



Board Meeting

Thursday, May 26, 2022

10:00 a.m.



**REVISED FINAL AGENDA  
REGULAR SESSION**

Thursday, May 26, 2022 - 10:00 a.m.  
Two DeKorte Park Plaza, Lyndhurst, NJ

I. **PLEDGE OF ALLEGIANCE**

II. **OPENING STATEMENT**

III. **ROLL CALL**

IV. **APPROVAL OF MINUTES AND CASH DISBURSEMENTS** (Action)

- Approval of Regular Session Remote Meeting Minutes of April 21, 2022.
- Approval and/or Ratification of Cash Disbursements over \$100,000 for the month of April 2022.

V. **PUBLIC PARTICIPATION ON RESOLUTIONS**

VI. **APPROVALS**

- |                           |   |
|---------------------------|---|
| <u>Resolution 2022-18</u> | Consideration of a Resolution Issuing a Decision on the Bulk Variance Application Submitted as Part of File No. 21-289 Transco/PSE&G Gas M & R Station - New Buildings/Variations Block 107.03, Lot 10 in the Borough of East Rutherford. |
| <u>Resolution 2022-19</u> | Consideration of a Resolution Authorizing the Execution of an Access and Easement Agreement Between New Jersey Sports and Exposition Authority and Berry's Creek Study Area Cooperating Potentially Responsible Party Group.              |
| <u>Resolution 2022-20</u> | Consideration of a Resolution Relating to the Review and Approval of Redevelopment Proposals at the Monmouth Park Racetrack Site.   |

VII. **CONTRACTS/AWARDS**

- |                           |  |
|---------------------------|--|
| <u>Resolution 2022-21</u> | Consideration of a Resolution Authorizing a Contract to Develop a Hydrodynamic and Sediment Transport Model.   |
| <u>Resolution 2022-22</u> | Consideration of a Resolution Authorizing the President and CEO to Enter into a Contract with FCS Group of New Jersey for Painting of the Arena Exterior Stair Tower Enclosures.                   |
| <u>Resolution 2022-23</u> | Consideration of a Resolution Authorizing the Purchase of a 2022 Caterpillar 908m Compact Wheel Loader.  |
| <u>Resolution 2022-24</u> | Consideration of a Resolution Authorizing the President and CEO to Enter into a Contract with Paino Roofing of New Jersey for a Roof Replacement for the Meadowlands Firehouse in East Rutherford. |

VIII. **PUBLIC PARTICIPATION**

IX. **EXECUTIVE SESSION**

Resolution 2022-25      Consideration of a Resolution Authorizing the New Jersey Sports and Exposition Authority to conduct a meeting, to which the general public shall not be admitted for the purposes of discussing the following:

- New Jersey Meadowlands Commission v. SVD Family Associates, LP

X. **MOTION TO ADJOURN**

# REGULAR SESSION MINUTES





## REGULAR SESSION BOARD MEETING MINUTES

DATE: April 21, 2022

TIME: 10:00 a.m.

PLACE: Two DeKorte Park Plaza, Lyndhurst

### **Members in Attendance:**

John Ballantyne, Chairman

Joseph Buckelew, Vice Chairman

Vincent Prieto, President and CEO

Armando Fontoura, Member

Michael H. Gluck, Esq., Member – via phone

Michael Griffin, NJ State Treasurer's Representative – via phone

Woody Knopf, Member – via phone

Steven Plofker, Member

Anthony Scardino, Member

Louis J. Stellato, Member

Robert Yudin, Member

### **Absent:**

Robert Dowd, Member

Michael Gonnelli, Member

Anthony Scala, Member

### **Also Attending:**

Frank Leanza, Senior Vice President/Chief of Legal & Regulatory Affairs

Adam Levy, Vice President of Legal & Regulatory Affairs

John Duffy, Senior Vice President of Sports Complex Operations & Facilities

Sara Sundell, Director of Land Use Management and Chief Engineer

Anna Acanfora, Director of Finance

Steven Cattuna, Chief of Staff

Brian Aberback, Public Information Officer

Lauren LaRusso, Governor's Authorities Unit

Colleen Mercado, Senior Operations Administrator

Chairman Ballantyne called the meeting to order.

- I. Pledge of Allegiance
- II. Opening Statement – Chairman Ballantyne read the Notice of Meeting required under the Sunshine Law.
- III. Roll Call

Chairman Ballantyne welcomed everyone back to the NJSEA's public meeting, noting that it had been 26 months since the last in-person meeting. He thanked staff on behalf of the Commissioners, for their hard work and dedication to their roles during this time.

### IV. **APPROVAL OF MINUTES AND CASH DISBURSEMENTS**

Chairman Ballantyne presented the minutes from the March 24, 2022 Regular Session Remote Board meeting.

Upon motion made by Commissioner Scardino and seconded by Commissioner Yudin the minutes of the Regular Session Remote Board Meeting held on March 24, 2022, were unanimously approved.

Chairman Ballantyne presented the report of cash disbursements over \$100,000 for the month of March, 2022.

Upon motion by Commissioner Fontoura and seconded by Commissioner Stellato, the cash disbursements over \$100,000 for the month of March, 2022 were unanimously approved.

V. **PUBLIC PARTICIPATON ON RESOLUTIONS** - None

VI. **SPECIAL PRESENTATION**

Before the presentation, Chairman Ballantyne provided a brief overview of the upcoming Meadowlands Native Plant Day being held at DeKorte Park on May 15, from 10 a.m. to 2 p.m. and said that the family-friendly event is co-sponsored by NJSEA and Bergen County Audubon Society.

He said that this morning's presentation would be a special Earth Day-centric presentation focusing on the State's Climate Change Resilience Strategy, a proactive effort of Governor Murphy to address one of the toughest environmental issues we face in the near and long-term future. He said that the staff at the NJSEA are working hard to create a resilient future for the Meadowlands District.

President Prieto noted that NJSEA staff represent the Authority on the State's Interagency Council on Climate Resilience. He stated that their efforts in the Meadowlands District provide a valuable resource that will be very useful to fellow State agencies. He said that staff's crucial work on climate change resilience strategies is just one example of the NJSEA's tireless dedication to preparing the Meadowlands for the formidable environmental challenges that lay ahead.

Chairman Ballantyne introduced, Drew McQuade, a Senior Field Biologist with MRRI, the scientific arm of the NJSEA.

Mr. McQuade presented a slide show that provided excerpts from a DEP presentation on the Governor's Draft Climate Change Resilience Strategy, which serves as a framework for the State and other levels of government to develop action plans to deal with climate change. He stated that the DEP would like each agency to develop a resilience action plan. Included with the presentation was an overview of the Strategy's six resiliency priorities. Mr. McQuade noted that the NJSEA has already acted on some of the strategies in this document and said that MRRI would be using this document for guidance as they develop the Authority's own climate change action plan. He mentioned that NJSEA's Land Use Department was also using the document for guidance and had put different strategies into action by incorporating climate change impacts into the latest Master Plan. Mr. McQuade provided examples of how the NJSEA has begun to incorporate resilience into their planning. He noted that the coastal resiliency plan includes some of the most direct but also most formidable strategies to implement and that the NJSEA had already put many of these strategies into action. He concluded by saying that the most important of these steps is turning the priorities and strategies laid out by the Governor into action plans that will address climate change, and that these plans and strategies need to be effectively communicated to the broad public.

Commissioner Plofker complimented Mr. McQuade for being so efficient.

## VII. APPROVALS

Resolution 2022-14                      Consideration of a Resolution Accepting the 2020 Audit Report.

Ms. Acanfora advised the Board that the Audit Report was prepared by Mercadien and that the Audit Committee had met earlier in the week with the auditors to review the report in detail.

Vice Chairman Buckelew spoke briefly on the Authority's history and the changes that have occurred over the years. He said there has been a lot of work that has gone on over the past twenty to twenty five years, mentioning the stadium and American Dream, which he commented is finally coming into fruition. He noted the operation of the Authority has switched over the years from what it was to what it is now and said all these things are reflected in the audit. He specifically mentioned the work that Commissioner Scardino has done in bringing special reports and presentations on the environment to the Board each month. He concluded by thanking Ms. Acanfora for the good work on the audit. Ms. Acanfora stated that it was a group effort from the entire finance group and that a lot of credit goes to them.

Chairman Ballantyne presented Resolution 2022-14. Upon motion by Commissioner Plofker and seconded by Commissioner Scardino, Resolution 2022-14 was unanimously approved by a vote of 11-0.

Resolution 2022-15                      Consideration of a Resolution Authorizing the New Jersey Sports and Exposition Authority to Participate in the 2027/2031 & 2029/2033 USA Rugby World Cup Bid.

Mr. Levy explained that the NJSEA was currently participating in a bid to host men and women's Rugby World Cup events which are approximately ten years out in time. He noted that Claudia Locricchio from the Sports Complex was handling this project and doing the lion's share of the work. He said that staff wanted to get this on everyone's radar and promote the fact that they are doing everything they can to bring events back to the region after the shutdown. He said that the Authority recently signed a Candidate Host City Memorandum of Understanding that outlines the next steps to become one of the final host cities for both of these World Cup events. He noted that MetLife was also participating in the bid process and had signed a similar MOU. He explained that this resolution was to ratify the MOU's and in addition authorize any further action necessary to advance the bid process and ultimately to undertake the event itself.

President Prieto thanked Mr. Levy and Ms. Locricchio for the hard work that they are doing for this event. He said "we have been trying to bring a lot more of these sporting events to the area and they have been working diligently on this along with Lauren LaRusso from the Governor's Authorities Unit."

Commissioner Fontoura asked Mr. Levy if Rugby was similar to World Cup Soccer and whether there were other venues or just the final.

Mr. Levy responded that it was his understanding that this was a bid process with other venues participating and there would be other stadiums involved before the finals.

Chairman Ballantyne presented Resolution 2022-15. Upon motion by Commissioner Stellato and seconded by Commissioner Fontoura, Resolution 2022-15 was unanimously approved by a vote of 11-0.

Resolution 2022-16                      Consideration of a Resolution Authorizing the Execution of an Easement Agreement by and between the New Jersey Sports and Exposition Authority and Public Service Electric and Gas Company.

Mr. Leanza explained that American Dream in cooperation with the Tesla Corporation is desirous of installing electric vehicle charging stations in the existing parking lot proximate to Sachs. He said that in order to provide enough electricity for current and projected uses, PSE&G would like to install new conduit. He noted that all the utilities at the Complex are underground and since the NJSEA owns the property, PSE&G requires an easement to bring their conduit to service the charging stations. He said that the location path and construction had both been reviewed by the Authority's engineering department under Mr. Duffy and had also been reviewed by the Authority's outside environmental counsel. He stated that all costs are being picked up by Tesla and American Dream.

Chairman Ballantyne presented Resolution 2022-16. Upon motion by Vice Chairman Buckelew and seconded by Commissioner Fontoura, Resolution 2022-16 was unanimously approved by a vote of 11-0.

VIII. **CONTRACTS/AWARDS**

Resolution 2022-17                      Consideration of a Resolution Authorizing a Lease Contract on New Copiers.

Ms. Acanfora explained that the resolution was for authorization to enter into an agreement with DEC Office Leasing, a State contract vendor. She noted that the contract was for eight new copiers located at the Lyndhurst site and would be for a term of 48 months for a total cost of \$131,232.00.

Chairman Ballantyne presented Resolution 2022-17. Upon motion by Commissioner Plofker and seconded by Commissioner Yudin, Resolution 2022-17 was unanimously approved by a vote of 11-0.

IX. **PUBLIC PARTICIPATION** - None

X. **EXECUTIVE SESSION**

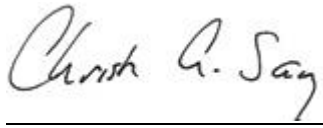
Chairman Ballantyne stated that there was no need to go into Executive Session.

XI. **ADJOURNMENT**

With no further business, motion was made to adjourn by Commissioner Scardino seconded by Commissioner Yudin, followed by all in favor.

Meeting adjourned at 10:30 a.m.

I certify that on information and belief this is a true and accurate transcript of the Minutes of the Regular Session of the New Jersey Sports and Exposition Authority Remote Board Meeting held on April 21, 2022.



**Christine Sanz**  
Assistant Secretary

April 21, 2022

Commissioner	Roll Call	2022-14	2022-15	2022-16	2022-17
Ballantyne, Chairman	P	Y	Y	Y	Y
Buckelew, Vice Chairman	P	Y	Y	Y	Y
Prieto	P	Y	Y	Y	Y
Dowd	--	--	--	--	--
Fontoura	P	Y	Y	Y	Y
Gluck - via phone	P	Y	Y	Y	Y
Gonnelli	--	--	--	--	--
Knopf - via phone	P	Y	Y	Y	Y
Plofker	P	Y	Y	Y	Y
Scala	--	--	--	--	--
Scardino	P	Y	Y	Y	Y
Stellato	P	Y	Y	Y	Y
Yudin	P	Y	Y	Y	Y
Treasury Rep Griffin - via phone	P	Y	Y	Y	Y

P = Present   A = Abstain   -- Absent  
R = Recuse   Y = Affirmative   N = Negative

APPROVALS



CASH DISBURSEMENTS  
\$100,000 OR MORE  
APRIL 2022

**EAST RUTHERFORD - SPORTS COMPLEX**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF EAST RUTHERFORD	2,241,857.88	I	PAYMENT IN LIEU OF TAXES: 2ND QUARTER 2022
GIBBONS P.C.	129,704.50	A	LEGAL SERVICES - AUTHORITY TRANSACTIONS COUNSEL: MAR 2022
NEW JERSEY STATE POLICE	1,245,637.69	A	OVERTIME CHARGES: DEC 2021 - MAR 2022
NEW MEADOWLANDS STADIUM CO., INC.	1,050,519.16	A	GRANDSTAND DEMOLITION REIMBURSEMENT: APR 2022
SCHINDLER ELEVATOR CORP.	113,461.68	A/L	REBUILDING OF ARENA ELEVATORS DAMAGE CAUSED BY IDA AND VARIOUS RACETRACK & TRAIN STATION MAINTENANCE/REPAIRS
STATE OF NEW JERSEY TREASURY DEPARTMENT	254,318.79	A	WORKERS' COMPENSATION COVERAGE: 3RD QTR 2022
<b>EAST RUTHERFORD - SC TOTAL</b>	<u>5,035,499.70</u>		

**MONMOUTH PARK RACETRACK**

<u>PAYEE</u>	<u>\$ AMOUNT</u>	<u>REFERENCE LETTER</u>	<u>ACCOUNT DESCRIPTION</u>
BOROUGH OF OCEANPORT	438,110.47	I	REAL ESTATE TAXES: 2ND QTR 2022
<b>MONMOUTH PARK RACETRACK TOTAL</b>	<u>438,110.47</u>		



CASH DISBURSEMENTS  
\$100,000 OR MORE

REFERENCE LETTER	TYPE
A	CONTRACT ON FILE
B	PURCHASE AWARDS - APPROVED AT MONTHLY BOARD MEETING
C	STATE REQUIREMENT FOR RACING
D	STATE VENDOR
E	SOLE SOURCE*
F	APPOINTED BY RACING COMMISSION
G	ADVERTISED BID
H	PRESIDENT/CEO APPROVAL
I	STATUTORY PAYMENT
J	UTILITIES
K	LOWEST PROPOSAL
L	REIMBURSABLE
M	OUTSTANDING PROFESSIONAL INVOICES APPROVED AT MONTHLY BOARD MEETING
N	PURCHASES ON BASIS OF EXIGENCY
*	PURCHASES DIRECT FROM SOURCE
	EXPENDITURE TO BE CHARGED TO MAINTENANCE RESERVE FUND



**RESOLUTION 2022-18**

**RESOLUTION ISSUING A DECISION ON THE  
BULK VARIANCE APPLICATION  
SUBMITTED AS PART OF FILE NO. 21-289  
TRANSCO/PSE&G GAS M & R STATION - NEW BUILDINGS/VARIANCES  
BLOCK 107.03, LOT 10  
IN THE BOROUGH OF EAST RUTHERFORD**

**WHEREAS**, an application for two bulk variances has been filed with the NJSEA by Public Service Electric and Gas Company for the premises located along Paterson Plank Road and identified as Block 107.03, Lot 10, in the Borough of East Rutherford, New Jersey; and

**WHEREAS**, the premises contains PSE&G's Gas Metering and Regulating Station and is located within the District's Waterfront Recreation zone; and

**WHEREAS**, the applicant requested bulk variance relief from N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet, whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road; and

**WHEREAS**, the applicant also requested bulk variance relief from N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet, whereas the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line; and

**WHEREAS**, notice of the requested bulk variance relief was given to the public and all interested parties as required by law and was published in The Record newspaper; and

**WHEREAS**, an electronic public hearing was held virtually using Zoom video conferencing on Tuesday, March 8, 2022, before Sara Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P. AICP, Principal Planner; and Ronald Seelogy, P.E., P.P., Principal Engineer; and

**WHEREAS**, a comprehensive report dated May 10, 2022, has been prepared indicating the recommendations of the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs in this matter; and

**WHEREAS**, a copy of the recommendation and comprehensive report was provided to the applicant on May 10, 2022; and

**WHEREAS**, the report recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.23(a)3i, to permit a new electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road; and

**WHEREAS**, the report also recommends the approval of the requested bulk variance from N.J.A.C. 19:4-5.23(a)3ii, to permit a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line; and

**WHEREAS**, the Board of Commissioners of the NJSEA has reviewed the full record, including the transcripts of the public hearings, the submissions of the applicant, and recommendations on the application by the Director of Land Use Management and by the Senior Vice President, Chief of Legal & Regulatory Affairs; and

**WHEREAS**, the Board of Commissioners concurs with the recommendations of the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs; and

**WHEREAS**, the Board of Commissioners hereby determines that the requested bulk variance application to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

**WHEREAS**, the Board of Commissioners hereby determines that the requested bulk variance application to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line also conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Transco/PSE&G Gas M & R Station - New Buildings/Variances application for a bulk variance from N.J.A.C. 19:4-5.23(a)3i to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road is hereby **APPROVED** for the reasons set forth in the recommendation dated May 10, 2022.

**BE IT FURTHER RESOLVED**, by the Board of Commissioners of the New Jersey Sports and Exposition Authority, that the Transco/PSE&G Gas M & R Station - New Buildings/Variances application for a bulk variance from N.J.A.C. 19:4-5.23(a)3ii to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line is hereby **APPROVED** for the reasons set forth in the recommendation dated May 10, 2022.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto  
Secretary



## **MEMORANDUM**

*To:* NJSEA Board Members and Vincent Prieto, President/ CEO

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*From:* Sara J. Sundell

*Date:* May 26, 2022

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*Subject:* Variance Recommendation – Transco/PSE&G Gas M & R Station - New Buildings/Variations (File No. 21-289)

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An application for two bulk variances has been filed with the NJSEA by Public Service Electric and Gas Company for the premises located along Paterson Plank Road and identified as Block 107.03, Lot 10, in the Borough of East Rutherford, New Jersey. Said premises is located within the Hackensack Meadowlands District's Waterfront Recreation zone. The two bulk variances are sought in connection with the applicant's proposal to reconstruct portions of the East Rutherford Gas Metering and Regulating Station on the subject premises.

Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.
2. N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas, the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line.

An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, March 8, 2022.

In a comprehensive report dated May 10, 2022 the Director of Land Use Management and the Senior Vice President, Chief of Legal & Regulatory Affairs recommended the approval of the bulk variances requested above in Items 1 and 2. A copy of the comprehensive report and variance recommendation was provided to the applicant on May 10, 2022.

At this time, the Board of Commissioners is required to issue a decision on the bulk variance requests described above. A resolution requesting the same is attached for your consideration.

**RECOMMENDATION ON THE VARIANCE APPLICATION OF**  
**Transco/PSE&G Gas M & R Station - New Buildings/Variances**  
**FILE # 21-289**

**I. INTRODUCTION**

An application for two bulk variances has been filed with the NJSEA by Public Service Electric and Gas Company for the premises located along Paterson Plank Road and identified as Block 107.03, Lot 10, in the Borough of East Rutherford, New Jersey. The subject premises is located within the Hackensack Meadowlands District's Waterfront Recreation zone. The two bulk variances are sought in connection with the applicant's proposal to reconstruct portions of the East Rutherford Gas Metering and Regulating Station on the subject premises.

Specifically, the applicant is requesting bulk variance relief from the following:

1. N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.
2. N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas, the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line.

Notice was given to the public and all interested parties as required by law. The public notice was published in the Record newspaper. No written objections were submitted to the Division of Land Use Management. An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, March 8, 2022. All information submitted to the Division of Land Use Management relative to this application was made part of the record of this recommendation.

## **II. GENERAL INFORMATION**

### **A. Existing and Proposed Use**

The property in question consists of approximately 0.803 acres. It contains frontage on Paterson Plank Road to the east. The property is bordered to the north, west and south by undeveloped wetlands. There are no easements on the subject property.

The site is currently developed with gas metering and regulating station equipment, which takes high pressure natural gas from Transco, the supplier, then measures the flow, and lowers the pressure for distribution to local gas mains. An existing one-story block building, concrete pad and equipment cabinet, and a one-story metal building located on the northerly portion of the site will be demolished. A one-story metal building and a Transco metering and regulating building located on the southerly portion of the site will remain. Direct access from Paterson Plank Road to the subject premises is provided by two existing paved gated driveways located on the easterly portion of the site.

As part of PSE&G's Energy Strong II (ESII) flood mitigation program, the applicant is proposing to upgrade the facility by constructing a 3,745-square-foot regulator building and a 396-square-foot electrical control building with gas metering and regulating station upgrades and associated site improvements. The project intent is to elevate critical natural gas metering and regulation equipment at least one-foot above FEMA base flood elevations to improve reliability and increase capacity of the system. The proposed building will be unmanned, except for instances when crews are on site to perform maintenance and repairs. No on-site parking spaces are proposed.

### **B. Response to the Public Notice**

No written comments or objections were received prior to the hearing.

### III. PUBLIC HEARING (March 8, 2022)

A public hearing was held on Tuesday, March 8, 2022. NJSEA staff in attendance were Sara Sundell, Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, Supervising Planner; and, Ronald Seelogy, Principal Engineer.

#### A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Site Plan," prepared by PSEG Services Corporation on July 8, 2021, last revised on January 20, 2022.
A-2	"Existing Conditions Plan," prepared by PSEG Services Corporation on July 8, 2021, last revised on January 20, 2022.
A-3	"Energy Strong II East Rutherford M&R Station Overview and Grading Plan," Dwg. No. M-01, prepared by EN Engineering on July 29, 2021, last revised on January 20, 2022.
A-4	"Energy Strong II East Rutherford M&R Station Piping Sections," Dwg. No. M-02, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.
A-5	"Energy Strong II East Rutherford M&R Station Piping Sections," Dwg. No. M-03, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.
A-6	"Energy Strong II East Rutherford M&R Station Existing Conditions Plan," Dwg. No. M-04, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.

- A-7 "Energy Strong II East Rutherford M&R Station Sediment & Erosion Control Plan," Dwg. No. C-0005, prepared by EN Engineering on November 23, 2021.
- A-8 "Energy Strong II East Rutherford M&R Station Sediment & Erosion Control Details 1," Dwg. No. C-0006, prepared by EN Engineering on November 23, 2021.
- A-9 "Energy Strong II East Rutherford M&R Station Sediment & Erosion Control Details 2," Dwg. No. C-0007, prepared by EN Engineering on November 23, 2021.
- A-10 "Energy Strong II East Rutherford Foundation Plan," Dwg. No. RUTH-S-0001, prepared by EN Engineering on November 23, 2021.
- A-11 "Energy Strong II East Rutherford Regulator Building," Dwg. No. RUTH-S-0002, prepared by EN Engineering on November 23, 2021.
- A-12 "Energy Strong II East Rutherford Regulator Building Elevations," Dwg. No. RUTH-S-0003, prepared by EN Engineering on November 23, 2021.
- A-13 "Energy Strong II East Rutherford Electrical Control Building and Details," Dwg. No. RUTH-S-0004, prepared by EN Engineering on November 23, 2021.
- A-14 "Energy Strong II East Rutherford Electrical Control Building Elevations," Dwg. No. RUTH-S-0005, prepared by EN Engineering on January 3, 2022, last revised on January 26, 2022.
- A-15 "Energy Strong II East Rutherford M&R Station Electrical Site Lighting & Photometric Plan," Dwg. No. E-01, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.



### **B. Testimony**

Glenn C. Kienz, Esq. of the Weiner Law Group LLP, represented PSE&G at the hearing. The following three (3) witnesses testified in support of the application:

1. Jeremiah Laurizio, PSE&G;
2. Steven Nolan, P.E., EN Engineering; and
3. William F. Masters, Jr., P.P.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

### **C. Public Comment**

No members of the public were present at the public hearing.

## **IV. RECOMMENDATION**

### **A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.**

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. Concerning bulk variances:
  - i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

Development on the property in question is affected by the pre-existing lot dimensions and the configuration of the existing gas metering and regulating station buildings and equipment to remain on site, including a pre-existing nonconforming setback of approximately seven feet along the easterly front yard to a metal enclosure maintained by Transco. Within the Waterfront Recreation zone, a minimum lot area of one acre is required, whereas the subject property has a lot area of 0.803 acres. The subject property's substandard lot area affects the ability to comply with the zone's front yard setback requirement.

The reconstruction project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the reconstruction project, the applicant proposes to construct an electrical control building on a platform elevated a minimum of one-foot above the FEMA base flood elevation at a minimum setback of 7.9 feet as measured from the easterly property line. The placement and configuration of the proposed electrical control building on the site is dictated by the location of existing equipment and the regulatory requirements of the National Electric Safety Code (NESC) to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The proposed electrical control building will be located 7.9 feet from the easterly front property line. The proposed location is more distant from the easterly property line than the existing

nonconforming metal enclosure on the easterly portion of the site. No adverse visual impacts are anticipated by placing the proposed electrical control building within the required front yard facing Paterson Plank Road due to the 12-foot height of the structure and its distance from the paved traveled way of Paterson Plank Road. The configuration of the Paterson Plank Road right-of-way in the area of the subject site includes a gore area, which increases the right-of-way width to over 120 feet along the subject site's frontage, while the traveled way is located furthest from the frontage, within its eastern-most 30 feet. The properties surrounding the gas metering and regulating station are undeveloped, with no residences in the general vicinity. An existing billboard structure, which is located on Lot 11 to the north, will not be affected. No vegetation will be removed as the proposed electrical control building will be located within the existing fenced compound. PSE&G's existing site and maintenance operations will be maintained at their present levels. The site is an unmanned facility that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed improvements will promote energy resiliency, which, according to testimony provided by PSE&G's project manager, will benefit 175,000 area energy customers. Therefore, the granting of the requested variance will not adversely affect the rights of neighboring property owners or residents.

*iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.*

The strict application of the minimum front yard setback requirement of 25 feet on the subject property will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. If the variance were not granted to permit the installation of the electrical control building as proposed with a front yard setback of 7.9 feet, PSE&G would not be able to upgrade the gas metering and regulating station to improve regional reliability and resiliency of the natural gas distribution system against severe storm events. The strict application of the 25-foot front yard setback would prevent the placement of the new electrical control building with the appropriate safety clearances while allowing for the necessary ease of movement of personnel and vehicles throughout the site.

Alternative locations to construct the proposed electrical control building are limited due to the configuration of existing gas metering and regulating station buildings and equipment, as well as NESC regulatory requirements to maintain clearances between equipment structures. The site is an active gas metering and regulating station, and this equipment cannot be taken off-line without jeopardizing the supply of natural gas to the area. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the front yard setback requirements. Without the ability to construct the new electrical control building within the designated front yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

*iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.*

Approval of the requested variance to permit the construction of the electrical control building with a 7.9-foot front yard setback, whereas a minimum front yard setback of 25 feet is required, will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. PSE&G is a regulated public utility and is considered to be an inherently beneficial use. The proposed gas metering and regulating station reconstruction, which will increase the station's lifespan and bring it into compliance with regulatory requirements to maintain certain clearances between equipment structures, will promote the general welfare through the improvement of gas distribution reliability to the public customers of PSE&G that are served by this facility. No adverse impacts to public health will result from this proposal as adequate light and air will continue to be provided.

There will be no change to the current on-site vehicle circulation pattern, and no loading doors are proposed. Access to the site from Paterson Plank Road will be maintained at both existing gated paved driveways. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed electrical control building. The proposed electrical control building will be unmanned, except for instances when crews are on site to perform equipment maintenance and repairs. Therefore, it is not anticipated that the proposed electrical control building will cause significant changes to current traffic levels. The area of encroachment within the easterly front yard will occur within the existing fenced

compound, therefore the footprint of the existing gas metering and regulating station will not be expanded.

*v. The variance will not have a substantial adverse environmental impact.*

The granting of the requested variance to permit a minimum front yard setback of 7.9 feet, whereas a minimum setback of 25 feet is required, will not have a substantial adverse environmental impact. The property contains a pre-existing nonconforming front yard setback of approximately seven feet along the easterly lot line. No wetlands will be disturbed during the construction of the proposed electrical control building. All proposed work will occur in previously disturbed areas. The District's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality, as enumerated in N.J.A.C. 19:4-7.1 et seq., will not be exceeded. Adequate drainage will be provided.

*vi. The variance represents the minimum deviation from the regulations that will afford relief.*

The proposed project involves the reconstruction of existing gas metering and regulating station equipment as part of a regional energy infrastructure initiative. The particular characteristics of the subject property, including the size of the parcel and the location of existing improvements, constrain the ability of the proposed electrical control building to comply with the front yard setback requirement of the Waterfront Recreation zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the station. Adequate light and air will continue to be provided. The location of the proposed electric

control building on the site is constrained by the presence of existing improvements whose function must be maintained during reconstruction, as well as by regulatory requirements to maintain certain clearances between equipment structures and to ensure the safety of PSE&G personnel. Therefore, the variance request is the minimum deviation from the regulation that will afford relief.

*vii. Granting the variance will not substantially impair the intent and purpose of these regulations.*

The granting of the requested variance to permit a 7.9-foot front yard setback to the proposed electrical control building, whereas a minimum front yard setback of 25 feet is required, will not substantially impair the intent and purpose of the District Zoning Regulations. Due to the substandard size of the property and the location of the existing improvements on site, including the layout of the existing structures and utility equipment to remain, the site is constrained in its ability to meet the required front yard setback. As the District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, the requested variance will not substantially impair the purpose of the regulations.

**B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line.**

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

Development on the property in question is affected by the pre-existing lot dimensions and the configuration of the existing gas metering and regulating station buildings and equipment to remain on site. Within the Waterfront Recreation zone, a minimum lot area of one acre is required, whereas the subject property has a lot area of 0.803 acres. The subject property's substandard lot area affects the ability to comply with the zone's side yard setback requirement.

The applicant proposes to construct a 3,745-square-foot regulator building in the northerly side yard at a minimum setback of 22.1 feet. The configuration of the existing gas metering and regulating station buildings and equipment on the subject property leaves the northerly portion of the site as the most appropriate location for a new building. None of the existing gas metering and regulating station equipment can be taken off-line and moved during the construction of new facilities and equipment, as the station must be on-line at all times. Also, regulatory requirements dictate certain minimum clearances be maintained between equipment and structures for safety purposes, and to allow for routine maintenance.

This combination of conditions, related to the size of the property and to siting of existing gas metering and regulating station equipment, impact the site in a unique manner. These conditions are not ordinarily found in the Waterfront Recreation zone and were not created by any action of the property owner.



- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The proposed regulator building will be located 22.1 feet from the northerly side property line. No adverse visual impacts are anticipated as the properties surrounding the gas metering and regulating station are undeveloped. No residences are in the general vicinity. An existing billboard structure, which is located on Lot 11 to the north, will not be affected. No vegetation will be removed as the proposed regulator building will be located within the existing fenced compound. PSE&G's existing site and maintenance operations will be maintained at their present levels. The site is an unmanned facility that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed improvements will promote energy resiliency, which, according to testimony provided by PSE&G's project manager, will benefit 175,000 area energy customers. Therefore, the granting of the requested variance will not adversely affect the rights of neighboring property owners or residents.

- iii. *The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.*

The strict application of the minimum side yard setback requirement of 25 feet on the subject property will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. If the variance were not granted

to permit the installation of the regulator building as proposed with a side yard setback of 22.1 feet, PSE&G would not be able to upgrade the gas metering and regulating station to improve regional reliability and resiliency of the natural gas distribution system against severe storm events. The strict application of the 25-foot side yard setback would prevent the placement of the new regulator building with the appropriate safety clearances while allowing for the necessary ease of movement of personnel and vehicles throughout the site.

Alternative locations to construct the proposed regulator building are limited due to the configuration of existing gas metering and regulating station buildings and equipment, as well as regulatory requirements to maintain clearances between equipment structures. The site is an active gas metering and regulating station, and this equipment cannot be taken off-line without jeopardizing the supply of natural gas to the area. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the side yard setback requirements. Without the ability to construct the new regulator building within the designated side yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

*iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.*

Approval of the requested variance to permit the construction of the regulator building with a 22.1-foot side yard setback, whereas a minimum front yard setback of 25 feet is required, will not result in substantial detriment to the public good and will not adversely affect

the public health, safety, morals, order, convenience, prosperity or general welfare. PSE&G is a regulated public utility and is considered to be an inherently beneficial use. The proposed gas metering and regulating station reconstruction, which will increase the station's lifespan and bring it into compliance with regulatory requirements, will promote the general welfare through the improvement of gas distribution reliability to the public customers of PSE&G that are served by this facility. No adverse impacts to public health will result from this proposal as adequate light, air and open space will continue to be provided.

There will be no change to the current on-site vehicle circulation pattern. A 12-foot by 12-foot roll-up door will be provided along the building's northerly façade strictly for the purposes of moving process equipment into and out of the regulator building. Access to the site from Paterson Plank Road will be maintained at both existing gated paved driveways. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed regulator building. The proposed regulator building will be unmanned, except for instances when crews are on site to perform equipment maintenance and repairs. Therefore, it is not anticipated that the proposed regulator building will cause significant changes to current traffic levels. The area of encroachment within the northerly side yard will occur within the existing fenced compound, therefore the footprint of the existing gas metering and regulating station will not be expanded.

*v. The variance will not have a substantial adverse environmental impact.*

The granting of the requested variance to permit a minimum side yard setback of 22.1 feet, whereas a minimum setback of 25 feet is required, will not have a substantial adverse environmental impact. No wetlands will be disturbed during the construction of the proposed regulator building. All proposed work will occur in previously disturbed areas. The District's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality, as enumerated in N.J.A.C. 19:4-7.1 et seq., will not be exceeded. Adequate drainage will be provided.

*vi. The variance represents the minimum deviation from the regulations that will afford relief.*

The proposed project involves the reconstruction of existing gas metering and regulating station equipment as part of a regional energy infrastructure initiative. The particular characteristics of the subject property, including the size of the parcel and the location of existing improvements, constrain the ability of the proposed regulator building to comply with the side yard setback requirement of the Waterfront Recreation zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the station. The regulator building that is proposed to extend approximately 2.9 feet into the required side yard will only occupy a small portion of the property's northerly side yard. Adequate light and air will continue to be provided. The location of the proposed regulator building on the site is constrained by the presence of existing improvements whose function must be maintained during construction, as well as by regulatory

requirements to maintain certain clearances between equipment structures and to ensure the safety of PSE&G personnel. Therefore, the variance request is the minimum deviation from the regulation that will afford relief.

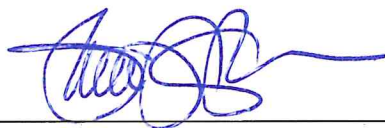
*vii. Granting the variance will not substantially impair the intent and purpose of these regulations.*

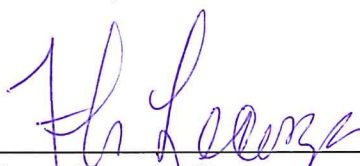
The granting of the requested variance to permit a 22.1-foot side yard setback to the proposed regulator building, whereas a minimum side yard setback of 25 feet is required, will not substantially impair the intent and purpose of the District Zoning Regulations. Due to the substandard size of the property and the location of the existing improvements on site, including the layout of the existing utility buildings and equipment to remain, the site is constrained in its ability to meet the required side yard setback. As the District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, the requested variance will not substantially impair the purpose of the regulations.

## V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.

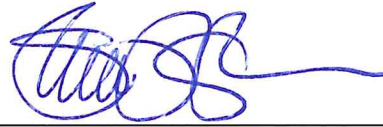
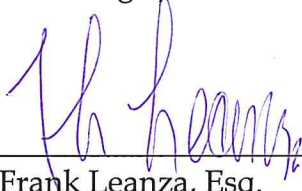
Based on the record in this matter, the bulk variance application to permit the construction of an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>5/9/2022</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management and Chief Engineer

<u>APPROVAL</u>	<u>5/11/22</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

**B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas, the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line.**

Based on the record in this matter, the bulk variance application to permit the construction of a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>5/9/2022</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management and Chief Engineer
<u>APPROVAL</u>	<u>5/10/22</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

**RESOLUTION 2022-19**

**RESOLUTION AUTHORIZING THE EXECUTION OF AN ACCESS AND  
EASEMENT AGREEMENT BY AND BETWEEN THE NEW JERSEY SPORTS AND  
EXPOSITION AUTHORITY AND BERRY'S CREEK STUDY AREA COOPERATING  
POTENTIALLY RESPONSIBLE PARTY GROUP**

**WHEREAS**, among the stated purposes of the Hackensack Meadowlands Reclamation and Development Act ("Act") is consideration of the ecological factors constituting the environment of the Hackensack Meadowlands and the need to provide the delicate balance of nature therein; and

**WHEREAS**, pursuant to the Act and regulations promulgated thereunder, the New Jersey Meadowlands Commission, now consolidated with the New Jersey Sports and Exposition Authority ("NJSEA"), has evolved into the regional planning agency and environmental steward of the Hackensack Meadowlands; and

**WHEREAS**, the NJSEA works with the United States Environmental Protection Agency ("USEPA"), the United States Army Corp of Engineers and the New Jersey Department of Environmental Protection on a daily basis through a system of both complimentary and supplemental regulations and various continuing inter-agency groups; and

**WHEREAS**, in response to actions by the USEPA and the designation of Berry's Creek as a so-called Superfund Site under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), the Berry's Creek Study Area Cooperating Potentially Responsible Parties Group ("BCSA Group") was formed to address CERCLA issues; and

**WHEREAS**, NJSEA intends, consistent with its enabling legislation, regulations and policies, and with the good faith cooperation of the BCSA Group, to pursue a Superfund Cooperative Agreement or Superfund Memorandum of Understanding by and between USEPA and NJSEA, which would outline and document NJSEA's role in the Berry's Creek remedial actions, including cooperation with USEPA and the BCSA Group; and

**WHEREAS**, consistent with the foregoing objective, the NJSEA has agreed to provide the BCSA Group with access to certain areas of its property, including those that are within or adjacent to the Berry's Creek tributaries and marshes (subject to appropriate notice and insurance requirements) to help facilitate the BCSA Group's remediation work; all subject to NJSEA legislation and regulations and available personnel and findings.



**NOW, THEREFORE, BE IT RESOLVED** by the Commissioners of the New Jersey Sports and Exposition Authority, that it enter into an Access and Easement Agreement with the Berry's Creek Study Area Cooperating Potentially Responsible Party Group in the form attached hereto; and

**BE IT FURTHER RESOLVED**, that the President and Chief Executive Officer and Board Secretary is hereby authorized to execute the Access Agreement.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto  
Secretary

Return Address:  
The ELM Group, Inc.  
P.O. Box 306  
Holicong, PA 18928-0306

## **ACCESS AND EASEMENT AGREEMENT**

This Access and Easement Agreement (“Access Agreement”) is entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 2022 (“Effective Date”), by and among the New Jersey Sports and Exposition Authority, a public body having an office at One DeKorte Park Plaza, Lyndhurst, NJ 07071 (“NJSEA” or “Owner”), and the Berry’s Creek Study Area Cooperating PRP Group, an unincorporated association (including any subgroup that implements response action as part of the BCSA Superfund Remedy as defined below, the “Group”) (collectively the “Parties”).

### **BACKGROUND**

The Group is an unincorporated association of over 90 private and public entities. A current list of Group Members is attached to this Access Agreement as Attachment C for informational purposes. From 2008 to 2018, the Group performed a Remedial Investigation/Feasibility Study (“RI/FS”) for the Berry’s Creek Study Area (“BCSA”) pursuant to an Administrative Settlement Agreement and Order on Consent with the United States Environmental Protection Agency (“EPA”), U.S. EPA Index No. II-CERCLA-2008-2011 (“RI/FS AOC”), under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”). The RI/FS was the basis for a Phase 1 Record of Decision (“BCSA Phase 1 ROD”) that EPA issued in September 2018. The BCSA Phase 1 ROD requires an interim remedial action for a portion of the BCSA that includes multiple areas within Upper Berry’s Creek, Middle Berry’s Creek, and Upper Peach Island Creek.

Over a number of years, Honeywell International Inc. (“Honeywell”) performed a Remedial Investigation/Feasibility Study for the Universal Oil Products Site (“UOP Site”), Operable Unit 2 (“OU2”), in part pursuant to an Administrative Settlement Agreement and Order on Consent with EPA (“UOP OU2 RI/FS AOC”). On August 12, 2019, EPA issued a ROD for an interim remedy at UOP OU2 (“UOP Phase 1 ROD”), including an area to the south of Ackermans Creek (all areas subject to the UOP Phase 1 ROD are denoted the “UOP Phase 1 ROD Area”). The interim remedy is similar to the remedy in the BCSA Phase 1 ROD.

EPA is addressing the BCSA, focusing on the tidally-influenced portions of the Superfund sites within the BCSA, in a phased approach. Select portions of the BCSA waterways will be addressed first, through interim actions (known as “Phase 1”), and one or more future decision documents will be required to make final decisions for the BCSA as a whole as part of an adaptive management framework (collectively, the remedial actions selected and to be selected by EPA for the BCSA, including UOP OU2, comprise the “BCSA Superfund Remedy”).

On September 25, 2019, EPA and members of the Group entered into an Administrative Settlement Agreement and Order on Consent (“BCSA RD AOC”) for Remedial Design (“RD”) of the remedy selected in the BCSA Phase 1 ROD. The Group anticipates that EPA will seek a judicial consent decree for implementation of the designed remedy (“Remedial Action” or “RA”) no later than completion of RD.

On May 26, 2020, EPA and Honeywell entered into an Administrative Settlement Agreement and Order on Consent for RD of the remedy selected in the UOP Phase 1 ROD (“UOP RD AOC”). The Group and Honeywell have agreed to manage their respective RD activities in a largely integrated manner, consistent with their respective AOCs and subject to certain other conditions.

Under the BCSA RD AOC and the UOP RD AOC and in connection with the future performance of RA and the remainder of the BCSA Superfund Remedy, investigative and other response actions will be required with respect to the BCSA and the UOP Phase 1 ROD Area, including surveying, the collection of various measurements, the collection of water, sediment, soil, and biota samples, and implementation of response and remedial actions consistent with the BCSA Phase 1 ROD, the UOP Phase 1 ROD, the EPA-approved RD under those RODs, and the remainder of the BCSA Superfund Remedy.

Owner is the owner of certain real property described as:

- Block 105.01, Lot 8, and Block 105.02, Lot 5 of the Borough of East Rutherford, New Jersey, as shown in **Attachment A, Figure 1** and as more particularly described in **Attachment A-1** (“Former UOP Property”); and
- The property owned by NJSEA commonly known as Walden Swamp, including the berm, as shown and delineated in red in **Attachment A, Figure 2**, (“Walden Swamp”); and
- The property owned by NJSEA outside Walden Swamp, including the roadways known as Berry’s Creek Road and Road A Plaza or Plaza A and shoulder areas adjacent to Walden Swamp, to which the Group may require access for purposes of RD, RA, and the BCSA Superfund Remedy, expressly limited to those areas of Block 107.01, Lot 1 of the Borough of East Rutherford, New Jersey shown and delineated in green in **Attachment A, Figure 2** (collectively “Other Property”); and
- Block 106.02, Lots 8, 9, and 10; Block 109.01, Lots 1, 2, 3, and 4; and Block 232, Lots 1.01, 1.02, and 1.03, as shown in **Attachment A, Figure 2** (collectively “Southern Parcels”).
- The Former UOP Property, Walden Swamp, Other Property, and Southern Parcels are together the “Properties.”

Owner intends, consistent with its enabling legislation, regulations and policies, and with the good faith cooperation of the Group, to pursue a Superfund Cooperative Agreement or

Superfund Memorandum of Understanding by and between EPA and NJSEA (“Interagency MOU”), which would outline and document NJSEA’s role in the BCSA Superfund Remedy, including cooperation with EPA and the Group. Consistent with that objective, NJSEA has agreed to provide the Group access to the Properties on the terms set forth in this Access Agreement.

## AGREEMENT

The above recitals and definitions are incorporated herein as substantive provisions of this Access Agreement.

In consideration of the mutual covenants contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

1. Former UOP Property
  - a) *Grant of Access Easement.* Owner hereby grants to the Group and the agents, consultants, contractors, subcontractors, and other designated representatives of the Group (collectively “Authorized Representatives”), an access easement to, in, under, and across the entire Former UOP Property for purposes of undertaking response actions in the BCSA as required by EPA pursuant to the RI/FS AOC, the BCSA RD AOC, the UOP OU2 RI/FS AOC, the UOP RD AOC, and any future agreement, order, condition, requirement, or ruling concerning implementation of the BCSA Superfund Remedy, including in the UOP Phase 1 ROD Area. Such activities may include, without limitation: any surveying, sampling, other observations or measurements, or other investigatory activities necessary to undertake remedial investigation, remedial design, or remedial action; vehicle parking; equipment storage; placement of an office trailer; storage of remediation materials; regrading or soil addition; temporary installation of sediment dewatering equipment and structures; use of the property for sediment dewatering and associated management and transportation; staging of capping/cover materials; sediment removal and backfilling and/or covering in the BCSA as required by the RODs and RD; and performing other actions as needed to investigate, monitor, or remediate hazardous substances in the BCSA. Owner also grants a right of access to EPA, the New Jersey Department of Environmental Protection (“NJDEP”), and their respective employees, agents, consultants, contractors, and subcontractors at all reasonable times to and across the Former UOP Property for the purposes of monitoring the Group’s activities and environmental conditions in the BCSA and implementing response actions consistent with the AOCs and any future agreement, order, or ruling concerning implementation of the BCSA Superfund Remedy or the UOP Phase 1 ROD Area.
  - b) *Third Party Access.* If at any time in the duration of this Access Agreement, as set forth in Paragraph 7 below, Owner believes there are circumstances in which third parties should be permitted to temporarily access the Former UOP Property, Owner will provide written notice to the Group at least ten (10) business days in



advance of such proposed access, and the Group will not unreasonably withhold its consent to such proposed access. Any temporary third-party access to the Former UOP Property shall not interfere with the Group's or EPA's response activities.

- c) *Access Priority.* In the unlikely event that EPA requires the BCSA Group and Honeywell separately and simultaneously to implement RA in the BCSA and in the UOP Phase 1 ROD Area, Honeywell and the BCSA Group and its Members reserve their rights under their respective agreements with NJSEA; the BCSA Group and Honeywell will coordinate and resolve priority of access to the Former UOP Property among themselves at that time.
- d) *Deed Notice and Restrictions.* Owner, Honeywell, and the Group shall cooperate to timely modify the restrictions in the Deed Notice recorded on January 28, 2019, with respect to Block 105.01, Lot 8 (NJDEP Program Interest No. NJD002005106), so as to prevent any limitation of the access rights granted or response activities described in Paragraph 1(a) above.
- e) For the duration of this Access Agreement, NJSEA waives its rights under its October 4, 2006 Agreement of Sale with Honeywell to require remediation of the Former UOP Property due to upland development, and any rights it may have to lease, develop, or pave the Former UOP Property.
- f) The access easement granted for the Former UOP Property pursuant to this Access Agreement is made subject to Owner's existing and customary uses of the Former UOP Property, any and all covenants, easements, and restrictions of record affecting the Former UOP Property (subject to Paragraph 1(d) above); any and all subsurface conditions; and all governmental laws, ordinances, and regulations regarding the use of the Former UOP Property; and any state of facts which an accurate survey of the Former UOP Property might show. Owner agrees to cease its existing and customary uses of the Former UOP Property no later than six (6) months following written notice from the Group that it intends to commence substantial occupation of the Former UOP Property and such existing and customary use would interfere with the Group's planned use of the Former UOP Property.

## 2. Walden Swamp

- a) *Grant of Access Rights.* Owner hereby grants to the Group and its Authorized Representatives a non-exclusive easement, license, and right of access to, in, under, and across Walden Swamp, that are reasonably necessary for purposes of taking response actions in various BCSA tributaries and marshes as required by EPA pursuant to the RI/FS AOC, the BCSA RD AOC, the UOP OU2 RI/FS AOC, the UOP RD AOC, and any future agreement, order, or ruling concerning implementation of the BCSA Superfund Remedy or the UOP Phase 1 ROD Area (the "Access Areas"). The precise size, location, and configuration of the Access Areas shall be determined by the Group based on the requirements of the

pertinent response actions. Response actions within the Access Areas may include, without limitation: any surveying, sampling of water, sediments, soil, or biota, other observations or measurements, or other investigatory activities necessary to undertake remedial investigation, remedial design, or remedial action; temporary vehicle parking or equipment storage in areas to be determined by mutual agreement of the NJSEA and the BCSA Group; sediment removal and backfilling and/or covering in portions of the BCSA within or adjacent to the Access Area as required by any RODs or RD; and other actions as needed to investigate, monitor, or remediate hazardous substances in portions of the BCSA within or in the vicinity of the Access Area. Owner also grants a right of access to EPA, NJDEP, and their respective employees, agents, consultants, contractors, and subcontractors at all reasonable times to and across the Access Areas for the purposes of monitoring the Group's activities and environmental conditions in the BCSA and implementing response actions consistent with the BCSA RD AOC, the UOP RD AOC, and any future agreement, order, or ruling concerning implementation of the BCSA Superfund Remedy or the UOP Phase 1 ROD Area.

- b) The access easement granted to the Access Areas is made subject to any and all covenants, easements, and restrictions of record affecting Walden Swamp (including USACE permit number NAN-2011-011-01158); any and all subsurface conditions; and all governmental laws, ordinances, and regulations regarding the use of Walden Swamp; and any state of facts which an accurate survey of Walden Swamp might show.

3. Other Property and Southern Parcels.

- a) Any access by the Group to or across Other Property and/or the Southern Parcels, including but not limited to the Sports Complex area located on Block 107.01, Lot 1 of East Rutherford, New Jersey as shown and delineated in green on Figure 2, will be subject to the Group obtaining the prior written approval of Owner, which approval may include specific restrictions imposed by an existing lease or other existing contract with a third party. Owner and the Group will undertake reasonable mutual accommodations to determine the nature, extent and duration of any access to Other Property and/or the Southern Parcels subject to any such restrictions, with such access to Other Property and/or the Southern Parcels to be memorialized in a writing to which Owner and the Group agree. Owner hereby consents to the Group using the roadways known as Berry's Creek Road and Road A Plaza or Plaza A for reasonable access to and egress from Walden Swamp for the purposes contemplated by this Access Agreement.
- b) Owner agrees to pursue reasonable modifications to any future leases or other contracts relating to the Other Property or the Southern Parcels to accommodate reasonable access by the Group for purposes of designing and implementing the BCSA Superfund Remedy.
- c) The Group will not use any roadways, parking areas or other improved areas on the Sports Complex for any purpose, including for vehicle parking or equipment

storage, including on the Other Property, without the prior written consent of Owner, which consent will be denied when such use would interfere with scheduled public events, but which otherwise will not be unreasonably withheld. The Group will notify NJSEA at least thirty (30) days in advance of its desire to use the parking areas within the Other Property, including providing reasonable details of the nature and duration of such use, for example, the number and type of vehicles to be parked, the nature of the equipment to be stored, and the nature and extent of any other remediation-related purposes. On a quarterly basis, NJSEA will provide the Group an updated schedule of public events over the subsequent twelve (12) months that may restrict access via the parking area. Access to these parking areas will not be unreasonably withheld.

4. Property Damage.

- a) Other than the installation of remediation-related structures, equipment, or materials required by EPA pursuant to the RD AOC or UOP RD AOC or any future agreement, order, or ruling concerning implementation of the BCSA Superfund Remedy, or as otherwise mutually agreed, the Group shall at its sole expense repair and restore to a condition substantially equal to that existing prior to the RD and RA activities, consistent with EPA and NJDEP requirements, any and all physical disturbances or damage to the improvements or other property of Owner proximately caused by the Authorized Representatives during activities on the Properties pursuant to this Access Agreement. The conditions existing on the Former UOP Property prior to the RD and RA activities are generally described in **Attachment B** to this Access Agreement.
- b) The obligation in Paragraph 4(a) above does not apply to temporary access pathways or other areas within Walden Swamp except to the extent required by an EPA-approved restoration plan or other legal obligation of the Group to perform wetland restoration.
- c) The obligation in Paragraph 4(a) above does not include the requirement to bring any pre-existing condition into conformance with any applicable code, law, or regulation, or to otherwise improve the Former UOP Property or Other Property ("Enhancement Work"). If the repairs cannot reasonably be performed without also performing such Enhancement Work, the Group will give notice and a reasonable opportunity to Owner to negotiate an equitable allocation of the costs of repair and Enhancement Work. If the parties cannot reach an amicable, equitable allocation within a reasonable time, said Enhancement Work may not be performed by the Group without the Owner's prior written consent. Any dispute arising under this paragraph shall be arbitrated under the construction industry rules of the American Arbitration Association pertaining to expedited arbitration (including the rules pertaining to mediation), and any award rendered by the arbitrator(s) shall be final and binding upon the Parties.
- d) Owner agrees not to interfere with any Group activities pursuant to the Group's rights under this Access Agreement, or with any materials, equipment, facilities,

or remedial measures installed on the Properties pursuant to the Group's rights under this Access Agreement. All remedial activities planned around any of the Owner's equipment or infrastructure will be reviewed with the Owner's representatives during the RD and prior to any required remedial action on the Properties.

- e) The Parties agree that the Group, with the consent of Owner (such consent not to be unreasonably withheld), may, but is not required under this Access Agreement to, implement additional restoration of any portion of the Properties, beyond that required to repair and restore the Properties to a condition substantially equal to that existing prior to the RD and RA activities, in order to increase the ecological services provided by such portion.

5. Insurance. The Group agrees (or agrees to require its contractors or subcontractors that will be accessing the Properties under this Access Agreement) to maintain insurance coverage of at least \$4,000,000 for personal injury liability and \$1,000,000 for property damage liability (inclusive of excess coverage policies or endorsements), and to add Owner, MetLife Stadium Company LLC, and at the reasonable request of Owner, other tenants of Owner, as additional insureds with respect to third-party claims arising from the Group's use of the Properties pursuant to the Group's rights under this Access Agreement. The Group shall furnish Certificates of Insurance relative to the above to the Owner prior to the commencement of work on the Properties, showing the required additional insureds.

6. Indemnity.

- a) The Group agrees to indemnify and save harmless Owner against any government or other third-party claims arising from the Group's use of the Properties pursuant to the Group's rights under this Access Agreement. This indemnity does not include any claims arising from hazardous substances or pollutants or contaminants or latent defects that were present on the Property prior to the operations or activities of the Group pursuant to the Group's rights under this Access Agreement.
- b) The only obligation of the Group and its Members with respect to defending (but not with respect to indemnifying or holding harmless) Owner under Paragraph 6(a) is to direct, control, and pay for a defense through qualified independent counsel chosen by the Group and reasonably acceptable to the Owner. The Group has no obligation to reimburse Owner for costs it may incur through additional counsel that it may retain itself for any purpose. The determination of whether to conduct a joint defense or separate defenses with respect to any claim covered by Paragraph 6(a) shall be within the sole discretion of the Group.
- c) If any claim subject to Paragraph 6(a) is brought or asserted against Owner, Owner shall notify the Group of the claim within 20 days of receipt of notice of the claim. Notice shall be given to the Group representatives identified in Paragraph 8 of this Access Agreement. If notice is not given within 20 days after Owner receives notice of any claim covered by the indemnity, the indemnity and



obligation to defend shall not apply to the extent the defense is prejudiced by such failure to provide timely notice. Owner shall cooperate with the counsel selected by the Group to defend the claim and shall timely provide all information available that relates to the claim. Owner shall preserve all information in its possession or under its control relating to its potential liability at the BCSA.

7. Term.

- a) The access rights and easements granted by this Access Agreement shall not be revoked by Owner and shall continue in full force and effect until the BCSA Superfund Remedy requiring access to the Properties has been completed as certified by EPA or earlier if terminated in accordance herewith. The Group may modify the uses of the Former UOP Property and Walden Swamp allowed herein as appropriate for implementation of subsequent phases of the BCSA Superfund Remedy selected by EPA, subject to Owner's consent, such consent not to be unreasonably withheld.
- b) If the Group breaches any covenant, condition, or obligation set forth in this Agreement, which breach is not cured within one hundred twenty (120) days following notice to the Group of such breach specifying the failure with particularity, Owner may terminate this Agreement by providing notice of termination to the Group, such termination to be effective upon the Group's receipt of such notice; provided, however, that if such breach cannot reasonably be cured within one hundred twenty (120) days and the Group commences and diligently pursues curative action, then the Group shall have a reasonable additional period of time within which to cure the breach. In the event of termination of this Agreement, Owner and the Group may exercise any and all remedies available at law or in equity.
- c) Upon completion of the BCSA Superfund Remedy requiring access to the Properties, as certified by EPA, or upon earlier termination of this Access Agreement in accordance herewith, the Group shall promptly execute and deliver a document terminating this Access Agreement to the office of the county recording officer of the county in which the Properties are located. In the event such termination document has not been filed within one hundred twenty (120) days after EPA's certification of completion or earlier termination, the Group irrevocably appoints NJSEA as its attorney-in-fact, with full power of substitution, for the sole purpose of empowering NJSEA to execute and deliver a document terminating this Access Agreement in the name of the Group to the office of the county recording officer of the county in which the Properties are located.

8. Notices. All notices to be provided by the Group to Owner or by Owner to the Group shall be in writing and provided as follows. A Party may change its representatives upon written notice to the other Party.

As to the Group:

Berry's Creek Group Common Counsel  
Attn: John N. Hanson/Steven M. Jawetz  
Beveridge & Diamond PC  
1900 N Street, NW, Suite 100  
Washington, DC 20036  
[jhanson@bdlaw.com](mailto:jhanson@bdlaw.com)  
[sjawetz@bdlaw.com](mailto:sjawetz@bdlaw.com)

and

Berry's Creek Group Project Coordinator  
Attn: Peter P. Brussock  
The ELM Group, Inc.  
P.O. Box 306  
4936 York Road, Suite 1000  
Holicong, PA 18928  
[ppbrussock@elminc.com](mailto:ppbrussock@elminc.com)

As to NJSEA:

Chief of Legal and Regulatory Affairs

Attn: Frank Leanza  
One DeKorte Park Plaza  
Lyndhurst, NJ 07071  
[fleanza@njsea.com](mailto:fleanza@njsea.com)

and

Chief Operating Officer  
Attn: Christine Sanz  
One DeKorte Park Plaza  
Lyndhurst, NJ 07071  
[csanz@njsea.com](mailto:csanz@njsea.com)

9. Parties Bound. All covenants, conditions, and restrictions contained in this Access Agreement, including access rights, shall be binding upon Owner, its transferees, successors, and assigns; lessees and any other operators or tenants on the Former UOP Property or Walden Swamp; and shall inure to the benefit of the Group, and its successors and assigns, who may enforce these rights, covenants, conditions, and restrictions by resort to legal process if necessary. The Group shall record this Access Agreement in the office of the county recording officer of the county in which the Former UOP Property is located, and may record the Access Agreement with respect to Walden Swamp if and when this Access Agreement is amended with Attachments that provide specific legal descriptions of such parcels. Owner's consent to such amendments shall not be unreasonably withheld. The Group shall bear all costs of recordation.

10. Transfer of Interest. Owner agrees not to convey title, easement, leasehold, or any other possessory or non-possessory interest in the Properties without a covenant, lease, or deed restriction providing that all parties acquiring any interest in the Properties are bound by the terms of this Access Agreement. Owner further agrees to notify the Group, its successors or assigns, prior to conveying title, easement, leasehold, or any other possessory or non-possessory interest in the Properties. With the prior written consent of Owner, such consent not to be unreasonably withheld, the Group may assign its rights under this Access Agreement to any one or more assignees for the purposes set forth herein.

11. Modification. Any modification of this Access Agreement shall be binding only if evidenced in writing signed by each Party or an authorized representative of each Party; each Member of the Group authorizes either Beveridge & Diamond as the Group's Common Counsel or The ELM Group, Inc. as the Group's Project Coordinator to sign a modification of this Access Agreement.

12. Relation. It is expressly agreed and understood that this Access Agreement shall not create the relationship of agency, joint venture, partnership, or landlord and tenant between Owner and the Group under any circumstances.

13. Compliance With Law. While on the Properties, the Group shall comply with all applicable laws including, but not limited to, all applicable environmental laws and regulations, and all laws and regulations pertaining to worker occupational safety and health such as may generally be applicable either to environmental investigation and remediation activities or other activities conducted pursuant to the RD AOC or any future agreement, order, or ruling concerning implementation of the BCSA Superfund Remedy, and as may be amended from time to time.

14. Authority. Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of this Access Agreement and bind the Party he or she represents to this document.

15. Entire Agreement. This Access Agreement shall constitute the entire agreement between the Parties regarding access to the Properties and any prior representation of any kind preceding the date of this Access Agreement shall not be binding upon either Party except to the extent specifically incorporated into this Agreement. Notwithstanding the foregoing, nothing in this Access Agreement shall in any way affect or supersede the 2006 Agreement of Sale Between Honeywell and NJSEA except where expressly stated herein.

16. Governing Law. It is agreed that this Access Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of New Jersey.

17. No Admission of Liability. Nothing in this Agreement shall be construed as an admission of liability or responsibility with respect to the BCSA or any other matter or issue. Except to the extent necessary for enforcement of this Agreement, this Agreement shall not be offered by any Party or any Group Member as evidence or an admission of fact, law, or liability by any person.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned party has caused this Access Agreement to be executed as of the Effective Date.

**NEW JERSEY SPORTS AND EXPOSITION AUTHORITY**

By:

\_\_\_\_\_  
Signature of authorized representative

Printed name of signatory: \_\_\_\_\_

Title of signatory: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF NEW JERSEY    )

) SS:

COUNTY OF BERGEN        )

I CERTIFY that on \_\_\_\_\_, 2022, \_\_\_\_\_, personally came before me and acknowledged under oath, to my satisfaction, that:

- (a) He signed, sealed and delivered the attached document as \_\_\_\_\_ of NEW JERSEY SPORTS AND EXPOSITION AUTHORITY, the public body named as "Owner" or "NJSEA" in this document; and
- (b) this document was signed and made by New Jersey Sports and Exposition Authority as its voluntary act and deed by virtue of authority from its Board of Directors.

NOTARY PUBLIC OF NEW JERSEY

*[Signature Page of New Jersey Sports and Exposition Authority]*

**IN WITNESS WHEREOF**, the undersigned party has caused this Access Agreement to be executed as of the Effective Date.

## BERRY'S CREEK STUDY AREA COOPERATING PRP GROUP

By:

Peter Brussock  
Authorized Signatory

## ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA           )  
COUNTY OF BUCKS                         ) SS:

I CERTIFY that on \_\_\_\_\_, 2022, PETER P. BRUSSOCK, personally came before me and acknowledged under oath, to my satisfaction, that:

- (a) He signed, sealed and delivered the attached document as the Authorized Signatory of BERRY'S CREEK STUDY AREA COOPERATING PRP GROUP, the unincorporated association named as the "Group" in this document; and
- (b) this document was signed and made by Berry's Creek Study Area Coordinating PRP Group as its voluntary act and deed by virtue of authority from its members.

NOTARY PUBLIC OF PENNSYLVANIA

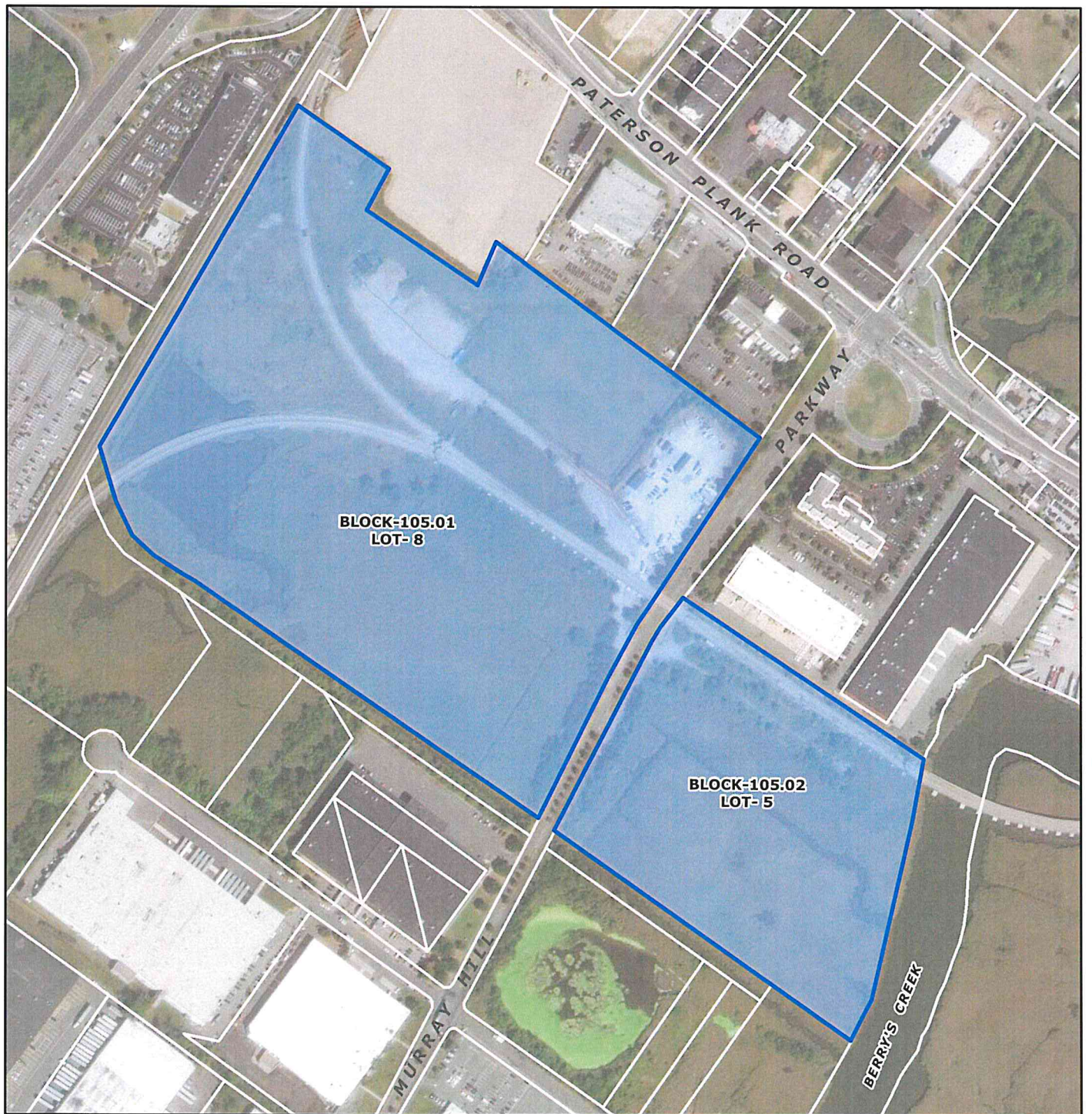
*[Signature Page of Berry's Creek Study Area Coordinating PRP Group]*

**ATTACHMENT A**

**FIGURE 1**

**New Jersey Sports and Exposition Authority  
Block 105.01, Lot 8  
Block 105.02, Lot 5  
East Rutherford, New Jersey**





#### LEGEND



FORMER UOP PROPERTY  
BLOCK 105.01 LOT 8 AND BLOCK 105.02 LOT 5

PROPERTY BOUNDARIES



0 400 800



SCALE: 1" = 400'

TITLE:

FIGURE 1  
FORMER UOP PROPERTY  
BLOCK 105.01 LOT 8 AND BLOCK 105.02 LOT 5

LOCATION:

FORMER UOP PROPERTY  
BLOCK 105.01, LOT 8 AND  
BLOCK 105.02 LOT 5

DATE:

02/02/2021

FILENAME:

BCSA\_Former\_UOP\_Property.mxd



**THE elm GROUP**

345 WALL STREET, PRINCETON, NEW JERSEY 08540  
4936 YORK ROAD, SUITE 1000, HOLICONG, PENNSYLVANIA 18928  
2591 BAGLYOS CIRCLE, SUITE C45, BETHLEHEM, PENNSYLVANIA 18020  
www.ExploreELM.com

SOURCE:  
1. STATEWIDE PARCEL COMPOSITE. NEW JERSEY OFFICE OF INFORMATION TECHNOLOGY, OFFICE OF GIS (NJOGIS) AND BERGEN COUNTY.  
2. IMAGERY SOURCE: ESRI, MAXAR, GEOEYE, EARTHSTAR GEOGRAPHICS, CNES/AIRBUS DS, USDA, USGS, AEROGRIID, IGN, AND THE GIS USER COMMUNITY

**ATTACHMENT A-1**

**LEGAL DESCRIPTION**

**New Jersey Sports and Exposition Authority**

**Block 105.01, Lot 8**

**Block 105.02, Lot 5**

**East Rutherford, New Jersey**



## ATTACHMENT A-1

All that certain tract, parcel and lot of land lying and being situate in the Borough of East Rutherford, County of Bergen, State of New Jersey, being more particularly described as Lot 5 in Block 105.02 and Lot 8 in Block 105.01 on the official tax map of the Borough of East Rutherford, County of Bergen, State of New Jersey.

Being the same property as that property described in that certain survey known as Job No. 050011.033, prepared by Andrew B. Clarke, PLS, PE, NJ Professional Engineer and Land Surveyor Lic. No. GB04105600 of Edwards and Kelcey, dated September 22, 2006 and revised on October 2, 2006, being more particularly described as follows:

All that certain land and premises, situate and being in the Borough of East Rutherford, County of Bergen and State of New Jersey, and being more particularly described as follows:

That area as shown and laid down on a certain plan entitled: "ALIA/ACSM Land Title Survey, Property of Honeywell International, Inc., Lot 8 in Block 105.01 and Lot 5 in Block 105.02, Borough of East Rutherford, Bergen County, New Jersey" prepared by Edwards and Kelcey, Inc., dated September 22, 2006 and last revised through October 2, 2006; and more particularly described as follows:

Tract 1, including, specifically, all the land and premises known as Lot 8 in Block 105.01, as shown on aforesaid maps, and being more particularly described as follows:

BEGINNING at the northerly corner of Lot 8, said point being the intersection of the easterly line of lands of New Jersey Transit-Pascack Valley Line with the southerly line of Lot 2, and running thence:

1. Along the southerly line of Lot 2, South 53°15'47.3" East, a distance of 302.41 feet (deed) to an angle point, thence;
2. Still along the same, South 26°43'19.7" West, a distance of 103.54 feet (deed) to another angle point, thence;
3. Still along the same, South 55°11'30.3" East, a distance of 357.89 feet (deed) to another angle point, thence;
4. Still along the same, North 25°37'19.7" East, a distance of 126.40 feet (deed) to another angle point, thence;
5. Still along the same and continuing along the southerly line of Lots 4, 5 & 7, South 52°08'28.3" East, a distance of 878.37 feet to the westerly sideline of Murray Hill Parkway (80 feet wide), thence;
6. Along said westerly sideline of Murray Hill Parkway, South 32°37'19.7" West, a distance of 567.43 feet (deed) to a point of curvature, thence;
7. Still along the same, southwesterly on a curve to the left with a radius of 580.00 feet, an arc length of 43.02 feet (deed), to a point of tangency, thence;

8. Along said westerly sideline of Murray Hill Parkway, South 28°22'19.7" West, a distance of 598.46 feet (deed) to the northerly line of Lot 9, thence;
9. Along said northerly line, North 53°16'40.3" West, a distance of 223.83 feet (deed) to an angle point, thence;
10. Still along the same, North 54°14'30.3" West, a distance of 1,129.12 feet (deed) to a point of non-tangency, thence;
11. Still along the same, northerly on a curve to the right with a radius of 309.62 feet, an arc length of 337.31 feet (deed), to the easterly line of lands of New Jersey Transit-Pascack Valley Line, thence;
12. Along said easterly line of lands of New Jersey Transit-Pascack Valley Line, North 29°54'19.7" East, a distance of 957.38 feet to the point and place of BEGINNING

Containing 1,786,360 square feet (41.009 Acres), more or less;

Being also known as Lot 8 in Block 105.01 as shown on the tax maps of the Borough of East Rutherford.

Tract 2, including, specifically, all the land and premises on Lot 5 in Block 105.02, as shown on aforesaid maps, and being more particularly described as follows:

BEGINNING at the northerly corner of Lot 5, said point being the intersection of the easterly sideline of Murray Hill Parkway (80 feet wide) with the southerly line of Lot 1, and running thence:

1. Along said southerly line of Lot 1, South 56°22'40.3" East, a distance of 805.72 feet (deed) to the westerly shore of Berry's Creek, thence;
2. Along said westerly shore of Berry's Creek, South 12°08'09.7" West, a distance of 175.27 feet (deed) to an angle point, thence;
3. Still along the same, South 16°26'59.7" West, a distance of 512.20 feet (deed) to another angle point, thence;
4. Still along the same, South 25°33'39.7" West, a distance of 138.78 feet (deed) to the northerly line of Lot 10, thence;
5. Along said northerly line of Lot 10 and continuing along the northerly line of Lot 6, North 53°16'40.3" West, a distance of 982.58 feet (deed) to the easterly line of Murray Hill Parkway (80 feet wide), thence;
6. Along said easterly line of Murray Hill Parkway, North 28°22'19.7" East, a distance of 610.20 feet (deed) to a point of curvature, thence;
7. Still along the same, northwesterly on a curve to the right with a radius of 500.00 feet, an arc length of 37.09 feet (deed), to a point of tangency, thence;

8. Still along the same, North  $32^{\circ}37'19.7''$  East, a distance of 92.08 feet (deed) to the point and place of BEGINNING

Containing 692,445 square feet (15.896 Acres), more or less;

Being also known as Lot 5 in Block 105.02 as shown on the tax maps of the Borough of East Rutherford.

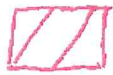
15248580v1 BDFIRM 013057

**ATTACHMENT A**

**FIGURE 2**

**Property Owned by New Jersey Sports and Exposition Authority  
in Berry's Creek Study Area**

ATTACHMENT A, FIGURE 2



WALDEN SWAMP



OTHER PROPERTY



**ATTACHMENT B**

**CONDITIONS ON FORMER UOP PROPERTY  
PRIOR TO RD AND RA ACTIVITIES**

## **NJSEA Access and Easement Agreement**

### **ATTACHMENT B**

#### **Former UOP Property Current Conditions**

The current conditions of the Former UOP Property are described in general below. A wide range of certain chemical contamination have been documented on the Former UOP property, including but not limited to PCBs, mercury, chromium, arsenic, lead, and a variety of other inorganic and organic compounds. A description of certain chemical contamination that remains on one part the property is included in the Deed Notice dated December 7, 2018 (recorded January 28, 2019, Deed Book 03165, pages 0634-0667) ("Deed Notice"). Further, at the end of this attachment appears a list of many of the reports documenting studies conducted on and conditions present on the property that can be used in evaluating current conditions on the Former UOP Property.

Prior to the BCSA Group conducting site development activities associated with the planned Sediment Management Area (SMA) on the Former UOP Property, the BCSA Group has the right, but not the obligation, to conduct additional sampling to further characterize current conditions on the property. The BCSA Group will coordinate with the NJSEA on any proposed sampling. The BCSA Group will also coordinate with the NJSEA to provide additional assurance to NJSEA regarding the protocols and processes that will be incorporated by the remedial action contractor(s) to avoid or address any potential releases of hazardous substances to the environment at the Former UOP Property in the course of the remedial action work.

As described in the Deed Notice, a portion of the Former UOP Property has been subject to historic filling with miscellaneous earthen fill, municipal solid waste, and rubble. This historic fill likely contains constituents similar to those typically associated with historic fill.

Contaminated soils remaining at the Former UOP Property include materials placed under a multimedia cap and residual contamination at various areas outside or below the areal extent of prior government-specified limits of excavation. The latter areas include but are not limited to areas beneath concrete foundations greater than 2 feet below grade and areas in which the infiltration of water during excavation activities limited further removal of soil. Exhibits B-1A and B-1B present soil concentrations that were documented in the Deed Notice; these exhibits are not intended to provide a comprehensive description of residual contamination at the Former UOP Property.

A portion of the rail line associated with the New Jersey Sports and Exposition Authority's (NJSEA) Meadowlands Railroad and Roadway Improvement Project was constructed across the Former UOP Property from 2006 to 2008; this rail line cuts through a portion of the Former UOP Property.

#### **Partial List of Reports Documenting Conditions at the Former UOP Property**

1. Geraghty & Miller, Inc., RI Report, Areas 1, 1A, 2, and 5, UOP Site, Revision No. 1, Volume 1, 5/1988.
2. ENSR Consulting and Engineering, Ecological Risk Assessment Report for the UOP Site, 5/1989.
3. ENSR Consulting and Engineering, RI Report for Area 4 – UOP Site, 4/1990.
4. ENSR Consulting and Engineering, Seep/Sewer Network Investigation Report, 1/1991.
5. ENSR Consulting and Engineering, Feasibility Study for Areas 1, 1A, 2 & 5, Revision 2, 6/1992.
6. ENSR Consulting and Engineering, Supplemental Investigation Summary Report, 2/1994.

## **NJSEA Access and Easement Agreement**

### **ATTACHMENT B**

#### **Former UOP Property Current Conditions**

7. ENSR Corporation, Remedial Action Report Areas 1, 1A, and 5 - Block 105.01, Lot 8, UOP Uplands Site Remediation, 8/31/2000.
8. ENSR Corporation, Amended Remedial Action Report - Area 2 (Block 104, Lot 2), UOP Uplands Site, 7/2001.
9. ENSR Corporation, Technical Letter Report for Groundwater Sampling and Well Abandonment Activities, UOP Site – Area 2, 4/19/2005.
10. Limno-Tech, Inc., UOP/Ackerman's Creek Site Characterization, Phase I and Phase II Data Summary, 11/15/2005.
11. CH2M HILL, UOP Area 4 Focused Study (Summer 2006): Results and Discussion, 12/2006.
12. CH2M HILL, Preliminary Site Characterization Report, UOP, Operable Unit 3 (Area 4), 10/2008.
13. CH2MHill, Uplands Groundwater Report, UOP Site, 3/30/2011.
14. CH2M HILL, RI Report, UOP, OU2, 4/2011
15. CH2M HILL, NTCRA Construction Completion Report, 9/2013.
16. CH2MHILL, RI Report Addendum, UOP, OU2, 7/22/2016.
17. Berry's Creek Study Area Cooperating PRP Group, Final Remedial Investigation Report, Berry's Creek Study Area, Appendix F (Sediment Characterization) and Att. F6 (Tetris Maps), 8/2018. Available at [berryscreekstudyarea.com/document-library](http://berryscreekstudyarea.com/document-library).
18. Jacobs, Remedial Investigation Report, Universal Oil Products, Operable Unit 2, East Rutherford, NJ, 12/2018.



Sample Identification No.	Depth Sample Collected Below Ground Surface [bgs]	Chemical Detected in Exceedance of Criteria	Chemical Abstract Service (CAS) No.	Concentration (mg/kg)	Residential/Unrestricted Criteria (mg/kg)	Non Residential Restricted Criteria (mg/kg)
B1-4	4-6	Benzene	71-43-2	7.9	2	5
B1-7	2-4	Benzene	71-43-2	2.41	2	5
B1A-4	2-4	Arsenic	7440-38-2	45	19*	19*
B1A-6	4-6	Arsenic	7440-38-2	27	19*	19*
B1A-8	2-4	Lead	7439-92-1	902	400	800
B5-1	2-4	Benzol(p)pyrene	50-32-8	3.3	0.5	2
B5-1	2-4	Benzol(fluoranthene)	205-99-2	5.1 C	5	17
B5-1	2-4	Lead	7439-92-1	416	400	800
B5-1	2-4	PCB's	1336-36-3	0.31	0.2	1
B5-10	4-6	PCB's	1336-36-3	0.5	0.2	1
B5-2	2-4	Arsenic	7440-38-2	52	19*	19*
B5-2	2-4	PCB's	1336-36-3	27	0.2	1
B5-4	4-6	Arsenic	7440-38-2	31	19*	19*
B5-4	4-6	Lead	7439-92-1	556	400	800
B5-5	4-6	PCB's	1336-36-3	9.8	0.2	1
B5-6	2-4	Benzol(p)pyrene	50-32-8	1.2	0.5	2
B5-6	2-4	PCB's	1336-36-3	1.5	0.2	1
B5-8	6-8	Benzol(p)pyrene	50-32-8	1.61	0.5	2
B5-8	6-8	PCB's	1336-36-3	5.6	0.2	1
EWD-01C-EX	7-7.5	Benzene	71-43-2	45 A	2	5
EWD-01D-EX	7-7.5	Benzene	71-43-2	6.55 A	2	5
EWD-03C-EX1	7-7.5	Benzene	71-43-2	28.6	2	5
EWD-03E-EX1	7-7.5	Benzene	71-43-2	83	2	5
EWD-04A-EX	7-7.5	Benzene	71-43-2	46.6	2	5
EWD-04B-EX	7-7.5	Benzene	71-43-2	64.5	2	5
EWD-04B-EX	7-7.5	Trichloroethene	79-01-6	51.6	3	10
EWE-04C-EX1	7-7.5	Benzene	71-43-2	3.2	2	5
EWF-04A	1.5-2.0	Benzol(p)pyrene	50-32-8	0.772	0.5	2
EWG-02-AX6	1.5-2.0	PCB's	1336-36-3	0.57	0.2	1
EWG-04-AX6	1.5-2.0	PCB's	1336-36-3	0.812	0.2	1
EWG-04A-AX12A	1.5-2.0	PCB's	1336-36-3	0.6	0.2	1
EWG-04-AX13	1.5-2.0	PCB's	1336-36-3	0.539	0.2	1
EWG-03A-AX8C	1.5-2.0	PCB's	1336-36-3	0.492	0.2	1
EWG-03-AX16	1.5-2.0	PCB's	1336-36-3	0.389	0.2	1
EWG-02-AX11	1.5-2.0	PCB's	1336-36-3	0.651	0.2	1
EWG-03-AX1	1.5-2.0	PCB's	1336-36-3	1.57	0.2	1
EWG-04-AX1	1.5-2.0	PCB's	1336-36-3	0.968	0.2	1
EWG-08B-AX12	1.5-2.0	PCB's	1336-36-3	0.661	0.2	1
EWI-03A-AX5	1.5-2.0	PCB's	1336-36-3	0.701	0.2	1
EWG-03A-A	1.5-2.0	Benzol(p)pyrene	50-32-8	0.703	0.5	2
EWG-03A-A	1.5-2.0	PCB's	1336-36-3	0.27	0.2	1
EWG-03B-A	1.5-2.0	Benzol(p)pyrene	50-32-8	0.502	0.5	2
EWG-03B-A	1.5-2.0	PCB's	1336-36-3	1.26	0.2	1
SSC43A	0-2	PCB's	1336-36-3	0.667	0.2	1
SSC42A	0-2	PCB's	1336-36-3	0.64	0.2	1

Notes

Shaded cells indicate sample is below 2-foot bgs

J = Estimated Value

D = Coelution

A = Sample Analyzed at a secondary dilution

\* = The direct contact standard for arsenic is based on natural background. 10mg/kg used in Soil Remediation Standards Table.

† Depth to sample based on elevations prior to the construction of the West Wye rail spur. Additional fill material has been added within the rail right-of-way.

## Legend

Sample Location — NJ Transit Rail Line

OU1-OU2 Boundary

Block 105.1, Lot 8



0 100 200 Feet

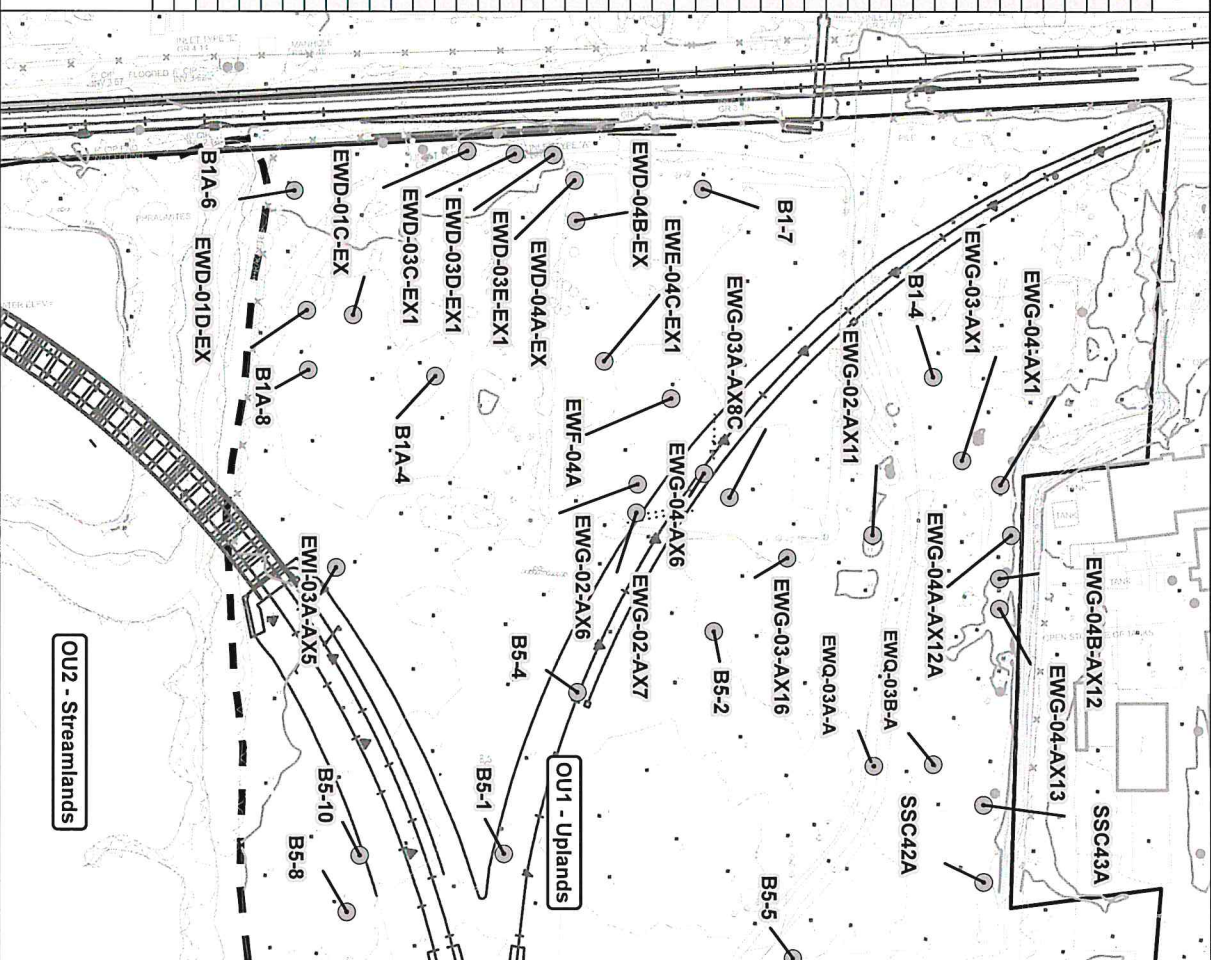


Exhibit B-1A  
Block 105.01, Lot 8  
Deed Notice  
Universal Oil Products  
Preferred ID: NJD002005106  
East Rutherford, N.J.

**CH2MHILL**

Sample Identification No.	Depth sample collected below ground surface (bgs) <sup>1</sup>	Chemical detected in excess of criteria	Chemical Abatement Service (CAS No.)	Concentration (mg/kg)	Residential/Unrestricted Criteria (mg/kg)	Non Residential/Restricted Criteria (mg/kg)
B5-7	2-4	Benzol(a)anthracene	56-55-3	19	5	17
B5-7	2-4	Benzol(b)pyrene	50-32-8	17	0.5	2
B5-7	2-4	Benzol(k)fluoranthene	205-99-2	27.0	5	17
B5-7	2-4	Dibenz(a,h)anthracene	57-70-3	2.6	0.5	2
B5-7	2-4	Indenol(1,2,3-cd)pyrene	103-39-5	12	5	17
B5-7	2-3	PCB's	1336-36-3	38	0.2	1
S-5B	2-3	Benzol(a)anthracene	56-55-3	180	0.2	1
S-5B	2-3	Benzol(b)pyrene	50-32-8	24	0.5	17
S-5B	2-3	Benzol(k)fluoranthene	205-99-2	22	0.5	2
S-5B	2-3	Dibenz(a,h)anthracene	57-70-3	<41	0.5	17
S-5B	2-3	Indenol(1,2,3-cd)pyrene	103-39-5	0.902	5	17
SSC06A	0-2	Benzol(b)pyrene	50-32-8	0.902	0.5	2
SSC06A	0-2	PCB's	1336-36-3	0.77	0.2	1
SSC06A	0-2	Lead	7439-92-1	1.66	0.2	1
SSC07A	0-2	Lead	7439-92-1	413	400	800
SSC08A	0-2	Lead	7439-92-1	550	400	800
SSC08A	0-2	PCB's	1336-36-3	0.443	0.2	1
SSC09A	0-2	Lead	7439-92-1	561	400	800
SSC09A	0-2	PCB's	1336-36-3	0.678	0.2	1
SSC09A	0-2	Lead	7439-92-1	533	400	800

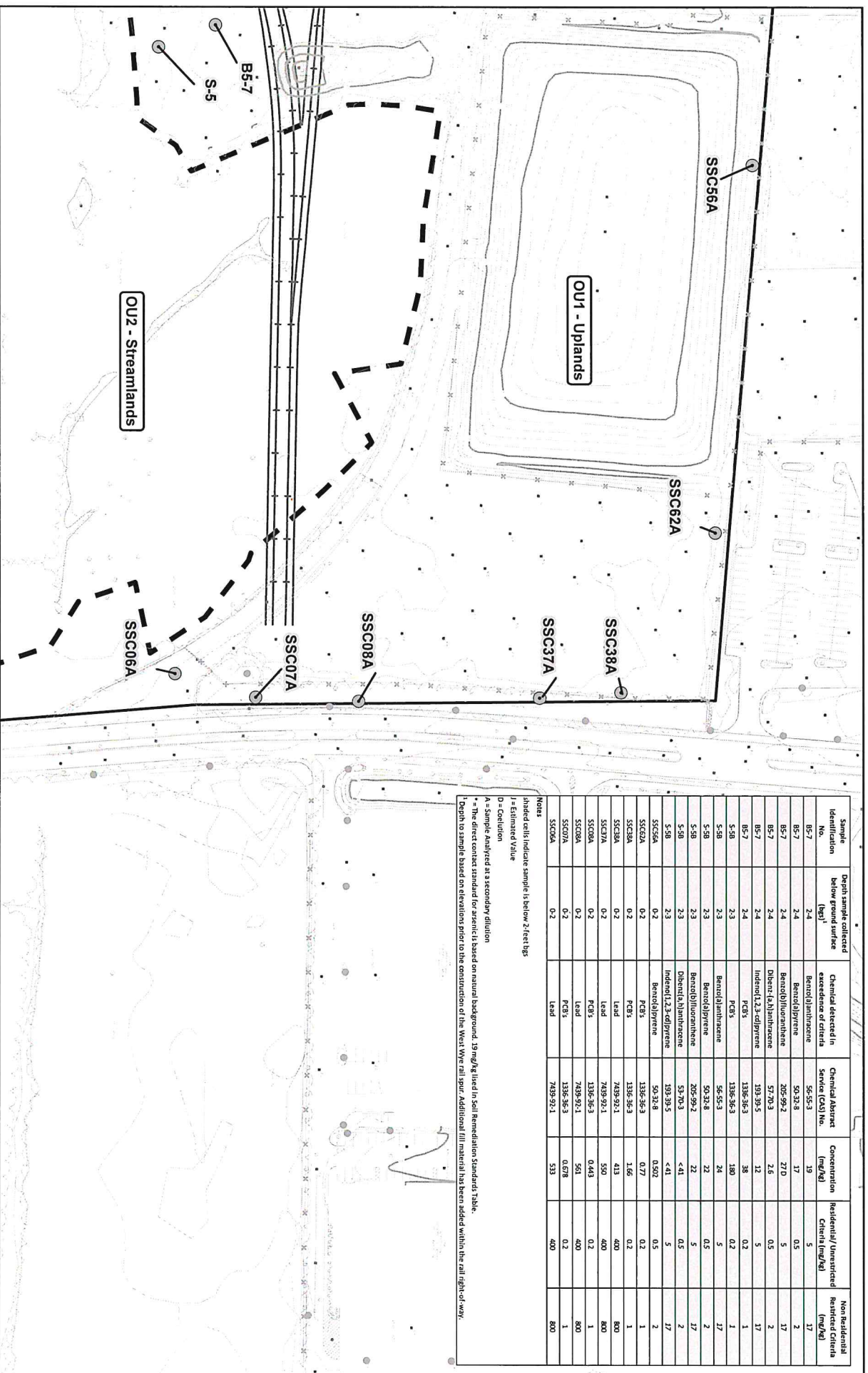
Notes:  
<sup>1</sup> Shaded cells indicate sample is below 2 feet bgs.

D = Coelution

A = Sample Analyzed at a secondary dilution

\* = The direct contact standard for arsenic based on natural background, 19 mg/kg listed in Soil Remediation Standards Table.

<sup>1</sup> Depth to sample based on elevations prior to the construction of the West Wye rail spur. Additional fill material has been added within the rail right-of-way.



# Legend

- Sample Location
- OU1-OU2 Boundary
- Block 105.1, Lot 8

Notes:

- This Deed Restriction is applicable only to Operable Unit 1 (OU-1) - Uplands.  
- Sample collection depths are based on site elevations collected prior to the construction of the railroad wye.  
WPHL-FP01\proj\home\well430611\UOP\Streamlands\119\_GIS\Mapfiles\20000187\_Deed\_Notice\June2016\Edits\Exhibit\_B1B\_DRAFT\_021618\_Fig\_2\_of\_2.mxd  
Revised: 2/16/2018

Exhibit B-1B  
Block 105.01, Lot 8  
Deed Notice  
Universal Oil Products  
Preferred ID: NJD002005106  
East Rutherford, N.J.

CH2M HILL

**ATTACHMENT C**

**LIST OF MEMBERS OF BERRY'S CREEK COOPERATING PRP GROUP**

**AS OF FEBRUARY 2022**

**FOR INFORMATIONAL PURPOSES ONLY**



ACCESS AGREEMENT – ATTACHMENT C

LIST OF BCSA GROUP MEMBERS AS OF FEBRUARY 2022

FOR INFORMATIONAL PURPOSES ONLY

1. 3M Company
2. ABB Inc. for Bailey Controls
3. Air Products and Chemicals, Inc.
4. Akzo Nobel Coatings Inc.
5. Arkema Inc.
6. Ashland LLC
7. Avantor Performance Materials, LLC (f/k/a J.T. Baker Chemical Company, f/k/a Mallinckrodt Baker, Inc.)
8. Avery Dennison Corporation, as successor to Paxar Corporation
9. BASF Corporation on its own behalf and on behalf of BASF Catalysts LLC and as successor to Ciba Corporation (f/k/a Ciba Specialty Chemicals Corporation)
10. Becton, Dickinson and Company
11. Bell Container Corp.
12. Belmont Metals, Inc.
13. Benjamin Moore & Co.
14. Ber Mar Manufacturing Corp.
15. Bristol-Myers Squibb Company
16. Browning-Ferris Industries of New Jersey, Inc.
17. Chemcoat, Inc.
18. CNA Holdings LLC
19. Cognis USA LLC, on its own behalf and on behalf of Henkel Corporation
20. Columbia University
21. Congoleum Corporation
22. Conopco, Inc (formerly d/b/a Day-Baldwin Inc.)
23. Conrail
24. Continental Holdings, Inc. as successor in interest for certain limited purposes to Continental Can Company, Inc.
25. Cosan Chemical Corporation
26. Cycle Chem, Inc.
27. Cytec Industries Inc., as successor to American Cyanamid Company) (f/k/a American Cyanamid Company)
28. D.F. Goldsmith Chemical & Metal Corporation
29. Dri-Print Foils, Inc. (Subsidiaries and successors include: Beatrice Foods Co., Beatrice Companies, Inc., Beatrice Co., Hunt-Wesson, Inc., ConAgra Grocery Products Co., ConAgra Grocery Products Co. LLC, API Foils, Inc.)
30. E.I. du Pont de Nemours and Company

31. Exxon Mobil Corporation on behalf of itself and its affiliate ExxonMobil Oil Corporation
32. Ford Motor Company
33. FUJIFILM North America Corporation
34. Garfield Refining Company
35. General Dynamics Global Imaging
36. General Electric Company
37. GlaxoSmithKline LLC (f/k/a SmithKline Beecham Corporation)
38. Goodrich Corporation, a Collins Aerospace Systems company, on behalf of Monroe Chemical, Inc.
39. Greif Inc.
40. Hartin Paint and Filler Corp.
41. HCR ManorCare, Inc.
42. Hexion Inc. (f/k/a Momentive Specialty Chemicals, Inc., f/k/a Hexion Specialty Chemicals, Inc, f/k/a Borden Chemical, Inc.)
43. Hoffmann-La Roche Inc.
44. Honeywell International Inc. (for itself and on behalf of Allied Chemical and Universal Oil Products)
45. Howmet Aerospace Inc. (f/k/a Alcoa Inc., Arconic Inc.)
46. ICI Americas Inc.
47. ISP Environmental Services Inc.
48. Johnson & Johnson
49. Kirker Enterprises, Inc.
50. LANXESS Corporation as successor in interest to Bayer solely for this matter
51. L.E. Carpenter & Co.
52. Linde Inc. (for Airco Industrial Gases)
53. Mack Trucks, Inc.
54. Mallinckrodt Inc.
55. Matheson Tri-Gas, Inc.
56. Merck & Co., Inc.
57. Morton International, LLC
58. Morton International, LLC, as successor in interest to Bee Chemical Company
59. MTA New York City Transit
60. Nepera, Inc.
61. New England Laminates Co., Inc.
62. New Jersey Institute of Technology
63. NL Industries, Inc.
64. Nokia of America Corporation, f/k/a Lucent Technologies, Inc.
65. Northrop Grumman Systems Corporation on behalf of Litton Systems/Fitchburg Coated Products and Grumman Corp.
66. Occidental Chemical Corporation, as a successor to Diamond Shamrock Chemicals Company

67. Olin Corporation
68. OSRAM SYLVANIA Inc.
69. Pan Technology, Inc.
70. Permacel
71. Pfizer Inc.
72. Pharmacia LLC, by its Attorney-In-Fact, Monsanto Company
73. President Container
74. PSEG Fossil, LLC
75. Rathon Corp.
76. Raytheon Technologies Corporation on behalf of Inmont Corporation
77. Reckitt Benckiser LLC
78. Revlon Consumer Products Corporation
79. Rohm and Haas Company
80. Scapa Group Ltd.
81. Scientific Design Company, Inc.
82. Schawk, Inc.
83. SCP Group
84. Seagrave Coatings Corp. (a/k/a Chemray Coatings Corp.)
85. Sequa Corporation
86. Siegfried USA, LLC (formerly Ganes Chemicals)
87. SI Group, Inc.
88. Simon Wrecking Company, Inc., Simon Resources, Inc. and Mid-State Trading Co.
89. Spectra Energy Group
90. Spectrum Brands o/b/o Rayovac
91. SPX Corporation (on behalf of General Signal)
92. Stanbee Company Inc.
93. Stryker Corporation
94. Sun Chemical Corporation
95. Tate & Lyle Ingredients Americas LLC (f/k/a A.E. Staley Manufacturing Company)
96. Technical Coatings Co.
97. Tennessee Gas Pipeline Company (f/k/a Tenneco, Inc.)
98. The Chemours Company FC, LLC as successor in interest to E.I. du Pont de Nemours and Company
99. The Custodial Trust by and through LePetomane III, Inc., not individually but solely in its representative capacity as Custodial Trust Trustee
100. The Dow Chemical Company
101. The Gillette Company LLC (f/k/a The Gillette Company)
102. The New York Times Company
103. The Port Authority of New York and New Jersey
104. The Wella Corporation
105. Trane U.S. Inc. (f/k/a American Standard, Inc.)
106. Union Carbide Corporation

107. United Wire Hanger Corp.
108. University of Minnesota
109. Veolia ES Technical Solutions, L.L.C., as successor by merger to Marisol, Incorporated
110. ViacomCBS Inc. (f/k/a CBS Corporation, f/k/a Viacom Inc., f/k/a Westinghouse Electric Corporation)
111. W.A. Baum Company, Inc.
112. Warner-Lambert Company LLC, a wholly-owned subsidiary of Pfizer Inc.
113. Waste Management of New Jersey, Inc.
114. Western Michigan University
115. Wyeth Holdings LLC (Cytex Industries Inc. successor to American Cyanamid Company)
116. Yoo-Hoo/Mott's LLP

**RESOLUTION 2022-20**

**RESOLUTION RELATING TO THE REVIEW AND APPROVAL OF  
REDEVELOPMENT PROPOSALS AT THE MONMOUTH PARK  
RACETRACK SITE**

**WHEREAS**, New Jersey Sports and Exposition Authority (the "Authority") owns fee simple title to certain real property located in the County of Monmouth, Borough of Oceanport, New Jersey, on which the Authority operated, inter alia, a thoroughbred racetrack ("Racetrack") for thoroughbred horse racing and pari-mutuel wagering pursuant to Public Law 1971, Chapter 137 (codified at N.J.S.A. 5:10-1 et seq., the "Enabling Legislation"); and

**WHEREAS**, the Authority has been granted specific and general authority under the Enabling Legislation to establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly through lessees, licensees or agents, projects consisting of racetrack facilities and other buildings, structures, facilities, properties and appurtenances related to, incidental to, necessary for, or complementary to a complex suitable for the holding of horse race meetings; and

**WHEREAS**, on February 10, 2010 Governor Chris Christie executed Executive Order No. 11 creating an advisory commission (the "Hanson Commission") to provide recommendations regarding gaming and professional sports, including the horse racing industry. Based on the conclusions reached in the Hanson Commission's report, the Authority made the determination in late 2010 to seek private operators to run both of the Authority's racetracks - Monmouth Park and the Meadowlands Racetrack; and

**WHEREAS**, on March 3, 2011, the Authority issued a request for proposal for, inter alia, a ground lease of the Racetrack site; and

**WHEREAS**, on February 27, 2012 the Authority's Board authorized the entering into of a lease agreement with the New Jersey Thoroughbred Horsemen's Association, Inc. ("NJTHA"), and on February 29, 2012 the Authority and the NJTHA executed a Racetrack Ground Lease Agreement for Monmouth Park (the "Lease"); and

**WHEREAS**, pursuant to the Lease, the NJTHA has the exclusive right to use, occupy and operate (and permit its agents, representatives, contractors, licensees, guests, invitees, concessionaires and subtenants, to use, occupy and operate) the Racetrack at all times, inter alia, for any lawful purpose approved by the Authority, which approval shall not be unreasonable withheld, delayed or conditioned by the Authority; and

**WHEREAS**, pursuant to the Lease, the NJTHA has the right to seek to further develop the Racetrack and any future development request is subject to the approval of the Authority, such consent not to be unreasonably withheld, delayed or conditioned by the Authority; and

**WHEREAS**, the NJTHA has managed to keep the Racetrack open through ten (10) seasons although, despite the NJTHA's best efforts, including cost savings and the introduction of sports betting, the Racetrack has struggled to break even, and the NJTHA contend that the current financial constraints make it impossible to improve and grow horse racing in New Jersey; and



**WHEREAS**, pursuant to Section 6.01 of the Lease, the NJTHA has submitted a request for the Authority's approval for a proposed multi-use redevelopment of underutilized parcels at the Racetrack site that will include retail, hotel, commercial, entertainment, and an age-restricted residential component ("Proposed MP Development Project"); and

**WHEREAS**, the NJTHA asserts that the Proposed MP Development Project will "generate new, critical, and necessary sources of income to support and stabilize horse racing at Monmouth Park," and will "create a world class horse racing destination...that will provide Monmouth Park with critical financial support into the foreseeable future while at the same time generating new and preserving existing jobs at the track," and that "the revenue contemplated by this redevelopment project is absolutely necessary to its sustainability as a horse racing track."

**WHEREAS**, in accordance with its obligations under the Lease, the Authority intends to commence a review and approval process relating to the Proposed MP Redevelopment Project, pursuant to which the Authority will be provided with sufficient information and involvement relating to the planning and design of the Proposed MP Redevelopment Project to insure, if approved by the Authority, the development of a mutually acceptable site plan and architectural design, that supports the long term sustainability of horse racing at the Racetrack consistent with the Authority's statutory mandate in the Enabling Legislation; and

**WHEREAS**, the Proposed MP Redevelopment Project contemplates that the redevelopment project may be done in phases so that not all of the elements of the proposed redevelopment need to be approved at one time; and

**WHEREAS**, the NJTHA has agreed to reimburse the Authority for all reasonable costs and expenses, including but not limited to fees of any outside professionals incurred by the Authority in connection with the Proposed MP Redevelopment Project; and

**WHEREAS**, Authority Staff have conceptually approved the preliminary design and site plan for Phase 1 of the Proposed MP Redevelopment Project presented to them by the NJTHA, and determined to support the NJTHA in its efforts to pursue the approvals necessary to undertake the Proposed MP Redevelopment Project, and to commence the consultation process as required by N.J.S.A. 5:10-6.2, subject to the following conditions:

1. More detailed information pertaining to the components of the Proposed MP Redevelopment Plan will be presented to Authority Staff, including, without limitation:
  - a. a detailed Site Plan depicting vehicular circulation;
  - b. a detailed landscape plan;
  - c. a project sequencing plan;
  - d. a detailed financing plan;
  - e. a traffic study; and
  - f. any additional information the Authority may reasonably request, (collectively, the "Final Phase I Site Plan"); and

2. An amendment to the Lease on terms acceptable to the Authority (the "Lease Amendment").

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of the Authority hereby approves, authorizes and directs the President of the Authority or any other officer authorized by the President of the Authority (each an "**Authorized Authority Official**"), to negotiate, prepare, execute and deliver such documents as are necessary, desirable and/or advisable for the Authority to commence and complete the review and approval process relating to the Proposed MP Redevelopment Project, including the Final Phase I Site Plan and Lease Amendment, in such form and substance as shall be approved by the Authorized Authority Official executing such document, and containing such information as shall be approved by such Authorized Authority Official, such approval to be conclusively evidenced by his or her execution of such document; and

**BE IT FURTHER RESOLVED**, that the Authorized Authority Officials are authorized and directed on behalf of the Authority to take any and all action which they deem necessary, desirable or advisable in order to commence and complete the review and approval process relating to the Proposed MP Redevelopment Project, including the Final Phase I Site Plan and Lease Amendment; and

**BE IT FURTHER RESOLVED**, that any and all actions heretofore taken by the Authorized Authority Officials in connection with the review and approval process relating to the Proposed MP Redevelopment Project, including the Final Phase I Site Plan and Lease Amendment, are hereby confirmed and ratified; and

**BE IT FURTHER RESOLVED**, that the Authorized Authority Officials be, and hereby are, authorized and directed to take all such further actions and to execute and deliver all such further instruments and documents as the Authorized Authority Officials shall determine to be reasonable or necessary, in the name and on behalf of the Authority to fully carry out the intent and to accomplish the purposes of the foregoing Resolutions, and the execution by the Authorized Authority Officials of any of such instrument or document, or the doing by such officer of any act in connection with the foregoing matters, shall conclusively establish such officer's authority therefore from the Authority and the approval and ratification by the Authority of the instruments and documents so executed and the actions so taken; and

**BE IT FURTHER RESOLVED**, that nothing contained herein shall be deemed to be a commitment or agreement by the Authority to authorize development at the Racetrack, such action, if any, to be taken by one or more subsequent resolutions of the Authority; and

**BE IT FURTHER RESOLVED**, that the Authorized Authority Official shall present to the Board for its consideration and approval the Final Phase I Site Plan and the Lease Amendment.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.



Vincent Prieto  
Secretary

# AWARDS / CONTRACTS

**RESOLUTION 2022-21**

**RESOLUTION AUTHORIZING A CONTRACT TO DEVELOP A  
HYDRODYNAMIC AND SEDIMENT TRANSPORT MODEL**

**WHEREAS**, the 741-acre Sawmill Creek Wildlife Management Area located in Lyndhurst and Kearny, lies within the Meadowlands District; and

**WHEREAS**, the marsh habitat is an important resource to the Meadowlands and surrounding New York/New Jersey Harbor estuary; and

**WHEREAS**, this portion of the Meadowlands has undergone a great amount of ecological change due to anthropogenic causes and, as a result extensive areas that were formerly vegetated wetlands that sequestered carbon have transitioned to open water and mudflat that now act as carbon source. Wildlife habitats are being lost through erosion, the large open water expanses provide no protection for adjacent infrastructure, and sea level rise and a lack of sediment re-nourishment continue to threaten the remaining areas of vegetated marsh; and

**WHEREAS**, we recognize that understanding the existing hydrodynamics and sediment transport conditions of the Sawmill Creek Wildlife Management Area is essential for determining the best approach for restoration; and

**WHEREAS**, the NJSEA was awarded a grant from USEPA Region 2 that provides funding to complete a 2D hydrodynamic and sediment transport model of the project site, which accurately represents water level, current velocity and wave dynamics at the site; and

**WHEREAS**, the NJSEA issued an RFP on March 14, 2022, seeking a vendor to create the development of hydrodynamic and sediment transport model of the eastern portion of the Sawmill Creek Wildlife Management Area; and

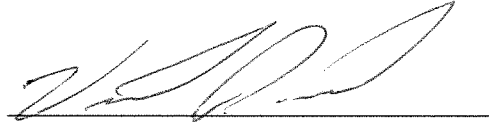
**WHEREAS**, in response to the RFP the NJSEA received one proposal; and

**WHEREAS**, an evaluation committee comprised of NJSEA staff reviewed the proposal and ranked the proposal based on established criteria; and

**WHEREAS**, after evaluating the submitted proposal, the evaluation committee recommends that the NJSEA award the contract to Biohabitats Inc., a qualified firm, price and other factors considered.

**NOW, THEREFORE, BE IT RESOLVED** that the President and CEO is authorized to enter into a contract with Biohabitats Inc. for the acquisition of the development of a hydrodynamic and sediment transport model for the Sawmill Creek Wildlife Management Area using EPA grant funds at a cost not to exceed the submitted bid price of \$95,076.00.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at its meeting of May 26, 2022.

A handwritten signature in black ink, appearing to read 'V. Prieto', is written over a horizontal line.

Vincent Prieto  
Secretary

**RESOLUTION 2022-22**

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO TO ENTER INTO A  
CONTRACT WITH FCS GROUP OF NEW JERSEY FOR PAINTING OF THE  
ARENA EXTERIOR STAIR TOWER ENCLOSURES**

**WHEREAS**, the New Jersey Sports and Exposition Authority requires painting of the Arena exterior stair tower enclosures located in East Rutherford; and

**WHEREAS**, on or about April 7, 2022 the Authority publicly issued a Request for Bids CN-255, for "East Rutherford Arena Painting of (8) Exterior Stair Tower Enclosures"; and

**WHEREAS**, four (4) companies attended the mandatory pre-bid walk through and three (3) bids were received on April 28, 2022; and

**WHEREAS**, the NJSEA staff reviewed the bids, and ranked the bids based on established criteria; and

**WHEREAS**, the staff determined that the bid supplied by FCS Group, LLC. of Springfield, NJ is the lowest qualified responsible bidder with a lump sum cost of \$129,000.00, and recommends award of a contract; and

**NOW, THEREFORE, BE IT RESOLVED** by the New Jersey Sports and Exposition Authority that the President and CEO is hereby authorized to enter into a contract for painting of the exterior stair towers with FCS Group, LLC.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.



Vincent Prieto  
Secretary

**RESOLUTION 2022-23**

**RESOLUTION AUTHORIZING THE PURCHASE OF A  
2022 CATERPILLAR 908M COMPACT WHEEL LOADER**

**WHEREAS**, the NJSEA Site Departments loaders are obsolete and beyond repair; and

**WHEREAS**, this loader is used for site work tasks such as marketplace clean-up, snow removal and other work at the Sports Complex; and

**WHEREAS**, there are no loader contracts in place under the state contract program; and

**WHEREAS**, NJSEA staff reached out to the Sourcewell CO-OP, a nationwide Government-to-Government cooperative purchasing program, as allowed by N.J. PL2011.c.139. Since the NJSEA is currently a member of this program, the staff was able to obtain competitive pricing and immediate availability for a replacement loader, which meets our requirements; and

**WHEREAS**, staff is recommending the award for a purchase agreement to Foley Incorporated, in the amount of \$115,073.00 to be paid in its entirety through the NJSEA's Sourcewell ID #032119-CAT. The agreement includes a trade in allowance of \$8,000.00 for Caterpillar Model 446 and JCB Model 506-36 included in the total cost.

**NOW, THEREFORE, BE IT RESOLVED** that the President and Chief Executive Officer is hereby authorized to enter into a purchase agreement with Foley Incorporated in the amount not to exceed \$115,073.00.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto  
Secretary

**RESOLUTION 2022-24**

**RESOLUTION AUTHORIZING THE PRESIDENT AND CEO TO ENTER INTO  
A CONTRACT WITH PAINO ROOFING OF NEW JERSEY FOR  
A ROOF REPLACEMENT FOR THE MEADOWLANDS  
FIREHOUSE IN EAST RUTHERFORD**

**WHEREAS**, the New Jersey Sports and Exposition Authority requires a roof replacement for the Meadowlands Firehouse located in East Rutherford; and

**WHEREAS**, on or about April 28, 2022 the Authority publicly issued a Request for Bids CN-256, for "Meadowlands Firehouse Roof Replacement"; and

**WHEREAS**, nine (9) companies attended the mandatory pre-bid walk through and four (4) bids were received on May 19, 2022; and

**WHEREAS**, the NJSEA staff reviewed the bids, and ranked the bids based on established criteria; and

**WHEREAS**, the staff determined that the bid supplied by Paino Roofing Co, Inc. of Hackensack, NJ is the lowest qualified responsible bidder with a lump sum cost of \$139,000.00, and recommends award of a contract; and

**NOW, THEREFORE, BE IT RESOLVED** by the New Jersey Sports and Exposition Authority that the President and CEO is hereby authorized to enter into a contract for a roof replacement with Paino Roofing Co, Inc.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto  
Secretary



# EXECUTIVE SESSION

**RESOLUTION 2022- 25**

**RESOLUTION AUTHORIZING THE  
NEW JERSEY SPORTS AND EXPOSITION AUTHORITY  
TO CONDUCT A MEETING TO WHICH  
THE GENERAL PUBLIC SHALL NOT BE ADMITTED**

**WHEREAS**, the Open Public Meetings Act, NJSA 10:4-12 (b), permits the holding of closed sessions by public bodies in certain circumstances; and

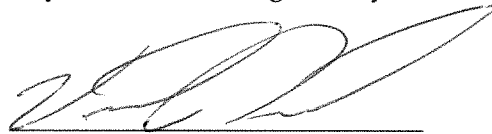
**WHEREAS**, the New Jersey Sports and Exposition Authority (NJSEA) is of the opinion that those circumstances presently exist.

**NOW THEREFORE BE IT RESOLVED** as follows:

1. That a closed session of the Authority shall be held to discuss the following:
  - New Jersey Meadowlands Commission v. SVD Family Associates, LP

This resolution shall become effective immediately.

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Sports and Exposition Authority at their meeting of May 26, 2022.

A handwritten signature in black ink, appearing to read 'Vincent Prieto', written over a horizontal line.

Vincent Prieto  
Secretary