facilities, including concessions, restrooms, and mobility within Liberty State Park." Per the terms of the MOU that NJDEP has with the NJ Department of the Treasury for use of the DDPF funding, all funds must be disbursed by July 31, 2027. As such, the Parties agree to make all reasonable efforts to expend these funds by July 31, 2027. As of April 22, 2025, the full appropriated amount remains available for use. The balance of NJEDA's administrative fee, as identified on Attachment A, in the amount of \$1,546,153.85, shall be paid from DDPF funding.
- b. The Parties have agreed to the estimated budget for the Project (Attachment A hereto), which will be finalized and approved by the Parties after the Construction Manager is procured. The Parties shall work together to develop and manage an overall budget for

the Project consistent with the available Funds.

- c. Funding Process. NJDEP shall fund the Project as set forth below. References to “receipt of evidence” in this section shall mean receipt of documentation of expenses incurred or about to be incurred, including, but not limited to, invoices, contracts, proof of payment, bills, receipts, and bid solicitations.
 - 1) Federal ARPA Funds and State DDPF funds. For funds paid to NJEDA as the subrecipient for services under this MOU using the ARPA funds described in Section 6.a(1) above, and the DDPF funds described in Section 6.a(2) above, NJDEP will tender payment as follows:
 - a) Within fourteen (14) days of the MOU Effective Date, NJDEP shall pay NJEDA an initial tranche equivalent to 33 1/3% of the ARPA funding described in Section 6.a(1) above;
 - b) Upon receipt of evidence from NJEDA that 80% or more of the initial tranche has been committed, NJDEP shall pay NJEDA a second tranche equivalent to 33 1/3% of the ARPA funding.
 - c) Upon receipt of evidence from NJEDA that 80% or more of the second tranche has been committed, NJDEP shall pay NJEDA a third tranche equivalent to 33 1/3% of the ARPA funding.
 - d) Upon receipt of evidence from NJEDA that 80% or more of the third tranche of ARPA funding has been committed, NJDEP shall pay NJEDA a fourth tranche equivalent to 33 1/3% of the DDPF funding.
 - e) Upon receipt of evidence from NJEDA that 80% or more of the fourth tranche has been committed, NJDEP shall pay NJEDA a fifth tranche equivalent to 33 1/3% of the DDPF funding.
 - f) Upon receipt of evidence from NJEDA that 80% or more of the fifth tranche has been committed, NJDEP shall pay NJEDA a sixth tranche equivalent to 33 1/3% of the DDPF funding.
 - 2) In the event NJDEP fails to transfer funds to NJEDA in a timely manner, with said failure resulting in claims of additional costs by the Construction Manager, NJDEP will be responsible for payment of those costs.
 - 3) The four priority areas included in this Project may be funded by either source identified in Section 6.a above, with a commitment to spend the ARPA funds in full before spending the DDPF funds.
- d. The Parties shall be responsible for ensuring that appropriate controls are in place to monitor and account for all costs. NJEDA shall segregate the expenditures for all

federal and State funding in its General Ledger by establishing separate accounts for each federal and State funding source, and such funds shall never be commingled. NJEDA will expend each funding source for the approved purposes as stated in the federal and State appropriation guidelines.

- e. Cost Overruns in the development of the four priority areas of the Project (any cost which is more than the overall Project budget, excluding any contingency amount budgeted in the Project budget) that are attributable to the Project shall be the sole responsibility of NJDEP. Any dispute that arises related to Cost Overruns shall be resolved by the Parties in accordance with Section 11.f below.
- f. NJEDA shall draw an administrative fee from the Funds for the services it provides in support of the Project. NJEDA's overall administrative fee shall be four percent (4%) of the actual total cost of the Project, including the Project construction contingency. As stated in the Estimated Project Budget (Attachment A) and in Sections 6.a(1) and (2) above, the total administrative fee shall not exceed \$2,146,153.85, consisting of no more than \$1,546,153.85 from the DDPF funds, and no more than \$600,000 from the ARPA funds. The administrative fee shall be considered part of the Project budget and shall be billed on a monthly basis and paid from the funding identified by NJDEP in Section 6.c above, in accordance with Section 6.h below. The administrative fee does not include the cost of the Construction Manager, or any other contractors hired by NJEDA under this MOU.
- g. NJEDA and NJDEP shall be responsible for compliance with all federal, State, or other funding requirements. NJDEP shall be responsible for all required federal reporting in accordance with the MOU between NJDEP and the New Jersey Department of Community Affairs ("DCA") (attached hereto as Attachment B) related to the funding for this Project. NJDEP has provided NJEDA with a list of the federal reporting metrics required for each phase of the Project that utilizes federal funding (see Attachments C and D hereto) to enable NJEDA to provide the necessary information for NJDEP's reporting. The Parties shall each make all records related to the Project that are in their possession available upon request, including by integrity oversight monitors, for State and federal audits.
- h. NJEDA does not guarantee that all DDPF Funds will be expended by July of 2027 or that all ARPA Funds will be expended by December 31, 2026. NJEDA shall not be responsible for securing any funding for the Project. NJDEP shall identify and secure additional sources of funding for the Project, if necessary.
- i. NJEDA shall submit financial and progress reports to NJDEP on a quarterly basis in a format to be provided by NJDEP.

7. Permitting and Environmental Compliance.

- a. NJDEP shall be responsible for the identification, coordination, preparation, submittal, and, to the extent possible, obtaining of all permits required for Project.

- b. NJEDA will join in and execute any applications, petitions, agreements, or other documents required to obtain any permits and approvals for the Project.
- c. NJDEP will be responsible for addressing compliance with the National Environmental Policy Act (“NEPA”) and State Executive Order 215 (September 11, 1989), as applicable to the Project. NJEDA agrees to support NJDEP with any technical assistance related to its role as Delivery Partner of the Project.
- d. NJEDA will be responsible for complying with all permits obtained by NJDEP under this Section 7, as related to the construction aspects of the Project.

8. Coordination and Information Sharing.

- a. The Parties agree to provide all related information to each other, as requested, to facilitate the activities under this MOU.
- b. The Parties shall meet regularly, and no less than once per month, to engage and assess progress under this MOU toward completion of the Project.

9. Post-Development Operations and Maintenance.

- a. NJDEP shall be responsible for governance, operation, and maintenance of the Project.
- b. NJEDA shall have no ongoing responsibilities for the Project once the Project has reached final completion.

10. Right of Entry.

This MOU constitutes a right of entry license from NJDEP to NJEDA, and their respective employees, officers, agents, consultants, and contractors, for access to all portions of the Property in order to carry out planning, design, and pre-construction activities under this MOU. NJDEP shall provide NJEDA and its employees, officers, agents, consultants, and contractors with a discrete and separate right of entry license for construction-related activities, certifying therein that NJDEP has fully obtained all necessary easements and other real estate interests needed for the construction of the agreed-upon scope of work and that there are no encumbrances to construct the scope of each component of work.

11. Additional Provisions.

- a. Commencement and Duration. This MOU will commence immediately upon the Effective Date and shall remain in effect for five (5) years or until the completion of the Project, whichever occurs first, unless otherwise terminated or extended by the Parties in writing pursuant to Sections 11.b and 11.h below.

- b. Termination. Either Party shall have the right to terminate this MOU upon sixty (60) days' prior written notice to the other Party. If the Funds are insufficient or are not readily available to complete the Project, the Parties shall have the right to reduce the scope of this MOU in writing and as agreed to by the Parties or to terminate this MOU upon written notice to the other Party.
- c. Duties Upon Termination. Upon notice of termination of this MOU pursuant to Section 11.b above, NJEDA shall make reasonable efforts not to incur any additional expenses or administrative costs. NJEDA shall be permitted to continue to use the Funds to pay for work performed and expenses incurred in connection with the Project up to the termination date. NJEDA will return all unused Funds to NJDEP within sixty (60) days following the termination date.
- d. Duties Upon Expiration. NJEDA will return all unused Funds to NJDEP within (60) days following the expiration of the MOU.
- e. Insurance. NJEDA shall require its Construction Manager to maintain commercial general liability insurance during the course of the construction. NJEDA, NJDEP, and NJDEP's consultants shall be named as additional insured. NJEDA and its Construction Manager shall not be responsible for insuring any existing structures, any improvements made during the course of construction, or any structures existing after completion of construction.
- f. Dispute Resolution. In the event a dispute arises concerning this MOU, the CEO of NJEDA and the Commissioner of NJDEP, or their appointed representatives, shall meet to resolve such dispute.
- g. Adherence to State and Federal Laws and Regulations. The Parties agree to comply with all applicable federal, State, and local laws, regulations, and Executive Orders relevant to the Project, the Property, and this MOU, and the requirements more fully detailed in the Schedule of Assurances and Reporting Requirements of Attachment B including but not limited to the ARPA and U.S. Treasury regulations, policies, guidelines, and requirements, as they relate to the acceptance and use of federal funds. This MOU shall be administered consistent with N.J.S.A. 52:14-1 et seq. The Parties shall retain all the powers, obligations, and immunities provided by law.
- h. Amendments. Additional services may be added to this MOU by mutual agreement of the Parties in writing, including but not limited to procurement, consultant management, and other services that may result in direct expenses by the Parties. Any amendments that may result in expenses by the Parties will include a funding source for the Party incurring the expenses to pay for those expenses.
- i. Notices. All legal notices (not day-to-day communications, which are addressed in subsection j. below) required to be served or given hereunder shall be in writing and will be deemed given when received by personal delivery, by an overnight delivery service which issues a receipt from delivery, or three business days after having been

mailed by certified mail, return receipt requested, and addressed as follows:

If to NJEDA: New Jersey Economic Development Authority
36 West State Street
P.O. Box 990
Trenton, New Jersey 08625-0990
Attention: Tim Sullivan, CEO

If to NJDEP: New Jersey Department of Environmental Protection
Office of Transactions and Public Land Administration
401 E. State Street
P.O. Box 420
Trenton, NJ 08625-0420
Attention: Robert Guzek, Director

With copy to: Maggie McCann-Johns, Administrator
Urban State Parks & Initiatives
Maggie.mccann-johns@dep.nj.gov
(609) 940-7151

j. Designation of Contacts. The Parties have designated the following contacts, who will be responsible for day-to-day communications between the Parties related to this MOU. The Parties will notify each other of any designated contact change in writing within ten (10) business days of such change:

NJEDA: William Dixon, Director of Infrastructure
william.dixon@njeda.gov
(609) 940-9288

NJDEP: Maggie McCann-Johns, Administrator
Urban State Parks & Initiatives
Maggie.mccann-johns@dep.nj.gov
(609) 940-7151

k. Good Faith. The Parties will act with reasonable diligence and in good faith for the purpose of satisfying the conditions set forth herein.

l. Titles and Headings. Titles and headings are included for convenience only and shall not be used to interpret this MOU.

m. Electronic Signatures. Electronic signature of this MOU shall be deemed to be valid execution as though it was an original document signed with ink. The Parties explicitly consent to the electronic delivery of this MOU and affirm that their electronic signatures indicate a present intent to be bound by the terms of this MOU.

n. Publicity and Public Announcements. Each Party agrees to obtain the permission of

the other Party before using the name of the other Party in any public announcement, press release, media advisory, or other publicity.

- o. Assignment. This MOU may not be assigned by either Party without the prior written consent of the other Party.
- p. Third-Party Beneficiaries. This MOU is intended for the sole benefit of the Parties and shall not be construed to create any third-party beneficiary.
- q. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- r. Entire Agreement. This MOU reflects the entire understanding of the NJDEP and NJEDA. This MOU may not be amended, modified, or supplemented except by mutual consent of the Parties in writing and signed by the authorized representatives of each Party.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives.

For NJEDA	For NJDEP
Name: Tim Sullivan	Name: Shawn LaTourette
Title: Chief Executive Officer	Title: Commissioner
Signature:	Signature:
Date:	Date:

ATTACHMENT A – ESTIMATED PROJECT BUDGET

ATTACHMENT B- MEMORANDUM OF UNDERSTANDING BETWEEN THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS AND DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR LIBERTY STATE PARK REMEDIATION AND REDESIGN PROGRAM (including Exhibits A-E)

ATTACHMENT C - EXPENDITURE REPORT

ATTACHMENT D –SIROMS REPORTING

ATTACHMENT E – PROJECT OVERVIEW MAP

ATTACHMENT A
ESTIMATED PROJECT BUDGET

*Estimate reflects available Funds**

Gateway, Marina Green, Terminal Plaza		
Available Funds	\$	20,000,000.00
Less NJEDA Fee ⁽¹⁾	\$	600,000.00
Construction Funds	\$	19,400,000.00
Train Shed		
Available Funds	\$	35,800,000.00
Less NJEDA Fee ⁽²⁾	\$	1,546,153.85
Construction Funds	\$	34,253,846.15

**Due to funding constraints, the Project shall conform to the available Funds.*

(1) \$600,000 of ARPA funds shall be used for the payment of NJEDA's administrative fee.

(2) The balance of NJEDA's administrative fee shall be drawn from available DDPF funds.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS
AND
DEPARTMENT OF ENVIRONMENTAL PROTECTION
FOR
LIBERTY STATE PARK REMEDIATION AND REDESIGN PROGRAM**

This **MEMORANDUM OF UNDERSTANDING** ("MOU") (MOU Number 22-XX), is made by and between the New Jersey Department of Community Affairs ("NJDCA" or "Grantee"), and the Department of Environmental Protection ("DEP"), an instrumentality of the State of New Jersey (the "State"), to set forth the terms and conditions for the disbursement of American Rescue Plan Act – Coronavirus State Fiscal Recovery Fund monies for Liberty State Park Remediation and Redesign Program ("Program"). NJDCA and DEP may sometimes hereinafter be collectively referred to as the "Parties" and individually as a "Party." 41

PREAMBLES

WHEREAS, due to the increase in the number of novel coronavirus ("COVID-19") cases in New Jersey, the surrounding region and across the globe, the Governor of the State of New Jersey issued Executive Order No. 103 declaring a public health emergency and a state of emergency in the State on March 9, 2020, allowing for certain executive actions to respond to the increasing number of COVID-19 cases in the State; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic (the "COVID-19 Pandemic") and on March 13, 2020, the President of the United States ("President") declared a national state of emergency; and

WHEREAS, in response to the COVID-19 Pandemic, Congress enacted a series of laws to address the impacts of the COVID-19 Pandemic; and

WHEREAS, on March 11, 2021, the President signed the "American Rescue Plan Act of 2021" P.L. 117-2 (the "ARP Act") into law; and

WHEREAS, as part of the ARP Act at subtitle M, Congress amended Title VI of the Social Security Act (42 U.S.C. 801 et seq.) by adding Sections 602 and 603 to create the "Coronavirus State Fiscal Recovery Fund" ("CSFRF"); and

WHEREAS, CSFRF monies ("CSFRF Funds") are to be used, generally: (a) to respond to the public health emergency with respect to COVID-19 and its negative economic impacts, including assistance to households, small businesses, and nonprofits, and/or aid to impacted industries such as tourism, travel, and hospitality; (b) to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the State who are performing such essential work, or by providing grants to eligible workers who perform essential work; (c) for the provision of government services to the extent of the reduction in revenue of the State due to the COVID-19 public health emergency relative to revenues collected

in the most recent full fiscal year of the State prior to the emergency; and/or (d) to make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, the State received \$6,244,537,955.50 in CSRF Funds under the ARP Act which must be used in conformance with the requirements of the ARP Act; and

WHEREAS, pursuant to the Fiscal Year 2023 Appropriations Act, L. 2022, c.49 (“FY2023 Appropriations Act”), as may be amended from time to time, Fifty Million Dollars (\$50,000,000) of CSRF Funds were appropriated to DEP for allocation to pandemic-related programs as determined by the Executive Director of the Governor’s Disaster Recovery Office, subject to the approval of the Director of the Division of Budget and Accounting; with notice provided to the Joint Budget Oversight Committee with respect to this appropriation of CSRF Funds; and

WHEREAS, pursuant to the FY2023 Appropriations Act, L. 2021, c.133, NJDCA is responsible for overseeing the entire portfolio of funds, consistent with CSRF requirements, as the State-designated Grants Manager; and

WHEREAS, the State Treasurer has entered into a Memorandum of Understanding (“MOU”) dated as of July 22, 2021, with NJDCA as Grants Manager for the CSRF Funds, to provide grant management functions and processes for the State that are necessary to administer, manage and monitor State entity grant awards and disburse funds accordingly; and

WHEREAS, NJDCA will use its Storm Integrated Recovery Operations and Management System (“SIROMS”) to track State entity expenditures and obligations, administer approved grant funds, and track compliance with applicable laws, regulations, guidance, and project requirements; and

WHEREAS, NJDCA is distributing a portion of the CSRF Funds, in an amount not to exceed Fifty Million Dollars (\$50,000,000), to provide funding to DEP, for the implementation of this Program, that the Governor’s Disaster Recovery Office and NJDCA have determined eligible for CSRF Funds; the Program information is contained in Exhibit A and the Program budget is set forth in Exhibit B, both exhibits attached hereto and made a part hereof; and

WHEREAS, the implementation of services for the Program shall be undertaken in compliance with Federal, State and local laws and regulations as well as the requirements of this MOU, Executive Order No. 166 (Murphy 2020) (“EO 166”), 31 CFR Part 35, U.S. Treasury Coronavirus State and Local Fiscal Recovery Funds – Final Rule, and Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“2 CFR Part 200”); and

WHEREAS, it is in the Parties’ mutual interests, as well as in the public interest, to have the Parties’ respective responsibilities concerning the implementation of services for the Program memorialized in this written agreement.

NOW, THEREFORE, NJDCA and DEP agree as follows:

Section 1. Grant Award

1.1 Subject to the terms and conditions of this MOU, NJDCA, as Grantee, shall make available to DEP, funds in the amount not to exceed Fifty Million Dollars (\$50,000,000) (the "Grant Funds") for the purpose of funding the ("DEP") Program. Upon full execution of this MOU, NJDCA will disburse one-quarter (25%) of the entire amount of the Grant Funds to DEP, or Twelve Million Five Hundred Thousand Dollars (\$12,500,000).

1.2 After the initial advance, NJDCA will disburse subsequent advances totaling one-quarter of the entire amount of the Grant, or Twelve Million Five Hundred Thousand Dollars (\$12,500,000) upon written request by DEP to NJDCA. The request from DEP shall include the required documentation such as a Duplication of Benefits Certification and the reporting requirements that include performance objectives, as identified in Exhibits C and D. Exhibits C and D are attached hereto and made a part hereof.

1.3 NJDCA agrees to advance the requested funds within fifteen (15) calendar days of DEP's submission of a complete request. The cash transfer to provide DEP with the advance will be recorded in SIROMS.

Section 2. Terms of the Services

2.1 DEP shall use the Grant Funds for the purpose of funding the Program. Any material changes to the Program must be approved by NJDCA prior to implementation, except to the extent such changes are required to conform with federal requirements or conditions of funding.

2.2 DEP must meet the deadlines for the use of CSFRF Funds. Any CSFRF Funds not obligated by December 31, 2024, or not expended by December 31, 2026, to cover such incurred costs, must be returned to the United States Department of the Treasury ("U.S. Treasury"), unless the deadline is extended by the U.S. Treasury.

2.3 DEP must also ensure that any entities to which they provide CSFRF Funds obligate the Grant Funds by December 31, 2024, and expend the Grant Funds by December 31, 2026, unless the deadline is extended by the U.S. Treasury.

2.4 DEP will receive and must use the proceeds of this Grant for "Allowable Costs," meaning costs that are acceptable pursuant to 2 CFR §200.403, all other applicable federal regulations, and approved as part of the Program encompassed by this MOU.

2.5 DEP may use the Grant Funds for Direct Costs, as defined in 2 CFR Part §200.413. DEP shall maintain full documentation of Direct Costs for all expenses incurred and provide access for NJDCA, the U.S. Treasury, and any other monitoring agency upon request.

2.6 DEP must not use the Grant Funds for ineligible costs, as defined by the ARP Act, 42 U.S.C. 802(c)(2) and the U.S. Treasury CSFRF Final Rule, 87 Fed. Reg. 4338, 4422 (Jan. 27, 2022), including the use of funds for debt service or to replenish financial reserves.

2.7 The administrative costs of the Program are not included in the Grant Funds allocated to DEP's Program and may not exceed 5% thereof.

Section 3. Responsibilities of DEP

3.1 Prior to December 31, 2024, to demonstrate compliance with Section 2.2, DEP shall provide a report to NJDCA demonstrating actual or committed disbursement of Grant Funds and the need for and commitment to expend the Grant Funds by no later than December 31, 2026.

3.2 DEP shall provide the requisite staff and support required to implement the Program.

3.3 DEP hereby bind themselves, certifies and assures that they will comply with all federal, State, and local laws and regulations, policies, guidelines, and requirements, as they relate to the acceptance and use of federal CSFRF Funds, including all applicable State and Federal Executive Orders. The Parties expressly acknowledge that the matters which are the subject of this MOU are governed by the ARP Act, including subtitle M, and administered by the U.S. Treasury, and may be subject to ongoing modifications and clarifications. The Parties agree to comply with all applicable CSFRF requirements and Federal cross-cutting statutes and regulations as more fully detailed in the Schedule of Assurances attached hereto as Exhibit E and made a part hereof, in addition to the U.S. Treasury Guidance and Frequently Asked Questions and the U.S. Treasury Final Rule (31 CFR Part 35) as they may be updated from time to time, and subject to any other exceptions and waivers that may be issued by the U.S. Treasury that affect CSFRF Funds.

3.4 DEP shall be responsible for requiring that their subrecipients, contractors and all tiers of subcontractors adhere to all applicable State and Federal laws and regulations, including the ARP Act, all other applicable federal statutes, U.S. Treasury regulations, as well as the requirements set forth in this MOU, including Exhibit E, and to conduct all necessary monitoring for such compliance.

3.5 DEP shall provide NJDCA with a report detailing the Grant's progress and budgetary updates for inclusion in NJDCA's Project and Expenditure Reports. The frequency of DEP's financial reporting will be monthly and DEP's Grant's progress reporting will be quarterly, unless the Parties agree otherwise.

3.6 DEP shall submit a record of all their obligations and expenditures for each Program separately into SIROMS with necessary supporting documentation, along with other obligations such as grants, subrecipient agreements and contracts. In addition to data entry, review, and other document submittals, the Parties shall upload all monthly and quarterly reports, as required herein, and other Federal and State reports into SIROMS.

3.7 DEP agree that in connection with their rights and obligations pursuant to this MOU, they shall cooperate with NJDCA, including the NJDCA monitoring team and the COVID-19 Integrity Oversight Monitor ("Integrity Monitor"), regarding the audit of activities carried out pursuant to this MOU, including compliance with various operating and reporting procedures which may

hereinafter be promulgated by NJDCA or federal funding sources. DEP shall provide NJDCA with (read) access to and reporting from their financial records and management systems, which include, but are not limited to, paper documents, worksheets, grant management systems, contract management systems, and databases.

3.8 DEP must appoint and retain an Integrity Monitor pursuant to Executive Order No. 166 because the Grant Funds exceed Twenty Million Dollars (\$20,000,000). NJDCA will follow-up with DEP to ensure that any concerns or findings reported by the Integrity Monitor are addressed.

3.9 To the extent that the U.S. Treasury audits the use of the Grant Funds, DEP shall coordinate with NJDCA a response to such audit(s). DEP shall also be responsible for any recoupment of the Grant Funds that the U.S. Treasury may require as the result of audit findings.

3.10 DEP must comply with the audit requirements as outlined in 2 CFR Part 200, Subpart F, Audit Requirements, which mandates that if a non-Federal entity expends \$750,000 or more in federal awards during the non-Federal entity's fiscal year, the entity must have a single or Grant-specific audit conducted by an independent auditor for that year.

3.11 In the event that the actual or committed disbursement of funds as stated in the report provided pursuant to Section 3.1 is less than the amount of the Grant Funds, or upon termination of the MOU, DEP shall promptly remit to NJDCA the balance of the remaining Grant Funds.

3.12 DEP is responsible for ensuring that the use of Grant Funds does not constitute "Improper Payments," as defined by the Uniform Administrative Requirements at 2 C.F.R. § 200.1. DEP shall establish appropriate policies and procedures to prevent Improper Payments and shall cooperate and coordinate with other State departments and agencies to prevent and rectify Improper Payments, which may include, but is not limited to, recoupment of Grant Funds.

3.13 The Accountability Officer for DEP, is the Director of the Division of Budget and Financial Operations, who shall be responsible for overseeing the successful performance and completion of the funding obligations undertaken by the Parties as set forth in this MOU, and shall be the point of contact for NJDCA, the Governor's Office and the Office of the State Comptroller. The Accountability Officer is required to perform risk assessments and is responsible for overseeing compliance with DEP's Program funding requirements, along with hiring an Integrity Monitor where appropriate.

3.14 DEP shall provide to NJDCA any complaints of discrimination on the grounds of race, color, or national origin, and limited proficiency covered by Title VI of the Civil Rights Act of 1964, and any review, proceedings and outcome related to the complaint.

3.15 DEP shall maintain records for the period set forth in the State General Retention Schedule or seven (7) years for federal grants. Non-federal entities not subject to State retention requirements shall maintain records for the period set forth in 2 C.F.R. § 200.334.

Section 4. General Provisions

4.1 Termination and Amendments. This MOU may be modified or extended only by prior written agreement of the Parties. This MOU may be terminated by either NJDCA or DEP upon thirty (30) days prior written notice to the other Party.

4.2 This MOU is being entered into for the sole purpose of evidencing the mutual understanding and intention of the Parties.

4.3 There are no third-party beneficiaries of this MOU.

4.4 This MOU shall be administered consistent with N.J.S.A. 52:14-1, et seq., including, without limitation, N.J.S.A. 52:14-2, providing for agreements between State departments.

4.5 The Effective Date of this MOU shall be the later of the date executed by the Parties below and shall continue in effect until March 31, 2027.

4.6 NJDCA and DEP shall retain all the powers, obligations and immunities provided by law.

4.7 The Parties acknowledge that the successful completion of each Party's duties hereunder will require cooperation between the Parties. The Parties agree to work cooperatively to achieve the goals of this MOU.

4.8 The Preambles appearing before Section 1 are made part of this MOU and are specifically incorporated herein by reference.

4.9 This MOU may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

The Remainder of this Page is Intentionally Blank

IN WITNESS WHEREOF, the Parties have executed and delivered this MOU on the date set forth next to their respective signatures below, and it shall be effective on the latter of such dates. The Parties agree to accept electronic signatures.

New Jersey Department of Community Affairs

By: Samuel R. Viavattine
Deputy Commissioner

Date: 1/3/2023

Department of Environmental Protection

By: John Cecil
Assistant Commissioner
State Parks, Forests & Historic Sites

Date: 12/1/2022

Exhibit A – Description of the Grant
Exhibit B – Budget
Exhibit C – Financial Reporting Requirements
Exhibit D – Performance Reporting Requirements
Exhibit E – Schedule of Assurances

A. Project Purpose

In addition to answering the following questions, please provide a brief narrative describing the project.

1. Negative Economic Impacts (EC 2): As relevant, describe how funds are being used to respond to negative economic impacts of the COVID-19 public health emergency, including services to households (such as affordable housing, job training, and childcare), small businesses, non-profits, and impacted industries.

Bergen Neck is a geographically isolated section of New Jersey. Bounded by the Upper Bay, Newark Bay, and Kill Van Kull strait, this peninsula contains Jersey City, Bayonne, Hoboken, Union City, Secaucus, and North Bergen, and the vast majority of Hudson County's 702,000 inhabitants.¹ It also contains some of the most economically disadvantaged populations in New Jersey, containing a total of 30 Qualified Census Tracts ("QCTs").² For lower income families, who are far less likely to own personal vehicles, this area can be truly isolating; of the 21 bridges that span the east and west banks of Bergen Neck, only four allow for walking and biking access.³ Of those, just one, at the extreme north of the area crosses east into Manhattan, and those that cross west into Newark travel over or through miles of industrial facilities.⁴ Public transport is hardly better, with only the PATH line and NJ Transit commuter rail making stops within easy walking distance of the QCTs, and the sole regional rail station is no closer than 36 blocks from the nearest grouping of QCTs, with most others being significantly further.⁵

The communities in these QCTs have been historically under-invested, and the COVID-19 pandemic has exacerbated this funding deficit. Liberty State Park is the only state park, and in fact the only park of any significant size in Bergen Neck. The lack of greenspace in the area has a serious negative effect on community health outcomes.⁶ U.S. Treasury notes that "access to nature, including parks, has been connected to decreased levels of mortality and illness and increased wellbeing."⁷ The CDC finds that these benefits include lower rates of heart disease, stroke, obesity, stress, and depression, all of which are risk factors associated with more severe COVID-19 symptoms.⁸ Treasury further mentions that apart from the benefits to physical and

¹ "Quick Facts; Hudson County," United States Census Bureau, (accessed Sept. 30, 2022).

² "Qualified Census Tract Lookup," United States Department of Housing and Urban Development, (accessed Sept. 30, 2022).

³ "Google Maps: Hudson County," Google, (accessed Sept. 30, 2022) (walking map layer selected and bridges manually selected, then confirmed via street view and existing images of the bridges).

⁴ *Id.*

⁵ "Rail System Map," New Jersey Transit, (Aug. 1, 2022). <https://content.njtransit.com/public/pdfs/maps/NJTRailSystemMap-Aug2022.pdf>

⁶ 87 Fed. Reg. 4372-74 (Jan. 27, 2022).

⁷ *Id.*

⁸ "Benefits of Physical Activity," United States Centers for Disease Control and Prevention, (updated June 16, 2022).

mental health, well-maintained parks allow for safe and socially distanced recreation during periods of COVID-19 infection spikes.⁹ Recognizing these benefits, and realizing that Liberty State Park is one of the only open greenspaces in the surrounding area, DEP has embarked on a long term remediation and redesign process for this park.

This Program will fund immediate upgrades to Liberty State Park, as well as a portion of planning and design costs for future upgrades. The upgrade component includes the remediation and improvement of existing facilities and amenities, including maintenance on bathrooms, effective lighting, pathing, ramps and handholds, parking improvements, and other generally necessary maintenance. Larger upgrades include the consideration of additional public recreational facilities, including turf ball fields, hard courts, and a running track, as well as a community/recreation center or an aquatics center, rehabilitation of the train sheds, or investments in additional public transportation and walking paths enhancing local access to the park. The nature and content of these larger upgrades will be dependent on the results of the community-involved planning and design that represents the other component of this funding.

The planning and design component will consist of two phases. First, a task force consisting of State representatives, local community members, and non-profits representing minority interests will be formed to assess what improvements would be most beneficial to the local community. In order to ensure the local community will be adequately represented, a majority of the task force will be composed of community members or non-profits representing minority groups (six members of the public, the president of the NAACP Jersey City branch, and the president of the NAACP New Jersey State Conference, representing in total 12 of 23 members). Once this task force has determined a firm list of needs, a qualified independent design firm will be chosen through competitive bid to create and execute a park construction plan that implements the task force's conclusions.

B. Targeted Beneficiaries (Describe all that Apply)

New Jersey aims to promote equity for underserved, marginalized, and adversely affected groups by directing programs to prioritize economic and racial equity. To review the State's equity strategy, please see the [2021 New Jersey Recovery Plan Performance Report](#).

1. How does your program align with New Jersey's equity strategy? As applicable, please describe how your use of funds prioritizes economic and racial equity as a goal, names specific targets intended to produce meaningful equity results at scale and articulates the strategies to achieve those targets.

⁹ 87 Fed. Reg. 4373 (Jan. 27, 2022).

- a. Goals: Does your program intend to serve particular historically underserved, marginalized, or adversely affected groups?

Yes. Liberty State Park is located within a large grouping of Qualified Census Tracts, designating historically underserved populations. This area is geographically isolated, making it difficult for low income populations to easily travel without access to personal vehicles. Liberty State Park is the only large-scale open greenspace in the area, granting the local low-income populations easily accessible space for recreation, helping achieve the health benefits of open space detailed above.

- b. Awareness: How will you ensure these groups become aware of the services funded by this program?

Liberty State Park is generally well known in the area, and the improvements made through this project will incorporate those most needed by the local population. In furtherance of this goal, a task force will be created consisting in part of local community members and community organization leaders, including the NAACP, to ensure the State is aware of the improvements most likely to be utilized by the local community.

- c. Access and Distribution: How will you ensure equal levels of access to benefits and services across groups? How will you remove administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?

Liberty State Park does not charge an admission fee, and is located at the nexus of several public transport lines, including bus and light rail. In addition, it is in easy walking distance from many of the region's Qualified Census Tracts. Liberty State Park has been and will continue to be easily accessible to the local population.

- d. Outcomes: How are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?

Easy access to greenspace has been shown to have great benefits to health outcomes. In addition, Treasury recognizes the lack of access to greenspace has been shown to particularly impact the nation's most disadvantaged populations. As detailed above in the Program Description, this region is geographically isolated and lacks access to greenspace. This Program will help close that gap by ensuring the Liberty State Park is and remains available to the local population and serves their needs.

2. How does your program's planned or current use of funds incorporate written, oral, and other forms of input that capture diverse feedback from constituents, community-based organizations, and the communities themselves?

A task force will be created including local community leaders and community organizations, including the NAACP, and this task force will provide community feedback from across demographics and income levels.

3. How will funds build the capacity of community organizations to serve people with significant barriers to services, including people of color, people of low incomes, limited English proficient populations, and other traditionally underserved groups?

The park does not charge an admission fee, it is located in easy walking distance of the most disadvantaged communities in the area, and it is located at a nexus of bus and light rail routes. The benefits of open space are not and will not be restricted by race or language, and the task force formed to provide input into needed upgrades will help ensure no improvements or modifications are made that negatively impact the ability of marginalized communities to benefit from this space.

C. Additional Funding (Current or Anticipated)

ATTACHMENT B

American Rescue Plan State of New Jersey Budget Template - Exhibit B USD's (\$000)

Sub-recipient: NJDEP

Program: Liberty State Park Program

Grant Award: \$50 Million

Activity 1 Expenditure Sub- Category:

Activity 2 Expenditure Sub-Category:

Activity 3 Expenditure Sub- Category:

Section 1 Direct (not Admin or Capital):

<u>Budget Expenditure Categories</u>	Activity 1	Activity 2	Activity 3	Total	Line Item Justification Narrative
1. Salaries				-	
2. Related Benefits				-	
3. IT/Telecom				-	
4. Operating Supplies & Services				-	
5. Environmental Reviews				-	
6. Grants				-	
7. Contracts	50,000,000			50,000,000	implement recommendations of the LSP Design Task Force that will improve Liberty State Park; per P.L.2022, c.45 DEP must develop a master plan for LSP
8. Loans				-	
9. Transfers				-	
10. Direct				-	
11. Total Direct Costs (add lines 1-10)	50,000,000	-	-	50,000,000	

Section 2 Admin:

<u>Budget Expenditure Categories</u>	Activity 1	Activity 2	Activity 3	Total	Line Item Justification Narrative
1a. Salaries	1,484,120			1,484,120	support Parks staff implementing recommended improvements at LSP
2a. Related Benefits	1,015,880			1,015,880	fringe rate of 68.45%
3a. IT/Telecom				-	
4a. Operating Supplies & Services				-	
5a. Contracts/Professional Services				-	
6a. Environmental Reviews				-	
7a. Total Admin Costs (add lines 1a-6a)	2,500,000	-	-	2,500,000	

Section 3 Capital:

<u>Budget Expenditure Categories</u>	Activity 1	Activity 2	Activity 3	Total	Line Item Justification Narrative
1c. Salaries				-	
2c. Related Benefits				-	
3c. IT/Telecom				-	
4c. Operating Supplies & Services				-	
5c. Environmental Reviews				-	
6c. Grants				-	
7c. Contracts				-	
8c. Loans				-	
9c. Transfers				-	
10c. Direct				-	
11c. Total Capital Costs (add lines 1c-10c)	-	-	-	-	

EXHIBIT C

Financial Reporting Requirements

- **Reporting of financial information**
 - **Financial reporting requirements are in place to support both US Treasury and State compliance and reporting guidelines**
 - **Financial information is required each month representing, among other data, expenditures on the program**
 - **The below list is an example of the data fields that will be required monthly (subject to revisions/edits), that will include obligations or liabilities, expenditures (invoiced as well as cash out the door), and other data relevant to grants, loans, contracts**
 - **Expenditure Categories (ECs), defined by US Treasury and identified in the program budget, will be associated with the expenditures as noted on the template**

Contract Number

Beneficiary

Obligation to Date

Cost or Expenditure Amount to Date

Contract Type

Contract Amount to Date

Contract Date

Period of Performance Start Date

Period of Performance End Date

Primary Place of Performance Address Line 1

Primary Place of Performance Address Line 2

Primary Place of Performance Address Line 3

Primary Place of Performance City Name

Primary Place of Performance State Code

Primary Place of Performance Zip+4

Primary Place of Performance Country Name

Contract Description

Expenditure Start Date

Expenditure End Date

Cost or Expenditure Category

Category Description

- **Reporting to DCA required monthly and quarterly**

- Monthly submissions are to occur 5 business days after previous month end
- The reporting of the data will be entered directly into SIROMS or uploaded into SIROMS, and include support for expenditure transactions via excel
- DCA may request data dumps to identify transactional details that facilitate reconciliation and transparency reporting
- DCA will be reviewing the monthly reporting to determine that eligibility and data requirements are satisfied
- Additional documentation support/backup for the above reporting should be maintained by agency/authority and subject to monitoring by DCA
- Program expenditure and performance reporting is due quarterly. For example, at the end of September, both the required monthly report and a quarterly report will be due. The quarterly report will be due 10 days after the close of the quarter
- DCA and the Department will work in real time to reconcile/resolve all and any issues to ensure timely distributions of funds/budget as needed

Compliance with CSFRF requirements includes mandatory reporting of performance indicators and programmatic data in the quarterly Project and Expenditure Reports and the annual Recovery Plan, in addition to discretionary performance indicators that the Program and DCA determine are appropriate. Discretionary performance indicators will include quantitative and qualitative targets. DCA will determine the appropriate program outcomes in collaboration with the respective agencies. Agencies will be asked to report on their progress towards those outcomes.

Following is a list of required data for Treasury's performance reporting, for each of the delineated Expenditure Categories. Agencies will be asked to report on their progress towards these deliverables. Please note that these datapoints are for informational use only and remain subject to change as U.S. Treasury finalizes its reporting requirements.

This program is qualified under **Expenditure Category 2.22 Strong Healthy Communities: Neighborhood Features that Promote Health and Safety.**

All Expenditure Categories must report on the following points:

- Projects: Provide information on all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, the recipient will be required to enter:
 - the project name,
 - identification number (created by the recipient),
 - project expenditure category,
 - description, and
 - status of completion.
- Obligations and Expenditures: Once a project is entered the recipient will be able to report on the project's obligations and expenditures. Recipients will be asked to report:
 - Current period obligation
 - Cumulative obligation
 - Current period expenditure
 - Cumulative expenditure
- Project Status: Once a project is entered the recipient will be asked to report on project status each reporting period, in four categories:
 - Not Started
 - Completed less than 50 percent
 - Completed 50 percent or more
 - Completed

- Program Income: Recipients should report the program income earned and expended to cover eligible project costs, if applicable.
- Adopted Budget (States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents only): Each state, territory and metropolitan city and county with a population that exceeds 250,000 residents will provide the budget adopted for each project by its jurisdiction associated with SLFRF funds. Treasury will use this information to better understand the intended impact, identify opportunities for outreach, and understand the recipient's progress in program implementation. Treasury is not approving or pre-approving projects or budgets.
- Subawards, Contracts, Grants, Loans, Transfers, and Direct Payments: Each recipient shall also provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and direct payments made by the recipient that are greater than \$50,000.
- Civil Rights Compliance: Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964, as applicable, on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances. This collection does not apply to Tribal governments
- Ineligible Activities: Tax Offset Provision (States and territories only): Treasury may collect additional information related to the Tax Offset Provision as described in section 602(c)(2) of the Social Security Act and implemented under 31 CFR 35.8 as part of the Project and Expenditure Report, such as but not limited to revenue reducing covered changes. Please see Section C.11 (Recovery Plan, Ineligible Activities: Tax Offset Provision) for more information.

Programs such as yours in this Expenditure Category must report on the following programmatic points:

- Project Demographic Distribution: Recognizing the disproportionate public health and negative economic impacts of the pandemic on many households, communities, and other entities, recipients must report whether certain types of projects are targeted to impacted and disproportionately impacted communities. Recipients will be asked the following:
 - What Impacted and/or Disproportionately Impacted population does this project serve. Please select the population primarily served.
 - If this project primarily serves more than one Impacted and/or Disproportionately Impacted population, please select up to two additional populations served.

	Impacted	Disproportionately Impacted
Assistance to Households		<ul style="list-style-type: none"> Households and Populations residing in Qualified Census Tracts

Programmatic Data

Expenditure Categories 1-3

Public Health and Negative Economic Impact

- Brief description of structure and objectives of assistance program(s), including public health or negative economic impact experienced
- Brief description of how a recipient's response is related and reasonably and proportional to a public health or negative economic impact of COVID-19.

Capital Expenditures

- Does this project include a capital expenditure?
- Total expected capital expenditure, including pre-development costs, if applicable?
- Type of capital expenditure:
 - Answer: *Parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, streetlights, neighborhood cleanup, and other projects to revitalize public spaces.*

Household Assistance

- Number of households served (by program if recipient establishes multiple separate household assistance programs)

EXHIBIT E
SCHEDULE OF ASSURANCES

The New Jersey Department of Environmental Protection (“NJDEP”) will comply with the provisions of the following federal statutes, rules, and regulations in connection with the American Rescue Plan Act – Coronavirus State Fiscal Recovery Fund:

A. Federal regulations applicable include, without limitation, the following:

1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as U.S. Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by U.S. Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award. See <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>
2. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
3. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and U.S. Treasury’s implementing regulation at 31 C.F.R. Part 19.
5. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
6. Government-wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
7. New Restrictions on Lobbying, 31 C.F.R. Part 21.
8. Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021).
9. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

10. Generally applicable federal environmental laws and regulations.

B. Statutes and regulations prohibiting discrimination applicable include, without limitation, the following:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and U.S. Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance. The following language must be included in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignees shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the U.S. Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the U.S. Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

2. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.
3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
4. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and U.S. Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
5. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

C. Federal Labor Standards

1. The Contract Work Hours and Safety Standards Act (40 U.S.C. §3701 et seq.), requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts of \$100,000 or greater be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work-week;

2. The Federal Fair Labor Standards Act (29 U.S.C. 201 et seq.), requiring that covered nonexempt employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week;
3. The Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented in Department of Labor regulations (29 CFR 3), which requires payment of wages once a week and allows only permissible payroll deductions.

D. Other State and federal laws applicable include, but are not limited to, the following:

1. The New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56.25 et seq.), establishing a prevailing wage level for workers engaged in public works.
2. The Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
3. State of New Jersey Executive Order No. 215 (Kean 1989), requiring environmental assessments or environmental impact statements to the extent applicable for major construction projects.
4. (a) In accordance with 41 U.S.C. § 4712, NJDEP may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - (b) The list of persons and entities referenced in the paragraph above includes the following:
 - a. A member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Treasury employee responsible for contract or grant oversight or management;
 - e. An authorized official of the U.S. Department of Justice or other law enforcement agency;
 - f. A court or grand jury; or
 - g. A management official or other employee of DCA, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
 - (c) NJDEP shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
4. Contracting with Small, Minority-owned, Women-owned and Veteran-owned Businesses, and Labor Surplus Area Firms.

(a) NJDEP shall take all necessary affirmative steps to ensure contracting opportunities are provided to small, minority-owned, woman-owned, and veteran-owned businesses, and labor surplus area firms. As used in this contract, the terms “minority-owned business,” “women-owned business,” and “veteran-owned business” means a business that is at least fifty-one percent (51%) owned and controlled by minority group members, women or veterans. For purposes of this definition, “minority group members” are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. NJDEP may rely on written representations by businesses regarding their status as minority, women and veteran businesses in lieu of an independent investigation.

(b) Affirmative steps shall include:

- a. Placing qualified small and minority-, veteran- and women-owned businesses on solicitation lists;
- b. Ensuring that small and minority-, veteran- and women-owned businesses are solicited whenever they are potential sources for goods and/or services required in furtherance of the Agreement;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority-, veteran- and women-owned businesses;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority-, veteran- and women-owned businesses;
- e. Using the service and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subparagraphs (a) through (e) of this section.

E. Increasing Seat Belt Use in the United States.

1. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), NJDEP should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

F. Reducing Text Messaging When Driving

1. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), NJDEP should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and NJDEP should establish workplace safety policies to decrease accidents caused by distracted drivers.

G. Personally Identifiable Information

1. To the extent NJDEP receives personally identifiable information, it will comply with the Privacy Act of 1974 and U.S. Treasury rules and regulations related to the protection of personally identifiable information. The term “personally identifiable information” refers to information which can be used to distinguish or trace an individual’s identity, such as their

name, social security number, biometric records, etc., either alone or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. See 2 CFR 200.79. Subrecipients shall require all persons that have access to personally identifiable information (including subcontractors/subconsultants and their employees) to sign a Non-Disclosure Agreement.

H. Conflicts of Interest.

1. NJDEP must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded with CSFRF Funds.
2. NJDEP and any grantees or subrecipients must disclose in writing to U.S. Treasury or DCA, as appropriate, any potential conflict of interest affecting the CSFRF Funds in accordance with 2 C.F.R. § 200.112.

I. American Rescue Plan Act

1. Sections 602 and 603 of the Social Security Act, as added in Section 9901 of the American Rescue Plan Act (Pub. L. 117-2).
2. Implementing regulations adopted by U.S. Treasury pursuant to Section 602(f) of the Social Security Act, as added in Section 9901 of the American Rescue Plan Act (Pub. L. 117-2).

Attachment C

Reporting Period: March to June 2025

NOTE: all amounts entered in Current Period Obligation and Current Period Expended Amount should have supporting documentation provided with this report

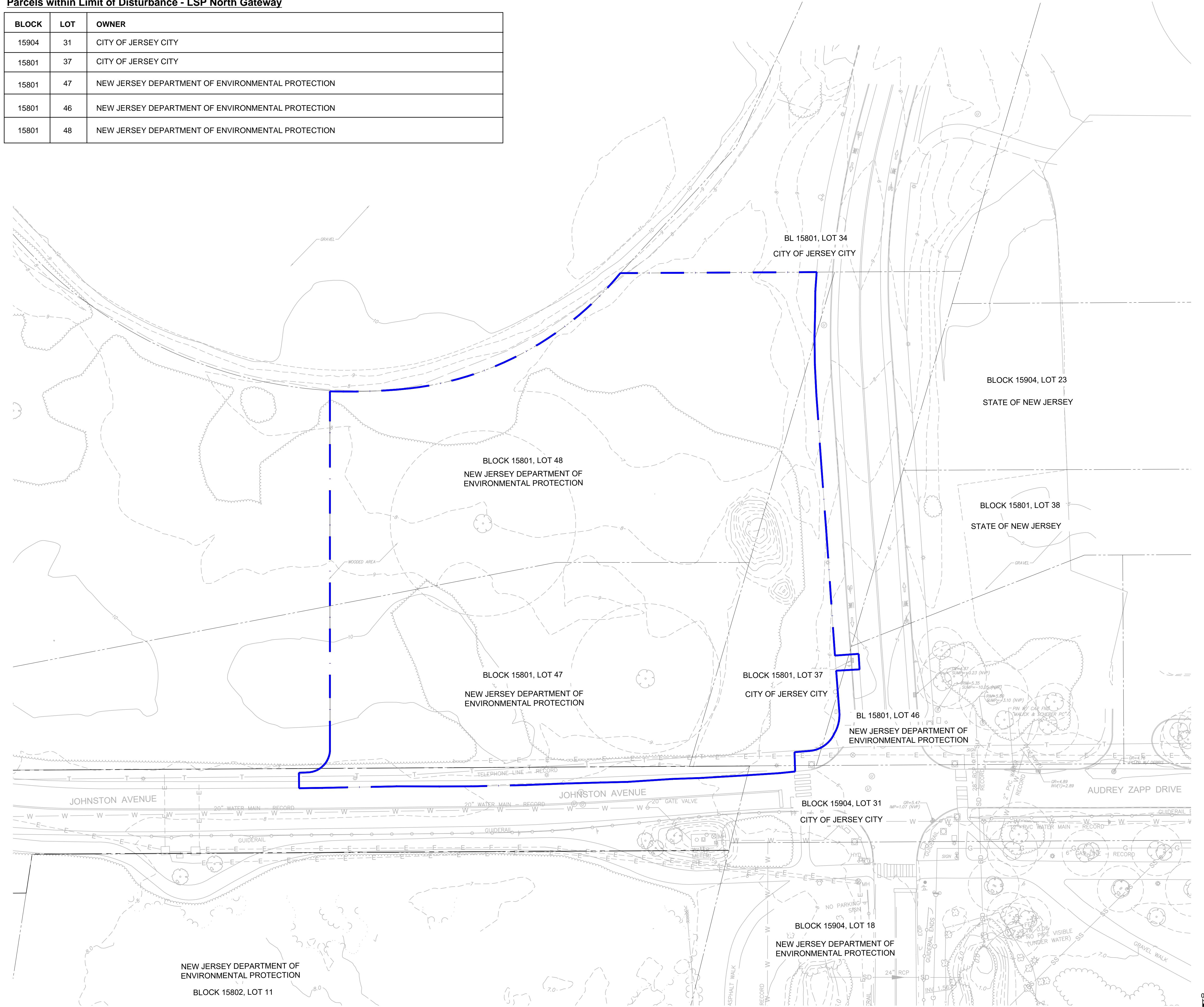
Contract Number (if applicable)	Payee	Current Period Obligation	Previously Reported Obligation	Cumulative Obligation	Current Period Expended Amount	Previously Reported Expended Amount	Cumulative Expended Amount	Transaction Classification (Direct or Admin)	Contract Type (if applicable)	Contract Date
1		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
2		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
3		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
4		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
5		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
6		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
7		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
8		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
9		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
10		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
11		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
12		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
13		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
14		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
15		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
16		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
17		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
18		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
19		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
20		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
21		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
22		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
23		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
24		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			

LSP-RP Planning

ATTACHMENT D		
Question	Q4 2024 Response	Q3 2024 Response
Describe your program's progress.	The following represents program activity from October 2024 through December 2024. Hosted an open house style community event at Park Elementary in Newark, updating the public on the project progress and seeking feedback. 200 people attended. Advanced planning through a 90 percent design that was submitted to construction management procurement partner, EDA, for review. Continued the procurement process and MOU revisions with EDA and NJT. This quarter, \$1,721,281.49 was expended on program related expenses.	The following represents program activity from July 2024 - September 2024. The program hosted a community activation of the space through non-profit partnership with a Newark organization, Operation Grow. A presentation of the Greenway Project was provided at the ANJEC Annual Congress. Advanced planning through detailed design. The program began the process of construction management procurement through project partners at the Economic Development Agency.
Describe your equity goals	The program aims to provide access to the site for all NJ Residents and non-NJ Residents of all backgrounds	The program aims to provide access to the site for all NJ Residents and non-NJ Residents of all backgrounds.
How do you plan to measure your equity goals?	To be determined.	To be determined.
How much progress have you made toward achieving your equity goals?	The project is in design and planning phase.	The project is in design and planning phase.
Provide details on any complaints the program has received on the grounds of race, color, national origin, and limited English proficiency covered by Title VI of the Civil Rights act of 1964.	Not aware of any Civil Rights complaints received.	Not aware of any Civil Rights complaints received.

Parcels within Limit of Disturbance - LSP North Gateway

BLOCK	LOT	OWNER
15904	31	CITY OF JERSEY CITY
15801	37	CITY OF JERSEY CITY
15801	47	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15801	46	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15801	48	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION



NJDEP Stamp

CLIENT
NJDEP
Trenton, NJ 08625
www.nj.gov



PROJECT MANAGEMENT, CIVIL & STRUCTURAL
ARUP
77 Water Street
New York, NY 10005
www.arup.com



LANDSCAPE ARCHITECT
WRT
123 S. Broad Street, Suite 1450
Philadelphia, PA 19109
www.wrtdesign.com



ARCHITECT
WXY
Architecture + Urban Design LLP
25 Park Pl, 5th Floor
New York, NY 10007
www.wxystudio.com



HISTORIC ARCHITECT
PAGE AYRES COWLEY
ARCHITECTURE
169 West 88 Street
New York, NY 10024
www.pac-arch.com



ECOLOGY
BIOHABITATS
195 Plymouth Street, Suite 4/20
Brooklyn, NY 11201
www.biohabitats.com



SPORTS DESIGN
VISION
Brooklyn, Massachusetts
www.visionsportsdesign.com



FOUNTAIN DESIGNER
FLUIDITY DESIGN
724 S. Spring Street, Suite 1401
Los Angeles, CA 90014
www.fluidity-design.com

NOT FOR CONSTRUCTION



Job Title
NJDEP
LIBERTY STATE PARK
REVITALIZATION PLAN -
NORTH PRIORITY PROJECTS

Drawing Title

GATEWAY - PARCELS &
EASEMENTS MAP

Job No.: 303461 Scale: 1" = 20'
Status: SCHEMATIC DESIGN
Drawn By: SH
Checked By: KS
Approved By: SM
Date: 5/5/2025
Drawing No.

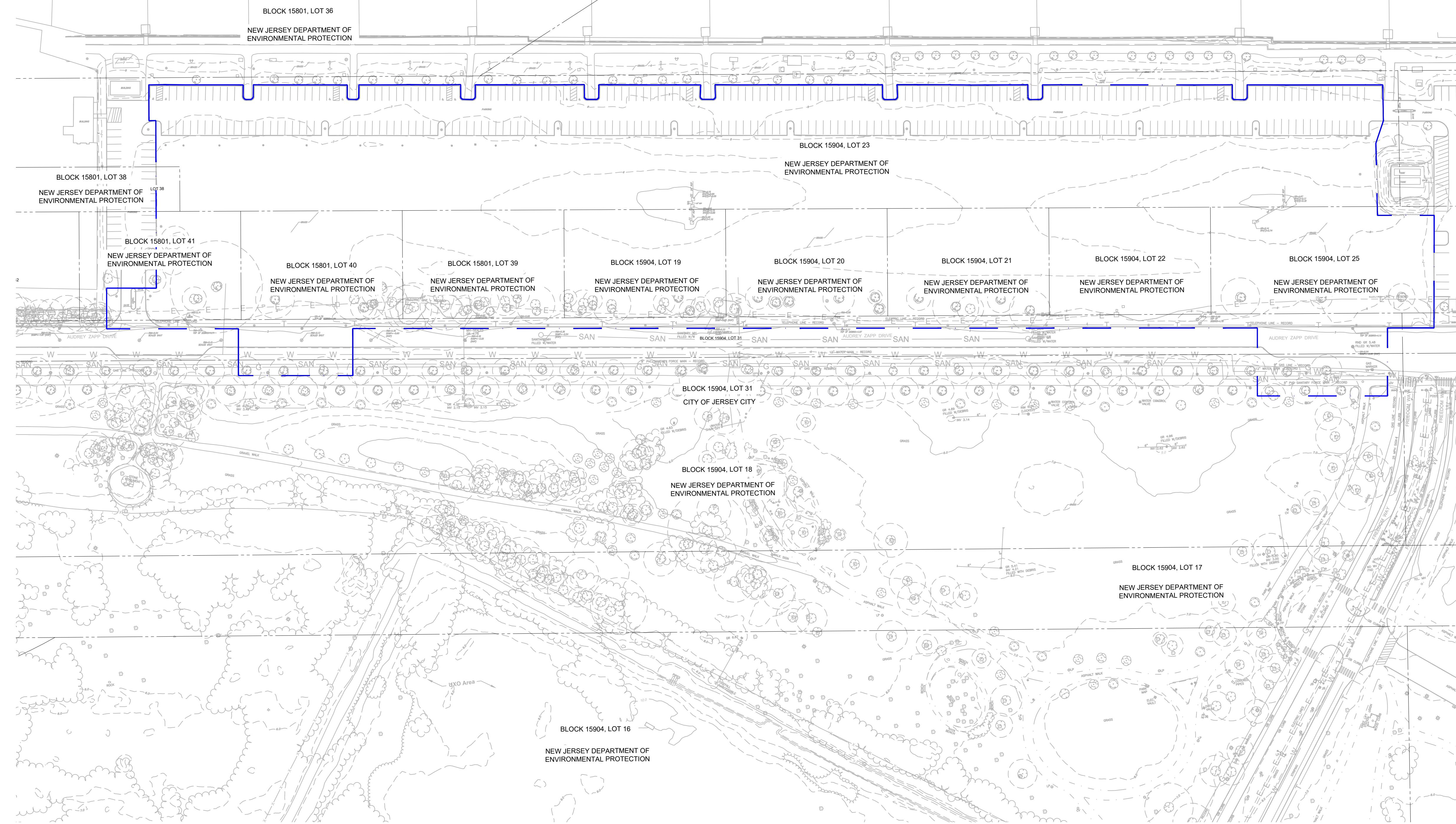
GW-V-201

File Name: LSP-ARUP-DR-GW-V-201.DWG

24x36

Parcels within Limit of Disturbance - LSP North Marina Green

BLOCK	LOT	OWNER
15801	38	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15801	39	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15801	40	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15801	41	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	18	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	19	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	20	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	21	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	22	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	23	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	25	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	30	CITY OF JERSEY CITY
15904	31	CITY OF JERSEY CITY



NJDEP Stamp

CLIENT
NJDEP
Trenton, NJ 08625
www.dep.nj.gov



PROJECT MANAGEMENT, CIVIL & STRUCTURAL
ARUP
77 Water Street
New York, NY 10005
www.arup.com



LANDSCAPE ARCHITECT
WRT
123 S. Broad Street, Suite 1450
Philadelphia, PA 19109
www.wrtdesign.com



ARCHITECT
WXY
Architecture + Urban Design LLP
25 Park Pl, 5th Floor
New York, NY 10007
www.wxystudio.com



HISTORIC ARCHITECT
PAGE AYRES COWLEY



ARCHITECTURE
169 West 88 Street
New York, NY 10024
www.pac-arch.com

ECOLOGY
BIOHABITATS



195 Plymouth Street, Suite 4/20
Brooklyn, NY 11201
www.biohabitats.com

SPORTS DESIGN



VISION
Brooklyn, Massachusetts
www.visionsportsdesign.com

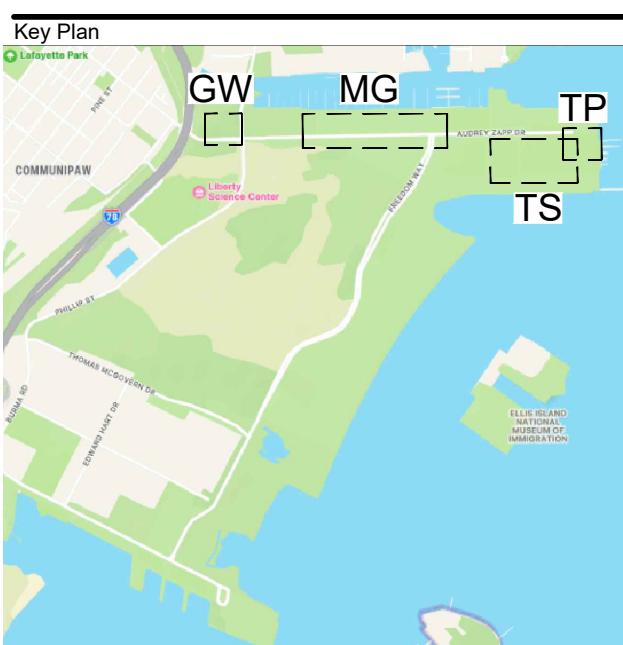
FOUNTAIN DESIGNER



FLUIDITY DESIGN

724 S. Spring Street, Suite 1401
Los Angeles, CA 90014
www.fluidity-design.com

NOT FOR CONSTRUCTION



Job Title
NJDEP
LIBERTY STATE PARK
REVITALIZATION PLAN -
NORTH PRIORITY PROJECTS

Drawing Title

MARINA GREEN - PARCELS
& EASEMENTS MAP

Job No: 303461 Scale: 1" = 70'
Status: SCHEMATIC DESIGN
Drawn By: SH
Checked By: KS
Approved By: SM
Date: 5/5/2025

Drawing No

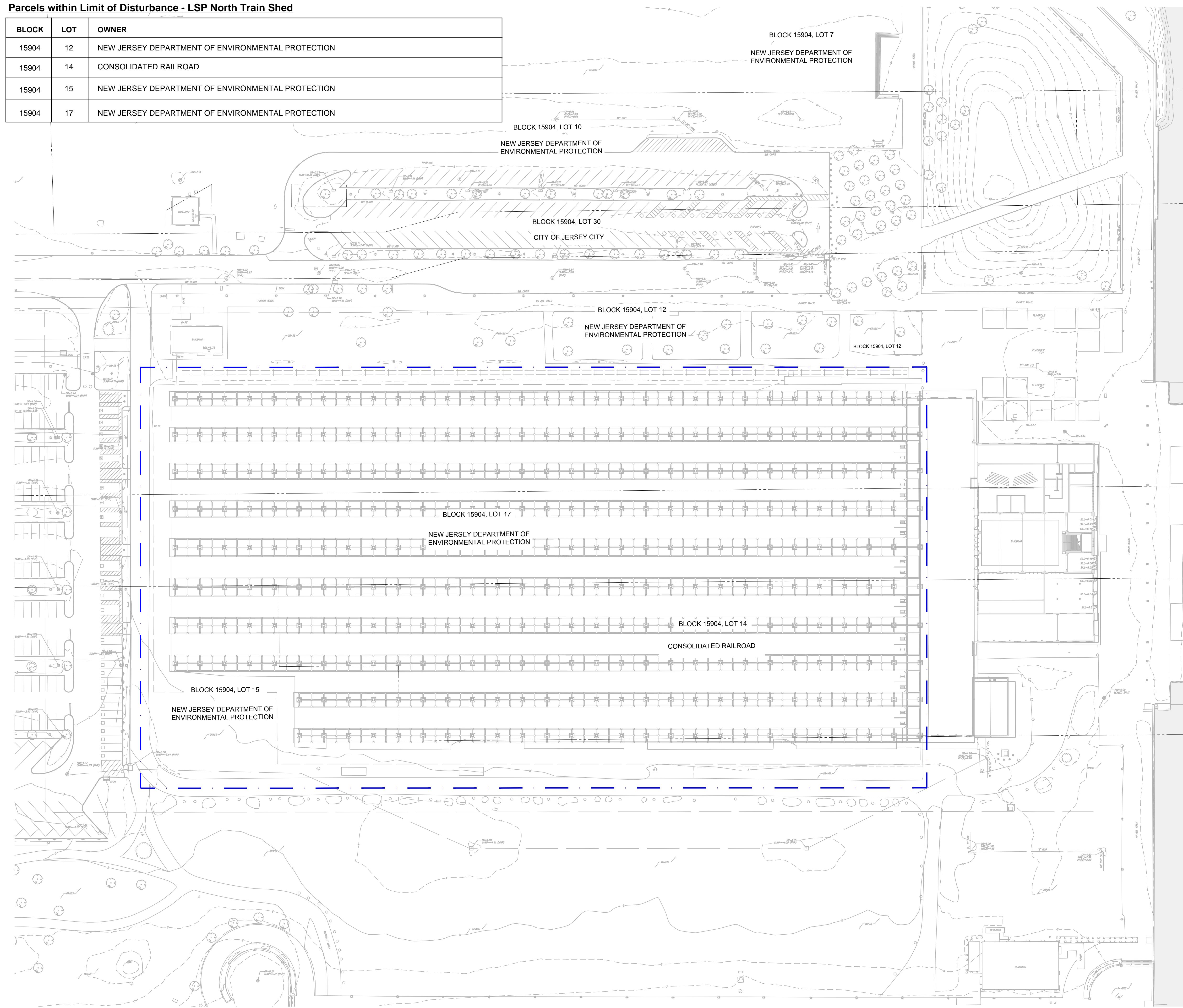
MG-V-201

File Name: LSP-ARUP-DR-MG-V-201.DWG

24x36

Parcels within Limit of Disturbance - LSP North Train Shed

BLOCK	LOT	OWNER
15904	12	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	14	CONSOLIDATED RAILROAD
15904	15	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
15904	17	NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION



PROPERTY BOUNDARY
LIMIT OF DISTURBANCE
0 50' 100'
SCALE: 1" = 50'
Drawing No: TS-V-201

NJDEP Stamp

CLIENT
NJDEP
Trenton, NJ 08625
www.dep.nj.gov



PROJECT MANAGEMENT, CIVIL & STRUCTURAL
ARUP
720 Avenue of the Americas
New York, NY 10005
www.arup.com



LANDSCAPE ARCHITECT
WRT
123 S. Broad Street, Suite 1450
Philadelphia, PA 19109
www.wrtdesign.com



ARCHITECT
WXY
Architecture + Urban Design LLP
25 Park Pl, 5th Floor
New York, NY 10007
www.wxystudio.com



HISTORIC ARCHITECT
PAGE AYRES COWLEY
ARCHITECTURE
169 West 88 Street
New York, NY 10024
www.pac-arch.com



ECOLOGY
BIOHABITATS
Hudson River Biohabitats
195 Plymouth Street, Suite 4/20
Brooklyn, NY 11201
www.biohabitats.com



SPORTS DESIGN
VISION
Brooklyn, Massachusetts
www.visionsportsdesign.com



FOUNTAIN DESIGNER
FLUIDITY DESIGN
724 S. Spring Street, Suite 1401
Los Angeles, CA 90014

NOT FOR CONSTRUCTION
Seal



Job Title: NJDEP LIBERTY STATE PARK REVITALIZATION PLAN - NORTH PRIORITY PROJECTS
Drawing Title:

TRAIN SHED - PARCELS & EASEMENTS MAP

Job No: 303461 Scale: 1"=20'
Status: SCHEMATIC DESIGN
Drawn By: SH
Checked By: KS
Approved By: SM
Date: 5/5/2025
Drawing No:

TS-V-201



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: **May 13th. 2025**

SUBJECT: Community Development Products
Delegated Authority Approvals Q1 2025
For Informational Purposes Only

Small Business Improvement Grant

The Small Business Improvement Grant is the second of several products under the Main Street Recovery Program, designed to help small businesses become more resilient and position themselves for growth. Funded with \$80 million, this product reimburses eligible small businesses and nonprofits for up to 50 percent of eligible project costs associated with building improvements or the purchase and/or installation of new furniture, fixtures, and equipment (FFE) made on or after March 9, 2020, but no more than two years prior to application. Businesses and nonprofits that receive grants through these programs are required to agree to pay employees going forward for the four-year grant term at least \$15 per hour or 120 percent of the minimum wage. Tipped employees are exempt from the \$15 per hour requirement but must still be paid at least 120 percent of the minimum wage. Applicants must also commit to remaining in the facility and meeting wage requirements for up to four years following the execution of the grant agreement and depending upon award amount. Awards greater than \$25,000 have a compliance period of four years and grant awards less than \$25,000 have a compliance period of two years. The maximum grant award is \$50,000 per business entity for the life of this program. Of the \$80 million allocated for the program, 40 percent is reserved for businesses located in Opportunity Zone eligible census tracts.

Small Business Improvement Grant – Q1 2025 Review

The online application opened in February 2022 and will continue to accept applications until funding is exhausted. During the fourth quarter of 2024, 162 applications were approved for a total of \$4.7 million. 36 files were declined during fourth quarter and 9 new appeals were filed. These new appeals are still under review. Overall, only 11 declines have been overturned out of 52 total appeals filed for this program.

To date, the Small Business Improvement grant has approved a total of 2405 applications in the amount of \$61M in total. See [NJEDA's Public Information site](#) for a detailed list of all Small Business Improvement Grant applications that were approved under delegated authority through the fourth quarter of 2024.

Small Business Improvement Grant Approvals Q1

Entity	Approval Date	Approved Amount	City	County	Eligible Opportunity Zone
THOMAS/UNITED, Inc.	12/11/2024	\$ 46,526.38	Egg Harbor	Atlantic County	Yes
Crespo Development LLC	10/8/2024	\$ 8,167.80	Galloway	Atlantic County	No
Twisted Family Pretzels LLC	11/21/2024	\$ 39,188.55	Allendale Borough	Bergen County	No
495 INDUSTRIAL ROAD, INC.	10/4/2024	\$ 50,000.00	Carlstadt Borough	Bergen County	No
Stankus JSM Incorporated	12/18/2024	\$ 8,265.00	Cliffside Park Borough	Bergen County	No
Fourrees LLC	12/27/2024	\$ 39,990.92	Closter Borough	Bergen County	No
HJ MUSIC CORP	12/26/2024	\$ 8,317.95	Edgewater Borough	Bergen County	No
A&A Donuts LLC	10/18/2024	\$ 50,000.00	Elmwood Park Borough	Bergen County	No
SC BERGER A LLC	10/25/2024	\$ 50,000.00	Elmwood Park Borough	Bergen County	No
Tropical Juice Bar 6 LLC	11/19/2024	\$ 50,000.00	Elmwood Park Borough	Bergen County	No
Bergen Brookside Towing Corp	11/20/2024	\$ 24,284.01	Emerson Borough	Bergen County	No
Rios, Oliver	12/10/2024	\$ 3,053.00	Fair Lawn Borough	Bergen County	No
IndigoKid Club Inc.	10/4/2024	\$ 16,987.50	Fair Lawn Borough	Bergen County	No
My Dentist Fair Lawn PA	10/4/2024	\$ 48,129.03	Fair Lawn Borough	Bergen County	No
HVH Industrial Solutions LLC	10/18/2024	\$ 49,693.22	Garfield City	Bergen County	Yes
Booth Movers, LTD.	11/8/2024	\$ 50,000.00	Moonachie	Bergen County	No
GALVANIC PRINTING & PLATE CO., INC.	10/31/2024	\$ 4,456.80	Moonachie	Bergen County	No
K. Flowers & Design, LLC	12/12/2024	\$ 11,167.00	Nonwood Borough	Bergen County	No
YESAN INC	10/31/2024	\$ 24,907.62	Palisades Park Borough	Bergen County	Yes
M U B HAIR LLC	12/2/2024	\$ 14,500.00	Palisades Park Borough	Bergen County	Yes
Curbside Confections, LLC	10/31/2024	\$ 50,000.00	Park Ridge Borough	Bergen County	No
JKM Childcare Corp	10/30/2024	\$ 50,000.00	River Vale	Bergen County	No
Rutherford Card & Gift, Inc.	11/21/2024	\$ 17,934.46	Rutherford Borough	Bergen County	No
Mikaylas Thriftique LLC	10/25/2024	\$ 22,441.75	Rutherford Borough	Bergen County	No
Cafe Demi LLC	10/4/2024	\$ 47,422.86	Teaneck	Bergen County	Yes
DK Food LLC	12/5/2024	\$ 20,426.10	Tenafly Borough	Bergen County	No
SEASONS NAILS LLC	12/16/2024	\$ 10,324.00	Waldwick Borough	Bergen County	No
A2Z Eyecare P.C.	12/3/2024	\$ 26,414.43	Waldwick Borough	Bergen County	No
The Torre Studios LLC	12/3/2024	\$ 8,694.61	Burlington City	Burlington County	No
Robin's Nest Bakery & Cafe, Inc.	12/12/2024	\$ 36,668.89	Mount Holly	Burlington County	Yes
Advanced Recovery Services, Inc.	12/31/2024	\$ 12,745.90	Pennsauken	Camden County	No
Crespella L.L.C.	12/5/2024	\$ 11,185.61	Stone Harbor Borough	Cape May County	No
Ocean Property Management Corporation	11/25/2024	\$ 18,254.17	Wildwood City	Cape May County	Yes
GREATER WILDWOOD CHAMBER OF COMMERCE, INC.	11/8/2024	\$ 50,000.00	Wildwood City	Cape May County	Yes
HALLCO, INC.	10/23/2024	\$ 37,338.50	Wildwood Crest Borough	Cape May County	Yes
George & I, Inc	12/2/2024	\$ 49,310.07	Wildwood Crest Borough	Cape May County	Yes
CARTA BRAVA ENTERPRISES, INCORPORATED	11/8/2024	\$ 3,765.14	Vineland	Cumberland County	Yes
Peer Praxis LLC	12/3/2024	\$ 6,440.05	Belleville	Essex County	No
New Beginnings for Tomorrow, Inc.	12/10/2024	\$ 22,390.00	Fairfield	Essex County	No
Hampton-Clarke, Inc.	10/18/2024	\$ 50,000.00	Fairfield	Essex County	No
CP Livingston LLC	12/9/2024	\$ 38,836.58	Livingston	Essex County	No
Invictus Livingston Inc	11/20/2024	\$ 19,506.48	Livingston	Essex County	No
Montclair Indoor Golf Club LLC	12/27/2024	\$ 50,000.00	Montclair	Essex County	No
ARTISBOND LLC	10/24/2024	\$ 19,659.84	Montclair	Essex County	No
Kairos Logistics LLC	12/3/2024	\$ 50,000.00	Roseland Borough	Essex County	No
Itheme Legacy LLC	10/18/2024	\$ 3,378.76	South Orange	Essex County	No
Living on Another Frequency, LLC	10/4/2024	\$ 6,005.23	South Orange	Essex County	No
First Mountain Schoolhouse, Inc.	11/8/2024	\$ 9,756.02	West Orange	Essex County	No
Giana's Produce LLC	10/25/2024	\$ 50,000.00	Wenonah Borough	Gloucester	No
Demountable Concepts, Inc.	11/8/2024	\$ 24,794.87	Glassboro	Gloucester County	No
Ciaccia CPA Professional Association	11/25/2024	\$ 16,009.97	Sewell	Gloucester County	No
Newwavedaycare LLC	10/31/2024	\$ 50,000.00	Bayonne	Hudson County	No
Standard Tile Jersey City Corp.	11/8/2024	\$ 6,404.75	Jersey City	Hudson County	Yes
Grove Street Dental Care PC	12/5/2024	\$ 40,947.37	Jersey City	Hudson County	No
Premiere Vibes Event Design Inc.	10/4/2024	\$ 30,998.00	Jersey City	Hudson County	Yes
Kanibal Home LLC	11/13/2024	\$ 3,875.00	Jersey City	Hudson County	No
Art House Productions, Inc.	12/19/2024	\$ 34,139.49	Jersey City	Hudson County	No
True Dental Care for Kids and Adults LLC	12/9/2024	\$ 50,000.00	Jersey City	Hudson County	No
DeBenedictis and Testa, D.P.M., P.A.	10/4/2024	\$ 7,103.69	Union	Hudson County	Yes
J DENTAL LOUNGE CORP	10/31/2024	\$ 13,708.66	Union	Hudson County	Yes
Lisa Naples Clay Studio	10/18/2024	\$ 11,042.67	Frenchtown Borough	Hunterdon County	No
Odd Volumes Mercantile LLC	12/6/2024	\$ 24,623.66	Frenchtown Borough	Hunterdon County	No
De Amicis Hospitality Group Inc.	12/11/2024	\$ 50,000.00	Stockton Borough	Hunterdon County	No
Zebra Logistics Inc	10/31/2024	\$ 50,000.00	Cranbury	Mercer County	No
Muller Customs Limited Liability Company	10/18/2024	\$ 49,500.00	Ewing	Mercer County	No
The Venue by P	10/17/2024	\$ 14,444.57	Hamilton	Mercer County	Yes
PressTDesigns LLC	12/5/2024	\$ 6,259.60	Lawrenceville	Mercer County	No
The Beauty Bar Design Studio LLC	10/31/2024	\$ 5,239.20	Lawrenceville	Mercer County	No

Viva Ballroom Dance Studio LLC	10/25/2024	\$ 11,895.77	Lawrenceville	Mercer County	No
KJP & OJP LLC	10/18/2024	\$ 31,199.36	Lawrenceville	Mercer County	No
JEWISH FAMILY & CHILDREN'S SERVICE OF GREATER MERCER COUNTY INC	10/25/2024	\$ 6,362.45	Princeton Junction	Mercer County	No
APPRISE Incorporated	11/20/2024	\$ 14,189.71	Princeton North	Mercer County	No
Taft Communications, LLC	11/21/2024	\$ 49,533.86	Trenton	Mercer County	Yes
SUPERIOR SWEETS LLC	11/15/2024	\$ 23,358.89	Trenton	Mercer County	Yes
Ahaansh LLC	10/30/2024	\$ 49,725.80	West Windsor	Mercer County	No
Rakoty LLC	12/3/2024	\$ 17,585.88	East Brunswick	Middlesex County	No
DLR HOLDINGS LLC	12/19/2024	\$ 4,770.75	East Brunswick	Middlesex County	No
MetaBrandLLC	12/2/2024	\$ 50,000.00	Edison	Middlesex County	No
BRC Electrical Contractors Inc.	12/3/2024	\$ 50,000.00	Green Brook	Middlesex County	No
Kastle at Kendall Park LLC	11/27/2024	\$ 18,736.50	Kendall Park	Middlesex County	No
Andrea Carpio LLC	11/21/2024	\$ 23,030.65	Metuchen Borough	Middlesex County	No
JEMS Fitness Inc.	11/21/2024	\$ 50,000.00	Metuchen Borough	Middlesex County	No
FUSION 2-GO LLC	11/25/2024	\$ 6,510.77	New Brunswick	Middlesex County	Yes
SparQ Dental Perth Amboy Inc	10/23/2024	\$ 49,831.04	Perth Amboy	Middlesex County	Yes
St. Anthony of Padua Catholic Parish A NJ Nonprofit Corporation	10/23/2024	\$ 18,517.00	Port Reading	Middlesex County	No
Grunes Holdings, LLC	11/7/2024	\$ 5,783.80	South Amboy City	Middlesex County	No
Mama Uji Cakes LLC	12/3/2024	\$ 50,000.00	South Plainfield Borough	Middlesex County	No
THE BEAUTY BOUTIQUE OFF MAIN LLC	12/26/2024	\$ 14,958.48	Woodbridge	Middlesex County	No
Appliance Brokers of Asbury Park, Inc.	12/2/2024	\$ 50,000.00	Asbury Park City	Monmouth County	Yes
Almost Home Red General LLC	10/23/2024	\$ 17,037.31	Atlantic Highlands Borough	Monmouth County	No
Ten Touch LLC	12/31/2024	\$ 4,766.99	Bradley Beach Borough	Monmouth County	No
Allaire Village Inc.	11/26/2024	\$ 24,420.00	Farmingdale Borough	Monmouth County	No
Certified Environmental Contractors, LLC	12/27/2024	\$ 28,642.86	Freehold	Monmouth County	No
SETS Freehold LLC	11/21/2024	\$ 13,411.20	Freehold	Monmouth County	No
Freehold Jersey Freeze Limited Liability Company	10/18/2024	\$ 15,309.29	Freehold	Monmouth County	No
ANNA M HUDAK, MSW, LCSW LLC	11/14/2024	\$ 5,331.25	Freehold	Monmouth County	No
NAPSCO LLC	12/19/2024	\$ 50,000.00	Howell	Monmouth County	No
Companion Care Animal Clinic LLC	12/3/2024	\$ 49,073.75	Marlboro	Monmouth County	No
Bece Homecare Services LLC	11/15/2024	\$ 37,348.65	Matawan Borough	Monmouth County	No
Mav's Top Buns LLC	10/31/2024	\$ 43,899.18	Middletown	Monmouth County	No
Adar Global LLC	11/27/2024	\$ 50,000.00	Ocean	Monmouth County	No
Yoga of Ocean Monmouth LLC	12/3/2024	\$ 50,000.00	Ocean	Monmouth County	No
Almost Home Bake Oceanport LLC	11/21/2024	\$ 50,000.00	Oceanport Borough	Monmouth County	No
Parker Family Health Center	11/8/2024	\$ 7,007.63	Red Bank Borough	Monmouth County	Yes
Dr. Todd Goldstein DDS LLC	12/11/2024	\$ 50,000.00	Red Bank Borough	Monmouth County	Yes
Pyour Core LS Inc	11/27/2024	\$ 44,581.54	Tinton Falls Borough	Monmouth County	No
Green Power Developers, LLC	11/14/2024	\$ 27,566.16	Wall	Monmouth County	No
VISION AUTO EFFECTS LLC	10/4/2024	\$ 9,523.66	Butler Borough	Morris County	No
Nemri Auto Sales LLC	12/9/2024	\$ 5,950.00	Dover Town	Morris County	Yes
JOHANNA JARAMILLO BOUTIQUE L.L.C.	12/10/2024	\$ 9,728.42	Dover Town	Morris County	Yes
Cultivate Skateboard Shop LLC	12/26/2024	\$ 4,274.37	Morristown	Morris County	No
Roxbury Arts Alliance, Inc.	11/14/2024	\$ 6,292.76	Succasunna-kenvil	Morris County	No
The Hopper LLC	10/28/2024	\$ 50,000.00	Whippany	Morris County	No
Queen Natalie Enterprise LLC	12/12/2024	\$ 49,131.77	Brick	Ocean County	No
Avalair Group	12/23/2024	\$ 45,365.29	Lakewood	Ocean County	Yes
Mosery Orthodontics PC	12/10/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
SRG Living INC.	11/21/2024	\$ 39,238.32	Lakewood	Ocean County	Yes
The Custom Shoppe Inc	12/19/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
Cedar Eats LLC	12/5/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
Little People Childcare, Inc.	10/23/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
Yeshiva Toras Menachem Inc.	10/30/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
The Greenbowl LLC	12/3/2024	\$ 36,287.93	Lakewood	Ocean County	Yes
Candy A Plenty LLC	11/21/2024	\$ 16,629.66	Lakewood	Ocean County	Yes
Lead Professionals Inc	10/31/2024	\$ 21,220.40	Lakewood	Ocean County	Yes
Frostwood Management LLC	11/25/2024	\$ 40,434.81	Lakewood	Ocean County	Yes
PREMIER PROPERTIES AND MANAGEMENT ASSOCIATES LLC	12/27/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
SIMCHAS KALLAH INC	11/14/2024	\$ 50,000.00	Lakewood	Ocean County	Yes
Locust Accessories LLC	10/18/2024	\$ 48,532.26	Lakewood	Ocean County	Yes
Little Dreamers Academy LLC	10/17/2024	\$ 6,719.87	Toms River	Ocean County	Yes
CHO N KIM ENTERPRISES INC	12/19/2024	\$ 20,123.43	Bloomingdale Borough	Passaic County	No
The Clifton Little School, Inc.	12/6/2024	\$ 9,000.00	Clifton	Passaic County	No
The World of Knowledge Learning Center LLC	11/13/2024	\$ 15,396.81	Clifton	Passaic County	No
Three Amigos Ventures LLC	12/2/2024	\$ 19,696.95	Hawthorne Borough	Passaic County	No
HEC Enterprises LLC	10/9/2024	\$ 20,840.59	Little Falls	Passaic County	No
Chem-Flotronics, Inc.	11/20/2024	\$ 33,045.88	Little Falls	Passaic County	No
MJ-Aqua L.L.C.	11/19/2024	\$ 20,596.02	North Haledon Borough	Passaic County	No
Kacy & Company INC.	12/3/2024	\$ 50,000.00	Passaic City	Passaic County	No

Specialized Home Health Care LLC	12/31/2024	\$ 50,000.00	Passaic City	Passaic County	Yes
MS AGENCY INC.	10/31/2024	\$ 44,757.07	Passaic City	Passaic County	No
RIVERSIDE REFORMED CHURCH	12/19/2024	\$ 28,250.00	Paterson	Passaic County	Yes
Tucanes Restaurant LLC	11/8/2024	\$ 4,937.17	Prospect Park Borough	Passaic County	Yes
Shakes and Cakes LLC	12/26/2024	\$ 34,670.43	West Milford	Passaic County	No
The Palace Laundromat LLC	11/25/2024	\$ 25,596.47	Woodland Park Boro	Passaic County	No
Beni Hanna Nishikigoi Limited Liability Company	12/26/2024	\$ 8,334.14	Carneys Point	Salem County	Yes
A Garden Party LLC	10/23/2024	\$ 43,600.58	Elmer Borough	Salem County	No
Jitter 'N' The Bug, Corporation	11/8/2024	\$ 50,000.00	Pennsville	Salem County	Yes
BANASIAK & NETTUNE ORTHODONTIC ASSOCIATES, P.A.	12/20/2024	\$ 50,000.00	Basking Ridge	Somerset County	No
ANDAAZ CATERERS LLC	10/18/2024	\$ 50,000.00	Franklin	Somerset County	No
Media X Marketing LLC	10/24/2024	\$ 33,444.68	Somerville Borough	Somerset County	No
40 W Somerville LLC	10/18/2024	\$ 31,177.10	Somerville Borough	Somerset County	No
24 KARATE DESIGNS, LLC	12/10/2024	\$ 3,934.48	Hampton	Sussex County	No
Skylands Legal LLC	11/8/2024	\$ 9,703.94	Sparta	Sussex County	No
ZAK Services Group III LLC	12/2/2024	\$ 50,000.00	Elizabeth	Union County	Yes
BAO DUMPLINGS OF KENILWORTH LLC	10/31/2024	\$ 50,000.00	Kenilworth Borough	Union County	No
Chip and Birdie's Group, Inc.	11/12/2024	\$ 50,000.00	Mountainside Borough	Union County	No
Luxury Nail & Spa Woodcliff Lake LLC	10/18/2024	\$ 23,700.00	Scotch Plains	Union County	No
Night Sky Technologies LLC	12/4/2024	\$ 25,783.27	Summit City	Union County	No
Mii Salon LLC	11/8/2024	\$ 42,422.67	Summit City	Union County	No
Elite Kyokushin Budo Karate LLC	12/13/2024	\$ 4,910.67	Union	Union County	No
WESTFIELD ARTS COLLECTIVE INC.	12/9/2024	\$ 12,398.39	Westfield Town	Union County	No
JD & KD Warren Multi Service LLC	10/4/2024	\$ 6,944.08	Brass Castle	Warren County	No
Classic Workshop LLC	10/25/2024	\$ 50,000.00	Mansfield	Warren County	No
TOTAL 162		\$ 4,762,606.59			

Small Business Lease Grant

The Small Business Lease Grant supports the growth and success of small businesses and nonprofits by providing grant funding to cover a portion of lease payments. These resources help the establishment and growth of small businesses, while also helping to fill space that is currently vacant and preventing future vacancies. The Small Business Lease Grant is funded through the Main Street Recovery Finance Program (NJ Economic Recovery Act). Of the \$26 million allocated for the program, 40 percent is reserved for businesses located in Opportunity Zone eligible census tracts.

To qualify for the Small Business Lease Grant Program, businesses and nonprofits must enter a new lease, lease amendment, or lease extension that includes at least 250 square feet of street-level office, commercial, or retail space. The lease must have been executed within 12 months prior to the application and applicants must also commit to remaining in the leased space for at least five years. Businesses and nonprofits that receive grants through these programs are required to agree to pay employees going forward for the five-year grant term at least \$15 per hour or 120 percent of the minimum wage. Tipped employees are exempt from the \$15 per hour requirement but must still be paid at least 120 percent of the minimum wage.

Small Business Lease Grant – Q1 2025 Review

The online application opened in October 2021 and will continue to accept applications until funding is exhausted. During the fourth quarter, 65 applications were approved for a total of \$1.8 million. 70 files were declined and 25 new appeals were filed. These new appeals are still under review with the legal department. Overall, only 34 declines have been overturned out of 398 total appeals filed for this program.

To date, the Small Business Lease Grant has approved 682 applications in the amount of \$17.3M in total. See [NJEDA's Public Information site](#) for a detailed list of all Small Business Lease Grant applications that were approved under delegated authority through the fourth quarter of 2024.

Small Business Lease Grant Approvals Q1 2025

Entity	Approval Date	Approved Amount	City	County	Eligible Opportunity Zone
B Q NAIL SPA LLC	12/6/2024	\$ 9,080.00	Hammonton Town	Atlantic	No
ROOROO LLC	12/26/2024	\$ 12,103.00	Fair Lawn Borough	Bergen	No
First Street Smiles P.C.	10/18/2024	\$ 15,820.00	Hackensack City	Bergen	Yes
TAK9 CLUB LLC	11/21/2024	\$ 29,904.00	Palisades Park Borough	Bergen	Yes
Haus Cafe II llc	11/7/2024	\$ 17,143.66	Ridgewood Village	Bergen	No
Dogleg Golf LLC	12/19/2024	\$ 31,815.24	Cinnaminson	Burlington	No
Heymann, Manders, Green & Sommer, LLC	10/18/2024	\$ 96,843.09	Marlton	Burlington	No
Smith Family Fitness Inc	11/19/2024	\$ 34,728.84	Blackwood	Camden	No
Hackett Ventures Inc	11/8/2024	\$ 17,664.80	Laurel Springs Borough	Camden	No
Babbie Pediatric Dental	10/18/2024	\$ 16,285.75	Vineland	Cumberland	Yes
Splash N Imaginations Learning Center LLC	10/4/2024	\$ 17,102.40	Belleville	Essex	Yes
NEW STYLE UNISEX LIMITED LIABILITY COMPANY	11/21/2024	\$ 8,640.00	Caldwell Borough	Essex	No
Lirra Corporation	11/7/2024	\$ 18,849.60	Livingston	Essex	No
NuYou Define Studio LLC	11/7/2024	\$ 8,880.00	Montclair	Essex	No
Yolanda Alonzo's L.O.V.E., Inc.	10/30/2024	\$ 10,620.00	Newark	Essex	Yes
BB Wellness Group LLC	12/6/2024	\$ 21,648.00	Orange	Essex	Yes
Interfaith Food Pantry of the Oranges, Inc.	10/18/2024	\$ 27,666.76	Orange	Essex	Yes
Seeds of Love Yoga Inc	11/27/2024	\$ 15,924.81	Glassboro	Gloucester	No
Ciaccia CPA Professional Association	10/18/2024	\$ 20,400.00	Sewell	Gloucester	No
Cheeky Sandwiches WNY LLC	12/26/2024	\$ 12,135.87	Jersey City	Hudson	Yes
Fasttrack-Languages LLC	12/6/2024	\$ 20,952.00	Jersey City	Hudson	No
MMFB LLC	10/4/2024	\$ 19,680.00	Jersey City	Hudson	Yes
Tutu School Hoboken	10/30/2024	\$ 10,660.00	Jersey City	Hudson	Yes
Paintpourri - Hunterdon llc	10/18/2024	\$ 44,732.03	Whitehouse	Hunterdon	No
COURT APPOINTED SPECIAL ADVOCATES OF MIDDLESEX COUNTY	10/4/2024	\$ 14,590.58	East Brunswick	Middlesex	No
North Star Family Autism Center, LLC	11/7/2024	\$ 13,388.46	Edison	Middlesex	No
Andrea Carpio LLC	11/7/2024	\$ 8,199.00	Metuchen Borough	Middlesex	No
Los 4 Hermanos Deli & Mexican Restaurant LLC	11/20/2024	\$ 12,300.00	North Brunswick Township	Middlesex	No
Piscataway Martial Arts, LLC	11/7/2024	\$ 13,160.00	Piscataway	Middlesex	No
OGC Enterprises, LLC	11/7/2024	\$ 15,678.83	South Plainfield Borough	Middlesex	No
Glamour Threading Salon	11/7/2024	\$ 10,576.80	Woodbridge	Middlesex	No
Griffys Organics LLC	11/7/2024	\$ 13,889.91	Asbury Park City	Monmouth	Yes
Certified Environmental Contractors, LLC	11/7/2024	\$ 14,020.02	Freehold	Monmouth	No
Hat Trick Graphics Inc.	11/20/2024	\$ 13,159.29	Freehold	Monmouth	No
N K Originals, LTD.	11/20/2024	\$ 11,880.00	Long Valley	Monmouth	Yes
Vitaecura Barbae & Spa LLC	11/7/2024	\$ 14,144.00	Manalapan	Monmouth	No
Avrix LTD	11/19/2024	\$ 60,112.96	Manasquan Borough	Monmouth	No
JADA Solutions LLC	11/21/2024	\$ 113,872.14	Ocean	Monmouth	No
SunRay Scientific Inc.	11/7/2024	\$ 79,419.19	Wall	Monmouth	No
Jersey Girl Artisan LLC	10/30/2024	\$ 14,994.00	East Hanover	Morris	No
Mamas Play, LLC	12/12/2024	\$ 23,324.40	Roxbury	Morris	No
Distinguished Whippany, Inc.	11/7/2024	\$ 25,766.53	Whippany	Morris	No
SERENITY DAY HABILITATION	12/19/2024	\$ 43,893.24	Brick	Ocean	No
Petals & Chic LLC	10/4/2024	\$ 11,885.46	Jackson	Ocean	No
Powerhouse Electric and Security LLC	11/1/2024	\$ 12,210.00	Jackson	Ocean	No
TSC Group LLC	10/30/2024	\$ 68,939.22	Lakewood	Ocean	Yes
NJ Rising Stars INC.	12/6/2024	\$ 74,721.94	Lakewood	Ocean	Yes
MDMaxx LLC	12/26/2024	\$ 54,568.71	Lakewood	Ocean	Yes
All Set Party Rentals LLC	10/30/2024	\$ 47,197.46	Lakewood	Ocean	Yes
Deco Tiles LLC	11/20/2024	\$ 51,613.76	Lakewood	Ocean	Yes
TVH Warehousing & Fulfillment LLC	10/4/2024	\$ 60,644.07	Lakewood	Ocean	Yes
Panrax Group Limited Liability Company	10/2/2024	\$ 73,171.31	Lakewood	Ocean	Yes
STYLE AND TREND TR LLC	10/30/2024	\$ 32,990.39	Toms River	Ocean	No
The Enchanted Petal LLC	11/7/2024	\$ 7,200.00	Clifton	Passaic	No
Early Dreamers Academy LLC	10/25/2024	\$ 31,668.00	Paterson	Passaic	Yes
Scream Truck LLC	10/31/2024	\$ 33,429.39	Woodland Park Boro	Passaic	No
Aaditri Inc.	10/25/2024	\$ 54,221.00	Hillsborough	Somerset	No
H.N. International Group, Inc	10/30/2024	\$ 56,732.50	Somerset	Somerset	No
Empower Somerset, Inc.	12/12/2024	\$ 26,400.00	Somerville Borough	Somerset	Yes
Greater Elizabeth Chamber of Commerce Inc.	12/26/2024	\$ 16,800.00	Elizabeth	Union	Yes
Seablue Of Linden	10/18/2024	\$ 7,055.69	Linden City	Union	No
Stunning Aesthetics Spa LLC	11/21/2024	\$ 22,032.00	Union	Union	No
Peruvian Flavors Restaurant, LLC	10/30/2024	\$ 26,902.00	Union	Union	No
DREAMER'S NAIL LLC	11/7/2024	\$ 19,771.20	Westfield Town	Union	No
Classic Workshop LLC	10/30/2024	\$ 35,232.00	Mansfield	Warren	No
		\$ 1,881,035.30			

Small Business E-Commerce Support Program

The Small Business E-Commerce Support Program is a \$4 million pilot program funded by the Main Street Recovery Finance Program. The program offers up to \$11,400 in consulting services to eligible restaurants,

retailers, and personal care businesses to assist with the development of websites, e-commerce platforms, and digital marketing plans. To be eligible, a restaurant, retail store, or personal care business must be in a commercial location with a physical storefront and meet the U.S. Small Business Administration's (SBA) definition of a small business. Business type will be verified by NAICS Code, location will be verified via Google maps search results, business registration and good standing will be confirmed by required submission of a NJ Division of Taxation current tax clearance certificate and small business status will be verified using the SBA Table of Small Business Size Standards. Services small businesses can receive include web page design and development, online ordering implementation, online appointment booking implementation, e-commerce design and development, and online marketing plan development. Restaurants and personal care businesses can receive up to \$11,400 in consulting services, while retail stores can receive up to \$10,800.

Small Business E-Commerce Support Program – Q1 2025 Review

The online application opened in March 2023 and will continue to accept applications until funding is exhausted. During the fourth quarter of 2024, 2 entities were approved for assistance totaling \$18,540.

To date, the Small Business E-Commerce Support Program has approved 453 applications for a total of \$3.6M. See [NJEDA's Public Information website](#) for a detailed list of all Small Business E-Commerce Support applications that were approved under delegated authority through the fourth quarter of 2024.

Small Business E-Commerce Support Program Q1 2025

Applicant Entity	Approval Date	Assistance Amount	City	County	Qualified Opportunity Zone
Rujack, Inc. (Classic Cleaners)	10/8/2024	\$9,270.00	Kearney	Hudson	N
Maplewood Cowork LLC	10/10/2024	\$9,270.00	Maplewood	Essex	Y

Emerging Developers Grant Program

The Emerging Developers Grant a \$20 million pilot program funded by the FY23 Appropriations Act (P.L 2022, c.49) which has been deposited into the Economic Recovery Fund (“ERF”) to award grants of up to \$250,000 to assist small-scale developers with up to 50% of their pre-development soft costs.

Emerging Developers Grant Program- Q1 2025 Review

The online application opened on June 24th 2024 and closed on November 15th 2024. During the fourth quarter of 2024, 29 applications were approved for a total of \$5.9 million. Three files were declined during the fourth quarter and no new appeals were filed.

To date, the Emerging Developers grant has approved a total of 30 applications in the amount of \$6.2M in total.

Emerging Developers Grant Program Q1 2025

Entity	Approval Date	Approved Amount	City	County
MPMB Developers LLC	11/7/2024	\$ 123,292.30	Atlantic City	Atlantic
Fire Office Park Holdings LLC	11/18/2024	\$ 250,000.00	Egg Harbor	Atlantic
ANCDI Group	10/23/2024	\$ 55,250.00	Mount Holly	Burlington
The Domo Urban Renewal LLC	10/24/2024	\$ 200,000.00		Burlington
Visionstream LLC	11/7/2024	\$ 200,000.00	Blackwood	Camden
Parkway Eye Care Center	12/2/2024	\$ 200,000.00	East Brunswick	Essex
MCI Property Management, LLC	10/22/2024	\$ 250,000.00	Irvington	Essex
Beacon Development Partners	12/2/2024	\$ 200,000.00	Newark	Essex
S.A.T. Urban Renewal Entity LLC	10/23/2024	\$ 189,000.00	Newark	Essex
Detail Oriented Contracting LLC	10/25/2024	\$ 250,000.00	Newark	Essex
NEW HOPE MEMORIAL COMMUNITY DEVELOPMENT CORPORATION, INC	10/23/2024	\$ 200,000.00	Newark	Essex
Vision Investment Group LLC	10/22/2024	\$ 150,000.00	Newark	Essex
211-217 Broadway, LLC	11/18/2024	\$ 200,000.00	Bayonne	Hudson
NUIC City Living LLC	10/22/2024	\$ 200,000.00	Jersey City	Hudson
Crawford Customs LLC	10/24/2024	\$ 250,000.00	Trenton	Mercer
739 GREENWOOD AVE HOLDINGS LLC	10/23/2024	\$ 250,000.00	Trenton	Mercer
Trenton Falls LLC	10/23/2024	\$ 250,000.00	Trenton	Mercer
Greater Mount Zion Community Development Corporation	10/22/2024	\$ 250,000.00	Trenton	Mercer
Sababu Capital LLC	10/23/2024	\$ 250,000.00	Trenton	Mercer
405-415 North Avenue Urban Renewal LLC	12/9/2024	\$ 200,000.00	Dunellen Borough	Middlesex
Hamilton Street Development LLC	10/23/2024	\$ 250,000.00	South River Borough	Middlesex
Amboy Kastle LLC	12/2/2024	\$ 200,000.00	Woodbridge	Middlesex
500 blvd urban renewal llc	12/9/2024	\$ 250,000.00	Lakewood	Ocean
R26MSE922B LLC	10/23/2024	\$ 250,000.00	Lakewood	Ocean
Prestige Real Estate Sales LLC	10/22/2024	\$ 250,000.00	Clifton	Passaic
Eramo Homes, LLC	10/23/2024	\$ 98,000.00	Passaic City	Passaic
140 E 7th St Urban Renewal, LLC	12/9/2024	\$ 200,000.00	Plainfield	Union
187-191 North Avenue Urban Renewal, LLC	11/12/2024	\$ 250,000.00	Plainfield	Union
159 Hudson St LLC	10/24/2024	\$ 85,115.51	Phillipsburg Town	Warren
TOTAL 29		\$ 5,950,657.81		



Tim Sullivan, CEO

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Economic Security Products
Delegated Authority Approvals, Declinations, and Other Actions in Q1 2025
For Informational Purposes Only

Child Care Facilities Improvement Pilot Program – Phase 1

The Child Care Facilities Improvement Program – Phase 1 provides grants for total project costs between \$50,000 and \$200,000 to licensed child care providers to make improvements to their child care facility. Phase 1 was approved by the NJEDA Board in May 2022. The program provides funding to businesses—including many minority- and women-owned businesses and those in Opportunity Zone eligible census tracts—that otherwise may not have access to resources to fund facility improvements. It also targets resources to communities of greater need due to historic disinvestment, through a 40% set-aside for providers located in Opportunity Zones and includes the requirement that providers serve low-income children receiving child care assistance subsidies.

Child Care Facilities Improvement Pilot Program – Phase 1 – Q1 2025 Review

The online application for Phase 1 opened in November 2022 and closed on October 20, 2023, with a total of 749 applications submitted requesting a total of \$151 million (including a 15% reserve for cost overruns). The 749 child care centers that applied enroll more than 60,000 children and employ more than 15,000 staff, across all 21 counties in New Jersey. In Q1 2025, 114 applications were approved, for a total of \$23,874,249.75 (including a 15% reserve for cost overruns). These 114 child care centers serve 9,023 children and employ 2,401 staff. Also in Q1 2025, 0 applications were declined for non-discretionary reasons.

See Appendix A for a detailed list of all Child Care Facilities Improvement Program – Phase 1 applications that were approved under delegated authority in Q1 2025.

Child Care Facilities Improvement Pilot Program – Phase 2

The Child Care Facilities Improvement Program – Phase 2 provides grants of between \$10,000 and \$20,000 to registered family child care providers (FCCs) to purchase furniture, fixtures, and equipment that will contribute to Health, Safety and Accessibility and/or High Quality Learning Environments. Phase 2 was approved by the NJEDA Board in February 2024. The \$5 million program is supported by State funding and provides funding to businesses—including many minority- and women-owned businesses and those in Opportunity Zone eligible census tracts—that otherwise may not have access to resources to fund facility improvements. It also targets resources to communities of greater need due to historic disinvestment, through a 40% set-aside for providers located in Opportunity Zones and includes the requirement that providers serve low-income children receiving child care assistance subsidies.

Child Care Facilities Improvement Pilot Program – Phase 2 – 2024 Review

The online application for Phase 2 opened in September 2024. In Q1 2025, a total of 31 applications were submitted for this program, requesting a total of \$464,955.57. The 31 FCCs that applied enroll 398 children and employ 128 staff, across 11 counties in New Jersey. In Q1 2025, 19 applications have been approved, for a total of \$320,996.38. These 19 FCCs serve 105 children and employ 44 staff. Also in Q1 2025, 5 applications were declined for non-discretionary reasons. Staff are continuing to review the applications that have been submitted, and the application remains open for new submissions.

See Appendix B for a detailed list of all Child Care Facilities Improvement Program – Phase 2 applications that were approved under delegated authority in Q1 2025.

Appendix A: Approved Grant Awards in Child Care Facilities Improvement Program – Phase 1

Grantee	Award Amount (Including 15% Reserve for Cost Overruns)
Village Babies Development Center, LLC	\$227,060.32
The Promissory LLC	\$229,909.15
Tots & Blocks School LLC	\$229,749.08
Sunbeam Christian Child Care Center LLC	\$229,997.25
Sri Siva Sai LLC.	\$229,925.23
Denville Kids LLC	\$223,441.91
Ainsworth Family LLC	\$227,700.00
Islamic Educational Foundation of New Jersey Inc.	\$230,000.00
Little Genius Academy of Metuchen Inc	\$230,000.00
West Side United Methodist Church, Hopatcong, New Jersey	\$181,677.29
Fisherman's Mark	\$207,074.75
Busy Place Early Learning Center, Inc.	\$143,589.78
The Apple Tree Child Development Center of NJ Corporation	\$230,000.00
JLM&M Enterprises	\$229,552.65
Blue Skies Day Care, LLC	\$229,909.15
The Memorial Day Nursery of Paterson, Inc.	\$64,515.00
Busy Bees Learning International, Inc.	\$230,000.00
Berkeley Heights YMCA LLC	\$228,857.48
First Class Learning & Development Center Inc.	\$229,690.19
United Cerebral Palsy of Hudson County, Inc., New Jersey	\$225,471.07
PM Sunshine Academy LLC	\$203,361.58
International Church of the Foursquare Gospel	\$188,789.51
Better Beginnings Day Care Center of East Windsor/Hightstown, Inc.	\$163,357.50
Verona Ave Day Care Center Inc.	\$228,238.20
Holy Trinity Greek Orthodox Church	\$228,786.75
Am-Tree Developmental Nursery School, Inc.	\$229,942.50
CUMBERLAND CAPE ATLANTIC YOUNG MEN'S CHRISTIAN ASSOCIATION OF NEW JERSEY	\$228,958.10
New Friends Childcare and Preschool, Inc.	\$225,902.58
Bright Horizons Children's Centers LLC	\$225,243.29
New Life Dream Academy A NJ Nonprofit Corporation	\$154,119.72
Steps To Success VII LLC	\$229,909.15
Bright Horizons Children's Centers LLC	\$161,696.68
Academy House Child Development Center LLC	\$173,650.00
Little Genius Daycare & Learning Center LLC	\$196,233.31
Millville Day Care Center Corp.	\$230,000.00
Noah's Ark of Highland Park LLC	\$229,790.90
Square One Day Care LLC	\$153,374.90
Rabbinical College of America	\$230,000.00
Stars of Hope Day Care Inc	\$109,758.16

Sunshine Hill Academy, LLC	\$229,437.27
Learn Play and Grow LLC	\$185,794.72
Park Methodist Church of Bloomfield NJ	\$195,988.75
Susana's Daycare Center Inc	\$229,952.75
Congregation Agudath Israel of West Essex	\$230,000.00
Raritan Valley Young Men's Christian Association, A New Jersey Non-Profit Corporation	\$229,758.50
Bogart Memorial Reformed Church of Bogota, Bergen County, New Jersey	\$150,428.43
VWMS Educational Enterprises LLC	\$226,074.25
King's Kyds Academy LLC	\$227,258.40
Collegiate School Passaic, New Jersey A NJ Nonprofit Corporation	\$135,700.00
Little Meadow LLC	\$229,411.04
Growing Seeds Learning Academy Somerset 2 LLC	\$229,306.73
Spotswood Reformed Church Pixie Preschool A NJ Nonprofit Corporation	\$229,279.59
MY ANGEL'S PLAYHOUSE	\$229,815.49
J-Cubed Enrichment, LLC	\$199,729.24
Acorn Academy LLC	\$129,339.88
Jafry Enterprises LLC	\$225,728.36
ELISAL Early Child Development LLC	\$229,998.24
Child Care Solutions, Inc.	\$225,752.79
Creative KidKare Limited Liability Company	\$226,481.00
Zadie's Nurturing Den Inc	\$225,800.20
DAS Education Inc	\$218,543.84
Gilmore Memorial Preschool	\$230,000.00
Browns Mills United Methodist Church A NJ Nonprofit Corporation	\$137,051.25
Somerset Hills Lutheran Church	\$225,984.48
The Rutherford Schoolhouse LLC	\$228,536.05
RA Clifton Associates LLC	\$145,642.38
Cadence Education, LLC	\$154,251.32
Neighborhood Center, Inc.	\$229,998.85
United Hearts Education Center 2 LLC	\$212,292.30
Wayne Little Learners, Corp.	\$229,770.00
Repauno Preschool Day Care Center, Inc.	\$229,183.99
Mak & Cheong Associates, Inc.	\$217,035.19
Catholic Youth Organization (CYO) of Mercer County	\$183,476.23
HAPPY TODAY & BRIGHT TOMORROW, L.L.C.	\$219,558.00
Clin.Co	\$229,862.00
Foundations Preschool LLC	\$230,000.00
Little Ivy Learning Centers, LLC	\$219,230.16
Jersey Child Care LLC	\$229,999.99
Baby Galileo Preschool And Daycare	\$158,629.99
Ashland Evangelical Presbyterian Church - A New Jersey NonProfit Corporation	\$128,030.36

Kiddie Junction Two Limited Liability Company	\$225,487.29
SJ Henry Company LLC	\$206,867.42
My Little Pre School LLC	\$229,909.15
The Malvern School of Washington, Inc.	\$230,000.00
Rahway Day Care Center Inc.	\$229,971.25
Kidco NJ LTD	\$229,909.15
The Young Men's Christian Association of Metuchen, New Jersey	\$226,666.94
Young Men's Christian Association of Greater Monmouth County	\$172,481.60
L&G Childcare Services, LLC	\$229,982.18
DAS 2 Education Inc	\$229,924.19
Read 2 Learn II LLC	\$228,850.00
PARSIPPANY CHILD DAY CARE CENTER INC	\$230,000.00
Holding Sons & Daughters Inc.	\$230,000.00
Cadence Education, LLC	\$229,954.00
The Memorial Day Nursery of Paterson, Inc.	\$223,100.00
Beez & Aree's Adventure, LLC	\$230,000.00
Eatontown Kids Academy, LLC	\$226,979.63
Agape House of North Jersey A NJ Non Profit Corporation	\$229,807.95
Creative Children's Academy	\$222,813.03
ELLIE'S ACADEMY, LLC	\$134,611.69
Ellie's Academy of Monroe, LLC	\$210,585.78
KOLLEL KINYAN TORAH INC.	\$230,000.00
Kiddie Junction Two Limited Liability Company	\$229,498.27
Young Men's Christian Association of Madison, NJ	\$207,402.50
South Seaville United Methodist Church	\$229,885.00
MDLN Corp	\$228,562.50
Little Explorers Early Learning Academy LLC	\$229,909.15
Teaching Children Learning Academy LLC	\$229,677.43
Sunbeam Christian Child Care Center LLC	\$187,139.83
Happy Times CS Learning Center LLC	\$161,592.25
TT of Wayne LLC	\$115,900.47
Visionary Arsha Corporation	\$229,617.66
Tiny Ones Pre School & Daycare Center LLC	\$229,909.15
Tiny Ones Pre School & Daycare Center LLC	\$229,909.15
Total	\$23,874,249.75

Appendix B: Approved Grant Awards in Child Care Facilities Improvement Program – Phase 2

Grantee	Award
Home Away From Home Child Care LLC	\$10,114.60
Sladich, Anna	\$19,717.63
Laugh & Learn Family Daycare LLC	\$15,673.06
Fatherhood Ink LLC	\$11,884.17
Jerris Joys L.L.C.	\$19,251.61
Stephen & Jahvor Angels LLC	\$15,196.55
LIZAS HOUSE FAMILY DAYCARE LLC	\$19,982.77
Romy Day Care LLC	\$12,896.15
My Little Garden LLC	\$13,543.16
Mama Antia Childcare LLC	\$16,865.74
Happy Kids Family Daycare LLC	\$19,855.52
Cepeda, Melissa	\$19,494.44
Discovering Minds Learning Center LLC	\$19,923.59
Blossoms FCC LLC	\$19,993.97
S FAMILY'S DAY CARE LLC	\$19,610.90
D'Titi Nana Baby Daycare LLC	\$18,802.09
Little Heroes Childcare LLC	\$14,989.49
Morris, Susan M	\$14,825.29
Guardian Mommies Daycare LLC	\$18,375.65
Total	\$320,996.38



Tim Sullivan, CEO

MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Post Closing Credit Delegated Authority Approvals for 1st Quarter 2025
For Informational Purposes Only

The following post-closing actions were approved under delegated authority during the first quarter of 2025:

Name	EDA Credit Exposure	Action
CILO L.L.C	\$172,874 SBFLO	Approve a 6-month short term maturity extension to align with OceanFirst's extension.
Always There to Care Home Care Services, LLC	\$43,201 CVSB2LO	Extend the payment moratorium for 6 months to provide cash flow relief.
IM Broad St, LLC, Business Automation Technologies, Inc	\$136,250 SBFPL	Approve a 3-month short-term extension to provide the participation bank sufficient time to finalize long term approval.
Headquarters Pub, LLC	\$825,438 SBLLO	Extend a 6-month payment moratorium to allow financial conditions and business results to improve.
Fort Monmouth Economic Revitalization Authority	\$4,181,734 DIRLO	Approve a 6-month short-term extension to support the Authority's redevelopment of Fort Monmouth.

A handwritten signature in blue ink that reads "Tim Sullivan".

Tim Sullivan, CEO

Prepared by: Nicole Torres and Mansi Naik



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan, Chief Executive Officer

DATE: May 13, 2025

SUBJECT: Post-Closing Incentives Delegated Authority Memo – 1st Quarter 2025

(For Informational Purposes Only)

Since 2001, and most recently in April 2023, the members have approved delegations to staff for post-closing incentive modifications that are administrative and do not materially change the original approvals of these grants.

Attached is a list of the Incentives Delegated Authority Modifications that were approved in the 1st Quarter ending March 31, 2025.

A handwritten signature in blue ink that reads "Tim Sullivan".

Tim Sullivan, CEO

Prepared by: M. A. Chierici

ACTIONS APPROVED UNDER DELEGATED AUTHORITY**FIRST QUARTER ENDING March 31, 2025****GROW NJ ASSISTANCE PROGRAM**

Staff provided consent to waive the 60% in-person requirement for full-time employees at the Qualified Business Facility from July 1, 2022 through March 31, 2024 for the following businesses:

Applicant	Approved Award
Bayada Home Health Care, Inc.	\$ 18,441,120
Charles Komar & Sons, Inc. and Affiliates	\$ 37,200,000
Comar Holding Company, LLC and subsidiaries	\$ 850,000
Frederick Goldman, Inc.	\$ 20,080,000
Integra LifeSciences Corporation	\$ 17,808,320
Insurance Services Office, Inc.	\$ 17,737,500
Jaguar Land Rover North America, LLC	\$ 26,605,000
Medidata Solutions, Inc.	\$ 7,500,000
Morgan Stanley Domestic Holdings, Inc.	\$ 20,080,000
NICE Systems, Inc.	\$ 22,803,800
NRG Energy, Inc.	\$ 37,520,000
Omnicom Group Inc.	\$ 39,440,000
Rubbercycle, LLC	\$ 2,475,000
Tokio Marine North America, Inc.	\$ 17,737,500
Tory Burch LLC	\$ 10,772,500
United Parcel Service General Services Co.	\$ 40,000,000

Staff provided consent to approve the request to terminate the Grow NJ Incentive Agreement pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 for the following business:

Applicant	Termination Effective Year	Approved Award
Sage Sure LLC	2022	\$2,480,000

Staff provided consent to approve other modification requests for the Grow NJ Incentive Tax Credits pursuant to the COVID-Related Relief provisions of the New Jersey Economic Recovery Act of 2020 for the following businesses:

Applicant	Modification Action	Approved Award
Volunteers of America Delaware Valley, Inc.	Suspension of the reporting obligation for the 2022 tax year	\$ 6,337,500
Quests Diagnostics Incorporated	Reduce full-time jobs from 475 to 375 for the 2020 tax year and thereafter	\$ 18,593,750

Staff provided consent to approve the modification requests for the following business:

Applicant	Modification Action	Approved Award
Express Scripts Pharmacy, Inc.	<p>1. Add Cigna-Evernorth Services, Inc. to the Incentive Agreement effective 1/1/2021 with no change to statewide for the addition of this affiliate.</p> <p>2. Retroactively amend the statewide number from 817 to 935, to include Accredo Health Group, Inc. and Express Scripts Services Co., as Affiliates, effective at the closing date of August 26, 2014.</p>	\$ 40,000,000

BUSINESS EMPLOYMENT INCENTIVE GRANT PROGRAM

Grantee	Modification Action	Approved Award
Citigroup Global Markets, Inc. and Citigroup Technology, Inc.	Consent to remove Citigroup Management Corp. effective 3/1/2019	\$ 57,224,400
EisnerAmper LLP	<p>Consent to the following changes:</p> <p>1. Name Change of EisnerAmper LLP to EisnerAmper Advisory Holdco LLC effective 7/31/2021.</p> <p>2. Add Eisner Advisory Group LLC the Agreement effective 8/1/2021.</p>	\$ 1,826,000
inVentiv Health Inc. and Subsidiaries	<p>Consent to the following changes:</p> <p>1. Remove Mystro Research Associates, Inc. effective 9/12/2014.</p> <p>2. Remove inVentiv Advance Insights, Inc. as of 12/31/2014.</p> <p>3. Remove inVentiv Patient Access Solutions, LLC as of 8/31/2015.</p> <p>4. Add Syneos Health, LLC effective 8/1/2017.</p> <p>5. Change name from inVentiv Health, Inc. to Syneos Health US, Inc. as of 1/2/2019.</p> <p>6. Change name from Campbell Alliance Group, Inc. to Syneos Health Consulting, Inc. as of 12/23/2020.</p> <p>7. Change name from Ventiv Commercial Services LLC to Syneos Health Commercial Services, LLC as of 1/11/2021.</p> <p>8. Change location of QBF from 500 Atrium Drive Franklin Township, NJ to Trophy Office Park 200 Crossing Blvd. 8th Floor and part of the 3rd Floor Bridgewater, NJ 08807 effective 1/1/2024.</p>	\$ 3,478,650



MEMORANDUM

TO: Real Estate Committee

FROM: Juan Burgos
Vice President, Real Estate Development

DATE: May 1, 2025

SUBJECT: Real Estate Development Delegated Authority for January 2025, February 2024 and March 2024, *For Informational Purposes Only*

The following approvals were made pursuant to Delegated Authority as follows:

LEASES

TENANT	LOCATION	TYPE	TERM	S.F.
Histobridge LLC	NJBSC Step Out Labs	New Lease	35 months	1530sf
MBrace Therapeutics	NJBC Step Out Labs	Step-Out Labs Amendment	18 months	1882sf
Meridian Life Sciences	NJBC Step Out Labs	Step-Out Labs Amendment	7 months	1615sf
Chobani LLC	NJBC Step Out Labs	Step-Out Labs Amendment	10 months	5245sf
Meridian Life Sciences	NJBC Step Out Labs	Step-Out Labs Amendment	10 months	966sf
Linus Biotechnology	NJBC Incubator	Renewal	One Year	5277sf
OLI Technologies	NJBC Incubator	Renewal Letter	One Year	931sf
TENANT	LOCATION	TYPE	TERM	S.F.



Neoventech	NJBC Incubator	Renewal Letter	One Year	931sf
------------	----------------	----------------	----------	-------

RIGHT OF ENTRY/LICENSES/EXTENSIONS

The following approvals were made pursuant to Delegated Authority for Rights-of Entry/License Agreements in January 2025, February 2025 and March 2025:

ENTITY	LOCATION	TYPE	CONSIDERATION
Monmouth Medical Center	Myer Center	Environmental Right of Entry	NA
Histobridge LLC	NJBSC	Right of Entry or Site License Agreement	NA
NJ Transit	Little Silver and New Brunswick	Right of Entry or Site License Agreement	NA
Henry J. Austin Health Center	MIHI Site	Right of Entry or Site License Agreement	NA

MISCELLANEOUS

ENTITY	LOCATION	TYPE	CONSIDERATION
CME	NJT-Lyndhurst (survey)	Procurement (Including task orders)	\$12,800.00
Colliers Engineering	NJT-Cherry Hill (survey)	Procurement (Including Task Orders)	\$8730.00
Otteau Group	NJT - Liberty State Park (Appraisal)	Procurement (Including Task Orders)	\$25,000.00



T&M Associates	NJT - Little Silver (Environmental)	Procurement (Including Task Orders)	\$8,450.00
Montrose Environmental	NJT - New Brunswick (Environmental)	Procurement (Including Task Orders)	\$12,734.00
Otteau Group	NJT - New Brunswick (Appraisal)	Procurement (Including Task Orders)	\$15,000.00
Nationwide Consulting	NJT - Little Silver (Appraisal)	Procurement (Including Task Orders)	\$9400.00
Vanasse Hangen Brustlin, Inc.	NJT - Old Bridge (Environmental)	Procurement (Including Task Orders)	\$10,476.00
WSP USA, Inc.	NJT - Long Branch (Environmental)	Procurement (Including Task Orders)	\$12,820.00
Otteau Group	NJT - Old Bridge (Appraisal)	Procurement (Including Task Orders)	\$15,000.00
Nationwide Consulting	NJT - Long Branch (Appraisal)	Procurement (Including Task Orders)	\$9,400.00
CME	NJT - Long Branch (Survey)	Procurement (Including Task Orders)	\$17,132.00

A handwritten signature in blue ink, appearing to read "Tim Sullivan".

Tim Sullivan, CEO